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# THE POLICY OF DECENTRALIZATION IN INDONESIA

## M. Ryaas Rasyid

### **I. Background of the Policy**

After the fall of Soeharto in May 1998, some significant changes in the Indonesian political and administrative system have taken place. One of them is the shift of policy from a highly centralized system of administration, which had been instrumental in supporting national development for more than thirty years, to a decentralized one. The then rigid and centralised system ultimately proved itself unable to respond to the financial and economic crises that attacked Indonesia from July 1997.

It was interesting to observe the reaction of Indonesian political and economic leaders to the financial crisis attacking Thailand in early July 1997. Most of them optimistically expressed their assessment that even if Indonesia should be affected by the seemingly unavoidable regional crisis, it would not be as bad as Thailand. They said that the fundamentals of the Indonesian economy were strong enough to guarantee our survival. However, this optimism could not be sustained longer than three weeks. When in August 1997 Indonesia got its own turn, it precisely went much worse than the Thai's experience weeks before. At that time the rupiah lost 40% of its value while by January 1998 it had lost a staggering 80% of its total value. This was totally an unexpected *situation*, a shock that brought us into confusion. Frankly such an economic earthquake would destroy the economic structure of any society. It was an embarrassing situation for the government and a source of desperate frustration and fear for the people. In a very short time, hundreds of industries which were dependent on imported materials closed down. Unemployment then became a political hot issue to be used by the opposition to delegitimize the Soeharto regime. Widespread social unrest erupted. Massive anti-government student demonstrations took place almost everyday in Jakarta and other big cities all over the country. Social violence as well as communal confrontation in some big cities, especially in Jakarta, becoming uncontrollable. Facing all these, the government could do nothing but trying to prevent violence by applying security measures. However, when some students were killed in Jakarta, a nationwide rejection of the regime emerged significantly. This situation soon brought the once mighty Soeharto down.

The illustration above is crucial to explain the background of the decentralization policy in Indonesia. The failure of Indonesia's political and economic leaders to anticipate the coming financial crisis, even after Thailand was being affected, and their incapability in managing and finding solutions to the crises, had brought us to a new understanding about our own weakness. We assumed that this failure was mainly caused by the lack of time to observe, learn and understand the global financial and economic tendencies. Our excessively centralized administration had taken most of our time and energy to deal with domestic and local affairs. This was the reason why the central government failed to

respond to the crisis in creative ways. On the other hand, regional and local administrations which as a matter of fact only had very limited authorities, and had been for a long period of time put under the patronage of central government, even could not be expected at all to help manage the impact of the crises in their own regions and territories.

Therefore, when the new President Habibie came to office, one of the policy priorities he endorsed to the parliament was decentralization. The new concept of regional and local autonomy was introduced, which was substantially intended to empower provincial and local governments.

With this new policy, some elements from the central government in domestic affairs are to be transferred down to the provincial, regent (county), and municipal administrations. Full autonomy is being placed at the regency (kabupaten) and municipality (kota) levels, while the province is given limited autonomy. Full autonomy means that they enjoy their own discretion to create and implement local policies as far as they do not violate national law and disturb public interests. It is assumed basically that all authorities that by law are not promulgated as the authorities of central and provincial governments become the authorities of local government. The central government representatives to operate at the local level are limited only to military, police, attorney general, religion, and national fiscal policy as well as the judiciary. Limited autonomy means that the authorities of provincial government are limited to what are promulgated in the law and can only make and implement policies in domestic affairs within that limit. At the same time, a wider room for central government operation at the provincial level is provided through the principle of deconcentration. Based on this principle, the governor is given status as the representative of central government in addition to his her position as the head of the region. This is different from the mayor and the regent who, as a consequence of the full autonomy status given to the municipality and the regency, are purely head of their own localities. Under the previous law, namely Law *no.5*, 1974, the mayor and the regent were also given the status and role as the representatives of central government.

The decentralization policy has reduced the authority of central government and extended the authority of provincial and local governments. In so doing, the provincial and local governments will be able to initiate policies and bring their people into a better life. In other words, they are to solve regional and local problems, which will free central government from spending its time and energy dealing with such problems as had occurred in the past. It is expected that the central government will have more time and energy to deal with globalization, to observe and creatively promote the interests of the country. The central government is also obliged to guard the unity of the country, to maintain national integration, to guide, supervise and control the implementation of decentralization policy. With this formula, it is clear that the implementation of

decentralization policy needs a clear vision, strong leadership, and effective supervision as well as political authority from the side of central government.

## **II. The Framework of Regional and Local Autonomy.**

**In principle, the** law No.22/1999 on Local Government determines that except for the authorities in the fields of security and defense, foreign affairs, fiscal and monetary, justice, and religious affairs, all other authorities can be decentralized. The exception then added by this law that the central government is also responsible for making policies to organize national planning and development, allocate financial subsidies to the regions, strengthen national system of economic institutions and public administration, promote human resources development, control the exploitation of natural resources (including conservation), and determine the use of high technology and national standardization (Article no.7, Law No.22/1999).

More specifically Article no. 11 of Law no.22/1999 determines that the municipality and regency (county) are obliged to execute authorities in the fields of public works, public health, education and culture, agriculture, transportation, trade and industry, investment, environment, land administration, cooperative and labor affairs. All of these need guidelines from the central government in the form of government regulations and presidential decrees. Thus any provincial and local regulation pertaining to aspects of public services that are by law put under their authorities should be based on those guidelines. According to the government regulation no.25/2000, such guidelines should have been provided before November 7, 2000.

In the context of investment, it is clear in the government regulation no.25, 2000 that except in the fields of oil, gas, and mining materials that contain radioactive components, which authority to give license remains with the central government, the authority to give licenses for all other fields of investment are in the hands of provincial and local governments. The provincial government has such authority as far as the location of the investment crosses regency or municipal territories. The regulation also stated that all existing licenses and contracts are valid and cannot be interrupted. They are to be respected by the provincial and local governments. This gives a very clear and strong guarantee to the investors that the regional autonomy will not disturb or burden their existing operations. Not only that, regional autonomy is also to avoid any kind of extra or double taxation on business activities.

In the field of politics, the local legislature is also given full authority in electing mayor and regent. This is quite different from the previous system when such an authority was shared between the central government and the local legislature. In the past, based on Law no.5/1974 on Local Government, the provincial and local legislatures could only endorse candidates. It was for the central government to decide both about

who is going to be elected, normally three from five candidates endorsed by the provincial and local legislatures, and who among the three to be inaugurated eventually. For that matter, the central government's decision was not subject to the votes received by candidates in the provincial and local legislature. The central government enjoyed discretionary power to apply its own conditions to justify any of its decisions. This was possible because under the previous system, the functions of the governor, the regent, and the mayor were both as the representative of the central government and the head of the region and locality.

With this new law, the local governments are much more independent in electing their own leaders, promoting their own interests, developing their own institutions, initiating their own policies, managing their own financial resources, and mobilizing support from their own communities. Thus what we have here is a new system of governing local affairs, from which people might enjoy more room for developing their capacity and creativity. Under this new system, people could expect that their government would do better for bringing them into prosperity. However, this positive calculation or optimistic view on the issue of autonomy is not without challenge.

For more than thirty years, the centralistic system has affected the institutional formation and bureaucratic behavior of central government and local governments as well. The previous uniformity and hierarchical arrangement of organizational structures and civil service administration, for instance, was believed as supportive to the principle of unitary state and therefore consistent with the interest of preserving it. Now, this old paradigm has changed. We believe that organizational structures of local government should not be uniform. Every local government is free to develop its own institution building and organizational arrangement to respond local needs. Civil service administration is also to be decentralized, so that local government is free to organize its own manpower planning and human resources management.

In addition to the general rule of regional autonomy which are applied to all the provinces, regencies, and municipalities based on the law no.22, 1999 and law no.25, 1999, there are two provinces, Aceh and Irian Jaya (Papua), which are given status through special autonomy. Within this two special provinces exist organizational arrangements and fiscal policies that are different from other provinces. In Aceh, the existence of the Council of Islamic Scholars (Ulama) as a part of provincial government structures is recognized to guarantee that there should be no violation of Islamic law in any policy that is to be passed by the provincial government. In Papua, such an organizational arrangement is also applied to the existence of the Council of the People of Papua, which may be seen as tribal council since the members of this council are representatives of tribal leadership. This is to guarantee that there should be no any policy that might violate the interest of the tribes of Papua being passed in this province. In both provinces we also find a special fiscal policy arrangement. They received 70% of total

income being extracted from their regions. This will make them more able to cope with the need to build social and economic infrastructures.

In order to guarantee the success of policy implementation for regional autonomy, as I mentioned above, it needs a clear vision, strong leadership, and effective guidance, supervision as well as control from central government. Why? Because first of all this policy of decentralization is initiated by central government, and second because local governments lack the capacity to do all that independently, at least in its initial stages.

### **III. The Implementation: Problems and Prospects.**

From the very beginning it was clear that central government under President Habibie was aware that this changing direction of central-regional-local administrative relations would absolutely not make every body happy. Therefore, two major approaches were applied. First, to persuade every one of the cabinet ministers to accept the reality that central authority in dealing with domestic and local affairs was going to be reduced. Second, to prepare regional and local government leaders to accept new and extended authorities in public affairs. Both are difficult enterprises to undertake. However, so far as the consolidation for implementing this new policy is concerned, the Habibie administration did well. With the assistance of some international agencies, especially GTZ of Germany and USAID, it had been successful in reaching consensus among the cabinet members on the list of authorities that are going to be placed at central and provincial government, while assuming that all others, which are not on the list, should be the authorities of local government. This material then was used as the main source in the drafting of what was later known as Government Regulation No.25, 2000.

When Abdurrachman Wahid was elected to replace Habibie in October 1999, Wahid moved ahead with a policy to form a new portfolio in his first cabinet to deal with decentralization, namely State Minister for Regional Autonomy. I was appointed to take the job. For ten months, this ministry worked all out to consolidate both central and regional as well as local resources for the implementation, which planned to follow three steps, that is: first, preparation of regulations needed to support the policy; second, institution building and reallocation of civil servants; and third, fiscal decentralization, and redistribution of assets.

The government regulation no.25, 2000 enacted in May 2000, defines very clearly the authorities of central and provincial government in the context of regional autonomy policy. It was also considered as an umbrella for hundreds of technical guidelines that should be provided by all central institutions. The provincial and local government need such guidelines as reference for them in the process of making provincial and local regulations in all fields of public services. At least 197 presidential decrees are needed to

support the implementation, which according to the government regulation no.25, 2000 should have all been passed in November 2000.

The institution building involved the processes of down sizing central government structures and creating a more effective organization at the provincial and local levels. Both had been principally completed in December 2000. In August 2000, the central government liquidated 11 ministries and in December 2000 the central government passed government regulation no.84, 2000 on the organizations of provincial and local government. The reallocation of about two million central government officials who have been working at various central agencies in the provinces, regencies, and municipalities was done in the end of January 2001. It was not so difficult to manage this personnel policy because basically there was no physical movements involved. They remained in their existing jobs, working in the same place and offices. Only the status of their offices was changed from central representatives to be regional or local agencies. The redistribution of assets (offices, vehicles, and others) was also completed in the mid of 2001.

Especially for fiscal decentralization, it came into force from January 2001. The central government allocates 25% of national income from domestic sources to be put in general allocation of fund (Article no.7, Law no.25/1999), which distribution is based on the consideration of five main factors: number of population, size of territory, geographical location, level of income, and natural resource potential. Some corrections are to be made on the way, I believe, since the formula that is being used has been potentially in conflict with the real needs of some regions and localities. There are cases where we find excessive allocation in some regions whereas in some other the allocation is far less than their basic needs. In addition to the general allocation, there is smaller amount of funds provided to support specific projects in some selected regions. This is called Special Allocation and mostly targeted to help some regions and localities improve their services in the field of education, health, environment, transportation, water supply, etc. Normally this special allocation goes to poorer provinces. However, special allocation is also used for funding post social violence rehabilitation of infrastructures in some regions, such as Central Kalimantan, West Kalimantan, Central Sulawesi, Maluku, and East Nusatenggara.

Both general allocation and special allocation of funds are subsidies from central government to support provincial and local government activities. Most of the funds (90%) are transferred down to the local government. Only 10% of the allocation is transferred to the province. Included in the general allocation is the salary of civil servants.

The regional and local income is extracted from local taxes and revenue sharing received from some sources, such as: property tax (10% national: 90% local), income from productions of forestry, general mining (non-oil and natural gas), and fisheries (20%

national: 80% local), income from the production of oil (85% national: 15% local) and natural gas (70% national: 30 Local).

The main problems we face in the process of implementation are: First, from central government side, is the slow move of central government in preparing regulations and technical guidelines, and the reluctance of some ministers to share and decentralize their authorities. This makes central government looks unsupportive, half hearted, and inconsistent in implementing its own policy of decentralization. Second, from regional and local government side, is the lack of qualified human resources in the bureaucracy, low capacity of regional and local legislative members, and lack of funding sources to support their development projects. Most of them are still dependent on central subsidies.

In August 2000, after being removed from the ministry of regional autonomy (the ministry was integrated into the Ministry of Home Affairs) to become minister of administrative reform, I reminded President Wahid and then Minister of Home Affairs Suryadi to pay attention to the need to provide guidelines for the implementation of decentralization policy. I informed them that more than one hundred presidential decrees are to be promulgated and it was the job of then Minister Suryadi to coordinate other ministers and central agencies to work on this purpose. However, there was no positive response from both of them. In fact, it was President Wahid himself who one time in December 2000 asked me to draft a presidential decree for the delay of the implementation that had been planned to be fully effective in January 2001. I refused to follow the order by reminding the president that half of the policy had been implemented since January 2000. What we were going to implement in January 2001 were fiscal decentralization, reallocation of civil servants, and the redistribution of assets. These three aspects were included in the Letter of Intent with IMF, and I believed that once we tried to slow down the implementation would instantly create suspicion from local and provincial government. After a short discussion, President Wahid backed off and hesitantly said that the implementation should be carefully managed.

Later on I realized that the president's idea was coming from some ministers, including Minister Suryadi, who considered the policy as a threat to their own departmental interests. One of the evidences can be seen through the enactment of a presidential decree in January 2001, initiated by Minister Suryadi, which determines the delay of decentralization in the field of land administration. The delay was valid for two years. This move not only violates the grand rule in which a lower legal product (~residential decree) cannot change a higher one (law and government regulation), but also makes it difficult for the Minister of Home Affairs to coordinate and persuade other ministers to devolve their authority. This, in my observation, has been one of the reasons why until today most of the presidential decrees needed to support implementation, which were supposed to be initiated by every one of the ministers under the supervision of the Minister of Home Affairs, have failed to come into existence.

On the other hand, some of the provincial and local government, after waiting long enough for the guidelines but failed to receive them, have gone ahead with their own way of interpreting law no.22, 1999, law no.25, 1999 and government regulation no.25, 2000. This has produced a lot of controversies, because with the lack of guidelines, leadership, supervision, and control from the central government, the provincial and local regulations might easily entrap themselves into potential conflict with the interests of central government. And that is what happens today. It is not a surprise to see hundreds or may be thousands of new licenses in the fields of mining, forestry, fishing, and trading given by the provincial and local government that might be in violation of existing law in their respective fields. At the same time, departing from a simple understanding of autonomy as an opportunity to generate more funds for the regional budget, many of the provincial and local government have passed new extractive (nuisance) regulations. Only in early September 2001, the Indonesian Chamber of Commerce made a public statement about the existence of more than one thousand local and provincial regulations in the field of extraction (local taxes) that have caused high costs for production and therefore discourage investment. This is definitely a deviation from the principles of autonomy, which among other things is providing a better climate for investments. This happens because of the lack of understanding of some local elites on how the autonomy is to be implemented.

In responding to this issue, the new minister of home affairs, General Harm Sabarno, instantly declared government intention to revise the law no.22, 1999. This is another misunderstanding on the part of central government. He fails to see that the incapability of local elite to implement the policy is also caused by the lack of dissemination of information to the public, the absence of internalization and supervision to those elites, all of which are the tasks of the central government.

The persistent central government campaign for the revision of law no.22, 1999 is now considered one of the hottest issues in Indonesia. It is true that the MPR itself has determined the need to initiate an intensive study to look for the possibility to revise the law in accordance with the amendment of article no.18 of the 1945 constitution. However, it should be very clear to the public on what articles of the law no.22, 1999 that need to be revised. If the revision means a recentralization move, I have no doubt that it will create very great tension between the central and the provincial as well as local governments. Unfortunately, up to the time as I prepared this paper, the central government has never explained to the public about what articles that are going to be revised, why, and what kind of new formulation it is going to offer.

The Association of Regents and the Association of Mayors are firm in their statement that it is not proper to do the revision now due to the fact that the law has only been in place less than two year. What they need at this stage is supervision, not revision. They demanded that if the central government is persistent with its revision agenda, they should have been invited to discuss the idea. However, in responding to this demand,

minister Harm Sabarno states that there is no need to involve them in the revision process. He accused both associations as playing politics and therefore he suggests them to go to the parliament if they have any objection of the revision. In other words, they have to wait until the central government submits the draft for revision to the parliament before being given opportunity to participate in the discussion.

In dealing with the issue of provincial and local regulations that are considered in violation to the law, it could have been avoided if the central government consistently fulfilled its obligation to provide guidelines, to supervise and control the implementation. Even after the enactment of all those thousand provincial and local regulations, the central government still has an authority to invalidate them. In other words, if the central government does its job well, the implementation of decentralization policy will be successful in reaching its destination to maximize public services at the provincial and local levels.

Based on this brief description I may conclude that the prospect of decentralization policy in Indonesia can only be bright if the central government is willing to strengthen its leadership, maintaining its commitment to continue supervising the implementation, correcting some of its unnecessary and improper decisions, and consistently preparing all the regulations and technical guidelines for local government. If not, I cannot imagine how messy the relationship between the central and local government would be. The mood for autonomy is now very high in almost every region and locality, and therefore the central government should manage this policy carefully and consistently.

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