10 Indonesia in Transition

Lilik Budi PRASETYO

1. Decentralization Process

Government decentralization has been a crucial issue since 1945. In Chapter VI Article 18 of the 1945 Constitution it is stated that the Indonesian territory is divided into several regions, which have regional representative institutions, with an autonomous government and it is based on arbitration. This article implies that regions need to be given authority to manage some functions in their respective region with minimal intervention of the central government but unfortunately the Constitution does not explicitly state which functions that can be managed. The implementation of Article 18 of the 1945 Constitution is always included in the government agenda but it is always a big nonsense. The tendency is that the New Order regime is very centralistic in nature; and the central government even makes efforts to create identical government throughout Indonesia up to the smallest and lowest level of government (Village) (Laws on Village Government, Law No. 5/1979). Traditional government (for example the government of *marga* and *nagari* in Sumatra) was replaced by village system found in Java. In the early 1980-s, the notion of the need to have regulations that manage the relationship between the central and regional finance has already existed (Sidik, 2002). Law No. 5 1974 on Government at regional level has already stipulated that the relationship between Central and Regional government is based on the principles of decentralization, de-concentration and assistance principle; the emphasis is on the autonomy at sub regional level.

Efforts of decentralization were not a success story at that time; it is more as the result of the lack of commitment of the central government (Jakarta) to make the autonomy run well. This is caused by the fact that Jakarta has great fear to hand over more power to the region, which will probably turn out to be a movement of separation. In this era the spirit of the regional government to be autonomous did not come to the surface because of the repressive force of the central government.

In 1997 Indonesia face economic crisis, which is followed by social and political turmoil. Student rallies have forced President Suharto to leave his office on May 21, 1998 and President Habibie took the office from then on. In Habibie's era, the spirit to divide fairly the profit of central and regional government come from the regional government, they even explicitly stated that they will form their own government separated from the Republic Indonesia if their demand is not accepted. In such situation, the MPR (People's Assembly Council) issued MPR's Decree No. XV/MPR/1998 on the Fair Management of Regional Autonomy, Regulation, Division and Use of National Resources. This decree is a mandate for the government to implement regional autonomy including management, division of authority and use of natural resources which all this time is very centralized in the hand of the central government. In Article 2 of this MPR decree it is stated, that "Article 2 of MPR's Decree stipulates that the implementation of regional autonomy is to be done based on the democratic principles and respect the regional diversity. As the follow up of that decree, in May 1999, Law 22/1999 on Regional Government and Law 25/1999 on revenue sharing between central and provincial were legalized.

During some times, the government of Abdulrahman Wahid -- who was elected president replacing the previous President Habibie by the MPR of the 1999 general election – set up a state minister of regional autonomy. This ministry is responsible to make all preparations for the implementation of regional autonomy. The first task of this ministry is to prepare more than 200 government regulations in order to strengthen the implementation of autonomy and at the same time do research on various regulations which are not go along with the autonomy law. At the same time the Minister of Finance has to prepare supporting regulations for the implementation of the Law 25/2000.

Up to December 1999, the preparation of the autonomy implementation has yet reached significant outcome. Regulations to strengthen the implementation of autonomy law are not complete yet whereas the demand coming from the regions to immediately implement the regional autonomy becomes stronger and stronger. In such condition the House of Representatives finally urge the government to immediately implement the law on regional autonomy. Under the pressure of the House of Representatives, regional government and NGOs, the government finally approved the implementation of regional autonomy and it is effective starting January 2001, despite the unreadiness of the supporting regulations. The government has two years remaining that can be used to prepare the supporting regulations of the autonomy implementation.

In May 2000 the government issued Government Regulation 25/2000 on the authority of central and provincial government. This regulation includes all activities brought about by the central and provincial government but it is not clear which part goes to the regency/mayoralty. This regulation is considered being the cause of the reduction of regional government authority because the central government will provide guidance to diverse matters in regional government. Moreover, in the end of September the government issued Government Regulation no.84/2000 on the guidelines of the structure of regional government. This regulation is not in harmony with the Article 68 of Law 22/2000. According to Article 68 of Law 22, regions have the authority to establish government organizations according to their needs whereas the government regulation no. 84/2000 suggests that the regional governments have identical government structure. This regulation is considered unfair and also put more burdens on small regions with small revenue, because the small regional governments have to pay for the same amount for their state employees just the same as the big regions with high revenues. The government becomes more inconsistent with the issuance of Government Regulation 96 – 101 on the management of state employees. Based on this regulation regional government is liberated to decide the dimension of their organizations and the number of their employees.

In November 2003 Government Regulation No.104/2000 was issued and it regulates the implementation of Law No. 25. This government regulation directs up to the details the formula of sharing revenue of natural resources exploitation and also regulates the dimension of the general allocation funding (DAU) in each province and regency. This regulation also manages the procedure of submitting proposal and the implementation of budget for the executives in the government. This document can be used as well by the House of Representatives to control the budget implementation. Moreover, the government also issued regulation No. 108/2000 on the form of governor’s accountability.

In January 2001, although the legal apparatus to support the implementation of regional decentralization has yet been completed and there are still lots of implementation regulation which are contradictory, the central government started to step in to the implementation of Law No. 22 and Law No. 25/1999. The government

started to allocate funds for the regional government according to the Law 25/1999 in order to pay the wage of state employees and special funds for education and rehabilitation of forest and land.

After three years, in 2004 the government issued Law No. 32/2004 and Law No. 33/2004, which are revisions of law No. 22/2000 and Law No. 25/2004. Basic change to the Law 32/2004 is on the conveyance of clear authority to the province and regency and another point is that the people directly elect the government. Whereas the Law No. 33/2004 is the revision of Law 25/1999, by taking in the content of Government Regulation 104/2000 on Revenue Sharing as changed by the government regulation 84/2001.

2. Modification of Government Structure, Institutional Authority and Fiscal Policy

Decentralization includes no less than two matters, they are: administrative decentralization and fiscal decentralization. The issue of administrative decentralization is regulated by the Law No. 32/2004 which is the revision of Law No. 22/1999 whereas Law No. 25/1999 which was revised to become Law No. 33/2004 manages the sharing revenue of central and regional government (fiscal). Law No. 32/2004 divides the conveyance of authority into three, they are:

1. **Decentralization** is the surrender of authority to autonomous regions by the central government within the framework of Republic Indonesia in unity.
2. **Deconcentration (devolution)** is the surrender of authority by the government to the governor as the representation of state and or central officials in the regions.
3. **Assistance** is the task coming from the central government to the regions and village and from regions to village to carry out certain task involving budget, facilities and infrastructure and human resources with the obligation to report its implementation and to have accountability before the official/institution who give the job.

Implementation of the Law No. 32/2004 on Regional Government leads to the change of central, provincial, and regency/mayoralty authority. Central government is still in charge of some important issues such as the national security, international relations, justice, security, religion and monetary and fiscal policies. Provinces are autonomous regions having relatively minor role. Provinces manage the coordination of the regencies/ manage the cross-regencies policies. If necessary, province has also the authority to manage the issues which cannot be handled by the regency/mayoralty. Compared to the Law No. 22/1999, Law No. 32/2004 provides authority to the province more clearly and widely. In Law No. 22/1999 provincial authority as the central government's right hand in the regions is not clearly described in details to what extent the authority they have. In Article 6 Law No. 22/1999 it is stated that province as government's representation in the region has the authority of this kind:

1. provincial authority as autonomous region that also includes authority in government matters which are of cross-regency and mayoralty nature and authority in some other government matters
2. provincial authority as autonomous region that also covers authority which have yet been able to be done in the regency or municipality
3. provincial authority as administrative regions includes authority in the government matters which are delivered to the governor as the government representative.

Whereas in Law No. 32/2004, the provincial authority is described in details in Article 13, and they are:

1. obligatory issues that are under the authority of provincial government and is of provincial dimension cover:
    a. planning and controlling development;
    b. planning, usage, and controlling spatial design
    c. making sure of public order and community safety
    d. providing public facilities and infrastructure
    e. handling health issues
    f. organizing education and allocation of potential human resources
    g. handling social issues of cross-regency/mayoralty
    h. providing services on manpower of cross-regency/mayoralty
    i. facilities to develop cooperative, small and medium scale business of cross-regency/mayoralty
    j. controlling the environment
    k. providing services on land issues of cross-regency/mayoralty
    l. providing services on demographic issues and civil affairs
    m. providing services on general government administration
    n. providing services on investment administration of cross-regency/mayoralty
    o. providing other basic services that have yet been done by the regency/mayoralty and
    p. other obligatory matters ordered by the regulations

2. Optional matters of provincial government covers those of which actually exist and be potential to improve the community welfare according to the condition, characteristic, and major potential of the respective region. Institutional relation between central and provincial government, and between provincial and regency. Regional office and departmental office which are the representation of government at provincial and regency level are eliminated. Central government instruction (line of command) goes just as far as provincial level through Minister of Internal Affairs and the relation of the province (governor) with the regency (regent) is only coordinative in nature (line of coordination) (Figures 10.1 and 10.2).

According to the Law 22/1999, the House of Representatives at regional level elect governor and regent and the president is just to make it legal and has no right whatsoever to refuse the decision of the legislatures. Yet the revision of this law states that the people directly elect governor and regent. Such mechanism is very different from the one used before regional autonomy is implemented; before they are appointed by the president (central government). If the House of Representatives is really the representation of the people, the elected governor is rationally and truly the people's choice. It also applies to the election of regent, the House of Representatives elects regent so that sometimes they are not loyal to the governor since the governor and regent do not function by the line of command but their relation is of supervision and coordination in nature. This situation puts the governor in difficult situation when they are to coordinate the regencies under his or her administration. In the Law No. 32/2004 as the revision of Law No. 22/1999 the role of regent becomes more significant since the people, without any involvement of the House of Representatives, directly elect him/her.

The implication of the implementation of administrative decentralization is that the regional government needs great funding. This funding is expected coming from regional revenues, revenue sharing, general allocation funding, special allocation funding, emergency funding and loan funding.

Original regional revenue is one that comes from the potential resources in the region and they can use it according to their potential; the resources are among others: regional tax, regional retribution, regional affluence. Regional authority to collect tax and retribution is regulated by the Law 34/2000, which is the revision of the Law No. 18/1997 and its follow up is the Government Regulation No. 65/2001 on Regional Tax and Government Regulation No. 66/2001 on Regional Retribution.

Revenue sharing is to reduce vertical imbalance between central and provincial government, that is by making the sharing of the tax revenue effective and not using the tax system, which divide centre and region. Such pattern of sharing revenue is done based on certain percentage of the region productivity (by origin). Sharing state revenue includes sharing of land and building tax (*Pajak Bumi dan Bangunan*/PBB), tax on the rights to use land construction (*Bea Perolehan atas Hak Tanah dan Bangunan*/BPHTB), and sharing of the natural resources consisting of forestry, general mining, oil and natural gas and fishery sectors. This sharing revenue with certain percentage is regulated in Law No. 32/2004 (revision of Law No. 25/1999), before the implementation of Law No. 33/2004, revenue sharing is regulated by Government Regulation No. 104/2000 on revenue sharing as being revised by Government Regulation No. 84/2001.

For forestry sector thirty percent of the revenue from Forest Concession Rights Fee (IHPH or *Iuran Hak Pengusahaan Hutan*) was previously retained by the central government, while the remainder was distributed to the provincial governments. Law No. 33/2004 and its implementing regulation stipulates that only 20% is to be retained by the central and 80% be distributed to the regional governments — 16% to the provincial governments and 64% to the producing district or town. Similarly, 20% of the Forest Resources Provision (Royalty or *Provisi Sumberdaya Hutan*/PSDH) will now be retained by the central government and 80% be distributed to the regions. Yet in the regional allocation, while the province receives 16%, the producing district or town will get 32%, and the remaining 32% will be distributed equally among the other districts or towns within the province. Previously, revenue from these royalties was divided as follows: 30% to the provincial government, 15% the district or town, 40% to national forestry development, and 15% to regional forestry development (Presidential Decree No. 67/1998). As for reforestation fee (*Dana Reboisasi* or DR payments), the new arrangements are 40% for producing regions, while 60% is retained by the central government. Revenue sharing from reforestation fee, which is the right of the government, was then distributed to all districts throughout Indonesia (Table 10.1).

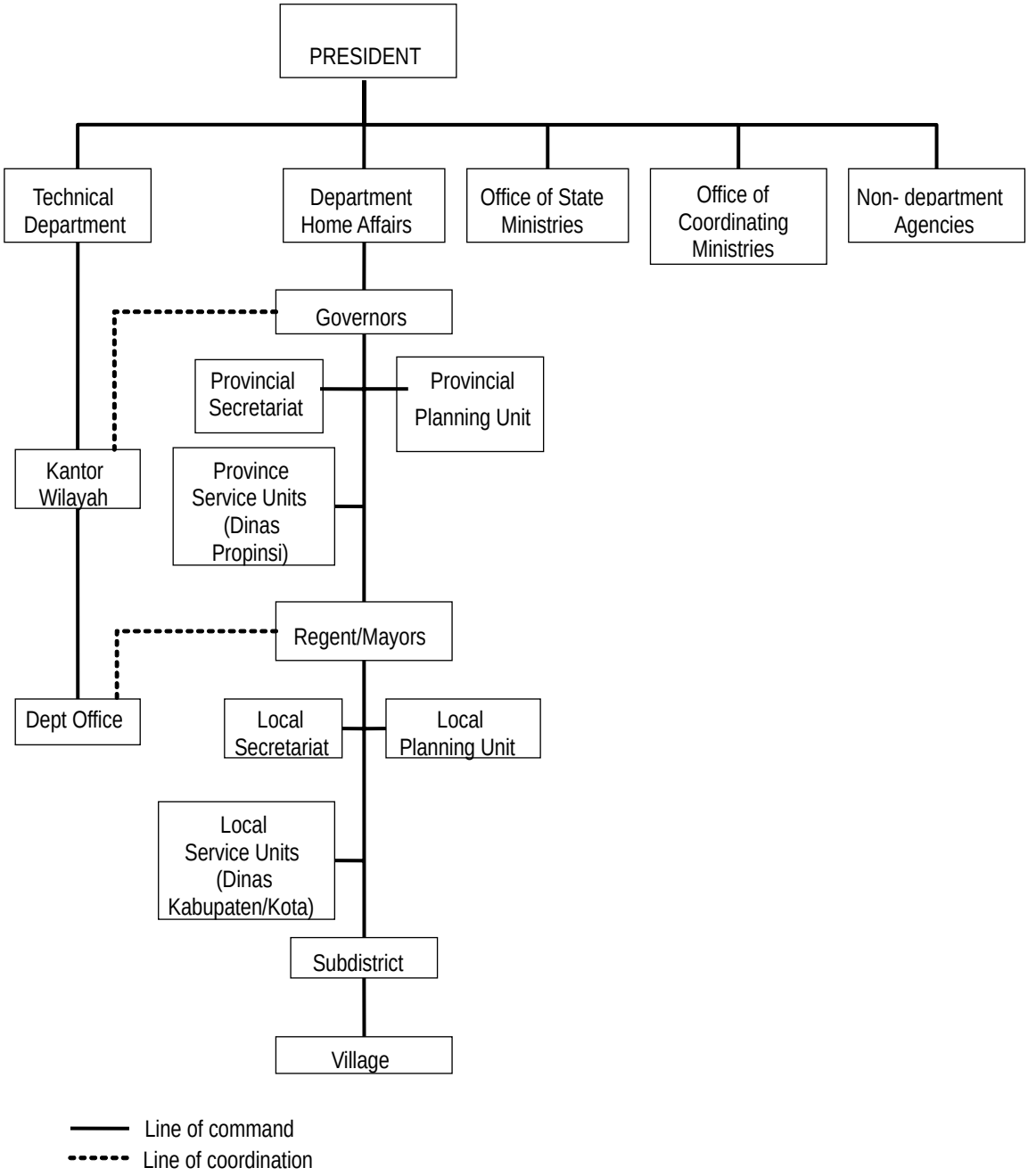

Figure 10. 1. Government structure before the implementation of Law No. 22/1999 (Adopted from Mokhsen, 2003)

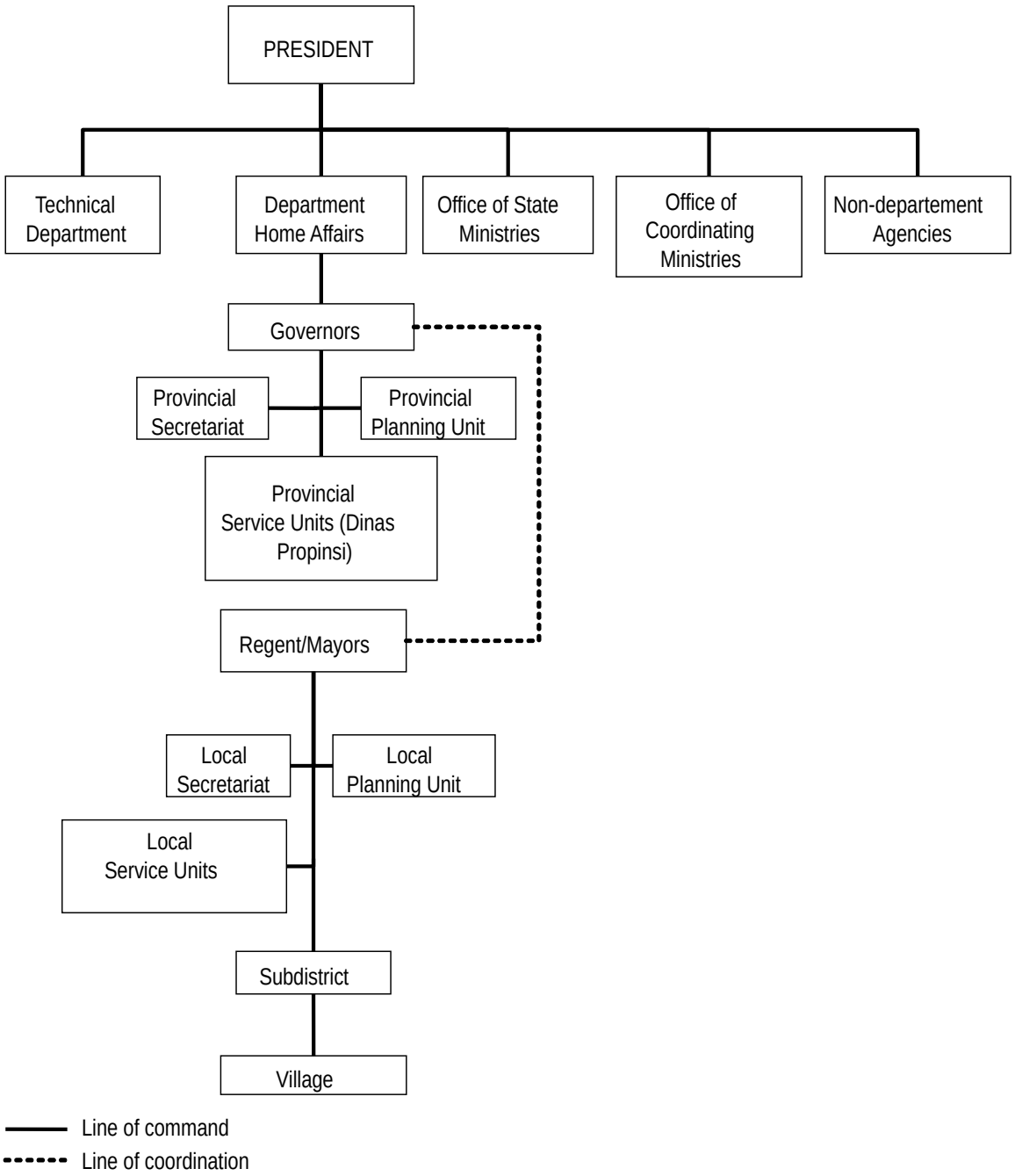

Figure 10. 2. Government structure after the implementation of Law No. 22/1999 (Adopted from Mokhsen, 2003)

Table 10.1. Distribution of income between the Central and Regional Government

Source of Fund	Group	Description		Central Gov. (%)	Regional Gov. (%)	Province (%)	Producing Regional Gov. (%)	Other Regional Gov. (%)
Regional Income	Original Income of Regional Government	Regional Tax		0	0	0	100	0
		Regional retribution		0	0	0	100	0
		Regional wealth		0	0	0	100	0
		Other incomes		0	0	0	100	0
	Balance Revenue (*Dana Perimbangan*)	Sharing Revenue	Land and Building Tax	10	90			
			rights to use land construction (*Bea perolehan atas hak tanah dan bangunan*)	20	80			
			Income tax (*Pajak penghasilan*)	80	20			
			Forestry	IHPH & PSDH: 20	IHPH & PSDH: 80	IHPH : 16 PSDH : 16	IHPH :64 PSDH : 32	PSDH : 32
				DR :60*			DR : 40	
			General mining	20	80			
			Fisheries	20	80			
			Oil	84.5	15.5			
			Gas	69.5	30.5			
			Geothermal	80	20			
		General allocation revenue (*Dana Alokasi Umum*)		0	0	0	100	0
		Special allocation revenue (*Dana Alokasi Khusus*)		0	0	0	100	0
	Other incomes	Grant & emergency fund		0	0	0	100	0
Others	Remaining fund from previous year (*sisa lebih*)			0	0	0	100	0
	Loan (*Pinjaman daerah*)			0	0	0	100	0
	Regional Government Deposits (*Cadangan daerah*)			0	0	0	100	0
	Property selling of regional government (*Penjualan kekayaan daerah*)			0	0	0	100	0

Note : * distribute to the other regional government,

PSDH : Forest Resources Provision, Forest Concession Rights Fee (IHPH)

DR : Forest Rehabilitation Fee

Allocation of reforestation fee according to the Law 25/1999 is a special allocation fee whereas in Law 33/2004 it is regulated in revenue sharing. According to the Law No. 25/1999, the reforestation fee used by the government is not clearly stated for what purposes it should be used whilst in its revision (Law No. 33/2004) allocation of reforestation fee for central government is clearly stated for forest and land rehabilitation and it is a national movement (Article 16).

General Allocation Revenue (DAU) is designed to reduce disparities on budget needs and tax revenue between central and regional government; and it should be solved with the revenue sharing between central and regional government (minimally 25% of the national revenue. With such sharing, specifically from General Allocation Fee, regions will have guidance on how to get financial resources in order to provide the budget for which they have to be responsible.

In line with the Law No. 33/2004 on Sharing Revenue between Central and Regional Government it is stated that the need of general allocation fee of certain regions (province, regency, mayoralty) is regulated using fiscal gap concept and their need of general allocation fee is decided based upon regional needs (fiscal needs) and regional potential (fiscal capacity). In other words, general allocation fee is used to bridge the gap because regional needs are higher than the existing potential. Based on that fiscal gap, distribution of general allocation fee to the regions was having relatively greater potential will be lesser and in the contrary the regions having relatively small financial potential will have relatively bigger allocation fee. This concept makes some regions, specifically regions with affluent natural resources, likely to have negative general allocation fee. The needs of the regions are reflected in some variables such as population, territory dimension, geographical condition, income level of the community taking into account the number of poor people. Whereas regional potential is reflected in the potential regional revenue such as industrial, natural resources, human resources and PDRB. The calculation of general allocation fee will be made legal by the presidential decree.

Special Allocation Revenue (DAK) coming from the state budget is allocated to the regions in order to finance regional special needs. This allocation fee is determined by taking into account the availability of funding in the state budget. According to Law 25/1999, special needs are defined as:

a) the needs that can be calculated using general allocation formula, for example the needs of transmigration areas, needs of investment/new infrastructures, road construction in remote areas, primary irrigation and primary drainage;
b) the needs which are of national commitment/priority. As indicated by the Law 25/1999, the concept of special allocation fee in Indonesia covers allocation fee for the activities of forest and land rehabilitation; and it is 40% of the revenue of reforestation fee in the state budget which is settled for the producing regions. This allocation of special allocation fee and reforestation fee is intended to make regional government producing reforestation fee to be involved in the activities

of reforestation in their areas as a movement of national priority. General guidance of special allocation fee and reforestation fee for the management of forest and land rehabilitation of 2001 is regulated in Joint Circular Letter of the Department of Finance, Department of Forestry, Department of Home Affairs and Regional Autonomy and Bappenas No. SE-59/A/2001, No. SE-720/MENHUT-II/2001, No.2035/D.IV/05/2001 and No. SE-522.4/947/5/BANGDA.

Law No. 33/2004 as the revision of previous law states that reforestation fee is part of the revenue sharing. This fee is meant for the non-producing regency, although the percentage of sharing is still the same, that is 40% for the producing regions and 60% for central government, which is then distributed to all regencies.

Emergency fee is given to the regional government in emergency situation.

Loan Fee. It is possible for the Regency/Mayoralty government to have a loan both national or foreign institutions in order to finance the construction of infrastructure which is the asset of the region and has the possibility to produce income to pay back the loan and give benefits for the community service. Foreign loan must be settled under the supervision of the central government.

3. Changes of Authority on Forestry

The policy of forestry sector is now based on the implementation of Law 22/1999 (the revision is the Law 32/2004) and Law 25/1999 (the revision is the Law 33/2004) and other than that it is affected by the exogenous and endogenous factors (Sunderlin, 1999). Exogenous factor is the policy that has to be done due to the commitment with IMF, among others are:

a) Making changes in the forest concession system that included implementing a performance bond, introducing new resource rent taxes, increasing stumpage fees, allocating concessions through auctions and de-linking the ownership of concessions and processing facilities; this policy is to be implemented by 31 December 1998.
b) Increasing timber stumpage fees to forest concessions, implementing an auction system to allocate new concessions, and allowing transferability of forestry concessions and de-linking their ownership from processing for new concessions. These policies (with one exception) were implemented on 30 June 1998.
c) eliminating the Indonesian Plywood Association's (APKINDO's) monopoly over plywood exports; this was implemented on 30 March 1998.
d) Transferring control over all government-owned commercial forestry companies from the Ministry of Forestry to the Ministry of Finance. This was implemented in early 1998.
e) Incorporating the reforestation fund into the national budget, using money in the fund only for

reforestation purposes, and charging reforestation fees in rupiahs rather than dollars. This was implemented in early 1998.

The endogenous factor is the urge of environmental activists to allocate concessions to cooperatives and to ratify a new forestry law and the campaign by NGOs to improve the status of community-based forest management and to assure the rights of traditional forest communities.

The implementation of Law No. 22/1999 (the revision is the Law No. 32/2004) and Law No. 25/1999 (the revision is the Law 33/2004) has caused that part of the authority of department is now in the hand of regional government; so it has also affected the organization structure of forestry department. The office of Forestry Area which is the right hand of central government is removed but the Department of Forestry has direct involvement in the regions in the form of: *Balai Pengelolaan* DAS (Office of Watershed Management) (31); Office of Forest Area Establishment (11); Office of Natural Resources Conservation (32), Office of National Parks (33), Office of Forest Products Certification (17), Office of Research and Development of DAS Technology (2), Office of Research and Development of Plant Forest (2), Office of Research and Development of Forestry (8), Office of Natural Silk (1), Office of Seeds Technology (1), Office of Research and Development on Forestry (7), Office of Seeds and Forest Plant (6).

Division of concession right of regional forest is both regulated in Law No. 41/1999 and Law No. 32/2004. Regional government at regency level and NGOs criticized this legislation because it contradicts the Law No. 22/1999. In the Law No. 41/1999 on Forestry it is stipulated that regional government must perform their function as the forest sustainability keeper in their own region, especially for the conserved and protected forest. Regional government should also control the exploitation of forest products and the authority granted will be regulated in a government regulation. In accordance with the Law No. 32/2004, natural resources management in the hand of the regions including forest is clearly stated as not only maintain it but also have the authority and be accountable to its utilization as described in Article 17 as follow:

1. in the utilization of natural and other resources the relation between the government and regional government as stated in Article 2 Section 4 and 5 are:
    a) authority, responsibility, utilization, maintenance, controlling impact, breeding, and continuation;
    b) sharing of natural and other resources utilization; and
    c) making the environment, the space arrangement and land rehabilitation
2. in the utilization of natural and other resources the relation between regional governments as stated in Article 2 Section 4 and 5 are:
    a) d. the implementation of utilization of natural and other resources under the authority of the regions;
    b) e. co-operation and sharing of natural and other resources utilization between the regional

governments;

c) f. management of joint permits in the utilization of natural and other resources.

3. In the utilization of natural and other resources the relations as mentioned in (1) and (2) is regulated in law and regulations.

Government regulation to implement Law No. 32 of 2004 for forestry sector has yet been formulated so that it is still referred to Government Regulation issued for the implementation of Law 22 of 1999. According to the Government Regulation 25 of 2000, responsibility of forest management is decentralized to Regional Government, especially in Regency/Mayoralty level). Almost all of the decisions related to production forest exploitation and protected forest are under government authority at regency level which is supported by provincial government in the form of providing guidance. Meanwhile central government's decision is required if coordination among the regencies is needed, for example in the case of business permit acquirement on production forest in which the areas are part of two or more regencies. The central government still holds the decision on national planning for forest area such as establishment of forest area function and its status changes. In most cases, central government only provides criteria and indicator for forest management, to ensure its sustainability (Table 10.2). According to this government regulation regency becomes very dominant in forest management, primarily in the management of production and protected forest.

In 2002, the government issue government regulation No. 34/2002. This regulation invites protests from many people because decentralization as mandated by law 22 of 1999 is limited when it has something to do with permit matters; such thing is considered very centralistic (Kartodihardjo, 2002; Rahardjo, et al, 2002). The Ministry of Forest, according to government regulation, holds control over all the permits to manage forest up to technical matters in the field. There is a concern that Government Regulation No. 34/2002 shall only push a forest management with exploitative intention since it only regulates the permit mechanism without taking account on the real issue of forest management found in the field. The implementation of Government Regulation No. 34 also affects the community negatively because when the time comes for them to throw their forest products to the market they have still to have Surat Keterangan Asal Usul (SKAU) or letter that state the origin of the products (Article 74 (3), Article 75 (4c). This can become a disincentive factor for the community to grow trees in their land.

Table 10.2. Authority Decentralization of Forest Sector

Forest Management Activity	Authority								
	Regency/*Kabupaten*			Province/*Propinsi*			Central Government/ *Pusat*		
	PtF	CF	PdF	PtF	CF	PdF	PtF	CF	PdF
Establishment and status changes of Forest area function							√	√	√
Designation and guarding of forest area border				√		√	**CS**	√	**CS**
Forest inventory (*inventarisasi hutan*)	√	√	√	**G**	**G**	**G**	**CS**	**CS**	**CS**
Forest Establishment (*pengukuhan hutan*)	√	√	√	**G**	**G**	**G**	**CS**	**CS**	**CS**
Establishment of forest management district	√		√	**G**	**G**	**G**	**CS**	**CS**	**CS**
Forest area planning	√		√	**G**		**G**	**CS**	√	**CS**
Exploitation permit	√		√			√	**CS**	√	√
Decision on provision and tariff of forest product,	√		√	**G**		**G**	**CS**	√	**CS**
Decision on tariff of non-forest product exploitation	√		√	**G**		**G**			
Land rehabilitation and soil conservation				√		√		√	**CS**
Watershed management related on soil erosion, sedimentation, and land productivity	√			**G**			**CS**		
Rehabilitation and reclamation of production and protected forest	√		√	**G**		**G**			
Support on technical training and education related to research and applied technology of forestry				√					

Source : Kartodohardjo, 2002 (personal communication)

Notes :

PtF: Protected Forest

CF: Conservation Forest

PdF: Production Forest

√: Authority to take action

G: Authority to provide guidance

CS : Authority to provide criteria and

The conflict of interest on the authority issue between central and regional government is still going on up to now. Some governments at regency level act contradicting the central policy. For example in cases where the government issued the Ministry of Forestry Decree No. 541/Kpts-II/2002 to withdraw the Ministry of Forestry Decision No. 05.1/Kpts-II/2000 on Criteria and Standard of Permits for the Utilization of Forest Products and Permits to Collect Forest Products in Production Forest which is applied by Governor/Regent to pass permits for small-scale forest concessions rights. Syaukani (2002), then Chief of Indonesian Residence Government Association, who also acted as Regent in Kutai Kartanagara, East Kalimantan, said that local government would not pay attention to yangking out authorization and will keep issuing their own rules and forest concession rights. Sintang Regency still issued forest concession rights up to 2003 (Anshari, 2004).

4. Protected and Conservation Forest

Management of protected areas, according to Law 32 of 2004, is under the authority of regional government whereas for the conservation areas it is still under the central government's authority. The representatives of the central government in the regions are those whose task is to manage conservation areas, and they are: Natural Resources Conservation Bureau (BKSDA) and Sub-BKSDA and National Park Bureau. Sub-BKSDA primarily handles the nature reserves and wildlife reserves, BKSDA handles small-size national park, natural conservation areas, natural recreation park, forest park and hunting park. National Park Bureau handles the management of national park, primarily the big ones.

Many problems have led people to illegally go into the conservation areas, among others are:

a. the incompetence of the government to guard the areas
b. unsolved conflict on the borders of the area
c. high need of wood for the timber industry
d. people are interested in growing cash crops because the price is high
e. economic recession that affected the life standard of the community negatively and the decrease of their buying ability.

Central government in managing conservation areas is weak both on the funding and human resources. According to data of 2000, the funds provided by the government for the conservation areas is around 0,06 USD (Wakatobi Islands) up to 4,96 USD (Gede Pangrango Mountain National Park) (The World Bank, 2001). The dimension of areas to be controlled by the forest guard is varied, between 153 ha/officer. With such funding and personnel shortage, it is naturally impossible to protect the conservation areas well.

In the beginning of the implementation of autonomy, forest conflict highly increased. There are 359 cases of conflict in 1997-2003 and 153 cases occurred in 2000 (Wulan *et al*, 2004). (Figures 10.3 and 10.4). The

conflicts are due to forest cutting down, wood searching, environment damage, borders regulation and function transfer. For conservation areas, the conflict occurred is mostly encroachment (conservation of forest land becoming cultivation land and plantation areas) and illegal logging.

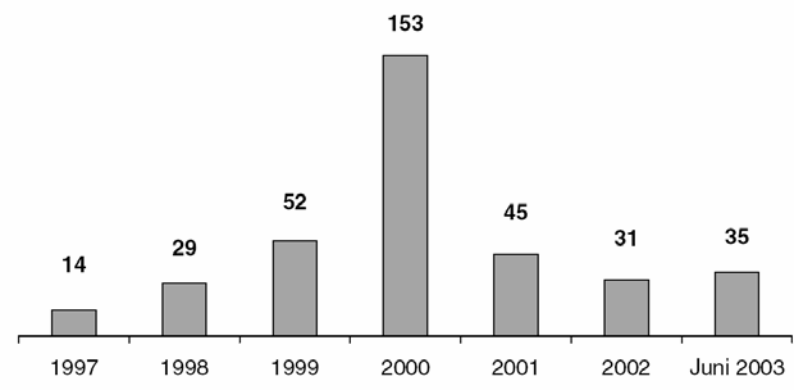

Figure 10.3. Number of conflicts with the forest areas

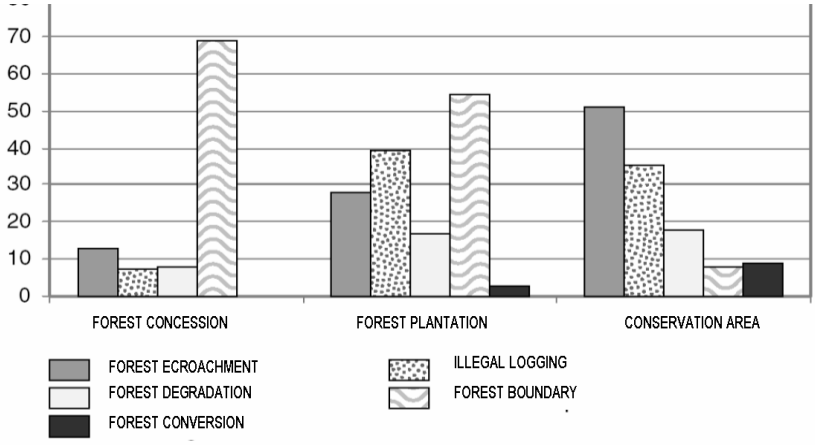

Figure 10.4. Type of conflicts based on forest function

The source of the conflicts is the fact that borders overlapping are not solved. At least there are 3 types of border regulation, which are not exactly the same in forest areas in Indonesia, which is based on the Dutch's register, based on TGHK and based on *Paduserasi*. The community still use the forester border register created by the Dutch government and they do not agree with the borders of TGHK and RTRW. Moreover, conflicts frequently occur because the community has more courage to fight for their rights; before the reform era community was experiencing pressure that they have to give away their cultivation land. A number of Rambang Lubai people, Muara Enim Regency, South Sumatra bring a claim on PT Musi Hutan Persada (MHP) to give back the land of 12,050 hectares, which was previously under their authority. Other than that, they also sued PT MHP to pay as much as Rp 2.5 billion as a compensation for the rubber plantation, mixed rubber, and fields which grow plants but are destroyed by MHP. Because of their control

over the land, the community also takes legal action to ask for Rp 25 million of compensation for each and every hectare and Rp 301.25 million for the compensation of losing opportunity to have business on that land. The demand which was read by a representative of Rambang Lubai community, Junial Komar, is a longstanding struggle which was done for nine years. Since 1991 they have done 16 times of protest rallies (*Kompas*, March 4 2000).

The companies holding 53 forest concession rights in Papua are very desperate. They have paid hundreds of billion rupiahs to the government but they are now facing a number of people's demand on customary rights *(hak ulayat*). Of 53 forest concession rights, only 35 of them which are still active, but in the near future are likely to step back (*Kompas*, February 1, 2000).

References

Kartodihardjo, H. (without year). *Sentralisasi dan tekanan eksploitasi hutan dalam pp no. 34/2002*.

Mokhsen, N, 2003. *Decentralization in the post new order era of Indonesia*. The 8th Commonwealth Advanced Seminar was held in Wellington, New Zealand, February 4 to March 7, 2003. (www.vuw.ac.nz/.../Papers/2003/ Nuraida%Mohksen%20Indonesia%20Decentralisation%20Case%20Study.pdf)

Raharjo, Diah Y and A. Khan, (without year). *Kontroversi substansi pp 34 tahun 2002 Sebagai proses pembelajaran publik*. (In Indonesian, unpublished).

Sidik, M, 2002. Perimbangan keuangan pusat dan daerah Sebagai pelaksanaan desentralisasi fiscal (antara teori dan aplikasinya di Indonesia). *Seminar "Setahun implementasi kebijaksanaan otonomi daerah di Indonesia"*, Jogyakarta, March 13, 2002.

Sunderlin, W.D, 1999. *The effect of economic crisis and political change on Indonesia's forest sector. 1997 – 1999.*

The World Bank, 2001. *Indonesia: environment and natural resources management in a time of transition*. Washington. D.C.

Wulan, Y.C., Y. Yasmin, C. Purba, and E. Wollenberg, 2004. *Analisa Konflik Sektor Kehutanan di Indonesia 1997 – 2003*. Center for International Forestry Research, Bogor. (in Indonesian)