

# Decentralisation and Constitutional Law in Indonesia: Balancing Regional Autonomy and National Unity

Irman Putra<sup>1</sup>, Arief Fahmi Lubis<sup>2</sup>

<sup>1,2</sup>Sekolah Tinggi Hukum Militer AHM-PTHM

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## ABSTRACT

This paper examines the normative aspects of decentralization and constitutional law in Indonesia, focusing on the balance between regional autonomy and national unity. Through a doctrinal analysis of constitutional provisions, key legislation, and judicial interpretations, alongside qualitative case studies, the study explores how Indonesia has navigated the complex relationship between empowering local governance and maintaining a cohesive national identity. The findings reveal that while the legal framework provides for significant regional autonomy, challenges remain in ensuring uniformity in law enforcement, addressing regional disparities, and preventing fragmentation. The study highlights the need for a nuanced approach to decentralization that accommodates regional diversity while fostering national unity, offering recommendations for strengthening local governance, enhancing equitable resource distribution, and refining the legal and regulatory frameworks.

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### Corresponding Author:

Name: Irman Putra

Institution: Sekolah Tinggi Hukum Militer AHM-PTHM

e-mail: [irman7275@gmail.com](mailto:irman7275@gmail.com)

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## 1. INTRODUCTION

Decentralisation in Indonesia, especially after the Reformation era in 1998, signalled a significant shift towards a more democratic and decentralised governance structure, aiming to overcome the centralistic and authoritarian practices of the previous New Order regime [1]. This transition aimed to empower local governments to fulfil diverse region-specific needs, taking into account cultural, economic and social differences across Indonesia [2]. Various studies highlight that decentralisation reforms, including fiscal and administrative autonomy, can increase citizen prosperity by improving public service delivery at the local level [3]. In addition, constitutional

amendments during the Reformasi era played an important role in shaping the trajectory of decentralisation, by emphasising the influence of political networks and bargaining within parliament on decentralisation articles, which ultimately contributed to the improvement of Indonesia's current decentralisation performance [4].

Indonesia's legal and constitutional framework has undergone significant reforms to support the decentralisation agenda, with crucial legislative changes such as Law No. 22/1999 on Local Government and subsequent amendments playing a significant role in transferring authority and resources from the central government to local governments [5]-[7]. These reforms aim to promote regional

autonomy, improve public services, strengthen local governance, and stimulate economic development tailored to the needs of each region [5]. However, challenges such as disparities between regions, conflicts of interest, and limited resources have been identified, which highlight the need for legal reform to ensure equitable development in all regions [6]. The legal landscape in Indonesia has undergone a transformation, including the introduction of omnibus law techniques and subsequent amendments to increase public participation in lawmaking [8].

The decentralisation process in Indonesia, as outlined in various research papers [[5], [6], [9], [10], faces the challenge of balancing regional autonomy with national unity. While regional autonomy aims to address regional disparities, empower local governance, and accommodate Indonesia's diversity, it also poses dilemmas in terms of maintaining national cohesion, ensuring legal uniformity, and preventing fragmentation of the country. The legal analysis highlights gaps in current laws that hinder equitable development and conflict resolution, and emphasises the need for reforms to strengthen governance systems for more balanced national development. Reflecting on Indonesia's experience, it is clear that clear leadership, budget accountability and transparency are essential to optimise the benefits of globalisation and regional autonomy for people's welfare. Comparisons with countries such as Germany underscore how different governance systems can impact the implementation and structure of regional autonomy, and emphasise the importance of finding an approach that fits the unique Indonesian context.

This paper aims to explore the normative aspects of Indonesia's decentralisation and constitutional law, focusing on how the legal framework seeks to balance regional autonomy with national unity. The paper examines the constitutional provisions, legislative measures, and judicial interpretations that have shaped Indonesia's decentralisation journey.

## 2. LITERATURE REVIEW

### 2.1 Theoretical Foundations of Decentralisation

Decentralisation, as defined in various disciplines, involves the transfer of decision-making power from the central government to local governments, aiming to improve the efficiency, accountability, and responsiveness of public services to local needs [2], [11], [12]. This process can take various forms such as administrative, fiscal, and political decentralisation, each of which has different objectives and implications for governance [13]. In Indonesia, decentralisation is primarily driven by aspirations to democratise governance, improve public services, and promote regional economic growth, in line with a broader global trend to empower local governments to meet more specific community needs [13]. The evolution of decentralisation as a concept has shown exponential growth in academic literature, which emphasises the importance of decentralisation in shaping governance structures and improving service delivery mechanisms over time [12].

### 2.2 Historical Context and Evolution of Decentralisation in Indonesia

The journey of decentralisation in post-Reformasi Indonesia, initiated by Law No. 22 of 1999, aimed to overcome the highly centralised governance of the New Order era, by granting significant authority to local governments to manage education, health, and public works [1]. However, challenges arose in the initial implementation, including capacity building issues at the local level and unequal distribution of resources [14]. Subsequent legal developments, such as Law No. 23/2014 on Regional Government, sought to clarify the division of authority between the central and regional governments and enhance the central government's oversight role, reflecting the evolving legal framework in the course of decentralisation in Indonesia [1].

Legal and Constitutional Dimensions

The Indonesian Constitution, particularly post-amendment in the early 2000s, lays the foundation for understanding the approach to decentralisation in Indonesia, by recognising regional autonomy and establishing a legal framework that supports decentralisation [5]. Scholars have examined the constitutional provisions relating to decentralisation, emphasising the need for a balance between regional autonomy and national unity [5]. Legal experts have also discussed the role of the Constitutional Court in interpreting decentralisation laws to ensure alignment with broader constitutional principles such as the unitary state and national integrity [15]. The Court's decisions often aim to balance the granting of regional autonomy while preventing the fragmentation of state authority, demonstrating the Court's important role in maintaining this balance [15].

### *2.3 Regional Autonomy and Governance*

The literature on regional autonomy in Indonesia addresses not only administrative and fiscal decentralisation, but also political decentralisation, which allows for local elections and increased community involvement in governance [5], [16], [17]. Studies investigating the political economy of regional autonomy, examining how local elites and political dynamics impact governance outcomes, reveal mixed results in terms of the quality of governance and public services. While some regions have experienced improvements in local governance and public services, others have faced challenges such as corruption, inefficiency, and the concerns of local elites [5], [18]. This highlights the complexity and mixed results of decentralisation efforts in Indonesia, emphasising the need for continuous evaluation and improvement to effectively address governance issues. These gaps underscore the need for a nuanced approach to decentralisation that considers local context and capacity.

### *2.4 National Unity and Regional Disparities*

The literature on regional autonomy in Indonesia highlights the delicate balance between encouraging regional autonomy and maintaining national unity. While decentralisation has empowered local governance and regional expression [19], there are still concerns about regional disparities and potential separatist movements [6]. To maintain unity in a decentralised country, a balanced approach is essential, with an emphasis on equitable distribution of resources and fostering a shared national identity [6]. This study underscores the importance of legal reforms to address regional disparities and conflicts, ultimately aiming to improve the equity and effectiveness of regional autonomy for more balanced national development [6]. In addition, the successful implementation of regional autonomy policies has the potential to reduce poverty by improving public services and economic opportunities at the local level [20].

## **3. METHODS**

### *3.1 Research Design*

This research employed a normative legal research design, focusing on the interpretation and analysis of legal texts, including the 1945 Constitution, laws relevant to regional governance, and court decisions. This approach is complemented by a qualitative case study methodology, which examines specific examples of regional autonomy implementation and its impact on national unity.

### *3.2 Data Collection*

Data collection utilised two main sources: legal documents and secondary literature. Legal Documents: The study analysed key legal texts, including the 1945 Constitution, particularly the amendments relating to decentralisation; laws on regional governance, including Law No. 22 of 1999, Law No. 32 of 2004, and Law No. 23 of 2014; relevant government regulations and decrees that operationalise these laws; and decisions from the Constitutional Court and other judicial bodies that interpret and enforce these

laws. Secondary Literature: The research draws on various scholarly articles, books and reports that discuss decentralisation, regional autonomy and national unity in Indonesia. This includes literature on the theoretical framework of decentralisation, historical accounts of political and legal reforms in Indonesia, and empirical studies of decentralisation policy outcomes.

### 3.3 Data analysis

Data analysis involved two main steps: Doctrinal Analysis, which involved a detailed examination of legal texts to understand the normative framework governing decentralisation in Indonesia, focusing on the interpretation of constitutional provisions, legislative intent, and judicial interpretations that shape the relationship between regional autonomy and national unity; and Case Study Analysis, which provided a contextual understanding of how regional autonomy is practiced and its implications for governance and unity. The case studies were selected based on their relevance to issues of decentralisation, governance challenges, and regional disparities, with analysis focused on identifying patterns, challenges, and best practices in the implementation of regional autonomy.

## 4. RESULTS AND DISCUSSION

### 4.1 Constitutional Provisions and Legal Framework

The Indonesian Constitution, particularly after amendments in the early 2000s, provides a strong legal basis for decentralisation. Article 18 and related provisions outline the structure and authority of regional governments, granting them significant autonomy while maintaining the unitary nature of the state. This constitutional framework aims to empower local governments to manage their affairs independently, subject to broader national laws and policies.

The legal framework supporting decentralisation includes several key laws, such as Law No. 22 of 1999, which initiated

the decentralisation process, and its successors, Law No. 32 of 2004 and Law No. 23 of 2014. These laws delineate the division of responsibilities between the central and local governments, including areas such as public service delivery, fiscal management, and local governance.

The constitutional and legal frameworks set out a clear structure for decentralisation, but also embed mechanisms to ensure national unity. For example, while local governments have the authority to manage local affairs, the central government retains the authority to intervene in matters relating to national interests, such as defence, security, foreign policy, and monetary policy. This dual structure aims to balance autonomy with unity, preventing fragmentation while allowing for regional diversity.

The Indonesian Constitution, especially after amendments in the early 2000s, provides a strong legal foundation for decentralisation, emphasising significant autonomy for local governments within a unitary state [7], [21]. Article 18 and related provisions delineate the structure and authority of local governments, empowering them to manage their affairs independently while complying with national laws and policies [21]. Laws such as No. 22 of 1999, No. 32 of 2004, and No. 23 of 2014 further detail the division of responsibilities between the central government and local governments, covering areas such as public services, fiscal management, and local governance [7]. This constitutional and legal framework aims to balance autonomy with national unity by allowing for regional autonomy while allowing for central government intervention in matters of national interest such as defence, security, and foreign policy [21]. This dual structure aims to prevent fragmentation while embracing regional diversity, ensuring a cohesive and united nation.

### 4.2 Judicial Interpretation and Constitutional Court Decisions

Indonesia's Constitutional Court plays an important role in interpreting the constitutionality of laws and resolving disputes between the central and local

governments. Several landmark decisions have clarified the boundaries of regional autonomy and the limits of central government intervention.

For example, the Constitutional Court's decision on a dispute between the central government and the province of Aceh over the application of Sharia law highlights the role of the courts in balancing regional autonomy with constitutional principles. The Court ruled that while local governments have significant autonomy, their laws and regulations must be aligned with national legal norms and the constitution.

Judicial interpretations underline the importance of maintaining a balance between empowering local governments and ensuring compliance with national standards. Constitutional Court decisions often reflect a cautious approach, promoting regional autonomy within the confines of the national legal framework. This ensures that decentralisation does not jeopardise the unitary state structure or lead to legal inconsistencies across Indonesia.

Judicial interpretation plays an important role in balancing local government empowerment and enforcing compliance with national standards, especially in the context of promoting regional autonomy within the national legal framework [5], [22], [23]. Decisions of the Constitutional Court often demonstrate a cautious approach to ensuring that decentralisation efforts do not undermine the unitary state structure or create legal inconsistencies across Indonesia. By carefully interpreting laws and regulations, the court aims to strike a balance that allows for regional empowerment while maintaining overall legal coherence and harmony within a national governance framework. This approach helps prevent conflict between the central and regional governments, ultimately preserving the integrity of the unitary state while encouraging effective regional development and governance.

#### *4.3 Governance Outcomes and Regional Disparities*

The practical outcomes of decentralisation in Indonesia have been mixed, with significant regional variations in the quality of governance and development outcomes. While some regions, particularly those with strong administrative capacity and natural resources, have thrived under the decentralisation framework, others are still grappling with issues such as corruption, inefficiency, and capture of local elites.

Decentralisation in Indonesia, exemplified by regions such as Jakarta and Yogyakarta, shows the potential to improve public services and local governance by empowering local governments to meet specific community needs [2]. However, regions such as Papua and West Nusa Tenggara face difficulties in utilising autonomy to improve socioeconomic outcomes, mainly due to inadequate administrative capacity and limited resources [9]. Various studies emphasise the critical role of local government capacity in promoting human development during decentralisation, highlighting the need to strengthen capacity in education, health and the economy to drive progress [14]. Empirical evidence underscores the positive impact of various capacities, including analytical, operational and political capacities, on public service delivery, emphasising the importance of considering these capacities in designing and implementing decentralisation programmes [24]. In addition, research shows that fiscal and administrative decentralisation can increase citizens' prosperity, while direct local elections may not have the same impact, especially in less corrupt institutional environments [3].

The gaps in governance outcomes highlight the need for a different approach to decentralisation in Indonesia. A one-size-fits-all model may not be sufficient to address the unique challenges faced by different regions. Hence, there is a need for capacity building initiatives, customised fiscal policies, and targeted interventions to support weaker regions. Ensuring equitable distribution of resources and addressing disparities between

regions is critical to maintaining national unity and preventing regional discontent.

#### *4.4 Balancing Regional Autonomy and National Unity*

The balance between regional autonomy and national unity is a central theme in the decentralisation discourse in Indonesia. While regional autonomy is seen as a means to honour local diversity and promote development, it also carries the risk of regionalism and secession, especially in regions with ethnic diversity and rich natural resources.

Policies aimed at promoting national unity, such as a national curriculum, standardised legal frameworks, and national development planning, seek to mitigate these risks. In addition, initiatives such as special autonomy status for regions like Aceh and Papua aim to address specific regional grievances while keeping them within the national unity.

These findings suggest that balancing autonomy with unity requires a nuanced and context-sensitive approach. Policies must be flexible enough to accommodate regional specificities while ensuring alignment with national objectives. Effective communication, inclusive governance, and equitable development are key to fostering a sense of belonging and shared national identity among the various regional entities.

#### *4.5 Policy Implications and Future Directions*

The results of this study underscore the importance of continuous evaluation and adjustment of decentralisation policies. Policymakers need to consider the evolving socio-political landscape and the varying capacities of local governments. Strengthening the legal framework, enhancing local capacities, and promoting equitable resource distribution are important steps to ensure that decentralisation contributes positively to governance and national unity.

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Future policy directions should focus on deepening decentralisation by improving local governance while maintaining national cohesion. This includes improving the legal and regulatory framework, supporting local capacity building, and ensuring that decentralisation does not exacerbate regional disparities. The role of the central government is to provide oversight, support, and coordination, to ensure that decentralisation benefits all regions equitably.

### **5. CONCLUSION**

Indonesia's journey towards decentralization mirrors a global trend of empowering regional governance to enhance democracy, improve public services, and promote local development. The constitutional and legal frameworks since the late 1990s have advanced regional autonomy, giving local governments more control. However, this has also highlighted tensions between autonomy and national unity. While decentralization has led to more responsive governance, it has also exposed challenges such as legal inconsistencies, regional disparities, and the risk of regionalism. The Constitutional Court has been pivotal in balancing these dynamics, ensuring local regulations align with national principles. Disparities in governance outcomes call for differentiated, context-sensitive policies to address unique regional challenges. Strengthening local capacities, ensuring equitable resource allocation, and fostering inclusive governance are crucial for maximizing decentralization benefits while maintaining national cohesion. Going forward, Indonesia must refine its decentralization policies to better balance regional autonomy with national unity, enhance legal frameworks, support local governance, and promote a unifying national identity, thus strengthening the nation as a whole.

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