

## **Case #3: Public Sector Accountability**

### **GOOD OFFICIAL IN A QUANDARY \***

My name is Samsul Bahri (a disguised name). In 2002, I was in charge of Kabid Prasarana Fisik (head of division for infrastructures) in Bappeda Kabupaten Kutai Kartanegara, East Kalimantan. My job was mainly to represent the district government in public procurement, especially on land acquisition, building constructions, and other assets. I would never expect that in this very technical job I have to face with various political risks, including a delicate situation with Bupati, Mr. Syaukani Hasan Rais, and the DPRD chairman from Golkar party, Mr. Saleh Maktab (disguised).

#### **The local political leader**

Mr. Syaukani HR, reknowned in Kutai Kartanegara (Kukar) as Pak Kaning, is a much-respected figure in the district and East Kalimantan province at large. Having been successful as an entrepreneur, he started his political career with the Golkar party in 1999. During the Abdurrahman Wahid presidency, he initiated the formation of the APKASI (Asosiasi Pemerintah Kabupaten Seluruh Indonesia). Syaukani HR was a vocal figure of the association, which strongly rejected any effort of power re-centralization that in effect has been provided under Law No.22 of 1999.

In the aftermath of the economic crisis, when most of bupatis and mayors tried hard to rebuild local economy, Syaukani was a prominent figure voicing local autonomy and struggling for the revenue-sharing schemes of DBH (Dana Bagi Hasil) to be given to oil-producing districts. Working very closely with the mayor of Pekanbaru, Mr. Tabrani Rab, and many heads of districts under the auspices of FKDPM (Forum Komunikasi Daerah Penghasil Minyak), Syaukani vehemently sought to get the 15% of DBH from oil and natural gas, along with the post-New Order decentralization policy.

Saleh Maktab was an active Golkar functionarist and was a prominent DPRD member in 1999-2004. He was in Komisi B, that is mostly assigned for infrastructure projects. Building his political career from the bottom, Saleh was a primary-school teacher, and a local commissioner for education, before turned himself into politics. Saleh has all advantages for a local politician as he was born in Tenggarong (the capital of Kukar) and has strong connections with nearly all local notables. His personal contacts with local entrepreneurs has also equipped him with access to political source of fundings.

His ambitious plan to secure his chairmanship in the next DPRD period has made Saleh all prepared. He has been very active in various forum of DPRD, especially on the topic of DBH revenues for Kukar. Many of public officials in Pemkab did not like his ambitious moves as they suspected that Saleh has his own personal agenda. But Saleh had always been able to convince Kukar citizens. People can frequently read in the local Kaltim Pos newspaper all sorts of political claims like "Saleh has fulfilled his promises" or "Tenggarong people needs a figure like Saleh".

One of Saleh initiatives was a plan to build Sultan Kutai Berjaya airport that is located in the sub-district of Loa Kulu. The arguments for airport construction was

---

\* Adapted from a case edited by Kenneth Winston "The Good Commissioner", Kennedy School of Government, Harvard University. There may be issues of data accuracy and it is meant only for teaching purposes.

sensible given the fact that, as an oil-rich producing district, Kukar did not have an airport. Saleh tried to convince all the political figures, Pemkab officials, NGO-activists and all the citizens about the importance of this airport because in 2006 Kukar would become a host for the national PON (Pekan Olahraga Nasional), a big event that require adequate inter-city transport system.

### **The Dynamics of Internal Political Party**

The Dewan Pengurus Daerah (DPD) of Golkar party convened a meeting on the DPRD member candidates who were considered eligible for the period of 2004-2009. As always, two years before the Elections, the party had to come up with list of names. Saleh Maktab was pretty sure that most of Golkar functionariests would support him, a popular incumbent figure who was recognized not only among politicians at the local levels but also at the national level.

Nevertheless, the 2002 convention result in DPD Golkar party turned out to be a big surprise. Out the 11 total DPRD members from the Golkar party, he could convince only 4 members while 7 other members voted for Edimas Bardan, a young functionarist who apparently gaining a confident from his fellow politicians. Moreover, counting from the Dapil (electoral units) of a total 16 districts, Saleh could only secure 6 of votes.

The result of Golkar convention definitely dejected Saleh Maktab. Now, he must be able to convince the Golkar party that he remained popular. He must prove that from the real head count voting or the BPP (Bilangan Pembagi Pemilihan), instead of the party elite convention. For that, he must be able to retain his political reputation and he must obtain enough political funds to prove his popularity. Saleh Maktab's political move was eventually implied a difficult position on me as a local official in Pemkab Kukar.

Saleh thought that one of his failures in building his political reputation was the slow process of land procurement for the Loa Kulu airport. He insisted the Bappeda, through the Kabid Prasarana Fisik, in which I just assumed the position, to expedite the process. Waluyo Jasman, the former Kabid, has just been transferred to other less strategic position. Most people might not know the reason as to why Waluyo was transferred from his post. Yet for many of the Bappeda officials like myself, we understood that the transfer was ordered by Saleh as a respected politician in Kukar. From the first day in my position, I had to bear an enourmous political pressure to materialize the big project. Not only that Saleh Maktab continuously insisted to expedite the land acquisition at Loa Kulu. Some of my colleagues in the Bappeda warned me that the land acquisition had been approved by the bupati, Mr. Syaukani. It appeared that the bupati was personally close to Saleh Maktab, so the interest was just coincided.

### **Dubious Procurement**

The local government initiative to purchase a land for the airport in Loa Kulu had been started before I assumed my position as Kabid Prasarana Fisik. The letter of decision was signed by the Bupati with two attachments, containing a plan to purchase 256 hectares of land from Mrs. Lalita Markhamah in Loa Kulu sub-district. I also got a copy of notice from the local agency for transportation (Dinas Perhubungan) regarding the approval to purchase the land together with the minutes of technical meeting of procurement team (Tim Pengadaan Barang dan Jasa). In 2001, the ULP (Unit Layanan Pengadaan) in Tenggara has not established according to Perpres No.80 tahun 2003 on public procurement.

Later on, I found out that the land ownership was changed to three names: Mrs. Selvi Agustina, Mrs. Rita Widyasari, and Mrs. Windra Sudarta, all of them are Syaokani's children. With no clear reason about the changing ownership, my predecessor, Waluyo Jasman, sent a letter to the Bupati to confirm matter, apparently also investigated possible conflicts of interest. However, before there was further information about the ownership status, Waluyo had been dismissed from his position.

From the files that I could search from Waluyo Jasman's filing cabinet, I could immediately grasp that there was something wrong with the plan for procuring land at Loa Kulu. Waluyo might have tried to convince the Bupati to postpone the procurement process until the ownership issue was settled. The Bupati has yet to give a definite answer. The man who then acted using his political power was Saleh Maktab, by sending a recommendation letter to the BKD (Badan Kepegawaian Daerah) to transfer Waluyo Jasman from his position as the Kabid, due to his inability to carry out the task. I was not sure about what has been done by Waluyo. But it made me curious because aside from a letter of recommendation to postpone the project, I found a written statement of Waluyo, saying that the land "has been feasible for building a new airport". Attached with the statement was documents on the land-site, its boundaries, and a survey report from the BPN.

My personal observation on the land has even made me more suspicious. It was quite a distance from the city while the surrounding supporting facilities was limited. There was no adequate access to the location. I had to park my car at about 4 km from the located land, and then walked down the routes for about 30 minutes. Even if in the area a plane runway can be constructed, there are many other facilities must be build; access to the main road, fuel station, parking lots, telecommunication facilities, etc. After thoroughly examined all the destined area, I found the total area was only 194 hectares instead of 256 hectares stated in the documents. Apart from these inexplicable facts, one might also argue whether the airport was really needed as many people of Kukar are still poor.

For the Pemkab Kukar, it would not be easy to start the project as at least 3 km connecting road must be constructed first. There would be a long and winding process before the airport can be operational and the common people might not get the optimum benefit of the airport project. The only plausible explanation was that some could gain personal benefits from this project.

### **Buying Time**

I decided to stop this project. But how can I do it while the Bupati himself and a senior politician would not hesitate to use their formidable power? From what happened to Waluyo Jasman, it would not be easy to reject an order from the Bupati and the chairman of DPRD. So, I would pretend my approval to the boss but, based on legal position of the land, I recommended to make it slow.

I ordered to conduct a comprehensive survey and investigation on the ownership status of the land, something that has been carried out by my predecessor. I added my argument that, because it is located in a remote and mountaneous area, the survey must be thorough and accurate. I sent a letter to the Bakosurtanal to get a complete information about the contour and soil structure in Loa Kulu, just to ensure that it would be suitable for constructing an airport. From the begining I suspected that Bakosurtanal does not have a detailed information about a small sub-district like Loa Kulu. After two months, I received an answer from Bakosurtanal that they do not have the physical data on the soil structure.

Then, I sent a letter to the BPN office in Jakarta to ask for a permission to the land procurement. About one month later, I received an answer from the BPN with information that I had expected. They said that BPN have the authority to document land cadaster, legal boundaries, etc., but not on the contour, soil structure and its feasibility for public facilities. Meanwhile, I met Saleh Maktab in a forum for local investment in Pemkab. While talking about development issues in Kukar, he asked the progress of land procurement in Loa Kulu. I immediately replied that I supported the policy and it is being processed. (I assumed that Saleh would only take action against me if he realize that I intended to stop the project. I even gave an impression that, by replacing Waluyo, his move was even slowing down the process).

Saleh suggested me to contact the local office of BPN. He said that under the local autonomy, this thing can be finished at the local level without waiting for the BPN office in Jakarta. It seemed that my boss, Mr. Subari Mohtar, the head of Bappeda, had been asked about the project. To Saleh, I apologized for the prolonged process with an excuse that, as a new Kabid, I had to really careful in my job. Saleh seemed to be unsuspecting to my intention and my first encounter with him appeared to be okay. Insofar, I had not received a direct order from the Bupati, Mr. Syaokani, as he seemed to be neutral by not intervening administrative process.

The next week, Subari Mohtar, my boss at the Bappeda gave me an official note, ordered me to expedite the land procurement. I tried to buy a time by intentionally doing nothing. When Subari called, I responded immediately by asking his time to discuss the matter in person. In his office, I told him that the former Kabid had requested to investigate and to confirm the land ownership before any transaction can be made. He scolded: "Pak Saleh has started to be angry to all of us in Bappeda. He said that you are incompetent or intentionally make it slow. I just want you to understand that we need a good relation with the DPRD members. I do not want to put my reputation at stake in front of the Bupati!" Of course, I could only say yes to my superior, promising to work better in the matter.

### **A Difficult and Critical Decision**

When nearly all of the people wished to undertake the land procurement without adequate conscience, my position as a bureaucrat in Bappeda was really difficult. All the Pemkab officials who probably could share my personal burden appeared to be unhelpful. After I did nothing for a week, I tried to call the head of Kantor Pelayanan Pajak in the province. To my surprise, he did not mind to discuss the matter with me. Edi Jamaluddin, the head of Kepala Kantor Pelayanan Pajak, told me that the land ownership for the delineated land in Loa Kulu has already changed. But he did not understand that the tax valuation result showed that the NJOP (Nilai Jual Objek Pajak) has also changed substantially. The Pemkab intended to procure the land with the market price of Rp 15.36 billion, while according to the NJOP the land would only cost about Rp 3.84 billion.

I insisted Edi to help me clarify the value of the land so that it would not create a lost for the public, because of overly priced procurement by the Pemkab. Edi appreciated my effort but he also said frankly that he was not in the position to intervene the Pemkab policy. I know that Edi is the only officials I could trust, but he already said that he cannot help.

Then, the official letter from the head of Bapped came. The letter explicitly ordered me to finalize the land procurement in Loa Kulu as soon as possible on the ground that "it is strategic for a public facility project". I was completely dejected by my working environment. All these officials wanted to make this transaction happened while they knew that there were so many dubious facts. The local

newspaper also published, definitely from the information provided by Saleh, that the land procurement would help to improve standard of living among the people at Loa Kulu. All my colleagues, including my own superior at the Bappeda, has approved the project. For my own career, if I just execute the procurement, I would gain a credit. But I have gone this far and I would stop this corrupt transaction at all cost.

I was very disappointed and confused. Has all everybody in Pemkab has blinded by their own interest? Are all of the Pemkab officials are just crook like these people? Disparaged by all the events, I came to the head of Bappeda secretary. I asked the archive of the letter of order for me on Loa Kulu land. Without her notice, I took the archived letter. I was sure that it was only me and my boss who knew the letter. Together with the letter I had received, I burned the archived letter! I had never done this before. But an anger and disappointment had made me do this.

### **Bureaucrat vs. Politician**

While the status of land ownership was halted, I received an invitation for a meeting from the Bupati. Attached in the invitation letter was a request from the DPRD, signed by Saleh Maktab as the chairman of B Commission on local development. Based on the protocol, I should have contacted Saleh and asked the Bupati to prepare everything for the meeting. But I did not do that, and I did not know what would happen to me in the meeting.

In the tension-packed meeting, I told everything I knew based on the legal documents. I tried to tell everybody in the room that I was still expecting a formal letter from the Bappeda (which I destroyed), or a direct order from the Bupati for the land of Loa Kulu transaction. It was beyond my expectation that everybody remained entrusted me for doing the right thing. At least, that was my personal impression from the meeting. The Bupati himself admitted that land procurement needs a complex and time consuming. But I could see from his tone that he dissatisfied with the way I worked on the land.

As I expected, it was Saleh Maktab who requested to see mee in person. He came with a tensed face and directly went to the topic. He wanted to know why the procurement plan was delayed while he understood that all the documents were on my table. Again, I showed him my letter to the Bupati, which has not been replied. I was sure that he had asked the Bupati and Ketua Bappeda to give an order to me. He looked completely surprised. But he could control his temper, and asked me whether I understand the situation, i.e. how important the project for investment climate in Kukar. Then he frankly asked me whether I had an objection regarding the project. I said, "No! I am ready to carry out this task. But I need a letter of order directly from my boss or from the Bupati". Saleh added that I would receive a letter, not only from the Bupati but also from the Governor of East Kalimantan.

At the end of my personal meeting with Saleh, he mentioned that the time to carry out the transaction should not exceed two months. He talked about the Legislative Elections in July, and it was already May 2004. He re-assured that the land procurement has been approved by the Bupati and the construction project in Loa Kulu was for all the people of Kukar. "This would be for all the people of Kukar, including you!", he concluded the meeting. Gotcha..! I could sniff the entire political interest of Saleh. He wanted to get a good portion of money from the transaction of land procurement in Loa Kulu to fund his legislative campaign. I did not know how much money the Bupati promised to him. He also added that if he is re-elected as the DPRD member, he would help to promote me to higher position, may be the head of Bappeda? I did not know what he thought.

I got the letter from the Governor a week after the hearing meeting in the DPRD. I immediately put the letter into the documents of procurement, and stuck a note on my filing cabinet: "Please remind me about this agenda after I come back from vacation!". I had decided to take a vacation leave of one month in Padang Pariaman. I told my secretary that I would not be contacted by phone as I would spend my vacation only with my family. My proposal to take a leave was approved by the Kabag Kepegawaian, who apparently did not know what was going on in the hearing meetings. I could have delegated the authority and hand over the documents to my sub-ordinates. But they certainly would not stand the political pressure from various corners, I just did not want that happen. Therefore, I told my secretary not to touch those documents until I come back from my vacation.

While I was preparing a big vacation with my wife and children, I sent copies of documents on Loa Kulu procurement to the BPK Branch in Kaltim. I rechecked the documents meticulously before I sent it with an express mail. I just did not want to miss any information on the project. Of course, I had prepared myself to face the worst scenario of the case, including possibility for being fired from my job and finding a job in a private company.

From my vacation in Pariaman, I took a chance to call a colleague in Bappeda. He was shocked and said: "You are really crazy! There have been enormous political pressures to us since you left the office for vacation. They are mulling to sack you from the office". I could understand how angry these political clouds to me. But for sure, they would not be able to move as all the documents were in a safe place, and I could just continue my enjoyable vacation.

After one month, I came back to my office. Three weeks in the office, and I received a letter that I was transferred from my position as Kabid to become a Section Head in Badan Diklat Provinsi. My successor was Parulian Ginting, a good friend of mine who has been working in Bappeda for more than fifteen years. I made a call to him, asking for about two weeks to pack my belongings until the end of 2004 Elections, and he agreed with that. I could postpone the plan of Saleh Maktab to take a personal advantage from the land procurement in Loa Kulu. I prepared 7 pages of report to Pemkab Kukar with all the reasons why the local government should postpone and cancel the procurement. I argued that Komisi B recommendation to purchase a land in Loa Kulu has to be based on solid judgement because it incurred a great amount of public money. I added information about the ownership transfer and unrealistic calculation on the NJOP. I sent the report one day before I left the office on June 30<sup>th</sup>, 2004.

### **The Aftermath**

Parulian Ginting, my successor Kabid, did not proceed the land transaction in Loa Kulu. He quoted my official notes and then send a letter to the Bupati. Of course, the Bupati was in a difficult position because I revealed the scandalous intention with an accurate data on the land status. Parulian was also pressed by Saleh Maktab to continue the process. But he refused the idea on the ground that he had not received a letter of approval from the Bupati. The Bupati and Sekda could not take a clear action because no high-rank officials were ready to take the risks. At the end, Parulian was also transferred from his position for balking the order of these politicians.

Yet, even Parulian's successor could not do anything with the procurement in Loa Kulu after the local KPU sent a circular letter about the national Legislative Elections. The local KPU prohibited the Pemkab to carry out any project that might incur a big money from the APBD in order to ensure that the Elections would be

undertaken in a fair and clean manner. Saleh Maktab had to run his campaigns from his own money without a “bonus” that he initially expected from the Loa Kulu project. He lost his position in DPRD and was replaced by a more popular figure: Edimas Bardan.

Based on the data that I sent, it turned out that the BPK followed up the case of Loa Kulu with serious investigation. They found it as a serious “temuan” (findings). Then, all I knew was that the media wrote about a corruption case in Loa Kulu that was intensively investigated by the KPK, the national Anti-Corruption Commission. The main suspect was Bupati Syaukani HR, although his conspiracy with Saleh Maktab was rarely mentioned by the media. According to KPK, the case was a manipulation of public money from the APBD to purchase 256 hectare of land that was decided on June 30<sup>th</sup> 2003. yang telah diputuskan pada tanggal 30 Juni 2003. Syaukani was convicted to a corruption by purchasing the land from his own children worth Rp15.36 billion (Rp 6,000 per meter). It was a blatant corruption because the three children of Syaukani during the period between April 2003 to February 2004 purchased the land for only Rp 1,500 per meter. The local Bawasda of Kaltim also found an invoice discrepancy of Rp 11.52 billion because the purchasing price according the NJOP (as also proven by the data from Kantor Pelayanan Pajak) should only Rp 3.84 billion.

As he was definitely pleaded guilty for corruption, Syaukani was sentenced to jail for 2 years and 6 months by the Tipikor Magistrate Court. At the kasasi level, the Supreme Court (MA) added the verdict to 6 years in jail. For some people and law enforcer, the verdict might in accordance with the corruption. But for me, it was not really in par with illicit corruption in Pemkab Kukar. Later, some people might also disappointed because Syaukani was given a remission and a clemency from the President Susilo Bambang Yudhoyono. The presidential decree No 7/G of 2010 issued by the president gave Syaukani a remission to only three years in jail, together with a remission for Aulia Pohan in the BLBI case.

The people of Kukar seemed do not aware of the facts on such corruption. Aside from Loa Kulu case, there were a lot of public money, tactical funds, oil mining fees, travelling allowance, etc. that were misused. The ICW (Indonesian Corruption Watch) on September 20<sup>th</sup> 2007 released a data that the corrupted public money was amounted to Rp 2.1 trillion.

But unfortunately, the people did not really care with what has happened. Finally, the procurement of the land for Sultan Kutai Berjaya in Loa Kulu was carried out. I heard from my colleagues in Pemkab Kukar that too many officials were involved and received some money from the project, including my successor in Bappeda. After Syaukani lost his position as Bupati and Ketua Dewan Pembina Golkar Kukar for serving his time in jail, he could retain his political dynasty in Kukar. Rita Widiasari, his second daughter, run for the Bupati and won the elections for the period of 2009-2015 with a landslide vote of 85%. In her second term as Bupati under president Joko Widodo, however, Rita Widiasari was caught by the KPK for a corruption charge.

As for me, I thankful that I still have a job in Pemprov Kaltim, though some officials in Pemkab Kukar might remember what I had done in Kukar. Although most of the people do not understand the entire story, I just hope that every little change for combating corruption is worthwhile. I also hope that those politicians would not chase after me, a bureaucrat who will spent about two years in career before retirement.

\*\*\*\*\*