

Tax Corruption and Tax Mafia:

Learning from Indonesia's Experience

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Abstract—Corruption in tax sector has a broad impact and destructive to economic development as well as the general public. In Indonesia, tax corruption is built by some patterns that have similarities between the study result and testimony from tax corruption actor, in which there is the existence of tax mafia in protecting any corruption cases related to taxes. Tax mafia, as an actor behind the tax corruption involving tax officials, business sectors and individual taxpayers, must be overcome by some efforts such as establishing a committee to minimize corruption, privatizing tax auditor, increasing role of board of audit of financial government, separating Directorate General of Taxes (DGT) from ministry of finance, moving to comply tax obligations, enhancing tax apparatus welfare, implementing reversed proof, protecting whistleblower, and determining money from corruption as tax object and burdensome fines for tax corruption. To implement these efforts, it is needed the seriousness and strong commitment from government by the law enforcement and providing an evidence regarding to using tax money such as subsidizing home, child subsidies, health and other subsidies. By providing real results to the people, it is not difficult for government to build the tax spirit and voluntary tax compliance.

Keywords—tax corruption, tax mafia, corruption pattern, corruption impact, overcoming corruption

I. INTRODUCTION

Corruption is a phenomenon known and discussed since even 2000 years ago when the Prime Minister of the Kingdom of India named Kautilya wrote a book titled "Arthashastra" [1], and when Dante and Shakespeare wrote a corruption (bribery) as a crime [2]. A famous saying about the corruption come from British historian, Lord Acton in 1887. He said that a power tended to corrupt and absolute power corrupted absolutely. He also said that the corruption was a potential problem without regard to racial, geography, or economic

capacity. In general, the corruption refers to illegal activities that conduct outside the formal system.

Furthermore, high corruption is a valid parameter to predict the fall of a government. History recorded that many leaders, in the beginning, elected by citizen because of the issue of overcoming corruption as a central theme of their campaigns then eventually failed due to corruption cases. Among of them are namely President of Ferdinand Marcos and Estrada (Philippines), Prime Minister of Benazir Bhutto (Pakistan), President Olusegun Obasanjo (Nigeria), and President Soeharto from Indonesia [3].

In the last two decades, corruption still haunted Indonesia Government in which this condition made Indonesia position at 56 as the most corrupted country in the world [4]. Therefore, Indonesia put serious attention to overcome corruption by various initiatives from the level of national, regional until international. This is because corruption is regarded not only as a moral issue, but also as a multi-dimensional problem (political, economic, social and cultural). On the other hand, changing in perspective and approach to corruption and increasing co-operation between countries bring optimism to fight against corruption.

Tax corruption as a part of general corruption has recently revealed in Indonesia. As a sector supporting almost 70% of government revenues, corruption in the tax sector seeming as a very painful plague for society. This is because the taxation goal to achieve developing economy and public facilities including the overall prosperity will be impeded by irresponsible tax official. The central question in this paper is how the tax corruption occurs in Indonesia, what is the relationship between tax corruption and tax mafia and what steps can be taken to prevent tax corruption and tax mafia.

II. RESEARCH METHODS

This paper attempts to answer these questions through the study of literature associated to tax corruption in Indonesia.

In order to answer this question, we first design a flow of comparison study. Secondly, we stimulate this flow toward transition, developed and developing countries by describing pre-reform condition to get information about general circumstances, occurred problems, and weaknesses of administration as driving factors. Thirdly, we explore expectations and elements of reform regarding to driving factors. Finally, we provide discussion and some concluding remarks.

III. EMPIRICAL RESULTS

A. Tax Corruption

Tax corruption is a diversion or misusing tax money for personal gain or anyone else [5] in "Corruption and political development" defines corruption as behavior which deviates from the formal ethical rules regarding to actions of a person within a position as public authority caused by motives of personal considerations, such as wealth, power and status [6]. Furthermore, Melchias M. Mekeng, chairman of the tax duty committee in the Indonesia House of Representatives said that there are 12 points of tax process that have potencies to be corrupt, namely: 1) the audit process; 2) billing; 3) tax court through the process of tax objection and appeal; 4) examining the early proof and tax investigation; 5) prosecution process; 6) the court process; 7) taxpayers (plus tax consultant); 8) person of tax officials; 9) person of tax court; 10) manipulating accountancy; 11) manipulating tax facilities; and 12) manipulating tax regulation. As a part of the crime in the field of taxation, tax corruption becomes a crime against society development and the nations of the world both in the modern and growth community. This is because tax corruption has a negative impact on activities in the economy public and financial government [7].

Basically, the tax corruption can be recognized in the general form covering bribery, embezzlement, fraud, and extortion. The explanation of tax corruption type as follows: 1) Bribery is the payment (in money or kind) that is given or taken in a corrupt relationship in order to obtain an ease for the company and to avoid the tax bill. Bribery can also be implemented as an informal tax such as under the table payments or expected gifts from clients including donations to the decision maker; 2) Embezzlement is theft of public resources by public officials, which is another form of misappropriation of public funds". So, this is a criminal act of stealing public money by government officials or bureaucrats; 3) Fraud is an economic crime that involves some kind of trickery, swindle or deceit. This type of corruption is organized and economic crimes involving officials. In terms of the level of crime, the term "fraud" is more popular term and also a legal term that is more extensive than bribery and embezzlement. In other words, fraud is relatively more

dangerous and more extensive scale than the previous two types of corruption. Cooperation between officials/agencies to close corruption case is an example of this type of crime; and 4) Extortion is money and other resources extracted by the use of coercion, violence or the threats to use force. This corruption involves officials who conduct coercion or coercive approach to obtain benefit as compensation for provided services [7].

All of tax corruption forms emerge because of several factors. According to the Singh research (1974), driving factors of tax corruption are moral weakness (41.3%), economic pressure (23.8%), administrative structure barriers (17.2%), social structure constraints (7.08%). Furthermore, Merican (1971) stated that the corruption occurred ought to legacy of colonial government, poverty and inequality, low wages, ineffective bureaucracy, and incompetence official staff. In addition, Ainan mentions the imperfective formulation of legislations, the slow, expensive and inflexible administration, and the tradition to obtain additional incomes by corruption as causative factors of tax corruption [7].

B. Tax Mafia

Tax mafia can be defined as all actions by individuals or groups planned in certain interests to influence law enforcers and public officials in order to conduct deviant behaviors from the existing law. Tax mafia is behind the actor in implementing tax corruption and kind of white - collar crime because of regarding to people in high socioeconomic class or people in the honorable group [8]. There are five reasons why the tax mafia still exist in Indonesia. Firstly, the larger power of the Directorate General of Taxes (DGT). The authority includes determining taxes, adjudicating tax disputes in objecting proses, seizing assets of taxpayer, blocking bank accounts, investigating tax criminals, impeaching taxpayers and arresting taxpayers. Regarding to this circumstance, the phrase that "power tends to corrupt" entitles absolute.

Secondly, there are many close relationships between employees in the DGT. These behaviors are uncommon in financial institutions because they encourage a conspiracy, and the conspiracy is difficult to detect. Thirdly, the lack of internal supervision in the DGT. Fourthly, the low tax target. In the 2012, tax ratio was determined at 12.33 percent. This ratio is still under the ASEAN average ranging from 15-20 percent. Finally, the existence of gray area in tax regulations. In accordance with Article 23A of the 1945 Constitution, all taxes and other levies that are forced to state purposes shall be regulated by law. However, in the Tax Law, besides the tax object, not the tax object is also determined. Transactions outside of the object and non - object is a gray area that could potentially be a source of corruption. In addition, the tax mafia also occurs regarding to the lack of knowledge about the mafia and the weak seriousness of tax officials to fight against mafias. Likewise, the protection from regime to the mafias because of mutualism agreement, the demoralization, low integrity and insufficient income of officials become intrinsic factors driving the existence of mafia [9-13].

C. Patterns of Corruption

The existence of mafia emerges the tax corruption. The patterns of corruption built in this paper are based on the empirical study and experience of actor of tax corruption. According to the empirical study from Indonesian Corruption Watch in 2001, there are three patterns of corruption, namely: 1) transactive - nepotism in human resources area, mainly in the placement of tax officials. In this term, corruption occurs because there is a bribe from the employee to the human resource staff in order to get the better position and to avoid the placement in a remote area. This pattern also becomes a mechanism to maintain the culture of corruption in taxation; 2) autogenic - extortive in tax administration. Autogenic refers to the corruption by tax officials following their existing authorities. extortive refers to the practice of extortion; and 3) transactive - autogenic in the form of tax negotiations. This pattern shows how corruption in the tax sector running based on mutual benefit in which taxpayers get a reduction of tax liability and tax officials obtain a commission. In some cases, sometimes, negotiations seeming as extortive whereby tax officials impose the larger burden of tax and then the value will be decreased according to the negotiation and agreement each other. The last pattern, currently, is highlighted as the most problem in Indonesia [14].

Furthermore, according to the actor of tax corruption [15], the patterns of corruption are as follow: 1) misusing authorities of account representative (AR) – a tax official who focuses to assist taxpayers in fulfilling their tax liability. Corruption in this sector occurs when AR helps taxpayers to “correct” annual tax returns by manipulating income statement because of magnitude of AR access and the ease to get more financial data. AR obtained a fee from these activities; 2) negotiations between taxpayers and tax auditor. The corruption practice occurs when taxpayers were examined by auditors based on AR reports. These activities had already happened before the reform of the bureaucracy; 3) negotiations between taxpayers and the objection reviewers. The corruption occurs when taxpayers propose objections and appeals. In this case, the objection reviewers, with their authorities, give administrative assistance so that directorate general of taxes (DGT) defeated in the court. The objection reviewer also purposely did not apply for a judicial review to the Supreme Court. Based on these activities, they obtain much money; 4) involvement of tax dignitaries in securing tax reports made by AR. By the assistance of IT staff, they ‘adjusted’ DGT database with the wrong report data. Involvement of tax dignitaries seem real if there is corruption in the examination or objections. This is because as supervisor, they participate to review the report.

In addition, the corruption modus by the AR or objection reviewer is not new in the DGT. Therefore, it’s difficult to argue that the tax authorities do not know. Before the bureaucracy reform, many tax officials behaved as a consultant for taxpayers. They do not just “tinkering” annual tax returns, but even intervening examinations, objections, until appeals. After reform, they are called the handler taxes or tax mafia

because of no position as AR or objection reviewer but having a large influence. Currently, the corruptions in DGT just different packaging and tariffs. Tax dignitaries seem close their eyes because they have already obtained much many from previous corruptions [16].

IV. DISCUSSION

The widespread tax corruption leads to inefficiency of utilizing resources, lost capital, disruption on capital investment, wasted skills, instability, social revolution, raising social and cultural inequalities, and the loss of administrator prestige. Furthermore, Mc Mullan (1961) stated that corruption caused inefficiency, injustice, untrustworthy government, waste of government resources, not encouraging foreign companies, political instability, and repressive. Therefore, it is needed serious effort to fight against the corruption [17].

Efforts to overcome tax corruption, absolutely, will involve all parties, all sectors and all components of policy makers in both the government and other state officials including the public as a taxpayer. This is because the corruption practice is not only a monopoly of government officials, but also a collective behavior that involves a society. Some highlights of effort to overcome tax corruption are: 1) establishing a committee to minimize corruption; 2) privatizing of tax auditor; 3) increasing role of board of audit of financial government; 4) establishing Directorate General of Taxes (DGT) as a separate organization from ministry of finance; 5) moving the complying tax obligation started from all tax officials; 6) enhancing tax apparatus welfare; 7) implementing reversed proof to evaluate annual tax officials income; 8) protecting witness as whistleblower; 9) determining money from corruption as tax object. In Article 4 paragraph 3 of Indonesia’s Income Tax Act states that all incomes are tax objects, so that income from corruption is also a taxable income. Therefore, a person who has status as a suspect, DGT can calculate the tax payable on the corrupted money as a tax base. If this approach realized, the government to be receive revenue from the fines of corrupted money; and 10) imposing burdensome fines for tax corruption. Especially for tax corruption, the suspect must return the corrupted tax money as a whole, finance tax payable from the corrupted money and disburse a fine derived from tax-payable multiplied by 4 [16].

Beside some efforts above, some experts also offer anti-corruption measures to overcome tax corruption. Firstly, Caiden advised to legalize some previously prohibited transactions by determining the amounts of certain payments. Then government conducts reform in organization that will facilitate in the supervision and prevention of centralized power. Furthermore, the government is expected to rotate the assignment in order to avoid overlapping authority in the same organization including determining supervisory agencies.

Secondly, Myrdal delivered suggestions to overcome corruption as follow: 1) simplifying dan making more clearly all procedures for administrative related to individuals and

companies; 2) conducting strict supervision; 3) reducing personal and subjective policy; 4) improving and more secure staff salaries and socio-economic position; 5) quickly retrieved criminal law on corrupt officials including people who bribe officials.

Thirdly, Kartono advised in: enlarging the awareness of the people to take together responsibility in overcoming corruption and to participate in doing political and social control; cultivating the national pride to eliminate corruption, showing exemplary started from leaders and officials to eradicate corruption; conducting recruitment system based on "achievement" and not based on "ascription"; managing budget system by officials who have high ethical responsibilities and honest accompanied by an efficient control system; accomplishing re-registration toward the wealth people with high taxation.

Finally, Marmosudjono said that to handle corruption, it is needed efforts to make shame sanctions for criminals by showing their faces on television. Other actions are namely: 1) conducting preventive actions to build and deploy ethics officials and employees in both government and private institution; 2) growing awareness to correct each other, together control and open political culture; and 3) performing re-registration toward for all official incomes [17].

V. CONCLUSION

Corruption is not be separated from the authority power. In Indonesia, power and corruption are similar like two sides of a coin, in which power tends to corrupt and absolute power corrupts absolutely. This power emerges an actor named by the tax mafia. As actor behind the tax corruption, the existence of tax mafia impairs the public interest and impedes the prosperity of society. In terms of the pattern of corruption, obviously, there are similarities between the study result and testimony from tax corruption actor, in which there is the existence of tax official involvement in protecting any corruption cases related to taxes. This is the real tax mafia. Tax corruption is built on the basis of mutual benefit between tax authorities and taxpayers. The directorate general of taxes (DGT) is not harmed from this relationship, but the center government is disadvantaged because of not 100% tax revenue enter to the budget.

Consequently, the government lacked the funds to conduct maximal developments and services. As a result, the society suffers; common facilities are not available; public services are bad, and finally the tax compliance is decreased because of the absence of tangible results enjoyed by society from the tax revenue. Tax corruption must be eliminated comprehensively. Strategies to overcome it should be preceded by a collective faith, which is a kind of willingness of all parties to work together does not give the slightest tolerance against corruption. Tax corruption should be imaged and treated as

criminal behavior, as well as other crimes that require handling by law.

In order to realize an effective strategy, it is needed preconditions, namely: 1) driven by political will, strong commitment, and emerged from own consciousness; 2) thorough and balanced; 3) accordance with the demands; 4) there is a target and sustainable efforts; 5) based on the available resources and capacities; 5) measurable; and 6) transparent and free from conflicts of interest. To implement the government commitment, it is started from the law enforcement in the tax institution. The government can audit all tax official incomes from high level management until the lowest employees by reverse verification approach. Furthermore, the government also recheck tax cases won by the taxpayer in the tax court. In addition, tax audits focus on large taxpayers who provide great potential in state losses. In terms of utilization of tax money, the government have to provide an evidence that tax money is used only for the benefit of society. The simple things can be done such as subsidizing home, child subsidies, health and other subsidies.

By providing real results to the people, it is not difficult for government to build the tax spirit and voluntary tax compliance

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