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Observing the Act no 23 of 2014 on Regional Government: Between Decentralization and Public Service Delivery

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ABSTRACT

Act no 23 of 2014 on Regional Government has drawn most of the authority of the local government. This led to the assumption on an attempt to return to a centralized system, such as in the New Order regime. On the other hand there were questions about the implementation of the public service as the core of the government's job. This article examines how the new law on local government, in terms of the division of authority and public services. The method used in this study is a qualitative method rooted in observation and study of literature. From the research that has been done, it can be seen that although Law no 23 of 2014 on Regional Government has drawn some concern to the central government but this is still far from centralization efforts. Portions of the local government authority is still higher. On the other hand the existence of this policy instead put public services at a special place.

Keywords: Decentralization, Centralization, Public Services, Government.

1. INTRODUCTION

Decentralization has been seen as the key to a better public service. Decentralization get first main stage after the end of the New Order government. Law no 22 of 1999 on Regional Government and Law no 25 of 1999 on Financial Balance between Central and Regional seen as the starting point of the turn of polar patterns from centralized to decentralized governance. It continues with Law Number 32 Year 2004 on Regional Government and the last by Act no 23 of 2014 on Regional Government.

The strong of decentralization up to say that “about 85% of developing countries having undergone some type of decentralization reform” (Burki, et. al., 1999; World Bank in Kauneckis and Andersson, 2009). It shows that of decentralization is seen as the light at the end of the tunnel for the poor public services in developing countries. This prompted a number of good governance reforms pattern originating from

the central government as well as the encouragement of international institutions. Furthermore Kauneckis and Andersson (2009) says that “the Devolution of public service responsibilities to regional and local Governments to improve the quality of local services”. This shows the adherence of the relationship between decentralization and public services.

However, the main purpose of decentralization is to bring public services to the community (Tanzi, 1999). Even further stated that “The key motivation for decentralization in a number of countries has been the disenchantment of the electorates with the ability of the central government to adequately meet the increasing demand for public goods and services (Tanzi, 1999).” Opinion of Tanzi showed that the provision of goods and public services became a major consideration in the application of the principle of decentralization.

In regard to decentralization, efforts to bring public services as mandated in Law no 23 Year 2014 on Regional Government seem to actually experience a step back. Act no 23 of 2014 on Regional Government actually mandates the submission of some matters previously handled by local governments back into higher government affairs, either by the provincial governments and the central government.

This paper attempts to analyze briefly whether Act no 23 of 2014 on Regional Government have shown the centralization efforts, to attract local government affairs to the central government, as well as how it relates to public services.

2. LITERATURE REVIEW

Since studies Tiebout (1956) and Oates (1972) regarding public economics that focuses on the benefits of political decentralization and federal government system, and competition between local government are open, make a study on decentralization to be interesting. Central government resources as if open and flowing to the local level. Basically the question is how the government should allocate existing resources in the provision of public needs, or in this case the public services properly and adequately (Cai and Treisman, 2005).

Rondinelli and Minis (1990) as well Prud’homme (1995), classifying decentralized into three main groups decentralization. Spatial Decentralisasi referring to the “process of diffusing the urban population and activities geographically away from large agglomerations”. In this case the spatial decentralization is more related to the demographic and geographic activity. In Indonesia, the transmigration program is one such example.

The second category is a decentralized market, which refers to the “process of creating conditions in which good and services are provided by market mechanisms rather than by government decision” (Prud’homme, 1994: 2). Decentralization refers to how the market prevailing market mechanisms in the provision of goods and services, compared to what the government decided.

The last and most important is the administrative decentralization, which refers to “the transfer of responsibility for planning, management, and the raising and allocation of resources from the central government and its agencies to field units of government agencies, subordinate units or tiers of government, semi- autonomous public authorities or corporations area-wide, regional or functional authorities, non-governmental or private or voluntary organization “(Rondinelli and Nellis, 1986, p. 5). On the administrative

decentralization, the central government's role in public services have become less and more as the primary regulator. While local governments with the resources provided to act as the operator.

With such a large area, Indonesia rightly embraced decentralized system. However, until 2000, Indonesia is seen as “the world's most centralized large country” (Alm, Aten and Bahl, 2001: 83). The fact is in contrast with the characteristics of a government, which should make decentralization as an option of economic framework. Characteristics referred to includes (i) Countries with high population numbers and vast areas tend to be more decentralized. (ii) The State with a very diverse population of ethnic background, religion and culture tend to be more decentralized and (iii) Countries that have achieved a level of economic progress tend to be more decentralized (Alm and Bahl, 1999: 2). Based on these characteristics, then Indonesia should embrace decentralized governance patterns.

On the other hand countries that tend to maintain a centralized state system are countries at war or threatened internally facing armed resistance. In that regard, the ongoing internal conflict appeared to encourage a pattern of centralization during the New Order (Tampubolon, Pasaribu, Laoly, and Silaban, 2002). In Indonesia, the conflict in Aceh, Papua and East Timor is a realization of the internal conflicts that drain the nation energy.

On the other hand the negative view of decentralization has also been promoted. Some authors have suggested that decentralization actually increase the chance of the rentier and corruption (Treisman, 2007; Oyono, 2004). Studies of Stein (1999) would indicate that in the countries of North America, the negative output actually appears on decentralization was implemented, related to conflict over resources at the local level and in cities with populations minor (Prud'homme, 1995; Litvack, et.al., 1998; Ribot, 2004).

The main purpose of decentralization is none other than the public service closer to the community. As a starting point, it was agreed that the public service is a service provided by the use of public funds or resources. Public services can be given by the government or other parties appointed to work on behalf of the government.

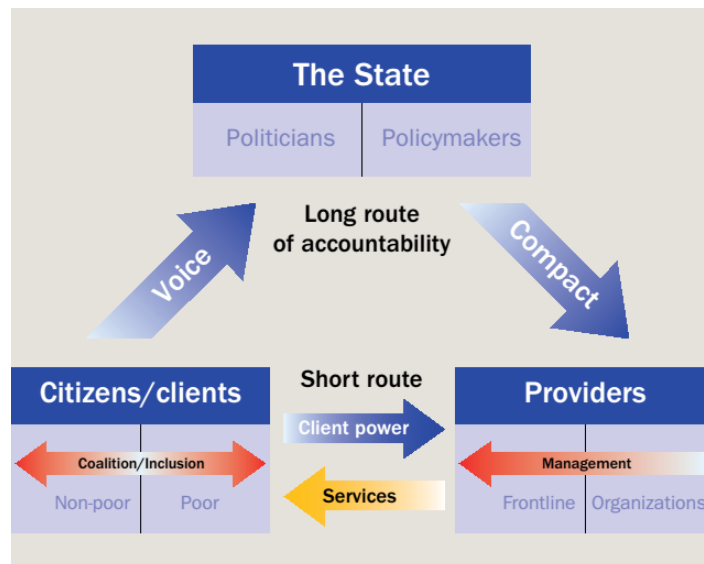


Figure 1: Role of Government and Community Connections in the Provision of Public Services
 Source: World Bank, 2003.

Although often regarded as a single entity, in fact, the public sector does not stand alone. The public sector is associated with some sub-sectors such as central and local governments, health care providers, to educational institutions and non-governmental organizations. Public services include very extensive. Both of which are major services such as education and healthcare to specialized services such as skills upgrading opportunities for coastal communities. What is the role of government in the provision of public services, the World Bank has described how the role of government and community connections in the provision of public services is ideal.

Figure 1 shows that in terms of public service delivery, government aggregating and accommodate the public's voice then processed in the form of regulation. This regulation is then executed by a public service provider in the relationship between service providers and the power user (client). These pillars are interrelated and require an attachment in the provision of public services adequately.

3. RESEARCH METHOD

The method used in this study is a qualitative method, the data derived from the observation and literature study through journals and research related to the implementation of decentralization. In particular, this paper also limits the assessment of the extent of decentralization which is run by the Indonesian government in public service.

Data sources are obtained from the primary and secondary data. The primary data were taken from observation and the secondary data is gained from the document and literature which relevant to this study, such as act no 23 of 2014 on Regional Government, Law of the Republic of Indonesia Number 5 of 2014 On the State Civil Apparatus, data from the ministry of finance.

To guarantee the credibility and accuracy of the research, researcher used triangulation technique by compared all data sources which have obtained from the field.

4. RESULT AND DISCUSSION

Since 1 January 2001, Indonesia implemented decentralization (regional autonomy) based on Law no 22 of 1999 on Regional Government and Law no 25 of 1999 on the Financial Equilibrium between the Central and Regional Governments. Law no 22, 1999 principally regulate the regional administration that prioritizes the implementation of the principle of decentralization. Law number 22 of 1999 regulates decentralization (delegation of authority) in the field of administration and in the field of politics. In accordance with the principle of "money follows function", Law no 25 of 1999 regulates fiscal decentralization.

Law no 22 of 1999 on Regional Government and Law no 25 of 1999 on Fiscal Balance between the Central and Regional Governments focuses on enhancing the capacity of local governments to be responsible for local circumstances. It is believed that if local governments are strong and able to implement this decentralization appropriately, it will encourage national economic improvement. Through the implementation of fiscal decentralization it is expected to increase community participation in decision making (Cheema and Rondinelli 1983), lower inflation (Qian and Roland 1998), lower corruption and (Gurgur and Shah 2005), increased use and public responsibility (Tiebout, 1956; Oates, 1993).

At the end of the New Order government in 1996 there were 26 Provinces and 293 Municipalities. Until 2016 there were 34 provinces and 508 districts/cities. This is an incredible speed of new terracotta

formation within 14 years. Even until today there are still 114 proposals for the formation of new areas that still queue in the House. This suggests that the desire for new territorial establishment is almost unstoppable and sometimes lacks consideration of the ability of a new area to be established. The good news is that Law no 23 of 2014 requires a trial period before an autonomous region is formed. This three-year trial period indicates that the region must be able to become a new autonomous region, actually able to bring public services closer to the community.

On the other hand the purpose of forming a new area is to make the people prosperous. Through the establishment of this new area, decentralization of governance is expected to bring public service closer and affordable to the community. However, data show that not all new regions are ready to become autonomous regions. Data from the Ministry of Finance show that regional dependence on the center increased from 71.2% in 2009 to 85% in 2011. The region appears not ready to take on duties as an autonomous region. The area still depends on the center. Data from the Ministry of Finance also indicates that the central transfer ceiling to the regions in 2016 to Rp.782.2 T rose Rp.117.6 T or 17.7% APBN. As for ministries and institutions only Rp. 780.4 T down Rp. 15.5 T compared to the previous year.

The weakness of the local government's ability to maintain and increase local revenue, encourage local governments to exploit whatever is in the area as a source of income. Not infrequently the exploitation of natural resources such as forests and mines are the most easily targeted sources of income. In Java the environmental damage is massive and uncontrollable on behalf of the original income of the region. This situation prompted the central government to review local governance laws.

Substitute of Law no 32 of 2004 on Regional Government, namely Law no 23 of 2014 is considered to have a turning point from decentralization to centralization. This is apparent in some matters whose powers are withdrawn from the lower government to the higher government.

Law Number 23 Year 2014 on Regional Government states emphatically that decentralization is the delivery of Government Affairs by the Central Government to the autonomous regions based on the Autonomy Principle as the basic principle of the implementation of Regional Government. Regional Autonomy is the right, authority and obligation of the autonomous regions to regulate and manage their own Government Affairs and the interests of local people in the system of the Unitary State of the Republic of Indonesia. The goal is to realize the effectiveness of Regional Government administration, accelerate the improvement of public welfare, accelerate the improvement of public service quality and improve the quality of governance which is done through the regional arrangement.

In terms of community participation, Article 354 of Law no 23 of 2014 states that in the implementation of Regional Government, Local Government encourages community participation, through the delivery of information about the implementation of Local Government to the community, encouraging groups and community organizations to play an active role in the implementation of Local Government through support of community capacity building, institutional development and decision which allows groups and community organizations to be effectively involved in development planning meetings (Musrenbang).

Such community participation includes access to the drafting of local regulations and regional policies that regulate and burden communities, both directly and indirectly through people's representatives, involved in the planning, budgeting, implementation, monitoring and evaluation of regional development and the delivery of public services.

As mandated by the 1945 Constitution, there is Governmental Affairs fully entirely within the authority of the Central Government, known as the absolute governmental affairs, and there is the affair of the concurrent government. Concurrent governmental affairs consist of the Mandatory Government Affairs and Preferred Government Affairs which are shared between the Central, provincial and district/city governments. Government Affairs Should be divided into Government Affairs related to Basic Services and those not related to Basic Services. For the Mandatory Government Affairs related to Basic Services shall be determined Minimum Service Standards (SPM) to ensure the constitutional rights of the community.

Law of the Republic of Indonesia Number 5 of 2014 On the State Civil Apparatus arranged to maintain the dignity and honor of ASN. The law contains a code of ethics and conduct, so that the State Civil Apparatus (ASN) is required to provide services to the public with honestly, responsive, fast, accurate, efficient, efficient, and polite. This indicates that public service has become an integral part in local governance.

The expected benefits can be derived from the implementation of decentralization, mainly from the spread of decision-making centers, so that decisions are made more realistic and more in line with objective conditions and problems in a region, as well as the creation of local community participation. Loehr and Manasan (1999) describe it as follows:

“The main effect of decentralisation is to provide improved resource allocation and therefore improved economic efficiency. Efficiency gains rest on the presumption that local governments are much better in identifying and fulfilling the needs of households, since they are closer to them, and in mobilizing and using local resources to pay for goods and services having purely local impacts. Improved efficiency is defined as getting greater consumer (tax payer) welfare from fixed resources”.

The views of Loehr and Manasan (1999) indicate that the higher expectation of decentralization implementation can bring decision-making closer and accommodate public needs. This is achieved through the ability to identify and meet public needs, by mobilizing the use of local resources to purchase public goods and services.

Decentralization in the administration also means personal transfers (Civil Servants), whose payroll is the responsibility of the regions. The principle of “money follows function” is unlikely to take place because the General Allocation Fund (DAU), which is the main source of substantial local revenue, will largely be used to finance routine expenditures, resulting in a small development budget (Lewis 2001: 326). Siregar (2001: 298) argues that for many regions, spending on development in fiscal year 2001 (after decentralization/ decentralization) is lower than the same expenditure items in fiscal year 2000 (prior to decentralization).

From the description above it can be seen that Law no 32 Year 2004 does not seem enough to accommodate some problems in terms of public services. Instead, Law no 23 of 2014 provides clearer guidance on this public service by including SPM in the management of compulsory and concurrent functions.

5. CONCLUSION

Regional Government has attracted some government affairs, from previously existing at lower government level to higher government level. This is based on the view that the affairs will be more effective if handled

by the central government. However, it seems that this is still far from the centralization effort, because the portion of local government authority is still higher.

On the other hand, Law no 23 of 2014 on Regional Government puts the public service in a special place. For the first time Minimum Service Standards (SPM) get entry points in local government legislation. This shows that public services are now gaining important positions in governance.

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Law

Law no 23 Year 2014 on Regional Government