

Parliamentary (DPRD) Perspective on the Implementation of the Authority to Discuss the Revenue and Expenditure Budget (APBD)

Juajir Sumardi Aminuddin Ilmar Naswar Achmad Maskun*
All Lecturers at School of Law, Hasanuddin University, Makassar – Indonesia

Abstract

The understanding of parliamentary members on the scope of their institutional authorities in the budget includes the discussing of the formulation of policies (*KUA* and *PPAS*) and the operational planning of the budget including the details of activities and the types of expenditure. This understanding is constructed from the perception of the parliamentary leadership which identifies the parliament's budgeting functions with those of the heads of the regions, even in the final stages of the budgeting process which is understood as the exercising of the function to form *Perda(s)* (non-*APB*). This understanding is manifested in practice, motivated by the provisions in Law No. 17 of 2003 dan *PP* No. 16 of 2010 which grants the authority to discuss the budget in detail, the quality of the budget proposed by the local government, the motivation to be re-elected as a member of the parliament by relying on the local budget as a mechanism to finance campaign promises, and efforts to restore the political costs of the concerned member's candidacy.

Keywords: DPRD's Authority; APBD.

1. Introduction

The previous article has revealed the limits of the parliament's authority in the budgeting process,¹ which is to discuss the formulation of budgeting policies (*KUA* and *PPAS*) and the operational planning of the budget (*RKA SKPD* which is compiled into the draft *APBD*), to guarantee consistency: (1) *KUA* and *PPAS* drafts with the *RKPD*; dan (2) *Perda APBD* draft with the *KUA*, *PPAS* dan *RKPD*, whose scope is limited to : (a) income, expenditure and funding policies; (b) quality and quantity (budget allocation) programs; and (c) quality of activities (not including quantity or budget allocation).

This makes it clear that the parliament's authority in the budgeting process is the embodiment of the performing of the parliament's budgeting functions.. Conceptually, the budgeting function of the parliament is none other than supervision or control, namely apriori fiscal oversight. However, in positive law, the parliament's budgeting function, by way of Law No. 17 Year 2004 and *PP* No. 16 Year 2010 is identified as the functions of the head of the region, even procedurally it is identified with the formation of local regulations (*Perda*), meanwhile, Law No. 23 Year 2014 and its implementing regulations is identified as supervisory activities at the time the budget was set which is distinguished from overseeing activities at the time of execution. This last activity is called the function of oversight.

With the construction differences, we try to examine parliament's perspective on the budgeting process. This inquiry can uncover the mainstream view of the legislators of the nature or content of parliament's budgeting function, which is reflected in the practice of how the budget discussion conducted.

In relation with the practice of budget discussions, the previous article has also revealed the extent of parliamentary authority in the budgeting process. Parliament position themselves as budget composers and at the same time its overseers. The extent of that authority raises the pressure on regional government to carry out their functions, even more dangerous is the breadth of such authority which leads to the carrying out of government functions to become hindered because of political interests in budget talks. Even more worrying are the attempts to benefit one's group or self. Cases of corruption involving legislators and members of parliament have been proven in court, their abuse of authority in this case the budgeting authority of individual legislators.

Therefore, the views of legislators on the limits of their institutional authority in budget discussions should not only rely on the legislative approach, moreover those legislation contain rules that are substantially different but are about the problem. The legislation mentioned above are Law No. 17 Year 2003 and *PP* No. 16 Year 2010 each of which have their own domain of legal regimes namely national finance and parliament *vis a vis* Law No. 23 Year 2014 and its implementing regulations which is the legal regime of regional/local governments.

The conflict of regulations in the legal regime of national finance and parliaments with the legal regime regional governments can be overcome by utilizing the legal principle of '*lex specialis derogat legi generali*'. In this context, the legal regime of regional governments is the '*lex specialis*' to the legal regime of national finance and the legal regime of parliaments '*lex generali*'. What makes the legal regime of regional governments lies in its function as constitutive guide G.J. Wolhoff analogizes laws on regional/local governments as the constitution

¹ Juajir Sumardi, et.al., "Limited Scope of Authority of Local House of Representative in the Area of Local Budgeting", *JLPG* Vol. 45 (2016), pp. 95-103.

for regions/districts in a united state, as is the case with state constitutions for federations.¹

The budgeting process which involves the role of parliament is a part of regional administration, and therefore must be regulated in a law on regional governments as the principal law and is special when compared to other laws. If there are laws that govern differently, the law on regional governments should be prioritized.²

But, notwithstanding that analysis, legislators as discussants of the budget have their own view that differ from that or may be different from *Putusan Mahkamah Konstitusi RI No. 35/PLAW-XII/2013* in the *Pengujian Undang-Undang Nomor 27 Year 2009 tentang Majelis Permusyawaratan Rakyat, Dewan Perwakilan Rakyat, Dewan Perwakilan Daerah, dan Dewan Perwakilan Rakyat Daerah, dan Undang-Undang Nomor 17 Year 2003 tentang Keuangan Negara terhadap Undang-Undang Dasar Negara Republik Indonesia Year 1945* case. Even different from the contents of *Surat Mendagri No. 902/3224/SJ* dated 24 June 2014, which limits parliament's authority to discuss the budget only up to program details and does not dive into activity details and types of expenditure.

From parliament's perspective, the Constitutional Court did have any legal effects on the scope of parliament's authority in the budgeting process, because the subject matter being examined and decided by the Court is not directly nor indirectly concerned with their authority. The institution subject to the Court's decision is not the region's parliament, but the national parliament. Likewise, the Minister of Home Affairs' letter is judged as having not legal effect on parliament's authority in discussing the budget, because it is contrary to Law No. 17 Year 2003.³ This perspective, shows that the parliament's perspective on the scope of its authority in the budgeting process in accordance with the provisions of legislations in the field of national/public finance. Such a perspective is certainly backed by a variety of factors behind those arguments or reasons. Those various factors will also be analyzed and presented in this article.

2. DPRD's Authority to Discuss the Budget

The scope of parliament's authority to discuss the budget is not symmetrical with its authority to approve of the budget. In accordance with the nature of the budgeting function it has, parliament is not in a composing position which requires it to master the technical composing of the budget, but rather as a watchdog standing guard and guaranteeing the consistency of developmental planning documents (*RKPD*) with budgeting (*KUA*, *PPAS*, and *RKA SKPD* that will be compiled into a draft budget). Therefore because of the rationality of the discussion conducted by the parliament is political and not technocratic as when regional governments compose their budgets. So parliament only focuses only on the suitability of the budget policy formulation (*KUA* and *PPAS*) with design planning (*RKPD*), and operational budget planning (draft budget/'*RKA SKPD* compilation') with budget policy formulations, the *PPAS* and *RKPD*, not the technical budget figures (budget allocation for each activity and type of expenditure).

On that issue, the understanding of individual legislators relative to draft *KUA* and *PPAS* discussions, is reflected by the substance of the thoughts of parliament, claimed to be a result of filtering society's aspirations, which substance may deviate from the *RKPD*'s and intended to be inserted as *KUA* and *PPAS*. It is an implied understanding that the discussion regarding the draft *KUA* and *PPAS* by parliament gives the impression that parliament composes the budget. Furthermore, it also suggests that parliament positions itself as the regional development planner, becoming a competitor of the local government. (read: *Bappeda*).

The usage of the parliament's *Pokir* DPRD which tolerates 'changes' to the *RKPD* certainly has implications on the substance of *PPAS* that has been mutually agreed upon by the parliament and the regional government, may be different from the *RKPD*. A further implication is that the draft budget which is a compilation of *RKA SKPD* will also be different from the *RKPD*, because the *RKA SKPD* is prepared in accordance with *PPAS*. Development planning activities are disconnected, not integrated with budgeting activities.

Integrating parliament's *Pokir* into the budgeting process also happens during the discussion of the *RKA SKPD* in the preliminary discussion forum. This shows that the concerned legislators champion the laws on national finance more as opposed to those on regional governments. The *RKA SKPD* discussion dives into the details of activities and the types of expenditure to test its consistency with *PPAS*. Even though, *PPAS* itself does not contain details of activities and types of expenditure. Then, how could they test the consistency of *RKA SKPD* with *PPAS*.

The understanding of the concerned legislators about the scope of *RKA SKPD* which dives into five units (types of expenditure) apply *mutatis mutandis* to the discussion of the next process, the discussion of the

¹ Jimly Asshiddiqie, *Perihal Undang-Undang di Indonesia*, Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi RI: Jakarta, 2006.

² Bagir Manan, *Teori dan Politik Konstitusi*, Direktorat Jenderal Pendidikan Tinggi Departemen Pendidikan Nasional: Jakarta, 2001.

³ Julianda B. Manalu, "Analisis Hukum terhadap Pembatasan Kewenangan DPRD dalam Pembahasan APBD Akibat Putusan MK No: 35/PUU-XI/2013", internet: www.dprk-subulussalam.go.id, June, 5, 2014[Oct. 10, 2016]

draft budget. In the framework of budget proposal discussions, once again, parliament in commissioner meetings or in joint committees discuss the programs and the proposed program's budget allocation. Discussion of the budget proposal is the final discussion on its approval into the budget. In accordance with the specialties principle in Law No. 17 Year 2003 which requires the specific or detailed allocation of the budget up to the types of expenditure then the discussion and approval must also be detailed.

At the time of the drafting of the budget, the commission may submit a proposal which results in a change in the amount of revenues and expenditure in the draft budget. When linked to the scope of the discussion which dives to the type of expenditure as understood by the legislators concerned, it is conceivable that the commission's proposal would change the allocation of the budget to the level of the type of expenditure. If the arguments becoming mainstreams in the commission or in the joint committee requires a change in the budget allocation on the level of the type of expenditure, the proposal is sure to be aimed at that level.

It is clear that legislators understand the budgeting function attached to their institution as the function to form *Perda* (formerly: the legislative function). Such understanding has put the legislators as the composer of policy formulas and operational planners of the budget which is similar to the budgeting function regional governments have (read: head of the region). Parliament is understood as if they have authority to tamper with the budget allocation through their proposals which are portrayed as 'counter budget proposals' which must be integrated into the draft budget in order for the draft to be approved of.

In the same vein as the principle of specialties mentioned earlier, it is important this principle is related to the implementation of the budget, especially on expenditure. It is stated, for example, in Article 3 Law No. 1 Year 2004 yang menyatakan '*Setiap pejabat dilarang melakukan tindakan yang berakibat pengeluaran APBN/APBD jika anggaran untuk membiayai pengeluaran tersebut tidak tersedia atau tidak cukup tersedia*'. The existence of this provision requires that the budget be presented in detail, including the type of expenditure, even the details of the object being purchased,¹ and the presentation of that detailed budget is certainly done by the local government and not the parliament. Because of that the parliament does not actually have to discuss the budget in detail up to the activity, type and specifications of the object being purchased, because this institution is not the one that drafts and implements the budget. It is on this basis, that changes in the funding between activities, types and specifications or what is often called 'shifting' the budget does not require the consent of parliament. Which means, the budget is shifted without changing/modifying the legislation (*Perda APBD*), because it neither increases nor decreases the (definitive) budget ceiling specified in the budget. The budget is shifted simply by changing the head of the region's regulations on the budget's description which is used as a abasis for implementation.²

2.1. Underlying Factors in the Discussion of Budget Details

The discourse on the limitations of the parliament's authority in the budgeting process as described on advance, presents two different perspectives: first, normative *an sich* which provides an entry point for the parliament to discuss budget proposals up to the level of activity details and types of expenditure. This perspective is championed in the legal regime of national/regional finance *vis a vis* the legal regime of regional government. Meanwhile, the second perspective, explains theoretically that the legal regime of regional governments is to be championed, and thus, the scope of the authority of the parliament is limited up to the level of activity details wherein the discussion is limited to quality, in order to test its consistency relative *KUA* and *PPAS*, neither quantity nor the nominal budget figures. In this context researches prefer the theoretical approach, by strengthening the theoretical argument that parliament's authority in the budgeting process is an embodiment of the oversight function (fiscal), which is the monitoring done at the time the budget is implemented.

However, in spite of that, discussing the budget proposal is indeed an authority of the parliament; therefore the parliament must be involved in the process in accordance with existing legislation. At this time, there are two legal regimes which govern this matter, which is the national/regional finance law in this case Law No. 17 Year 2003 and the regional/local government law in this case Law No. 23 Year 2014 and its implementing regulations. The applicability and the enforceability of these two legal regimes is not the issue, because each govern different things (finance and local governments), although there is contact between the two. The national finance referred to in Law No. 17 Year 2003 includes regional finance managed through their budget, while the governance of the budget is stipulated in Law No. 23 Year 2014 (and its implementing regulations). The issue is, Law No. 17 Year 2003 also sets the cycle for financial management, different from Law No. 23 Year 2014. In this context the law governing a specific subject overrides the more general law. Law No. 23 Year 2014 and its implementing regulations govern a specific subject, namely the exercising of regional financial instruments, which includes the region's financial management cycle. The drafting and adopting of the

¹ Budi Mulyana, Modul Perencanaan dan Penganggaran Daerah: Materi Diklat Akuntansi Keuangan Daerah, Badan Diklat Keuangan Kementerian Keuangan RI: Jakarta, 2010.

² Anonim, Better Practice Guide Penganggaran Berbasis Kinerja, Kementerian Keuangan RI: Jakarta, 2014.

budget – which is an instrument that drives regional finance – is in truth an embodiment of the executing of regional government by the head of the region and the local parliament. Therefore, if there are two different laws, the one which is part of the local government regime should be championed.

That argument is different from the understanding of legislators in at the research site. They tend to champion the provisions of Law No. 17 Year 2003, especially those concerning their institutional authority in discussing and approving programs and activities to be funded by the budget, including the amount of funds allocated up to the details on the types of expenditure.

Such understanding, cannot be separated from the enforceability of the national/regional legal regime of finance in this case Law No. 17 Year 2003 and the parliamentary legal regime in this case PP No. 16 Year 2010 which regulate the institutional authority of the Parliament in the budgeting process. In understanding the limits of their institutional authority, members of parliament tend to champion these two legal regimes. This trend is assumed to be caused by the setting of these two legal regimes which is favorable for the members' positions in the budgeting process. They could freely push in certain programs and activities as well as nominal budget figures into the *KUA* and *PPAS*. Meanwhile, local authorities are often powerless against the maneuvers of its partners, except when 'forced' to accept and formulate it into budget policy. In fact, from the perspective of the regional government's legal regime in this case *Permendagri* No. 54 Year 2010 – which is the implementation of the regional government's laws, the integration of *Pokir* is only related to the proposal of programs and activities, is unrelated to budget figures, it was done when the regional government *c.q. Bappeda*, drafting a development plan for the yearly building plans of the region is used as the main ingredient in the region's development plan discussions.

The phenomenon above indicates that the involvement of members of parliament in determining the programs and activities as well as the budget figures during the budget formation stage (*KUA* and *PPAS*) – also in the operational planning of the draft budget – backed by the enforceability of the national/regional legal regime of finance – also by the parliament's disciplinary rules – which allow their involvement thus far.

In addition to this, the tendency of members of parliament to champion Law No. 17 Year 2003 and PP No. 16 Year 2010, as reflected in the relevant parliamentary disciplinary rules is backed by the will to improve the quality of budget proposals made by the regional government (read: head of the region). According to Bulukumba District's parliamentary Head of Budget, Andi Arman, the quality of draft budgets tends to not meet expectations because the local government always insists on maintaining the previous fiscal year's budgetary allocation pattern, without considering their relevance to the issues developing in society. For that, the involvement of members of parliament in the detailed discussing of the budget is very important in order to improve the quality of the budget proposal.

For researchers, the problem of the inadequacy of budget proposals is due to 'incrementalism' has actually been overcome by the use of a performance-based budgeting approach adopted by Law No. 17 Year 2003. Performance-based budgeting means that the drafting of the budget is oriented towards the output/outcome of the program/activities to be or has been achieved with respect to the use of the budget with the measured quantity and quality. Thus, in a performance-based budget, the objective and the performance indicator of a certain program/activity must be clearly defined and scalable to support the improvement of efficiency and effectiveness in the utilization of resources and the strengthening of the decision-making process in the medium framework. As for problems related to continuity of the funding of multi-year activities can also be overcome by using the budgeting approach of a medium term expenditure framework (MTEF). The medium term expenditure budgeting approach is carried out by preparing a forecast of estimated funding requirements for the programs and activities planned in the fiscal year after the year being planned and the implicated funding required for the implementation of next year's programs and activities.

The factors that underlie the involvement of members of parliament in the determining of programs and activities as well as budget figures as described above, has been categorized by researchers as internal factors. In this context there should be relevant records regarding the categorized enforceability of the national/regional financial legal regime in this case Law No. 17 Year 2003 and the parliamentary legal regime in this case PP No. 16 Year 2010 as internal factors, namely the setting of the two products as the spirit of the rule of order in parliament, which is substantially asymmetrical with Law No. 23 Year 2014 and its implementing regulations.

Outside of these two factors, there are other implied internal factors, namely the motivation to be reelected and the reliance on local budgets as mechanism to serve their constituents, or in other words the using of the budget as a field for political financing.

The entry of a number of new programs and activities outside of the yearly budget has a common thread with the funds that have been surfacing as of late. On a national level, the funds are designed in such a way to become specific programs and activities funded by the budget with the aim to serve their constituents. A number of the programs and activities were proposed by the members of parliament through the *Pokir* mechanism which has been integrated into the budget with the same aim in mind, which is to serve its constituents.

Aside from damaging the design of development planning, the entry of new programs and activities into

the budget is also not based on a performance-based budgeting approach, because these programs and activities tend to 'fall from the sky'. The obscurity of performance indicators includes those input, output, outcome, benefit and impact of said programs and activities. Budgeting as a continuation of the development planning - done at the research site - which seems to defend (proposals) by the parliament's *pokir* contained in the *RKPD*. If so, the *RKPD* embodies the defeat of society's aspirations by those of the 'majority' (parliament's *pokir*).

The influx of new programs and activities outside of the *RKPD* mechanism into the budget is clear proof that the budget is drafted not through a performance approach, but through an approach prioritizing 'political accommodation' which actually resembles 'incrementalism'. Consciously or not, the parliament acts ambiguously, becoming a catalyst for the use of the 'incrementalist' approach in drafting budget proposals, which it criticizes and uses to conduct a detailed discussion of the budget proposal.

The firm stance of parliament in submitting programs and new activities into the budget can also be understood in the context of the party system and elections. Discussion of the budget in parliament is often dominated by political factors and not in the direction of a scientific debate discussing the in-depth and particular interests of society. Things like this lead to the discussing of a costly budget, colored with negotiation and collusion between the regional government and the parliament for the interest of certain groups or individuals. The presence of 'rogue' members of parliament who take advantage of their position to affect the budget for personal or group interests has become common knowledge. This can be seen from the members of parliament who were caught engaging in corruption during budget discussions.

The common thread that can be drawn is, that the dominance of political factors in the discussing of budget proposals attracts the interest of parliamentary members to carry out a detailed discussion up to the level of activity and types of expenditure (a unit of five). The party system practiced today is a multiparty, characterized by a number of (more than two) political parties which are the determinants of the regional governing process. Such systems, when coupled with a presidential system of government characterized - in this case the regional government which follows the system applied at the central level, where the head of government cannot be dismissed by parliament because of political reasons - is a difficulty combination,¹ it is even very likely to give birth to what is called a *divided* government.² This difficulty is due to the fact that there is no guarantee that the regional government (read: head of the region) will be approved or endorsed by the parliament. To that end, the regional head is often in the position that requires him to bargain through instituting a coalition of parties that exist in parliament.

As in the central government, coalitions are built by the parties who support the head of the region are very vulnerable to division, as 'glue' is given 'compensation' to the coalition's parties to fight for their interests for the sake of solidarity and the stability of the coalition. At this point is the budget's discussion going to be colored by negotiations and collusion between the regional government and the parliament for their group's or individual interests through the detailed and specific discussion. Furthermore, if wrapped in 'rent politics' of parties who place their candidates in the parliament to use it as a gold mine, negotiation and collusion can happen systemically.

In the context of the party system, the phenomenon of 'rent politics' is a true reflection of partying paradigms. Those who become members of the parliament are only figures who have special relationships with the leaders of political parties or are the leaders of those political parties. Political parties tend to be oligarchical, and sometimes boldly act for and on behalf of the people, but in reality tend to fight for their own sakes. Being a member of those parties is seen as a requirement to become a member of parliament. Both positions are held at the same time, and the party will simply function as a vehicle for its members to maintain their positions as representatives of the people. The motivation to maintain their position as a member of parliament causes the politicization of the regional budget. The budget is used as a mechanism to fund the campaign promises of the parliament's and the party's members by imposing the inclusion of their proposals into the budget.

Members of the parliament who are not part of coalitions, are also not immune from 'rent politics'. With the adopting of a proportional election system, being a member of the parliament is obviously not cheap. It requires fees of a fantastical amount that must be borne by the candidate. Thus, all elected candidates, regardless of affiliation, will attempt to return their political investments by using their office to affect the regional budget, and for that a detailed discussion of the budget is important even obligatory for a member of the parliament.

3. Conclusion

Based on the elaboration above, it can be concluded that the parliamentary member's understanding on the scope of their institutional authority in the discussing of the budget includes the formulation of policies (*KUA* and *PPAS*) as well as the operational planning of budgets including the details of activities and the types of

¹ Saldi Isra, *Pergeseran Fungsi Legislasi: Menguatnya Model Legislasi Parlemen dalam Sistem Presidensial Indonesia*, RajaGrafindo Persada: Jakarta, 2010.

² Jimly Asshiddiqie, *Hukum Tata Negara dan Pilar-pilar Demokrasi*, Sinar Grafika, Jakarta, 2011.

expenditure. This understanding is constructed for the parliamentary member's perception which identifies the parliament's budgeting function with those of the regional government (read: head of the region), even at the final stage the budgeting process is understood as a manifestation of the *Perda* formulation function (*nonAPBD*). The underlying factors which cause members of the parliament to discuss the budget in detail to the activity and the type of expenditure are: Law No. 17 Year 2003 memberikan kewenangan membahas anggaran sampai detail; the inadequacy of regional *APBD* proposals; the motivation to be reelected as members of the parliament by relying on local budgets as a mechanism to fund campaign promises; and the motivation to refund the costs of their reelection.

Proposed recommendations, firstly, the need for the harmonizing of legislation governing the authority of the parliament in the budgeting process Law No. 17 Year 2003 and *PP* No. 16 Year 2010 should be revised in adaptation to Law No. 23 Year 2014. Secondly, the need to regulate the specific technical limits of the scope of the parliament's authority in the budgeting process in the parliament's internal rules by referring to the legal regime of local governments in this case Law No. 23 Year 2014 and its implementing regulations, in order to reaffirm the parliament's position that it is an element of regional officials carrying out their budgeting functions (*apriori* fiscal oversight).

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