

EXECUTIVE SUMMARY

Decentralization and corruption in Indonesia. A year after regional autonomy entered into force in 2001, a wave of corruption cases swept across Indonesia's newly empowered regional parliaments. Commencing with the most storied case in West Sumatra in 2002, other regions followed soon thereafter – South East Sulawesi, West Kalimantan, Lampung. Ultimately virtually all regions saw allegations of corruption emerge. And more recently still, the trend has spread from regional legislatures into the executive. In 2006, there were 265 corruption cases involving local legislative bodies with almost 1,000 suspects handled by prosecutorial offices across Indonesia. In the same year, the same offices had 46 corruption cases implicating 61 provincial Governors or District Heads.

Local Government Corruption Study. The disclosure of corruption cases on this scale is an unprecedented phenomenon in Indonesia. That corruption itself occurred was neither unusual nor unexpected. What has distinguished the landscape over the last five years is precisely that these cases came to light at all. Furthermore, many have gone to trial through the local courts. Some powerful figures have been convicted. It is important, therefore, for Indonesia to take the opportunity to learn some lessons from this phenomenon: what factors led to the cloak of secrecy over corruption at the local level being lifted? Who played an important role in bring the cases to light, and what strategies did they employ? What factors supported them in promoting anti-corruption? Those questions frame this Local Government Corruption study, which was launched with three major research objectives: i) to document the dynamics at the local level to both report and resolve corruption cases; ii) to identify the *modus operandi* of corruption, as well as the strategies developed by local actors to settle corruption cases, and iii) to identify success factors and ongoing weaknesses in the efforts of local actors to handle corruption cases at the local level.

Qualitative research was conducted of ten corruption cases in 5 provinces in Indonesia: West Sumatra, West Kalimantan, East Java, Central Sulawesi and West Nusa Tenggara. From the ten cases, 4 involve legislative councils at the district level; 4 concern government officials from the Executive at district level; and finally 1 case in each of the provincial level executive and legislative institutions. Perpetrators ranged from parliament members up to Provincial Governors. The amounts involved were large by local standards, from hundreds of thousands of dollars up to 73 billion Rupiah (approximately US\$8 million) in the Blitar case. All went to the formal legal system, with several still on appeal before the Supreme Court.

Field research was conducted from May to November 2006 through key informant interviews with more than 200 respondents and thirteen Focus Group Discussions involving approximately 150 participants comprising community members, law enforcers, corruption suspects and their legal advisors, local anti-corruption actors and media representatives. Findings were disseminated through a series of regional seminars in each research location through May and June 2007.

Opportunity and *modus operandi* of local government corruption. Decentralization has brought about shifts in power relations not only between the centre and the regions, but also between the branches of government at regional level. Some of these changes have given rise to rampant ‘money politics’ – by District Heads seeking to gain and maintain support from the legislature; and legislators exploiting their newly acquired power over local budgets to secure financing for their political parties. But, most commonly, all sides have taken the chance to embezzle funds for self-enrichment. Opportunities for corruption have been opened up further by the enactment of inconsistent regulations governing local budgets by the national and regional parliaments, regular ‘cooperation’ between the legislative and executive bodies as well as low levels of public participation and control in local governance.

***Modus operandi* of corruption – the more things change, the more they stay the same.** Legislative corruption cases take three main forms: i) mark-up of budget lines; ii) channeling government budget to fictitious institutions; and iii) manipulating official trips for personal gain. In the executive, the main *modus operandi* is as follows: iv) utilizing unspent budget inconsistently with procedures; v) breaching regulations governing the submission and channeling of local budget; and vii) manipulation of procurement processes. On balance, the more things change, the more they stay the same – there has been nothing really new in the *modus operandi* of local government corruption.

Strategies and successes at the local level

NGOs as a pool of resistance. The corruption cases studied were without exception reported not by oversight, audit or justice sector institutions, but community groups. Parties who discovered and reported the cases included ordinary villagers, NGOs and NGO coalitions and, prominently, the aggrieved and disaffected: companies that missed out on lucrative contracts, politicians overlooked for pre-selection and competition from rivals seeking political advantage. Regardless of where the initial reports originated, NGOs or NGO coalitions were the driving force for public disclosure and resolution of the cases studied. In the Pontianak case, for instance, a contractor who found indications of corruption in the local parliament preferred to report to a local NGO rather than the police or district prosecutors.

Characteristics of success of local anti-corruption actors. Local actors that were successfully able to identify, report and see cases through to resolution tended to be characterized by the following success factors: i) understanding of the law: they had studied and mastered national and local regulations related to budget management and corruption; ii) access to documentation: freedom of access to regional budgets, documentation related to procurement and government accountability reports was crucial; iii) informing the public: engaging the media to inform the public and generate community action was also important; and iv) engaging a broad-cross section of different elements of civil society in the case.

Action and strategies of local anti-corruption actors. Local anti-corruption actors consistently reported that they were inspired by examples from other provinces. Success in West Sumatra led NGOs in West Nusa Tenggara to take action in their own region. But the strategies employed remain largely undefined and undocumented and dissemination of these processes limited. What happened internally among local level actors was essentially a ‘learning by doing’ process. Actions taken were predominantly reactive – spontaneous reactions to the trajectory of legal proceedings through the police, prosecutors and courts. That said, the research was able to identify some consistent core elements of the strategies employed: i) utilizing a prominent case to build anti-corruption constituencies at the village or community level; ii) establishing a ‘temporary coalition’ of various civil society elements around each case; iii) raising community awareness and demand for the formal legal process to be just and open; and iv) cooperating with reformers in the justice sector. Among the different strategies employed, engaging the mass media was a key success factor in pushing the legal system to function.

What constitutes “success”? Of the ten cases studied for this report, two resulted in acquittals, two indictments were rejected and six resulted in criminal convictions in the first instance courts. Where a criminal conviction was secured, sentences were often lightweight and usually less than demanded by the prosecutors. In only two of these (Blitar and Madiun) have the sentences been executed.

While this highlights the need for greater and more intensive efforts to ensure execution of judicial verdicts, it does not signify that local anti-corruption movements have failed. In the not too distant past, these cases would never have come to light at all. This process has begun to undermine the deeply entrenched culture of impunity which has long characterized governance in Indonesia. And although their capacity to review local budget documents and investigate corruption remains limited, complaints filed by anti-corruption actors were in all instances the driving force behind the cases coming to public attention. They take new skills and experiences with them for the future. Hence, the success of local-level actors should better be seen from a longer-term perspective. So long as the anti-corruption movements are further developed and strengthened, these pioneering cases of the early regional autonomy era could have significant longer-term impacts to strengthen good governance at the regional level.

The Formal Legal Process

Legal proceedings, the only option for settlement, begin to provide hope for change. Formal legal proceedings are the only option for the resolution of corruption cases. Despite the weaknesses noted above and the dire reputation of the Indonesian justice sector, these ten case studies demonstrate the emergence of several indications that law enforcement at the local level is improving. *First*, there were clear signs that the formal justice sector is responsive to strongly articulated public demand and scrutiny. There is likewise more willingness among reformers in the legal institutions to build partnerships with local civil society coalitions. *Second*, although not evident in all cases, in many

cases the research revealed a direct correlation between the strength of public oversight and the pace and transparency of formal justice.

One step forward, two steps back. Despite the promising signs of progress, significant challenges remain to improve the performance of the formal justice sector: a lack of infrastructure, discrimination in legal proceedings and a propensity for bribery and political interference. In this study there were strong indications of bribery in at least two of the cases (Pontianak and Central Lombok). Furthermore, local anti-corruption coalitions were only able to exert effective oversight while the cases were being investigated or heard at district level. Once the corruptors appealed their convictions to the provincial High Court or the Supreme Court in Jakarta (which happened in all 6 cases that went through the district courts), district level actors were reliant on their networks at higher levels to maintain oversight and social control. As public scrutiny weakened, the impact was clear – in some cases lighter sentences and/or non-existent execution of verdicts.

Lengthy process tests staying power. The duration of the legal proceedings also tested and at times defeated the tenacity and staying power of local anti-corruption coalitions. The table below summarizes the length of time, plus highs and lows, required for investigation and indictment by the District Prosecutors and for hearing in the District Courts.

Phase	Average Time	Fastest	Slowest
Investigation & Indictment by Prosecutors	12 months	3 ½ months (Donggala case)	28 months (Central Lombok case)
Trial at District Court	7 ½ months	1 month (Kapuas Hulu case)	12 months (West Sumatera case)

Appeals to the High Court varied between 21 days and 7 months to process. Requests for cassation to the Supreme Court have taken between 3 months and over two years to resolve, with some cases still in process. At the extreme, the District Prosecutors commenced investigation in the Central Lombok case in November 2002. Nearly five years later, the case remains before the Supreme Court on appeal. While social pressure was able in some cases to push the justice sector to move quickly, maintaining the necessary public scrutiny for a period of several years is a major challenge for anti-corruption movements. Armed with this knowledge, corruptors know they can hang in for the long haul and outlast public attention as their cases wind their way through the lengthy appeals process. In conclusion, local level anti-corruption actors can at times push the *initial* legal process to be more responsive and fast, but they cannot yet guarantee a just outcome.

Recommendations

The report recommends a number of practical actions to both prevent corruption and address high profile cases once they emerge. Investigation and resolution of these cases can begin to break down impunity and mobilize public action for social accountability, ultimately leading to improved local governance.

The recommendations build on the success factors identified in the study and relate to (i) improving legal frameworks to institute public participation in local governance; (ii) improving state-civil society relations to address corruption; and (iii) continuing efforts to strengthen civil society oversight of the legal process.

Decentralization needs to be accompanied with guarantees for community control. District governments need to pass regional regulations to guarantee the existence of community participation to eradicate corruption, as stipulated by Government Regulation Number 71/2000 on the “Procedures for Implementation of Community Participation and Rewards for Prevention and Eradication of Corruption Crimes.”

Development of a local level anti corruption platform. The most fundamental finding of this research is that success in handling corruption cases is determined by cooperation between local government, law enforcers and local anti-corruption actors. Therefore, it is important that each region has a shared vision and strategy in preventing and handling corruption cases. Lessons learned from the experience of anti-corruption actors in these ten cases can be used as a foundation for the formulation of a joint government-civil society-community anti-corruption platform in reform-minded regions.

Strengthening of local level anti-corruption initiatives. Various community groups and organizations in this research have been successful in starting the measures to address corruption. More needs to be done to document and disseminate the successful strategies. Efforts need to be intensified where weaknesses exist, such as with respect to execution of judicial verdicts. Specifically, additional support needs to be provided to local civil society groups to build on and enhance anti-corruption initiatives: i) support to improve knowledge on local budget procedures, the legal process and skills in corruption investigation and advocacy; ii) support to strengthen networks between anti-corruption organizations at the local level with their better resourced national level counterparts; and iii) greater concentration from provincial and national level to continue monitoring and scrutiny of legal proceedings once they move up the judicial hierarchy on appeal.

Local level legal and judicial reform. Fairer and more effective law enforcement requires several changes in the law enforcement institutions at local level: i) strengthening cooperation between law enforcement institutions and anti-corruption organizations at the local level by engaging law enforcers in legal and anti-corruption education activities for the public; ii) establishing and enforcing benchmarks for the duration of each phase of legal proceedings in order to speed up resolution and prevent bribery aimed at stretching out the legal process; iii) a circular letter from the Attorney General’s Office that requires District Prosecutors’ Offices to hold case presentations for

anti-corruption organizations and facilitate community organizations to conduct public examination of court verdicts.

Together these recommendations can complement ongoing anti-corruption initiatives geared more towards prevention of embezzlement and abuse of power. Building on success, addressing these cases can help reduce endemic corruption, institutionalize social accountability and stabilize local democracy so that the process of regional autonomy can deliver on its promise of better public services and good governance for the people of Indonesia.