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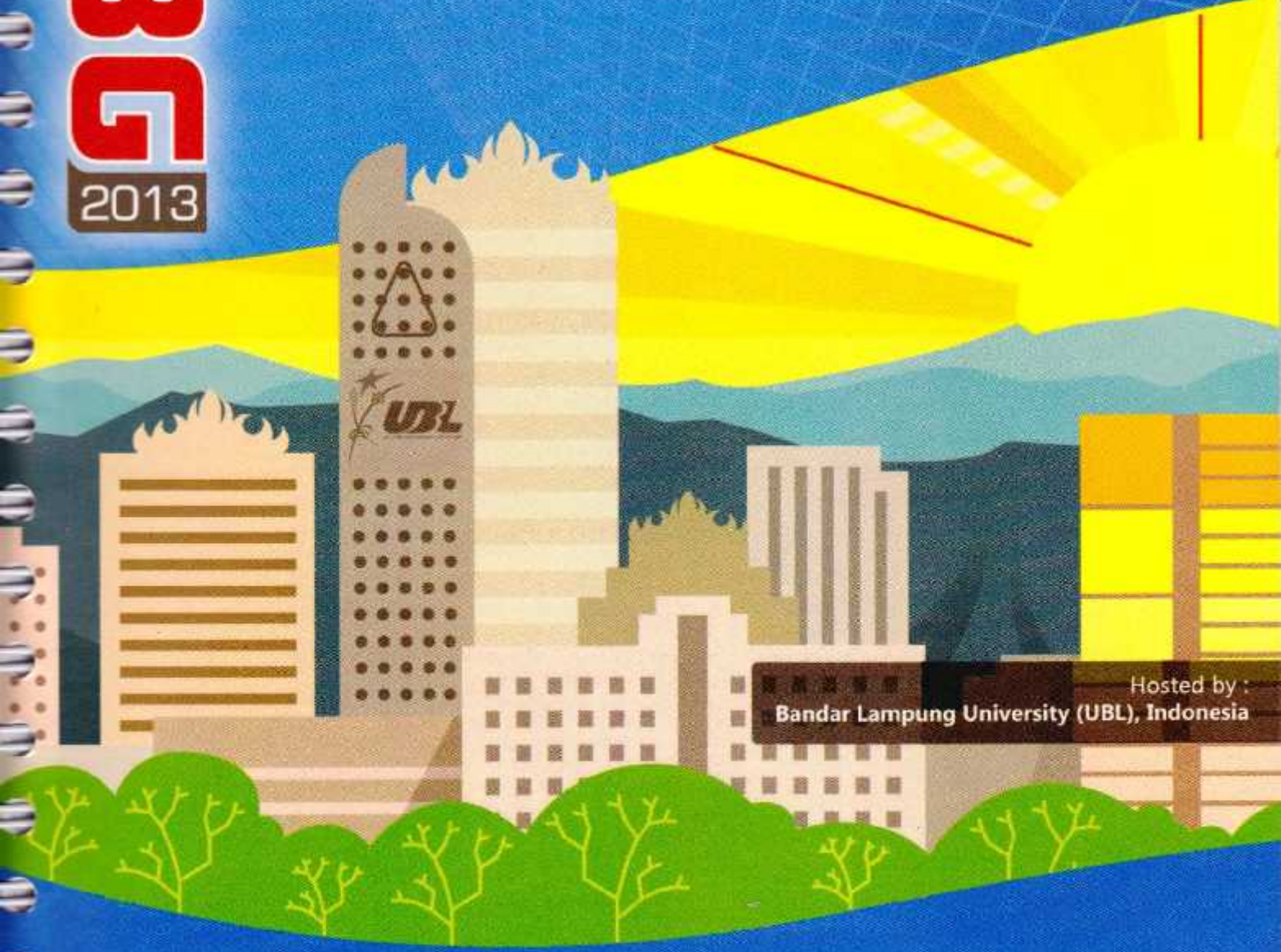


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THE FIRST
INTERNATIONAL CONFERENCE ON
**LAW, BUSINESS
& GOVERNANCE**

23-24
OCTOBER 2013
BANDAR LAMPUNG
UNIVERSITY (UBL),
INDONESIA

ICON-UBG
2013



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Icon-LBG 2013

THE FIRST INTERNATIONAL CONFERENCE
ON LAW, BUSINESS AND GOVERNANCE 2013

22, 23, 24 October 2013
Bandar Lampung University (UBL)
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PREFACE

The Activities of the International Conference are in line and very appropriate with the vision and mission of Bandar Lampung University (UBL) to promote training and education as well as research in these areas.

On behalf of the First International Conference on Law, Business and Governance (Icon-LBG 2013) organizing committee, we are very pleased with the very good response especially from the keynote speaker and from the participants. It is noteworthy to point out that about 67 technical papers were received for this conference.

The participants of the conference come from many well known universities, among others : International Islamic University Malaysia, Utrech University, Maastricht University, Unika ATMA JAYA, Universitas Sebelas Maret, Universitas Negeri Surabaya, Universitas Jambi (UNJA), Diponegoro University, Semarang, Universitas 17 Agustus 1945 Jakarta, Universitas Bandar Lampung, Universitas Andalas Padang, University of Dian Nuswantoro, Semarang, Universitas Terbuka, Universitas Airlangga, Bangka Belitung University, President University, Tujuh Belas Agustus University Jakarta, International Business Management Ciputra University, Surabaya, University of Indonesia, Business School Pelita Harapan University, STIE EKUITAS, Bandung, STAN Indonesia Mandiri School of Economics Bandung, Lampung University.

I would like to express my deepest gratitude to the International Advisory Board members, sponsor and also to all keynote speakers and all participants. I am also gratefull to all organizing committee and all of the reviewers who contribute to the high standard of the conference. Also I would like to express my deepest gratitude to the Rector of Bandar Lampung University (UBL) who give us endless support to these activities, so that the conference can be administrated on time

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THE GREAT PARADOX OF GOOD GOVERNANCE IN INDONESIA

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1. PRELIMINARY

In the New Order regime, my observe show that there are the economic progress but we have much indebted abroad. We have succeeded in the development of agriculture and industry, family planning but poorly governed.

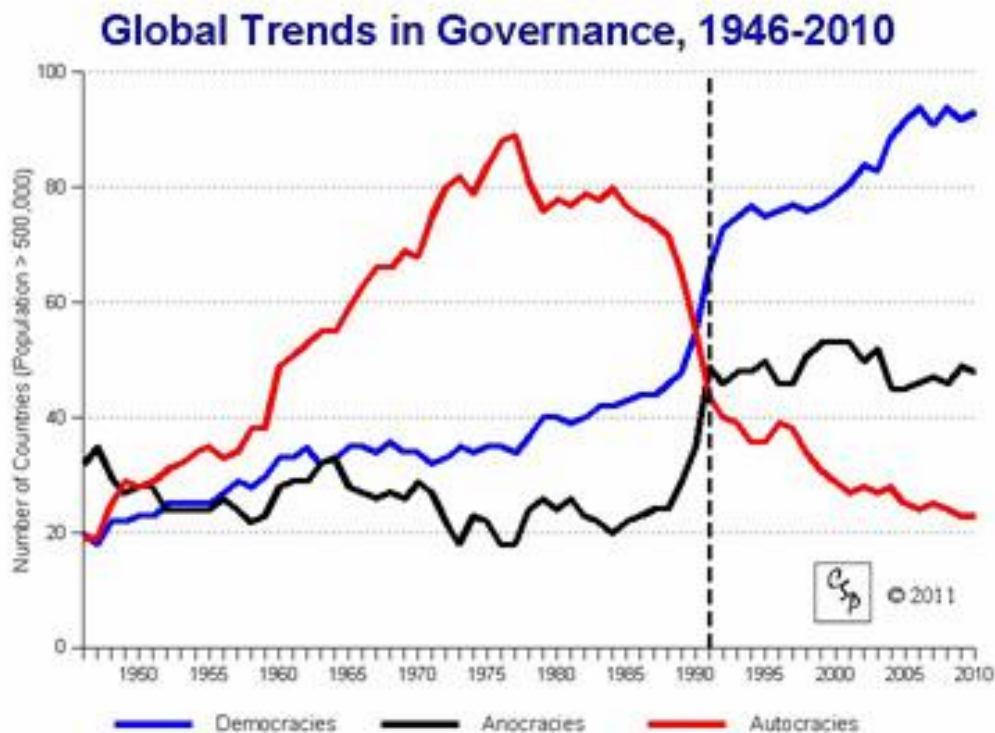


Image 1 : Global trends in governance 1946-2010

To achieve democracy restore to the original definition, government by *the people from people to the people*,¹ many countries in the world have agreed to use the concept of good governance. Since entering the 21st century, the concept of good governance is becoming very popular. Indonesia is no exception also refers to the concept.

At the moment, Indonesia is a country with no hesitation in saying that we are the best one to reach the high level of economic and political stability but in the same time we have more the democratic deficits. Although shown in global democracy remarkable increase since 1990 (see image, the blue is democracy), in fact the application of democracy in various countries is different depend on their interpretation of the “word”, including Indonesia.

When we try to interpret democracy is Pancasila, and we say “Its our model of democracy is really different with the western democracy. Democracy Pancasila is adopt the western democracy but in practice, Indonesian democracy, adjusted for socio-cultural and religious conditions.” What does it means, supposed that democracy has really not been fully implemented on the track and the “word” is so complex and complicated. The fact that happened to, is still a paradox. Its issue will be discussed in the following short paper, specially how the practice of democracy in Indonesia.

¹Theory of democracy is immensely complicated, partly because of difficulties in understanding who the people are, and which acts of government are truly ;their’ rather than those of some dominant group or interest. Roger Scruton, *A Dictionary of Political Thought*, Pan Reference and Macmillan Press, London, 1982, p. 116

2. THE 'CLEAN GOVERNMENT' MOVEMENT

In 1978, there was a great movement that is rooted of students at various universities in Indonesia. They demanded "clean government." The word "clean government" refers to a serious problem with dirty government policy. Students, as a moral movement, reminded the leaders that run in clean government, honest and dignified. At that time, the term **Collusion, Corruption and Nepotism** (KKN) does not exist. Students continue to strive forward to achieve good governance but stopped by the military. Campus castrated by the government policy of NKK and BKK. Campus silenced immediately and freeze old student organization, to form a new organization under the authority of the campus bureaucracy.



Image 2: "Wave of student protests," Source : Wikipedia, Indonesia

The Great paradox and extremelly problematic in the new order regime, among others, was lost the right to speak, the closure of the right to association, including the loss of creativity and critical activity as an important part of the maturing process of a nation. Indonesian nation looks forward in economic development and physical development but in fact we lost a lot of opportunities to be a great nation. Looks like we are progressing in many ways but in fact we lose orientation and dislocation, since we as civil society, too many remain silent and almost do nothing, because all the actions carried out by the Government or on behalf of the Government.

What happened? Participation of the people (politically and economically), turned into a mass mobilization by the Government. Thus, mobilization to support only the power (Soeharto regime). Highest officials became sole ruler. Consequently *abused power*, the wrong way for the future of the nation, and finally we find the people are the victims. The behavior bureaucracy, shown by the attitude of arbitrarily, also fertilize administrative violence, such as extortion (*pungli*).



Image 3 : "The wrong way."

3. THE REFORMATION MOVEMENT

Government plays itself without control of the people. House of Representatives, legislative power (DPR and DPRD) united in absolute executive power (*Loro-loroning Atunggal*). That political vision, there just is only an arrogant state officials, and they they ask respected by the people and appreciated. Normally, they should be servants of the state (*abdi negara*). As a public servant, they should serve the people.

Over 32 years, the political power is good maintenance of power status-quo, running the centralized administration, tend to be militaristic, repressive and less policy was oriented to the future.²

Society is become a priori and disrespect against state officials, from village to palace bureaucracy, including prejudice against the police. Government arrogance and self-righteousness, the people became desperate, as it seems there is *no good will* of the Government. Finally, the people lose confidence in the government, police, state officials and the bureaucracy.

As a result, the people rebelled in their own way, the so-called people power.

At this stage, people are no longer looking forward to the change, the reform movement was born 1998, who demanded the president step down. United people's movement (the element of students, communities, employers and the military) brought down the Suharto regime, but the movement also must be redeemed by the sacrifice of innocent people.



Image 4 : The political way of people to power

4. EIGHT (8) MAJOR CHARACTERISTICS OF GOOD GOVERNANCE



Image 5 : Characteristics of good governance

In 1998, the reform was initiated, people hoping that Indonesia achieve the best life of all levels, socially, culturally, politically and economically. The reformation adopt 8 characteristics of the good governance concept created by United Nation Development Program (1997): Good governance has 8

²Andrik Purwasito, *Perspektif Kebijakan Publik dalam Otonomi Daerah*, Political Laboratory for Supporting Good Governance, FISIP-UNS, Surakarta, 2001, p. 13

major characteristics. It is participatory (1), consensus oriented (2), accountable (3), transparent (4), responsive (5), effective and efficient (6), equitable and inclusive (7) and follows the rule of law (8).³

Theoretically, UNDP write and promote that 8 characters of good governance assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision-making. It is also responsive to the present and future needs of society.

- **Participation**

Political participation of people is a key of good governance. Participation of people in decision making process could be either direct or through legitimate intermediate institutions or representatives. Harringan, John J, writes that political participation is the percentage of eligible voters who turn out on election day.⁴

Representation of the people and community participation established by law. This power was given to the people, reflecting the democratic spirit of the people by the people for the people. We know that in reformation era the democratization increasingly realized.

Representation of people to the democracy, we have for example, (1). The Indonesian Broadcasting Commission (KPI), (2). The General Elections Commission (KPU), (3). The Yudicial Commission, (4). The Constitutional Court and the Corruption Eradication Commission.⁵

- **Accountability**

Accountable to the public is for all, not only to governmental institutions, also the private sector and civil society. Who is accountable to whom? Generally an organization or an institution, agency is accountable to those who will be affected by its decisions or actions. Accountability cannot be enforced without transparency and the rule of law.⁶ Accountability report every year to the end of the regents level officials, mayors, governors and presidents. At first, reports of accountability can impose one's position, but later disallowed.

- **Rule of law**

Good governance is respecte doctrine of supreme of law. This character requires a clear translation, ie requires fair legal frameworks, protection of human rights, particularly to the minorities. For the impartial enforcement of laws must be an independent judiciary and an impartial and incorruptible police force.

During the reformation era, and implemented the good governance concept, Indonesian government starts from the issuance of Law, starting from the law no. 2/1999 about political parties, the birth of the law no. 3/1999 about general elections, the law no. 4/1999 about the Organisation and the MPR, DPR and DPRD position. The law no. 22/1999 on Regional Autonomy, and the law no. 25/1999 on financial balance between central and regional governments, and dozens of government regulations was published.

- **Transparency**

Transparency means that decisions taken and follows the rules and regulations. The information about the decisions must be open to public. It means, the people is freely available and directly accessible to those who will be affected by such decisions and their enforcement. We have the **Public Information Commission (KIP)** support the transparency of state.

- **Responsiveness**

In good governance, the state requires policy of best services, that serve all stakeholders within a reasonable time-frame.

- **Consensus oriented**

In society there are many differences, several actors with have many view points, that could potentially lead to social conflict, competition of interest, and finally mis-understanding. This condition, the good governance should be able to mediate and find the best "way win-win solution." For sustainable human development, requires the mdiation to achieve the goals of such development.

- **Equity and inclusiveness**

A society's well being depends on adherence agreed upon to the values and norms. A person or group should have a feel of togetherness, able and willing voluntarily to cooperate in the difference. No one is excluded from social interaction because of differences in ethnicity, religion, class and

³<http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.asp>

⁴Andrik Purwasito, *Pengantar Studi Politik*, Sebelas University Press, Surakarta, 2012, p. 175

⁵*Ibid*, p. 123-4

⁶<http://www.unescap.org>, *loc.cit*,

socio-economic levels, particularly the most vulnerable, not excluded from the mainstream of society and have opportunities to improve or maintain their well being.

- **Effectiveness and efficiency**

The concept of efficiency and effectiveness, in the context of good governance, not only that processes and institutions produce results that meet the needs of society, also covers the sustainable use of natural resources and the protection of the environment.

5. THE ACTORS OF GOOD GOVERNANCE

Since the reformation started, Indonesia has a great success and clear progress to achieve good governance. Governance can be seen as the exercise of state to manage the state's affairs at all levels, whether economic, political, socio-cultural, religious, and international relations. The state has the authority to manage the assets of the country for the prosperity of all people.

The central actor of good governance is government. But there are numbers of the actors non-government, who play a role in decision-making, or at least influencing the decision-making process, like NGOs, media, lobbyists, international donors, multi-national corporations (see image 6), one hand, and the other hand, especially in rural areas, there are land lords, associations of peasant farmers, cooperatives, research institutes, religious leaders, finance institutions political parties, included organized crime syndicates, also influence decision-making, particularly in urban areas and at the national level.etc.

In several countries, existing the informal decision-making structures, such as "kitchen cabinets" or informal advisors, powerful families, making informal decision-making is often the result of corrupt practices or potentially leads to corrupt practices.⁷

State managed by the people, through the selection of recruitment by law. The state officials, the bureaucracy implement the policy process based on rule of law, serve the community, to articulate the people interests and at the same time guiding the use of the people's rights and obligations also try to mediate differences and conflict through consensus.



Image 6 : The symbol of Multi-national Corporation

In general, terms of good governance, is just the same spirit with Indonesian terms, its ensures that the voices of the poorest and the most vulnerable are heard in decision-making over the allocation of development resources, and that political, social and economic priorities are based on broad consensus among the three stakeholders *the state, private sector* and *civil society*.⁸

6. THE OBJECTIVES AND PARADOX

Speaking on the issue of good governance in Indonesia, that it's means: to restore the sovereignty to the people (*mengembalikan kedaulatan di tangan rakyat*).⁹ The reform in Indonesia, the word "people" occupy a vital position. The consequences of return sovereignty to the people is :

- 1). restore the people's participation in decision-making,
- 2). restore the duties and functions of the legislative as representative institution,
- 3). restore the people's representation in state institutions,

⁷<http://www.unescap.org>, loc. cit

⁸http://www1.aucegypt.edu/src/engendering/good_governance.html

⁹*Ibid*, p. 35

4) restore the rights of the people.

The three stakeholders above, are critical for sustaining human development. The role of *the state*, creating a conducive political climate and also create a legal environment. The role of *the private sector* generates jobs and income. The role of civil society facilitates political and social interaction. With the advent of globalization, where are the integration of economies become one, the state's task is also more active, to find a balance between taking advantage of emerging market opportunities and providing a secure and stable social and economic environment domestically.¹⁰

Organization for Security and Co-operation in Europe,¹¹ (OSCE) show that good governance requires rules which are simple, *transparent, understandable, enforceable, predictable, non-discriminatory and effective*. The focus of interest is different from the situation in Indonesia, who empower the people, but Europe more rather the issue of efficient government. Both, the terms good governance is the respect the rule of law, be accountable and be responsive to their citizens. The problem of participation Europe and Indonesia, and all countries are "an essential element in ensuring the quality and applicability of decisions."¹²

We see that clear progress of Indonesia reform shown by regulatory reform, institution as representation of society, services and management to the public sector. Indonesia has good track record implement democratic values and also the great attention to respect for existence of civil society. The government of Indonesia has good will for reformation all levels and try to develop political rights.

Should we say that Indonesia considered well governed because of its? Lets go to discuss the paradox of good governance, the facts below:

Based on the research of Indonesian Research Institute (INSIS), the performance of members of the House of Representatives (DPR) 2009-2014, was lower, or 60.9 % of respondents assess that the performance of members of legislative not good/unsatisfactory. It just about 21% satisfied. " It's dangerous for Indonesian Parliament," said Mochtar W Oetomo, researcher INSIS.¹³ Public dissatisfaction is due to the members, for example legal cases, sexual behaviors, indiscipline members of the board.

Pol-Tracking Institute¹⁴ release that the majority of respondents or 51.5 percent they are dissatisfied with the performance of President Susilo Bambang Yudhoyono-Boediono and just 40.5 percent of respondents said they were satisfied.

The Ministry reported that there were 277 governors, mayors, and regents were involved in corruption cases. That's just the head region, not including his subordinates at least five perpsone of his subordinates in the case. Calculated the head area and officials involved in corruption could reach 1500 person ," said Djohermansyah, Director General of Regional Autonomy Ministry of Home Affairs (Kemdagri). The Ministry also noted that there are members of the Regional Representatives Council (DPRD) were involved in corruption, at the provincial level, a total of 2008 members of parliament from all over Indonesia, there are at least 431 were involved in corruption.



Image 7 : The symbol of corruptions, source: <http://www.tempo.co>

¹⁰*Ibid*

¹¹<http://www.osce.org/eea/53256>

¹²*Ibid*

¹³Statement at Hotel Atlet Century Park, Senayan Jakarta, at 29/09/2013, <http://www.jpnn.com/read/2013/09/29/193293/Survei-Insis-Kinerja-DPR-Gagal-Puaskan-Publik>

¹⁴Puublished at Sunday (20/10/2013). <http://nasional.kompas.com/read/2013/10/20/1222427/Survei.Mayoritas.Publik.Tak.Puas.Kinerja.SBY-Boediono>. **Note** : The survey was conducted by face-to-face interviews on 2,010 respondents in 33 provinces on 13 to 23 September 2013. Margin of error for the survey is + / - 2.19 percent at the 95 percent confidence level.

While at the district (*kabupaten*) and the city (*kota*), the total of 16 267 head office, and 2,553 involved in corruption.¹⁵ Since direct elections (Pilkada) began (2005-2013), there was 304 of 524 regional head (Bupati and Walikota) involved in corruption cases. And there was many social conflicts that cause of death, victim's property, "This is a serious problem," he said.

Akil Mochtar as the Chairman of the Constitutional Court (MK) engaged in corruption, obviously destructive to image of institution of the law in Indonesia. He was representing the voice of the people and gives full authority but in fact that he had damaged the reputation of the Court (MK) as the last bastion of justice.

Inspector General (Irjen) Djoko Susilo, Head of Traffic Police Corps, according to the judges, found guilty of corruption by abusing their authority to the detriment of the state finances. Djoko proven inflate the price of the SIM simulator tool to compose its own estimates prices. Djoko also be convicted of money laundering for the periods 2003-2010 and 2010-2012. He was sentenced to 10 years and a fine of 500 million.¹⁶

7. CONCLUSION

How to avoid the paradox and improve the quality of good governance? First of all, we have to find a way "cut corners" by cutting out the old generation to the new generation replaces the super. Such leaders can not be plucked from the jungle, but it needs to be created. Secondly, education should be at the forefront of educating the younger generation of honest, pious and had a future vision. Third, good governance just a slogan, if the government made no effort to enforce the law in a comprehensive manner.

¹⁵<http://www.tempo.co/read/news/2012/08/29/078426251/Ribuan-Pejabat-Daerah-Terlibat-Kasus-Korupsi>

¹⁶<http://nasional.kompas.com/read/2013/09/03/1620347/Irjen.Djoko.Susilo.Divonis.10.Tahun.Penjara.Denda.Rp.500.Juta>



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