

Failing Supports of Transparency against Corruption in Business Permit Service in Indonesia

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Abstract. *Recent literature affirms transparency as one of main strategies to eradicate corruption, while factual problems in Indonesia show that the corruption is remaining although the transparency is manifested. This paper aims at explaining why the transparency fails to support the corruption eradication in Indonesia as relationship between the two is not simple as it is. To make it manageable, the analysis focuses on the transparency within the implementation of a One Stop Service in the business permit process. This study employs a desk research over secondary data, including the Corruption Perception Index, Ease of Doing Business, Global Competitiveness Index, and government reports. It suggests that failing supports of the transparency to eradicate the corruption deal with certain problems as follows: inappropriate transparency, deficiency of complaint mechanism, the misuse of authority by local leader, the low awareness and permissiveness of the society that meet the moral hazard of the bureaucrats and the institutional problems within One Stop Service agency. To solve these problems, it should be considered to strengthen the capacity of the society through a building awareness to complain and to increase the capability of the bureaucrats to translate the transparency into concrete and workable implementation.*

Keywords: *transparency, corruption eradication, business permit service, bureaucracy reform, ease of doing business.*

I. INTRODUCTION

After 32 years under the authoritarian regime, Indonesia has entered its democratic era in 1998. In this transition, the government has started an administrative reform or widely known as a bureaucratic reform as one of its commitments. Nevertheless, Indonesia had just national grand design bureaucracy reform in 2010, which was more than a decade after the transitional era. This grand design consists of 9 Accelerating Administrative Reform Program in 8 Areas of Change and two of the reform acceleration strategies are “Transparency and Accountability Enhancement” and “Improving Service Quality for Better Trust and Investment Climate” [1]. There is a strong link between those strategies. Based on a study conducted by Corruption Eradication Commission (KPK/Komisi Pemberantasan Korupsi) and Transparency International Indonesia, two biggest sectors suffering from the corruption are business permit and procurement which are undertaken in non-transparent manner [2]. This non-transparent manner leads to high

uncertainties which make these sectors are not interesting for the investors.

The implementation of administrative reform emphasizes the role of local government to undertake that commitment at local level. This is preceded by the change of local government system from centralization to decentralization with the implementation of Law No. 22/1999 *jo* Law No. 32/2004 *jo* Law No. 23/2014 on Local Government. It means that the local governments have more autonomy to regulate and manage their own regions in several aspects including local economy.

As one of the leverages to improve the local economic growth, several bureaucracy reform agendas at the local level have been implemented through an innovative program within government work and public service delivery pioneered by a number of government agencies and local governments perceived as best practices. Some of those innovations are one stop service, deregulation, e-procurement, etc. The One Stop Service is selected as one of breakthrough programs with the aim at increasing the transparency and efficiency and decreasing the corruption in the business permit service. Some local governments implement this program in order to make their regions attractive for the investors both domestic and foreign investors. They do it to make the permit process simpler, faster, more transparent and some of them give free charges for a number of permits. Based on this innovative program, local governments receive the Investment Award from the National Government as the best government in improving the business climate, for instance Purbalingga Municipality, Sragen Municipality, Parepare Municipality, and Banjar Municipality [3]. These best practices then are replicated by other local governments to implement the same in their own regions.

Unfortunately, the implementation of the One Stop Service has not been significant in improving the business climate at national level. Data of Ease of Doing Business released by World Bank Group puts Indonesia at position 91 out of 189 countries [4]. Two indicators that most contribute to this position are “starting a business” which is on the rank 155 and “dealing with construction permits” on the rank 153. Furthermore, a level of the corruption is not reduced significantly. According to the Corruption Perception Index 2016, Indonesia is ranked 90 out of 176 countries and the score is just 37 out of 100 [5]. It means that Indonesia is still in the category of corrupt with a score below 50. In this perception index, businesspersons are part of respondents surveyed to know their perception related to the ease of business in Indonesia. With the low score of this index indicates that many parties including the businessperson perceive that the practices of the corruption are still high in Indonesia.

Based on those facts, the One Stop Service as an innovative program has not sufficiently succeeded to increase the transparency and decrease the corruption for the business climate improvement. A transparent institution is one where people outside or inside the institution can acquire information they need to form opinions about actions and processes within the institution [6]. Some studies show that there is a strong relation between transparency and corruption. Kaufmann considers transparency as an important development issue due to its powerful effect on the corruption – “the transparency promotes development indirectly through a better control of the corruption and capture, which in turn we know that it breaks development and growth” [7]. A study by ICMA International also suggests, “*The transparency is a fundamental element of abolishing the corruption... Controlling the corruption is possible only when government,*

citizens, and the private sector cooperate to ensure the transparency” [8].

In the recent decade, there has been a massive wave of research and debate concerning the relation between the transparency and the corruption and it shows a contra-productive result that the relation between the transparency and the corruption are not directly. Lindstedt and Naurin, for example, suggest, “The relationship between the transparency and the corruption may not be so straightforward. Less corrupt countries provide much less information about public procurement than the usual suspects” [9]. They also argue that there are some reasons why the link is not as straightforward as is usually assumed. First, a distinction is made between two types of the transparency: the transparency which is controlled by the agent itself (the institution/actor under supervision) and the transparency which is not under the agent’s immediate control [10]. These two types of the transparency affect the corruption for different reasons and with different strength. Second, the link between the transparency and the corruption is subject to two important and overlooked conditions which limits its reach: In order for the transparency to alleviate the corruption where information is made available through the transparency reforms must also stand a reasonable chance of actually reaching and be taken in by the public, it is called the publicity condition. Third, the accountability condition, if the release and spread of information to the public is to affect the behavior of potentially corrupt government officials, the public must have some sanctioning mechanisms in its hands.

This study aims at explaining *why the transparency fails to support the corruption eradication in Indonesia*. The analysis focuses on the case of business permit service as one of the main areas of change in Indonesian Reform Program to improve

service quality for a better investment climate. Following the Introduction, this paper consists of research method, results and discussion and conclusion.

II. RESEARCH METHOD

This research conducts a qualitative approach by identifying and explaining why a number of efforts to increase the transparency in the business permit service fails to support the corruption eradication in Indonesia. A desk research is conducted in this study by collecting secondary data, for instance time series data or index related to the transparency and the corruption launched by national and international organizations, progress of business reform in Indonesia, public service evaluation by a number of organizations, and related journal articles highlighting issues of the corruption and the transparency in public services.

First step of the research is unpacking the conceptual framework of the transparency, which this research highlights a theoretical gap in a number of journal article as to whether the transparency plays certain roles in administrative reform and how its manifestation deals with the corruption. Second step, examining data from indexes—they are mainly “Ease of Doing Business” released by the World Bank, “Corruption Perception Index” released by Transparency International, “Global Competitiveness Index” released by World Economic Forum, and various studies conducted by Indonesian government agencies—in order to gain a brief understanding on recent problematic condition of the corruption within business permit services in Indonesian context. Third step is examining in what condition and in what ways critical circumstances of business permit service both in terms of structural and cultural factors open a sort of institutional

loopholes within a business process of the service, especially when in a matter of complain mechanism. Fourth step is bringing analysis undertaken within three previous steps into a solid analysis explaining problems within which manifestation of the transparency in the business permit services are dealing with.

III.RESULT AND DISCUSSION

A. *Embodying the Transparency through One Stop Service?*

Innovation in public sector is always assumed as an endeavor to achieve a better condition and the more innovative the endeavor, the more benefit it may contribute to the community [11]. Thenint more specifically suggests that public service innovation conducted by the government is basically aimed at enhancing efficiency, effectiveness and quality [12]. It is also to be achieved through the One Stop Service. This innovative program aims at increasing the quality of government by increasing the transparency in the business permit service, thus the level of the corruption can be eradicated in order to improve the business climate.

The One Stop Service aims at simplifying the permit process by integrating the authority to issue permit service, commonly located in various disparate government offices into one government agency. Despite the existence of national regulations that defines many administrative processes, the One Stop Service offers an opportunity to simplify the business permit through the local regulation (so-called *peraturan daerah* “perda” (Regional Regulation)) issued by the local leader, Major or Regent. However, fewer than 20% of provinces in Indonesia have established the One Stop Service and just a few of these

functions effectively [13]. The rest of local governments still manages the business permit services through disparate technical departments and each of them handles specific permit.

The simplicity and the transparency of business permit become two factors for the investors in choosing their investment areas. For instance, as Mursitama *et al.* put it, some foreign investors from South Korea state that they choose Purbalingga Municipality because of the ease of procedure in starting their business although it is quite far from Jakarta, the capital city [14]. They explain that they initially choose another area closed to Jakarta but the permit process takes a very long process with high costs in dealing with the bureaucrats. They know the One Stop Service in Purbalingga Municipality that is recognized as one of the best practices and decided to invest in this area. In five years from 2005 until 2010, there were 15 new big industries in Purbalingga. A research by Prasojo, Kurniawan, and Holidin suggests that the One Stop Service with its trademark “simplicity and transparency” has a significant contribution to grasp the local economy in terms of business climate improvement [15].

Unfortunately, not all of the One Stop Service agencies have the same success. In other local governments, this agency cannot function properly because of some factors. In general, they have perceived the One Stop Service as a national wide trending model to be replicated but it seems that the model has merely been adopted without maintaining the essential aspect of why and how it is supposed to be operated. The better performance of several local governments in delivering their services brings a significant contribution to the national bureaucracy efficiency level. Nevertheless, there is a paradox phenomenon that this increasing level of bureaucracy efficiency is not in line

with the decreasing level of the corruption. A survey by World Economic Forum shows that the decreasing inefficient bureaucracy meets the increasing level of the corruption and it brings Indonesia at 34th position of 144 countries in the Global Competitiveness Index [16].

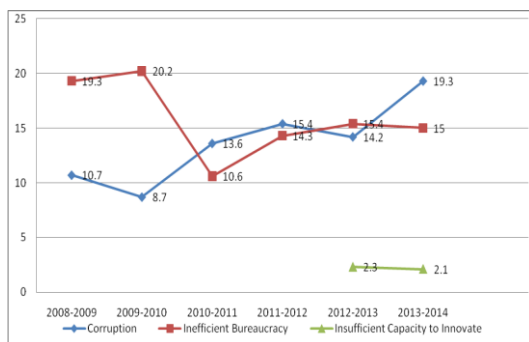


Figure 1. Global Competitiveness Index – Factors Hampering Ease of Doing Business in Indonesia

Source: graph developed by the authors from World Economic Forum, 2008 – 2014

As shown on Figure 1, the decreasing level of inefficient bureaucracy is not correlated to the decreasing level of the corruption. In the years 2013-2014, there was even negative relationship between those indicators that the lower level of the inefficient bureaucracy, the higher level of the corruption. The inefficient bureaucracy does not necessarily mean a corruption free bureaucracy. But, the facts show that non-transparent bureaucracy leading to inefficiency, for instance the practice of budget mark-up and the misuse of resources which lead to the corruption. Nevertheless, embodying transparency through the One Stop Service does not directly correlate to supporting the corruption eradication.

B. Factors constraining transparency to eradicate corruption

Based on the problematic implementation of the One Stop Service in Indonesia, there are

several factors that cause the transparency fail to eradicate the corruption, as follows:

1. Inappropriate Transparency, publicity ≠ transparency

A study by the Indonesian Ombudsman shows that although the One Stop Service has a clear business process, not all of them gives this information sufficiently to the service users [17]. Each user needs to ask to the officers before they propose a permit. Consequently, the users can receive different information from different officers, for instance related to the length of time and the charge of services. The Asia Foundation also found that actually just under 75% of the respondents of the research said that there was no detailed information available in licensing in their regions [18]. However, this lack of information and its correlation to the uncertainty related to formal and informal charges has led to the emergence of brokers who offer services to arrange permits. Almost half of the businesses in the survey sought assistance of the third parties and interestingly in almost half of these cases local government officials acted as intermediaries [19]. It means that the practice of bribes still happens in this new system.

Clear information is needed to assure that all stakeholders have the same information, for instance about the business process, the fees, and the documents required to propose a permit. Unfortunately, many bureaucrats have misunderstanding on how they have to publish the information. They argue that all the process is already transparent and the citizen thus can monitor their performance. However, in fact, they do not give sufficient information and publication to the citizen. Lindstedt and Naurin argue, “Publicity is not the same as transparency. The publicity means that the existing information is actually spread to and taken in by the principal” [20]. The publicity

does not mean the transparency, but it is just a part of the transparency. In the context of business process through the One Stop Service agency, the transparency implies that documentation of the actions of the officer is released, while the publicity means that the content of this information has also known among the citizens. If the citizen cannot access the information easily, it means that there is no publicity as well as the transparency. In the principal-agent framework, it is defined as the asymmetry information between the principal and the agent. Furthermore, Linstedt and Naurin also point out that “clearly transparency will frequently increase the chances of the publicity. But the link is not straightforward. In this regard, there will be no publicity, for instance no actual exposure of actions to a public audience no matter how transparent the process or the institution if the available information about these actions is left unattended” [21].

2. Deficiency of Complaint Mechanism

All of the One Stop Service agencies provides a sort of complaint mechanism as a part of their transparency system. Normally, this complaint mechanism is handled by a special division. In fact, this does not work because of some reasons. One of factors is a cultural barrier of the user to complain. A study by *Bappenas* (Indonesian National Development Planning Board) shows that more than a half respondent has known the establishment of the complaint unit but just around 30% of them are likely to complain in which more than 60% respondents say, “it is useless to do complain because of the low response from the officers” [22]. Low awareness to complain cause this service look fine and has no serious problems. In facts, some studies show that many users feel dissatisfied with the quality of service but they are reluctant to complain. One of the factors is the low response of the

officers. It means that there is a reciprocal relationship among the cultural barriers to complain from the society with the deficiency of complaint unit.

The phenomenon shows that efforts to increase the transparency should be assisted by creating value and culture that underpin constructive critics and complaints. A research by Lindstedt and Naurin suggest that “reform focusing on increasing the transparency should be accompanied by measures for strengthening people’s capacity to act upon available information if we see any effects on the corruption” [23]. Based on the facts, building awareness to complaint and how to complain should be considered by the local government, besides providing the complaint unit, improving transparency in public service delivery should be also conducted.

Basically, the national government has already issued a general regulation through Ministerial Decree of Administrative Reform - *Kepmen PAN* No. 63/2003 concerning the Minimum Standard of Public Service that contains an obligation for each government agency to provide a complaint unit. Unfortunately, this regulation has not effectively been implemented because of either organizational problem or the low awareness of the society.

3. Misuse of Authority by the Local Leader

The definition of the corruption by Transparency International as “the abuse of entrusted power for private gain” also occurs in the business permit service [24]. Although most of the agencies have already published information and takes “transparency” as their values, the practice of bribery persists between the investor and the local leader as the most powerful person. A decentralization gives local leaders the higher authority to exercise discretionary power in issuing

business permit. The evolving of regulatory framework and lacking accountability system open loopholes for local leaders to misuse their authority by issuing business permit as a mean for private gain. It is like an “open secret” that the businessman who has contribution in supporting the campaign by electing local leader has a special treatment by having “special quota” to invest in that region. It is kind of mutualism relationship between the investor and the local leader that each of them receives each benefit. Since most of the new business are the big industries which most of them are foreign investor, the type of the corruption is a grand corruption. According to the Indonesia – Investments Data the number of foreign investments is double of the domestic investments. This trend also occurred in previous years [25].

It is in line with Wilson’s statement that “the size of the firms and its origins have also previously been associated with level and type of the corruption that individual firms have a propensity to engage in” [27]. Thus, three essential conditions mentioned by Jain as cited by Wilson occur in the process of the business permit within the One Stop Service agency [28]. In the framework of decentralization, the local leader has a discretionary power to issue a permit. This power meets the fact that there are economic rents between the local leader and the investors. When an investor has a “special relation” with the local leader, it is easier to get a permit without fulfilling all process and requirement required by the One Stop Service agency. Furthermore, the low detection of this abuse of power makes the corrupting behavior cannot be easily traced to control. This can be analyzed from Hoetjes’s theory on the *institutional economic approach* that sees the corrupting officials as rational utility maximizers who simply take the most profitable course of action.

4. “Instant-making culture” of the society meets moral hazard of the bureaucrats

As happened in the other public service, “barter” practices also become a part of business permit services. In the context of the One Stop Service, “the barter” occurs among the service users who do not want to allow the regulation and the officers who offer easiness without following the regulations. On the one hand, it means that the corrupting behavior also comes from society. Based on his research and what he wrote in his chapter on “Reflections on Corruption in Indonesia,” Goodpaster states, “Indonesian society is permissive and tolerate corruption [29]. This claims are effort to explain why it persists over generations, notwithstanding to general notice and constant condemnation.” On the other hand, moral hazard of the bureaucrats, in term of officers who are in charge for the business permit, make this “barter” wider spreading.

For instance, in Makassar Municipality, the business permit service through the One Stop Service agency cannot function properly. Mursitama *et.al* argues that one of the problems is the “instant-making culture” of the society, which means that the citizens do not want to deal with the bureaucratic procedure and choose to simplify the process by take a shortcut through bribery [30]. That makes the One Stop Service become ineffective. This is worsened by the moral hazard of the local bureaucrats who take this opportunity for their own personal benefit rather than persuading the society to follow the rule.

Since the common practices occur in daily services of the business permit with a small scope just between the officer and user, it is commonly included in the category of petty corruption. In this respect, we can see

that the corruption can begin either from the society or from the bureaucrat. As Klitgaard argues that “the corruption can involve promises, threats or both; can be initiated by a public servant or an interested client; can be inside or outside the public organization” [31].

5. Institutional problem between the One Stop Service agency and other local agencies

Persson and Rothstein state that “according to Becker’s theory, the source of official corruption is the same everywhere: large government with the power to dispense many goodies to different groups. Therefore, smaller government is the only surefire way to reduce the corruption - “If you want to cut the corruption, cut the government”” [32]. In line with Becker’s recommendation, contemporary anti-corruption efforts have commonly involved the downsizing of the governments. It is also done by the Indonesian government to cut the permit service units through the One Stop Service agency. Unfortunately, this strategy remains some problems, especially institutional problem between that agency and other local agencies.

The One Stop Service can take a different organizational form. Based on the Government Regulation No. 8/2003, there are three forms can be applied for the local government agencies. First, the “*unit*” form, that is the lowest level of authority and often the least effective. The unit is simply a front office for receiving license applications without authority to approve them. The One Stop Service agency still passes applications to the relevant individual departments, which have the authority to issue the licenses. Second, is the “office” or in Bahasa Indonesia called “*kantor*.” This form can usually receive applications and coordinate the processing of those applications including field visits by

technical departments. Third, and generally the most effective type is the “department” or “*dinas*” (in Bahasa Indonesia) that can receive, process and approve the applications in-house. This last type will be endowed by necessary administrative and technical personnel as well.

An agency functions most efficiently if it has the authority to receive, process and approve license applications. In fact, not all of the One Stop Service agencies take the third form. It means that they do not have enough authority in approving the business permit applications. Consequently, the process takes longer and more difficult to control because it depends on the technical departments that handle this application.

IV. CONCLUSION

In sum, the government strategy to increase their performance by embodying the transparency through the One Stop Service has no direct correlation with the corruption eradication. The transparency fails to support the corruption eradication when it meets the following impediments: inappropriate transparency, deficiency of complaint mechanism, the misuse of authority by the local leader, the low awareness and permissiveness of the society that meet the moral hazard of the bureaucrats and the institutional problems within the One Stop Service agency. The implementation of the One Stop Service as an innovative program in the framework of decentralization in Indonesia has moreover not been successfully yet in improving the business climate at national level.

Those findings also indicate that both parties, the society and the bureaucrats, can initiate the corrupting behaviour. Culture of the society that perceives the corruption as a common practice gives a significant contribution to the worsening problem.

Educating the society should be considered as the next important government agenda; namely strengthening the capacity of the society to participate, for instance through building awareness to complain, will help it cope with the prevailing impediments to the working transparency. Besides the high tendency of bureaucrats to take any opportunity for their personal gains from institutional loopholes upon the transparency weaknesses, their misunderstanding of the transparency manifestation is an integral part of the problem. It is important to make bureaucrats capable of translating the transparency into the concrete and workable implementation that gets rid of the institutional weaknesses.

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