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‘Otonomi Daerah’: Unitary State Decentralization (Caused by Regionalism) Toward Federalism?

Framing and Interpreting Indonesia’s Case for Decentralization

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Abstract. Decentralized state, federalism and regionalism are recently become a global trend of state arrangement together with globalization and democracy. However it is not necessarily imply a better understanding to the concepts. This paper argue that in order to reach a better understanding, decentralized state, federalism and regionalism should be posed in to the continuum. It is offered to perceived regionalism as the causal factor which may accelerate the shift from a (unitary) decentralized state to (a compound of autonomous regions which compose) a federal state system (federalism). Although it is still in the very early stage, this view can be used to understand the development of decentralization process in (a decentralized unitary state) Indonesia.

Key words: *Decentralized State, Decentralization, Federalism, Regionalism, Indonesia*

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Introduction

Many scholars from different scientific fields have been addressing their research on and related to the concepts of decentralized state, federalism and regionalism. On the other hand, practitioners have been trying to put these concepts into practice. Many works have been done, yet there are still room for advancement. This paper will elaborate both theoretical and practical each concept. It will synthesize a previous works of several researchers to draw a theoretical framework to understand the practice of Indonesia's decentralization.

Conceptual Framework of Decentralized State, Regionalism, and Federalism

Decentralized state and decentralization

To understand the concept of decentralized state we should discuss the concept of decentralization. The main idea of decentralization is well stated in the International Encyclopedia of Organization Studies (SAGE, 2007) as "the act or process of assigning the decision-making authority to lower levels of an organizational hierarchy". In term of intergovernmental process of the State, Encyclopedia of Law & Society: American and Global Perspectives (SAGE, 2007) define decentralization as "the transfer of authority and responsibility for public functions from the central government to subordinate or quasi- independent government organizations or the private sector".

Furthermore, Rondinelli (in Litvack, 1998 and Nurman, 2006), Encyclopedia of Law & Society: American and Global Perspectives (SAGE, 2007), and SDC (1999) explain that there are four types of decentralization usually apply by the governments as summarized in the **Table 1**.

Tabel 1 Four Types of Decentralization

Type of Decentralization	What central government does?	Who is the recipient?
Deconcentration ²	Transfers responsibilities for certain services	Regional branch office of central government
Delegation	Empowers agents to carry out specified functions	Special unit or quasi-government
Devolution	Grants power and authority for selected function or activities	Quasi-autonomous local government
Deregulation ³	Shifts authority	Private sector or NGO

Two most common types to be used are deconcentration, which is likely simply used to improve the efficiency and effectiveness of service delivery of a unitary state (Litvack, 1998), and devolution, an extensive one. Devolution usually transfers responsibilities for services to municipalities that elect their own mayors and councils, raise their own revenues, and have independent authority to make investment decisions (Rondinelli, 1998 in Litvack 1998).

Government may apply one or combination of the type of decentralization that depends on local specific factors⁴. But, the first thing to be considered whether or not a certain

² *Deconcentration* transfers responsibilities and authority to lower levels within the central government. (*Encyclopedia of Law & Society: American and Global Perspectives*, SAGE 2007).

³ *Deregulation* shifts authority from the government to the private sector or to non-governmental organizations (NGOs). (*Encyclopedia of Law & Society: American and Global Perspectives*, SAGE 2007).

⁴ Litvack (1998) explained that possible factors are:

1. The number of sub-national units as well as their absolute and relative sizes and wealth.
2. The distribution of functions (relative to the “span” of public goods, externalities and jurisdictional spillovers, and so on).
3. The nature of the “common” institutions (with particular attention to their effects on government competition).

country will apply decentralization is the rationale behind it. Regarding this, Swiss Development Agency for Cooperation (SDC, 1999) claimed that the major reasons for decentralization are to: a) increase democracy and people participation; b) increase of efficiency through delegation of responsibility; c) achieve higher quality of services; and e) enhance of social and economic development.

With regard to the possible reasons of decentralization, central governments around the world have been decentralizing fiscal, political, and administrative responsibilities to lower-level governments and to the private sector (Litvack, 1998). A recent survey conducted by Rodríguez-Pose and Ezcurra (2009) claim that the trend towards decentralization has been relentless and widespread among most large countries in the world, regardless of their level of development.

After presenting the main idea, reason, origin and development of decentralization, now it can be concluded that decentralized state is a country that apply one or more type of decentralization to manage their public issues. In the next section, other type of state system will be discussed, namely federalism.

Federalism

Federalism mainly refers to the state system which divides their power between state level and federal. Federalism is essentially a system of voluntary self-rule and shared rule (Horowitz, 2009) or the division of power and responsibility between the states and the national government. (Encyclopedia of Education Law, SAGE 2008). However, this very broad term may lead to problematic application when used to determine whether such country is a federal state or not (Swenden, 2005, Brown et.al, 2006, Anderson, 2007, and Kincaid, 2009).

Therefore Swenden (2005) propose that to understand federalism we should also discuss about federal state which he supposed as 'a genus' and federal is 'a species' within the genus, along with other species like confederation, union, etc (Swenden,

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4. The role and status of the constitution (for example, with respect to the independence of the judiciary and collective rights).
 5. The technical characteristics and policy objectives of specific public services.
 6. The current political situation.

2005). In addition, Anderson (2007) define federal state by directly apply a set of characteristic whereas the existence of:

1. two orders of government (central/regional) each with independent powers;
2. constitutionally created—not creature of other order;
3. arbitration mechanism for constitution, usually a court;
4. democratic, goes with divided power, rule of law; and
5. special federal protections for instance upper house, amendment formula, court composition, and language (Anderson, 2007)⁵.

Anderson (2007) claimed that today there are 25 countries can be categorized as a federal state (Anderson, 2007). As stated before, the identified number will be depended on the definition which is not the main point of this paper. Yet, the importance point is to understand the reason behind the application of federal system in a certain country.

Tierney (2009) claim that one justification for applying federal concept is a need to accommodate strong ethnic or cultural distinctiveness and to enhance effective execution of public issues (Tierney, 2009). A more complete survey conducted by Horowitz (2008) identified 8 reasons behind many uses of federalism⁶.

⁵ This very much similar to Swenden (2005) who proposed a set of characteristic of federal state whereas: 1) two orders of government with direct effect to the citizen; 2) assignment of genuine autonomy in constitutional way; 3) intrastate federalism (second chamber); 4) supreme written constitution only to be amended with consent of both orders of government; 5) umpire; 6) mechanism for intergovernmental relations; 7) territoriality; 9) democracy; and 10) no unilateral secession.

⁶ Horowitz (2008):

1. to allow a group that is a minority in the country as a whole but a majority in a sub-state unit to exercise governmental power;
2. to quarantine conflict within unit boundaries;
3. to mitigate discontent by making special, asymmetric arrangements for regions with special problems or distinctive identities;

Historically, federalism has involved a coming together of separate, independent communities to one federation as classically exemplified by The United State of America. In the late twentieth century, however, many efforts emerged to federalize previously centralized, dictatorial regimes by deconstructing the centre and deconcentrating powers so as to reconstitute the polity on a federal basis (Kincaid, 2009). Given possible reasons and many uses of federalism, Anderson (2007) claim that the moment of emergence of federalism has been begun since the collapse Soviet Union, the rise of European Union, but also the there are and there will be federations emerging from unitary regimes and post-conflict situations. The contemporary example of unitary state going on to the federal system is Belgium and Spain with possible upcoming of Italy (Anderson, 2007, Greer, 2007 and Kincaid, 2009).

Now, to make a complete understanding, we will turn to discuss regionalism. It is a unique concept and practice that emerge from a sub-state level up to supra-state level.

Regionalism

The main idea of regionalism is a social, politic, and economic movement of the region to centre and consolidate it power to be more strategic within a larger area. Regionalism can refer to the movement within state or supra-state level. Swenden (2005) clearly stated that:

“Regionalism refers to a process which leads territorial subunits within or across existing sovereign states to increase their influence. That process may have a socioeconomic, political or cultural driving force or may be a combination of all these factors. As such regionalism is in part a bottom-

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4. to enable politicians of various groups to encounter each other, become familiar with each other, engage in bargaining, and learn about the needs and aspirations of groups other than their own before they rise to the national level, where more complex and delicate issues of national policy may need to be resolved;
 5. to create incentives for political actors to see at least some issues in terms of competition among those subunits, rather than among ethnic groups;
 6. to activate sub-ethnic cleavages that drop conflict down to the sub-national level from the national level or, to put it differently, from the intergroup to the intra-group level;
 7. to serve as a de facto electoral reform; and
 8. to provide a stimulus for interethnic alignments and coalitions.

up process, but the consent of the centre is needed to increase the levels of regional autonomy (Swenden, 2005)

In sub-state level, the term regionalism refers to the methods and the process of adjusting the institutions of metropolitan government to reflect the regional character of changes in city geography, demography, and economics (Encyclopedia of Community, SAGE 2003). However this definition does not reflect the nature of struggle from the bottom to the top by the regional actors. The bottom line is that the sub-state regionalism usually characterized by the process of bargaining between central and local government and actors.

In supra-state level, it is perceived that regionalism is the process of integration of a set of functional for instance economic spillovers, leading to economic and political integration, with actors transferring their expectations, and loyalties to a supranational central authority (Farell et.al, 2005). The most common example of this phenomenon is European Union.

The recent observation conducted by Marks (2008) concluded that across 42 countries between 1950 and 2006, there are 384 reforms, of which 342, or 89%, increase regional authority (Marks, 2008). This figure is juxtaposed with the previous claim provided by Farell (2005) that regionalism is best seen not as an alternative, but a significant complementary layer of governance between state and globalized world (Farell et.al, 2005)

Decentralized state, regionalism and federalism: similarities and differences

As discussed on the previous section, decentralized state, federalism and regionalism are dealing with the organization system of the state although the last one is also conceived as the politic, economic and social process in the supra-state level. When comes to the discussion about state, SDC (1999) claimed that there is no completely unitary state, it is at least composed of municipalities as decentralized units therefore they differentiate whether as a unitary state practicing deconcentration, a decentralized unitary state or a federal state (SDC, 1999). However, this paper supposes that respectively regionalism, decentralized state and federalism, can be seen as a continuum.

It can be perceived that regionalism is one pole of the continuum and the federalism is the other one. Any type of decentralization therefore lies in between. In fact, regionalism can be seen as a cause for the shift of decentralized state toward

federalism. It is noteworthy that regionalism may take place beyond state but it still requires a role of the state as a gatekeeper to the regional-global level.

Given that perceived position of regionalism, now in the state level, the differentiation of state organization will be accordingly between federal and decentralized systems. SDC (1999) described that the member states within a federal state dispose of original autonomy, which is not the case with the autonomy of decentralized units within a unitary state. In addition, federal system implies constitutional, legislative, executive and judicial autonomy and covers organization of a member state meanwhile in decentralized system do not dispose of either legislative or judicial power (SDC, 1999). Finally member state officials in a federation are not controlled by central authorities, whereas local authorities in a decentralized unitary state always exist through the will of central power, that is, dispose only of powers delegated by central government, and, accordingly, may act only within the terms established by national legislation (SDC, 1999).

In the deeper analytical framework, Hooghe (2008) offers a framework to differentiate between decentralized state and federalism which consist of:

1. an institutional depth: the extent to which a regional government is autonomous rather than deconcentrated;
2. policy scope: the range of policies for which a regional government is responsible;
3. fiscal autonomy: the extent to which a regional government can independently tax its population;
4. representation: the extent to which a region is endowed with an independent legislature and executive;
5. law making: the extent to which regional representatives co-determine national legislation;
6. executive control: the extent to which a regional government co-determines national policy in intergovernmental meetings;
7. fiscal control: the extent to which regional representatives co-determine the distribution of national tax revenues; and
8. constitutional reform: the extent to which regional representatives co-determine constitutional change.

The more number of positive answers to that analytical framework, the more the state is shifted to the spectrum of federalism.

However, in the practice, the distinction between federalism and decentralization can be blurred where lower levels of government in decentralized unitary systems seek to enshrine autonomy guarantees of a federal nature in ordinary law or the constitution and where constituent governments in federal systems find their powers of self-government being eroded by the national government and replaced by mere administrative discretion (Kincaid, 2009 and Tierney, 2009).

Another simple but fundamental view to differentiate federalism and decentralized state has been proposed by Watts (1998) and Swenden (2005). Watts (1998) described federations as non-centralized on the grounds that decentralization implies a hierarchy with power flowing from the top or center whereas non-centralization suggests a constitutionally structured dispersion of power better representing the essential character of federations. Moreover, Swenden (2005) emphasize that the regions of a federation stand a strong position to the central government than the regions of decentralized state to its central government.

Given the theoretical framework above, now the paper will elaborate the practice of state governmental organization in Indonesia.

‘Otonomi Daerah’: Unitary State Decentralization (Caused by Regionalism) Toward Federalism?

Since its independency in 1945, Indonesia has been experienced several forms of the state system. Indonesia period 1945-1949 was a unitary state according to the Constitution 1945. Indonesia period 1949-1950 was a federal state, tried to compound its multi language, ethnic and religion archipelagic-regions in to one federal system. However it never actually applied. Indonesia period 1950-1959 was a period of Transition and then the political turbulence and worst ever economic crises have paved the way to come back to the Constitution 1945 for period of 1959-1965.

It was then the rise of Soeharto leadership who managed the country into the strong unitary system. Ever since, the economy, politic, and social situation of Indonesia getting stable up to early 1980’s, yet many were argued that it was the system of dictatorship

not democracy. The strong Unitarian system under so called Soeharto dictatorship lasted in 1998 and brought the country in to the era of liberal democracy (Erb, 2005).

The reasons for 'otonomi daerah'

Marks (2008) claim that there is a so called democracy effect refers to the circumstances in which a country shifts from autocracy to democracy will be subject to pressures that may lead to regionalization (Marks, 2008). This is similar to Swenden who claimed that "regional devolution is the result of a process of 'regionalism' (Swenden, 2005). This was really took place in Indonesia 1998. After 32 years experience of unitary centralized state under autocracy of Soeharto Regime, there was a need to balance or to share the power between state institutions and governmental level (MPR RI 2007). Moreover, distinct ethnics and geographic factors have exacerbated the frustration with central domination, and the demand for decentralization is associated more with control over resources and legal and political autonomy (Erb, 2005, Kivimaki, 2002, Mishra, 2002 and Ahmad, 2002).

Given that reasons, Indonesia took first step to manage the wind of change, it was the amendment of Constitution 1945. The first amendment took place on 19 October 1999 simply to shift the executive heavy constitution to more balance one. Then the second amendment took place on 7-8 August 2000 with one of its main points was regional governance arrangement. This amendment has paved the way for sub-state regionalism in Indonesia for the very first time.

Soon after the second amendment, the Law No. 22/1999 on Regional Governance which has been enacted in 1999 was taking in to force on 1 January 2001. This was marked the emergence of new era in Indonesia state system which so called as an 'otonomi daerah' era. The law has given widespread authority to municipal/district level which is a third tier level of government instead of the province.

Institutional arrangement of 'otonomi daerah'

At the first time, 'otonomi daerah' ruled by the Law No. 22/1999 on Regional Governance. This law was taken in to force by 1 January 2001 after two years of preparation and public disclosure. The law has been effective for 3 years until it was replaced or revised by Law No. 32/2004 on Regional Governance. The main points of regulation of the both laws are summarized on the **table 2** below.

Tabel 2 Legal Framework of 'Otonomi Daerah'

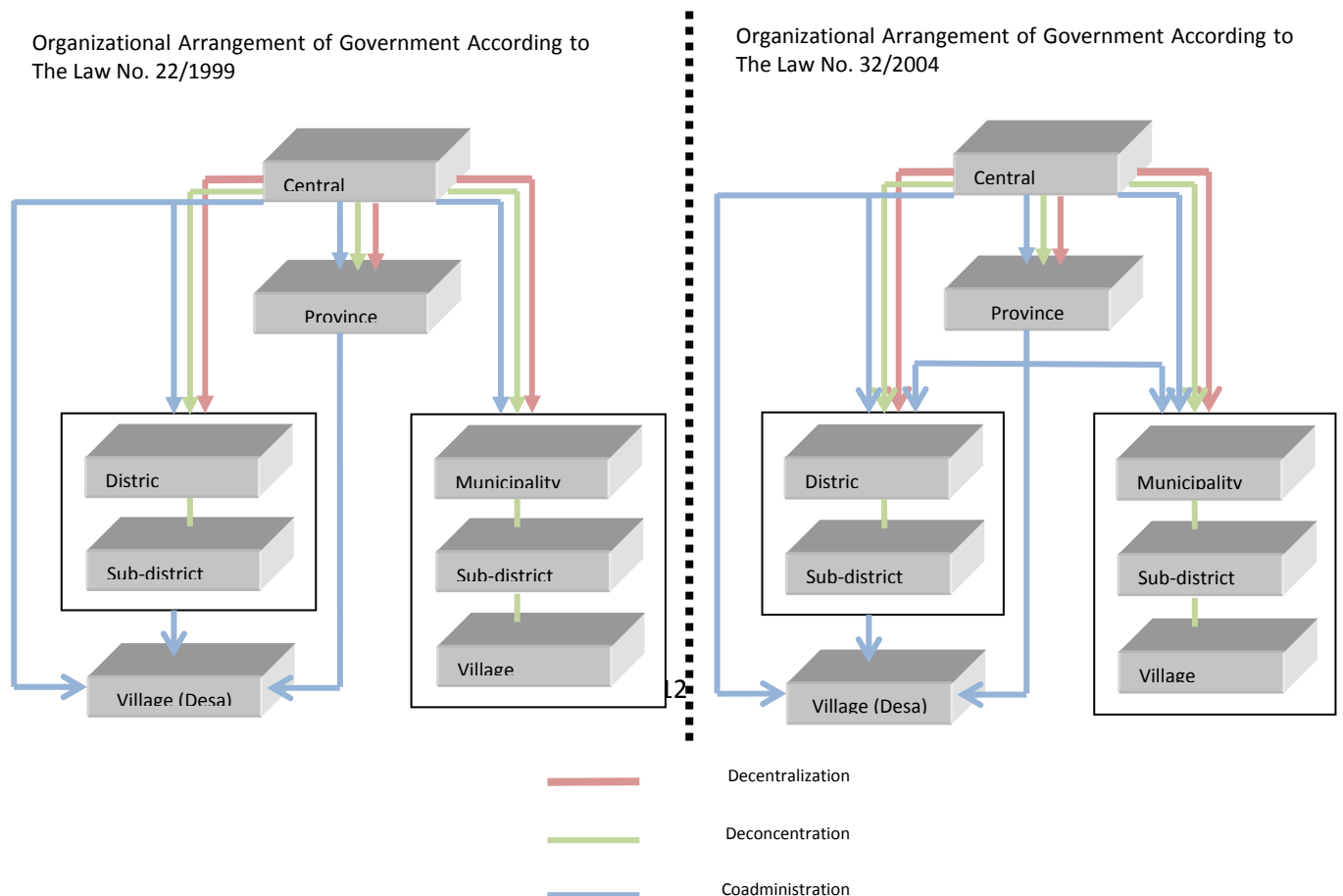
Law Order	Main Points/Rules of the Game	
Constitution 1945	<ol style="list-style-type: none"> (1) Indonesia is The United State of Republic which is divided by provinces and each province is divided by districts/municipalities, whereas each province, municipality and district has a regional government binding by the rule of law. (2) each regional government of province, district and municipality regulates and manages each own governmental functions by itself based on autonomy and co-administration principles. (3) each regional government of province, district and municipality has a Local Parliament which the members are chosen through general election. (4) each head of province, district and municipality is elected by democratic manner. (5) Intra-state and intergovernmental relationship are ruled by law which regards to the regional specificity and diversity (6) Intra-state and intergovernmental relationship on fiscal, public services, natural and other resources management are ruled by law with regards to the principle of justice and harmony. (7) State, by Constitution virtue, respects and acknowledges the unit of special and unique regional government as well as the unit of traditional and indigenous people as long as coherent and in accordance to the principle of The United State of Republic Indonesia. 	
Law	Law No. 22/1999 on Regional Governance and Law No. 25/1999 on Fiscal Balance	Law No. 32/2004 on Regional Governance and Law No. 33/2004 on Fiscal Balance
	<ol style="list-style-type: none"> 1) an institutional depth: regional government granted a devolution function from central government they semi-autonomous; 2) policy scope: local government granted powers and responsibilities in all sectors except for security and defense, foreign policy, monetary and fiscal matters, justice, and religious affairs. 3) fiscal autonomy: the regional government can independently tax its population according to the law; 4) representation: each region (Province) has its representative (namely DPD) in Bicameral National Legislator (with DPR), yet the Head of Regional Government does not elected by the people; 5) law making: DPD co-determine national legislation; 6) executive control: regional government does not co-determines national policy in intergovernmental meetings; 7) fiscal control: DPD do co-determine the 	<p>8 points of Law 22/1999 and Law 25/1999 are remains, yet the revision are:</p> <ol style="list-style-type: none"> 1. Each Bupati, Walikota and DPRD is elected directly by the people through local election. 2. Province has rights to administer its function with co-administration mechanism to the District/Municipality and Village. 3. Municipality/District has rights by the rule

Law Order	Main Points/Rules of the Game	
	8) distribution of national tax revenues; and constitutional reform: DPD does co-determine constitutional change.	of law to devolve its authority to the village.

According to the **table 2**, it is clear that out of 8 check lists provided by Hooghe (2008) on federalism, Indonesia has positive answer on 6 items when the 'otonomi daerah' ruled by Law No. 22/1999. Then, when it was changed by Law No. 32/2004 it has 7 out of 8 items. Undoubtedly, Indonesia has applied a full principle of decentralization and federalism to some extent. Interestingly, it lies at the third tier of government not on the second tier. Regarding this choice, Sadli argues (in Seymour, 2002) that "the whispered explanation [is] that, if autonomy was given to the provinces, they are large enough to secede. Hence give it to 350 small entities and the republic will be safe".

According to the law of 'otonomi daerah', the organization arrangement between each level is charted in the **figure 1**.

Figure 1. Organizational Arrangement Comparison in Indonesia's Decentralization Era



The results of 'otonomi daerah'

There are several achievements as well as problems during the short period of 'otonomi daerah'. Recent study taken by Democratic Reform Support Program (DRSP) collaborated with government and non-government stakeholders, listed the achievements as follow (DRSP, 2009):

1. Indonesia has been fortunate to undertake reforms in decentralization/regional government in the context of a strong economy, and hence increasing central and regional budgets;
2. Decentralization has been successful in holding the country together in the perilous early years of the post-Soeharto era; and
3. The regional polity, as part of the dynamics seen in the national polity, was also made more lively and democratic.

However, there are still problems to be overcome, such as son-of-the-soil discrimination in the employment opportunity if regions or some of them, are ethnically homogeneous, then members of migrant groups who are not considered indigenous to a regions may become victims of discrimination in favor of indigenes (Horowitz 2008). In term of institutional framework, there is still a lack of guidance from central government which resulting in problems in the preparation of regional regulations (GTZ, 2002 and Alm, 2001), which still continues to the date. At the popular perception, a nationwide survey conducted by LSI (Lembaga Survey Indonesia) revealed the public perception that generally the 'otonomi daerah' not yet given them the prosperity and a better situation comparing to the New Order Regime (LSI, 2007).

Actually this is not alone the phenomenon of Indonesia. Other studies have reached to the same conclusion about the problems or undelivered promises of decentralization (Andrews, 2007, Seymour, 2002 and Litvack 1998).

The future of 'otonomi daerah'

Some would argue that the future of regional authority is federalism or at least the causality runs in both directions (Marks, 2008). Anderson (2007) claimed that in the near future of 21st century there will be new federations emerging peacefully from a unitary system probably Philippines, Indonesia, Italy, and Bolivia.

In the case of Indonesia, Ferrazzi (2000) observe that the 'f' word was perceived as 'lead to potential disintegration', will not be operable due to 'incapable' of regional government, therefore it is not well discussed in the process of designing 'otonomi

daerah'. Yet, he insisted that maybe in the future, "the new framework will need to better accommodate provincial interests and, at a minimum, be infused with elements or principles of a federal system" (Ferrazi, 2000).

A relative comprehensive study taken by DRSP did not clearly state the possible future of 'otonomi daerah'. However it was suggested to open the 'pandora box' of the state system which is Constitution 1945, as it is written:

"Much of Article 18 [of Constitution 1945] on regional governance was created in the second amendment in 2000, and some aspects are seen in retrospect to have been rushed and unhelpful. ... A great deal of preparatory work to gain more understanding, consensus, and precision on the features of decentralization/regional governance will be needed to avoid the same result (DRSP, 2009).

To date, actually the team to revise Law No. 32/2004 is still working in collaborative manner with multi stakeholders from government and nongovernment actors. The future of 'otonomi daerah' will probably be decided in the near future.

Conclusion

A very short but condensed conclusion can be extracted. General trend on the state organization is to disperse power to multi agents or actors on multilevel of government. Decentralization –with its multiple types, regionalism, and federalism are intertwined tightly as a concept and practice offers a possible answer for the better state and society arrangement. To become successful, stakeholders should carefully understand the concept and the context of where it will be applied.

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