

Reformulation Of Fiscal Decentralization To Promote Sustainable Regional Development Governance: The Challenge Of Preventing APBD Corruption

Gilang Muhammad Mumtaaz¹, Angga Dwi Ferdiansyah², Murjani³
gilangmumtaaz@gmail.com, anggaferdiansyah08@gmail.com, janisamarinda@gmail.com

¹Faculty of Law, University of Indonesia, Indonesia.

²Faculty of Law, University of Gadjah Mada, Indonesia.

³Faculty of Syariah, Sultan Aji Muhammad Idris State Islamic University Samarinda, Indonesia.

Article Info

Received: 2025-01-17

Revised: 2025-02-21

Accepted: 2025-03-31

Keywords:

Fiscal Decentralization;
Corruption; APBD

Abstract

Since entering the Reformation era, Indonesia has entered a new era in the government system, where most of the affairs for basic services that were previously in the hands of the central government are devolved through decentralization policies, which are also referred to as regional autonomy policies. Regional development in the autonomy era provides an opportunity for local governments to innovate by building local growth centers to encourage regional economic growth. In practice, Indonesia adopts asymmetric decentralization, which in principle can be based on conditions: (1) administrative (management), (2) political, and (3) fiscal. Regarding fiscal decentralization, starting from the regime of Law 25/1999, Law 33/2004, to Law 1/2022, the central role of fiscal decentralization from the beginning aimed to support the financing of devolved affairs, known as the Money Follows Functions principle. The fiscal decentralization policy provides certainty that the devolved affairs can be properly implemented by the Local Government. However, in its empirical dynamics, during the 23 years that regional autonomy has been implemented, at least there are various problems originating from regulations and local governments themselves, which result in inefficiencies in regional spending. Starting from the effect of incumbent spending allocations in regional head elections (pilkada), known as the political budget cycle (PBC) effect; weak local government governance that causes inefficiencies in regional financial management; central and regional budgeting support that has not been optimal in implementation; to the biggest problem, namely the problem of corruption of the Regional Budget Revenue and Expenditure by the definitive Regional Head and the ranks of the regional government. This research uses a

normative juridical approach method with a statutory approach accompanied by an analytical descriptive case approach. The type of data is secondary data collected and studied using literature studies and analyzed using qualitative analysis methods. The results and discussion of this research conclude, First, it cannot be denied that corruption drastically distorts fiscal decentralization in the regions. It is estimated that about 30 percent of Anggaran Pendapatan dan Belanja Daerah or called "APBD" funds evaporate due to corruption, and about 70 percent of them occur in the procurement of government goods and services. the emergence of APBD corruption is weak planning and budgeting. There are several sectors that are vulnerable to potential corruption, especially in expenditures sourced from the Transfer to Regional Funds, Village Funds and Deconcentration Funds, which have implications for the high cost economy. Second, the ideal formulation used to inhibit the potential for corruption in the regions, especially the APBD, includes optimizing the implementation of fraud audits such as investigative audits or corruption audits, creating an internal whistleblowing system for local governments, improving the regional budgeting system, and strengthening the Government Internal Supervisory Apparatus. In terms of encouraging sustainable regional development governance, policy recommendations are needed, including: increasing sustainable public transparency; considering results-based accountability; making extensive use of ICT (Information and Communication Technology); increasing the role of reward and penalty mechanisms; and changing the paradigm from money follows function to money follows program.

I. Introduction

Basically, Indonesia's existence is as a state of law. As mandated in Article 1 paragraph (3) and 28I paragraph (5) of the 1945 Constitution of the Republic of Indonesia. Looking deeper into the meaning of the conception of the rule of law, the essence is that in the dynamics of state life, the law should be idealized as the commander (Armandz, 2017). Therefore, the idea of a modern legal state is developing today, which initially the state as a night watchman (*nachtwachterstaat*) shifted to a *welfare* state as coined by John Maynard Keynes, where the state is also obliged to play an active role in organizing the welfare of its people (Bisariyadi, 2016).

In line with welfare, in essence, one reflection of the ideals of the welfare state itself is when the state plays an active role in upholding democracy. It cannot be denied that the relationship between democracy and the perspective of the rule of law is very close like two sides of a coin. The conception of democracy contains the principles of popular sovereignty (*democratie*), while the conception of the rule of law contains the principles of the rule of law (*nomocratie*), with each principle of the two conceptions running hand in hand and inseparable. According to Jimly Asshidiqie, such an understanding of the rule of law is known as a "*democratic state of law*" (*democratische rechtsstaat*) or in *constitutional* form is called *constitutional democracy*. In the context of its application in Indonesia, one illustration of the implementation of the conception of a democratic state of law is the implementation of the conception of decentralization and regional autonomy in the administration of local government as one of the actualizations of the manifestation of popular sovereignty.

Since January 1, 2001, Indonesia has entered a new era in the government system, where most of the affairs for basic services that were previously in the hands of the central government were devolved through decentralization policies, which are also referred to as regional autonomy policies. In fact, this decentralization policy has been stated in Law No. 5 of 1974 concerning Principles of Government in the Region, where in article 7 it is stated that through regional autonomy, the Region has the right, authority, and obligation to regulate and manage its own households in accordance with applicable laws and regulations. In Law No. 5 of 1974, regional autonomy was placed in level II regions known as Kabupaten/Kota. However, with the passage of time, the full realization of regional autonomy was only realized in 2001 through Law No. 22 of 1999 concerning Regional Government and Law No. 25 of 1999 concerning Financial Balance between the Central and Regional Governments.

Reflecting back to Law No. 5/1974, Law No. 22/1999 placed the concept of broad autonomy to the regions, where all government affairs are regional government

affairs, except for foreign policy, defense, security, justice, national monetary and fiscal affairs, and religion which are the absolute authority of the central government. The division of affairs from the center to the regions is a milestone of a new paradigm that has the hope that community services in the regions will be better and of higher quality when implemented directly by local governments. Given the diversity of regional conditions, where some regions have special problems that require attention, the decentralization policy in Indonesia also adopts *asymmetric decentralization*, which in principle can be based on conditions: (1) administrative (management), (2) political, and (3) fiscal. In terms of administrative decentralization, for example, central government employees are deployed; the majority are health service employees at puskesmas, as well as teachers from elementary to high school levels. Given the size and scale of the devolved administration, decentralization in Indonesia is often referred to as *big bang decentralization* (OECD, 2020). In terms of political decentralization, local people have the opportunity to directly elect their local leaders through regional head elections namely Pilkada (Hofman & Kaiser, 2004). To fiscal (financial) decentralization, in the form of central to regional transfers, in the form of General Transfer Funds (DTU) and Special Transfer Funds (DTK). Indeed, in the era of decentralization, local governments, both provincial and district and city, are expected to be active with their regional development strategies to contribute to national development, even including villages as the smallest autonomous economic unit whose existence is regulated by Law No. 6/2014 (Ismail & Hamzah, 2006). National development today is not entirely left to the central government, but is carried out collaboratively with 38 provinces, 416 districts, 98 cities and 74,961 villages in Indonesia.

In empirical reality, regional development in the era of autonomy provides opportunities for local governments to innovate by building local growth centers to encourage regional economic growth. Thus, the significance of policies oriented towards fiscal decentralization is very impactful, as a simple example, namely the investment of capital into the regions, which has been issued regulations on investment incentive schemes that can be provided by local governments, as stated in Government Regulation (PP) Number 24 of 2019 concerning Provision of Incentives and Ease of Investment in the Region. Talking about fiscal decentralization in relation to regional autonomy certainly has a central role in the development of a region, this is because the largest source of regional revenue comes from central transfers, except for regions that have large regional original income (PAD) such as DKI Jakarta province. Indeed, the fiscal decentralization policy was introduced through Law Number 25 of 1999 concerning Central and Regional Financial Balance, which from the beginning aimed to support the financing of devolved affairs, known as the *Money Functions* principle. Fiscal decentralization policy provides certainty that devolved affairs can be properly implemented by local governments. Since its introduction in 1999, the law governing this fiscal decentralization policy has been

amended 2 (two) times, namely into Law No. 33/2004 and finally into Law No. 1/2022 on Financial Relations between the Central Government and Local Governments (HKPD).

With fiscal decentralization, it is expected that local governments can manage the transfer funds to meet the needs of various public services and improve the welfare of the people in the regions. However, disparities in both access to public service delivery and fiscal disparities between regions still persist. Referring to what Benedictus Raksaka Mahi said, there are at least various problems originating from regulations and local governments themselves, which result in inefficiencies in regional spending. Starting from the effect of incumbent spending allocations in regional head elections (Pilkada), known as the political budget cycle (PBC) effect; weak local government governance that causes inefficiencies in regional financial management; central and regional budgeting support that has not been optimal in implementation; to the problem of corruption of the Regional Budget by the definitive Regional Head and the ranks of local government (Mahi, 2023).

In relation to corruption, fiscal decentralization has in fact drastically increased corruption in the regions (Rinaldi, 2007). In line with that, borrowing what was expressed by Alfada, that the degree of fiscal decentralization, both on the expenditure side and the revenue side, encourages an increase in the number of corruption cases in local governments. Misconceptions about the purpose of *intergovernmental revenue* from the central government at the local level are considered to be the cause of corruption in most local governments. Many opinions have emerged that the most visible effect of fiscal decentralization is corruption, not the improvement of public services. The facts confirm this opinion. A Transparency International survey ranked Indonesia 4th among ASEAN countries, after Singapore, Brunei Darussalam and Malaysia (Alfada, 2019).

One of the causes of Anggaran Pendapatan dan Belanja Daerah (APBD) corruption is weak planning and budgeting. There are several sectors that are vulnerable to potential corruption, especially in expenditures sourced from Regional Transfer Funds, Village Funds and Deconcentration Funds, which have implications for the *high cost economy*. Quoting Alfada, it is stated that misconceptions about transfer funds have contributed to the proliferation of corruption in the regions. Mauro states that one of the main causes of corruption is government interference in economic matters and in general in variables included in *government policy* such as import tariffs and civil servant salaries. In addition to causes related to government policy, Mauro also mentioned rent-seeking behavior as the root of corruption in government. This condition certainly has an adverse impact on various aspects (economic, social, government bureaucracy, politics and democracy, security enforcement and also

on the environment) and leads to a decrease in regional competitiveness.

To borrow a statement from **Misra**, where it is concluded that the majority of studies on corruption show that corruption not only brings legal consequences, but has also worsened various sectors of life. For example, it is found that corrupt practices lead to a decline in the value of public investment, hamper economic growth, and affect the composition of government spending, especially for the education sector (Misra, 2011). In addition, from a constitutional perspective, corrupt practices also weaken democratic institutions, limit public services, and reduce productivity in the economic sector. Meanwhile, according to **Eigen's** view **in Isra**, to a certain extent corruption not only threatens the environment, human rights, democratic institutions, but also hinders development and exacerbates poverty (Isra, 2018).

In Indonesia's fiscal decentralization arrangements, it is estimated that about 30 percent of APBD funds evaporate due to corruption, and about 70 percent of this occurs in government procurement of goods and services. Corruption has resulted in sluggish economic growth and discouraged investment, leading to lower productivity; poor quality goods and services for public services (damaged roads, collapsed bridges, derailed trains, uneatable rice etc.); and rising external debt. These conditions have triggered the failure of economic (fiscal) decentralization, which has resulted in a decline in public welfare. The phenomenon of increasing levels of regional corruption since the implementation of regional autonomy is the reason that observing the effects of decentralization on the level of regional corruption is still a necessary thing to do. Moreover, until this year, decentralization has been running for more than two decades, namely 23 years.

Based on the complexity of the issue of the nature of the implementation of fiscal decentralization and its relationship with policies oriented towards preventing potential corruption of the APBD budget above, the problem formulation that the author proposes in this study is as follows:

1. What is the relationship between fiscal decentralization and the level of APBD corruption in Indonesia during 23 years of regional autonomy?
2. How is the ideal policy formulation used to inhibit the potential for corruption in the regions, especially the APBD?

2. Research Method

This research uses the normative juridical method, which is an approach that seeks to synchronize the provisions of the applicable law in legal protection against norms or other legal regulations with relation to the application of legal regulations in practice in the field (Asofa, 2001). Then, the approach used in this research is a statutory approach (Haryono, 2005) namely some of them: Law No.

1 of 2022 concerning Financial Relations between the Central Government and Regional Governments, Law No. 23 of 2014 concerning Regional Governments, and Law No. 20 of 2001 concerning Amendments to Law No. 20 of 2001 concerning Amendments to Law No. 20 of 2001 concerning Amendments to Law No. 20 of 2001 concerning Amendments to Law No. 31 of 1999 concerning Eradication of Corruption, which is accompanied by a case approach (Marzuki, 2005), in order to describe, describe, and answer the problem of the dynamics of implementing fiscal decentralization policies starting from the basic conception of regional heads within the scope of decentralization and regional autonomy, the problem of corruption in the APBD budget that distorts fiscal decentralization, to the ideal policy formulation used to inhibit the potential for corruption in the regions, especially the APBD budget in order to realize effective, efficient, and sustainable regional development.

The research specification used by the author in this legal writing is descriptive analytical, namely by describing the applicable laws and regulations associated with legal theories and practices implementation of positive law related to the problem (Marzuki, 2005). The type of data used in this research is secondary data. Secondary data is data derived from library materials, which are obtained from primary and secondary legal sources (Soekanto, 2004). Primary legal materials are legal materials that have juridically binding force, such as laws and regulations. Meanwhile, secondary legal materials help to analyze and understand primary legal materials, such as law books, legal research journals, literature from legal experts, and other reference materials through internet websites. The data collection method of this research is carried out by literature study, namely the collection of data sourced from books, literature, and opinions of legal experts related to this research. The data that has been reviewed and collected is then compiled, then analyzed qualitatively. Qualitative data analysis method is analysis using verbal words, not in the form of numbers.

3. Results and Discussion

Distortions of Fiscal Decentralization: Corruption in APBD Circles

Fiscal decentralization in the context of a unitary State is the transfer of fiscal authority from State authorities to autonomous regions. Fiscal authority at least includes the authority (1) to manage revenue/taxation, (2) the discretion to determine the budget, and (3) to allocate resources owned by the region to finance public services that are the duty of the region. The definition of fiscal *decentralization* is in line with that given by Davey, "*Fiscal decentralization is the division of public expenditure and revenue between levels of government, and the discretion given to regional and local governments to determine their budgets by levying taxes and fees and allocating resources*" (Davey, 1989).

On the expenditure side, fiscal decentralization can be translated as the transfer of fiscal authority to perform expenditure actions to autonomous regions. The purpose of granting such authority is to make the allocation of resources more efficient and effective, with the assumption that the Local Government (LG), which is closer to the community, knows the needs of the community better than the distant Central Government. With this assumption, the allocation of resources made by local governments will be more responsive to the needs of the community. Meanwhile, fiscal decentralization on the revenue side is the granting of revenue management authority, both in the form of taxes and levies, to autonomous regions. The purpose of granting revenue authority to autonomous regions is to increase public participation in funding public services because they directly benefit from the tax/retribution payments.

The relationship between decentralization and corruption at the local government level has attracted the interest of many researchers. The nature of decentralization, which gives wider authority to local governments, creates two different situations in relation to corruption. On the one hand, as Prud'homme points out, a decentralized system of government creates a closer relationship between the government and the people at the local level and promotes better public services (Prud'homme, 2018). This feeling of closeness to constituents and motivation to improve public services will in turn reduce the motivation to behave corruptly. Studies supporting decentralization put forward arguments that decentralization is the solution to improving governance structures and limiting the growth of corrupt practices. Ahlin, for example, argues that greater transparency exhibited by decentralized governments will provide restrictions on corruption and improve monitoring by the central government (Ahlin, 2001).

Carbonara argues that decentralization will provide local government officials with fewer opportunities to benefit from corrupt practices and increase the chances of being detected for corrupt behavior (Carbonara, 1999). On the other hand, a decentralized government system will also lead to weakened supervision, control, and auditing by central government agents, creating greater opportunities for corruption. In the context of regional autonomy in Indonesia, Susanto mentioned 3 (three) reasons why regional autonomy and decentralization gave birth to negative excesses such as corruption. *The first* reason is because the regional autonomy that has been running tends to focus only on the delegation of authority in making policies, financial management and bureaucratic administration from the center to the regions. The regional autonomy system that has been running has failed to include the distribution of power to the community. This has led to the consequence that opportunities to access regional economic and political resources are only open to local elites. This has led to the emergence of corruptive acts between rogue businessmen and corrupt rulers. *Second*, regional autonomy has broken the hierarchical structure of government, allowing regional heads to exercise their powers without the control of the central government. The relationship between the center and the regions in the current autonomy system is a normative-functional

relationship. This situation has led to the absence of formal institutions capable of effectively supervising the performance of local governments. *Third*, the failure of regional legislative councils to perform their function as power controllers. In fact, in many cases of corruption in the regions, the legislature is often the actor involved.

Empirical findings on the relationship of decentralization to corruption as expressed by Fishman and Gatti found a positive relationship between corruption and local government spending on funds derived from federal government transfers (Fishman, 2002). In contrast, Handra found that fiscal decentralization in government spending is negatively associated with corruption (Handra, 2006). Then, Treisman provides empirical evidence that as the level of government authority grows, decentralization has a tendency to reduce accountability and further encourage corruption (Treisman, 2000). Sadly and interestingly, cases of alleged corruption in Indonesia involve local government leaders such as governors, regents and mayors as well as members of local parliaments (DPRD). The difficulty of breaking the chain of corruption in local government has created a national discourse on why corruption continues at the *subnational* level. In contrast to the expectations of regional autonomy, one of which is represented by the existence of fiscal decentralization, corruption cases have not decreased, but have actually flourished like mushrooms in the rainy season. For example, in 2004, corruption cases were revealed in almost all local governments with very material values, proving that corrupt practices have become more prevalent. Specifically for corruption in the regions, in its quarterly report, the Center for Anti-Corruption Studies (PUKAT) of the Faculty of Law, Gadjah Mada University stated that in the 2003-2007 period, corruption in the regions ranked top for cases handled by the Corruption Eradication Commission (KPK) with a total figure of 73%. Meanwhile, according to the Trend Corruption Report for the first semester of 2008, 38% of 40 corruption cases in Indonesia occurred in provinces and districts/cities. From data released by the Ministry of Home Affairs in 2011, there were 17 out of 33 governors in Indonesia who had been named as corruption suspects. Reflecting on the data compiled by hukumonline.com (26/12/2018) on corruption practices in the regions in 2018, it signals that efforts to prevent and eradicate corruption, especially in the regions, have not only failed to find a bright spot, but even worse, the symptoms of corruption are increasingly chronic. This signal can be inferred from the fact that during 2018 alone, there were around 23 regional heads caught in corruption cases that had been handled by the KPK, ranging from governors, regents, mayors, to regional officials. The facts above show that regional autonomy and fiscal decentralization are still not working as expected. At least Sommaliagustina revealed that of the many corruption cases that ensnared regional heads in Indonesia, the most common *modus operandi* of corruption committed by regional officials was accepting bribes for licensing natural resource management, soup winning project tenders or procurement of goods, and bribes in budget preparation (Sommaliagustina, 2019). This finding indicates that corruption of the APBD is one of the problems that needs attention.

Pulling back the historical trajectory of the 23-year journey of fiscal decentralization

in Indonesia is marked by changes in the regulations that affect it. These regulations can be categorized as follows:

- a. Local Government Law (UU Pemerintahan Daerah): UU 22/1999, UU 32/2004, UU 23/2014
- b. Fiscal Balance Law (UU Perimbangan Keuangan): UU 25/1999, UU 33/2004, UU 1/2022
- c. Local Tax and Retribution Law (UU Pajak Daerah dan Retribusi Daerah): UU 34/2000, UU 28/2009

Interestingly, in the last twenty-three years, two amendments to the LG Law have affected the level of local government spending. The LG Law determines the affairs handled by LGs. The enactment of Law 22/1999 in 2000, led to the transfer of more than 2 million civil servants from the center to the regions, which resulted in an increased need for regional expenditure to pay civil servant salaries. Then Law 22/1999 was replaced by Law 32/2004, but it can be said that there were no additional affairs to the regions, so there were practically no additional spending needs in the regions. Finally, there was the replacement of the Local Government Law with Law 23/2014 which withdrew some authority from the Regency / City to the Provincial level as well as to the Central Government. In general, Law 23/2014 did not have a major impact on shifts in spending between the Center and the Regions. However, there is a significant shift in expenditure requirements between the Provincial Government and District/City Governments due to the transfer of high school affairs. The Provincial Government's expenditure needs increased sharply due to the transfer.

Then in line with the principle of *money follows functions*, there is the Fiscal Balance Law (Fiscal Balance Law) which provides funding sources to support the authority and affairs decentralized through the Local Government Law. The first PK Law is Law 25/1999, which requires the government to provide transfer funds to local governments (provincial, district/city). Through Law 25/1999, equalization funds in the form of General Allocation Fund (DAU), Revenue Sharing Fund (DBH) and Special Allocation Fund (DAK) were provided to local governments. Law 25/1999 provided for a fixed amount of DAU as a percentage of domestic revenue, while DBH was distributed on a source-based basis. The revision of the PK Law through Law 33/2004 increased the amount of DAU and additional types of DBH, while the amount of DAK is determined by the financial capacity of the State.

In addition to the PK Law, LGs are also authorized to manage Regional Taxes and Retributions through the PDRD Law. Since 2001, there have been two PDRD Laws in force, namely Law 34/2000 and Law 28/2009. These two laws became the basis for the regions to manage their own-source revenues (PAD), especially in the form of local taxes and retributions (before being updated in Law No. 1 Year 2022 on Financial Relations between the Central Government and Local Governments). However, at least the impact of the two laws prior to Law 1/2022 on PAD can be observed in Table 1 below, which shows the development of PAD from year to year from 2001 to 2019. In general, it can be seen that the PAD of regencies/municipalities

and provinces increased slowly. Regency/municipality PAD increased from 0.4% of GDP in 2001 to 0.8% of GDP in 2019. A significant increase occurred in 2015. The same was true for provincial PAD. However, overall there was a decline in state revenue from 19.4% of GDP in 2001 to 14.2% of GDP in 2019. The decline is more due to Central Government Revenue which continues to decline from year to year.

Table 1. Revenue of Regency/City, Provincial, and Central Government 2001-2019)
Source: Processed from Ministry of Finance data

State Revenue	2001	2005	2009	2012	2015	2019
District/City PAD	0,4%	0,4%	0,4%	0,5%	0,8%	0,8%
Province PAD	0,7%	0,9%	0,8%	0,9%	1,1%	1,1%
Government Revenue Center	18,3%	17,8%	15,1%	16,2%	13%	12,3%
Total	19,4%	19,1%	16,3%	17,5%	14,8%	14,2%

The fiscal decentralization aspect of expenditure can be seen from the amount of local government expenditure compared to central government expenditure. Table 1 shows that the proportion of local government expenditure in relation to GDP has been slowly increasing, in contrast to central government expenditure, which has tended to decline over the last 20 years. As a result of the decline in central government spending, state spending (central and local) continues to decline.

Table 2. Central and Local Government Expenditure 2001-2019 (% of GDP)
Source: Processed from data at the Ministry of Finance

State Expenditure	2001	2005	2009	2012	2015	2019
Central Government	15.8%	13,0%	11.2%	12.3%	10.3%	9.4%

Local Government	6,0%	6.8%	6.7%	7.2%	7.3%	7,0%
Total (Central + Regional)	21,9%	19.8%	17.9%	19.5%	17.5%	16,4%

At least if we reflect on the picture above, it shows that the size of state expenditure managed by local governments in the ratio to GDP has continued to increase from 2001, although it was seen to start declining in 2019. This trend is in contrast to the size of Central Government spending, which has consistently decreased from 2001 to 2019. Of course, the question is why the size of regional expenditures can continue to increase when central expenditures continue to decline. At least the answer can be seen in Table 3.

Table 3. State Expenditure and Transfers to Regions and Villages (TKDD) 2004-2020 (Rp. T)

Source Processed from Ministry of Finance data

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Central Expenditure	297	361	440	504	693	628	781	883	1,01	1,13	1,20	1,18	1,32	1,26	1,45	1,49	1,82
TKDD	129	150	226	253	292	308	344	411	480	513	573	623	710	742	757	813	762

Transfers to Regions and Villages (TKDD) show an increase in nominal terms from year to year as shown in Table 3. TKDD nominally increased from Rp 129.7 trillion in 2004 to Rp 762.5 trillion in 2000. Nominally, at least in the 2001-2020 period, central government spending also continued to increase, but the increase was not as large as the increase in TKDD. In general, it can be concluded that funds managed by local governments continue to increase in nominal terms.

In the spirit of Kuncoro, who expressed optimism that decentralization in Indonesia should provide less room for corruption by stating that administrative decentralization would lead to lower levels of corruption because the process relocates authority to regions characterized by low levels of bribery (Kuncoro, 2002). He argues that local governments are environments with weak bribery potential so corrupt practices at the local level should decrease with decentralization. Kuncoro's argument implies that the implementation of fiscal decentralization should be expected to mitigate corruption due to an increase in accountability and local

authority. However, some unresolved challenges of decentralization have emerged and cannot be solved easily. To quote Alfada's earlier remarks, these conditions then triggered various negative effects of decentralization, such as the non-achievement of public services as expected and the emergence of corrupt practices. Evaluations of the implementation of regional autonomy by various groups have shown that this agenda has been more of a failure than a success.

Sommaliagustina reiterated that a very visible failure is the number of corruption cases that occur in the regions, and many regional heads are involved in corruption cases. It is undeniable that Law No. 22/1999 which was later amended into Law No. 32/2004 on Regional Government gave rise to a new spirit to develop the region. However, on the other hand, the new enthusiasm for regional development in regional autonomy is understood differently by local elites in the regions. This can be seen in recent years, for example, in that the implementation of decentralization in regional autonomy has also resulted in the "decentralization" of corruption. This condition can be seen, for example, when the Corruption Eradication Commission (KPK) noted that from the beginning of the implementation of regional autonomy until 2015 there were 64 corruption cases involving 51 regional heads. The large number can not only be seen from one side, there are also other problems that are actually a factor in the occurrence of corruption cases involving regional heads.

For the condition of Indonesia, the data shows that the funds managed by the Regional Government (Pemda) in Indonesia show an increasing trend from year to year in the last 20 years, both the amount, as well as its proportion to GDP. Then if you look at the data on the number of corruption cases related to local governments, it also shows an increasing trend, especially from 2004 to 2018 (see table graph 1). The results of the analysis show a correlation of 0.72 between local government managed funds and the number of corruption cases. This finding indicates a positive correlation between the amount of funds managed by local governments and the number of corruption cases.

Figure 1: Number of Corruption of Regional Heads
Source: Processed from KPK data

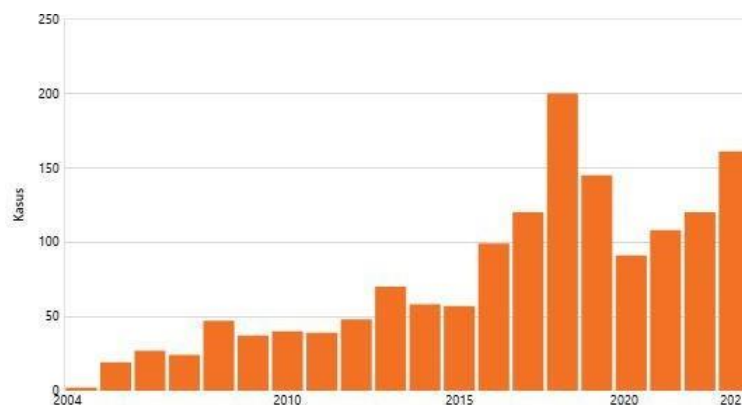


Figure 1. Transfers to Regions and Corruption Cases in Local Government

Sommaliagustina in her analysis of the implementation of regional autonomy and corruption by the regions revealed that a number of recent studies have shown negative sentiments about the achievements of regional autonomy that has been running for almost 23 years. A survey conducted by the Political Research Center of LIPI in 2017 stated that the practice of regional autonomy failed to realize its initial objectives. Referring to what was revealed by Hidayah, he further stated that there are several indicators of the failure of regional autonomy. *First*, the high poverty rate, which shows that there are problems related to the distribution and equality of income outcomes. *Second*, the low quality of public services as an excess of the failure of bureaucratic reform at the regional level. *Third*, the strengthening of tribal and regional identity politics, which threatens national integration. *Fourth*, the proliferation of dynastic politics, where regional political power is exercised by people within the same family. *Fifth*, the rampant phenomenon of corruption at the regional level, which generally involves unscrupulous regional officials, members of the regional legislature and local economic elites.

Promoting Sustainable Regional Development: Evaluation and Recommendations

Looking at the basics, as expressed by Alfada, that in addition to the problem of limited staff capacity and weak motivation to develop the region, another problem that hinders the achievement of the goals and objectives of decentralization is the weak supervision and auditing of institutions at the local government level. These limitations create opportunities for government officials to exploit the budget for personal gain. Massive corruption in the regions requires concrete efforts to prevent it. In the midst of low confidence in the ability of law enforcement to successfully provide a deterrent effect, systematic and integrative alternative efforts need to be developed. Among these efforts are optimizing the implementation of fraud audits such as investigative audits or corruption audits, creating an internal whistleblowing system for local governments, improving the regional budgeting system, and strengthening the Government Internal Supervisory Apparatus.

1) Corruption Audit

At least according to Misra, one of the efforts to handle corruption cases is with forensic accounting / auditing instruments or often referred to as investigative / fraud auditing and corruption auditing (Misra, 2011). Forensic accounting or investigative auditing is becoming increasingly important considering the statement that Samutka once made was true, He said that conventional audit procedures are inadequate to detect corruption even though these procedures are able to provide indications of corruption (red

flags). Labuschagne and Els stated that accountants and auditors are in a position that can play a role both in developing and building internal policies, procedures and controls and conducting audits (Samutska, 1980). They also said that the role and position of accountants and auditors requires them to be proactive in initiating organizational controls to uncover cases of corruption and money laundering.

The effectiveness and superiority of forensic auditing is proven by some of its reliable performance in revealing major cases in the world, such as Enron, Adelphia, Computer Associates, Global Crossing and so on. Its application has also been widely carried out in Indonesia as in the case of Bapindo (Jakarta, loss of Rp.1.3 trillion, February 1, 1994), Hongkong Bank Jakarta, loss of 79 billion, January 11, 1996), Bank Bali (loss of 900 billion, July 30, 1999) and many other cases that have been successfully revealed. In the public/government sector, the disclosure of corruption cases in the local government of Badung district, Bali in 2005 is one example of the successful implementation of this investigative audit.

2) Building a Whistleblowing System in the Region

The impact of the rampant corruption cases that occur is very detrimental to society and affects the economic growth of a region, slowing investment, and ultimately can hamper the welfare and prosperity of the people and hamper development. Due to the high destructive power of corrupt practices, to minimize the losses incurred, it is necessary to make prevention efforts so that the opportunities for fraud and corruption are getting smaller. One of the efforts to prevent fraud (including corruption) based on Presidential Instruction of the Republic of Indonesia Number 10 of 2016 concerning Action for the Prevention and Eradication of Corruption in 2016 and 2017 includes strengthening the internal control and supervision system at Ministries and Institutions (K / L). This strengthening is done by optimizing the whistleblowing system, information disclosure in governance, and transparency and accountability in financial management.

A good handling of the whistleblowing system is expected to increase the awareness of government officials and apparatus in maintaining their behavior and integrity. The implementation of a whistleblowing system is expected to create a clean, professional and responsible state apparatus. Research from various institutions such as the Organization for Economic Cooperation and Development (OECD), the Association of Certified Fraud Examiners (ACFE) and the Global Economic Crime Survey (GECS) concluded that one of the most effective ways to prevent and combat fraud is through a whistleblowing mechanism. Therefore, the implementation of an effective whistleblowing system needs to be encouraged in every organization (NCGP,

2008). Implementing an effective whistleblowing system is able to minimize the occurrence of fraud because of the organization's commitment to whistleblower protection policies, clear reporting mechanisms, and evaluations and improvements made to improve the effectiveness of the whistleblowing system so that it will encourage whistleblower participation to be more courageous in reporting the fraud they know. With a proper system design, the whistleblowing system will be able to reduce the culture of silence towards a culture of honesty and openness which is useful for preventing fraud. Citing the research results from Panjaitan shows that whistleblowing has a positive and significant effect on improving Forensic Audit results (Pandjaitan, 2018). The findings also imply that there is a need to expand the practice of whistleblowing aspects of auditing. Panjaitan believes that in this way, whistleblowing not only helps disclose fraud and corruption, but can also contribute to improving the results of forensic audits conducted by government auditors.

3) Improvements to the Government Budgeting System

One of the things that must be done immediately is to ensure that all budgeting and procurement activities are carried out in an accountable and transparent manner. E-procurement, e-catalog, e-planning and e-budgeting service mechanisms should ideally be mandatory for all regions in Indonesia. With online budget planning and procurement, the potential for corruption involving local officials, legislators and businessmen can be minimized. Another thing that is no less important is to reorganize the flow of regional licensing bureaucracy to be simpler so as to avoid corrupt behavior. Many corruption cases are related to licensing and land concessions. Ulum's research examined the role of natural resources in the relationship between fiscal decentralization and corruption in local governments in Indonesia. The study found two main results: fiscal decentralization in Indonesia increases the incidence of corruption in local governments, and second, the presence of natural resources in a region encourages corrupt practices when fiscal decentralization is implemented. Their second finding implies that corrupt practices can be triggered by unaccountable licensing practices (Ulum, 2019).

The planning and budgeting system in local governments has been regulated by various regulations, ranging from Laws, Government Regulations, Ministerial Regulations and down to the level of Regional Head Regulations. However, it cannot be denied that these regulations can still be circumvented for corruption purposes. The reason is the inconsistent implementation. Performance-based budgeting as a form of linking the budget as (input) with the output and outcome targets to be achieved by the budget, has not been implemented consistently. Output indicators in local budgets are still found in

the form of percentages, not measurable outputs such as units, lengths, volumes and so on.

4) Strengthening the Internal Supervisory Apparatus

Sommaliagustina revealed that the rampant corruption of regional heads throughout 2018, one of which was due to the weak supervisory system within the scope of local government. For example, the existence of the regional inspectorate or commonly called the Government Internal Supervisory Apparatus (APIP) seems to experience a dilemma because it is structurally under the regional head. The existing organizational structure limits the authority and courage of APIP staff because they are appointed and dismissed by the regional head. Even more sadly, several cases of alleged corruption or bribery that ensnared regional heads involved regional apparatus including APIP.

Nevertheless, the role of APIP is still considered very important in the regions. Labuschagne and Els state that auditors have duties and responsibilities not only related to the risk of *fraud*, but also the risk of *corruption*. This view is supported by the idea of strengthening the capacity of APIP in the regions, both in terms of authority and budget support. This idea is in line with the spirit of Government Regulation Number 12 of 2019 concerning Regional Financial Management. This PP emphasizes the importance of the existence of APIP in the regions. PP Number 12 of 2019 is in line with the revision of Government Regulation (PP) Number 18 of 2016 concerning Regional Apparatus. Both regulations support the idea of strengthening the supervisory role of APIP, in this case the regional inspectorate, by providing support for increased authority, independence, and greater budget allocations.

In essence, making regional development a driver of economic growth in the decentralization era is the right choice, because through decentralization many affairs and resources have been devolved. However, improvements to the management of devolved affairs and regional financial management need to be a concern. Fiscal decentralization policy has adaptability and can be designed to overcome various existing problems in order to support optimal regional development. Some notes and recommendations that can be considered include the following:

- 1) Improving sustainable public transparency: This needs to be done especially in performance-based planning, budgeting and auditing processes. Participatory planning and budgeting was used extensively initially in Brazil, Latin American countries, and the Republic of South Africa. In addition, a public input-based audit system should be adopted, for example using social audit and citizen score cards as practiced in India, which allows the public to

directly monitor and assess the performance of local governments starting from the village.

- 2) Consider results-based accountability: This was first introduced in New Zealand where local public sector managers are allowed freedom in the selection of inputs, but are held accountable for results, which must be in accordance with employment contracts. This system provides clarity of responsibility through a contract system in the recruitment of labor in the public sector.
- 3) Extensive use of ICT (Information and Communication Technology): More extensive use of information and communication technology is necessary for local governments to better understand what people want in their public services.
- 4) Increase the role of reward and penalty mechanisms: *First*, the incentive (reward) system for regions: Currently, in order to create an incentive system for local governments to perform, there is a Regional Incentive Fund (DID). However, the format of the DID is still unstable and changing, not directly related to the performance of local governments. It would be better if the government, through fiscal decentralization policy, could focus on a few important types of performance related to good governance with solid assessment, where DID is given to outstanding local governments. A governance performance award could be given for several important categories to improve local government governance, for example: (1) Participatory planning, budgeting and audit; (2) Regional development; (3) Socio-economic empowerment.

Second, develop an effective penalty system: For regions that have poor performance, a more effective sanction system needs to be developed. Currently, Law No. 1 Year 2022 on Central and Regional Financial Relations has developed a General Allocation Fund (DAU) transfer system based on local government performance. For regions with good performance, the DAU allocation is given in the form of a block grant (use is not determined by the Center), but for regions that perform poorly, the DAU allocation is given in the form of a specific grant (use is determined by the center and monitored for results). This policy has led directly to the improvement of local government performance, but it is necessary to modify the type of transfer, to distinguish between general transfers and transfers as a form of improving regional performance. One way is to introduce a separate performance-based grant. The mechanism is basically the same as that adopted in Law No. 1 of 2022, where poorly performing regions receive part of the DAU in the form of a block grant, but the other part in the form of a transfer called a performance-based grant specifically for the improvement of poor services. To implement these

performance-based grants, at least: (i) realistic and relevant indicators that reflect changes in service performance in one fiscal year, allowing these regions to receive the full DAU in the form of a block grant the following year; (ii) capacity building that local governments will receive in order to achieve the desired indicator targets; and (iii) a clear monitoring and evaluation (M&E) system, to monitor changes in achievement indicators.

- 5) A paradigm shift from money follows function to money follows program: This transition is needed to ensure synergy between central and local budgeting, program coherence across sectors and minimize duplication of budgets and resources. A good example is the handling of stunting, where currently led by the National Family Planning Coordinating Board (BKKBN), there are clear roles between the center and the regions, starting from the Ministry of Health, the Food Security Agency, the Ministry of PUPR and also the role of the Regional Government, which is reflected in the budget of each stakeholder. This kind of program requires clarity in the implementation of the division of affairs between the center and the regions at the program level and the important role of alignment of the Standard Chart of Accounts between the center and the regions. The success of this mechanism lies in the support of the right information system to be used, so that in the future it facilitates the implementation of BAS when there are account adjustments in the context of program implementation. The integration of the right information system for local governments should be decided immediately.

4. Conclusion

Based on the description of the results and discussion, the following conclusions can be drawn:

- a. Fiscal decentralization measured in terms of the amount of State funds managed by local governments has shown an increasing trend in the last twenty years. The increase in State funds managed by local governments is not only seen in nominal terms, but also proportionally in terms of the ratio to Gross Domestic Product. In relation to the level of corruption in the regional budget, quantitatively it appears that there is a positive correlation between the amount of funds managed by the regions and the number of corruption cases committed by local government officials. In addition, qualitatively, the increase in the level of corruption in the regions can also be seen from the low awareness of the application of value for money (economy, efficiency, and effectiveness) in the regions. It cannot be denied that corruption drastically distorts fiscal decentralization in the regions. It is estimated that about 30 percent of APBD funds evaporate due to corruption, and about 70 percent of this occurs in the procurement of government goods and services. the

emergence of APBD corruption is weak planning and budgeting. There are several sectors that are vulnerable to potential corruption, especially in expenditures sourced from the Transfer to Regional Funds, Village Funds and Deconcentration Funds, which have implications for the *high cost economy*.

- b. The ideal formulation used to inhibit the potential for corruption in the regions, especially the APBD, includes optimizing the implementation of fraud audits such as investigative audits or corruption audits, creating an internal whistleblowing system for local governments, improving the regional budgeting system, and strengthening the Government Internal Supervisory Apparatus. In terms of encouraging sustainable regional development governance, policy recommendations are needed, including: increasing sustainable public transparency; considering results-based accountability; making extensive use of ICT (Information and Communication Technology); increasing the role of reward and penalty mechanisms; and changing the paradigm from money follows function to money follows program.

References

- C.R. Ahlin. 2001. Corruption: Political Determinants and Macroeconomic Effect. Nashville: Vanderbilt University Department of Economics.
- Burhan Asafa. 2001. Metode Penelitian Hukum. Jakarta: Rineka Cipta.
- Hofman B. and Kaiser K. 2004. The Making of the 'Big Bang' and its Aftermath: A Political Economy Perspective.
- M.C. Burkens. et.al.. 1997. Beginselen van de Democratische Rechtsstaat. Deventer: Kluwer.
- Carbonara. 1999. Bureaucrazy. Corruption and Decentralization. Bologna: University of Bologna.
- Davey. 1989. "Financing Local Government in Indonesia. Monographs in International Studies. South East Asias Series." Central Local Financial Relations. Chapter 6. No. 84. Ohio University.
- Haryono in Johnny Ibrahim. 2005. Teori dan Metode Penelitian Hukum Normatif. Malang: Bayumedia.
- Komite Nasional Kebijakan Governance. 2008. Pedoman Sistem Pelaporan Pelanggaran SPP (Whistleblowing System-WBS). Jakarta: KNKG.
- Kuncoro. 2002. The New Laws of Decentralization and Corruption in Indonesia: Examination of Provincial and District Data. Dortmund: European Regional Science Association.
- Benedictus Raksaka Mahi. 2023. Refleksi Peran Desentralisasi Fiskal bagi Pembangunan Daerah: Relevansinya di Masa Kini dan Mendatang. Depok: Universitas Indonesia.
- Bagir Manan and Kuntana Magnar. 1993. Beberapa Masalah Hukum Tata Negara Indonesia. Bandung: Alumni.
- Peter Mahmud Marzuki (Peter Mahmud I). 2005. Penelitian Hukum: Edisi Revisi. Jakarta: Kencana Prenada Media Group.
- OECD. 2020. Asymmetric Decentralisation. OECD: Regional Development Papers. Chapter 10.
- T. Rinaldi. 2007. Fighting Corruption in Desentralized Indonesia. Washington DC: World Bank.
- Soerjono Soekanto and Sri Mamudji. 2004. Penelitian Hukum Normatif Suatu Tinjauan Singkat. Jakarta: PT Raja Grafindo Persada.
- Ismail A. B. and Hamzah. M. Z.. 2006. *Fiscal Decentralization and Economic Growth Nexus: Evidence*

- from Provincelevel Cross-section Data for Indonesia. *Review of Islamic Economics*. Vol. 10. No. 22.
- Alfada. 2019. "Does Fiscal Decentralization Encourage Corruption in Local Government? Evidence From Indonesia." *Journal of Risk and Financial Management*. Vol. 12. No. 3.
- Zaherman Armandz. "Negara Berdasarkan Hukum (Rechtsstaats) Bukan Negara Kekuasaan (Machsstaat)/Rule of Law and Not Power State". *Jurnal Hukum dan Peradilan*. Edisi No. 3 Vol. 6. Puslitbang Hukum dan Peradilan MA RI. 2017.
- Bisariyadi. 2016. "Pergulatan Paham Negara Kesejahteraan (Welfare State) dan Negara Regulasi (Regulatory State) dalam Perkara Konstitusional". *Jurnal Ius Quia Iustum*. Vol. 23. No. 4. Oktober.
- Fishman. R. 2002. "Decentralization and Corruption: Evidence Across Countries." *Journal of Public Economics*. Vol. 83.
- Handra. H. 2006. "Inequality in The Level of Local Public Services in Indonesia: An Observation of The Cobdittin in the Early Stages of Decentralization." *Jurnal Sosiologi SIGAI*. Vol. 7.
- Labuschagne. 2006. "Corruption and Fraud: Any Lessons For the Auditor?" *Kournal Meditari*. Vol. 14. No. 1.
- F. Misra. 2011. "Peran Corruption Auditing dan Audit Kinerja dalam Mencegah Deteksi dan Menginvestigasi Korupsi." *Jurnal Tirtayasa Ekonomika*. Vol. 6. No. 1.
- A. Pandjaitan. 2018. "Analysis Whistleblowing: Meningkatkan Hasil Audit Forensik dalam Pengungkapan Tindak Korupsi oleh Auditor Pemerintah." *Juripol*. Vol. 1. No. 1.
- Prud'homme. "The Dangerd of Decentralization." *The World Bank Research Observer*. Vol. 10. No. 2.
- Samutska. R. 1980. "Questionable Payment and Practis: Why? How? Detection? Prevention?" *Kournal of Accountancy*. No. 149.
- Sommaliagustina. 2019. "Implementasi Otonomi Daerah dan Korupsi Kepla Daerah." *Journal of Governance Innovation*. Vol. 1. No. 1.
- Treisman. 2000. *The Causes of Corruption: Across National Study*. *Journal of Public Economics*. Vol. 76.
- Ulum. S. 2019. "The Role of Natural Resources Moderating the Relationship Between Fiscal Desentralization and Corruption: Evidence in Indonesia." *International Journal of Energy Economic and Policy*. vo. 9. No. 1.
- 1945 Constitution of the Republic of Indonesia
- Law No. 20 of 2001 on the Amendment to Law No. 31 of 1999 on the Eradication of Corruption.
- Law No. 23 of 2014 on Regional Government.
- Law No. 30 of 2014 on Government Administration.
- Law No. 5 of 2014 on State Civil Apparatus.
- Law No. 1 of 2022 on Financial Relations between the Central Government and Regional Governments