

Transnationalism as the antidote of corruption in ASEAN region: SEA-PAC

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Abstract

Corruption is a serious problem which happened transnationally in almost every single country in the world including ASEAN countries. Based on CPI rank, six of ASEAN countries are part of fifteen most corrupt countries in Asia Pacific region. It means that corruption is a challenge that ASEAN country need to face together related to region development. Consciousness of collective responsibility namely corruption eradication then brings ASEAN to a model of transnationalism which is the establishment of an international organization called SEA-PAC. This study analysis starts from review about SEA-PAC historically and the logic of transnationalism which provides a necessary background for its operation. After that, this study elaborates the performance of SEA-PAC since the beginning like how many corruption cases have handled and how much asset has saved by SEA-PAC in ASEAN region. In the next level, this study measures the prospect of SEA-PAC based on its performance. Whether SEA-PAC as a tangible form of transnationalism in ASEAN need to be maintained or on the contrary need to be changed by another mechanism which more effective. In the end, this study provides a conclusion by argument confirmation about how important SEA-PAC in order to ASEAN region development.

Keywords: *Transnationalism, Corruption, SEA-PAC, ASEAN*

Introduction

As one of the stable and keep developing regional organization, ASEAN often become an example for other region or even regional organization. But it does not mean that ASEAN have no problem at all, the other way ASEAN faces many complex problems like border, security, social, economic, development, even corruption. The last one will be the main problem in this study, corruption. Corruption just like pandemic because it happened in almost every country in the world. Corruption by definition according to United Nations Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators (2014)

come from latin namely *corruptus* (to ruin) and *corrumpere* (to break into pieces)¹. Further, corruption defined as the misuse of a public or private position for direct or indirect personal gain. By that way, corruption reputed as a serious problem by international community so there is an instrument to prevent and combat corruption formed by the United Nations under name United Nations Convention Against Corruption (UNCAC). Every country which has ratified the UNCAC may help other country in corruption eradication action like giving law assistances, provide information about fugitive and the asset of corruptors, and even technical assistances in field to hunt, catch, and arrest the corruption fugitives.

Back to ASEAN, corruption is like a close friend of ASEAN members by the fact that came from Transparency International with its Corruption Perceptions Index (CPI) rank. In 2016, from 176 countries measured, the most 15 corrupt countries (low CPI rank) in Asia Pacific region, 6 among them is ASEAN members. There are Cambodia (156/176), Myanmar (136/176), Laos (123/176), Vietnam (113/176), Thailand and Philippines (101/176), and Indonesia (90/176). While the others members of ASEAN have better CPI rank like Singapore (7/176), Brunei Darussalam (41/176), and Malaysia (55/176). The lower CPI rank the corrupt the countries, vice versa. Ironically, every members of ASEAN have their own independent institution to handle corruption.

Based on that condition and related to the region development, it must be so difficult if corruption remains a serious problem. Imagine the terrifying effect of corruption to the social dimension and even economic growth as Poirson (1998), Leite and Weidmann (1999), and Tanzi and Davoodi (2001) said that corruption have the impact to the lowering of state growth². If ASEAN members remain the concentration to solve corruption, then how come they can contribute to the region development and create dynamic equilibrium in region. Additionally, practice of corruption become more advanced and sophisticated from every angle like the subject, the modus, and even the mechanism of asset concealment goes transnational. By that fact, cooperative efforts among ASEAN members to build consciousness that corruption is a collective responsibility in order to achieve common interest which is free corruption area is needed.

This study shows that transnationalism itself plays significant role as an antidote for corruption in ASEAN region. Corruption as a transnational problem needs to eradicate by transnational method too such as international organization named SEA-PAC. By SEA-PAC, corruption in ASEAN region is possible to eradicate notwithstanding it is difficult, complex, and needs more effort, commitment, and responsibility from all members of ASEAN to achieve region development at the end.

Method

This study is part of explanative research by explaining the causality relation between transnationalism and corruption eradication effort in ASEAN region through SEA-PAC as a formal international organization. How transnationalism with its logic could rise the consciousness of ASEAN members that corruption eradication is a common interest and needs collective responsibility to face it. Transnationalism as a concept provides a way to explain why SEA-PAC as a formal international organization could play a role as an antidote for corruption as a transnational crime in ASEAN region which in the end could support region development thoroughly.

Results

Transnationalism

Transnationalism refers to the diffusion and extension of social, political, economic processes in between and beyond the sovereign jurisdictional boundaries of nation-states. International processes are increasingly governed by non-state actors and international organizations. The major topics addressed by transnational studies include economic globalization, the transnationalization of the state, classes, political processes, and culture, and the current integration processes taking place around the world through formal organizations³. While Bonn identified transnationalism is first and foremost about people, the social space that they inhabit, the networks they form and the ideas they exchange⁴.

Willet (2004) said that actors in transnationalism is very diverse from Non-Governmental Organizations (NGOs) and International Non-Governmental Organizations (INGOs) even International Governmental Organizations (IGOs) which actually almost the same with INGOs, but this organization works in interstate initiative⁵. Rosenau speaks about transnationalism too. He said that transnationalism as a process where international relations implemented by government followed by individual relations, groups and private societies which could have important consequences for every phenomenon⁶. Keohane and Nye (1971) continue by saying that in transnational relation process, there is no more 'interstate relations' instead 'trans-governmental relation'⁷. Furthermore, Keohane and Nye (1971) in transnationalism framework said that the power relation among state formed not by the ownership of coercive power resources, but otherwise formed by asymmetric situation related to specific issue in interdependency relation among state. In this relation, the more resources owned by a country the stronger its bargaining position and vice versa the less resources owned then the weaker country's bargaining position.

Information also a central for Keohane and Nye (1971) in transnationalism because it is played important role as basic element in international order⁸. The variety of basic character and distribution of information is a systemic variable in international relations constellation which function to explain the ability of how nation-state face problem collectively. Accurate understanding of quantity, quality, and distribution of information could help to understand state behavior accurately⁹. So, transnationalism here is a phenomenon, a logic, a method to understand the circumstances were happened in ASEAN region such as corruption.

Discussion

This section provides an elaboration about SEA-PAC start from the history, move to the performance in eradicating corruption, until the prospect in the future related to region development. To the next level, all of those elaboration of SEA-PAC connected with the logic of transnationalism.

History of SEA-PAC

In response to sophisticated corruption model in ASEAN region, on 15 December 2004 there were four members of ASEAN named Brunei Darussalam, Indonesia, Malaysia and Singapore by their corruption eradication institution met in Jakarta and signed the Memorandum of Understanding (MoU) of Mutual Legal Assistance (MLA) in order to eradicate corruption. MLA itself by definition according to Sunarso (2009) is an agreement based on asking help related to investigation, prosecution, and interrogation in the court from country to country¹⁰.

In expansion, by 11 September 2007 when the third annual meeting held in Singapore, four others members of ASEAN like Cambodia, Philippines, Thailand, and Vietnam through their corruption eradication institution signed the MoU. After that, in 2008, the participant of this MoU made a deal to bring the cooperation into something more concrete like international organization as a coordinating institution that provides instrument for its members to eradicate corruption based on international instrument called UNCAC. The organization was formed and named Southeast Asia Parties Against Corruption (SEA-PAC).

After the SEA-PAC formed, Laos became the ninth ASEAN members that signed the MoU right in the moment of sixth annual meeting held in Cambodia, November 2010. Whereas Myanmar until the tenth annual meeting have not signed the MoU yet but according to its status, Myanmar is a member of SEA-PAC too. The membership of SEA-PAC itself represented by corruption eradication institution of every single country like Komisi

Pemberantasan Korupsi (KPK) for Indonesia, Anti-Corruption Bureau (ACB) for Brunei Darussalam, Anti Corruption Unit (ACU) for Cambodia, Anti-Corruption Commission (ACA) for Myanmar, State Inspection and Anti-Corruption Authority (SIACA) for Laos, Malaysian Anti-Corruption Commission (MACC) for Malaysia, Office of the Ombudsman (OTO) for Philippines, Corrupt Practices Investigation Bureau (CPIB) for Singapore, National Anti-Corruption Commission (NACC) for Thailand, and The Government Inspectorate (TGI) for Vietnam.

SEA-PAC Performance in Eradicating Corruption

How SEA-PAC runs its role based on two central mission which are: (1) to establish and strengthen collaborative efforts against corruption among the parties; and (2) to increase capacity and institutional building among the parties in preventing and combating corruption. And two achieve those central mission, SEA-PAC as formal international organization has five step, namely: (1) to exchange and share information and cooperate on anti-corruption; (2) to cooperate on training and professional skill development; (3) to exchange expertise and personnel in anti-corruption related fields; (4) to host and participate in meetings, forums, workshops and conferences; and (5) to provide technical assistance on operational activities.

If speak about SEA-PAC performance, the best way to show and elaborate it is looking for empirical case. Based on the first step above for example, where members of SEA-PAC exchange and share information and cooperate on anti-corruption. There was a moment when KPK Indonesia and NACC Thailand interacted one another in 2011. KPK Indonesia delivers information to NACC Thailand that there was a fugitive of corruption from Indonesia run and hide in Thailand under name Nunun Nurbaeti. She was a suspect in a bribery scandal linked to a Bank Indonesia appointment. She has been identified in court as being involved in the distribution of Rp. 24 billion (or about \$2.7 million) in traveler's checks to buy lawmakers' vote for Miranda Goeltom as Bank Indonesia senior deputy governor in 2004. After got that information, NACC Thailand then tracks the location of Nunun Nurbaeti. In the end, KPK Indonesia with technical and law assistance from NACC Thailand possible to arrest her in Thailand and bring her back to Indonesia for facing the court judgment¹¹.

Another example is when a fugitive also from Indonesia under name Neneng Sri Wahyuni ran to Malaysia after the corruption of mega project of solar power electric generator in Ministry of Manpower and Transmigration of the Republic of Indonesia in 2013. Information exchange also happened between KPK Indonesia and MACC Malaysia. Finally, KPK Indonesia, by MACC Malaysia technical and law assistance enabled to arrest and bring the

fugitive back to Indonesia. No less than Rp. 800 million of Indonesia government's money saved and the fugitive has to face the law which decided her to live in prison for six years¹².

From those two clear examples, how SEA-PAC as formal international organization provides instrument and facilitates its members to eradicate corruption through share and exchange information mechanism and strengthen collaborative effort could be implemented greatly. Information plays important role in those cases because act as basic element in eradicating corruption as Keohane and Nye (1971) have said¹³. In another way, what Milner et al (2009) argues about the understanding of information, its quantity, quality, and distribution really helps KPK Indonesia, NACC Thailand, and MACC Malaysia solved those corruption cases¹⁴.

Those two examples also describe clearly how corruption is a part of transnational crime and to stop it need transnationalism efforts. It is called transnational crime because the suspects run abroad, from Indonesia to Malaysia and Thailand. Those examples also provide a wider view that SEA-PAC with its MLA mechanism does really matter as problem solving of corruption eradication. Tracking, hunting, even returning fugitive are process that can't be solved by one country only. It needs cooperative mechanism, just like the slogan of SEA-PAC 'together against corruption' which succinctly indicates both the objective of the group in being, together here refers to cooperating and collaborating rather than acting alone.

Like Keohane and Nye (1971) said, cooperation on corruption eradication in transnationalism framework formed not because Indonesia and Malaysia or Thailand have coercive power resources but because asymmetric condition where Indonesia needs assistance to eradicate corruption while Malaysia and Thailand in enable-to-help condition so that cooperation among them happened¹⁵. Otherwise, Indonesia ever had condition where enable-to-help other country like Brunei Darussalam, Singapore, and Malaysia who were in asymmetric condition actually, by sending few witness, expertise, and personnel in anti-corruption related fields to help the process of corruption in court session.

As a formal international organization as usual, SEA-PAC also has some meeting agenda. The first, annual meeting attended by high-level representatives of each country which means head of every corruption eradication institution. So far since the first time in Malaysia June 2005, SEA-PAC annual meeting has been held for twelve times and the latest annual meeting held in Myanmar December 2016. The host country acts as the SEA-PAC Chair and Secretariat from one annual meeting to the next. And the second is secretariat meeting organized annually by the Chair, usually

around four months prior to the SEA-PAC annual meeting. The secretariat meetings are normally attended by the focal points of each SEA-PAC members and/or other delegates as appropriate and as deemed necessary. Besides, activities to cooperate on training and professional skill development also held by SEA-PAC frequently through seminar and sharing session on rotational basis.

The Prospect of SEA-PAC Related to Region Development

It is not easy to eradicate corruption especially when it comes to transnational domain which more complex. As said before it needs more effort, commitment, and responsibility from all ASEAN members. Moreover, eagerness to region development is full of challenges. As we know that ASEAN just started the 'community' concept to build the region by ASEAN Economic Community (AEC) first. It means that need all the power, energy, and force from all members to support and clean all the mess include corruption. From what has said about the effect of corruption to social dimension and worst to economic growth which engenders slow growth of state could directly influence the region development¹⁶.

The prospect of SEA-PAC in the future depends on the will and contribution of all members. If there is no will, then SEA-PAC is not an antidote but just confers panadol effect which means temporary. SEA-PAC with its MLA a while like the antidote for corruption, but actually no. For example, corruption fugitives from Indonesia generally run to hide in Singapore but SEA-PAC looks like powerless here. Why, because there is one thing needed called extradition. There is no extradition treaty between Indonesia and Singapore which needed to arrest those fugitives, bring them back to Indonesia.

Extradition according to United Nations Office on Drugs and Crime (UNODC) means the surrender of any person who is sought by the requesting State for criminal prosecution for an extraditable offence or for the imposition or enforcement of a sentence in respect of such an offence. Furthermore, extradition treaty means a bilateral treaty concluded between [country adopting the law] and a foreign country, or a multilateral treaty to which [country adopting the law] is a Party, which contains provisions governing extradition of persons who are present in the territory of [country adopting the law]. So, extradition is absolutely about willingness to contribute on corruption eradication.

To the next level of region development, SEA-PAC pretty sure one of the keys. Region development here refers to dynamic equilibrium where every member of ASEAN could achieve high growth simultaneously. Then there is no member of ASEAN left behind while others enjoyed the benefit from development. And to create this condition, SEA-PAC as trans-

governmental relations in transnational relation process need the commitment and responsibility of all its member which means at state or government level in corruption eradicating¹⁷. But not that simple, it needs more than government because corruption as a transnational crime and SEA-PAC as transnationalism way meet in transnationalism process which implemented by government first and the followed by individual, groups, and private societies¹⁸. Such individual, groups, and private societies could have important consequences for every corruption thing in many ways like control function of the government and SEA-PAC, or help SEA-PAC by providing information related to all the corruption things as the fugitive hideout, asset location, lobbying of fellow individual, groups, or private societies.

Conclusion

Eradication of corruption in ASEAN region is not only a must but also a difficult task especially since it becomes a transnational issue. And for that transnational issue, the most possible easiest way to face it is using transnationalism as a method by forming the one called SEA-PAC. SEA-PAC should be acknowledged as a strategic first step in eradicating corruption in region notwithstanding it still has many complex shortcomings. At least there is a saved state asset by the combination of its member willingness, commitment, and consciousness about the damage impact of corruption for the region development. However, SEA-PAC needs improvement for the sake of its performance and conquer the challenge like extradition thing. In the end, though still far away, dynamic equilibrium in the region can be achieved when corruption is no longer a major serious issue that impedes the rate of growth of ASEAN countries and by that way means that SEA-PAC is a necessity and need to be maintained.

Endnotes

1 United Nations Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators (2014)

2 Poirson (1998), Leite and Weidmann (1999), and Tanzi and Davoodi (2001)

3 Robinson, 1998

4 Bonn in Clavin, 2005

5 Willet, 2004

6 Rosenau, 1980

7 Keohane and Nye, 1971

8 Ibid.

9 (Milner et al, 2009)

10 Sunarso (2009)

11 (KPK, 2016)

12 Ibid.

13 Keohane and Nye, 1971

14 Milner et al (2009

15 Keohane and Nye, 1971

16 (Poirson, 1998; Leite and Weidmann, 1999; Tanzi and Davoodi, 2001)

17 (Keohane and Nye, 1971)

18 (Rosenau, 1980)

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