



## Functional Assignment in Indonesia:

Policy Issues and Recommendations

Grand Design of Regional Autonomy

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In Indonesia:**  
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**Grand Design of Regional Autonomy**

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# Functional Assignment in Indonesia: Policy Issues and Recommendations<sup>1</sup>

By Agus Dwiyanto

## Introduction

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A decade of implementation of decentralization and regional autonomy in Indonesia has produced a mixture of positive and negative results. Indonesia has made much progress in implementing regional autonomy, but urgent problems remain to be solved (USAID, 2009; Dwiyanto et al., 2007). The lack of clarity in assigning governmental functions is among the urgent and strategic problems that have not received sufficient attention from policy makers. Failure in solving these problems will have widespread negative implications towards the implementation of regional autonomy.

In an attempt to address various issues surrounding functional assignment, research and public consultations have been undertaken with the following two strategic purposes: (1) in the short-term, to gather input to revise and improve the national policy on decentralization and regional autonomy as stated in Law No. 32 Year 2004; and (2) in the long-term, to formulate a Grand Design for Regional Autonomy (GDRA). Both of the aforementioned short-term and long-term aims have been pursued in an integrated effort to enable the formulation of clear guidelines for improved decentralization and regional autonomy implementation in Indonesia.

GDRA is designed to direct regional autonomy policies for the next 20-25 years, including prescriptions on necessary programs to build a decentralized Republic of Indonesia, and to build the capacity of regional governments in improving the people's welfare. GDRA will construct a roadmap towards reforming various aspects of regional autonomy. The roadmap will provide guidance for the government across all levels, and suggest actions to be undertaken in strengthening regional autonomy. The roadmap is expected to provide clarification to local governments regarding the transitions required to establish efficient, effective, and accountable administration. With such rationale, regional autonomy is expected to contribute to the acceleration of public welfare.

This study focuses on the assignment of governmental functions due to the topic's widespread and extensive implications on government administration in the regions. As has frequently been documented, the implementation of regional autonomy in Indonesia still leaves many problems related to functional assignment among central, provincial, and district/city governments (Ferrazzi, 2008; Ministry of Home Affairs, 2009). Functional assignment is still vague, ambiguous, and in many instances – overlapping. These issues have often been the sources of tension between levels of government.

To better understand the complexity of the problem regarding functional assignment, this study will take the following sectors as samples: education, health, public works and several other relevant sectors. Studies are conducted in three provinces selected purposively to represent various levels of socio-economic progress, i.e.: West Java, West Kalimantan, and East Nusa Tenggara. From each of the aforementioned provinces, 4 areas are selected to represent different characteristics, such as district vs. city; proliferated autonomous regions vs. non-proliferated

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<sup>1</sup> The paper is part of a research conducted by DSF, World Bank in cooperation with Ministry of Home Affairs for the formulation of a 'Grand Design for Regional Autonomy' for functional assignment. The writer wishes to thank Dr. Gabe Ferrazi for the input and constructive criticisms to the initial draft. The writer also wishes to thank Dr. I Made Suwandi for the invaluable feedback and insights throughout the implementation of this assignment. Drs. Suparjana, MA has been very generous in assisting the writer with literature research. All opinions expressed in this paper are the responsibility of the writer.

regions, and other local characteristics deemed to represent the province. Data were collected through questionnaires, in-depth interviews, documentation, and focus group discussions (FGDs). Interviewees comprised head of regional governments, regional secretary, assistant to regional secretary, head of relevant regional government organizations, chair and leaders of regional parliament, lecturers, and researchers. Following that, public consultations were carried out to verify and validate the findings and recommendations of this research.

This paper will explain the findings of the research conducted in the 3 aforementioned provinces. The elaborations in this paper constitute problems and obstacles in functional assignment, implications of the lack of clarity in functional assignment toward various aspects of regional government, and recommended actions to rectify and reform functional assignment across government levels. Recommendations are classified based on recommendations for the revision of Law No. 32 Year 2004 and the formulation of GDRA.

## **Issue #1: Distortion in the implementation of regional administration modes**

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### **Problems**

#### **◆ Conflicting regulations: Laws on regional administration vs. sectoral laws**

Law No. 32 Year 2004 established the principles of regional administration into three principles: deconcentration, decentralization, and co-administrative tasks.<sup>2</sup> Based on the law, all governmental functions are assigned to the regional government, with the exception of foreign affairs, defense and security, monetary policy, judiciary, and religious affairs. The Government issued Government Regulation (GR) No. 38 Year 2007 as the implementing guideline which stipulates functional assignments across the central, provincial, and district/city levels. However, in defining different levels of functional assignment, the aforementioned government regulation uses the same wording, and only differentiates the scale/government level (national, provincial and district/city) sans clear measurements. Consequently, this lack of clarity has yielded confusion and distortion in the implementation of regional autonomy in Indonesia.<sup>3</sup>

One of the distortions in the implementation of governance principles is the action taken by ministries and non-ministerial agencies to regain control of decentralized functions through the creation of legislations. Sectoral ministries regain control through creating new laws that regulate sectoral programs for which vertical institutions are established responsible. Consequently, this results in regulatory conflicts between Law No. 32 Year 2004 and various sectoral laws.

An example of the distortion described above is the prevention of narcotics/drugs abuse program. Several key informants explained that on the one hand, the central government encourages provincial and district/city government to establish their own regional Narcotics Prevention Agency (BNN). Several districts/cities in the provinces of East Nusa Tenggara, West Kalimantan and West Java have established their own BNN. Confusion arises as Law No. 35

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<sup>2</sup> One of the reasons for the confusion over the implementation of regional autonomy stems from the amendment of the 1945 Constitution which stipulates that 'provincial, district, and municipal governments manage their own administration in accordance with the principles of autonomy and co-administrative tasks.' Needless to say, in implementing co-administrative tasks, regional governments should not be given the authority to regulate as this remains the authority of the government level extending the authority itself. The obscurity in regulating co-administrative tasks could also have an impact upon its implementation. Refer to Ferrazzi, 2008.

<sup>3</sup> Several interviewees complained about the difficulty faced in interpreting GR No. 38 Year 2007 because the regulation uniformly refers to the various programs of different government levels (central, provincial, or district/city) as 'governmental function.' The only differentiation is indicated by the scale of 'national, provincial, and district/city.' Furthermore, regional regulations (*Perda*) are created by copying/direct replication of GR No. 38 Year 2007. Consequently, oddities are sometimes found, e.g. Timor Tengah Selatan District has no railway at all, but still include train management as a function of the district government.



Year 2007 stipulates that the agency responsible for programs related to prevention of narcotics abuse is a vertical agency.<sup>4</sup> On the other hand, according to GR No. 38 Year 2007, policy making, determination of objectives, operational support, and implementation of drug abuse prevention under the youth reproductive health sub-sector falls under the authority of the respective government level (i.e. district/city government is in charge of the district/city scale, and likewise the provincial government for the provincial scale).

Informants also complained about similar inconsistencies in other sectors such as land management and forestry. In land management, several interviewees in the region complained about the difficulty in consolidating land management issues for regional development purposes as the authority is still held by the central government, even though based on Law No. 38 Year 2007 this function has been decentralized to the regional government. Regional Governments often face difficulties in enforcing *Perda* on regional spatial planning as land management and spatial planning are regulated and managed by different governance entities. In the forestry sector, inconsistency arises because of the disharmony between Law No. 41 Year 1999 regarding Forestry Affairs and regulations concerning regional autonomy (Law No. 32 Year 2004 and Government Regulation No. 38 Year 2007). The law on forestry affairs stipulates that the permit for utilization of forest areas for mining activities is awarded by the Minister of Forestry, while Government Regulation No. 38 Year 2007 has decentralized the affair to the head of the regional government. Such cases illustrate the inconsistency between laws regulating sectoral affairs and laws on regional autonomy.

◆ **Central government deconcentrates (to provincial government) functions managed by district/city government**

The implementation of regional autonomy is also distorted in the way that functions that have been well implemented by the local government are deconcentrated by sectoral ministries to the governor as a representative of the central government in the region. A case in point is the enactment of Minister of Education Decree No. 72 Year 2009 regarding Deconcentration of Education Affairs.<sup>5</sup> In the decree, many policy areas deconcentrated to the governor as the central government representative are in fact areas that have been decentralized to district/city governments, such as the management of early childhood education, elementary education, and intermediate education.<sup>6</sup> However, through the decree, the governor is appointed by the central government as a government representative to govern various affairs as specified in the decree. Another case example would be teacher training conducted by the Agency for Education Quality Improvement (LPMP). Being a technical subsidiary of the Ministry of National Education, not only does LPMP retrieve the authority of the district/city government, but it effectively monopolizes teacher training programs. All teachers wishing to hold particular certifications, headmasters included, must first attend trainings held by LPMP.<sup>7</sup> This practice is in contradiction with Government Regulation No. 38 Year 2007 which states that “training and development of

<sup>4</sup> Law No. 35 Year 2009 Article 66 stipulates that BNN in the provincial level and district levels are vertical agencies.

<sup>5</sup> Similar cases occurred in the public works and forestry sector. A head of the Public Works Services in a district in East Nusa Tenggara explained that some projects to build road and irrigation channels that have been managed by the district government were deconcentrated to *Balai PU* (a technical subsidiary of the Ministry of Public Works) in the region. This story has also been confirmed by a former head of Public Works in the region.

<sup>6</sup> Refer to Government Regulation No. 38 Year 2007 regarding functional assignment in the education sector.

<sup>7</sup> A head of the Education Services in West Java complained about the high cost that the region has to spend to send candidate headmasters to the LPMP training in Solo. The region has more than 1000 elementary schools and thousands of teachers to be sent to headmaster trainings. Similar complaints were made by several other heads of Education Services in East Nusa Tenggara. Centralization of teacher training by LPMP has made teacher development programs expensive and difficult to implement. According to Minister of National Education Decree No. 7 Year 2007 regarding the Organization and Operations of LPMP, LPMP does not have the function of implementing trainings. One of its functions that could be used as a basis to hold trainings for candidate headmasters is its function of “facilitating educational human resources for early childhood education, elementary education, intermediate education, and quality assurance.”

teachers of early childhood education, elementary education, intermediate education, and informal education” are the authority of the district/city government.

Those events surely prompt confusion over which affairs truly fall within the responsibility of the regional government and which affairs are the responsibility of the central government. The takeover of decentralized functions through sectoral laws, such as Minister of Education Decree No. 72 Year 2009 goes against stipulations of Law No. 32 Year 2004 and implementing regulation GR No. 38 Year 2007 and thus cannot be legally justified. In the national legal framework, a ministerial decree certainly cannot nullify functional assignment as stipulated by both GR No. 38 Year 2007 and Law No. 32 Year 2004.<sup>8</sup> Hence, the aforementioned ministerial decree presents contradictions on two levels; with higher legislations on functional assignment, and also laws that regulate legislative hierarchy.

#### ◆ Provincial government interferes in district/city government functions

Distortion also occurs in program and activity development that overlap with functions decentralized to the district/city government. The central and provincial governments often develop programs and action plans within areas whose management has been decentralized to the district/city level. The East Nusa Tenggara Provincial Government for instance, developed programs that, according to the district/city government, overlap with district/city programs. To illustrate, the program to Revolutionize Maternal & Child Health (*Revolusi KLA*)<sup>9</sup> conducted by the provincial government overlap with the district government’s authority to support maternal & child health, as well as to manage health facilities such as local health center (*puskesmas*) and district/city hospitals (type C).

A similar case can be illustrated by the implementation of a provincial program in East Nusa Tenggara, namely “*Anggur Merah*” (acronym for Budget for People’s Welfare). This program provides a total grant of IDR 250 million for villages to fund programs aimed at empowering the poor. The provincial government interprets the empowerment of the poor as a “concurrent function” hence the provincial government of East Nusa Tenggara considers it is justifiable to develop programs to empower poor people in the villages and sub-villages. As the provincial government in East Nusa Tenggara defines poverty alleviation as a provincial-scale problem,<sup>10</sup> thence the aforementioned *Anggur Merah* was developed to empower the poor across villages in the province. The provision of IDR250 million is a form of implementing co-administrative tasks by the provincial government to the villages to empower the poor.

However, resources at the district/city level in East Nusa Tenggara generally perceive the *Revolusi KLA* and *Anggur Merah* programs as provincial government activities that in fact fall under the authority of the district/city government. *Revolusi KLA* is largely an effort to “provide maternal health facilities” and utilizes the *Puskesmas* at the forefront of the services while the management of *puskesmas* is held by the district/city level. The same views are expressed towards *Anggur Merah*. Although officials at the district/city government level acknowledge the usefulness of the grant, several interviewees at the district/city level complained about the lack of clarity of the

<sup>8</sup> Law No. 10 Year 2004 even stipulates that the types and hierarchy of laws comes in the following order: 1945 Constitution, Law/Government Regulation to replace Law, Government Regulation, and *Perda*. A ministerial decree only has a strong legal basis if the enactment is mandated through a higher level regulation. However, Minister of Education Decree No. 72 Year 2009 does not have such a mandate. On the other hand, the regional government always places elementary education as one of its core functions.

<sup>9</sup> The main aim of *Revolusi KLA* is to ensure that all births should be conducted in well-equipped health facilities. The provincial government is aware of the fact that maternal death rate is high in the province due to the lack of health facilities. This program constitutes a comprehensive intervention to record data on pregnant mothers, disseminate the information, provide transportation to health facilities, rehabilitation of health facilities, paramedic education, etc. Unfortunately, most of the programs have been decentralized to the district/city level.

<sup>10</sup> The poverty index in East Nusa Tenggara reaches 23% and the provincial government uses this as a reason to implement the *Anggur Merah* program.

assignment of functions between the provincial and district/city governments. Critical resource persons regard these two programs as a form of intervention by the provincial government. A former District Head (*Bupati*) metaphorically stated that the provincial government has inappropriately “scattered fish eggs in our pond.” This practice could potentially trigger conflict of interest between the provincial government and district/city government.

In the education sector, confusion occurs with regards to provincial and district/city programs. The national constitution, which mandates the government, including the regional government, to provide a budget allocation of 20% has been a major challenge to the provincial government. The difficulty in meeting this target arises mainly because the provincial government has a limited role in the management of the education sector hence the limitation in developing programs and activities to fulfill the 20% target allocation. As a result of this, many provinces, including West Java and West Kalimantan, developed programs that fall under the function of the district/city government. For example, West Kalimantan provincial government developed programs & activities to rehabilitate buildings of SBI (international-standard schools) managed by the district/city government. In West Java, the provincial government allocated large grants to the district/city governments to develop education programs in their respective areas.

Overlapping actions and programs between provincial government and district/city as described above often trigger problems related to the ownership of the various programs. Both government levels feel the right to claim credit from the performance of the programs because they feel equally involved in program implementation. Furthermore, several provincial governments complain about the difficulties in establishing ‘performance contracts’ with officials. The provincial government of East Nusa Tenggara find that the performance indicators of their agencies/organizations overlap with those of the district/city government and vice versa.

#### ◆ **Confusion in the implementation of deconcentration and co-administrative tasks**

Despite the fact that most functions have been decentralized to district/city governments, the significant amount of budget managed by the central government makes it difficult for sectoral ministries to identify an appropriate and smart method for budget allocation. An indicator of this is the tendency by sectoral ministries to deconcentrate functions already managed by the district/city government to the governor. Sectoral ministries are reluctant to allocate their budget to local governments through the DAK (Special Allocation Funds) mechanism as it would eliminate their authority and involvement in terms of budget utilization. A number of cases in the Ministry of National Education and the Ministry of Forestry, wherein functions supposedly managed by district/city governments are deconcentrated to governors, strongly indicate the confusion in the application of regional autonomy principles.

Both political and economic interests have driven policy makers in the ministries to develop a deconcentration mechanism with unclear nomenclature as a way to transfer budget allocations to local governments. It is therefore unsurprising that interviewees in the regions dubbed such deconcentration mechanism as “*dekon-dekonan*”<sup>11</sup> (pseudo-deconcentration). They also expressed that some stakeholders feel disturbed with the increasing number of ministerial technical subsidiaries (UPT) in the regions, reminiscent of *kamwil* (regional office of ministries during the era of pre-autonomy). According to their view, governmental functions at the regional level should be delegated to the provincial or district/city government. The existence of UPT, instead,

<sup>11</sup> “*Dekon-dekonan*” is a cynical term used to refer to deconcentration activities that in essence have been the responsibility of the district/city government. *Dekon-dekonan* becomes an arena for rent-seeking behavior by actors in the ministry, members of parliament, and officials at the local government level. Interviewees indicated that “deconcentration funds” and “adjustment funds” are offered by people in return for kick backs upon disbursement.

triggers negative externalities.<sup>12</sup> Such negative externalities can be avoided or minimized by implementing central government programs through the co-administrative task mechanism.

The difficulties to properly implement principles of deconcentration and co-administrative tasks are caused by regulatory unclarity, particularly GR No. 8 Year 2008 regarding deconcentration and co-administrative tasks. The government regulation differentiates deconcentration and delegation of co-administrative tasks based on activity type, i.e. non-physical activities (deconcentration) or physical activities (co-administrative task). Such differentiation renders difficulties for ministries to implement functional assignment effectively, efficiently, and with accountability. Ministries find it taxing to deconcentrate physical projects to the governor (as central government representative) or to vertical agencies in the region, despite higher efficiency and effectiveness should the projects be conducted by officials in the region. On the contrary, ministries with non-physical projects such as agricultural seed development are unable to utilize the co-administrative task mechanism thus must create technical subsidiary units (UPT) in the regions. Such functional assignment based on the characteristics of the activities contradicts international practices.<sup>13</sup>

## Conclusion

Various forms of distortion in functional assignment show that the formulation in GR No. 38 Year 2007 needs to be revised. Utilization of similar terms for concurrent functions using scale as the sole differentiator without a clear focus triggers different perception and understanding by stakeholders in the ministry, province, and district/city levels. GR No. 38 Year 2007 needs to be revised urgently in order to avoid conflict of interest across government levels, overlapping activities, and take-over of authority by higher-level entities.

The central government should also be consistent in applying deconcentration and co-administrative task principles in accordance to international best practices. Differentiating deconcentration and co-administrative task based on the characteristics of the activity, i.e. non-physical (deconcentration) and physical (co-administrative task) activities deviate from the true meaning of both principles, as generally accepted worldwide. Fallacy in understanding co-administrative tasks fuels the distortion in the implementation of deconcentration and co-administrative tasks under regional autonomy. By aligning both principles and implementation, the central government will be able to deconcentrate physical activities and co-administer non-physical programs. It is through such change that distortion in the implementation of regional autonomy can be minimized. Therefore, incorrect application of deconcentration and co-administrative task principles as stipulated in GR No. 8 Year 2008 needs to be conducted.

## Recommendations

1. The central government should formulate a solid, comprehensive, and well-integrated national policy framework on regional autonomy. In order to do this, the following must be done:

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<sup>12</sup> Interviewees in the region explained how UPT of the Ministry of Public Works often leave unfinished projects to the local governments complete, such as cable channels on the road. It was also explained that such technical subsidiary units often employ local government officials as project supervisors without the permission from the provincial or district/city government.

<sup>13</sup> In international practice, deconcentration is the delegation of central government function to the governor as a representative of the central government in the region, while co-administrative task is the delegation of central government tasks to the regional government. In implementing deconcentration, the governor or vertical agency is held accountable by the central government, while for co-administrative task delegation, the regional government should report results to the central government and regional legislative council. Discussions pertaining to this issue can be read in Ferrazzi, G. (2008), *Exploring Reform Options in Functional Assignment - Final Report*, Decentralization Support Facility (DSF) and *Deutsche Gesellschaft Für Technische Zusammenarbeit (GTZ)*, March 28.

- ◆ Perform regulatory analysis to identify conflicting, overlapping, inconsistent legislations related to regional autonomy.
  - ◆ Regulate central government activities in support of regional autonomy (ministerial and non-ministerial agencies) at the regional level in order to integrate both central government and local government activities.
  - ◆ Task the Office of the President/Vice-President to harmonize legislations pertaining to local government administration.
2. The revision of GR No. 38 Year 2007 regarding functional assignment must observe the following principles:
    - ◆ Avoid the usage of ‘scale’ (national, provincial, and district/city) without assigning a definite measurement in distributing concurrent functions to regional governments.
    - ◆ Distribute whole functions to certain governmental structures, thereby making ‘business processes’ in government administration more simple, efficient, and effective. Each government level must have the competency to implement the assigned functions.
    - ◆ ‘Unbundling’ of concurrent activities could be done should the activity be considered more efficient and effective if conducted by another government entity. For example, recruitment and placement of teachers could be separated with the management of basic and intermediate education (decentralized to local governments) if the activity becomes more effective and efficient performed by the central government.
  3. Revise GR No. 8 Year 2008 regarding Deconcentration and Co-Administrative Tasks to ensure proper implementation of the two concepts in line with international practices.

**Executing agents:** Ministry of Home Affairs, sectoral ministries and non-ministerial agencies.

## **Issue #2: Governmental functions distribution & functional assignment criteria**

### **Problems**

#### ◆ **Functional assignment criteria**

Interviewees in the provincial and district/city governments generally agree that the current functional assignment as regulated in GR No. 38 Year 2007 is no longer sufficient and needs to be revised to better reflect the current situation in both the provincial and district/city levels. Taking into account the case of endemic disease control, it is apparent that GR No. 38 Year 2007 can no longer meet the challenges of today. When the chikungunya fever spread to Ciamis District, the district government and the provincial government both failed to provide adequate responses.<sup>14</sup> The district government could not provide the necessary vaccination due to limited funding to both procure the vaccines and implement the vaccination, while the provincial government could only provide funding to procure the vaccines but not to cover implementation cost. Such limitations have hindered timely delivery of vaccination. Similar cases occurred in all three provinces in this research.

Functional assignments conducted without considering regional capability potentially hurt public interests. As the above example shows, people needing government intervention to control the spread of endemic diseases have failed to receive the necessary assistance as there is a lack of

<sup>14</sup> A similar experience also occurred in West Kalimantan and East Nusa Tenggara, whereby the control of endemic diseases cannot be fully delegated to the district/city government due to limited technical and financial support, especially for relatively new variants of diseases such as avian influenza which the district cannot handle.

capacity of the relevant government agency responsible over delivering vaccination. Control of other serious diseases, such as poliomyelitis, chicken pox, and HIV-AIDS, pose more difficult challenges. Interviewees in district and provincial level observed that the district/city government does not have sufficient technical and financial support to deal with such diseases. Therefore, interviewees recommended that the responsibility to control certain endemic diseases should be transferred back to the provincial and central government, in accordance with their respective capacities. They recommend that assignment of functions to the regional government should observe the capacity of the regional government to implement the function.

◆ **Absence of mechanism to withdraw and add government functions**

Another issue related to functional assignment is the absence of a mechanism to withdraw and add functions. The dynamics of regional governance is a reminder for the central government regarding the importance of creating regulations to withdraw and add functions for regional governments. Law No. 5 Year 1974 allows for a mechanism to adjust functions assigned to different government levels. According to this law, the government may add functions to regional governments through a government regulation, and withdraw a given function through issuing a regulation of the same level. Further, in adding and withdrawing functions to and from the region, the President is advised by the Regional Autonomy Advisory Board (DPOD). The need for a new mechanism to perform such degree of flexibility in the era of decentralization ought to be concretely responded by the central government. The revision to Law No. 32 Year 2004 needs to consider this, as both the existing and draft revision to the law has not accommodated this yet.

Interviewees in the three selected regions expressed the need for such regulation. In the education sector, they proposed that the provincial government be given the authority to be involved in the management of higher education (university), a domain that has been the sole authority of the central government. Interviewees encouraged for an increase in the budget for higher education and feel that they have the capacity to manage higher education. For the time being, the West Java provincial government has given grants to universities in West Java for research & development, scholarships for various subjects, as well as various other financial supports. In order to be more involved in the management and maintenance of universities in their region, they propose that the central government add higher education management as a function for the provincial government. Nonetheless, as the mechanism to propose such change has not yet been made, they do not know what avenue to take to pursue the issue.

The West Java provincial government also aspires to take over the management of high-schools category RSBI/SBI (international standard) that are currently under the authority of the district/city government. According to Law No. 38 Year 2007, international standard high schools are managed by the provincial government. However, in practice such schools are managed by the district/city government. Schools with international standard have become icons of the district/city, whose students are mainly the children of high-ranking government officials with high social standing in the region. The struggle to assert control over SBI schools created a tension between the education services at the provincial and district/city levels. The absence of a mechanism to propose for functional assignment changes in such a situation prolongs the tension, and does not push for a reasonable resolution.

Another example that displays the urgency to create a mechanism to propose for changes in the assignment of functions was articulated by several stakeholders in East Nusa Tenggara. They proposed to return several activities in education management to the central government, e.g.

recruitment and capacity building of teachers.<sup>15</sup> This is due to the limited capability of human resources in the province to enable the education sector of East Nusa Tenggara to compete with other provinces. Similar opinions were expressed by officials from the health services. They believe that the recruitment and placement of health care workers be conducted by the central government. The informants felt that the provincial government in East Nusa Tenggara lacks the capability to recruit teachers and health care staffs with particular qualifications, e.g. mathematics, physics, and specialist doctors. Some districts in East Nusa Tenggara still do not have specialist doctors at all.

In the area of public works, the aspiration to change functional assignment arises in relation to the irrigation sector. As regulated in GR No. 38 Year 2007, irrigation channels with area coverage below 1000 ha fall within the responsibility of the district/city government, while irrigation channels with area coverage between 1000 ha to 3000 Ha falls under the authority of the provincial government. This regulation can be complicated to implement. For example, in West Java Province, an irrigation channel located in the city area spans over 1000 ha in length. Knowing the strategic value of the irrigation channel, and convinced of the capability to self-manage the channel, the city would like to gain full control of the irrigation channel. Further, being closest to the irrigation channel, the city government believes that it has the best knowledge on how and when the irrigation channel should be rehabilitated and maintained. In this case, the city government would like to be given the authority to manage the irrigation channel, but they cannot do so due to the lack of an enabling mechanism.

## Conclusion

The cases explained above illustrate the dynamics in functional assignment in the three sectors discussed. There have been efforts from one level of government to gain authority of sectors being managed by other parts of the government, or transferring their authority and responsibility to other government levels. Seeing this reality, a mechanism to accommodate the aspiration to adjust functional assignments across different government levels is therefore necessary. Revising functional assignment by taking into account the existing dynamics is crucial to enable local governments to govern effectively based on their respective capabilities and needs.

Both Law No. 32 Year 2004 and GR No. 38 Year 2007 have not accommodated a mechanism to change functional assignment. Functional assignment across government levels has been conducted in the spirit of “forever once, and one for all.” This paradigm will surely be detrimental as it fails to respond to the dynamic occurs in the relationships between different levels of government hierarchy. The absence of legislation to accommodate changes in functional assignment often create tensions in the relationship between different level of government and adds to the uncertainty of fair solution to various problems in managing particular functions. Putting the vast diversity among region and the social, economic and geographical dynamics that become more complex, the mechanism to withdraw and add function needs to be accommodated in the revision of Law No. 32 Year 2004. This revision will allow the government to manage the dynamics of different functions in a smart, efficient and equitable way.

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<sup>15</sup> It should be noted nonetheless, that several stakeholders in various districts believe that the management of teachers should stay in the region as long as the region is granted sufficient resources.

## Recommendations

1. The government should revisit the criteria for functional assignment. The current criteria used are insufficient as they ignore local characteristics, local capacity, and the effectiveness of undertaking the government administration.
2. The distribution of functional assignment should be done asymmetrically based on local characteristics and capacity, and progressively according to local capability.
3. The government should regulate changes in functions as well as formulate the mechanism. The central and regional governments, based on certain considerations endorsed by the legislations, could propose a withdrawal of a certain function performed by a different government entity. Conversely, the local government could propose for a certain function to be 'returned' to the central government.
4. The DPOD should be empowered as an institution managing the process of pooling proposals and recommending changes in functional assignment to the President as the executive power. For that reason, DPOD should be restructured, including: establishing DPOD as a governance body for decentralization and regional autonomy, placing DPOD under the Office of the President/Vice President, and complementing DPOD with a solid think tank to perform policy analysis of proposals concerning regional autonomy policies.

**Executing agents:** Office of the President/Vice President, DPOD, MoHA.

## Issue #3: Distortion in the implementation of Special Allocation Funds (DAK)

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### Problems

#### ◆ Shrinking discretionary authority

The composition of budget allocation where indirect spending is dominant has rendered regional governments incapable of sufficiently funding their core functions. The ability to independently allocate the budget, without dependency to the central government, for strategic sectors such as education, health and public works has been shrinking. Several head of office for education in district/city who were interviewed generally explain that part of the budget that they get in the form of General Allocation Funds (DAU) is only 4-5% of their total budget.<sup>16</sup> This composition implies that regional governments have very little discretion to independently run their budget because most spending will be conducted through central government-led Special Allocation Funds (DAK) and other central government funding sources from the State Budget (APBN).

The regional government's dependency on DAK and other funding sourced from the State Budget in implementing their functions has resulted in several anomalies in the implementation of regional autonomy. Regional government agencies, which have been designed specifically to conduct regional government functions, mostly implement central government's programs as opposed to conducting activities relevant to the functions transferred to the regional level. Thus,

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<sup>16</sup> Out of the offices visited, only one Education Services in one city in West Java calculated that the amount of DAU they received is approximately 10% of their total budget. This city can manage their budget well by limiting indirect spending. Among the strategy used is streamlining bureaucracy and limiting the number of employees. For three consecutive years, the Mayor has refused to accept the annual new employees establishment list (*formasi*) offered by the Ministry of State Apparatus Empowerment and Bureaucracy Reform. In 2010, the city government chose not to use a total of 206 new slots opened for civil servant recruitment. Although the number of new employees is one of the legal basis to calculate DAU, the Mayor finds that it is in fact less straightforward than it appears. Each new employee would impose additional burden on the local government budget because additional remuneration elements – other than monthly salaries – must be borne (without any additional provisions from the central government).



the majority of regional government's resources are being used to implement central government functions rather than regional government functions as mandated by the law.<sup>17</sup> This practice is ironic as the essence of regional autonomy is empowerment of regions to deliver their own functions in accordance with the needs and aspiration of the people in the region, to truly realize local development aspirations. In reality, regional governments still tend to act as the implementers of central government programs in the region, or implementers of provincial government program in the district/city, rather than delivering their own functions.

Ironically, local governments' involvement in managing central government functions has reduced the room to make discretionary decisions. This is mainly caused by the transfer of DAK (from various ministries) and grants (from the State Budget) that oblige recipients to make own contributions (cost-sharing) equivalent to 10-20% of the total DAK allocation.<sup>18</sup> This cost-sharing obligation may exhaust most of the funds available to a region, especially the regions with limited fiscal capacities. Several interviewees explained, the cost sharing that regions have to provide to get DAK, National Program for Community Empowerment (PNPM) funding, and other state budget sources can amount to more than IDR 50-100 billion per annum, subject to each region's ability to "solicit" a portion of the State Budget. Additionally, the region's ability to access the State Budget is determined by the Regent/Mayor's ability to lobby parliament members, officials at the ministry, and their capability to pay-off the "brokers" of state-funded projects.<sup>19</sup>

#### ◆ Mismatch between national priorities and regional priorities

Other complaints regarding DAK allocation is the mismatch between its allocation and the real need of the region. Among the frequently repeated example of such mismatch as told by the head of the education services is the usage of DAK to build library buildings and its content.<sup>20</sup> Regions usually still need more funds to repair and expand current classrooms. In one District in East Nusa Tenggara, there is one district who has 200 schools whose school buildings are still temporary. Despite this situation, regions are forced to allocate the DAK to build library as dictated by its allocation by central government. Similar case also occurs in West Kalimantan. Some informants shared anecdotes where students may have to study under the tree or in emergency classroom but they have decent libraries. This kind of mismatch needs to be corrected to improve the effectiveness and efficiency of DAK allocation.

Conceptually, DAK is defined as "funds from the State Budget allocated to a particular regional government to fund specific activities that fall within the authority of the region, and in accordance with national priority."<sup>21</sup> Hence, it should be expected that the allocation might not fit with the regional priority as laid out by stakeholders in the region because it is designed towards achieving national priority targets. What should not be expected is the failure of the the

<sup>17</sup> District/city governments in West Java also implement provincial government programs as the provincial governments allocate grants for education and health programs supporting provincial government targets.

<sup>18</sup> The amount of cost sharing varies among ministries. Variations also occur if regions want to receive an allocation from PNPM funds. PNPM is an example of a mechanism whereby central government devises a development program that is not always in line with the principle of regional autonomy. In PNPM, the central government allocates the fund directly to sub-district governments (*kecamatan*) to fund various projects that communities agree upon. PNPM should be integrated into sectoral ministry programs to enhance accountability.

<sup>19</sup> Several head of government offices in the region expressed their concerns regarding what will happen next should their lobbying power decreased. They are worried that the programs they currently have will not be sustainable without sustainable lobbying power.

<sup>20</sup> In 2010, the DAK allocation for one school unit was IDR 260 million. From that amount, the central the government determined that IDR 80 million should be allocated for construction of library building (IDR 72 million), furniture (IDR 8 million), IDR 180 million for books. Regions do not have the discretion to change the allocation structure, even though priorities may vary across regions.

<sup>21</sup> This definition is taken from Law No. 33 Year 2004 Article 1 (23) and Minister of Finance Regulation No. 55 Year 2005 Article 1 (24).

Ministry of National Education to conduct a mapping of regions facing challenges as outlined by the national priorities, and subsequently allocate DAK to rectify the problems.<sup>22</sup> The failure to appropriately determine national priorities has prevented the Ministry of National Education to allocate DAK in an efficient and effective manner. This failure has often led the Ministry of National Education to misallocate DAK for objectives that do not correlate to regional needs.

#### ◆ Vulnerability of DAK allocation to corruption and inefficiencies

The absence of a clear and transparent indicator on national priorities and their corresponding regional priorities has made DAK allocation in several ministries prone to rent seeking by actors in the ministries, members of legislative councils, “project brokers”, and actors in the region.<sup>23</sup> A head of a government office in West Kalimantan Province shared his story which reflects the lack of clarity of DAK allocation:

*“Echelon I officials at the ministries are powerful in terms of allocating DAK to the regions without any clear criteria except (the ability to) lobby. I was once invited by 10 ministries in Jakarta on the same day to discuss DAK allocation, and if I did not attend, my region would not receive DAK.”*

He further added that in the Ministry of National Education, Echelon II and III officials also have the discretion to determine which regions receive DAK. Interviewees in East Nusa Tenggara and West Kalimantan also shared similar stories.<sup>24</sup> Several head of regions and agencies at the provincial level also explained that they have to prepare proposals and conduct ‘road shows’ to various ministries to lobby officials in order to receive DAK allocation or other sources from the State Budget.

DAK allocation is thus determined largely by the ability of regions to conduct lobbying rather than the compatibility between actual issues faced in regions and the national priorities. Meanwhile, the ability to lobby is determined by the fiscal capacity and connection with politicians, parliamentarians, and high-level officials at the ministries. This condition has been a source of grievance, as expressed by officials of East Nusa Tenggara Province: “...our lobbying power to policy makers at various ministries as well as to state budget brokers is very weak, mostly because we only have four to five politicians (from East Nusa Tenggara) who are members of the parliament (in Jakarta). Hence our ability to access sectoral ministries is limited. Our ability to “pay” is also very weak, consisting of a total of IDR 1.3 trillion, while other provinces and districts/cities in Java have larger representation in the parliament and higher fiscal capacities.” The interviewees further added, “...as long as DAK allocation is based on lobbying, East Nusa Tenggara will never be able to catch up with other regions, especially those in Java.” Interviewees working in district/city government who believe that lobby-dependent

<sup>22</sup> A District Head in West Kalimantan shared an experience of presenting a speech on behalf of the Minister of National Education. He stated that: “...when I read the remark (on behalf of) the Minister of National Education regarding National Education Day in 2010, I stopped for a while as I read a statement in the text which mistakenly claimed that the problem of education access (only) constitutes 7% (of the issues in national education). School buildings and classrooms are no longer the issues; hence we can now focus on the improvement of education quality.” The District Head had to skip three pages of the text as he knew that everybody present in the ceremony understood that access to school (buildings) is still a major problem. The region is still struggling to rehabilitate elementary school buildings, most of which were built between the 1970s and 1980s.

<sup>23</sup> Several heads of regional governments have been found guilty in corruption trials as they provided lobbying funds (from the regional budget) to obtain unaccountable funding from the State Budget. The cases in Purworejo and Cilacap districts are only a few among many other abuses of the regional budget used to lobby decision makers (of State Budget allocation) in various sectoral ministries.

<sup>24</sup> A head of the Public Works Services in a district in East Nusa Tenggara proudly explained the strength of the District Head’s lobbying power hence resulting in the Public Works Services receiving an overflow of funds. The only concern is that when such lobbying power ceases to exist, all projects will be disrupted. Lobbying requires large amounts of funds, and if the District Head changes, the lobbying power may also decline.

allocation is inappropriate also expressed the same concerns. Generally, they are worried that public services will be unsustainable once the lobbying power is gone.

### Conclusion and recommendations

The central government needs to revitalize DAK as an instrument to establish national targets and priorities for decentralized functions. DAK should be utilized to integrate national programs and regional programs. For that reason, the central government is recommended to perform the following:

1. Eliminate State Budget fund allocations with unclear nomenclatures and in lieu of that, allocate to DAK.
2. Formulate national priorities openly and transparently to allow common understanding of government programs to be funded by DAK.
3. Map current conditions across all regions based on national priorities and allocate DAK to regions in line with the degree of conformity between local conditions and national priorities.
4. Empower governors as a central government representative to harmonize national priorities and conditions in regions.
5. Appoint governors to supervise and monitor DAK implementation in the regions.

**Executing agents:** Ministry of Finance, BAPPENAS, sectoral ministries, MoHA, governors.

## Issue #4: Regional institutions and functional assignment

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### Problems

Assignment of functions to regions ought to be followed with the transfer of authority to the regional government to develop institutional bureaucracy as deemed fit with regional needs. This discourse is often expressed as “structure follows function.” When the central government enacted GR No. 38 Year 2007, regional governments should also have been given the authority to form regional institutions on a needs basis. The government can do this by creating NSPK (Norms, Standards, Procedures, Criteria) in the formation of regional institutions so that regions can form regional institutions efficiently and effectively. It is unfortunate that there are many interventions occur in terms of institutions at the regional level, thereby making the current organizational structure oversized, inefficient, and ineffective.

#### ◆ Rigid guidance and poor implementation

The government enacted GR No. 41 Year 2007 to guide regions in the development of regional institutions. Aimed at providing boundaries to regions so that they do not establish institutions beyond their needs, the regulation provides a range of measures and the number of institutions that each region could form. In reality, however, the regulation in fact encourages regions to establish the maximum number of institutions permitted under the regulation.<sup>25</sup> Several heads of the regional governments criticized the regional parliaments’ tendency to establish—for political

<sup>25</sup> The number of regional government organization according to the government regulation is determined by a scale that is dependent upon: (i) the number of citizens in the area; (ii) the areal size of the region; and (iii) budget availability. These three criteria are irrelevant to the determination of the size of regional institutions. The number of regional institutions in each of the different scale seemed to be arbitrarily determined as they are not supported with any explanation.

reasons—the maximum number of institutions. As a result, bureaucracy in many regions has burgeoned after the enactment of the regulation. A Mayor in West Kalimantan illustrated the situation: “...after the enactment of GR No. 41 Year 2007, our city experienced an increase of structural officials from 370 to 900 people; thus, institutional arrangements should just refer back to GR No. 8 Year 2003.” Furthermore, the Mayor said that (after the enactment of GR No. 41 Year 2007), the Inspectorate would blame local governments if structural posts are not filled. The implication is an increase in bureaucratic spending which effectively increases the fiscal burden for regions.

Another problem with GR No. 41 Year 2007 is its tendency to rigidly regulate the form of institution and the grouping of tasks in one institution. The government’s role in establishing NSPK for the formation of regional institutions has interfered too much with the regional government’s authority. The nomenclature and grouping of tasks determined in the government regulations often do not reflect local conditions and needs. A head of the Education, Youth, and Sports Services (PPO) explained that they are overburdened merely by the responsibility of managing 1100 schools and administrative activities funded by the State Budget, (provincial government) grants, and the district budget. To carry out tasks related to youth and sports, therefore, would be even more unmanageable. The burden of PPO is significantly more than the burden of other technical services in the regions. The office has a budget of IDR 100-150 billion, while other offices manage only IDR 3 billion. Another interviewee complained that a well-run institution for licensing had to be disbanded as its nomenclature was not accommodated by any government regulation. Although the grouping of tasks and nomenclature as regulated in GR No. 41 Year 2007 often does not match local conditions, regions dare not digress because when an inspection is conducted by the Inspectorate General; any deviations to the government regulation would be noted as non-compliance.

♦ **The central government ‘coerces’ regions to follow the nomenclature of ministries in establishing regional institutions**

Intervention in the development of regional institutions also comes in the form of legislations. Many laws have been initiated by ministries and non-ministries alike which regulate that the regions should follow the nomenclature used by ministries. Among such legislations are: Law on Sports, Law on Civil Administration and Family Planning, and Law on Emergency Response. Such legislations contradict Law No. 32 Year 2004<sup>26</sup> and GR No. 41 Year 2007, making it difficult for regional governments to follow. Pressures are also mounted by regulations from sectoral ministries. An interviewee from the Health Services complained that the difference between the provincial Health Services and the Ministry of Health has made it difficult for the provincial office to communicate and coordinate with the ministry. The difference occurred because the task grouping as stipulated in the relevant Minister of Health decree is not in line with GR No. 38 Year 2007.

The intervention to regions in the formation of regional institutions becomes problematic as compliance with sectoral ministries’ demand to follow their nomenclature is a determinant of budget allocations, e.g. DAK, co-administrative task funds, and grants. Such an arrangement has become both an incentive and a disincentive for regional governments in deciding whether or not to follow the nomenclatures of sectoral ministries. An interviewee affirmed this, saying that “...sectoral ministries informed us (in the region) that they cannot allocate any funding if the institutions do not have similar nomenclature with those in the ministries.” Such a statement is

<sup>26</sup> Law No. 32 Year 2004 Articles 124 and 125 explains that *dinas* (technical service offices) and other technical agencies are implementing agents of regional autonomy, and not implementers of central government activities in the region. Hence, standardizing the nomenclature of regional institutions following the nomenclature of sectoral ministries may distort the role of regional institutions in delivering their functions.

indeed threatening, especially for regions with weak fiscal capacities and thus reliant on State Budget allocation from sectoral ministries. At the end of the day, regional governments tend to comply with the demand of sectoral ministries.

Observing that tendency, the matter of institutional capacity at the regional level thus becomes problematic. The bureaucratic structure in regions tends to grow larger and larger in order to implement central government functions instead of decentralized functions. Sectoral ministries tend to pressure regional governments to form institutions with similar nomenclatures found in sectoral ministries. The view that non-compliance with sectoral ministries' nomenclatures will hinder coordination is still very strong among actors at both the central and regional levels. This is ironic since regions are given the autonomy to develop institutional capacity based on needs, capability, and challenges faced in improving public welfare. Regional governments form institutions not entirely for the purpose of implementing decentralized functions, but to carry out activities funded by the State Budget that may not be in line with regional priorities. From this perspective, it is apparent that there is a missing link between the formation of regional institutions with functions decentralized to the regions.

#### ◆ Recruitment of employees at the regional level

In relation to the civil service at the regional government level, a relevant issue concerns a government regulation directing the change of status of temporary/contract workers to government employees (civil servant). This is a major problem as most temporary/contract workers are appointed based on non-meritocratic reasons, such as personal relationships, humanity reasons, and other factors unrelated to competency. This condition has created a mismatch between the competency of contract workers and the competency needed by the organization. An interviewee from East Nusa Tenggara Province explained that "...the provincial government has many employees but lack the right people." This means that the provincial government lack capable personnel with the right competencies to develop the province, and have an excess number of employees with poor competencies. Within such a constraint, the central government directive to change the status of contract workers to permanent government employees has worsened the profile of human resources at the regional level, and provided a negative incentive for regional governments to hire even more contract workers.<sup>27</sup>

Another problem identified is the high degree of centralization in personnel management, resulting in minimum discretion for regional governments to develop the capacity and competency of regional apparatus. Regional governments should be given the discretion to recruit and develop human resource capacities based on the functions that the government carries out. Some interviewees complained about the difficulty in getting employees with specific competencies, such as planners, accountants, policy analysts, teachers, doctors, and paramedics simply because the central government does not provide the appropriate establishment list (*formasi*) as required by the regional government. Decentralization of functions ought to be followed by higher discretion in personnel management. Regional governments should be given the discretion in terms of recruitment and capacity building activities according to the competency required for the functions.

<sup>27</sup> In many regions, the data regarding contract employees are often manipulated by officials in the region to profit from employment seekers (i.e. by selling the establishment list [*formasi*]).

## Conclusion

From the institutional analyses above, it is apparent that regional institutional development is still heavily influenced by the central government. The central government's failure to develop a coordination mechanism to synchronize programs with regional governments has led the regional government to develop a symmetrical institutional structure similar to the central level, and this is not always relevant with regional government functions. The desire by sectoral ministries to form organizations with similar nomenclature reflects a "nostalgic" view to return to the pre-decentralization era, whereby each sectoral ministry has a representative office in the region. Such policy has resulted in inefficient and ineffective regional institutions. This condition is worsened by government policies that permit the status change of contract workers to permanent government employees, ultimately worsening the already poor human resource profiles across the regions.

## Recommendations

To encourage regional governments to be efficient, effective, and accountable to the people, the government needs to revisit Government Regulation No. 41/2007 and revise it with a regulation that promotes rightsizing of institutions at regional level. In revising the government regulation, the following aspects should be observed:

1. The new regulation should not only provide an incentive/disincentive mechanism for regional governments in reducing the number of institutions, but also to streamline oversized and inefficient structural positions.<sup>28</sup>
2. The new regulation need not regulate in details a uniform institutional task grouping as it contradicts the spirit of regional autonomy and the diverse reality in regions. Regional governments should be given more discretion to develop efficient institutional structures in regions based on own needs and challenges.
3. Regional governments should also be given more discretion in personnel management, including determining the number and composition of personnel required, and to develop their competencies based on the competencies required in implementing regional government functions.
4. Above all, the central government should identify a more intelligent mechanism to communicate and coordinate with regional governments without mandating similarity of structure between both government levels.

**Executing agents:** Ministry of Home Affairs and Ministry of Civil Servant Empowerment & Bureaucratic Reform.

## Issue #5: Regional diversity and functional assignment

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### Problems

#### ◆ Standardization of regional government functions

Similar treatment to all regions in terms of functional assignment, without taking into account regional uniqueness and characteristics, is a common complaint expressed by stakeholders in the

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<sup>28</sup> To illustrate, a Division Head in a city in West Kalimantan is supported by eleven employees divided into three sub-divisions. In each division consists of only three to four employees, including the Division Head.

regions. Several interviewees in East Nusa Tenggara complained similar treatment given to island regions and mainland regions in terms of functional assignment. The East Nusa Tenggara provincial government and 6 other provinces—including Riau Islands, Maluku, North Maluku, West Nusa Tenggara, North Sulawesi, and Bangka Belitung—have proposed a new status as island provinces.<sup>29</sup> As island provinces, the seven provinces demand asymmetric functional assignment than what is usually assigned to mainland regions. This is caused by greatly varying needs and challenges, especially in the area of maritime resource management. They want to have the ability to manage maritime resources for as far as twelve miles from the outermost point of their islands as regulated in the United Nations Convention on the Law of the Sea (UNCLOS). Interviewees and stakeholders consider that island provinces must be given the flexibility for differing functional assignment because the needs and challenges faced by island provinces are different to those faced by provinces in the mainland.

Standardization of functional assignment without considering the age, characteristics of the region, as well as their differing capacities is seen by interviewees as poor (“unintelligent”) policy making in managing diversity. Newly proliferated autonomous regions are assigned the same obligatory functions as regions that have existed longer have sufficient institutional and fiscal capacities. Island provinces such as East Nusa Tenggara perform the same functions as provinces in the mainland such as West Java. Rote Ndao District, proliferated from Kupang City, is an island district located on a border area. In terms of functional assignment, Rote Ndao is treated the same way as Kupang City which has extremely different characteristics.<sup>30</sup> Likewise for the newly proliferated Kubu Raya District, which performs the same functions as Pontianak City—a long established city with a developed urban area as well as a much higher fiscal capacity.

The standardization of treatment as explained above has resulted in the failure of regional governments to sufficiently respond to specific local challenges and administrative management. For instance, realizing the different maturity of institutional development as well as fiscal capacities across regions, the government should have developed newly autonomous regions through a supervisory method, i.e. gradual assignment of functions based on the capacity of the respective region. In the history of decentralization in Indonesia, the government has actually developed such a concept of gradual assignment of basic functions (*urusan pangkal*) based on the specific needs of the regions. However, the concept, as regulated in Law No. 5 Year 1974 is no longer recognized in Law No. 32 Year 2004 and GR No. 38/2007. In the new regional administration regulations, all new regions have exactly the same obligatory functions as long-established regions with higher institutional and fiscal capacities.<sup>31</sup> Standardization of functions for regional governments impedes the national effort in delivering effective and responsive strategies for development that take local characteristics into account.

#### ◆ Asymmetric decentralization

The importance of allowing sufficient discretionary authority to regional governments in handling obligatory functions was illustrated by several interviewees using the case of disaster response. Both GR No. 38 Year 2007 and Law No. 24 Year 2007 mandate disaster response as an obligatory function. The question is: do all regional governments, despite varying degrees of risks, have to implement exactly the same response as guided by those two laws? Reality shows

<sup>29</sup> Several discussions have been conducted by the Revision Team for Law No. 32 Year 2004 with representatives from the 7 island provinces. Several articles regarding island provinces have been incorporated into the draft revision of Law No. 32 Year 2004.

<sup>30</sup> The initial finding from the evaluation process to newly proliferated autonomous regions indicated that the maturity of the region is positively correlated with its performance. Regions that are older than three years perform better compared to less mature regions.

<sup>31</sup> The initial evaluation finding of a selection of newly proliferated autonomous regions indicates that the maturity of the region is positively correlated with performance.

that different regions have different disaster-risk profiles. The National Agency for Disaster Response (BNPB) has developed a disaster risk map which details various related risks faced by the different regions. If disaster response is not classified as an obligatory function, each region would be able to utilize the disaster-risk profile map to determine the right response and strategy to reduce risks and mitigate possible disasters in the region. The formulation of obligatory functions must provide discretion for regions to determine the appropriate activities and services for disaster-risk mitigation and reduction according to local needs. Even though disaster-risk mitigation and reduction has been established as an obligatory function, regions should be given the flexibility to develop different strategies, programs, and activities to protect citizens from natural disasters.

The same logic can also be applied to other functions. Newly formed regions, islands regions, and regions with other unique characteristics should be given sufficient discretion to differently implement functions according to their own capacities, needs, and challenges. With the existing level of regional variability, GR No. 38 Year 2007 will only be effective if regions are given sufficient discretion to respond to issues according to local conditions and aspirations.<sup>32</sup> Varying characteristics, different levels of socio-economic progress, and different capacities are all unavoidable characteristics that should be viewed as a national potential in a decentralized Republic of Indonesia. GR No. 38 Year 2007 should be treated as an “open menu”, except for some basic functions as mandated in Minimum Service Standards (MSS). Asymmetric decentralization is of utmost importance if we are to make the decentralization policy as a beautiful mosaic where each region is free to adapt and evolve according to respective needs and capacities.

Asymmetric decentralization is not something new in the journey of regional autonomy in Indonesia. As explained previously, when Law No. 5 Year 1974 was in force, several regions had different basic functions.<sup>33</sup> At that time, the regulation concerning the formation of regions established different basic functions for regions according to the local needs, conditions, and capacities. The law also granted special autonomy for Nanggroe Aceh Darussalam, Papua Province, West Papua Province, Jakarta Special Capital Region, and Yogyakarta Special Region. This special autonomy is actually forms asymmetric decentralization.<sup>34</sup> A special autonomy status is also commonly used internationally to accommodate diversity across regions. By providing discretionary authority to regional governments to respond to the list of functions in GR No. 38 Year 2007, asymmetric decentralization will grow in an evolutionary and ongoing manner, in harmony with regional dynamics and needs. Only then will the implementation of regional autonomy be able to really encourage regions to develop their own identity, programs, and government activities based on specific needs of the people.

## Conclusion

The central government should revitalize the application of asymmetric decentralization as a way to address regional diversity due to geographical and socio-economic conditions, maturity, and other unique local characteristics. If well managed and well applied, asymmetric decentralization will strengthen national integrity, uphold national assets, and support efficient, effective, and responsive governance system.

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<sup>32</sup> The lack of discretion for regions to regulate their functions leaves them no option but to directly copy GR No. 38 Year 2007 into the relevant *perda* concerning local government functions. It is not surprising then, that the East Nusa Tenggara provincial government stated that the Timor Tengah Selatan District includes the management of trains as part of their functions, albeit the fact that there are no railways in the district.

<sup>33</sup> Ferrazi (2010) uses the example of Batang Hari District in Jambi Province and Tulang Bawang District in Lampung Province, which, according to the laws, have different basic functions. The “genuine” regional autonomy principle would enable regions to implement different functions.

<sup>34</sup> Ferrazi, 2010.



## Recommendations

To revitalize the application of asymmetric decentralization, the government should perform the following:

1. In revising GR No. 38 Year 2007, the central government needs to firmly determine basic functions to be delivered by regional governments based on MSS
2. Apart from the functions governed under MSS, the central government should provide local governments the discretion to manage their functions based on needs and capacity.
3. Regions should be allowed to manage asymmetric functions according to the needs and capacity of each region.

**Executing agents:** Ministry of Home Affairs and local governments.

## Issue #6: Revitalization of Minimum Service Standards (MSS)

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### Problems:

#### ◆ Problems surrounding MSS implementation

Law No. 32 Year 2004 stipulated that basic functions are to be delivered gradually (e.g. in phases) based on MSS.<sup>35</sup> So far, the government has established thirteen MSS to guide regions in managing local government functions. The government seeks to provide a guaranteed level of services to citizens to ensure the delivery of basic services as mandated in MSS. However, many interviewees in the region complained that it has been difficult for them to meet the standards established in MSS.

Lewis (n.d.) stated that there are at least three problems surrounding the implementation of MSS: (1) excessive standards created by ministries thus overwhelming regional governments; (2) standards are often vague in differentiating input standards and output standards, further confusing regional governments; and (3) standards are often too high, and not accompanied by sufficient funding.<sup>36</sup> The observation made by Lewis was affirmed by interviewees from various districts/cities in West Java, East Nusa Tenggara, and West Kalimantan who complained about the difficulties in meeting the high and varying standards for health and education services. An interviewee from the Health Services in East Nusa Tenggara Province explained: “We have conducted cost assessments to deliver MSS in the health sector, and we estimated that it would exhaust the entire regional budget just to implement MSS for the health sector.” Another interviewee from the Health Services in Pontianak City, West Kalimantan stated: “...to deliver the MSS target of increasing *balita* (children under 5 years old) nutrition, we require IDR 6 billion per annum, while the target MSS to be met are simply too many.” Upon this calculation, the informants concluded that “...if MSS is still formulated in the same way, it is impossible for city governments to deliver services in accordance with standards stipulated in MSS.”

The accuracy of the estimated costs as explained by the informants surely needs to be further tested, as it may have been exaggerated or inaccurate. The research by Lewis shows that to attain MSS in the elementary education sector, the region actually does not need to add major

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<sup>35</sup> In the draft revision of Law No. 32 Year 2004, MSS will only be applied to basic services. A similar issue has also been regulated in the GR No. 65 Year 2007 regarding MSS.

<sup>36</sup> Lewis (n.d.).

additional funding.<sup>37</sup> According to Lewis, an increase of 5% from the existing regional budget would enable the attainment of student enrollment and retention rate targets. The additional cost will be significantly lower if regional government can improve the efficiency in delivering elementary education, as the current utilization rate of the budget allocated to education is still around 65%. Regional governments still have the opportunity to improve efficiency of public service delivery. By doing so, MSS targets could be achieved without having to provide large amounts of additional funding.

Trials to implement MSS in the sectors of health, education, environment and other sectors in various regions such as Bantul District, Kulon Progo District, and Yogyakarta Special Region illustrate that the gradual MSS implementation with adjustments based on regional needs and priorities is actually possible.<sup>38</sup> By allowing the region to determine the pace of gradual MSS implementation, internalization of MSS will be smoother. If attention and support for regional governments in implementing MSS can be sustained, the institutionalization of MSS to guide public services delivery can also be realized.

#### ◆ Improving MSS implementation

Information regarding problems faced by the regional government in MSS implementation as explained by informants showed that government needs to revisit MSS implement strategy. MSS needs to be streamlined by selecting only those related to basic services as mandated by laws. The complaint regarding excessive number and the high standards should be observed by each ministry in supervising and monitoring MSS implementation in regions. The Ministry of Home Affairs should initiate discussions with sectoral ministries on improving the focus of MSS in each sector, and determine the phases for gradual implementation so that regions can focus on certain priority standards. A roadmap for MSS implementation should be made to enable the gradual implementation in regions.

In sharpening the focus of MSS, the government should focus more on output standards than input standards. As reported by Lewis (n.d.), the fulfillment of input standards does not automatically imply fulfillment of output standards. Asking the regions to fulfill three kinds of standards (input, process, and output) is unrealistic, considering differing regional capacities. By determining priorities of MSS attainment and prioritizing output, the central government could provide clear directions to regions in delivering basic services.

To improve the motivation of regional governments in implementing MSS, the government should integrate fulfillment of MSS in services delivery as part of regional governments' performance evaluation. The ministries should also link fulfillment of MSS as a factor in DAK allocation. Sectoral ministries should also develop a simple instrument that the regional government can use to measure the efficiency of MSS implementation in regions.

## Conclusion

MSS can be utilized as an instrument to achieve equitable basic services. However, implementation is challenging due to an excessive number of standards, lack of funding clarity, variance in regional government capacities, and low efficiency in managing government programs.

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<sup>37</sup> In the research, Lewis limited MSS for the education sector to only 4 standards, i.e. teacher to student ratio, student per room ratio, student application rate, and rate of failing students.

<sup>38</sup> Decentralization Support Facility (DSF) have provided support to several regions to implement MSS in various sectors in a number of districts, cities, and provinces. So far, regions involved in the activity have begun to institutionalize MSS into the budgeting process and public service delivery.

## Recommendations

To revitalize MSS implementation, the central government should perform the following:

1. Limit the issuance of MSS only to basic services.
2. MSS implementation can be done gradually and dynamically based on local conditions and capacities.
3. DAK allocation from ministries and non-ministerial government agencies should be linked to MSS application. Ministries and non-ministerial government agencies therefore need to determine, transparently, national priorities for each sector and map target regions according to the national priorities.
4. Building regional capacity in MSS implementation should be an important part of regional development strategies.

**Executing agents:** Sectoral ministries responsible for delivering basic services, Ministry of Home Affairs, Ministry of Finance, and BAPPENAS.

## Issue #7: The governor as a representative of central government

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### Problems:

#### ◆ Issues related with the governor's role as central government representative

Although regulated in Law No. 32 Year 2004 and GR No. 19 Year 2010, interviewees see that the role of the governor as a central government representative has not been delivered well. Governors have not been able to effectively coordinate development efforts and create synergy between development actors in the region. An interviewee in East Nusa Tenggara Province explained about a dialogue between the Governor and the Minister of Health concerning the implementation of ministerial programs in the region. When the Minister considered the Governor's explanation to be incomplete, the Governor complained in return, asserting that the ministry did not sufficiently involve the Governor as a central government representative in budget allocation for the health sector in the region. Similar complaints were also expressed by informants from other provinces.

The reluctance by sectoral ministries to invite governors to be involved as an intermediary in the allocation of sectoral budget for region has been a major challenge in empowering the governor as central government representative. Even accessing accurate data on sectoral programs in the province is a problem for governors, let alone coordinating and encouraging synergy in project implementation. Interviewees observed that GR No. 10 Year 2010 insufficiently guides the relationship between governors and sectoral ministries for smooth coordination. The same applies for Law No. 32 Year 2004 and sector-specific laws.<sup>39</sup> As a result, supervision and monitoring of sectoral ministries' activities in the region becomes the discretion of the respective ministries. Several ministries make it mandatory for districts/cities to obtain the governor's approval in proposing for DAK or other funding from the state. However, most ministries leave the governors outside the equation by directly using lobbying channels with mayors and regents.<sup>40</sup>

<sup>39</sup> Analysis on this matter can be read in Dwiyanto et al., 2010a

<sup>40</sup> Explanation from various sources at the provincial and district/city levels in West Java, East Nusa Tenggara and West Kalimantan. Resource persons from the Health Services in East Nusa Tenggara stated that the Governor once protested to the

Interviewees further observed that governors generally act only as the representative of the Ministry of Home Affairs rather than the central government as a whole. To illustrate how governors have not been involved in the implementation of sectoral ministry activities, several informants from the Public Works Services in West Java, East Nusa Tenggara and West Kalimantan explained that the technical subsidiaries (UPI) of the Ministry of Public Works often involve Public Works Services at the provincial level to implement activities without prior notifying the governor. In such an arrangement, the provincial government provides indirect subsidy to the Ministry of Public Works as the officials (in the provincial Public Works Services) are paid by the provincial budget. A governor has written a letter to protest such poor coordination. The aforementioned case illustrates that the governor's role as a central government representative is still far from effective.

Other difficulties in optimizing the governor's role as central government representative is the absence of institutional instrument, apparatus, and funding to support the governor in delivering the role of central government representative. Several interviewees explained that the budget to run the governor's function as a central government representative is sourced only from deconcentration funds from the Ministry of Home Affairs. There is very little, if any, allocation from sectoral ministries. Human resource support to the governor in conducting this function is usually ad-hoc/temporary in nature.<sup>41</sup> The limited availability of resources has been a major obstacle for governors to deliver the function of government representative.

## Conclusion

Strengthening the role of the governor as a central government representative requires conceptual and institutional revitalization. The tendency to view the governor simply as an extension of the Minister of Home Affairs must be abandoned. The governor should be seen in the wider context as representing the interests of ministries and other non-ministerial government agencies in the region. To effectively implement this role, the governor requires sufficient and clear institutional, personnel, and financial support.

## Recommendations

In order to revitalize the role of the governor as a representative of the central government, the actions stated below need to be implemented:

1. Strengthening the legal basis of the governor's role as central government representative in regions. There is currently a legal vacuum as neither Law No. 32 Year 2004; GR No. 19 Year 2010; nor GR No. 23 Year 2011 regulates the implementation of activities of ministerial and non-ministerial government agencies in regions. This absence of regulation often becomes the reason for poor coordination between ministries and non-ministerial government institutions with the governor as a central and regional government representative.
2. The legal basis of the governor's role as a central government representative should also position the governor as an intermediary to synchronize priorities of sectoral ministries and provincial and district/city governments. This includes optimizing DAK and funds sourced

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Minister of Health for being warned before a governor forum, in relation to unreported funding from the Ministry of Health. Discrepancies exist between the records of the provincial Health Services and the Ministry of Health. The head of the Health Services further explained that not all funds transferred by the Ministry of Health to the provincial government was reported to the Governor. Similar incidents occurred in the provinces of West Kalimantan and West Java.

<sup>41</sup> The governor of West Kalimantan formed a task force from relevant institutions in the province to assist the governor in performing the role of central government representative. In the synchronization and coordination of development planning, the head BAPPEDA (Development Planning Agency at the regional level) was appointed to be the focal point, while the First Assistant to Regional Secretary was appointed to lead working group for synchronization of deconcentration and co-administrative activities.

from the State Budget. Consequently, financial support to implement the governor's deconcentrated tasks as a central government representative should not only come from deconcentration funds from the Ministry of Home Affairs, but also from sectoral ministries.

3. The implementation of coordination, supervision, and monitoring by the governor should be supported by functional staff appointed to fully support such tasks. Functional staff can be appointed internally (from the regional government) or externally (sectoral ministries), dependent upon the competency to perform supervisory functions.
4. The budget for functional staff as noted in point 3 above should be sourced from the State Budget.

**Executing agents:** Ministry of Home Affairs, Non-Ministerial Government Agencies, BAPPENAS, and Ministry of Finance.

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