Analysing decentralisation and corruption in Indonesia: a fraud triangle approach

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Introduction

Implementation of a decentralisation system, post 1998 Reformation, has brought a fundamental change in institutional arrangements between central and local government in Indonesia. Coming into force in 2001, Indonesia's decentralisation system mainly consists of (1) political decentralisation, which is devolution of political power to local governments to manage all government's functions except foreign affairs, security and defence, monetary and fiscal policy, religious affairs and justice; and (2) fiscal decentralisation, which mainly refers to granting authority to local governments to raise local taxes and providing equalisation funds which are aimed to finance the implementation of devolved power in local level (Pepinsky & Wihardja 2011, p. 338). Despite its success story to foster local development and economic growth in Indonesia (Aisyah 2007, p. 34; Jumadi et al. 2013, pp. 4-6), decentralisation has also been regarded as one of the responsible factors in the growing number of corruption cases in local areas (Rinaldi et al. 2007, pp. 17-18).

According to Commission Eradication Corruption's data, there were 361 cases of corruption which involved local leaders such as governor (18 cases) and mayor/regent (343 cases) during the period of 2004 to 2016, or in the other words, about 70 percent of all local leaders were convicted of corruption (Hidayatullah 2016). On the other hand, in examining a fraud behaviour in a firm, organisation or a system, Cressey (1973) identifies three determinant factors, also known as the fraud triangle, that must coexist with namely perceived pressure, perceived opportunity and rationalisation. DFAT (2016) argues that corruption or abuse of position is a narrower scope of fraud (pp. 5-6). Against this background, this paper analyses the rising corruption phenomena at local level in Indonesia's decentralisation system from the perspective of fraud triangle. This paper argues that decentralisation systematically shapes pressure and creates opportunity for the emergence of corruption in Indonesia, while growing corruption cases and a corrupt justice system become two strong rationalisation factors towards corrupt behaviour.

Analytical framework

There have been continuing debates in relation between decentralization and corruption. Some scholars argue that because decentralization bring the government closer to the

citizens, therefore citizens' control towards local government would be followed by increasing quality of governance and decreasing opportunity of corrupt behaviour from local leaders and local bureaucracy (Huther & Shah 1998, pp. 17-18; Arikan 2004, p. 192). On the other hand, the others reveal evidence that decentralization is followed by growing corruption as potential misused of devolved power by local leader is greater along with a higher degree of decentralized authority and power (Fan et al. 2009, p. 14; Asthana 2012, p. 36). In this paper, definition of corruption would be taken from Law No. 31/1999 on Eradication of the Criminal Act of Corruption which defines corruption as any illegal acts including bribery, gratuities, act of cheating, embezzlement by abusing power, extortion by public servants and conflict of interest in a procurement process which are intended to enrich oneself or another person or a corporation, thereby creating losses to the state finance or state economy (Article 2; Article 5-13).

Generally, corruption is a part of fraud in which these two activities are triggered by dishonesty (DFAT 2016, p. 5), therefore it is possible to apply fraud triangle in analysing corrupt behaviour. Byars (2009) argues that the triangle of fraud which consists of (1) perceived pressure, (2) perceived opportunity and (3) rationalisation are also relevant to adequately explain the possibility of corrupt behaviour because corruption is likely to occur if there were motivation or incentives or pressure, opportunity and reasonable excuse to justify the acts (pp. 1-2). Furthermore, examining behavioural perspective of corruption in Indonesia by using a fraud triangle framework, Prabowo (2014) concludes that the fraud triangle could be an assessment tool to assess costs and benefits before an offender commits corruption (p. 306). Even though the author did not specifically discuss corruption in the context of decentralisation, Prabowo (2014) highlights the role of decentralisation system in creating pressure for local officials to be corrupt (pp. 313-314). Other research on corruption in Indonesia's decentralisation system was conducted by Kirana (2014) which mainly reveals the rising opportunity of corruption and abuse of power caused by devolution of power to local governments (p. 46).

Compared to the other factors of fraud triangle, the factor of pressure felt by the perpetrators is the stimulus and motivation for corruption to occur, and therefore it becomes the most difficult factor to be prevented (Cressey 1973, p, 77). According to Dorminey et al (2012), a combination of (1) internal problem such as financial shortfalls, greed and life style as well as (2) a strong desire to retain ego and pride would heavily put a non-shareable, usually financial, pressure for corrupt perpetrators (p. 558).

Furthermore, Cressey (1973) argues that perpetrator's comprehension towards any weakness that exist within an organisation or system, such as poor internal control or weak supervision, would be able to transform pressure to become an opportunity for corruption (pp. 77-78). However, both pressure and opportunity factors are not necessarily to be real, such a perception could lead to corrupt conduct (ibid, p. 30).

Moreover, rationalisation is the last factor to complete the triangle. Perpetrators often realise that their misconducts are inappropriate, and therefore they try to create a justification that could be made before or after their action (Cressey 1973, p. 94). According to Dorminey et al. (2012), the perpetrators are usually aware that their misconducts are morally unacceptable, and rationalisation become an excuse to morally defend their action (p. 558). Rationalisation is also about economic calculations by the individuals involved in the activity in which decision to be corrupt is made only if the benefits are greater than moral cost and the possibility of getting caught (Klitgaard 2008, p. 3).

Analysis

(1) Perceived pressure

Indonesia's decentralisation system creates financial pressure to local leaders through political cost that must be spent in the process of direct election. One of embedded characteristics of the decentralisation system in Indonesia as regulated by Law 32/2004 on Local Government is direct election of local leaders, replacing the previous system in which the local leaders were elected by local parliament (Article 24). Even though this process fosters democracy at local level by letting citizens to directly vote their leader and strengthening checks and balances mechanism between local executive and legislative, it raises two successive issues of: (1) money politics in the election process, and (2) corruption by elected local leaders. According to Muhtadi (2015), the phenomenon of money politics through the distribution of financial and non-financial benefits to obtain political and voting support from the voters has become a major issue in Indonesia, which mainly caused by unfair competition between candidates and voters' perception that money politics is a reasonable practice to gain their votes. The voters' acceptance towards money politics in a direct election system could be justified by the reason that Indonesia's democracy is relatively young (Sjahrir et al. 2014, p. 167).

Furthermore, the political costs which have been spent by candidates in the elections in turn create an incentive for corrupt behaviour once they hold the position as governor, mayor or regent which is aimed to recovery that costs. According to Cressey (1973), an offender would realise a pressure and immediately become the felonious intent in fraud behaviour after possessing a position (p. 20). A study conducted by the Ministry of Home Affairs of Indonesia reveals that election costs of an elected candidate for mayor or regent are equivalent to AU$ 3 million and AU$ 10 million for governor (KPK 2016, p. 3). Considering that current monthly salary of mayor/regent is only AU$ 5,000 and AU$ 8,000 for governor (Akuntono 2015), it is almost not possible to recover these costs over a five-year term.

In addition, the high cost of election would also require private sectors' contribution to finance the campaign and other election costs. Thompson (2013) defines any benefits or contributions which are received and used by candidates in the political process as political gain (p. 9). Even though the General Elections Commissions Regulation Number 8 Year 2015 legally allows the private sector, both individuals and legal entities, to financially support a candidate by a maximum of AU$ 5,000 for individual and AU$ 50,000 for a legal entity, it would be difficult for elected local leaders to avoid the reciprocal actions towards those contributors (Article 7). According to Rose-Ackerman (1999), limiting campaign funding by the private sector in a high cost election system will only result in increasing illegal and unreported donation (p. 370). Hence, it risks the local government's policy of being captured by the contributors' interests. Once the elected leaders exercise their authority that undermines the legal procedures in favour to contributors' interest, political gain has been transformed into political corruption (Thompson 2013, p. 9).

For instance, a study conducted by Indonesia Corruption Watch in two regencies, namely Ketapang and Kutai Barat in Kalimantan, reveals evidence that the patronage system exists to serve the interests of private companies and individuals who have contributed in financing the regents during the elections (Sjafrina et al. 2013, pp. 17-19). Regent of the two regencies are suspected of providing excessive land use permits for coal mining and palm oil plantations limited to companies which has provided political gain for the regents, and for some permits, the regents abuse their power (ibid). This case could be an evidence of how local policies are being captured by private interests as a result of unavoidable pressure experienced by local leaders.

(2) Perceived opportunity

Under Indonesia's decentralisation system, perceived opportunity to undertake corruption is mainly raised by the design of regulations that arrange the system itself. Law 32/2004 on Local Government as the main regulation to decentralisation in Indonesia devolved all governmental affairs and authorities, except foreign affairs, security and defence, monetary and fiscal policy, religious affairs and justice, to local government (Article 10). The wide-range of devolved authority received by local leaders would create a monopoly towards these authorities at local level, even though Law 32/2004 also states that there is a local parliament which serves as legislative and partner in checks and balances mechanism. According to Klitgaard (2008), the opportunity to commit corruption is mainly shaped when a person or a group holds a monopoly of power as a result of the system failure to arrange a power sharing mechanism (p. 3). Therefore, to be able to exploit a condition in the system to become an opportunity to commit corruption, a perpetrator should have the capability to undermine the control mechanism (Wolfe & Hermanson 2004, p. 40).

Such a collusion between local leaders and local parliament would worsen corruption in local areas since monopoly held by these two bodies ceases control mechanism which was arranged by laws. According to Novoselov (2007), collusion could eliminate the benefits of control mechanism which was designed within a system (p. 8). Local parliament could potentially be corrupt as it is also a product of direct election and has the similar pressure as local leaders to recover the costs of the election. Knowing that local parliament members also have potential of financial pressure, providing bribes to parliament members to arrange a collusion between parliament and the executive would create opportunity for sustaining parliament's support towards corrupt activities in the executive's side. Because parliament members should act collectively in any decision making, local parliament members dominate the number of local officials who involved in corruption cases. According to the Ministry of Home Affairs' data, 3169 local parliament members were convicted for corruption during the period of 2005 to 2014, compared to 318 of local leaders during the same period (Angga 2014; Rachman 2014).

A famous scandal of collusion between Governor of North Sumatera Gatot Pujo Nugroho and local parliament members in 2014 budget discussion process could be an example of how executive bribes the parliament to gain support and legitimacy for a corrupt activity. In 2013, the Governor prepared a draft of the 2014 budget, which allegedly contained

several fictitious projects (Hidayat 2016). In gaining support and approval from parliament as an institution, the Governor has bribed all 100 parliament members by a total of AU\$ 5 million bribe (ibid). On November 2015, KPK revealed this case and arrested the Governor along with 13 members of parliament. Currently, five of them have been sentenced to four years in prison while the governor and the rest of the suspects are still in the trial process (Gabrillin 2016a). This case indicates that collusion between local parliament and executive exists in decentralisation system. It impedes the checks and balances mechanism, creates a sharing monopoly of power between two institutions and subsequently, leads to a greater opportunity of corruption in local areas.

Another opportunity is raised by a gap in accountability mechanism between local governments and the Supreme Audit Board, hereafter BPK or *Badan Pemeriksa Keuangan*. A weakness in accountability mechanism would lead to greater opportunity of corruption because this factor works as a counterbalance towards monopoly of power and discretion in Klitgaard's (1998) corruption formula: $C = M + D - A$, or corruption equals monopoly plus discretion minus accountability (p. 4). According to the Law 32/2004 on Local Government, local governments have to submit a financial statement to BPK not more than six months after the end of a budget year (Article 184). Opportunity for corruption arises as if the BPK found losses to the state finance during the audit process, the findings cannot be directly reported to law enforcement agencies as corruption cases. The finding will be considered to have been completed if the local governments have returned the losses to the state finance within 60 days after the completion of the audit, and therefore it would not affect the BPK's opinion on the financial statements (Article 23 of Law 15/2004 on The State Financial Management and Accountability). This regulation would potentially encourage the local governments to be corrupt as an experimental effort; if the BPK found the corruption, they only need to return the state losses, however, if BPK did not find the case, they will gain benefits from the experiment.

(3) Rationalisation

Denial of responsibility has been the most often used reason to justify local leader's corrupt behaviour. According to Anand et al. (2004), denial of responsibility is an excusing tactic in which corrupt perpetrators persuade themselves that they have no choice other than doing the unethical acts in exercising their authority, especially when the pressure is massive, because the others also do the same way (pp. 42-43). By assuming

that the high political cost of election has put an equal level of pressure among local leaders to recover the costs as well as to serve the contributors' interests, corruption becomes an inseparable part of the decentralisation system. According to Prabowo (2014), when corruption is perceived as a normal conduct in a system, it become circumstances in rationalising corrupt behaviour (p. 317). The Corruption Eradication Commission reveals that during 2004-2012, the abuse of power by local leaders accounted for 81 percent of corruption cases, while the other 13 percent was about bribery (Rastika 2014). Because the abuse of power dominated the cases, it could be said that most of local leaders perceived it as normal conduct by local leaders since the others also do the similar violation. A theory of differential association introduced by Sutherland (1947, cited in Cressey 1954, p. 29) could be an explanation of how perpetrators rationalise their corrupt actions. According to this theory, individuals learn and imitate technique, rationalisation and motive of a criminal offense through a process of interactions and observations from previous offenders (ibid).

In addition, the corrupt justice system also contributes to become a rationalisation for local officials to behave corruptly. Bertelsmann Stiftung (2016) in Bertelsmann Transformation Index 2016 for Indonesia describes that Indonesia's police and the judiciary are corrupt in which bribes could easily influence the results of judicial processes, starting from enforcement and investigation by the police, prosecution by the prosecutors, and decision of verdicts and appeals by the judges (p. 9). In addition, surveys conducted by Transparency International (TI) in 2013 have placed Indonesia's National Police as the most corrupt institution in Indonesia and even in South East Asia, while Indonesia's judiciary institutions are perceived corrupt by 52 percent of Indonesians surveyed by the TI in 2012 (TI 2012, p. 3; TI 2013, p. 17; pp. 35-38). Pepys (2007) argues that a perception about corrupt law enforcement agencies would increase the confidence of perpetrators to be more corrupt as they are convinced that penalty can be avoided by bribing these agencies (p. 3). This background is in line with Klitgaard's (2008) argument about economic crime of corruption (p. 3), because rationalisation is matter by which perpetrators calculate the benefit to behave corruptly against the probability to avoid penalties.

For instance, there was an interesting case of Regent of Subang Regency, West Java, who has bribed the prosecutors to free him from prosecution in April 2016. Initially, the West Java High Prosecution office named the regent as one of individuals who committed in a

corruption case of social security funds which caused an equivalent to AU$ 470,000 of state losses (Halim 2016). At the initial stage of investigation, the regent allegedly bribed two prosecutors by AU$ 53,000 to clean his name from the case, however the KPK has been able to arrest the regent and two prosecutors when they were transacting the bribes at the prosecutors' office (Gabrillin 2016b). This case was only one of the few cases of bribery of law enforcement agencies by local leaders which has been handled by the KPK because of its limited capacity to monitor more than 500 regions in Indonesia. Even though it cannot be generalised that all local police, prosecutors and judges are corrupt, the other cases which were not revealed by the KPK will remain unexposed and become a further rationalisation factor for local corrupt offenders.

Conclusion

In short, the triangle of fraud provides a framework to systematically analyse corruption in Indonesia's decentralisation system by explaining relation of perpetrators' non-shareable pressure, perceived opportunity and rationalisation to engage in corrupt activities. First, financial pressure resulted from direct elections has forced the local leaders and parliament members to obtain political benefit which in turn becomes political corruption when they have to undermine the legal procedures in serving the contributors' interests. Secondly, the weakness of the regulations systematically raises an opportunity for local leaders to monopoly powers and authorities at local level as well as to establish a collusion between executive and local parliament to jointly monopolise the power by obstructing the control mechanism, therefore each institution could not be functioning as mandated by law. In addition, the gap in the accountability mechanism encourages local leaders to experiment in corruption. Finally, since corruption cases involving local leaders are growing and becoming common conduct in the system, the others would rationalise their actions by imitating technique and motivation of previous perpetrators. Furthermore, the corrupt justice system also becomes a rationalisation factor by which perpetrators calculate the benefits of engaging corruption and opportunity to evade penalties.

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