

Changes in the Legal Framework of Decentralization Policy in Indonesia and Their Implications for Public Service Delivery



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ABSTRACT

Changes in the Legal Framework of Decentralization Policy in Indonesia and Their Implications for Public Service Delivery

Dinar Dwi Prasetyo, and Asep Suryahadi

Decentralization in Indonesia is promoted as a way to implement good governance principles. Since *reformasi* era, the regulatory basis of decentralization, which determines the value, standard, and working mechanism as well as the position of the regional governments to implement their obligations, has gone through significant changes over time. These changes have implications for public service delivery, which this paper aims to investigate. Using a qualitative approach, this study finds that, in general, changes in the legal framework of decentralization have not created an enabling situation for better public service delivery. On the other hand, the efforts on strengthening the capacity of the regional governments in public service delivery, which forms the goal of each change in the legal framework, still have not achieved optimal results. Since the beginning of decentralization, low quality of the institutional structures and administration have become the main impediment. Not surprisingly, most regional governments are still dependent on the central government.

Keywords: decentralization, legal framework, public service, regional autonomy, Indonesia.

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I. INTRODUCTION

During the last two decades, decentralization and regional autonomy have been widely adopted by countries all over the world. Muriu (2003: 1) finds that decentralization is a prominent global trend in the sphere of public administration and management, measured by the number of countries implementing it and the magnitude of its implementation. In the last quarter century, there are over 75 countries that have undertaken delegation of responsibilities from the state to lower level government. Moreover, the decentralization is not only in the administrative and fiscal aspect, but also in the political sphere since most of these lower level administrations have been elected locally (Ahmad et al., 2005: 1).

In Indonesia, the history of decentralization of power and regional autonomy can be traced back to the early independence years since 1945. It was a strong momentum toward establishing a democratic state and, as indicated by the provisions of Article 18 of the 1945 Constitution, there was a tendency to adopt a decentralized Indonesia since the debate beginning of the implementation of democracy (Matsui, 2003: 2). However, this desire was extinguished during the New Order government era from 1967 to 1998, which emphasized centralization of political, administrative, and fiscal policies. Following the *reformasi* in 1998, decentralization policy was formally adopted under the leadership of President B.J. Habibie in 1999.

Due to its nature as political and economic reforms, decentralization in Indonesia is not merely limited to the process of delegation of power from the central government to the regions, but also generates changes in the pattern of relationship between the state and its citizens (Usman, 2002: 12). By placing people as the central attention, decentralization requires citizens' empowerment and participation in decision making (Muriu, 2013: 1). Hence, Indonesia's effort on implementing democratic decentralization is a substantial transformation of institutional arrangement that influences not only the intergovernmental relation but also the way all governmental levels of authority interact with community and other development stakeholders (Suharyo, 2003: 1).

The implicit motivation of decentralization has always been about improving service delivery (Ahmad et al., 2005: 1). In Indonesia, decentralization is deemed as the best concept to realize good governance amid the growing needs of high quality public services by the community. As a product of decentralization, regional autonomy is expected to become an instrument of more evenly distributed development. The primary goal of regional autonomy is to bring the governments closer to their citizens so that public services can be delivered effectively and efficiently. The assumption underlies it is that regional governments have a better understanding of the need and interest of local citizens (Usman, 2002: 1).

The decision to adopt the principle of decentralization is reflected in the de jure changes in the legal framework, executive decrees, new statutes, and other changes to the constitution (Eaton et al., 2010: 9). In Indonesia, after one and a half decade of implementation, the legal framework of decentralization policy has undergone various adjustments. In the political and administrative aspects, there have been twice changing to the relevant laws governing regional governments and regional head elections. Meanwhile, in the fiscal aspect, there have been changes to the laws concerning the fiscal balance between central and regional government and the collection of regional taxes and levies. Moreover, since 2014, decentralization has not only been implemented at the district level but has reached the village level as the smallest autonomous regions.

Constitution, laws, and regulations set formal parameters that decentralized systems can run as intended (Ford, 2002: 11). Hence, the changes in the legal framework of decentralization in

Indonesia, which determine the value, standard, and working mechanism as well as the position of the regional governments have implications for public service delivery. Hence, this paper aims to examine the implications of the changes in the legal framework of decentralization policy that have been implemented since *reformasi* for public service delivery at the local level. Table 1 shows the legal framework of decentralization in Indonesia since reformasi. The table shows that following the initial laws governing decentralization policy, which were issued in 1999 but implemented starting in 2001, there have been two waves of revisions of the laws in 2004 and 2014/15 respectively.

Table 1. The Legal Framework of Decentralization Policy in Indonesia

Decentralization Aspect	1999	2004	2014/15
Administrative & Political	Law No. 22/1999 on Regional Governments	Law No. 32/2004 on Regional Governments	Law No. 8/2015 on Election of Governor, Regent, and Mayor
			Law No. 23/2014 on Regional Governments
			Law No. 6/2014 on Village
Fiscal	Law No. 25/1999 on Fiscal Balance between the Central Government and the Regional Governments	Law No. 33/2004 on Fiscal Balance between the Central Government and the Regional Governments	-
	Law No. 34/2000 on Changes to Law No. 18/1997 on Regional Taxes and Levies	Law No. 28/2009 on Regional Taxes and Regional Levies	-

This paper follows the legal framework and implementation of decentralization in Indonesia chronologically and evaluates the effectiveness of the legal framework in each period. Considering that governmental affairs were more heavily delegated to district/municipality level (the second-level subnational government) than the province (the first-level subnational government), this study focuses on public service delivery at the district/municipality level.

This paper contributes to the accumulation of knowledge on decentralization and public services in Indonesia as well as developing countries in general. Furthermore, this study provides valuable practical lessons for the improvements of the legal framework of decentralization. The study adopts a qualitative approach, using a literature review for data collection. Then, content analysis is applied to secondary data, specifically to regulations and literature related to decentralization policies in Indonesia.

II. SERVICE DELIVERY DURING THE INITIAL PERIOD OF DECENTRALIZATION

2.1 The legal framework and its gap on the implementation

The enactment of Law No. 22/1999 on Regional Governments, Law No. 25/1999 on Fiscal Balance between the Central Government and the Regional Governments, and Law No. 34/2000 amending Law No. 18/1997 on Regional Taxes and Levies was the early step of the implementation of decentralization policy in Indonesia. The emergence of this legal framework practically abolished the hierarchical relationship between the province and the district/municipality. Thereby, district governments are becoming the front line in the provision of public services that can directly affect their quality (Takeshi, 2006: 139). Table 2 provides the main features of the initial laws governing decentralization policy.

Table 2. The Main Features of the Initial Decentralization Laws

Decentralization Aspect	The Laws	Main Features
Administrative & Political	Law No. 22/1999 on Regional Governments	<ul style="list-style-type: none"> - 'Big bang' decentralization - Merger, dissolution, and split of regional governments in order to increase performance - All government affairs are decentralized to district level, except for five matters: foreign affairs, finance, judicial, security & defense, and religion
Fiscal	Law No. 25/1999 on Fiscal Balance between the Central Government and the Regional Governments	Intergovernmental transfers: <ul style="list-style-type: none"> - DAU (General Allocation Fund) - DAK (Specific Allocation Fund) - Dana Dekonsentrasi (De-concentration Fund) - Dana TP (Technical Assistance Fund) - DBH (Revenue Sharing Fund) for oil
	Law No. 34/2000 on Changes to Law No. 18/1997 on Regional Taxes and Levies	<ul style="list-style-type: none"> - The sources of region's own revenues (PAD) are taxes and levies - Freedom for regional governments to determine type of regional taxes and levies (open list approach)

Each decentralization law in this initial period has its own main features which gave significant impact on public service delivery. In the administrative aspect, Law No. 22/1999 on Regional Governments brought about a 'big bang' decentralization which rapidly moved Indonesia from one of the most centralized countries in the world to one of the most decentralized ones (Hofman & Kaiser, 2002: 2). This law mandated the delegation of governmental affairs from the central government to the regional governments, except for foreign policy, fiscal and monetary policy, judiciary, defense and security, and religion, which are retained by the central government. The district/municipality governments were granted important functions, including health, education, environmental, and infrastructure services. The province of an autonomous region has only a minor

role, mainly in coordination and backstopping districts/municipalities that cannot yet perform their functions (Hofman & Kaiser, 2002: 7).

However, this delegation of power was not followed by increasing capacity of the regional governments. They were in general not ready to apply service administration procedures. According to Utomo (2011: 249), from the beginning, there was a wide concern on the capacity of the regional governments in facing this new era of public administration. Such concern implies that government capacity constitutes the *sine qua non* for successful decentralization. On the other hand, near the beginning of the adoption of decentralization policy, the district government did not have clear objectives on what they would be doing in the framework of regional autonomy regulated in Law 22/1999 and 25/1999 (Suharyo, 2003: 3).

Law No. 22/1999 also stated that a regional government that could not perform their function could be merged, dissolved, or split. This stipulation was made to protect community's access to public services. On the other hand, enthusiasm for regional autonomy was the main factor that has led to the desire for regions to split from their former administrative jurisdictions. In practice, the division and establishment of autonomous regions received far more attention than the dissolution or merging of regions (Darmawan et al., 2008: 1). The evidence of this high enthusiasm was the rising number of districts and municipalities in Indonesia. Between 1999 and 2004, the number of provinces climbed from 26 to 33, an increase of 26.9%, while the number of districts/municipalities rose significantly from 303 to 440, an increase of 45.2%. This trend was continued from the end of 2006 until now. By 2016, the number of provinces has increased to 34, and the number of districts/municipalities has risen to 514.

In the fiscal aspect, Law No. 25/1999 on Fiscal Balance between the Central Government and the Regional Governments mandated intergovernmental transfers. New sources of regional government finances transferred from the central government, such as allocation funds (DAU and DAK), de-concentration fund, technical assistance fund, and revenue sharing fund. These transfer mechanisms were expected to strengthen the capacity of regional governments to deliver public services through the implementation of delegated governmental affairs.

In the first year, the financial allocation of the central government to the local governments increased significantly from 17 percent to 30 percent (Hofman & Kaiser, 2002: 2). In its development, the regional governments were still very dependent on the schemes. Brodjonegoro (2004: 3) stated that many new regional governments had relatively insignificant local own revenues and relied heavily on general allocation fund. The incapability of regional governments to generate local own revenues at the early implementation period of decentralization was understandable considering the lack of superstructure and infrastructure of the regional government institutions.

The problem was also suffered by new autonomous regions. Darmawan et al. (2008: 20-21) found that during 2001-2005, fiscal performance of new autonomous regions is weaker than their parents'. This could be explained by a number of issues in regional fiscal management: (1) greater fiscal dependency in the divided regions, and primarily in the new autonomous regions, due to the size of their capital expenditure allocations; (2) low revenue performance and contribution to the economy; and (3) low proportion of regional government allocations for capital expenditures, which was insufficient to boost local economic activity.

Amid the efforts of regional governments to boost their income, the presence of Law No. 34/2000 gave regional governments freedom in determining the type of taxes and levies according to their potential (*open list approach*) aside from which have been specified by the central government. However, on its later development, many regional governments abused this opportunity. There

were various regional regulations on taxes and levies which finally brought negative impact to the business climate and regional competitiveness. According to the data from the Ministry of Home Affairs in Utomo (2011: 267-268), between 2002 and 2004 there were 360 local regulations that were cancelled by the central government. Most of the regional regulations were the regulation related to regional taxes and levies, which were considered not in accordance with higher level regulations, contrary to the public interest, and overlapping with other regulations.

Not only in generating local own revenues, but the capacity of regional governments in managing their finance was also still very low. Budget allocation was only based on "business as usual". After central government officials and governmental affairs for service delivery were transferred to the regions, most of the allocated budget are spent for routine expenditures of regional government (Usman, 2002: 11). At that time, productive spending had not been a concern of regional governments. Most regional government's budget was still allocated for human resource spending (mostly salaries), averaging 69 percent nationally. Meanwhile, the proportion of budget which was allocated directly for public affairs and basic services only constituted 9.5 percent from the regional government budgets (Kumorotomo, 2010: 6).

2.2 The implications for public service delivery

The delegation of power in the administrative and fiscal aspects indirectly redefined the role of regional governments, which was previously only as the promoter of development, to become the servant of the community. With decentralization, the regional governments have the authority to make their own decisions on the implementation of transferred governmental affairs to be more suitable to the needs and uniqueness of their local communities. This then resulted in a shifting of the regional governments' focus on internal organizational affairs to the public related affairs. In this early period of decentralization, the regional governments were 'forced' to think about public service delivery to their communities.

As stated by Ahmad & Mansoor (2002: 5) that in the newborn decentralized Indonesia, there were two challenges that have to be encountered by the Indonesian government. First, under the decentralized structure, local governments do not have control over the rate structure for their major source of revenue. Second, they have to safeguard public services by building: (1) local capacity; (2) ensuring fiscal neutrality; and (3) establishing an effective budget and public expenditure management system to achieve properly sequenced decentralization. Meanwhile, Suharyo (2003: 3) found that at the early period of decentralization in Indonesia, there was a lack of sufficient guidance from the central government and many practical regulations were not yet available. Furthermore, some contradictions and inconsistencies of various implementation regulations have also created more confusion.

This condition then caused unpreparedness and high dependency of regional governments to the central government in implementing the delegated governmental affairs. As a consequence, the performance of most regional governments in delivering public services had not been considered successful. A survey on Governance and Decentralization (GDS) conducted by The World Bank in 2002 found that more than half of the household sample stated that public service delivery did not change. Nevertheless, there was a trend that public service provision quality was slowly increasing (Dwiyanto & Kusumasari, 2003: 1-4).

Public service delivery in most regions was still experiencing uncertainty in time, cost, and method. The GDS 2002 also found that public service users often conceded on the practice of corruption to get public service they needed due to lack of procedure certainty. For instance, Kristiansen &

Santoso (2006: 254-255), in their study in four districts, found that in the early days of decentralization, the cost of health care actually increased, while service procedures tend to be slow. Because the management and transparency of local government finances are still low, the quality of health personnel performance tends to be low.

Apart from that, the euphoria of the quickly implemented decentralization also generated negative externalities with the emergence of ethnocentrism and primordial awareness, which then generated discriminative public service delivery. Bureaucrats tended to act by the similarity of political affiliation, ethnicity, and religion. Discrimination based on ethnic and religion tended to be worse outside Java-Bali (Dwiyanto & Kusumasari, 2003: 1-2). Three decades of centralist policy seems to have marginalized local communities. Hence they took advantage of the regional autonomy as a way to prioritize their interests as the natives in their regions.

Regional proliferation phenomenon also did not solve the public service provision problems. Darmawan et al. (2008: 25) found that the Public Service Delivery Index (IKPP) in new autonomous regions was consistent below that of parent regions. Shortcomings in public service delivery in the new autonomous regions were related mainly to the provision of school buildings, deployment of medical personnel, quality of road infrastructure, and deployment of teaching personnel.

However, in several regions, the bureaucracy started to be more responsive. Due to their limited administrative and fiscal capacity, some regional governments were becoming increasingly aware to reform and delegate public service provision to the private sector and the community. Hence, some regional governments began to involve the private sector and the community in various cooperation schemes. In Banjarmasin municipality, several public service tasks, for instances, garbage collection and advertising space, were handed over to private firms to manage. In Sukabumi, management of primary schools is given to school boards formed by teachers and parents. In the Minahasa district, community organizations and interest groups were permitted to be responsible for the operation of schools throughout the whole of a sub-district or village (Usman, 2002: 16).

Several regional governments also actively brought innovations in the delivery of public services. Prasajo et al. (2004: 2) stated that in the last three years after the issuance of Law No. 22/1999, there are many programs and innovative practices that are carried out by local governments, for example: (1) improved management of local general hospital in Banjarnegara District, (2) the establishment of institutions of economic cooperation in the development of coastal areas, Coastal Development Partners (LEPP Micro-M3) in Deli Serdang district, and (3) development of irrigation schemes cooperation, Gianyar Sejahtera Programme (PGS) in Gianyar district.

Not only the bureaucracy, in several regions the local Assembly (DPRD), which were revitalized through the Law No. 22/1999, becomes more responsive to the aspirations of the communities and also more actively giving advice and making criticism to local administration (Usman, 2002: 12). Certainly, this was closely related to the terms in the related regulation which asserted that the regional head has a responsibility to the local assembly.

In general, the big bang decentralization in Indonesia places public service delivery and policy making process closer to the community. It allowed the community to utilize public services, especially education and health services more easily. In some regions, arising innovations of public services show that there was a change in the relationship between the local government and the community. Unfortunately, public services in most regions were still corrupt, discriminatory, and subjective. The delegation of governmental affairs followed by financial transfers from the central government to the local governments in a very short time and a large scale was not anticipated with the readiness of the regional governments. The low quality of the institutional structures and

administration became the main impediment. Not surprisingly, most regional governments still have a large dependency on the central government.

III. SERVICE DELIVERY AFTER THE FIRST REVISION OF DECENTRALIZATION LAWS

3.1 The legal framework and its gap on the implementation

In 2004, the implementation of decentralization policy in Indonesia entered a new chapter with the enactment of Law No. 32/2004 on Regional Governments and Law No. 33/2004 on Fiscal Balance between the Central Government and the Regional Governments. Then, five years later, Law No. 28/2009 on Regional Taxes and Regional Levies was issued. Those three laws that replaced the previous laws provided fundamental changes in the political, administrative, and fiscal aspects of the delivery of public services by the regional governments. Table 3 provides the main features of the first revisions of the laws governing decentralization.

Table 3. The Main Features of the First Revisions of Decentralization Laws

Decentralization Aspect	The Laws	Main Features
Administrative & Political	Law No. 32/2004 on Regional Governments	Direct elections of Governors, Regents, Mayors Adoption of minimum standard of services (MSS) for mandatory affairs of regional governments
Fiscal	Law No. 33/2004 on Fiscal Balance between the Central Government and the Regional Governments	DBH (Revenue Sharing Fund) for other natural resources extraction
	Law No. 28/2009 on Regional Taxes and Regional Levies	- A closed list of taxes and levies that can be imposed by districts/municipalities and required provincial agreement

Law No. 32/2004 present a new face in political decentralization. It mandated democratization at the local level, which was concentrated in the vortex of representative institutions (*local assembly*) to switch to the hands of the community. The direct elections of regional heads mandated in the law were the most fundamental change as well as an indication of stronger regional autonomy. The community had greater control on the implementation of regional government tasks in delivering public services. Antlöv & Wetterberg (2011: 2) stated that when citizens and their elected officials work together to improve the quality of public administration, the result will be visible and at the same time could enhance the quality of democracy at local and national levels.

However, local democracy has not been truly realized in the early period of the direct elections of regional heads. According to Utomo (2011: 256), political power at the grassroots level is still held by certain groups. This implies that decentralization in Indonesia was still ineffective in spreading powers and creating checks and balances among political actors and other stakeholders. Therefore, the inexistence of a good control scheme between politicians and the regional governments generates various conflicts of interest in regional governmental affairs.

In the aspect of administration, Law No. 32/2004 requires regional governments to adopt and achieve the minimum standard of services (MSS) set by the central government in organizing mandatory governmental affairs. The MSS is defined as the terms of the minimum type and quality of basic services that might be obtained by citizens. The presence of the MSS provides certainty for the community to get public services equally and evenly.

However, the MSS of obligatory and basic services were not well defined as mandated by Law No. 32/2004. In the health sector, for instance, Widyanti & Suryahadi (2008: 72) found that only about 53 percent the districts in the sample had reached the minimum standards of service that was formed the central government, while only a small number of Puskesmas (health centers at sub-district level) that had sufficient resources to achieve the MSS. Whereas the MSS has a strategic value for the government and the citizens as indicators of successful public service delivery, the absence of a clear definition of the MSS makes its implementation not optimal.

Furthermore, in the fiscal aspect, the main features that affect public service delivery were brought about by Law No. 33/2004 on Fiscal Balance between the Central Government and the Regional Governments and Law No. 28/2009 on Regional Taxes and Levies. Explicitly, Law No. 33/2004 stipulated that the allocation of revenue sharing fund for oil and gas sector, which is 0.5 percent of the total revenue, must be allocated to increase the budget for basic education. The explanation part of the law stated that 0.1 percent of the revenues is given to the province and must be used to support the fulfillment of basic education needs.

Meanwhile, Law No. 28/2009, which was stipulated five years later, set eleven types of taxes for the district/municipal governments and five types of taxes for the provincial governments. In general, there are three aspects that are emphasized in this rule: (i) the expansion of tax base, (ii) the discretion to stipulate tax rate, and (iii) the addition of the type of taxes. With these stipulations, the regional governments are expected to have an adequate financial capacity to deliver quality public service.

However, in its implementation, Law No. 28/2009 has not been able to significantly improve the contribution of the regional taxes to the local own revenue. The results of the evaluation conducted by Suratman et al. (2013: 44-54) show that the fulfillment of the three stipulations in the law has not been implemented optimally. The expansion of the tax base was still relatively difficult to be implemented by the regional governments due to different understanding, causing doubts among the regional governments. The regional governments were afraid of violating the rules if they expand the tax collection on the inappropriate objects. On the other hand, the regional governments were still not creative enough to stipulate tax rate. They only collected tax by the rate as stipulated in the required minimum and maximum calculations. The addition of the type of taxes which were transferred from the central government has also not been utilized optimally due to lack of fiscal administration capacity, unprepared institutional structure, and low competencies of the bureaucrats.

3.2 The implications for public service delivery

Improvement of the legal framework of decentralization policy in 2004 and 2009 attempted to ensure the quality of public services by strengthening the capacity of the local government in political, administrative, and fiscal aspects. However, at this point also the central government sought to increase its influence through the implementation of the MSS and the stipulation of the allocation of revenue sharing fund for the education service. These changes seemed to increase the

performance of public services as a result of the more unimpeded regional governments to take political decisions related to the public services. On the other hand, local government capacity, especially the fiscal, seemed to still meet challenges.

It is undeniable that public service performance, especially education and health services, in this period were better than in the previous period. Using the Governance and Decentralization Survey (GDS) 2 in 2006, Widyanti & Suryahadi (2008: 54-58) found that the public perception of the quality of education and health services was better than two years before the survey was conducted. Around 71 percent of households felt that overall education services were better now than they were two years prior to the survey. Around 80 percent of households across all areas were either satisfied or fairly satisfied with the current overall education services. Meanwhile, 71 percent of household respondents thought that health services have improved over the past two years. Around 90 percent of household respondents were either satisfied or fairly satisfied with the current state of health services.

The result is similar to the findings by Lankaster in Utomo (2011: 246-247), who evaluated six indicators of good governance in Indonesia after the fall of Suharto's presidency in 1998 and the decentralization law of 1999. He also found that there had been significant improvements in these indicators since 1998. For example, he found that health, education, and administration services had improved, both in terms of quantity and quality. Meanwhile, Chowdhury et al. (2009: 22) using village-level survey data (PODES) found that the availability of public infrastructures, such as local roads, schools, and healthcare facilities, across poor and rich localities had improved since the implementation of decentralization.

Of course, there were many factors underlying causes better public services at this period. Skoufias et al. (2010: 15) found that in some regions, direct elections of regional heads gave a positive impact on the regional governments spending which related directly to public service provision. Direct elections of regional heads gave positive impact and at least weakly significant for expenditures in six out of the eight sectors of regional governmental affairs. The sectors include education, housing, and agriculture. Meanwhile, the positive impact which was statistically insignificant found in the health and transportation sectors. A similar finding was presented by Sjahrir et al. (2013: 344) that the presence of political budget cycles was closely related to the interest of incumbent in a direct local election. The incumbent tended to utilize their access to resources in order to be re-elected. The expenditure increased in the year of the direct election.

However, local government spending on public services was not necessarily done on a proper and sustainable financial management. As an example, based on the results of Public Expenditure Review by the World Bank (2007: 33), in 2005, the majority of education expenditures—about 62 percent—was spent at the sub-national level. District governments were the main spenders, accounting for 57 percent of total spending, while provinces accounted for only 5 percent. Although the districts spent the majority of the total education budget, their expenditures were mostly nondiscretionary routine expenditures. Meanwhile, the majority of the development budget of education was still spent by the central government. Furthermore, the implementation of Law No. 28/2009 did not affect much the financial capacity of local governments because many of them did not have the readiness regarding their administrative capacity to implement the law.

On the other hand, direct regional head elections did not guarantee the creation of public services that were more in accordance with the wishes of the community. Local democracy without effective local political institution ultimately harms public service performance. Sujarwoto (2012: 76) using GDS 2 data in 2006 found that a weak political accountability has influenced the performance of public services. Increased local conflicts on local elections, local corruption, and political fragmentation have lowered the quality of public services. Direct democracy as an effort

to create political accountability and the circulation of power, was not related to the performance of public services at the local level.

Kumorotomo (2010: 4) stated that regional government budgets were still trapped in an inefficient political process and various forms of money politics during the implementation of direct elections of regional heads. The regional political process had not allowed the establishment of substantial democracy so that the budget related to public affairs was still vulnerable to leakage caused by political competition at the regional level. In addition, public service delivery has not been in accordance with the demands of local democracy, along with many elected regional heads entangled with the interests of patronage and political elites who help them. At the same time, businessmen and political elites that have "invested" donations to the elected regional heads always demanded the rewards at every important public policy making process. As a result, public interests were always neglected.

On this second wave of decentralization laws, political decentralization through direct elections of the regional heads had a robust implication on the public service spending at the regional level. Public service such as education and health in many regions became a political commodity, so that regional governments' preferences for public service delivery became very dependent on the political interests and purposes. Certainly, it does not guarantee a significant improvement in public service quality. On the other hand, central government's efforts to improve the quality of public service by strengthening the financial capacity of local government and the announcement of public service standards have not reached their purposes. Limited capacity and resources faced by local governments were still the main factors behind the failure to achieve significant improvements in public service quality.

IV. SERVICE DELIVERY UNDER THE SECOND REVISION OF DECENTRALIZATION LAWS

4.1 The legal framework and its implementation

The year 2014 saw further revisions and formation of new regulations on decentralization in political and administrative aspects. The regulations which were produced during this time are: (i) Law No. 22/2014 on Election of Governor, Regent, and Mayor, (ii) Government Regulation in Lieu of Law (Perppu) No. 1/2014 on Election of Governor, Regent, and Mayor which then was stipulated as the Law No. 1/2015 and Law No. 8/2015, (iii) Law No. 23/2014 on Regional Governments, and (iv) Law No. 6/2014 on Village. Table 4 provides the main features of the second revisions of the laws governing decentralization.

Table 4. The Main Features of the Second Revisions of Decentralization Laws

Decentralization Aspect	The Laws	Main Features
Administrative & Political	Law No. 8/2015 on Election of Governor, Regent, and Mayor	<ul style="list-style-type: none"> - Direct elections of regional heads are conducted simultaneously - Restrictions on the campaign funds of the regional head candidates
	Law No. 23/2014 on Regional Governments	<ul style="list-style-type: none"> - Strengthening the role of Governors as representatives of the Central Government in the regions - Appointing Regents and Mayors as representatives of the Central Government in the regions - Dividing governmental affairs into three categories: absolute affairs, concurrent affairs, and general affairs
	Law No. 6/2014 on Village	<ul style="list-style-type: none"> - Village Fund = 10% fiscal balance in state budget (APBN) + 10% of taxes & levies in district budget (APBD) - The villages are responsible for conducting development themselves - Strengthening of the role of the village consultative assembly

In the political aspect, regulation concerning the election of regional heads experienced some dynamics. The regional head election which previously regulated in the Law No. 32/2004 on Regional Governments, in this era, it was separately regulated in the Law No. 22/2014 that specifically gave directions and limitations on the implementation of regional head elections. It was certainly a positive signal that the political decentralization has been a priority for the central government.

Ironically, on the other hand, Law No. 22/2014 revoked democratization at the local level, i.e. direct elections of regional heads by the citizens. In this law, the regional heads elections process was returned to the local assembly. However, due to widespread negative reactions from the society, President Soesilo Bambang Yudhoyono annulled the stipulation through Government Regulation in Lieu of Law No. 1/2014, which was later approved by the new parliament as Law No. 1/2015. Not yet implemented, in the same year several main ideas in the regulation were revised through Law No. 8/2015. Most of the changes are regarding technical guidelines of the direct elections of regional heads.

The main features of Law No. 8/2015, which now becomes the basis for the direct elections of regional heads, are: (i) direct elections of regional heads are conducted simultaneously, and (ii) there are restrictions on the campaign funds of the regional head candidates. These terms are expected to bring about efficient, effective, transparent, and accountable regional heads elections, which will culminate in improvements in public service delivery.

At the end of 2015, as many as eight provinces and 255 districts held regional head elections simultaneously. Several problems were encountered in these elections, including (1) single candidate phenomenon, (2) not evenly distributed operational budget, (3) unsatisfying campaign facilities, (4) invalid voter database, and (5) delayed logistic distribution to the regions (Danarkusumo, 2015). The remaining regions hold their election simultaneously in early 2017.

In the administrative aspect, the regulation on regional governments which was previously regulated by Law No. 32/2004, was revised to become Law No. 23/2014. The main feature of this regulation basically was an attempt to clarify the concept of decentralization in the Unitary State of Republic of Indonesia (NKRI) and settings of various aspects of regional governance. This regulation also contains new settings in accordance with the community dynamics and demands on the implementation of decentralization, including the settings on citizens' rights to participate in the regional governance, warranties on public services delivery, and innovations in the regional governance (Sumarsono, 2016).

The most significant difference in the Law No. 23/2014 compared to previous regulations is this regulation divides governmental affairs into three categories: (1) absolute affairs, which is conducted under the authority of central government; (2) concurrent affairs (mandatory affairs and optional affairs), which become the responsibility of the central, provincial, and district/municipal governments; and (3) general governmental affairs, which are the responsibility of the president. In addition, there are several terms which provide significant differences to the position and the relationship between central and regional governments in the framework of decentralization.

Implicitly, the affairs distribution is more nuanced of strengthening the central government role in every line of affairs implementation. The distribution of affairs is not only based on accountability, efficiency, and externality but also national strategic interests. The last criterion seems to justify the notion that governmental affairs, apart from the five absolute affairs (foreign politics, fiscal and monetary policy, judiciary, defense and security, and religion), are not merely directly delegated to regional governments.

At the same time, decentralization with further reach is also beginning to be implemented in this era with the enactment of Law No. 6/2014 on Village. The regulation asserts the importance of the recognition of village authority, cooperation among villages, strengthening village community institutions, and empowerment of indigenous villages, community participation, etc. Law No. 6/2014 has several main features related to public service delivery, for instance: (i) village fund consists of 10 percent of fiscal balance in the state budget and 10 percent of taxes and levies in district budget, (ii) the villages are responsible for conducting development themselves, (iii) strengthening of the role of the village consultative assembly in monitoring the performance of the village heads. The main motivations of the implementation of village decentralization are: (i) formally recognizing of long-standing rights and duties of villages; (ii) improving public service delivery in the lowest level government; and (iii) reducing social inequality and poverty at the village level (Lewis, 2015: 349).

4.2 The implications for public service delivery

The strengthening role of the central government in the decentralization policy becomes the main theme in the revisions of the legal framework in this era. Both the simultaneous regional head elections and the various rules of the governmental affairs division reflect the diminution of the local governments' freedom to govern their functions. Uniformity in public services across regions becomes a reality. On the other hand, the autonomy of the district/municipality governments is still questionable.

The implementation of simultaneous regional heads elections was based on budget efficiency reason. Seknas Fitra (2012) stated that simultaneous regional head elections create more efficient regional spending in financing the regional heads elections. The simultaneous elections will save the expenses related to technical matters such as event socialization, technical training, and officer

remuneration. Besides, the elections which are conducted in one sequence also give a bigger opportunity for regional budget savings. Therefore, regional budget allocations for public services, such as education and health, can be increased.

Meanwhile, the restrictions on campaign funding are further regulated in the Regulation of Election Commission No. 8/2015. These are based on the desire to promote fair regional head elections when all candidates have equal campaign funds. In macro context, the stipulation has the potential to eliminate the chain of excessive political transactions between candidates and political parties or businessmen. So when they are already in the position, regional heads are no longer entangled in political patronage which often set apart public policy making and public services from the communities.

The possibility of increasing the regional financial capacity, due to political cost savings at the local level, has to deal with the more limited authority of the district/municipal governments in governing their administrative functions. Several public services are transferred back to the provincial governments and no longer the responsibility of the district/municipal governments. For instance, the authority to provide senior secondary education now becomes the responsibility of provincial governments, while district/municipal governments are responsible for managing the provision of elementary and junior secondary education. In addition, the governmental functions in the field of forestry and mining are also returned as the provincial government affairs. Previously both often became the objects of the local own revenue of the districts.

Weakening position of the district government and the strengthening of central government role can be seen from the authority of the central government in creating norms, standard, procedures, and criteria (NSPK) to the regional governments to implement the concurrent governmental affairs. Meanwhile, for the national and international scale affairs, the central government has the authority to monitor, evaluate, and steer the regional governments. Aside from the distribution of affairs, several other stipulations have the same nuance. For instance, the status as a central government representative, which was previously only carried by the governors, now it is also carried by the regents and mayors. The central government also has the authority to give administrative penalties to regional governments which are late in discussing the regional budget plan and do not develop quality public service and one-stop service on licensing.

These conditions could certainly be viewed in two different angles. For the central government, it is a great opportunity to reposition the relationship between the central and regional governments, which tended to be disharmonious and out of sync both in political and administrative aspects. The central government could give pressures to the regional governments to improve their performance. Besides, the central governments could also ensure a fair and equal quality of public services through the uniformity so that regional development disparity could be reduced. Conversely, for the regional governments, greater interventions from the central government in public service delivery symbolize the erosion of regional autonomy.

Strengthening the central government role has alarmed the reborn of centralization, where the relationships between the central and regional governments are hierarchical rather than networking. The impact is the freedom of regional governments in delivering public services would be limited. The existence of sanctions from the central government would make regional governments more careful, even afraid, in carrying out their tasks. Strict supervision, direction, and specified standard by the central government could stifle innovations in the regional governments.

However, rather than see the Law 23/2014 as a way of re-centralization, it is more proper to recognize the law as an attempt to redress the “missing middle” of decentralization. Previous legal frameworks on decentralization have created powerful districts with their enormous authority but

reduced the role of provincial governments. Thence, it is necessary to place the provincial government in the middle of coordination and monitoring schemes to lower the transaction cost and increase the effectiveness of development agenda (Ostwald et al., 2016: 146).

Meanwhile, at the lowest level of government, the implementation of Law No. 6/2014 on Village has brought the logical consequence that currently the villages are not only an object but also a subject of development. Strengthening village capacity could ensure a more participatory and suitable public service delivery. Village management can be implemented to accelerate improvements in public services, so that villagers could access equal and just public services, especially basic public services such as health and education related services.

According to the Government Regulation No. 47/2014 on the Implementation of the Law No. 6/2014, there are several terms for public service delivery at the village level. The village has the authority in 11 governmental affairs. Those are related to the provision of basic services are: (i) nurturing society's health and managing integrated health post (Posyandu); (ii) developing and nurturing art and study studio; and (iii) managing village library and reading room. It indicates that in the future, basic and complementary public services to the services provided by the regional governments would be closer to the community.

However, according to Lewis (2015: 358), the implementation of village decentralization is still potentially creating unequal income distribution, due to the condition of the villages which are significantly heterogeneous. Another potential problem that arises is the inadequately prepared village public financial management system to manage a large amount of money they receive. Monitoring and evaluation mechanism of village government spending is also still underdeveloped. This raises concerns about increasing corruption at the village level. These two problems will then affect the provision of public services that have been devolved. Therefore, other forthcoming government regulations on village decentralization are expected to provide more specific stipulations on the management of village governance and public services provision at the village level. Technical and managerial assistance are also necessary for this transition period.

The strengthening role of the central government in controlling the public service delivery at regional level becomes the hallmark of the second phase of the change in the legal framework of the decentralization policy. On the other hand, the central government also provides greater opportunity for the villages to deliver public services according to their own needs. This means that actually, the regional governments' bargaining position is weaker. Public service delivery, which previously was the full power of the district governments, has to be controlled by the central government and also divided with the village governments. The implementation of this new legal framework is still recent, so it is difficult to see the resulted implications for public service delivery. However, there is a tendency of public services at the district level to become more controllable and equal, while at the village level, there is a potential shock in the initial period of village decentralization. Moreover, there are fears of disappearing innovation and freedom of local government to choose the right methods for delivering public services.

V. CONCLUSION

After becoming one of the most centralized states in the world for more than 30 years, Indonesia experienced a 'big bang' decentralization in 2001 through a legal framework which was consisted of two laws on decentralization policy which were issued in 1999. These laws provided a basis for a

full pledged decentralization at the district/municipal level, especially in the administrative and fiscal aspects. In 2004, only three years after the decentralization was officially started, a change in the legal framework of decentralization took place through revisions in the laws. In this first revision, political decentralization was strengthened through direct elections of regional heads. Ten years later in 2014, another change in the legal framework of decentralization occurred but focusing only on the administrative and political aspects of decentralization. Furthermore, this latest change in the legal framework of decentralization also deepens the reach of decentralization of administrative and fiscal aspects to the village level.

Each change in the legal framework has different implications for public service delivery at the regional level. At the initial period of decentralization, there was an immediate change of the relationship between the community and the government. Closer policy making process necessarily changed the public service delivery mechanism amidst the unpreparedness of regional governments to manage delegated administrative and fiscal powers. The second period of decentralization introduced political autonomy to the community at the regional level. It then influenced the political preference of the regional governments in delivering public services, although the lack of capacity in administrative and fiscal aspects was still threatening. The latest period is indicating the stronger influence of central government in public service delivery and promising more efficient and transparent political economy at the regional level. On the other hand, further community participation in the public service delivery is introduced through village decentralization. However, the issue of lack of capacity is still the biggest problem.

It is apparent that the changes in the legal framework of decentralization policy are always based on the spirit to improve the quality of public services. The mechanism and procedures of public service delivery have changed over time along with the changes in the legal framework. However, the changes in the legal framework actually generate dynamics of power relation which then influences the performance of regional governments in delivering public services. Pressures from the local stakeholders and control from the central government are the engines which determine the regional governments' policies in providing public services. The quality of public services is highly dependent on the situation that is created from the contestation between both powers. In general, changes in the legal framework of decentralization have not managed to create an enabling situation for better public service delivery. On the other hand, the efforts on strengthening the capacity of the regional governments in public service delivery which forms the goal of each change in the legal framework still have not achieved optimal results.

LIST OF REFERENCES

- Ahmad, E., & Mansoor, A., (2002). 'Indonesia: Managing decentralization'. International Monetary Fund Working Paper No. WP/02/136. Retrieved from IMF website <https://www.imf.org/external/pubs/ft/seminar/2000/fiscal/mansoor.pdf>
- Ahmad, J., Devarajan, S., Khemani, S., & Shah, S. (2005). 'Decentralization and service delivery'. World Bank Working Paper No. 3603. Retrieved from World Bank website <http://www1.worldbank.org/publicsector/decentralization/decentralizationcorecourse2006/CoreReadings/Ahmad.pdf>
- Antlöv, H., & Wetterberg, A. (2011). 'Citizen engagement, deliberative spaces and the consolidation of a post-authoritarian democracy: The case of Indonesia'. ICLD Working Paper No. 8. Retrieved from Swedish International Centre for Local Democracy website http://www.icld.se/pdf/ICLD_wp8_printerfriendly.pdf
- Brodjonegoro, B. (2004). 'Three years of fiscal decentralization in Indonesia: Its impacts on regional economic development and fiscal sustainability'. Paper presented in the International Symposium on Fiscal Decentralization in Asia Revisited, Tokyo, Japan.
- Chowdhury, S., Yamauchi, F., & Dewina, R. (2009). 'Governance decentralization and local infrastructure provision in Indonesia'. IFPRI Discussion Paper.
- Danarkusumo, D. (2015). 'Five problems of simultaneous regional head elections which are being the homework for Indonesian election commission' [Lima masalah pilkada serentak yang menjadi PR KPU]. [Online] Available at <https://www.selasar.com/politik/5-masalah-pilkada-serentak-yang-menjadi-pr-kpu>.
- Darmawan, Nazara, S., Jackson, D., Ahmad, T., Purwanto, D. A. (2008). 'Evaluation of the proliferation of administrative region in Indonesia 2001–2007'. Jakarta: Badan Perencanaan Pembangunan Nasional (Bappenas).
- Dwiyanto, A., & Kusumasari, B. (2003). 'Public service reform: What should we do?' [Reformasi pelayanan publik: apa yang harus dilakukan?]. CPPS Policy Brief No. 11. Retrieved from Centre for Population and Policy Studies website <http://cpps.ugm.ac.id/content/reformasi-pelayanan-publik-apa-yang-harus-dilakukan>
- Eaton, K., Kaiser, K., & Smoke, P. (2010). *The political economy of decentralization reforms: Implications for aid effectiveness*. Washington DC: The International Bank for Reconstruction and Development/World Bank.
- Ford, J. (2002). 'Constitutional, legal, and regulatory framework for decentralization'. In Litvack, J. I., & Seddon, J. (Eds). *Decentralization briefing notes: Proceeding of the Strengthening Operational Skills in Community Driven Development* (p. 11-14). Washington, DC: World Bank Institute.
- Hofman, B., & Kaiser, K. (2002, May). 'The making of the big bang and its aftermath'. Paper presented at the conference on "Can Decentralization Help Rebuild Indonesia?", Atlanta, Georgia.

- Kristiansen, S., & Santoso, P. (2006). 'Surviving decentralisation? Impacts of regional autonomy on health service provision in Indonesia'. *Health Policy*, 77(3), 247–259.
- Kumorotomo, W. (2010, July). 'Public budget accountability: Political issue, spending priority, and financing surplus in regional budget allocation in some regions' [*Akuntabilitas anggaran publik: isu politik, prioritas belanja, dan SILPA dalam alokasi APBD di beberapa daerah*]. Paper presented in the 3rd Public Administration Conference, Bandung, Indonesia.
- Lewis, B. D. (2015). 'Decentralising to villages in Indonesia: Money (and other) mistakes'. *Public Administration and Development*, 35, 347–359.
- Matsui, K. (2003). 'Decentralization in nation state building of Indonesia'. IDE Research Paper No. 2. Retrieved from Institute of Developing Economies Japan External Trade Organization website <http://www.ide.go.jp/English/Publish/Download/Papers/02.html>
- Muriu, A. R. (2013). 'Decentralization, citizen participation and local public service delivery: A study on the nature and influence of citizen participation on decentralized service delivery in Kenya' (Master Thesis). Retrieved from <https://publishup.uni-potsdam.de/frontdoor/index/index/docId/6337>.
- Ostwald, K., Tajima, Y., & Samphantharak, K. (2016). 'Indonesia's decentralization experiment: Motivations, successes, and unintended consequences'. *Journal of Southeast Asian Economies*, 33(2), 139–156.
- Prasojo, E., Kurniawan, T., & Hasan, A. (2004). 'Leadership role in local governments' innovative program: Case study in Jembrana district' [*Peran kepemimpinan dalam program inovasi daerah: Studi kasus kabupaten Jembrana*]. *Journal of Bisnis & Birokrasi*, 12(3), 52–60.
- Seknas Fitra. (2012). 'Simultaneous regional head elections for budget efficiency' [Pilkada serentak untuk efisiensi anggaran]. Retrieved June 16, 2016, from <http://seknasfitra.org/pilkada-serentak-untuk-efisiensi-anggaran/>
- Sjahrir, B. S., Kis-Katos, K., & Schulze, G. G. (2013). 'Political budget cycles in Indonesia at the district level'. *Economics Letters*, 120(2), 342–345.
- Skoufias, E., Narayan, A., Kaiser, K., & Dasgupta, B. (2010). 'Electoral accountability, fiscal decentralization and service delivery in Indonesia'. Paper presented in the PREM Learning Week: Impact Evaluation of Poverty Alleviation Programs and Institutional Reform, Jakarta, Indonesia.
- Suharyo, W. I. (2003). 'Indonesia's transition to decentralized governance: An evolution at the local level'. Jakarta: The SMERU Research Institute.
- Sujarwoto, S. (2012). 'Political decentralization and local public service performance in Indonesia'. *Journal of Public Administration and Governanc*, 2(3), 55–84. Retrieved from <http://www.macrothink.org/journal/index.php/jpag/article/view/2156>
- Sumarsono (2016). 'The dimensions of Nawacita on the implementation of Law No. 23/2014'. [*Dimensi Nawacita dalam implementasi undang-undang No. 23 Tahun 2014*]. Paper presented in the National Seminar of 20 years the Implementation of Regional Autonomy, Jakarta, Indonesia.

- Suratman, E., Ananda, C. F., Paddu, H., & Adji, A. (2013). 'Evaluation of the implementation of Law No. 28/2009 on Regional Taxes and Levies and its impact on the increasing of region own revenue' [*Evaluasi pelaksanaan undang-undang nomor 28 tahun 2009 tentang pajak daerah dan retribusi daerah dan pengaruhnya terhadap peningkatan pendapatan daerah*]. Jakarta: Kementerian Keuangan.
- Takeshi, I. (2006). 'The dynamics of local governance reform in decentralizing Indonesia: Participatory planning and village empowerment in Bandung, West Java'. *Asian and African Area Studies*, 5 (2), 137–183. Retrieved from http://www.asafas.kyoto-u.ac.jp/publication/pdf/no_0502/p137-183.pdf
- Usman, S. (2002, June). 'Regional autonomy in Indonesia: Field experiences and emerging challenges'. Paper presented at the The 7th PRSCO Summer Institute/The 4th IRSA International Conference: "Decentralization, Natural Resources, and Regional Development in the Pacific Rim", Bali, Indonesia.
- Utomo, T. W. W. (2011). 'Building good governance through decentralization in Indonesia (recognizing some inhibiting factors in the implementation stage)'. In H. Kimure (Ed.), *Limits of Good Governance in Developing Countries* (pp. 245-273). Yogyakarta: Gadjah Mada University Press.
- Widyanti, W., & Suryahadi, A. (2008). 'The state of local governance and public services in the decentralized Indonesia in 2006: Findings from the Governance and Decentralization Survey 2 (GDS2)'. Jakarta: The SMERU Research Institute.
- World Bank (2007). *Spending for development: Making the most of Indonesia's new opportunities. Indonesia public expenditure review 2007*. Jakarta: The World Bank.

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