



Summary of PEG Study by the Bandung Institute of Government Studies on Local Regulations in West Java¹

The focus of the study was to dissect and analyze the regulation/policy making process at the local level. Particular attention was given to public interest aspects as well as overall economic rationality underlying local regulations. In-depth case studies examined *retribusi* (user-charges) in the labor and transport sectors in the township of Bekasi as well as regulations governing the activities of SMEs in Tasikmalaya.

This is an important study as it helps open up the ‘black box’ of local policy making and provides clear recommendations to ensure that local regulations support the public interest and are grounded in sound economic rationale.

The study focused on regulations in three sectors:

- 1) Labor regulations in Kota Bekasi (22 regulations covering 74 licenses and permits)
- 2) Transport regulations in Kota Bekasi (3 regulations covering 5 licenses)
- 3) Regulations governing the activities of small business (numerous regulations and licenses) in Kota Tasikmalaya

Some common themes, observations and conclusions drawn from the study:

- There is a clear lack of participation by stakeholders in the regulation-making process. A common complaint was that stakeholders were never consulted prior to implementation. Poor socialization leads to a general lack of awareness and/or confusion regarding regulations. There appears to be few if any effective feedback mechanisms. Accountability is poor.
- Both mayoralities (Kota) place great importance upon increasing own-source revenues (PAD) through the use of user-charges (or *retribusi*). In Bekasi for example, PAD receipts from *retribusi* increased from Rp 13.9 billion in 2000, to Rp 23.6 billion in 2001, to 33.4 billion by September 2002. *Retribusi* now accounts for over 50% of PAD.
- Each DINAS office is given a PAD quota that it must then meet through fees and charges for licenses and permits. Service delivery, and more generally the public interest, is secondary. Reaching or exceeding revenue targets is the most important indicator of success for agency (DINAS) heads.

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- User-charges are not being used to deliver services on a cost-recovery basis. In Bekasi only Rp. 500 million of the Rp 1.4 billion *retribusi* fees collected last year were returned to the *DINAS Ketenagkerjaan* (local manpower office) to fund service delivery. In many, if not most cases, user-charges are effectively functioning as taxes.
- Many regulations undermine, rather than promote the public interest. For example labour regulations that provide no real protection for workers (such as ensuring safety and health standards) but at the same time provide employment disincentives by increasing regulatory costs.
- When regulations are clearly designed to protect the public interest, local DINAS agencies typically fail to provide sufficient monitoring and supervision to ensure effective implementation. This is because of a lack of resources and manpower, but also interest.
- There is resistance to decentralizing licensing authority to lower level, and in many cases more appropriately positioned, agencies such as village and Camat offices (whose role is limited to issuing recommendation letters to higher level agencies).
- There is a clear lack of competence from officials issuing licenses. This problem becomes particularly serious when the official must understand technical matters, such as the likely environmental impact of a project, or the market (and other) impacts of issuing a large numbers of licenses/permits. It also prevents much needed coordination with other agencies, including those from neighboring governments (this is particularly important when coordinating public transport across West Java and Jakarta).
- Licenses and fees appear to be especially burdensome and distorting for small business activities. There are simply too many licenses required by small business and many if not most are not required to protect the public interest. Often, licenses from one agency duplicate that of another, but are imposed upon the same business. The licensing process is overly complicated requiring many unnecessary documents and approvals. Fee setting is non-transparent, lacks rationality and typically very burdensome. Licensing often restricts expansion of businesses into neighboring districts, as new sets of licenses (and relationships with local officials) must be pursued. In Tasikmalaya only 20% of small business are licensed resulting in limited access to credit through formal channels. Local officials are typically resistant to efforts to simplify the licensing process. In Kota Bekasi only 20% of licenses in the labor sector are issued by one-stop shop services.
- To improve transparency in the licensing process and to facilitate opportunities for the private sector many aspects of the licensing process could be privatized. This is particularly the case for matters involving technical verification, such as testing, measuring, monitoring etc.
- The report provides a very interesting account of the process of developing local regulations, beginning with the initial idea, the review process, debate, revisions and then final implementation. Regulations can originate from two sources: the executive (DINAS offices etc) or the legislative. BIGS found that in the two focus districts, most regulations came from the executive. According to local parliamentarians the reason for this is that officials from the relevant agencies have a better understanding of the problems in the field. BIGS provides an alternative interpretation in that this could also reflect the relative

weak relationship that legislators have with their constituents and, as a result, cannot get sufficient information to aggregate the interests of their constituents into effective local regulations.

- BIGS also found that many local regulations were not a direct result of local initiative, but were drawn from above, or from other areas.
 - Various examples are provided where the local regulations are simply central government regulations recast as local regulations, eg. regulations governing work hours in Bekasi.
 - Regulations from neighboring jurisdictions are implemented locally, e.g. Kota Tasikmalaya using regulations from neighboring Kabupaten Tasikmalaya.