

Corruptive Behavior of the Heads of Local Governments in Indonesia

Teguh Kurniawan, Eko Prasjo and Gunadi

ABSTRACT

Corruption occurs at all levels of governance in Indonesia, including both central and local governments. In particular, corruptive behavior at the local level has involved either executive or legislative officials, who, ironically, have mostly implicated executive heads in some local governments. As a matter of fact, studies regarding discretion as a factor that may cause corruption have rarely been conducted. Therefore, this paper attempts to highlight how the corruptive behavior of the regional heads in Indonesia is mainly related to their discretionary powers. To achieve the objectives, this study involves case studies on five corruption cases handled by the country's Corruption Eradication Commission (KPK) that were legally binding. The results show that those corruptions have occurred as a result of democratic sociological factors, which may relate to the cost of local elections, a significant number of requests for financial assistance from constituents and a lack of capacity of the heads of regions under observation. Practically, the corruptive behavior appears to be conducted by abusing one's authority for personal gain. Therefore, the behavior occurs not as a result of discretion despite the existence of some aspects relating to discretion.

Keywords: Corruption; discretion; governor; mayor; regent

1. Introduction

Corruption has been widely known to occur at all levels of governance in Indonesia, making it one of the most critical problems in the country. Since the introduction of a regional autonomy in 1999 under Law no. 22 on Regional Government (Law 22/1999), there has been a tendency for corruption to increase rapidly at local levels. This has, in fact, been first found in 2001 (Rinaldi et al. 2007). Practically, corruptive behavior may involve both executive and legislative officials in a region. Among executives, a significant number of regional heads has been implicated, including governors, regents, and mayors. Various discourses have assumed that decentraliza-

tion has been indicated as raising corruption behavior at local levels, in which circles a rampant number of suspected corruption cases are considered to have occurred shortly after the implementation of regional autonomy (Rinaldi et al. 2007; Davidson 2007; Nordholt 2003).

Looking at Law 22/1999, local governments have been given more authority, including conducting budget planning and management, which, practically, has opened a wider opportunity for corruptive behavior (Rinaldi et al. 2007). According to Legowo (2002), this occurs due to a conception of decentralization that stops at granting authority to regional governments for developing policies and managing the budget, which, in the end, may then create power dominance for local elites. Besides, a monopoly of authority in developing policies and managing budgets has gained access to resources that are only available to elites and/or local politicians. The monopoly is, in fact, prone to corruptive behavior or the abuse of authority. Furthermore, Legowo's notion is parallel with Nordholt (2003), who has argued that a lack of control in conducting decision-making processes concerning revenues has caused regional governments to perform as expenditure machines. According to Nordholt, a lack of accountability and financial management has strongly led to the rise of money politics, which occurs during the election processes of regional heads (Nordholt 2003). Thus, a combination of regional election and money politics has worsened budget mark-ups for the development and construction projects by only benefiting elected regional heads and few fellow businessmen.

Related to the corruptive behavior of regional heads in Indonesia, the Ministry of Home Affairs has given a notion in which during 2004 to 2012 two hundred and thirteen regional heads were implicated in corruption cases as either witnesses, suspects, accused or convicts (*Kompas* 2012). In fact, the ministry is trying to re-emphasize how corruptive behavior is a complicated issue that must be addressed by the country. Corruption has impacted many facets of regional administration and involves numerous government elites, including the heads. The condition is very alarming, of course, if it is not addressed by considering a variety of negative impacts that may result from corruptive behavior. Besides, a number of former regional heads, who have been considered visionary leaders, have in fact ultimately been accused of involvement in corruption cases and/or have been convicted in some cases. I Gede Winasa (a former regent of Jembrana, Bali), for example, has been convicted by the Supreme Court in a corruption case related to the procurement of machinery for a compost factory in the regency (*The Jakarta Post* 2014). In a similar situation, Untung Wiyono (a former regent of Sragen, Central Java) has been convicted by the Supreme Court in a corruption case related to the embezzlement of local budget funds (*The Jakarta Post* 2013).

According to Prasajo, there are five causes for the corruptive behavior of regional heads in addition to high cost elections, i.e. an excessively uncontrolled use of discretion by regional heads, an oligarchy and dynastic power, system incompatibility, a lack of central oversight and weak control from civil society (Prasajo 2011). Besides, Prasajo's proposal is consistent with various prior discourses in the literature concerning the causes of corruptive behavior, including Tanzi (1998) and Nas et al. (1986). According to the literature, corruption has been caused by a number of direct and indirect factors. Direct causative factors include regulations and authoriza-

tions, taxation, decisions on spending, provisions for goods and services at lower market prices, other discretionary decisions and the financing of political parties. Meanwhile, indirect factors include bureaucratic quality, the wages level in public sectors, penalty systems, institutional controls, rules transparency, laws and processes and exemplary leadership (Tanzi 1998). In addition, corruption may have also been caused by the characteristics of both individual and structural influences. Practically, corruptions caused by individual characteristics may occur when an individual is greedy, unable to resist temptation, weak and has no ethics as a public official. On the other hand, structural characteristics include a failing bureaucracy or organization, the quality of community involvement and harmony of the legal system with public demands (Nas 1986).

Among these influencing factors, discretion has been recognized as the main cause, which is cross-associated with varieties of other factors. However, discretion as a primary cause of corruption has never gained proper attention from academics and practitioners. In fact, studies on discretion-related corruptions, including those conducted by regional heads in Indonesia, are consistently rare. Based on a preliminary study that researchers conducted of the thirty corruption cases of the regional heads handled by the Corruption Eradication Commission (KPK) in the period 2004-2010 and having a permanent legal force indicated that twenty-six of these cases have linked to discretion, judging from the substance of corruption acts committed based on the indictment charged to them by the prosecutor.

Therefore, through this study we try to find out whether there is discretion in various cases of corruption by the regional heads. By recognizing the critical importance as well as challenges of discretion and its relationship with corruptive behavior in the context of regional heads in the country, this study seeks to address a distinguished strategy of corruption-free discretion for regional heads in Indonesia.

2. Literature Review: Discretion and its relations with corruption

Any discussion on the relationship between discretion and corruption would never be thoroughly conducted if it was not properly linked with power and authority. On the political side, Rosenbloom and Kravchuk (2005) have stated that power is a central aspect of administrative organizations and public bodies, which can occur in an inefficient and ineffective way if there is no proper management of power. Power is practically reflected as a given authority by which officials make political decisions on a policy, including the implementations and general operations of public-administration bodies.

According to administrative law, an authority emerges as a result of the implementation of legal principles. In fact, it is one of the most critical principles of administrative law, which is based on both the constitution and unwritten law (Seerden and Stroink 2002). To state that an administrative decision is valid as a rule, the principle suggests that the power of government (administration) must be derived from the constitution or the law. Authority understood thus is known as administrative power.

Furthermore, the corruptive behavior may consistently be associated with any decision made by a ruling party. Besides, it may also be related to a characteristic of

corruption as stated by Alatas. According to Alatas (1986), corruption may occur when those involved in corruptive behavior are the same as those who want a definite decision, if they are able to influence the decision. In the context of governance in Indonesia, particularly at regional levels, Alatas' proposal appears as a phenomenon of corruption that occurs as a result of regional election processes. In the literature, it has been described by Irawan et al. (2012). According to Aguilera and Vadera (2007), most cases of corruption may involve an abuse of authority. However, an excessive abuse of authority, according to Nugraha and Mamudji (2007), can be avoided by giving a limitation for government officials in carrying out their authorities, while also providing an obligation to follow the rules of administrative law in any usage of governmental authority.

Purbopranoto (1981) in Nugraha and Mamudji (2007) has suggested that limitations of governmental action do exist, as governmental actions should (1) not stand against legislations or public interest; (2) not stand against the law (*onrechmatig*) both formally and substantively in a broad sense; and (3) not include any improper authority according to its competence. According to Atmosudirdjo (1988) in Nugraha and Mamudji (2007), public-administration officials are naturally tied to three principles of law in making any decisions, i.e. (1) jurisdiction (*rechmatigheid*), in which every act must not violate the law in general in accordance with a sense of justice and propriety; (2) legality (*wetmatigheid*), in which every act must have a legal basis as underlying basic rules; and (3) discretion (*freies ermesen*), in which there is a freedom to make decisions based on one's own thought as long as it does not violate the principle of jurisdiction and the principle of legality.

Hunold and Peters (2008) have argued that discretion is necessary and in some cases also quite desirable. Besides, they have stated that legislatures rarely have the time or necessary expertise to establish this type of regulatory decisions required by modern society. Therefore, the actual quality of governmental decision-making may often be higher if a government allows substantial bureaucratic discretion. Besides, providing the possibility for substantial discretion may also involve more substantive expertise and allow the implementation of a decision for being more closely linked to the original intent of a legislative policy, as long as the policy is made in a thoughtful and constructive way. Furthermore, the capacity to connect rule-making with its implementation is expected to improve the overall quality of governance. Citing Handler (1996), Hunold and Peters (2008) have argued that allowing discretion in the implementation of a decision may increase the flexibility of an institution in response to a particular problem. Therefore, discretion is necessary and desirable for an effective implementation of any decision. Without flexibility, it is nearly impossible for any rule-making governmental body to anticipate variations that may arise during the implementation of a program, and hence building flexibility is critical.

Moreover, using discretionary authority sometimes has negative consequences if it is conducted in an excessive way and without regard to other principles (Nugraha and Mamudji 2007). According to Nugraha and Mamudji (2007), quoting Philips and Jackson (2001) and Atmosudirjo (1988), the negative results include (1) an abuse of power, using power for official purposes, ignoring decisions or taking irrelevant considerations into account; (2) *detournement de pouvoir*, whenever the authority of public-administration officials is taken for purposes contrary to or deviating from

what is intended by the authority as defined by the law; and (3) *ultra vires*, in which a decision may fall outside power since the decision was made as an attempt to deal with problems beyond the reach of the power given to it.

In fact, discretion is being related to corruptive behavior when there is an abuse of discretion. According to Batten (2010a), a public official may abuse discretion (1) when the official fails to perform any required assessment or make a reasonable discretion; (2) when a decision is not an acceptable alternative (Batten 2010b) because it is not made arbitrarily and not supported by facts; (3) when it is explicitly prohibited by the statute or rule of law (Batten 2010b); or (4) when an institution has the legal obligation under the law to exercise discretion, but the institution fails or refuses to apply the discretion instructed by the law (Sullivan 2009).

Another opinion on the abuse of discretion has been suggested by Williams (1994) and Sathe (2009). Williams (1994) has stated that the abuse of discretion refers to a situation in which a discretionary (1) does not make sense; (2) is irrational; (3) has an ulterior motive; (4) has an improper purpose; (5) fails to take relevant considerations into account; (6) uses irrelevant considerations; and (7) has bad faith. Meanwhile, Sathe (2009) has stated that the implementation of a discretion may be cause for a lawsuit if it is (1) conducted outside the scope of an authority granted by law (*ultra vires* to the law); (2) performed with no clear basis, is based on irrelevant considerations or with no relevant considerations; (3) conducted arbitrarily, unreasonably or disproportionately; (4) intended for a *mala fide* (in bad faith or malicious in their actions); and (5) resulted in a denial of legitimate expectations based on previous policies.

3. Research Methods

This study uses a qualitative research method with the case study. The effort to build the reality of the discretion issue in the case of corruption by the regional heads is done normatively because the researcher relies more heavily on the court's decision, which has had a permanent legal force (*inkracht*). Court decisions are analyzed normatively, i.e. an analysis of rules or legal substances that become the norm in some laws and regulations related to various cases of corruption as case studies. The norms studied are the norms related to corruption and discretion based on various existing laws and regulations, namely Law 31/1999 juncto Law 20/2001 and Law 30/2014. Other norms studied are the norms in accordance with abuses committed by the regional heads by their case.

The case study was chosen because it was considered to be able to assist the researcher in exploring the process of the occurrence of a criminal act of corruption by the regional heads and the possibility of its relation with discretion. Through this case-study method, the researcher conducted an in-depth review of five cases of corruption by regional heads determined purposively. Case studies are collective and require a wide range of cases.

The case studies are determined purposively by using two principal criteria, i.e. (1) information-rich, containing sufficient information for understanding research problems; and (2) accessible (relatively easy to reach and open to scrutiny, has a fewer number of files and is accessibly affordable). While the method is collective,

it requires a number of diverse cases. Case studies are hence selected based on a matrix typology on their substance, types of administrative position (governor, regent or mayor) and their mechanisms to elect the heads. The baseline cases include ones with a permanent legal force, or *inkracht*, handled by the KPK between August 2011 and June 2014. In short, there are as many as thirty cases of corruption taken as the baseline cases.

In terms of their substance, these cases include those related to the granting of licenses (three cases), briberies (five cases), the procurements of goods and services (six cases), regional budget/social-assistance funds (ten cases) and combined charges between these substances (six cases). The selection of these case studies is exhibited in Table 1.

Table 1. Selection process of the case studies

Case substance	Background before being a head of the region				The selection mechanism to become head of the region			Type of head of regions		
	Bur	Po	Bus	O	D	DE	D-DE	G	R	M
Granting of licenses (X) – three cases	X2, X3			X1	X1		X2, X3	X1	X2, X3	
Briberies (Y) – five cases	Y1, Y5	Y3, Y4		Y2	Y1	Y2, Y3, Y4, Y5		Y1	Y2, Y3, Y4	Y5
Procurements of goods and services (Z) – six cases	Z3	Z5, Z6	Z1, Z4	Z2	Z1, Z2, Z3	Z5	Z4, Z6	Z1, Z2, Z3	Z4, Z5	Z6
Combinations (O) – six cases	O4, O5	O6	O1	O2, O3	O3	O5, O6	O1, O2, O4		O2, O3, O4, O5	O1, O6
Regional budget/social-assistance funds (P) – ten cases	P2, P4, P6, P7, P8	P1, P3, P9, P10		P5	P2, P6, P9	P3, P5, P8, P10	P1, P4, P7	P2	P1, P4, P5, P6, P7, P9	P3, P8, P10

Looking at Table 1, five cases are selected as case studies, including

- (1) Mr. Arwin A.S. (a regent with a background as a bureaucrat, elected by parliament in the first term and in a direct election in the second term), representing cases related to the granting of licenses. – X3
- (2) Mr. Amran A. Batalipu (a regent with a background as a politician, elected in a direct election), representing cases related to briberies. – Y4
- (3) Mr. Abdullah Puteh (a governor with a background as a businessman, elected by parliament), representing cases related to the procurements of goods and services. – Z1
- (4) Mr. Mochtar Mohammad (a mayor with a background as a politician, elected in a direct election), representing cases related to a combination (charged by more than one case). – O6

- (5) Mr. Ismunarso (a regent with a background as a medical doctor, elected in a direct election), representing cases related to regional budget/social assistance funds. – P5

Data are gathered through various methods. First, analyses and assessments are conducted on relevant documents, including court decisions with a permanent legal force (*inkracht*), active rules and regulations, in-depth interviews using unstructured questionnaires, and news associated with the cases from various media.

Second, in-depth interviews are taken against those considered to have relevant competency and knowledge on the substance or context of the case studies observed. These parties include a former KPK commissioner during the period when these cases are processed; former KPK prosecutors involved in the prosecution of the selected cases; a former Minister of Administrative Reform who has never served as an acting head of a region; an active head of a region to describe the dynamics of current decision-making in the region; an auditor from Indonesia's National Audit Board (BPK); an auditor from the Finance and Development Supervisory Agency (BPKP); academia with a background in public policy, state and local finance, administrative law and criminal law; and an anti-corruption activist who understands the cases.

Then, data and information are analyzed by using ideal types (Neuman 2000). Based on the analysis, findings are compared to ideal conditions (standard) that may exist based on a theoretical perspective on corruption and discretion. In this study, the method compares any effect of context to produce a specification and an emphasis on the unique context of each case. In other words, each case is stated as having a unique context in terms of policies by a regional head, which then leads to corruptions.

4. Results: typology of corruptions by heads of local governments in Indonesia

Based on information from court decisions on five cases, an overview is presented in Table 2.

Table 2. Typology of corruptions by the heads of local governments in Indonesia

Case	Position/years in position	Background, mechanism of election	Corruption(s)	Type of fraud
Mr. Arwin A.S.	Regent of Siak / 2001-2011	bureaucrat, by parliament and direct election (nominated by political parties)	<u>granting of licenses</u> issuing a license for the utilization of timber forest products in plantation forests (IUPHHK-HT), which is against the rules	received money before the license for the utilization of timber forest products in plantation forests (IUPHHK-HT) was issued
Mr. Amran A. Batalipu	Regent of Buol / 2007-2012	politician, by direct election (nominated by political parties)	<u>bribery</u> accepting bribes related to the provision of a location license; issuing letters related to the submission process of a plantation business license (IUP) and a right to cultivate (HGU)	used the license to find money for personal benefits (for the cost of elections)
Mr. Abdullah Puteh	Governor of Nangroe Aceh Darussalam / 2000-2005	businessman, by parliament	<u>procurements of goods and services</u> a helicopter procurement, which is against the rules	transfers to a personal account
Mr. Mochtar Mohammad	Mayor of Bekasi / 2008-2013	politician, by direct election (nominated by political parties)	<u>regional budget and bribery</u> inappropriate use of funds according to the work plan and budget (RKA); bribery of regional parliaments; bribery for a clean city award (Adipura)	use of government funds for his own benefits; initiated a bribe in the context of a qualified opinion (WTP), Adipura and regional budget
Mr. Ismunarso	Regent of Situbondo / 2005-2010	a medical doctor, by direct election (nominated by political parties)	<u>regional budget</u> use and management of local treasury funds in violation of the rules through deposits on call and placement of funds for investment	bank interests earned for personal benefits

Table 2 presents corruptions committed by several regional heads alongside their forms of fraud. Despite differences in terms of substances between cases, there has always been an abuse of power or authority by corresponding heads in the form of improperly using a given authority for personal benefits. It occurs by either accepting a kickback from a granted license, procurements of goods and services that do not follow applicable rules or transferring government funds to private accounts for the purposes of deposits or investments for a later use of interests and other personal benefits. These actions are indeed criminal acts and have led to convictions in court. Although there is a number of related discretionary measures in different cases, these actions are basically taken as purely criminal acts. These following paragraphs provide a brief description of each case.

Mr. Arwin A.S. was the Regent of the Siak region during 2001-2011. The case is related to the granting of licenses, *i.e.* issuing IUPHHK-HT, which is contrary to the rules. Mr. Arwin A.S. was charged according to article 2 paragraph 1 (against the law to enrich oneself) in conjunction with article 18 and article 3 (abusing a given authority for personal benefits) in conjunction with article 18 of the law on corruption eradication and therefore found guilty by the court. The committed fraud includes receiving money before the license was published (the Republic of Indonesia v. Arwin A.S. 2011).

Mr. Amran A. Batalipu was the Regent of the Buol region during 2007-2012. The case is related to bribery for a license of location, while also issuing letters related to the submission process of IUP and HGU. Mr. Amran A. Batalipu was charged according to article 12 letter a (civil servants accept bribes), article 5 paragraph 2 (civil servants accept bribes) in conjunction with article 5 paragraph 1 letter a (bribe-

ing civil servants) and article 11 (civil servants received a gift associated with one's position) of the law on corruption eradication and therefore found guilty by the court. The committed fraud includes the use of licenses to gather money as personal benefits in order to fund the costs of elections (the Republic of Indonesia v. Amran A. Batalipu 2012, 2013).

Mr. Abdullah Puteh was a Governor of the Nangroe Aceh Darussalam region during 2000-2005. The case is related to a procurement of goods and services, which, in this case, includes a helicopter procurement, by not following applicable rules. Mr. Abdullah Puteh was charged according to article 2 paragraph 1 (against the law to enrich oneself) in conjunction with article 18 paragraph 1 letter a and b, paragraph 2 and paragraph 3, as well as article 3 (abusing a given authority for personal benefits) in conjunction with article 18 paragraph 1 letter a and b, paragraph 2 and paragraph 3 of the law on corruption eradication and therefore found guilty by the court. In the trial, Mr. Abdullah Puteh proposed a plea to state that the action was discretionary because of an urgent situation at the time. The committed fraud includes a transfer to a personal account, which represented criminal intent (*mens rea*), to procure a helicopter (the Republic of Indonesia v. Abdullah Puteh 2004, 2005a, 2005b).

Mr. Mochtar Mohammad was a Mayor of THE Bekasi region during 2008-2013. The cases are related to regional budgeting and briberies through the use of funds that were not included in the budget work plan; a bribery of parliament members; and a bribery for Adipura (clean city award). Mr. Mochtar Mohammad was charged according to article 2 paragraph 1 (against the law to enrich himself) in conjunction with article 18, article 3 (abusing a given authority for personal benefits) in conjunction with article 18; article 5 paragraph 1 letter a (bribing civil servants), article 13 (giving gifts to civil servants because of one's position); article 5 paragraph 1 letter a (bribing civil servants) in conjunction with article 15, article 13 (giving gifts to civil servants because of one's position) in conjunction with article 15 of the law on corruption eradication. Mr. Mochtar Mohamad was found not guilty by the District Court, but later found guilty by the Supreme Court. In the trial, Mr. Mochtar Mohamad proposed a defense by stating that the action is discretionary, especially for cases concerning the use of funds, which is inappropriate with the budget work plan. The committed fraud includes the use of government funds for personal benefits and initiates a bribe in the context of an unqualified opinion for a financial statement, Adipura and regional budgeting (the Republic of Indonesia v. Mochtar Mohammad 2011a, 2011b).

Mr. Ismunarso was a Regent of the Situbondo region during 2005-2010. The case is related to regional budgeting, i.e. the use and management of local treasury funds, which violates applicable rules by doing deposits-on-call and placement of funds for investment. Mr. Ismunarso was charged with article 2 paragraph 1 (against the law to enrich oneself) in conjunction with article 18, and article 3 (abusing a given authority for personal benefits) in conjunction with article 18 of the law on corruption eradication and therefore found guilty by the court. The fraud includes earning bank interest for oneself (the Republic of Indonesia v. Ismunarso 2009a, 2009b, 2010).

5. Discussion: the corruption of head of regions in Indonesia and its relations with discretion

The current study has two main goals, i.e. to highlights corruptive behavior by the head of local governments in Indonesia and its relations to discretionary powers, including to seek a corruption-free discretionary strategy for those regional heads. Looking at court decision documents, actions conducted in five cases being analyzed are indeed acts of corruption despite having a context of discretion in some cases. Acts of corruption committed by the regional heads are not caused by discretion because the actions committed by the regional heads should be bound by various laws and regulations that apply. Discretion can occur when the legislation gives freedom to the regional heads to vote because it is given a choice, because there is no rule of law governing, because the norms of existing rules are unclear and because of the existence of urgency. Various acts in the case of corruption of the regional heads are bound by various laws and regulations that exist, so there is clearly a rule of law that regulates. The rule of law is also clear, and there is no urgency to take these actions.

The findings of what the regional heads do are non-discretionary-related acts of corruption are also confirmed by interviewees who currently serve as regional heads. They state that these are indeed corruptions but may not be associated with discretions, including those abusing positions for personal benefits (Pranowo 2015, personal communication; Purnama 2015, personal communication). Governor Pranowo, for example, said that “it is not discretion, it is real buy and sell.” He also said that “in fact when looking at it the regulation of the government was too tight, because the rules are very rigid once discretion does not happen. So there is very little chance of discretion.” In line with Governor Pranowo’s statement, Governor Purnama also stated that “in fact for finance, not much discretion. Because the rules of government fund management are rigid enough.”

On the other hand, there is a pattern of acts committed in cases being studied in their relations with discretion. In the case of Mr. Arwin A.S., for instance, the license is basically a form of discretionary binding. A regional head *may* issue certain licenses as indicated in the regulations for one’s given authority. To issue a license, certain procedures must be followed. The word “may”, according to an informant, indicates a “must” when a license applicant has followed all procedures (Hamzah 2015a, personal communication). In the first case, Mr. Arwin A.S. committed unlawful or criminal issuances of IUPHHK-HT for different companies, because they did not comply with existing rules and were corrupted because he received a sum of money given by some parties in order to get their IUPHHK-HT published. In a similar manner, Mr. Amran A. Batalipu is associated with licensing, in which one uses a given authority to issue a license by receiving money to finance the cost of the next election one would join. Thus, Mr. Arwin A.S. and Mr. Amran A. Batalipu clearly committed acts of corruption and were found guilty by the court. An interviewee, who is a former KPK commissioner, states that a person is declared a corruptor if the original purpose in doing deeds is to enrich oneself (Hamzah 2015b, personal communication). In the two cases of Mr. Arwin A.S. and Mr. Amran A. Batalipu, they indeed enriched themselves.

In the third case, the procurement of a helicopter is also seen as an attempt on the part of Mr. Abdullah Puteh to enrich himself despite the fact that, according to his plea, the procurement was conducted as an urgent matter and within the scope of his authority. However, it turned out that the payment used Mr. Abdullah Puteh's bank account, not following applicable payment procedures. Besides, Mr. Abdullah Puteh issued a letter of intent with the broker before it was approved by the regional parliament. Meanwhile, in the fourth case, Mr. Mochtar Mohammad combined an inappropriate use of regional budget and an involvement in bribery to obtain an unqualified opinion from the BPK and to obtain Adipura. For the inappropriate use of the regional budget, Mr. Mochtar Mohammad argued in court that the action was discretionary; however, the Supreme Court found that Mochtar Mohammad used the funds for personal benefits.

An effort to enrich oneself also appears in the case involving Mr. Ismunarso. The case underlined the use and management of local treasury funds in a violation of applicable rules through deposits-on-call and placement of funds for investment. Mr. Ismunarso put government funds in his personal bank account and used them for investments. In these actions, Mr. Ismunarso gained bank interest from deposits and investments for private purposes. Besides, the added budget for investments did not match the proper increase. The funds came from local revenues, district head reserves, reserve funds and natural-disaster funds, so they were not used as intended. In terms of investments, Mr. Ismunarso gave authority to those not authorized by regulations.

Based on an analysis of the five selected cases, some facts arise regarding corruptive actions committed by the regional heads in Indonesia. First, those heads committed unlawful acts by doing a number of improper things under their authority by not following applicable rules. Second, their acts were mostly taken to gain personal benefits. Third, in some cases, their actions cannot be stated as being discretionary despite the fact that there are some aspects related to discretion. In fact, current regional administrations in Indonesia provide a limited discretionary space for regional heads (Pranowo 2015, personal communication; Purnama 2015, personal communication). Besides, Nugraha and Mamudji (2007) have stated that an abuse of authority is avoidable by limiting government officials in conducting a given authority, while also providing an obligation to follow the rules of the administrative law. Of the five cases, however, violations occurred despite the existence of limits and regulations.

In fact, corruption occurs when there is the intention to enrich oneself or others in a manner against the law (Hamzah 2015b, personal communication). In other words, a corruptive behavior by the regional heads exists due to the existence of the intention to enrich themselves. Standing against the law, however, cannot be stated as corruption if an act is not favorable for oneself. Besides, an interviewee, who is a former director of prosecution in the KPK, states that an unlawful act may lose its nature as "against the law" in the fulfillment of three things, i.e. public interest is served, no personal profit is gained, and the state does not get aggrieved (Wibisono 2015, personal communication). It is hence clear that actions in the cases being observed are obviously corruptive.

Why is there an abuse of authority by the regional heads, which, in turn, leads to

corruption? Answering the question, an interviewee points out that there are two things to distinguish the acts of corruptions of regional heads, i.e. one has the intention to take advantage (in most cases), and one does not understand various regulations (Wibisono 2015, personal communication). The first group exists as a result of democratic sociological factors related to the high costs of local elections and a large number of requests for financial assistance from constituents. Meanwhile, the second category occurs when there is a lack of capacity of the heads to understand bureaucracy and related legislations.

To address various causes for corruptions by the regional heads, the strategies include capacity-building for any elected regional heads and efforts to reduce political costs. Capacity-building of the regional heads is a possible effort to overcome the problem of ignorance of the regional heads against various laws and regulations that exist in organizing government activities. Through this activity, the newly elected regional heads will be provided with an understanding of the various laws and regulations, the understanding of authority limits and experiences from other experienced regional heads. One of the most important legislations that needs to be understood is Law 30/2014, which, in the view of the researchers, is felt to help protect the affected officials or regional heads as a result of their ignorance of legislation, in addition, Law 30/2014 also has arrangements about discretion. In addition to regulating discretion, Law 30/2014 also emphasizes the importance of testing against the abuse of authority. Through this test it can be seen whether an act is deliberate or unintentional because of a regional head's ignorance.

Meanwhile, efforts to reduce political costs can be made through some means such as improving rules on the financing of political parties as well as funding the nomination for political office. Through the improvement of this rule, it is expected to set an upper limit of campaign costs that all contestants must comply with. Financing sources must be ensured free of conflicts of interest. Building a merit-based party system can also be a solution to reducing political costs. An effective cadre system is expected to reduce the emergence of political adventurers. The simplification of the election process of the regional heads by electing them simultaneously with a new one needs to continue to be supported in addition to building a network of volunteers, which in some cases has proven to reduce the political costs.

6. Conclusion and Recommendation

As a closing remark, corruptions committed by the heads of local governments in Indonesia may be concluded as a critical problem, resulting from democratic sociological factors related to high costs of local elections, the large number of requests for financial assistance from constituents and a lack of capacity of those heads. Corruption is conducted by abusing a given authority for personal gains. In fact, it does not occur in the form of discretion despite numerous aspects related to discretion.

To overcome the problem, there are some efforts that can be made: capacity-building of the regional heads and efforts to reduce the cost of politics. Those various measures are expected to reduce the level of corruption committed by the regional heads in Indonesia.

References

- Aguilera, Ruth V. and Abhijeet K. Vadera. 2007. "The Dark Side of Authority: Antecedents, Mechanisms, and Outcomes of Organizational Corruption." *Journal of Business Ethics* 77(4), 431-449.
- Alatas, Syed Hussein. 1986. *The Problem of Corruption*. Revised edn. Singapore: Times Book International.
- Batten, Donna. 2010a. *Gale Encyclopedia of American Law: Vol 1*. 3rd edn. Detroit: Gale.
- Batten, Donna. 2010b. *Gale Encyclopedia of American Law: Vol 3*. 3rd edn. Detroit: Gale.
- Davidson, Jamie S. 2007. "Politics as Usual on Trial: Regional Anti-Corruption Campaigns in Indonesia." *The Pacific Review* 20(1), 75-99.
- Hunold, Christian and B. Guy Peters. 2008. "Bureaucratic Discretion and Deliberative Democracy." In Ari-Veikko Anttiroiko (ed.). *Electronic Government: Concepts, Methodologies, Tools, and Applications: Vol 6*. Hershey: Information Science Reference, 3500-3516.
- Irawan, Ade, Abdullah Dahlan and Apung Widadi. 2012. *Korupsi Pemilukada*. Jakarta: Indonesia Corruption Watch.
- Legowo, Tommy. 2002. "Otonomi daerah dan akomodasi politik lokal." In Indra J. Piliang, Eddy Prasetyono and Hadi Soesastro (eds). *Merumuskan kembali kebangsaan Indonesia*. Jakarta: Centre for Strategic and International Studies, 187-202.
- Nas, Tevfik F., Albert C. Price and Charles T. Weber. 1986. "A Policy-Oriented Theory of Corruption." *The American Political Science Review* 80(1), 107-119.
- Neuman, W. Lawrence. 2000. *Social Research Methods: Qualitative and Quantitative Approach*. 4th edn. Boston: Allyn and Bacon.
- Nordholt, Henk Schulte. 2003. "Renegotiating Boundaries; Access, Agency and Identity in Post-Soeharto Indonesia." *Bijdragen tot de taal-, land- en volkenkunde* 159(4), 550-589.
- Nugraha, Safri and Sri Mamudji. 2007. *Hukum administrasi negara*. Depok: Center for Law and Good Governance Studies, Fakultas Hukum, Universitas Indonesia.
- Prasajo, Eko. 2011. "Republik tersandera korupsi." *Kompas* 6, 2-5.
- The Republic of Indonesia. Law No. 22 Year 1999 on regional government.
- The Republic of Indonesia. Law No. 31 Year 1999 on eradication of the criminal act of corruption, as amended by Law No. 20 Year 2001.
- The Republic of Indonesia. Law No. 30 Year 2014 on government administration.
- The Republic of Indonesia v. Abdullah Puteh. 2004. 01/PID.B/TPK/2004/PN.JKT.PST.
- The Republic of Indonesia v. Abdullah Puteh. 2005a. 01/PID/TPK/2005/PT.DKI.
- The Republic of Indonesia v. Abdullah Puteh. 2005b. 1344K/Pid/2005.
- The Republic of Indonesia v. Ismunarso. 2009a. 10/PID.B/TPK/2009/PN.JKT.PST.
- The Republic of Indonesia v. Ismunarso. 2009b. 15/PID/TPK/2009/PT.DKI.
- The Republic of Indonesia v. Ismunarso. 2010. 224K/Pid.Sus/2010.

- The Republic of Indonesia v. Arwin A.S. 2011. 10/PID.SUS/2011/PN.PBR.
- The Republic of Indonesia v. Mochtar Mohammad. 2011a. 22/PID.SUS/TPK/2011/PN.BDG.
- The Republic of Indonesia v. Mochtar Mohammad. 2011b. 2547K/Pid.Sus/2011.
- The Republic of Indonesia v. Amran A.Batalipu. 2012. 64/PID.B/TPK/2012/PN.JKT.PST.
- The Republic of Indonesia v. Amran A.Batalipu. 2013. 12/PID/TPK/2013/PT.DKI.
- Rinaldi, Taufik, Marini Purnomo and Dewi Damayanti. 2007. *Memerangi korupsi di Indonesia yang Terdesentralisasi*. Jakarta: Justice for the Poor Project, Bank Dunia.
- Rosenbloom, David and Robert Kravchuk. 2005. *Public Administration: Understanding Management, Politics, and Law in the Public Sector*. 6th edn. Boston: Mc Graw Hill.
- Sathe, S.P. 2009. *Administrative Law*. 7th edn. Delhi: Lexis Nexis.
- Seerden, Rene and F.A.M. Stroink. 2002. "Administrative Law in the Netherlands." In Rene Seerden and F.A.M. Stroink (eds). *Administrative Law of the European Union, its Member States and the United States: A Comparative Analysis*. Groningen: Intersentia Uitgevers Antwerpen, 145-197.
- Sullivan, Larry E. 2009. *The SAGE Glossary of the Social and Behavioral Sciences*. London: SAGE.
- Tanzi, Vito. 1998. "Corruption Around the World: Causes, Consequences, Scope, and Cures." *Staff Papers – International Monetary Fund* 45(4), 559-594.
- Williams, Sir David G.T. 1994. "Law and Administrative Discretion." *Indiana Journal of Global Legal Studies* 2(1), 191-212.
- "213 kepala daerah terjerat korupsi." 2012. *Kompas*, 13 July. Available at <http://regional.kompas.com/read/2012/07/13/03112951/213.Kepala.Daerah.Terjerat.Korupsi> (last accessed 3 March 2017).
- "Former Sragen Regent Surrenders." 2013. *The Jakarta Post*, 14 January. Available at <http://www.thejakartapost.com/news/2013/01/14/former-sragen-regent-surrenders.html> (last accessed 3 March 2017).
- "Supreme Court Overturn Acquittal Sends Former Regent to Prison. 2014. *The Jakarta Post*, 25 March. Available at <http://www.thejakartapost.com/news/2014/03/25/supreme-court-overturms-acquittal-sends-former-regent-prison.html> (last accessed 3 March 2017).

TEGUH KURNIAWAN is an Associate Professor at the Department of Public Administration, Faculty of Administrative Science, Universitas Indonesia. His main research interests include governance, regional development, corruption, electronic governance, public policy and environmental governance. Correspondence: Teguh Kurniawan, Faculty of Administrative Science, Universitas Indonesia, UI Campus Depok, Building M, 2nd floor, Depok 16424, Indonesia; E-mail: teguh.kurniawan@ui.ac.id

EKO PRASOJO is a Professor at the Department of Public Administration, Faculty of Administrative Science, Universitas Indonesia. Professor Prasajo is the Chairman

of the Research Cluster on Policy, Governance and Administrative Reforms. Correspondence: Eko Prasjo, Faculty of Administrative Science, Universitas Indonesia, UI Campus Depok, Building M, 2nd floor, Depok 16424, Indonesia; E-mail: prasjo1@ui.ac.id

GUNADI is a Professor at the Department of Fiscal Administration, Faculty of Administrative Science, Universitas Indonesia. Professor Gunadi is the Chairman of the Research Cluster on Tax Policy and Development. Correspondence: Gunadi, Faculty of Administrative Science, Universitas Indonesia, UI Campus Depok, Building M, 2nd floor, Depok 16424, Indonesia; E-mail: triguna.gunadi@gmail.com