

## ADMINISTRATIVE DECENTRALIZATION AND BUREAUCRATIC REFORM: INDIA AND INDONESIA.<sup>1</sup>

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### *Abstract*

*The paper compares the broad outlines of decentralization taking place in India, dating from the last decade of the past century, with that of Indonesia in the first decades of the present one. When appropriate, material from China will be included in the essay. Of the usual subjects of political, administrative, and physical decentralization, the center of focus is on the generally acknowledged least successful in terms of reform, i.e. the civil administration. What the approach lacks in specific details concerning administrative decentralization in the respective republics, it makes up for in the emphasis on the key characteristics of each. Moreover, as public administration tends to reflect the individual countries' prevailing norms, such an approach tends to be influenced by a new range of literature and researchers whose views challenge accepted wisdom and inspire new lines of thinking on the subject. Justification for the approach comes from expectations that cross fertilization can inspire ideas for a 'new paradigm and conceptual framework', ultimately leading to corrective action. The predominance of corruption/dysfunctional administrative behavior is explained by the fact that it draws upon an on-going project dealing with corruption in India and Indonesia, a joint venture of the Humanistic and Economics Faculties at Lund University. Represented by among others the author and Prof. Neelambar Hatti, the project has its origins in an earlier Lund-Parahyangan University project on Public Administration (1999-2006).*

*The paper opens by listing several of the more important contrasts between Indian, Indonesian, and Chinese decentralization. These include governmental structure, respective colonial heritage, and the focus of decentralization efforts. A short summary of the process of decentralization drawing upon the work of the Lund corruption project follows. The heart of the paper is the question of whether administrative decentralization furthers, hinders, or is neutral with regard to bureaucratic reform in theory and practice. Weighing up successes and failures leads to consideration of continued, if not higher, levels of corruption/dysfunctional behavior at all levels. Possible improvements are postulated, not surprisingly originating from the application of principles derived from New Public Management (NPM), with a couple of new wrinkles from India. These and other types of reform depend on general public engagement, which is conspicuous by its absence in Indonesia, especially in comparison with India's recent mass demonstrations, hunger-strikes, and high-level public condemnation of (mega) public corruption.*

### **Key words:**

*Administrative decentralization, bureaucratic reform, comparative public administration, corruption, India, Indonesia*

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## Introduction

Comparative method by its very nature is dependent upon a balance between similarities and dissimilarities of the objects in question. *Gajah, gamelan*, and the Great Wall have little in common. On the similarity side of the ledger India, India, and China are (or will be) BRIICs, i.e. emerging middle-class countries. They are all formally ‘republics’. They also share the dubious status of low levels of transparency. While it is generally accepted that ‘the ways to the *surau* (prayer house) are many’, there seem to be equally many ways to corruption or, more to the point, dysfunctional administration. Even more striking are the differences. Obviously there are great differences between India, Indonesia, and China with regard to size, culture(s) – including sharp contrasts in membership organizations as caste, tribe, and religion – as well as political groupings, language, and historical experiences. Those most relevant to current discussion in that they provide the framework for further discussion are would seem to be the structure of the national government, the basis of their laws and regulations, and the area singled out for emphasis in the decentralization process.

India is basically a union of federated states held together by the Republic’s Constitution of 1947. The federal nature of the governmental system makes itself felt in the decentralization process, not the least in its terminology. ‘State’ in the scholarly literature concerning India refers to the government of one of the twenty-eight states comprising the Republic. Implicit in the terminology is that sovereignty lies with the states, only being surrendered in degrees via agreement on the contents of the Constitution. The central government, i.e. the State writ large, is termed the ‘union’, a usage harking back to British colonial terminology. In contrast, Indonesia remains a unitary state, as emphasized in the phrase ‘*Negara Kesatuan Republik Indonesia*’ (NKRI) repeated in most laws and ordinances. Historical experience, namely Dutch attempts to fob off the independence movement in what was then *Nederlands Oost Indië* through the creation of a ‘Federated States of Indonesia’, i.e. present day Indonesia minus New Guinea, under continued Dutch control made any talk of a federal system an anathema to all Indonesian leaders from the early days of independence down to the present. That much of Indonesia’s decentralization process – actually drafted under President Habibie’s term of office – took place during the presidency of Megawati Sukarnoputri meant that anything smacking of ‘federalizing’, no matter how reasonable, was not politically correct. While in India the arena of decentralization is the state government as ordered by a top-down initiative of the Congress Party government which was agreed upon by the States approving the union level decision, in Indonesia initiative came from bottom-up popular demand channeled through the thirty-odd provinces and over four-hundred local units of municipalities (*kota*) and districts (*kabupaten*), which remain integrated in a political and fiscal hierarchy extending from the central government at Jakarta down to the lowest level. By way of ensuring that unity there is a tiered level of authority of laws and regulations. Any contents which conflict with ones at a higher level of governmental authority are automatically invalidated. The Constitution of 1945, with amendments most recently in 2004, remains the ultimate authority. In keeping with the concept of a unified state, the central government also retains its monopoly within the five key fields of defense, budget, internal security, customs and tolls, and taxation.

The second area in which one could expect great differences between the two countries is in the respective models for their laws and regulations. That the legal system of India and Indonesia derived from contrasting European legal principles should have produced distinctive systems. India’s legal system is steeped in the Common Law tradition of England

and the English-speaking colonies of America and the Antipodes; Indonesia's derives from the Continental System of The Netherlands as strongly influenced by French practice; while China's came from the Socialist law tradition as the conscious application of the international communist manifesto.

In actual practice the differences played relatively little role. This was because the common denominator lay in the activities of European colonialism, namely exploitation of the countries' inhabitants for the good of the metropolis and/or the indigenous elite in cohort with international capitalism. Common Law case-led law forged by legal precedent via trial by one's peers was simply abandoned in the administrative practice of colonial India. District Officers, the linchpin of the colonial system, and other civil servants were given sweeping judicial authority for controlling the local population to an extent which would have been unthinkable (and probably illegal) in Great Britain. The converse situation developed in the Dutch East Indies. Characterized by set regulations enforced by an appropriately appointed official, Civil Law practice was undermined by the development of a *de facto* system of precedent. Successive generations of inexperienced Dutch officials newly-arrived in the colony looked naturally for guidance in their posts to their predecessors' actions. The latter were well documented by the archives of the Dutch East India Company or *Nederlands Indië* government. Lacking alternatives, they imitated their predecessors' manner of doing things. Even the *adat*, through successive handling in Dutch-dominated courts of law and minutely recorded in the *Adatrech Bundel* and other governmental gazettes, was subjected to a process of 'statutization'. Thus developed a sort of written precedent in which a decision in an earlier case to a great extent determined the outcome of a pending one. This contrasted with both the Continental legal system and traditional written legal traditions of the island (Hoadley, 2008).

As is the case throughout Asia, laws and regulations were supplanted by European standards via a process known as 'legal *transplants*' (Legrand 2001, Watson 1991). Yet this is a side issue here. More important is that via Western legal and administrative principles imposed on Asian peoples, mainly by European civil and military personnel, the reigning administrative paradigm was irretrievably altered by the introduction of Weberian concepts of bureaucracy. Even though this was a relatively late innovation of the early 20<sup>th</sup> century – thus proceeding the demise of the colonial system by only a few decades – the convention has haunted the governments ever since. Moreover, the principle of a rational and efficient administration governed by knowable rules for governmental service was easier to introduce in the newly-formed technical services than in the more conservative territorial administration led by District Officers, Residents, Controllers, etc. Technical services as health, education, communication, and finances, were not only new innovations in an Asian context staffed by trained personnel fresh from the metropolis. More important their results were measurable, thus quantifiable and comparable over time and place. In any event, those staffing the technical services did not necessarily spend their entire careers in the colony. This made them more open to keeping abreast of administrative developments in the metropolis where the instruments and esprit de corps of Weberian bureaucracy as servants of the public were becoming firmly entrenched. In contrast, the territorial administration in the colonies tended to be more flexible in accommodating local norms, which were pre- (or anti-) Weberian. Here it should be pointed out that nearly half the Indian colony was comprised of 'native states' in which the British *raj* had on paper only nominal influence. Acceding to local practices, which could be profitable for the colonial civil servant, was not uncommon. On Java the *Binnenlandsch Bestuur* (BB) was known to be riddled with irregularities in its budget (note: stealing from the Mosque funds). More telling, was the official policy of the Dutch that in order to ensure loyalty the local bureaucratic elite, the *priyayi* were allowed exploitive

practices on the colony's subject sanctioned by neither local tradition nor Dutch law. In short, there was a built in element of corruption in the colony's territorial administration.

A final element with regard to the introduction of Weberian ideals was what Das (2006) has called an administrative *esprit d'corps*. Although a so-called 'soft' element, it played an important role in propagating the ideal of a neutral administration in which concern for and loyalty to the public weal took priority over private interests. In neither India nor Indonesia was this element passed on to post-colonial governments, or for that matter in China. This is partly explained by the fact that while the European bureaucrats of the Indian Civil Service (ICS) or Nederlands Indië's *Binnenlands Bestuur* (BB) were dominated by 'old boyo' ties of schools (Oxbridge or Delft), class preferences, and perhaps most of all racial prejudice. For obvious reasons this was lacking among the Indians and Indonesians who took over the task of administering the new nations. While the upwardly mobile Indian, Indonesian, or Chinese could acquire the prerequisites of education and class, in fact many did, they remained, if you will excuse the expression, in the colonial jargon 'natives'. It can be argued that part of the élan of the colonial service rested on a 'we' feeling of being called to guide the locals in order that they could aspire to European standards of civilization. No matter what the individually acquired merits or inherited status and position, locals were either only partially or not at all acceptable in the higher orders of the colonial administration. This meant that the political and economic transition from colony to independent nation entailed a radical alteration in the character of the bureaucracy. While the abstract Weberian ideals continued to be taught, the more practical demands of caste, class, and other membership groups quickly took precedent. These could be fulfilled mainly through alliance with political power vis à vis political parties. In Indonesia the break was particularly strong as the only local group with hands-on administrative experience, the *priyayi*, were suspect in the eyes of the independence movement due to their lack of enthusiasm for the struggle against the Dutch to whose position they often aspired. Although the bookish ideal remained the practical means of identification and mutual reinforcement disappeared, leaving the new bureaucracies in India and Indonesia highly politicized at an early period in the nations' history.

The focus of decentralization, the third feature named above, most definitely separated the Indian decentralization movement from that of Indonesia and China. For India, the *panchayat* was the ideal, the 'village republics' so admired by British apologizers as Duff since the middle of the 19<sup>th</sup> century. The name *panchayat* derived from earlier councils of five wise men, although they were more associated with negotiations over caste and sub-caste conflicts than day-to-day civil administration. Their reputation as extending back to the shadows of the sub-continent's pre-history was a plus factor in emphasizing continuity with a pre-colonial past. The modern-day *panchayat* at district, *taluk*, and village level were, in fact, created in order to fulfill the India's goals of development and reduction of inequalities within a democratic framework. India chose to create semi-traditional institutions with a historical reputation as the main instrument of decentralization. These were hived off the state (province) area of power at the behest of the union government, in sum making a five-tiered governmental structure of union (state), state (province), and the three *panchayat* institutions at district, *taluk*, and village level, plus the equivalent municipality *panchayat*.

On paper at least, the Indonesian decentralization process was less radical. The unitary structure of the state as defined in the Constitution of 1945 (Art 1.1) was retained; its function modified by laws promulgated by Parliament (DPR). Through Law 22/1999 political autonomy was granted to the provinces and regional government in the form of districts (*kecamatan*) and municipalities (*kota*). Each would have its directly elected legislative and

executive branches in which the powers until then exercised by the central government were transferred to the provincial and local levels. This is, of course, with the exception of the five key areas named earlier. A second law (Law 24/1999) transferred a fixed percentage of the funds acquired locally (sale of natural resources, taxes, etc) which would henceforth remain in the unit to finance its activities. As a result, the local ‘decentralized’ governmental units were freed from financial limitations stemming from being allotted only those funds seen a necessary by the central Jakarta government, almost by definition too little. In short, India decentralized via neo-traditional institutions of the *panchayat* which further emphasized its basically federalized system; Indonesia reformed its authoritarian, centralized system within the framework of a unitary state, now decentralized and democratized to a high degree.

**Administrative Decentralization**

‘Decentralization’, which has been undertaken by a host of developing nations (note), during the last decades, is commonly differentiated into political, administrative, and fiscal decentralization. With a decade or so of experience with them the results can be summarized roughly in **Table 1** as the following.

*Table 1. Administrative decentralization: comparison between India and Indonesia*

	<b>Political</b>	<b>Administrative</b>	<b>Fiscal</b>
India	Extension of democracy	less successful: dominated by ICS	not successful or non-functional
Indonesia	From authoritarian rule to democracy	transfers from centre to regional/local government personnel and salaries	successful: done via set allotments

While all three countries get high marks for political decentralization via devolution, it is Indonesia which has changed most. Over three decades of authoritarian rule have been transformed to the present system of direct elections for virtually all political positions at all levels of government. There remain, however, constraints to a more thorough democratization process. Perhaps the most obvious one is the requirement that all local political parties must be part of national ones. This hinders local initiatives aimed at realizing popular local goals. Also by retaining the power of political parties at the national center it fosters corruption; all would be candidates must come to terms with the party bureaucracy, i.e. pay for the right to campaign in that party’s colors. Also on the positive side Indonesia’s efforts in specifically devolution funds from the centre to provincial and local governments has given those levels the wherewithal to act autonomously in response to local demands. Where the countries show less than satisfactory results are in the area of public administration dominated by a central, self-perpetuating bureaucracy whose reluctance to lose their grip is as understandable as it is regrettable.



One hastens to add that the latter is not necessarily a failing of the decentralization project. There are structural and conceptual differences in administrative decentralization, which distinguish it from political and fiscal decentralization. In the nature of things each government has a real or ideal set of nationally imposed standards. While India's civil servants may differ from their Indonesian or Chinese counterparts, it would never do to have twenty-eight different types of administrative behavior depending upon the state or for that matter forty-three in the Indonesian case and so on. The respective constitutions, backed by the laws of the union or central government, demand a degree of conformity in order to retain their legitimacy. This limits the scope of decentralization in the form of devolution, delegation, or to some extent even of privatization in comparison to the spheres of public politics or economics. Local politics in Aceh – which alone are allowed to remain unaffiliated with national ones – or Iran Jaya obviously differ in terms of content, priorities, and style. A similar variation in administration would not be compatible with the NKRI unitary state. To the demands of reasonable degrees of national standardization comes the almost defining characteristic of bureaucracy, namely longevity and continuity. Political and fiscal systems come and go as called forth by popular will, private interests, or the tenor of the times; bureaucracy is here to stay. Not only does it enjoy considerable powers granted by its principles but also it tends to accumulate more over time. Thus even incremental gains of power over time without periodic review and reform demanded by their principles – which is rarely forthcoming – results in an accumulation of powers over and above those originally bequeathed (example of FBI's J. Edgar Hoover). Both features limit administrative decentralization to (marginal) de-concentration rather than the more sweeping ones of devolution, delegation, or privatization.

### Decentralization in India

The following section cites Hatti's summary of India's decentralization process.

*... Soon after independence in 1947, the political leaders realized that given the problems of hunger, malnutrition, unemployment, gender inequality and so on, India needed a micro-level institutional arrangement to encourage popular participation.<sup>3</sup> The basic idea was to create a system known as 'four-pillar state, resting on the foundation of power sharing between the centre, state, district and village, thus opting for a top-down and gradual decentralization.<sup>4</sup>*

*...At the time of framing the Constitution, Article 40<sup>5</sup> was inserted into Part IV, known as the Directive Principles of the State Policy, to make provision for the creation of village panchayats (Mathur 1999, Manor 1999). As this was not mandatory, both the central government and the state governments choose to ignore it.*

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<sup>3</sup> The initial impulse to develop the micro-level institution of *panchayat* came from Mahatma Gandhi. During India's struggle for freedom, he had argued for a system of governance under which village *panchayats* would discharge those functions as could realistically be discharged at the village level, leaving the rest to the institutions of the state.

<sup>4</sup> The degree of decentralization or local autonomy depends on the Constitutional assignment and practices and conventions developed over the years. The basic framework of intergovernmental relationships in Indian federation is given by the Constitutional assignment of functions and sources of finance. The seventh schedule to the Constitution of India specifies the Union list - the exclusive domain of the Central government, the State list- the exclusive domain of the State governments, and the Concurrent list where both levels have joint jurisdiction. (Kalirajan and Otsuka 2010, 5. See also Kumar 2006).

<sup>5</sup> Article 40 relates to the organization of village *panchayats*. It states, "The State shall take steps to organise village *panchayats* and endow them with such powers as may be necessary to enable them to function as units of self-government".

In 1952, Community Development Programme (CDP) came into existence as a part of the central government policy to encourage people's participation in local development. However, with the failure of this policy in 1950s, the idea of constituting representative institutions at the level of village was keenly felt. In 1956, the government appointed a committee to review the programme and suggested a working institutional arrangement. The committee pointed out that one reason for the failure of the panchayats was the absence of an organic link between different levels and suggested restructuring the old programme as a three-tier system with a view to ensuring the people's involvement in development programmes.<sup>6</sup> The Committee also argued, "So long as we do not discover or create a representative and democratic institution /.../ invest it with adequate power and assign it appropriate finances, we will never be able to evoke local interest and excite local initiative in the field of development" (Balwant Rai Mehta Committee Report 1957:5). The committee's suggestion to establish three-tier panchayats was accepted by the government and came to be known as Panchayati Raj Institution (PRI). Since this committee did not make provisions for fiscal decentralization, a new committee was constituted in 1963 to look into panchayat finances (K.Santhanam Committee 1963). Its key recommendations included powers to levy a special tax on land revenues and homes, and consolidation of all grants at the state level and devolution to PRIs. However, these recommendations were not fully implemented due to lack of political will. By the early 1970s, the institution stagnated and gradually declined in almost all the states due to inadequate devolution of powers, dominant role of vested interests and interference by officials. Thus, the original idea of creating a 'four-pillar state' remained an elusive dream.

In 1978 yet another committee was appointed to examine measures to revive and strengthen PRIs (The Ashok Mehta Committee 1978).<sup>7</sup> The first official recommendation made was to include panchayats in the Constitution. This shifted the thrust from the panchayat as a development organization to the panchayat as a political institution. Recommendations of the Ashok Mehta Committee were: (i) The district should be the key administrative unit for planning, coordination and resource allocation, and the management of rural and urban continuum, (ii) The PRIs should be a two-tier system, with the *mandal* panchayat (block/taluka) at the base and the *zilla parishad* (district) at the top, (iii) There should be population-based representation of the Scheduled Castes (SCs) and Scheduled Tribes (STs) in the election to PRIs, (iv) There should be participation of political parties in elections and (v) There should be financial devolution consistent with the devolution of developmental functions to the district level.

Several Indian states – notably West Bengal, Karnataka and Andhra Pradesh – welcomed the idea and made efforts to encourage the growth and empowerment of the PRIs. Yet the support to these second generation panchayats (in contrast to the first generation panchayats that came in the wake of the 1959 Report) did not last long, except in West Bengal (Ghosh and Kumar 2003). The pace of panchayat empowerment was slow, again due to lack of political interest in devolving power to local governments and also the PRIs remained constitutionally unrecognised.

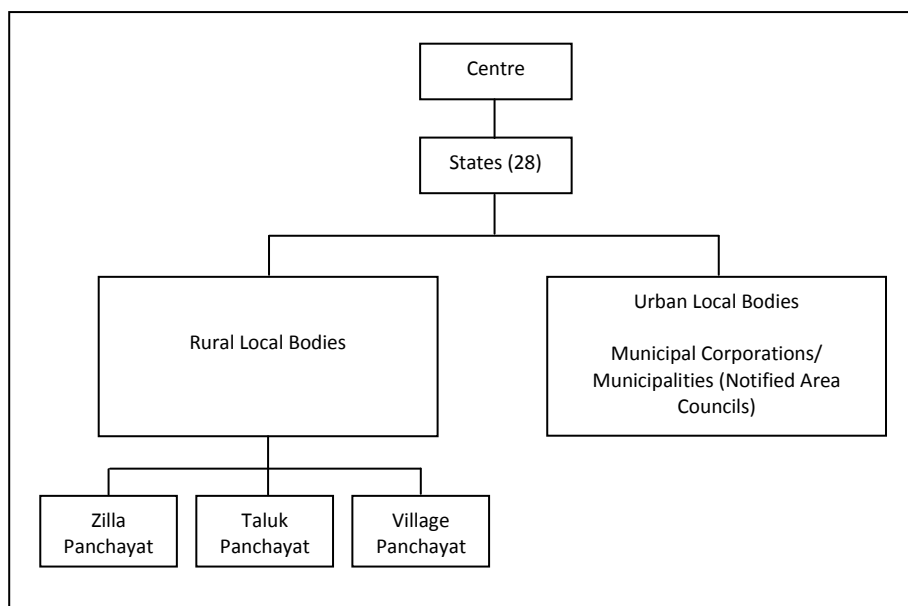
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<sup>6</sup> The three tiers were village, block/taluka and district panchayats.

<sup>7</sup> Looking into the causes of decline of the first generation panchayats, the Committee identified two factors: bureaucratic resistance to the idea of transfer of power to grass root institutions, and the unwillingness of politicians at the state and central levels to allow the emergence of parallel centres of power. Lack of political will to devolve still remains the problem in many states. (See, Kalirajan and Otsuka, Kumar, *Ibid*).

In late 1991, the then government introduced the constitutional amendment bills to enshrine the panchayats and urban municipalities in the Indian Constitution and the amendments, 73<sup>rd</sup> (panchayats) and 74<sup>th</sup> (municipalities), came into force in 1993.<sup>8</sup> The amendments made a sea change in the status of the panchayats because the Constitution made it mandatory for all the states to set-up three-tier panchayats and to hold direct elections to all the tiers at the regular interval of five years and imposed a political uniformity on the structure and workings of the third tier. They provided for independent election commissions to systemize and supervise elections of local village councils (*panchayats*). These amendments also mandated that the panchayats be given more fiscal authority and political power. They introduced village assemblies (*gram sabhas*)<sup>9</sup> to be held at regular intervals throughout the year. These are open meetings which anyone in the village is free to attend in order to discuss budgets, development plans, the selection of beneficiaries, and to interrogate village panchayat and local administrative officials on any issue. Another important change was the introduction of reservation for Scheduled Castes and Tribes and women (a third of all seats in the panchayat and all presidencies on a rotating basis) for seats on panchayats, including the position of the panchayat president (*pradhan or sarpanch*)<sup>10</sup>.

Graph 1. Structure of Multilevel Government in India<sup>11</sup>



<sup>8</sup> Government of India, *The Constitution Seventy-Third Amendment Act 1992*, New Delhi, 1993.

<sup>9</sup> Gram Sabha was to be comprised of all adults over 18 years of age and residing within the boundaries of the village panchayat.

<sup>10</sup> Vijayendra Rao, August 2005, p.18

<sup>11</sup> Source: Rao, 2001.



## Indonesian Decentralization as Regional Autonomy

Given the nature of the audience, only the outlines of Indonesian decentralization need be cited here. The following is a quote from the author's *Western Forms v Indonesian Norms* (Yogyakarta 2006, 84-6).

Without fear of exaggeration one can say that the issue of decentralization/ regional autonomy (*otonomi daerah* or *otda*) has dominated the century. Motivation for what by international standards has been an impressive movement towards decentralization stems from several interrelated concerns of the post Orde Baru period. These can be summarized under the headings defense, development, and democracy. One of the immediate motivations for decentralization was apprehension lest disaffected regions demand extreme forms of local autonomy amounting to independence. Actually taken by Timor Leste and threatened by Papua and Aceh, such runs counter to the idea of a unified nation as stated by Art. 1 of the Constitution and reiterated the Pancasila, as well as by the often-repeated acronym NKRI (Negara Kesatuan Republic Indonesia, the unified state of the Republic of Indonesia). Its increased use in official terminology is most likely a result of serious discussion of the possibility of a federated state during the presidency of Abdurrahman Wahid in among others Kompas (see St. Sularto dan T. Jakob Koekerits 1999). Decentralization through regional autonomy was seen as an instrument for defending the Republic's unity. Decentralization/ *otda* is also seen as the instrument for kick-starting the economic development so grievously interrupted by the Asian crisis of 1997-98. The precise linkage is not entirely obvious. One assumes that greater power in the hands of the regions, which know their own strengths and needs, facilitates economic growth. Through better utilization of indigenous and foreign funds decentralization is thought to be able to spread wealth more evenly throughout the Republic, thus providing development through growth. A part of this development would bring about better service provided the public. Here it seems clear that the shorter the path of services provided to the public the better. In that case more service should reach the stake holders. And finally by bringing the government closer to the public decentralization brings about a more democratic order. Yet it remains unclear whether the increased accountability and transparency is a precondition or result of the decentralization process. An implicit fourth factor exists in the form of expectations that decentralization will help to check the wide-spread corruption characteristic of Indonesia, one which threatens both development and democracy. Development is threatened due by channeling of public resources to private benefit, which makes Indonesia an unattractive place for direct foreign investment, international credit, and direct aid. Democracy is threatened due to granting special privileges based on influence of wealth, status, or both.

To date one can observe that *reformasi* is by and large a problem of the center rather than the regions, let alone the village (*desa*) or hamlet (*kampong*). Thus one of the more important aspects of reform aspirations turns on re-defining relations existing between the *pusat* (national government) and the regions (*daerah*). Consequently a short sketch of the decentralization process in the post Suharto period provides the necessary background for subsequent discussion of new developments in public administration. New Order political rhetoric on the issue of decentralization in point of fact concealed a highly centralized, hierarchical governmental organization. Even though on paper a proponent of regional

autonomy, such as realized only with the New Order's demise in May 1998 and promulgation the following year of Law No. 22 on Regional Governance and No. 25 on Fiscal Balance Between the Center and the Regions. Crucial here was revision of the provisions of Law No. 5/1974 which until then had set the Principles of Regional Government. Decree No. XV/MPR/1998 passed by an extra-ordinary session of the Peoples' Consultative Assembly set in motion the process of revision. As a result of that decision, the Ministry of Home Affairs with the council of senior civil servants, academics, and advisors drafted the basis of what would become of Law No. 22/1999. A parallel process was started by the Ministry of Finance aimed at reforming intergovernmental finance, one that resulted in a draft for Law No. 25/1999. Both were subsequently approved by the DPR in May 1999, with the proviso that the new decentralization organization would come into effect in May 2001. The date was subsequently moved up to 1 January 2001 so that its beginning would coincide with the new fiscal year.

### **Law No. 22/1999**

Law No. 22/1999 provided for devolution of a wide range of public service functions to the regions. Elected regional councils (*Dewan Perwakilan Rakyat Daerah*, DPRD) were strengthened and received wide-ranging powers to supervise and control the regional administration. The primary winners were *kabupaten* and *kota* which were given considerable autonomy. According to §7.1, the *daerah* has responsibility for all governmental matters except in the areas of foreign affairs, defense and security, justice, monetary and fiscal affairs, religion and other matters. The latter consisted of a large number of functions, including 'macro-level planning, fiscal equalization, public administration, economic institutions, human resource development, natural resource utilization, strategic technologies, conservation, and national standardization' (§ 7.2). Responsibilities specifically entrusted to the *daerah* included public works, health, education and culture, agriculture, transport, industry and trade, investment, environment, land matters, co-operatives and manpower (§ 11), as well as planning, financing, implementation, monitoring and evaluation, and maintenance (Elucidation § 8). In cases where *daerah* governments are not able to handle these tasks they can be transferred back to the provinces. In addition the *daerah* could be given additional tasks as co-administrator of specified functions, on the condition that these be accompanied by the means to carrying them out in the form of funds, infrastructure, and staff (§ 13.1). In short, *daerah* were given control over their finances, civil services, and organizational set-up.

The looser in the decentralization of 1999 was the provinces. *Daerah* regional autonomy was defined as 'wide' (*luas*), that of the provinces as 'limited' (*terbatas*). Provincial governors continued in the double function as head of an autonomous region (*kepala daerah otonom*) and as representative of the central government under powers delegated by the President via the Ministry of Home Affairs. According to § 9, the main functions of the provinces are intra-regional co-ordination involving *kota* and *kecamatan*, as well as regional macro-planning, human resource development and research, management of regional ports, environmental protection, promotion of trade and tourism, pest control/quarantine, and spatial planning. Moreover the *kabupaten/kota* level was removed from the chain of command which under the *Orde Baru* government ran from the president through the provincial governor to the village level. Election of *bupati* and *walikota* no longer required the clearance from higher levels of government, being accountable only to their respective local councils. And finally, Law No. 22/1999 drew a clearer distinction between the DPRD as local legislative body and the administration as the executive branch.

The deconcentrated agencies of the *pusat* located in the regions were merged with the respective *daerah* agencies. Staff and assets were transferred to the regions, with the exceptions of the five areas of responsibility monopolized by the central government mentioned above. Sub-districts (*kecamatan*) became deconcentrated units of the local government. Village level councils and village chiefs are directly elected and their institutions can be fashioned in accordance with local traditions (*adat*) and needs. Basic to this decentralization is fiscal responsibility; deconcentration must be supported by sufficient funding from the central government (§ 8.2). This was to ensure that the central government did not transfer so-called ‘unfunded mandates’ to the local level. More important, income must be balanced with expenses in the local budget (*Anggaran Pendapatan Belanja Daerah*, APBD). Although regions may borrow from national capital markets, borrowing from abroad requires prior approval by the central government. Interregional cooperation is encouraged by § 87. In a reversal of the Orde Baru top down manner of government, under decentralization supervision and development (*pengawasan, pembinaan*) by the *pusat* are to ‘facilitate’, as opposed to control, the activities and capacities of regional governments (§ 112). The main exception here is provided by Art. 114, which lays down the central government’s authority to nullify decisions, regulations or laws passed by local government which are in conflict with ‘general interests’ (*kepentingan umum*) and national laws (§§ 2-3). It also contains the time limits for those decisions and appeal mechanisms open for regional governments to challenge them.

### **Law No. 25 /1999**

Law No. 25/1999 on ‘Fiscal Balance between the Center and the Regions’ complements the administrative provisions of Law No. 22. Its intention is to raise regional economic capabilities. This includes creating a system of finance which is ‘just, proportional, rational, transparent, participatory, accountable and provides certainty’. It also aims at reflecting the division of functions between levels of government and reducing regional funding gaps. The major income of regional governments (*Pendapatan Asli Daerah*, PAD) is local taxes, local charges and fees, and revenue from local enterprises. Additional sources of revenue are equalization funds (*dana perimbangan*), borrowing and special imposts. One of the latter is the equalization fund consisting of the regional share of the property tax (PBB) and property transfer tax (BPHTB), another the regional share of natural resources revenue (*bagi hasil*) of the general grant (*Dana Alokasi Umum*, DAU), and a third specific grants (*Dana Alokasi Khusus*, DAK). Law No. 25/1999 also specifies the formula for sharing such taxes and revenue from natural resources. The primary instrument for this is provided by the central government budget (APBN). A floor of 25% of domestic revenues is earmarked for the equalization fund; 22.5% to be transferred to the local level and 2.5% to the provincial level. Under the Regional Autonomy Advisory Council (*Dewan Pertimbangan Otonomi Daerah*, DPOD), of which the Minister of Finance is vice-chairman, a grants administration is established to advise the DPOD on grants formula and fiscal equalization issues. Both laws need a multitude of implementing regulations in order to become fully operational.

### **Law No. 32/2004**

Possibly as a result of the speed with which they were passed, a list of issues resulted, counseling revision of the two laws of 1999. These include 1) the unclear distribution of functions between levels of government, 2) the ineffective system of supervision of regional governments by the central government and the lack of clear responsibilities of the provinces,

3) the failure of the current intergovernmental fiscal system to ensure equalization between resource-rich and resource-poor regions and a mismatch between the assignment of expenditures and the assignment of revenues, 4) the lack of policy coordination with sectoral laws and regulations, leading to contradictory regulations for instance in the forestry and in the mining sector, 5) the strong role of money politics in the election of Head of Regions (*Kepala Daerah*) by the regional councils (DPRD), 6) the unsatisfactory accountability mechanism which focuses on the annual report of the Head of Region to the council, 7) the lack of capacity at the regional level to fully implement the new decentralization framework, and 8) lack of programs of the central government to support capacity building in the regions. A complete analysis of Law No. 32 and its complement concerning *daerah* finances, Law No. 33, is premature at this juncture. In any event, its contents contain only minor changes.

### **Bureaucratic/Administrative Reform?**

Implicit expectations that decentralization automatically leads to administrative reform tends to overlook the essential character of bureaucracy. In contrast to politics and economics, which maintain neutrality, administration in its alter ego of bureaucracy has definite negative tones. Under the heading of 'Bureaucratic Behaviour', Das (1998, 169ff) quotes Jain and Dwiveli (1989, 295) to observe that

*The Indian civil service suffers from an obsession with the binding and inflexible authority of departmental decisions, precedents, arrangements, or forms regardless of how badly or with what injustice they may work in individual cases. Additionally, the civil service suffers from a mania for regulations and formal procedures, a preoccupation with activities of the particular units of administration and an inability to consider the government as a whole.*

This,

*...conforms to what Michel Crozier calls 'bureaucratic behaviour'; the normal association what people have with the 'vulgar and frequent sense of the word 'bureaucratic', which Crozier explains, 'evokes the slowness, the ponderousness, the routine, the complication of procedures, and the maladapted responses of "bureaucratic" organizations to the needs which they should satisfy, and the frustrations with their members, clients, or subjects consequently endure' (Crozier 1964, 3 cited in Das 1998, 170).*

The main characteristics of administration or bureaucracy are continuity, longevity, and conservatism. Translated into policy, continuity refers to the senatorial function contributing to social/governmental stability at the price of flexibility, longevity to the predominance of seniority over performance in determining civil servants' position and rewards, and conservatism to the application of rules or accepted ways of doing things derived external to the administration in question. An administration by nature is 'rule bound' bringing it into close alliance with law, a point to which we shall return. The danger lies in a time gap, i.e. behavior based upon out-of-date norms. A possibly overstated illustration is one critic's comment that the present Greece economic crisis comes from its government behaving as if they were still under the Ottoman Sultanate. Be that as it may, one can agree that politics and economics are in comparison more volatile and changeable; they articulate closely with the political will, as for example whether decentralization is 'in', or demands of the market, whose violent swings are seldom predictable but have great impact on society.

Innate administrative conservatism makes it natural for almost every writer on Indian administrative concepts open by tracing the origins of the present ISA from the colonial ICS, if not the Moghuls or earlier. The author is likewise guilty of such tendencies in explaining Indonesian public administration or law through reference to the past as well as the present (2006, 2008). More than an exercise in historical nostalgia, the heritage can still be discerned in the administrative structure of both countries, to which one is tempted to add the even older Confucian tradition for the Peoples' Republic of China. Even the most jaded historian would not be so rash as to suggest history holds the key to contemporaneous economics or politics. Yet the inherent conservatism of administrative behavior makes change, here through decentralization efforts, almost a conflict in terms, especially in the implications of 'bureaucracy' in the pejorative sense. But where does this leave us in possibilities of administrative reform? Let's just say that it provides a challenge, a great one at that. But lest one become disheartened over the difficulties to institute tangible reforms, it should be remembered that challenges are made to be overcome.

### **Decentralization = Reform?**

Reduced to its essentials, the question is whether the administrative decentralization experienced by India, Indonesia or any of the other decentralization projects during the past decades is positive, negative, or neutral *vis á vis* administrative reform. Does it contribute to progress toward, failure of, or is neutral with regard to such basic governmental reform. For convenience sake it is easiest to start with the question of decentralization versus reform in general before tackling the more specific issue with regard to administrative reform. Despite the fact that 'better public service' or the like is most often baked into the arguments for decentralization – along with decreasing inequalities and fostering development (India) and bringing about democracy (Indonesia) – the literature on the subject is less sanguine about the results. In theory, so the argument goes, bringing administration closer to the public it is supposed to serve should bring about positive results in terms of greater accountability, ease of local initiatives, and a degree of openness to social control. After all, the political, administrative, and economic personnel are part of the local community where they live and act. Thus decentralization should make them more receptive to pressures to conform to society's norms, i.e. not be corrupt or exploit the common weal or fellow citizens, than within the more anomalous central bureaucratic structure. Yet such expectations are hard to document.

The problem of establishing a definitive positive connection between decentralization and administrative reform or, expressed in negative terms, between decentralization and corruption is illustrated by, among others, the exposition of Fisman and Gatti. In 'Decentralization and corruption: evidence across countries' (2002, 325-45) they note the 'ambiguous predictions about this relationship', namely decentralization of governmental activities and the extent of rent extraction by private parties, which have '...remained little studied by empiricists.' (p. 325). The paper examines the issue by employing a number of sophisticated indices of corruption, including International Country Risk Guide, Transparency International, and Business International/EIU, as well as other indices of competitiveness, civil liberties, schooling, population & government size, legal origins, etc. These are plotted against a measure of the degree of decentralization, i.e. IMF's Government Finance Statistics (GFS) (341-3). Through the information thus collated, they come to the conclusion that at least in the case of fiscal decentralization there is a positive correlation between lower levels of corruption and decentralization. Even so, the argument is hedged with a number of uncertainties and unaccountable variables. In keeping with the general methodological



problem of translating ‘soft’ data into mathematical scales, the most obvious problem is to judge whether the degree of ‘perception’ of corruption tallies with the phenomenon in reality, a problem shared by virtually all measures social/economic indicators. The fact that there seems no realistic alternative should not bring about too much of a ‘suspension of disbelief’. A recent survey of citizen perception of the ease of launching a new enterprise reveals an almost one-to-one correlation with high levels of corruption. A seductive, if erroneous, interpretation might be that business should look to the most corrupt countries for ease of investment! Moreover, as the authors point out, the outcome many of the individual cases are dependent upon what type of decentralization has taken place, local circumstances, and other external factors. While it is not the intention to single out a particular study, it would seem to reflect the problems in establishing a causal connection between corruption (here an antonym to ‘good governance’) and decentralization or the converse.

Antidotal evidence from specific cases tends to point in the opposite direction, namely that decentralization tends to lead to greater corruption rather than to less. Johnson (2003) quoting the World Bank’s skepticism on the results of Indian decentralization, maintains that

*Using the conventional classification of ‘political, administrative and fiscal decentralisation,’ the World Bank’s three-volume study of Indian decentralisation (World Bank, 2000a; 2000b; 2000c) ranks India ‘among the best performers’ internationally in terms of political decentralisation, but ‘close to the last’ in terms of administrative decentralization.*

...

*The World Bank study goes on to argue that although Indian States and the Union government have been willing to recognize the Panchayats, to hold elections and to respect stipulations governing reservations for Scheduled Castes (SCs), Scheduled Tribes (STs) and women, they have been unwilling to vest them with sufficient ‘administrative control over significant or fiscal autonomy,’ (World Bank, 2000a: xi). In most States, Panchayats have been handed a wide array of responsibilities without the necessary fiscal and administrative resources (19).*

This has been primarily due to federal constraints, most noticeable the ‘resistant’ bureaucracy (24-5) and, most important, ‘Elite capture’ (28-31). The latter has also been emphasized by Das (1998, 2001) and others, who point to the fact that the *Panchayat Raj Institution* (PRI) has been captured by local caste, tribal, or political elites. It has thereby become another tool of illegal influence. This dates back to Congress Party rule and the actions of Mrs. Gandhi during the Emergency of 1970-73, only to be strengthened two decades later after the decentralization acts as amendments to the Indian Constitution mentioned above.

Despite the fact that in Indonesia fiscal decentralization has been more regulated and its membership groups are far less developed as alternative sources of loyalties, decentralization seems to have contributed more to corruption/dysfunctional governance than the reverse. Curiously enough, the Indian pattern seems to hold, although the ‘elite’ of ‘elite capture’ is more along the lines of ad hoc groups than standing semi-formal societal institutions. In short, ‘... the decentralization process had been effectively hijacked by predatory interests’. Although the neo-institutionalist literature sees a decentralization leading to democracy through greater transparency, accountability, the enhancement of practices of good governance, the realities of the process are different.

*Here decentralization has given rise to highly diffuse and decentralized corruption, rule by predatory local officials, the rise of money politics and the consolidation of political gangsterism (Vedi 2003, 16).*

The general tenor of the evidence, such that it is, argues against decentralization neutrality with regard to dysfunctional administrative behavior. While the theoretical and general literature claim a positive correlation between decentralization and good governance/democracy, specific case studies tend to emphasize the negative correlation in the form of increased corruption. Due to Indonesia's experience in progressing out of authoritarian rule, a decentralization of corruption was almost inevitable. However the question remains as to whether there has been an increase of the quantity of corruption or merely redistribution of its practitioners and rewards.

### **Gains and losses**

Here it seems worthwhile to pause in order to summarize the balance between gains and losses of decentralization as seen in comparative perspectives. On the positive side of the ledger are the undeniable gains, mostly in progress towards real democratization. This has been especially noteworthy in Indonesia where direct and free elections now prevail at all levels of government. For India the decentralization acts of the 1990s seems to have increased democratic participation by scheduled castes, scheduled tribes, and women. To this comes at least the great potential for better public service via the respective regional and local governing bodies. On the fiscal side, Indonesia seems to have performed better just because the acts initiating decentralization provide for funds for regional and local bodies as the where with all for the process to function more or less as planned. India in this respect seems caught up in tensions between State governments and the *panchayats* with regard to various sources of funding for the many development projects. And finally on the administrative side, India's conservative ISA has in the past decades functioned well as the heir of the British *raj* in holding the country together in times of crisis, man-made and natural (Das 1998).

As with much in this world, losses are more easily reckoned than gains. Given the structure of the state, the two that come most readily to mind prevail in Indonesia. First, unlimited decentralization could pave the way for extremes, possibly even threatening the continued existence of the NKRI. A couple of examples illustrate the, albeit unlikely, types of centrifugal forces at work. Surprisingly enough, the first concerns Bali. The island's relative prosperity and high employment attracts relatively large numbers of outsiders, mainly from neighboring East Java. However, local feelings run high that these 'immigrants' not only take jobs away from locals but also their culture undercuts continued predominance of the Balinese majority. For obvious reasons the immigrants do not support with funds or voluntary work the myriad of local festivals and ceremonies. Yet moves to discriminate or restrict the activities and/or residence via local regulations, which are made possible by administrative decentralization, clash with the idea of *Negara Kesatuan Republik Indonesia* open to all citizens (see xxx). An even more unlikely scenario would be local regulations on the basis of religious prejudice, e.g. shamanism in Irian, Christianity in the Molukas, or Islam in, say, Aceh, discriminating against or requirements of dress or behavior deviating from national usage. Given too free a hand, such could even exacerbate regional and local differences, as for example the Outer islands versus Java, not seen since the days of PRRI of the 1950s. In other words, there is a constant need for a trade-off between center and periphery faced daily by decentralized governmental structures.

The second danger is a more mundane administrative one, namely that of duplication of services. This is particularly the case if there is no effective coordination between national, regional, and local governments. Theoretically the problem can be illustrated by postulating that if each of Indonesia's 450-plus regional and local governments produced only one hundred laws, regulations, or ordinances per year, then the total sum of local enactments whose constitutionality has to be controlled by the Ministry of the Interior is at a minimum four to five thousand per year, i.e. some fifty thousand since the beginning of decentralization and growing. As such an additional work load is nearly impossible to fulfill in sufficient detail, there is a high possibility of deviations from the intention of the Constitution of 1945 actually becoming de facto the law of the land at the regional or local level.

Yet when all is said and done, it is the third feature which dominates the minus for decentralization, namely corruption. If our reasoning to date has been correct, and it is admittedly antidotal, then to political, administrative, and fiscal decentralization should be added dysfunctional administrative behavior more popularly known as corruption. Even if decentralization has improved administrative effectiveness, which no one argues, it would still have brought about the daunting prospects of now having over four-hundred fifty more or less autonomous units only loosely arranged in a governmental hierarchy in which to eradicate corruption.

### **Mechanisms for Better Governance**

If we turn from the abstract to the practical, what should we think about? As pointed out by many, the first step would be through implementation of more precise administrative laws (see Brietzke 2002). While the laws of the land, i.e. central, provincial, and local governmental regulations are plentiful and relatively specific, those regulating the conduct of members of the respective administrations are not. In both India and Indonesia what can be termed 'job description' for respective office holders is far too discretionary. Despite India's Common law origins, the heritage of the colonial past has meant the building up of an administration aimed at controlling the population rather than serving it. In Indonesia the broad and unspecified Civil Law tradition expects statutory acts to be implemented by administrative directives which are sometimes almost always grant broad state

*...discretion, lacking in transparency and accountability. They seldom descend to the level of specificity needed to define particular tasks and require that they be performed (Brietzke 2002, 112).*

While the situation has improved during the last decade, the lack of this type of administrative law hinders bureaucratic effectiveness and efficiency in two major ways. First, the tasks and responsibilities of the official are not spelled out in sufficient detail to allow redress or disciplinary measures of behavior generally considered as inappropriate or at odds with minimal expectations, i.e. corruption. Perhaps even more damning, that official cannot be formally faulted for not doing anything. Thus putative action, even if the courts or superiors would condemn him, is powerless if they cannot show a breach of specific rules. Second, the lack of clarity in what each official is bound by law to carry out creates a situation in which coherence or consistency with regard to inter- and intrastate relations are conspicuous by their absence. This is especially true where an errand touches out two or more areas of competence, which they often do.

The last point brings up another aspect, namely accountability in a more general manner. Das argues that the Indian bureaucracy relies on an age-old *ex post facto* budgetary audit. That is, after the period has passed one looks at the accomplishments and tries to see if they match up with the resources which had been granted. The underlying assumption is that mismatches or failures will be corrected in the next budgetary term. Yet this most often remains a point of belief when the next budget is approved, one based on the previous one with a few percentage additions. Hence there is little congruence between resources allotted from outside the administrative system and the work done, which in turn tends to lead to a Parkinson-ian finding activities to consume funds and functionaries available rather than being allotted resources calculated to cover the accomplishment of specific tasks. The picture could have been taken from almost anywhere in the Indonesian bureaucracy.

### **New Public Management (NPM)**

The solution would seem to be to take a chapter from the New Public Management (NPM), which has been functioning for decades in, say, New Zealand and Sweden. Whatever the model, and they are not limited to these two examples, the idea in this specific case would be to introduce *ex ante* budgetary procedures. By this is meant that before the funds are allocated the projected actions and necessary resources are presented from appraisal. Like the issue with more specific job descriptions, it allows a more precise evaluation of performance of the organization and its members, which in turn should provide the basis for rewards and punishments. This is, of course, only one of the many ideas for greater administrative efficiency and effectiveness associated by the NPM concepts. From the 1970 onwards under the influence of the Thatcher and Reagan the basic premises of the welfare state began to be questioned. A paradigm shift occurred in which the new model was the 'entrepreneurial government'. This can be said to provide the cornerstone of the subsequent NPM.

### **Elements**

New Public Management is not about specific policies or even a set of techniques, although it includes both. It is better described as a package aimed at improving public administration through utilization of concepts taken from the private sector. Although the exact nature of what is included or not included in New Public Management has yet to be determined, a somewhat abstract definition includes,

*...deregulation of line management; conversion of civil service departments into free-standing agencies or enterprises; performance-based accountability, particularly through contracts; and competitive mechanisms such as contracting-out and internal markets (Aucoin 1993, Hood 1991). Various authors also include privatization and downsizing as part of the package (Ingraham 1996; Minouque 1998) (from Polidano 1999).*

A more recent and practical summary of its basic features would include the following.

- hands-on, entrepreneurial management, not traditional bureaucratic forms
- explicit standards and measures of performance
- emphasis on output controls
- importance of disaggregation and decentralization of public services
- competition in the provision of public services
- stress on private sector styles of management

- promotion of discipline and parsimony in resource allocation, and
- separation of political decision-making from the direct management of public services (Osborne and McLaughlin 2002, 9-10).

The heart of the concepts lies in the middle three points of disaggregation or decentralization, competition, and privatization of public services. These give the package its characteristic features, which have combined with the world-wide moves toward decentralization to the extent of being almost inseparable. They are used in the following discussion to provide the core of the new approach to public administration based on ideas deriving from the school of thought identified as New Public Management. More to the point here, the combination decentralization/privatization and NPM has been embraced wholeheartedly by the donor nations contributing to international funds.

*A debate has also raged both to the extent that it [NPM] is a globally convergent or a more nationally specific (an Anglo-American) phenomenon (Kickert 1997) and to whether its apparent prevalence is due to its universal applicability or its adoption and promulgation by such international bodies as the World Bank and IMF as a universal panacea for both public service and civil society failures across the world (McLaughlin, Osborne, and Ferlie 2002:11, McCourt in Ibid., Chapter 14)*

Implicit or explicit pressure to conform to new ways of thinking, or at least of its expressions, would seem to account for many uncharacteristically modern features of laws and regulations governing Indonesia’s decentralization. NPM-speak is found in such diverse sources as Law 22/1999’s separation of political decision-making from public management organizations and the reconstruction plan for Aceh (R3WANS, *Buku Utama*, 26 March 2005), whose goal description strikes a common cord with the tenants of NPM. Such thinking has even found its way into the circles of *Ekonomi Rakyat* (Peoples Economy) associated with Art 33 of the Indonesian constitution, especially in summing up differences between it and traditional administration (Mardiasmo 2002).

**Table 2. Comparison between traditional administration and NPM**

Traditional	New Public Management
<ul style="list-style-type: none"> <li>• Centralistic</li> <li>• orientated to input</li> <li>• not bound to long-range planning</li> <li>• line-term &amp; incremental</li> <li>• rigid departments</li> <li>• vote accounting</li> <li>• gross budget principle</li> <li>• yearly</li> </ul>	<ul style="list-style-type: none"> <li>• decentralization and devolved management</li> <li>• orientated to input, output, outcome (value for money)</li> <li>• integrated &amp; comprehensive in long-range planning</li> <li>• based upon goals and targets of work</li> <li>• cross departments</li> <li>• zero-base budgeting, planning program, budget system</li> <li>• systematic and rational</li> <li>• bottom-up budgeting</li> </ul>



The fact that the new administrative thinking is seen as furthering a 'peoples economy' based upon Java's collectivism concepts, or even the Supomo/Sukarno integralistic ones is striking. This is particularly so as the latter two are considered as being diametrically opposed to free-flight capitalism from which New Public Management thinking originated.

### **Closing Notes: Does NPM work?**

Yet before subscribing to the high aspirations and claims of NPM, one wants to know if it works at all and, if so, is it exportable. Here Sweden as a focus of comparison is useful. Following New Zealand, England, the USA, and to some extent Holland, Sweden is one of the countries where NPM has been put into practice.

There are a number of NPM success stories in Sweden which might provide models for Indonesia. One of the more successful has been privatization of refuse collection at the *kommun* level, one more or less equivalent to the *kecamatan*. Given the staggering problems and even tragic results of refuse collection in Jakarta (Bekasi) and Bandung (Leuwigajah), the example is more relevant than might at first glance appear. In the Swedish case success has come about from the decentralized unit, the *kommun*, participating in establishing private companies and joint ventures with the private sector. Service for the public has been tackled within the broadest interpretations, namely service for the stake holders. They are not only producers of an impressive amount of refuse every year but also consumers of re-cycled products as paper, soil, packaging materials, sanitary (land) fill, energy and heat from burning, as well as the ultimate consumers of a cleaner environment leading to higher life quality. Through local taxes or private investments the citizen is ultimately the owner of instruments of refuse processing. In this respect citizens have the possibility to actively engage in almost the entire process. At least in this example, to which could be added others in the fields of security, telecommunications, telephones, and arguably electricity provision, core NPM concepts have brought about better services for less money.

The objection could be raised that the case of refuse disposal is actually the product of an artificial situation. It is profitable only because of the comprehensive environmental laws passed on the insistence of the 'Greens' working hand in glove with the then ruling coalition with the Social Democratic Party. Laws and regulations carry monetary penalties and in extreme cases jail sentences for those responsible for transgressing them. They are monitored and enforced by the judiciary and even apply to those responsible within state-owned companies and subsidiaries. While it must be conceded that the profitability of recycling refuse comes in part from saving the costs of penalties for not doing so, the objection is only partially valid. On the positive side are good-will, in addition to purely economic and business aspects. Moreover, society always imposes conditions for public service. Hence the existence of costs and conditions does not per se detract from administrative improvements taken in response. On the contrary, the fact that *kommun* and private interests, selected by open competition via tender, could come up with an effective solution to new demands shows the potential gains of these administrative concepts. The ultimate goal is effect, namely to improve quality of life by introducing better methods and higher results at lower costs.

More ambivalent experiences of the Swedish *daerah* with fulfilling primary obligations exist in the field of health and education. For those using primary health services which are now provided by both public institutions and private clinics, privatization/decentralization has been a great step forward to better services. Choice between

various units, which can in some ways be seen as competing with one another, has improved accessibility to primary medical care. The problem arises in connection with specialized treatment which can be provided only by large units with considerable technical capacity. Due to among other things high start-up costs, such units are limited to *landsting*-run hospitals with a few private ones whose future is at issue. Similar limitations apply to emergency treatment, especially when private clinics are closed outside of office hours and during holidays. In these cases the citizen/client is most often confronted by unacceptably long queues in public-run institutions. These vary greatly from place to place and from type of treatment. For example most breast cancer cases can be diagnosed and treated, even by operation, within weeks; in other cases people have been known to die of cancer while awaiting their turn for radiation treatment. Even predictable events as child-birth during the holiday months are problematic due to lack of personnel. Bottlenecks arise not in decentralization and/or privatization itself, which has produced better service where applicable, but in the half-done manner in which it has been carried out.

The situation finds a parallel in secondary education. Satisfied clients/customers/citizens are those whose children profit from the new, so-called 'free-schools'. 'Free-schools' are those founded outside the public sphere run by private organizations or foundations, but whose source of finances come from the state on the basis of number of students. In contrast to the secular, politically or socially neutral schools in the public domain, the 'free-schools' are a mixed bag. The most numerous have a business basis, others religious orientations, i.e. fundamental Christian, Islamic, and still others what can be seen as a form of employees' cooperatives. The NPM character comes from their activities. They could be formed through the former government's opening the educational field to private investment. Schools which could offer popular programs could attract a large number of students. As the state paid out a set sum per student, the emphasis became more quantity than quality. Hence a number of educational programs were started that had high interest for young people, leading to an attractive market. At the same time the state no longer controlled that these schools had the necessary facilities or even qualified teachers. The result was that more students could receive education, which was attractive for the State budget. At the same time the public schools which tended to concentrate on theoretical-academic circle. This is both out of tradition, i.e. preparation for attendance in the realm's universities and institutions of higher learning and out of costs as theoretical-academic circle are cheaper. Learning is led by a single teacher using approved text-books and class room techniques.

The results have been ambivalent. Serious institutions, usually already formed schools benefited, as did their students and graduates. However, all-too-many of the 'free schools' provided their students with under-quality instruction or with a curriculum unattractive, if not useless on the employment market. The present government has tightened up requirements for the 'free-schools' to the extent it is questionable if most will continue to be lucrative for their owners. English interest copying in the Swedish model in this respect maybe premature, if no counterproductive. Yet the most important result of the movement lies in precisely the NPM spirit. The competition of these schools have stimulated the public schools to see over their curriculum in order to tailor programs more closely to the interests and ambitions of those reading the courses. This is, of course, within the bounds of quality education with full facilities as libraries, resource teachers (for handicapped and those with insufficient background studies). The point is that while while many 'free-school' were merely a front to make profits in the best entrepreneurial spirit (which they did/do), the net result of the competition will be to strengthen and modernize educational programs.

## Computerization/HP

More detailed discussion of possibilities for reform can be read in almost any publication on revising the administration be they at the national, regional, or local level. Literature by Indonesian authorities is not exceptional. Of the many which could be named one which seems to offer particular advantages to Indonesia is the whole realm of computerization of the administration. That is one can possibly increase administrative effectiveness while at the same time reducing corruption via electronic means. With new techniques of the internet, both via computers and cell phones one can connect customers/end users directly with administrative services. These fall into roughly two categories:

### Information

Though data-bases available on the internet, end users, i.e. customers can receive direct and full information on rules, regulations, possibilities, and restrictions. This should be a free public service function as the existing governmental home pages, news, weather reports, market prices by private companies or public service communication, etc. By expanding such neutral and free services one cuts out one set of middle-men whose regulation of information is a source of income. In the best of cases the customer/end user would no longer have to pay for information ('information is gold'). They are then better able to utilize the possibilities and make more realistic decisions.

### Pay by internet

Paying via the internet is already pretty well developed in the West, but only slowly catching on in Asia. The basic idea is that public authorities via computers bill directly customers and users of their services. These in turn pay their bills directly to a computer-bank via the internet. The problem to date that one must have an internet bank account or a valid credit card, both of which are rare in Asia, would seem to be a temporary one. Indonesia, like India, has a very high density of mobile telephones but low density of computers. Many of the latest developments here are aimed at putting this to use by finding ways of transferring funds via mobile telephones-cum-computers as the latest developments. Several social networks and game programs already have ways of giving the customer or winner credits. Many software developers believe that a way can be found to make payments over the mobile telephones. If so, or more realistically, when this happens then for at least certain payment to authorities, i.e. taxes, licenses, permits, automobile registration, etc. can be done electronically. This again cuts out the need for bribes usual for every transaction (note: new e-phones, etc.). Moreover the costs of setting up the program would of necessity have to be done by the public authorities on their own budget. Although seemingly daunting in the start-up phase, it in the long term a minor problem. The gains for the state in efficiency of information distributed and income received via impersonal payment would in a very short time pay back the costs of the set up. Although the author has lifted from the almost unlimited inventiveness of Indonesian corruptors, so far none have been able to trick the computers.

Just to show how far the internet can lead imaginative developments, one can cite the very popular cite 'Ipaidabribe.com' from Bangalore, Karanata. Here ordinary citizens can register in some detail, but anonymously, the bribes they were forced to pay to obtain services the state government is supposed to supply for free.

The impact of the idea comes from another Indian reaction to what is seen as overproduction of corruption by public authorities, which by any standards is mega-

corruption (Indonesia pretty much a small time player, at least since the days of President Suharto). Not long ago the idea was launched to differentiate between demanding/taking a bribe for 'free' public services and paying one. It was argued that the former is clearly illegal action on the part of public servants, i.e. corruption and a hindrance to public service; the latter is only a survival technique born of necessity to get the services in question. It was further pointed out that by forcing citizens to pay a bribe for services, the official in question brings them into the illegal sphere of breaking the law, in the Common Law system an even more criminal act by conspiring with the public official to break the law which carries a greater punishment. Thus corruption in the providing of public services is doubly criminal. The solution is to de-criminalize the paying of a bribe as a necessity in a culture of corruption, but retain or increase the penalties for demanding and/or taking one. The idea of differential status before the law is not without its followers as a means of curbing what is seen as unsocial behavior. For example, in Sweden it is illegal to pay for sexual services, but not be paid, the rationale is that the 'customer' directly contributes to the spread of the trade. Similarly in the Indian case why should the victim of corruption be forced into compliance with illegal demands, which also has the effect of undermining any thought of reporting corruption to the appropriate authorities as one has in the process become guilty of conspiracy to cheat the state.

Not unexpectedly the suggestion met with enormous protest, especially among the public officials. This was, of course, not argued on the grounds of protecting the corruptors, but suddenly defense of law and order. By making legal the paying of bribes, even for public services, so the argument ran, one was encouraging lawlessness and immorality, as if mega-corruption was not. Whatever the merits or lack of such of the concept, it does raise the difficult issue to choices by society. Does the decriminalization of paying a bribe undermine law and order more than the apparent hopelessness in the face of massive and institutionalized demands for bribes to receive the services citizens have a right to?

### **Accountability to political to public**

At risk of anticipating tomorrow's session on political decentralization, it seems clear that the bottom line in decentralization-administrative reform is public opinion. Again one can learn from the Indian case. There mass protests have erupted from the revealing of public corruption. Not only demonstration, but fasts by influential religious leaders as *Babu* ...and...attest to an outraged public aversion to the shenanigans of its public servants. Where is Indonesian public reaction? Demonstrations and worse are common *vis a vis* religious thought seen as deviant or even controversy over a patient criticizing hospital services. But where is an engaged and demanding public in face of institutionalized corruption? Here one should again emphasize that it is the corruption that hinders citizens in carrying out their daily lives or the government in fulfilling its responsibilities that are in focus. The history of countries which have cleaned up corruption, the U.S. and Sweden, both of which would have been on the bottom of TI corruption/transparency index in the late nineteenth century, show that it is the political will backed by public opinion that are crucial.

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