

Regional Autonomy

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1. Background

Indonesia has been a highly centralized polity for most of its history. It inherited a centralized structure of government from the colonial Dutch and there have been efforts at various times to decentralize this structure, beginning with the 1903 Decentralization Law of the Netherlands Indies. That law had twin objectives that were in effect contradictory: to decentralize government in the country's far-flung and diverse regions, and to extend government control into these regions.

Since independence in 1945, Jakarta elites have often been fearful that giving the regions greater control over their own affairs would play into the hands of violent, disintegrative forces. One important explanation for the failure of decentralization efforts in the past has been the lack of strong commitment of the centre towards decentralization.

The end of the New Order gave rise to widespread demands for democracy and empowerment, among them demands from regions outside Java for more local control over their own affairs. These demands were heard most insistently from restive regions that are rich in natural resources, such as Aceh and Riau, and they raised fears at the centre that, unless the regions were given more autonomy, Indonesia itself might disintegrate under pressure from secessionist movements.

In 1999 the national parliament approved two laws on decentralization. Law 22 concerns administrative decentralization, while Law 25 concerns financial administration. The first set of implementing regulations for Law 22 was published early in May 2000.

These two laws indicate a new seriousness about democratic decentralization on the part of the central government. However, much remains unclear about the scope and implications of their implementation. The recommendations presented in this report are intended to stress the urgency of carrying out the decentralization process in democratic and

equitable ways.

The recommendations fall into four clusters:

- Making decentralization work.
- Making decentralization democratic.
- Paying for decentralization.
- Resolving conflicts.

2. Making Decentralization Work

None have suggested that the current, centralized system of government in Indonesia was preferable to the decentralized model now on offer. Indeed, there is a clamour for more autonomy than the model offers.

Recommendation:

- Decentralization can prevent the disintegration of Indonesia. Steps must be taken to make it work quickly.

South Africa was referred to as an example to show that decentralization can be carried out rapidly and effectively if the necessary political will is there. South Africa changed to a new decentralized system literally overnight, transforming nine homelands and four provinces into nine provinces at the stroke of midnight on 1 May, 1994. The transformation followed two basic principles aimed at preventing discriminatory treatment of civil servants on grounds of ethnicity: that every official would continue holding the same job as before but with the restructuring would report to a different superior, and that there should be a single civil service with uniform salaries and conditions.

This example of successful and rapid change was achieved by the application of strong political will, reflected in a new constitution. The constitution prevents the main features of decentralization from

being eroded later on and guarantees that the process will be adequately funded.

Recommendation:

- Decentralization and its proper funding must be guaranteed in a constitutional amendment.

Successful decentralization, especially sectoral decentralization, is technically extremely complex. The officials who implement it need a firm grasp of the problems involved and have to be able to give clear instructions to their subordinates in the field. They also need to be assured of strong political and financial backing.

Indonesia has a long history of failed attempts at decentralization. Some of these failures can be attributed to a lack of political will. The 1974 decentralization law, for example, was never properly implemented because of resistance from government departments, while the pilot decentralized regions of the early 1990s failed because of a lack of financing.

The current round of decentralization could face the same fate. To make sure that it does not, the relevant government departments have to be continuously exposed to the views of the regions. The best way to do this is to create a new bicameral parliament whose upper chamber is made up largely of representatives from the regions.

This bicameral system would enable the regions to engage in collective bargaining with the centre. It would also help to prevent the proliferation of ad hoc arrangements between the centre and restive resource-rich regions that do not benefit poorer regions.

Recommendation:

- A bicameral national parliament should be considered, in which regional representatives dominate the upper chamber.

It has been suggested that a high-powered Decentralization Council should be formed with representatives of government departments as its members. This council would act as an engine driving decentralization forward, especially sectoral decentralization, and would guard against centralizing interests in the bureaucracy.

Supporters of the idea argued that such a council could cut through the tangle of regulations and bring about real and effective change. But it was also argued that a council of this kind would itself be overly bureaucratic and likely to be dominated by the central government. This kind of lively debate is a clear sign that more thought needs to be given to the mechanism by which decentralization is carried out.

3. Making Decentralization Democratic

Decentralization can be democratic and empowering. The Philippines moved successfully to a decentralized system in 1992 and the change had an invigorating effect on local politics and business as people assumed greater responsibility for and control over their own communities. There, democratic decentralization was regarded positively as a mechanism by which to address the challenges to national integration.

But decentralization must be carried out in a way that enhances democracy. If it is not, then there is a danger that Indonesia's regions could become as dominated by authoritarianism and corruption as the whole country was under the New Order. There are already serious concerns about corruption in the elected regional assemblies in relation to the election and the accountability of regional heads.

There is an urgent need for the institutions of civil society in the regions to be involved with the development of new structures of government. Such institutions include non-governmental organizations, regional universities and the press. They can also include traditional social

groupings. Although the latter sometimes have a hierarchical and therefore undemocratic character, the hope is that over time they will become more democratic.

Recommendation:

- Greater efforts must be made to build popular participation into the new structures of regional government.

There are already some democratic safeguards built into the current decentralization process, notably regular elections and a free press. Over time, these safeguards may reduce the potential for undemocratic practices in the regions. But there are other issues which need to be addressed quickly, in order to prevent social unrest.

The newly-empowered regional assemblies are often filled with inexperienced and poorly educated legislators. They need assistance to make a success of their new responsibilities, and the government has announced plans to involve Indonesian universities in creating centres of excellence in the field of regional autonomy.

In decentralized systems elsewhere in the world, regional assemblies tend not to make many laws but rather function to supervise the government's delivery of services to the regions. Standards still tend to be set at the centre.

Recommendation:

- Elected regional assemblies must be empowered by the provision of special training as well as expert advice.

Some provisions in the new decentralization laws may actually promote

political corruption, notably Chapters 45, 46 and 54 of Law 22/1999 which deal with the election and accountability of regional heads. These need to be reviewed and rules formulated so that a regional head can be impeached for corrupt practices. One way to reduce corruption is to elect the regional head directly.

Recommendation:

- Legal loopholes permitting political corruption at the regional level need to be closed.

There is a risk that decentralization could trigger ethnic and sectarian conflicts in the regions as local elites compete for sources of advantage in the bureaucracy, using ethnic or sectarian terms to rally support rather than focusing on the underlying administrative issues. Such conflicts have already happened in some regions, including Maluku and West Kalimantan.

Elsewhere, local official support for gambling, prostitution and environmental destruction goes unpunished. Unwritten, hidden rules seem to be more important than written ones. These problems can only be solved by the development at the regional level of an effective and democratic state structure which can uphold the rule of law.

South Africa provides a model for dampening conflicts. A national peace accord was achieved there even before the final abolition of apartheid and has worked surprisingly well. This accord created peace committees with representatives drawn from the national level down to the village level. The peace committee members were representatives of society - including rival political factions - and the state. The latter, including the police, were put under pressure to pursue their tasks even-handedly.

Recommendation:

- Finding new ways of promoting the rule of law at the regional level needs to be made an urgent priority.

4. Paying for Decentralization

If the regions do not have enough money to pay for the services which the decentralization laws require them to provide, then government in the regions will actually become worse. As discussed earlier, adequate funding for decentralization needs to be guaranteed by a constitutional amendment.

Funding decentralization means balancing two competing rights - the right of citizens who live in resource-rich regions to enjoy a fair portion of the revenues their region produces, and the right of citizens everywhere to be treated equally by the state. There is an urgent need to find a formula that balances these two rights equitably.

Practically, the problem of funding decentralization can be divided into two issues. The first issue is: how can regions more effectively raise local taxes? The second and more important issue is: how can the earnings of resource-rich regions be redistributed in such a way that there is no disadvantage either to resource-poor regions or to the central government which has to maintain national unity and pay off the national debt?

Many taxation powers previously vested in the regions were eliminated in Law 18/1997. There have been calls for that law to be abolished so that the regions can expand their tax bases in accordance with Law 22/1999. However, the old regional taxation scheme which was eliminated by Law 18/1997 was in fact unwieldy and yielded little. It would be better to review the latter law and make it compatible with Law 22/1999, rather than abolish it altogether.

Recommendation:

- Law 18/1997 needs to be reviewed to allow regions to raise local taxes more effectively, as envisaged under Law 22/1999.

Poor regions like West and East Nusa Tenggara may not have the financial resources to run even the eleven basic decentralized services that the regional autonomy laws require. West Timor, for example, is a frontier region that suffers from poor infrastructure and frequent natural disasters and has a large refugee population.

The new decentralization laws appear to be especially designed to appease unrest in natural resource-rich regions. This is not unreasonable, since the resource-extraction industries in those regions tend to have an “enclave” character that often impoverishes the local inhabitants living around them.

But poorer regions depend on subsidies from the centre, which in the past were taken from revenues collected in resource-rich regions. If the centre fails to pay those subsidies, then decentralization could make the poorer regions even poorer. Special efforts need to be made to ensure that this does not happen.

One way to do this is to increase the weighting given to poverty indicators amongst the criteria for a region obtaining “balancing funds” from the centre. Another is to create a special program that focuses attention on the need for business investment in poor regions, such as the Indonesia Bagian Timur (IBT) effort the government made for eastern Indonesia in the early 1990s.

Recommendation:

- Poverty-stricken regions need special attention to ensure that decentralization does not make them even poorer.

Some regions are poor in natural resources but generate wealth in other forms, like tourism in Bali or trade in Batam. At present, Law 25/1999 returns a substantial proportion of hydrocarbon and forestry revenues, but only to those regions fortunate enough to possess these assets. The law needs to be amended, or its implementing regulations reviewed, to reduce this bias in favour of hydrocarbon- and forest-rich regions and provide for the return of a proportion of other kinds of revenues as well.

Recommendation:

- Law 25/1999 needs to be amended, or its implementing regulations reviewed, to reduce the bias against regions that are poor in natural resources.

The provision of data on regional revenues is also an issue. There is a feeling in resource-rich regions that they are at a disadvantage in dealing with the centre because they do not have direct access to accurate figures on their natural resources. At present, the regions have to ask Jakarta for information on questions like oil production rates.

Other countries provide models for revenue management under a decentralized system. In South Africa, Australia and India, an independent council of experts decides the allocation of national resources after collecting demographic and financial statistics. The centre generally sets taxation rates and collects taxes on income, while the regions tax land and property.

In South Africa, the basic provisions for the sharing of finances, both horizontally between regions and vertically with the centre, have been incorporated into the constitution to prevent them being arbitrarily eroded by re-centralizing interests. The provinces have limited borrowing powers.

Recommendation:

- Regional governments need to have guaranteed rights of independent access to resource information affecting their region.

5. Resolving Conflicts

Any fundamental change in the structure of a government is bound to create strains. Decentralization could give rise to jurisdictional conflicts between centre and region, between regions and between local communities, or with investors in the regions over the control of forestry or mining resources.

Many of these conflicts will be mediated by higher levels of the government, and the law provides for the Supreme Court to arbitrate in the event that mediation fails. However, more flexible and responsive mechanisms need to be created for conflict resolution if decentralization is to be both effective and democratic.

Experience in other parts of the world has shown that regional autonomy associations form spontaneously to defend the interests of certain sectors. Such associations can also function as good conflict mediators as well.

Recommendation:

- There is a need to develop non-confrontational ways of resolving conflicts between the centre and the regions, for example through voluntary regional autonomy associations.

A possible source of conflict is the division of responsibilities made by the new laws between different levels of regional government. As in the past, provinces are classified as Level I and regencies or cities as Level II. But the new laws focus mainly on autonomy at Level II, and the role of the previously dominant Level I will be reduced.

It is not entirely clear why there has been a shift of emphasis from the

Level I regions, of which there are currently 29, to the Level II regions of which there are about 350. This shift is raising tensions between Levels I and II and between neighbouring Level II regions in the scramble for scarce resources.

Different regions may view this situation differently. Some Acehnese have expressed the view that the motive for reducing the role of the provinces was political, and that it could create conflict between Level II regions in Aceh where none existed before. Their preferred solution would be to enhance the role of the provinces. But others, notably from Jepara in central Java, regard the new prominence of the Level II region as ideal.

There has been a tendency in some regions to create more Level II regions in order to benefit from the wealth they are presumed to create. Ironically, this tendency is especially pronounced in the poorer regions, and such proliferation has created new conflicts between neighbouring Level II regions.

Elsewhere, Level II units have even considered merging because of the extra costs imposed by decentralization. In any event, new forums are needed for resolving conflicts between neighbouring Level II regions, and NGOs can play a role in mediating such disputes.

Recommendation:

- Societal groups need to be involved in new forums to mediate conflicts between and within Level II regions.

Democratization in Indonesia
An Assessment