
Acting locally, thinking globally?

The Relationship between Decentralization in Indonesia and International Human Rights

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International human rights discourse has largely ignored the decentralization of political, fiscal and administrative authority currently taking place across the developing world. By reference to Indonesia's recent transition from a highly centralised system of government to a system of regional autonomy (called Otonomi Daerah, or "Otda"), this article demonstrates the importance of more closely examining the relationship between international human rights and decentralization. In particular, it is argued that an understanding of international human rights can shed light on the dynamics of decentralization and, vice versa, examining decentralization can inform our understandings of international human rights. The essay explains the historical, political and economic context of Otda and briefly describes its current legal framework. It then explores the varied impacts Otda has had on international human rights in Indonesia and how Otda can, in turn, highlight some of the limits and possibilities of international human rights.

Keywords

Decentralization, International Human Rights, Otda

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1. Introduction

One of the major criticisms of human rights is that its advocates often use the concept, language and methods behind it in a way that monopolises emancipatory agendas.¹ One case where this critique cannot be legitimately levelled is the discourse surrounding the recent adoption of a decentralized system of government in Indonesia, known as *Otda* (from *Otonomi Daerah*, meaning “Regional Autonomy”).² This “near-revolutionary”³ shift of power has involved the devolution of significant amounts of fiscal, legislative and administrative authority from the Central Government to legislatures and executive governments in Indonesia’s 33 provinces (*provinsi*) and 465 districts/municipalities (*kabupaten/kotamadya*).⁴ *Otda* has, therefore, affected the lives of an incredible number of people: West Java Province, for example, is home to over 39 million - more than the total population of Canada - and one of its districts, Bandung, has a population of over four million - approximately the same as that of Ireland. Mentions of human rights, however, have been conspicuous by their absence from *Otda* discourse.⁵

In fact, since James Madison’s 1788 analysis of the “double security” for the “rights of the people” brought about by dividing power between two levels of government,⁶ very little attention has been paid to the relationship between human rights and decentralized forms of government.⁷ This is particularly so in the case of developing countries. Human rights do not rate a mention, for example, among the ten decentralization themes mentioned on the World Bank’s Decentralization Homepage.⁸

¹ See e.g., DAVID KENNEDY, *THE DARK SIDES OF VIRTUE: REASSESSING INTERNATIONAL HUMANITARIANISM* (2004).

² All translations are the author’s own, unless otherwise indicated.

³ Jacques Bertrand, *Indonesia’s Quasi-federalist Approach: Accommodation amid Strong Integrationist Tendencies*, 5 INT’L. J. CONST. L. 576, 592 (2007).

⁴ This is the same level of government. “District” (*kabupaten*) refers to the 370 rural units of government and “municipality” (*kotamadya*) refers to the 95 urban units. The average population of these units is 500,000. Provinces (*provinsi*) are the intermediary level of government between districts/municipalities and the Central Government but, as discussed below, have not been accorded the same degree of power as district/municipal levels of government.

⁵ Most of the discourse around *Otda* refers to national stabilization, regional security, good governance and - occasionally - democracy. See e.g., Hana A. Satriyo, *Decentralization and Women in Indonesia: One Step Back, Two Steps Forward?* in LOCAL POWER AND POLITICS IN INDONESIA: DECENTRALIZATION AND DEMOCRATIZATION 217, 218 (EDWARD ASPINALL & GREG FEALY eds., 2003).

⁶ Madison wrote that: “In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments. Hence a double security arises to the rights of the people.” THE FEDERALIST No. 51 (James Madison) (emphasis added).

⁷ See generally Paul Chen, *Federalism and Rights: A Neglected Relationship*, 40 S. TEX. L. REV. 845 (1999).

⁸ The ten themes are “fiscal decentralization, intergovernmental relations, federalism, sub-national financial management, municipal finance, budgeting and taxation, urban policy, voice and participation, democracy, and anti-