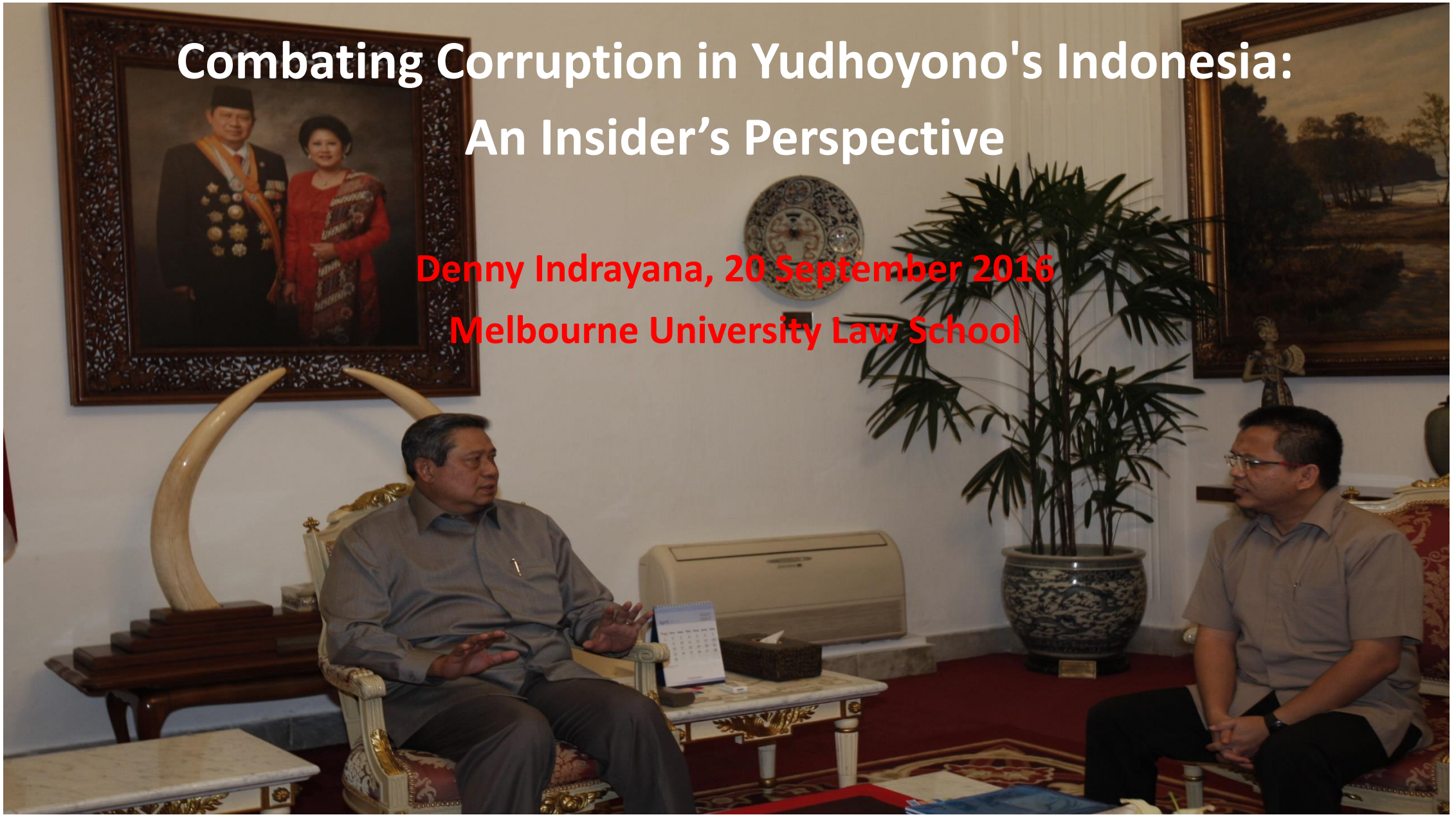
Combating Corruption in Yudhoyono's Indonesia: An Insider's Perspective



Denny Indrayana, 20 September 2016

Melbourne University Law School

Terima kasih!

Maturnuwun!

Thank you!

denny.Indrayana@unimelb.edu.au

Combating Corruption Under SBY: An Insider's Perspective

- **SBY 2004 – 2014**
- **Special Advisor for Legal Affairs, Human Rights and Anti-Corruption (2008 – 2011)**
- **Deputy Minister for Law and Human Rights (2011 – 2014)**
- **My observations may be subjective.**

Denny Indrayana
Jadi Staf Presiden

DARI seorang pengkritik pemerintah, **Denny Indrayana**, 36 tahun, kini bersalin rupa menjadi anggota staf Presiden Susilo Bambang Yudhoyono. Jumat pekan lalu, pengamat hukum tata negara dari Universitas Gadjah Mada itu resmi diangkat menjadi anggota staf presiden bidang hukum.

Posisi tersebut, menurut Denny, tak datang tiba-tiba. Sejak sebulan lalu Menteri-Sekretaris Negara Hatta Rajasa telah memberi tawaran. Denny tak langsung menerima. "Saya timbang-timbang dulu karena ini bukan tugas ringan," kata doktor hukum lulusan Universitas Melbourne, Australia, ini

Dia juga menghitung risiko meninggalkan keluarga karena harus menetap di Jakarta. "Terpaksa bolak-balik Jakarta-Yogyakarta setiap minggu," ujarnya. Dan ia mengakui banyak orang menyesalkan keputusannya menerima tawaran itu. Namun, ia menjelaskan, "Saya tetap memperjuangkan penegakan hukum, hanya bungkusnya yang berbeda." ■

TEMPO/GERRY ANDRIA

denny.Indrayana@unimelb.edu.au

President after *Reformasi*
A more challenging job

EP = CP + PS + C

- **EP = Effective Presidency**
- **CP = Constitutional Powers**
- **PS = Political Support**
- **C = Control**

Constitutional Powers

- **Constitutional powers: the authority a president has, as outlined in the constitution.**
- **The more s/he has, the more effective a president can be, and vice versa.**
- **The president after the *reformasi*, especially after the four constitutional amendments in 1999 – 2002, is constitutionally a much weaker president.**

Political Support

- **Political support: support from political parties, especially those who have seats or members in the parliament.**
- **None of the post-*reformasi* presidents have enjoyed a majority in the DPR (legislature).**
- **To be an effective president, one should have at least majority support from the DPR.**
- **The president has no option other than to establish a solid coalition, but usually ends up with a *sulit* coalition.**

Control

- **Controls = checks and balances**
- **A president with more constitutional powers and enough political support may still not be a good president unless there is an adequate system of control.**
- **A president who is not controlled will be very effective but, at the same time, destructive.**
- **A president subject to too much control will be ineffective.**
- **After *reformasi,* control of the president comes from many directions.**

Post-*Reformasi* Presidents face more challenges

… especially in combating corruption.

SBY & Political Support

- **The effectiveness of political support for Yudhoyono differed between his first and second terms.**
  - **The coalition 2004 – 2009: 73.3% members of DPR.**
  - **The coalition 2009 – 2014: 75.5%.**
  - **Votes for Democrat Party increased, from 7.45% votes in 2004 to 20.85% in 2009.**
- **These increases made no significant difference to the struggle against corruption.**

Miscalculation

- **President SBY was more optimistic about his second term.**
- **He and I did not realise that political attacks in SBY's second term would be sometimes be more frequent and intense than in his first term.**
- **The most dangerous attacks came from *within* the coalition.**

More Solid 1st Term Coalition

- **Coalition support during President SBY's first term was more solid than in his second term.**
- **One of the reasons for this was Golkar's position.**
- **In 2004, Vice President Jusuf Kalla (JK) won the chair of Golkar, and repositioned the party as a supporter of government.**
- **JK and Golkar's political experience contributed to the government's political stability and reduced attacks during SBY's first presidency.**

More *Sulit* 2nd Term Coalition

- **The situation was different in the second term.**
- **This time Golkar's support was not as strong.**
- **The half-hearted support of Golkar had a significant impact on the solidity of the coalition.**
- **Moreover, the Prosperous Justice Party (PKS), another coalition member, took the same position as Golkar: to only partially support the President.**

SBY's Dilemma: expel Golkar and PKS?

- **Golkar and PKS aggressively initiated a Special Committee to investigate the Bank Century case.**
- **A former senior minister said he advised SBY to expel both Golkar and PKS from the coalition.**
- **I gave the same advice, but I also understood the dilemma SBY faced at the time.**
- **After making more careful political calculations, SBY decided to keep both parties inside, rather than let them join the opposition.**

2nd Term: a big opportunity to strengthen the anticorruption agenda

- **Boediono as a technocrat Vice President: no conflict of interest politically or in terms of business.**
- **Unfortunately, however, having no formal position in a political party turned out to be a disadvantage for someone who holds a strategic political position in Indonesia.**
- **In fact, the Bank Century case made Boediono and the Minister of Finance Sri Mulyani into political targets.**

denny.Indrayana@unimelb.edu.au

The Bank Century Attack

- **The first six months of the 2nd SBY term was very tough. The Bank Century case was always headline news.**
- **Only after President SBY finally allowed Sri Mulyani to resign did the attacks slow down.**
- **During this period, President SBY tried to do more to combat corruption.**
- **But after he lost the DPR vote on Bank Century case, President SBY had no option but to make political compromises.**

Voting Lost & A Compromise Decision

- On the night of the DPR vote loss, President SBY asked, “How about if the government coalition consisted of only three parties”.
- Two weeks after that, in a very small, private meeting, SBY explained that he finally decided to back down a little, to decrease the political tension and focus more on the economic agenda.
- After that meeting, the Joint Secretariat of the Coalition was established, led by Aburizal Bakrie.

A Clean Political Landscape is a must

The six month Century case battle showed clearly that the war against corruption cannot be successful without a clean political landscape.

Even a strongly mandated president will always have make careful calculations if he or she wants to carry out anticorruption reforms.

Political Stability Vs Anti-Corruption Agenda

- **The first term of the SBY's presidency was more stable.**
- **Political support was more solid for President SBY and JK than for SBY and Boediono**
- **However, 'more stable' does not mean 'less corrupt'.**
- **In fact, if you want to seriously combat corruption, the political situation will NOT be stable.**

Political Support is not always good

- **Political support is not necessarily positive.**
- **Regrettably, the numbers of tycoons (*konglomerat*) who support the parties are not many - therefore, Indonesian parties are easily influenced by just a few oligarchs.**
- ***World Bank*: Indonesia ranks as the third worst concentration of wealth: only 10% own 77%, or 1% own 50.3%, of the country's wealth.**
- ***The Economist*: Indonesia ranks as the seventh-worst on the crony-capitalism index: two-thirds of the richest Indonesian run their business with the support of, or in collusion with, the authorities.**

SBY & Anti-Corruption Agenda

- **The first instruction issued by President Yudhoyono was on corruption eradication acceleration.**
- **SBY set up a Coordination Team to combat corruption.**
- **Another important initiative in relation to anti-corruption was when President implemented the Law on the Military, which prohibits the Military from conducting business.**

SBY & *Ad Hoc* Committees

- President SBY's ways to set up an ad hoc committees showed how complex the problem is.
- He accepted my advice to set up : Task Force to Eradicate Judicial Mafia and the 8 Team to investigate Chandra Hamzah and Bibid Samad Riyanto, the two commissioners of KPK.
- There were three big conflicts between KPK and corrupt police in 2009, 2012 and 2015. President SBY handled the two earlier conflicts.

SBY & Support for the KPK

- **The President knew the KPK is an independent body, but believed respectful communication is always important.**
- **SBY insisted that such communication should not be an intervention in the KPK.**
- **Indeed, the SBY "*allowed*" the KPK to investigate corruption cases against Aulia Pohan, father-in-law of his eldest son.**
- **SBY also did not use his presidential power to stop corruption cases against leaders of his own Democrat Party.**

SBY & the Gecko Vs Crocodile # 1

- **Intervention in a legal case is clearly prohibited, according to SBY.**
- **In late 2009, two commissioners of the KPK, Chandra Hamzah and Samad Riyanto, were named as suspects by the Indonesian police.**
- **Civil society launched a major public campaign: gecko versus crocodile (*Cicak Vs Buaya*).**

Chandra & Bibit's case & the 8 Team

- **The cases against the two KPK commissioners were fabricated.**
- **President SBY to set up an independent team to investigate the cases against Chandra and Bibit.**
- **The 8 Team concluded that there was no evidence in against the two commissioners.**
- **SBY made a public statement that the case against the two commissioners should be dropped.**

SBY & the Battle against Judicial Mafia

- **To follow up one of the recommendations of the 8 Team, SBY formed the Task Force for Eradication of Legal Mafia.**
- **SBY told me that he wanted to put the battle against the judicial mafia as his number one priority for the 100 Days Program that would start his 2nd term.**
- **One of the best known cases was the Gayus Tambunan case.**

denny.Indrayana@unimelb.edu.au

SBY & the Gecko Vs Crocodile #2

- In 2012, another conflict took place between the KPK and corrupt policemen: Djoko Susilo, a two star general.
- The KPK investigator in Djoko's case, Novel Baswedan was named as suspect in a torture case by the police.
- I clearly explained to SBY that the KPK has jurisdiction over the police, based on the KPK Law.
- SBY agreed with me and made a public statement that the KPK should continue handling Djoko's case.
- SBY instructed the police to drop the case against Novel Baswedan.

SBY & Public Perceptions

- **SBY always monitored the media—including social media—when considering policy, particularly on anti-corruption.**
- **His decision would therefore be influenced not only by political considerations but also public perceptions.**
- **However, not all public pressure effectively influenced SBY's decisions.**
- **For example, SBY was very careful in making decisions in relation to clemency and the death penalty, despite strong public support for executing drug dealers**

Conclusion

- **The conclusion is not unique. Indonesia's experience is similar to other countries that face major corruption problems.**
- **The president does not have not a magic spell that can easily make corruption disappear.**
- **The president cannot be effective in running the country without strong constitutional powers, majority political support and sufficient controls (checks and balances).**
- **In Indonesia, post-*reformasi* presidents, including SBY, face major challenges to delivering an anti-corruption agenda.**

Conclusion

- **SBY's anti-corruption agenda has some achievements but also failures.**
- **This is partly because the political elites did not fully support the war against corruption.**
- **SBY is tried very hard to balance a lack of political support with the necessity of combating corruption.**
- **The dilemma of any president, including SBY, in the current politics of Indonesia is how to combat corruption effectively and, at the same time, keep the strong and stable political support necessary for significant economic growth.**
- **Regrettably, to combat corruption is probably to point the gun at the politicians or businessmen who politically or financially support the president himself.**

Keep on fighting for a better Indonesia

Terima kasih