

CHAPTER SEVEN

ACCOUNTABILITY AND SUPERVISION OF THE ANNUAL LOCAL BUDGET: THE FOURTH STAGE

7.1. Introduction

The management of the local budget operates under a complex set of circumstances. Various interests, values, and levels of power either directly or indirectly influence the process. This atmosphere leads to distortions in which the largest portion of the local budget funds benefit only certain parties instead of improving the prosperity of the community. To deal with this circumstance, the national authorities have issued a series of normative regulations to set up a system of accountability and supervision for APBD management.

What is the system and process of accountability and supervision of the APBD? Who are lead actors this accountability and supervision system? How effective is the accountability and supervision system of local budget management? This chapter aims to elaborate on the questions above, particularly regarding the actual process of accountability and supervision in the management of the local budget. It also identifies the main actors/ institutions that play important roles in this accountability and supervision system. Furthermore, this chapter critically analyses the effectiveness of the accountability and supervision system, as well as clarifying the important factors that adversely affect the APBD accountability and supervision system.

The chapter is divided into three sections involving the process and mechanism of accountability of the APBD; the method and effectiveness of the supervision; and the important issues that emerge in the process of accountability, evaluation, and supervision of the local government budget.

7.2. Accountability Report and Audit of the APBD

Every financial year, the heads of local government (*Bupati/ Walikota*) in the study areas provide two kinds of report in conjunction with the implementation of the APBD. These two reports are the first-semester APBD implementation report and the annual APBD accountability report¹.

7.2.1. Report of First-Semester APBD Execution

Once the APBD execution has been in operation for six months (the first semester), as mentioned in PERMENDAGRI 13 of 2006², local officers are required to create a report of first-semester implementation and a prognosis of APBD execution³. As found in the study sites, the process for the preparation of the first semester report and the prognosis of APBD execution can be briefly illustrated below.

The arrangements for the first-semester APBD execution report starts with the preparation of a financial report at the SKPD (*Satuan Kerja Perangkat Daerah/* local bodies) level. During this phase, each head of SKPD makes a report about APBD

¹ Accountability of local government heads is regulated in PP (Peraturan Pemerintah/ Government
² PERMENDAGRI (*Peraturan Menteri Dalam Negeri/* Regulation of Minister of Home Affairs) 13 of 2006 concerning Management of Local Government Finance. The procedure to prepare the first semester accountability report of the APBD is stipulated in Chapter 12 clauses 290 to 293 of PERMENDAGRI 13 of 2005.

³ The prognosis for APBD execution contains the projection of APBD execution in the next six months (the second semester of APBD execution/ July - December).

execution in the respective SKPD. This report is attached to the prognosis of APBD execution for the next six months. As found in the field, the SKPD authorities often complete the SKPD report and prognosis no later than one week after the first semester of APBD execution ends. Subsequently, the SKPD officials submit the report and prognosis to the PPKD (*Pejabat Pengelola Keuangan Daerah/ Official of Local Financial Management*) within ten days of the end of the first semester.

The next step is for the PPKD to compile the reports and the prognoses of the SKPDs and then, from these documents, to create a report of the first semester APBD realisation and the prognosis of the local government. The PPKD in the study locations usually accomplish this task before mid-August. The PPKD then hands the report and prognosis to the Secretary of Local Government for the final check. Subsequently, the secretary of local government submits the report and prognosis to the head of local government (*Bupati/ Walikota*) to be formalised. Finally, the first semester realisation report of the APBD and the prognosis for the next six months are submitted to the local parliament (*DPRD/ Dewan Perwakilan Rakyat Daerah*).

This study has found that there is little difference between the requirements in the normative guidelines and the actual practices of the local executives and legislators in creating the first semester accountability report and prognosis of the APBD. This happens because the national authorities require local governments to strictly follow the rules as stipulated in the guidelines, otherwise, the accountability report will be rejected by higher levels of government (the provincial and central government) if the report is not consistent with the formal guidelines. The only difference found is that the process of creating the report is sometimes slightly later

than the stipulated time. However, the local officials and legislators state that this is not really a concern as the delay is only in the range of one or two weeks.

7.2.2. Annual Accountability Report of APBD Execution

As guided by the PERMENDAGRI 13 of 2006, particularly clauses 294 to 302⁴, the annual accountability report of APBD execution is prepared at the end of the financial year (at the end of December). Furthermore, the local executives complete the report which is then formalised by the local parliament no later than six months after the fiscal year ends.

As the data show, local executives prepare the report of APBD implementation through five phases. The first phase is the formulation of the annual accountability report of the SKPD (the local bodies). In this step, the heads of the SKPD prepare the accountability report of APBD execution. Evidence shows that the SKPD authorities complete the SKPD financial accountability report no longer than two months after the fiscal year ends. Subsequently, the SKPD heads hand the financial accountability report of the SKPD⁵ to the PPKD (*Pejabat Pengelola Keuangan Daerah*/ Official of Local Financial Management).

The second phase is the compilation of the SKPD financial accountability report. The PPKD creates the financial accountability report of local government by

⁴ Clauses 294 to 302 of PERMENDAGRI 13 of 2006 guide the procedure for creating the annual accountability report of the APBD which consists of two phases: (1) preparation of the annual accountability report (elaborated in clauses 294 to 297); and (2) formalisation of the accountability report of the APBD (elaborated in clauses 298 to 302).

⁵ The financial accountability report of the SKPD consists of: (1) the realisation report of the budget, (2) the balance sheet, and (3) the cash-flow report. Additionally, the report is also attached to the statement letter of the SKPD head declaring that the APBD funds (the local budget) allocated to the SKPD (the local body) have been managed and executed properly in accordance with the government accountancy standards and other related regulations.

compiling the SKPD reports. The PPKDs in the study locations generally accomplish this task no more than three months after the end of the financial year. Once the local government financial report⁶ is ready, the PPKD submits it to the Head of Local Government (*Bupati/ Walikota*) via the Secretary of the Local Government.

Thirdly, an audit is conducted by the BPK (*Badan Pemeriksa Keuangan/ Indonesian Supreme Audit Institution*). Usually in March (three months after the financial year ends) the head of local government hands the local government financial report to the BPK to be reviewed and audited. Later, the BPK reveals the results of the audit on the local government financial report, generally within two months of the submission of the report. After receiving the results of the BPK audit, the head of local government clarifies and revises the report if needed⁷.

The fourth phase is the legalisation of the *Perda* (*Peraturan Daerah/ Local Regulation*) on the accountability report of APBD execution. The study indicates that around six months after the financial year ends, the head of local government hands the financial report of the local government⁸ to the local parliament (the DPRD) to be

⁶ The local government financial report contains: (1) the budget realisation report, (2) the balance sheet, (3) the cash-flow report, and (4) notes on the financial report. Additionally, the report is also attached to a summary of the performance realisation and financial report of local government enterprises. Moreover, local government heads have to attach a statement letter certifying that APBD funds allocated for the local government under his/ her authority have been managed and executed properly in accordance with the government accountancy standards and other related regulations.

⁷ In other conditions, if the BPK does not release the results of the audit within two months after submission by the local government, then it can be assumed that the BPK does not need any clarification and revision on the submitted local government financial report. Consequently, the Head of Local Government is permitted to hand the report to the local parliament (the DPRD) to be jointly discussed and then formalised later on.

⁸ The Head of Local Government must provide the version of the report which has been reviewed and audited by the BPK (the Indonesian Supreme Audit Institution).

jointly discussed⁹. Once these two institutions have agreed, the local government financial accountability report is legalised in the form of a *Perda* on the accountability report of APBD implementation. However, before being formalised, the head of local government submits the financial accountability report to the provincial government for review by the governor.

The final phase is a review by the Governor. Within three days of agreement about the financial accountability report being reached by local legislators and executives, the head of local government hands the report to the Governor for review¹⁰. The Governor usually releases the result of the review within 15 working days of the receipt of the report. In a case where the review conducted by the Governor indicates that there is inappropriate content in the report, the head of local government and the DPRD must revise it within seven working days. After this, the head of local government formalises the local government financial report in the form of a *Perda* (local regulation) regarding the accountability report of the local budget. Furthermore, the head of local government sends the financial accountability report and the formalised *Perda* to the Minister of Home Affairs via the Governor.

Based on the process outlined above, the actual practice in preparing the annual APBD accountability report is very close to the stipulations in the formal guidelines. The data show that only one expected aspect is missed by local staff in preparing this accountability report, the compulsory requirement to make the report public. As obligated in clause 302 of PERMENDAGRI 13 of 2006, the local

⁹ The discussion aims to come to agreement among local legislators and executives on the accountability report of the APBD execution. The data from the study locations show that local executives and legislators generally reach agreement about the financial accountability report within a month after submission of the report to the DPRD.

¹⁰ The review of the Governor aims to ensure that the content of the local government financial report is not contrary to the public interest and higher-level constitutions.

authorities must publicise the annual APBD accountability report after it has been audited by the BPK (Indonesia Audit Supreme Institution). Nevertheless, officials in the study locations generally ignore this obligation because of the absence of strict sanctions by the national authorities. Moreover, the local community also rarely complains about this situation. In the process outlined above, the BPK audit plays a crucial role as this audit assesses the performance and compliance of local government officials in managing the local budget.

7.2.3. Audit by the BPK (Indonesian Audit Supreme Institution)

As seen in the field, the BPK (Indonesian Supreme Audit Institution) conducts three kinds of audit, including a compliance audit, a financial audit, and a performance audit¹¹. The audit by the BPK is primarily carried out in the form of documentary auditing, whereby the BPK audits and assesses the APBD report of local government. The output of the BPK audit is presented through four status levels which are: unqualified opinion (*opini wajar tanpa pengecualian*)¹²; qualified opinion

¹¹ A compliance audit consists of checks carried out to evaluate how well the organization complies with, and adheres to, the relevant policies, laws, guidelines, plans, and procedures. The compliance audit emerges as the basic element of conducting the audit. The financial audit assesses the internal control systems that ensure the quality of the accounting information and the financial report. The financial audits include financial statements, accounts, accounting, receipts, and other financially-related issues. The financial statement audits provide a reasonable assurance about whether the financial statements of an audited entity fairly present the financial position, results of operations, and cash flows in line with the accounting standards. The financial audits also determine whether: (a) financial information is presented in accordance with the established or stated criteria, (b) the entity has adhered to the specific financial compliance requirements, or (c) the entity's internal control structure over financial reporting and safeguarding assets is suitably designed and implemented to achieve the control objectives. Meanwhile, a performance audit aims to review whether a particular activity is completed in a way that has produced effective, efficient, and economic results. It is viewed as an objective examination of evidence for providing a reasonable assessment of an organization's performance (www.bpk.go.id/web).

¹² The BPK issues this kind of opinion if a financial report is full of well-informed materials and has non-essential mistakes. In this case, the auditors are sure that the government entity has implemented the current system of accountancy correctly and properly.

(*opini wajar dengan pengecualian*)¹³; adverse opinion (*opini tidak wajar*)¹⁴; and a disclaimer (*penolakan/ tidak memberikan opini*)¹⁵.

Based on the yearly financial audit, the BPK revealed the status of ‘qualified opinion’ (*opini wajar dengan pengecualian*) for the APBD accountability report of Surabaya City for the 2011 financial year. This municipality received this status because the BPK found 12 cases of financial mismanagement that could have potentially harmed government finances¹⁶.

Similar to the City of Surabaya, the Trenggalek Regency also received a status of ‘qualified opinion’ for the accountability report of the APBD for the 2011 financial year. In view of this audit, the BPK stated that the Trenggalek authorities did not allocate funds properly. Additionally, revenue from a hospital owned by the Trenggalek government was not recorded in accordance with the normative regulations. The BPK also found that the system of profit sharing was not executed properly, and there was poor management of the social funds (*grant/ Hibah*)¹⁷.

Batu City also received poor audit results, through a status of ‘disclaimer’ (*penolakan/ tidak memberikan opini*) for their 2011 financial report. This is the same

¹³ This opinion means that information provided in the financial report is mostly correct and reasonable except for certain items or accounts. However, these mistakes are not substantial and will not significantly influence the fairness of the financial report.

¹⁴ This kind of opinion will be released if the financial report contains mistakes, or the report does not reflect the actual situation. In such cases, the auditors are of the opinion that the reliability of the financial report is doubtful so it might mislead stakeholders and decision-makers.

¹⁵ In this category, the auditors do not give any opinion on the financial report as they are not sure about the reliability and accuracy of the financial report. The BPK auditors issue this kind of opinion if they contend that there is important information that has not been provided to the auditors, therefore they cannot obtain the evidence needed to make a conclusion about whether the report is reliable or not.

¹⁶ Centro One News, 18 June 2012 <http://www.centroone.com/news/2012/06/3y/hasil-audit-bpk-untuk-apbd-surabaya-buruk/>

¹⁷ Jwalita News, 5 June 2012 <http://jwalitanews.com/dewan-panggil-skpd-trenggalek-terkait-lhp-bpk/>

status as the city obtained for the 2008 to 2010 fiscal years. The BPK set a ‘disclaimer’ status because the audit found uncollected taxes in 2011 amounting to more than 25 billion Rupiah. The BPK also identified that the volume of unutilised funds for Batu City remains high. As well, the City of Batu applies an accounting system which is not in line with the provisions stipulated in the guidelines¹⁸.

Other than the findings about the auditing status obtained by local governments in the study areas stated above, the supervision and evaluation carried out by the local parliament, the BPK, and other institutions have revealed a number of noticeable issues. These supervisory and audit bodies claim that the untimely APBD execution process¹⁹ is one of the main phenomena found commonly across local governments in the study locations. As seen in the field, APBD implementation starts late because of the delays in finishing the APBD formulation and validation parts of the process, as well as the shortage of project leaders in local government. This situation leads to a limited time being available to execute the local budget. Moreover, the delay in the APBD execution causes the sub-optimal utilisation of the allocated APBD funds. As a result, local governments record a high percentage of unutilised funds in their budgets every year²⁰. This circumstance also leads to the improper and untimely accomplishment of local government projects²¹.

¹⁸ Seputar Indonesia, 19 May 2012 <http://www.seputar-indonesia.com/ediscetak/content/view/496106/>

¹⁹ The phenomenon of the untimely APBD execution process is analysed in the previous chapter (Chapter Six).

²⁰ The analysis regarding the shortage of project leaders and unutilised APBD funds has been presented in the previous chapter (Chapter Six).

²¹ The findings about the high number of unfinished local government projects has been analysed in the previous chapter (Chapter Six).

7.3. Supervision of the APBD: Assessing the Effectiveness

Supervision of the APBD is conducted by a number of parties, including the local parliament (the DPRD), government agencies (the BAWASDA and the BPKP), and by the public (supervision by the community and NGOs). In addition, the management of the APBD is also supervised by a highly authoritative anti-corruption body called the KPK (*Komisi Pemberantasan Korupsi/ the Corruption Eradication Commission*). This section analyses the APBD supervision undertaken by the various parties mentioned above, as well as assesses the effectiveness of these supervisory activities.

7.3.1. Supervision by Local Parliament (DPRD)

Local legislative members supervise local officials in executing the APBD over the entire fiscal year. This aims to ensure that the implementation and utilisation of the local budget is in accordance with the local development plan and the local regulations regarding the APBD.

The supervision of the APBD by the DPRD is regulated by Law 15 of 2004 and PERMENDAGRI 13 of 2006, particularly clauses 311 and 314. Nevertheless, these provisions do not specify the type, method, and strategy of supervision that must be implemented by the DPRD. Referring to the findings in the study areas, the DPRD members apply several kinds of supervision, including supervision by DPRD leaders²², supervision by DPRD members²³, supervision by the DPRD commission²⁴, and supervision by working groups and special committees²⁵.

²² Supervision by DPRD leaders is conducted directly by the elites of the DPRD, including the DPRD head and deputies. The DPRD leaders directly supervise local executives once particular cases involve the local government elites, such as the Head of Local Government (*Bupati/ Walikota*), the

Additionally, the DPRD also conducts further investigations if the audit executed by the BPK indicates that there is a particular case that needs to be investigated. In this situation, the local parliament usually requires further explanation from the BPK regarding the nature of the case. Moreover, the DPRD can also ask the BPK to conduct further investigations on the particular case.

Vice-Head of Local Government (*wakil Bupati/ Walikota*), the heads of local bodies (the SKPDs), and other elites. As occurred in Surabaya City in 2010, for example, the city mayor (*Walikota*) issued a decree of the city mayor regarding an increase in the tax advertisement tariff. This policy led to controversy as the increase in the tariff was considered too high. As a result, the DPRD leaders became actively involved in investigating this case.

²³ Supervision by DPRD members is conducted regularly by DPRD members, associated with their main function as the representatives of the local community. As the local legislators are basically the representatives of their political party in the local parliament, hence the supervision carried out by these legislative members will be considered, to determine the political stance of the faction (of the political party) in delivering legislative functions.

²⁴ Supervision by the commission of the DPRD is held by the commission of the DPRD in accordance with the respective duties of the commission. For example, once the local parliament (DPRD) of Batu City becomes concerned about the poor achievement of Batu City officials, proven by the status of 'disclaimer' on the financial audit released by the BPK (Indonesia Supreme Audit Institution), then commission B (the Commission of Economics and Finance) actively takes part in investigating the nature of the case.

The local parliament (the DPRD) generally consists of three or four commissions, including Commission A (the Commission of Governance), Commission B (the Commission of Economics and Finance), Commission C (the Commission of Development), and Commission D (the Commission of Social Welfare).

Commission A (the Commission of Governance) takes care of the affairs of organization and governance; public order and safety; population; information, communication, and data management; law and legislation; staffing; politics; community organizations; regional asset management and land; licensing.

Commission B looks after trade; industry; agriculture, plantation, animal husbandry, fisheries and maritime affairs; procurement and logistics; cooperatives; local and regional financial wealth; banking; enterprises; investment and business and food security.

Commission C is responsible for public works; spatial planning; landscaping; hygiene; transportation; mines and energy; public housing; environment, and post and telecommunications.

Commission D takes care of religion; education; health and family planning; employment; outh and sports; culture; community and women's empowerment; tourism; transmigration and science and technology.

²⁵ Supervision by the DPRD is undertaken by the committee of the DPRD specifically formed to supervise particular cases or events. An example of a special committee of local parliament (DPRD) is the special committee of elections for Surabaya City Mayor established at the beginning of 2013. This committee aims to ensure that the election of the City Mayor is run fairly and in accordance with the laws and normative guidelines.

Alternatively, the DPRD invites the local government elites to obtain clarification concerning certain issues raised by the supreme audit institution (BPK).

In regard to supervision methods, the facts in the field demonstrate that local legislators often conduct supervision by making visits to the community to directly check on the implementation of local development projects and public service delivery undertaken by the local executive. Alternatively, when the parliament receives information from the local community complaining about the services provided by local government agencies, then local legislative members usually invite the respective officials or institutions to provide clarification. Local legislators in the research areas also often involve the mass media in supervising and monitoring the performance of local executives. Additionally, the members of the DPRD regularly conduct public hearings with related parties, particularly with local government technical institutions (as the providers of public service and development) and the community (as the beneficiaries of public services and development).

The current situation shows that supervision of local executives by the DPRD is improving compared to in the previous era (the New Order Regime/ the pre-reform period), nonetheless, the local parliament also faces a number of issues which undermine the effectiveness and supervision of APBD management. The oversight function of the DPRD is supported by a number of factors, including, among others, the issuance of the local autonomy policy that provides greater opportunities for the DPRD to optimise their role in implementing legislative functions and the supervision of the performance of local executives. This climate is completely different to that before the autonomy era, in which the DPRD was a 'subordinate' and just a 'rubber stamp' for the local executives' policies.

The current policy endows huge authority to the DPRD to determine strategic policy at the local level. This environment requires local executives to accommodate the local parliament's voices and initiatives. The DPRD oversight function is also promoted by the participation of the community, which supplies information about the performance of local executives in delivering public services and government affairs.

Despite the positive progress indicated above, the DPRD's presently face a number of constraints in optimising their oversight role. The study has discovered that the poor performance of local legislators in supervising local executives is primarily caused by a lack of capacity and experience in political and governmental affairs.

Often the supervision conducted by the DPRD does not work effectively because the political position of the local government heads (*Bupati/ Walikota*) is very strong, as they are directly elected by the community instead of by the DPRD members, as seen in the New Order period²⁶. Furthermore, although local legislators have the authority to supervise local executives, they are not authorised to impose legal sanctions on the local officials in cases where staff members commit irregularities in local government finances. As found in the study sites, local

²⁶ The current law stipulates that the DPRD is the partner of the local executives in making local policies, and places the DPRD at the same level as the Head of Local Government. However, in terms of local budget execution, Law 32 of 2004 regarding Local Government puts the Heads of Local Government in a stronger position than the local parliament. In this context, the operational budget of the DPRD is allocated under the authority of the Head of Local Government.

legislators are also frequently involved in various kinds of political horse-trading and transactional politics, whereby local officials obtain personal advantage²⁷.

Other than this, many DPRD members are involved in legal issues, particularly those associated with allegations of corruption and misuse of the local budget. A number of them also have disharmonious relationships with their political party, for example, in Surabaya City, where the Head of the DPRD and the Chair of the Honorary Unit (*Badan Kehormatan/ BK*) of the DPRD were dismissed from their positions at the beginning of 2013 because they were accused of not being loyal to the party (Democratic Party/ *Partai Demokrat*). These realities damage the reputation of the DPRD as a watchdog institution from the perspective of local officials, and hence, reduce the compliance of local executives to the local legislators.

7.3.2. Supervision by Government Agencies

This supervision is conducted by the local government unit namely BAWASDA²⁸ (*Badan Pengawas Daerah/* Supervision unit of local government) and also by a central government institution called BPKP²⁹ (*Badan Pengawas Keuangan dan Pembangunan/* Supervisory Board of Finance and Development).

²⁷ This tendency has been elucidated in Chapter Six regarding the APBD validation process. In this stage, APBD members actively initiate the ordering of projects from local executives. They also vigorously force local officials to give projects to their cronies or to the particular parties under their patronage.

²⁸ The BAWASDA is a local government agency that is in charge of supervising the management of local government finance and assets, include the supervision of APBD implementation; the collection of local government revenue and local government-owned enterprises; the procurement and liquidation of goods and services as well as local government assets and the inventory and investigation of assets belonging to local government officials.

²⁹ The BPKP is a non-departmental institution that has existed since the New Order (Orde Baru/ ORBA) era. After reformation, the BPKP was re-established through the issuance of KEPPRES (Decree of the President) 103 of 2001.

As stipulated in clause 222, Law 32 of 2004 regarding local government, the results of the supervision conducted by the BAWASDA has to be disseminated to the BPK. The reality shows that the BAWASDAs in the study locations always hand in the supervision results to the BPK as required by the guidelines. However, as the data show, the supervisory activities conducted by the BAWASDA do not often work effectively, mainly because the BAWASDA is an integral part of the local government itself, thus the status of the BAWASDA is the same level as other local government units. Moreover, the chairman and staff of the BAWASDA are subordinate to, and directly appointed by, the Head of Local Government (*Bupati/Walikota*). This circumstance results in the BAWASDA staff not being too critical of their colleagues (other local government officers) as well as of the local government elites. A former BAWASDA official (informant GO-22) revealed that:

If we (BAWASDA officers) are too critical to the officials particularly to the local government elites, we will not last longer holding position at the BAWASDA and might be thrown away to the worse occupation ... (interview: 03/03/11).

Moreover, most BAWASDA officers do not have the qualifications or the capacity to be auditors, as they were initially recruited as ordinary local government staff, rather than having been intentionally employed as supervisors and/ or auditors³⁰. Additionally, the BAWASDA is well-known as a local institution that does not execute any development projects/ programmes, therefore this institution receives a smaller budget allocation. Most local officers declare that the BAWASDA

³⁰ The chairman and staff of the BAWASDA are appointed from existing local government officials and staff working at any local government units under the discretion of the Head of Local Government (*Bupati/Walikota*), and may possibly be transferred to any other institution at any time. Therefore, BAWASDA staff might come from any SKPD (local government institution) with various backgrounds and specialisations.

is a 'dry spot'³¹. This is reflected in the income of the supervisory staff working at the BAWASDA which is relatively lower than other local unit staff³². Consequently, if they want to earn additional income, BAWASDA staff often take bribes given by other officials who have been found to have committed infringements. As well, BAWASDA staff generally demonstrate poor performance in supervising local officials, as, so far, no prominent scandals have been uncovered by the BAWASDA.

Due to the ineffectiveness of internal supervision (conducted by local government officials themselves), the Indonesian authorities encourage the BPKP (Supervisory Board of Finance and Development) to play a more active role in supervision of local government officials. Unfortunately, the supervision conducted by the BPKP also does not work effectively, as the authority of this agency is quite vague and often overlaps with the functions of the BPK³³.

As seen in the field, the BPKP supervision of local governments is not conducted regularly. The BPKP actively supervises and audits local governments

³¹ There are common terms in the Indonesia bureaucracy called 'dry spot' and 'wet spot'. 'Dry spot' is a term to describe an institution that does not provide great opportunities for the staff to gain additional income either legally or illegally, while 'wet spot' is a term that describes the opposite.

³² It is widely known that the income of government officers in Indonesia (including local government officers) consists of two main components which are fixed salary and variable income. The amount of fixed salary is determined by the position rank (*pangkat jabatan*), while the variable income is generally dependent on the involvement of the staff in local projects executed by the institution in which they work.

³³ After the issuance of Law 15 of 2006 regarding the BPK (*Badan Pemeriksa Keuangan/* Indonesian Supreme Audit institution), the authorities and duties of the BPKP became vague as they overlapped with the BPK's authorities and duties. Fortunately, the release of PP (Government Regulation) 60 of 2008 concerning Internal Controlling System of Government makes the position and function of the BPKP clearer. As stated in this regulation, the BPKP's main function is to supervise government agencies in managing public finances and executing development, particularly with the following characteristics: (a) intersectoral activities; (b) activities of general treasury based on determination of the Ministry of Finance; (c) developing supervisory activities, particularly the implementation of the SPIP (*Sistem Pengendalian Intern Pemerintah/* Internal Controlling System of Government); and (d) other supervisory functions based on the instructions of the President.

only if there is a prominent case that requires further auditing. The BPKP usually supervises and conducts audits based on a request/ order from particular parties, such as local government or parliamentary elites, the community, and other parties that detect illegal practices carried out by government officials/ institutions. Since the BPKP does not regularly and intensively supervise local government, a high number of infringements practised in the execution of the APBD and local development go undetected by the BPKP.

7.3.3. Supervision by the Public: the Community and NGOs

The current policy for the local budgeting process provides better opportunities for the local community to get involved in supervising the utilisation of the APBD. As the findings show, public supervision of APBD execution is conducted either individually or in groups (usually represented by local NGOs). As local people do not have the authority to impose legal sanction over infringements committed by budget users (local executives and legislators), when someone in the community uncovers the misuse of APBD funds, they report it to the DPRD or to supervisory units such as the BPKP, the BPK (Indonesia Supreme Audit Institution), or the KPK (Corruption Eradication Commission). Alternatively, the community reports their findings about APBD misappropriations to law enforcement agencies such as the police or an attorney.

In reporting such infringements of APBD utilisation, local residents in the study areas generally do this either orally or in writing³⁴. The informants from the

³⁴ Residents report the misuse of the APBD orally by meeting in person with supervisory or law enforcement officers. Alternatively, they do it in writing by sending a written complaint to supervisory and/or law enforcement units.

supervisory agencies declare that the participation of the local community and NGOs in supervising local budget utilisation is very useful as the number of supervisory staff is very limited. Furthermore, the informants state that many cases of corruption and manipulation of the APBD funds are detected and then investigated because of information from the community. As an example, the corruption of the budget for education affairs in Batu City amounted to 450 million Rupiah. As a result, six officials from the Education Office, including the Head of the Office, were found guilty and sent to jail³⁵. Additionally, a scandal involving the misuse of grant funds (*dana hibah*) from the APBD in Surabaya City is being investigated by the Attorney's Office. In this case, the local officials in charge of managing the *dana hibah* are suspected of misconduct as they are supposed to proportionally allocate grant funds to develop all kinds of sport, however they utilised more than 70% of the allocated funds for the financing of a soccer club, namely, the PERSEBAYA (*Pesatuan Sepak Bola Surabaya/ the Surabaya Football Association*)³⁶.

Information from the community has also contributed to the uncovering of illegal practices committed by the head of the DPRD of Trenggalek Regency. The DPRD chairman was reported to have illegally quoted 3% of official trip funds allocated for 44 legislators in Trenggalek Regency. Due to his actions, in June 2013, he has been put on trial for corruption and is facing from 4 to 20 years imprisonment³⁷.

³⁵ Tempo, 29 December 2012, <http://www.tempo.co/read/news/2012/12/29/058451002/Korupsi-di-Bidang-Pendidikan-Tertinggi-di-Malang-Raya>

³⁶ Sapujagat News, August 2013, <http://www.sapujagatnews.com/kejati-segera-usut-skandal-korupsi-persebaya/>

³⁷ Tribun News, 1 July 2013, <http://surabaya.tribunnews.com/2013/07/01/ketua-dprd-trenggalek-ditahan-sebulan-lagi>

In spite of this positive trend, the role of the community in monitoring APBD management often faces difficulties because of a lack of knowledge about the local budgeting system and process. Local residents in the study locations state that they cannot optimally oversee the APBD management process because it is very complicated and tends to be exclusively controlled by the local executive and legislative elites. The public also does not have access, in most cases, to the APBD documents, as local officials argue that these documents are confidential, so only authorised parties have access to the documents.

To provide a better environment for the disclosure of public policy, including the budgeting policy, the central authorities have issued Law 14 of 2008 regarding Public Disclosure³⁸. As stipulated in this law, the APBD is categorised as being part of the public domain, so all parties are entitled to access the budget documents. Therefore, if the public has difficulty in accessing the APBD, they are encouraged to report it to the KIP (*Komisi Informasi Publik/* Commission of Public Information). However, the tendency of government officials to treat the APBD as confidential is still commonplace. The data show that, so far, only a small number of complaints have been officially made by the community about having limited access to the APBD figures.

In the light of the limited knowledge about, and access to, the APBD, local people expect NGOs to be able to represent them in supervising local budget

³⁸ Law 14 of 2008 concerning Public Disclosure (*Undang-undang tentang Keterbukaan Informasi Publik*) officially became valid on 30 April 2010. This law stipulates that executives and legislators at both the national and the local level are obliged to make all policies public. The law also obligates government officials to provide appropriate access for the public to government and parliamentary policies, including the national and local budgets (the APBN and the APBD), so that the community has the opportunity to criticise these policies. If community members have difficulty in accessing a particular public policy, they are encouraged to report it to an institution called the Commission of Public Information (*Komisi Informasi Publik/* KIP), who will take legal action over the infringement.

management. The facts indicate that a number of reputable anti-corruption NGOs, such as ICW (Indonesian Corruption Watch), TII (Transparency International Indonesia), and FITRA (*Forum Indonesia untuk Transparansi Anggaran/ Indonesian Forum for Budget Transparency*) perform very well in disclosing corruption practices committed by national and local officials. Many prominent corruption cases have been revealed by these NGOs which have mostly been followed up by legal action from law enforcement institutions³⁹. On the contrary, local NGOs in the study areas often perform quite poorly in overseeing the public budget because of a lack of data and a lack of professional staff. Additionally, some of the activists from the local NGOs who get involved in public advocacy do not genuinely intend to supervise the management and prevention of APBD misuse; nonetheless, they expect to gain economic advantage from these activities. In such cases, local NGO activists take part in public advocacy intending to earn an income as most of them are jobless and do not have regular incomes. In view of this situation, they apply a strategy of being highly critical of any local government policy, including the policies associated with the APBD process. To reduce the critical nature of these activists, local officials often provide compensation in the form of projects or cash money. As found in the field, after the activists receive a project (or get involved as the executor of local

³⁹ Some prominent scandals disclosed by anti-corruption NGOs among others are the misuse of public budgets at 36 Ministries (by FITRA, Joglosemar 14/06/2013, <http://joglosemar.co/2013/06/penyimpangan-anggaran-di-36-kementerian-diungkap.html>), corruption in the national parliament /DPR (by ICW, Tempo 02/08/2013, <http://www.tempo.co/read/news/2013/08/02/078501928/ICW-Badan-Anggaran-Itu-Episentrum-Korupsi-di-DPR>), Corruption in the Indonesian Police Institution (by ICW, Kontan, 31/07/2013, <http://nasional.kontan.co.id/news/korupsi-di-kepolisian-diungkap-oleh-pengusaha>), and many more.

government projects) or accept cash money from government officials, they are no longer critical and they may even support local government policies⁴⁰.

This reality diminishes the trust of the local community towards local NGOs. Unfortunately, there has been no serious effort by local NGOs to restore their credibility. In one case, an anti-corruption NGO in Surabaya appointed a person suspected of corruption to be the chairman of the organisation⁴¹. Because of cases such as this, the reputation of local NGOs generally remains poor.

7.3.4. Oversight by the KPK (Corruption Eradication Commission)

In an effort to eradicate corruption, the Indonesian authorities have established an anti-corruption institution known as the KPK (*Komisi Pemberantasan Korupsi/Corruption Eradication Commission*)⁴². Nowadays, the KPK is the most authoritative anti-corruption institution. Many major corruption scandals at both the national and regional levels have been disclosed by the KPK, such as corruption at the Ministry of Agriculture Affairs (a case involving the importing of cows)⁴³ and the Ministry of Youth and Sport (a case involving the development of an athletes' dorm)⁴⁴. From just

⁴⁰ A number of such cases, as evidence of these phenomena, were elucidated upon in the previous chapter, including, among others, the involvement of local NGOs in the execution of a project in the southern area of Batu City; and also the role of local NGOs in executing a project on the empowerment of the fishing community in the Prigi coastal area of Trenggalek Regency.

⁴¹ Sindo News, 25/09/2012, <http://daerah.sindonews.com/read/2012/09/25/23/674771/koruptor-jadi-ketua-lsm-antikorupsi>

⁴² The KPK was officially established in 2003 under Law 30 of 2002 as its legal basis. The KPK was built to replace the previous anti-corruption institutions, including the KPKPN (*Komisi Pengawas Kekayaan Pejabat Negara/Supervisory Commission of Public Servant Wealth*) and the TGTPK (*Tim Gabungan Pemberantasan Tindak Pidana Korupsi/ Joint Team for Eradicating Corruption Practices*) which were not really effective in reducing corruption, collusion, and nepotism practices.

⁴³ Kompas, 4 October 2013, <http://lipsus.kompas.com/topikpilihanlist/2335/1/Skandal.Suap.Impor.Daging.Sapi>

⁴⁴ Tribun News, 4 October 2013, <http://www.tribunnews.com/topics/korupsi-wisma-atlet>

these two cases alone, the KPK has successfully sent a number of important figures to the corruption court, including a (former) minister, two presidents of political parties, and a number of legislators from the national parliament (the DPR). As a result, some of them have been found guilty and sent to jail.

Moreover, the KPK is now investigating alleged corruption in many major projects, such as the e-KTP project (electronic Identity Card) worth 5.8 trillion Rupiahs; a fictitious project involving the procurement of aeroplanes at Merpati Nusantara Airlines valued at 200 million US Dollars; a project to develop an office building of the Directorate General of Taxes worth 2.7 trillion Rupiahs; a project to develop two PLTUs (steam power plants) in East Kalimantan province valued at 2.3 trillion Rupiahs and in Riau province at 1.3 trillion Rupiahs; a project for the constitutional court (Mahkamah Konstitusi) in the form of training for staff, amounting to 200 billion Rupiahs and developing an office building valued at 300 billion Rupiahs⁴⁵; and many more. In addition, the KPK also recently created a sensation when it arrested (red-handed) the Head of the Indonesian Constitutional Court (MK) suspected of committing hidden conspiracy and accepting bribes from the contestants of an election for the provincial head (the Governor) and the City/Regency head (*Walikota/ Bupati*)⁴⁶.

At the regional level, the KPK also plays an important role in reducing corrupt practices committed by local officials. The informants for local government staff

⁴⁵ Kompas, 13 August 2013, <http://nasional.kompas.com/read/2013/08/01/0910308/Ini.12.Proyek.Terindikasi.Korupsi.yang.Dilaporkan.Nazaruddin.ke.KPK>

⁴⁶ JPNN, 03 October 2013, <http://www.jpnn.com/index.php?mib=berita.detail&id=193912>

declare that the KPK is currently the most feared anti-corruption body. One of the officials (informant GO-34) states that:

We (local government officials) are generally not really worried if our actions (corruption, manipulation, and other illegal actions) get detected by the police, attorney, BPKP, or even BPK, as the officers of these agencies might be bribed ... however, we cannot expect we will be safe if we are arrested by the KPK as the investigators of the KPK strictly cannot be lobbied or bribed ... (interview: 27 October 2011).

In relation to allegations of corruption in the East Java Province, including the study locations, the KPK revealed that from 2004 to 2013, this institution has received 5,655 complaints⁴⁷. The KPK also pointed out that more than 50% of these complaints are reports of corrupt practices occurring during the project procurement process⁴⁸. Unfortunately, the KPK cannot follow up all these complaints, as most of them are not supported by appropriate evidence. Moreover, the KPK has very limited personnel and investigators, and all of them are concentrated in Jakarta as, until now, the KPK has not established branch offices in any of the regions. Other than this, as stipulated in Law 30 of 2002 regarding the KPK, the KPK only investigates allegations of corruption worth more than 1 billion Rupiah; hence, if the estimated value of the corruption is less than 1 billion Rupiah, then the KPK will not follow up and will recommend other audit bodies to take over the case.

7.4. Poor Supervision and its Impacts

The supervision of the APBD conducted by the numerous parties mentioned above finds many illegal actions carried out by local government officers. These illegal practices can primarily be categorised as corruption and manipulation.

⁴⁷ Surabaya Post, 03/20/2013, <http://www.surabayapost.co.id/?mnu=berita&act=view&id=670c8337f2c6c9e1fbc44455c35cafe9&jenis=c81e728d9d4c2f636f067f89cc14862c>

⁴⁸ The detailed process of project procurement and various illegal actions occurring in this process have been analysed in the previous chapter (Chapter Six).

This section analyses this sense of lawlessness in managing the APBD funds, particularly in the form of mark-up prices and manipulation. It then subsequently analyses the law enforcement process associated with APBD misuse that can be illustrated as ‘Sharp Downward yet Blunt Upward’, and also the phenomenon of the ‘ATM machine’, which are associated with APBD management and law enforcement. Finally, the section concludes with an elucidation of the tendency of ‘desperate staff’ which emerges due to the massive misappropriation of APBD management carried out by local government elites and staff.

7.4.1. Corruption and Manipulation

As the data show, local executives and legislators commit various actions to misuse the APBD funds. Upon the collection of local revenue, local staff members in the study locations commonly manipulate this collection by marking down the collected funds. In this case, they report the amount of generated income as less than the actual amount. On the other hand, for local expenditure, they often carry out illegal practices such as marking-up prices, manipulating receipts, accepting illegal commissions from contractors, receiving unreported discounts, manipulating the specifications of goods, and so forth. Among these illegal actions, the study finds that the marking up of prices and manipulating the specifications of goods are the most common corrupt strategies.

Marking-up Prices

The data show that one of the most popular ways to abuse APBD funds is to mark up prices. In such cases, local officials set up funds for buying goods and services that are higher than the actual price. This phenomenon was found, for

example, in the City of Batu, when, in 2010 the officials of this municipality bought four ‘units’ (one car equals one unit) of official cars, consisting of a one unit Honda Accord sedan and three further units consisting of Suzuki APV station wagons. The purchase contract stated that the price of a Honda Accord sedan (2.4 L Vti AT 2010) was 445 million Rupiahs, while the three Suzuki APVs (manual 2010) was 448 Rupiahs. In view of this, the BPK (Indonesian Audit Supreme Institution) contends that the price set by the procurement committee was unfair. According to the results of the audit conducted by the BPK, the officials wasted APBD funds amounting to 65 million Rupiahs⁴⁹. Unfortunately, this finding has not been investigated by law enforcement officers.

Other than this, the DAK (*Dana Alokasi Khusus/ Special Allocation Funds*) allocated in 2011 for the Service of Education Affairs (*Dinas Pendidikan*) in Batu City was also corrupted. In this financial year, the Service of Education Affairs received DAK funds of 3.4 billion Rupiahs. The officials of this institution reported that they utilised the funds to finance two projects, the procurement of printing books for 19 primary schools valued at 1.7 billion Rupiahs and the procurement of computers for schools worth 1.7 billion Rupiahs. However, attorney officers found that the project for computer procurement was not executed as it was reported by the officials of the Service of Education Affairs. It was found that the schools only received monitors rather than complete computers. Overall, the attorney’s office noted that the actual price of the computer devices distributed to the schools was 1.25 billion Rupiah but the officials of the Service of Education Affairs (*Dinas Pendidikan*) had marked it up to 1.7 billion Rupiahs. In the light of this case, six officials of the *Dinas*

⁴⁹ <http://entitas-hukum-indonesia.blogspot.com.au/2013/02/pengadaan-kendaraan-operasional.html>

Pendidikan of Batu City have been sent to court and detained in jail on allegations of corruption⁵⁰.

A similar situation has also occurred in the City of Surabaya. Many cases of marking up of local spending can be found in this local government. One example is the spending of APBD funds valued at more than 18 billion Rupiahs for financing health services for poor people in 2011. The local parliament (the DPRD) of Surabaya City found that the local executives had marked up this expense by more than 3 billion Rupiahs, as the real cost for this service was actually only around 15 billion Rupiahs⁵¹.

In addition, the DPRD authorities in Surabaya City revealed that their evaluation indicated that the phenomenon of marking-up occurs on a huge scale in SKPDs (local institutions) across Surabaya City. As occurred in the DPUBMP (*Dinas Pekerjaan Umum Bina Marga and Pematusan/ Service of General Work, Road, and Drainage*), for example, the annual budget of the DPUBMP for 2013 was 932 billion Rupiahs. This was increased by 152 billion Rupiahs from the previous year's allocation of 780 billion Rupiahs. Unfortunately, based on the results of the evaluation conducted by the DPRD, this huge amount of funds was not used for executing core projects in the form of physical developments. Instead, the DPRD found that local officials tended to 'manufacture' supporting activities, such as hiring of consultants, feasibility studies, dissemination, and so on. In addition, these supporting activities are allocated more funds than are actually needed. Even the

⁵⁰ Tempo, 06 November 2012, <http://www.tempo.co/read/news/2012/11/06/058440043>

⁵¹ <http://viva-news67.blogspot.com.au/2012/09/indonesiabangkit-tragedi-maraknya.html>

DPRD points out that almost 60% of the total of the project budget is allocated for the financing of support activities instead of financing of core projects⁵².

The research finds that this phenomenon is common in almost all local bodies (SKPDs) in Surabaya Municipality, including the Board of General Work and Spatial (*Dinas Cipta Karya dan Tata Ruang/ DCKTR*), the Board of Education Affairs (*Dinas Pendidikan*), the Board of Cleanliness and Landscaping (*Dinas Kebersihan dan Pertamanan*), and other institutions. Overall, the DPRD of Surabaya City estimates that the practices of marking up prices and the ‘manufacturing’ of activities have wasted approximately 1 trillion Rupiahs of APBD funds which is equal to 20% of the annual budget. In light of this situation, it is not only the local parliamentary members who are concerned with this reality, but the Deputy City Mayor of Surabaya City has also strongly criticised the performance of local officials. He admits that he feels like giving up on improving the performance of local staff in managing the APBD budget⁵³.

Manipulation

The data denote numerous practices to manipulate the specifications of goods tendered by local governments. As seen in 2011 in the City of Surabaya, the Board of Health Affairs (*Dinas Kesehatan*) tendered for the procurement of tools valued at 34 billion Rupiahs for the municipality-owned hospital, known as the Dr. Soewandi

⁵² Surabaya Post, http://www.surabayapost.co.id/?mnu=berita&act=view&id=d48ed9afbdea9f457abd5f78697d5_b68&jenis=d41d8cd98f00b204e9800998ecf8427e

⁵³ *ibid*

Hospital⁵⁴. The tender documents stated that all the instruments were made in Germany by Phillips. Nonetheless, the hospital management found that, in fact, the devices were made in China with a total value of only around 2-4 billion Rupiahs. Hence, it can be calculated that this procurement wasted APBD funds of approximately 30 billion Rupiahs. According to hospital officials, this happened because there was a hidden conspiracy within the tender committees and the auction winners⁵⁵. Moreover, the public also assumed that this collusion was also backed up by a number of local government elites, as this situation has not been followed up by serious investigation by law enforcement institutions⁵⁶.

A similar incident was also uncovered in the Regency of Trenggalek. In 2010, this local government bought a web-size printing machine at a price of 8 billion Rupiahs. The local authorities expected that this expensive machine could support the operationalisation of a multi-venture company owned by Trenggalek Regency. In fact, this machine could not be used to print media in web-size. Moreover, the quality of the printing was also unsatisfactory. Eventually, it was found that the specifications of the machine did not meet the specification stated on the tender contract. Local NGO activists and the corruption watchdog revealed that the real

⁵⁴ The tendered tools included a CT Scan valued at 14 billion Rupiahs (won by PT. Enseval), a Cath Lab worth 16 billion Rupiahs (won by PT Dian Graha Elektronika), and a tool for eye examinations valued at 8 billion Rupiahs (won by PT Makmur Sentosa).

⁵⁵ In this case, informants explain that the tender committee and the tender winner have agreed to downgrade the specifications of the tendered devices; however they kept the prices the same as stated on the tender document. From this practice, they have manipulated APBD funds roughly amounting to 30 billion Rupiah. This illegal money is then distributed proportionately to related parties such as the tender committees, the auction winners, officials from the Health Service, municipality government elites, and some local parliamentary members. Other than this, the informants believe that some of the money also goes to auditors and law enforcement officers, so that they do not investigate these illegal actions (unfortunately the informants cannot mention precisely how much money was obtained by each party in the above case).

⁵⁶ Lensa Indonesia, 22 June 2012 <http://m.lensaIndonesia.com/2012/06/22/ada-dugaan-mafia-lelang-ditanam-di-ulp-kota-surabaya.html>

price of this machine was actually only 4 billion Rupiahs instead of 8 billion Rupiahs⁵⁷. However, this finding has also not seriously been investigated, so this case remains unresolved. Some informants explained that this is because a number of key officials involved in the procurement of the machine bribed auditors and law enforcement officers, so they have not been investigated and appear to remain free from legal sanction.

The phenomenon of bribery, as elaborated above, is usually committed by local officials when their illegal actions are detected by law enforcement officers. The data show that bribery is mostly conducted by high-level officials who have sufficient financial resources; on the contrary, low-level officials, who generally have poor financial resources, are not as able to bribe law enforcement officers when they are suspected of illegal practices. Consequently, high-level officials frequently escape from legal indictment, while the majority of low-level officials have to face strict legal sanctions. Therefore, law enforcement in Indonesia is often illustrated as ‘sharp downward yet blunt upward’.

7.4.2. ‘Sharp Downward yet Blunt Upward’

As seen in the field, law enforcement in Indonesia, except for that conducted by the KPK, generally still reflects the stigma of ‘sharp downward yet blunt upward’. This can be inferred from a number of cases of corruption in the City of Batu committed by the (former) City Mayor between 2005 and 2007, the misuse of APBD funds in 2007⁵⁸, illegal recruitment of staff, manipulation of promotion of

⁵⁷ Berita Jatim, 16 Februari 2010 <http://www.beritajatim.com/citizenjournalism.php?newsid=450>,

⁵⁸ Malang Raya, 14 June 2009, <http://malangraya.web.id/2009/06/14/bpk-minta-pemkot-tarik-kembali-anggaran-rp-200-juta/>

municipality officials, and other legal infringements. However, even though valid evidence of the infringements has been collected, these have not been seriously investigated by law enforcement officers. As a result, these cases remain unresolved as the City Mayor (suddenly) passed away in 2008.

According to the informants, this happened because the City Mayor had lobbied auditors, the police, and the attorneys. He also spent a large amount of money to bribe them so that these law enforcement officers would refrain from investigating him. Ironically, one of his subordinates, who was the chief of the finance unit, has been found guilty in these cases (because she was accused of having supported the City Mayor in spending the local budget illegally) and jailed for more than five years. On the other hand, the finance unit chief admitted that she illegally used the municipality budget because of an order from the City Mayor. She therefore was basically innocent, and the City Mayor should have been held to be totally responsible in this case. Furthermore, it was indicated that the chief of the finance unit was ‘intentionally sacrificed’ to create an impression for the public that the legal process had worked properly. Moreover, she was not able to save herself because she did not hold a strong political position, and also did not have enough financial resources to lobby and bribe law enforcement officers.

In another case, the execution of an APBD-funded project, known as the P2SEM (*Program Penanganan Sosial Ekonomi Masyarakat*), threw up a similar situation. In this case, many officials and consultants (project executors) became involved in the misuse of APBD funds amounting to more than 14 billion Rupiahs. However, the court has sentenced only low-level project executors, while a number of

important officials who hold strategic positions and who played important roles in the project (including a leader of the project initialised as Mr. B⁵⁹) remain free. Two of the prosecuted consultants (initialised as KH and RS)⁶⁰ point out that the process of law enforcement is quite unfair, as what they had done was simply to implement the instructions of Mr. B. They also admitted that they enjoyed only less than five percent of the corrupted funds. Ironically, they were sentenced to more than nine years in Sukamiskin prison Bandung, and they also have to pay fines amounting to more than 1 billion Rupiahs.

The prosecuted consultants (KH and RS) contend that they received tough punishments because they were not able to bribe the law enforcement officers. On the other hand, the important figures in this project, who enjoyed a huge portion of the manipulated funds, are mostly still free from legal prosecution. Even the main actor, Mr. B, has escaped and police cannot detect his current whereabouts. The informants explained that Mr. B is actually being intentionally hidden by powerful parties because they are worried about what would happen if Mr. B revealed all the parties and officials involved in this project, if he was ever interrogated by law enforcement officers. Moreover, the informants believe that Mr. B and his cronies have lobbied police and officers in the attorney's department with further bribes; therefore he is not intensively being sought by law enforcement officers.

The phenomenon illustrated above is not unique to the study locations, but this is common across Indonesia. As reported in the national media, among 300 prisoners jailed at Sukamiskin, a special prison for people accused of corruption, it is estimated

⁵⁹ Pseudonym

⁶⁰ Pseudonyms

that there are only around 20 people who are ‘the real corruptors’. The rest of them are mostly ‘engineered corruptors’, meaning that they have been jailed not because they have actually committed corrupt acts, but because they are victims of manipulated law enforcement officials⁶¹. A former official (informant FGO-7) in one of the research locations explains:

The manipulation of law enforcement occurs with a scenario as follows ... once the law enforcement apparatus have had commitment with the accused person (stating that the accused would give compensation money to the attorney and/or judges), then the judges will let the accused free or at least penalise him/ her with the light sentence ... subsequently the attorneys and judges punish other suspects (of the same case) with very tough sanctions even though the accused person actually hasn't done a serious offence or hasn't even been involved in the investigated case. The law enforcement officers apply this scenario aiming to impress the public that the judicial apparatus has worked seriously to disclose the case, and also to avoid the poor judgement from public (interview: 26/4/2011).

In conjunction with the practice of ‘verdict trading’, as mentioned above, officials in the study areas revealed that they often feel like ‘an ATM machine’ that has to provide money which is ready to be withdrawn at any time by auditors, law enforcement officers, and the judicial apparatus, including the police, attorneys, and judges.

7.4.3. The Phenomenon of the “ATM Machine”

The study indicates that money provided for auditors and law enforcement officers is a tool to maintain ‘good relationships’ between local officials and the auditors and law enforcement officers. If the officials did not offer money for the officers, the auditors would apply stricter procedures in auditing the local officials.

⁶¹ Detik News, 05 September 2013, <http://news.detik.com/bandung/read/2013/09/05/181540/2350595/486/jerit-koruptor-rekayasa-di-sukamiskin?n991103605>

As a result, once the officials made any mistakes in managing the local budget, they would be seriously investigated and then reported to the law enforcement units. Subsequently, this would be followed up by the police and attorney's office and the suspected staff might face prosecution⁶².

This is highly ironic as the institutions that are supposed to combat the corruption are actively involved in corrupt practices themselves. According to the KPK, the police, the parliament, and judiciary bodies are the most corrupt institutions in Indonesia⁶³. This statement is supported by the results of surveys conducted by TI (Transparency International)⁶⁴ and other institutes.

To make their lives even more complicated, local officials become the 'ATM machine' not only for auditors and law enforcement officers, but also for heads of local government and local legislators. It was found that if their boss (the Local Government Head, the *Bupati/ Walikota*) requests money or asks them to provide funds to finance activities initiated by the *Bupati/ Walikota*⁶⁵, the officials do this (either legally or illegally) in order to collect funds for their boss⁶⁶. The officials do

⁶² The informants stated that if the police and the judicial apparatus want to get a promotion in their institution, this is the only time they are not willing to be bribed. At this stage, they will usually attempt to find a big scandal and refuse any kind of compensation offered to them. They will even blow up the case to make it public. They apply this strategy, aiming to gain credit, in order to quicken their promotion process.

⁶³ Tribunnews, 16 September 2013, <http://www.tribunnews.com/nasional/2013/09/16/ini-tiga-lembaga-paling-korup-menurut-kpk>

⁶⁴ Kompas, 9 July 2013, <http://nasional.kompas.com/read/2013/07/09/2231272/Kepolisian.dan.DPR.Lembaga.Paling.Korup.di.Indonesia>

⁶⁵ The facts show that the *Bupati/ Walikota* frequently conducts impromptu activities such as charity events, entertaining of colleagues, having parties or celebrations, and other incidental activities. These types of events are usually not planned in advance, therefore there is no budget allocated for these activities. In view of this, the *Bupati/ Walikota* instructs local officials (particularly the local government unit/ SKPD elites) to seek any source of funding to cover the needed costs.

⁶⁶ The modus operandi of officials to collect unexpectedly demanded money is primarily by creating fictitious projects/ activities or other illegal actions. Further explanation of this situation has been elaborated upon in Chapter Six.

so because they are worried they will be judged as not being loyal to the boss and will possibly lose their current position. Furthermore, executive officials also have to provide money to parliamentary members (the DPRD) in order for their budget proposals to be approved by the legislators, so that they have an appropriate allocation for their annual budget (the APBD).

The research has found that corruption, manipulation, and misuse of APBD funds are systemic practices. A former local official (informant FGO-9) contends that corruption is needed to drive the bureaucratic system. Without corruption and manipulation, according to him, the local government bureaucracy would not work properly. He explains:

In my opinion, the trend of local officials quoting project funds and manipulating allocated budgets is quite reasonable because they should collect additional money as there are huge hidden costs that have to be paid by those officials. They have to supply money to their boss (Bupati/ Walikota) to secure their position. They also must donate money to the parliament members; otherwise the budget proposal does not get approved. You can imagine if the budget proposal does not get approval, then the governmental activities cannot be executed. In this context, therefore, I argue that corruption and manipulation are conducted to let the bureaucracy system work... that's why corruption is very difficult to be eradicated in Indonesia

This study has also identified the main factors that cause the local government elites and the members of the local parliament to commit such illegal actions to collect money, including forcing local officials to supply illegal money to them. This is because of a costly democracy⁶⁷ that forces them to spend unreasonable amounts of

⁶⁷ The candidates need large amounts of capital to pursue any political occupation, either in local government or the parliament. In attempting to gain a position in the local parliament, candidates have to spend lots of money for a long period of time before the campaign session. They must finance any activities that will make them popular in their area. Moreover, prior to the general election, candidates should pay a contribution fee to their political party. This fee is compulsory, to be paid by cadres listed as legislator candidates representing their political party. The amount of these fees depends on the rank of the cadres on the candidacy list. The higher the rank they have, the more money they have to spend.

money to gain positions in the local government and parliament. Consequently, once they obtain a position, they attempt to collect as much money as possible to recoup the funds⁶⁸ spent. In the light of the above situation, this research has discovered that some local officials feel desperate about the existing situation and seriously want to quit the system. However, most of them feel happy and are not particularly worried about the situation.

Other than this, the candidates must provide large amounts of money to finance any event during the campaign session. Moreover, once they have obtained a position as a local legislator, they have to pay a regular contribution to their political party, which is quoted directly as being between 15% and 30% of their annual salary. In addition, they also must have the money to maintain their constituency, so that they will remain eligible to be elected at the next session.

On the other hand, pursuing a political occupation in local government is far more expensive than gaining a legislative position, as the candidates for Local Government Head have to spend a large amount of money for financing various events such as a political convention conducted by the political party at the local (regency/ city) level. This convention aims to select a candidate who will compete at the election for Local Government Head. In order to win at the convention and be appointed as the candidate to represent the political party, candidates might offer 'political money' which is given to administrators of the political party at the village level (*desa/ kelurahan*), the sub-regency level (*kecamatan*), and the local level (*Kabupaten/ Kota*). Moreover, candidates should pay a large sum of money to the political party elites at the national and provincial levels to obtain a recommendation letter from the political party authorities. Additionally, the candidates have to prepare an appropriate budget to fund their campaign. Even once they are successful in gaining a position as Head of Local Government, they must also provide a huge amount of money to finance a number of activities that have been promised to the political party, such as the building of a new office for the political party headquarters, buying a new car for the political party, and so forth. For all the expenses illustrated above, the candidates need a budget of at least 15 billion Rupiah. In some strategic areas, such as Surabaya, the candidates must prepare funds of more than 50 billion Rupiah to gain a position as *Bupati/ Walikota* (Head of Regency/ Mayor).

⁶⁸ The money spent to obtain a position in both the local government and the parliament is actually not equal to the legal income they earn. The *Keppres* (Decree of the President) 12 of 2009 stipulates the amount of income earned by local legislators and the Head of Local Government and the Vice-Head. As stipulated in this regulation, the salary of local authorities is dependent on the size of Own-Local Revenue (PAD/ *Pendapatan Asli Daerah*) of the local government. Referring to this provision, on average, local legislators earn a monthly legal income (including various allowances) of 4-7 million Rupiah, while the Head of Local Government earns around 15 to 25 million Rupiah every month. Based on the rough calculation above, it can be seen that local authorities are mostly deficient. This deficit forces local authorities to seek other sources of income by illegally utilising their position. The worst deficit situation of the local authorities is even experienced by local government heads as their legal income is completely unequal to the money they spent to get their position. Therefore, they commit various illegal activities to obtain additional income. Nevertheless, some informants for the local elites (executives and legislators) admit that they are actually not really happy to illegally misuse the local government budget. To some extent, they realise that it impairs society and that it is also risky for themselves, as they may possibly get arrested anytime by law enforcement officers. They get involved in these practices mainly because of the deficits they accumulate. Furthermore, they undertake such illegal actions not purely because of greediness, but more due to a motive to return the capital that they had previously spent to obtain their position.

7.4.4. Desperate staff

In conjunction with the various illegal actions practised by local officials in managing the APBD, it is noted that these circumstances significantly impact on the work environment of local government staff. As found in the study sites, local staff members respond to this phenomenon in three different ways.

Firstly, there is the type of local staff members who are happy with the existing situation and actively get involved in the illegal practices. The informants from this group contend that they do not feel completely guilty in taking part in the illegal actions as these are commonly practised by the majority of local staff. Moreover, they argue that they will not have the opportunity to enjoy the (corrupted) funds if they do not get involved in such collusion. They also state that, as long as these illegal practices are well managed, they will be safe from having to worry about being detected by the auditors or by law enforcement officers⁶⁹.

Secondly, there is the type of local officers who are not happy with the existing situation, but still get involved in these practices. Informants from this group explain that they basically understand that they are committing serious offences, and that they may get arrested by the law enforcement apparatus. However, they do not have any other choice as they work in a bureaucratic institution that requires them to obediently undertake any duties as instructed by the institutional elites⁷⁰.

⁶⁹ The informants state that in case the law enforcement apparatus detect their illegal practice, they are not too worried as those apparatus can be bribed. The informants claim that based on their previous experiences, except the KPK (*Komisi Pemberantasan Korupsi*/Anti-Corruption Institution), every law enforcement institution can be bribed to cancel the investigation of any cases of misusing local government finance.

⁷⁰ As narrated by a staff member of a budget unit, for example, he often does tasks that can be categorised as illegal practices, such as manipulating receipts, marking up prices, manipulating reports, accepting illegal commissions from the contractors, and so forth. Nonetheless he argues

Thirdly, there is the group of local staff members who are not happy with the existing situation and who want to quit the system. Although the number of staff of this type is few in number, they can be found in every local government across the study locations. As revealed by an official from the finance unit, for example, due to his strategic occupation as a key official in the unit, he knows very well that such illegal actions are practised by his colleagues and superiors. Moreover, he also often (forcibly) becomes involved in these unlawful activities. Nevertheless, he admits that he feels guilty for these actions because he believes that they are sinful and that they contradict his ethical and religious values, as well as obviously infringing the law⁷¹.

This study has identified that some local staff have the same orientation as the above informant. Since they feel uncomfortable with the illegal actions practised, some of these officers claim that, on many occasions, they had thought about resigning from their current position (as financial officers) and working as ordinary staff, who are not actively involved in the management of local finances and the budget. Unfortunately, the regency elites will not approve their request. They guess that the local elites would not approve their request, as the elites are worried that their illegal practices may be made public by these staff members. To prevent this

that he is just carrying out orders from his boss. The study has found that this tendency is also experienced by most civil servants of other local governments. In this circumstance, local government officers do not have the opportunity to oppose the instructions from the boss as the bureaucracy system of Indonesia strictly obligates the subordinates to be loyal to the higher-level officials. The informants also explained that somehow they are worried about losing their position if they are not loyal to the boss. Hence, even though they are not happy, they are forced to execute the boss' commands.

⁷¹ Further, the informant pointed out that he would not do any financially-related tasks anymore. All of the financial tasks are now delegated to his staff or colleagues so he would not be responsible for any financial transactions. He also does not care if he is sanctioned or even fired from his main profession as a local government officer.

possibility, therefore, local government leaders ensure that these officers maintain their current positions.

As mentioned earlier, this condition impacts on the work environment and on work productivity. Some financial officers admit that they feel depressed, as they are worried that they will face legal prosecution because of their involvement in financial malpractice. This also frequently leads to hidden conflict among the officers and their leaders. Consequently, this atmosphere reduces their productivity in executing financial tasks. Unfortunately, the local government elites often do not pay any attention to these situations. They argue that the bureaucratic system has been set up properly, thus every staff member should obey the formal rules. Moreover, the staff must also execute any tasks instructed by their superiors. Even the elites contend that if the staff make any mistakes, then they must be held responsible for the consequences of their actions.

7.5. Summary

Supervision of the APBD is conducted by a number of parties, including the Local Parliament (the DPRD), government agencies (the BAWASDA and the BPKP), and supervision by the public (the community and NGOs). In addition, the execution of the APBD is also supervised by the KPK (Corruption Eradication Commission). In general, the intensity and quality of APBD oversight conducted by these supervisory institutions including local parliament (DPRD) is now better, compared to the previous era (the New Order period). This is in line with the expectation of Wehner (2001) that increased legislative budgetary powers ought to enhance transparency, accountability, and integrity in public expenditure management

because legislative budgetary institutions perform critical accountability functions in public budgeting (Schedler et al., 1999).

However, except for the KPK, these supervisory agencies are unable to optimize their role in supervising the APBD execution process because of the lack of capacity of their human resources, the fact that they are politically powerless, the vagueness and overlapping of authority, as well as the involvement of supervisory officers in illegal actions and rent-seeking practices set up together with executive officials.

Högye & McFerren (2002) point out that the audit function provides the key feedback loop in the budgeting process. Without an effective audit, it is impossible to evaluate the efficiency and effectiveness of the budgeting system. In view of this, enhancing legislative scrutiny of the budget and oversight of its execution are increasingly considered as a means to strengthen government accountability and prevent corruption (OECD, 2002b).

Despite the lack of effectiveness of the above institutions, the KPK performs very well in battling corruption. The KPK is now the most authoritative anti-corruption agency in the country. However, the KPK is centrally located in Jakarta and has not yet opened any branch offices. Additionally, this unit only investigates corruption cases worth more than 1 billion Rupiahs, therefore many cases of corruption in the regions as well as small-scale corruption do not get detected by the KPK.

Such institutional arrangements tend to lessen the incentives for legislative oversight since, as Messick (2002: 2) states, “in all legislatures, it is the party or parties out of power – the opposition – that has the incentive to oversee government”.

Santiso (2004, p. 58) argues that legislative oversight of budget execution is still embryonic in emerging economies. Legislatures exercise only a limited monitoring of the government's compliance with budget rules and procedures. They are even less able to monitor the performance of public expenditure and enforce results-based budgeting.

This explains the various illegal practices at the local level. In term of collecting local revenue, the local officials tend to manipulate revenue collection by marking down the amount of collected income. On the other hand, in executing local expenditure, the local officials carry out numerous types of manipulation and corrupt practices such as marking-up of prices, manipulation of receipts, accepting illegal commissions from contractors, receiving unreported discounts, manipulating the specifications of goods, and so forth. Regrettably, the majority of these illegal practices do not get seriously investigated by the law enforcement apparatus as most of them, except for the KPK, can generally be lobbied and bribed by corruption suspects.

Lags and inconsistencies in the timing and sequencing of legislative scrutiny constrain effective government accountability. Also, the information needed by budget committee is often unavailable. Therefore this significantly weakens the accountability functions of legislative oversight. As Messick (2002: 2) notes: "When the interests of a legislative majority and the executive branch coincide, the majority has little incentive to oversee the executive". As a result, "legislative oversight is often weak" (Manning & Stapenhurst, 2002, p. 2)

Despite the various constructive policies to develop accountability and supervision systems, as seen in the study area, the accountability and supervision of

the APBD management remains weak and largely ineffective. A further consequence is that the poor management of the local budget directly impacts upon the quality of local development and service delivery, which remains poor and slow.

Parliaments often lack the human and financial resources to effectively discharge their budgetary responsibilities. The lack of institutionalisation of parliaments is a result of repeated alternations between democratic and authoritarian regimes. It also impairs the effectiveness of parliamentary oversight to counterbalance the executive's overwhelming budgetary powers (Santiso 2004, p. 62).

The tendency towards manipulation and corruption demonstrated by local bureaucrats and legislators is primarily associated with the high costs of democracy, which forces local elites to spend a great deal of money to obtain a strategic position in the local government or parliament. Therefore, once they have gained a position, they attempt to collect as much money as possible (both legally and illegally) to recoup their spent funds. In response to this atmosphere, a small number of local staff feel uncomfortable and do not wish to get involved in these types of practices, hence, they want to quit their profession as local government officers. Nevertheless, the majority of them feel generally happy with the existing situation and actively get involved in the illegal practices.

Subsequently, the empirical findings as presented in the last four chapters will be theoretically analysed in the next chapter, Chapter Eight, entitled "APBD Management under the Current Budgeting Policy: Analysis".