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Democratic Consolidation in Indonesia**

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# **POLITICAL REFORMS, DECENTRALIZATION AND DEMOCRATIC CONSOLIDATION IN INDONESIA**

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Decentralization of power was one of the main demands of the reform movement that took shape in 1998.<sup>1</sup> After Suharto resigned many regions began voicing their discontent. The interim Habibie administration responded to these developments with a policy of wide ranging regional autonomy with special additional arrangements for the provinces of Aceh, Irian Jaya, the capital region of Jakarta and East Timor. Accompanying and reinforcing these decentralizing efforts were others intended to democratize the political system. In this paper I begin by briefly summarizing the effects on decentralization of new political laws passed by the House of Representatives (DPR) and promulgated in 1999. Secondly, I examine aspects of the “second wave” of reform consisting of constitutional amendments passed by the People’s Consultative Assembly (MPR) in 2000 and 2001. Next I consider current proposals for amendment of the law on Regional Government (UU22/1999). Lastly, I will attempt to test some hypotheses about the relationships among administrative decentralization (deconcentration), political reform and decentralization using a district<sup>2</sup> data set.

### **Habibie’s Initiatives**

Several aspects of the new political laws proposed by interim President Habibie had implications for decentralization.<sup>3</sup> The Law on Political Parties (UU2/1999) stipulated that, in order to contest the election, a party had to have an organization (executive committee) in at least nine provinces and in half of the districts in each of those nine provinces. And to compete in the following election (2004), a party must have gleaned at least two percent of the votes in the 1999 election. The effect of these requirements was to make it highly unlikely that a regionally based

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<sup>1</sup> I am indebted to Anies Baswedan and I Ketut Erawan, doctoral students at Northern Illinois University, for their valuable contributions to this paper.

<sup>2</sup> Throughout this discussion I use “districts” to denote both types of third-level administrative areas, regencies (*kabupaten*) and cities/municipalities (*kota/kotamadya*).

<sup>3</sup> Following Parker (1995) and Manor (1999), I conceive of decentralization as involving three analytically distinct but empirically interrelated modes or processes: 1) administrative decentralization or deconcentration; 2) fiscal decentralization; and 3) democratic decentralization or devolution of authority.

Being interrelated, we best not focus on one or two at the exclusion of another.

party pushing a regionalist agenda could emerge.

A government regulation negotiated simultaneously (PP12/99) prohibits civil servants from serving concurrently as party functionaries. The intention was to keep the governmental apparatus neutral in the competitive electoral arena and to insure that civil servants render service to the public without regard to partisan sympathies or affiliations. This restriction on the political rights of civil servants was the most intractable and difficult issue in the entire package of laws on electoral reform and for good reason.<sup>4</sup> It probably contributed more than any other single factor to the defeat of Golkar in the 1999 election. Since Golkar was a highly centralized (and centralizing) organization, its defeat helped open up the political space for implementation of decentralizing policies.

The Law on the General Election (UU3/1999) adopted a unique version of proportional representation by province combined with some elements of a district plurality system. Every candidate for a legislature at any of the three levels had to be publically identified with a particular territorial constituency, in addition to a party. Rather than assigning seats to particular candidates based on parties' provincial vote totals and candidate priorities stated in party lists as in previous elections, candidates were supposed to be assigned to seats on the basis of how well the parties performed at the district level. This had potential for strengthening the hand of the regional party leaders vis-a-vis the national party leaders (DPP). However, the General Election Commission's (KPU) decision to give central party leaders considerable discretion in filling their party's seats (as in the old system) brought about a substantial diminution of the significance of the district element in the new hybrid electoral system. It turned out that 97 of 462 elected House members (21 percent) "represent" districts other than those to which they were originally assigned.<sup>5</sup>

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<sup>4</sup> For an analysis of the debate, see my "The 1999 Electoral Reforms in Indonesia: Debate, Design and Implementation," *Southeast Asian Journal of Social Science* Vol.28, No.2 (2000), pp. 89-110.

<sup>5</sup> The national leaders of most parties chafed at the district element of the electoral system that effectively reduced their power because, had they strictly followed the Law, the designation of winning candidates would have been an objective, arithmetical exercise and some top party leaders would not have been seated in the House. Secondly, some parties had specific reasons

At least three features of the Law pertaining to the Legislatures (DPR, DPRD, MPR) (UU4/1999) were relevant to decentralization. First, “reserved domains” or appointed seats for the military and police in the legislatures was cut in half. Theoretically this weakened one of the main mechanisms of centralization at all three administrative levels. Second, under the previous New Order government, 16 out of 27 (59 percent) electoral districts were over-represented, all of which were located outside the island of Java,. The new election law continues this mal-apportionment. How it impacts decentralization may depend on the level of development and how much the government is controlled by a dominant party.<sup>6</sup> Third, the law provides for a continuation of regional representatives (*utusan daerah*) in the Assembly, although now they have to be selected by the provincial legislatures instead of being appointed by the executive. However, these representatives were denied their own separate faction in the organization of the Assembly until November 2001. As a result they were integrated into parties and voted with party factions rather than as a block articulating and defending regional interests.

The political reforms having the greatest influence for decentralization, of course, are the Law on Regional Government (UU22/1999) and the Law on Financial Balance between the Center and the Regions (UU25/1999.<sup>7</sup> Replacing the previous law (UU5/1974) which did not recognize the rights of regional governments or subjects living in a particular administrative area, the new laws gave regional government both rights and duties, including the duty to support the initiatives of the citizens within its jurisdiction. These new laws emphasize the autonomy of the district or second administrative level (i.e. *kabupaten* and *kota*) meaning districts no longer

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for taking advantage of the flexibility permitted by the Election Commission in the process of determining elected candidates. For example, in response to the criticism it had received during the campaign for nominating a disproportionate number of non-Muslims, the PDI-P took corrective action. In these ways, then, political imperatives often took priority over following the letter of the election regulations.

<sup>6</sup> Under the New Order, over-representation of districts outside Java was a mechanism of Golkar domination. Given the generally lower level of development outside Java, and the central government’s control over resources, it was easier for the government bureaucracy to mobilize votes for Golkar outside Java.

<sup>7</sup> In order to avoid excessive repetition and wordiness, I will occasionally refer to these as “the laws on regional autonomy”.



doubled (*merangkap*) as a administrative area of the central government. In other words, the head of a district could no longer be regarded as an arm and of the central government. (However, the provincial governor continues to wear two hats, as head of a region and as representative of the central government in the province.

Under the new law, the district legislature is established as an institution separate from regional government. It has duties to legislate, monitor and supervise the executive and channel the aspirations of the citizenry. It has the responsibility of choosing and dismissing the executive (*bupati, walikota*) without any involvement of the central government. The candidate who obtains the most votes is declared the winner and is ratified by the President, who is obliged to approve the legislature's selection. The executive is fully accountable to the legislature. So although in theory coequal, the accountability feature elevates the legislature above the executive. The legislature in turn is accountable to the voters every five years. The devolution of power over executive selection and termination was intended to make the executive more attentive to the needs, interests and politics of his jurisdiction. The new laws do not recognize the right of recall previously held by the party organizations over their representatives in the legislature, which was intended to protect free speech and, perhaps, political independence.

It should be noted here—a point to which I will return later—that the new law establishes a regional government structure which replicates the structure at the central/national level. This structure has been dubbed, “presidential with parliamentary characteristics.” The hybrid character is clearly evident in the new law on regional government. The separation of powers between the executive and legislature makes the system look presidential, but the accountability of the executive to the legislature resembles a parliamentary system.

Unlike the previous law on regional government, the new one more clearly specifies the range of functions over which the regional government has authority. Chapter 11, verse 2 mentions public works, health, education and culture, agriculture, transportation, industry and trade, investment, environment, agrarian (land) affairs, cooperatives and employment.

The new law also improves the qualifications required for the provincial executive. The previous law required experience in government and resulted in priority being given to candidates from the bureaucracy and the armed forces. This requirement is abolished in the new

law and replaced with a weak residence requirement. Now a candidate must have lived at least one year in Indonesia (for governors) or in the province (for district chiefs).

Article Eight of the new law on regional government explicitly links it with the new law on financial balance. It reads as follows: “the authority of the government which is devolved to the region must be accompanied by the transfer of funds, means and infrastructure, together with human resources appropriate to the authority being transferred.” Several provisions of the financial law are noteworthy. One is the recognition of types of revenues the districts and provinces are allowed to collect, including their own funds (PAD) and production sharing tax (PBH). The proportion of the tax given to the regions has increased quite dramatically (see Table 1). Another provision allows regional government to borrow money from domestic sources with the agreement of the legislature and from international sources with central government approval. It seems clear that the law was intended to lessen the dependence of regional governments on subsidy from the center.

Table 1: Comparison of the Old and New Central-Local Government Revenue Sharing

Local Revenue Items	Central Govt.		Provincial Govt.		District Govt.		All District Gov. in the Same Province		All District Gov. in Indonesia	
	Old	New	Old	New	Old	New	Old	New	Old	New
1.Land and Building Tax	19	9	16.2	-	64.8	90	-	-	-	1
2.Land and Building Entitlement Fees	-	16	-	-	-	80	-	-	-	4
3.Forestry Licenses	30	20	56	16	14	64	-	-	-	-
4.Forestry	55	20	30	16	15	32	-	32	-	-
5.General mining (land rent)	65	20	19	16	16	64	-	-	-	-
6.General mining (royalty)	30	20	56	16	14	32	-	32	-	-
7.Fishery	-	20	-	-	-	-	-	-	-	80
8.Oil	100	85	-	3	-	6	-	6	-	-
9.Natural gas	100	70	-	6	-	12	-	12	-	-
10. Reforestation Funds	-	60	-	40	-	-	-	-	-	-
<b>Special Region of Aceh 2001 - 2009</b>										
Oil	100	45	-	55	Aceh Provincial Government will decide the allocation for each district.					
Natural gas	100	60	-	40						
<b>Beginning 2010</b>										
Oil		65	-	35	Aceh Provincial Government will decide the allocation for each district.					
Natural gas		80	-	20						
<b>Papua Province 2001 - 2026</b>										
Fishery	-	20	-	80	Papua Provincial Government will decide the allocation for each district through Perdatus.					
Forestry	55	20	30	80						
General Mining	30	20	56	80						
Oil	100	30	-	70						
Natural Gas	100	30		70						
<b>Beginning 2027</b>										
Oil		50	-	50	Papua Provincial Government will decide the allocation for each district through Perdatus.					
Natural gas		50	-	50						

Source: Compiled by Anies Baswedan using Shah, Anwar, 1994; UU no 25 1999, Perimbangan Keuangan Antara Pemerintah Pusat dan Daerah; UU no. 18 2001, Otonomi Khusus Bagi Provinsi Daerah Istimewa Aceh Sebagai Provinsi Naggroe Aceh Darussalam.; UU no. 21 2001, Otonomi Khusus Bagi Provinsi Papua.

## Two Constitutional Amendments

Despite the concessions by central government represented in the laws on regional autonomy, many regions remained dissatisfied that their autonomy was based only in laws that were in essence a gift from the center that could be rescinded at any time by a decision of the Legislature and the President. Hence pressure mounted for the decentralization of power to be enshrined in the Constitution, making it harder to reverse in the future. So when the sovereign Assembly (MPR) met in its annual session in August 2000, it amended Chapter VI of the Constitution in ways which captured the spirit of the new laws on regional autonomy. (See Appendix One)

Known as the Second Amendment, several aspects are of particular interest here. One is the strongly regionalist character which is conveyed by

... the principle that regions may act on any subject that is not reserved by law to the central government. There is a constitutional provision for special legislation and/or special status for particular provinces. There is a requirement for justice and equity and regard to local distinctiveness and diversity in the financial arrangements for regions.<sup>8</sup>

The amendment requires that regional executives be democratically elected, with the method (direct or indirect) to be determined by law. The alternative of enshrining universal direct election of regional executives was not accepted, although the special legislation for Aceh passed by the House provides for direct election of these positions.

The Assembly also passed MPR decree IV/2000, entitled “Policy Recommendations in Implementing Regional Autonomy.” (See Appendix One). This decree criticized the central government for failing “to view the implementation of regional autonomy as a constitutional mandate so that the decentralization process has tended to become bogged down.” It noted “wide discrepancies exist between the center and the regions and among the regions themselves in respect to the control of natural resources, cultural resources, economic

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<sup>8</sup> National Democratic Institute, “Indonesia’s Road to Constitutional Reform: the 2000 MPR Annual Session,” October 2000, processed.

infrastructure and the quality of human resources” and that “the interests of various parties obstruct the implementation of regional autonomy.”

To remedy these weaknesses, seven recommendations were addressed to the government and the House. One of them was the instruction to issue all remaining implementing regulations to the laws on regional autonomy by the end of December 2000. If this was not done then regions that were fully capable of implementing autonomy were free to produce their own regulations. Also recommended was justice in financial equalization among regions and the possibility was mentioned of using the local profits of state-owned enterprises in regions where natural resources are limited. The decree also recommended the development of regional autonomy master plans in each region to define the process of transition, the establishment of coordination teams in each region to smooth the implementation of autonomy and a requirement for a fundamental (medium term) review of the two laws on regional autonomy to bring them into line with the amended Constitution, especially in relation to the hierarchy between different levels of regional government (which had been specifically rejected in the law, UU22/1999).

The Assembly convened for its next annual session in November 2001 and enacted the Third Amendment to the Constitution which “addressed and provided answers to a large number of the questions relating to the structure of the Indonesian state.”<sup>9</sup> Especially relevant here was the decision to establish a second, regionally-based chamber of the national legislature, the Regional Representative Council (DPD). Its members will be elected as individuals from every province through the general election. The total membership of the Council will not exceed one-third of the House (currently 500) and each province will have the same number of representatives. The Council may propose to the House bills related to regional autonomy, center-regional relationship and financial balance, and management of natural resources. It also has the duty to provide consideration to the House over bills on the state budget and on draft laws relating to tax, education and religion. (See Appendix Two) No timetable was announced for the implementation of the Council and it will require further

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<sup>9</sup> NDI, “The Fundamental Changes that Nobody Noticed,” January 2002, processed.

statutory definition. The specification that Council members will be elected “as individuals” presages adoption of a district plurality type of electoral system for the election of Council members.

Another article in the Constitutional Amendment with implications for decentralization states, “all taxes and other levies for the needs of the state of a compulsory nature shall be regulated by law.” (No. 23A) Apparently this article arose out of concern that a brake was needed on regions becoming too liberal in levying charges and retributions.

In the internal organization of the Assembly (MPR), as was previously noted, regional representatives have always been denied their own faction. But in the first post-Suharto meeting of the Assembly, regional representatives began to press for their own faction as a way of increasing their their influence. They finally prevailed in the 2001 annual session of the Assembly on condition that regional representatives relinquish their connections with political parties and agree that the regional representatives faction would not be entitled to its own deputy speakership of the Assembly.

### **Problems in the Laws on Regional Autonomy and Proposals for Amendment**

The laws on regional autonomy are a main component of political reform in Indonesia. Although broad and far-reaching in their concepts, they were drafted hurriedly and in hope that both the expected and unanticipated problems to emerge would be manageable or correctable. We have already noted the Assembly’s criticism (MPR Decree IV/2000). But the new laws have provoked intense, wide-spread and surprisingly comprehensive debate.

The launch of regional autonomy required the production of a large number of regulations under UU22/1999. This process proved to be both drawn out and controversial. Arguments arose relating to the lack of hierarchy between authorities, the relative authorities of the DPRD and the Head of the Region (kepala daerah), the powers of local authorities to introduce taxation, the validation of new regional regulations, the arrangements for cooperation between authorities, the management of natural resources and its impact on the environment, the powers relating to ports,

airports and maritime questions, the recruitment of civil servants at regional level, and a wide range of other issues. The definition of minimum service standards proved to be a lengthy exercise in which suspicions arose that some central government sectoral ministries were attempting to retain decentralized powers.<sup>10</sup>

In January 2002 the Ministry of Home Affairs proposed revisions to UU22/1999 that have been strongly attacked as an attempt to recentralize and return to authoritarianism. The latter criticism usually mentions Article 41 that gives the President the power to dissolve a regional legislature. Some observers, however, argue that the overall effect of the proposal is less recentralization than a shift of power from the elected members of the regional legislature to the new directly elected Head of Region and his/her officials (i.e. executive).<sup>11</sup> If one of the problems with the original (UU22/1999) has been that some regional legislatures have misunderstood the nature of their relationship to the regional executive, the elucidations to the draft revision offer questionable solutions: reject the concepts of “legislative,” “executive” and “judiciary” which are used universally in specifying the relationships among the components of democratic regional government,<sup>12</sup> deny the legislature’s roles of supervision and oversight<sup>13</sup> and give unclear power to the head of region to formulate regional policies.<sup>14</sup> A more logical (and simpler) solution would be to clarify the actual powers of the legislature. Another example of shift of power to the executive is the contention that the legislature’s funds are part of the regional government budget and therefore not independent (Article 25). But there are better ways to control budgetary irresponsibility.

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<sup>10</sup> Andrew Ellis and Tony du Sautoy, “Proposals for Amendment of UU22/1999 on Regional Autonomy,” NDI, March 2002, processed.

<sup>11</sup> Ibid.

<sup>12</sup> Revisions on UU22/1999, Elucidations, Draft II, General, second paragraph 5.

<sup>13</sup> Revisions...Elucidations, General, second paragraph 6 and 7.

<sup>14</sup> Revisions, Article 20.

A second tendency in the proposed revisions is for major and potentially sensitive areas to be left to subsequent clarification by government regulation. A case in point is the provision for withdrawal of regional powers in the event a region fails to undertake obligatory functions.(Article 14) Both the criteria for judging regional failure and the process for carrying out a withdrawal are left up to a government regulation. Another example concerns the mechanism for recalling a member of the legislature (Article 21). Once the required signatures have been obtained, the process is left entirely to government regulation. “A step which has such significant implications for the status of elected representatives should be further defined in the Law itself.”<sup>15</sup>

### **Explaining Inter-district Variation**

Why have political reform, decentralization and good governance reforms progressed further in some districts than in others? What is the source of demand for decentralization? Are the sources mainly political or economic? These questions intrigue us but answers are elusive and tend to be highly localized and idiosyncratic. Both policy makers and social scientists are in need of more generalizable knowledge that holds with high probability across districts (nation-wide). But lacking appropriate and comprehensive information (data) that can be systematically analyzed, we tend to fall back on anecdotes or (deductive) theorizing, neither of which are very reliable.

In the remainder of this paper I want to report my preliminary and elementary efforts to remedy this deficiency. Admittedly my choice of hypotheses and operationalizations has been largely determined by the data available for this analysis.

#### **A. Administrative Decentralization (Deconcentration) and Democratic Decentralization (Devolution)**

In 1995 the New Order government undertook the Pilot Regional Autonomy Project (*Proyek Otonomi Daerah Percontohan*, PODP), considered by some to have been its most

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<sup>15</sup> Ellis and du Sautoy.



significant attempt at administrative decentralization.<sup>16</sup> Under this project, one district from each of the twenty-six provinces was selected for participation on the bases of logistical convenience (for monitoring purposes), their representing a reasonable mix of local situations (e.g. poor and rich) and of advice of governors.<sup>17</sup> What are the administrative, economic and political legacies of this project?

One method of answering this question is to divide all districts into two groups (PODP districts (N=26) and non-PODP or other districts (N=> 265) and then compare them on several indicators. (See Table 2) As a group, the PODP districts were slightly stronger

**Table 2. Comparison of PODP and Other Districts on Selected Indicators**  
(averages)

<u>indicator</u>	<u>PODP Districts</u> (N=26)	<u>Other Districts</u> (N=>265)
Electoral support for Golkar (%)		
1992	76.6	73.2
1997	82.4	79.0
1999	33.8	28.3
The effective number of parties		
1992	1.66	1.77
1997	1.44	1.55
1999	3.96	4.28
Level of economic development <sup>a</sup>	29.7	28.7

<sup>a</sup> Percentage of total district government revenue obtained from local sources (excluding subsidies, contributions and loans), average for IFY 1994 and 1995. Source: BPS, *Financial Statistics of the Second Level Local Government, 1994/1995 - 1995/1996*.

<sup>16</sup> Tasfin Marzuki, manuscript on decentralization, no date; Christoph Beier and Gabriele Ferrazzi, "Fiscal Decentralization in Indonesia," *World Development* Vol. 26, No.12, pp. 2205 fol.

<sup>17</sup> The names of the districts which were selected are listed in PP8/1995.

in their support for Golkar across all three general elections. That support jumped between 1992 (before PODP) and 1997 (two year after) in both groups, so there does not seem to be any basis for inferring that the PODP affected support for Golkar. Another indicator that can be calculated with the election results is the Effective Number of Parties<sup>18</sup> It was lower for PODP districts in all three elections Thus, administrative decentralization in the PODP was accompanied by higher support for Golkar and less electoral pluralism in all three general elections. More generally, we find evidence of an inverse relationship between administrative decentralization and electoral pluralism. Also, the earlier argument may be recalled about three analytically distinct components in the definition of decentralization(see footnote 3). We have now added some empirical evidence that, under the New Order, administrative and political decentralization were different phenomena. The former did not produce the latter; clearly administration decentralization is compatible with either authoritarian or democratic governance. Finally, compare the indicators of economic development. Contrary to expectations that PODP districts were more developed, there appears to have been little difference.

#### B. The Sources of Demand for Decentralization

One of the most urgent and interesting questions about Indonesian political reform since 1998 is, why have decentralization and good governance reforms progressed further in some districts than in others? A possible factor in the explanation is the relative dependence of district governments on tax revenues from interests within their districts. The (rudimentary) theoretical reasoning goes something like this: local tax revenues reflect the level of development and the strength of the private sector. The stronger the private sector, the greater should be the pressure for political reform and decentralization.<sup>19</sup>

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<sup>18</sup> Markku Laakso and Rein Taagepera, "The 'Effective' Number of Parties: A Measure with Applications to West Europe," *Comparative Political Studies*, 12 (1979), 3-27.

<sup>19</sup> This assumes, as Anies Baswedan points out, that the local business men are not involved in relationships of patronage and corruption with local government officials—an assumption he finds dubious.

Searching for evidence pertinent to this hypothesis and using indicators on all 326 districts that existed in 1999, I found only a weak (Pearson's) correlation of .15 between level of economic development<sup>20</sup> and the number of effective parties. The coefficients were much stronger between development and the support for particular parties in the 1999 election. The coefficients between development and each of the three major "pro-reform" parties were as follows: .32 for PDI-P, .22 for PKB, and .31 for PAN. However, there was a marked contrast in the coefficients between development and each of two "status quo" parties: -.46 for Golkar and .05 for PPP. These findings are consistent with the above hypothesis.

In preliminary research on determinants of central government subsidy to districts in 2002<sup>21</sup> I Ketut Erawan found an inverse relationship between level of development and central government allocation ( $r = -.46$ ) as well as an inverse relationship between support for Golkar in 1999 and central government allocation ( $r = -.65$ ).

## Conclusion

Political reform in Indonesia has consisted primarily of the installation of electoral democracy. Hence, it has been spear-headed by changes in the institutions of democratic representation and governance at the central level. However, with elected legislatures at two sub-national/regional levels, reform quickly penetrated and spread throughout the political system and affected the government's territorial administration (bureaucracy). This process was hastened by the issuance almost simultaneously of new laws on regional autonomy. In this way the processes of democratization and decentralization, though analytically distinct, have been closely linked empirically in Indonesia.

Asking, "are these processes likely to continue?" brings us to the question of consolidation. We are confronted with a paradox: on the one hand there is undeniable evidence of heightened social conflict, increase in lawlessness, persistent economic

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<sup>20</sup> For a description of this indicator, see note to Table 2.

<sup>21</sup> Measured as general (DAU) plus supplementary (DAP) allocation per capita in 2002. Wealth was measured as region own income (PAD) for 2002 (estimate). These were obtained from <[www.djpkpd.go.id/dau/dau/hasil\\_dau.htm](http://www.djpkpd.go.id/dau/dau/hasil_dau.htm)>

stagnation and continued political instability, bringing some observers to conclude that Indonesian democracy is a mirage. On the other hand, executive power has been peacefully and (constitutionally) transferred three times, the military refused to intervene despite provocations, and the (mostly) democratically elected Assembly has made steady progress ever since it was seated in 1999 on major issues of Constitutional reform. For example, in 2000 it amended the Constitution to include many of the principles of regional autonomy which underlay the 1999 law on regional autonomy, including the principle that powers lay with the regions unless specifically reserved to the central government. These developments suggest that the conflict and instability that have marked Indonesia under the new regime are less manifestations of democratic backsliding than they are of a second struggle to consolidate and deepen democracy while simultaneously identifying and removing the non-democratic elements from the previous regime.

## **Appendix One**

### **The Second Amendment to the 1945 Constitution**

#### **Chapter VI Regional Authorities**

##### **Article 18**

- (1) The Unitary State of the Republic of Indonesia shall be divided into provinces and those provinces shall be divided into regencies and municipalities, each of which shall have regional authorities, as regulated by law.
- (2) The authorities of the provinces, regencies and municipalities shall administer and manage their own affairs according to the principles of regional autonomy and the duty of assistance (*tugas pembantuan*).
- (3) The authorities of the provinces, regencies; and municipalities shall include for each a Regional People's Representative Assembly (DPRD) whose members shall be elected by general election.
- (4) Governors, Regents and Mayors, respectively as head of government of the provinces, regencies and municipalities, shall be elected democratically.
- (5) The regional authorities shall exercise wide-ranging autonomy, except in matters provided by law to be the affairs of the central government.
- (6) The regional authorities shall have the authority to adopt regional regulations and other regulations to implement autonomy and the duty of assistance.
- (7) The structure and administrative mechanisms of regional authorities shall be regulated by law.

##### **Article 18A**

- (1) The authority relations between the central government and the regional authorities of the provinces, regencies and municipalities, or between a province and its regencies and municipalities, shall be regulated by law having regard to the distinctiveness and diversity of each region.
- (2) The relations between the central government and regional authorities in finances, public services and use of natural and other resources shall be regulated and administered with justice and equity according to law.

##### **Article 18B**

- (1) The state shall acknowledge and respect units of regional authorities that are special and distinct, which shall be regulated by law.
- (2) The state shall acknowledge and respect traditional societies along with their customary rights as long as these remain in existence and are in accordance with the

societal development and the principles of the Unitary State of the Republic of Indonesia, and shall be regulated by law.

## **Policy Recommendations in Implementing Regional Autonomy**

### **I. Background**

The MPR agrees with the view that there is no room for further negotiation in respect of the people's demands and expectations concerning the creation of equity in the fields of the economy, politics, sociocultural affairs and law enforcement, as well as respect for human rights. The demands and expectations of the people for an accelerated pace of democratization so as to create a democratic and equitable society reflect the dynamics at work in Indonesia in confronting the changing life of the nation and state.

In order to accommodate these popular aspirations, the NWR is of the opinion that the implementation of regional autonomy is one strategic measure that needs to be considered in a mature, in-depth and forward-looking manner. These considerations have been incorporated into a comprehensive regional autonomy policy based upon the principles of democracy, equity and justice as well as an awareness of the variety found in our nation in accordance with the principle of "Unity in Diversity." This regional autonomy policy is designed to achieve the following objectives:

1. Improving public services and developing the creativity of the people and local governments in the regions.
2. Creating equity in respect to powers and financial resources between the central and regional governments and among regional governments themselves.
3. Improving patriotism, democracy and public welfare in the regions.
4. Creating a wider space for the exercise of regional self-sufficiency.

### **II. Problems in the Implementation of Regional Autonomy**

The fundamental problems involved in the implementation of regional autonomy are as follows:

1. The central government has failed to view the implementation of regional autonomy as a constitutional mandate so that the decentralization process has tended to become bogged down.
2. The strength of centralizing policies has resulted in increased dependency of the regions on the center and has nearly killed the creativity of the people and local governments in the regions.

3. Wide discrepancies exist between the center and the regions and among the regions themselves in respect to the control of natural resources, cultural resources, economic infrastructure and the quality of human resources.
4. The interests of various parties obstruct the implementation of regional autonomy.

Bearing in mind the aforesaid deep-rooted problems and also bearing in mind the strong desire of the people for the immediate realization of regional autonomy as provided for in MPR Decree XV/1998 on Implementation of Regional Autonomy; Just Regulation, Division and Use of National Resources; and Financial Balance between the Center and the Regions within the Framework of the Unitary State of the Republic of Indonesia and Law 22/1999 on Regional Government as well as Law 25/1999 on Financial Balance between the Central and Regional Governments, the NTR has drawn up recommendations.

### **III. Recommendations**

These recommendations are addressed to the government and the DPR so that they can be followed up in accordance with the following points:

1. The Laws on Special Autonomous Status for Aceh and Irian Jaya, in accordance with the mandate given under MPR Decree IV/1999 on the 1999-2004 Broad Outlines of State Policy should be issued not later than May 1, 2001, taking into account the aspirations of the people in those regions.
2. The implementation of regional autonomy in other areas in accordance with Laws 22 and 25/1999 shall be carried out on the current timetable having regard to the following:
  - a. All of the government regulations required for the implementation of both of these laws should be issued no later than the end of December 2000.
  - b. Regions that are already capable of implementing full regional autonomy should be allowed to do so from January 1, 2001 and this should be reflected in the national and regional budgets.
  - c. For regions that are not yet capable of implementing full regional autonomy, the process should be implemented on a phased basis in accordance with their respective capabilities.
  - d. Should the entire package of government regulations not be issued by the end of December 2000, regions that are already capable of fully implementing autonomy shall be permitted to issue regional regulations to govern its implementation. Once government regulations have been issued, the relevant regional regulations must be revised accordingly.
3. In the framework of implementing regional autonomy, each region should develop its own regional autonomy implementation master plan, with attention to the stages involved in implementation; institutional, infrastructure and capacity constraints; and budget management and public management systems.
4. In the case of regions that possess limited natural resources, financial balance can also have regard to the possibility of obtaining part of the profits of state-owned enterprises

that operate in the regions concerned, as well as a share of the income tax paid by companies operating there.

5. In the case of resource-rich regions, the achievement of financial balance between the center and the regions must have regard to the sense of justice and propriety. For regions that possess limited educated human resources, special attention will be necessary.
6. During the implementation of regional autonomy, it is recommended that coordination teams be established among the agencies in each region to deal with any problems that may arise and activate governmental and non-governmental institutions in order to smooth the implementation of regional autonomy based upon a clear agenda.
7. In line with the spirit of decentralization, democratization and balance in the relations between the center and the regions, initial measures should be taken for a fundamental review of Laws 22 and 25/1999. This review will be for the purpose of bringing this legislation into line with the provisions of Article 18 of the 1945 Constitution, including the granting of stratified autonomy to the provinces, regencies/municipalities, villages, etc.

#### **IV. Conclusion**

The President and the DPR shall report the results of the implementation of this Decree as parts of their reports on the implementation of the GBHN at the next NVR Annual Session.



## **Appendix Two**

### **THIRD AMENDMENT TO THE 1945 CONSTITUTION OF THE REPUBLIC OF INDONESIA**

#### **Chapter VIIA**

##### **HOUSE OF REPRESENTATIVES OF THE REGIONS (Dewan Perwakilan Daerah or DPD)**

###### **Article 22C**

- (1) The members of the DPD shall be elected from every province through a general election.
- (2) The total number of members of DPD in every province shall be the same, and the total membership of the DPD shall not exceed a third of the total membership of the DPR.
- (3) The DPD shall hold a session at least once every year.
- (4) The structure and composition of the DPD shall be regulated by law.

###### **Article 22D**

- (1) The DPD may propose to the DPR Bills related to regional autonomy, the relationship of central and local government, formation, expansion and merger of regions, management of natural resources and other economic resources, and Bills related to the financial balance between the centre and the regions.
- (2) The DPD shall participate in the discussion of Bills related to regional autonomy; the relationship of central and local government; formation, expansion, and merger of regions; management of natural resources and other economic resources, and financial balance between the centre and the regions; and shall provide consideration to the DPR over Bills on the State Budget and Bills related to taxation, education, or religion.
- (3) The DPD may oversee the implementation of laws concerning regional autonomy, the formation, expansion and merger of regions, the relationship of central and local government, management of natural resources and other economic resources, implementation of the State Budget, taxation, education, or religion and shall in addition submit the result of such oversight to the DPR in the form of material for its further consideration.
- (4) The members of the DPD may be removed from office under requirements and procedures that shall be regulated by law.

#### **CHAPTER VIIB GENERAL ELECTIONS**

###### **Article 22E**

- (1) General elections shall be conducted in a direct, general, free, secret, honest, and fair manner once every five years.
- (2) General elections shall be conducted to elect the members of the DPR, DPD, the President and Vice-President, and the Regional House of Representatives (Dewan Perwakilan Rakyat Daerah or DPRD).

- (3) The participants in the general election for the election of the members of the DPR and the members of the DPRDs are political parties.
- (4) The participants in the general election for the election of the members of the DPD are individuals.
- (5) The general election shall be organised by a general election commission of a national, permanent, and independent character.
- (6) Further provisions concerning the general election is regulated by law.

### **Article 23**

- (1) The State Budget as the basis of the management of state funds is determined annually by law and shall be implemented in an open and accountable manner in order to best attain the prosperity of the people.
- (2) The Bill on the State Budget shall be submitted by the President for joint consideration with the DPR, which consideration shall take into account the opinions of the DPD.
- (3) In the event that the DPR fails to approve the proposed Bill on the State Budget submitted by the President, the Government shall implement the State Budget of the preceding year.

### **Article 23A**

All taxes and other levies for the needs of the state of a compulsory nature shall be regulated by law.