DECENTRALIZATION 2009

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DEMOCRATIC REFORM SUPPORT PROGRAM

STOCK TAKING ON INDONESIA'S RECENT DECENTRALIZATION REFORMS

Main Report

Prepared by
USAID Democratic Reform Support Program (DRSP)
With Support from
The Donor Working Group on Decentralization

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PREFACE

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IN ACCORDANCE with the National Long-term Development Plan (RPJPN) 2005-2025 that is directed towards improving the implementation of decentralization and regional autonomy during the period 2010-2014, within the context of the preparation of the National Medium-term Development Plan (RPJMN) 2010-2014 a review of the decentralization and regional autonomy policy needs to be conducted. This is expected to provide input for the reformulation of the decentralization and regional autonomy policy in Indonesia. In order to identify the issues and problems as well as to collect input and suggestions to refine future decentralization and regional autonomy policy, a series of activities is needed. These include studies (research), seminars, workshops, discussions and ongoing public consultations.

During 2006, the Democratic Reform Support Program (DRSP/USAID) conducted a stocktaking study on the implementation of decentralization. This study identified strategic reform issues and presented policy options for the government in preparing the decentralization grand strategy.

The Stock Taking Study (STS) Update 2009 presented a new picture of decentralization reform and identified the progress that had been achieved in relation to decentralization policy and procedures. STS Update 2009 identified 21 important and pressing issues that could assist the Indonesian government in defining a more strategic approach to progress decentralization reform. The study was undertaken over a 7 month period and focused on the short- and long-term reform priorities, with a focus on the medium-term.

This study is expected to form the input for the preparation of the policy and planning for the RPJMN 2010-2014. In addition, the lessons contained within it can also provide useful input in the revision of Law No. 32 of 2004 on Regional Administration.

We would like to express our appreciation for the support and cooperation of the various parties that have made it possible to conduct this study effectively, especially the USAID Study Team as the main implementer of this study through the USAID-DRSP program, as well as to all those agencies and respondents who provided valuable contributions and input to enrich the substance of this report. The input, criticisms and suggestions in the following days will also certainly provide valuable material for the future stocktaking activity. ■

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A GREAT many people from government, civil society and development partner organizations have contributed to this updated picture of decentralization/local governance (D/LG) reforms in Indonesia. The U.S. Agency for International Development (USAID)-Democratic Reform Support Program (DRSP) wishes to thank the Government of Indonesia for requesting and supporting this effort. In particular, the attention given by Max Pohan, Himawan Hariyoga and Suprayoga Hadi (Bappenas); Mardiasmo and Heru Subiyantoro (Ministry of Finance); Made Suwandi, Bambang Pamungkas, Hasiholan (Ministry of Home Affairs) have been instrumental in shaping the methodology and locating the update within the broader effort of the GoI to develop a sharper strategy and institutional arrangements for furthering D/LG. The time, views, and guidance provided by the relevant officials in many central government agencies were instrumental in capturing the progress made in reform efforts over the last three years, and in conveying reform intentions.

USAID-DRSP also thanks the ten researchers for their contributions to the Stock Taking Study. We are fortunate to have retained several researchers involved in the initial stock taking conducted in 2006. The USAID-DRSP technical team was composed of Elke Rapp and Gabriele Ferrazzi. The researcher team included: Gabriele Ferrazzi, Ari Dwipayana, Pratikno, Jups Kluyskens, Muhammad Firdaus, Deddi Nordiawan, Suhirman, Fahmi Wibawa, Robert Simanjuntak, Hetifah Sj. Sumarto. The responsibility of opinions expressed completely lies with the authors of this final form of the study.

As with the 2006 effort, the openness and engagement of regional government officials, civil society organizations, and other key informants was invaluable to the study. USAID-DRSP benefited from the information and perspectives provided, through individual meetings and focus group discussions. The review of drafts of the original researcher reports and this synthesis report by technical experts involved with government reform efforts was indispensable in enriching the analysis and validating the conclusions and the way forward. USAID-DRSP extends its appreciation to all the regional government officials, civil society organizations, and citizens, who generously gave their time and valuable inputs during the many meetings and focus group discussions conducted in the implementation of the study and the review of the study report.

Special thanks go to those key informants who reviewed the partial drafts of this report, and helped DRSP make the report more insightful and readable. We thank for their contributions Gordon West, Andrew Thornley (DRSP/USAID); Himawan Estu, Owen Podger and Joana Ebbinghaus (DRSP Consultants); Hans Antlov, Judith Edstrom, Irianto, Robert van der Hoff, Adam Nugroho and Widjono Ngoedijo (LGSP/USAID), Faye Haselkorn and Maria Ining Nurani (USAID); Patricia McCullagh and Jeffrey Ong (CIDA); David Deziel (GRSII/CIDA); Tariq Niazi and James Lamont (ADB); Euan Ross (SCBD/ADB), Manfred Poppe and Guritno Soerjodibroto (GLG/GTZ); Ade Cahyat (CB Kaltim/GTZ); Martha Gutierrez (ASSD/GTZ); Dan Moulton (DBE/USAID); Leo Simanjuntak (UNDP); Jana Hertz (DSF); Diah Raharjo (Multi Stakeholder Forestry Support Program/DFID); Hanna Satryio (TAF); Jessica Ludwig-Maaroof (World Bank Consultant); Frank Feulner (UNDP Consultant); Adriana Elisabeth (LIPI); Dini Mentari (PATTIRO); Sutoro Eko (IRE); Sapei Rusin (Pergerakan), Sugeng Bahagio (Perkumpulan PraKarsa); Yuna Farhan (FITRA), Arif Rahmadi (YAPPIKA), Abdul Malik (FEUI); Ulrich Klingshirn (HSS), Winfried Weck (KAS); Rainer Heufers (FNS); Erwin Schweisshelm (FES).

We trust that this assessment, conducted in the spirit of cooperation, reflects the intent of the Paris Declaration and the Jakarta Commitment. Ideally, it will become an aid to the dialogue between the government and development partners, and work to broaden the dialogue to other stakeholders and deepen the examination of the critical issues that remain to be addressed if Indonesia is to realize the goals it has set for its decentralization efforts. ■

ABBREVIATIONS

ABK	Anggaran Berbasis Kinerja (Performance Based Budget)
ADB	Asian Development Bank
ADD	Alokasi Dana Desa (Block Grant from District to Villages)
APBD	Anggaran Pendapatan dan Belanja Daerah (Regional Government Budget)
APBN	Anggaran Pendapatan dan Belanja Negara (State Budget)
APEKSI	Asosiasi Pemerintah Kota Seluruh Indonesia (Indonesian Association of Heads of Municipalities)
APKASI	Asosiasi Pemerintah Kabupaten Seluruh Indonesia (Indonesian Association of Heads of Districts)
APPSI	Asosiasi Pemerintah Propinsi Seluruh Indonesia (Indonesian Association of Heads of Provinces)
AUSAID	Australian Agency for International Development
BAPPEDA	Badan Perencanaan Pembangunan Daerah (Regional Development Planning Board)
BAKD/DDN	Badan Administrasi Keuangan Daerah/ Departemen Dalam Negeri
BANGDA/DDN	Pembangunan Daerah/Departemen Dalam Negeri (Directorate of Fostering Regional Development)
BAPPENAS	Badan Perencanaan Pembangunan Nasional (National Development Planning Board)
BAU	Belanja Administrasi Umum (General Administrative Expenditure)
BAWASDA	Badan Pengawasan Daerah (Regional Controlling Board)
BIPPRAM	Biro Penataan dan Pemantauan Program (Adjusting and Controlling Bureau)
BKN	Badan Kepegawaian Negara (Civil Service Agency)
BKKSI	Badan Kerja Sama Kabupaten Seluruh Indonesia (Indonesia Association of Heads of Districts, now APKASI)
BLUD	Badan Layanan Umum Daerah (Special Service Agency)
BOB	Badan Otoritas Batam
BOP	Belanja Operasional Pemeliharaan (Operational Maintenance Expenditure)
BOS	Biaya Operasional Sekolah (School Operational Cost)
BPD	Badan Perwakilan Desa (Village Representative Council)

BPHTB	Bea Perolehan Hak atas Tanah dan Bangunan (Property Tax)
BPK	Badan Pemeriksa Keuangan (Finance Auditing Board)
BPKD	Badan Pemeriksa Keuangan Daerah (Regional Financial Auditing Board)
BPKP	Badan Pemeriksa Keuangan dan Pembangunan (Financial and Development Audit Board)
BUD	Bendahara Umum Daerah (Regional General Treasurer)
BUMD	Badan Usaha Milik Daerah (Municipal Corporation)
CB-SDAS	Capacity Building to Support Decentralized Administrative Systems
CCER	Cost Collection Efficiency Ratio
CD	Capacity Development
CG	Central Government
CIDA	Canadian International Development Agency
CSO	Civil Society Organization
CSR	Civil Service Reform
CST	Civil Service Training
DAK	Dana Alokasi Khusus (Special Allocation Fund)
DAU	Dana Alokasi Umum (General Allocation Fund)
DG	Directorate General
DEKON	Dekonsentrasi (Deconcentration)
DepHukHam	Departemen Hukum dan Hak Asasi Manusia (Ministry of Justice and Human Rights)
DKA	Dokumen Kerja dan Anggaran (Document Plan and Budget)
D/LG	Decentralization / Local Governance
DIY	Daerah Istimewa Yogyakarta (Special Region of Yogyakarta)
DP	Development Partner
DPOD	Dewan Pertimbangan Otonomi Daerah (Regional Autonomy Advisory Council)
DPR	Dewan Perwakilan Rakyat (House of Representatives or Parliament)
DPRD	Dewan Perwakilan Rakyat Daerah (Regional House of Representatives)
DPD	Dewan Perwakilan Daerah (Regional Representatives Council)
DP3	Daftar Penilaian Pelaksanaan Pekerjaan (Individual Performance Appraisal)
DSF	Decentralization Support Facility
DYI	DaerahYogyakarta Istimewa (Special Region of Yogyakarta)

FDM	Forum Delegasi Musrenbang (Bottom-up Planning Delegation)
FF	Ford Foundation
FGD	Focus Group Discussion
FIK Ornop	Forum Informasi dan Komunikasi Lembaga Swadaya Masyarakat
FITRA	Forum Indonesia untuk Transparansi Anggaran
FPPM	Forum Pengembangan Partisipasi Masyarakat (Forum for Popular Participation)
FTZ	Free Trade/Port Zones
FY	Fiscal Year
GDS / WB	Governance and Decentralization Survey
GoI	Government of Indonesia
GR	Government Regulation
GTZ	Gesellschaft Fuer Technische Zusammenarbeit
HAPSARI	Federasi Serikat Perempuan Indonesia
HR	Human Resources
INPRES	Presidential Instructions (Earmarked Capital Grant before Decentralization)
IPGI	Indonesian Partnership for Governance Initiatives
IRDA	Indonesian Rapid Decentralization Appraisal
JARING ASMARA	Jaringan Aspirasi Masyarakat (Collection of Community Aspirations)
JPIP	Jawa Post Pro-Otonomi Institute
JUKLAK	Petunjuk Pelaksanaan (Operational Guidance)
JUKNIS	Petunjuk Teknis (Technical Guidance)
JWGD	Joint Working Group on Decentralization
KAPET	Kawasan Pengembangan Ekonomi Terpadu (Integrated Economic Development Zone)
KANWIL	Kantor Wilayah (De-concentrated Regional Branch Offices of National Ministries)
KEK	Kawasan Ekonomi Khusus (Special Economic Zones)
KEPMEN	Keputusan Menteri (Ministerial Decree)
KEPMENDAGRI	Keputusan Menteri Dalam Negeri (Decree of Ministry of Home Affairs)
KEPPRES	Keputusan Presiden (Presidential Decree)
KKN	Kolusi, Korupsi, Nepotisme (Collusion, Corruption, and Nepotism)
KKP	Koalisi Kebijakan Publik (Coalition for Public Policy)
KPK	Komisi Pemberantasan Korupsi (Corruption Eradication Commission)
KOAK	Komite Organisasi Anti Korupsi (Committee Organization Anti Corruption)

KPMM	Konsorsium Pengembangan Masyarakat Madani (Consortium for Civil Society Development)
KPU	Komisi Pemilihan Umum (General Election Commission)
KPPOD	Komite Pemantauan Pelaksanaan Otonomi Daerah (Regional Autonomy Watch)
KPUD	Komisi Pemilih Umum Daerah (Regional General Election Commission)
KTP	Komisi Transparansi dan Partisipasi (Transparency and Participation Commission)
KUA	Kebijakan Umum Anggaran (General Budget Policy)
KUKAIP	Koalisi Untuk Kebebasan dan Akses Informasi Publik (Coalition for Freedom of Information Law)
LAN	Lembaga Administrasi Negara (Institute for State Administration)
LAN	Local Area Network
LG	Local Government (International Term for Subnational Government)
LGSP	Local Governance Support Project – USAID
LKMD	Lembaga Ketahanan Masyarakat Desa (Village Social Activities Group)
LoGA	Law on Governance of Aceh
LPJ	Laporan Pertanggung Jawaban (Accountability Report)
LSM	Lembaga Swadaya Masyarakat (Self-help Organization)
MDGs	Millennium Development Goals
MenPAN	Kementrian Pendayagunaan Aparatur Negara (State Ministry for State Apparatus Reform)
MoF	Ministry of Finance
MoHA	Ministry of Home Affairs
MoU	Memorandum of Understanding
MPR	Majelis Permusyawaratan Rakyat (People's Consultative Assembly)
MRP	Papua People's Assembly
MSS	Minimum Service Standards
MTDP	Medium Term Development Plan
MTEF	Medium Term Expenditure Framework
MUSRENBANG	Musyawarah Perencanaan Pembangunan (Development Planning Deliberation)
MUSRENBANGDES	Musyawarah Perencanaan Pembangunan Desa (Development Planning Deliberation at Village Level)

MUSREN-BANGDUS	Musyawarah Perencanaan Pembangunan Dusun (Development Planning Deliberation at Hamlet Level)
NCDFD	National Capacity Development Framework for Decentralization
NGO	Non-Governmental Organization
NDI	National Democratic Institute
NKRI	Negara Kesatuan Republic Indonesia (The Unitary State of the Republic of Indonesia)
NSPK	Norma, Standar, Prosedur dan Kriteria (Norms, Standards, Procedures and Criteria)
NTB	Nusa Tenggara Barat (West Nusa Tenggara)
OPM	Free Papua Movement
ORMAS	Organisasi Masyarakat (People's Organization)
OSS	One Stop Service
PAD	Pendapatan Asli Daerah (Regional Own Revenue)
PAN	Partai Amanat Nasional
PAPSDA	Pengelolaan Agraria dan Pengelolaan Sumber Daya Alam (Agrarian and Natural Resources Management)
PARPOL	Partai Politik (Political Parties)
PATTIRO	Pusat Telaah dan Informasi Regional (Center for Regional Information and Studies)
PBET	Participatory Budgeting and Expenditure Tracking
PBB	Pajak Bumi dan Bangunan (Land and Building Tax)
PDRB	Produk Domestic Regional Bruto (Gross Regional Domestic Product)
PEMDA	Pemerintah Daerah (Regional Government)
PERDA	Peraturan Daerah (Regional Regulation)
PERDES	Peraturan Desa (Village Regulation)
PGR	Partnership for Governance Reform
PKS	Partai Keadilan Sejahtera (Welfare Equity Party)
PKB	Partai Kebangkitan Bangsa (Nation Development Party)
PLOD	Politik Lokal dan Otonomi Daerah (Local Politics and Regional Autonomy)
PMD	Pemberdayaan Masyarakat dan Desa (Community and Village Empowerment Agency)
PNPM Mandiri	Program Nasional Pemberdayaan Masyarakat (National Program for People's Empowerment)

PP	Peraturan Pemerintah (Government Regulation)
PPAS	Prioritas dan Plafon Anggaran Sementara (Priorities and Indicative Budget Ceiling)
PROLEGDA	Program Legislasi Daerah (Regional Legislation Program)
PROLEGNAS	Program Legislasi Nasional (National Legislation Program)
PUM	Pemerintah Administrasi Umum (General Administrative Directorate)
PUSSBIK	Pusat Studi dan Strategi Kebijakan Publik (The Center of Study and Public Policy)
RAPBS	Rancangan Anggaran Pendapatan dan Belanja Sekolah (Draft School Budget)
RASKIN	Beras Miskin (Rice for Poor)
RENJA-SKPD	Rencana Kerja Satuan Kerja Perangkat Daerah (Regional Government Work Unit Workplan)
RENSTRA-SKPD	Rencana Strategis Satuan Kerja Perangkat Daerah (Regional Work Unit Strategic Plan)
RENSTRADA	Rencana Strategik Daerah (Regional Strategic Plan)
RGA	Regional Government Associations
RR	Regional Regulations
RKA	Rencana Kerja dan Anggaran (Workplan and Budget)
RKPD	Rencana Kerja Pemerintah Daerah (Annual Local Government Workplan)
RPJM	Rencana Pembangunan Jangka Menengah (Medium Term Development Plan)
RPJMD	Rencana Pembangunan Jangka Menengah (Regional Mid Term Development Plan)
RPJPD	Rencana Pembangunan Jangka Panjang Daerah (Regional Long Term Development Plan)
RUU	Rancangan Undang-undang (Draft Law)
SAB	Standard Analisa Belanja (Standard Spending Assessment)
SAP	Government Accounting System
SATKER	Satuan Kerja (Work Unit / Institution)
SDA	Sumber Daya Alam (Natural Resources)
SEB	Surat Edaran Bersama (Joint Circular Letter)
Setneg	Sekretariat Negara (State Secretariat)
SFDM	Support for Decentralization Measures
SIAKAD	Sistem Informasi Akutansi Keuangan Daerah (Information System for Regional Financial Accounting)

SIKD	Sistem Informasi Keuangan Daerah (Regional Financial Information System)
SKPD	Satuan Kerja Perangkat Daerah (Regional Work Unit)
SOP	Standard Operating Procedure
STARSDP	State Audit Reform Sector Development Program
SWAp	Sector Wide Approach
TAF	The Asia Foundation
TCP3	Tata Cara Pembuatan Perundang-undangan (Legislation Making Processes)
TKPKD	Komisi Pemberantasan Kemiskinan Daerah (Regional Commission for Poverty Eradication)
TKPKN	Tunjangan Khusus Pembinaan Keuangan Negara (Special Allowance awarded to MoF
TPR	Tempat Pemungutan Retribusi (Location of Retribution Payment)
TRC	Truth and Reconciliation Commission (Aceh)
USAID	United States Agency for International Development
UU	Undang-undang (Act/Law)
UUD	Undang-undang Dasar (Constitution)
VAT	Value Added Tax
Walhi	Wahana Lingkungan Hidup
WB	World Bank
YAPPIKA	Yayasan Penguatan Partisipasi Inisiatif dan Kemitraan Masyarakat Indonesia

INTRODUCTION

STUDY CONTEXT

Preceding the current study, a stock taking exercise on the status of decentralization reforms was conducted in early 2006. That study acknowledged that Indonesia had made significant strides in democratic decentralization since the reform period began, in terms of new policies, structures, and practices. At that time, the Indonesian experiment was seen to be on the vanguard of decentralization in a developing country context. Born out of a multi-faceted crisis and a concern to maintain the integrity and boundaries of the unitary state, decentralization in Indonesia was marked by strong political commitment, and a comprehensive approach; significant functional assignment to the regional governments was accompanied with staff and funds – by no means the dominant pattern in many developing countries that have embarked on decentralization.

Having acknowledged the fine start, the findings of the 2006 study revealed a complex mix of progress, and some stagnation, in reforms. The early bold efforts had given way to a slower pace of progress, policy drift and inconsistency, and regressive measures in cases. Reform fatigue had set in within government, and while donors continued to lend assistance there was some apprehension over the lack of traction on some reform areas.

The picture painted in the 2006 stock taking study did not galvanize immediate action, but the study report, published in both Indonesian and English, was found to be useful and served as a working reference for some government officials, and certainly for the donor community. Over time, some government officials became quite appreciative of this report. In mid 2008 Bappenas expressed its desire to see the study updated, and emphasized that the process should serve as an opportunity for key stakeholders to take stock and 'revitalize' decentralization/regional autonomy policy. This request, given a response by USAID-DRSP (the lead organization in the implementation of the 2006 study) fit well with Bappenas' role to lead the formulation of the decentralization/regional autonomy chapter in the 2010-1014 Medium Term National Development Plan, a process that started in earnest in early 2009. The Ministry of Home Affairs was also interested in an update, though its effort to set a grand strategy for decentralization in 2007 had made it less confident of being able to draw stakeholders into any agreed vision or strategy.

THE 2009 STOCK TAKING STUDY

The 2009 Stock Taking Study was conducted by the U.S. Agency for International Development (USAID) Democratic Reform Support Program (DRSP), with the support of the Donor Working Group for Decentralization (DWGD). As was the case in 2006, the members of the DWGD supported the DRSP by providing information to its members about the study, and convening meetings where the study methodology and preliminary findings were discussed. The DWGD is not expected to endorse the findings of the study, but only to use what seems helpful in its dialogue with government and in the context of members' programmatic engagements.

THE VALUE OF TAKING STOCK OF REFORMS

Although Indonesian decentralization has been described as a 'Big Bang', the reality is rather different. The initial set of reforms was radical when compared to decentralization efforts elsewhere. But as the reforms unfolded, it became evident, particularly in the 2006 study, that progress was quite uneven between the various building blocks of decentralized governance. Moreover, progress was not entirely linear, with some setbacks experienced, in terms of reforms not applied in practice, reforms undermined by those reluctant to yield power and its rewards, and revisions in the framework that were promoted by narrow interests and were widely deemed to be regressive.

Some awareness of this complexity was emerging about five years into the reforms, and officials acknowledged this reality and faced it with an effort of 'consolidation'. Attempts to give this consolidation some direction can be seen in the multiple decen-

tralization plans or grand strategies/designs, and in the increased attention given to better aligning development partner (DP) support, in part by crafting better policy dialogue and support coordination structures.

An emerging dynamic, not significantly felt prior to the 2006 study, but which has picked up momentum over the last three years, has been the aid effectiveness dialogue and commitments, given a stronger foundation in the 2005 Paris Declaration, and reinforced again in the 2008 Accra Agenda for Action and the localized 'Jakarta Commitment', signed in early 2009 by 22 development partners.

The national state-Aceh dynamic was not taken into account in the 2006 assessment, but it has become clearer now that this event has created more room for asymmetric state-local state relationships, and equally important, it has indicated how the 'special' arrangements in one region could in time become the norm nationwide (e.g., independent candidates now, and perhaps local parties in the future). To the extent that the Aceh institutional arrangements yield a durable peace and welfare improvements, pressure is bound to grow for a similar treatment of the Papuan conflict.

It is useful then to take stock every few years to note these larger dynamics, and to note where success is being found, and where roadblocks continue to frustrate the fulfillment of promises that justify decentralization efforts. The 2009 stock taking therefore provides additional feedback to the 'consolidation' effort, and situates the expectations of 'consolidation' in what is an increasingly complicated decentralization arena. With a richer account of decentralization's progress and dynamics, policy makers and stakeholders have a basis for more informed policies and implementation efforts.

It will be important in the future for the government itself to take these snapshots in time, perhaps in the context of the five year planning cycle, or with greater frequency but narrower thematic focus/depth. DPs could then be supportive rather than in the lead of such a process. Civil society would ideally be drawn into the analysis, dialogue and joint policy formulation that would come from the stock taking. Alternatively, a more lively and empowered civil society would make its own independent assessment and engage with government and donors from the strength of its own analysis and interests.

METHODOLOGY OF THE STUDY

Ten researchers were employed in the study, including members of the DRSP supported CSO/University networks and regular staff of DRSP. These researchers were provided with a common framework for the study, using 2006 as the benchmark from which changes were assessed. For each substantive field, the researcher was to complete the following activities :

Activity #1 note the situation in 2006, picking the highlights of the stock taking study as the baseline for tracking reform progress;

Activity #2 discuss reform progress with government officials, donor supported technical assistance, and stakeholders, through individual meetings and groups discussions;

Activity #3 utilize secondary sources to round the picture;

Activity #4 obtain feedback on drafts from key informants.

Attention was paid to regulatory development, on the ground changes and innovation, and the views of various stakeholders. An effort was made to note the situation as well as explain why progress was made or not made, and to gauge the prospects for further reforms, suggesting a course of action for government, donors and other stakeholders.

The responsibility for opinions expressed completely lies with the authors of this study. The USAID-DRSP technical team was composed of Elke Rapp and Gabriele Ferrazzi. The researcher team included Gabriele Ferrazzi (DRSP/USAID), Ari Dwipayana and Pratikno (UGM), Robert Simanjuntak and Deddi Nordiawan

(FEUI), Suhirman (ITB), Hetifah (Akatiga), Fahmi Wibawa (DRSP/USAID), Jups Kluyskens (Consultant) and Muhammad Firdaus (LAN Makassar).

STRUCTURE OF THE STUDY REPORT

The study report uses a similar structure to the 2006 study, but with a few notable differences. The report's 21 topics are given structure by treating related topics under the following five clusters:

I. Management of the Decentralization and its Legal Architecture
II. Intergovernmental Relations
III. Special Regions and Zones
IV. Civil Service Reform
V. Regional Governance Reform, and
VI. Regional Government Associations and Civil Society

An executive summary is included that gives a précis of each separate topic. A concluding section is also added to pull together some overarching themes. An Indonesian language version of the summary report is also available. ■

1. MANAGEMENT OF THE DECENTRALIZATION PROCESS / LOCAL GOVERNANCE POLICY

The importance of policy management

In the Stock Taking Study (STS) 2006, the issue of policy making and implementation oversight was treated together with the topic of local government supervision. In this 2009 update, the broader theme of 'policy management' is given a more comprehensive treatment, encompassing institutional structures for decentralization/local governance policies, road map(s) for achieving desired policies, capacity development to enable actors to play their new roles, and donor modalities/coordination in support of national policy objectives. The four themes are closely related, and can be given more cohesion when discussed in terms of the Paris Declaration principles, particularly of 'ownership', 'alignment', and 'harmonization'. It is particularly important that DP support be joined to the critical issue of GoI policy making in D/LG, as DP support is increasingly geared to strengthening GoI capacity to develop sound and sustainable policies. Moreover, the successful application of these policies depends in part on how DPs come together with their support.

This important topic in the STS 2009 is being prepared by drawing from the findings of all other topic areas contained in the STS 2009, where issues of policy coherence and quality and DP support are given specific treatment. It is also based on considerable 'participant observation' of the main author for this section of the report.

[1] See Ryaas Rasyd, former Minister for Home Affairs and Regional Autonomy in Rachman, Anita (2009). Regional Autonomy Has 'Failed,' *The Jakarta Globe*, March 5, obtained March 8, 2009 from http://www.thejakartaglobe.com/news/article/12045.html.

[2] Sutyoso (2007). Cooperation among regional heads has to yield synergy to accompany regional autonomy." APPSI, obtained 7 December, 2008 at http://www.appsi-online.com.

[3] DPD (2008). Rekonstruksi Kebijakan Politik Desentralisasi Dan Otonomi Daerah Serta Implementasinya, Steering Committee, Jakarta, 22 Agustus, halaman 2.

Does poor management of D/LG policy have consequences?

As flagged already in the STS 2006, a policy and legal tangle is being created in D/LG that is characterized by conflicting regulations; regulations that are sometimes overly idealistic, or unworkable, or mired in old paradigms.

In thinking about the impact of poor policy management it is worthwhile distinguishing the current situation from any that might be found in a lively democracy (which Indonesia is becoming), where differences of opinion on policy among political actors and to some degree within the bureaucracy is expected, and seen to be a healthy aspect of the system. In contrast, poor policy management is met where problems are not perceived in early stages, when problems are misdiagnosed, or problems are not addressed and unnecessary conflict arises. Poor policy management is characterized by inaction or inadequate response due to a lack of capacity, or a lack of will to overcome narrow interests instead of championing the public good.

There are now sufficient signals, on the ground, and in the public discourse, to suggest that decentralization is not delivering what is expected. The democratic wave of the last decade has brought political changes, but has yet to bring the more concrete changes expected of decentralization. Disappointment is now often expressed on the ultimate impact. Prominent national figures regret the meager results from regional autonomy, passing harsh judgments in cases: "We have seen no improvement in prosperity between the era prior to decentralization and a decade later",[1] regional heads believe that "…few significant developments are experienced with respect to the goal of improving people's welfare."[2] ; or DPD members opine "…regional autonomy that gave new hope, in reality has not brought meaningful change."[3]

Poor policy management means that the opportunities for concrete changes are not taken up. Urgent issues remain unaddressed (e.g., civil service reform); good policies remain unimplemented (e.g.,

shifting funding away from deconcentration funding/mechanisms for functions that are devolved to regional government); or good policies are poorly implemented as they become more operational policies and concrete action (e.g., minimum service standards). This underperformance in policy making and implementation delays the hoped for achievement of better services and empowered and accountable local actors.

Institutional framework for managing decentralization/local governance policy

Consistent with findings from the STS 2006, the current scene continues to be one of institutional fragmentation and policy entrepreneurship within the Indonesian government. Rational approaches to policy formulation/coordination in D/LG have in the past been attempted by a variety of ad hoc interministerial teams (e.g., *Forum Koordinasi Otonomi Daerah, Tim Keppres 157*[4]). It was hoped by many that this would give way to a permanent and effective operation of the Dewan Pertimbangan Otonomi Daerah (DPOD), but this had not come about.[5]

Whether temporary or permanent, the secretariats of D/LG policy making bodies have been insufficiently resourced, and the linkages to existing technical units (especially in the Ministry of Home Affairs and Ministry of Finance) have been tenuous. The DPOD has employed some academic members, but has not tapped think tanks and other sources of information and views. It remains preoccupied with new region creation. It does not commission evaluations of D/LG efforts, explore new policies, design consultative exercises, or coordinate reforms across ministries.

[4] Keputusan Presiden Republik Indonesia Nomor 157 Tahun 2000 Tentang Pembentukan Tim Kerja Pusat Implementasi Undang-Undang Nomor 22 Tahun 1999 Tentang Pemerintahan Daerah Dan Undang-Undang Nomor 25 Tahun 1999 Tentang Perimbangan Keuangan Antara Pemerintah Pusat Dan Daerah.

[5] The DPOD mandate has in practice been narrowly defined, but Law 32/2004, if well used, gives it a broad manadate, as seen in Article 224(1) "In implementing regional governance, the President can establish a council with the task to give advice and considerations on regional autonomy policy."

The biggest failing in government efforts on D/LG has been in generating policies that need coherence across institutional mandates to be successful. Whole of government leadership and commitment has not been evident. With the Ministry of Home Affairs (MoHA) as the chair, the DPOD (or previous ad hoc bodies) have failed to bring all of the key actors together effectively to formulate coherent policies. Policies that have been formulated have often been championed by individual institutions, and where MoHA has taken the lead the results have often been seen as 'MoHA-centric'; as with the foundation law on regional governance. Other national organizations (Bappenas, Ministry of Finance, Ministry for State Reform, sectoral ministries) have in turn sought to bolster their roles through other policy/legal streams impinging on D/LG, giving rise to conflicting legal instruments that have been impervious to efforts to harmonize.

Informal Echelon I dialogue within government

The challenge of coherent policy development has long been acknowledged within government, and in the early years of decentralization Echelon I from MoHA, Bappenas, and Ministry of Finance sought to come together over broad policy issues, facilitated by DPs in many cases. These meetings among senior officials waned over the years, or became bilateral, based on individual connection or chemistry. Recently these senior officials have been meeting more often informally, at breakfast meetings. This augurs well for D/LG policy development, particularly if it leads to more formal events as well, with other key stakeholders at the table.

The STS 2006 notes the MoHA attempt to coordinate and ensure quality of legal products that fall under its leadership, but this effort had dissipated by 2007, and DPs have switched support to the ministry's effort to make the Secretariat General play this role (see the section on Legal Framework). This shift is in principle sound, but the Secretariat General has yet to impose itself within MoHA or to link effectively with external actors on policy/regulatory products. Although director-general level coordination has improved in some cases (see Box at right), the challenge of coordination and harmonization exceeds the current willingness and capacity to work together.

The need for improved policy coherence, focus and sequence to reforms, and technical support for relevant actors was flagged as a top priority as far back as 1999,[6] but results over the last decade have been few in comparison to the challenges faced. This shortcoming accounts for many of the difficulties faced in moving D/LG forward in a coherent way, and for the instability in the framework of D/LG since reforms began.

Inter-departmental cooperation can happen
The drafting of GR 59 on local financial management involved inputs from a range of government agencies. In particular, this effort brought together the Ministries of Home Affairs and Finance and resulted in an 'omnibus' regulation that reflected a decree of consensus between the two agencies. Preparation of regulations on local government monitoring and evaluation (GR 6/2008) also involved a range of agencies.

Some improvements can sometimes be seen in the shaping of specific components of the D/LG framework, where inter-departmental cooperation has been meaningful (see Box below) and relevant stakeholders have been brought to the table. It is also fair to say that the current revision of Law 32/2004 is seeing more actors (DPD, DPR, government, CSOs) involved than during the past framework revisions (see Section on Legal Framework). But too often key actors seek to develop solutions on separate tracks. This approach is not necessarily a problem, particularly if the actors are quite distinct in their roles and positions; the separate efforts can lead to fresh or particular views that enrich a final policy. Problems are encountered where different tracks are found within government itself, or when the different institutions find it difficult to share their versions or views and find common ground.

The continued elaboration of follow-up instruments to Law 32/2004 is being made with very few good practices being applied, and with the separate tracks approach dominant within government. Additionally, other laws and regulations pertinent to D/LG are proceeding on their own separate tracks. A recent example is the draft law on special economic zones that is now before the DPR – the draft has never been placed before the Ministry of Home Affairs team working on the revision of Law 32/2004 (see section on Legal Framework for more details on contending legal streams).

DPs have understandably faced a dilemma in supporting government policy development on D/LG in this context. Because there has not been a coherent and shared vision within the GoI to guide policy development and facilitate donor harmonization and alignment, DPs have chosen to respond largely in an ad hoc and fragmented way, mirroring the demand side, linking opportunistically to GoI organizations that have shown initiative or have made requests. In their engagement, they have made some efforts to assist partner organizations to coordinate with other relevant government organizations and with stakeholders. Where there seemed to be little prospect of strengthening the GoI ability to design and implement coherent D/LG policies, DPs have opted for 'client' approaches, in some instances contributing to `siloing'.

Role of technical level GoI-DP working groups
Some success has been seen in GoI-cross DP working groups; on minimum service standards and capacity development framework development. Recently a new working group is being explored, on public services. A positive feature of these groups has been the GoI demand and leadership; combination of GoI (sometimes across organizations) and DP project advisors; and the adequate time given for the effort. With this approach, the more difficult part of the dialogue, which ought to yield the higher level policy frame for these technical efforts, can be left to the 'donor' side of DPs, avoiding impressions that TA is becoming too politicized or is not 'loyal' to direct counterparts.

In general, GoI-DP policy dialogue on D/LG, to the extent that it exists, is aimed at, or limited to, low to middle levels of the bureaucracy. It largely misses other political actors, particularly the DPR and DPD. Some IFIs may gain high level access, by virtue of the magnitude of the loan agreements being negotiated, but this access is 'bilateral', largely uninfluenced by other DPs or other stakeholders, though the loans often purport to support D/LG in a broad if not

[6] Donor Advisory Group (1999). Decentralization in Indonesia – Managing the Risks and Maximizing the Benefits, November 22.

sector wide fashion. For most DPs, access to senior officials, for the purpose of policy dialogue on issues of interest, or supported by, the DPs, is rare. There has been little contact for instance between DPs and the Director General for Regional Autonomy in 2008. In recent years the DP group concerned with D/LG has not met with relevant ministers. DPs are unsure as to whether the donor representatives should be taking the initiative, or the technical advisors who are working closer with counterparts. The working relationship in some joint GoI-DP efforts works quite well (see Box at right), but higher level policy dialogue is hampered by the uncertainties over the appropriate forums and ways of harmonizing and engaging with Indonesian actors. Frequent turnover among both government counterparts and DP staff also frustrates the cultivation of relationships. Additionally, issues of institutional linkages of DP projects have at times marred bilateral relationships, particularly in relation to MoHA. These difficulties point to the need for a more institutionalized and collective approach to dialogue, differentiating the more 'higher policy' from the technical dimensions.

DPs have called for more coherence in GoI policies, and at times formulated some joint policy advice as a group. Several examples of fruitful joint efforts can be found; the initial policy advice on decentralization provided to the GoI (1999); the advice on minimum service standards (2003); and the 2006 Stock Taking Study funded by the DSF, AusAid and USAID. However, DP support for policy development and GOI-DP coordination has also been marred by internal rifts and inconsistent actions, reducing DP credibility on messages regarding GoI policy management. The ambiguity and tension between the DWGD and DSF platforms is the most visible example of this failing.

The lack of policy/legal coherence on GoI policies has also drawn the criticism of the former People's Consultative Assembly (MPR),[7] but the MPR constitutional amendments in 2000 on regional autonomy were themselves rushed, ambiguous, and on the whole unhelpful in giving guidance to the actors involved in framework development. The DPR and DPD, for their part, have not been too concerned about the lack of policy coherence and legislative quality; and at times they have contributed to some of the worst aspects (e.g., in the field of territorial structure).

Decentralization Road Map/Strategy

What should a D/LG road map look like?

What is most needed, and possibly attainable under stronger leadership, is a road map that sets out :

- Key features and principles, to the extent that there is already broad consensus
- key outstanding issues requiring reform but more discussion
- priorities and time frame for reform; preferably for 5-10 years
- how detailed policies will be developed within Indonesian institutions and consultation approaches for key policies
- legal instruments/architecture to be adopted
- support modalities and magnitude of resources from development partners
- capacity development principles guiding Indonesian and development partners
- The road map should be flexible and reviewed on an ongoing basis.

The first task of a properly constituted institution or management forum/mechanism for D/LG policy making would be to prepare a common road map for D/LG reforms and support activities. An initial effort was started in MoHA, based in part on the results of the STS 2006, but soon thereafter the leading director was promoted and the effort ground to a halt as the leadership for the effort became unclear.

The D/LG road map should set out the key principles and features of the multi-level government that is desired. In the current political context of Indonesia, it is not realistic to expect a detailed and entirely coherent D/LG policy. The policy framework will be work in process for some time, with imperfections to be worked out over time, and eventually greater coherence and stability attained as the right, or good

[7] The MPR decision of 18th of August 2000 reflected a dissatisfaction with the pace and nature of decentralization. The government was asked to speed up the preparation of special autonomy laws; to stick to the schedule of implementation of laws 22/1999 and 25/1999, and to initiate a review of the two laws as part of the effort to be consistent with the amendment to Article 18 of the constitution.

enough, policies are found. A road map should not be confused with a blue-print approach; the road map is a broad guide to efforts, useful in focusing efforts and resources (see Box at left). Developing a road map is much easier once an institution or mechanism it established that can give greater leadership and cohesiveness to the actors involved.

The need for a road map comes out clearly in the efforts and terminology of Indonesian policy makers and DPs. The attempted preparation of a Grand Strategy for Decentralization in 2006 was very much in this mould – unfortunately it was never completed or formalized as a GoI document.[8] The 2006 National Action Plan for Fiscal Decentralization (NAPFD), lead by Bappenas, was lacking in quality and clarity, but indicates a similar desire. Prepared as a set of policy conditionalities in the context of an ADB loan, this plan also never became a GoI wide document in practice. A second policy loan has recently been prepared, with an updated policy conditionality matrix calling for, among other targets, the issuance of NAPFD 2010–2014 in 2009.[9] In another strategic effort, the 2002 National Capacity Development Framework for Decentralization was meant to serve as a guide to all actors, and the desire to elevate it to a Presidential Regulation shows that this hope remains. While all of these documents have some important things to say and make some useful recommendations or set worthwhile objectives, none have served, or could serve, as a road map. A road map has to be a unified route for all. In this connection, the STS 2009 may serve as an input to such a unified roadmap. However, because it is not firmly anchored within a GoI lead policy development process, the STS 2009 is also in danger of being under-utilized.

National development plans (lead in their formulation by Bappenas) have addressed D/LG by capturing some of the objectives or activities intended by relevant organizations. An entire chapter, "Revitalization of Decentralization and Regional Autonomy" is devoted to D/LG issues in the 2005-2009 medium-term plan (*Rencana Pembangunan Jangka Menengah Nasional*-RPJMN).[10] The annual development plan (*Rencana Kerja Pemerintah*-RKP) makes this more operational and introduces a year to year assessment of progress. It is difficult to know if the RPJMN and RKP could serve as a useful roadmap and means of marking progress and adjusting reform efforts annually. In the past, Bappenas has not invested significantly in bringing together the relevant actors to generate a coherent vision/strategy. Though Bappenas is now seeking to improve the RPJMN chapter on decentralization/regional autonomy for 2010-2014, it is unlikely that Bappenas could in the final analysis bring about ministerial coherence on its own, particularly having lost its dominant role in development funding. Nevertheless, it may be worthwhile to support Bappenas in its planning on D/LG, to learn what is possible and to learn more about what kind of body is actually needed to attain policy coherence among Indonesian actors.

<u>Capacity development for decentralization/local governance</u>

The STS 2006 report noted that many development partners were active at both central and regional level in supporting D/LG. It also indicated that the CD efforts were less than effective, for a number of reasons. However, it did not refer to an ongoing initiative of the GoI to rationalize GoI and DP support to D/LG. This in fact was initiated early in the decentralization era, with the issuing of a Bappenas/MoHA decree on the National Capacity Development Framework for Decentralization (NCDFD).

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[8] In contrast to the initial intent, the Grand Strategy for Decentralization was finalized in 2007 as a "Grand Strategy Implementasi Otonomi Daerah"; central level reforms were removed from the document as MoHA could not convince other central level organizations to agree to the strategy. The recommendations were instead directed to regional government. A *buku pedoman* was disseminated with a cover letter by the Minister of Home Affairs to the Governors and Bupati/Mayors, to be used as a reference in regional strategic planning (discussion with Made Suwandi, Director for Governmental Functions, Ministry of Home Affairs, December 2, 2008).

[9] ADB (2008). Proposed Program Cluster and Loan Republic of Indonesia: Second Local Government Finance and Governance Reform Program Cluster (Subprogram I), Draft Design and Monitoring Framework, Project Number 38264, October.

[10] The annual national development plan is found in Peraturan Presiden No. 38 Tahun 2008 tentang Rencana Kerja Pemerintah Tahun 2009. The document can be obtained from http://www.bappenas.go.id/index.php?module=ContentExpress&func=display&ceid=2838&meid=.

Since 2006 there has been an effort to update this initial framework and make it more useful. The GoI, lead by MoHA, has struck a working group for this purpose, composed of several GOI organizations and supporting DPs. It aims to frame the NCDFD as a Presidential Regulation (PerPres).[11]

In 2007/2008, the working group held several workshops and undertook field reviews of existing CD efforts for D/LG, noting the challenges faced and good/poor practices at work. The group spent considerable time fashioning more incisive principles/procedures for CD, relevant to national and regional level actors and DPs. The application of these principles may lead to greater GoI ownership and commitment to CD for D/LG and more strategic support from DPs – particularly through mandated Indonesian organizations, and more equitable coverage of regions and urgent needs.

Some positive indications from the NCDFD effort
The difficult discussions surrounding the framework for CD indicates that MOHA is recognizing the need for a more rigorous and widely applied methodology at regional level. Officials are now asking more pointed questions, like "capacity development for what?" They are making connections between CD and the recently developed framework for the monitoring of local government performance (as laid out in GR 6/2008). Moreover, officials are recognizing that there must be a 'life after the Perpres' i.e., that passage of the instruction is only the first step in a longer process of developing a capacity development system. These are important and positive directions.

While the overall effort is commendable, the draft PerPres has at times seemed over-prescriptive on structures to effect CD efforts at all levels of government, and it seems to lock in a specific CD agenda, when in fact the NCDFD needs to establish or confirm an institutional frame for achieving what will be a constantly shifting CD agenda. Recently, the concerned MoHA officials are exhibiting some process fatigue, and appear to have rushed a draft that reflects internal preferences; some of the issues that had been laboriously discussed with DPs appear likely to be dropped.[12]

The tendency to rigidly form special cascading teams of officials from central to local government levels to oversee or effect changes again comes to the fore. This approach is all too often assisted by DPs who take it as a more tractable short cut to institutional development than working within the 'regular system'.

Despite this recent setback in the development of the NCDFD, the experience of working on these issues reveals some promising dimensions (see Box at left).

The recent unilateral MoHA reaction is understandable in some respects. The issues are difficult, and may not be resolvable in the context of the current group composition. Some of the issues need to be elevated to the level of dialogue on aid effectiveness and D/LG policy. It is only in these forums that key questions on CD can be addressed (what CD is needed for the central government itself? What does it mean to strengthen Indonesian capacity to undertake D/LG reforms? Which CD levels of intervention should be emphasized? How should Indonesian actors be facilitated to support government reforms? How can the GoI equitably reach all regions with adequate support? How can DP support be more strategic?) In trying to answer these fundamental questions in the appropriate forums the GoI and DPs will need to reflect on the current style of policy making and implementation. As a result of this reflection, DPs may be able to play a more strategic role, with sharpened outcomes, and greater clarity in terms of sustainability/exit strategies.

In view of the above, the usefulness of the updated NCDFD will depend on the working group's ability to frame the issues, and not necessarily to resolve them. The value of the group's work will only be seen when the well framed issues are passed along to the relevant forums, where discussion will be deepened by parties with greater legitimacy to find answers. Ultimately, the input should strengthen the institutional frame for D/LG policy making and the road map of reforms.

[11] These include several units in MoHA, Bappenas, LAN and GTZ-ASSD, USAID-LGSP, and CIDA-GRSII.
[12] Communication with GTZ-ASSD advisor, November 11, 2008.

There should be no rush to lock into regulation a particular version of the NCDFD at this stage.

Donor aid modalities/coordination

Indonesia has seen considerable aid from DPs. The bulk of the aid has been in the form of loans from IFIs, but considerable granting has occurred as well, mostly from bilateral aid organizations. The grants have come largely in the form of projects that provide technical assistance (and some field investments) to raise the capacities of Indonesian institutions/ development actors. Aid represents but a small portion of Indonesian development resources, and thus DP leverage is accordingly modest – it must be attained through dialogue and engagement rather than financial leverage.

Jakarta Commitments : Aid For Development Effectiveness Indonesia's Road Map To 2014 :

- strengthen the international aid architecture;
- articulate capacity development objectives and targets;
- review how effectively government and DPs can and do contribute to capacity development;
- strong frameworks for measuring and monitoring results within the Medium Term Development Plan;
- government and DPs jointly carry out regular reviews on progress in implementing the commitments on aid for development effectiveness;
- move away from project based approaches towards program based approach;
- reduce the number of ad hoc free standing trust funds;
- DPs (including civil society) are expected to participate in a regular dialogue led by government to discuss progress.

Only recently has Indonesia ventured into program based approaches, comparatively late and still cautiously. DPs are pooling funding by making contributions through other DPs; DFID and the Netherlands have been notable examples, employing this option with IFIs early in the decentralization support effort. The use of World Bank trust funds to pool funds (e.g., the MDF in Aceh-Nias and DSF) is a more recent development. There has been little discussion within Bappenas, MoHA and other relevant organizations on the range of modalities open to DPs and on the regulatory and institutional arrangements that would be necessary for Indonesia to realize the Paris Declaration principles.[13] The GoI-DP discussions on these matters have been insufficient as well, a fact already noted in the STS 2006.

Since 2006, the GoI has taken some steps to place itself in the driver's seat. The previously 'unanchored' Decentralization Support Facility (DSF) was brought closer to government through a Memorandum of Understanding that restructures the management of the DSF and its decision-making procedures. Additionally, Bappenas has signaled its interest in receiving budget support. The Office for Cooperation in MoHA has signaled that it is interested in familiarizing itself the aid modalities applied elsewhere. In short, there is interest within the GOI to push harder on the issues of ownership, harmonization and alignment.

A donor funded "Survey of Donor Effectiveness" was prepared in March 2008 by Bappenas, encompassing all fields of DP support. Its findings indicated that some steps have been taken to realize the Paris Declaration principles.[14] However, it is evident that aid effectiveness in the D/LG field in Indonesia is low when assessed in terms of important indicators. For instance, the GoI is not being sufficiently supported to develop clear 'sector wide' policies; some DPs are conducting unilateral dialogues and negotiating support with sector wide implications without fully validating their approaches/policies with other DPs. Some joint or coordinated analysis is being done, but new programs and projects continue to rely on dedicated and burdensome (to the GoI and donors) assessments. DPs have not explored the full range of program based approaches. The use of off-budget and parallel structures is persistent. Improvement in these areas will be required soon in view of the Indonesian government's own Jakarta Commitments (see Box above), which is an Indonesian approach

[13] For instance, the 2005/2006 regulations on donor lending/ granting have only recently been followed with more detailed operational rules (their suitability for various forms of DP assistance has yet to be assessed, but the DSF intends to study the matter within this calendar year).
[14] Bappenas (2008). Survey of Donor Effectiveness - Qualitative Responses to 12 Indicators of Aid Effectiveness, 18th March.

to localize the Paris Declaration.

The newcomer DSF is in a precarious situation. Its modality is falling out of favor internationally, as free standing trust funds appear to '…draw donor and government attention towards the modality itself rather than the systems that it is intended to strengthen'.[15] But the DSF has shown it can be reflective and adaptive. In its review of its role it notes some successes, but also candidly admits that it is operating in a 'confused policy environment', where there is a need for strengthening the management of D/LG policy.[16] It sees its role as one of supporting the GoI in policy making. That may be a worthy impulse, but the DSF faces great difficulty in this respect in view of its history and structure and its relationship to individual and collective DP efforts in support of GoI policy making. A DFID review of its Indonesian program warns of the risk of the DSF to the DFID portfolio and indicates there is "…still a lack of a well-articulated, coherent demand from the government for DSF's products and services."[17] That shortcoming is being overcome, though the process seems to be more one of claiming resources by GoI institutions, rather than how the DSF platform can best be used in the context of the Paris Declaration. If the latter discussion was held, it would be necessary to include a frank assessment of the impact that DSF has had in the development of the pre-existing forum for coordination and policy support, the DWGD/JWGD.

The CGI and JWGD story

The Consultative Group on Indonesia, established in 1992, brought together donors and senior officials together to discuss weighty issues (including decentralization) and financing. In one of its rounds, it was agreed that the donors and GoI should come up with a joint statement - in that moment was born the idea of a "Joint Working Group for Decentralization." The JWGD had a lively life of its own separate from the annual CGI events, and there were plans to develop a Permanent Secretariat to sustain it and be the organizing platform for technical working groups. These plans fell apart soon after the DSF made its introduction. Some attribute the demise of the JWGD to its birth within the rejected CGI model (formally abolished in early 2007). Others point to the displacement effect of the DSF, and others again suggest that there is no real interest in the GoI for such a mechanism/forum.

The GOI is still far from establishing an effective forum for GoI D/LG policy making that can give coherence to GoI reforms and donor CD support efforts. It appears as if the Joint Working Group for Decentralization (JWGD), and its intended Permanent Secretariat (formed in 2005) are moribund or dead. The GoI and DPs do not seem to have any clarity or consensus on whether the DSF or the DWGD is the vehicle for policy dialogue.

A certain hesitation is evident among some DPs in their stance on policy dialogue, reflecting great sensitivity to not appearing intrusive or overly demanding. If the Jakarta Commitment is to be a guide, such hesitation is misplaced. It is reasonable to expect that if the Indonesian state desires DP support in D/LG, DPs do need to be brought into a dialogue on which policies should be supported, or how the policy development process itself can be strengthened. It the dialogue is conducted in the spirit of the Paris Declaration/Jakarta Commitment, then it cannot be deemed to be intrusive or otherwise inappropriate. Asking for appropriate forums or mechanisms for political level as well as technical level exchanges is sensible. The GoI and DP need not settle for the current configuration when it is evident that it is not working well in terms of pursuing the objectives of D/LG or aid effectiveness.

It should also be noted that the DSF, though now better anchored to the GoI, is essentially a project, with a contractual life to December 31, 2009.[18] GoI is now dominant in selecting its activities, but these have little coherence; the DSF has become a super-donor, responding competitively to GoI demands, alongside other donors – this configuration fails to give rise to what could be described as GoI-donor dialogue. The entry of this large player generates more competition within the donor community in communicating with, and fulfilling requests of, the GoI. Often, the DSF takes on a portion of a larger cooperation effort already involving one or more bilateral agencies, complicating the effort rather than facilitating harmonization. The harmonizing function of the DSF has yet to come to the fore.

Despite the inordinate difficulty in creating leader-

ship and expanding the policy discussion, some GoI organization and DPs are exploring new programmatic approaches, beyond the WB trust fund vehicles employed in the DSF or Aceh/Nias. A group of like-minded donors (CIDA, USAID, and GTZ/BMZ) are exploring ways of working together to better support decentralization at national level. Performance based granting for regional government, with greater use of government systems, is being explored through two new projects; AusAid Dialog and CIDA- BASICS.[19] There has been mention of a sector wide approach for the 'D/LG sector.' Potentially, this would allow for a number of DP modalities (from budget support to projects) that are harmonized and aligned around a clearer and unified GoI road map for decentralization reforms.[20]

DPs do appear to agree that the sustainability of decentralization reforms hinges on increasing the capacity of all relevant Indonesian actors to work together in this effort, in a proper division of labor and through appropriate forums/mechanisms. The experiences with current platforms have yielded some success but are seen to fall short in important dimensions, particularly in giving space to LG and civil society.[21] DPs have made room for regional government and CSOs in specific support efforts (project level activity), but it remains unclear how these actors are to be given a more formal role in the larger dialogue.

Moving forward and applying aid effectiveness principles

The key to applying the Paris Declaration/Jakarta Commitment lies above all with the GoI. The GoI will need to find a mechanism/structure for policy making in D/LG that will lend more coherence to all actors, and allows it to move toward greater aid effectiveness.

One of the keys to success in attaining good policy management is to recognize that any single ministry lead, such as the case now with MoHA, cannot effectively convene or negotiate among the many inter-ministerial and multi-sectoral issues and stakeholders. This difficulty has several causes, including the necessity to accommodate government supporting parties in cabinet, making it unlikely that the ministers will be a cohesive group. The centralized patronage system prior in the New Order has been discarded - a good thing, but alternative means of gaining cabinet level cohesion have been slow in coming. The national planning and budgeting process itself has not yet become the binding process it could be in principle. Incentive systems within ministries do not spur performance, but favor formalistic efforts; policy and regulations become 'projects' that are poorly designed, and are used mainly to gain personal and institutional advantage and attract budgets - disbursed based on products prepared within annual time frames, forced into this time frame to fulfill superficial auditing requirements.

Against this backdrop, there can be no silver bullet that will solve the political and administrative fragmentation that hampers D/LG policy coherence. But if there is to be an effort by the government to overcome these systemic difficulties, it will be important to seek a platform (whether in the form of

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[15] Irish Aid (2008). Good Governance, Aid Modalities and Poverty Reduction: Linkages to the Millennium Development Goals and Implications for Irish Aid, Research project (RP-05-GG) of the Advisory Board for Irish Aid, pg 13.
[16] DSF (2006). Aid Effectiveness Case Study, Decentralization Support Facility – Indonesia, August.
[17] DDFID (2007). Evaluation Of DFID, Country Study Indonesia, Chris Barnett, Jon Bennet, Azis Khan, Jups Kluyskens, and Chris Vickery Evaluation, Report EV680, September, pg. xi.
[18] Agreement between the Government of the Republic of Indonesia and the World Bank (on behalf of the Decentralization Support Facility), November 2007.
[19] This exploration includes the possibility to make the grants on-budget, though it is not clear if the Indonesian regulations will allow that at the present time. Recent indications are that the AusAid Dialog effort has stalled, and resources may be shifted to related donor efforts.
[20] Presently there are a number of road maps or frameworks, prepared or in the pipeline, including one that is general but not formalized (Grand Strategy for Decentralization), the National Plan for Fiscal Decentralization; the Grand Strategy for Territorial Structures; National Framework for Capacity Development for Decentralization.
[21] See for instance the multi-donor fund example in Aceh/Nias, in Thorton, Paul (2006). What methods have proved most effective for establishing country leadership of relief and reconstruction following natural disasters?, The Multi-Donor Trust Fund for Aceh and Nias Country Initiative Case Study No. 4: Verulam Associates.

an institution, forum or mechanism) that has greater weight and involves more adequately all of the key players in D/LG. The STS 2006 already foreshadowed this possible realization. Three more years of experience confirms that MoHA cannot attain the coordination directly through its own efforts and that the long awaited revitalization of the DPOD is also unlikely.

The new, or renewed, platform would be one where strong leadership can be exerted, bringing together the relevant agencies and ministries as needed to address the outstanding and urgent issues in D/LG. This forum should also provide the leadership for exploring and designing aid modalities (for D/LG) that are more likely to reflect Paris Declaration principles and obtain governance and development results. Informal discussion with government officials in the context of the STS 2009 effort suggests that there is recognition of the current challenges and some receptivity to discussing options. One option may be a DPOD that is lead by the Vice-President or President; placing higher level coordination within the President or Vice-President's office, or establishing a separate body/agency for coordination of D/LG that is directly responsible to the President. This or similar options have been voiced in the past, and more government officials are now encouraging their exploration.[22]

It may be possible to work towards or explore the development of such a structure by making the most of the upcoming mid-term planning exercise that is lead by Bappenas. The learning gained by Bappenas in generating the poverty reduction strategy in a participatory fashion could allow it to effectively bring together the key actors to agree on the broad directions for reform in decentralization/local governance – covered as Chapter 13 "Revitalization of the Decentralization Process and Regional Autonomy." This strategy could also include concrete targets for attaining the Paris Declaration principles/Jakarta Commitment targets, including the broad features of the D/LG policy making process and donor coordination. Some assistance will be required from DPs for Bappenas to get the most from this effort, linking the Bappenas team with the various reform efforts underway and advising on the consultation required – the experience gained from the Law 32/2004 revision could be useful in this regard.[23]

DPs themselves may need to step up the effort to realize the Paris Declaration/Jakarta Commitment. Despite the concerns on trust funds, the GoI looks favorably on some forms of this aid modality, but both GoI and DPs will need to situate trust funds within a larger range of 'program based approaches'[24] and policy dialogue; there is the danger with the current configuration that a trust fund becomes the main program based approach, and that policy dialogue will be awkwardly subsumed under it, or be neglected.

A discussion between the GoI and DPs (and civil society) on the feasibility of a sector wide approach (SWAp) for the D/LG 'sector' could determine if a SWAp is the best configuration to aim for, or if some mid-point towards that scenario is more suited to Indonesia. A SWAp could conceivably encompass the range of modalities that DPs can offer, but would have the advantage of being in tune with a unified road map of the government. This unified road map would be a prerequisite for a SWAp. Regardless of the exact shape of the SWAp, a more sectoral approach could be strengthened by the use of a 'Code of Conduct' that would commit government and DPs to certain ways of working together. This would help to minimize many of the weaknesses and contradictions in DP support seen in Indone-

[22] See for instance the opinions voiced by Djohan Djoharmansyah, Deputy responsible for the Political Sector in the vice-Presidential Secretariat, presented in the Bappenas/UASID-DRSP sponsored Seminar on Stock Taking Study 2009, Crown Plaza Hotel, Jakarta, June 16.

[23] Some assistance has already been given jointly by CIDA and GTZ, but it would need to be intensified in the second half of 2009.

[24] Program based approaches encompass a large number of modalities that seek to use partner government systems as much as possible and joint donor efforts. These may be delegated cooperation/pooled technical assistance funds; budget support, or sector budget support; joint assessments; streamlined dialogue mechanisms/structures; and broader architectures such as sector wide approaches that can also place more traditional projects within the partner policies and a coordinated set of donor modalities.

sia today. To further bolster this approach, a more rigorous and regular assessment of GoI/DP efforts against the Paris Declaration/Jakarta Commitment principles and targets would be helpful.

Recommendations

1. The GoI and DPs should give consideration to the following adjustment to D/LG policy dialogue :

   a. ***Elevate*** : the dialogue needs to be held more intensively at higher level within both the GoI/political bodies and DPs.
   b. ***Separate :*** higher policy/political dialogue with senior government and political institutions need to be largely separated from the more technical/implementing agency dialogue with the low-medium levels of government.
   c. ***Integrate*** : the resources and policy dialogue need to be more tightly joined on the DP side so that they are presented in a concerted way. Also, civil society and the regional government associations need to be brought into the dialogue in a more formalized way.

2. The GoI should give consideration to strengthening its management of D/LG policy by giving the DPOD (or a transformed DPOD) a more explicit mandate for policy development and oversight and strong inter-ministerial leadership (e.g., placing it under the leadership of the President or Vice-President). Alternatively, other arrangements that could provide more coherent D/LG policy and legal instruments could be considered.

3. The GoI and DPs should agree on the forum/mechanism for policy dialogue.

4. The GoI, with DP support, should develop a unified road map for D/LG, following the format (list of contents) suggested in this report. This road map should be used by DPs to harmonize and align their ongoing support.

5. As an immediate and concrete step toward a stronger policy leadership and coordinated DP response, the GoI should ensure that at least the initial thinking behind the road map for D/LG is placed in the 2010-2014 national development plan (RPJMN), and that effort be undertaken in the spirit of the approach desired in the future. This may be seen as the first step in prepare a D/LG road map; the annual plans (RKP) can be adjusted to the eventual road map.

6. GoI and DPs should finalize the National Capacity Development Framework for Decentralization in concert with the road map, and both should influence the Code of Conduct that supports a more sector wide approach.

7. DPs should encourage and support the GOI in undertaking a D/LG specific review of aid effectiveness, based on the 2005 Paris Declaration/2008 Accra agreements.

8. More rigorous evaluations of DP supported D/LG policy development efforts (joint GoI/DP, peer evaluations, independent evaluations) should be undertaken to learn how to better support D/LG policy development.

2. LEGAL FRAMEWORK FOR DECENTRALIZATION / LOCAL GOVERNANCE

Situation in 2006

The STS 2006 notes that the legal framework for decentralization/local governance (D/LG) suffered from shortcomings common to legal instruments in Indonesia as well as some particular to the D/LG field :

- Lack of widely acknowledged and applied principles that could define the scope and hierarchy of legal products and lend coherence to the legal framework.
- Lack of clarity in the validity and ranking of some legal instruments, particularly ministerial, regional head and village head decrees.
- Lack of meaningful processes to ensure quality and legitimacy in policies and legal products.

- Procedures for creating laws and other instruments that are incomplete or disregarded (as in the creation of regions).
- Insufficient use of explorative or declarative policy documents (e.g., *naskah akademik*) and regulatory impact assessments.
- Poor practices in the specific technical formulation of the legal products.
- Vague laws, reliant on lesser regulations that are prepared long after the mother laws and are inconsistent or contradictory (within and among legal streams).
- An architecture for functional assignment that is unable to achieve harmonization between the organic law on regional government and sectoral or other laws.
- Constitutional provisions for decentralization/local governance that are ambiguous, do not reveal a coherent vision, and fail to give guidance to laws and regulations.

A positive step had been taken to ensure quality and coordination in regulation making when MoHA established an ad hoc committee, chaired by the Director General for Regional Autonomy, with operational guidance from the Director for Capacity Development and Evaluation of Regional Performance. This committee was given the task of coordinating the drafting of decentralization related legal instruments being prepared under MoHA's leadership. It was recognized that this coordination function should be performed by the Law Office (Biro Hukum) of the General Secretariat of the Ministry, where a cross directorate general view was in principle more possible. However, this unit had not been fulfilling this role. In mid-2006, the ad hoc committee (placed in a 'line' stream of the organization) was seen to be struggling, lacking qualified staff that could shape and nurture an appropriate coordination/harmonization process.

In the STS 2006 it was also noted that development partners (DPs) had yet to find common ground on the capacity development support strategy needed for policy development and legal drafting, though DPs had encouraged the GoI (some time before in the context of the CGI) to adopt a more open and systematic approach. The lack of demand for DP support from the GoI suggested that changing the dominant policy development approach, with its heavy reliance on individual/institutional initiative, was not a high priority for GoI policy makers.

Recommendations in the STS 2006 focused on establishing a more rational hierarchy of legal products; making laws and regulations more complete to avoid ministerial level deviations; and improving the policy development, regulatory impact assessment, and drafting processes.

The revision of Law 32/2004 was encouraged, with the hope that it would reflect lessons learned and lead to a more sustainable framework. MoHA and similar efforts to improve coordination and a quality check on legal instruments were flagged for DP support. Greater DP coherence in support strategies in policy development efforts was also suggested, with overtures to be made to oversight and coordinating bodies that process draft laws, government regulations, and presidential regulations; the intent was to elicit interest in a more intensive effort to improve the policy/legal drafting process from the Ministry of Justice and Human Rights (*DepHukHam*) and State Secretariat (*Setneg*)/Cabinet Secretariat (*Setkab*). The challenges of sectoral harmonization and of a constitutional amendment were deemed to require high level/broad political support.

Developments since 2006

The MoHA ad hoc committee for legal products coordination dissipated after the director leading its day to day work was elevated to the role of Minister's spokesperson. The legal framework for D/LG gained numerous new instruments subsequently, many lacking in quality, with important implications for the overall coherence and architecture of D/LG legal framework.

<u>The law on regional governance in the overall legal framework</u>

Since 2006, the cornerstone law on regional gover-

nance has seen more laws and related regulations enter the field, joining other laws it had already coexisted with, albeit in some tension.

Some relevant laws impinging on the law on regional governance

Sectoral Laws (long list; health, education, etc.)
Civil Service Law 43/1999
National Planning Law 25/2004
Spatial Planning Law 26/2007
Investment Law 25/2007
Freedom of Public Information Law 14/2008
Fiscal Balance Law 33/2004
Local Taxes/charges Law 34/2000
State Finances Law 17/2003
Governance of Aceh Law 11/2006
Special Autonomy of Papua Law 21/2001

The positioning of the regional governance law within the larger national governance framework has been an issue for some time, and was flagged in the STS 2006. Since then several sectoral laws have been created or revised, without ensuring harmonization with the regional governance law. Together, these laws create a complex set of laws (see Box at right) that makes it more difficult to place the regional governance law. Additionally, the revision of law 32/2004 foresees separate village government and direct election laws. The same may happen with the matter of Regional House of Representatives (DPRD); it may be treated entirely or largely in the law on legislative bodies. In fact, a long list of anticipated or pending draft laws could influence the positioning and efficacy of the law on regional governance :

- Draft law on the standing of the DPR/DPD and DPRD
- Draft law on elections (direct election of regional head)
- Draft law on public services
- Draft law on administrative procedures
- Draft law on authority relations between central government and regions
- Draft law on village government
- Draft law on rural areas
- Draft law on special economic zones
- Draft law on civil society organizations
- Draft law on territorial structure

Some of the above drafts are nearing promulgation (e.g., public services) while others are only possibilities, and may be dropped or blocked at various stages. Some are presently stuck in the government review process or in the committees of the DPR. In cases, unhealthy overlap is evident among them, but the main concern for this section of the report is their consequences for the current regional governance law.

While many of these draft laws have merit, and are demanded by credible stakeholders, there is a dangerous lack of consultation between the teams working on these draft laws and the MoHA lead team working on the revision of the regional governance law. There is some academic cross-membership in the various teams, and in cases the same institution is sponsoring the drafts. Even so, it is not uncommon to find a silo approach to related legal products within the same sponsoring institution, and academic cross-membership has done little so far to facilitate a proper connection.

There is little discussion within government, or supporting DPs, of the overall legal architecture that is necessary to give stable and coherent expression to D/LG policy. Hence there is little consensus on which law/revision has to be conceived first, and which laws ought to be influenced as a result. A properly conceived sequence and hierarchy would ideally determine the rational distribution of principles and more operational directives across laws and regulations.

The continued reliance on a government regulation, born of the law on regional governance, to assign functions of the central government and regional governments, gives rise to contradictory laws and tensions between actors, underscoring the unworkability of this architecture. The recent deviation in the operationalization of agency tasks (in a government regulation) from the core concept, as found in the Constitution, is another worrisome example of what can go wrong when the basic architecture is not well considered.

Quality of legal drafting

The regional governance research body KPPOD has indicated that approximately 85% of sampled local regulations in Indonesia have problems with their legal references, omission of required points of substance, or violations of points of principle. Around 10% are deemed to significantly distort local economic activity.[25]

Central level regulations have not been evaluated in the same way, but many are marked by poor quality and unworkability. Moreover, the instability of regulations has been noted by regional government and other local stakeholders,[26] as well as MoHA itself.[27] This situation sometimes works to reduce the enthusiasm or willingness to align local systems and practices – since the effort is seen to be endangered by subsequent regulations.

Recent approach and prospects for the revision of Law 32/2004

MoHA expanded its revision effort in 2008, enlisting GTZ-ASSD and USAID-DRSP to organize numerous forums in Jakarta and the regions, involving regional government and CSOs/Universities, to examine reform issues in depth and with more views at the table. ASSD has supported RGAs to gather issues and views from its members. DRSP has supported the establishment of regional think tanks of intellectuals and academics to explore policy options and worked with several CSOs to conduct citizen forums and allow wider public participation. Innovative methods like interactive radio talk shows broadcasted in several regions of the country. Over 4,000 participants have been involved in shaping inputs to the revision team. The latter has been expanded to include noted academics, and the meetings have been more frequent than in the past. Skilled facilitation has been instrumental; undertaken with highly regarded academics as well, under the aegis of DPs.

The reality is that many aspects of the legal framework do need to be revised or refined. This is widely acknowledged by many stakeholders, though there is disagreement on scope and focus. Law 32/2004 was amended in 2005 and then in 2008 to update or improve provisions on the elections of the Regional Heads, the duties of the Deputy Regional Head and DPRD, party procedures, and campaigning.[28] While necessary, these changes did not address the wide range of issues being deliberated and targeted for revision; that process continues under a special MoHA organized team. MoHA announcements on this process have not always been consistent. For instance, some backpedaling on the term 'revision' is recently evident, with the more limiting term 'amendment' been put forward.[29]

The revision process began well, but its intensity and consultative activities have ebbed and flowed. In mid 2008, the effort received another boost when the approach was changed to make it more intensive and to gain broader input and deeper discussions (see Box at right). MoHA had indicated an intent to vet the interim academic discussion paper (*Naskah Akademik*) and the legal clauses by December 2008, to be followed by a wider consultation with regional government, CSOs, and informally with the DPR Commission II members. A presentation of the revision team's condensed deliberations and recommendations was made to the Director General for Regional Autonomy in January 2009, and the directions as presented were deemed promising enough to be presented to the Minister in April 2009.

As it stands, the revision/amendment will focus on issues that have proven problematic in the implementation. Considering practicalities of the current work load and sessions, the revision would best be handled by the newly elected DPR/DPD members.[30] This would give more time for the MoHA lead drafting team to improve the *naskah akademik*, extend consultation, and gain consensus on the proposed revision. However, senior officials in MoHA appear to be aiming for passage in 2009 with the current DPR members – a risky proposition with a precedent (Law 32/2004) that warns against it.

At the same time as the revision is proceeding, the long process of micro-policy development and legal drafting to realize provisions in Law 32/2004 is continuing. It is sometimes not clear whether these follow, or ought to follow, the logic of Law 32/2004 or the improvements under discussion in the context of the revision of the law; it seems that some of both is taking place.

MoHA-Directorate General for Regional Development drafting process

In the preparation of the draft regulation on regional plans called for in Law 32/2004 Art. 154, the directorate general concerned (Bangda in the Indonesian acronym), closely involved, and at times gave the lead to, a network of CSOs under the banner of *Forum Pengembangan Partisipasi Masyarakat* (FPPM). With funding and guidance from USAID-DRSP, FPPM undertook wide public consultations across sectors and regions on the Bangda draft; analyzed the draft in terms of its fit within the legal framework, advocated for improvements, and facilitated interdepartmental discussion. This form of cooperation was formalized in a Memorandum of Understanding.

The processes seen in the elaboration of follow-up instruments to Law 32/2004 vary greatly across legal instruments. The government monopolized and opaque process in the formation of the problematic Government Regulation 7/2008 on deconcentration and agency tasks[31] resulted in a product that is at odds with the Constitution, inadvertently reducing agency tasks to a form of deconcentration, undermining the Indonesian decentralization architecture (see also sections on Functional Assignment and Finance).

Because GR 7/2008 was an instrument important to D/LG, and was lead by two central level organizations that are deeply involved in the issues, the outcome is particularly disappointing. Moreover, it indicates that the check for fit between related legal streams/products will be all the more difficult when the new legal products are championed by central government organizations that are more peripheral to D/LG issues. A recent example is the issuing of GR 48/2008 on Education Financing.[32] This regulation appears to legalize (in Articles 5-6) the current practice of direct central government funding of school budgets, contradicting Law 32/2004 and regulations promoting a shift away from deconcentration/agency tasks funding channels (and to the Special Allocation Fund –DAK) for functions that have been decentralized. If it is argued that GR 48/2008 is consistent with its mother law on national education, that would only serve to show how fundamentally inconsistent legal streams impinging on D/LG have become.

On the positive end, the participatory approach seen in the preparation of draft government regulation on "Steps, Procedures, Control and Evaluation of Regional Development Plans (RPP-T2CP2EPRD)"[33] (see Box above) left most participants hopeful for what this approach can yield. However, even this process faced periods where MoHA (BANGDA) retreated away from its 'partners', and the final product[34] does not seem to adequately reflect the CSO and donor investment made.

Most regulatory efforts since 2006 have tended toward the bad example mentioned above (for deconcentration and agency tasks). The poor processes have lead to repeated revisions of some regulations, notably those on financial management. While some refinement of regulations is to be expected, particularly as systems are being developed, the approach to regulation making in D/LG do not follow basic regulatory impact assessment principles. Testing

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[25] KPPOD (2007). Local Economic Governance in Indonesia - A Survey of Businesses in 243 Regencies/Cities in Indonesia, USAID, The Asia Foundation.

[26] This was particularly noted in the context of the CIDA-GRSII Monitors' visit to Aceh, where officials at provincial and district level frequently voiced these complaints. Some of the causes of fast changing regional regulations have been listed by Sumarto, Sudarno (2007). Regulatory Impact Assessment – Lessons Learned from Indonesia, SMERU Research Institute, April.

[27] See presentation made within MoHA, Ach Bakir Al Afif Haq (2008). Reformasi Pengelolaan Keuangan Daerah dan Tantangannya di Indonesia, Direktorat Fasilitasi Pertanggungjawabn dan Pengawasan Keuangan Daerah, BAKD – DDN.

[28] Undang-Undang Republik Indonesia Nomor 8 Tahun 2005 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 3 Tahun 2005 Tentang Perubahan Atas Undang-Undang Nomor 32 Tahun 2004 Tentang Pemerintahan Daerah Menjadi Undang-Undang; Undang-Undang Republik Indonesia Nomor 12 Tahun 2008 Tentang Perubahan Kedua Atas Undang-Undang Nomor 32 Tahun 2004 Tentang Pemerintahan Daerah.

[29] Discussion with Made Suwandi, Director for Governmental Functions, Ministry of Home Affairs, December 2, 2008.

[30] Discussion with Made Suwandi, op. cit.

[31] Peraturan Pemerintah Nomor 7 Tahun 2008, Tentang Dekonsentrasi Dan Tugas Pembantuan.

[32] Peraturan Pemerintah Republik Indonesia Nomor 48 Tahun 2008 Tentang Pendanaan Pendidikan.

[33] Rancangan Peraturan Pemerintah tentang Tahapan, Tata Cara Penyusunan, Pengendalian, dan Evaluasi Pelaksanaan Rencana Pembangunan Daerah.

[34] Peraturan Pemerintah Republik Indonesia Nomor 8 Tahun 2008 Tentang Tahapan, Tata Cara Penyusunan, Pengendalian Dan Evaluasi Pelaksanaan Rencana Pembangunan Daerah.

of new and challenging elements is too often done through nation wide roll outs, rather than focused and geographically limited experiments that can then shape more mature and feasible approaches at larger scale.

The influence of political actors on legal drafting

The unfortunate experience with Law 32/2004, where the government prepared draft was rushed through the DPR, with little helpful scrutiny by the DPR, is still fresh in the minds of stakeholders. If there is a positive side to the role of national level political institutions, it is that they are taking more of an interest in D/LG issues, slowly broadening their horizons from what has been a preoccupation with new region creation. The DPD in particular has been working hard to take a position on a number of regional governance issues, in anticipation of the revision of law 32/2004.[35] The government, and other stakeholder need to better anticipate the positive and negative roles these bodies can play.

The DPD is aiming for another amendment to the Constitution, touching on regional issues. It is evident that the DPD wishes to enhance its own powers through the Constitutional amendment. It is unclear how it will apportion its efforts between its institutional interests and broader regional governance issues.[36] For stakeholders who wish to see a more coherent and firmer legal base for D/LG, the DPD effort to amend the Constitution could be a timely opportunity. Proposals for Constitutional amendments take time to prepare well, and require a good process to gain legitimacy and sufficient support. Government, regional government associations, and potentially DPs should join forces in this effort and make it the first priority; it is more logical to set out the basic features and principles of D/LG in the Constitution before Law 32/2004 is revised.

Substantively, the contribution of the DPD proposed revision to Law 32/2004 has some new ideas to offer, regarding the law on regional government and proposed law on village government. Once agreed with other stakeholders, these could flow into a constitutional amendment. Additionally, the DPD is encouraging a clear action plan for implementation, one that would allow for DPD supervision of implementation.[37] The substantive and process ideas of the DPD have yet to be widely shared and discussed, but there are plans for regional events in the near future. It will be important to see how the DPD contributions are absorbed by the DPR, and how the DPD and DPR ideas/versions will be brought together with the government draft. It is encouraging that MoHA intends to informally invite DPR members to the anticipated consultation events it has planned for the revision of Law 32/2004. Additional mechanisms may be needed to find a suitable convergence in this livelier and complicated political setting. DP support for these kinds of interaction may need to be bolstered.

Support from development partners

BAPPENAS' new Directorate for the Analysis of Regulations

This new unit is to encompass the analysis of central regulations and regional regulations. The aim is to increase legislative certainty and harmonization. The analysis of this unit will flow into national development plan recommendations, but how the unit connects to other stakeholders is yet not clear. It is receiving donor support from the UNDP funded Access To Justice Program.

DPs have offered some assistance in improving the legal framework related to decentralization/local governance. USAID-DRSP has supported the documentation of consultative processes of regulatory reform, and published a good practices manual based on those experiences.[38] USAID-DRSP and GTZ-ASSD have sponsored a number of regional forums

[35] This relatively new institution has struggled to find consensus on how to conduct business, work with electorates, and develop policies. Its institutional inefficiency is at least balanced by the integrity of its members, with no accusations of corruption to date.
[36] See for instance Nurhayati Desy (2008). DPD calls for resumption of Constitutional amendments, *Jakarta Post*, Saturday, August 23, pg. 8.
[37] It has been supported in this effort by USAID-DRSP.
[38] USAID-DRSP (2007). Memfasilitasi Konsultasi Publik – Refleksi Pengalaman Penyusunan Rancangan Peraturan Pemerintah tentang Tahapan, Tata Cara Penyusunan, Pengendalian, dan Evaluasi Pelaksanaan Rencana Pembangunan Daerah, Kerjasama Dengan Direktorat Jenderal Bina Pembangunan Daerah, Departemen Dalam Negeri.

on reform issues for Law 32/2004 that have been well attended and documented. The CIDA funded GRSII is in dialogue with the law office of the MoHA Secretary General, exploring ways of raising their capacity to coordinate legal products.

Even where substantial DP support has been provided, as in the monitoring and evaluation regulations stemming from the Ministry of Finance, MoHA, and Bappenas, the overall results after four years of elaborating Law 32/2004 and other legal streams has been a jumble of conflicting regulations that are clearly unmanageable and make it impossible to effectively monitor and evaluate regional government performance and decentralization policy. The problems this is creating are acknowledged by some GoI officials.[39] DPs involved in supporting these efforts have in cases made some internal assessments of the challenges faced, but have not been able to mount a more coordinated approach, or to influence the regulatory approach of key counterparts.[40]

Since 2006 additional efforts have been made to institutionalize and intensify regulatory impact assessment (RIA). These have tended to be isolated efforts, and largely DP supported. Even so, government interest is recently more evident, as indicated by Bappenas' initiative (see Box above). At the regional level the concern has been to avoid excessive and counter-productive regional government regulations that aim to increase own revenues.[41]

DPs are often torn between the choices of standing clear (or withdrawing) from problematic legal drafting efforts or accepting the challenge to make the best of the situation; sometimes described informally in the DP community as 'damage control'. DPs have apparently chosen to support all opportunities offered by government officials to support the development legal products, with the hope that with more familiarity with good practices and iterations government will become more open, and more committed and capable in participatory efforts. After a decade of this kind of support in the D/LG field, it may be time to put such hopes to the test with rigorous evaluation.

Policy options

Most of the recommendations raised in the STS 2006 have not been addressed, and on the whole little directed discussion has been seen in the GoI and among DPs (or in the dialogue between the two) on the state of the legal framework, its tendencies, and possible remedies. Yet many regional government and civil society members are frustrated by conflicting, overly intrusive, burdensome, or irrelevant laws and regulations. There is a price to be paid for allowing the current approach to continue, not least of which is reduced trust in the intentions and capacity of the central government, and loss of confidence that the rule of law will prevail.

One of the promising reactions to the legal weaknesses seen in laws and regulations has been the increased interest in mounting legal challenges, through the Supreme Court, and more recently the Constitutional Court (for laws). Law 32/2004 and its follow-up products have already been tested in the Constitutional Court for some issues (exception made for Jakarta province in terms of political divisions; financial protocols of the DPRD; independent candidate for regional head, regional head term). This is a healthy development as the challenges and decisions of the courts can put pressure on the DPR/DPD and government to be more careful in drafting laws/regulations. However, because these review efforts can be costly, and require specialized legal expertise, they are rather infrequent in the D/LG field, despite the many legal inconsistencies found in this field. Some support from DPs in this effort may be warranted, aimed at organizations that are well placed and have cause to appeal (e.g., regional government

[39] See for instance the presentation by Solihin, Dadang (2008). Setting up the Performance Evaluation System, Thursday, March 27, directorate for System and Reporting of Development Performance Evalaution, Bappenas, http://www.slideshare.net/DadangSolihin/setting-up-the-development-performance-evaluation-system/.

[40] Support for monitoring and evaluation regulations has come largely from GTZ-ASSD, USAID-DRSP, CIDA-GRSII, and ADB-SCBD.

[41] Some efforts related to RIA have been conducted through donor supported effort: ADB TA 3829-INO, Strengthening Business Development Services; UNDP in relation to support to the BAPPENAS Directorate for the Analysis of Laws and Regulations; The Asia Foundation in relation to support to 28 local governments across Indonesia.

associations) and the firms/organizations that would provide legal assistance. Support for appeals could be directed to the following areas :

a. Establishment of new regions that do not follow due process and criteria.
b. Sectoral laws that do not contain clear assignment of functions for all levels of government.
c. Regulations that deny the DPRD its rightful role, subjugating it to government dictates.

The challenge for policy makers wishing to improve the legal framework for D/LG is twofold: to place D/LG within a more promising legal architecture and to build or refine the legal framework for D/LG in a way that maintains consistency and quality. The architectural improvements are required in the following aspects :

a. The scope of the law on regional governance vis-à-vis other laws.
b. The guidance to be found in the law on regional governance for other laws.
c. The basic principles/core features of D/LG that need to be placed in the Constitution to give the entire architecture coherence and stability.

On the process side, a more robust mechanism is required than that used today. In retrospect, the MoHA ad hoc effort at quality/process check on MoHA lead instruments can be seen to have been too optimistic, and misplaced. The support now provided by CIDA-GRSII to the Secretary General of MoHA is more institutionally correct, but may not be any more fruitful in view of the slow MoHA response, and the more fundamental challenges regarding D/LG policy making. MoHA is an important player, but leadership for a more coherent legal framework needs to come from several national organizations and with higher political involvement and oversight as well. This is particularly the case for harmonization objectives and any constitutional amendment that may be contemplated.

In the absence of a reconfigured GoI approach to D/LG policy making, improvements supported by DPs in the coherence of the legal framework can only be marginal. DP support for specific policy/regulatory efforts could also be counterproductive in many cases. Essentially, the larger challenge for the GoI is how to effectively manage the decentralization policy process (see section on Management of the D/LG Policy) so that the ensuing policy will lead to reduced but stronger regulations, and harmonized legal streams.

Some direct support for legal framework improvement is justifiable. However, DP support at this stage should be largely directed to the larger task of imbuing the Paris Declaration principles within the management of the decentralization process, and subsequently in devising ways of achieving a rational and streamlined approach to law/regulation making that will lend more quality and stability to the decentralization/local governance framework.

Recommendations

1. As indicated in the STS 2006, the GoI could achieve some improvements in the legal framework for D/LG by strengthening the capacity and roles of national organizations concerned with legal products quality and harmonization. These organizations could include :
   a. Law offices of ministries relevant to D/LG.
   b. State and Cabinet Secretariats.
   c. Ministry of Justice and Human Rights, and the Legal Agency under its umbrella (*Badan Pembinaan Hukum Nasional*).

   Support from DPs may be possible, though it may be deemed most appropriate if directed to relevant ministries and the Ministry of Justice and Human Rights.

2. Continued DP support for the revision of Law 32/2004 is worthwhile, provided the government does not seek to rush the process within the 2009 DPR session, with an emphasis on :
   a. Empirical evidence for revisions.
   b. Discussion papers that discuss the problems and possible solutions or preferred solution.
   c. Efforts to consult effectively with a range of stakeholders.
   d. Efforts to bridge the DPD, DPR and govern-

ment efforts/views.

e. Linking to other laws being created/revised.

3. Support by DPs could also be given to two initiatives that have been initiated by Indonesian actors but which could benefit from some strategic resources or inputs :
   a. The mounting of judicial reviews for legal instruments by organizations with proper standing and their legal partners.
   b. Amendment of the Constitution to embed the core features/basic principles of D/LG.

Fundamental improvements in the legal architecture of D/LG (e.g., constitutional amendment, harmonizing legal streams) rest on political decisions that are most likely to be forthcoming with a stronger management of D/LG policy itself. Recommendations pertinent to D/LG policy management are treated in the section on Management of the Decentralization/Local Governance Policy Process. ■

1. TERRITORIAL REFORM

Situation in 2006

The STS 2006 noted the rapid new region formation through splitting of existing regions (*pemekaran*); 136 new regions in the period 1999-2005, bringing the total to 440 districts/cities and 33 provinces. This growth was most evident in eastern Indonesia, and was leading to a wide variety in population size: provinces ranging from less than 800,000 inhabitants (Gorontalo) to over 35 million (East Java), and districts/cities ranging from 11,800 (Supiori) to 4.1 million (Bandung district). The mean-sized district had dropped from 400,000 (Yogyakarta, 2002) to just 267,000 (Bengkulu, 2005).

This rapid pace of divisions had raised concern in several quarters, including Parliament, particularly regarding the performance of new regions. Parliament tasked the government to clarity the 'optimal' number of regions. The GoI had intimated that a moratorium may be needed on the creation of new regions to give it and Parliament the breathing space to review the performance of newly established regions, determine what the optimal number of regions should be, and determine a better review process.

It was widely felt that the legal framework was deficient. The stipulations for merging unsuccessful regions had yet to be operationalized, and the guiding instrument for the assessment of proposals for new regions (Government Regulation 129/2000) had not been useful in screening proposals. A draft of the new regulation was in advanced stages of preparation. Despite some improvements it still relied on many and questionable indicators, and a flawed summative methodology. The draft seemed unlikely to stem the approval of the 100 or more proposals waiting in the wings.

Pemekaran was seen to be driven by a desire to improve services and bring government closer to the people, but also by a preference for homogeneity, rent seeking and pursuit of political advantage. Fiscal incentives inherent in financial transfers also played a role. The negative consequences were not as visible as the advantages, but were felt by more people. This included higher per capita costs of government; a reduced capacity to adequately discharge the functions that were assigned uniformly to all districts/cities; increased potential for inter-group (ethnic, religious) conflict. Because of the resources and time needed to reestablish administrative quarters, attention to service improvements was unlikely to be the result of *pemekaran* in the initial years.

The administrative review, leading to recommendations from the Regional Autonomy Advisory Council (DPOD), were being bypassed as the DPR (in tandem with the DPD) prepared laws to establish new regions based on proposals coming to them directly from proponents. MoHA officials pushed for a common screening for all proposals, but it did not appear that this was being done. Development Partners had given scant attention to the issue of territorial structure, but were realizing its importance, and were offering support for studies and scenario building. Support was initially offered by GTZ-ASSD, and afterwards largely by USAID-DRSP and UNDP.

The recommendations in the STS 2006 supported the idea of a moratorium on new regions, to give breathing room to policy makers to revamp the policy/legal framework. The hope was for an examination of the purpose and tools for territorial structure/reform, with an emphasis on developing a reduced set of sound criteria for new regions. At the same time, issues of incentives for new creation and mitigating measures to allay negative impacts of new regions were to be given attention. A broader dialogue on the desirability of new region creation was also encouraged, to be based on better research. An enlarged view of policy, informed by international experience, was also suggested, with attention to other tools for territorial reform (including mergers). In the longer term action, capacity building within MoHA and allied organizations to conduct research and policy development was seen to be strategic, to guide policy development/adjustment over time.

[1] Sutoro, Eko (2008). Pro-poor Budgeting: Politik Baru Reformasi Anggaran Daerah untuk Pengurangan Kemiskinan, IRE Insight Working Paper, June, pg. 4-5.

Developments since 2006

Changes on the ground

The dynamics seen in territorial restructuring in 2006 have persisted, with a similar pattern of *pemekaran*, largely seen in the outer islands. The pace of *pemekaran* (see Table 1) has continued to be rapid, and more proposals are being submitted. The characteristics of the new regions have not been examined recently, but they are likely to include many that would be characterized as 'left behind'; prior to 2006 nearly all new districts entered this category.[1]

Table 1:
Creation of New Regions in Indonesia 1950-2008[1]

Period	Provinces	District/Cities
1950-1955	6	99
1956-1960	16	145
1961-1965	3	16
1966-1970	1	11
1971-1998	1	33
1999-2005	6	136
2006-2008*	0	51
Total	**33**	**491**

** As of December 22, 2008*

The moratorium that had been mentioned by the President and chair of the DPR has yet to take formally hold,[2] though the unfortunate death of a North Sumatran legislator, thought to be caused by a protesting crowd calling for a new province of Tapanuli,[3] may have stiffened their resolve.[4] In any case, a lull is likely in 2009, to avoid any interference with the national elections.

The dearth of research noted in 2006 has been addressed by several studies undertaken since that observation was made. The main studies are shown in Table 2. The studies are varied in scope and approach. Some have methodological weaknesses, but seen together they are sufficiently robust to confirm that *pemekaran* is due to multiple drivers, and will need broad political support to set policies that can place it on a sustainable and productive footing.

The studies indicate that financial incentives encourage splitting – central government assistance is obtained to establish new administration and per capita flows are higher in the separated regions than in the original region. They show that local support is mobilized by elites on the promise of economic growth, better services, and a return to past values and political influence. The local elite may well be driven by the officially mentioned goals of territorial restructuring (*penataan daerah*), but they are also drawn to the opportunities of political entrenchment, rent extraction and patronage (e.g., new

Table 2:
Key District Level Research Conducted on Territorial Reform 2007-2008[5]

Approach	Focus	Funder	Implementation
Regional case studies	Socio-political dynamics	DRSP	Percik/LIPI 2007
	Economic/financial	UNDP	UNDP 2007
Regional case studies	Conflict dynamics in pemekaran	ICG	Sidney Jones 2007
National case study	National level dynamics in *pemekaran*	DRSP	Percik & LIPI 2007
Desk study	Review of GR 129/2000 and replacement draft	DRSP	Gabriele Ferrazzi 2007
Desk study	Review of International experiences in territorial reform	DRSP/ DSF	Gabriele Ferrazzi 2007
International Case Studies	Description and analysis of starting process of new regions	DRSP/ DSF	Gabriele Ferrazzi 2008
Proposal process	Process of proposal making from region to national	ADB	RTI/Andi Ikhwan 2007
Financial implications	Impact of *pemekaran* on the national budget	DSF	Andre Oosterman 2007
Evaluation of new regions	Impact on ability of regions to implement regional autonomy	MoHA	MoHA staff 2007
Desk Study	Examine the causes, nature and effects of new region creation	ADB	Martinez-Vazquez and Handry 2008

senior positions in regional government).[6] For the general population, gaining a new district capital and increased resources hold out the hope for employment and easier access to services.

Conflict or potential for conflict is noted among groups favoring and resisting *pemekaran*, as seen in the case of some *kecamatan* in new districts in Eastern Indonesia and the mobilization for new provinces in Aceh. Moreover, conflict is noted in the period subsequent to approval, as issues of asset transfer, location of capital, and boundaries emerge. The creation of new minorities within the new regions also holds the potential for conflict, and raises the possibility of subsequent claims for new regions or reconfiguration of regions.

The studies geared to the process of review and approval reveal a formalistic and faulty administrative screening mechanism, open to manipulation. The role of the DPOD is underplayed; it makes little effort to seriously scrutinize proposals. Should the administrative/technical review indicate problems with the proposals, these objections are difficult to defend or fully address in the context of the political support found in the DPR/DPD. The latter are keen to be seen to be responsive to local aspirations. Proposals often head directly to the DPR and DPD – and are later consulted with the executive side – though apparently in a perfunctory way. There is strong suspicion among observers of the scene that money politics is at work at times, particularly in garnering legislative support.

In terms of performance of the new regions, a balanced assessment is hampered by the low level and quality of reporting from regional government in general and the lack of sound complementary/targeted research. The studies listed in Table 2 are limited in what they can state with any degree of confidence. It does appear however that public services have not yet improved much. The new regions are successful in building their new administrative headquarters; this appears to be the main preoccupation in the early years following *pemekaran*. Resources concentrated on this task seem to come at the cost of delaying service improvements.

Of some note is the relative silence of the regional government associations (RGAs) on *pemekaran*. The annual meetings or position papers posted or circulated in 2007/2008 do not seem to address this issue. APKASI's website does provide a history of *pemekaran* in terms of dates and total regions, but the updating was discontinued in 2004, and its final tally is 89 regions short of the current figures.[7] The RGAs also did not receive support from DPs on this issue, to examine the phenomenon in the field, or to prepare the RGAs to take a position.

The Ministry of Home Affairs and Ministry of Finance already feel the burden of the newly created regions with regard to oversight, capacity development demand, and financing. This increasing burden is adding urgency to the discussions already underway on enhancing the role of the provincial level in relation to the districts/cities.

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[1] Source: Ferrazzi (2005), Ministry of Home Affairs (2005) in USAID-DRSP (2006). Decentralization 2006 - Stock Taking on Indonesia's Recent Decentralization Reforms, Main Report, prepared for the Donor Working Group on Decentralization; *Berita* (2008). Pemekaran 12 Daerah Baru, Departemen Dalam Negeri, Kamis, 30 Oktober. Obtained November 27, 2008 at http://www.depdagri.go.id/konten.php?nama=Berita&op=detail_berita&id=1860; *Kompas* (2008). Pemekaran Daerah Tak Berhenti, Senin, 22 Desember, obtained December 23, 2008 at http://kppod.org/.

[2] The Chair of the DPR, Agung Laksono, also called for a moratorium in late 2006 in the Closing Session III DPR 2006/2007.

[3] Harahap, Rizal (2009). Councilor dies after attack, *The Jakarta Post*, Wednesday, February 4, pg. 1.

[4] Maulia, Erwida (2009). Govt, House agree to halt creation of new regions, *The Jakarta Post*, Saturday, February 7, pg. 2.

[5] Source: DRSP (2008). Summary of Research conducted on Territorial Reform, DRSP-RTI, September.

[6] The relatively high incidence of embezzlement in new regions has been noted by the Inspector General of the Ministry of Home Affairs, though it is keeping the details to itself as "internal" efforts are made to address the cases, see Berita (2008). Daerah Pemekaran Banyak Terjadi Penyelewengan, Selasa, 11 November, Departemen Dalam Negeri. Obtained November 27, 2008 at http://www.depdagri.go.id/konten.php?nama=Berita&op=detail_berita&id=1878.

[7] APKASI (undated). Perjalanan Sejarah Pemekaran Daerah di Indonesia, obtained November 29, 2008 at http://www.apkasi.or.id/modules.php?name=Content&pa=showpage&pid=104.

Regulatory development

Policy changes hoped for in 2006 have not been attained in the main. There has been, until very recently perhaps, no moratorium, and the desire to generate a government strategy (to answer the DPR call for identifying an 'optimum number of regions') has yet to be fulfilled. A number of donor supported studies listed in Table 2 have offered policy directions. There is some reflection of this input in the revision of GR 129/2000,[8] with respect to attaining public approval; relevant international experience had been communicated to MoHA on this issue. The new regulation, GR 78/2007 makes the following major changes that have some potential for slowing *pemekaran* :[9]

- Minimum age of 10 years for province and seven years for district/city.
- Written support from two of three of village/*kelurahan* (BPD and equivalent urban forum) in the affected province/district/city.
- Formation of province requires a minimum of five districts/cities; of district five *kecamatan*; and city four *kecamatan*.

Making pemekaran more legitimate and viable will be more difficult, particularly since the regulation also contains the following :

- The village level decision can be reversed by the *Bupati* (alone, not the DPRD).
- Unclear relationship on the stances of the *Bupati*, district DPRD, and Governor, and provincial DPRD in terms of order and finality of decision.
- The technical requirements are still bound within a faulty methodology.
- Amalgamation is still a punishment for failure rather than an option for greater efficiency; no incentives for mergers are contained.

The technical requirements in the new regulation are sound in terms of the general factors that must be taken into account; economic/financial, socio-cultural, political, population, geographic area, security, span of control. These are closely aligned with factors found in use internationally when considering territorial structure.[10] However, these factors are elaborated as 35 technical indicators; these are too many and of dubious relevance. They are scored in comparison to neighboring regions but with a faulty methodology.

The most potent technical requirement, population size, has also been cast as a comparison to neighboring regions. A simulation of the formula would need to be done to understand whether this comparative approach has the potential of effectively curbing *pemekaran*. Absolute population thresholds for provinces and districts/cities (specific to larger island regions), rather than the current uncertain and opaque formulation, would have had more promise of limiting *pemekaran*. Such thresholds could also have been made with the view to match the size of the districts/cities to the governmental functions load and efficiencies expected of regions.

Left entirely out of the regulatory changes made in 2007 are financial incentives to *pemekaran*. These are still embedded in the equalization fund (DAU), revenue sharing (DBH) and special funds provided for the transition phase.

The early thinking within the team supporting the revision of Law 32/2004 is to clarify the process by which new regions not able to carry out their functions are absorbed by other regions or become administrative regions. It foresees incentives for mergers and disincentives for new regions creation. A three to five year preparation period for new regions is anticipated, with assistance coming largely from the 'mother' region. New region proposals could come from either the regions or the central government. These directions are still general, but have some promise. However, a more comprehensive set of policy changes would be required. The

[8] Peraturan Pemerintah No. 129 Tahun 2000 Tentang Persyaratan Pembentukan dan Kriteria Pemekaran, Penghapusan, dan Penggabungan Daerah.
[9] Peraturan Pemerintah No. 78 Tahun 2007 Tentang Tata Cara Pembentukan, Penghapusan, dan Penggabungan Daerah.
[10] Ferrazzi, Gabriele (2007). International Experiences in Territorial Reform – Implications for Indonesia, preliminary draft, USAID Democratic Reform Support Program (DRSP), January.

academic paper of the revision team for this topic misses most of the findings and recommendations made since 2006 (in the studies listed in Table 2). By connecting to this literature, the revision team will be more likely to fashion the right range and mix of policy changes.

Support from Development Partners

As mentioned in the STS 2006, donor support came into the picture only after the *pemekaran* phenomenon was well underway, and it came largely in the form of activities that could sound warning notes. Related to splitting of regions on the district level, the investigations have been deeper since that time, involving several DPs (international and national). In the early stages, a determined effort was made to join forces and relate to a GOI/DPR/DPD 'management body'. But this proved too ambitious; the group and approach unraveled by the end of 2006, and a loose coordination of efforts ensued, each rooted in the interested GoI agency supported (MoHA, Bappenas, MoF). A division of labor was achieved among DPs, based on types of studies, though something was lost in terms of rigor and consistency as methodologies were developed in relative isolation. Notwithstanding these difficulties, the findings of the studies, taken as a whole, contain much that is useful for policy development.

Despite some rich and relevant findings, MoHA was not able to make good use of these in the preparation of GR 78/2007. DPs have found it very challenging to convey the findings more effectively so that they could be better absorbed by policy makers spread over several GoI agencies and political bodies. Several versions of a key event designed to bring all of the funding/executing bodies of the studies together under MoHA leadership were prepared, but in the end only some of the relevant studies were examined. Complicating the effort are differing views among DPs, where the Partnership for Governance, having focused on the province level, believes it has already prepared the core of the 'Grand Strategy' (centered on the optimal number of regions to be established) and is keen to present its contribution as such, whereas other DPs believe that the task of developing the Grand Strategy lies ahead and will need a careful review of the findings and recommendations of all of the studies.[11]

As the DSF is also seeking to support MoHA in this effort, there is some hope that this body can work with the diverse set of DPs to bring all of their useful contributions to the table and assist the shared counterparts in drawing policy implications from them.

Policy options

It is unlikely that the DPR and President will deal with *pemekaran* in a fundamental way prior to the expiry of their term. Contrary to recommendations made in 2006, it would not be fruitful to seek a moratorium at this time as this will happen in any case as a result of the elections. The election lull may give some room for policy makers in the bureaucracy to prepare a strategy that has more chance for success. This strategy could be considered by the DPR in late 2009, and then together with the President in 2010.

Educating the public to the drawbacks of pemekaran, and alternative ways of achieving legitimate aims associated with it, will be crucial, to place more pressure on the DPR/DPD to consider these factors in their future decisions. The increased cost of governance/administration, in the context of a given regional portion of the national revenues, should alert citizens and existing regions to the dangers of further fragmentation. Launching legal challenges when legal procedures are not followed could also be helpful.

[11] The Grand Strategy for Territorial Structure/Reform (Strategi Besar Penataan Daerah) is the desired format of the MoHA policy. The Partnership for Governance Reform holds that it has become the partner of MoHA in this effort, and it has put together a team of experts to prepare the strategy, lead by Eko Prasojo of the University of Indonesia. The Partnership may well have come to its view of its privileged position with MoHA in good faith, which underscores the need for MoHA to be more transparent in its requests to multiple DPs, and for DPs to make some effort to coordinate effectively on their side.

A working system for assessing the performance of all regional governments will also indicate to citizens if *pemekaran* yields the results they cherish. The alternatives to *pemekaran* that could be promoted would include :

- Better utilization of *kecamatan* level.
- Better utilization of the village level government.
- More effective pro-poor planning, development infrastructure and services at district level to address spatial dimensions of poverty/marginalization.
- Increased use of mediation to reduce conflicts that can lead to a desire for *pemekaran*.

The above approaches promise to reduce demand, but they will need to be accompanied with a restructuring of the incentives embedded in financial transfers. Higher own revenues of regional government, and delinking of the wage bill from the DAU will do more to spur the search for service efficiency and improvement that will put a damper on *pemekaran* – which tends to delay service improvements in the short term.

It may be necessary to also put forward absolute population thresholds that are more transparent and understandable than the current formulae in GR 78/2007. These can be attuned to local circumstances by allowing the minimum to vary between island groups. The special autonomy cases of Aceh and Papua could be treated by allowing these two provinces to match functional load with sub-provincial structures that are suited to them. Giving the provincial level an allocative role will make more visible the effects of cutting the pie into more pieces.

The desire of the government to develop a 'Grand Strategy' is understandable; only a broad strategy will be successful in addressing the challenges of *pemekaran*. It is to be hoped that this strategy is not fixed on an ''optimum number of regions', even if that is the way the issue was originally cast by the DPR. The strategy should provide the rough boundaries and incentives/disincentives within which *pemekaran* can operate, and the application of the proposed mechanisms and criteria should work over time to find the specific number of regions of their own accord. A theoretical and a priori approach for setting the optimum number of regions will be a fruitless if not dangerous search.

While a hasty theoretical approach to the optimum number of regions is to be discouraged, a sound conceptual approach to territorial structures can be useful. Such an approach should relate more to the broad features of regional autonomy desired; the levels of sub-national government, span of control, functions that should be borne by each level, and the range of efficiencies to be sought/tolerated. These will give some strong directions to the range of population and size of regions that can be considered. Removing perverse incentives will also be helpful. It is only within such a sound conceptual approach (ideally with some elements enshrined in the Constitution) that it is possible to design an administrative/technical proposal process that has any hope of being useful, or of being followed. The proposal process should truly invest citizens with considerable say, and the onus should be placed on proponents to show that they not only conform to the broad features/expectation for their type of region, but that *pemekaran* will promote growth, services, and peaceful coexistence between diverse groups. Putting such a case forward will mean replacing the current technical scoring methodology with one that is more focused on key indicators, and is combined with relevant qualitative and quantitative analysis.

With the above approach, it may even become possible to see some regions opting for amalgamation rather than *pemekaran*, not because they have 'ailed in implementing their autonomy', but because they wish to do even better on what is most important to them.

In the course of refashioning the legal framework for territorial structures, policy makers may come up against a vexing question of law. The right of initiative of the DPR in creating laws is a principle that enriches democratic life, but it is unclear in the Indonesian legal context how or whether this

right can be limited by prior laws that speak to the process/criteria for making 'substantive' laws. In the revision of Law 32/2004 there has been some discussion of the need to make clearer and stronger the requirements/process for establishing new regions, in the law itself rather than in a subsidiary regulation (in the revised Law 32/2004 or a separate law on territorial structures). However, legal experts are unsure as to whether these provisions can bind the DPR to approve new laws establishing new regions in accordance with the process/criteria set out in a separate law. This question is of course equally relevant to Law 10/2004 that sets out how all laws are to be produced. One view is that the DPR is unhindered in law making; a new law has its own legitimacy, regardless of whether a process set out in another law was followed or not. If this view prevails, then there is not much point in elevating process/criteria provisions on new region creation to the level of a revised law on regional governance.

An alternative strategy is to making region creation and dissolution the realm of the central government (using regulations, instead of laws). This may be expedient, if the DPR/DPD would agree, but in the current context it is no guarantee of a more rational approach to new regions. Also, losing the political element carries its own disadvantage in terms of limiting voice and representation in an important matter.

Recommendations

Supporting DPs should help the GoI to make progress on several closely related fronts. This will entail :

1. Obtaining a clear legal opinion on the validity of process/criteria legislation on limiting the right of the DPR to issue laws establishing new regions – and addressing the revision of Law 32/2004 with this legal consideration in mind.

2. Developing a Grand Strategy that captures the most promising policy directions. In particular, specific policies could be crafted from the following broad policy directions :
   a. de-linking the wage bill from the DAU, to give the regions more incentives to seek efficiency;
   b. including absolute population thresholds suited to each island group;
   c. reducing the technical content of proposal to key factors, and the appropriate use of qualitative and quantitative analysis;
   d. strengthening further the citizens' voice in the approval process;
   e. making special allowances for Aceh and Papua, with the flexibility to match functional load to the territorial structure selected by these provinces;
   f. mounting an education campaign on the expectations citizens should have of their district/city governments, how *pemekaran* can work against achieving these, and how alternative strategies can yield better results;
   g. Increasing the regional government reporting on those indicators that are important to identify good performance (e.g., on service quality, efficiency).

3. Having a more harmonized approach among donors on how to make the best use of the existing studies in supporting the GoI/DPR/DPD. The role of the DSF could come to the fore in this effort.

2. FUNCTIONAL ASSIGNMENT

Situation in 2006

The government's desire for a clearer functional assignment was an important driver in the revision of Law 32/2004, the decentralization/regional governance framework. The law provides for a 'positive list' of obligatory functions (*urusan wajib*) and discretionary functions *(urusan pilihan)*. These are broadly framed, with further specification to be attained through a regulation. When the 2006 stock taking was undertaken, intensive consultation on the draft regulation was taking place with sectoral ministries and agencies. Consultation with other stakeholders, such as regional government associations, was very limited.

The STS 2006 noted that the overall legal architec-

ture of functional assignment of Law 32/2004 is problematic in several respects :

- Like the 1999 framework it replaces, it offers no mechanism to ensure that the new regulation on functional assignment will be the key reference; sectoral laws and regulations that are not consistent with this regulation may or may not be adjusted.
- The difference between obligatory and discretionary functions is not clear.
- There is no evident mechanism to adjust the assignment of functions over time.
- The feasibility and affordability of minimum service standards (MSS) remains unanswered.
- Assistance tasks (*tugas pembantuan*) are poorly developed, beginning with misperceptions embedded in the amended Constitution.
- Donor support for functional assignment has been spotty and generally low; with little government (Ministry of Home Affairs) acceptance of advice offered.

MoHA was at this time also preparing ministerial regulations to allow for the (re)introduction of sanctioned MSS, to be issued as sectoral ministerial regulations once vetted by a special inter-ministerial team (*Tim Konsultasi*) and the DPOD.

The STS 2006 called for better GoI coordination and care (and time) in fashioning follow-up regulations. It suggested a fundamental review to strengthen the legal framework for decentralization, including a constitutional amendment and placement of functional assignment in sectoral laws. The GOI was urged to better differentiate obligatory and discretionary functions, developing the latter to spur regional initiative. The GOI was also urged to introduce MSS in a 'careful, feasible and affordable way'. Donors were enjoined to support relevant sectoral ministries in the latter effort.

Developments since 2006

A DSF research effort concluded in early 2008 found the same architectural deficiencies in functional assignment flagged in 2006.[12] Nevertheless, some activity has been seen in this problematic field, with the key efforts listed below :

- Specific assignment of functions between all levels of government has been made through Government Regulation 38/2007.
- Some analytical work has been done to apply GR 38/2007 to the shift of deconcentration and assistance tasks to the Special Allocation Fund.
- Government Regulation 7/2008 on deconcentration and assistance modes of decentralization has been issued.
- Legal instruments have been issued for the adjudication and implementation of minimum service standards.
- Efforts are being made to elaborate central government norms, standards, procedures and criteria (NSPK).
- Some efforts to embed MSS in regional governance processes are underway.
- Another effort to revise the framework (Law 32/2004) is underway.
- A new initiative, the drafting of a law on 'relations between authorities' has been launched by MenPAN.

<u>Government Regulation 38/2007 is issued but falls short</u>

The long awaited regulation on the specific assignment of functions was issued; Government Regulation 38/2007 Regarding the Division of Functions Between the Central Government, Provincial Government and District/City Government.[13] The preparation of this regulation saw intensive consultations with the sectoral departments, but the quality of the final product is deemed to be low, as recognized by the Ministry of Home Affairs itself.

[12] Ferrazzi, Gabriele (2008). <u>Exploring Reform Options In Functional Assignment - Final report</u> Decentralization Support Facility (DSF) and Deutsche Gesellschaft Für Technische Zusammenarbeit (GTZ), March 28.
[13] Peraturan Pemerintah Nomor 38 Tahun 2007 tentang Pembagian Urusan Pemerintahan antara Pemerintah, Pemerintahan Daerah Provinsi dan Pemerintahan Daerah Kabupaten/Kota.

The main drawback, as pointed out by numerous observers, is the legal architecture; the assignment is placed in an omnibus regulation under the regional government law. There is no feasible strategy evident for ensuring that sectoral laws and regulations will be aligned with this list. There is evidence that sectoral ministries continue to hold 'their' legal instruments as the key reference. In terms of the GR 38/2007 list/regulation itself, it suffers from the following :

- Concurrency is evident (sometimes a function is assigned to all three levels) but it is not clear if this concurrency intended and how it should play out.
- The distinction between obligatory (*wajib*) and discretionary (*pilihan*) functions is not clear or workable.
- The list is overly detailed (for the purpose of an assignment – details are of course needed in subsequent operational instruments) and does not help regional politicians to direct or contain their political promises to constituents.
- The structure and level of detail in many cases appears to follow central level organizational structures – down to directorates/sub-directorate levels, rather than adhering to a purely functional perspective.
- The formulation of the functions contains many faulty, unhelpful, vague, circular or procrastinating constructions (e.g., '…of national scale' or '…in accordance with existing legal instruments').
- Key functions normally associated with central government in a unitary state are 'decentralized' (devolved) to the provincial government[14] – whereas in other regulations they are assigned to the Governor as the representative of the centre; either model could work, but requires factoring in political consequences and subsequent consistency in policy/legal instruments.
- There is no clear mechanism for further adjustment of functional assignment.

[14] Functions such as inter district/city coordination, planning, supervision, support/facilitation, dispute settlement, evaluation of performance, specialized training, research and development, guidance.

'Correctness' of Central Government spending in Environment and Education

The ADB (TA 7010)[1] analysis indicates that the small amount of deconcentrated funds used in the Environment sector is properly channeled. However, the situation in the Education sector is vastly different; about 95% of the deconcentration/assistance tasks funding concerns operational funds for schools (e.g. BOS) that fall within the functions of the regional governments. A shift of these funds to the Special Allocation Fund (DAK) would greatly increase the DAK. The willingness of the Ministry of Education/GoI to affect such a significant shift is unclear. Also complicating the shift are the rules of deconcentration/assistance tasks funds on the physical/non-physical use and the rules of the DAK, which is only meant for spending on physical projects.

Notwithstanding these shortcomings, there is sufficient guidance in the GR 38/2007 to allow coordinating and sectoral ministries of good will to adjust sectoral legal instruments that are obviously in conflict. This is still not happening however, and there are continuing points of tension in many sectors, leading to confusion among service users, citizens and investors. For instance, permits relating to mining are still being contested between the central government and regional governments, leading to considerable frustration in the investment community. The Indonesian Mining Association director, Priyo Pribadi Soemarno attributes the problem to the 'discontinuity' between the mining law and the regional autonomy law. Even if GR 38/2007 is weak in many respects, the main problem in these cases is not clarity in formulation, but rather clarity in political direction.

GR 38/2007, in its present form, can also give some guidance in the effort to shift funds improperly spent through deconcentration and assistance task channels to the funding mechanisms that are suited to decentralized functions. The Ministry of Finance (supported by ADB) and Bappenas (supported by GTZ-ASSD and CIDA-GRSII) have been exploring how the GR 38/2007 can be used to fashion a methodology to enable sectoral ministries to differentiate their funding channels in accordance with modes of decentralization. The analytical work is still in early stages (see Box above). It will be important for these two organizations, and MoHA, to agree on a common approach/methodology when seeking to involve the

sectoral ministries in the screening effort.

It is equally important for DPs to stay abreast of this effort to make funds follow functions, and to make helpful contributions to this effort within the sectors or cross-sector initiatives they happen to be supporting. For instance, the funding provided by DPs to the National Program for People's Empowerment (PNPM) needs to be examined as it funds poverty reduction activities that are in the hands of the regional government, but with a mechanism that lies outside of the regional autonomy framework.[15]

Government Regulation 7/2008; the disappearance of assistance tasks?

It is rather unfortunate that an otherwise good cooperation between two ministries (Directorate General for Public Administration in Home Affairs and the Ministry of Finance) should lead to poor results, in this case the disappearance of a useful mode of decentralization, one enshrined in the Constitution and in line with international practice. GR 7/2008 regarding Deconcentration and Assistance Tasks aggravates architectural shortcomings on functional assignment as it :

- fails to adequately differentiate between deconcentrated and assistance tasks, except in terms of scope of investment (deconcentrated is for non-physical and assistance tasks is for physical – a differentiation that has no conceptual basis) and the fact that assistance tasks must be approved by the President;
- makes assistance tasks off-budget at regional government level, treating the planning, financial sources, flows, and reporting in the same way as deconcentrated funds;
- Only requires that the Regional House of Representatives be 'informed' of assistance tasks expenditures that are funneled through the Governor/Bupati/Mayor and implemented by regional government agencies (imitating the deconcentration arrangements at provincial level).

With this regulation, assistance tasks have essentially become a category of deconcentrated tasks. The implications of this change have not been appreciated, and have enormous implications in the effective implementation of functions of the central government in the regions. The Constitutional provision on assistance tasks are not perfectly constructed, but the overall intent seems clear enough (see Box below). Assistance tasks need to be appreciated for the flexibility they give the central government in discharging its functions. Beyond direct implementation by the central government headquarters, the main choices open to the central government, in principle, are :

1. Delegation through deconcentration (*pelimpahan*) to vertical agencies of central government (using the Law 32/2004 definition),

Assistance Tasks in the Constitution

Art. 18(2) states that regional government (legislative and executive together) 'regulate and implement governmental functions through the autonomy and assistance tasks modes.'[2] Some object to the regional government being given the right to 'regulate' assistance tasks, but this right should be seen to be constrained by Art. 18(5) which explains that the 'broadest autonomy' of the regional government does not pertain to functions of the central government (assistance tasks remain of the central government). Hence, the best reading of the Constitution appears to be that assistance tasks are part of the autonomous workings of the regional government, to be regulated, but within strict central government limits, through regional government regulations. This construction necessarily calls for funding of assistance tasks to be on budget, and for spending accountable to the legislative side (DPRD).

2. Delegation through deconcentration (*pelimpahan*) to the Governor as representative of the central government, or

[15] The national, and politicized, nature of the program can be inferred from the rejection of the funds by some regional governments, especially in Java, see *Tempointeractive* (2008). President Disappointed with the Rejection of PNPM Mandiri, Monday, 22 December, obtained 27 December, 2008 at http://www.tempointeractive.com/hg/nasional/2008/12/22/brk,20081222-152138,uk.html.

[16] "Pemerintahan daerah provinsi, daerah kabupaten, dan kota mengatur dan mengurus sendiri urusan pemerintahan menurut asas otonomi dan tugas pembantuan."

3. Tasking through the assistance relationship (*tugas pembantuan*) to regional government (understood here as the combination of DPRD and Governor as head of region/regional government units).

The latter option, if executed in line with the Constitution, would allow the region (specifically regional government units) to implement the tasks given to it by the central government, using APBD funds, and with accountability also to the DPRD. The central government retains the function and can impose quite strict standards, procedures and other implementation requirements (more stringent than in 'decentralized' functions). Reporting would also be done to the central government, in accordance with the instructions set by the latter. By choosing this mode of decentralization, the central government need not establish its own implementing units, or designate regional government officials to take on dual roles.

If GR 7/2008 is applied, the 'classical' assistance task option, as described above, would no longer be an option. Losing the assistance tasks option means it will be more likely that the current legal muddle on the roles of provincial level actors will be resolved by reverting to (or leaning heavily on) the role of the Governor as a representative of the central government. This would be a significant recentralization step. The many tasks that might be deemed to be of the central government, but are currently being implemented by provincial government units[17] (as a pragmatic compromise if not a purposeful adherence to the assistance tasks mode) would be shifted to separate implementing agencies of the central government, under the Governor as a representative of the central government. The added value that could be gained from regional government implementation, including the political and financial checks and balances, would be jettisoned for what would be an even more complicated and politically risky arrangement (see section on the Role of the Province/Governor for additional discussion of this dilemma).

Minimum Service Standards reintroduced - but are they being applied?

A new national mechanism to formally recognize ministerial lists of MSS (in accordance with GR 65/2005) has been established and is being used to vet proposed MSS. Some progress is also seen in supervision/reporting/regional government performance regulations that incorporate MSS. At regional government level, some efforts to operationalize MSS can be seen in regional planning and budgeting processes. Still lagging are efforts to design financial incentives at national or provincial level to spur district/city government achievement of MSS. Also, performance results of regions have yet to be sufficiently aggregated and reported to the central government, or disseminated (at local or aggregated levels) to allow the public to assess progress over time and achievements relative to other regions.

The national mechanism established to assess ministerial proposals for establishing MSS consists of an inter-ministerial Consultation Team, linked to a subsequent DPOD review.[18] MoHA reports that seven ministries/agencies have submitted proposals for candidate MSS. Six have been given the green light by this team/DPOD to issue MSS but only three have done so (see Table 3). Only the Ministry of Health has also recently issued an additional regulation giving the regional government technical instructions for implementing the health MSS.[19]

The review process seen in the MSS proposals shows that there is a willingness of central level actors to work together on this issue. The Consultation Team for MSS (*Bappenas*, MoF, MoHA, and MenPAN) met three times in 2008 on Health MSS and three times on the Environment MSS, as well as numerous times

[17] These can encompass planning, finance, organizational, personnel offices, sectoral technical guidance and supervision with respect to the district and city governments.
[18] Keputusan Menteri Dalam Negeri Republik Indonesia Nomor 100.05 – 76 Tahun 2007 Tentang Pembentukan Tim Konsultasi Penyusunan Rencana Pencapaian Standar Pelayanan Minimal.
[19] Keputusan Menteri Kesehatan RI Nomor 828/MENKES/SK/IX/2008 tentang Standar Pelayanan Minimal Bidang Kesehatan Di Kabupaten/Kota.

at a technical level on MSS dealing with the Social Department, Public Housing, Women's Empowerment, Labor and Public Works.[20]

Table 3:
Sectoral ministry progress in the (re)regulation of MSS[21]

	DPOD approved	ministerial regulation	technical explanation
Department of Health	✔	✔	✔
State Ministry for the Environment	✔	✔	
Department for Social Welfare	✔	✔	
Department of Home Affairs	✔	✔	
State Ministry for Women's Empowerment	✔		
Department of Social Housing	✔		

The effort expended has not been matched by rigor in the assessment. The safeguards that had been developed, with DP support, to be used as the screening criteria for proposed MSS, have not been strictly applied. The key safeguards were several; ensuring data availability on MSS achievement by a majority the regions; ability of most regions to report their MSS status; ability of central government to cost MSS on a regional sample basis, and estimate national level affordability – with corresponding MSS fulfillment timelines; and capacity development strategy for regional actors. It appears that the Health Ministry has gone the furthest in estimating costs, submitting its effort to the Ministry of Finance. It is asking the DSF for support to undertake more costing. GTZ had also supported some health MSS costing efforts in NTB/NTT in the past but the results of that effort are not clear.

The formulation of the MSS varies considerably across ministries, and within ministerial lists. Some formulations adhere to the original intent (as stipulated in GR 65/2005), embodying a 'rights based approach', where the standard is formulated from the perspective of the citizen receiving the service – as a claim that can be made on government. In other formulations, it is stated that "x %" of a particular target group that will be reached by year "20xx."[22] This cannot be the actual standard, in a rights based approach. It can only be a pragmatic target in the journey towards the fulfillment of the service standard – a level of service which all relevant citizens have a right to obtain, as soon as is feasible for the state to provide it. This inability to distinguish between the full standard, and time bound incremental targets toward its fulfillment, has dogged the MSS discourse and socialization. It finds expression also in the still repeated query at national and regional level of 'how can diverse districts have the same standard?' On occasion even DPs misunderstand the principles of MSS and urge the central government to '…leave standard setting to the district governments',[23] therefore working at cross-purposes to other DP supported efforts which are trying to realize the government's policies.[24] It appears that considerable socialization is still needed at all levels to clarify the concept and to help actors pursue these within timetables that are realistic and through financing and capacity enhancing measures that are in line with the national achievement target dates.

Another challenge in MSS preparation is the misuse of this category of standards by some ministries. These ministries are seeking to develop MSS for

[20] Communications with Martha Guttierez, Principal Advisor GTZ-ASSD, December 1, 2008.
[21] Updated with information from Widiastuti, Dwi (2009). Progress and Challenges in Formulation and Application of Minimum Service Standards (MSS) in Indonesia, For presentation at GTZ Technical Workshop on Functional Assignment and Performance Assessment Systems for Local Government, Bangkok, February 11.
[22] The better formulated MSS are seen in the health sector, but even some of these have this partial target confusion with the actual standard. see Peraturan Menteri Kesehatan RI Nomor 741/Menkes/PER/VII/2008 tentang Standar Pelayanan Minimal Bidang Kesehatan di Kabuaten/Kota.
[23] World Bank (2006). Making Services Work for the Poor in Indonesia: Focusing on Achieving Results on the Ground, Indopov, pg. 37.
[24] The most direct and cross sectoral support is provided by the GTZ-ASSD, the successor to the GTZ-SfDM that also accompanied the government in this effort, beginning with the 1999 regional government law that gave birth to the concept.

functions that are not basic services; other kinds of standards (e.g., technical/operational) would be more relevant, and would fall under the 'NSPK' effort (see next subsection). In these cases, the Consultative Team/DPOD has not been able to dissuade these ministries from using the MSS vehicle.[25]

Even where functions are related to basic service provision, the formulation of MSS is problematic in some cases. For instance, in the education field, the same class size is set for all class levels, or unrealistic benchmarks are selected (these ought to be pragmatic targets – that fall short of the ideal but are in line with current and anticipated capacities).[26]

The above weaknesses in the formulation of MSS are acknowledged by the MoHA officials concerned, but they have found it difficult to convey the messages to the sectoral ministries, and even other units within MoHA itself. On a positive note, the Section Head for MSS in MoHA sees that 'the Consultative Team/DPOD are getting better at determining which ministries are ready or not, and some ministries have been asked to strengthen their submissions as a condition for approval'.[27]

It is not clear whether the last two years has seen any significant change in the application of MSS (in their previous or renewed regulatory status). Guidance has been issued in the form of MoHA regulations to national agencies/regional government on how to incorporate MSS in planning and budgeting,[28] but the regional government guidance is not sufficient. Ad hoc socialization has been taking place on MSS for several years now, but with unknown impact in terms of national and regional planning and budgeting procedures and ultimate closing of MSS gaps. MoHA is presently working on a more elaborate manual for MSS application, but is in early stages of this work.

Anecdotal evidence suggests that MSS are increasingly talked about at regional level, but much more slowly being integrated within the policies, plans, budgets, and actual services of the regions. Some regions are enlarging the original notion by focusing on specific elements of the service; injecting clarity on documentation required from clients, cost and time to issue permits, and complaints procedures.[29] In view of reporting and research limitations, a clear picture of MSS application is not possible at this time.

Donors have continued their national level support, but have been less present or consistent at the regional level. GTZ continued its national level support to MoHA, shifting from SfDM to the new project vehicle of ASSD. USAID-LGSP, ADB-SCBD, and CIDA-GRS II also provided occasional national level and some regional level support on MSS. CIDA is now supporting a project (BASICS) that has just been launched in Sulawesi, focused on MSS/MDGS attainment with a view to model performance/innovation based financing to close MSS gaps. The UNDP continues to push the MDGs in its dialogue and projects, sometimes making the connection to the MSS. Costing manuals are being prepared in the education sector, and some trials are underway to determine MSS gaps and determine strategies to close them, in the planning process (see Karawang experience of the USAID- Decentralized Basic Education project).[30]

Elaborating Norms, Standards, Procedures and Criteria (NSPK)

Article 9 of GR 38/2007 calls on central ministries/agencies to formulate NSPK for the implementation of regional government functions within a two year period of the issuing of the regulation. This is to be

[25] This misuse of the MSS is evident in the proposals submitted by the Ministry of Environment and the Ministry of Home Affairs itself.
[26] See for instance the review of the 2004 MSS for education, in Kraft Richard and Richie Stevenson (2007). Minimum Service Standards (MONE, 2004): Quantity vs. Quality, Revised version, October 3.
[27] Communication with Hasudungan Hutalungan, Head of MSS Section, Directorate General for Regional Autonomy, Home Affairs, November 10, 2008.
[28] Peraturan Menteri Dalam Negeri Republik Indonesia Nomor 79 Tahun 2007 Tentang Pedoman Penyusunan Rencana Pencapaian Standar Pelayanan Minimal.
[29] See for instance Keputusan Walikota Semarang Nomor: 065/ 309 Tentang Standar Pelayanan Minimal Dinas Tata Kota Dan Permukiman Kota Semarang.
[30] Meeting with Dan Moulton, Program Director, Decentralized Basic Education 1 : Management and Governance, Discussion held December 4, 2008.

coordinated by MoHA and done in consultation with stakeholders. MoHA is obtaining support from DSF to identify the current state of NSPK preparation, work with some sectoral ministries in identifying NSPK and elaborate these to be useful guidance for the regional government.

The starting point for this work is the set of provisions for NSPK in the sectoral functions lists attached to GR 38/2007. These lists indicate functions of the regional government for which norms, standards, procedures or criteria need to be put in place by the central government. The task is not being as daunting as it seems, since many ministries have long had in place technical standards (*petunjuk teknis*) for the functions that are now in the hands of regional government.[31] Nonetheless, their refinement is important, particularly in terms of giving proper guidance to the regions without unduly restricting their autonomy. For this reason, the NSPK must also be attuned to the mode of decentralization (devolved function or assistance task) and the nature of the function (obligatory or at the initiative of the regional government). The latter nuances do not seem to be sufficiently appreciated in the current discussion around NSPK.

One additional hope pinned on the NSPK effort is the desire to gain sectoral ministry conformity with GR 38/2007. The Director for Governmental Affairs in MoHA, Made Suwandi, hopes that in the process of defining/refining the NSPK for GR 38/2007 the sectoral ministries will note where other legal products are divergent. Having noted the discrepancies, the ministries would lead efforts to rescind or revise the conflicting legal instruments, to gain alignment with GR 38/2007. He does acknowledge that this will be a slow and difficult process, and one that is beyond his unit to facilitate effectively. For this reason, he agrees with the many voices calling for the upgrading functional assignment to the level of legislation.[32] However, there is no consensus yet within MoHA to make this an institutional commitment.

The MenPAN initiated draft law on 'relation of authorities'

On a separate track from the revision of law 32/2004, MenPAN has revived an initiative to draft a law on the "relations of central and regional authorities" (initiated formally in 2005).[33] The conceptual development has been undertaken jointly with the University of Indonesia Centre for the Development of Regional and Urban Administration. The legal basis for this law is taken to be Constitutional Article 18A (1)"The relation of authority between central government and provincial. District and city government is regulated with law with consideration for regional character and diversity."[34] The purposeful use of the propositional term 'with', according to Indonesian legal principles, is seen to call for a dedicated law. However, it may be that this construction was accidental, in view of three key considerations :

1. Article 18 is poorly constructed as a whole, so it is difficult to glean with much certainty the intentions of the drafters, especially on a question of legal construction.
2. It is not reasonable to give much weight to the selection of the 'with' qualifier based on a legal principle that is inconsistently applied in the Constitution itself, and in the larger legal framework.
3. The regional governance law itself, arising from Article 18(7), could be seen to encompass the intended contents of Art. 18A(1).

The dubious legal basis aside, the draft is substantively justified by the UI team in terms of the following gaps in the legal framework :

[31] For some ministries, this will be reasonably quick work; the Ministry of National Education has done this with the eight national education standards so far (Communication with Dan Moulton, Program Director, Decentralized Basic Education 1 : Management and Governance, Discussion January, 2009).
[32] Discussion with Made Suwandi, Director for Governmental Functions, Ministry of Home Affairs, December 2, 2008.
[33] See MenPAN (2005). Kebijakan Dan Strategi Pendayagunaan Aparatur Negara, Program Penyelenggaraan Pimpinan Kenegaraan Dan Kepemerintahan, obtained December 29, 2008 at http://www.MenPAN.go.id/Direktori%20MenPAN/subartikel.asp?id=81.
[34] In the original: "*Hubungan wewenang antara pemerintah pusat dan pemerintah daerah provinsi, kabupaten, dan kota atau antara provinsi dan kabupaten dan kota, diatur dengan Undang-undang dengan memperhatikan kekhususan dan keragaman daerah.*"

- A lack of deconcentration mode of decentralization at the level of law.
- Insufficient detail in the relations of central government organizations and regional government, and relations between regional governments.
- Lack of a mode of decentralization to special bodies (parastatals/semi-autonomous bodies).

The above assertions can be questioned - it can be argued for instance that the gaps do not all call for treatment in law, but rather for more appropriate regulation. But in terms of substance, the above points are valid.

The academic team supporting MenPAN recommended that the development of a draft law be continued beyond the team's preliminary contribution. The team did caution that attention would need to be paid to other parts of the legal framework as this new law is developed – but no specific initiatives were identified for particular attention. It is unfortunate that in such an early exploratory stage the team saw fit to already offer a draft law as part of its submission to MenPAN; this seems premature and reinforces a tendency that undermines policy development in Indonesia.[35]

A case has yet to be made for the legal urgency and need of an additional law to govern decentralization/regional autonomy. However, the initial ideas of the UI team are worthwhile exploring, and to these some other intergovernmental relations challenges should be added, without necessarily deciding at this early stage whether a dedicated law to 'relations between authorities' is needed, or if adjustments in the existing legal framework (including the Constitution) might be more appropriate.

Where do the region's governmental functions come from?

A conceptual challenge facing Indonesian policy makers relates to "who decentralizes?" Relevant Constitutional provisions point to the 'national state' (DPR/DPD and executive) as the source, given the requirement that laws be used to set functional assignment and relations between levels of government. Other Constitutional provisions could be interpreted to indicate that the 'central government' is the entity that decentralizes to the regions; this is a view held by some academics and government officials. The interpretation chosen influences the meaning of 'regional legislation', legal architecture of functional assignment, and supervisory and accountability relationships between the central state and regional state institutions.

The overriding question is "what are the relevant modes of governmental activities (*asas pemerintahan*) and how should they be defined and applied in Indonesia's multi-level government?" Some of the fundamental issues that need attention under this umbrella question are :

1. Is decentralization (devolution or delegation) done by the state or central government, i.e., the executive side (see Box at left)?
2. Do assistance tasks become part of the autonomous region's brief – how are they different from deconcentration?
3. Should deconcentration tasks be carried out by organizations/officials of the central government or can they be also implemented by regional government implementing agencies?
4. How tightly, and with which means, can the central state influence devolved functions?
5. How can delegation, from various levels of government, to semi-autonomous/mixed bodies be formalized and given shape? (see also the section on Special Zones).

The consistent resolution of the above questions (which are currently neglected or answered in contradictory fashion in various legal streams) can make for a more consistent and smooth implementation of decentralization/regional governance. There is discernible debate on the merits of various solutions to the above issues, but there is not enough understanding and discussion yet among academics or government officials – certainly it is premature

[35] PKPADK (2008). Pemahaman & Sosialisasi Penyusunan RUU Tata Hubungan Kewenangan Pemerintah Pusat & Daerah, Laporan Akhir, Kerjasama antara Kementerian Negara Pendayagunaan Aparatur Negara dan Pusat Kajian Pembangunan Administrasi Daerah dan Kota, FISIP, Universitas Indonesia.

to add a law at this time that seeks to resolve these issues.

Revision of Law 32/2004 on regional governance

The revision team established by MoHA has raised the issue of 'functional decentralization,' another term used to denote delegation of authority/tasks to semi-autonomous bodies that tend to be function (sector) specific, suggesting that this mode of decentralization should be added to the existing modes. The team adds that attention needs to be given to carefully combining the interests of the central government and regional governments. The refinement of the modes of decentralization to encompass this possibility would be helpful, and would contribute to a number of initiatives, such as the governing arrangements for the free trade zones.

The discussion of the roles and functions of the three levels of government is underdeveloped. The team posits that the 'centralized' mode of decentralization needs to be explicitly added; while rather unorthodox, and perhaps superfluous, this has no obvious or immediate consequences. Of greater import is the position put forward (or repeated to be more correct) that decentralization should be seen as originating from the central government (rather than the state – this alternative is not mentioned). For reasons sketched in this section, this position can be viewed as conflicting with the Constitution. The team does not discuss why it takes its position, nor does it foresee its most important consequences. The discussion is also marred by imperfect comparisons between unitary and federal constructions and doubtful assertions about the position of the central government in policy making in a unitary state operating in a typical separation of powers (trias politica; legislative, executive, judiciary).

The team fails to properly recognize the problems and roots of the obligatory versus discretionary distinction in the functions of the regional government, casting it entirely as an issue of 'costly functions' versus functions that can yield local revenues. It does conclude that the distinction needs to be revisited, and that can open the door to a deeper analysis at a later point.

The team notes the difficulties faced prior to GR 38/2007 (e.g., the tendencies of central government to overreach through deconcentration channels), and the problems of the poor formulation of the long awaited regulation. It concludes that the 'architecture of functional assignment has to be reformed'. However, it muddies this broad direction by explaining it with the use of the term 'concurrent functions', continuing with the badly understood and applied use of the term seen in GR 38/2007. It also puts forward an understanding of NSPK (the central government guidance tools toward regional government) that is not helpful in distinguishing between obligatory and discretionary functions. Beyond the all too facile solution of giving the Governor the supervision and guidance role over districts/cites (as a representative of the central government) the team does not explain what architectural changes would be needed to improve functional assignment.

As the DSF commissioned report on functional assignment concludes, capacity development is needed to adequately meet the challenges ahead; through enhanced scholarship, exposure to international practice and literature, more and well managed discussions; and effective ways of developing policy and legal frameworks. This assessment, made in early 2008, is very much valid one year later.

Policy options

The policy options and recommendations from the 2006 STS and the special study on functional assignment of 2008 are still largely valid. Cross agency coordination on key decentralization policy is still badly needed, for agreement on major policy directions as well as for the overall legal architecture.
With three additional years of experience since the STS 2006, it is more evident that decentralization leadership cannot come from MoHA alone, or even from the MoHA dominated DPOD, which has failed to play a significant role on the most pressing issues of decentralization/regional autonomy. In particular, harmonizing the legal framework, especially on the

issue of functional assignment, will require leadership from the President/Vice-President and the DPR/DPD itself, and will ultimately only be secured through a constitutional amendment that sets out clearly the principles and key provisions for decentralization and regional autonomy.

Cross agency coordination will also be critical to affecting a shift of funds from the deconcentration stream to the DAK and other mechanisms, in line with 'money follows functions'. Similarly, cross agency coordination will be critical to aligning financial transfers with regional government needs as reflected in MSS achievement levels and MSS expenditure norms.

The current effort to once again revise the framework Law 32/2004 (on issues beyond elections, which has already resulted in changes in 2005[36]) seems to involve more academics than has been the case in prior efforts, but does not seem to be coming to grips with the key challenges; a lot of time has been spent thinking about what a more streamlined GR 38/2007 might look like, but the architectural weaknesses are not given much attention. The 'relation between authorities' draft law initiative, though founded on some pressing policy gaps, is presently not connected to the revision of Law 32 process, and could complicate matters if developed in isolation and without the benefit of sufficient discussion. This new initiative does point to the need to have fundamental discussions about the concepts and policies applicable to this stage of Indonesia's governance, and bolsters the case for putting off constitutional, legislative, and regulatory changes until a proper degree of coherence and agreement is reached.

Recently Bappenas has become more closely involved in the functional assignment effort, driven by its recognition that the shift from deconcentrated funds to the Special Allocation Fund (DAK) or other suitable mechanisms that are in line with 'money follows functions' is unlikely to happen unless it (and the Ministry of Finance) assist/guide the sectoral departments in identifying regional government functions that are currently implemented with APBN deconcentrated funds. As indicated above, leadership from Bappenas, MoF and MoHA are needed to make this transition work. In the process of 'applying' GR 38/2007 it will become more evident how the regulation's shortcomings can be fixed, including the architectural features (e.g., the weight of legal instrument, legal streams being used, and harmonization between streams).

An additional development is worth noting with respect to the improvement of the substantive content of GR 38/2007, and that is the effort by the Province of Aceh (aided by GTZ- ALGAP II) to fashion a government regulation on the 'Functions of the Central Government that are of a National Character', to act as a specialized 'GR 38/2007' in the special context of Central Government-Aceh relations. Since the starting point for shaping this Aceh oriented regulation is GR 38/2007, this effort is revealing the many shortcomings of the latter regulation. The Aceh government response (framed as an improvement on the original government proposal) is now ready, and a record has been kept of the changes and learning obtained from the effort – this can be applied to improve the formulations of the original GR 38/2007, regardless of its ultimate legal repositioning.

Recommendations

The most critical recommendation for moving forward in 2009 on roles and functions in Indonesia's multi-level government system is to raise the effectiveness of the management of the decentralization process. Policy leadership needs to come from the President/Vice-President and the DPR/DPD, and possibly through some special body – but one that is quite different from the current DPOD (see Section on Management of Decentralization/Regional Governance Policy). Only when decentralization leadership is elevated to a higher level is it likely that fundamental reforms related to functional assignment can be successfully pursued. These would entail :

[36] Peraturan Pengganti Undang-Undang No.3 Tahun 2005 Perubahan Atas Undang-Undang Nomor 32 Tahun 2004 Tentang Pemerintahan Daerah.

1. Strong leadership from the central state to achieve the following :

   a. Placing fundamental principles/modes of decentralization and key provisions for functional assignment in the Constitution.
   b. Placing more detailed functions and minimum service standards in sectoral laws and regulations.
   c. Clarifying the following : distinction between obligatory functions and discretionary functions; concurrent functions; right of initiative of regional government.
   d. Applying the assignment of functions in practical ways, particularly in the shift from deconcentrated funds to the DAK/other regional funding mechanisms.
   e. Maximizing the lessons from Aceh in reworking/repositioning of the functions listed GR 38/2007.

2. DPs developing with GoI a 'Code of Conduct', whereby they would :
   a. Be supportive of the 'best' government programs, i.e., those that are aligned with the legal framework and key policies of the government on roles and functions of government levels.
   b. Provide consistent cross sectoral support. Where necessary this would take the form of support for coordinating roles (e.g., through MoHA, Bappenas, MoF, MenPAN) as well as complementary support to relevant sectors.
   c. Take a long term view of capacity development in the field of functional assignment, giving attention to enhanced scholarship, dialogue and policy development.

3. FUNCTIONS OF THE PROVINCIAL GOVERNMENT AND THE GOVERNOR

Situation in 2006

By 2006, MoHA had revised the decentralization framework but had yet to sort out the confusion surrounding the dual role of the Governor (as regional head and representative of the central government) in relation as well to the role of the province as an autonomous region. The expectation of some groups that the role of the Governor would be clearly specified and bolstered in the new law, as an aid to reining in districts/cities, had not been realized. The regulation on supervision issued in 2005 did address the role of the Governor, but not sufficiently clearly or comprehensively to resolve the issue. Other follow-up regulations on the role of the governor, organizational structures and mechanisms of deconcentration and agency tasks were work in progress. It appeared from some drafts that inconsistencies were being created between regulations.

The STS 2006 report offered the view that the difficulties faced in sorting these complex issues rested in part in the inadequate attention paid to these aspects of public administration in academic institutions in Indonesia. There is little appreciation of international practices that might provide some inspiration. Such exposure was deemed essential to the nature of hierarchy between sub-national levels of government and how the various modes of decentralizations can combine, particularly at the meso (intermediate) level. The relation of this level to the guidance and supervision of the lower levels of government was seen to be particularly important.

When the report was being researched and written, only GTZ-ASSD had been providing some assistance to MoHA in internal deliberations on the deconcentration mechanism and the role of the Governor, and some modest assistance was foreseen for the drafting of the regulation on the role of the Governor as called for in Law 32/2004.

Recommendations in the STS 2006 aimed to deepen the knowledge base, including comparative references, and properly structure the policy discussion on the relevant topics that surround the roles of the Governor/province. It was underscored that a proper clarification of roles, preferably in keeping with subsidiarity, was essential to a consistent reflection in organizational structures, financial mechanisms and supervision.

Developments since 2006

Change in the regions

The regional scene differs from three years ago in the additional relationships many provincial governments/Governors must contend with as new districts/cities have sprouted, giving provinces an average of just over 15 districts/cities (compared to about 11 prior to decentralization). What remains the same is the difficulty faced by regional actors in dealing with the ambiguous dual role of the Governor (as regional government head and representative of the central government). This ambiguity is particularly problematic in relation to the guidance (*pembinaan*) and supervision (*pengawasan*) of the burgeoning districts/cities.

On the one hand, provincial level actors, particularly the Governor, are frustrated in their efforts to guide districts/cities. This proved to be a rather thankless task on the heels of Law 22/1999, with its explicit negation of hierarchy between the two levels of autonomous regional government. This statement was dropped in Law 32/2004, but without adequately explaining what mechanism would be used at provincial level to exert influence over the district/city. Law 32/2004 also left untouched the Law 22/1999 reform that dropped the dual role of the *Bupati*/Mayor in favor of a purely regional head role. The question that remains unanswered is who on provincial level (or national level for that matter) can now require districts/cities to act in ways that reflect broader interests.[37] The question can actually be answered in many specific cases, but with some difficulty, by wading through the often conflicting jumble of regulations that speak to provincial level roles and functions in the various sectors where regions have a role or where central government entrusts tasks to regional actors. It appears that this contingent model, where specific and sometimes conflicting regulations need to be examined, is too daunting to those that have been long used to a clear line of command.

Viewing the same scene from the city perspective, APEKSI holds that the dualism at provincial level is wrongfully used by the central government to infringe on district/city government functions by using the provincial units as implementing agencies, bypassing the district/city level. Surprisingly, they call for a stronger role for the Governor as a representative of the central government so that 'he cannot just be ignored by the district/cities.'[38] Implicit in this stance seems to be the view that the Governor, as the regional head, can safely be ignored. With respect to the stronger Governor, what is left unanswered is how she would have any more clout than before; Bupati/Mayors are now directly elected and have been free for some time from a vertical command line that a dual role formerly affected. Moreover, districts/cities already chafe under some consultative arrangements, such as the vetting of senior Echelon positions by the Governor. For *Bupati*/Mayor, submitting to any higher level authority in a consistent way, on issues that matter, would seem to require a guidance/supervision system that adds value to district/city governance and has consequences for non-compliance. A direct command line might be a convenient element, but it has its own drawbacks, and is not in any case the most essential component of such a system.

It is also worth noting that some DPD members have also been calling for the 'strong Governor only' model. This is premised on increased efficiency,[39] though a more removed perspective might also take note that such a configuration would work to highlight the provincially elected DPD members once the provincial DPRD members vacate the field.

Regulatory development

The conflicting provisions of Law 32/2004 with re-

[37] See for instance Prasojo, Eko (2007). Kontroversi Pengangkatan Gubernur, submitted December 22, at klikpolitik blog, obtained November 29, 2008 at http://klikpolitik.blogspot.com/2007/12/kontroversi-pengangkatan-gubernur.html.

[38] APEKSI (2007). Rekomendasi Asosiasi Pemerintah Kota Seluruh Indonesia Tentang Revisi UU Nomor 32 Tahun 2004 Tentang Pemerintahan Daerah, Rapat Teknis APEKSI, Jakarta, 5-6 September, pg. 3.

spect to provincial actors were not given any more clarity when GR 38/2007[40] was issued. This regulation gives the provincial government (as an autonomous region) many functions that directly or implicitly call for the province to coordinate, guide or supervise districts/cities (see Box below). These tasks are necessary in many cases because both the district/cities and the province are given the same functions, at different 'scale', requiring therefore for negotiation and ideally only a contingent and supportive provincial role, accompanied by provincial oversight – since the province is still also responsible.

The consequence of this construction is that the province is engaged in similar coordination, guidance and supervision tasks as are also given to the Governor as representative of the central government. The wide variety of regulations found in the sectors also have the Governor undertaking tasks as head of the regional government that could easily fit under the broad tasks given to her as a representative of Central Government. For instance, the provisions of GR 50/2007 on the cooperation of regions[41] call for the Governor, as regional head, to resolve disputes between district/city governments in the context of cooperation arrangements (and as the Box at left indicates, the provincial government/DPRD is responsible for the monitoring and evaluation of these arrangements).

Sample of direct or indirect guidance/supervision role of the province toward districts/cities in GR 38/2007

- Implementation of supervision, monitoring and evaluation of provision of statistics at district/city scale.
- Provision of education and technical training for head of sub-units of districts/cities… (energy).
- Coordination and synchronization of operational educational policy and programs across districts/cities.
- Technical guidance on cooperative and integrated utilization of fisheries between districts/cities.
- Guidance and control of health efforts in border, isolated, sensitive and island regions.
- Support for implementation of monitoring, evaluation, assistance, facilitation, and supervision of the implementation of national KB program.
- Coordination of planning, implementation, and control of regional development at provincial scale.
- Implementation of monitoring and evaluation of implementation of development cooperation between district/city regions.

In the context of the revision of Law 32/2004, considerable attention has been given to the need to clarify the dual role of the Governor and that of the provincial government/DPRD. As mentioned above, a dominant school of thought, promoted by some academic voices and the Association of City Governments in Indonesia, sees a simplification marked by the removal or drastic limitation of provincial autonomy and the corresponding strengthening of the Governor as the central government representative. No other models appear to have been seriously discussed to address the challenges of multi-level government. The strong Governor/weak or non-existing DPRD option has yet to be properly reviewed for its political, organizational, financial/efficiency implications.

Policy options

A clarification and realignment of roles at provincial scale in relation to the district/city would be helpful. The official discourse, if not practice,[42] is increasingly emphasizing the need for central government to make use of the intermediary provincial level, rather than seek to relate to both the provinces and the districts/cities with the same intensity from the centre. The more recent exploration of how the provincial level can also be the locus for allocation towards

[39] See for instance *Suara Merdeka* (2007). Hapus DPRD Provinsi Efisienkan Biaya, Senin, 24 Desember. Obtained November 29, 2008 at http://www.indopolitik.com/berita/2007/12/24/hapus-dprd-provinsi-efisienkan-biaya.php.
[40] Peraturan Pemerintah No. 38 Tahun 2007 tentang Pembagian Urusan Pemerintahan Antara Pemerintah, Pemerintah Daerah Provinsi dan Pemerintah Kabupaten /Kota.
[41] Peraturan Pemerintah Republik Indonesia No. 50 Tahun 2007 Tentang Tata Cara Pelaksanaan Kerja Sama Daerah.
[42] A new government regulation on planning is demanding plan consultation and submission of plans with the Ministry of Home Affairs, flying in the face of the often stated intention to strengthen provincial level actors. See Peraturan Pemerintah No. 8 Tahun 2008 Tentang Tahapan Tata Cara, Penyusunan, Pengendalian Dan Evaluasi Pelaksanaan Rencana Pembangunan Daerah.

the district/cities adds more urgency to clarifying in what capacity the Governor and provincial government units/DPRD would be acting, and therefore the authority and legitimacy accorded to them. This effort requires a rethinking of the use of the modes of decentralization at this scale.

The drastic option of totally removing autonomy from the provincial level would surely simplify the situation, but at significant costs and with difficult to predict consequences. A strong reaction might be drawn from provinces that have forged a strong identity at that scale; the removal of the political function at provincial level would be seen as drastic and provocative recentralization. There is little justification for denying the provincial government of autonomous functions that are suited to its scale (e.g., higher education, specialized/referral hospitals, larger infrastructure), simply to neatly solve the challenge of how guidance/supervision of the district/city should best be done. A more focused solution is preferable, one that is clear on the problems, challenges and the options open to policy makers.

In principle, there are four modes possible for guiding/supervising the districts/cities from the scale of the province (see Table 4).

Table 4 :
Alternatives in discharging guidance/ supervision toward districts/cities

Alternative # 1	Alternative # 2	Alternative # 3	Alternative # 4
Autonomous functions of the provincial government/DPRD	Assistance tasks from the Central Government, received by the provincial government/ DPRD	Deconcentrated tasks given to the Governor as representative of the Central Government	Separate Central Government units (deconcentrated/ vertical agencies)

The first two alternatives flow from the Constitutional provisions (Article 18) that specify that regional governance is undertaken on the basis of the principles of autonomy and assistance tasks. The recipient of the relevant functions/tasks in both cases is the combined institutions of the executive and legislative bodies of 'regional government,' denoted by the term '*pemerintahan daerah*.' The third alternative, where the Governor receives the tasks, as a representative of the Central Government, actually does not arise in the Constitution, but is created through Law 32/2004. The fourth alternative should be seen as the implicit right of a central level organization to structure itself as necessary, throughout national space, to carry out its own tasks; it is a deconcentration mode that is outside of the subnational government system, and might be regulated, if at all, in a different legislative stream.

It should also be noted that while various laws/ regulations can speak to the role of the Governor as regional head, these can only be explanatory rather than additional to the above modes, if the Constitution is to be respected. The Governor as regional head is the implementing executive for autonomous functions and assistance tasks that are given to the '*daerah*,' expressed institutionally as the combination of the executive and legislative bodies; he does not have special modes of decentralization from the state (or government).[43] The direct election of the regional head has tended to undermine this standing and some laws and regulations that urge the regional head to lead on policy issues also complicate the scene. Nonetheless, the regional head is bound to implement regional regulations (approved by the regional legislature).

An option put forward in the context of the revision of Law 32/2004 is to strictly limit the autonomy of the provincial level, and shift more tasks deemed to fall under the broad term 'general administration' (*pemerintahan umum*) to the Governor as the representative of the central government, with his own implementing units separate from the autonomous provincial government units.[44] This option has gained some support within the academic team surrounding the revision process. While the terms used are somewhat different, the option essentially is that described as Alternative #3.

It is possible to rely simply on one of the above alternatives, or a combination. Some combinations are more advantageous than others. Unitary countries like The Philippines or Italy allow the meso level

(province, region) to undertake guidance/supervision roles toward lower levels of government as autonomous (devolved) functions of these levels, although the central government may also find ways of extending its presence alongside politically decentralized subnational government (e.g., Department of Interior and Local Government units in provinces in the Philippines). Where this guidance/role toward lower levels of government is seen as inherently a central level function, then the choice is to allow the autonomous provincial government to undertake it as an assistance task, which in practice is similar to undertaking it as an autonomous task, except that the central government has the right to be more directive and expect corresponding accountability for the execution of the tasks.

Alternatively, the Central Government can choose to discharge this guidance/supervision role through the Governor as representative of the Central Government (Alternative #3 – this is seen in Norway at county level for instance[45]), or it can set up its own parallel units (dispersed offices of the central government), totally separated from provincial government (Alternative #4).

The above alternatives should be seen as 'ideal types;' reality is in fact more messy, with some central governments undertaking rather little guidance/supervision, relying for instance on the justice system to address lower level government legal excesses (this might be seen as a variant of Alternative #4 – and is the situation in Sweden). In the case of Japan, the Governor of the prefecture is not defined as a dual role, but she is said to be an agent of the Central Government with respect to some functions of the Central Government; this is akin to Alternative #2 but with the executive side being given the agency role directly.

Adhering to the ideal types, or combining them carefully, has the advantage of maintaining clarity and clear channels of accountability. Additionally, whatever choice is made, it is important to retain consistency in elaborating the selected mode(s). If the Governor as Central Government representative is selected, then it would be inconsistent to have these tasks subsequently entrusted to the autonomous provincial units; separate central level organizations would be needed under the Governor to discharge these deconcentrated tasks. If deconcentration (Alternatives #3 or #4) are selected, then the funds used should come from APBN, and would be off-budget at the provincial government level (would not be part of the APBD). This implies that the accountability would not be to the DPRD, but solely to the Central Government unit that is tasking the Governor. If either Alternative #1 or #2 are chosen, then the funding would be on-budget (in the APBD) and accountability would be (also) to the DPRD. Reporting in both modes would also be to the Central Government, although there may be some difference in requirements between the two modes, given that assistance tasks relate to functions of the central government, and may be overseen quite tightly through detailed instructions and tight reporting.

Returning to the STS 2006 situation, it appears that the recommendations made in that report have not been realized. Much work remains to be done to determine what the real problems of two-tiered regional government and Central Government function implementation in the regions truly are, and what mix of decentralization modes at provincial scale is suitable to address the current challenges.

On the DP side, USAID-DRSP has urged MoHA to use research organizations to undertake an exploration of how deconcentration and assistance tasks are being applied (and reported), and what would be the consequences of shifting the guidance/supervision function from the autonomous provincial units

[43] In this respect, GR 7/2008 on deconcentration and assistance tasks gives assistance tasks directly to the executive side (*pemerintah daerah*) and is thus in contravention of the Constitution (see Chapter on Legal Framework).
[44] Kertapradja E. Koswara (2007). Pokok-Pokok Pikiran Tentang Permasalahan Kedudukan Gubernur Selaku Wakil Pemerintah, makalah dipersiapkan untuk bahan masukan pembahasan Revisi UU No. 32 Tahun 2007.
[45] Keuleers, Patrick (2002). The role of the Governor and of the provincial administration - Comparative experiences, Sub-Regional Resource Facility for the Pacific, Northeast, and Southeast Asia, Bangkok, SURF UNDP.

(where this is now undertaken in practice) to central government units under the Governor (acting as the representative of the central government). Such a simulation would provide insights on the viability of such a simplifying reform – one that is the focus of current Law 32/2004 revision. GTZ-ASSD has taken the lead in supporting the GoI in developing the draft Government Regulation on the Role of the Governor, a regulation that will belatedly fulfill a provision in Law 32/2004. This task is made difficult in view of the reform possibilities that can be considered in the context of the revision of Law 32/2004 – it is unclear if the regulation should fit under the existing Law 32/2004, or if it should refer to reform options that are being considered, or might be considered, in the context of the law's revision.

Recommendations

The recommendations of the STS 2006 are still relevant. That there has been little progress so far speaks to the complexity of these issues, and the challenge of weaving the discussion into a revision process that is even larger in scope and still uncertain on core principles of autonomy. In this context, it bears repeating and expanding some of the previous recommendations, but with some qualifications. Speed is not of the essence in the preparation of the government regulation on the role of the Governor. The role to be carefully explicated is in relation to the representative of the central government (Article 38(3) of Law 32/2004), but getting this right requires adjusting a larger set of relationships, hence :

1. In the context of the revision of law 32/2004, great care should be taken to discuss and select a set of consistent relationships between the State/Central Government and the regions, clarifying the roles of key actors and modes of decentralization.

2. The above effort should allow for ample analysis of actual problems faced, challenges, and options available, drawing from international experience where this appears relevant.

3. It is equally important to undertake a form of regulatory impact assessment for any significant reform, anticipating political, organizational, financial, reporting and accountability consequences of the proposed reforms.

4. Relevant stakeholders need to be brought into the discussion at the stage (using a *Naskah Akademik*) where options and their advantages and drawbacks are being discussed. For instance, the provincial DRPD (now poorly organized) need to be properly sounded if the 'strong Governor only' option is on the table.

4. INTERGOVERNMENTAL FINANCES

Situation in 2006

The GoI had indicated some directions for reform, including increasing the own revenues of regional governments; making the DAU more equalizing and reflective of expenditure needs, and removing the hold harmless provision; growing the DAK by shifting wrongly deconcentrated/agency funds; improving the DAK allocation formula and process, and harmonizing conflicting regulations on this mechanism; and making cautious progress in operationalizing the municipal bond market.

It was recognized that regions were often abusing the powers granted to them to set local taxes and charges, creating punitive and distorting regional regulations. The government was therefore considering the revision of Law 34/2000, to fix a positive list of regional taxes and user charges. This approach was not favored by donor technical assistance advisors. A more positive discussion was seen on the possibility of fully decentralizing the property tax, but this possibility had long been considered and had yet to yield concrete steps.

The 2006 study also noted the desire to improve the DAU proxy for fiscal needs. Moreover, the DAU formula was to be made more equalizing, removing the hold harmless provision as one step in that direction. The distorting effect of the basic com-

ponent (wage bill) in the DAU also worked against the fairness and efficiency of the DAU. It was also noted that the 60% increase in the DAU grant in 2006 exacerbated the burgeoning reserves held by regional governments.

Regarding the DAK, its purpose and procedures were subject to different regulations and understanding. It also was seen as limited in its potential to support service delivery in view of the capital expenditure requirement, and the allocation formula that was not very responsive to service needs. Its expanding sectoral reach was welcomed by sectoral ministries but raised concerns over its fragmentation, and the role of DAK in the overall balancing fund architecture.

The waves of regional government borrowing seen in the mid-80s to mid 90s had left a hangover of outstanding debt and arrears in regional government and their enterprises. More recent regulations had focused on controlling debt. However, some regional governments appeared ready and able to make good use of debt. The government was weighing how to give these regions access to financial markets (e.g., municipal bonds) while finding ways of addressing financing needs of less market ready regions.

As there appeared to be little chance of making headway on boosting own revenues, the recommendations of the STS 2006 centered on the DAU and DAK grants. The GoI was encouraged to follow though on the removal of the hold harmless provision of the DAU by 2008, make the DAU more equalizing by incorporating previously excluded revenue sources, and generate expenditure norms for the MSS that could be used in the DAU formula. The GoI was enjoined to abolish the compensation for wage outlays from the DAU, to create an incentive to right-size civil service at the regional level. As for the DAK, clarification on its role was sought, supporting its use as a transitional tool rather than its permanent expansion in size and reach across sectors. Ways of making it more targeted and bringing allocation decisions closer to the regions were suggested. The shift from deconcentrated to DAK funding was encouraged in view of the expectations that functional assignment would soon be sorted out in a pending government regulation.

A final recommendation urged the GoI to increase overall transparency in municipal credit markets, and introduce default regulations. It recommended also that it ensure that fiscally weak regions have equitable access to other sources of funds to avoid increasing regional disparities.

Developments since 2006

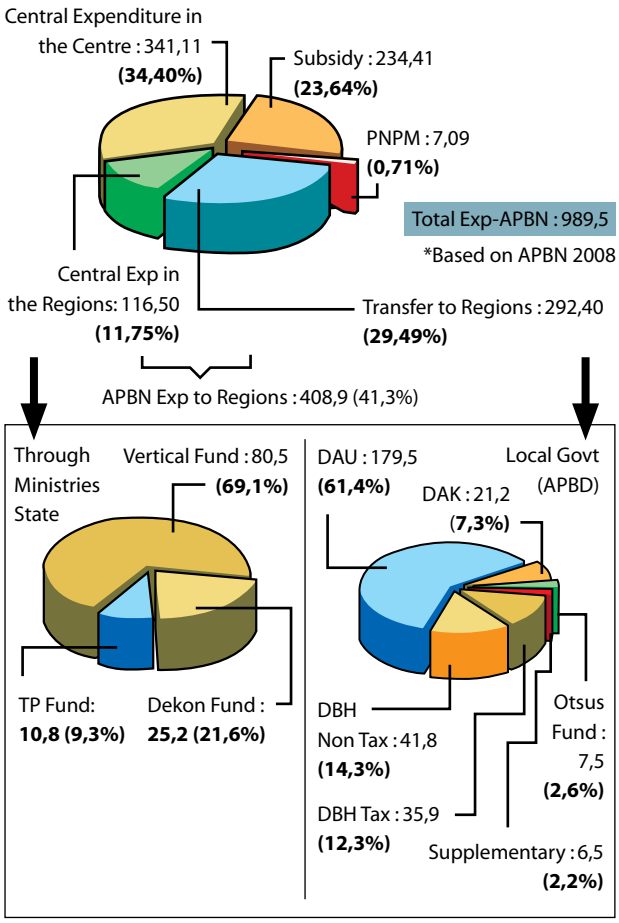
The changes seen in GoI policies on fiscal decentralization need to be seen against the following backdrop: transfers rose from Rp. 226.2 trillion in 2006 to Rp. 254.2 trillion in 2007 and Rp. 292.4 trillion in 2008 – an annual increase of about 12% and 15% respectively. If deconcentrated funds spent in the regions (largely on functions that are ostensibly in the hands of regions) are also included, this brings the totals to Rp. 353.5 trillion or 47% of the national budget (APBN) in 2007, and Rp. 408.9 trillion or 41.3% of the 2008 APBN. Extending this further to encompass programs directed by the central government but pertaining again largely to functions of the regions – namely the subsidies and the National Program for People's Empowerment (Program Nasional Pemberdayaan Masyarakat/PNPM) the 2008 figures must be enlarged by Rp. 234.4 trillion (23.6% of APBN) and Rp. 7.1 trillion (0.7% of APBN) (Figure 1 provides a graphic for the case of 2008).

Complementing the transfers are the smaller portion of expenditures in the regions – those coming from own revenues. These were Rp. 47.3 trillion and Rp. 54 trillion for 2007 and 2008 respectively. As overall revenues have grown for all regions, the percentage of these revenues derived from own revenues has remained steady at about 15.5% from 2006 to 2008. This global figure hides the fact that provinces nearly raise half of their revenue, while districts/cities cover less than 10%. There is also a wide variation between parts of Indonesia.

One of the paradoxical findings in recent years is that regions that might be expected to show a strong performance due to a relatively high per capita (from all sources) do not always deliver in terms of welfare

and economic growth indicators. The effectiveness of expenditures is thus becoming an increasingly important issue.

Figure 1
Expenditure Allocation in APBN-P 2008
(Rp Trillion)



Source : Ministry of Finance

New developments in own revenues

Very little has changed on the revenue side since 2006. Regions with insufficient transfers have few means to raise own resources to compensate for their fiscal gaps. Hence, many still issue regulations designed to raise revenues, but become essentially 'nuisance' regulations that adversely affect trade and investments in the regions. The lack of progress in this area is unfortunate as having a significant local tax base is a key to engendering a sense of accountability to local service wants and probity in local spending.

Currently, the revision of Law 34/2000 is still under discussion in the DPR. It was expected to be completed by late 2008, but it is not clear when it will be replaced in view of the national elections that will absorb the legislator's attention well into 2009. The initial intention was to add a closed list of taxes since the current version allows a limited list of taxes while giving room for some additional taxes by regional government. Two keys proposals were the focus of discussion between the GoI and DPR on the Draft of Revision Law No 34/2000 :

- The DPR proposed to add : mobile phone tax (or tax/charges on the telephone mast); cigarette tax; motor vehicle tax (including those motor vehicle on water); and property tax (PBB and BPHTB), while
- The GoI proposed an environmental tax, which is basically a business tax.

By late 2008, agreement had been reached on dropping the environmental tax proposal, due to high resistance by the business sector. Agreement was reached to transfer the property tax to local governments, but only for two sectors, i.e. urban and rural. The other three sectors (plantation/estate, forestry, and mining) would remain in the hands of the central government. The GoI (Directorate General of Taxation) is reluctant to include the last three sectors because these are considered to be administratively more complicated - so that it would take quite some time for local governments to gain the capacity to take them over. The DG of Taxation even proposes five year transition period for the two sectors to be transferred, before these are totally in the hands of local governments.

New developments in transfers to the regions

A key development in transfers is the addition in 2008 of the Special Autonomy Fund (Dana Otonomi Khusus) for Nanggroe Aceh Darussalam, in keeping with Law 11/2006 on Governing Aceh. This is set at 2% of the national DAU ceiling for the next 15 years, reducing to 1% between the 16th to 20th year.

While the nomenclature for the DAU has changed

somewhat since 2006 (it is now composed of the Basic Allocation and Fiscal Gap), its weaknesses remain. The wage bill is still embedded in the DAU, and the formula has not changed. However, the portion of basic allocation has been reduced significantly year by year (so that the portion aimed at the fiscal gap increases, making the DAU more effective as an equalization grant).

Table 5:
Transfer to the Regions 2006 - 2008

Items	APBN-P (Rp bn)		
	2006	2007	2008
I. Balance Fund	222,130.6	244,607.8	278,436.1
a. Shared Revenue	64,900.3	62,726.3	77,726.2
b. DAU	145,664.2	164,787.4	179,507.1
c. DAK	11,566.1	17,094.1	21,202.1
• DAK DR	-	-	-
• DAK Non DR	11,566.1	17,094.1	21,202.1
II. Otsus Fund and Supplementary	4,049.4	9,593.2	13,986.7
a. Otsus Fund	3,488.3	4,045.7	7,510.3
b. Supplement Fund	561.1	5,547.5	6,476.4
Total	**226,180.0**	**254,201.0**	**292,422.8**

A significant change expected in the 2009 DAU is the removal (mostly) of the hold harmless provision, where fiscal capacity will play a much bigger role in the allocation; as a result some regions may receive no DAU or less than they received in 2008. In 2008, the abolition of hold harmless has been implemented for the DAU allocation of 26% of Net National Domestic Revenue. But for regions that did not get DAU (i.e. DAU calculated as zero) or received a decreased DAU of more than 75% of its previous year DAU, the Central Government – stemming from the decision regarding the APBN in the national legislature – still provided special balance funds (over and above the DAU) equal to a maximum of 25% of DAU received in the previous year. That portion of the balancing fund is part of an "Adjustment" (or Supplementary) Fund in APBN 2008.

The DAK expanded again in 2008 to encompass 'population' and 'forestry', bringing the total to 11 sectors. The Financial Note (*Nota Keuangan*) for 2009 foresees the addition of three more sectors to the DAK in 2009; i.e. Communication, Village Infrastructure, Trade. This is meant to facilitate the shift of funds currently spent under deconcentration/agency to the DAK. It appears that each sectoral department is unwilling to just stop funding their projects and to simply allow the funds to be used in the DAK (or be channneled to the regions in other ways). By having a dedicated sector within the DAK, a department feels reassured that the funds will be applied to its sector. It may also be the case that some departments expect that the funds will be applied to the same type of projects/activities that were the focus of the deconcentrated/agency funds before their shift to the DAK.

It is notable that the DAK now covers 434 districts/cities in 33 provinces, indicating that it is becoming a 'universal' entitlement rather than a targetted add-on that fills a particular niche in a rational architecture of transfers. Though the DAK is growing in size it is evident that the expected shift from deconcentrated funds to the DAK has yet to happen in any meaningful sense; the expansion of the DAK seen from 2006 to 2008 (from 11.6 to 21.2 trillion rupiahs) is but a small portion of the deconcentrated funds spent by the central government on functions that are supposedly in the hands of the regions. The clarity that was given by Government Regulation 38/2007 regarding the Division of Governmental Functions, while far from ideal, has yet to be applied to this expected shift.

Revenue sharing continues to assist in closing vertical fiscal imbalances, and in 2008 has generated windfall revenues for regions producing oil and gas, but with the undesired result of widening horizontal imbalances. If unchecked, this effect can become more pronounced in view of the Law 33/2004 stipulation (elaborated in GR 55/2005) that in 2009 regions receiving shared revenues from oil and gas will be awarded an additional 0.5% of revenues to be directed to basic education.

Revenue sharing regulations have been issued, or are being prepared, to give more certainty to data and calculations regarding absolute value of shares accruing to the regions. Recent regulation[46] aims to make transfers more efficient and improve reporting and accountability. The government has also issued

Government Regulation in Lieu of Law No. 1/2008 that includes Papua Barat province in the special autonomy arangements that had been created in Law 21/2001 for Papua.

Performance based grants/allocative role of province

Performance based grants are being explored in Indonesia in modest ways, through donor support (e.g., CIDA-BASICS and AusAid Dialog projects are in early stages of design or implementation). The anticipated grants seek to provide resources to districts/cities to reward good governance and the closing of MDG/MSS gaps, and the allocation approach gives the provincial level a meaningful role. The central government and participating regions have an opportunity to develop models and lessons that could be used to shape the DAU, DAK or a new national fund.

Initiatives in the allocative role of the province would complement other explorations and re-workings of the policy/legal framework designed to empower provincial scale institutions in guiding, supporting and supervising the district/city regions. It is worth noting that some provinces have already been providing funds to districts/cities, albeit often in ad-hoc or not transparently in terms of criteria. The situation with special autonomy particularly demands a large role of the province in this respect.

Quite a radical but perhaps promising idea would be to empower the province through 'two step DAU mechanism'. This means that the central government (by using similar variables and formulation to the current formula) allocates DAU to only the provincial level. The provinces, in turn, will allocate the money to the districts/cities. The provinces could develop their own formulae as long as the main objective is satisfied, i.e., to reduce the horizontal imbalance between regions. However, this idea is still being discussed internally in the advisory team for fiscal decentralization in the MOF and is seen to be having a little chance politically to be included in the revision of Law 33/2004.

Local government surpluses

The following table sketches the broad picture of all regional government budgets in the last three year. The number of LGs with budget surpluses has increased steadily. A number of reasons have been put forward, with the delay of disbursements and bad planning frequently mentioned. Whatever the reasons, this is a serious matter that requires much attention from the central government as well as the regional governments. It is ironic that while the central government seeks standby loans to finance the APBN deficit of about $2 bn, the regional government have a combined APBD surplus of over Rp 45 trillion (about $4 bn).

Table 6 :
Numbers of LGs with surplus or deficit budget : 2004-2007

	2004		2005		2006		2007*	
	Surplus	Deficit	Surplus	Deficit	Surplus	Deficit	Surplus	Deficit
Number of Kab/ Kota (IDR Trillion)	206 (4.5)	112 (1.2)	282 (11.2)	49 (0.4)	341 (22.0)	34 (0.9)	373 (34.0)	44 (1.0)
Number of Provinces (IDR Trillion)	24 (2.8)	3 (0.2)	29 (7.7)	2 (0.0)	21 (5.0)	5 (1.4)	26 (9.0)	5 (1.7)
Total LGs (IDR Trillion)	230 (7.3)	115 (1.4)	311 (18.9)	51 (0.0)	362 (27.0)	39 (2.3)	399 (43,0)	49 (2.7)
National: APBN (IDR Trillion)		(23.8)		(17.8)		(30.4)		(61.9)

Note : * from budget plan all regions included due to data availability

Source : Financial Note and RAPBN 2007, 2008, 2009.

[46] *Peraturan Menteri Keuangan Nomor 04/PMK.07/2008 tentang Pelaksanaan dan Pertanggungjawaban Anggaran Transfer ke Daerah* or Minister of Finance Decree 04/PMK.07/2008 regarding the Implementation and Responsibility of Transfers to Regions.

Regional bonds

By 2006, MoF had issued several ministerial regulations regarding local borrowings and municipal bonds. At this time, the GR on loans and grants and on lending – on granting had also been issued. Further steps have been slow. Most regulations issued have been about administrative issues and debt control. The latest ministerial regulation is PerMenkeu 120/PMK.OS/2008 regarding State Receivables from the Government Subsidiary Overseas Loan, Investment Fund Account, and Regional Development Fund Account for local water enterprises.

As the Law of Capital Market requires at least three (consecutive) year audited financial report for an institution to be permitted to issue bonds, this would mean that regional government bond market is still a medium-term issue. Until very recently, most local government financial reports, including those with potentials to issue bonds, have been qualified by a 'disclaimer' by the GoI Internal Auditor (BPKP) and the Supreme Audit Body (BPK). This is one of several reasons why currently the MoF put the issue of regional bonds as a low priority, and stressed the importance of capacity building programs for local government officials before proceeding to develop the regional bond market.

Shift from deconcentration / agency task funding to DAK

Law No. 33/2004 (Art. 108) calls for a phased shift of funds channeled through deconcentration and agency (assistance) tasks to the Special Allocation Fund (DAK) where it is being spent on functions that have been decentralized. A dedicated government regulation was to guide the details, but none came, and a more general government regulation addressing other articles in the law was used four years later, but with little guidance on how the shift should be done and an equally vague phasing requirement. The Ministry of Finance and Bappenas do have a chance to approve the Sectoral department's proposed annual shifts, but it is not clear how this can result in shifts of funds that are not proposed in the first place.

Because of the continuing lack of guidance, sectoral departments have been slow to respond to Law 33/2004 on this matter. Even with the additional clarity given by GR 38/2007, an imperfect regulation to be sure, there has been little movement. What will also make the shift difficult is the ministries' tendency to refer to sectoral laws for guidance on what functions they can exercise, though in many cases these laws are no longer in line with the decentralization laws. It is clear that more effort by the coordinating ministries will be needed to converge on what needs to be done to effect the shift and how/when it can be done.

At the present time, GTZ-ASSD is providing some assistance to Bappenas in developing a methodology that can be applied to the sectors. MoF and MoHA with the support of ADB, have invited two Ministries as pilot projects to seek to harmonize the issue of functional assignment and eventually to lead to a corresponding shift in deconcentration/assistance tasks funds that should really be applied to decentralized functions. The two invited ministries are the Ministry of Environment and the Department of Information and Communication.

The impact of *pemekaran* on public finance

Pemekaran has continued unabated to the end of 2008, though some respite is anticipated in the context of national elections in 2009 (see section on territorial reform). The implications for the DAU are twofold: i) a relatively smaller portion of DAU for each region; and ii) the reduction of the effectiveness of DAU as an equalization grant. On the DAK, since 2003 the GoI has allocated funds from the DAK for government infrastructure to the new autonomous regions. This reduces the amount of DAK available for other sectors.

An additional impact of *pemekaran* on the government budget has been the building of regional (vertical) offices in the new regions, along with ongoing personnel salaries and other operational costs (see Table 6).

Table 7 :
CG Regional Office Budget in New Autonomous Regions: 2005-2008 (billion Rupiah)

No	Type of Expenditure	2005	2006	2007	2008
1	**Salary**	1,202	1,796	2,749	4,306
2	**Equipment**	2,665	1,054	1,502	1,774
3	**Capital Expenditure**	1,958	2,685	3,737	4,849
4	**Social Security**	2,889	769	102	3,086
	Total	**8,714**	**6,304**	**8,090**	**14,015**

Source: Ministry of Finance

Revision of law 33/2004

The Ministry of Finance has established a team of government officials and university researchers to support the revision of Law 33/2004. This team began its work after *Idul Fitri* 2008 to prepare the *Naskah Akademik*. At the same time, the Ministry of Home Affairs is preparing the revision of Law 32/2004 on Regional Government, a task initiated in 2006. The MOHA team comprises of government officials, and has set in motion related processes that bring together the contributions of researchers and NGOs. These wider processes are facilitated by GTZ-ASSD and USAID-DRSP; some technical inputs are also provided through these development partners. One of the aims of the DPs is to support the GoI in attaining consistency between the political-administrative and fiscal laws; ASSD will bring together both revision groups and support the identification of common agendas and options for reform.

The revision of Law 32/2004 would likely cause changes in Law 33/2004. But the revision of the latter has other impulses as well, as noted in this stock taking report (e.g., to achieve efficient national resource allocation through proper incentives). The CG feels it needs a Grand Design of Fiscal Decentralization for Indonesia; a long term direction of fiscal decentralization that has been proposed by the Minister of Finance and was included in the President's Speech in front of the DPD and in the 2009 Financial Note. With a grand design in place, the central, provincial and local governments could adopt more harmonious policies.

The same team working on the revision of Law 33/2004 will also provide inputs to the grand design. It is hoped that an overall grand design for decentralization will emerge as various strategic policies are crafted on separate tracks and then brought together. These could include the grand design for fiscal decentralization, grand strategy for territorial reform, and the revision efforts of Law 32/2004 and Law 33/2004.

Policy options

It is widely acknowledged that a substantial proportion of budgets raised as own revenues is necessary to increase regional government accountability and efficiency. To boost own revenues will require giving regions, especially districts/cities, more opportunities to expand local taxes and charges and set rates. The agreement by DPR and GoI to shift urban and rural sectors of land taxes to local government should be at least extended to the plantation sector. Piggybacking on the current excises on cigarettes is also a possibility.

Transfers and revenue sharing also require some reformulation, to reduce both the vertical fiscal imbalance and the horizontal fiscal imbalance. The DAU could be adjusted to better take into account fiscal capacity/gap by considering expenditure needs of regional government, particularly concerning minimum service standards. Better definition/prioritization and costing of MSS would be a precondition. The DAU could also be made more effective by removing the connection to the wage bill. Additionally, revenue sharing could be done equally within the derivation province.

The restrictions now seen in the DAK - such as limiting it to capital expenditures or one year time frame, could be lifted to make it more flexible and multi-year. However, its sectoral scope could instead be reduced to make it more effective. Its role within the overall 'balancing fund' could be made clearer, including setting it as a proportion of the fund.

The facilitation of suitable pilots in performance based grants can also be helpful to future reforms. This may require some elaboration or clarification/interpretation of on granting-on lending regulations.

Making progress on all of the above fronts will be a challenge. The DPOD has so far not been able to formulate reform efforts in regional finances, and the Ministry of Finance alone will also not be able to make much headway unless there is a government wide commitment. This commitment is easier to generate if concrete and high quality analysis and proposals are prepared for political consideration. It may be advantageous to establish an independent body that could undertake this work – one that is able to draw on the appropriate expertise and would be free to explore alternative policies.

Recommendations

1. The fiscal decentralization reform startegy being prepared under the Ministry of Finance leadership needs to fit into a larger road map for decentralization reform, and to be properly reflected in a revision of the two key laws for regional government (law 32/2004 and law 33/2004).

2. Regarding local taxes and charges :
   a. Local taxes of regional governments should be extended further to encompass the plantation sector, and then other sectors at a later point.
   b. Piggybacking should be done on the current excises on cigarettes.
   c. An 'environmental tax' could be introduced, but as a transparent 'business tax', with a parallel elimination of taxes/charges related to business permit.
   d. Regional government should also be given the power to set rates within a range set in law.

3. Regarding transfers :
   a. Costing of SPM should be conducted to develop expenditure norms, and these could be used in the fiscal need calculation of the DAU formula once the MSS are properly defined and priorized and stages for their achievement are developed, in line with anticipated financial resources.
   b. The effort to apply functional assignment to national expenditures needs to be intensified, with Bappenas, MoHa, and MoF acting in concert in facilitating sectoral departments in identifying projects that no longer need to be implemented or where equivalent funds must be directed to the DAK and other sources of funding for regional government, so that they can look after the functions given to them.
   c. The expected size, purpose, and rules for the DAK needs to be adjusted. These adjustments should include a reduction in sectoral fragmentation and giving the province/Governor a greater role in allocation decisions.

4. Donor funded performance based granting should be facilitated through appropriate regulations for ongranting-onlending. The government should ensure that it monitors these pilots closely to draw lessons for national scale mechanisms.

5. Financial incentives for territorial restructuring should be reconfigured to eliminate the financial benefits of fragmentation and encourage greater efficiency, including through merging of regions.

6. Development of these local finance policy needs to be strengthend by setting up an independent institution that (within broad policies of the government/DPR) would design and evaluate the DAU formula; design the DAK within the framework of MTEF; synchronize central and regional tax revenues; evaluate the financial implications of region splitting; and monitor the quality of local financial reports.

5. OVERSIGHT AND SUPERVISION OF REGIONAL GOVERNMENT

Situation in 2006

The STS 2006 report pointed out the unfulfilled

expectation of the inter-ministerial Council for the Deliberation of Regional Autonomy (DPOD) in terms of its oversight and policy development role in regional autonomy, noting its infrequent meetings, questionable commitment to fulfilling its full mandate, and its narrow preoccupation with reviewing regional government creation - which it seems to rubber stamp.

The report did note that the Law 32/2004 was partly elaborated in terms of supervision by GR 79/2005. This regulation distinguishes between legal and technical supervision, with MoHA being responsible for the legality of regional government actions and regulations, and ministries/agencies being responsible for the implementation of technical supervision corresponding to their respective functions. As part of preventive supervision, district/city draft regulations concerned with taxation, user charges, budgets and land zoning need approval by the Governor (and corresponding approval by the national level for provincial draft legislation). Regional regulations concerned with other fields of activity are vetted by the national level after the fact (hence the term 'repressive' supervision). The STS report noted that on repressive supervision, the role of the Governor/province was left unanswered.

In mid 2006, MoHA was also leading the effort to prepare additional government regulations dealing with regional reporting and performance monitoring/evaluation. Bappenas was also preparing regulations on monitoring the performance of the 'implementation of regional government planning', as a follow-up to Law 25/2004. Already, the Ministry of Finance had lead the effort to address reporting for regional finances, based on Law 1 on the State Treasury, resulting in GR 8/2006 regarding Financial Reporting and the Performance of Regional Government Units.

In the STS report, the regulation already issued was deemed to be problematic in terms of coherence and incisiveness of their content, and their fit. Concern was expressed that the existing, and additional pending regulations, would create a complex, incoherent, burdensome, and unmanageable system of reporting and evaluation of regional government performance.

In terms of repressive supervision, the STS noted the lack of response of the central government to regional regulations prohibiting or regulating certain religious and cultural practices (e.g., reciting the Koran, attending mosque, wearing the jilbab); the legal validity of these regulations, and their likely standing in relation to constitutional rights or the 'public good' were not being addressed.

Auditing of regional government was hampered by unclear organizational set-up or roles of the inspectorates general of ministries, the internal government auditor (BPKP), and regional government inspectorates.

The STS 2006 urged a proper completion of the existing draft regulations, and revision of those recently issued that have serious shortcomings to better define guidance, control and supervision roles, and to clarify national and regional roles. Moreover, simplification and integration of reporting and monitoring/evaluation provisions were suggested, introducing sanctions/incentives for data and reporting compliance.

Revitalizing the DPOD was seen to be a sensible undertaking, but the tone of the STS was doubtful, indicating that it may be necessary to elevate the oversight/coordination role to a higher level body.

Developments since 2006

Oversight of regional government by the DPOD

The Council for the Deliberation of Regional Autonomy (*Dewan Pertimbangan Otonomi Daerah*-DPOD) is still preoccupied with the steady stream of new region proposals. DPR/DPD directed proposals are now generally put through an administrative review as well, though it appears that GR 78/2007 is not being applied in full (this may be in part due to unworkable requirements). In April 2008, the DPOD was asked to review proposals for 27 additional regions, within a seven week period, so as to allow for the

creation of the new regions prior to the upcoming national elections.[47] To undertake this work, the DPOD is expected to form verification teams that descend to the affected regions and assess the appropriateness of the proposals. This creates a work load for the DPOD that is patently beyond its capability – as it operates presently. Moreover, the steady stream of new regions keeps the DPOD from other pressing issues of decentralization/regional autonomy performance and reform.

Recent legal framework developments pertaining to supervision have further marginalized the role of the DPOD. GR 3/2007 on regional government reporting requirements and GR 6/2008 on the evaluation of regional government performance do not give the DPOD any role; separate coordinating and technical groups are established at three levels of government, and the assessments and reports produced wind their way to the President through the Minister of Home Affairs. With this construction, the DPOD will not be in a strong position to track the success of decentralization in general, and is unlikely to ever put forward to the President reports or recommendations that relate to the pressing issues of decentralization/regional autonomy.

New regulations related to supervision

More fine grained supervision procedures have been prepared to add to those put in place in the period 2004-2006 :[48]

- GR 6/2008 on Guidance for the Evaluation of the Implementation of Regional Government
- GR 8/2008 on Stages, Procedures for the Preparation, Control and Evaluation of the Implementation of Regional Development Plans.
- GR 3/2007 on Reporting on the Implementation of Regional Government to the Central Government, the Explanatory Report on Accountability of the Regional Head to the Regional House of Representatives, and Information Reporting on the Implementation of Regional Government to the Public.
- Ministry of Home Affairs Regulation 23/2007 on guidance for Procedures for Supervising the Implementation of Regional Government.

Cooperation on Monev in MoHA

The overlap in Monev role within MoHA units has long been noted by MoHA and donor supported efforts to strengthen Monev systems. In a meaningful step toward maximizing limited internal capacity, and avoid turf battles from poor organizational design, the evaluation and reporting unit receiving the annual provincial government reports (under the governmental functions directorate) is 'lending' the provincial reports to the unit most concerned with regional government performance. In 2007 the latter reviewed a sample, and in 2008 it sought to review all those submitted. Provided a useful response is given to the provinces, this may stimulate better provincial reporting.

- Ministry of Home Affairs Regulation 16/2007 on Procedures for Evaluating Draft Regional Government Regulations Regarding Regional Budgets and Draft Regional Head Regulations Regarding the Elaboration of Regional Government Budgets.
- Ministry of Home Affairs Regulation 79/2007 on Guidance for the Preparation of Plans for the Achievement of Minimum Service Standards.
- Ministry of Home Affairs Regulation 6/2007 on Technical Instructions for the Preparation and Issuing of Minimum Service Standards.

[47] *Pilar Nias Barat* (2008). Pemekaran 27 Daerah Otonomi Ditunda Selama 7 Minggu, Pemerintah Beri Kesempatan DPOD Untuk Survey Kelayakannya, 12 April, http://pilarniasbarat.com/?p=80.

[48] Peraturan Pemerintah Republik Indonesia Nomor 6 Tahun 2008 Tentang Pedoman Evaluasi Penyelenggaraan Pemerintahan Daerah; Peraturan Pemerintah Republik Indonesia Nomor 8 Tahun 2008 Tentang Tahapan, Tata Cara Penyusunan, Pengendalian Dan Evaluasi Pelaksanaan Rencana Pembangunan Daerah; Peraturan Pemerintah Republik Indonesia Nomor 3 Tahun 2007 Tentang Laporan Penyelenggaraan Pemerintahan Daerah Kepada Pemerintah, Laporan Keterangan Pertanggungjawaban Kepala Daerah Kepada Dewan Perwakilan Rakyat Daerah, Dan Informasi Laporan Penyelenggaraan Pemerintahan Daerah Kepada Masyarakat; Peraturan Menteri Dalam Negeri Nomor 23 Tahun 2007 Tentang Pedoman Tata Cara Pengawasan Atas Penyelenggaraan Pemerintahan Daerah; Peraturan Menteri Dalam Negeri Nomor 16 Tahun 2007 Tentang Tata Cara Evaluasi Rancangan Peraturan Daerah Tentang Anggaran Pendapatan Dan Belanja Daerah Dan Rancangan Peraturan Kepala Daerah Tentang Penjabaran Anggaran Pendapatan Dan Belanja Daerah; Peraturan Menteri Dalam Negeri Republik Indonesia Nomor 79 Tahun 2007 Tentang Pedoman Penyusunan Rencana Pencapaian Standar Pelayanan Minimal; Peraturan Menteri Dalam Negeri Republik Indonesia Nomor 6 Tahun 2007 Tentang Petunjuk Teknis Penyusunan dan Penetapan Standar Pelayanan Minimal.

- Ministry of Home Affairs Regulation 28/2008 on Procedures for the Evaluation of Draft Regional Government Regulation on Regional Spatial Plan.

The number of regulations is in itself daunting to users, but the more important indicators of a regulatory system is whether the regulations together form a reasonably coherent and useful framework for regional governments. On these counts, the system falls short. As the Director for System and Reporting of Development Performance Evaluation in Bappenas has noted, the system is characterized by its complexity, insufficient connections between the components, duplication among components, and neglect in their implementation.[49]

The system becomes particularly unwieldy when the central government does not observe framework laws or stated policies in the elaboration of sub-components. This is seen in the case of GR 8/2008, where regional government medium-term plans are to be reviewed in draft form (prior to being formalized in regional government regulations). Medium-term plans do not fall into the category of preventive supervision according to Law 32/2004 on regional governance and GR 79/2005 on supervision. That MoHA itself is set as the operational organization undertaking supervision in this instance (rather than the Province/Governor, as has been the supposed direction of reforms in supervision), makes the incompatibility of this regulation all the more acute.

It is important to note that the numerous, conflicting or inappropriate supervisory requirements also place a great deal of stress on central government itself. The workload these combined regulation impose on central government organizations is beyond the organizational capacity to absorb the reports and to respond appropriately. The capacity dilemma is further aggravated by the tendency to use supervision roles for visits to the field that are of dubious value substantively, but rewarding otherwise for the participants. Within this rather bleak scene, some central government actors are seeking to streamline procedures and forge cooperation, within organizations (see Box above) and between them. The Planning Office head for Bangda-MoHA, Eka Atmaja Maskara Hadi, indicates that relations between Bangda and Bappenas are good and that they are increasing their exchanges on the challenges of regulatory development.[50]

The new reporting requirements of GR 3/2007 were applied in the annual reporting to central government for the implementation year 2007. The reports from provincial level have been slow; 24 of 33 provincial reports had reached MoHA by early December 2008. They are supposed to be submitted within three months of the end of the year. The reasons offered by MoHA for the lateness in reporting relate to the perception in the region that the reports are best done following the BPK audit, which itself is to be done within six months of year end; the two types of accountability are not well differentiated in the eyes of regional government.

It is not clear what response rate and quality of reporting the provinces are getting from the district/city as the provinces have not reported on this issue, though GR 3/2007 obliges provinces to provide the central government with a summary of the evaluations of the district/city reports. Some socialization and technical guidance was done with GR 3/2007 but this was light, and the provinces in turn have not continued the socialization down to the district/city level in a meaningful way, citing a lack of funds.[51]

Supervision of regional regulations

MoHA continues to use its own instruments in repressive supervision. This has a positive dimension, in that letters chastising regional governments are

[49] Solihin, Dadang (2008). Setting up the Development Performance Evaluation System, Thursday March 27, Bappenas, avilable at http://www.slideshare.net/DadangSolihin/setting-up-the-development-performance-evaluation-system/.
[50] Communications with Eka Atmaja Maskara Hadi Head of Planning Office –Secretariat of Bangda, MoHA, December 2008.
[51] Discussion with Lily Latul, Section Head, Evaluation and Reporting – Regional Governmental Affairs Directorate, MoHA, December 3, 2008.

sometimes enough to prompt regional governments to change/remove offending regulations. MoHA is legally incorrect however when it uses a ministerial decree, as it often does,[52] to repeal a regional regulation – Law 32/2004 calls for a Presidential Regulation.

The overall response of the central government to offending regulations seems to be slowly improving. However, the preventive supervision seems to still be rather weak, as inappropriate regional government regulations dealing with local taxes/charges are allowed to take effect. It appears that central government does not have the capacity to respond to draft regulations in the context of preventive supervision (for taxation, user, charges, budgets and land zoning) in the time set out in Law 32/2004.
In any case, many regulations are eventually recognized as inappropriate and repealed, sometimes two years or more after having been issued.[53] Even with delays, the number of central government rejections of regional regulations is considerable. From 1999 to 2006 only 506 regional regulations had been repealed by central government. Recent data released by the Ministry of Finance shows that between 2006 and the end of 2008, nearly 2000 additional regional regulations have been repealed.[54] Many of these had to do with local taxes/charges. Mardiasmo, Director General for Fiscal Balance, stated that "the Department of Finance has reviewed 1,121 draft regional regulations. From this total, 67 percent were repealed or revised, and 33 percent were allowed to be issued."[55]

The relatively high rate of repealed regulations indicates a low understanding of the larger legal framework among regional government officials and politicians, but may also indicate the lack of sanctions – there is little cost to trying out a new regulation, even if there is a known danger that at some point it may be repealed. The central government is considering introducing financial penalties to curb this practice. This may be helpful, but a multi-pronged approach is probably required, including timely scrutiny and response by central government, public awareness to generate local pressure, facilitated court challenges of offending regulations, and capacity development on legal drafting.

The special case of Syariat regional regulations

One of the continued weaknesses in the supervision of regional government is found in the treatment of Syariat inspired regional regulations. Such regulations have been issued in about 40 regencies during the past few years. Observers point to this unchecked tendency as an indicator of the 'sorry state of lawmaking.'[56]

Researchers have counted 56 legal products of various kinds in these regions, most seeking to regulate women, in a restrictive rather than protective way, clashing with the protection given in the Constitution and *Pancasila*, as well as the historical drive within Islam to equality and recognition of the rights and dignity of women.[57] It appears that the approach favored in some regions of Indonesia is the introduction of Syariat Islam minus 'human rights' rather than a positive form of Islam that can coexist with international conventions on human rights and that favors pluralism.[58] It is worth noting that regional regulations seem to act as general justification for discrimination that goes beyond the written text of the regulations themselves, as seen in Bulukumba where village government refuses to serve women not wearing the jilbab, though the issue of *Jilbab* is absent from the several regional regulation address-

[52] See for instance Keputusan Menteri Dalam Negeri Nomor 152 Tahun 2007 Tentang Pembatalan Peraturan Daerah Kabupaten Bolaang Mongondow Nomor 16 Tahun 2001 Tentang Pengujian Dan Pengesahan Hasil Hutan Dan Perkebunan Serta Pungutan Retribusi Atasnya.
[53] See for instance Department Dalam Negeri (2008). Perda Yang Telah Dibatalkan Berdasakan SK Menteri Dalam Negeri Tahun 2007; Department Dalam Negeri (2007).
[54] *Eramuslim* (2006). 506 Perda Bermasalah Dibatalkan, Jumat, 21 April, Obtained January 1, 2009 at http://www.eramuslim.com/berita/nasional/506-perda-bermasalah-dibatalkan.htm.
[55] *Kompas* (2008). Banyak Pemerintah Daerah Belum sadar Krisis, Jumat, 12 Desember, hal.19.
[56] *Jakarta Post* (2008) Mahfud's task ahead, editorial, Thursday, August 28, pg. 6.
[57] Mulia Siti Musdah (2006). Peminggiran Perempuan Dalam Perda Syariat, *Afkar – Jurnal Refleksi Pemikiran Keagamaan dan Kebudayaan,* 20, hl. 21-44.
[58] Wahid Marzuki (2006). "syariat Islam", Negara, dan Ancaman Pluralitas, *Afkar – Jurnal Refleksi Pemikiran Keagamaan dan Kebudayaan*, 20, hl. 48-55.

ing Syariat Islam.[59]

The government has pledged to review 37 Syariat-based regulations that have been said to be discriminatory and in violation of higher laws.[60] It has been slow to move however. In the meantime, other institutions appear to be more concerned. The DPD and National Law Commission have announced that they will establish a body to review Syariat inspired regulations, but no details have emerged since then. The new head of the Constitutional Court, Moh Mahfud, wasted no time in harshly criticizing regions that have issued Syariat inspired regulation, stating that to be consistent with the Constitution, regulations need to be supportive of democracy and social justice and promote religious tolerance.[61] He cited the examples of the Tangerang region that imposed a curfew on women at night, and the proposed Manokwari region's intention to pass a 'Bible regulation.'[62] For these principles to be applied to the dubious regulations would require government to rule on their standing, or individuals/organizations to mount a challenge to the Supreme Court (not the Constitutional Court), where it is less obvious how forcefully constitutional principles would be upheld.

Moreover, the Supreme Court prefers to deal with regional regulations that have been recently issued (less than 180 days after being issued). So far, the use of the Supreme Court for judicial challenges to regional regulations has been spare; of the 175 cases between 2003 and 2007, only 28 have been about regional regulations.[63] Some facilitation of such challenges may be helpful, but it would be preferable if the government took a stand on the regulations in the first place, through clear announcements of policy and the strict application of regular repressive supervision.

Performance assessments of regional governments

According to GR 6/2008, the evaluation of regional autonomy is undertaken above all based on the annual report of regional governments, and is complemented by a series of other documents (e.g., regional head accountability to the DPRD) or research efforts (e.g., user satisfactions surveys). This regulation calls for an unwieldy organizational set up (cascading coordinating and technical teams) and is extremely over ambitious in the range and depth of performance areas and indicators covered. It combines both vertical reporting evaluation as well as self-assessment,[64] but the methodology is as yet insufficiently developed, and there appears to be no capacity development plan to realize the hopes pinned on this regulation. The regulation unfortunately is another example of policy that precedes or does without proper regulatory impact assessment (RIA).

DPs (DSF/WB/TAF) tested a local government performance measurement (LGPM) framework in three regions, and learned some important lessons on what might be workable.[65] But this work was carried out on a different track from the work of the drafting team of GR 6/2008, resulting in a DP tested methodology that differs substantially from the scope and indicators found in the government framework. The ADB "Support for Local Government Performance Measurement System" (2006-2009), operating in 40 regions, was more directed at the system under development in Home Affairs. ADB

[59] Ad'han Syamsurjal dan Umam Zubair (2006). Perdaisasi Syariat Islam di Bulukumba, *Afkar – Jurnal Refleksi Pemikiran Keagamaan dan Kebudayaan*, 20, hl. 55-77.
[60] Arditya, Andreas, D. (2008). Ministry reviewing 700 bylaws, Syariat-based local regulations, *The Jakarta Post*, Thursday, July 17, obtained January 2, 2009 at http://www.thejakartapost.com/news/2008/07/17/ministry-reviewing-700-by-laws-Syariatbased-local-regulations.html.
[61] Khalik, Abdul (2008). New court head slams sharya by-laws, *The Jakarta Post*, Saturday, August 23, pg. 1.
[62] Maulia, Erwida (2008). DPD announces plan to establish body to review Syariat bylaws, *The Jakarta Post*, Tuesday, September 2, pg. 1.
[63] Soebechi, Imam (Hakim Agung) (2007). Hak Uji Materiel, disampakan dalam Seminar Nasional Menuju Tata Kelola Pemerintahan Yang Baik Melalui Peningkatan Kompetensi Aparatur Pemerintah DaerahDalam tertib Pembentukan Peraturan Daerah, 19-20 November, in Arizona Yance (2007). Disparitas Pengujian Peraturan Daerah: Suatu Tinjauan Normatif, December, pg. 3.
[64] DDN (2008). Evaluasi Penyelenggaraan Pemerintahan Daerah Berdasarkan Peraturan Pemerintah No. 6 Tahun 2008, disampaikan oleh Direktur Jenderal Otonomi Daerah DR. Sodjuangon Situmorang, M.Si, Jakarta, Oktober 22.
[65] DSF (2008). Making Decentralization Work for Development: Methodology of the Local Government Performance Measurement (LGPM) Framework, DSF, World Bank, The Asian Foundation.

assisted with software development that could facilitate data reporting from regions to the central government. The software is expected to be distributed to all regional governments.[66] It does not appear that DPs are being asked to support the capacity development that will be needed in the early stage of application of the software. Past software for data/reporting initiatives of Home Affairs have not fared well; a long term and careful institutional approach is required.

Most DP support for performance systems ended in late 2008. In addition to the tools developed with ADB support, Home Affairs is presently preparing ministerial regulations to make GR 6/2008 operational. Some support is being sought from CIDA-GRSII but this has yet to be confirmed. The challenge for government, and supporting DPs, will be to find ways to streamline data and reporting requests to serve only the most pressing needs for information.

The World Bank is presently considering a performance based fund in the water sector. The AUSAID –Dialog and CIDA-BASICS are also exploring the possibility of rewarding with extra funding good performance in service delivery at district/city level. The performance frameworks for these initiatives have yet to be finalized. It would be important for the DPs to strive for as much connection as possible to the most promising aspects of the emerging GoI framework for assessing regional government performance.

[66] Communication by email with Tariq H. Niazi, Senior Public Resource Management Specialist, ADB, April 6, 2009.
[67] *Kompas* (2008). Pemda Mengecewakan - Opini Pemeriksaan LKPD Semakin memburuk, Friday, 19 December, obtained January 2, 2009 at http://kppod.org/.
[68] In Sulaiman, Nurni (2008). E. Kalimantan regencies fail in financial audit results, *The Jakarta Post*, Friday, November 21, pg. 7.
[69] Complaints voiced by regional government participants in the APEKSI Workshop "Technical Working Group Penyusunan Rekomendasi Revisi UU No. 32 Tahun 2004 Tentang Pemerintahan Daerah Untuk Penguatan Elemen Dasar (Pembagian Urusan, Kelembagaan, Personil, Keuangan Daerah, Perwakilan, Pelayanan Publik dan Pengawasan)" and held in Twin Plaza Hotel, Jakarta 26-28 November 2008.

Audits of regional governments

It appears that the BPK is increasingly able to reach regional government with its audits. Recently, the head of the national Financial Audit Agency (BKP), Anwar Nasution, expressed his disappointment with the trend in regional government audit results (see Table 7).[67]

Table 8:
Comparison of BPK regional government audit results 2004-2007

Opinion of auditor (BPK)	Number of regions	
	2004	2007
Passed without qualification	21	3
Passed with qualification	173	249
Could not pass opinion	7	48
Could not pass audit	10	51
Total	211	351

The reporting gives no indication whether the results are entirely due to worsening financial management of regional governments, or if they reflect in part the larger number of regions covered by audits, or if the audits are now increasingly being conducted in a more rigorous and professional manner. In any case, the results point to the large task that lies ahead in strengthening financial management.

The findings of BKP also reveal that poor financial management can go hand-in-hand with well resourced regional governments. As the head of the BPK pointed out in the case of Kalimantan "East Kalimantan is one of the richest regions but its financial reports are deplorable when compared to Central, South and West Kalimantan."[68]

The BKP, BPKP and internal regional inspectorate roles are not yet sorted out, as had been the intent of the government. Regional governments still complain of excessive and inconsistent auditing efforts.[69] The BPK head also bemoans the fact that auditing efforts are not very effective in uncovering corruption, though this is known to be a serious problem.[70]

The ADB supported State Audit Reform Sector Development Project (STARSDP), initiated in 2004, com-

prising $200 million loan and associated Technical Assistance Funds, was concluded in 2007 with only half of the loan funds being disbursed; an important trigger relating to internal audit reform was not achieved. The reform would have seen a substantial downsizing of the government internal audit body (BPKP). In 2008 ADB rated the TA component as satisfactory, as it was able to achieve, among others, capacity development of the institutions involved.[71] The report does not describe what the increased capacity encompasses.

At the regional level, the organizational inconsistency of the inspectorate (whether it is a unit of the central government or of the regional government) mentioned in the STS 2006 has yet to be addressed. Assistance from DPs on audit issues directly to regional government is largely coming from USAID-LGSP, supporting the capacity of internal regional government auditors through training.[72]

Revision of Law 32/2004 on Regional Governance

The revision team has so far only addressed the issue of supervision of regional regulations. In this respect, it recognizes the capacity challenge faced by MoHA in preventive supervision on regional regulations and its capacity to guide without unduly interfering in regional matters or extracting informal payments. The team also notes that repressive supervision also runs the risk of being too intrusive into regional matters. The reform directions offered are for a step wise treatment, with the Governor repealing district/city regulations, with appeal to MoHA, and provincial regulations repealed by MoHA, with appeal to the President.[73]

[70] *Suara Karya* (2008). Audit BPK Belum Sentuh Indikasi Korupsi, Desember 23, obtained January 2 at http://www.fiskal.depkeu.go.id/webbkf/klip/detailklip.asp?klipID=N503761602.
[71] ADB (2008). Technical Assistance Completion Report TA 4473-INO: Support for the Implementation of the State Audit Reform Program (STAR-SDP), May 27.
[72] USAID-LGSP (2008). Pengawasan Internal bagi Staf Badan Pengawas Daerah, Local Government Support Program, Finance & Budgeting Team, Oktober.
[73] ASSD (2008). Isu-isu Strategis Revisi UU 32/2004 di Bidang Perda, DPRD, dan Kepegawaian Daerah, Hotel Red Top Jakarta, 5-6 Agustus.

Policy Options

Much of what has been presented and considered in the STS 2006 is valid today. The recent policy/legal changes have added to the unwieldy procedures and structures for supervision (on monitoring and evaluation in particular). DPs have assisted at various times, but have not been able to encourage a more streamlined approach that is within the emerging capacities of both the central and regional governments. Some support may even be counterproductive, as in the case of training provided for cascading teams of coordinating/technical teams that are to undertake the evaluation of regional government – this team construction (parallel to, or as an overlay, to regular units having the relevant mandates) has often been a dead end on the way to institutional strengthening.

While many aspects of the supervision system require rethinking, sorting out the roles of the provincial level actors would yield considerable benefits. It would allow the central government to properly situate supervision roles at that intermediary level, inducing the central government to cut back on some of its overly ambitious efforts to supervise districts/cities directly through central government efforts. This reconfiguration of roles, would require rewriting some of the regulations that are unclear on the specifics of supervision roles at the provincial level or that have explicitly called for direct central government supervision roles (for districts/cities).

Streamlining and simplifying performance assessments can also have considerable impact, starting from a limited set of crucial indicators and expanding that set once the assessment, reporting, and rewarding cycle has proven promising. Efforts to link performance with extra funds and recognition should be intensified.

Should the GoI still desire DP support in supervision related efforts, it may be advantageous to engage more deeply in a dialogue around how the various reforms and legal instruments fit together to yield proper control and guidance for regional government. DP support should be preceded with a deeper

analysis of the institutional set up and the reform options and challenges involved, with particular attention to institutional rivalries and institutional reluctance to adapt mandates and approaches that will shrink or reduce status and access to rents.

Recommendations

The recommendations of the STS 2006 continue to be relevant. Additionally, the following policy directions may be helpful to the GoI :

1. Consider investing a different government body or mechanism (rather than the current DPOD) with the broad oversight role over decentralization/ regional autonomy. (see also Section on Management of Decentralization/Regional Governance Policy).

2. In continuing reforms in supervision, place an emphasis on sorting the roles of provincial actors in relation to district/city governments.

3. Intensify efforts to link performance results with financial awards and recognition of achievement.■

III. CIVIL SERVICE REFORM IN THE CONTEXT OF DECENTRALIZATION

Situation in 2006

The STS 2006 acknowledged that the 'Big Bang' decentralization set off in 1999 resulted in a huge transfer of civil servants to the regions, with a profound effect on the functions and size of organizations. However, subsequent to that momentous shift, civil service reform has been neglected.

It was argued in the study that the success of CSR in the context of decentralization would be determined by an appropriate legal framework and a clear definition of which ministry should be responsible for the organizational/staffing requirements of local governments. In addition, it was argued that the existing human resource policies and procedures would need to be radically modernized so that regions would have appropriate tools to determine their organizational structures and manage their human resources.

The STS 2006 noted the difficulties faced by regions in shaping a lean and efficient service, acknowledged that some decentralization euphoria and self-serving motives lay behind this but that central government perverse incentives and misplaced regulations and directives also were to blame.

Problems were identified along the entire human resources chain; recruitment, job descriptions, performance evaluation, advancement, promotion and transfer. These were marked by complexity, rigidity, bias for loyalty over meritocracy, and deviations/corruption in practice.

Three reform scenarios were discussed. The first was a partial reform that would strengthen the already existing initiatives and innovations in the regions in order to make the regional civil service somewhat more effective. The second option aimed at a more substantial reform which would require regions to take the lead and possibly risk overstepping their current legal mandate. The objective would be to improve organizations and HR policies and management. The third option was for a long term commitment to comprehensive reform, based on proper diagnostics.

Developments since 2006

General changes

The total number of civil servants (PNS) has increased steadily, with available figures showing an increase from 3,648,005 in December 2003 to 4,067,201 in December 2007, reversing the reduction (on paper) that had been seen in years prior; the end of 2007 figures now correspond with the 2001 figures. While it is difficult to know what is behind the figures, there has been a sharp and real increase in PNS beginning in December 2006 after the mandatory conversion of the first batch of contractual employees (teachers).

Of the above 'establishment' (*formasi* in the Indonesian terminology) there has been a slight increase in the proportion of female civil servants from 42% in 2005 to 44% in 2007.[1] No breakdown by rank is readily available. The civil service is still aging and the problems of the pension system still need to be addressed.

The impact of regional splitting has yet to be calculated in the more recent growth of the civil service, and it would be difficult to assess in any case unless the contractual/honorary staff are also counted, an effort that would be difficult to undertake.

Legal framework: organizational structure of local governments

Government Regulation 41/2007, replacing GR 8/2003, seems to have been taken in stride by the regions. The scoring system remains but the emphasis is more on the total number of organizational units that can be established, guided by budget size, the population and its geographical areas. Somewhat more flexibility is given on the type of organization selected. GR 41/2007 also introduces expert staff positions at echelon IIa and IIb levels for Governor and *Bupati*/Mayor; these must be career

[1] Based on BKN Data per December 2007

civil servants. Critics anticipate that regional heads will use these posts to make political appointments, or as destinations for the victims of organizational streamlining.

In a strange twist, regional governments that had faithfully implemented GR 8/2003 may now be in a position to increase the number of structural positions. For example the City of Semarang belongs to the 'big city category' with a score higher than 70, therefore, it can now have four assistant secretaries (currently three), 18 departments (currently 17) and 12 special agencies (currently 10).[2]This development highlights the instability of the regulatory environment and the inconsistent incentives given to regional governments.

Some regions had already started to streamline their organizations,[3] even with the incentives to keep demanding more staff (paid from the central allocation -DAU), indicating that forward and broader thinking leaders recognized the wisdom of regional reforms. The central government has learned as well that it needs to facilitate. For instance, its speedy processing of rank and grade promotions by BKN is tied to compliance with GR 41/2007. Stern warnings have also been issued to what appear to be recalcitrant regions, warning of the possibility of losing the right to manage finances and personnel, and other administrative sanctions.

Some of the self-interest in central ministries persists despite ongoing efforts to further decentralize such as the pressure to establish similar structures to Ministries or their sub-units, to be eligible for accessing deconcentrated funds controlled by the Ministries.

Human Resources Management

Pay and grading problems persist. The echelon downgrading of GR 41/2007 is not suitable to introducing merit and performance; it remains complex, lacking in equity, and non-transparent. The functional and structural classifications persist, still with very unequal treatment. Despite the existing new regulations, the legal framework remains fragmented, blurred and inconsistent.

Training : The only new provision is that promotion can precede training, for a limited amount of time. LAN (The National Institute of Public Administration) is attempting to reform the current Civil Service Training (CST) system. A team has been established to provide recommendations. The head of LAN explicitly indicated on several occasions the need to overhaul the entire CST systems by encouraging the team to think beyond the current regulation (GR 101/2000). He foresees a time when regions will not be obliged to use government training services.

The team is considering two options : the LAN favored incremental reform (affecting some limited aspects of curriculum, training modules, method and technique of delivery and content); or fundamental reform by altering the provisions in GR 101/2000. This would seek to implement competency-based training; well linked technical and managerial training, and a more flexible delivery system. Many other aspects remain murky. It is likely that this approach will be pushed off into the future as LAN believes there is still much to be gained in the incremental approach.

Transfer : Transfer regulations and policies have not been revised. Some regions are experimenting with incentives to achieve geographically equitable placement of personnel.

Teacher Certification : In 2005 the teachers' law was passed to certify existing and incoming teachers. As half of all civil servants are teachers, experts believed this to be a suitable entry point for civil service reform. Others argue that teachers should be detached from the civil service and managed separately as a teacher service. To comply with the 10 year time certification limit, the government started certifying incumbent teachers in 2007 in the absence of the awaited government regulation on teachers.

[2] See Suara Merdeka, March 31st, 2008.
[3] An official in MenPAN indicated that some regional governments (Biak for example) chose smaller organization despite an opportunity to expand under GR 41/2007.

Originally, the certification process included rigorous selection measures to select the best teachers for certification. However the rigor of the process was undermined by various stakeholders and in the end the teacher certification process was reduced to a portfolio assessment and some administrative procedures. In addition, the certification process has been subject to many irregularities since the remuneration prospects after certification have become more attractive.

Allocation of functions across levels of government

GR 38/2007 provides detailed functions of the regional levels, becoming a basis for establishing the organizational structure of regional governments. In this regulation, the provincial government is given the role of facilitating, supervising, monitoring and evaluating the organizational structure of districts/cities. In terms of personnel, the provincial government coordinates recruitment of candidate civil servants and their appointment to permanent status in districts/cities. It appoints the regional secretary and approves the transfer of civil servants between districts/cities withn the province or between the district/city and the province. These and other related roles with respect to the civil service of the distict/city level place the provincial government in a clear hierarchical relationship in this field, in contrast to other fields where the roles of the provincial government and the Governor are left ambiguous or contradictory.

Prospects for centrally lead reforms

As in 2006, there has been no movement in the removal of the wage bill from the DAU, maintaining the incentive to keep a bloated regional civil service. But some progress on other fronts has been seen and is explained below.

Central level pilots as models for reform

The central government launched reform pilots in mid 2007 in three central government institutions: Ministry of Finance, National Financial Audit Board and the Supreme Court. The reform involved the transfer of staff across units the design of new Standard Operating Procedures (SOP). As a consequence of the better distribution of staff and the improved SOP, the existing civil servants within MoF are awarded a special allowance. The objective is to increase performance of staff through reducing opportunities for corruption and by increasing allowances.

This initiative has been criticized as discriminatory because it gives preferential treatment to certain groups in the civil service. In addition, some label this initiative illegal because it is based on a Presidential Decree 15/1971; many of the changes made conflict with Law 43/1999. Skeptics argue that corruption cannot be curbed solely by higher pay. Nonetheless the government promises that more institutions will be involved in the future. It is not clear what impact this could have for the regional level, or to what extent the approach should be replicated.

Comprehensive reforms?

A 'bureaucracy reform' effort that sounds comprehensive in scope has recently been launched by MenPAN, but government itself acknowledged that it lacks coherence and guidance. It is not obvious how it will overcome the two related challenges in civil service reform. The most evident is the wooly and unhelpful set of policies/legal framework – that is not conducive to a professional and independent civil service. But progress on the policy/legal framework is hampered by a lack of a coherent set of mandates and responsibilities among the three main organizations sharing responsibility for the civil service.[4] Hence, while general statements for reform can be expected to flow freely in a campaign setting, and further reform plans may be under preparation, progress in these matters awaits the new government, a renewed commitment, and leadership to attain deeper and coherent reforms.[5]

[4] These challenges are paraphrased from the comments made by Sofian Effendi in Kompas October 9th, 2008, p. 2.
[5] This assessment echoes comments made by Eko Prasojo in Kompas October 9th, 2008, pg. 2.

Civil Service Commission: an aborted reform?

A Civil Service Commission has been called for in law for a decade now. If realized, this may have a chance to bring about considerable improvements in appointment and recruitment of civil servants, by conducting these independently. It could also formulate national civil service policies and develop criteria for promotion to structural positions. This body could also work to maintain the political neutrality of the civil service.

Opposing the establishment of the Civil Service Commission are some key organizations; MenPAN, BKN and MoHA. In the face of this resistance, an alternative could be, as suggested in various forums and reports, that the mandates of key regulating institutions (MenPAN, BKN and LAN) be reconfigured to reduce overlap and duplication of roles and responsibilities.

Conversion of contractual staff : CG's initiative

Regional governments appear to be recruiting increasing numbers of local contract employees to compensate for gaps in the approved establishment.[6] Only those paid by the national or local budget are eligable to be converted by 2009, but the rules on who will be converted are not entirely clear. Moreover, this absorption increases wage and pension costs, and could undermine minimal requirements for entry into the civil service. Some care needs to be taken that this does not occur. It is unlikely that these concerns will prevent the practice of hiring contractuals; more will likely be hired past 2009. For those converted to permanent status, LAN is preparing a special capacity building program to raise their level to at least the same level as those entering the service through the regular recruitment process. The danger in this approach is that contractuals become an inappropriate back door to entry into the civil service.

Policy options for regionally driven reforms

A number of regional efforts to improve the regional civil service have been documented by the regional associations, but these have been scarce. They have tended to centre on recruitment (see Gorontalo's example in Box below).[7]

In September 2006 the Education *Dinas* (district department) in Gorontalo tried to balance the distribution of teachers across schools within the district through a 'deployment before employment' policy; a binding eight year contract between a candidate teacher and the *Dinas* is put in place where the *Dinas* may redeploy the teacher to a different school based on government needs and priorities. The deployment initiative consists of three stages: i) an intensive one-month public consultation (*socialization*) with teachers and relevant education stakeholders that emphasizes the importance of deployment in helping teachers to become certified; ii) teacher mapping (the number of schools, the number of students in each school at elementary level; for junior and senior secondary schools, the number of subjects, the number of teachers per subject, and the number of classes (serial and parallel) in each school); and iii) periodic remapping of teacher requirements in order to continuously monitor and maintain the distribution of teachers.

The majority of the teachers (69%) have only diploma 1, 2 or 3 qualifications. The bulk of them (46%) have Diploma 2 qualifications. Only 30 percent have S1 qualification, and as little as one percent have S2 qualifications. Twenty six teachers who have agreed to be posted under this policy are being financially supported to undertake S1 PGSD (undergraduate program for Elementary Teachers). The *Dinas* will employ and deploy the 26 teachers at the end of their training on the basis of a student-teacher ratio (STR) of 26:1, as required by the pilot.

Results of this initiative show that an initial shortage of 1300 teachers was reduced to 600 teachers (2007). This shortage has now been partly filled by appointing 300 contract teachers funded by the local government budget. The results of this deployment initiative are highly dependent on the political commitment and leadership of the *Bupati* which may or may not prove sustainable.

[6] There are 920,702 such contractuals, paid from national and regional government budgets. Teachers account for the majority of this figure. In 2006, of 325,000 vacancies in the civil service, 315,000 were allocated to contractuals. As for 2007, of the 300,000 vacancies, 245,000 of them were reserved for contractuals and only 55,000 for members of the general public who apply through the civil service examination.

[7] This account is based on the report: Teacher Deployment Initiative. Distributing quality and quantity. Muhammad Firdaus with the assistance of Jups Kluyskens. Unpublished March 2008.

Another significant effort that is gaining interest has been the application of a 'fit and proper test' in Aceh and Sulawesi Barat, where candidates are screened with a psychological test, interviews and a review of the managerial and technical competencies. To ensure its objectivity and independence, the process has been applied with the assistance of external experts (see Box below).[8]

In 2007, the Governor of Aceh applied a more open and accountable recruitment method that would permit the restructuring of the original 52 government departments. The method aimed to attract and select the most competent agency heads. He wanted an innovative, fair and transparent process using international best practice and local expertise.

Working closely with key national and international advisors,[4] the Governor carried out a rigorous recruitment process that has been rarely seen in Indonesia, selecting 42 heads of government departments through the application of a series of detailed tests and interviews, referred to as 'Fit and Proper Tests'.

The first step was a recruitment campaign through the media in Aceh, Jakarta and Medan which resulted in many Civil Service employees applying for the 42 agency head positions. The campaign was unique in that the positions were open to employees, ranked one grade below the positions being advertised. The advertisement reminded applicants that any attempt to exert undue influence through unethical means would result in disqualification, an innovative way to deter corrupt practices in the recruitment of senior government officials.

The shortlisted candidates were exposed to a rigorous assessment process at an Assessment Centre established in Banda Aceh. The Centre used selection and recruitment methods common to the United Kingdom and Malaysia. The activities and tests included a selection in relation to the required competencies for the post and the civil service, including the ability to design and present a long-term strategy for a particular department.

The assessors were recruited from universities across Indonesia. This tactic balanced the team and ensured an impartial scoring system that allowed them to select the top 42 candidates. The Governor was presented with a shortlist of two to three recommended candidates for each position. Candidates were selected based on the results of the assessment, including skills to manage a government department and professionally guide it through the transition process ahead. The Governor made his final decision after interviewing each candidate. The entire recruitment process lasted almost three months; on 11 March 2008, 42 successful candidates were inaugurated at a ceremony in Banda Aceh. The recruitment and selection method has been replicated elsewhere in districts across Aceh.

The overall approach has been favorably received by stakeholders, but the execution indicates that there were problems in the treatment and redeployment of the removed heads of the units, loss of momentum due to the synchronized changes across work units, and very mixed performance of the new heads, indicating problems with the selection process or systemic hindrances to performance.[9]

The above examples indicate that there is appetite at local level for reforms, and progress can be made within the existing framework. However, as the Aceh case reveals, the reasons for poor performance of the civil service go beyond anyone aspect, such as recruitment. A combination of framework (systemic) changes and local 'agency' must figure in improvements.

Recommendations

A renewed commitment to civil service reform is required, with the following elements :

1. Establish a Civil Service Commission or simplify the policy making mandates in civil service among central level organizations.

2. Harmonize civil service laws/regulations and those pertaining to decentralization.

3. Revisit the role of contract staff to determine their proper role in the longer term vision of the regional civil service.

[8] Based on UNDP Aceh and Nias News, June 2008.
[9] Communication with Gabriele Ferrazzi, short term consultant with governance projects in Aceh during the period of this provincial government recruitment effort.

4. Give as much room as possible to regional innovation and find ways of disseminating these and making the framework hospitable for the sustainability of successful regional efforts. ■

IV. SPECIAL REGIONS AND ZONES

1. REGIONS WITH SPECIAL STATUS OR SPECIAL AUTONOMY

Background

Attention to special status/autonomy in the 2008 update

For reasons of time and resources, the 2006 STS did not deal with regions having special status or special autonomy. Developments in 2006 and subsequently have raised the profile of regions with special status. The success of a special form of autonomy in Aceh since 2006, and the supporting role played by donors, has given the issue more prominence, and raised some hopes that progress might also be made in Papua. At the same time, the long debated Yogyakarta special status question proceeded to another draft law. The arrangements for the other special region, the capital/province of Jakarta, has recently come under some debate, with a call for political representation in what are now purely administrative sub-structures; a constitutional challenge has recently been made in this regard.

Clearly, the issues of special status and special autonomy differ greatly by region, but the overall issue of how to design and implement asymmetric decentralization is a common thread. A key issue is the scope of special status and autonomy, in terms of which regions should enjoy it, in what fields and to what degree. As there are other regions hoping for special accommodations, an anticipatory stance by government may be needed, to avoid problematic ad hoc solutions that have little long term promise in terms of stability and development outcomes. Additionally, legal strategies are required to accompany special status/autonomy, to understand where the larger legal framework still applies, and where these provisions are trumped by provisions of special status/autonomy.

Regions with special status/autonomy

The Indonesian constitution allows for the special status/autonomy of some regions, to be specified in laws. While the decentralization reforms have been focused on the district/city level, special status or autonomy has been granted to the following provincial regions :

- Province of Aceh - Law 18/2001 on the Special Provincial Region of Aceh as Province of Nanggroe Aceh Darussalam; followed by Law 11/2006 on the Governance of Aceh.
- Province of Papua – Law 21/2001 on Special Autonomy for Papua Province.[1]
- Province of Yogyakarta – Law 3/1950 on the establishment of the Special Province of Yogyakarta.[2]
- Province of Jakarta – Law No. 34/1999 on the National Capital of the Republic of Indonesia Regional Government of Jakarta.[3]

All of the provisions of Law 32/2004 on regional government apply to the special regions, as long as they are not superseded by laws specifying the special regional status.

Aceh's new autonomy

Aceh's autonomy : shaped by the Helsinki Accord

The long conflict in Aceh, and the natural disasters that devastated much of the province in late 2004, have given Aceh worldwide attention. The GoI, with facilitation from other parties, pursued a peace agreement aiming for reconstruction, rehabilitation and reconciliation. The Helsinki Accord (August 2005), was subsequently given a legislative basis in Law 11/2006 on Governance of Aceh (LoGA).

The LoGA calls for over 50 other legal instruments to elaborate the government of Aceh and related institutions, and their relationships to the central government and other bodies or constituencies. It

[1] Subsequently there has been splitting of this province but its legality is contentious.
[2] Undang-Undang Nomor 3 Tahun 1950 tentang Pembentukan. Daerah Propinsi Daerah Istimewa Yogyakarta.
[3] Undang-Undang Republik Indonesia Nomor 34 Tahun 1999 Tentang Pemerintahan Propinsi Daerah Khusus Ibukota Negara Republik Indonesia Jakarta.

distinguishes Aceh from most other provinces in the following ways :

- Acehnese judicial, religious and cultural institutions (Majelis Permusyawaratan Ulama, Mahkamah Syar'iyah; Majelis Adat Aceh; Lembaga Wali Nanggroe).
- A Truth and Reconciliation Commission is to assist in healing the wounds of the long and bitter conflict.
- Human Rights Court in Aceh.
- A reduced central government role and a mechanism for consultation on national policies that impinge on Aceh.
- Formation of local parties.
- A stronger provincial role toward the districts/cities.
- Enhanced role in cooperation with other countries.
- Preferential financial treatment, on oil and gas and special autonomy funds
- Co-management (with central government) of oil and gas resources.

The key financial add-ons are time limited. It is also not clear at this stage whether the assignment of functions between the central government and Aceh, and within Aceh, will differ markedly from other provinces. The specifics of these relationships are currently work in progress, and will emerge as a government regulation (on the functions of the central government of a national character in Aceh) and a set of *qanun* (one for each sector) delineating the provincial and district/city roles in Aceh.

Challenges in developing Aceh's autonomy

The success of the special autonomy afforded to Aceh will rest in part on how the legal framework of LoGA is elaborated, and ultimately how this elaboration stacks up against the political agreement set in the Helsinki Accord (referred to as the MOU). As the box insert indicates, the Aceh legal framework development is encouraging in some respects. However, some areas of concern can also be found :

Aceh's autonomy is raising the bar on quality of regulatory instruments.
Notwithstanding the weaknesses in Law 11/2006, there is widespread acknowledgement that the law has served its purpose in the early stage of the implementation of the Helsinki accord. The participatory approach adopted in its drafting is given much credit. Additionally, the process of sorting governmental functions has allowed Aceh to propose a reworking of Government Regulation 38/2007 (on functional assignment between all three level) to suit its situation; in the process many of the weaknesses of GR 38/2007 have been identified and fixes put forward that could be helpful to an eventual reworking for the general central-regional relationships.

- Will the consultative mechanism specified in the MOU/LoGA, and elaborated in a Presidential Regulation, give sufficient weight to the Acehnese views/positions?
- Will the mechanism to address oil and gas management give Aceh a sufficient role?
- Will the provincial and district/city roles, as set in qanun, be defined in ways that enhance cohesion?
- Will the special autonomy funds be properly distributed and managed?
- Will the cultural institutions be established and relate well to the government side?
- Will there be a proper reintegration of GAM members?
- Will a Truth and Reconciliation Commission be struck and will it work well?

The difficulties faced in preparing some of these products are evident in the case of the draft Presidential Regulations on the very important consultation mechanism. After initial consultations produced an agreed formulation on the nature of consultation, the government side backpedaled away from decision making by consensus (once the draft was submitted to the Cabinet Secretariat) – and came back with a mechanism that could not be characterized as consultative; this position found its way into the eventual Presidential regulation.

The many difficulties faced by the central government in developing timely and coherent policies and regulations have already been described in earlier sections of this report. For the case of Aceh,

delays and inconsistencies in key regulations could be dangerous, possibly setting Government –Aceh relations on a rocky course or feeding broader political responses that work against peaceful relations in Aceh.

Social cohesion is important to build in Aceh. There is much discussion about the need and urgency for the Truth and Reconciliation Commission (TRC). There is uncertainty in how to proceed, as the Aceh TRC is to be fashioned according to the national counterpart – the latter having been struck down by the Constitutional Court. But beyond this legislative dilemma, some are concerned that the exercise will prevent healing, whereas others see it as necessary for attaining social cohesion. For its part, the central government should seek to facilitate the legal possibility for establishing the TRC, leaving Aceh then to determine how to use this opportunity.

It is also important to recognize that Aceh is experiencing disintegrative pressures. Two regions that have felt marginalized, or not strong supporters of GAM, want to form their own provinces.[4] Other local elites are desirous of forming their own districts; several have been formed since 2006. New region creation could ease tensions, or prove to be very destabilizing if not treated carefully by the central government and Aceh level politicians. The threat and opportunities embodied in new region creation raises the issue of whether special autonomy should include considerable control over the territorial structure within the boundaries of the special region; an issue not sufficiently addressed in the MOU and LoGA in the case of Aceh.

Leaving aside the aggravating case of new region creation, provincial-district/city relations are already tense and in need of careful management. The handling of the special autonomy/oil and gas funds has made the districts/cities doubtful of provincial intentions and capacity. The 2008 and 2009 allocation that were to be done on the basis of project proposal/adjudication mechanisms (that was not well received by the districts/cities) has proven to be unworkable. This mechanism is now being reconsidered, with a formula based approach again under discussion. The roles of districts/cities regarding a wide range of sectoral matters are also being set through provincial and district/city qanun; there is much potential for conflict unless goodwill exists on both sides, and proper consultation is emphasized.

The treatment of judicial powers, based on Shari'at law, also can heavily influence the development of Aceh, and needs particular attention. It has the potential of enhancing cultural life, but if badly managed can also cause internal rifts and can project images that work against attracting visitors and investors.[5] The role of national frameworks and actors in this matter must be carefully calibrated.

The commitment of the previous GAM leadership to revise Law 11/2006 also introduces some uncertainty. The Governor himself believes this needs to be done, but has placed the issue on the backburner for the time being, to maintain stability and put roots on those elements of the law that are well received. But other voices call for quicker action,[6] and to address not only the shortfall of key provisions relative to the Helsinki agreement, but also new demands, in particular that the cultural institution of the Wali Nanggroe be given political clout.

Papua's unresolved autonomy

Nature of Papua's autonomy

The lack of consensus on Papua's integration into Indonesia, and the ensuing conflict, resulted in a New Order period that was dominated by a 'security ap-

[4] See for instance the sharp reactions of the Governor to proposals to establish province Aceh Lauser Antara and Aceh Barat Selatan, in Aceh Forum (2008). Maraknya keinginan rakyat aceh untuk pemekaran NAD menjadi 3 (NAD,ALA,ABAS), setuju?? January, http://www.acehforum.or.id/maraknya-keinginan-rakyat-t10885.html?s=b23cf97d0d366ba98cc0c967f921f2a4&p=102143.

[5] The potential for internal factions can be seen in incidents such as that reported in Simanjuntak Hotli (2008). Aceh officers get into fisticuffs over 'un-Islamic' dance, Wednesday, *The Jakarta Post*, August 8, pg. 2.

[6] For instance, Masyarakat Aceh di Eropa favour a revision, see *Aceh Magazine* (2007). Revisi UU Pemerintahan Aceh, Oktober, halaman 6.

proach,'which did little to warm Papuans to their new nation following the 1969'Act of Free Choice.' Special autonomy in Papua was developed in recognition of the special circumstances that Papuans face and how they were brought into the Indonesian nation. Papuan identity remains strong and the desire for Papuan independence has grown in recent years, in part due to mismanagement of development efforts, as well as clumsy political maneuvers in the application or circumvention of the special autonomy provisions of Law 21/2001. The latter law was issued under the Abdurrahman Wahid government, as a concession to quell calls for outright independence.

The current autonomy law for Papua offers the following key advantages with respect to the regular form of autonomy :

- The Governor of Papua must be a native Papuan.
- Papua furthers traditional cultural interests through the Majelis Rakyat Papua (composed of equal representatives of *adat*, religion and women).
- Papua's traditional authorities have a role in some aspects of judicial processes.
- Local political parties can be established.
- A Truth and Reconciliation Commission is to be struck for Papua.
- The creation of new districts/cities or special zones are to be proposed by Papua. The creation of new provinces must obtain the agreement of the MRP and DPRP.
- The Governor must agree to national transmigration initiatives and choice of police chief for Papua.
- Papua is to receive special funding for stipulated time periods.
- Papua can receive funds from foreign sources – after informing the central government.

The law has some shortcoming, and is a rather watered down version of what had been proposed through the consultative process headed by the Governor's special team.[7] For instance, it does not sufficiently specify functions that Papua has beyond the regular regional stream of autonomy. In some places it does not qualify sufficiently; it can give the impression that Papua is not subject to national health standards – an issue that also arose in the Aceh in the early days of discussions on the role of the central government. The local party possibility is clouded by a lack of provisions freeing it from the onerous requirements of nation wide party organizational base. Many provisions are only stated in a general way, and require follow-up instruments.

On the whole however, were it to be faithfully and creatively implemented, the law could be a marked departure from previous relations between the central government and Papua.

Implementation of autonomy law

The implementation of Law 21/2001 has been slow and incomplete. The long simmering attempt to separate Papua into several provinces was revived with Presidential Instructions 1/2003 (to speed the implementation of the controversial provisions of Law 45/1999 that had been put off by stakeholder protests). Additionally, the late establishment of the Papuan upper house (MRP), the yet to be constituted Commission for Truth and Reconciliation to clarify the history of Papua, and other acts of commission and omission have raised additional doubts about the government's commitment to the special autonomy law.

Increased funding did flow to Papua, but the pattern of expenditures and accountability remains poor. On this score, the issuing of Presidential Instructions 5/2007 on the acceleration of development in Papua and West Papua[8] has confused decentralization modes – favoring a form of deconcentration, with little likelihood of increasing accountability or improving financial management.

[7] Sullivan, Laurence (2003). Challenges to Special Autonomy in the Province of Papua, Republic Of Indonesia, Discussion Paper 2003/6. State, Society and Governance in Melanesia, Research School of Pacific and Asian Studies, Australian National University.
[8] Instruksi Presiden Republik Indonesia Nomor 5 Tahun 2007 Tentang Percepatan Pembangunan Provinsi Papua Dan Provinsi Papua Barat.

Appointment of Head of Police; do the provisions of special autonomy prevail?
Article 48(5) of Otsus states that the Provincial Head of Police shall be appointed by the Head of Police of the Republic of Indonesia with the approval of the Governor of Papua. In the 2002 appointment, the Governor's approval was not sought and, quoting Article 48(5), he objected. The National Police held that Law 2/2002 concerning police institutions states that the appointment of a provincial police chief is the sole responsibility of the National Police Chief. Eventually, the National Head of Police apologized to the Governor and accepted that he should have obtained the Governor's approval prior to the appointment.

In general, the central government has made it more difficult for Papuans to forge common ground and positions regarding the form of autonomy desired. The role of the Papua People's Assembly (MRP) has yet to be properly fulfilled, and is in question in view of the new province (West Papua), and possibly four additional provinces. It is not clear whether the MRP should take on additional political roles to maintain some overall identity for Papuans, or whether the new law should merely accept the "facts on the ground" promoted by the central government, increasingly marginalizing the MRP (including by creating several provincial based MRP in an increasingly splintered 'Papua'[9]).

The rapid new region creation at district/city level has also been problematic in Papua, giving rise to some of the smallest districts in Indonesia, in terms of population (e.g. Supiori's 11,000). The creation of most of these new regions has been enabled by direct lobbying of DPR and DPD by local elites, further weakening the position of the provincial government. This further exacerbates the capacity gap in terms of the considerable functions to be borne by all units of this level of government. Many elected leaders in the new regions have little experience in government or management, and new establishments take time to function properly; yet at the same time the regions must productively and prudently use increasing levels of funds.

[9] This approach would be realized if the provisions in the government regulations establishing the MRP were to be realized; see Peraturan Pemerintah Republik Indonesia Nomor 54 Tahun 2004 Tentang Majelis Rakyat Papua.

Revision of Law 21/2001

A combination of factors favor a review of the implementation of Law 21/2001. Some provisions have been superseded by developments in the rest of Indonesia; all regional heads are now chosen by direct election - not through DPRD selection. Local parties have been given an operational basis in Aceh – free from onerous national representational requirements – there is little reason to deny Papua the same rules. National minimum standards of services of regional governments are now clearer and more entrenched in the national legal framework; these need to be reflected also in Papua's regional framework.

Papuan experiences with the law also figure prominently. Dissatisfaction with the degree of implementation of key elements of the law has fueled calls for its review, but more in terms of seeking to understand why these elements have yet to be applied (as in the case of the Truth and Reconciliation Commission) or why conflicting legal provisions tend to be resolved at Papua's expense (see Box above for the case of the appointment of the Papuan Police Chief).

In response, the Ministry of Home Affairs set in motion an evaluation of the law in 2007, with the University of Satyawacana (Salatiga) in the lead, and some degree of involvement of the University of Cendrawasih. The evaluation is nearly completed but there have yet to be any announced results or discussion forums related to the findings. Preliminary indications are that the study is slanted towards the success of development programs, and does not encompass other key dimensions of the special autonomy arrangements. In particular, it does not examine the central government role in supporting the implementation of the entire range of institutional arrangements foreseen in the special autonomy law. As several participants in the focus groups discussion hosted through USAID-DRSP in the context of this stock taking study emphasized, this partial approach to evaluation will not get to the root of the problems and will not be able to point to promising policy directions.

At the same time, a government team is beginning to review the law itself. This process has not yet

gathered steam, and there is little information available on what the nature of the process or the scope of the revision. It does not seem that the evaluation and the revision are closely linked.

Recent efforts to improve implementation

Already keenly aware of development implementation shortcomings, the Coordinating Ministry for the Economy has established an inter-ministerial assistance team in 2007, supported by a technical team struck in April 2008, to speed development in Papua/Papua Barat. Moreover, through the introduction of Government Regulation 1/2008 in lieu of Law 1/2008, the original law has been revised to give Papua Barat province the same standing in terms of special autonomy as that afforded to Papua province.

Government efforts are seen by some stakeholders/ observers as being overly focused on development issues, and specifically on financing of development. On the face of it, the view expressed by the GoI (Bappenas) appears to be fairly comprehensive, taking into account institutional dimension,[10] but the specifics of the analysis and prescriptions for Papua do indeed appear to be slanted towards a paternalistic and mechanistic view of development, and do not come to grips with the political and social-cultural roots of the present development status and political dynamics.[11]

The special management of Papuan 'development' also appears to lead to greater centralization rather than a fuller fulfillment of special autonomy. This is seen for instance in the case of health care providers,[12] but appears to be the natural response of many ministries when confronted with difficult institutional hurdles, as the modalities of Presidential Instructions 5/2007 would indicate. This sectoral response in turn encourages districts to negotiate directly with sectoral ministries, keeping local leaders in Jakarta for inordinate periods of time.

Yogyakarta Province's Special Status

The special status of Yogyakarta is largely manifested in the appointment of the Governor and Deputy Governor with consideration to the dynasties of the Sultanate and the Pakualaman of this region. This arrangement reflects the pre-independence period, where the independence or influence of the Sultan, and a lesser prince (*Pangeran Adipati)* was a dominant feature. Both of these traditional reigns were wrapped within the Special Region of Yogyakarta (*Daerah Istimewa Yogyakarta* – DIY) in 1946, which was given a status similar to that of a province. By 1950/51 the DIY and district/city contours were set, and further adjusted in the same decade. A rather uneasy division of labor ensued between a local government that reflected the wider evolving governmental structures, and the *Keraton* (palace), ruled by the Hamengku Buwono dynasty. The formal government and the traditional came together in the persons/positions of the Sultan Hamengku Buwono IX as Governor, and Sri Paduka Paku Alam VIII as Deputy Governor.

The status of DYI became more clouded in the New Order period, with the new law on regional government (Law 18/1965) calling for a shift to ordinary provincial status. When Sultan Hamengku Buwono IX died in 1998, the government chose to appoint Sri Paduka Paku Alam VIII as the Acting Governor, avoiding the succession issue for a time.

The succession issue had also been avoided in the revised New Order Law on regional government (Law 5/1974), as Sultan Hamengku Buwono IX was listed as Governor, and Sri Paduka Paku Alam VIII as deputy Governor. With the 1998 death of Sri Paduka PA VIII, the succession issue again came to the fore.

[10] Bappenas (2006). Presentation of the State Minister of National Development Planning/ Head of BAPPENAS during the discussion of The Mid-term Regional Development Plan for Papua, Jayapura, 17 October.
[11] See for instance the presentation of Bappenas at the planning of 2009 development activities in Papua in Bappenas (2008). Rapat Pembahasan Usulan Program Pendanaan Otonomi Khusus Pembangunan Infrastruktur Provinsi Papua dan Provinsi Papua Barat, Tahun 2009, Direktorat Kawasan Khusus dan Daerah Tertinggal, Kementerian Negara PPN/BAPPENAS, Jakarta, 3 September.
[12] *Koran Jakarta* (2008). Penyediaan Tenaga Kesehatan di Papua Disentralisasi, Kamis, 16 Oktober, hl. 2.

Faced with popular pressure, the central government accepted the Sultan Hamengku Buwono X as Governor (but not the *Pangeran Adipati* in a deputy role due to rifts over the ascendancy to this position). The traditional roles were only institutionalized in the context of a new law on regional government (Law 22/1999). All other aspects of administration were set to follow the new regional government framework – keeping the 'special' status rather limited. In 2000, the MPR changed the constitution to require that the special nature afforded to regions be specified in law.

Efforts since 2000 to fashion a law specific to DYI have not fared well. While some land management issues are part of the deliberations, the crux of the issue has been the hereditary roles versus the 'regular' procedures for selecting - and post 2005 directly electing - regional heads. Reasonable arguments for both key positions have been put forward; for figurehead roles or maintenance of the current dual roles. Another stopgap measure was taken for the 2003-2008 period, with the Sultan Hamengku Buwono X selected as Governor, and Sri Paduka PA IX as deputy Governor. Law 32/2004 on regional government introduced no change to Law 22/1999 in this respect, repeating only that a law is to specify the special nature of DYI. Because the Sultan has already held office for two terms, he would be contravening this law if appointed for another term.[13] Another draft law discussed at this time also did not make much progress.

What changed the situation dramatically was the statement of Sultan Hamengku Buwono X in 2007 that he would not hold on to the Governor post beyond 2008. MoHA then entrusted to the University of Gadjah Mada (UGM) the task of drafting the law on the special status of Yogyakarta (*Rencana Undang-Undang Keistimewaan* RUUK), an unenviable task in view of the Sultan's new position. As this was the most evident scope of Yogyakarta's special status, the drafting team was forced to redefine what it means for this region to be special. As the drafting team was doing its work, the Sultan took an ambiguous position, indicating only that he would 'abide by the law'.

The drafting team has put forward a draft that would see the governor of Yogyakarta elected, with the candidates gaining approval by the new institution (Parardhya) comprised of the Sultan and Paku Alam. The Parardhya will still have limited authority in culture, palace land, and some aspects of regional financing. A 5 year transition period would be set; by the end of this period elections of non-monarch candidates would occur. The government has extended the current arrangements until the draft law is concluded.[14]

The effort to put conclude the draft law has been complicated by the fact that while a government facilitated draft is now before the State Secretariat, another draft has been placed before the DPR by the second house of parliament, the DPD – its contents have yet to be made public. It is therefore difficult to anticipate how the two drafts will be reconciled, or which might be favored.

The special status of Jakarta

Jakarta's special status, set in the decentralization era in Law 34/1999 has been reworked in Law 29/2007. Some changes seem minor (e.g., introducing assistants for the Governor – called '*deputi*'), while others are weightier, e.g., setting thresholds for votes in the election of the Governor/Deputy Governor – forcing runoffs if these are not achieved. A change that seems to have eluded public discussion or much analysis is the specification of functions that are closely related to the role of Jakarta as the capital city,[15] and the corresponding shifting of funding of these functions from the regional budget (APBD) to the national budget (APBN). Moreover, on these functions, as well as for 'autonomous' functions held by the provincial government, the Governor

[13] Bambang et al. (2007). Keistimewaan yang Dipertanyakan, *Kompas*, 13 Desember.
[14] Universitas Gadjah Mada (2008). Keistimewaan Yogyakarta – Naskah Akademik dan Rancangan Undang-Undang Keistimewaan Yogyakarta, PLOD, JIIP, Monograph on Politics & Government, Vol. 2, No. 1.

is responsible to the President. This accountability arrangement differs from other provinces, where the Governor is responsible to the DPRD for autonomous functions (including many functions in the sectors that are now oriented to the central government in the case of Jakarta).

What has drawn more public attention has been a feature that has been part of the Jakarta scene for some time. The city is treated as a province in terms of its overall institutional make-up and functions. But it is divided into administrative units that have appointed heads; they are not elected as in districts/cities of other provinces. They also do not have a council (DPRD). A concerned member of the DPD, Biem Triani Benyamin, challenged the law in the Constitutional Court. Not only did he challenge the provisions of Law 29/2007 on the special region of Jakarta, but also Law 32/2004 on regional government that is the reference for Jakarta's exception; in his arguments, both are seen to go against the constitution that stipulates political institutions at the district/city level.[16] The Constitutional Court recently ruled that the constitution allows for special arrangements, such as those for Jakarta, but the ruling does little to show that the Constitution is clear on this matter.[17]

Returning to the changes made in the recent law, it seems that the special nature of autonomy in Jakarta is one where the accountability is oriented toward the central government rather than the Regional House of Representatives or lower level elected governments. That is a rather diminishing kind of 'special' status.

The failed constitutional challenge might yet lead to reconsideration of the political arrangements that govern Jakarta from the province level downward, to find ways of deepening democratic life in the capital. In the course of such reconsideration, the vertical linkages from the province upward might also be revisited to see if the 'special' status of Jakarta can be given a more positive meaning - similar to other provinces, or even greater autonomy where this is warranted.[18]

Policy options

The issues concerning special status are complex, highly political, and carry with them important implications for the political and social development of specific regions. It has been noted that government departments, DPR and DPD have considerable difficulty staying abreast of the related field realities, making the needed connections between issues and actors, and generating appropriate policies. The government lead revision of Law 32/2004 does not foresee any new provisions that would help to better situate regions with special status within the larger framework that applies to all regions. The DPD is bolder in this respect, considering a version of a revision of Law 32/2004 that may encourage broader use of regional asymmetry on 'regular' functions and enhancement of traditional regional institutions. The DPD ideas have yet to be shared widely, but may be useful in generating some outside-the- box thinking. However, as alluded to in other sections of the STS 2009, it is difficult to anticipate how the government and DPD versions will be reconciled.

At the same time as the government and legislative branch struggle to make policy, the public interest or concern is growing. A great deal of international attention continues to be placed on Aceh, particularly in view of the large investment made by donors in peace building, reconstruction and rehabilitation. Much attention is also placed on Papua, and this is growing; the 'Papua Desk' established in early 2008 by the Centre for Peace and Conflict Studies, University

[15] Transportation, spatial planning, natural resources, environment; population control, settlements, industry and trade, and tourism.
[16] *Kabar Indonesia* (2008). UU 29 Tahun 2007 Tentang DKI Bertentangan Dengan UUD 45, Kamis, 15 Mei, http://www.mahkamahkonstitusi.go.id/berita.php?newscode=1496
[17] *Jakarta Post* (2008). Court backs single autonomy, Wednesday, August 6, pg. 4.
[18] Alternatively, the notion being put forward by Biem and other members of DPD, to move the capital to a location outside of Jawa, could settle the issue for Jakarta, allowing a regular form of autonomy. Of course, this would merely shift the special status of the capital city to another location. (Communication with Owen Podger, USAID-DRSP Consultant to the DPD, December, 2008).

of Sydney is an indication. The public in Yogyakarta has been very concerned, and at times mobilized on the ongoing effort to find a resolution to the role of the Sultan/Pangeran Adipati.[19] Some individuals are also concerned that the special autonomy given to Jakarta is actually diminishing the political life of the city, in contravention of the Constitution itself.

The above snapshots indicate the existence of both opportunities and threats, to the regions concerned, but with implications for Indonesia as a whole. The success of local parties is an example of an initiative that could hold promise for other regions. Overly intrusive central government control and unreasonable reduction of provincial autonomy in what are supposed to be regions with 'special autonomy' instead indicate dangerous signals that should concern all other provinces as well. The ability or inability to make laws/agreements stick also sends important signals about the trustworthiness and political vision of national level politicians and officials.

Other provinces have at times made statements or arguments for special status/autonomy, chief among them Bali and Riau. A more consistent approach to policy making in this area may be required to address future claims.

Obtaining a consistent policy, particularly on special autonomy (*Otsus*) deals and follow through, has been difficult for the government and parliament. In MoHA itself, handling of *Otsus* has been fragmented in the past, and other central level organizations seem to not appreciate the special nature of autonomy given to Papua and Aceh in particular. The inter-ministerial approach seen recently (Assistance Team/Technical Team) for Papua could be productive if the scope was properly set. But more sustainable approaches are needed that allow national agencies to play their expected roles on an ongoing basis.

The GoI should also take note of where progress has been seen; for instance, this is evident where genuine participation of stakeholders has been allowed or been facilitated. The case of Aceh's autonomy law has been pointed out. This is also seen in the equally challenging case of Yogyakarta; the careful sounding undertaken by the UGM drafting team that has proposed a draft law at the request of the Ministry of Home Affairs holds some promise of finding a compromise between tradition and modernity, and formal and informal institutions.[20]

It would be dangerous to ignore unrest in Papua in particular, or to adopt a divide and conquer approach. Poorly conceived political approaches by the national government and oppressive security strategies can work to coalesce resistance, as seen recently when thousands have demonstrated, demanding a referendum on independence or outright independence.[21] The Free Papua Movement (OPM) is in military terms not a large threat, but it is still active. It may be changing tactics to some extent, seeking to bring world opinion to its side by drawing attention to the human rights abuses perpetrated by the army and police forces, hoping to invoke a 'responsibility to protect' response.[22] Preempting such a response requires Indonesia to bring a lasting peace in Papua, through a more sustainable and equitable relationship with Papuans.

It would not be helpful however to rush to a revised law for Papua that is not premised on a proper evaluation of the on the ground situation and policy/legal framework. The main problem should not be seen in terms of funds allocated to or spent in Papua. A broader scope is needed. Moreover, a deliberate and participatory approach similar to that used in the Aceh law may be more acceptable to all stakeholders, and yield better results. As the LIPI researchers concerned with Papuan issues point out, addressing

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[19] The recent decision of Sultan to run for President may make it easier for all stakeholders to accept a Governor role that is not hereditary to the Sultan lineage – that is, subject to at least some kind of democratic process.
[20] Recently the Commission II of the DPR has indicated that such a compromise may be reached, see *Kedaulatan Rakyat* (2008). RUUK DIY Bisa Dikompromikan, 22 Oktober, hl. 1.
[21] *The Jakarta Post* (2008). Thousands rally for freedom in Papua, October 17, pg. 8.
22 Siahaan, Y.P Benny (2008). New Strategy behind separatism in Papua, *The Jakarta Post*, Thursday, August 7, pg. 7.
[23] LIPI (2008). Papua Road Map – Negotiating the Past, Improving the Present and Securing the Future, prepared by Muridan S. Widjojo, Adriana Elisabeth, Amirudin al-Rahab, Cahyo Pamungkas, and Rosita Dewi, Jakarta.

the development and political demands of Papuans has much to do with reconciliation.[23] This term encompasses making concrete changes in policy that shifts how Indonesia is currently represented in Papua (e.g., military, unchecked and dominant migration, extraction of natural resources) to new images that bind Papua to Indonesia.

While Aceh has some lessons to offer for the case of Papua, it is important to not be complacent about the peace in Aceh itself; peace making is still an ongoing process that can be set back with poor policy or inability to control or constructively direct actors (local and national). Elaborating the legal framework with consistency with the MOU and LoGA is of the essence. As the government regulation on its own functions in Aceh is issued, it will be important to have consistent application across government organization. Here the role of the DPOD could figure prominently, but it has failed to play this kind of role in the past and may not be up to the task. Presidential leadership may be the crucial factor then in achieving consistent implementation.

Recommendations

- Special autonomy/status policy needs to be given more attention in each relevant national agency/ministry, so that a 'whole of government' approach results. Because the DPOD is not performing well, the President needs to promote this coherence in his cabinet.

- The Ministry of Home Affairs unit concerned with special autonomy needs to be bolstered in terms of staff and resources. It needs to also have the resources and ability to better utilize external expertise and undertake policy related exercises.

- Aceh : The critical regulations being shaped as a follow up to Law 11/2006 need to be given more attention, across the relevant government organizations, to avoid time delays or watering down of Law 11/2006 provisions.

- Aceh : Facilitation of an eventual revision of Law 11/2006 should also be considered in due time, but with a well designed and unhurried approach that gives attention to key MOU - Law 11/2006 inconsistencies and shortcomings in the law itself (e.g., unclear provincial-district relations).

- Papua : A more acceptable approach to developing policy and regulations relating to special autonomy is required. Policies that create divisions within Papua need to be replaced with those that are inclusive and favor moderate voices willing to strive for change through peaceful means.

- Papua : The review and revision of Law 21/2001 needs to take into account features of the law that are promising and need better implementation, and those that are flawed. Other legal instruments that are constitutionally questionable need to be rethought. Consideration should be given to a revised law that gives Papuans more control over their political and administrative institutions.

- Papua : Some of the features of the Aceh law may be helpful to the revision of Papuan special autonomy. Opportunities for sharing experiences need to be provided by the GoI and development partners.

- Papua : Consideration should be given to allowing autonomy and special autonomy funds that cannot be productively absorbed to build in a provincial trust fund that could be used in the future.

- Yogyakarta : the GoI and DPD should find ways of reconciling the two drafts of the law, by explaining the choices clearly and gaining citizens' and monarchs' views.

- It is important to better situate the regions with special status in the constitution and framework laws for regions, to make clear what parts of the framework pertains to them, and which can be superseded by special laws. Within this clarification and repositioning, consideration should be given to enshrining greater provincial control

over the territorial sub-divisions, to ensure that provincial autonomy will not be undermined by short term or destabilizing motivations of some district/city elites and national actors.

- Development partners should continue to provide the vital required support for the implementation of special autonomy in Aceh, and should be ready to become more involved in a facilitative role in Papua should the government see the advantages of such participation.

2. SPECIAL ZONES IN THE CONTEXT OF REGIONAL AUTONOMY

Background

Many kinds of special zones exist in Indonesia, promoted by different central government organizations and rooted in a variety of concepts. This diversity has led to some confusion over purpose and legal status, particularly how the zones fit with the decentralization framework. With several legal and programmatic efforts now underway to reshape special zones, it is timely that the decentralization link be well made.

Special zones were not treated in the STS 2006, but recent developments warrant their inclusion in the STS 2009 update. Since the introduction of genuine regional autonomy, the place of special zones in the regional politico-administrative scene has been more difficult to determine. Over the last two years the need for clarity has become more pressing. The framework for free trade/port zones (FTZ) was refashioned in 2007/2008 through government regulations; these pertained to the three existing FTZ (excluding Sabang FTZ in Aceh). Currently, a legislative effort is underway to give more exact conceptual and legal shape to special economic zones, which will be narrowed to mean essentially FTZs. These zones are expected to increase rapidly in number.

The impetus for this effort relates to the desire of the central government to increase national competitiveness by making the best use of locational and natural advantages. Connected to this goal is the hope of spurring areas that are particularly disadvantaged in other respects, in term so poverty for instance. There is some evidence that government driven investment of this kind can attract investment and yield economic growth, as seen in the case of Batam in Indonesia and several free trade zones around the world. However, the international news is not entirely encouraging, as the selection, development and economic benefits of FTZs are hotly debated, particularly when they are used to exploit low labour costs and if the facilities given include a relaxation of environmental standards.

What makes the special zones debate particularly difficult in Indonesia is the wide range of meanings or technical specifications attached to them, the different legal standing these have, and the varied and shifting government facilities availed by the zones. Furthermore, guidance to regional government on how special zones, of various standing, are to be established and managed comes in uncoordinated fashion from a number of central government organizations.

Bangda-MoHA promotes Fast Growing Strategic Zones
Through Ministerial Regulation 29/2008, Bangda hopes to spur regional governments to adopt an intensive planning approach to areas with potential for fast growth. There are no extra inducements beyond the guidance in the regulation, and some support for selected regions from Bangda and *Institute Pertanian Bogor*. Regional government response has been low so far; Bangda attributes it to the short time the regulation has been in place, and the limited socialization undertaken; only in Sulawesi Selatan and Riau. In 2009, one more province will be reached with socialization. Provinces have yet to mount any support for the regulation's implementation with respect to the districts/cities.

The Indonesian government now wishes to give a boost to special economic zones, but it does not appear that it is intent on streamlining and simplifying the conceptual, legal and organizational thicket that has grown in special zones. In particular, even the new elements do not appear to have a comfortable fit with regional government/autonomy remains unanswered.

Types of zones, institutional link, and connection to regional autonomy

Various typologies and designations have been employed by the Government of Indonesia to identify and support regions facing particular development challenges or opportunities. Some of these designations have been theoretical in nature, and conceived to spur particular planning and development approaches, but others have been formalized in legal instruments that have implied or explicitly established certain "facilities"; special funding, exemption from taxes or other inducements for investment and commerce. The major initiatives seen over the last decade or so are :

- Industrial Zone[24]
- Bonded Area[25]
- Integrated Economic Development Zone (*Kawasan Pengembangan Ekonomi Terpadu* - KAPET)[26]
- Free trade/Port Zone (FTZ)
- Special Economic Zones
- Other special zones (for planning purposes)

The above zones can stand alone, or come in packages. Some are subsumed, rightly or wrongly, under the broad term of ***Special Economic Zones*** (*Kawasan Ekonomi Khusus- KEK*).[27] It is this entity that is being given a new law, called here the KEK law. ***Industrial zones*** have been established for quite some time, but do not seem to be well defined and do not offer incentive packages in practice beyond prepared physical infrastructure. ***Bonded areas*** are more technically defined as they provide some exemptions on custom duties and other taxes. ***KAPET*** were, until recently, given some tax advantages and the possibility of establishing bonded areas within parts of their zone. Their status today is uncertain as they do not seem to have made use of their incentive packages. At one point they numbered 13, but most exist more on paper than in reality.

Frequently, the term Zone (*Kawasan*) is used to denote various geographical areas that require a particular policy or planning approach. Ten different types of zones are mentioned in Government Regulation 26/2008 on National Spatial Plan,[28] (some being 'conservation', 'agropolitan', 'metropolitan', 'strategic'), a follow up regulation to the law on spatial planning.[29] These designations, on their own, do not seem to require specific institutional arrangements, nor do they embody claims to incentive packages from the central government. Bangda (MoHA) has promoted one of these types of zones, the Fast Growing Strategic Zone (see Box above). In terms of the development of special zones, particularly those of an economic nature, the Bangda input is derived from a separate directorate that is concerned with regional economic development.

The MoHA General Administration Directorate (PUM), under its directorate for Zones and Authorities, also provides guidance to special zones, consisting mainly of facilitation of groups that face particular challenges, especially those that have political implications. They see themselves as bridging the various channels that are used to reach citizens (decentralized and deconcentrated arrangements).[30] One of the efforts that PUM has been pushing for several years is the preparation of a government regulation that would clarify the relationship between the *Badan Otoritas Batam* (BOB) and the City Government of Batam. The draft, now in the hands of the State Secretariat, will need to be further adapted to

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[24] Keputusan President Republik Indonesia Nomor 98 Tahun 1993 tentang Perubahan Keputusan Presiden Republik Indonesia Nomor 53 Tahun 1993 Tentang Kawasan Industri.
[25] Peraturan Pemerintah Nomor 33 Tahun 1996 tentang Tempat Penimbunan Berikat (Lembaran Negara Republik Indonesia Tahun 1996 Nomor 50, Tambahan Lembaran Negara Nomor 3638) sebagaimana telah diubah terakhir dengan Peraturan Pemerintah Nomor 43 Tahun 1997 (Lembaran Negara Republik Indonesia Tahun 1997 Nomor 90).
[26] Keppres No. 89 Tahun 1996 Tentang Kawasan Pengembangan Ekonomi Terpadu; changed by Keputusan Presiden Nomor 9 Tahun 1998, and by Keputusan Presiden Republik Indonesia Nomor 150 Tahun 2000.
[27] See for instance the interview with Son Diamar, Expert Staff for Decentralization and Regional Autonomy, Bappenas in *Buletin Kawasan* (2008). Bappenas : Panglima dalam Pengembangan Kawasan di Era Otonomi Daerah, Edisi 19, hl. 15- 17.
[28] Peraturan Pemerintah Republik Indonesia Nomor 26 Tahun 2008 Tentang Rencana Tata Ruang Wilayah Nasional.
[29] Undang-Undang Republik Indonesia Nomor 26 Tahun 2007 Tentang Penataan Ruang.
30 Communication with Afriadi S. Hasibuan, Director for Zones and Authorities.

the anticipated change of organizational form, as the BOB will now shift to the organizational structure demanded for a Free Trade Zone in the new government regulation,[31] and subsequently the new KEK law under preparation.

Bappenas also has a directorate that is concerned with special zones, and specific issues of border zones, 'left behind' zones and disaster sensitive zones. Because the directorate is located under the Deputy for Regional Development and Regional Autonomy, this unit is ideally positioned to integrate both the government and regional government interests in special zones. It has in the past supported the spatial and business planning conducted in the special economic zones (e.g., Sabang Free Trade and Port Zone).

The Department of Public Works houses the Agency for the Development of KAPET, the body still entrusted to promote economic zones at this time. Its fate is unclear once a new national structure (Dewan Kawasan Nasional) will be established by the KEK law. The Department of Public Works is also interested in special economic zones in term of their spatial/zonal planning, a support role they also have for regional government.

The free trade/port zone (FTZ) vehicle has already spread beyond Batam and Sabang. It has risen in profile, perhaps because it is now the only vehicle for institutionally delivering incentive packages for special zones. FTZ stands separate from designated custom borders, and is thus exempt from custom duties, added value taxes, and sales taxes. There are currently four of these FTZs (Bintan, Karimun, Batam, Sabang), and they have been given new institutional arrangements through recent laws and regulations.[32] As in the case of the fading KAPET, the relationship of these more robust special zones to the new KEK law is also unclear, especially in the case of Sabang which is governed by the new law on special autonomy for Aceh.

The two most significant initiatives (KAPET, FTZs) have been plagued by uncertain relationships between the central level, the local institutions established to manage the zones, and the regional governments. This uneasy relationship has been particularly in evidence after the flowering of regional autonomy. The KAPET, with their national guiding structure (*Badan Nasional*) and nationally influenced local structures (*Badan Pengelola*) have proven centralistic, and unable to influence or truly facilitate the necessary regional government action. Because central level inducements have been few, and inconsistently applied, the major impetus for KAPET success has always been regional government imitative. Where regional government ownership has been low, the KAPET have stagnated.

The economic success of the Batam case was achieved with a centralistic approach, exploiting obvious locational advantages. The Central Government funded infrastructure to Batam and developed a regulatory environment that facilitated investors. Despite the economic advantages realized through this top down approach, the city of Batam has chafed under the restrictions imposed by the existence of centrally controlled *Badan Otoritas Batam*. This was especially the case following the introduction of genuine regional autonomy in 1999.

Despite its centralized management, the *Badan Otoritas* could at least show it had achieved some substantial economic objectives, in the pre-autonomy era. Its current transformation to a FTZ, through the 2008 regulation (fitting under the Law 36/2000 umbrella) introduces uncertainty due to the unclear connections with regional autonomy principles and structures. This new form may work to slow or complicate the development of FTZs, and possibly even stall the success seen in Batam.

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[31] Peraturan Pemerintah Republik Indonesia Nomor 46 Tahun 2007 Tentang Kawasan Perdagangan Bebas Dan Pelabuhan Bebas Batam. The specific instrument that sets the new structure is Presidential Decree No. 9/2008 on the Zonal Council for the Free Trade Zone of Batam.

[32] A complicated trail of legal instruments has been created in getting to the current architecture, see UU No. 44 Tahun 2007, mengganti Peraturan Pemerintah Pengganti Undang-Undang Nomor 1 Tahun 2007 tentang Perubahan Atas Undang-Undang Nomor 36 Tahun 2000 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 1 Tahun 2000 tentang Kawasan Perdagangan Bebas dan Pelabuhan Bebas menjadi Undang-Undang.

With the exception of Sabang, FTZs are being structured in analogous fashion to the KAPET, with a national structure (*Dewan Nasional*) strongly influencing a local management structure (*Dewan Kawasan* and *Badan Pengusahaan Kawasan*) that is largely made up of representatives of central government. The roles of the city/district governments with respect to the *Dewan Kawasan* are poorly delineated. In particular, it is not clear which regional government functions are to be delegated to the *Dewan Kawasan*. Overlapping mandates perceived or in law, will be felt in particular when the zones cover much or all of the regional government territory. With more FTZs (or similar zones) in the offing, it is important to sort out how the central and regional roles and functions mesh in these zones.

The case of Sabang : an FTZ in a region with special autonomy

Is Sabang BPKS threatening the autonomy of Sabang City?[33]

FTZ Sabang covers all of the City of Sabang and smaller adjacent islands. The Mayor of Sabang and the head of the BPKS are pitted in a battle for control over the economic life of the entire island, not just its port facility. The BPKS has ambitious plans for many sectors, including tourism, fisheries, and energy. The Mayor wonders what will be left for the city to do if BPKS gets its way. What makes this clash difficult to understand is that the directing body (*Dewan Kawasan*) is made up of the affected regional government heads. Yet this body appears unable to bring BPKS to heel, leaving the impression that the BPKS is a rogue organization, or that it responds largely to central level interests.

The Sabang FTZ has been established under a somewhat different legal stream than that of the other three current FTZs, in view of its location in an area enjoying special autonomy.[34] Its case is useful to highlight because it best brings out the issues of central and regional government interests in FTZs (the arguments are relevant for any other kind of special zones). The regional dimension of the Sabang FTZ is most evident in the membership of the *Dewan Kawasan*, composed of the Governor in his role as provincial government head, Mayor of Sabang, and Bupati of Aceh Besar. This might give the impression that the *Dewan Kawasan Sabang* (DKS) and its implementing body (*Badan Pengusahaan Kawasan Sabang* - BPKS) are truly locally managed entities, in keeping with the (special) regional autonomy of Aceh. But even central government observers/stakeholders are asking if the BPKS is an organization of the central government or of the regions.[35] The question is fair to ask since the funds for the BPKS are provided entirely from the central government (through section 69 project funds, nominally under Ministry of Finance control).[36] Moreover, the Master Spatial Plan for BPKS and the Business Plan were prepared in close collaboration with Bappenas. The budget and plans of the BPKS have not been vetted and approved at the governing council level (DKS).

Media reports, and direct public statements of the Mayor of Sabang, suggest that the work of DKS-BPKS since 2001 has yet to yield the expected results; the port has not changed much in appearance or traffic, private investment remains low, and the FTZ has not contributed significant revenues to city government.[37] The lack of progress is one reason for local dissatisfaction, but the other is also the conflicting roles and management structures employed (see Box above).

The BPKS is not receiving regional government funding at present, relying exclusively on national level funding. This has grown to over 400 billion Rupiah in 2008, and is expected to rise to 750 billion Rupiah in 2009. (already footnoted above)[38] The centrally derived financing is a salient aspect of the BPKS, but other organizational issues also complicate the relationships between local actors.

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[33] Drawn from the GTZ-ALGAP II (2008). Legal and management issues in the delegation of functions to the Dewan Kawasan Sabang and the Badan Pengusahaan Kawasan Sabang, draft July 15.

[34] The legal sources are largely Undang-Undang Nomor 11 Tahun 2006 tentang Pemerintahan Aceh; Undang-Undang Nomor 37 Tahun 2000 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2000 Tentang kawasan Perdagangan dan Pelabuhan Bebas Sabang.

[35] See for instance Waluyo, P. (2006). Aspek Hukum Dalam Peningkatan Penanaman Modal Asing (PMA) Melalui Pengembangan Kawasan Perdagangan Bebas Dan Pelabuhan Bebas, BKPM, hl. 7.

[36] Over 400 billion Rupiah in 2008, and likely 750 billion Rupiah in 2009.

One of the hurdles to efficient management and meaningful accountability is the organizational structure of the FTZs. It does not follow well known models, like the regional government enterprises (BUMD/*Perusahan Daerah*) or the more recently developed special agency, (*Badan Layanan Umum Daerah* – BLUD). These have their limitations, but they have established some internal organizational structures and procedures for accountability to their regional government owners. For instance, the BLUD has to have its plans, budget, and accountability reports as part of the regional government unit that gives it oversight.[39] The organizational charter/constitution and operating procedures (referred to in Indonesia as *Anggaran Dasar / Anggaran Rumah Tangga*) are more established for these models. Should the poorly developed DKS and BPKS structures in Sabang be further complicated by an imposition of a *Dewan Nasional* (as found in the draft KEK law) this will underscore the questions on the nature of 'special regional autonomy' in relation to the KEK.

Policy options

Clarity on the use of 'zones' and role of the regional government

The large number of terms now used in laws and regulations in relation to special zones is perhaps overwhelming to the regions, in terms of understanding what these zones offer and what role the regional government is expected to play. Bangda is certainly noticing the magnitude of the task with its focus on 'leading' and 'strategic' zones – helping regional actors to understand the intent of the zones has been difficult. Consequently, it is appropriate to reduce the types of zones, standardize terminology, and conduct socialization efforts of different central government agencies in a coordinated way so as to minimize confusion (or streamline the organizational units of central government involved with special zones).

The expectations of regional government involvement should be made clear, and adequate support needs to be extended so they can play their role. The Deputy for Regional Autonomy in Bappenas, Max Pohan, has noted that in the past "lack of coordination between the regional and the zone administrations also contributed to the policies failure."[40] Encouragement from the central government to establish zones necessarily obliges central government to provide choices, guidance and ongoing support to make these zones/structures successful, particularly where central and regional level interests are organizationally joined.

Some consistent signals from government on the fate of KAPET would also be helpful. It appears that Deputy Chair of the Agency for KAPET (Department of Public Works) believes that they can be 'revitalized.'[41] This belief is shared by senior officials in the Public works Department, and the tools being considered appear to be central government investment and incentives for investors.[42] The use of these tools would make the revitalized KAPET very similar to the KEK. It is noteworthy that the most successful KAPET, in Bitung (North Sulawesi) is seeking to be transformed into a KEK. It is not clear if all or some KAPETs will be reborn as KEK, or if KAPET will retain their current features (receiving no substantial central government resources). If the latter, then there should be a clear explanation of how they can be made to perform better than in the past, particularly in terms of the expected role of the regional government.

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[37] See for instance *Medan Bisnis* (2007). Walikota Sabang Nilai Kinerja BPKS Mengecewakan, 24 April, hl. 6; *Ekspos* (2007). Tahun 2006 BPKS Isi PAD Sabang Hanya Rp 50 Juta – Tokoh Masyarakat Sabang nilai Perlu adanya Pengawasan, 14-20 Maret, hal 17.

[38] Based on the proposal of the BPKS being reviewed by Bappenas. Personal communications with Suprayoga, Director for Special Zones and Underdeveloped Regions - Bappenas.

[39] Joko Supriyanto dan Suparjo (Badan Layanan Umum : Sebuah Pola Pemikiran Baru atas Unit Pelayanan Masyarakat http://www.perbendaharaan.go.id/modul/pustaka/index.php?id=18.

[40] Bisnis Indonesia (2008). Free Trade Zone, Kapet not yet Effective to Bridge Gap Friday, 14 November, pg. 2.

[41] Pemerintah Revitalisasi Keberadaan Kapet, Kamis, 3 Juli 2008, obtained December 5, 2008 at http://economy.okezone.com/index.php/ReadStory/2008/07/03/19/124449/pemerintah-revitalisasi-keberadaan-kapet.

[42] Kapet Manado-Bitung Salah Satu Kapet Yang Berhasil, 11 December, 2007. Obtained December 5, 2008 at http://www.pu.go.id/index.asp?link=/PUBLIK/IND/Berita/ppw061106gt.htm.

The draft law on Special Economic Zones (*Kawasan Ekonomi Khusus*)

The GoI has established a National Team for Special Economic Zones (Tim Nasional Kawasan Ekonomi Khusus Indonesia– Timnas KEKI) to coordinate the development of a new law for Special Economic Zones.[43] A member of the Timnas explained to the STS 2009 researcher that the KEK law will not undo the FTZ framework for the four established FTZs. An initial draft, obtained with some difficulty, in fact does not seem to speak to the four existing FTZs. But apparently a version obtained by the Aceh provincial government indicates that the KEK law will rescind the law that has established the Sabang FTZ. Provincial officials fear this new law will close an economic agency that was 'part of the conflict resolution in Aceh'.[44]It may be that the intent is to actually transform Sabang FTZ into the same model that will be adopted henceforth, to join in a standardized way the hundred or so KEK that are expected to be established across Indonesia.[45]

The draft law was prepared with inter-ministerial participation, but it appears that other stakeholders have not been involved - the drafts have not been made public. In the case of Aceh, this is clearly in contravention of the Helsinki Accord, and of the Presidential Regulation 75/2008 on the consultation mechanism (for laws that affect Aceh directly in this case).

The government submitted the draft KEK law to the DPR in September 2008. According to the Timnas KEKI, regions are eager to have this law in place; regions in 17 provinces have registered their interest to obtain the designation of KEK within their jurisdiction.[46] Presumably, the regional interest is based on the draft law's promise of incentives, namely :

- Reduced tax rates and tax exemptions.
- Accelerated depreciation.
- The power to propose reductions in custom charges.
- Visitor and immigration facilitation.

These facilities will be directed to the various types of zones that fall under the KEK designation; export, technology park, logistics, tourism, financial, sport. These designations will therefore subsume those previously framed as free trade/port zones.[47]

With the draft law now in the hands of the DPR, Timnas KEKI can now turn to designing appropriate institutional arrangements to make the law workable. As well, it must determine the specific process that will be used to approve the Special Economic Zones. There is no work plan as yet to pursue these tasks but Timnas KEKI staff indicated its awareness of the importance of this follow-up work. This work is particularly important as there is still a chance to influence the final shape of the law with a more detailed approach to the organization/accountability relationships. The current draft is problematic in the following ways :

a. The composition of the governing body of the FTZs (*Dewan Kawasan*) is not specified beyond the two categories of 'government" and "professionals'; the position of the provincial and district/city government is not specified.
b. The implementing body (*Badan Pengusahaan*) receives the delegation of authority to issue various permits, rather than the *Dewan Kawasan*; that sends the wrong signal in terms of accountability, and reduces the control the Dewan can exert on the Badan Pengusahaan.
c. The *Badan Pengusahaan* can receive funding directly, from the central government for instance;

[43] As the follow-up on Article 31 of Law 25/2007 on Investment.
[44] Comments made by the Head of the Aceh Legal Office, March 2, 2009.
[45] Departemen Pekerjaan Umum (2006). 112 Kawasan Ekonomi Khusus Merupakan Kawasan Strategis Nasional, Obtained December 5, 2008 at http://www.pu.go.id/index.asp?link=Humas/news2003/ppw140706gt.htm.
[46] See *Kompas* (2008). UU Kawasan Ekonomi Khusus Selesai 2009, 21 September, obtained at http://www.kompas.com/read/xml/2008/09/21/19200955/uu.kawasan.ekonomi.khusus.selesai.2009, which lists the following: Sumatera Utara, Riau, Sumatera Selatan, Banten, Jawa Barat, Jawa Tengah, Jawa Timur, Sulawesi Selatan, Sulawesi Tengah, Kalimantan Barat, Kalimantan Timur, Sulawesi Utara, Papua, Bengkulu, Jakarta, Maluku, and Bangka Belitung.
[47] *Kompas* (2008). Kawasan Ekonomi Khusus Ganti FTZ, Senin, 13 Oktober. Obtained at http://cetak.kompas.com/read/xml/2008/09/22/00435570/kawasan.ekonomi.khusus.ganti.ftz.

this could make the *Dewan Kawasan* vulnerable to 'upward management' by the *Badan Pengusahaan* (as the *Dewan* budget could be set unilaterally by the *Badan*) and denies the *Dewan* the right to approve the Badan sources of funds and budget.

d. It is not made explicit that that the *Dewan* should approve the spatial and business plans of the *Badan*.

It must be noted that Commission VI of DPR is at this time also reviewing a draft law particular to a free trade/port zone for Bitung (North Sulawesi).[48] It is unclear how this DPR initiative meets with the requirements of the draft KEK law framework, which calls for KEK to be established through government regulations (no longer by separate laws).

Revision of Law 32/2004 on Regional Government

The drafting team for the revision of Law 32/2004 has added an elaborated section in the draft relating to 'Special Zones.' The desire to clarify the issue of special zones in this law is understandable in view of the potential tension between central and local interests. However, it appears that the proposed provisions have a spatial/managerial focus, and are not coordinated with other policy/legal developments. Specifically, as they stand, the suggested provisions can be characterized as :

- Being developed without a full appreciation of the content of the draft law on Special Economic Zones (KEK).
- Defined entirely from the point of view of the central government.
- Lacking in principles and mechanisms that can properly situate the zones within the context of regional autonomy.
- Reliant on a model of management that is uniform, untested, and already proving to be problematic in Sabang where it is 'locally' driven (a guiding organization, *Dewan Kawasan* and *Badan Pengusahaan Kawasan*).

[48] See Daftar Inventarisasi RUU Dan Non RUU Berdasarkan Status Penanganan Di Komisi, Pansus, Dan Baleg DPR RI obtained October 15, 2008 at http://www.dpr.go.id/ruu-pansus.php?BRSR=10#.

Delegation to semi-autonomous bodies in the Indonesian decentralization framework

The modes of decentralization specified in the Constitution and regional government law only address devolution, agency tasks and deconcentration. There is no clearly identified and regulated mode of decentralization that allows levels of government to delegate functions/tasks to semi-autonomous entities of government or organizations that are jointly owned/managed with external parties. Such delegation is sometimes necessary, to allow for a more removed, flexible and private sector oriented management; in water delivery, economic development for instance. This kind of delegation is sometimes referred to as functional decentralization. Its conceptual/regulatory development needs to be undertaken, particularly to clarify financing and accountability.

The proposed revision/ elaboration of Law 32/2004 enables the government to set KEK (and other kinds of special zones), and calls for a Government Regulation to provide details on the KEK/other zones. As the KEK framework is in fact being placed in a law, there is an obvious inconsistency between the two legislative streams.

If the special zones are to manage functions that are purely national, then they should not be regulated in detail in a law that sets out the framework for regional government. Rather, they should be part of the national spatial planning framework/law or be treated in a separate law. If the institutions managing the special zones are to truly receive (delegated) regional government functions, then there is a need to set out the parameters for this delegation, and how the accountability also flows to regional governments. The central-regional relationship needs to be well understood.

Policy options

Fleshing out the above in any legal stream will be difficult since the Government's vision on special zones is not clear yet. The Director for Special Zones in Bappenas concedes that the many kinds of zones developed in the past largely languished, and need to be streamlined. He points to the government's stated intention to address this challenge, in the Government's Annual Work Plan for 2009. However, a

close reading of this general policy indicates only that the government aims to 'develop special economic investment zones' (KEKI)[49] but does not define these zones, nor their relationship to regional government. It also does not describe the legislative program that will achieve this end.

To develop these zones further would require a review of what these zones are meant to do and how they are to be managed in the context of national interests, regional autonomy, and special autonomy. In particular, the means of empowering the management bodies of these zones, and how they are to be made accountable to the levels of government that delegate functions to them will be crucial. The ongoing relationship of the management bodies of these special zones to related institutions of regional autonomy/regional government will need to be fleshed out with clarity and consistency.

Recommendations

- The government and DPR teams concerned with the drafting of the law on Special Economic Zones (KEK) and the revision of Law 32/2004 should seek to harmonize these draft laws on matters that pertain to regional government.

- As part of the finalization of the legal framework, substantive discussion should be held with more stakeholders (particularly regional government) on the purpose of special zones; their creation, scope and management modalities. Particular attention needs to be given to :
  - o Sectoral scope of activities that should fall under special zones.
  - o The source of powers and functions, and incentives that are vested in the governing entities of special zones, and the nature of the central-regional partnership this entails.
  - o Mechanisms for delegation of functions from central and regional levels.
  - o Organizational models, financing, and accountability mechanisms for the governing entities of special zones.

- For the FTZs that have already been established, a case by case approach should be used to ensure that their mandates and organizational set up is acceptable and workable. In particular, the practice of central level transfer of funds to the implementing body should be discontinued in favor of receipt by the local governing council (*Dewan*) or routing (e.g., via regional budgets) that prevents too close a link between implementing body and the central government.

- A revised regional government law (or constitutional amendment) should have clear provisions that allow, and give shape to, delegation of tasks to semi-autonomous governmental bodies (e.g., for governing special zones).

- The fate of KAPET should be more clearly spelled out, to give regions greater certainty on vehicles being promoted, those that will be allowed to fall by the wayside, and those to be upgraded to the new model.

- A more streamlined approach to supporting 'special zones' is needed across central government departments, including reorganization, better coordination, intensified support to regions, and simplifying the regulatory framework and terminology. ■

[49] Peraturan Presiden Nomor 38 Tahun 2008 tentang Rencana Kerja Pemerintah 2009 (hl. II.16-6).

V. REGIONAL GOVERNANCE REFORM

1. REGIONAL GOVERNMENT SERVICE PROVISION

Situation in 2006

Six years into the implementation of decentralization reforms, a mixed picture had emerged in service delivery. Service had not suffered significant declines as some feared, but it also had not experienced significant advances in reach or quality. A silver lining seen in the STS 2006 was the innovation attempted in some regions; for instance, Jembrana district introduced a health scheme to cover the poor and Bandung introduced a 'Free Education Fee Card'. But innovation was assessed to be the exception, with inadequate efforts made to disseminate models or lessons. Moreover, the sustainability of innovations was placed in question, in view of their great reliance on executive leadership.

Efforts to strengthen accountability in service delivery could be seen in the establishment of management or advisory bodies involving civil society; as in schools committees and regional education councils. Even so, the slow improvements in services were deemed to reflect the general lack of voice among users and citizens.

Service information flow from regional government to the central level was acknowledged to be inadequate. Special surveys (e.g., GDS) filled some gaps, but performance on service standards was not widely known. The application of minimum service standards had yet to be pursued in a coherent and intensive fashion, due to the incomplete legal framework and insufficient capacity development efforts.

Legislative efforts related to service delivery were underway in 2006. The DPR was deliberating the draft law on public services and a draft law on administrative procedures. Government Regulation 23/2005 had set the framework to create special service agencies (*Badan Layanan Umum Daerah* – BLUD) to increase the efficiency and effectiveness of service delivery.

The public service draft, a MenPAN lead initiative on the government side, was unfortunately of poor quality, unclear of its relationship to the draft administrative law and the minimum service standards effort, and did not meaningfully include MoHA in the drafting effort. The administrative procedures law, also lead by MenPAN, was intended to make it easier for citizens to claim their rights with respect to service provision. This draft has been put together with significant stakeholder support and involvement. The effort to introduce the BLUD focused on developing flexible financial management procedures; the initiative required further MoHA regulations to be operational.

In thinking of the future, the STS 2006 recognized that service delivery was multi-faceted, and its quality was a barometer of overall progress on governance. Progress would inevitably be the result of incremental improvements and sometimes systemic changes on a number of fronts, with a focus on improving accountability relationships. Progress would also require a deeper knowledge of the factors that impinge on improved service delivery. Initial impressions in Indonesia were that service improvements were a result of strong leadership of the regional head (*Bupati*/Mayor), relied on good connections to the Jakarta power centre (party, bureaucracy), and made good use of donor support.

Specifically, the STS 2006 called for harmonization of the legal framework affecting service delivery and renewed efforts to apply minimum service standards. More intensive efforts were suggested to identify, screen, package and disseminate innovations. Incentives to spur and reward innovations were also encouraged.

Developments since 2006

<u>Status of regulatory development</u>

The regulatory framework for minimum service standards has been made more operational through Home Affairs ministerial regulations that have established a vetting process, and then sector ministerial

regulations to formally issue the standards; so far four ministries have issued new minimum service standards, but 'education' is conspicuously absent from that list (see the Section on Functions).

The draft public service law has faced considerable difficulties, because of its many weaknesses: a focus on services delivered by government, limited scope for public participation, neglect of marginalized groups, inadequate complaint mechanism, and lack of assurance of access to information. Yappika, leading a coalition of NGOs that had been advocating for the law, extended its supportive role upon submission of the draft to the DPR, seeking to bring about more significant improvements in the draft. It believes that provisions relating to widely applicable service standards, Ombusdman for services, service complaint mechanisms, and services to the handicapped make this draft law worth supporting.[1]

The legal draft was discussed in the DPR in the first quarter of 2008. The response of the DPR indicated that it was not eager to move forward, principally due to the perception that the draft had little to offer beyond traditional ways of approaching service delivery. There are reports that the draft has recently been augmented with content that is already in the draft administrative law, which only serves to underscore the question of whether a public service law truly has a useful niche. It appears that the main points of discussion now in the DPR are the dispute settling mechanisms and sanctions. In January 2009, the Yappika lead NGO coalition again urged the DPR to speed the passing of the law.[2] As of late June 2009, the DPR was poised to pass the law.

Other regulatory initiatives just out of the gates in 2006, namely the Special Service Agency (BLUD), and One Stop Service (OSS) centers, have since then been given a boost through Home Affairs ministerial regulations.[3]

Another significant policy and legislative stream being reconsidered is the framework law for regional government. One of the aims of the revision of Law 32/2004 is to bolster the provisions dealing with service delivery. This will show in a number of sections of the law. In the assignment of functions, greater clarity will be sought on service functions that are now disputed or unclear (e.g., religious based education). Additionally, the link between service provision and funding will be tightened, to indicate which sources of regional government revenue are expected to be used for basic service delivery. It is also expected that the improvements in the civil service management will make the regional government service staff more professional, responsive, and oriented to quality services. However, this reform will only be sketched in broad strokes in the revised regional government law. It will need more incisive treatment in related laws, particularly those dealing with the civil service directly, and the financing of services/wage bill.

A legislative initiative that has blindsided regional government is the very recent Law 37/2008 on the Ombudsman of the Republic of Indonesia. According to Article 43, this body can replicate itself at regional level. Its scope covers all governmental services (including those of the regions). This has alarmed some regions who have already established Ombudsman offices.[4] The standing of the regional offices may be uncertain if the national office establishes a branch – no right of refusal is foreseen for the region. Such a dualism would undermine the effectiveness of either office in the region, and would certainly undermine the regions' sense of responsibility for the quality of its services. It does not seem that this law received

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[1] Communication by e-mail with Yappika, March19, 2009.
[2] Community Concerned about Public Services (MP3) composed of Indonesia Corruption Watch, Indonesian Consumer Protection Foundation, The Urban Poor Consortium, and the Jakarta Legal aid council; see Maulia, Erwida (2009). House urged to pass public service bill before polls, *The Jakarta Post*, 20 January, pg. 5.
[3] Peraturan Menteri Dalam Negeri Nomor 61 Tahun 2007 tentang Pedoman Teknis Pengelolaan Keuangan Badan Layanan Umum Daerah, and Permendagri No.24/2006 tentang Pedomaan Penyelenggaraan Pelayanan Terpadu Satu Atap (OSS).
[4] Kemitraan (2008). Forum Komunikasi Ombudsman Daerah: UU Ombudsman Republik Indonesia (ORI) Potensial Memunculkan Problem Konstitusional Dan Kerancuan Kewenangan Pengawasan Di Daerah, http://www.kemitraan.or.id/newsroom/press-release/forum-komunikasi-ombudsman-daerahuu-ombudsman-republik-indonesia-ori-potensial-memunculkan-problem-konstitusional-dan-kerancuan-kewenangan-pengawasan-di-daerah/.

meaningful consultation with regional governments or the team revising Law 32/2004.

Sragen OSS : Creating Conducive Business Climate
Sragen is countering the negative image of investors regarding the Indonesian climate for investment. This district, situated 30 km north east of Surakarta in Central Java, has set up a one-stop service that is considered a model in Indonesia.
The One Stop Service can issue most investment and trading licenses in one or two days (maximum in 12 days). Potential investors can monitor the progress of their applications on-line.
The district also issues birth certificates, IDs, and other documents on-line. Sragen's 208 villages have access to the on-line service. This not only serves citizens, but also allows the district to keep its demographic profile up to date.

Changes in practices

The theme of service innovation was central in the STS 2006. Three years later, it is not clear if there is now more innovation, or replication of good practices. Government and other actors are eager to identify and encourage improvements and innovation[5] but a countrywide view is still not possible. Some tentative glimpses are captured in the sub-sections that follow.

One Stop Service (OSS) centres

OSSs are continuing to sprout in the regions (see Sragen in Box above). The OSS aims to increase effectiveness and efficiency of public service delivery by providing an integrated outlet for services. It is commonly asserted that about 150 districts/cities have now established OSS.[6]

Some OSS have been started nearly a decade ago. Some cases have gained national visibility (e.g., Pare Pare, Sragen, Solok, Jembrana, Sidoarjo). The Partnership for Governance Reform assisted APKASI to assess and disseminate best practices in OSS. The KPPOD notes that while the OSS initiatives are based on Bupati/Mayor decrees, there is an effort in regions to reinforce these by making them regional regulations (which would imply DPRD support).[7] It is not known how many OSS efforts have been institutionally entrenched in this more firm manner.

Minimum Service Standards

There has been little effort to track MSS application in the regions, and it may be that only when the reporting system is better developed and reconnected to the centre that these will be tracked to a meaningful degree. Several donors are supporting regional planning and budgeting improvement efforts, with some attention to integrating MSS.[8] It is becoming more evident that costing of MSS is critical to both regional government planning and budgeting, and central government funding mechanisms to respond to MSS gaps. Government and DPs are recognizing that these different needs call for different kinds of costing.[9]

BLUD; is there a shift away from BUMD?

Regional government corporations (BLUMD) have existed for some time, and have been active in services such as piped water supply, sanitation, public markets, public transports, public transits, and slaughter houses. BPS data from 2004 shows 617 BUMDs of provincial and district/city governments, though some may be for business enterprises.[10]

It is not clear if the BUMD vehicle is deemed no longer suitable for service delivery. In any case, the new organizational form created in 2005, the BLUD, has

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[5] See for instance the President's recent awards to 80 agencies, including provincial administrations, in Nurhayati Desy (2008). 80 agencies win public service awards, Saturday, *The Jakarta Post*, November 1, pg. 5.
[6] KPPOD (Regional Autonomy Watch) together with The Asia Foundation estimates that there are 164 OSS around the country.
[7] Pambudhi, Agung, P. (2007). Bermula dan Berakhir di OSS, Kamis, 3 Mei, obtained November 2, 2008 at http://kppod.org/.
[8] GTZ in association with DSF support the Ministry of Health and the Ministry of National Education to develop a number of consistent and clear service standards.
[9] Costing issues were central in the March 2008 roundtable discussion on "Costing, Financing, and Monitoring Improvements in Service Delivery," jointly conducted by the Ministry of Home Affairs, Ministry of Finance, GTZ (ASSD), CIDA (GRSII) and DSF, and University of Indonesia.
[10] Hickling/DSF (2008). Initial Assessment of the Main Regulatory Instruments of Alternative Mechanisms for Service Delivery, January.

been applied over the last two years as the service delivery vehicle in several sectors; forest development, universities, national hospitals, highways, and others. The geographic pattern of BLUD creation has yet to be mapped, but it appears that they are largely created in Java. For instance, in East Java, it is reported that 28 of 51 general hospitals are in the process of becoming BLUD.[11] Some regions that have examined the model have decided not to pursue it, as was the case with Banda Aceh in 2008.[12]

It is unclear if the BLUD are cannibalizing the BUMD or if they represent a shift from other organizational forms (or new organizations). A comparison of BUMD versus BLUD vehicles may be warranted to see if there are advantages to the latter (e.g., in terms of the more flexible financial rules).

Citizen Service Charters

Changes on the ground are also evident, and the range of innovations continues to expand. One effort that continues to be applied in some regions is the 'citizen service charter'. In recent years PSKK UGM supported by Ford Foundation facilitated the establishment of citizen charters in three regions; for birth certificates in the cities of Yogyakarta and Ambarawa, and health services in Blitar district. With support from the Partnership for Governance Reform (PGR), PSKK UGM then expanded to other districts, such as Lemboto (Gorontalo province) and Binjai and Asahan (North Sumatra).[13] Citizen charters appear to be useful in shifting service providers' mindset from their own bureaucratic concerns to people's expectations, but there is no ready documentation of how common they are and how they have been used in practice.

Complaint and feedback mechanisms

Text messaging to voice complaints

Aceh Jaya district has established a Complaint Service Unit in Calang, with support from USAID-LGSP and the CSO Mataraja. The unit is operated jointly by government officials, citizens and CSOs. It raises public awareness of its function by publishing posters, stickers, and leaflets on how to complain using text messages and other means. In its first three months of operation, 53 complaints were filed, mostly regarding housing, clean water, corruption allegations, transportation and other infrastructure issues. The unit is committed to respond to complaints within eight working days. So far more then 50% of the complaints have been followed up effectively by related local institutions. Other districts in Aceh are following this example. The use of text messaging has been recognized by the national government. On February 3, 2009, The Minister of Home Affairs encouraged regional heads to use this approach.

Development of complaint and feedback mechanisms were also seen in the STS 2006, as in the scorecard approach promoted through the GTZ-SfGG. Additional variations have been seen since then. The television show *Selamat Pagi Bupati*, begun in 2002 in district Kebumen (Ibu Rustriningsih), gained national attention. What is notable is that the new *Bupati* (former deputy Bupati Nasirudin Al Mansyur) has continued with the program.[14]

With support from USAID-LGSP, piloting in some districts/cities is being done on ways to complain, and respond, through text messaging (see Box above). Ombudsman services are also being promoted nationally by the Partnership for Governance[15] and being taken up in some regions, e.g., Makassar, Yogyakarta, East Nusa Tenggara, and other regions, though with differing names for this position/role.[16] It appears that there are eight such institutions

[11] *D-infokom-jatim* (2008). BLU Maksimalkan Pelayanan Publik, Kamis, 30 Oktober, obtained November 12, 2008 at http://www.d-infokom-jatim.go.id/news_pot.php?id=4&t=279.
[12] Communication with Peter Becker, GTZ-Aceh Local Governance Program II, November, 2008.
[13] Kumorotomo, Wayudi, 2007. Citizen Charter (Kontrak Pelayanan): Pola Kemitraan Strategis Untuk Mewujudkan Good Governance, paper presented on Workshop of PERSADI, Pekanbaru, 27 June 2007.
[14] Kebumene (2008). Di Persimpangan Jalan : "Selamat Pagi Bupati" Di Ratih TV Kebumen, 17 December, obtained February 13, 2009 from http://kebumene.wordpress.com/2008/12/17/di-persimpangan-jalan-%e2%80%9cselamat-pagi-bupati%e2%80%9d-di-ratih-tv-kebumen/.
[15] PRG (2008). National Seminar of Local Ombudsman, October 28, Makassar, obtained 14 November, 2008 at http://www.kemitraan.or.id/partnership-events/events-highlight/national-seminar-of-local-ombudsman-and-its-existence/.
[16] Fajar Online (2008). Quo Vadis Komisi Ombudsman Daerah, Makassar (Selasa 08 July, Obtained 14 November, 2008 at http://www.kemitraan.or.id/newsroom/media-news/quo-vadis-komisi-ombudsman-daerah/lang-pref/id/.

established in Indonesia. The spread of other mentioned initiatives is not possible to know precisely at this time.

Service Contracting

Service contracting between regional governments and external parties has not proceeded to a significant extent. The former tend to provide subsidies, e.g., for non-government school, but do not often enter into well defined service arrangements. Some NGOs are contemplating restructuring or adding for profit arms to enable their organizations to compete in service procurement contracts.[17] Some exploration of service contracting is being undertaken with assistance from DSF and USAID-LGSP.[18]

Provincial level

Reforms in Gorontalo province

The Governor of Gorontalo, Fadel Muhammad has been reforming the provincial bureaucracy. Provincial organizations and processes have been streamlined, and salary reform with performance incentives has been introduced.[19] A World Bank 2008 assessment noted several improvements in service delivery over the last two years, including better access to electricity, sanitation and safe water, higher allocations for infrastructure maintenance, health and education.[20]

On the negative side, the Governor's efforts have come under fire for intruding in district level services, undermining the Bupati's accountability. The challenge for the province will be to work with the districts to attain service improvements, while respecting functional assignments.

A development not evident prior to 2006 has been the attention given to the provincial level. The GoI has been considering ways of making governance at this scale more effective, in relation to provincial government service delivery, and in the crucial role of supporting the district/cities in their efforts to deliver services. The efforts of Jawa Timur, DIY, Kalimantan Tengah, and Gorontalo suggest that public services can be improved through provincial efforts. However, as the Box at left indicates, the role of the province must be aligned with its assigned roles and responsibilities, otherwise tensions with the districts/cities can arise.

Voucher systems

Some experimentation is also evident in seeking to increase user choice and inject some competition in the regional government system. For instance, The Australian funded LOGICA project in Aceh is examining how the voucher system can be use to increase the performance of midwives. A wide range of communication tools are used to prepare the public to make use of the voucher system. Some supply side support (e.g., data base) is also given to the health centres (Puskesmas) to allow the midwives to give proper care. Institutional modification, such as assigning a larger role to the sub-district to meet certain health targets is also a part of this experiment.[21]

Service satisfaction levels

It is difficult to determine service provision success. The Governance and Decentralization Survey (GDS) II conducted in 2006, and reported in 2008,[22] shows that public satisfaction with the quality of service delivery is improving following decentralization.[23] However, village heads and hamlet heads have a rather more dim view of the quality of services. As in 2006 (relating to GDS I) some objective measures of service delivery are less positive; for instance, in primary education, net enrollment for 2006 is reported as only 72% (which is considerably less than the national 95% put forward by government). Perception data are problematic, methodologically, but longitudinally they can show trends. It is unfortunate that the GDS, GDSI and GDSII are not compared in longitudinal fashion. Indications

[17] Communication with Hetifah Sjaifudian Sumarto, Direktur Eksekutif Bandung Trust Advisory Group, DRSP Program Planning Workshop, Puncak, Novus Hotel, 7-8 November, 2008.
[18] DSF support is to the Director General of Public Administration (Ditjen. PUM, MoHA). USAID Local Government Support Program also collaborates with PUM and has enlisted PSEKP UGM to develop modules for service contracting.
[19] Mohamad, Fadel. 2008. Reinventing Local Government: Pengalaman dari Daerah, Grassindo, 2008.
[20] World Bank, 2008. Service Delivery and Financial Management in a New Province. Gorontalo Public Expenditure Analysis 2008.
[21] Communication with Mohammad Najib, Local Governance Adviser, LOGICA, 16 November 2008.
[22] Widyanti, Wenefrida and Asep Suryahadi (2008). The State of Local Governance and Public Services in the Decentralized Indonesia in 2006: Findings from the Governance and Decentralization Survey 2 (GDS2), The SMERU Research Institute Jakarta, February.

are that the GDS III may be made comparable to the GDSII. A more fundamental question hovering over this effort is how the government system will absorb this methodology for the longer term; or whether it needs to do so.

More current survey results continue to show that the population is generally happy with services. A 2008 Partnership for Governance Reform funded survey of 400 low-income residents of Jakarta showed that about 90% responded positively to service quality in health and education.[24] The results surprised the researchers, but one expert cautioned that the results do not reveal the 'substantive' aspects of service, such as '…have pregnant women received quality services?'[25]

The above satisfaction responses coexist with perceptions that corruption is common in service delivery, particularly in cities, as indicated in the USAID funded Indonesia Public Opinion survey.[26] It is also instructive to note that a mid-2008 survey of the Corruption Eradication Commission (KPK) conducted in 52 regions found that DKI Jakarta ranks as one of the 15 lowest in the integrity of its service institutions (for identity cards, business licenses/permits, and water) – in a region where it might be expected that service quality would be highest. Malang was another city with a relatively low score on the KPK survey, though its Mayor protested that the city had won three national awards for service delivery. The Malang Corruption Watch monitoring, which includes interactive exchanges with service users,[27] reveals persistent concerns and tends to support the KPK findings.[28]

Cursory or general perceptions of service satisfaction and national awards appear to be dubious indicators of service reach and quality in the Indonesian context. They do indicate that the Indonesian public is very polite to surveyors, and not very demanding of better services, even perceiving bribes as a normal or acceptable practice in some cases. More objective indicators of service reach and quality are a more reliable measure of service performance of regional government in this context, but this data is costly or difficult/impossible to obtain through national surveys. Data collection of this kind needs to be built into the more regular reporting/assessment efforts of the government itself (e.g., minimum service standards achievement), and be complemented with locally launched complementary/validating methods to ascertain service performance (e.g., citizen score cards, social audits, satisfaction surveys).

Capacity development, success, and sustainability

While support efforts are many, they are insufficient to significantly increase awareness of service rights among citizens and increase capacity of service delivery improvements and innovation. There appears nonetheless to be considerable uptake of some innovations in some regions, as the BLUD numbers in East Java bear out. But, as stated elsewhere, the lack of data only allows for impressions.

Recognizing Good Practice and Achievement

The Jawa Post Pro-Otonomi Institute (JPIP) uses surveys and key informant interviews to identify public services improvement.[28] JPIP was established in Surabaya by prominent academics, social activists, and journalists.

Now in its 7th year, JPIP is linking its 2008 awards to progress on the Millennium Development Goals (MDGs), namely advances in poverty reduction, health, and education. Attention to environmental services is also a feature of this year's awards (e.g., integrated waste management for the SMEs). This focus will be expanded in 2009.

[23] Seventy-one percent of households think that generally education services are currently better than 2 years ago. Also, seventy-one percent of household respondents think that currently overall health services are better than 2 years ago.

[24] *The Jakarta Post* (2008). Poor approve of capital's health, education services, 26 November, obtained 13 February, 2009 from http://www.kemitraan.or.id/news-room/media-news/poor-approve-of-capitals-health-education-services/.

[25] Idem.

[26] Wall, Alan (2009). Indonesia Democracy And Democratic Governance Issues National Survey – 2008, USAID, Democracy International.

[27] See for instance the monitoring undertaken in education in MCW (2009). Monitoring of Education, obtained 13 February, 2009 at http://www.mcw-malang.org/Page-2.htm

[28] Boediwardhana Wahyoe (2009). KPK survey places Malang at lower rank in public service, *The Jakarta Post*, *Saturday*, 7 February, pg. 9.

[28] JPIP and Pemerintah Propinsi Jawa Timur, 2008. Memantau daerah menyemai Kemajuan, 2008.

Because service provision covers a broad range of activities, it is to be expected that relevant training is scattered throughout various offerings (e.g., planning and budgeting, MSS target setting and costing, scorecard methodology). There does not appear to be any integrating training that would serve to provide an overview of approaches, good practices or innovations.

Some effort is seen on the government's part to be responsive with capacity development. For instance, the internal audit body of the government (BPKP) is positioning itself as a management advisor to establish BLUD,[28] though it has to be mentioned that this advisory role may be compromised by the potential for conflict of interest with its audit role. MoHA has stated its intent to assist regional government to implement this form of service provision.[30] But by and large, the support role is left to Development Partner supported projects. DPs sometimes work in tandem with regional associations, as in the EC sponsored training for OSS.[31]

Beyond the 'perceptions' of the GDS, and individual case studies,[32] there are no systemic data that can be used to assess the success of decentralized service delivery, or that can be used to assess the success and sustainability of various delivery vehicles used in service delivery. The regular monitoring and evaluation system of the government is not yet able to give such a comprehensive overview.

Regarding new delivery vehicles, it is perhaps too early to assess their success. For instance, stories of BLUD success in service improvement have yet to surface; understandably perhaps in view of their start in 2005.[33] Evidence should soon be available, in terms of time passed, but it is not certain that a way will be found to make an assessment.

Individual case studies of success continue to be perceived to be due to strong leadership from the Mayor and *Bupati*, rather than bureaucratic interest in initating or replicating success.[34] As indicated in the STS 2006, and as noted in the case of Sragen since then, the question of sustainability comes to the fore where initiatives rely greatly on forceful leadership – and are not well embedded in the bureaucracy or broader political elite.

New DP supported efforts are underway to test ways of rewarding good performance in service delivery. The Jawa Post example is seen in the box above. The CIDA project intimated in the 2006 STS (BASICS, in Sulawesi) is presently in the inception phase. AusAid - Dialogue is nearing implementation stage in Papua (though its progress is now in question – it may be folded into other DP efforts). They will also test the allocative and guiding role of the province in supporting good performance in service delivery at district/city level.

The sustainability question raised in 2006 has yet to be answered, either in term of undue reliance on executive leadership or DP support. It is noteworthy that the MoHA and GTZ-Urban Quality supported peer-to-peer mechanism, highlighted in the STS 2006 report as a promising initiative (with over 100 advisors involved at that time) is no longer operating following the end of the GTZ support. An effort was made to place it under a DSF initiative but this also did not work to institutionalize it.[35] It would

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[29] BPKP (2008). Program Asistensi Badan Layanan Umum Daerah, obtained November 13, 2008 at http://www.bpkp.go.id/index.php?idunit=21&idpage=2693.
[30] Interview with Dr. Hari Nurcahyo Murni, Kasubdit Obligasi Daerah, Ditjen BAKD MoHA.
[31] See for instance EU (2007). Program Perbaikan Iklim Investasi Daerah Melalui Penerapan, Sistem Perijinan Terpadu Dan Penyempurnaan Kualitas Perda, EU – Indonesia - small projects facility, Komite Pemantauan Pelaksanaan Otonomi Daerah, European Commision, Asosiasi Pemerintahan Kota Seluruh Indonesia.
[32] Pambudhi P. Agung (2007). „Belajarlah dari Daerah!" OSS Sidoarjo : Komitmen Kelembagaan Daerah Friday, 04 May. Obtained November 13, 2008 from http://kppod.org/ind/index.php?option=com_content&task=view&id=194&Itemid=2, and Asosiasi Pemerintah Kabupaten Seluruh Indonesia, APKASI (previously known as BKKSI), 2008. Best Practices District in Indonesia (Inovasi kabupaten di Indonesia).
[33] Interview with Peter Rimele and team of SfGG GTZ who situated in MenPAN office.
[34] As in the case of Sragen's neighbours, who have adopted similar initiatives due to the regional head's interest to replicate Sragen's success; interview with Syarifudin Lubis (executive director of BKKSI), and Muklis and Kei (Researchers of BKKSI) in BKKSI offices November 5, 2008.
[35] Communication with Guritno Soerjodibroto GTZ-GLG, formerly of GTZ-UQ, the organization providing support to JalinKota, December 1, 2008.

be useful for the government, associations, and DP community to dissect such cases to learn as much as possible from 'failure'; these are as important to acknowledge and use as are successes.

Policy options

The STS 2006 called for harmonization of the legal framework and renewed efforts to apply minimum service standards. These have not proceeded in a significant way. More intensive efforts were also suggested to identify, screen, package and disseminate innovations. Little progress has been seen on this front as well. Somewhat greater effort is seen in intensity of recognition for service delivery improvement. Some experimentation in designing incentives is also underway.

In early 2008, DSF contracted P.T. Hickling to examine alternative service delivery mechanisms. A theoretical and regulatory survey has been conducted so far,[36] indicating many systemic challenges to introducing service alternatives. Some form of field testing is anticipated. A final report is expected in mid 2009; it is not possible to anticipate the directions for policy development from the interim reports.

The limited progress seen over the last two years suggests that the improvement process within the current framework faces some severe limitations. These are felt in the degree of innovation/improvements and dissemination, and in the sustainability of innovations/improvements. The main impediments remain a legal framework that is not supportive of more widespread improvement, particularly in terms of a civil service that is far from professional and responsive; limited efforts on capacity building that would demonstrate how service standards and new service delivery vehicles could be applied; and an information system that makes it difficult to tell where progress is being made or where service delivery is failing.

As indicated in the STS 2006, service quality is a barometer for improvements in many aspects of government. Hence its improvement calls for good governance in terms of technical elements of the service, but also transparency, responding to complaints, building community trust, and reducing corruption. Improvement will tend to come when service quality is actually demanded by local residents, and they will tend to demand it if they pay for a significant portion of the services. Analysis from GDS II shows that about 60 percent of residents are willing to pay for improvements to services and that willingness does not vary across levels of satisfaction—this finding creates optimism for strengthening the linkage between local services and local payment in Indonesia.[37] Designers of revenue assignment should take note.

Recommendations

In view of the above conclusions on reform prospects, the STS 2006 are therefore still very relevant in 2008. Some aspects can be underscored with the additional experience of the last three years :

1. It is essential that service quality/reach monitoring/reporting systems be put in place at regional government, for their use and for aggregation at higher level. This should serve to recognize improvements and innovation and reward/spur service achievement on MSS.

2. The relevant GoI organizations supporting policy and legislative developments relevant to service delivery should harmonize their efforts/products.

3. Civil service related reform needs to be intensified as substantial service improvements will depend largely on improvements in the civil service, particularly on its professionalism, incentives for performance, and accountability.

[36] See DSF website for interim reports, at http://www.dsfindonesia.org/apps/dsfv2/cgi-bin/dw.cgi?cn=current_work-administrative#AMSD.
[37] Blane Lewis and Daan Pattinasarany (2007). Citizen Satisfaction with Local Health and Education Services in Indonesia Results from the Governance and Decentralization Survey 2 (GDS2) Decentralization Support Facility.

4. Exploring in a more intensive way a variety of service delivery arrangements could lead to governance approaches that are more responsive to the public. More effective piloting and dissemination approaches will need to be developed, and here the role of development partners could be significant.

2. PLANNING AND BUDGETING

Situation in 2006

Several challenges in regional planning and budgeting were identified in the STS 2006, with the most salient being the following :

1. Inconsistencies in the regulatory framework with respect to planning products, legal form of planning products, use of implementing regulations, and the role of the DPRD in budgeting. These inconsistencies fueled conflict between the DPRD and regional government and hampered the development of the local planning and budgeting system.
2. Lack of conceptual clarity and operational approaches for several new features of the system: mid-term expenditure framework, pro-poor planning and budgeting, gender responsive planning and budgeting; fulfillment of minimum service standards.
3. Uncertain connection between the various types of spatial plans and development plans.
4. A participatory planning process that is rigid and formal, and is not effective in accommodating people's interests and in developing quality programs.
5. Low capacities at central and regional government level to develop a planning and budgeting policy framework and to operationalize a framework.

Based on the above findings, the STS 2006 recommended that regulations be harmonized, and that concrete guidance be provided to regional planners based on a sound capacity development strategy. Donor support was encouraged to be more strategically oriented to institutions that can ensure national coverage and sustainability of the capacity development effort. Better field level feedback to central government was suggested, as one input for a long term effort to harmonize, simplify and elaborate the policy, legal and guidance framework on regional planning budgeting.

Developments since 2006

Policy and regulatory reform

A great deal of policy elaboration has been seen over the last three years, with over 20 legal products issued (see ANNEX 6). While some regulations have been helpful, the sheer number of regulations has strained central capacity to design tested and nationally workable regulations, and overburdened local actors. Some regulations have been issued purely for narrow central government purposes, and add little to local practice.

One of the most important regulations issued is GR 8/2008 on the regional planning process, flowing from Law 32/2004. The drafters wished to take the opportunity of this regulation to unify the regulatory system somewhat. It sets out the planning documents, required content, and procedures of planning. It provides normative goals for development planning and seeks to make it an inclusive process. It strengthens the connection of development planning to spatial planning, and of planning with budgeting through the medium term expenditure framework.

While quite broad in coverage, GR 8/2008 leaves some unanswered questions. It is still unclear whether the regulation (being a lesser instrument than law) can harmonize conflicting legislation; it is more likely that only the harmonization of the relevant laws will definitively solve this issue.

Perhaps because GR 8/2008 is quite broad, it may still be much too general in places. But it can be argued that is also up to the regions to make use of the more general provisions in ways that are suited to their conditions. In moving forward, the challenge

for the central government is to discern when to be detailed, general, prescriptive, or suggestive (e.g., good practices/models); providing guidance while leaving room for local practices and innovation.

Minister of Home Affairs 59/2007 has also introduced some notable elaborations or changes. These relate to civil society funding and civil society participation. The regulation clarifies that regional governments cannot continuously provide funding or other support to the same non-government organizations. This was introduced as a check against patron – client relationships being established between regional heads and local organizations that would lead to inefficient allocations.[38] This same regulation also obligates the regional government to review the General Budget Policy in an open way, involving civil society. This openness allows civil society to assess the survival of project proposals made in the bottom-up process.

A great number of other regulatory ambiguities in the planning and budgeting system remain (e.g., for instance the role of the DPRD in some aspects of the planning and budgeting if DPRD should be reviewing proposed work unit budgets or revise the proposed draft regional budget). The linkage between the various required plans and the role of bottom-up planning within these plans are other unresolved questions. Planning and budgeting for unforeseen circumstances that occur during the implementation year also throws up areas of uncertainty. As indicated earlier, what should be further regulated, and what could be the domain of suggested good practices remains to be worked out.

Local practice in planning and budgeting

Innovation or improvement can be seen in some regions the following aspects of planning and budgeting practices :

1. Effectively linking planning with budgeting.
2. Making planning more participatory, resulting in better process and content.
3. Increasing allocations to villages and block grants for villages, giving villages greater discretion in planning and implementing development activities.
4. Development of new structures to address budget transparency.
5. Monitoring the implementation of development activities in a more open way, involving NGOs and citizens.
6. Linking regional planning to community planning, to mitigate disaster risk.
7. Determination of unit costing for budgeting purposes.
8. Seeking a resolution to the role of the DPRD in the planning and budgeting process.
9. Development of planners' capacity.

The implementation of minimum service standards, performance budgeting, and MTEF still face huge hurdles related to the capacity of actors (especially public official) and the local political environment. The head of the finance division of Bekasi City conceded that it's still not clear to his unit, Bappeda and DPRD how to allocate the budget based on MSS, as these standards are not very clear.[39] He finds it easier to be guided by the more concrete direction on minimal budget allocation (example: 20% from all the budget should be allocated for education), though this still left him with little guidance on specific programs. Similarly, it is not clear how performance budgeting and MTEF should be implemented, and Home Affairs Regulation 13/2006 is not helpful in this regard.

Another problem is the local political dimension. DPRD members are mostly concerned with proposing programs that stem from their discussion with constituents. They do not examine the relationship between the programs with the stated vision, missions and priorities of the region. The technical and planning units are frustrated with having to remind the DPRD members to make a link with the existing development strategy and priorities of the region, which are usually enshrined in regional regulation

[38] In the NGO world this allocations was referred to as "dana-dana ormas". It was noted that some DPRD members also sought similar kinds of arrangements with NGOs, in the context of electoral politics. The amount of funds channeled this was is thought to rival some basic service sector funding.

[39] Communicated at the Focus Group Discussion conducted by USAID-DRSP at Santika Hotel 24.02.2009.

– approved by the DPRD members themselves.

Linking of planning and budgeting has been attempted in part by producing a single regulation for the combined processes, making the linkages/sequence between them clearer. In Sumedang district, this approach allowed the district to set its indicative ceiling (PPAS) in advance of the annual plan and bottom-up planning process.[40] In the PPAS, dedicated budget ceiling were set for the Sub-district, village level, and assistance to CSOs, accompanied by policies and criteria. This approach made it easier for the Bappeda to prepare the annual plan (RKPD), and encouraged citizens to attend the bottom-up planning events. This same regulation institutionalized the bottom-up planning delegations (*Forum Delegasi Musrenbang* - FDM). FDM were given the right to take part in the general budget policy (KUA), budget ceiling, and draft budget discussion in the DPRD forum. This increased participation made the DPRD more accountable, increased transparency, and provided explanations for successful or rejected citizen initiatives. This experience revealed the need to view the planning and budgeting process as an iterative process where various interests meet and are reconciled.

Participatory approaches, encompassing the poor, have been seen in several districts in South Sulawesi province and in Kupang district (NTT). Several local NGOs organized poor citizens and captured their aspirations in a Poverty Reduction Strategy (*Strategi Penanggulangan Kemiskinan* - SPK) that was prepared for the Poverty Reduction Coordination Team (*Tim Koordinasi Penanggulangan Kemiskinan Daerah* - TKPKD).[41] The NGOs and the organized poor were also directly involved in the regional policy. Taken as a whole, the involvement of the poor leads to more of their interests being accommodated in the regional budget, and some significant policy changes, such as the health insurance scheme in Kupang district and civil registration policies in Majene district.

A similar strategy can be seen in the way lakes situated within Depok city have been rehabilitated and managed. A collaboration involving local NGOs, communities around the lakes, and the Park Department, formulated a rehabilitation and management strategy that lead to the cleaning of several lakes that had been polluted. These were turned into city parks. The community also planted flowers around the lake, and sold the harvested flowers to visitors. The city provided cleaners for the lake and facilities to make it a recreational site. In addition to the NGO support, several members of the DPRD also joined in the planning and budgeting undertaken to realize this effort.

A similar effort was seen in Surakarta city, focused on informal traders *(pedagang kaki lima)*. Through numerous focus group discussions between the regional head and trader associations, the traders agreed to relocate to a new market, constructed by the regional government. The new site not only favored business development, but also was linked to availability of credit.

Several regions have had development success by increasing grants (*Alokasi Dana Desa* - ADD) to villages. Kupang district accompanied its grants with a block grant competition. Villages needed to show performance in infrastructure development and economic activities in the previous year to be eligible for the additional grant. This district head lead effort is still continuing.

A World Bank supported effort, initiated in 2004/2005, to develop new structures in 14 districts has come to fruition in two regions with the establishment of a *Komisi Transparansi and Partisipasi* (KTP), embedded in regional regulation. The creation of such structures has been controversial in some regions.[42] Over the period 2007-2008, the Lebak district KTP and Bappeda facilitated several discussions on

[40] Perda District Sumeandg No. 1, 2007. Other regions that have issued a similar regional or regional head regulation are Bandung and Kebumen districts.
[41] The NGOs identified needs and aspirations using participatory poverty assessment.
[42] See for instance the case of Tanah Datar, where the 2005 regional regulation has yet to be made operational, *Antara-Sumatera Barat* (2009). Pembentukan KTP Tergantung Komitment Pemkab Tanahdatar, 13 Januari, obtained January 27, 2009 from http://www.antara-sumbar.com/id/index.php?mod=berita&j=&id=12051.

regional plans with communities. Feedback from these events was used by Bappeda to develop the plans. The KTP has also become a bridge between the regional government and citizens, communities and NGOs in gaining access to budget documents. Together with local NGOs, the KTP has also been able to open up the planning and budgeting process to citizens. The KTP vehicle may become even more important following the promulgation of Law 14/2008 on Freedom of Public Information, as the KTP could be a model for the Information Commissions stipulated in the law.

Many regions across the country now have disaster management plans. The mayor of Yogyakarta has re-interpreted the law on development planning,[43] issuing an eleven-point strategy for the city. He commissioned teams to develop strategies for each point, including disaster management, requiring the city to mainstream disaster management into 28 of its programs, working closely with the community. The village of Sidomulyo in neighboring Bantul has prepared a medium term plan that focuses upon disaster risk reduction.

In some regions, NGOs have undertaken budget tracking efforts to monitor the implementation of the budget in development and service sectors. They have made use of budget documents to track the funds, and have made the results public through easy to read posters and citizen report cards. The effect of this effort is not entirely clear but some improvement in scrutinized services has been noted.

The conflicting legislation on the legal form of the mid-term plan (RPJMD) has been resolved in some regions in favor of a regional regulation (as per Law 32/2004). This is seen to lessen the chances of regional head clashes with the DPRD. The regional heads also believe that the general content of the plan does not unduly restrict him in annual planning. However, where regional heads are not well supported politically in the DPRD, then conflict over the RPJMD regional regulation does occur.

Conflict between the DPRD and regional head can sometime also be fueled by technical details, particularly on the unit costs employed in budgeting. The DPRD sometimes doubts the figures proposed by the regional government. One way out of such conflict is to follow the example given by Jembrana district, where responsibility for determining unit costs has been given to professionals that are situated outside of regional government.

Improvements in regional practice have also come from nationally supported efforts. Bappenas and institutions of higher learning have sought to improve planners' skills through planning courses or degree programs. The results of these efforts are not easy to discern but it is clear that more and better trained regional planners are needed. University and other organizations are also furthering planning practice through good practice dissemination events and publications.

Development Partner support for regional planning and budgeting practice

Increasing support for planning and budgeting by DPs is evident in the period 2007-2009. Notable funders include USAID, CIDA, BMZ/GTZ, ADB, World Bank as well as foundations; Ford Foundation, Oxfam and The Asia Foundation. Support has been offered to central/local government, DPRD and NGOs. A consensus has emerged on the focus of support, with some division of labor (particularly among official aid donors), achieved through frequent informal meetings between the DPs active in this field. LGSP-USAID has a focus on citizen participation in planning and budgeting, through deliberative forums.[44] CIDA, through The Asia Foundation focuses on women's participation and development of instruments for gender responsiveness in planning and budgeting.[45] CIDA also supports the medium term expenditure framework, in regulations and in its application in some regions. GTZ-GLG seeks to

[43] Law 25/2004.
[44] LGSP-USAID supports planning and budgeting practice in 8 provinces and 60 districts.
[45] CIDA support through The Asia Foundation (TAF) relating to NGO collaboration with government to develop gender budgeting is undertaken in 12 districts.

fortify the planning-budgeting link, particularly in linking the medium term plan (RPJMD), with the annual plan (RKPD) and the annual budget (APBD). GTZ-GLG also seeks to connect community based planning with district level planning.[46]

The World Bank, through the Participatory Budgeting and Expenditure Tracking (PBET) program encourages civil society to involve itself in the allocation process, budget analysis and monitoring and the development of a planning and budgeting framework that is responsive to the needs of the poor.

The Ford Foundation and Oxfam aim to link planning and budgeting to poverty reductions by strengthening the bargaining position of organized poor in the planning and budgeting process.[47]

The division of labor among DPs indicated above has avoided duplication. On the negative side, it has fragmented the dialogue on what is most workable or promising, as each limits its view to its own slice/approach to the field. The phenomenon of regional 'colonialization' by particular DPs also tends to be reinforced, as DPs are reluctant to 'intrude' into regions where other DPs are active, though the focus of the work may be rather different. The lack of dialogue between actors/initiatives also hampers the accountability of these initiatives in terms of withstanding scrutiny and the test of sustainability once DP support ends.

The sustainability question is particularly relevant to NGOs that have been supporting citizens in planning and budgeting process. There is some danger that they become accustomed to providing support only when there are donor funds available, and that their approaches then reflect donor preferences and considerations. A dependency may be set up that undermines the healthy growth of the NGO sector.

The reach of DPs, though considerable (see ANNEX 7), is still but a small portion of the districts/cities in Indonesia. With the continued growth of districts/cities, the support needed will become greater, and the portion served will be smaller in proportion. DPs need to find more indirect but effective way of equitably reaching all district/cities.

The productivity of the DP supported efforts in regional planning and budgeting can be seen in part in the training modules and manuals published.[48] However, there has yet to be compiled a list of studies, modules and manuals that has the stamp of approval of MoHA. The task of vetting these products for adherence to policy and regulations, for meaningful field success, packaging quality, and place in the 'capacity development system' is one that will need to be tackled by MoHA at some point.

Policy options

In an effort to link the most dominant community based program (PNPM Mandiri)[49] with district/city and provincial level planning, the government is preparing a Presidential Regulation to describe the expected linkages. This effort will be difficult as the PNPM is implemented through a parallel structure of consultants that are paid through the central government – the program holder. The effort is to be lauded, but a more fundamental question is whether such programs ultimately act to undermine regional planning and budgeting. The expenditures that are made by the programs are evidently part and parcel of the functions that have ostensibly been decentralized to the regional governments. A better match between planning, budgeting and functional assignment is needed in the future.

The extent of innovation or improvement in planning/budgeting practices is difficult to know, and the many questions raised earlier (e.g., on roles, sustainability) will be difficult to address, in view

[46] GTZ-GLG support is provided to several districts and cities in 4 provinces (Central Java, Yogyakarta, NTB, NTT).
[47] Oxfam supports the strengthening of organized poor in their involvement in the planning and budgeting process in 15 districts and 3 cities.
[48] These lists are generally available from the funders. See for instance the LGSP-USAID Publication List of March, 2008.
[49] See the 2008 PNPM Mandiri Guide issued by the Coordinating Ministry for Social Welfare.

of the inadequate information system currently in place and the means by which information is shared. Largely missing from the current body of information is the understating of *why* some regions are able to improve their planning and budgeting processes, and *how* this was done.

It appears that innovation is often related to political commitment and capacity of the regional head. Hence in Jembrana the regional head, being a doctor and teacher in higher education, pushed through health and education schemes. In Surakarta city the small traders and market schemes can be ascribed to the regional head's background as a trader. The recycling of waste and management of lakes in Depok could be due in part to the technical background (chemistry) of the regional head. If the regional head is so central to innovation/improvement, then it is worth asking how deep within the bureaucracy these changes have taken root, and whether the DPRD itself will work to sustain them. More research is needed to indicate the drivers and long term trajectories of executive lead innovation.

An equally valid question of sustainability can be directed to those innovations that are introduced through NGOs that bring innovations from other regions (as in the mentioned cases of Lebak, Bandung and Kebumen districts). How they are embedded in the adopting regions will then be critical to sustainability. If their introduction was supported with donor funds for instance, how likely is it that district budgets will take on subsequent costs?

The extension of approaches to fields of governance beyond those that have seen innovation also needs to be considered. Very little activity is seen in spatial planning, settlement planning, river management, resource management, traffic management, etc. Exploring why this is the case and how innovation can be broadened could also yield dividends. The role of the local media in exposing shortcoming or successes in neighboring regions could also be strengthened.

Sorting the roles of the DPRD and the executive in planning and budgeting could be helpful as well. It may be that some of the tension relates to the timing of their activities. The DRD members have their break (recess) in April, and come back from that with many ideas for programs/projects that have been gathered in their community outreach. The DPRD members then seek to insert these ideas in the planning process, when the work units are operationalizing the concluded annual plan into work unit budgets; the insistent DPRD, who hold that they too have legitimate political promises to fulfill, seek to change the work unit budgets, inviting charges of 'micro-management' from the executive. Discussions on roles, with changes in processes, are required to resolve these conflicts.

Extending the reach of the limited resources of DPs also holds promise. This can be done by intensifying the role of intermediaries (NGOs, Universities, regional government associations), as well as by supporting provincial level actors, the latter having so far been rather neglected by DP support. More reduced piloting, with clearer scaling up and dissemination strategies may also be part of the solution.

Recommendations

The concerns reflected in the STS 2006 recommendations are still valid; the need for a more harmonized regulatory framework, more concrete guidance in some instances, and better monitoring of implementation. The promising developments in the regions seen since 2006 show that some regions can innovate/improve. But this process needs to be better understood and nurtured. The following steps could be helpful :

1. Central government could be more judicious in regulating regional planning and budgeting, discerning when regulations are needed, when testing is required prior to national roll outs, and the kind of preparation needed for local actors. Also, care needs to be given to retaining room and support for regional initiative and creativity.

2. Areas requiring careful (re)regulation include a) attaining consistency between functions, plan-

ning and budgeting, and b) adjusting the role of the DPRD in planning and budgeting, which may mean clarification of the standing of DPRD.

3. Central government and other actors should find more ways of tracking improvements in planning and budgeting processes and rewarding these, with recognition and financial incentives (e.g., performance based grants as seen in Africa and other parts of Asia).

4. More and better ways of testing, learning, and disseminating practices need to be found, with greater involvement of provincial level actors and stakeholders like DPRD, associations of regional government/DPRD, and NGOs.

5. CSOs (including media) and their networks active in planning and budgeting need to be better supported in playing their capacity development or accountability roles.

6. The role of development partners (DPs) needs to be more strategic, enlarging their district/city reach through more indirect and institutionally sustainable approaches.

3. FINANCIAL MANAGEMENT

Situation in 2006

By 2006, a comprehensive foundation had been set for regional financial management, with key laws in place on decentralization and state finances, state treasury, state audit, and national planning. In 2005, several of these laws' provisions were elaborated through omnibus Government Regulation 58/2005 on Regional Financial Management. This was followed by Home Affairs Regulation 13/2006, setting the technical details for budgeting, treasury, and reporting.

Through the above framework, a number of new practices for regional government were introduced or became objectives to be pursued: budget unification, simplified treasury function, increased financial management transparency, linked planning and budgeting, performance based budgeting, MTEF (Medium Term Expenditure Framework), double entry accounting, delegation of accounting to work units.

Budgeting

Prior to Home Affairs Regulation 13/2006 (i.e., under the regime of Home Affairs Decree 29/2002), the budget (APBD) was prepared based on work units' draft budgets, organized on the basis of programs and activities that were not part of the budget classification system. At this time, the budget (expenditures) was differentiated on a first cut into the categories of 'apparatus' and 'public,' and then grouped as 'general administration,' 'operation/maintenance, and 'capital.' Additionally, at around this time the Government Accounting Standards were issued, forcing an adaptation of the budget classifications.

In terms of the broader planning/budgeting process, efforts to integrate planning and budgeting were in early stages, particularly with respect to the MTEF in particular (in fact, the central government itself had yet to practice this approach).

Budget Implementation

Though the preparation of the budget was crafted to be participatory, within regional government organizations (e.g., budget proposals coming from the from work units- SKPD), budget implementation in the new regulations remained centralized. In each SKPD there is a 'cash holder' (*pemegang kas*). The cash holder has both a treasury and accounting role, and she is assisted usually by one helper who undertakes cashier and bookkeeping tasks. However, verification and authorization of the use of the budget is still centralized in the Finance Office. This office was authorized to issue payment letters (*Surat Perintah Membayar*). With this construction, SKPDs were expenditure units without the full obligation to account for their expenditures. This construction also meant that the capacity of the Finance Office, in terms of verification and accounting tasks, is very critical.

Accountability

By 2006, some regional government were able to make financial reports that included balance sheet, the cash flow statement, the budget realization report, and the notes to budget realization (in line with Home Affairs regulation 29/2002). The preparation of these reports represented a significant milestone in improving accountability.

However, the transition to a new system meant was not properly supported by either Central government or the regional governments. In particular, they were not able to create an accounting system that is efficient, understood, and workable. The reporting was particularly badly done, as regional governments found themselves in the middle of a difficult transition between the double entry accounting and single entry accounting.

Developments since 2006

Budgeting

Classification : the effort to achieve performance based budgeting (reinforced in MoHA Regulation 13/2006) saw progress in terms of a new budget classification based on organization, program and activity, complementing the existing classification based on types of expenditures. The application of the organization based classification was hampered by the diversity of regional organizational choices made, that could not be accommodated by the more rigid organizational menu of the regulation. This shortcoming was corrected with MoHA Regulation 26/2006, but not conclusively. Some difficulties in implementation also arise related to rigid classification of program, activity and detail of expenditure. This classification hurdle was overcome when MoHA Regulation 59/2007 was issued, allowing for flexibility in the codes used by the regional government.

The shift in expenditure classification in MoHA Regulation 13/2006, to 'direct' and 'indirect,' deviated from the classifications used in GFS, IPSAS, or the government accounting system (SAP); these employ a classification that differentiates expenditures based on 'operational' and 'capital.' The intention of the direct/indirect classification was to make it easier to calculate unit costs, thus facilitating a performance based approach. But the limitations of the direct/indirect classification created challenges of its own, and forced another bridging effort to match these to the SAP classification (operational/capital). As it turned out, even the advantage in calculating unit costs was not realized as the regional government was not provided with sufficient conceptual and technical manuals to make full use of it.

General Budget Policy (KUA) and Indicative Budget Ceiling (PPAS) : the KUA/PPAS was introduced as a bridge between planning and budgeting. This first budgeting document instead served to bog down and confuse the planning/budgeting process. This outcome is a result of the overly detailed information requirement in the KUA, such as the obligation to include an indicative expenditure per function, program, activity, and item. This approach raises the question "how is the KUA different from the budget itself?"

Problems have also arisen due to misunderstandings regarding the PPAS. The stress of this exercise has often been placed on the ceiling that is to be assigned to particular SKPD, rather than on the prioritization of programs. The discussion of the KUA/PPAS between the legislative and executive becomes a lengthy affair, but the strategic dimension these documents were meant to encourage is lost.[50]

A related problem that exacerbates the drawn out discussion on the KUA is the lack of a proper annual plan (RKPD). It is the latter that should contain programs, activities and performance targets/indicators. The KUA should simply priorize and adjust in accordance with circumstances and the foreseen budget. When the RKPD is not done, or badly done, then the KUA discussion perforce becomes the forum for the bigger task of identifying programs, activities and performance targets/indicators.

[50] Attachment A.X and A.XI HA Regulation 13/2006 show the format of KUA and PPAS with detailed columns of expenditure, giving the expectation that the regional government Finance Office has to prepare a detail of expenditures as part of the KUA and PPAS.

A change introduced by MoHA Regulation 59/2007 sees the KUA/PPAS process simplified (KUA and PPAS are discussed at the same time), with the depth of documentation reduced to be more strategic.

Work Plan and Budget (RKA) of SKPD : the RKA is the document used by SKPD to propose their budgets. It contains information on the organization and the function being undertaken; the performance indicators (input, output, and outcome); unit costs, and the budget in terms of expenditure items. This document then supports a performance orientation. Unfortunately the users of this document are more focused on the budget amount, addressing the performance aspect in a perfunctory way.

Budget Approval : more than 150 regional governments approved their APBD significantly late in 2007. Table 8 shows the provincial level pattern. To overcome the challenges of budget preparation and legalization, MoHA issued regulation 59/2007, revising MoHA Regulation 13/2006. This regulation provided some flexibility in the budgeting process (codification of programs/activities, better definition of grants and assistance, simplifying the KUA process and making it more strategic, and streamlining the elaborated budget document). Notwithstanding this refinement, some aspects are still in need or (re)regulation, as in the case of the right of the DPRD to set its budget.

Table 8 :
Distribution of on time and late Provincial Budget approval

Year	on time	Days late					
		0-30	31-60	61-90	91-120	121-150	>150
APBD 2007	3	9	5	10	4	1	1
APBD 2008 (after MoHA Reg 59/2007)	10	15	4	2	1	0	1

Source: MoHA, 2008

The MoF has sought to accelerate regional budget approval though policies on informing regions of their DAU/DAK allocations. Absorbing the budget, particularly at a time when a fiscal stimulus is needed, is important to MoF, keeping in mind that a significant portion of the government expenditures are now funnelled through regional budgets.

Budget implementation : the capacity of many regional governments to usefully spend funds has been outstripped by available resources. This is partly due to central government regulations and disbursements schedules, but also in great part due to the inability of regional governments to approve budgets in a timely way, inability to run tight tender processes, and reluctance of some officials to take project management roles (in view of perceptions of the mismanagement risks involved).

Integrated Computerized FMIS
Kabupaten Lamongan, East Java, has tried to meet the challenge of MoHA regulation 13/2006 using a computerized FMIS. This system links and integrates all processes; budgeting, budget implementation, and financial reporting. The SAKTI (Sistem Aplikasi Akuntansi Keuangan Daerah) software is installed in every SKPD office, using a WLAN wireless connection. This system is very effective because the transactions are automatically recorded in accounting books and flow into financial statements. This system is expected to greatly increase the efficiency of the budget process.

Budget implementation begins with the preparation of the guiding document (*Dokumen Pelaksanaan Anggaran*- DPA) of the SKPD, moves to the request for funds by the SKPD, with disbursement by the Regional General Treasurer (*Bendahara Umum Daerah*-BUD).

a. Role and function of the Regional General Treasurer
The function of the BUD is held by an official who is responsible for managing funds from its initial deposit to subsequent transactions. The

BUD is responsible for ensuring the availability of the funds as the budget is implemented as well as for placing funds in appropriate investment instruments. In some regions, the BUD does not operate well, especially as a manager of investments. Treasury reports are prepared to fulfil formal requirements but the approach to this function does not enhance financial control.

b. Role and function of SKPD Financial Administrator
The Finance Administrator of the SKPD undertakes accounting tasks of the SKPD. The role is connected to the decentralization of financial management. She undertakes verification of expenditure requests by the treasurer and handles the accounting at the SKPD level. It has been difficult to find staff with accounting skills for each SKPD, leaving the SKPD treasurer to compensate. Some provinces are taking the initiative to develop accountants. In Aceh, the province is using the Personnel, Education and Training Agency to train accountants in a one year program.[51] In Riau, the province is working with the Riau University to obtain sufficiently trained accountants.

c. Role and function of Treasurer
The treasurer is the entry point for financial management in the SKPD. Unfortunately, it has been difficult for regional governments to understand the role of treasurer as explained in MoHA Regulation 13/2006. Some regions see the position as that of 'cashier,' excluding the bookkeeping. At the other extreme, regions expect the treasurer to not only do bookkeeping, but also perform accounting functions, such as verification of expenditure requests.

d. Cash disbursement administration
One of the points of confusion with respect to MoHA Regulation 13/2006 has been regarding the petty fund, which is distributed by BUD to each SKPD treasurer. It was not clear if this was to be given for each activity, or all at once for all activities undertaken by the SKPD. Another area of uncertainty is who should determine the appropriateness of the expenditure done in the SKPD. Some believed it should be the Budget User (situated in the SKPD); while others believed it should be the regional treasurer. Only with the issuing of MoHA Regulation 59/2007 and related circular were these issues resolved to some degree as regional government now has authority to develop their own procedures.[52]

Accounting and reporting

Government Regulation 58/2005 further promoted accountability by making accounting more decentralized, to the individual work units (SKPD). This increased pressure on all levels of government to strengthen the capacity of these units to undertake the expected accounting. Several challenges have been faced in the accounting and reporting functions of regional financial management :

a. System / standards of accounting
GR 24/2005 on Government Accounting Standards (SAP) was helpful in providing a legal base for accounting in regional government. It was clear from the outset that refinement would be needed to reflect the regional government situation. Some guidance was given subsequently in MoHA Regulation 13/2006, including the provision that the specifics of accounting had to be issued in a Regional Government Head Regulation. This has proven difficult as the regulatory system is still incomplete or vague on certain aspects of accounting. This in turn has opened the door to a number of manuals from various government or other sources, adding uncertainty as to what is obligatory and whose guidance is more appropriate.

[51] Communication with Gabriele Ferrazzi, March 18, 2009; information obtained in his capacity as CIDA Monitor for Governance Reform Support GRSII during a visit to the Personnel, Education and Training Agency, Aceh, November 2007.
[52] MoHA has issued circular letter (SE 900/316/BAKD/2007) as a guidance for regional government to develop local procedures.

b. Accrual based accounting
Law 17/2003 aimed for a conversion from cash to accrual accounting by 2008. This has not happened because this shift is not simply a matter of reporting but one of recognizing and analyzing transactions properly. The information system and staff to do this were not put in place. A feasible road map for the transition was never prepared.

c. Reporting and audit
The regional financial report consolidates the working units' reports and is sent to the Supreme Audit Agency (BPK) within three months of the end of the fiscal year. According to GR 8/2006 on Financial Reporting and Government Performance Reporting, this consolidated financial report should contain a report on performance, based on the Accountability System for Government Performance (*sistem akuntabilitas kinerja instansi pemerintah*-SAKIP). However, the manual for SAKIP, expected to be issued as a Presidential Regulation, has yet to be finalized. The audit of regional government is done by the BPK based on state financial audit standards.[53] Most regions are unable to obtain an "unqualified" opinion, generally reflecting a lack of internal controls and poor management of asset.

Table 9:
Progress of BPK Opinion on Regional Financial Report

Opinion	2004	2005	2006	2007
Unqualified	6%	4%	1%	1%
Unqualified with explanatory paragraph	1%	1%		
Qualified	87%	85%	71%	62%
Disclaimer	2%	7%	22%	18%
Adverse	3%	3%	6%	18%

Source: BPK, 2008

[53] BPK Regulation 1/2007 on SPKN.

Asset management

Asset management has long been neglected at regional level, and has only recently been joined to financial management. At a technical level there has not been any reconciliation between assets held and the management of funds. As a result, government has experienced difficulty in assessing the value accurately and comprehensively.
MoHA Regulation 17/2007 provides technical guidance for asset management at regional level. Several aspects should be noted regarding the directions encouraged in the regulation :

- Completing a census of assets is a complex and expensive undertaking.
- Valuing assets of regional government is difficult in cases as some assets do not have a corresponding market price.
- Idle assets could be used through innovative arrangements (e.g., rental, KSO, cooperation) but good practices for these arrangements are lacking, dampening regional government initiative.
- Asset management planning that can match assets to service demands is still in its infancy.

The Regional Special Agency vehicle (BLUD) that was regulated in MoHA Regulation 61/2007 was intended in part to better utilize assets in the cause of service delivery. The financial management of this vehicle has yet to be sufficiently developed, and would need to reflect the broad directions of the financial management system. Clarifications required include :

- whether the BLUD should have its own budget or be wrapped within the budget of the guiding work unit,
- technical procedures for recording transactions of the BLUD,
- process and techniques for consolidating the financial report of the BLUD in the regional government financial report.

Internal control

Building ownership – GRS II in Aceh.
GRSII has worked closely with the Finance Offices in Aceh's districts and cities, to install a computerized accounting system. The Finance Office staff has seen the benefits of the system in the initial stages of system development, and look forward to extending the computerized system to the SKPD. They have been able to convince almost all of the new Bupati/Mayors to continue with the effort in the leadership changes through the 2007 elections. Almost all of the governments involved have committed funds in their 2008 budgets and agreed to a maintenance contract, for IT support, with the project service provider employed to deliver the GRSII support.

Internal control staff of the regions has been given occasional capacity development support in the last few years. The recent GR 60/2008 on Internal Control System of the Government covers the following :

- indicators of what makes for a sound internal control environment;
- how to measure risk;
- controlling activities;
- information and reporting flows; and
- mechanisms for supervising internal control staff.

MoHA, BPKP and BPK need to develop a capacity building action plan to make these regulations applicable. In light of the BPK audit result the task is huge.

Capacity development

Government, the private sector, and development partners have undertaken substantial capacity development efforts since 2006. MoHA socializes new regulations, undertaking training of trainers in some instances. It also provides some technical backstopping. The government internal auditing body (BPKP) is large and offers some capacity development support to regional government, in the form of training, coaching, and system development. Some BPKP staff has been recruited by the regions.

Development partners have been most active on the planning side of financial management, with seminars and workshops, at central and regional level. Universities also are active in training, with national funding, as in the case of the Regional Finance Course offered by UI, UGM, Universitas Andalas, UnHas, Universitas Brawijaya and Universitas Sam Ratulangi. The CIDA funded GRS II has supported MoHA in preparing some manuals for local government, and has also piloted the implementation of a computerized accounting system in Aceh. Operating in over 60 districts and cities, USAID-LGSP offers technical assistance, training, tools, and information to enhance the capacities of local governments. ADB is financing a project that is designing a Financial Management Information System (FMIS) for 171 regional governments, to be up and running by end of 2009.

Measuring Development Outcomes in Indonesia's Eastern Provinces
ANTARA supported the Governor of NTT, Frans Leburaya (inaugurated in August 2008) to measure the achievements of his political promises, national and global development targets and allocate the budget accordingly. It introduces a planning and budgeting matrix (MKPP+):

- as a guideline for sectoral planning and budgets
- to monitor the overall consistency between planning and budgeting documents
- and demonstrates the contribution of each activity to the achievement of set development targets

MKPP + clearly outlines the steps to implement key programs, programs and activities over a five year horizon. It provides a multi-year tracking function and program implementation projection that helps to monitor the process at the beginning, during the year and at the end of the budget year. It provides a snapshot on the achievements of global and regional development goals and minimum service standards.

Public expenditure analysis is also being supported by DPs (see Box above). In NTT, ANTARA has been achieving good results in establishing links between financial governance, monitoring and evaluation and global development targets to improve governance. (see box at next page)

Several challenges are evident in the capacity development effort in financial management :

- Inconsistencies arise between what is taught/

supported and the regulations, largely due to miscommunication between the regulation makers and the resource persons/instructors at field level.

- The highly variable conditions met in the 500 plus regions overburden MoHA, reducing the effectiveness of the overly centralized guidance approach
- There is little continuity, or building upon past activities, from year to year.
- Some areas have been relatively neglected; developing performance indicators, enhancing the quality of planning products, finding the right balance for DPRD oversight so that they do not micromanage, and ensuring consistency between planning/budgeting documents.

PEACH in Eastern Indonesia

Initiated by the World Bank, and now with AusAid (Antara) and CIDA support, Public Expenditure Analysis and Capacity Harmonization (PEACH) undertakes expenditure analysis that presents the composition of revenue and expenditures within and across sectors and aims at understanding regional government's performance in terms of allocating its budget efficiently and providing services. Different flavours of PEACH exist, with Gorontalo having focused on the MDG attainment, and CIDA in Sulawesi expected to focus on minimum service standards attainment.

Policy options

Regional financial management in 2009 faces many challenges, many of them noted in the STS 2006. Overly ambitious reforms in terms of expected changes and timeframes and underestimated or inadequate capacity development efforts. The government has not been strategic in selecting and phasing in reforms, and now finds itself mid-stream in a large number of transitions that overwhelm both central and regional government actors and their supporting systems. For example, a recent report suggests that international experience suggests that the implementation of accrual accounting is quite difficult to achieve, and has a lower benefit than performance based budgeting and activity based costing; the latter should have been given priority.[54] Additionally, procurement and asset management may offer more benefits than pursuing MTEF or other reforms at this stage. It will be important to reorder priorities and align resources with the reordered priorities.

For priority reforms, it is important to set out a clear road map of reform activities: problem/field analysis, policy directions, consultation, draft regulation, limited testing, socialization, training, technical backstopping and other activities that are required. This form of experimentation, consultation and regulatory impact assessment, will bring out more clearly the costs/benefits, implementation resources and approaches required for successful reforms.

Maintaining consistency from intended regulations to field level training and support is also important. Regions are too often confused by conflicting regulation, interpretations and applications, all dependent on the government agency or development partner/private sector firm in the lead. Government needs to harmonize within its own instruments/approaches, and provide accreditation or other forms of quality control for other actors involved in financial management capacity development.

Because regional government has already been bombarded with regulations, and changes to the same regulations, over the last few years, it may be best to have a 'moratorium' on regulations, or as close to one as possible. During the next several years, the focus should be on identifying good practices in the field, testing out approaches through simulations or in a limited number of regions, and in gaining proper support for any changes that might subsequently be made, with greater anticipation and mobilization of the capacity development that are needed.

As part of this more rigorous and systematic approach to regulations, more forums for discussion between the relevant departments (especially MoHA, Finance, and BPKP) and between stakeholders in general would be useful; encompassing regional

[54] GRS II (2008). Activity Based Costing: A Guide For Indonesian Local Governments, Hickling/Bearing Point, Jakarta, October 30.

governments, their associations, academics, and practitioners. These forums could give voice to local experiences, promising alternatives, and views on planned revisions or reforms.

The scale of training and technical support required to successfully bring about the intended reforms are of a magnitude beyond what is now being offered. It appears that DP support is still largely ad hoc, and not directed by an institutionally sound strategy that would achieve the required support in an equitable manner and over a reasonable time frame, through an appropriate configuration of Indonesian institutions. The greater use of non-government service providers, under a better developed set of regulations, and accreditation system, offers more promise than the current efforts. A truly enhanced role for the provincial government level also has yet to be meaningfully pursued, and holds the promise of lightening the load now poorly carried by central government.

The Regional Finance Course could be seen as one of the embryo for a larger effort to strengthen and extend/deepen curriculum in financial management, extending also the delivery institutions so that more regions are closer to the delivery sites.

Recommendations

Augmenting the STS 2006 recommendations, the following should be considered :

1. A strategic reassessment of the financial management reforms that have been initiated should be made, indicating which are most crucial/beneficial, accompanied by a clear road map for each.

2. The production of regulations should be halted or slowed, with new regulations issued only after proper testing, consultation and planning for implementation.

3. Capacity development planning needs to be integrated in the regulatory stage, and be adequate to the change desired. Developing educational systems that can produce the needed professionals is essential to long term improvements. DPs should therefore be more strategic in terms of the institutional approach used, to ensure equitable reach to all regions.

4. A major effort is required to shift the guidance role on financial management, now poorly carried by the central government, to the provincial level.

4. VILLAGE GOVERNANCE REFORM

Situation in 2006

The STS 2006 recognized that the Law 32/2004 drafters continued (as was the case in Law 22/1999) to situate village governance as a sub-system of the district government. Two years into implementation, policy makers recognized that the stewardship of village government expected from the district was slow to be realized. The financial transfer mechanism (*Alokasi Dana Desa* - ADD) between district and village government was not channeling sufficient resources to the villages. The glacial pace of progress on this front was largely due to the lack of delegation by the district of meaningful tasks to the village; districts seemed to prefer to implement and manage local services through their own organizations. The role of the sub-district (*kecamatan*) was also underutilized – though citizens continued to look to the *Camat* to provide answers to service and development concerns.

Of great concern was also the potential loss of democratic life in village government due to the reduced role of the village council (*Badan Permusyawaratan Desa* - BPD). It was noted that village heads had gained strength and voice (e.g., through associations), but that there was no clamoring for greater democracy from these actors - in fact village heads saw their future as state employees.

If the shortcoming were generally agreed upon, it was not clear what contributed to them. The democratic regression seen in the role of the BPD was unexpected, and seemed to be an overreaction by central govern-

ment to the more lively political life of the village. On the functional and financial delegation it was not clear if the slow progress meant it was too early to assess progress, or if district level attitudinal hindrances or technical capacity were at play.

The STS 2006 ended with recommendations that encouraged reflection and greater consensus on what the role of the village government could be in terms of its democratic mechanisms and service and development roles.

Developments since 2006

Rising political strength of village heads

After the March protest in Jakarta in March 2006 (noted in the STS 2006) the nascent voice of village heads (through *Parade Nusantara*), made itself heard again in April of that year, demanding again greater funds for village head elections from the district budget (APBD), 10 year terms, and 20% slice of district revenues (compared to 10% of eligible portion of APBD). By 2008, the latter demand had grown to 10% of national revenues (APBN), a demand made by 3,000 village government members November 17 in the capital, in front of the DPR.[55] Under pressure, the Minister of Home Affairs agreed to APBD funded village head elections (administrative costs), an arrangement that was in any case already permitted in Government Regulation 72/2005. In March 2009, 1,500 members of the village government association (*Persatuan Perangkat Desa Indonesia*) protested outside of Parliament, calling for civil service status for all village government staff, and for a 10 year term for the village head. The Minister of Home Affairs promised that their demands would be channeled to the revision of law 32/2004, where he hoped that a draft law on village government would be issued by the current Parliament (ending in late 2009).[56]

Village functions

Since 2006, very little delegation of functions/tasks to villages has been seen, from any level of government. MoHA Regulation 30/2006 on the transfer of functions from district to village government[57] gives a long list of what appear to be tasks that relate to district functions. This list acts as a menu, since districts 'may' (*dapat*) choose from it, and they are to decide if any are appropriate to be transferred to villages. There is also no time frame for undertaking the assessment and affecting the transfer. This list is criticized by some as not being functions, but rather agency tasks (e.g., making recommendations to higher level), despite the intent of MoHA Regulation 30/2006 to use the transfer modality (*penyerahan*) – implying a devolved character.[58]

Village institutions

The negative reaction to the downgraded role of the village council continues to draw criticism.[59] However there are no empirical studies (that have surfaced) to support the prognosis or anecdotal evidence that democratic life, and downward accountability, at village level have been diminished.

The change of the village secretary from a local to government civil service position post is also continuing to raise concerns of the dominance of upward accountability compared to accountability to the village head and citizens. Although the regulations have yet to see much implementation, their existence have proved divisive; village heads, village secretaries and other village staff are finding it difficult to find common ground on the regulations. Village

[55] *Kompas* (2008). Unjuk Rasa Parade Nusantara, obtained January 7, 2009 at http://images.kompas.com/detail_news.php?id=11745.
[56] MenPAN (2009). Tuntutan Perangkat Desa Jadi PNS, Masukan untuk RUU Pemerintahan Desa, Rabu, 4 Maret, http://www.MenPAN.go.id/index.php?option=com_content&task=view&id=98&Itemid=1.
[57] *Permendagri No. 30/2006 tentang Tatacara Penyerahan Urusan Pemerintahan Kabupaten/Kota Kepada Desa* (Protocols of Transferring Functions from City Government to Village Government).
[58] So far, there are only two regencies, Bandung and Solok, which already handed over some authority to village government. This innovation was not due to the enforcement of government regulation/PP no.72/2005, since they had already done it in 2001 (Solok) and 2003/2004 (Bandung). See further, Departemen Dalam Negeri (2008). *Naskah Akademik RUU Desa* (Academic Draft of Village Law), Direktorat PMD, FPPD, IRE dan DRSP.

secretaries are frustrated with the slow pace of implementation, and are demanding quick action. In Central Java and East Java, secretaries have gathered into associations to promote their cause.

Village finances

Increased transfer of funds to the villages has not happened as expected. The transfer of block grants from the districts to the villages (ADD mechanism), expected to be applied nation-wide starting in the fiscal year 2005, has met with some problems, as perceived by central government. The districts have taken the view that the application of the ADD is entirely up to the districts.

Some innovation is occurring in the ADD. An allocation formula is being used in some districts, encompassing poverty levels and other features of the villages are taken into account.[60] But overall, there is a widely felt sentiment that district good will is lacking. According to FPPD Yogyakarta, by mid August 2007, 40% of districts/cities in Indonesia had yet to issue regulations pertaining to ADD.[61]

The amounts passed on to the villages have varied greatly. Since functions have yet to be transferred (or tasked to be more correct) by districts in most villages, it is understandable that funds are slow to be increased. Additionally, when the funds are transferred, they are sometimes used predominantly for incentives/honour for the village head, village government staff, BPD and citizens organizations (as in Kalimantan Selatan and Bulukumba.[62] The nation wide rules for ADD prescribe a division of 30% operational (village government) and 70% citizen's empowerment.

What is not clear is whether the 'greater than guidelines' use of ADD for village administration reflects a wasteful administration, or if there is de facto service delivery at this level that is not recognized by higher level government. In any case, the 30/70 division is rather vague, and may perversely work to impede the development of an expanded service role for the village government.

Regional government itself has recognized that village administration needs proper core funding, and has urged the government to fund it directly from APBN, seemingly undercutting its own role of providing a governance umbrella for the villages. The Minister of Home Affairs relayed this demand to the President, asking for Rp. 72 million per village/year. The President asked for an assessment from the Minister of Finance, who answered that there is no regulatory scheme for giving funds directly from the central government to the village.[63] In 2006, the Minister of Finance and Minister of Home Affairs had agreed to increase the general allocation fund (DAU) with the intent to have the districts pass on some funds to the village governments to supplement the ADD, specifically for village head and staff costs. The Home Ministry subsequently sent a circular to Bupati/Mayors to guide their allocations. Indications are that this circular was not well followed.[64]

The starving of village government by the level of government that is most responsible for guiding village government can be seen as one reason for the welcoming stance of communities, village government and kecamatan to the Kecamatan Development Program (*Program Pengembangan Kecamatan* - PPK) and recently the National Program for People's Empowerment (*Program Nasional Pemberdayaan Masyarakat* - PNPM). The funding mechanisms are at odds with the regional autonomy architecture, but regional government is unlikely to find allies among local actors on this basis alone when the alternative is to make do with the minimal ADD. While these

[59] Departemen Dalam Negeri (2008). Ibid.
[60] Bojonegoro for instance, where 40% is assigned based on population, poverty, area, property revenues, distance from *kecamatan*, contribution in forestry and oil and gas production; see Sosialisasi Alokasi dana Desa Tahun 2008.
[61] FPPD (2007). Alokasi Dana Desa: Cermin Komitmen Kabupaten/ Kota pada Otonomi Desa (study result on implementation of ADD policy in 6 regencies), October.
[62] www.fajar.co.id/index.php?act=news&id=49528 – 44k-
[63] A rather inconsistent stance for the Minister of Finance to take in view of the ease with which the government has operated the KDP and PNPM projects, that directs funds to villages/kecamatans and community organizations, largely bypassing regional government by ignoring the main architectural features of regional autonomy.
[64] FPPD (2007). Ibid.

programs do not do much to institutionalize broader service and development roles for the village, they do show that the villages are more capable than the districts give them credit for, gutting one of the too often used reasons for delaying delegation of functions/tasks and funds via the ADD – that villages are not capable.

Planning and village budgeting

MoHA has provided planning and budgeting guidance for villages[65] that seek to integrate development plan with village budgeting, relying on the inputs from the Village Renewal Forum (*Forum Pengembangan Pembaharuan Desa - FPPD)*.[66] But these depend on follow-up from the district level, and this has not been evident in many districts.[67]

Policy and legislative development

Overview on Content of three RUU
The PMD-led Village Governance draft law finalized in early 2008 opts for a framework that does not have to unduly rely on district regulations. Villages remain a sub-system of the district but manage their own affairs based on the principle of subsidiarity. Village councils are elected. Their funding is predictable and sufficient for their newly confirmed/added functions.
In contrast, the CSO-led draft law provides more flexibility to villages to set up their administration in keeping with the diversity of cultural settings in the country. It emphasizes accountability towards citizens instead of regional government. And it includes a direct transfer of village block grants from the national level to the villages making villages less dependent on the good will of districts.

In another view, the DPD-led draft law, villages are civil society organizations with special powers and obligations to govern their communities. These communities partner with district government in the provision of services, through a contractual rather than hierarchical relationship. An independent commission evaluates village performance - the district government acts only as mentor.

A broader set of regulating instruments has been issued by Home Affairs to guide villages; 5 in 2006 and 13 in 2007. This raises the question of what the role of the district ought to be versus that of the central government, and whether the passivity of the district is in part due to the expectation, or reality, that it is the central government that guides village governance in detail.

The question of who shapes the framework for villages will need to be squarely addressed in the upcoming law on village government. There are now three versions being sponsored (see Box at left). The Director General for People and Village Empowerment (PMD) has involved academics and the NGO consortium advocating for villages (FPPD), with support by USAID-DRSP. The drafting team has prepared a policy discussion paper (*Naskah Akademik*) and has undertaken public consultations.

Civil society, also supported by USAID-DRSP, has developed a version promoting village institutional diversity. IRE organized a process that involved academics and different NGO networks. In March 2008, Kaukus 17++ organized the Jamboree Forum Warga (citizen forum) in Makassar, attended by 400 members from more than 80 districts/cities.[68] Additionally, regional consultations were conducted on the outer islands (North Sulawesi, South Sulawesi, NTT/NTB, Bali, South Kalimantan), to tap the views of different cultural groups.

USAID –DRSP in partnership with a small team from Universitas Indonesia is also assisting a committee the Regional Representative Council (DPD) to draft a village law. This effort is still in early stages (see Box above).

Complicating the above situation further is a DPR

[65] *Permendagri 35/2007 tentang Pedoman Pengelolaan Keuangan Desa* (Managing village finance) and *Permendagri 66/2007 tentang Perencanaan Pembangunan Desa* (village development planning).
[66] See further, www.forumdesa.org.
[67] See criticism by *Perhimpunan Karsa* to Musrenbang in www. blog.perhimpunan-keras.org. FPPD notes that only some districts have facilitated village planning and budgeting. These include Kebumen, Magelang and Gunung Kidul.
[68] A citizen forum is a multi-stakeholder and territorially defined citizen organization on village, sub-district and district level.
[69] The draft law on Village Development contains provisions to guide rural development, stages in bringing about development, financing development, empowering citizens and information systems.

deliberated draft law on "village development," initiated by the State Ministry for the Acceleration of Left Behind Regions (*Percepatan Pembangunan Daerah Tertinggal* - PPDT).[69] While the scope is not the same as the laws mentioned above, there is a great deal of overlap with them.

Achieving consensus and harmonization between laws is an increasingly difficult challenge, and mechanisms for bridging related policy and legal drafting initiatives need to be developed.

Capacity development

Village associations have been active in assisting their members. For instance APDESI and Parade Nusantara, two village base mass organizations, advocate for favourable policies. They have yet to develop other member services.

CSOs are another key source of support for village development. A small minority focus at national level, in advocacy work toward policy makers, where the draft law on village government has received much attention in the last two years. At regional level, advocacy has revolved around village rights and authority, village finance (especially ADD), and village governance and budgeting. While CSOs are active in a wide range of support for village development, few advocate for specific solutions to the complex issues of governance, namely village functions and financing, finding these topics to be beyond their capacity. For those topics they do find manageable, CSOs generate and spread knowledge through publication and workshops, and they support district, kecamatan and village staff in concrete ways to make improvements in village governance.

Donors are also active, and at various levels. They have worked largely through CSOs in their efforts to improve village governance, largely at regional level. DRSP-USAID is the only donor involved at national level in supporting CSO advocacy on the draft village law.

Policy options

The various legislative efforts all have in common the objective of placing the village in a stronger position. However, this can be attained within the current district-village relationship or with an architecture where the village relies more on central government guidance. There are opportunities and dangers in either approach, and these have yet to be adequately dissected and weighed.

The revision of Law 32/2004 is an opportunity to review the concept and system of village governance, particularly if a dedicated law is to be used for village governance. A dedicated law for villages is not essential - it is possible for all concerned to determine reforms or capacity development efforts that would see village governance flower, as a sub-system of district government. However, if the intent is to give the village a more visible and independent standing, then it is important to ensure that the new law will connect well with the revised regional government law.

The existence of several draft laws that have an important bearing on village governance could present a challenge. It is not clear how all of these legislative ideas will be further communicated, refined, and reconciled. The occurrence of multiple policy development streams it becoming more frequent in the field of decentralization/local governance. This phenomenon can be healthy if the means are found to bring the streams together at some point to gauge the possibility of cross-fertilization or compromise.

Whether within a revised regional government law, or as a dedicated law, it is important to give greater depth and clarity to the provisions dealing with village institutions, functions, and financing mechanisms. It is particularly important that the role and functions of the village be clarified. Control over natural resources in particular needs reworking.[70]

[70] This concern for protecting natural resources and the environment at village level has often been seen in seminars, discussion forums, and writings. This concern has arisen due to (a). Increasing and unsustainable exploitation of natural resources by external investors (b). Unsustainable exploitation by the increasing number of poor villagers (c). Increasing privatization of natural resources, undermining livelihoods of local populations (d). The spread of social, economic and political conflict as natural resources become scarcer.

The current four categories of functions undertaken by village government, as laid out in Law 32/2004 and GR 72/2005, are not entirely consistent with decentralization modes adopted in the Constitution or laws. Ideally, the role and functions of the village government would be set in a general way in the Constitution itself.

The revised framework should not impose uniformity across villages; the law should reflect the diversity found in Indonesia and allow that to flourish where it is beneficial.

Regulatory efforts must be accompanied by the strengthening of civil society, so that village level citizens and their organizations can further their interests and make village government responsive, accountable and effective.

Recommendations

Many of the questions posed in the STS 2006 on the basic features of the village have yet to be answered convincingly, or to find much consensus. The recommendations of the STS 2006 on the policy efforts required have been taken up, but the work is on several legislative tracks, and is far from finished. In view of this fact and the above analysis, several recommendations can be made :

1. Efforts to bridge views on the basic features of village governance should be continued, with the following aims :

    a. Clarify and gain wide consensus on the institutional make up, role, functions and financing mechanism of village government.
    b. Place some of the basic features in a Constitutional amendment.
    c. Develop legislation that is sufficiently directive on these basic features, and that fits with related legislation.
    d. Develop/amend regulation in line with the above higher level provisions.

2. Support from development partners would be helpful in undertaking research that can enhance the policy and regulatory framework. Specifically, the research could add value in the following areas :

    a. Current diversity in governance approaches in Indonesia's villages.
    b. Good village governance practices that could be entrenched in policy/regulation or disseminated in voluntary ways.
    c. Policy implications of village governance practices with respect to required features and possibility for nurturing diversity.
    d. Ways of strengthening voice and organizations of villagers to enable them to hold village government accountable.

3. Support from government and development partners could also be given to the budding associations of village government actors, with the goals of :

    a. Finding common ground on features of village governance.
    b. Presenting common views on policy/regulation to higher level governments.

5. THE DYNAMICS OF PARTY PERFORMANCE

Situation in 2006

In the 2006 stock taking study, party policy making is seen to be very centralized, with central executive boards (DPP) dominating policy making on all internal affairs, including the process of appointing the heads of the party's regional branch. The centralism contributed to another shortcoming; the lack of transparency of party finances. Financial reports were not accessible to constituents and even to party members. As a consequence, it was hard for them to know the party's activities and financial condition.

Parties also showed a disconnection between the party office and its members in the regional legislative council (DPRD). This disconnection was found as well in political communication between parties

and their constituents. Most of the political parties did not have solid political communication with their constituent.

The stock taking study also noted 'money politics' was an issue within the parties at local and national level. Finally, the study found that the basis for coalition between parties is weak since short term interests strongly influences patterns of coalition both at local and national level. All around Indonesia, grouping of political parties follows pragmatic-opportunistic calculation rather than ideology or policy platform.

On the positive side, the 2006 stock taking study noted that there is innovation from political parties at local level (regional legislative council or DPD and branch executive board or DPC) to enhance their organizational performance through various training programs for their members in regional legislative councils. In addition, there is support from funding agencies in enhancing performance of political parties. The study also noted that the possibility of local political parties as seen in Nanggroe Aceh Darussalam has been discussed nationally to see whether this model might be appropriate for other regions in Indonesia.

In the final section of the 2006 stock taking study, the urgency of party reform was stressed. Dialogue between a party and its constituents either directly or mediated by mass media was deemed necessary. Research and intensive discussion among stakeholders covering topics based on political parties' experience was needed on crucial problems such as a party finances, the experience of local political parties, and lessons from the previous two general elections in 1999 and 2004.

Public view of parties (2006-2009)

The problem of party performance is a salient feature of Indonesian political discourse. Public concern is evident in the result of surveys by *Lingkaran Survey Indonesia* (LSI) conducted in March 2006 and September 2007, where satisfaction rates relating to political parties' performance are only 25 % (2006) and 30.1 % (2007), whereas 58% (2006) and 55.5% (2007) of respondents surveyed show their discontent.[71]

This result of the above survey is not very much different with those conducted in 2007 by *Lembaga Survei Indonesia* and *Indo Barometer*. A survey's result from *Lembaga Survey Indonesia* (March 2007) shows that only 23% of total respondent identify themselves with a party while 65% think that what political parties have done so far does not represent people's aspirations. Still from the same survey, 53% respondents agree that political parties serve only particular groups and 54% believe that their policies do not represent the people's aspiration.[72] The *Indo Barometer* survey (2007)[73] tells a similar story, with 54.5% of respondents dissatisfied with political parties' performance. Only 31.5% that think political parties have contributed tangibly to people's welfare.

The basis for the public's discontent is revealed in the *Indo Barometer*'s finding in 2008.[74] The most expressed reason is that political parties do not struggle for people's interests (47.5%), followed by the poor functioning of political parties (28.5%), e.g., in prospecting cadre, doing political education. The majority of respondent (54.1%) held that political parties have not yet contributed tangibly to the people's welfare, compared to 31.5 % who thought they had done so. The public sees political parties as promoting themselves and their functionaries (expressed by 24.2 % respondents), followed by their desire to gain power in the governing process (18.3%).[75]

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[71] Lingkaran Survei Indonesia (2008), Peta Kekuatan Partai Politik Menjelang Pemilu 2009, *Kajian Bulanan*, 14th Edition, June.
[72] Survey by LSI conducted on March 15-24, 2007 using 1,238 respondents in 33 provinces. See further, www. Lsi. or.id/riset/215/tiga-tahun-parpol-indonesia-aspirasi-publik
[73] Survey by Indo Barometer conducted on November 26 to December 7, 2007. It uses 1200 respondents in 33 provinces with 3% error margin and 95 % confidence level.
[74] The survey result was published on July 1, 2008. See further in www.indobarometer.com.
[75] During the last three years, several political parties have been undergoing factionalism and even sharp fragmentation internally. This conflict partially takes place due to: 1) conflict between party elites at national level trickling down to regional level. It can be seen in the conflict between Gus Dur and Muhaimin Iskandar; 2) conflict between regional elites within the process of position recruitment in the party or during nomination of legislative nominee and head of a region.

Public discontent with the political process is reflected in the declining participation (voter turnout) in the general election and the direct regional head election (*pilkada*). From data published by *Lingkaran Survey Indonesia* (2008),[76] non-voting in direct regional head election (*pilkada*) has risen to 27.9 %. This figure is higher than was the case in 2004 legislative elections and 2004 presidential election, in either the first or second round.[77] In direct regional head elections of several regions, non-voting has nearly reached half of the total voters, as seen in the regional election of Surabaya, Medan, Jayapura, Banjarmasin, Depok, the Province of Riau Island, and Central Java. Non-participation can be attributed to a number of factors. It may also be the case that the participation rates were quite high to begin with compared to other countries.[78] Nonetheless, the trend in Indonesia will need some attention if it continues in the 2009 elections.

Although the public has a dim view of parties, its support for democracy is still high, according to the USAID and Democracy International public polling; 59% (2006), 51% (2007), and 48% (2008).[79] Public support for non democratic government was only 5% (2006 and 2007) and 7% (2008). These findings suggest that the public can distinguish between the ideals of democracy, and the current imperfect practice. That suggests that political parties still have a chance to enhance their performance.[80] The faith in democracy may be somewhat misplaced however, as the public has an expectation that democracy will soon lead to broad based welfare. Party performance may improve, but perhaps not fast enough to confirm such a direct relationship, particularly in the context of the current global economic crisis.[81]

Key legislative changes

During the preparation of the 2009 general election, the government and House of Representatives (DPR) formulated new policies regarding political parties and the general election, placed in Law 2/2008[82] and Law 10/2008 respectively.

Several changes are introduced by Law 10/2008. A key initiative reflected in the law is the reduction of political parties through tougher requirements for founding new party.[83] In the three years leading up to the 2009 general election there has been a proliferation of new political parties at national level, with 115 parties registering with the Department of Justice and Human Rights: 47 parties met the requirements while 71 did not pass verification.

This reduction of political parties is also attained through the electoral threshold. In Law 10/2008, the electoral threshold is fixed at 3% for DPR and 4% for DPRD.[84] However, for the 2009 general election, this electoral threshold is undermined in the same law by article 316 that gives old political parties a leg up; all political parties having seats in the DPR during the 2004-2009 period can participate in the 2009 general election.[85] The General Election Committee validated a total of 44 parties participating in the 2009 general election :[86] 18 newcomers, six local parties (Aceh) and 20 old political parties.

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[76] Lingkaran Survei Indonesia (2008), Peta Kekuatan Partai Politik Menjelang Pemilu 2009, Kajian Bulanan, 14th Edition, June.

[77] During the New Order regime, electoral participation was on average above 90%; the non-voting rate was below 10 %. The 1999 general election saw a 93.3 % participation, and a drop off to 84.1 % in 2004. A greater drop was seen in the presidential election, both in the first (78.5%) and second round (76.7%).

[78] As comparators, the Presidential elections in the United States reached 56.8% , while legsilative elections reached 37.1%. The UK general elections reached 61,4 %. Information shared by the representatives of the German Political Foundations, 24 February 2009.

[79] Wall, Alan (January 2009), Indonesia Democracy and Democratic Governance Issues National Survey 2009, USAID & Democracy International, presented in a meeting at Bappenas, February 3, 2009.

[80] Baswedan Anies (2009). *Masa Depan Demokrasi*, Kompas, February 9, 2009.

[81] Discussion with the representatives of the German Political Foundations, 24 February 2009.

[82] In the explanation of the Law 2/2008, it is clearly conveyed that this law accommodates several new paradigms which are in line with the consolidation of democracy in Indonesia through, indicating the empowerment of systemic and institutional aspect of political parties, renewal related with internal democratization of political parties, transparency and accountability in political parties' financial management, the increasing of gender balance and leadership within political parties in a national system of living as a nation and under the state.

[83] The Law 2/2008 on political parties indicates several requirements for a new party to be a legal body: management should be at least located in 60% of total provinces, 50% of total regency/cities in each province and 25% of total districts at regency/cities in the particular region.

An additional requirement in Law 10/2008 relates to the parliamentary threshold, set at 2.5% of the total vote, limited to the DPR. Prior to the parliamentary elections it was expected that the likely impact of this asymmetry would be fewer parties succeeding in gaining seats in the DPR; possible only eight parties if the same voting pattern seen in 2004 is maintained, or perhaps 10 if the votes are more evenly distributed; it turned out to be nine. In contrast, the seats allowed per electoral district and the absence of parliamentary thresholds in the DPRD increases the chance of party plurality, suggesting a more complex political scene at regional level, with more attempts at forming party alliances.

Affirmative action policy

One progressive development in the new laws relates to gender balance in the party leadership and candidates. Previously, the 30% quota was only suggestive, and this has not worked to improve women representation significantly, as seen in Table 10.

It is now a requirement that 30% of candidates nominated by the parties for the DPR/DPRD be women. Additionally, for every three nominees, one should be a woman; distributed evenly in the list.

Table 10 :
Women representation in the House of Representatives (DPR)

Election Year	# of Legislative seats	# of women in seats	Percentage women representation
1955	17	272	6.25
1971	36	460	7.83
1977	29	460	6.30
1982	39	460	8.48
1987	65	500	13.00
1992	62	500	12.40
1997	54	500	10.80
1999	45	500	9.00
2004	62	550	11.27

Source: KPU[87]

Political parties are likely to find it difficult to meet the gender requirement, especially at regional level, due to lack of women regular members to fill the list of legislative nominees. To comply, political parties may tend to recruit discreetly and instantly women nominees, based on narrow considerations, e.g., relatives of party leaders. The second possibility is that political parties will recruit openly and early for women nominees, from a larger circle, e.g., women activists and NGOs. The presence of women activists in the fixed list of legislative nominees to contest in 2009 general election shows that there is some willingness in parties to open themselves toward women candidates from outside the party.

Affirmative policy toward women is facing a new challenge after the recent Constitutional Court decision against party lists, leaving women candidates to vie for individual votes to secure seats in the legislatures.[88] This decision is causing upheaval in several parties who had preserved the sequence mechanism as regulated in article 214 of Law 10/2008. Several women activists hold that the Constitutional Court decision undermines efforts to realize women's political representation, as women candidates are

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[84] In Article 8 it is stated that political parties can only participate in 2009 general election if already meet the requirement of having management in 2/3 of total regencies/cities in the particular province, including minimum 30% of women quota at the party headquarters' leadership. While in article 315, a rule of *electoral threshold* indicates that political parties participating in 2004 general election which obtains minimum 3% of seats in house of representatives (DPR) or obtain at least 4% of total seats in provincial legislative council which are distributed evenly in half of total provinces in Indonesia, or obtain at least 4% of seats in DPRD at regencies/cities which are distributed in minimum half of total regencies in Indonesia, are fixed as political parties participating in general election after 2004.

[85] Article 316 point d in the Law no.10/2008 states that political parties which do not meet electoral threshold but having chairs in House of Representative (DPR) from the 2004 general election will still be eligible for 2009 general election. It means parties that already have chairs in DPR pass the electoral threshold.

[86] The number of political parties able to participate in three post New Order general elections keeps changing. In 1999 general election total participants reaches 48 parties. While 5 years afterward the participants decrease to reach only 24 parties.

[87] Simamora, Adianto, P. (2009). Women specific seats undemocratic: MK, *The Jakarta Post*, 19 January, obtained March 13 at http://www.thejakartapost.com/news/2009/01/19/womanspecific-seats-undemocratic-mk.html.

[88] See it's the Constitutional Court decision no. 22-24/PUU-VI/2008, dated December 23, 2008.

generally less well known, and do not have the same resources to make themselves known during campaigns.[89] As it turned out, women were able to garner 16.6% of the seats in Parliament, doing better than in any other previous election,[90] indicating that new dynamics may be at work that overrride some of the disadvantages created by the new rules.

Local political parties

Political regulation reform also gave birth to local parties in one region with special autonomy, through Law 11/2006 on the Governance of Aceh and Government Regulations 20/2007 on Local Political Parties in Aceh. Local parties are given the chance to contest in legislative election at provincial level and district/city level.

The opportunity for local parties elicited a big response from Aceh citizens. Six parties have been cleared to contest the election: *Partai Aceh* (PA); *Partai Aceh Aman Sejahtera* (PAAS); *Partai Bersatu Aceh* (PBA); *Partai Daulat Aceh* (PDA); *Partai Rakyat Aceh* (PRA) serta *Partai Suara Independen Rakyat Aceh* (P. SIRA).

Surveys indicate that the level of electoral support in Aceh for local party is greater than for national parties. Figures from a Demos survey show 29% of the people of Aceh intend to vote for a local party compared to 22% for national parties.[91] Similar results were obtained by IFES, where only 17 percent indicated they would vote for a national party.[92] These early indications proved to be precise, as one local party in particular (Aceh Party) fared well regionally, followed by the national Democratic Party.[93] It should be noted however that only national parties can contest for the DPR, ensuring that they will have a presence in Aceh regardless of regional results.

The situation for local parties in Papua is altogether different. Although the special autonomy law allows local parties in Papua, none have been formed. Various analyses put the absence of local parties in Papua to the vague regulatory framework in the law, and the lack of a genuine desire of the government to see this realized. The resolution of the ongoing conflict and tension in Papua will likely require a proper review of the opportunities and obstacles to local parties in this region.

Financing and financial management of political parties

A crucial issue stoking discussion over the last three years is that of party financing, primarily the source of party income and financial management of political parties.

On the matter of party income, Law 2/2008 regulates the sources and funding limitations. The maximum donation allowed to political parties from individuals and private companies has risen significantly, from Rp. 200 million to Rp. 1 billion for individual donations, and from Rp. 800 million to Rp. 4 Billion for donations from private companies. In addition, in Law 2/2008, the state subsidy to political parties is maintained. Financial assistance from the state budget or regional budget is awarded proportionally to votes received for political parties with seats in the DPR and DPRDs respectively.

The new law has not answered thoroughly the problem of party financing. As already seen in 2006, illegal fundraising continues. Several studies indicate that the decreasing subsidies from the state[94] have lead political parties to increase their pursuit of supporters' funds to cover increasingly expensive campaigns and to run their political machine.[95] Some parties that are well placed in the bureaucracy are also able

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[89] Bhaskara, Harry(2009). More Arduous Way Ahead for Womne to Enter Politics, *The Jakarta Post*, 29 January 2009.
[90] See Inter-Parliamentary Union, at http://www.ipu.org/parline/reports/2147_E.htm.
[91] Executive summary and preliminary report of the 2nd National Survey on Problems and Options of Democracy in Indonesia (2007-2008).
[92] www.ifes.orgfeatures.htmltitle=IFES%20Survey%25%20Acehnese%20Lack%20Information%20about%20Upcoming%20Election.
[93] Simanjuntak Hotli (2009). Aceh Party wins election, without celebration, T*he Jakarta Post*, 19 May at http://www.thejakartapost.com/news/2009/05/19/aceh-party-wins-election-without-celebration.html.

to funnel public funds illegally to feed the party machinery and campaigns (political corruption).

Political parties are at the same time facing pressure to democratize their internal processes, leading to selection or voting of their management and election candidates that are detached from pure financial capacity of the individuals. This move toward meritocracy serves to place more pressure on party financing. The Supreme Audit Agency reports on parties undertaken in 2006 show considerable deviation from regulations, at both central and regional level. Subsidies obtained from regional government continue to be problematic.[96]

On the financial management side, the new rules in Law 2/2008 calls for a bank account under the party name, and separate accounts for the party's fund and campaign fund, with an obligation to prepare an annual report on income that is publicly accessible. The increased stress on transparency, professionalism and accountability in the management of party finances is seen also in Article 36, which requires revenues and expenditure of political parties to be managed through the general treasury account of political parties. Moreover, party functionaries at each level have to record all financial revenues and expenditure of their parties. The board of political parties at each level has also to make a report on financial revenues and expenditure at the end of the financial year, also to publicly accessible.

Law 10/2008 on general elections further strengthens financial accountability in the context of elections, as reflected in the following rules :

- political parties are required to report 7 days before the beginning of the campaign in the form of a general meeting and
- political parties shall provide a report on revenues and expenditures of the campaign fund to a public accountant at the latest 15 days after the voting is concluded; next, audit reports should be sent to the KPU's designated public accountant at the latest 30 days following the receipt of the original report. The audited result is to be confirmed by the national Election Commission (KPU) to political parties 7 days after they are received, and announced to the public at the latest 10 days after the result are received.

Consistent implementation if the above rules is hampered by the lack of public accountants to review the reports from 38 parties throughout the regions, a reality acknowledged by the accounting association (*Ikatan Akuntan Indonesia*); there are only 689 public accountants in Indonesia, and 60% are in Jakarta.[97]

Accountability to the public is also reduced by the rules that call for a condensed version of the audit report to be made public; the original submissions or full audit is not made public. Both the party adherence to regulations, and the validity of the public accountant's work is potentially obsucred in this way.[98]

However, there are still some weaknesses in the revised system. They are mainly related with the absence of deadline of the report submission, lack of sanctions for failure to report, lack of clarity in how the report should be made public, sanctions for failure to obey the rules public auditing and the standard of financial report.

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[94] In the general election of 1999, according to GR 51/2001, government subsidy was set at Rp. 1000/vote, up to Rp. 112.231.959.000 per party. In the general election of 2004, the amount was set at Rp. 21,000,000 to a ceiling of Rp. 11.550.000.000.

[95] Mietzner, Marcus (2007). Party Financing in Post Soeharto: Between State Subsidiarity and Political Corruption, *Contemporary Southeast Asia*, Vol. 29, N0. 2, ISEAS, Singapore.

[96] As an example, the Supreme Audit Agency regarding party audits in DKI Jakarta found deviations from the regulations, with funds from APBD not reported properly. See also the Annual Report and Corruption Outlook Political Corruption, Indonesia Corruption Watch, January 2008.

[97] http://www.hukumonline.com/detail. asp?id=19875&cl=Berita.

[98] Interview with Fahmi Badoh, Indonesia Corruption Watch, 23 February 2009.

Innovations and resistance

PDID split in Sumut direct election 2008-2013
The regional organization of PDIP in Sumut aligned itself with Rudolf Pardede, former deputy Governor and acting Governor at the time, as well as head of the regional PDID council. The national council (DPP) for the PDIP chose to parachute their own ticket, Tritamtomo-Benny Pasaribu, relative newcomers to PDIP, ostensibly based on PDIP-DPP commissioned public surveys.[99] Considerable tension ensued between the two camps, and eventually Rudolf Parded withdrew his candidacy, wishing to remain "loyal" to PDIP. The public showed its stance with a relatively low turnout (59%) for Indonesian elections.[100]

Following a series of defeats in direct regional head elections (*Pilkada*), several parties began to reform their internal recruitment system in appointing candidates. For instance, Golkar's central executive board has taken to floating several names of prospective nominees through surveys, and additionally to do a 'fit and proper test' of those about to be nominated. The relatively strong power of the head of a central executive board *vis a vis* other party members is now restricted and possibilities are opened to nominees favored by the public.

Several parties have opted to apply an open system for recruitment. They cast the net farther afield for candidates through public announcement, opening the possibility for non-party candidates. Besides that, several parties like Golkar and PAN, have opted to use the most-votes received mechanism to decide their legislative nominees in the 2009 general election, prior to the recent Constitutional Court decision that made this the only possibility.

In another indication of internal party reforms, several parties are demanding more of their nominees. Golkar, for instance, is requiring candidates to undertake grassroots political work, in the relevant electoral district. This policy encourages party members to nurture close relationship with their constituents. A similar policy is seen in PKS.

Some parties are slow to innovate, immobilized by a strong patron-client political culture and the short term benefits that come from a centralistic approach to party management. Golkar was mentioned above as seeking to innovate, but this innovation is limited in scope. The way it selects it boards for instance is centralistic, undemocratic, convoluted, not transparent to most. But the fact that it is testing some new approaches holds out the hope for more extnesiver eforms in the future. In many parties, the impetus may come from the regions, where ferment is readily evident. The case of PDIP reveals the dynamic of central level command and regional party initiative (Box above); the central party organization got its way in fielding candidates, but lost the elections, and it may have lost good will among Sumut PDIP ranks.[101]

Renewal agenda for political parties' performance

A more competitive political arena in the context of the 2009 elections and closer public scrutiny is leading several political parties, including traditional powerhouses, to enhance their performance through internal reforms. These reforms are loosening the hold of key 'figures' on the party, and opening the party to new members and ways of fielding candidates.

Continued pressure and encouragement is required to continue with party reforms, particularly in terms of political communications with constituents and internal party processes. Parties still need to do better in managing internal conflicts, financing/financial

[99] Kompas (2008). Pendaftaran Tritamtomo-Benny di Pilkada Sumut Tegang, Friday, January 25th, obtained January 14, 2009 at http://kompas.co.id/read/xml/2008/01/25/01312814/pendaftaran.tritamtomo-benny.di.pilkada.sumut.tegang.
[100] Kompas (2008). Golput Lebih Banyak Dibanding Pemilih Tak Terdaftar, Tuesday, April 22, obtained January 14, 2009 at http://www.kompas.com/read/xml/2008/04/22/19145819/golput.lebih.banyak.dibanding.pemilih.tak.terdaftar.
[101] An indication of the remaining tensions in PDI-P may be seen in the activist group within the party objecting to the party elite monopoly on top numbers in the party list for legislative elections, see Ferdinan (2008). Kecewa Soal Pencalegan, Aktivis PDIP Siapkan Petisi, *Okezone*, Sabtu, 11 Oktober, obtained march 13, 2009 at http://news.okezone.com/index.php/ReadStory/2008/10/11/1/152971.

management, and recruiting members and fielding candidates.

Conflict management systems need to be developed through fixing rules of the game within the party, or introducing innovative mechanism of conflict resolution, such as creating an internal organization for arbitration.

Elected members also need to be more effective, beginning with recruitment systems that are transparent and work to back capable and representative candidates. Also, political parties should have fixed criteria to assess possible candidates for direct regional head election (*Pilkada*) and general election.

As recommended in the STS 2006, it is crucial to develop communication process between parties and constituents, either directly or indirectly. The initiative might come from the parties, while not denying the possibilities of initiatives from constituents or interest groups. Through the emergence of critical and active constituents, parties become more relevant and accountable. Therefore, forums of constituents at grassroots level that aim to address party issues, and thereby exercise control over party elites, are to be encouraged.

Recommendations

In encouraging further party reforms, the following recommendations should be considered :

1. To encourage further renewal, it is important to obtain data, considerations, and opinions of various stakeholders on the result of political parties' internal renewal and their relationship to other institutions. For instances; experimentation on the party's financial management, accountability of politicians nominated after selection process, the different ways of assigning candidates and votes (e.g., votes received vs. party lists). Independent institutions, especially universities need to facilitate the process of collaborative research with parties to obtain information and data related with the implications of the new regulatory framework on internal party renewal and point out promising reforms.

2. The success, so far, of local party formation in Aceh is important since it might be a model for the implementation of local parties in other regions in Indonesia. The formation and dynamics of local parties requires close attention (e.g., recruitment, platform development, links to constituents, internal organization, patterns of coalition, relationship between party board and members, conflict between parties and within society as a result of local parties).

3. Development partners should support the institutional reform agenda for parties as indicated in Law 2/2008. The unfinished reforms include the internal democratization of parties; transparency and accountability of parties' financial management; and the pursuit of gender balance. Support can be provided in the form of relevant research, training (especially for young and women members, managing party's finances, articulation and aggregation of constituent's interest, administrative and secretarial aspect), and facilitating the creation of constituents' forums at grassroots level that are oriented toward party reforms. ■

1. REGIONAL HOUSE OF REPRESENTATIVES (DPRD) PERFORMANCE

Situation in 2006

As a consequence of the shift from Law 22/1999 to Law 32/2004, the DPRD and regional government head (RGH) roles were rebalanced; the DPRD lost its powerful RGH impeachment tool in the context of the annual accountability report. The STS 2006 notes the difficulties subsequently faced by the DPRD to define and implement its role effectively. It was not taking full advantage of its right of initiative in regional regulations, and the quality of regulations passed was deemed unsatisfactory, as evidenced by the number that were categorized as problematic, including those rejected by the central government. The DPRD was not yet able to find ways of working within the new regime to hold the RGH and the bureaucracy accountable. Public criticism of the DPRD centred around the lack of responsiveness to constituents, bias toward business interests, and corruption. By this time, several DPRD members were charged with various corruption charges, and some had already been jailed.

Internal DPRD issues also were seen to hobble the institution. These included uncertainty over financing rules, weak council secretariats with double allegiance (to the DPRD and RGH), undeveloped party linkages, and insufficient capacity development support.

Recommendations of the STS 2006 were numerous. External links to parties needed to be strengthened. Efforts of the associations of DPRDs to provide capacity development also needed to be stepped up, including assistance to the associations to achieve this greater intensity of effort. The government also was encouraged to provide more support to the DPRD's institutional development, while at the same time encouraging it to develop more of its own internal rules to achieve its mandate. Specific measures included a strengthened secretariat (free from RGH influence) and a clarified and augmented operational budget.

Connecting the DPRD to the constituents was also seen to be important, though a longer term effort. This encompassed third party support to civil society to make the DPRD more accountable; introducing a residency requirement in the electoral district for DPRD members; and reporting to the public annually on the performance of the DPRD (not only the RHG/bureaucracy).

DPRD performance since 2006

Public view of DPRD

The DPRD still has little credibility or track record of adequate performance in the public's view. Studies (e.g., LIPI in 2007)[1] and surveys (Kompas in 2006; LGSP in 2006; USAID-Democracy International in 2008)[2] indicate that DPRD is not a trusted institution.

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[1] One of the researches on the performance and the accountability of DPRD after the 2004 election is the research conducted by Pusat Penelitian Politik, Lembaga Ilmu Pengetahuan Indonesia. The research was conducted in 15 regencies and towns in Indonesia. See LIPI (2007), Partai dan Parlemen Lokal Era Transisi Demokrasi di Indonesia, LIPI Press.

[2] Local Governance Support Program (March 2008). Citizens' Percepations of Democracy and Local Governance: Finding of Governance Opinion Polls in Eight Province in Indonesia, page 5-8.

[3] See table of *comparison of net satisfaction ratings 2006 through 2008*, in Democracy International-USAID (2008). Indonesia Annual Public Opinion Surveys 2008 Report, 11 November 11, pages 18-19. Another interesting finding is the surveys in 2006, 2007 and 2008 indicating that few Indonesians are aware of who represents them in local, provincial and national representative bodies. In 2008, less than 2% of respondents could name one of their representatives in the provincial DPRD. Five percent could name one of their representatives in the DPR. A little over 5% could name one of their representatives to the regency/city DPRD - a decrease from the 10% who could do so in the 2007 survey. These survey results are further evidence that, in general, political parties have not effectively used the opportunities provided by the open list electoral system and smaller electoral units created by the 2003 electoral reforms to make legislative representatives known to their constituents (Democracy International-USAID (2008), idem, pages 22-23).

[4] See *Kompas* (2006). Menyelamatkan DPRD, Bumerang bagi DPR, 16 October. The survey reveals public discontent of corrupt conduct of the DPRD members. From data released by Indonesian Corruption Watch (ICW), July 2006, there are 1000 DPRD members all around Indonesia currently under prosecution for misusing APBD funds, with DPRD members charged with violating government regulations 110/2000 and 105/2000 on management and reporting of state finance. These have been revised most recently as GR. 21/2007, with much debate on what and how the DPRD may spend funds.

The survey conducted by USAID and Democracy International during 2006-2008 shows that public contentment with DPRD was well below 30%, with regency/town level rising from 10% in 2006 to 29% in 2007 before declining to 11% in 2008. At provincial level the responses never went above 21% during those three years, resting at 6% in 2008.[3] One of the reasons for the low opinion is the view that corruption is still endemic in the DPRD.[4]

Current views on challenges faced by the DPRD vary significantly. Some academics and government officials (especially in MoHA) are concerned that the DPRD is still too powerful, and is out of control, unaccountable, and fixed on power acquisition. The proper response, according to this line of thinking, is to limit the 'legislative' power of the DPRD, underscoring the role of the DPRD as an element of the implementation of regional governance. This notion finds its justification in the view that decentralization flows from the President's (executive) power, and therefore must be strictly accountable to the executive and can operate only within the bounds set by the executive.[5]

A different view can be found among other academics and DPRD Associations,[6] who see the DPRD's poor performance to be a result of efforts of central government to weaken the DPRD, through regulatory efforts that flow from Law 32/2004 (e.g., removal of power to reject RGH accountability reports; preventive review of several types of regional regulations). The limitations imposed by the central government hamper the DPRD, and sets up a dependence on the central government, particularly MoHA.[7]

DPRD performance

The DPRD is struggling to fulfill its representation function, and to make proper use of some of its main tools; regional regulation, budget approval, and oversight (*pengawasan*) of regional government (RGH/bureaucracy).

The approaches members use to gather information and views on the needs of constituents are also not up to the task. Oftentimes this activity is projectized and carried out by NGOs closely linked to the DPRD members.[8] Even where there is direct interaction, the efforts of the DPRD members are complicated by the executive side's own formal process that aims to also learn the needs of constituents–how the local legislative and executive should come together in this process has yet to be answered, and the issue has become more pressing since 2005 when the RGH began to be directly elected, gaining greater political legitimacy.

The DPRD is also slow to exercise its right of initiative in regional regulations, allowing the executive side to take the lead in most cases. Unlike its national level DPR, the DPRD does not have the internal capacity and human resources for legal drafting.

In the budget process, the DPRD feels constrained by unduly intrusive central government regulation (e.g., Ministerial Regulation 13/2006) that overly prescribes how the DPRD must conduct this process. The view of the central government is that the budgeting process needs to be set out in detail to make it more transparent and open to the review of the DPRD, allowing it to assess the appropriateness of the budget accounts, and avoid duplication or waste. But the DPRD does not have the capacity

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[5] This perspective was strongly endorsed by a team of experts established by Department of Internal Affairs to revise Law no. 32/2004; the dominant opinion is that regarded DPRD is not a regional legislative authority. For further reference see Zuhro, Siti (2008). Pokok-pokok Pikiran tentang DPRD dan Hubungannya dengan Kepala daerah dan Masyarakat, DRSP, 28 February.

[6] The DPRD city association (ADEKSI) stance can be seen in "*Pokok-Pokok Pikiran Asosiasi DPRD Kota Seluruh Indonesia dalam Rapat Dengar Pendapat Umum RUU Susunan dan Kedudukan DPR, DPRD dan DPD*", conveyed by ADEKSI board, July 18, 2007. There are several points highlighted by ADEKSI: DPRD belongs to the 'legislative' domain - hence legal products issued by the government cannot limit DPRD's functions. Therefore, ADEKSI demands an end to control by the Department of Home Affairs and other Ministries through ministerial regulation or notification letters. Second, DPRD members are state officials. Third, legal products issued by DPRD like regional regulations fall under Law 10/2004 on the hierarchy of legal products, and thereby repressive supervision by the Governor or Minister of Home Affairs should be ended. Fourth, DPRD support should include a regional legislating committee (*Panitia Legislasi Daerah*).

[7] This can be seen in the inordinate number of visits/consultations of the DPRD with MoHA in Jakarta.

to adequately assess the budget, and its efforts to come to grips with the budget process and document is prolonging the review process; one of the reasons for the late approval of budgets – and hence late implementation and inability to fully spend the budgeted funds.

Noting these difficulties, some observers suggest that the DPRD should move away from a technocratic approach, stressing instead its representational role, channeling the needs of constituents and related political promises into key regional government planning and budgeting events.

Institutional change and support

Little has changed in terms of support provided to the DPRD, either internally through the structure and quality of the secretariat, or through capacity development from DPRD associations,[9] political parties, central government or other organizations.

Some DPRDs are nonetheless being creative in improving their performance or the performance of regional government. Several DPRDs have lead the effort to issue regional regulations that aim to promote transparency and participation. In several regions an initiative to allow public involvement in regional policy making is surfacing.[10] This initiative has even been institutionalized through local policies encouraging the involvement of civil organizations in the process of policy making. Even without such regulations, the DPRD has worked to make planning and budgeting events accessible and participatory. Public hearings have been used, with capable facilitation on occasion. The 2007 facilitated hearings in Sibolga district, North Sumatra, involved about 20 CSOs, and were held to find improvements in education and health. This success encouraged the legislative members to continue public hearings.[11] In some cases delegations from development planning events (Musrenbang) have been invited to attend the General Budget Policy session (KUA PPAS), an important preliminary step in fashioning a budget.[12] Some DPRDs have initiated interactive dialogue with the public through radio programs to discuss the regional budget.[13]

Some regions are able to string together a number of reinforcing measures. For instance, in Madiun city, the DPRD first instituted public hearings on important policies. In March 2007 the DPRD organized a two day workshop to develop the 2008 annual plan, with the deputy mayor in attendance for the duration. This was followed by public consultation in October of 2007 to reach a wide variety of stakeholders, utilizing a 'Forum Kemitraan' comprised of CSOs, a body that was initiated with USAID-LGSP support.[14]

Some capacity development support has been obtained from the CSO/University community. For instance, in the 2005-2007 period, a donor assisted CSO consortium centred on Universitas Gadjah Mada, facilitated internal DPRD reforms.[15] The DPRD

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[8] Katjung Maridjan: 2007, Working Paper in Partnership of Governance Meeting, Jakarta, 2007.
[9] ADEKSI and ADKASI undertake annual capacity building programs for their members.
[10] The initiative to open the space for participation to the public during regional regulation (Perda) making process can be seen in Pare Pare, Pinrang and Enrekang (South Sulawesi), Boyolali (Central Java), Mojokerto and Madiun (East Java). See LGSP (2008). Good Governance Brief, The Role of DPRDs in Promoting Regional Autonomy and Good Governance: Framework, Challenges and New Approaches, March.
[11] LGSP (2008). Ibid.
[12] LGSP, Annual Report (2007). Ibid.
[13] LGSP (2007). Good Governnace Brief, Local Government Financial Management Reform in Indonesia, September.
[14] LGSP, 2007 Annual Report, page 13. During 2008-2009, LGSP conducted research in selected DPRDs showing innovation in the regional budgeting process. An example is the breakthrough seen in the DPRD of Boyolali, where the budget was given more order, and the DPRD scrutiny lead to a better utilization of Rp. 60 billion that had been idle, out of a Rp. 139 billion budget. The DPRD in Madiun city has pushed on transparency in spending, achieving the following: (1) returned operational funds of DPRD saved by pursuing efficiencies (for instance, avoiding meeting in a hotel or in out of town); a total of Rp. 800 million, reallocated to social programs, (2) DPRD prevented idle cash from being abused, Rp. 56 billion. (3) DPRD's activity fund (*dana kerja)* is spent in an open process, to be a model to the regional government work units.
[15] The Caucus in Yogyakarta is facilitated by a consortium consisted of the Program of Local Politics and Regional Autonomy (PLOD) UGM, Center for Policy Studies, Rifka Annisa and *Lembaga Penelitian dan Pengembangan Aisyiyah*, as well as supported by Partnership Governance Reform in Indonesia. See further Rozaki, Abdur (2006). Kaukus Parlemen Bersih: Media Pembelajaran Parlemen Lokal, Korsorsium Parlemen Bersih DIY.

members involved went on to establish a cross-party 'Clean Parliament Caucus' (*Kaukus Perlemen Bersih*). In 2007, KPB membership numbered 180, or 69% of all DPRD members in the Yogyakarta province and ditrict/cities, meeting on a monthly basis.[16] During its progress, Caucus has designed various capacity building programs for its members, such as a program for empowering *Badan Kehormatan*, a program to set procedures of Articulation and Aggregation of Interest, legal drafting material training, training of drafting KUA and local governmental budget (APBD) based on performance. The KPB has produced a Standard Operasional Procedure (SOP) to assist DPRD in their oversight function.[17] The Caucus also builds public support to strategic circles supporting the Caucus. As a further follow up, this model of Caucus is developed in several regions like Central Sulawesi and Central Java.

Another consortium, the Civil Society Organizations Forum (CSO's Forum) was established to support DPRDs through knowledge building, capacity building, and networking. CSO Forum is organized with five regional basis, centered at Universities.[18] CSO Forum extended its efforts beyond the DPRD institutions themselves, advocating at national level for regulatory changes. In late 2008, CSO Forum facilitated a series of regional workshops to discuss policy options for strengthening the DPRD.

Policy options

Revision of Law 32/2004

A 2007 discussion paper from MoHA on the revision of Law 32/2004 has a lengthy treatment of the various problems and reform considerations regarding the DPRD. It recommended that the DPRD be more clearly situated institutionally. It called for an independent and well resourced secretariat to the DPRD, free from regional government influence. Finally, it recommended boosting the DPRD funds for its representative role, and ensuring that the funds are spent for this function.[19]

The more recent discussions held by the ASSD assisted team leading the revision of law 32/2004 have also dealt with the possible ways of viewing the role of the DPRD. This discussion involved several academics, with varying points of view. However, the discussions were inconclusive. It was in part frustrated by incomplete review of assumptions or assertions presented in support of various options.[20]

Some of the reform ideas discussed echo the STS 2006 and other analysis. On the issue of the positioning of the DRPD, the revision effort is in early stage of discussion, and requires a more rigorous analysis and discussion of the issues involved.

Situating the DPRD

As intimated above, it is important for policy makers to have a common view of the role of the DPRD. This will necessitate a careful review of the principles of division of power and checks and balances at national level (trias politica) and how this is extended to the regional level. This should flow into clear statements in the revision of law 32/2004 and the Susduk Law (and if needed the Constitution), particularly on where the DPRD is situated relative to higher level state institutions and the regional government head.

The legal framework related to the DPRD will flow out of the selected view of the DPRD. If the political decentralization is viewed as deriving from the

[16] *Kompas* (2008). Kaukus Parlemen Bersih: Perlu Langkah Konkret dan Harus Lebih Gigih, January 2, obtained January 12, 2009 at http://www.indopolitik.com/berita/2007/01/02/kaukus-parlemen-bersih-perlu-langkah-konkret-dan-harus-lebih-gigih.php.
[17] Rozaki, Abdur (2006). Ibid, pages 95-116.
[18] Within the context of CSO Forum, nodes of networks in five regions based on universities and NGOs were established. North Sumatra University becomes the center for networks covering Sumatra, Hasanudin University connects Sulawesi and Maluku, Warmadewa University ties together Bali, Nusa Tenggara and Papua, while Gadjah Mada University becomes the node for networks in Java.
[19] Departemen Dalam Negeri Republik Indonesia (2007). Naskah Akademik Revisi Undang Undang No.32 Tahun 2004.
[20] For an summary of the ideas presented in this discussion, see ASSD (2008). Isu-isu Strategis Revisi UU 32/2004 di Bidang Perda, DPRD, dan Kepegawaian Daerah, Hotel Red Top Jakarta, 5-6 Agustus.

state, rather than just the central government, then the shaping of the role of the DPRD will be largely through legislation rather than government regulations. Moreover, the intervention of the central government will need to be more restrained than if the authority of the DPRD is derived solely from the central government.

Authority of the DPRD

In line with the arguments above, the appropriateness of preventive supervision may need to be rethought. If the DPRD is seen to have sufficient political legitimacy, that goes beyond being an instrument of the central government, then regional regulations may need to be rescinded only through judicial review, or national laws. Currently, the Supreme Court is to be used for judicial review of regional regulations, but it is rarely used in this way; the central government itself rejects the regional regulations (and usually the Ministry of Home Affairs does so through its own ministerial regulations, which contravenes current regulations on this matter).

Relationship of the DPRD with RGH

If additional checks and balances are desired for the DPRD, then it is best to refine the relationship with the regional head. For instance, the RGH could be given the authority to reject draft regulations initiated by the DPRD; with this rejection being reversed only if two thirds of the members of the DPRD vote to continue the regulatory process.

It is more important however that the DPRD itself be strengthened, including with respect to the RGH in some instances. It is common knowledge that many RGHs use financial inducements in an attempt to control or coopt the DRPD.[21] Some also use their party connections. In this respect, the playing field could be leveled by excluding the RGH/Deputy RGH from holding executive positions in the party structures, as this inhibits DPRD members from the same party from seeking to hold the RGH/deputy RGH accountable.

Multi stakeholder approaches

Over the past three years, a number of reform initiatives have been developed, either by circles outside of the DPRD or by the DPRD themselves. In some places, cooperation between DPRD and CSOs for DPRD reform can be witnessed. The phenomenon also shows new approaches used by CSOs in advocating public needs related to reforming regional governance. If during 2000-2005, CSOs emphasized more on supervising and assessing approach to DPRD's performance,[22] in 2005-2006 they have shifted to nurturing cooperation with DPRD in encouraging reform within it. In the new approach DPRD is regarded to be strategic because of its authority in legislation making, budgeting, and overseeing regional governance. Equally, DPRD have begun to open themselves by involving CSOs during capacity building activities. The new openness towards the need for reform shown by DPRD in several regions is a positive development, since in the previous period (1999-2004) a more confrontational attitude was likely to be found.

In the future, several reform initiatives based on mutual cooperation between DPRD and CSOs need to be continued. And a multi-stakeholders approach is also needed in empowering the capacity of DPRD. Hence, empowering the capacity of DPRD will not exclusively be the agenda of CSOs and DPRD but extended to the regional government, private sectors, and mass media.

Capacity development of the DPRD

Strengthening the DPRD will take more than an occasional training activity. It needs to be approached from a systemic point of view, where the national level framework is also included. The latter needs

[21] See for example the statement of the DPD in Laporan Kegiatan Di Daerah, Angota Dewan Perwakilan Daerah Republik Indonesia Di Provinsi Nusa Tenggara Timur, obtained March 13, 2009 at http://www.dpd.go.id/files/kunker3/ntt.pdf.

[22] After 1999 general election, there were parliament watch institutions either at national or regional level for instance, Parliament Watch Indonesia (PARWI). The approach endorsed is that of scrutinizing and criticizing performance and policies made by DPRD.

to be sharpened to avoid vagueness or provisions that allow multiple interpretations. There are several improvements that need to be encouraged in the functioning of the DPRD :

Improving communication between DPRD members and their constituents *:* This can be done through empowering the representative function of the DPRD. The council can encourage the communication with citizens through public hearings and public aspiration networks *(jaring aspirasi masyarakat asmara)*.[23] DPRD members are obliged to visit their electorate three times a year. At these times they could make an inventory of needs in each electoral district and then inform DPRD decisions with it.

Strengthening the DPRD's internal functioning : DPRD cannot take the initiative on regional regulations unless they have some support to analyze problems, design solutions, and frame these are draft regulations. A similar unit to that seen in the House of Representatives is needed, a legislation committee *(Badan Legislasi)*, in this case a regional legislative committee *(panitia legislasi daerah*), and a supporting unit consisting of experts that can assist in initiating regulations or responding to those regulations originating from the executive.

More robust internal rules and guidance : These rules (*peraturan tata tertib DPRD),* must be amended to give space for public information, participation, and improved transparency and accountability of members' activities. Equally important is greater guidance to members in undertaking their supervising functions, understanding how they are to hold the government accountable, without unduly interfering with the executive side.

Forming alliances : success in a factionalized DPRD rests on forging coalitions or alliances between parties, and mobilizing civil society networks and public pressure to push some reforms through against any narrow interests.

Sumedang district budget challenge

The 2007 budget draft preparation (RAPBD) dealt with 2120 proposed activities. The DPRD Budget Committee, with 20 members, does not have the capacity to review all of these activities, particularly if the indicators of performance are also to be assessed for their appropriateness. Merely to read the budget requires 2-5 days.[24] The challenge is even greater if the DPRD wishes to involve itself in the bottom-up planning process that gives rise to many of the proposals, and if it wishes to understand or influence the various changes being brought about by central level regulations and local regulations regarding the planning and budgeting process (Perda 1/2007), such as setting an indicative ceiling for each regional government operating unit, based on a medium term expenditure framework.[25]

Accessing technical expertise : DPRD members come from many walks of life, and are often ill prepared to address technical issues, such as scrutinizing the budget that is prepared by the executive. The DPRD as an institution needs to learn how to tap into expertise that can help it to discharge its functions effectively. The Sumedang case (see Box at left) indicates the magnitude of the challenge. The DPRD needs to also be realistic about its limits, and focus on what is most crucial and strategic. The needed strengthening may have to be a combination of in-house resources, situated in the DPRD secretariat, and mechanisms for attracting external support as needed.

Forging stronger party-DPRD links : Ways of supporting DPRD members need to be established within the parties. Currently there is little communication or policy direction from the parties, forcing the DPRD members to seek other resources to develop policies or responses to executive initiatives.

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[23] In reality, the result of Jaring Asmara activities is questionable. Several studies show that Jaring Asmara competes with the executive lead Musrenbang. Also, Jaring Asmara is often carried out inconsistently, using ineffective methods and contracting to NGOs, see Maridjan, Katjung (2007). Working Paper in Partnership of Governance Meeting, Jakarta.

[24] Widiyanto Dwi Joko (2008). Permendagri 13/2006: Menyulitkan atau Memudahkan? Village Resource Centre, obtained January 12, 2009 at http://villageres.wordpress.com/2008/01/29/permendagri-132006-menyulitkan-atau-memudahkan/.

[25] EndyNews (2008). Tanpa Dukungan Ketersediaan Anggaran Rencana Pembangunan Tak Akan Bisa Diwujudkan, June 1, http://endynews.blogspot.com/2008/06/tanpa-dukungan-ketersediaan-anggaran.html.

Recommendations

This study proposes several further recommendations :

1. The Government and House of Representatives (DPR) need to encourage reform from above through creating a regulatory framework that further clarifies the functions of the DPRD, and the authority of the DPRD. It should also establish a workable support system for the DPRD.

2. Further support for the DPRD could include offering capacity development consisting of a judicious mix of optional good practices (caucuses, coalitions, communications), support for self-regulation and where necessary central government regulation.

3. Efforts from CSOs and donors to support reform of the DPRD need to be continued. CSOs need to work with the parties to strengthen party-DPRD links.

2. REGIONAL HOUSE OF REPRESENTATIVES (DPRD) ELECTION

Situation in 2006

The changes introduced by Law 12/2003, to guide the 2004 elections, were seen as a significant improvement over the policy/legal framework pertaining to the 1999 elections. The STS 2006 did note some shortcoming in the new law; particularly its vagueness on important provisions, and lack of effective sanctions. These shortcomings became more evident in the implementation of the 2004 elections.

The low women representation attained in the 2004 elections (generally much below the aspirational quota of 30%) had lead stakeholders to rethink the voluntary approach to such a quota. One of the prevailing suggestions, from the KPU, was to regulate 30% women's representation in the party leadership, as a stepping stone to a similar DPRD proportion. As there were widely different views held on the means to attain greater women's representation, the STS 2006 did not put forward its own specific suggestions, beyond identifying the key causes for the lagging participation.

The more localized (smaller) electoral districts, and open-list voting system, were deemed to have worked reasonably well in the 2004 election. However, the stress on regional government, in terms of finances and preparations for local elections was noted. Moreover, the election committees, at all levels, were not able to enforce spending regulations and reporting of post campaign audited financial statements.

Reform directions offered in the study 2006 included a shift to a genuine open-list ballot system, enforcement of procedures/sanctions for campaign financing, and combining DPRD and regional government head elections, although separating these from the general elections for the national level.

Developments since 2006

A new election law (Law 10/2008) was passed in the lead up to the 2009 elections, introducing some significant changes to the elections of legislative members of all levels of government.[26]

Women's representation

Parties must now have 30% women representation in their leadership at central level. Moreover, according to the law, 30% women representation is required for the list of candidates put forward by parties for DPR and DPRD seats. Women candidates were also likely to be in higher positions on the parties' candidate lists,[27] due to a stipulation that calls for awarding every third position to a woman (zipper

[26] Law 10/2008 on Elections of Members of DPR, DPD, and DPRD. This law was ushered in alongside two other laws relating to elections; Law 22/2007 on the Implementation of General Elections, and Law 2/2008 regarding Political Parties.
[27] www.antara.co.id/arc/2008/10/31/sebagian-caleg-perempuan-ditempatkan-di-nomor-jadi/.

system), making it more likely that women will be selected if their parties fare well. As it turned out, the Constitutional Courts truck down the party list provision in the new law, placing the women on the same competitive footing as men. Several women activists criticized the court's decision as they see it as setting back women political representation. They further urged KPU to issue a regulation defending affirmative action in deciding elected nominees[28]. However, several circles do not agree with this demand as they consider affirmative action is discriminative to male nominees and could potentially trigger conflict within parties.[29]

Political observers and women activists expressed the view that although Law 10/2008 was a meaningful step, it is flawed by the lack of any sanctions for not attaining the quota.[30] The election supervision bodies at regional level (KPUD) are to undertake verification of the fulfillment of the quota, but many activists believe that the KPUD's authority to impose sanctions is much too limited; KPUD can only return the candidate list to the political parties with a request for revision. If parties do not comply to the request all that is left for the KPUD to do is publish the actual percentage of women candidates reached in the national dailies.

Notwithstanding the stated weaknesses, this recent legislative change has resulted in more women candidates in the upcoming 2009 elections, than in 2004. There are 3,910 (34%) women nominees on the lists for the DPR seats. The majority of parties have met the requirement of nominating a minimum of 30% women candidates save four.[31] The data on party adherence at regional level was not collected in this study, but is likely to be lower.[32]

Electoral district

Electoral districts have been seen internationally to encourage a strong identification between the candidate and the voters, and the elected members and constituents. Law 10/2008 maintains the changes made in 2003, but does not establish electoral districts strictly based on regional administration boundaries. As party organizations follow administrative boundaries, this incongruence will cause some difficulties for candidates that straddle more than one party organization catchment area.

In a significant change in electoral districts, the reduction in the possible range of seats per electoral district in the case of the DPR (from 3-12 to 3-10) will tighten the competition at this level, forcing more of the small and medium sized parties to place greater emphasis on the DPRD elections, where seats are unchanged at 3-12. As a result, the political constellation at regional level will likely be complex, with more coalition politics and a more complicated relationship with the regional government head.[33]

Selection of DPRD candidates

This round of elections is based on a more open system than the partly open system seen in 2004. Now voters can vote for a party or a specific candidate. In the 2004 election they could only vote for a candidate if they also voted for the party. In view of the Constitutional decision to strike down party lists, the unresolved issue is now what will happen to the votes given to the party only (and not to a candidate).[34]

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[28] See the opinion of Nursyahbani Katjasungkana (a member of Commision III in the House of Representatives), Ani Sutjipto (a scholar from the University of Indonesia), Masruchah (general secretary of Indonesian Women's coalition/*Koalisi Perempuan Indonesia*) in Kompas January 23, 2009. This view is supported also by J. Kristiadi, *"Suara Terbanyak dan Nasib Perempuan"*, Kompas Political Analysis column, January 27 2009.

[29] See the opinion of Wila Candrawila S, a member of Commission III in the DPR, Joko J. Prihatmoko and Irman Putrasidin in Kompas January 27, 2009.

[30] See further the opinions of Indonesian Women's coalition (*Koalisi Perempuan Indonesia*), Center of Political Studies (Puskapol), University of Indonesia and Ray Rangkuti the director of (Civil Society Circles for Indonesia) *Lingkar Madani untuk Indonesia* in Sinar Harapan, July 24, 2008.

[31] Kompas, October 30, 2008. Sigit Pamungkas (2009), *Perihal Pemilu*, Laboratorium Jurusan Ilmu Pemerintahan, Yogyakarta Page 138-139.

[32] An indication of this is the current representation of 5-10% seen in the DPRD, compared to the 11.7% seen in the DPR, see Lalengke, Wilson (2008). DPD-RI: Keterwakilan Perempuan di Parlemen Memprihatinkan, 22 December.

[33] This complexity is also favoured by the lack of a threshold for party existence at the regional government level; only at the national level must parties attain 2.5% of the vote. Hence, more parties will be able to contest regional level elections.

The new law also leaves it to parties to set their candidate selection mechanisms, demanding only that the process be open and democratic. Several parties that already hold seats from the 2004 election (PDIP, Golkar, Democratic Party, PAN, PKS, PKB, PPP, PBB) already have well developed internal selection mechanisms, and these may be refined for the 2009 elections. However, some smaller or newer parties will likely face difficulties in fashioning their procedures. These parties also will face difficulties in putting forward strong candidates.

Internal party requirements for candidates, beyond those set in law, differ considerably between parties. For instance, the PDIP has added requirements that demonstrate loyalty to the party.[35] Generally, these requirements aim to strengthen the party in some way, as seen in the PDIP obligation to recruit at least 100 new members. They can also be driven by financial considerations, as in the case of aspiring candidates being asked to contribute money to the party to become a candidate.

Once candidates are screened by the parties, they must be assigned to contest a specific DPRD. This is done in consultation between the national party council and lower level branches of the party. The next step is to assign the order of placement in the candidate list for each DPRD (prior to the Constitutional Court decision) . The order given to each candidate is often related to the position held within the party, service to the party, past success in election, perception of likely success in upcoming election, and other strategic considerations.[36]

One continuity of the upcoming elections with past elections is the lack of a residency requirement for legislative candidates. This allows party members attached to the national party structures to contest electoral districts in the outer regions, regardless of their familiarity and connection to these regions.

Determining winning candidates

Introduced in Law 10/2008 is the possibility of gaining a seat by reaching the threshold of 30% of the vote. If candidates do not reach this threshold, then the proportionally won seats have to be allocated according to the order of the candidate lists. The use of party order lists, which often place party executives on top has been contested within a number of parties (e.g., in Golkar). Some parties rejected the use of party order lists (PAN, Democratic Party, Golkar), and some are requiring candidates to submit resignation letters prior to the election to keep candidates from later reverting to the legally allowed lists. Other sanctions and mechanisms were developed with the same aim, to maintain party discipline on the choice of determining winning candidates. Parties were also setting internal thresholds that differ from the 30%, to avoid the use of the list; like the 15% applied by PDIP. The afore mentioned Constitutional Court decision has of course made the determination of winning candidates uniform across parties, and dependent on votes received by the candidates themselves.

DPRD election campaigns

Law 10/2008 also makes changes to campaign provisions, enlarging these to encompass the content of campaigns and methods used; provisions and prohibitions are accompanied by sanctions in case of non compliance. It gives more time for contestants to campaign, with the period beginning three days after the candidate has been officially recognized as a candidate in the election (and ending with the start of the cooling off period).

The extended time for campaigning will allow candidates to interact more intensively with their constituents, and to tailor their campaign to their specific set of circumstances. It may place more financial demands on candidates, but this in itself may lead to innovative

[34] Sherlock, Stephen and Fealy, Greg (2009). Indonesia's elections 2009: how the system works and what the parties stand for, Vital Issues Seminar 26 February.
[35] Internal requirements of the PDIP include: no involvement in the PDI Congress or Palu Congress; did not reject the results of the Bali 2005 PDID Congress II; for members who have tenure less than one year, the obligation to recruit at least 100 members, with proof of fhotocopy of their membership card.
[36] SK DPP PDIP No. 210/KPTS/DPP/V/2008 tentang Tata Cara Penjaringan, Penyaringan dan Penetapan Calon anggota Legislatif PDIP.

ways of reaching constituents (e.g., joining with other candidates in some efforts).

The law seeks to come to grips with current developments in campaign methods, in terms of the use of the printed and electronic media. It specifically regulates news, broadcasts, and advertisements relating to campaigns. These include prohibitions and limitations that aim to attain fairness and a level playing field. A role in supervision and sanctions in this regard was given to the Indonesian Broadcasting Commission and Press Council.

Policy options

DPRD elections in the reform period have been relatively free, open and competitive. But it cannot be said that they have yielded a DPRD composition that is representative in composition. Moreover, the election system works to limit accountability to the public. A number of organizations are seeking to effect additional improvements, among them CSOs like People's Voter Education Network (JPPR) , Civil Society Alliance for Political Laws Revision (Ansipol), Indonesian Women's Coalition, Civil Society Circles for Indonesia (*Lingkar Madani untuk Indonesia)*, CETRO and *Perkumpulan untuk Pemilu dan Demokrasi*. Supported by donor organizations, they have advocated for regulatory changes in the election system, influencing the set of new laws promulgated in 2008, and are now active in monitoring their implementation.

The constitutionally forced shift away from party list to most votes received in deciding regional legislative seats should be seen as a positive development on the whole. It will work to reduce the power of the party elite in selecting candidates and determining their likelihood of achievement. Some disruption will occur (such as current candidates asking for their money back for being placed high in the list) but this is a small price to pay for a more competitive and clean candidate selection process.

Further reforms will also need to address ways of ensuring that women representation in the candidate pool is increased, and that women candidates have a real chance of being elected. How to achieve this without the benefit of the legal provisions struck down by the Constitutional Court will prove challenging. The 30% women quota within the party structure itself has survived the court ruling, but it also needs attention to be realized. Government regulation should address sanctions for non-compliance, including prohibiting the party from running in those electoral districts where the quota has not been met.

Internal rules need to be changed and well entrenched to make candidacy open and democratic, for both women and men. Both older and newer party members ought to have an opportunity to be considered as candidates, with criteria that are objective, transparent and fair. This will lessen the potential tensions within parties, particularly between regular cadre and the leadership.

Making the electoral areas congruent with the party structures catchment areas would also be a useful simplification, facilitating connection between the party machinery, the candidates, and the public. A closer connection between candidates and the public can also be attained by selecting candidates that have political/party experience in the electoral district they are contesting. Residency requirements would also cement this relationship.

Some discussion has arisen of the cost and perceptions of DPRD's role in recent years that suggests that DPRD membership should not be seen as a full time job or career, paid accordingly, but rather as a largely voluntary and part time activity for members of the public that are drawn from a variety of professions and life situations. Reducing the number of DPRD members is also seen as one way to gain greater cohesiveness and reducing governance costs - illegal money politics would also be reduced as the positions would assume a different set of expectations and reduced opportunities for personal gain. The DPRD stipend would therefore be more modest, with costs of meetings and communication with constituents being the larger category. The time allocation for DPRD service would also be more reasonable,

reflecting the scale of the regions (population), and allowing the members to remain connected to their former professions – and thus better able to distance themselves from preoccupations with maintaining their seats as an economic necessity.[37]

Recommendations

To further progress along the policy directions indicated above, the following recommendations are made :

1. Sanctions should be imposed on parties that fail to comply with the 30% women's representation in party structures (*pengurus*).
2. Political parties should develop and strengthen their internal candidate selection mechanism, learning from other parties' experiences and making use of views of their stakeholders/supporters.
3. CSOs should continue to scrutinize internal selection procedures, and encourage parties to improve them. CSOs can also intensify their political education efforts with the public.
4. Development partners may be able to make a contribution by helping the KPU to research and propose electoral districts that are more aligned with administrative boundaries that are the basis for party structures.
5. Candidate residency should be mandated, to bring candidates closer to their constituents.
6. A review of the number of DPRD members, their remuneration and terms of service, needs to be undertaken, to explore whether a reduced number of DPRD members, more oriented to voluntary service, might be appropriate.

[37] These ideas were offered in the discussion held with representatives of the German Foundations, February 28, 2009.

3. POLITICAL ACCOUNTABILITY: REGIONAL GOVERNMENT HEADS

Situation in 2006

The STS 2006 notes that the accountability relationships between the regional government head (RGH) and other actors were significantly reshaped in Law 32/2004. The RGH relationship with the Regional House of Representatives (DPRD) was rebalanced, removing the impeachment threat attached to the RGH accountability report submitted annually to the DPRD. With this revised law, the RGH reporting was then oriented to three entities; central government, DPRD, and citizens.

Starting 2005, all Governors and Bupati/Mayors were elected directly. The report noted that this change might reduce DPRD related money politics. It certainly raised the profile of the RGH, and placed him in a position to represent citizens, make political promises and shape regional plans and budgets accordingly. The reconfigured role placed the RGH in competition with the DPRD in representing their common constituents.

The STS 2006 reminded readers that accountability relationships can take time to be established. Development partners were encouraged to play a catalytic role in supporting a dialogue on the refinements that could still be made in the legal framework for RGH elections. In particular, attention was directed to the development of a more capable and independent electoral administration to ensure integrity of the *pilkada* process, including provisions for more effective avenues to address grievances. The government was urged to introduce and enforce requirement that political parties apply democratic and participatory means in selecting candidates, and avoid illegal favors from would-be candidates.

Developments since 2006

<u>Legislative change : Law 12/2008</u>

With the partial revision of Law 32/2004 (via Law

12/2008) and its follow up regulation,[38] several significant changes were made. The minimum age for candidates was lowered from 30 to 25 years for Bupati/Mayor, and retained at 30 years for Governor. The candidates are also required to resign their posts as RGH if they are to run again, with no prospect of withdrawing their resignation at a later point.

The resignation of incumbents was deemed necessary to reduce their advantage, perceived by many to be derived largely from the misuse of their positions and the regional government bureaucracy. Since 2005, of the 210 elections for RGH, 124 incumbents held on to their positions, a 59% success rate.[39] A 41% turnover is quite healthy, from an international perspective, but it is nonetheless troubling that some incumbents are maintaining an advantage through illegal and unethical practices. Soon after this law was issued, the Constitutional Court ruled against the provision on the forced resignation for incumbent candidates – the government deemed the Constitutional Court decision to be relevant only for those candidates that had not yet resigned, causing some consternation among those who had just resigned in line with the provisions that were struck down. For the luckier set, other checks and balances will need to be found to avert abuse of position/bureacracy by incumbents. The government has already taken the step to prevent 'caretaker' RGH (appointed by the government) in newly established regions from seeking election for a permanent position.[40]

The new law also introduced the possibility of independent candidates nationally, spurred by a constitutional challenge[41] and the evidence that this approach operated successfully in Aceh as a result of Law 11/2006 on the Governance of Aceh. There is some hope that independent candidates will lower the cost of elections for regional heads, by eliminating the high funding that must be supplied to the parties to gain endorsement.[42] However, the new rules are not entirely facilitative. Independent candidates must obtain the support at least 3%-6.5% of the population, depending on the population of the region. These proportions may have been set too high, making it unlikely that independent candidates can enter the political arena. For instance, in East Java, an independent candidate would need to gather more than one million supporters. The categories and percentage chosen also create some incongruous situations, where a smaller absolute number of supporters are needed in a province that has a larger population.

The results of elections including independent candidates were favourable for the independent candidates in Aceh in 2007, at the provincial government and several district/city governments. The early (2008) results in other regions were less favourable. In Lampung province the independent candidates garnered few votes. A similar result was seen in several districts/cities, with the exception of Batubara and Rote districts which were won with 53% and 32% of the vote respectively by independent candidates.

Accountability of RGH

The strong local leader has long been a feature of Indonesian local politics. Initial decentralization reforms raised the legislative side, making it even dominant potentially. Law 32/2004 revision rebalanced the roles, and in effect entrenched the dominant role of the regional government head, by removing the DPRD impeachment threat and by the direct election mechanism for the regional head.

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[38] Undang-undang No. 12 Tahun 2008 tentang Perubahan Kedua atas UU no. 32 Tahun 2004 tentang Pemerintahan Daerah; Peraturan Pemerintah No. 49 Tahun 2008 tentang perubahan ketiga atas PP No 6/2005 tentang Pemilihan, Pengesahan, Pengangkatan dan Pemberhentian Kepala Daerah dan Wakil Kepala Daerah.

[39] www.detiknews.com.

[40] *The Jakarta Post* (2008). Heads of new regencies cannot run for election: Minister, Wednesday, July 23, obtained January 9, 2009 at http://www.thejakartapost.com/news/2008/07/23/heads-new-regencies-cannot-run-election-minister.html.

[41] The revision of law 32/2004 on this issue came directly as a result of the decision of the Constitutional Court, by based on a challenge from a member of the DPRD Kabupaten Lombok, Lalu Ranggalawe, see *Tempointeraktif* (2007). Mahkamah Konstitusi Kabulkan Calon Independen Ikuti Pilkada, Senin, 23 Juli, obtained 14 March, 2009 at http://www.tempointeractive.com/hg/nasional/2007/07/23/brk,20070723-104169,id.html.

[42] Communication with Sapei Rusin, 4 March 2009. need to be reconsidered, *The Jakarta Post*, 26 February, obtained 13 March, 2009 at http://www.thejakartapost.com/print/201096.

The results of strong local leadership have been mixed. Executive leadership has been responsible for the most evident innovations in regional service provision. But it has also lead to a form of local 'presidentialism'[43] that is less open to participatory democracy, and prone to a lack of sustainability of breakthroughs in governance. At its worst, the lack of accountability in the system has lead to excesses that are only partly being addressed today; they can be seen in the stark example of the Bupati from Indonesia's 'richest district,' recently jailed for corruption.[44] These cases stand in contrast to the hopes policy makers announced in shifting to the direct election of regional heads – to make regional political life more accountable and democratic.[45] The money politics and excesses seen in recent years have pushed academics to reconsider the benefits of the direct election model, as it is structured today. While it drives some to push for improved accountability, upward and downward,[46] it has precipitated calls for a return to RGH selection by the DPRD and the central government.[47] Recently the Minister of Home Affairs himself has fueled this reversal of policy, announcing that provincial level direct election should be dropped.[48]

The accountability promised in Law 32/2004 was belatedly given a firmer operational basis with GR 6/2008 on the Guidance for the Evaluation of Regional Government.[49] This regulation sets out three directions for the accountability of regional government (defined as the RGH and his regional goverenment apparatus); vertically, to the DPRD, and to the public.

A key document in assessing regional government performance is the report on the implementation of regional government (LPPD) that is submitted by the RGH to the central government. However, the data requirements for this instrument are onerous, and there is much doubt about the regional governments' capacity to report regularly on the required indicators, as well as the central government's capacity to absorb and respond.(see also Supervision section of this report). It can also be argued that the reporting to higher level government should be done by the combined institution of the RGH and DPRD.

The second direction of accountability in the regulation reworks the RGH accountability report to the DPRD. The occasion of this reporting has yet to be used meaningfully by the DPRD as an opportunity to query the strategies, implementation, and achievements of the regional government. It appears that many DPRD still do not have procedures for organizing this process.[50] The RGH is also able to elude scrutiny by co-opting the DPRD. This is most frequently done by agreeing/proposing projects that meet individual DPRD members' interests – a form of log rolling that can be beneficial, but can also distort equitable regional perspectives, favouring certain groups and interests. As the RGH now plays a more political role, she is also able to mobilize the party machinery and popular support to marginalize the DPRD, and promote her own political vision.

In those cases where the RGH belongs to a minority party (in terms of the DPRD factions) or is an independent candidate, differing political dynamics can arise: a) regional politics may be fraught with unproductive tension between the RGH and DPRD b) a transactional form of equilibrium may be reached – dominated by 'pragmatic' compromises c) a form

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[43] For an Asian wide perspective on this phenomenon see UNDP (2005). Presidentialism In Decentralized Governance: More Local Leadership But At What Cost? A Human Development Viewpoint.

[44] Evaquarta Rosa (2007). Business And Political Actor Relationship In Indonesia's Local Autonomy Project: A Comparative Study On Batam City And Kutai Kartanegara Regency, Department of Government & International Relations, The University of Sydney.

[45] The Government Statement On The Regional Development Policy Before The Plenary Session Of The Regional Representatives Council Of The Republic Of Indonesia On 22nd August 2008, State Secretariat Of The Republic Of Indonesia.

[46] See for instance Prasojo, Eko (2009). Bad Governance Salah satu Ekses Pilkada, Jawa Pos, Kamis, 10 Februari.

[47] See for instance Effendi, Cecep (2009). Direct elections

[48] Suara Merdeka (2009). Pilkada Tingkat Provinsi Sebaiknya Dihapus, 14 Februari, obtained 14 March, 2009 at http://www.suaramerdeka.com/beta1/index.php?fuseaction=news.detailNews&id_news=22913.

[49] Peraturan Pemerintah No. 6 Tahun 2008 tentang Pedoman Evaluasi Pemerintahan Daerah. Note that other regulations are also relevant to performance assessment and reporting.

[50] The lack of guiding instruments for the DPRD in this regard was noted in the Yogyakarta DPRD internal reports, see Laporan Kaukus Parlemen Bersih di Yogyakarta - 2007.

of mutual accountability may arise, where the DPRD and RGH are vigilant, can find agreement on some issues, and disagree on others.

In terms of the third direction of RGH accountability, towards the public, some innovation is being observed. For instance, Gorontalo city has made efforts to increase the transparency of city governance. The Mayor has responded to the public's desire for more openness in government by issuing Decree No. 398/2000, that places an obligation on the city audit body (*inspektorat daerah*) to forward the audit results to the DPRD. The decree also calls for coordination and workshops involving the public that are designed to achieve a participatory form of supervision. Efforts are being made to bolster these procedures by placing them in regional government regulations.

Efforts by civil society and institutions of higher learning/research are also showing some promise of enhancing regional government accountability. Often with donor assistance, these organizations undertake regional government assessments, with a wide variety of approaches and methodologies. Recently they have stressed two aspects of regional government performance; in provision of public services and in boosting the role of the private sector. The 2007 Local Economic Governance Survey of the KPPOD covered 243 districts/cities and several themes, including infrastructure, business development policies and the 'capacity and integrity of the Mayor/Regent'.[51] Other CSOs, including the media, are making efforts to uncover good practices and to hold these up as examples to be followed. The Jawa Post Pro Otonomi (JPIP) effort in this regard is most prominent, with its focus on identifying and visibly recognizing 'breakthroughs', with attention to public perceptions, in public service provision, economic development and management of local natural hazards. Beginning its monitoring in East Java, as of 2005 JPIP has extended its monitoring to include Central java and East Kalimantan. While highly variable in their form and impact, the civil society efforts to identify and recognize good, and bad, performance, encourages RGHs to seek improvements and innovations.

Policy options

The nation wide introduction of independent candidates has been a positive development. Making it easier for independent candidates to enter the political arena would further increase political competition and put pressure on parties to distinguish themselves in terms of policies rather than personalities. Hence, the thresholds of support needed for elegilibility of independent candidates needs to be lowered and made more equitable between regions.

Party sponsored candidates will still likely dominate the political scene. It is important then to push parties to improve their selection mechanisms, to obtain the best candidates, and shed the image of internal money politics.

In view of the Constitutional Court ruling, allowing incumbents to keep their positions while campaigning, it is critical that the government ensure a level playing field, enforcing regulations on the abuse of the position and the bureaucracy for personal political campaigning. In terms of vertical supervision, the central government needs to be more realistic in its demands for information on the performance of regional government, focusing initially on a limited set of key indicators, and enlarging this set over time as the reporting and reward/response systems improve.

Regional governments need to be supported in preparing adequate reports for all three directions of accountability; implementation of regional government report to higher level government, accountability reports to the DPRD, and the 'information' on regional government that is provided to the public. One way to make progress is to intensify training for the internal inspectorates, so that they support regional government units in assessing and improving their performance (rather than being too focused

[51] KPPOD (2008). Local Economic Governance: A Survey of Businesses in 243 Regencies/Cities in Indonesia – Press Release, KPPOD and the Asia Foundation.

on discovering mistakes). Additionally, the reporting to the public could benefit from embedding the relevant procedures in a government regulation. The latter could also be extended in scope to treat public access to information regarding the operation of regional government.

The DPRDs need to be supported in developing their supervisory function over regional government, on an ongoing basis as well as during strategic occasions; in the planning/budgeting processes and the annual accountability report.

Efforts to increase public political education should also be continued, as international evidence indicates that this has been a weak link in decentralization policy. Organizations that are devoted to engaging with regional government, and holding it accountable (e.g., Forum Warga) need to be supported in ways that are feasible and sustainable. The expansion and professionalization of the media, particularly in rural districts, would be beneficial. Indications are that there is a lack of plural views in the rural media in the context of RGH elections.[52]

Recommendations

In moving forward, several improvements could be pursued by the government and relevant stakeholders :

- Greater scrutiny, response to complaints and enforcement of regulations concerning abuse of position/bureacracy during election campaigns by incumbents.
- Thresholds for independent candidates should be lowered and made equitable in relation to regional population size.
- Parties need to be encouraged to improve internal selection mechanisms for RGH candidates, to gain able candidates and dispel practices/perceptions of money politics.
- The operational aspects of regional government performance assessment and reporting (e.g., GR 6/2008, GR 3/2007) need to be matched with emerging regional government and central government capacities.
- Internal DPRD procedures and DPRD-RGH procedures need to be developed to make the most of the reporting/accountability opportunities available.

Development partners can support some of the regulatory refinements indicated above, and they are particularly needed in the following efforts :

- Supporting regional associations (of DPRD) concerned with increasing the capacity of their members to hold the RGH/regional government accountable.
- Intensifying support efforts for civil society organizations, including the media, to assess regional government performance and hold it accountable. ■

[52] Evans K., Sugiarto B. A., and Kusworo A. (2008). The Conduct of Pilkada: Challenges for Reform, Bappenas, Komisi Pemilihan Umum, UNDP.

VII. REGIONAL GOVERNMENT ASSOCIATIONS AND CIVIL SOCIETY

1. REGIONAL GOVERNMENT ASSOCIATIONS

Situation in 2006

The STS 2006 noted that associations of regional governments (RGAs) have been separate since they were established. At the district/city level there are four associations; district government association (APKASI), district representative body association (ADKASI), city government association (APEKSI), and city representative body association (ADEKSI). At the provincial level, the provincial government association (APPSI) was active, while an informal association of the provincial representative body association (ADEPSI) is much less visible. Few linkages were seen between these associations, particularly between different levels.

The four district/city level associations were seeking to provide services and undertake advocacy, build their internal procedures and organizational capacities, and extend their reach among the members with regional affiliates (*Komisariat Wilayah – Komwil and Koordinator Wilayah - Korwil*). These efforts were largely of the individual associations, though some joint efforts had been made in training and advocacy. A proposal to jointly establish technical working groups was being prepared, with the intent to draw donor resources in support. The best days for cooperation were already past, with its zenith being the revision of law 22/1999 (through the *Forum Asosiasi*). Cooperation thereafter had been ad hoc and limited.

At the provincial level, only the 'executive' association was active. Cooperation between the provincial and district/city level was non existent, and the general view was that their interests were very different, if not at odds. The cooperation between the legislative and executive side became more complicated with direct elections of regional heads – with uncertainty over whether this would draw them together or further apart.

The relationship of the associations with the Ministry of Home Affairs, always uncertain, had taken a turn for the worse when MoHA sought to curb the advocacy role of the associations, putting pressure on them to change their organizational form to emphasize internal service to members; APKASI gave in and became *Badan Kerjasama Kabupaten se Indonesia* (BKKSI). The role of the associations in the DPOD had practically disappeared by 2006, in part due to changes in the composition of the DPOD through law 32/2004. The RGAs appeared to be trying to link with Bappenas and other national organizations, to broaden their channels and support.

Capacities had grown in the associations, but slowly. APEKSI and ADEKSI seemed to be the most capable, as APKASI (BKKSI) had lost some momentum. ADKASI, with the largest membership, faced the most difficulties. Leadership in the RGAs was evidently an issue, and members did not seem convinced of the association's value if membership dues were any indication.

Often the RGAs seemed to act as professional associations, concerned with the advancement of their members, narrowly defined. There was less attention to promoting the broader interests of regional governments and their constituents. A glaring indication of this preoccupation was the relative absence of the associations from policy dialogue or technical elaboration of key laws and regulations. Only APEKSI played any role (largely as observers) in the preparation of the key government regulation on the assignment of functions (later issued as GR 38/2007).

Based on international experience, Development Partners were unified in the view that the RGAs could and should play a vital role as contributors on policies and regulations and as a source of support and capacity development for its members. However, the apparently low impact of substantial donor support appeared to stem from its ad hoc and fragmented nature, and the lack of attention to serious organizational development challenges. In some instances, the assistance (placement of long term advisors) seemed counterproductive.

The STS 2006 encouraged DPs to nudge the four same level associations together in cooperation, as in

the development of joint technical working groups, allowing for any closer institutional arrangement to develop organically. Gap filling approaches were discouraged, in favour of sound organizational development, focused on reducing wasteful overhead, increasing leadership and management skills, and improving staff performance through increased wages for competent staff. Moreover, DPs were asked to bring the RGAs into their intermediary role earlier in DP supported efforts, rather than at the tail end when dissemination and sustainability questions become pressing.

DPs were also encouraged to support both MoHA and other selected national stakeholders to examine, with RGAs' involvement at critical points, international practices for structured agreements on how central government can best relate to the RGAs. Failing any show of interest, DPs were urged to work with the RGAs to undertake the exploration and then support the RGAs in mounting a campaign to familiarize policy makers on the benefits of such a structured agreement.

Developments since 2006

Advocacy and services to members

The six RGAs continue to exist separately, and their cooperation has not increased, remaining at the level of occasional joint meetings. Furthermore, their orientation is still toward issues that are of immediate impact on their members – essentially acting as professional associations.

Within those limitations, individual RGAs are making some notable advocacy efforts. ADEKSI has issued a position on the revision of law 32/2004 that is focused on its desire to see the DPRD as a strong legislative body, pushing also for confirmation of individual standing of members as government officials (*pejabat negara)*.[1] It is not clear however how they are putting this position forward to policy makers. APEKSI has tried to operate a technical team that would provide more comprehensive inputs to the revision of Law 32/2004. This technical team has met on several occasions and a position paper has been prepared, covering a good number of the issues being reviewed in the revision process. However, APEKSI has yet to be included in the membership of the MoHA struck revision team, nor has it been given the chance to present its views to this team. Recently, a DP staff member supporting the revision process has made a presentation to an APEKSI forum where revision issues were discussed.[2] The message was supportive of the RGAs but the DP representative could obviously not speak for the government revision team.

APKASI appears to lag in terms of readiness to engage in the revision process; its website contains only positions and analysis that relate to the revision of Law 22/1999, the predecessor to Law 32/2004 that is now the focus of revision.

The provincial DRPD association is probably in the most precarious situation today, and appears either unaware of the danger the DPRD as an institution faces, or unable to mount any visible response. They have yet to respond as a group to the various calls for the abolition of the provincial DPRD, or on the related policy option of strengthening the Governor's role as the representative of Central Government.

APPSI on the other hand, dominated by Governors, is much more able to mobilize its members to discuss issues of common interests, and to attract notable government figures to listen to their recommendations, as shown in its 2008 annual meeting, where it discussed how the role of the Governor as representative of the Central Government could be

[1] ADEKSI (2008). Rekomendasi RAKERNAS VIII ADEKSI, Surakarta 26-29 Oktober, Berita, obtained November 30, 2008 at http://www.adeksi.or.id/berita_detail.php?no=65.
[2] The APEKSI workshop was titled "Technical Working Group Penyusunan Rekomendasi Revisi UU No. 32 Tahun 2004 Tentang Pemerintahan Daerah Untuk Penguatan Elemen Dasar (Pembagian Urusan, Kelembagaan, Personil, Keuangan Daerah, Perwakilan, Pelayanan Publik dan Pengawasan)" and held in Jakarta 26-28 November 2008. support came from GTZ-ASSD.
[3] APPSI (2008). Bahas Penguatan Peran Gubernur Sebagai Wakil Pemerintah Pusat, penjelasan Sekretariat atas Penyelenggaraan Rapat Kerja Nasional (Rakernas) APPSI tahun 2008, dilaksanakan pada tanggal 14-16 Februari, Jakarta. Obtained November 30, 2008 at http://www.appsi-online.com/.

strengthened.[3] It also is able to rise above its narrow interests, as when it urged the central government to review the legal framework to determine where it is not '*sinkron*' with Law 32/2004.[4]

Member relations and services appear to vary between associations. The RGAs do undertake needs asssesment of their members annually to determine what kind of services are needed. But the demand cannot be met through the rather low membership fees. It is surprising that the proportion of due paying members has not improved appreciably since 2006, and may have degenerated in fact. Data on membership payments is guarded rather closely, but some glimpses of compliance are available. For instance, as of August 2008, only 75 members of APKASI had paid their dues for the year.[5] ADEKSI's position is not much better; annual fees for 2008 were submitted by only 40% of the membership. The difficulty with finding a suitable/legally acceptable regional government account from which to pay fees has been surmounted by a number of mechanisms, and does not appear to be as pressing an issue as it was in 2006.[6] Therefore, this persistent pattern of low financial support suggests members do not yet significantly value the role or services of the associations. This may be due in part to the large number of new regions that have yet to fully establish themselves and appreciate the benefits that the associations can offer.

It does appear that there is a willingness to pay directly for specific services (training events); APKASI has registered an increase in member involvement through this vehicle. But without a stable and sufficient membership fee base, the associations cannot mount some collective efforts that would add value to members, particularly advocacy campaigns. Alternatively, they are forced to rely on what has been ad hoc and sometimes unsuitable DP support.

All RGAs would like to do more and better training. Toward this end, APKASI hopes to establish a training institute, focused initially on financial management. This would seem to be a need felt also by APEKSI, a reality readily acknowledged by the latter.[7] It is symptomatic of the relationship between RGAs that no consultation has yet been held to join forces on such an obvious common issue, in the face of limited resources.

The member services provided by the RGAs are very small efforts in the face of the enormous needs felt by the members. Moreover, the efforts of the RGAs do no fit into a larger GoI/RGA/DPs capacity development strategy; a framework for capacity development is still work in process within government, and it is not clear that it will be incisive enough to give the strategic direction to key actors.

One of the services all RGAs wish to provide is the highlighting of good-practices within Indonesia. A handful of cases can be found in the APEKSI website. Little progress is seen beyond this very modest effort. DSF is funding a study that aims to assist the government and other actors to put in place a better approach to identifying and disseminating good practices, and that may help to link actors and give their efforts more impact.

Regional affiliates

The establishment of regional affiliates (*Komwil, korwil*), a significant effort to mobilize members and serve them more effectively, has lead to some regional based programming through these platforms. An effort to encourage joint secretariats between these platforms of differing associations was attempted by UNDP, in Sulawesi, but the results are not known.

Cooperation between several regional governments

A bright spot in inter-regional cooperation is that

[4] Berita Acara Kesepakatan Bersama Pemerintah Provinsi Seluruh Indonesia tentang Pelaskanaan Otonomi Daerah di Bidang Pertanahan.
[5] APKASI (2008). Iuran Anggota 2008, obtained December 1, 2008 at http://www.apkasi.or.id/modules.php?name=Content&pa=showpage&pid=101.
[6] Communication with RGA representatives at the FGD on 'Regional Government Associations' held by USAID-DRSP, Hotel Sahid, 21 October, 2008.
[7] Response noted in the Focus Group Discussion on "Regional Government Associations" held by USAID-DRSP, Hotel Sahid, 21 October, 2008.

initiated by individual regional governments that see opportunities for improving services by joining efforts. These relate to externalities found in regional planning, transportation, waste management and others. Examples of this form of cooperation, involving two or more regional governments, are found throughout Indonesia. The longstanding example of the Sekber Kartamantul[8] in the province of Yogyakarta (started in 2001), has already garnered recognition from MoHA and the World Bank, and has inspired other efforts.

While the benefits of this form of cooperation are more concrete and visible to regional governments, as compared to Indonesia/large region wide forms, the many intentions to establish this form of cooperation fizzles in the implementation. It may remain only a formal agreement (*perjanjian*), or the cooperation structure may never function as intended. The problematic case of the Sabang Free Trade Zone is captured in the Special Zones chapter of this report; the accountability relationship to the mother regions, and the financial mode used by central government, are proving to be problematic.

The difficulties faced in these macro-forms of cooperation may also be due to differences in how benefits and costs are to be shared, or may be due to the organizational set up chosen. The slow progress seen in megapolitan Jakarta, to stem the threat of floods for instance, indicates the challenges of this form of cooperation. Well documented case studies that can inspire and guide regional governments in these efforts are in short supply.

Support from Development Partners

It appears that DP support has decreased somewhat from 2006. However, the RGAs appear to still be interested in DP support. The Executive Director of APEKSI indicated to the STS team that he wished for a more intensive DP support, similar to that experienced with USAID-ICMA prior to 2006.[9] On its website, ADKASI lists LGSP, GTZ, VNG and NDI as its partners, but does not describe what activities are ongoing. Informal comments from DPs suggest that they are losing confidence in the associations' prospects and are reducing their support.

Reduced support may not be an entirely bad idea. Some of the support seen in 2006 was deemed to be inappropriate, or not strategic, hindering or putting off the day of serious reflection and restructuring within RGAs. The danger is if DPs simply reduce their efforts but do not alter the mix/impact of remaining support provided.

Policy options

Generating policy positions in a collegial way is not a well embedded government practice in Indonesia, and it is therefore rather optimistic to expect that the associations will find it easy to do, when in their own regional government context the policy development approach is still rather hierarchical. It might be expected that cooperation will be easier at the scale of two or several regions, where the motivation is strong because benefits are concrete and more achievable. Yet, the associations themselves do not seem to have promoted this scale of cooperation. They have only just begun to build large region affiliates, on a provincial or multi-provincial basis.

RGAs have expanded the range of actors they are engaging (CSOs, Universities, research institutes, multiple central government organizations, DPOD, DPD), and the richness of inputs and alliances these actors offer is promising, particularly when seen against the backdrop of how associations operate in The Philippines for example. These links however appear tenuous and have yet to prove useful.

Aside from the rather discouraging indicator of member professional support for the RGAs, there is little systematic assessment of their added value. The only evaluation of the work of the RGAs has been a desk study undertaken by the University of

[8] Encompassing the city of Yogyakarta, and Sleman and Bantul districts.
[9] Communication with Sarimun Hadisaputra, Executive Director APEKSI, November 27, 2008, Hotel Twin Plaza on the occasion of a workshop on the revision of Law 32/2004.

Gadjah Mada, in 2005. Perhaps what is needed is not necessarily an evaluation; that kind of assessment should be up to the members to make. But it may be helpful to facilitate self-assessment of the associations to identify perceptions of the members that affect their support for the organization, and exploration of the ways of organizing to be more effective in advocacy and member services.

At the present time, the RGAs feel it necessary to promote the interests of the dominant members of their organizations; to garner support from them, and their payment of financial dues that sustain the organizations. This urgent need makes it difficult for them to embrace all of their members (e.g., regional government becomes 'regional heads'), to have a 'daerah' perspective, and to join forces with other associations. Yet this narrowing of perspective and relative isolation works against their overall visibility and impact.

It may be time for the RGAs to more seriously explore what a federated structure could do for all of the RGAs. The lack of cooperation in advocacy work is leaving the policy agenda entirely up to the government, and allowing the government to choose in an ad hoc way which associations or members of the associations it will consult and in what way it will consult. As a result, the common goals of the RGAs are not well projected to the government or onto the national stage, and the different interests of the associations are not mediated within the associations – but are instead adjudicated by the government according to a logic that rarely finds the 'centre of gravity' within the RGAs perspectives/interests.

With respect to how the RGAs interact with government, a key recommendation made in 2006 has gone unexplored. The possibility of reaching a formal understanding between the government (particularly MoHA) and the RGAs is still worthy of considerations. This understanding would recognize the respective roles and set out principles and procedures that would guide their interaction, particularly on policy development that affects the RGA membership.

Recommendations

The 2006 recommendations are still valid, but progress is more likely to be made if the DPs encourage the RGAs to form a common working group that would include DPs and experts. The Working Group would invite government, and would explore how :

a. RGAs can federate,
b. RGAs can pursue a formal consultative agreement with the Government,
c. DP support for RGAs can best be provided.

2. CIVIC ENGAGEMENT IN REGIONAL GOVERNANCE

Situation in 2006

The stock taking of decentralization reforms undertaken in 2006 sought to discover how direct forms of participation in regional governance were facilitated in the policy and legal framework, and how they were realized in practice through budgets and programmatic efforts.

CSOs, big and small (regional and community based), were found to be involved in efforts to make regional government more responsive and accountable, through watchdog activities for instance. They have also sought to actively involve citizens in policy making, budgeting processes and implementation.

The study found that linkages between NGOs and community based organizations had been forged to these ends.[10] For instance, the *Aliansi Pendidikan* for the city of Bandung is specifically established to monitor education. In some districts (e.g., Kebumen, Bantul, Lebak, Bandung, Goa) citizens' forums have been formed to scrutinize budgets and monitor the implementation of projects and services. These

[10] NGO networks active in monitoring budget allocations in public services include FITRA, Pattiro and Jari.

groups have been innovative in using the local media to disseminate their findings. Both the DRPD and the executive have come under greater scrutiny. Increased attention since 2004 has been given to government response to disasters (Aceh and Yogyakarta), as NGOs paid much attention to assistance targeting and funds flows/leakages.

Since the reform era began, government efforts have been focused on 1) developing the legal framework to allow for greater citizen involvement in government, 2) supporting innovative practices in civic participation, and 3) institutionalizing civic participation. Much of the impetus for these efforts has come from NGO activism, donor engagement, and regional governments that are convinced that this approach will improve local governance.[11]

The STS 2006 noted that local participatory processes, though elaborated or improved, tended to still be rigid in terms of timing and process. Gaining genuine participation of marginalized groups continued to be difficult, due resource constraints of target groups, elite domination, lack of understanding of the process, and little evidence of the fruits of past investments in participation.[12] Regarding the latter point, the development community was aware that it had yet to show clear links between participation and improved public services and welfare. Notable breakthroughs in service delivery had to that point been executive lead and not particularly participatory.[13] This reality placed pressure on NGO activists to make their case for why civic participation is nonetheless vital.

NGOs had in recent years taken on the challenge of making civic participation more effective and evidently beneficial. This has meant more efforts, with greater attention to poverty reduction, using a greater variety of approaches, with greater government engagement, and efforts to discern from local practice national level policy implications (see ANNEX 8).

Legal reforms impinging on civic engagement 2006 – 2009

Along with concrete steps at local level toward greater civic engagement, the central government has issued regulations to further expand citizens' roles. Several of these have come into being since 2006 :

1. Law 24/2007 on Disaster Mitigation: provides a broad role to citizens in policy development, implementation, monitoring and evaluation and gives citizens membership in the Regional Committee for Disaster Mitigation (*Komite Penanggulangan Bencana Daerah*).
2. Law 26/2007 on Spatial Planning: this law gives a role in all stages of spatial planning. Government itself has the obligation to provide information on spatial plans to the public to allow citizens to participate meaningfully.
3. Law 12/2008 on the Second Revision of Law 32/2004 on Regional Governance: gives the opportunity to independent candidates to become regional heads.
4. Law 14/2008 on Freedom of Public Information: sets obligations as well as sanction on regional government relating to public access to information.
5. GR 3/2008 on the Report of the Implementation of Regional Government to the Government, Report of the Accountability of Regional Head to the DPRD, and Information of the Regional Government Implementation to the Public: this regulation obliges regional government to provide information to the public that is readily understood and widely disseminated.
6. GR 8/2008 on Stages, Preparation Procedures,

[11] NGOs active in these efforts since 2000 are principally, at national level, the networks IPGI (Indonesian Partnership for Governance Inisitaive), Lakspesdam-NU, and Pattiro. At local level they include PIAR-Kupang and FIK-Ornop Sulsel. Donor supported projects active in this issue have been GTZ-Promis, GTZ-SfDM, CSSP-USAID, dan Perform Project-USAID. Developments in the policies and legal framework on civic participation to 2004 can be found in Suhirman (2004). Kerangka Hukum dan Kebijakan Partisipasi Warga di Indonesia, FPPM: Bandung.

[12] These issues are treated in publications of NGOs and donors working in Indonesia.

[13] See for instance those documented Jembrana, Solok, and Kebumen districts.

Control and Evaluation of the Implementation of Regional Development Plans: these procedures give room to regions to develop avenues outside of the bottom up planning process for participation in regional development, including ways of involving the poor and women.

7. Minister of Home Affairs Regulation 1/2007 on Green Spaces in Urban Zones: obliges the government to involve citizens in the planning, implementation and monitoring of the green spaces - an example of room being made for civic engagement in a very specific field.

In the upcoming revision of Law 32/2004 Government intends to include a chapter on civic participation covering: 1) rights of citizens to receive information on the implementation of regional government, 2) recognition of the right of citizen organization that do not have a legal form to participate in government processes, 3) right of citizens to be involved in regional government processes e.g., planning and budgeting), and 4) mechanisms for forwarding citizens complaints to regional government. The revised law is expected to set out sanctions where the rights are not honoured.

Additionally, the revision of Law 32/2004 foresees procedures to sound the representative village bodies (BPD) in the context of new region creation; ¾ of the BPD will need to be in favour. It followed, this could reduce the likelihood of local elites unjustifiably speaking on behalf of the public.

On a more micro-level, an imminent Presidential Regulation regarding the PNPM Mandiri would see community level programming find its way to regional government unit plans though the Musrenbang mechanism. This would transform to some degree the central nature of this program to one that is more owned by the regional government. How this can be achieved is still rather obscure however.

Regional governments themselves are taking the initiative to create opportunities for more participation, and have issued regulations concerning 1) planning and budgeting procedures (Bandung and Sumedang districts), 2) budget transparency and participation (Bandung, Lebak, Bolang Mongondow, and Kebumen districts), 3) public services (Surabaya and Semarang cities), and 4) complaint mechanisms (Semarang city). In some regions the public and regional government have agreed to standards for some services, especially health and civil registry (on population).

The various openings provided in law allow for at least four channels of participation. First, the establishment of institutions that are composed in whole or in part by citizens, examples being the school committee,[14] Committee/Council for Mitigating Disasters and the Regional Committee for Access to to Public Information. The roles of citizens within these committees range from policy advice to planning and budgeting. The care with which citizens are selected for these committees will detrrmine how representative and capable they will be and how democratically they will work within the committee; elite capture is always a concern.

A second vehicle for participation are the deliberation forums, the long standing Musrenbang,[15] public consultation,[16] and special streams for eliciting the views of the poor.[17] All of these vehicles have the potential to deepen democratic life, but their effectivness again depends on the composition and internal rules. In addition to the threat of elite capture, the tendency of the government members involved to dominate can also undermine their usefulness. Already there is frustration with the Musrenbang prosess in this regard, threatening to dampen citizen participation.

A third way for the public to participate is by receiving information on the functioning of government that is important to them. In this regard, it will be important to identify the information that touches

[14] School Committees and Education Boards as vehicles for citizen participation are manifested in Law 20/2003.
[15] Musrenbang as a mechanism to encourage citizen participation is manifested in Law 25/2004 and GR 8/2008.
[16] Public consultations as mechanisms for citizen participation is manifested in Law 7/2004 and GR 8/2008.
[17] The obligation of government to establish communication mechanisms with the poor is included in GR 8/2008.

on the public interest and to make clear and realize the obligation to provide this information in ways that are easy for the public to absorb.

Finally, the public ought to have the means of registering their satisfaction, or lack thereof, with public services or governance processes. Regional government needs to receive and treat these in a systematic way. Citizen Repords Card are being developed to this end, but in view of the dissonance between perceptions and objective indicators of service (e.g., as seen in the GDS series) it may be necessary to think about more interactive and awareness raising ways of engaging citizens in giving feedback on services received.

In viewing the policy and legal instruments used to further participation, one of the patterns that can be noted is how the principles are enshrined in a strong form in higher level instruments (e.g., laws) but how they tend to be watered down as the executive side gives them an operational basis in lower level instruments. The challenge for the supporters of participation is to work closely with regional government to find ways to explore a variety of possibilities and to scale-up and institutionalize these once success has been noted. The potential room given in law needs to be confirmed and entrenched through concrete experiences at regional level.

Development since

It is not easy to demarcate the developments noted prior to 2006 from those that follow the original stock taking. Many activities, and particularly donor supported projects, were established in the early years of this decade. They have only begun to report on their activities and results in the last few years, perhaps giving the impression that much more is happening now than before, whereas the increased visibility may be a function of the activity cycles of these initiatives. Having said this, it does appear that the engagement with government is increasing, facilitated by DP support.[18] The engagement down to community level and multi-stakeholder forums have been the hallmarks of these approaches. These efforts have not been without their growing pains, as communication among the various actors has been fraught with challenges.[19] Some NGOs have prided themselves in their organization and mobilization capacities, and have sought to strengthen local groups, particularly the organized poor, in their relationships with regional government.[20] [21] While the experiences have been diverse and undoubtedly fruitful in many cases, there has not been a proper mapping of the efforts or independent assessments of the success and lessons learned.

NGO engagement with regional government has also been direct, and designed to support the elected regional leadership. Popular policies in some regions (e.g., districts Gowa, Solok, Kupang and city of Surakarta) have been influenced by NGOs that have given aid to reforms (in legal drafting, spatial planning, and budgeting). Some NGOs have been able to develop technical expertise in governance processes, sufficient to support regional government in addressing the steady stream of new requirements from central government.[22] NGOs have also facilitated the creation of dialogue forums between DPRD members and constituents. In some regions, NGOs have assisted the creation of cross-party DPRD caucuses with commitments to more democratic regional government and greater focus on meeting basic needs of constituents.[23]

A specific commitment of some NGOs has been to

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[18] LGSP-USAID operates in 8 Provinces and 60 districts; Oxfam in 15 districts and 3 cities; GTZ-GLG in several districts/cities in 4 Provinces (Jateng, DIY, NTB, NTT), and the World Bank (PBET program) in 14 districts. Support is also given by the Ford Foundation and The Asia Foundation.

[19] One example of a multi-stakeholder forum that has shown some success is JANGKAR in Depok city. The forum was established to bridge communication between local NGOs, community organizations, regional government and DPRD for the purpose of reviewing environmental issues.

[20] engagement include PIAR- Kupang (District Kupang), FORMASI (District Kebumen), FIK-Ornop (Sulsel and Sulbar), Hapsari (Serdang Bedagai), Jari (National), GAPPRI (National).

[21] In several regions forums have been established to encourage local discussions and links to policy makers, e.g., JANGKAR in Depok city, and Musyawarah Besar Forum Warga in Jepara.

[22] Several NGOs provide technnical support, including Inisiatif (Bandung district) and Pattiro (in 13 districts).

[23] The idea of establishing a DPRD Caucus to encourage polcies oriented to fulfilling basis needs such as education and health originated with the Partnership for Governance along with local NGOs such as Kopel in South Sulawesi and FITRA in DKI Jakarta.

gender equality. Efforts have been made in particular at community level, to strengthen women's groups and give them access to decision-making. These efforts have yielded fruit, with women becoming more active in public discussion forums and policy and budgeting decisions, making these more gender responsive. Progress in this respect is reported in internal documents of supporting projects, pointing to cases in the cities of Palu and Tangerang, and districts Bone and Polewari Mandar.[24]

Regional government lead initiatives in civic participation, though less common, are also evident. In Jembrana district, Jembrana-Net reaches down to every village, allowing the Bupati to engage in regular discussions (twice monthly at least) with the village heads. In Depok city, lake rehabilitation was undertaken with the involvement of neighbouring inhabitants, who were attracted by the prospects of being able to tend parks and grow flowers for sale.[25] In the same city, the Mayor made use of the Friday prayers to communicate directly, and sound the public following the prayers. In Kebumen district the Bupati made public the tendering process and made it possible for the public to monitor the process. In Surakarta city, communication between NGOs and the mayor have been intensive, particularly when the mayor sought to relocate small traders *(pedagang kaki lima)* to new market facilities. In Serdang Bedagai, the deputy Bupati, a former NGO activist, was also active in developing communication with farmers through rural development programs.

Other efforts to increase civic engagement can be seen in the social sectors. In Kupang district, a health insurance scheme was developed using NGOs as intermediaries with local communities. In many regions, the draft school budget (*Rancangan Anggaran Pendapatan dan Belanja Sekolah* - RAPBS) brings together school management with citizens in a School Committee. The preparation of the RAPBS becomes more participatory.[26]

Some NGOs have focused on regional government outputs, to assess performance. Radio forums have been established to discuss findings and shape suggestions to regional government. In some regions, NGOs have prepared 'citizen report cards' to monitor service quality and offer improvement ideas.[27] Some regional governments have gone as far as to jointly (with citizens) prepare 'citizen charters' laying out service commitments and standards.

Several regions have established new institutions, such as the Regional Commission for Poverty Eradication (*Komisi Pemberantasan Kemiskinan Daerah*-TKPKD), Transparency and Participation Commission (*Komisi Transparansi dan Partisipasi*-KTP), Public Service Commission (*Komisi Pelayanan Publik*), and Regional Ombusdman (*Komisi Ombudsman Daerah*). These institutions are given considerable recognition by the regular government institutions (as mandated in laws/regulations in cases) and also give room to several activist NGOs to play a strategic role in presenting the public's interest.

While many local initiatives have shown signs of success, NGOs have recognized that they must also work together effectively to influence national policies. Networks established for advocacy purposes since 2006 include People Concerned with Public Services (*Masyarakat Peduli Pelayanan Publik*–MP3) composed of several NGOs that support the preparation of the new law on public services. Several NGOs are involved in advocacy regarding freedom of information (recently issued as a law) through the People's Coalition for Public Information (*Koalisi Masyarakat untuk Informasi Publik*-KMIP). To promote independent candidates for the direct regional head elections, several NGOs have joined forces to achieve a favourable revision of Law 32/2004, allowing independent candidates from 2008 onward. On more technical issues, planning and budgeting

[24] These efforts have received strong support from TAF's 'gender budgeting' programming.
[25] Unpublished Working paper Civic Engagement in Depok city, by Sujipto, Endah Sricahyani and Prygina, Roy (2009). Menilai Derajat Partisipasi Warga: Studi Kasus Kota Depok, forthcoming, FPPM, in cooperation with FITRA.
[26] This effort has seen Pattiro and other NGOs support these committees in 13 districts/cities, with support from donor supported projects such as MBE-USAID and DBE-USAID.
[27] Citizen report cards have been introduced by NDI in partnership with local NGOs in the 14 districts and implemented with World Bank support.

for instance, FPPM continues to work with local communities and government in shaping national level regulations that will determine how citizens will participate.

The importance of influencing central government can be seen in cases where the latter seeks to empower citizens and communities, but chooses vehicles that are not appropriate. A notable effort in this regard is the *Program Nasional Pemberdayaan Masyarakat* (PNPM) Mandiri (encompassing the former Kecamatan Development Program and its urban variant). PNPM provides funds for community infrastructure, supported by consultant services provided by Central Government. In this respect the program is not anchored to regional/village government. Since 2007, PNPM Mandiri, as the flagship program for community empowerment, has sought ways of reducing poverty by involving citizens in all stages of programming. It has grown from earlier approaches to include the regional government units (SKPD) and the Regional Coordinating Team for Poverty Reduction (*Tim Koordinasi Penanggulangan Kemiskinan*-TKPK).[28] A PNPM National Workshop in April 2008 recommended that the PNPM programs/activities be channelled through the regular planning processes, such as the Musrenbang, thus enabling the communities to interact/negotiate directly with the regional government units and the TKPK.[29]

Combining the PNPM approach with the regular planning system increases the prospects of finding ways of increasing certainty in allocation envelopes for village/sub district levels, and of identifying specific programs/projects within these envelopes through a proper process that brings both stakeholders and the expertise and broader perspective of regional government units. Sumedang district is one of several regions that seek to give this certainty, ensuring that preliminary allocation ceiling for sub districts are received prior to the Musrenbang event. It has gone even farther by issuing regional regulations that allow citizen delegation (from the Musrenbang) to participate in subsequent budget discussions in the DPRD.[30] The certainty given on funding, and the access to decision-making, has spurred participation in the Musrenbang as there is now a greater chance that proposals will be realized.[31]

The urgency to establish better community to regional government/TKPK linkages is also reflected in the efforts of some NGOs. For instance, FIK - Ornop. working in South Sulawesi communities (e.g., fishers) engages target groups in participatory poverty assessments, and feeds this information to the SKPD and TKPK, to influence their policies on service delivery.[32] PIAR-Kupang has a similar approach in Kupang district, and is also able to reach the DPRD; the results have been policies in health insurance and block grants for villages.[33] The Kaukus 17++ NGO consortium has taken this approach a step further by bringing together communities, NGOs, regional heads and DPRD to share their experiences in reforms in a 'citizens' forum jamboree.[34]

Policy options

Promising initiatives in civic participation can be observed, and it appears that networks in particular are making headway in encouraging and disseminating good practice. Even so, a number of challenges remain :[35]

1. **Legal framework :** some regions are reluctant to enlarge opportunities for civic participation because of uncertainty over the permissiveness of the legal framework. Finding the specific per-

[28] See the General Guide for PNPM Mandiri as found in the Coordinating Minister For Social Welfare Decree 25/KEP/MENKO/KESRA/VII/2007.
[29] Interview with a facilitator of the National Workshop of PNPM Mandiri.
[30] See *Peraturan Daerah Kabupaten Sumedang N. 1 tahun 2007 tentang Prosedur Perencanaan dan Penganggaran Daerah*.
[31] Investigation report in *Musrenbang Kecamatan* and SKPD 2008 by LP3ML and *Perkumpulan* SANGGAR in Sumedang District, 2008.
[32] Interview with Khudri (Coordinator of PIK-Ornop) August 2, 2008 at Jakarta.
[33] Working Paper on Civic Engagement in Kabupaten Kupang. by Fridolin Berek and Zevan, 2008 (forthcoming).
[34] Kaukus 17++ is a network of national NGOs committed to strengthening citizen/community forums. This event was supported by DRSP-USAID, LGSP-USAID and Ford Foundation.
[35] A more detailed review of challenges in participation can be found in Widianto, Dwi Joko (2006). Membuka Ruang Publik Memperdalam Demokrasi: Prakarsa Daerah Mendorong Partisipasi Warga dalam Perencanaan, Penganggaran, dan Pelayanan Publik, FPPM: Bandung.

missive legal articles pertaining to the specific circumstances is not easy to do; risk adverse regions will prefer to shy away from the effort.

2. **Insufficient capacity to** :
   a. ***work with public information*** **:** public information is too often provided in ways that make it difficult for citizens and NGOs to understand and use. The information is sometimes also unreliable.
   b. ***discuss and advocate public issues*** **:** many organizations do not outlive the projects that established them. Some organizations become dependent on regional government/ elite funding and that impairs their ability to promote the interests of the segments of the population they espouse.
   c. ***manage deliberation forums*** **:** often forums degenerate into opportunities for regional government to socialize its views, rather than an opportunity to share views and arrive at joint positions; this reflects a lack of skills as well as understanding of what the forums can be.
   d. ***move beyond problem identification*** **:** organizations and forums can be quite good at identifying problems but forget the equally important task of advocating for corresponding policies, e.g., for equitable allocations, access to decision-making.
   e. ***break out of apathy*** **:** after several cycles of participation that yield few results, it is difficult to interest citizens in further participation, unless they see some immediate benefits; participation does not always offer such immediate rewards.

3. **Blocking by local elite :** feudalistic practices are still dominant in some regions, making it difficult to establish and make use of participatory vehicles. The access is particularly closed to the poor and women. Any new vehicle tends to be taken over by the local elite.
4. **Access to good practices information :** good explanations of the reasons, means and examples of successful civic participation are hard to find. This inhibits all actors.
5. **Support from third parties :** in many regions, civic engagement is supported by national NGOs or donors, raising the issue of sustainability once the 'projects' end.

Several initiatives could be helpful in increasing civic participation in the context depicted above :

- The civic engagement components of the legal framework for national and local contexts could be consolidated, to make them more complete, consistent, and understandable. It will be important to set out clearly the actors, vehicles, principles and procedures, conditions or requirements, and alternatives allowed. A wide distribution to all regions and NGOs will be helpful. This effort should go some way toward facilitating the exploration of civic engagement, and should allay fears of regional governments that they may be overstepping their legal bounds.
- More intensive efforts to increase the capacity of regional government and NGOs and citizen forums could be undertaken. This will require substantial support from donors and the commitment of the emerging NGO networks.
- Approaches to more sustainable funding will need to be explored, including using the Indonesian tax system (e.g., tax deductions, or a grants body for CSOs) to make it easier for the public to support NGOs, weaning them from an over-dependence on donors or regional budgets.
- A more intensive sharing of experiences between all parties would be helpful. An emphasis should be placed on the practical ways civic participation can be achieved, and the practical benefits gained from it. This could be done through conferences, workshops and publications. National NGO networks should figure prominently in these efforts, in conjunction with regional government associations and support from donors.

Recommendations

Specifically, the following actions should be considered :

1. Consolidate the legal provisions concerned with

civic participation, particularly for the regional/local level.

a. The effort should be lead by The Ministry of Home Affairs (Regional Autonomy Directorate General) and involve NGOs and donors with relevant experience.
b. One of the means to achieve the consolidation could be in the revision of Law 32/2004, by placing a new chapter on civic engagement (s currently intended by the revision team).

2. Increase the capacity of regional government and NGOs and citizen forums, particularly in the following areas :
   a. Analysis and packaging of regional government information to make it more accessible to the public. This would be directed largely to the information offices of regional government, NGOs and the media.
   b. Facilitation methods for deliberation forums that involve citizens, NGOs and regional government for the purpose of policy making and programming.
   c. Approaches to developing policies and advocating these, for community groups/local NGOs.

3. Explore and advocate approaches to more sustainable funding, including :
   a. Tax deductions for NGOs active in civic engagement.
   b. A national grants body for CSOs, and similar granting mechanisms at regional level to fund NGOs without the danger of cooptation.
   c. Fundraising directly through public campaigns.

4. Intensify efforts to share good practices in civic engagement, through conferences, workshops and publications. National NGO networks should figure prominently in these efforts, in conjunction with regional government associations and support from donors.

3. ROLE OF CIVIL SOCIETY ORGANIZATIONS (CSOs)[36]

Situation in 2006

The Stock Taking Study 2006 noted that a more conducive environment for civic participation had been created in recent years by virtue of a number of legal changes, among them Law 10/2004 on the preparation of legal products, Law 32/2004 on regional government, and Law 25/2004 on the national planning system. Local level participation was additionally facilitated by a number of Ministry of Home Affairs regulations aiming to increase participation, transparency and accountability.

An additional observation made at that time was the growth in CSOs in the regions. These organizations were involved in a wide range of community development efforts as well as advocacy and watchdog functions. The CSOs came in various shapes and forms; mass organizations, foundations, and associations. They operated at national level as well as in small scale local efforts.

A common challenge facing CSOs was limited capacity, particularly to form effective networks, channel their demands to the state, and to 'read' their environment. As well, CSOs that had met with success in local initiatives found it difficult to leverage these into broader efforts with larger impact. Influencing local policy makers was a particularly difficult challenge, a legacy of the New Order that did not foster political skills in CSOs and did not make local government open to their input.

Several promising initiatives were noted in the 2006 study. One of these was the coalition facilitated by YAPPIKA that supported national level actors in the development of Law 10/2004 on the preparation of legal products. At regional level, the growth of

[36] The meaning of civil society in this report encompasses several types of organizations but above all centers on non government organizations, citizen forums, and mass organizations that are progressive and actively promote the local good governance. Additionally, the media and academic organisations that have some independence from government can be considered to fall under the rubric of civil society.

Citizen Forums were noted, such as the Forum Warga Jepara facilitated by Lakpesdam that was able to hold city wide deliberative forums in December 2005. This event underscored that CSOs can give voice to communities and channel this voice to regional planners and policy makers.

Most CSOs were found to be oriented to strengthening local groups/organizations. On occasion they were able to mount advocacy toward local politicians, e.g., DPRD. But their vertical reach seemed limited, particularly on issues of human rights. The vertical linkages that were established, at great effort sometimes, did not seem to work well and to justify the effort to maintain them. The sustainability of these vertical networks was questionable. The jury on the efficacy and sustainability questions was out however as there were no studies delving into this question.

Ending with several recommendations, the STS 2006 promoted further diagnostic study that could be the basis for action for CSOs and donors. These studies would shed light on how CSO networks are launched; how and to what extent engagement occurs with government; where innovations are found; and the form of support that is most needed to increase CSO capacity, particularly in advocacy work.

Developments since 2006

The last three years have seen a continuation of policy making that is not participatory and is elite dominated, limited public access to information on government decisions and processes, little accountability, inefficient public services, and the persistence of corruption. This reality has shaped the agenda of a civil society movement, aiming to promote transparency and accountability, and urge greater participation in public policy making, especially for women, marginalized groups and rural populations.

This commitment of civil society has been seen for some time, but it does appear to be gaining momentum in the regions. YAPPIKA, for instance, through its CIDA funded Democratic Local Governance (*Tata Pemerintahan Lokal yang Demokratis* - TPLD) has facilitated CSOs in 24 regions to develop new relations with government through the application of the concepts 'critical engagement' and 'partnership.' Through this effort, civil society learns how to choose its engagement, avoiding an opposition stance when there are opportunities to build trust and work together toward shared objectives, while nonetheless safeguarding an independent stance.

Are CSOs successful? Case of Kebumen[37]

Very little in available in the way of evaluation, especially independent evaluations. Kebumen, where the leadership has been supportive of change, has seen many donor assisted projects to empower civil society in planning and budgeting, most using local NGOs. One assessment notes that progress is meaningful in some respects but is slow and partial, and that access tends to be limited to the NGOs themselves rather than local community groups and individuals. In the end, the regional budgets are only pro-poor or gender responsive in the sense that more funds are allocated to activities that have that label; it is not a systemic review of the budget.

Other CSOs or CSO networks have launched similar initiatives or are supporting them in some way.[38] They encourage cooperation between local elements of civil society, and facilitate communication, convergence of perceptions, and cooperation between civil society with regional government or DPRD. A prominent focus of their efforts has been poverty reduction.

The role of donors (development partners) in the above efforts has been considerable. The USAID funded Local Governance Support Program (LGSP), for instance, has been providing assistance to CSOs since 2005 in 60 regions. LGSP recruits specialists in Civil Society Strengthening in each region to assist civil society to understand the technical and political processes of regional planning and budgeting, and gives organizational support and training to

[37] Sarosa, Wicaksono, Nurman, Ari and Hasan, Misbahul (2008). Analytical Study on District Planning and Budgeting Processes, Mission Report: Kebumen, Central Java, Conducted 26-29 February 2008.

[38] Among them the Ford Foundation, FITRA, FPPM, FPPD, Kaukus 17++, and Lakpesdam NU.

civil society to increase their abilities to undertake advocacy.[39]

In the last two years, The Asia Foundation (TAF), with DFID funding, has supported CSO advocacy aimed at regional budget processes on behalf of poor populations in 16 cities and districts.[40] Additionally, TAF has facilitated gender responsive budgeting in 12 cities/districts with funding from CIDA. These programs support 'budget literacy' (for faith organization, community groups, women groups, as well as sectorally focused groups), as well as community organizing to ready the groups for more intensive engagement. These strategies are combined with capacity strengthening for policy makers (regional government and DPRD).

Budget participation support aims to assist in data gathering, more systematic research, participatory assessment, budget analysis, and inserting opinions in the media on budgets and public policy that are pro-poor and gender responsive. The desired result is greater budget allocations for poverty reduction and to achieve gender equality. The technical dimensions of this capacity development have come in part from CSOs that make this a specialty, namely the networks FITRA and PATTIRO.

With a different emphasis, the National Democratic Institute assists in Participatory Budgeting and Expenditure Tracking (PBET), with the aim to assess the consistency of planning/budgeting with its execution. PBET is a three year program funded through the Japan Social Development Foundation, operating in 14 districts that fall under the World Bank Initiative for Local Governance Reform (ILGR). In some of these districts, regional regulations have been issued on Transparency and People's Participation that give recognition to citizens' rights to receive information and give input to the budgeting process. The PBET program increases citizens' capacity to make the most of these regulations, while the ILGR works to effect institutional changes within the regional government.

National level policy influence of civil society on decentralization/regional autonomy issues has been intensively supported by the USAID funded Democratic Reform Support Program (DRSP). The approach has been to facilitate several networks of CSOs (including Universities) to explore issues and package research and views for national level policy makers. These efforts have coalesced in the context of the revision of Law 32/2004 on regional governance, the draft law on village governance, the law on freedom of information (that includes regional government) and the law on the governance of Aceh. The approach seen in the revision of Law 32/2004 is typical; Forum Pengembangan Partisipasi Masyarakat (FPPM), a network of NGOs committed to decentralization reforms, has facilitated the creation of input by CSOs within its network and outside it for the Ministry of Home Affairs and DPR. It has initiated a mail list for decentralization to encourage a broad discussion of relevant issues and developed the website *www.desentralisasi.org* to house practical information and research findings.

At provincial level there have also been steps to strengthen civil society networks. As an example, *Forum Informasi dan Komunikasi Lembaga Swadaya Masyarakat Sulawesi Selatan* (shortened to FIK Ornop Sulsel) is formed by 43 CSOs. Its efforts include facilitating its members to empower oppressed people in various fields of life; undertake capacity development for its member NGOs in undertaking advocacy; enlarge access to the network; and scrutinize provincial government policies and operations. A similar networking approach is found in West Java (*Koalisi Ornop Jawa Barat*), a new network composed of 50 organizations aiming to increase the role of CSOs in building a social order that is just and democratic. Its activities include strengthening of CSO capacities and of citizens, and providing input to provincial level policies.

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[39] LGSP experience in seven regions are disseminated in Mclaughlin, Karrie (2008). Engaging with Local Government in Indonesia: Multi-stakeholder Forums and Civil Society Coalitions, LGSP, September; Good Governance Brief published by LGSP in its website http://www.lgsp.or.id/.

[40] Strengthening of People's Participation in Pro-Poor Budget Policies through Faith Organizations - "Penguatan Partisipasi Masyarakat dalam Kebijakan APBD Pro Poor melalui Organisasi Sosial Keagamaan".

To make inroads in a rather new area to regional government, one that invites some resistance when poorly understood, the Ministry for Women's Empowerment has opted for the use of local networks[41] to assist in mainstreaming gender equality. The Group for the Empowerment of Women and Children (*Kelompok Peduli Pemberdayaan Perempuan dan Anak* - KP3A), a network of about 30 organizations for women and children, has for instance been active in West Java province in advocating for the establishment of a special office for this target group (*Badan Pemberdayaan Perempuan dan Perlindungan Anak*). A similar coalition (*Koalisi Peduli Perempuan dan Anak* - KPPA) in Central Sulawesi has recently been able to support the issuing of a regional regulation for the participation of women in development planning and the publicizing of 'gender literacy' at kecamatan level in the city of Palu.

It is difficult to determine the intensity of efforts in the CSO world, but it appears that there are more efforts in the last few years on the following :

1. Increasing the transparency of governance processes and raising public participation with the aim to make planning and budgeting more *pro-poor* and gender sensitive.
2. Combining regional government and DPRD support with the strengthening of civil society.
3. Using CSOs as technical partners (TA-NGO), e.g., to provide training and technical advice, to other CSOs (intermediary role).
4. Involving communities and grassroots proups in assessments and advocacy, rather than simply relying on leading NGOs.
5. Picking up useful experiences and successes in the regions to be worked into policies of the provincial and national governments.

The fact that some CSOs are now able to provide technical support to regional government/DPRD speaks to the increasing capacities of CSOs. Efforts are being made to capture the best examples for the purpose of inspiring other CSOs to acquire similar capabilities and for regional governments to be open to these new actors.[42]

These successes need to be balanced by concerns about the continuing reluctance of some government actors to engage with CSOs, and the internal weaknesses of many CSOs.[43] The concern about sustainability is one that is frankly acknowledged by the development partners that seek to develop the capacity of the CSOs and their networks, as raised in a 2008 event sponsored by URDI and GTZ-GLG, where five needs were identified :[44]

1. Clarity in mandates/roles of various actors.
2. Flexible support for community level organizations and the means of providing this support sustainably.
3. Internalization of the right and approaches to participation, so it is not seen as part of special projects only.
4. A more effective mass media, where journalists are more informed and better able to pursue governance issues.
5. More systematic knowledge production and dissemination.

As the above needs or conditions are not yet met, it is to be expected that some observers remain disappointed by the role civil society has played so far in decentralized governance. In addition to the above objectives, observers also point to one other area that needs attention – the links between civil society and political life. Spurred by a Ford Foundation presentation (Prof John Sidel) in 2004,[45] the

[41] These initiatives, along with the previously mentioned Gender Budgeting, are supported by the Women's National Committee (*Komnas Perempuan*), an organization primarily concerned with eliminating violence towards women, and the Indonesian Women's Coalition (*Koalisi Perempuan Indonesia*) that has of late lead the advocacy effort to improve the proposed (and now enacted) law on pornography.

[42] See for instance the publications of LGSP, TAF, NDI, YAPPIKA, and others.

[43] See Antlov, Brinkerhoff, and Rapp (2008). Civil Society Organizations and Democratic Reform: Progress, Capacities, and Challenges in Indonesia, presentation at the 37th Annual Conference of the Association for Research on Nonprofit Organizations and Voluntary Association, Philadelphia, November.

[44] Paraphrased conclusions from the national seminar of Agustus 2008 on Sustainability of Public Participation in Development" (Keberlanjutan Partisipasi Masyarakat dalam Pembangunan), organized by GTZ –GLG and URDI.

opportunity for more direct links to effect changes has begun to be discussed and acted upon.

CSOs are beginning to explore ways of involving themselves more effectively in political education and political organizing. The operation of '*Sekolah Demokrasi*' for activists, CSO representatives, legislative members and party functionaries is one initiative already seen.[46] Broader efforts in political education, reaching out to ordinary citizens, have also been attempted, with a focus on raising awareness and critical perspectives on public expenditures and services.

Other strategies employed by CSOs to gain political influence has been through (i) direct bargaining/bartering with politicians; (ii) pursuing political roles by becoming candidates in legislative and regional heads elections; and (iii) founding new political parties as the means to further the aims of allied CSOs.

The direct bargaining/bartering with politicians has been seen largely in the contexts of regional head elections, and it is favored by Citizen Forums and networks of organized poor. These organizations are not organized for political action in the sense of promoting specific candidates, rather they promote specific issues by interacting with regional government and politicians.[47] The organized poor in Makassar, for instance, were able to gather 65,000 signatures in support of candidates for the mayorship who promised to not expel the poor from their locations. In Nusa Tenggara Timur the political transaction began when promising candidates were being identified to run for Bupati. The CSOs pledged their support for capable candidates with a broad appeal, good track record, and integrity. The CSOs worked as the candidates' *tim sukses*, and were rewarded with victories in six districts. This gave them a greater chance of influencing the Regional Medium Term Plan to make it more participatory and pro-poor.

An even more direct way of participating politically has been to nominate CSO leaders in the regional head elections, generally through the 'independent' route, with mixed success. CSOs in Bandung formed the *Forum Pendukung Calon Independen* (FPCI), promoted by Walhi Jabar, in the mayorship race, but energy was dissipated in the independent camp when 18 sets of candidates sought to gain support to contest the election.[48] In the end the lone independent set lost to the incumbent. In Sulawesi, *Persatuan Masyarakat Miskin Sulawesi Tengah* (PRMST) gave their support to an independent candidate from their fold in the Bupati election in Donggala, also with unsuccessful results. *Serikat Tani Bengkulu* (STaB) and activists from *Perkumpulan Kantor Bantuan Hukum Bengkulu* (PKBHB) put forward their own member as the candidate for Bupati in Bengkulu Selatan, but the independent vote was divided between three sets of contenders, leading to a poor showing for all three.[49]

A larger wave of hopefuls from CSOs is likely to be pursuing seats in regional and national legislatures in 2009, through political party channels. This option is not without its difficult choices in view of the incompatibility of CSO platform/values with some party platforms and ways of operating (see Section on Political Accountability). Moreover, the practice of dropping candidates in regions that are not their natural constituencies also detracts from the grassroots connection CSOs favour. Even so, hundreds of activists from various regions were able to make the Permanent Candidate List for the 2009 elections as announced by the oversight committees (KPU/KPUD) in October 2008. Should they be able to gain seats, they may give rise to a new political dynamic.

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[45] Sidel, John T. (2004). Watering the Flowers, Killing the Weeds: The Promotion of Local Democratization and Good Governance in Indonesia, Ford Foundation, 2004.
[46] Promoted by Komunitas Indonesia untuk Demokrasi (KID), see website http://www.sekolah.simpuldemokrasi.org/profille/index.php.
[47] Ringkasan Eksekutif dan Laporan Awal Demos, *Satu Dekade Reformasi: Maju dan Mundurnya Demokrasi di Indonesia*, 2008, hal 88.
[48] Siswanda, Hetifah, Sj. (2008). Sebaiknya Cukup Satu Paket, 18 June. Obtained March 18, 2009 at http://hetifah.com/artikel/sebaiknya-cukup-satu-paket.html.
[49] Pilkada Bengkulu Selatan (2009). Bahaya Pilkada Bengkulu Selatan Bakal Mahkamah Konstitusi, 17 Februari, obtained 18 March from http://pilkadabengkuluselatan.blogspot.com/.

The effort to found new parties is still work in progress, with none being able to contest the 2009 elections. Walhi, for instance, is seeking to launch the Green Party – Indonesia (*Partai Hijau Indonesia*) using the establishment of the network *Ormas Serikat Hijau Indonesia* (SHI) as a stepping stone. Labour has already started to develop the Worker's Party (*Partai Rakyat Pekerja*) that has also chosen a consolidation phase by establishing the Workers' Association (*Perhimpunan Rakyat Pekerja*). Several CSOs and movements of farmers, fishers, women and traditional societies have joined to form the United People's Party (*Partai Peserikatan Rakyat*). This last party made a determined effort to ready itself for the 2009 elections, establishing structures in 22 provinces, but was not able to pass the verification process.

Future efforts

Three key challenges face CSOs in the near future:

1. Government efforts to tighten control over CSOs through regulation.
2. Internal shortcoming in CSOs and their networks (insufficient national-regional links, links between issues, connection to grassroots organizations, and concerns that NGOs are also corrupt and not accountable).
3. Involvement of civil society in the dialogue between government and donors.

Several laws/regulations in recent times have been favourable to the operation of CSOs. Notable are the Law 14/2008 on Freedom of Information and regional regulations on transparency, participation and accountability. Others appear to inhibit the operation of CSOs, among them the recent Ministry of Home Affairs Regulation 38/2008 on assistance by foreign organizations to local organizations. The intent of the same Ministry (Directorate for Social Development) to update the Law 8/1985 on people's organizations to be an umbrella for other legal provisions concerned with civil society (e.g., Law on Foundations, Law on Associations) is a major undertaking, and in view of the Ministry's past orientation, its benefits to CSOs is in doubt.

At the same time, a more promising initiative is being undertaken by Bappenas (under the Directorate for Politics and Communications). It is undertaking a study 'Policy Development on Civil Society' as a follow up to the requirement placed in the Long Term National Development Plan (set in Law 17/2007) that the role of civil society in Indonesia's democratization be further enhanced. The findings will be used to inform policy directions to be placed in the Medium Term National Development Plan 2010-2014 (USAID-DRSP is supporting this effort, facilitating the input of CSOs).

Feeling some pressure to justify themselves and their independence, CSOs are responding to their changing environment with efforts to clean house, applying internally many of the good governance principles they espouse in their work. They are also seeking to strengthen their ties with other actors, including the media, and are seeking to better understand how policy processes work within the executive and the legislative arenas.

In terms of their local work and connections, CSOs are moving from localized efforts to a broader 'territorial' perspective. By augmenting their facilitative and organizing skills they are able to enter the political arena and provide services or navigate more effectively to attain their goals. This approach is illustrated by *Federasi Serikat Perempuan Indonesia* (HAPSARI) in North Sumatera, who has enlarged their focus on household violence to encompass building voter's groups who aim to promote the election of village heads and communicate directly with relevant political actors.

Citizen Forums have also come to the fore in many regions, and their members are seeking strategic positions in policy making and roles in the annual bottom up planning process and the budgeting process to further citizens' interests. The holding of deliberative forums to link local aspirations with formal policy making is the dominant contribution of the Citizens Forums.

CSOs also need to find ways to deepen their use of evidence and research to make their case for change. Greater interest needs to be generated in the academic community in understanding and improving local governance. Some CSOs with a research orientation (e.g., SMERU, Akatiga, and Perkumpulan Prakarsa) are active in local research, but CSOs in general could be supported to work with academic institutions to draw their attention to fertile ground for various forms of research on local governance.[50]

One role that CSOs have not seized in the reform period is that of partner in the government–donor dialogue. CSOs had managed to find voice in the mid 1990s when INFID pushed its way into the annual donor coordination forums (hosted by The Netherlands and then World Bank), stating its views and recommendations on the use of donor resources across sectors. Once the government placed itself firmly in the driver's seat, it continued the decentralization dialogue through the Joint Decentralization Working Group (JDWG) but on a separate track that seemed to leave no opportunity for civil society to have its say. As the dialogue has become less intense over the years, decisions on donor assistance in the decentralization/Local Governance sector has become less transparent to civil society.

The introduction of the Decentralization Support Facility (DSF), which provides substantial resources for reforms, has not changed the situation, as CSOs are entirely excluded from this body, and the government has made it known that the DSF should not be dealing directly with civil society; it should exclusively serve the government.

Role of donors

Donors have invested considerable resources in civil society in Indonesia, but the question remains whether this investment was justified and if more is warranted; has it helped to increase its capacity and to play its role more meaningfully or has the aid worked to undermine civil society efforts to promote democratic and participatory governance?

Several trends are visible in donor assistance to civil society that is bound to shape the character of civil society.[51] One trend is to pool funds (under World Bank and UNDP management), with the aim to increase efficiency and be more 'programmatic.' This may have the effect of increasingly narrowing options for CSO involvement to specific possibilities allowed in these pooled fund arrangements.

The enlisting of CSOs as counterparts for donors who do invest in civil society is another feature of the scene. This is often done in a competitive setting (tendering) placing additional pressure on CSOs to conform to the consultant business model. Some CSO members acknowledge that this mode of operation has robbed CSOs of the 'spirit of initiative' and that the advocacy work that is done through commissioning or in partnership with donors tends to be rather mechanistic.

Though there are no studies to give definitive evidence, it appears that CSOs are beginning to feel uneasy about the following developments :

- Many activists active in CSOs feel they are becoming 'professionals' rather than activists in the 'voluntary sector.' Cooperation with donors has an atomizing effect, due to its competitive, short-term and individual orientation; it does not help to create a civic orientation or build solidarity among CSOs. Activists that work as consultants to international organizations differ little from staff of the donors and often represent the interests of the donors. They are suspected of caring more for the implementation of donor grants rather than championing the interests of their original constituents. In the most extreme of cases, the

[50] The research grants from Australia Indonesia Govenance Research Partnership (AIGRP) – AusAID have been helpful in attracting both kinds of researchers; NGO based and academia based.

[51] The observations offered in this section are drawn in part from an informal discussion held in September 2008 with the theme "CSO Stance Reflects Donor Strategies in Indonesia", attended by several relevant CSOs/networks. Other inspiration for the observations cam from interviews with figures in regionally based CSOs.

hiring of activists from CSOs is so extensive as to carve out key figures from the CSOs, arresting the original momentum of the CSOs and aligning them to the interests and work program of the donor(s). The intention of some donor projects to work through 'intermediaries' has too often been reduced to hiring key individuals (with good connections, good record of results) from CSOs; the latter become a feeder of human resources to donor projects rather than the target of institutional support so that they can, as organizations and networks, better play their roles toward the government and other actors.

- After some expansion, CSOs are now facing greater uncertainty in maintaining the resource flows that have enabled them to grow. They take pride in having mounted some worthwhile programs and believe that their continuation is important, and should be supported, but the opportunity to propose 'from below' is shrinking as the competitive and donor shaped opportunities require a reactive and corporate response. Donors are also emphasizing results and achievements that can be measured quantitatively, reducing the value of 'softer' proposals offered by CSOs. For those fortunate to land donor contracts, the short time frame and lack of a donor/CSO 'exit strategy' does not do much to move the CSOs forward in terms of their own mandates.

- Very few grants are directed to small grassroot activities, or to efforts to link together smaller CSOs in effective regional networks. Support for events that would allow CSOs to forge international links is also rare.

- The nature of the networking relationships tend to be skewed towards the donor-implementing CSO at national level, with a vertical-one way interaction with regional CSOs. Few efforts are invested in nurturing sustainable horizontal linkages in the regions that can be the base for a more balanced vertical relationship.

- While much is said about the need for evidence-based policy making and research-based advocacy, donor funds for CSO sponsored research remains limited compared to the funding channeled to capacity development for regional government/ DPRD.

In summary, donor support has contributed to increased individual and the capacity of some CSOs, particularly in advocacy. However, its contribution to CSO cooperation, solidarity and confidence is questionable. This mixed picture has lead some CSOs to suggest that monitoring of donor support is needed, but ideas for its exact form and purpose have yet to emerge.

Recommendations

If CSOs in Indonesia are to play a larger and more effective role in decentralized governance, the following efforts should be considered :

- Develop strong and reliable 'intermediary' local CSOs. Donors are already encouraging CSOs to come together under a single grant, for administrative and substantive objectives. The management of these intermediaries needs to be given more attention, to not only discharge obligations from the donors but to serve a wider set of CSOs and other target groups in a sustainable fashion.

- Strengthen the relationship between CSOs and the media. The media can play a key role in promoting transparency and providing information to the public and can be an effective tool to highlight the public interest and garner public support for CSO promoted reforms. Intensifying the links will require well linked capacity development for both sides.

- Avoid debilitating conflicts over approaches and values. It is proper to acknowledge and address tensions between approaches : 'confrontational' versus 'partnership', 'movement' versus 'technocratic,' cross-cutting governance versus sectoral, forming women's groups versus mainstreaming gender in other ways. But these differences

need not dissipate CSO energies and preclude cooperation on common ground.

- Donors in particular should consider the following strategies :
  - o work with government to make room for civil society voice in key moments of the dialogue on decentralization/local governance;
  - o increase support for research in decentralized governance that is undertaken by academic institutions and CSOs (in partnership in cases);
  - o increase evaluation work to determine what works and lessons learned in CSO support in the field of decentralized governance;
  - o support CSOs networks at regional level and reciprocal links with national networks;
  - o avoid undermining CSOs with hiring practices and aid modalities that sap capacity. ■

CONCLUSIONS OF STOCK TAKING 2009 FINDINGS

THE REFORM scene in 2009, as was the case in the 2006 version, is inevitably seen through the eyes of the leading researchers for each topic, and the editors who draw from these original papers to prepare the final form of the report. It is also necessary to see the changes that have been noted over the last three years against the backdrop of the entire decentralization reform period. Noting how the recent period confirms, diverges, or deepens trends and patterns can make more sense of the short period under observation. This concluding section seeks to highlight the salient points and threads that run through the sections of the STS 2009, with an eye to the longer history of reforms where necessary.

Bright spots in decentralization/local governance reforms since 2006

The study notes progress on a number of reform fronts since the last stock taking in 2006. As was the case three years ago, these come from the initiative of the central government and regional governments, and in many cases involve the support of DPs.

The population seems still to be keen on the ideals of democracy, and citizens continue to participate in good numbers in the legislative and regional head elections. When asked about the quality of services, citizens generally respond that they are satisfied. Regardless of the correspondence of the latter findings with objective measures, it indicates that the tensions within democratic decentralization are manageable for the time being.

Aceh's special autonomy deal, while slow to unfold in detail, is exhibiting some vigour in its political development and in the reworking of functional assignment between the central government and Aceh. Overall, the special accommodation reveals the potential for asymmetric central-regional arrangements, though a few more years will be needed before passing judgment. The Aceh experience also holds some promise for spill-over to the national scene of some of its tested models; individual candidates and possibly local parties.

Another bright spot is the intensified debate on the functioning of parties and election formats that may open up opportunities for incremental change, benefiting women's participation, more supportive connections between parties and their elected members, and closer and more accountable relationships between elected members and their constituents. Some of these measures are heavily contested and in flux, but the ferment itself is a good sign.

Re-regulation, while taxing on stretched regional capacity, is undoing or modifying some overly ambitious and rigid governance procedures in planning and budgeting. Together with service delivery experimentation, these efforts are allowing more exploration of governance models and approaches that emphasize participation, responsiveness, transparency and accountability.

At the national level, the DPD is rousing itself slowly and balancing its persistent call for constitutionally strengthened legislative powers for itself with efforts to inject some new ideas in the decentralization/local governance policy/legislative reform.

Central government is showing more instances of a willingness to open up the policy development process and legal drafting, and in linking with civil society organizations to obtain relevant inputs.

At all government levels, the more assiduous pursuit of direct political power (through regional heads and parliaments) by the leadership of civil society organizations (CSOs) promises a more favourable enabling environment for reforms in the 2010-2014 period. In-between elections, CSOs have been forging stronger networks, and have been engaging more intensively with national and regional governments. Lessons from these engagements and their variable outcomes are being drawn, to be used for better strategies and practices. The increased interest of the media and its engagement with CSOs and donors to increase its capacity to cover decentralization/regional governance issues also augurs well in uncovering problems of implementation and promoting further reforms.

Bappenas has in the last year exhibited leadership in working with donors to reflect on aid effectiveness and set forth some principles in the Jakarta Commitment, a declaration that localizes the Paris Declaration/Accra Agenda for Action. Key donors involved in decentralization/regional governance support have signed the Jakarta Commitment, and steps are being taken to socialize the declaration to relevant stakeholders, with concrete steps to realize it to follow soon. Several like-minded donors are presently working together to offer a more programmatic approach to supporting national level decentralization/local governance reforms.

Less progress is seen in other important fields or aspects of decentralization reform

The 2009 update paints a less encouraging picture of reform progress in other fields. Important recommendations made in the STS 2006, reflecting the hopes of many or the intentions of at least some policy makers, have not been taken up, particularly: harmonization of policy and regulatory development; a rational approach to territorial division; more equitable and incentivized intergovernmental fiscal mechanisms; appropriate and supportive supervision and oversight; and a more performance-oriented and efficient civil service.

As a general observation, cutting across reform fields, central government organizations continue a style of policy entrepreneurship that leads to fragmentation, conflicting policies and inconsistent operational instruments. There has not been any sustained and serious effort to make the Council for the Deliberation of Regional Autonomy (DPOD) function as an oversight and policy recommendation body. The key national organizations concerned with policy have shown some ability to cooperate on occasion but have not worked to provide a common road map for reforms that could yield a reasonable measure of policy and legal coherence and a suitable anchor for development partner (DP) alignment.

DPs have maintained their support for reforms, but have been unable to resolve the confusion and tension in the platforms for dialogue and coordination of DP support, and until very recently have not been able to significantly strengthen the government in pursuing aid effectiveness. DPs have also not invested much energy in agreeing on what aid effectiveness principles imply for this 'sector.'

Regional government associations and civil society are still on the periphery of the government-DP exchange, and the potential role of CSOs is somewhat limited by a heavy reliance on donor contracts/funding, staff 'sharing' with donor supported projects, and the dominance of donor interests and donor conceived approaches.

The picture is blurry; weak information base for assessing and furthering reforms

The STS 2009 researchers find it difficult to draw conclusions concerning reforms with great certainty. The status of reforms is fairly readily discerned if they are in the regulatory stage, though often contending legal drafts from within government or between the executive and Parliament/Regional House must be taken into account. But when it comes to policy making, it is difficult to divine the broad guidance and priorities of the 'government'.

There is also a lack of comparable data on what institutional changes have been made in the regions (procedures, practices, structures), and what effects those may have had on welfare and other outcomes. Some information challenges are common to all countries undergoing reforms, but the government's rather closed approach to reforms, the weak central/regional government information and reporting systems, and paucity of external scrutiny and research, make it particularly difficult to track progress. While the STS 2009 employed ten researchers over a period of several months, the information gap is in part also due to the limits of what such an effort can achieve.

Surveying the reform scene tends to be an exercise in summing anecdotal evidence or project summaries and linking these to other bits of hard information. It

appears that regional government service innovation continues, but is relatively limited in regional scope, sectors, and drivers (e.g., executive lead). It seems that donors still figure prominently in supporting innovation/improvement and capacity development approaches, and that the approaches are still fraught with issues of sustainability. It appears that minimum service standards are still not applied in any meaningful way at regional government level. Some evidence suggests an emerging and worrisome trend in regions to regulate cultural and religious practices, to the particular detriment of women. Evidence, or lack of it, also suggests that performance based budgeting, gender sensitive planning and budgeting, medium term expenditure frameworks, and accrual accounting, are hardly off the ground.

Neither government, nor stakeholders, can be very sure of the trends or magnitude of the above-mentioned patterns, and of results in many other aspects of decentralized governance. This uncertainty in itself allows for some firm conclusions about certain features of decentralization/local governance. Above all, it points to overly ambitious, burdensome and unfocused approaches to information systems/requirements and reporting procedures. It also points to capacity gaps in analytical processing of information. Together these shortcomings undermine the supervisory/guidance relationship between the national state and the local state, and make it difficult to provide an adequate picture of progress as a basis for ongoing capacity development and the refinement of the policy/legal framework.

DPs and academic or research institutions have been useful in closing some information gaps, but they cannot substitute for lack of compliance or poor quality in internal government reporting, and government-to-public reporting that is distilled from these internal reports. The academic contribution is also weakened by the tendency to offer opinions that are poorly grounded to evidence; the competitive advantage of academia is not apparent in these instances.

Despite the desire to account for the pattern of progress made, or not made, the researchers in the STS 2009 found it difficult to determine the root causes of the success achieved or poor reform performance. This is due in part to the short time provided to uncover the status of the reform issue, but also the lack of useful analytical efforts in the practitioner, academic and DP technical advisor communities. This in turn may indicate a lack of familiarity with analytical frameworks (e.g., institutional assessments, political economy, and 'drivers of change') and possibly limited researcher access to reform actors, particularly government. This analytical shortcoming can make it more difficult to identify reform opportunities or blockages, and can make it more likely that DP supported efforts to bring about change will be misdirected or not up to the task.

Reform efforts are marred by a lack of testing/ exploration and consultation

The boldness with which the government is proceeding on some legislation and (re)regulation is at times unmatched by analysis and preparation. In the absence of adequate information and analysis, policy makers grasp at slim or questionable findings, or focus on personal and institutional interests as the basis for policy making. The limitation of this approach is evident in the mismatch between problems and fixes in the framework revision leading to the present Law 32/2004 (e.g., solutions to the 'problems' of village governance, or functional assignment). While the process of revising Law 32 may produce good results, similar risks will likely be faced if the Government pushes for a revised law to be passed in the 2009 sitting of the current Parliament.

Regional voices are now calling for a halt to legislation/regulations, as local actors are reeling from the flood of regulations based on Law 32/2004 and other relevant laws, and to the re-regulation that follows poorly conceived or untested regulatory changes. Local actors are struggling to make the cognitive, attitudinal, skills and organizational adjustments necessary. They would do better with fewer but better thought out or tested legislative/regulatory changes, with better anticipation of the requisites for implementation, and a more intensive preparation

of implementing actors. The last three years shows little improvement in the style of legislative/regulatory reform. Regulatory impact assessment is still not applied in decentralization/local governance policy development – even in a rudimentary way, and no national body appears to be particularly concerned about the steady accretion of incompatible legal instruments.

The extent and pace of re-regulation speaks not only to the lack of proper impact assessment and testing, but also to the limited consultation undertaken. In particular, the regional government associations, still weak in their separate organizations and policy stances, are used by central government to gain a modicum of legitimacy for unilaterally conceived policies and regulatory changes. All too often consultation involves only one or two of the associations, in perfunctory ways, in what appears to be mainly an afterthought, or at worst a divide and conquer approach. There is still no commitment on the part of government (e.g., formalized as a memorandum of understanding for instance) to a style of consultation that is respectful of the role of the associations, and is facilitative of joint positions of the associations.

Decentralization principles and architecture need to be revisited

Standing in the way of significant and sustainable progress in some reform areas is the lack of a clear vision of the goals, and more importantly the corresponding essential features, of decentralization/regional autonomy. Decentralization has been successful in holding the country together in the perilous early years of the post-Soeharto era. Regional elites were placated with new powers and resources, and continue to be heard today through new region creation for instance. The regional polity, as part of the dynamics seen in the national polity, was also made more lively and democratic. But it is increasingly clear that decentralization has not yet been purposefully designed to attain other aims that are associated with it in policy statements of the government.

Performance incentives for regional government and accountability mechanisms have been neglected. The realignment of national agencies and their funding to be consistent with the core framework of devolution and to adequately support regional governments has hardly begun. The provincial level, a strategic level to link the national with the main service providing district/city level, has been variously bypassed, undermined, or strengthened to conform with short term central government calculations. Electoral systems have seen an evolution that is progressive on the whole, but their designs, and the regulation of parties, still strongly favours centralization and powerful elites. Direct participation in decision-making and implementation was also neglected in the early years, and is now being 'retrofitted' in piecemeal fashion.

The lack of a coherent vision of multi-level governance in Indonesia is reflected in the slim, cryptic or confusing stipulations of the Constitution. The modes of decentralization, principles of territorial structure, principles and mechanisms of functional assignment, principles of regional finance, the role of local parliaments, and the place of village governance are some of the important features of multi-level governance that have been inadequately addressed in the Constitution. Subsequently, the policy making process can more easily be captured by narrow interests, leading to divergent policy and legal streams and uncertainty in what is legally sanctioned practice. Solving current thorny issues, such as the erosion of the agency (assistance tasks) mode of decentralization, the standing of the regional 'parliaments,' or the role of the governor as a representative of the central government versus the role of the provincial regional head/autonomous provincial government, requires clarity in the key architectural features of decentralized governance, and their entrenchment in the Constitution.

The amendment of the Constitution is not an effort to be taken lightly, and there is concern in Indonesian society that too much tampering has already taken place, or that perhaps changes have been made without sufficient reflection and consensus. Much of Article 18 on regional governance was created in

the second amendment in 2000, and some aspects are seen in retrospect to have been rushed and unhelpful. A great deal of preparatory work to gain more understanding, consensus, and precision on the features of decentralization/regional governance will be needed to avoid the same result.

Capacity development approaches need to be adjusted

Capacity development (CD) efforts are still meager in view of the change processes that have been set in motion through the reforms. CD efforts tied to the design and introduction of reforms are largely ad hoc and centralized, very much in the mold of superficial 'socialization'. There is still no strategy for combining supply with demand of CD services, developing a market for capacity development support, and ensuring quality through accreditation for education and training.

The little heeded 2002 framework for CD for decentralization is about to be reworked and elevated to a Presidential Regulation, but it only offers a basic manual for capacity development that is better disseminated as a good practice primer. It also calls for a set of cascading and cumbersome coordinating teams for capacity development that create a parallel system alongside the regular structures that should be addressing and interacting in a variety of ways to institutionalize and realize CD. Finally, though DPs have supported the CD exploration, and wish more from the effort than is contained in the draft presidential regulation, their numerous initiatives in decentralization/local governance are still too training oriented – and the training approach employed makes little use of appropriate intermediary institutions. In general, DP support does not appear to be sufficiently cognizant of key lessons learned in Indonesia or international discussion on CD.

Management of reforms : a requisite for progress

The STS 2009 provides some recommendations for every major topic treated, with varying degree of detail or incisiveness. These recommendations do not call for more resources across the board, but rather for adjustments in how government reform objectives are pursued. What is required for all reforms to be invigorated (or revitalized in the language of the national plans) is better management of the policy development process for decentralization and regional/local governance, recognizing that this arena is populated by numerous institutions and stakeholders, is complex, and on many issues is heavily contested.

As Bappenas maintains, it is also useful to distinguish between the decentralization process and the ongoing implementation of regional autonomy. The first is a more shared domain, where some measure of government wide coherence is particularly challenging but necessary. A common road map is of the essence, to replace or reconcile today's half dozen poorly connected grand strategies or plans under preparation, championed by different government organizations (often with DP support that also reinforces silos). A unified roadmap would have to have strong political support, and would focus on key reforms to be completed, or begun in earnest (e.g., civil service reforms).

Guidance in the ongoing implementation of regional government/governance is equally important. But this dimension is much more connected with the general guidance offered by the Ministry of Home Affairs, and has its own set of challenges, relating much more to vertical coherence, supervision and choice of capacity development strategies.

Unsuccessful attempts to revitalize the DPOD indicate that future efforts to better assess, formulate and integrate decentralization policy will require finding an alternative forum or structure (or radically changing the DPOD). Elevating this oversight function to the Vice-President or Presidential office may have to be considered. Any such forum or structure should make room in some fashion for the now marginalized regional government associations and civil society organizations.

A better management of decentralization policy will in turn facilitate improvement in the coherence and quality of the legal framework. Nonetheless, this task will also be onerous, and requires a determined application of regulatory impact assessment principles, and more effective mechanisms that check new instruments for quality, consistency with existing instruments, and adherence to norms of inter-governmental consultations and consultations with stakeholders.

The D/LG reform and aid effectiveness nexus

The government has in the last year made more progress in working toward its Paris Declaration commitments. It has enlisted donors in the effort to design and socialize the Jakarta Commitment. This declaration makes clear the government intent to give shape to demand for DP support, and DP commitment to align itself with government systems and increase their use of program based approaches. The government ministries and DPs involved in decentralization/local governance face the challenge of identifying what these commitments mean for support provided in the decentralization/local governance 'sector'. The STS 2009 findings suggest that it is worthwhile to give more shape to CD principles in this sector, and to work toward a sector wide approach in designing government interventions and in proffering donor support.

In line with the Accra Agenda for Action and the Jakarta Commitment, DPs should assist the government to make more room for regional government associations and civil society in the discourse and planning that takes place in the decentralization/local governance sector.

The DP stance indicated above presupposes a clearer road map from the government side. As a helpful step toward a more cohesive response, and as a way to cope with a 'road map' that is under construction, it may be useful to agree to a D/LG sector specific Code of Conduct, to speed progress and allow for more accountability. Such a code would, for example, commit DPs to programs that are aligned with the core principles and features of decentralization, avoiding the contradictory support now given in some cases.

Final reflections

Indonesia has been fortunate to undertake reforms in decentralization/regional government in the context of a strong economy, and hence increasing central and regional budgets. This can no longer be assumed; fiscal tightening may place pressure for more efficient regional governance, adding to growing concerns over corruption and quality of services. Service demand is still weak, but an increasingly active civil society will likely stir more demands on that count as well. The state can choose to muddle through the next few years, as it has done in some reform fields, but the poor performance will become more evident and generate more adverse reactions. A proactive approach of the new government to be formed toward the end of 2009 would be timely.
DPs could play a significant role in future reforms, particularly if the aid is more strategic and in line with aid effectiveness principles. DPs should welcome a proactive approach by the new government in managing policy and promoting aid effectiveness, and be ready to make the case for a balance of supply (government lead reforms) and demand approaches (coming from civil society lead efforts), indicating their readiness to support the latter in a vigorous way and with a long term perspective in view of the limitations faced by government in developing civil society. ■

Laws

Law/UU	English Title	Indonesian Title
34/1999	National Capital of the Republic of Indonesia Regional Government of Jakarta	Pemerintahan Propinsi Daerah Khusus Ibukota Negara Republik Indonesia Jakarta
34/2000	Amendment to Law 18/97 on Regional taxes and Regional Governments	Perubahan Atas U 18/97 Tentang Pajak dan Retribusi Daerah
36/2000	Free Trade Zone and Harbor Area	Kawasan Perdagangan Bebas dan Pelabuhan Bebas Menjadi UU
18/2001	Special Autonomy for the Province of Aceh	Otonomi Khusus Aceh
21/2001	Special Autonomy for the Province of Papua	Otonomi Khusus Papua
01/2004	State Treasury	Perbendaharaan Negara
09/2004	Administration Court	Pengadilan Tata Usaha Negara
10/2004	The Establishment of Regional Legislation	Pembentukan Peraturan Perundang – Undangan
15/2004	State Audit	Pemeriksaan Pengelolaan dan Tanggung Jawab Keuangan Negara
25/2004	National Development Planning	Sistem Perencanaan Pembangunan Nasional
28/2004 revised from 16/2001	Foundation Law	Yayasan
32/2004 revised from 22/1999	Regional Governance	Pemerintahan Daerah
33/2004 revised from 25/1999	Fiscal Balance between the Central Government and the Regional Government	Perimbangan Keuangan antara Pemerintah Pusat dan Pemerintahan Daerah
11/2006	Governance of Aceh	Pemerintahan Aceh
17/2007	Long-Term Development Plan	Rencana Pembangunan Jangka Panjang Nasional
24/2007	Disaster Mitigation	Penanggulangan Bencana
25/2007	Investment	Investasi
26/2007	Spatial Planning	Penataan Ruang
29/2007	Special Autonomy for Jakarta	Tentang DKI
02/2008	Political Parties	Partai Politik
12/2008	Election of Regional Heads	Pemilihan Kepala Daerah
14/2008	Freedom of Information	Keterbukaan Informasi Publik
37/2008	Ombudsman	Ombudsman

Government Regulations

GR/PP	English Title	Indonesian Title
32/1979	Retirement of Civil Servants	Pemberhentian Pegawai Negeri Sipil
30/1980	Disciplinary Conduct of Civil Servants	Disiplin Pegawai Negeri
68/1999	Guidelines on Public Participation in Governance Processes	Cara Pelaksanaan Peran Serta Masyarakat dalam Penyelengaraan Negara
25/2000	Functions of the Central government and the Provincial Government	Kewenangan Pemerintah dan Kewenangan Propinsi Daerah Otonom
98/2000 revised from 28/2000	Recruitment of Civil Servants	Pengadaan Pegawai Negeri Sipil

GR/PP	English Title	Indonesian Title
84/2000	Regional Organization Guidelines	Pedoman Organisasi Perangkatan Daerah
101/2000	Civil Service Training	Pelatihan Pelayanan Sipil
104/2000	Balance Fund	Dana Perimbangan
107/2000	Regional Government Borrowing	Pinjaman Daerah
08/2003	Guidelines on Establishing Regional Government Organizations	Pedoman Organisasi Perangkat Daerah
09/2003	Transfer of Civil Servants	Wewenang Pengangkatan, Pemindahan, dan Pemberhentian Pegawai Negeri Sipil
24/2004	Protocol and the Position of Head of Finance and Member Legislative	Kedudukan Protokoler dan Keuangan Pimpinan dan Anggota DPRD
54/2004	Papuan People's Committee	Majelis Rakyat Papua
06/2005	Election, Enactment, Appointment, Termination of Regional Head and Deputy Regional Head	Pemilihan, Pengesahan, Pengangkatan, dan Pemberhentian Kepala Daerah dan Wakil Kepala Daerah
23/2005	Special Service Agency	Pengelolaan Keuangan Badan Layanan Umum (BLUD)
24/2005	Governmental Accounting Standard	Standar Akuntansi Pemerintahan (SAP)
37/2005 revised from 24/2004	Status of Protocol and Finance for Regional House of Representative's Members and Leader	Kedudukan Protokoler dan Keuangan Pimpinan dan Anggota Dewan Perwakilan Rakyat Daerah
53/2005 revised from 24/2004	Guidelines on the Code of Regulations for the Board of Regional Representatives	Pedoman Penyusunan Peraturan Tata Tertib Dewan Perwakilan Rakyat Daerah
54/2005	Local Borrowing	Pinjaman Daerah
57/2005	Grants to Regions	Hibah Kepada Daerah
58/2005 revised from 105/2000	Management and Regional Finance Accountability	Pengelolaan Dan Pertanggungjawaban Keuangan Daerah.
58/2005	Regional Financial Management	Manajemen Keuangan Daerah
65/2005	Minimum Service Standard Formulation and Implementation	Pedoman Penyusunan dan Penerapan Standar Pelayanan Minimal
72/2005	Village	Desa
79/2005	Guidelines on Supervision and Monitoring on the Implementation of Local Governance	Pedoman Pembinaan dan Pengawasan Penyelenggaraan Pemerintahan Daerah
02/2006	Procedures for Realization of Loans and/or Grants and Allocation of Foreign Loans and/or Grants	Tata Cara Pengadaan Pinjaman dan/atau Penerimaan Hibah serta Penerusan Pinjaman dan/atau Hibah luar Negeri
08/2006	Budgeting Report and Work Performance of Government's Instances	Pelaporan Keuangan Dan Kinerja Instansi Pemerintah
13/2006	Guidelines to local budget management	Tentang Pedoman Pengelolaan Keuangan Daerah
24/2006	One Stop Services	Pedomaan Penyelenggaraan Pelayanan Terpadu Satu Atap (OSS)
65/2006	Guidelines to Draft and Implement Minimum Standard Services	Pedoman Penyusunan dan Penerapan Estándar Pelayanan Minimal
03/2007	Report on Accountability of Regional Head to the Regional House of Representatives and the Information on Regional Governance to the Public	Laporan Penyelenggaraan Pemerintahan Daerah Kepada Pemerintah, Laporan Keterangan Pertanggungjawaban Kepala Daerah Kepada DPRD, dan Informasi Laporan Penyelenggaraan Pemerintahan Daerah Kepada Masyarakat

GR/PP	English Title	Indonesian Title
06/2007	Technical Instructions for the Preparation and Issuing of Minimum Service Standards	Petunjuk Teknis Pelaksanaan Standar Pelayanan Minimal
16/2007	Procedures for Evaluating Draft Regional Government Regulations Regarding Regional Budgets and Draft Regional Head Regulations Regarding the Elaboration of Regional Government Budgets	Prosedur untuk Pemerintah Daerah Mengevaluasi Rancangan Peraturan Daerah tentang APBD dan Rancangan Peraturan Kepala Daerah Berkaitan dengan perluasan Anggaran Pemerintah Daerah.
23/2007	Guidance for Procedures for Supervising the Implementation of Regional Government	Prosedur Pengawasan Pelaksaan Pemerintahan Daerah
38/2007	Regarding the Division of Functions Between the Central Government, Provincial Government and District/City Government	Pembagian Urusan Pemerintahan antara Pemerintah, Pemerintahan Daerah Provinsi dan Pemerintahan Daerah Kabupaten/Kota.
41/2007 revised from 08/2003)	Regional Government Organizations	Organisasi Perangkat Daerah
46/2007	Batam Free Trade and Free Port Zone	Kawasan Perdagangan Bebas Dan Pelabuhan Bebas Batam
50/2007	Procedures for Regional Cooperation	Tata Cara Pelaksanaan Kerja Sama Daerah
61/2007	Technical Guidelines on the Regional of the Finance Public Service	Pedoman Teknis Pengelolaan Keuangan Badan Layanan Umum Daerah
78/2007 revised from 129/2000	The Mechanism of Establishing, Abolishing and Merging of Regions	Tentang Tata Cara Pembentukan, Penghapusan, dan Penggabungan Daerah
79/2007	Guidance for the Preparation of Plans for the Achievement of Minimum Service Standards.	Pedoman Pelaksaan Standar Pelayanan Minimal
06/2008	Preparation of Regulations on Local Government Monitoring and Evaluation	Pedoman Evaluasi Penyelenggaraan Pemerintahan Daerah
07/2008	Deconcentration and Assistance Tasks	Dekonsentrasi Dan Tugas Pembantuan
08/2008	Steps, Procedures, Control and Evaluation of Regional Development Plans	Tahapan, Tata Cara Penyusunan, Pengendalian Dan Evaluasi Pelaksanaan Rencana Pembangunan Daerah.
26/2008	Spatial National Planning	Rencana Tata Ruang Wilayah Nasional.
28/2008	Procedures for the Evaluation of Draft Regional Government Regulation on Regional Spatial Plan	Prosedur Evaluasi tentang Rancangan Peraturan Daerah Tentang Rencana Tata Ruang Wilayah
48/2008	Education Financing	Pendanaan Pendidikan, Tahapan, Tata Cara Penyusunan, Pengendalian, dan Evaluasi Pelaksanaan Rencana Pembangunan Daerah.
58/2008	Regional Financial Management	Pengelolaan Keuangan Daerah
59/2008	Regional Finance Management	Manajemen Keuangan Daerah
60/2008	Internal Control System of the Government	System Pengendalian Internal Pemerintah

Presidential Decrees

KepPres	English Title	Indonesian Title
KepPres 98/1993 changed from KepPres 53/1993	Industrial Zones	Kawasan Industri
KepPres 150/2000 changed from 9/1998 changed from 89/1996.	Integrated Economic Zone	Tentang Kawasan Pengembangan Ekonomi Terpadu
KepPres 102/2001	Position, Responsibility, Function, Authority, Organizational Structure and Mechanism of the Department	Kedudukan, Tugas, Fungsi, Kewenangan, Susunan Organisasi dan Tata Kerja Department
KepPres 1/2003	To Speed the Implementation of Law 45/1999	Percepatan Pelaksanaan UU No. 45/1999
Perpres 28/2005	Deliberation of Regional Autonomy (DPOD)	Dewan Pertimbangan Otonomi Daerah
Inpres 5/2007	Accelerating Development of Papua and West Papua Provinces.	Percepatan Pembangunan Provinsi Papua Dan Provinsi Papua Barat.
Perpres 9/2008	Zonal Council for the Free Trade Zone of Bintan and Karimun.	Dewan Kawasan Perdagangan Bebas dan Pelabuhan Bebas Bintan dan Karimun
Perpres 38/2008	Annual Development Plan 2009	Rencana Kerja Pemerintah Tahun 2009 (RKP)
Perpres 75/2008	On the Consultation Mechanism (for laws and administrative policies that affect Aceh)	Tata Cara Konsultasi dan Pemberian Pertimbangan atas Rencana Persetujuan Internasional dan Rencana Pembentukan Undang-Undang serta Kebijakan Administratif yang Berkaitan Langsung dengan Pemerintahan Aceh

Ministerial Decrees

KepMen	English Title	Indonesian Title
Kepmendagri 10/79	Performance Appraisal of Civil Servants	Penilaian Kinerja Pelayanan Sipil
KepMendagri 16/2001	Trial and Validation Forest and Plantation Income and Retributions	Tentang Pengujian dan Pengesahan Hasil Hutan dan Perkebunan Serta Pungutan Retribusi Atasnya.
Kepmendagri 17/2001 (MoHA)	Transfer of Monitoring Function on the Implementation of Local Governance to the Governor	Pelimpahan Pengawasan Fungsional Penyelenggaraan Pemerintahan Daerah Kepada Gubernur
Kepmendagri 29/2002	Guidelines on Monitoring of Local Budget and Budget Calculation	Pedoman Pengurusan, Pertanggungjawaban, dan Pengawasan Keuangan Daerah Serta Tata Cara Penyusunan APBD, Pelaksanaan Tata Usaha Keuangan Daerah dan Penyusunan Perhitungan APBD
Kepmenkeu 35/2003	Planning, Implementation and Monitoring on Lending from Foreign Countries to the Regions	Perencanaan, Pelaksanaan/Penatausahaan, dan Pemantauan Penerusan Pinjaman Luar Negeri Pemerintah Kepada Daerah
1457/MenKes/SK/X/2003	Local Government Minimum Service Standards in the Health Sector	Standar Pelayanan Minimal Bidang Kesehatan Di Kabupaten/Kota
Kepmendagri/193.05-854/2005	Permanent Secretariat for CGI Joint Working Group on Decentralization	Pembentukan Sekretariat Tetap Kelompok Kerja Bersama CGI Bidang Desentralisasi

KepMen	English Title	Indonesian Title
Kepmendagri 30/2006	Protocols of Transferring Functions from City Government to Village Government	Tatacara Penyerahan Urusan Pemerintahan Kabupaten/Kota Kepada Desa
Permendagri 13/2006	Setting the Technical Details for Budgeting, Treasury, and Reporting	Petunjuk Teknis Penganggaran, Perbendaharaan dan Pelaporan
Permendagri 6/2007	Technical Guidance for Instructions and Determination of Minimum Service Standards	Petunjuk Teknis Penyusunan dan Penetapan Standar Pelayanan Minimal
Permendagri 16/2007	Procedure of Evaluation of the Regional Regulation Draft for Budget Revenue and Expenditure	Tata Cara Evaluasi Rancangan Peraturan Daerah Tentang Anggaran Pendapatan Dan Belanja Daerah Dan Rancangan Peraturan Kepala Daerah Tentang Penjabaran Anggaran Pendapatan Dan Belanja Daerah
Permendagri 17/2007	Provision of Technical Guidance for Asset Management of Regions	Bimbingan Teknis Pengelolaan Aset Daerah
Permendagri 23/2007	Technical Guidance for Control of Regional Government	Pedoman Tata Cara Pengawasan Atas Penyelenggaraan Pemerintahan Daerah
Permendagri 35/2007	Managing Village Finance	Pedoman Pengelolaan Keuangan Desa
MoHA Regulation 59/2007	Change in Ministerial Regulations No. 13 on Regional Financial Management Guidelines	Perubahan atas Peraturan Menteri Dalam Negeri No. 13 Tentang Pedoman Pengelolaan Keuangan Daerah
MoHA Regulation 61/2007	Regional Public Services Bodies	Badan Layanan Umum Daerah
Permendagri 66/2007	Village Development Planning	Perencanaan Pembangunan Desa
Kepmendari 100/2005	The Formation of Consultant Teams to Achieve the Minimum Service Standard	Pembentukan Tim Konsultasi Penyusunan Rencana Pencapaian Standar Pelayanan Minimal.
Permendagri 79/2007	Manual on Planning Steps to Achieve Minumum Service Standards	Pedoman Penyusunan Rencana Pencapaian Standar Pelayanan Minimal.
Permenkeu 04/ PMK.07/2008	Implementation and Responsibility of Transfers to Regions	Pelaksanaan dan Pertanggungjawaban Anggaran Transfer ke Daerah
PerMenkeu 120/ PMK.OS/2008	State Receivables from the Government Subsidiary Overseas Loan, Investment Fund Account, and Regional Development Fund Account for Local Water Enterprises	Penyelesaian Piutang Negara yang bersumber dari Penerusan Pinjaman Luar Negeri , Rekening Dana Investasi dan Rekening Pembangunan Daerah pada Perusahaan Daerah Air Minum

ANNEX 1

SCOPE OF WORK FOR UPDATE OF STOCKTAKING STUDY ON DECENTRALIZATION REFORMS

1. Background and Research Objectives

In 2006 the Democratic Reform Support Program (DRSP) conducted a multi-donor stock taking on Decentralization Reforms. This study was entrusted by the DWG and financed jointly by DSF, DRSP/USAID and AusAID. The study identified strategic reform issues and provided viable policy options for MoHA's Grand Strategy on Decentralization, a policy document that was to be issued as a Presidential Decree. The intent of the Grand Strategy was to chart a course for further government of Indonesia reforms and provide guidance to donors interested in offering future decentralization support.

The stock taking study was implemented over eight months by a team of international and national consultants. The review highlighted tractable reform priorities over the short and long term, with an emphasis on the next two to three years.

Two years after its implementation, partners and donors feel the need to update the findings, to determine which of the policy options have been taken up and lead to change and to assess the usefulness of the study's recommendations.

2. Purpose of the Decentralization Update

The stock taking update will provide a new snapshot of decentralization reforms, showing the progress made on the important framework policies examined in 2006 and to ascertain where progress has been made in relation to specific decentralization policies and procedures. It will indicate which issues have gained more prominence or urgency, and which may have receded in priority. It will assist the GOI in defining a more detailed approach to the next stage of decentralization reforms and agree on donors as well as on GoI commitments to further reforms for the next two to three years. This will also help donors to align their support accordingly.

Outcome

- Continued awareness among key stakeholders of the progress of decentralization and the reform challenges that remain to be tackled. To keep up the momentum for the ongoing and planned reforms and to ensure that all stakeholder remain on board.
- Consensus among key government officials in the relevant ministries/agencies about the specific reforms objectives, priorities, and approaches to effecting the reforms
- Renewed commitment and action of government and donors to adjust coordination and support structures to harmonize and align donor support for decentralization/ local governance.
- Agreement among donors about their contributions to the reform and indication of expected results over the next 2 to 3 years.

3. Implementation of Study

A team of governance experts and researchers will be hired for the period of three to four months. Government partners and donors will pledge experienced individuals' time towards the exercise.

Thematic Focus

The research topics will follow the thematic clusters identified during the Stock Taking Study 2006. They include :

- Legal framework
- Intergovernmental Relations
- Special Autonomy
- Civil Service Reform
- Regional Governance Reform
- Third Party Support

Analysis will be conducted along the following issues :

- Revisit policy options presented and recommendations made in the Stock Taking Study 2006.
- Assess perspectives on current policies and legal

instruments that have been drafted in the last 24 months and their implications for the reform agenda.

- Identify institutional and policy initiatives at national level and the regions as a response to reforms at national level or as independent efforts to reform.
- Collect and analyze the available evidence concerning the on-the ground situation, including a number of rapid field assessments at the local level which may provide useful examples for replication of inclusion in future reforms.
- Identify what appears to promote progressive change and what obstacles may continue to slow reforms (legal framework, institutions, actors, etc).
- Identify reform issues that have arisen or gained saliency over the two years that require more attention.
- Identify viable reform strategies and provide priorities for challenges and options for the next 2 to 3 years.

Data Gathering

- Information will rely on the collection of secondary data and interviews with resource persons from national and local governments, parliament and CSO.

Time Frame

The study will be implemented over a timeframe of four and a half months, from August 2008 to November 2008. A first status report will be presented and discussed with the DWG by end of August. A draft report will be available beginning October 2008. A final report will be available by end of November 2008.

ANNEX 2

LIST OF RESEARCHERS INVOLVED IN STOCK TAKING STUDY 2009

Topic	Name	Position and Institution	Address
Coordination of Study and Editing	Elke Rapp	DRSP	erapp@rti.org
Intergovernmental Relations, Legal Framework & Special Autonomy	Gabe Ferrazzi	DRSP	gabeferrazzi@rogers.com
Role of Province, Territorial Reform, RGA	Pratikno	UGM-PLOD	pratikno@ugm.ac.id
Financial Management	Deddi Nordiawan	FEUI	deddinordiawan@yahoo.com
Civil Service Reform	Muhammad Firdaus	LAN	Muhf2@yahoo.com
	Jups Kluyskens		jupsklyskens@cs.com
Intergovernmental Finances	Robert Simanjuntak	FEUI	Roberts@ui.edu
Civic Engagement & Planning and Budgeting	Suhirman	ITB	eshm@bdg.centrin.net.id
Regional Government Service Provision	Fahmi Wibawa	DRSP	fahmitaky@yahoo.com
Political Accountability & Village Governance	Ari Dwipayana	UGM	aagndwipayana@yahoo.com
Role of CSO	Hetifah Sj. Sumarto	Inisiatif	Hetifah@gmail.com

ANNEX 3 :

LIST OF MAIN RESOURCE PERSONS

Topic Covered	Name	Position
Intergovernmental Relations	Max Pohan	Deputy for Regional Autonomy and Development, Bappenas
	Himawan Hariyoga	Director for Regional Autonomy, Bappenas
	Son Diamar	Expert Staff, Bappenas
	Made Suwandi	Director for Regional Government Functions, MoHA
	Martha Gutierrez	ASSD/GTZ
	Jeffrey Ong	CIDA – Program Officer
	Patricia McCullagh	CIDA – Head of Aid
	Peter Blunt	DSF – Manager
	Kausar	Director General PUM, MoHA
	AK Mardiasmo	Director General of Fiscal Balance, MOF
Special Zones	Suprayoga Hadi	Director for Special Zones and Left-Behind Regions, Bappenas
	Rohmad Supriyadi	Sub-director of Special and Border Areas, Bappenas
	Afriadi S. Hasibuan (and team)	Director for Zones and Authorities, DG for General Administration, MOHA
	Budi Susilo	Sub-director for Leading and Strategic Zones, DG for Regional Development, MOHA
	W. Budi Santoso	Expert Staff, National Team KEKI
	Robert D.Magawe	Sub-director on Territorial Reform -Zone II
	Safrizal, M.Si	Sub-director Special Autonomy, Directorate Territorial Structure and Special Autonomy, MoHA
	Haura Karlina	Staff, National Secretariat Team KEKI
	Adriana Elisabeth	LIPI
	Muridan	LIPI
	Amiruddin	ELSAM – Pokja Papua
Intergovernmental Finances	AK Mardiasmo	Director General, Fiscal Balance, MOF
	Heru Subiyantoro	Secretary Director General Fiscal Balance MOF
	Budi Sitepu	Director, Local Taxes, MOF
	Pramudjo	Director, Balancing Fund, MOF
	Adriansyah	Director, Local Capacity Building & Loan, MOF
	Lisbon Sirait	Sub-director Local Taxes, MOF
	Wendy Julianti	Sub-Director DAU, MOF
	Ubaidi	Sub-Director DAK, MOF
	Sodjuangon Situmorang	Director General, Regional Autonomy, MOHA
	Made Suwandi	Director, Functions of Government, MOHA
	Bambang Pamungkas	Director, BAKD, MOHA
	Himawan Hariyoga	Director of Regional Autonomy, Bappenas
	Harry Azhar Azis	DPR
	Suharso Monoarfa	DPR
	Tariq H. Niazi	Public Resource Management Specialist ADB Southeast Asia Department

Topic Covered	Name	Position
Civil Service Reform	Staffan Synnerstrom	Senior Advisor World Bank
	Peter Rimmele	GTZ / SfGG / Team Leader
	H. Brosot Soepriyambodo	Head of Organization Division of Kota Surabaya
	Rini Widyantini	Asst. Deputy on Economic Organizations
	Muhammad Idris	Member of Civil Service Training Reform in LAN
	Burhanuddin, M.Si	Lembaga Administrasi Negara, Head of Research on Organisation and Civil Service
	Dian Patria	KPK
	Idris Patarai	City of Makassar
	Sofyan Effendy	UNDP
	Eko Prasojo	Head of Public Administration Program, Universitas Indonesia
	H. Sarimun Hadisaputra, Msi	Executive Director of APEKSI
Service Delivery	Syarifudin Lubis	Executive Director APKSASI
	Mukhlis Abidi	Researcher APKSASI
	Syaifudin Ch.Kai	Researcher APKSASI
	Robert VanderHoff	LGSP/USAID
	Hari Nurcahyo Murni	Sub-director Regional Debt, Ditjen BAKD MoHA
	Syarifudin Lubis	Executive Director of APKASI
	Muklis Abidin	Researcher of APEKSI
	Agus Dwiyanto	ASSD/GTZ
	Cecep Effendy	ASSD/GTZ
	Aruna Bagchee	DSF
	Himawan Suprayoga	Director of Regional Autonomy, Bappenas
Accountability	Andrew Thornley	DRSP/USAID
	Hans Antlov	LGSP/USAID
	Karri McLaughlin	LGSP/USAID
	Muntajid Billah	LGSP/USAID
	Fajar Nursaid	LP3ES
	Arief Nurhantanto	DPRD Kota Yogyakarta
	Siti Zuhro	LIPI – The Habibie Center
	Sebastian Salang	FORMAPPI
Village Governance	Sutoro Eko Yunanto	FPPD
	Girsang	PMD
	Bambang Hudayana	FPPD
	Arie Sudjito	Director IRE
RGA	Rudy Alfonso	ADEKSI
Civic Engagement and Planning	Bambang Pamungkas	Director of Regional Finance Accountability (MoHA)
	Agus Palebangan	Head of Subdit of Regional Budget Administration (MoHA)
	Togap Simangunsong	Head of Planning -OTDA (MoHA)
	Hasi Holan	BangDA, Director Regional Planning

Topic Covered	Name	Position
Financial Management	Bambang Pamungkas	Director of Regional Finance Accountability (MoHA)
	Agus Palebangan	Head of Subdit of Regional Budget Administration (MoHA)
	Dwi Setiawan	Auditor (BPK)
	Farhan Royani	GRS II/CIDA
	Ahmad Yani	Head of Subdit of Fiscal Balance (MoF)

ANNEX 4

LIST OF FGD CONDUCTED ON STS UPDATE

Date	Topic	No. of Participants	Organizations of Participants
02.09.08	FGD Legal Framework	18	Hukham/Bappenas, Biro Peraturan UU, Sinkronisasi dan harmonisasi Depkumham, MoF, Hukum/MoHA, UI, Uni Parahyangan Badnung, Unpar Bandung, Unair Surabaya, Uniibraw Malang
03.09.08	FGD Special Autonomy	14	MoHA/Special Autonomy, Bappenas, LIPI, UGM, FH Uncen Papua, Elsam, Pokja Papua
21.10.08	FGD on RGA	13	Bappenas, Otda, MoHA/Special Autonomy, Adeksi, Apeksi, Adkasi, UGM
10.12.08	FGD on Planing and Budgeting	20	Bappenas, Bappeda Bekasi, Otda, BangDA, FEUI, WRI, Pattiro, Lakpesdam, FPPM, Inisiatif, Fitra, GTZ, DRSP
11.12.08	FGD on Policy Mangagement	25	Members of the DWG: CIDA, DSF, USAID, GTZ, ADB, UNDP, NL, JICA. EC
24.02.08	FGD on Political Accountability	13	German Political Foundations HSS, FNS, FES , KAS

ANNEX 5

CIVIC ENGAGEMENT EXAMPLES IN INDONESIA'S REGIONS

Issue	Form of Participation	Details
Regional regulations	Citizen proposals/ alternative proposals	NGOs and Citizen Organizations cooperate and mobilize themselves to influence regional regulations
	Public consultations, meetings with constituents, hearings	Government, NGOs and Citizen Organizations communicate effectively to develop regional regulations.
	Raising objections to regional regulations	NGOs and Citizen Organizations cooperate and mobilize to raise objections to regional regulations.
	Reporting of contraventions of regional regulations	NGOs and Citizen Organizations cooperate and mobilize to report contraventions of regional regulations with respect to higher regulations.
Planning	Musrenbang	Government, NGOs and Citizen Organizations discuss programs/projects to be funded by government in the following year.
	Information through mass media	Government, NGOs and the Press cooperate to publish planning documents in the mass media.
	Public debates (workshop)	Government, NGOs and Citizen Organizations together review planning documents (spatial and program dimensions) that are promoted by government.
	Monitoring dan evaluation of development	NGOs and Citizen Organizations cooperate and mobilize to monitor the implementations of development programs.

Issue	Form of Participation	Details
Budget allocations	Involvement of delegation from Musrenbang in KUA, PPAS, RKA	Citizen delegations are involved in budgeting processes.
	Public Consultations	Government, NGOs and Citizen Organizations communicate to review draft policies and budget documents.
	Analysis and offering of alternatives in the budget process	NGOs and Citizen Organizations analyze and offer alternative budgets to the DPRD in the context of the preparation of the regional budget.
	Publication and analysis of operational budget document (DPA)	Government, NGOs and Citizen Organizations publish budget documents that have been approved – in the form of posters, and mass media- and undertake analysis of the allocations and their impact on citizens.
	Assessing budget performance	NGOs and Citizen Organizations undertake analysis of government capacity and performance in managing public expenditures.
Public services	Citizen Charter	Government, NGO and Citizen Organizations agree on standards –access, reach, and quality of public services that will be provided to citizens.
	Co-production sharing	NGOs and Citizen Organizations implement public services with support from government.
	Citizen Report Card	NGOs and Citizen Organizations undertake monitoring toward access, quality, and public satisfaction of public services.
	Complaint mechanisms	Government develops mechanisms for gathering citizen's complaints regarding public services as well as mediates conflicts between citizens and providers of public services.

Source: Data from USAID-LGSP, FF, and NGOs in Indonesia

ANNEX 6

LEGAL INSTRUMENTS ISSUED SINCE 2006 RELATED TO PLANNING AND BUDGETING

1	Law 24/2007 Regarding Disaster Reduction.
2	Law 26/2007 Regarding Spatial Planning.
3	Government Regulation 3/2007 Regarding the Report of the Implementation of Regional Governance to Central Government, Explanatory Report of Accountability of the Regional Head to the Regional Legislature, and Information on the Report of the Implementation of Regional Governance to the Public.
4	Government Regulation 6/2008 Regarding The Guide for Evaluation of the Implementation of Regional Governance.
5	Government Regulation 7/2008 Regarding Deconcentration and Assistance Tasks.
6	Government Regulation 8/2008 Regarding Stages, Procedures for Preparation, Control and Evaluation of the Implementation of Regional Development Plans.
7	Government Regulation 19/2008 Regarding Sub-districts.
8	Government Regulation 21/2008 Regarding Implementation of Disaster Reduction.
9	Government Regulation 22/2008 Regarding Funding and Management of Disaster Assistance.
10	Minister of Home Affairs Regulation 30/2006 Regarding Procedures for Transferring District/City Functions to the Village.

11	Minister of Home Affairs Regulation 1/2007 Regarding Arrangement of Urban Green Spaces.
12	Minister of Home Affairs 7/2007 Regarding People's Empowerment Cadre.
13	Minister of Home Affairs Regulation 19/2007 Regarding Training for People and Villages/Wards' Empowerment.
14	Minister of Home Affairs Regulation 23/2007 Regarding Guide for Procedures for Supervision of Implementation of Regional Governance.
15	Minister of Home Affairs Regulation 27/2007 Regarding Guide for Preparation of Means and Infrastructure for Disaster Reduction.
16	Minister of Home Affairs Regulation 37/2007 Regarding Guide for Village Financial Management.
17	Minister of Home Affairs Regulation 51/2007 Regarding Development of Community Zones.
18	Minister of Home Affairs Regulation 59/2007 Regarding Changes to Minister of Home Affairs Regulation 13/2006 Regarding Guide for Regional Financial Management.
19	Minister of Home Affairs Regulation 69/2007 Regarding Cooperation in Urban Development.
20	Minister of Home Affairs Regulation 1/2008 Regarding Guide for Planning of Urban Zones.
21	Minister of Home Affairs Regulation 15/2008 Regarding General Guide for Implementation of Gender Mainstreaming in the Region.

ANNEX 7

LIST OF DEVELOPMENT PARTNER SUPPORT TO REGIONS

Development Partner	Province	District/City
LGSP-USAID	Nangroe Aceh Darussalam	Aceh Barat, Aceh Besar, Aceh Jaya, City Banda Aceh, Nagan Raya
	Sumatra Utara	Deli Serdang, Karo, Serdang Bedagai, City Binjai, City Pematang Siantar, City Sibolga, Simalungun, City Tebing Tinggi
	Sumatra Barat	City Bukit Tinggi, City Padang Panjang, Padang Pariaman, City Solok, District Solok, Tanah Datar
	Jawa Barat and Banten	City Bogor, City Depok, Sukabumi, City Tanggerang, City Tasikmalaya, City Bandung, District Bandung, Cianjur, Lebak, City Sukabumi
	Jawa Tengah	Boyolali, Kebumen, Sukoharjo, Jepara, Karanganyar, Klaten, Kudus, Semarang
	Jawa Timur	Bangkalan, City Madiun, Pacitan, Ponorogo, City Batu, Malang, City Malang, City Mojokerto, Kediri
	Sulawesi Selatan	City Parepare, Pinrang, Takalar, Enrekang, Gowa, Jeneponto, Pangkajene Kepulauan, City Palopo, Soppeng.
	Papua Barat	City Sorong, Manokwari, Fak-fak, Sorong, Kaimana.
World Bank through NDI	Sumatra Barat	Tanah Datar, Solok
	Jawa Barat & Banten	District Bandung, Lebak
	Jawa Tengah	Bantul, Kebumen. Magelang
	Jawa Timur	Lamongan, Ngawi
	Sulawesi Selatan	Gowa, Takalar, Bulukumba, Boalemo

	Sulawesi Utara	Bolaang Mongondow
CIDA, through TAF	Sumatra Utara	District Dairi
	Banten	City Tangerang
	Jawa Tengah	City Semarang, City Surakarta.
	Sulawesi Selatan	City Makasar, City Pare-Pare, District Bone, District Tana Toraja, District Minahasa Utara
	Sulawesi Tengah	City Palu, District Polewali Mandar.
	NTT	District Timor Tengar Selatan
GTZ-GLG	Jawa Tengah	Semarang, Jepara
	DIY	Bantul
	NTB	Beberapa District (?)
	NTT	Beberapa District (?)
Oxfam	Sulawesi Selatan	City Makasar, Takalar, Bone, Baru, Pinrang, Luwu Timur.
	Sulawesi Barat	Majene
	NTT	District Kupang

ANNEX 8

LIST OF DEVELOPMENT PARTNER WORKING ON VILLAGE GOVERNMENT

No	Institutions	Agenda
1.	DRSP-USAID (donor)	The only donor that supports the policy on the Reform Bill Village, in cooperation with the Ministry and the DPD, and support partners CSOs (IRE / FPPD, FH UI, TII, Kaukus 17 + +)
2.	Partnership for Governance Reform	Supports the Ministry of Regional Development Tertinggal to accelerate the development of the regions and villages left behind; also supports the Government of the Province of Papua and West Papua in several districts to strengthen the village government, finance, planning and budgeting village.
3.	ACCESS Aus AID	Supports local CSOs in South Sulawesi, South East Sulawesi, West Nusa Tenggara and East Nusa Tenggara to strengthen the capacity of the village, the village planning and budgeting and policy advocacy in ADD district level.
	AIPRD LOGICA AusAID	Supports the government in Aceh (NAD) and district/city in birth regulation (Qanun) on the village level, ADD policy, capacity development of the village, and the strengthening of village planning and budgeting. AIPRD LOGICA cooperates with several partners such as LPPM, JKMA, UNSIYAH, Gampong Partner, The Village Institute, IRE Yogyakarta
4.	GTZ-GLG	Supports local governments (East Kalimantan, Central Java, Yogyakarta, NTT, NTB) to strengthen planning and budgeting areas, including capacity building, planning and budgeting at the village level.
5.	Ford Foundation	Supports CSOs monitoring of the implementation of the Law No. 32/2004 and its regulations (GR 72/2004), as well as advocating the development of ADD and village planning and budgeting.
6.	Tifa Foundation	Supports CSOs research and advocacy on village government.
7.	FPPD	Cooperates with the PMD (MoHA) and prepared the DRSP supported Academic Paper on the draft Village Law, completed in September 2007. FPPD also advocates at the national and local levels, and are developing a knowledge system for ADD, the authorities of the village, and village planning and budgeting. FPPD published books on the ADD and Village Planning.

8.	IRE	• Cooperates with DRSP in the public consultation of the draft village law in the region, and prepared the draft bill on alternative Village Law. • Conducts research, knowledge management, capacity development and policy advocacy on the villages in Aceh. • Conducts research on the village in Gunungkidul, Kutai Kartanegara, East Lombok, Solok, Sumenep and East Sumba. • Develops and shares knowledge (publication of books, newsletters and website) about the village.
9.	Inisiatif Bandung	Conducts research, organizing, capacity building and policy advocacy on village governance (authority, planning, ADD) in Bandung regency.
10.	KAUKUS 17++	Organizes Citizen Forum and to prepare draft policy papers for the Village Law.
11.	STPMD "APMD" Yogyakarta	Joined in preparing the FPPD Academic Paper for the draft Village Law, doing research on the villages in the area of Yogyakarta and Central Java, and conducted capacity building of village government in some districts (Polewali Mandar, East Kutai, Jambi Muaro, Paser, Berau, South Minahasa, etc.).
12.	Karsa Institute	Organizes and conducts advocacy related to village/agrarian topics
13.	A-Demos	Organizes, undertakes capacity building and advocacy on issues of village of governance, ADD, and planning and budgeting –in villages in Bojonegoro Regency
14.	LPPM	Organizes, and undertakes capacity building and advocacy around the village of governance, ADD, and planning and budgeting –in villages in Aceh.

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