

What Can Indonesia Learn from American Federalism?¹

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Abstract

As Indonesia is moving from an authoritarian state to a democratic political system, there is a growing debate whether it is more suitable for the country to adopt a federal system in order to make sure that political power is brought closer to the people in the regions. The paper argues that the American federal system can be a source of some important lessons for Indonesia. However, it is necessary to note that a belief that a federal system may lead to a more equitable distribution of development resources should be read as a theoretical statement rather than an empirical description of reality. After all, some developing countries which adopt federal system like Brazil and Nigeria showed no convincing evidence about a better performance in the national distribution of development resources.

Introduction

Since former President Soeharto stepped down from his power, Indonesia has gone through a transitional period moving from an authoritarian political system to a more democratic one. The fact that the Indonesian people had enthusiastically and peacefully given their votes in the June 1999 election was an indication that they were longing for a popularly-elected government with a strong legitimacy. However, as it turns out Indonesia's transition to democracy is not without obstacles and uncertainties. Indonesians are now challenged to find solutions and answers to many political and economic problems which seemed to be taken for granted by the previous regime. For instance, how can we reorganize the relationship between the central government and the regions after more than three decades of centralization of power and control failed to satisfy the needs of the Indonesian people in the regions? Should we change our state system from a unitary state to a federal state? Can we find alternative approaches in dealing with the problem of regional separatism like in Aceh and Irian Jaya? As a young nation today Indonesia is at the crossroads. Learning from the experience of other countries can be very useful before we choose the political direction we should go.

There are at least two reasons why America's democratic experience should be useful for us. From a socio-demographic background there is a similarity between Indonesia and the United

¹ Paper presented at the USIS-USU American Studies Seminar titled "Unity in Diversity: America's Democratic Experience", Medan 25-26 August 1999.

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States. The two societies are pluralistic in terms of ethnic and religious backgrounds. Now wonder if they use the same motto: unity in diversity (*bhineka tunggal ika* and *e pluribus unum*). The two countries have a relatively big geographical size and the states or regions they consist of enjoy different levels of socio-economic development. The second reason is that the United States is one of the oldest modern democracy and the national unity of the country has gone through different critical moments in history especially with regard to the civil war in the 19th century and the Great Depression in early 1930s. It is particularly interesting to see how the United States managed to survive those critical moments and how the American people have been trying to defend the workability of their democratic institutions.

However, in comparing the American and Indonesian political systems we need two caveats. What is good and workable for the United States may not necessarily be applicable to the Indonesian context. The two political systems are based on different value systems and ideological principles. Therefore, we will study America's democratic experience while taking into account the applicability of their political methods and instruments to Indonesia. The second caveat is concerned with the fact that the American democracy itself is not flawless or without its structural problems which need to be solved.

This paper is divided into three parts. The first part is a general overview of the roots of the American federalism and how public policies are made and implemented within the existing political framework. It is then followed by some explanation about some important values or principles on which the American political system is based. Based on our critical investigation into the operation of the American political system we will try to reflect on the basic characteristics of Indonesia's political reform. It is expected that by learning from the experience of other countries Indonesia can be more confident in accomplishing its own democratic transition. The experience of other countries can serve as a looking glass through which we might get to know ourselves better. After all, as a noted American political scientist put it: "Those who know only one country know no country"³.

³ See Seymour Martin Lipset, *American Exceptionalism* (New York: W.W. Norton and Company, 1996), p. 12.

American federalism⁴

How did the federal form of government come into being in the political history of the United States? The American political history started with a tough competition of views among the revolutionaries especially with regard to the distribution of political power between branches of government but also between different levels of government. In the early years after the declaration of independence the American people used Confederation as their first form of government. This form of government refers to a voluntary association of *independent* states.

There was a fear that a powerful central government could limit the political freedom of member states. However, after a long debate between the proponents of a federal government such as Alexander Hamilton, James Madison and John Jay (the writers of *The Federalist Papers*) and those who defended the idea of having more sovereign and powerful member states (the Anti-Federalists) the American founding fathers managed to draft and ratify the US Constitution. The fundamental principles in the US Constitution include popular sovereignty, a republican government and elected representatives, limited government, separation of powers, and a federal form of government.

We should note that it took fourteen years before the delegates of the last of the thirteen initial members states, Rhode Island, voted for the ratification of the Constitution. It is interesting to see how the process of political bargaining led to a common acceptance of the democratic principles enshrined in the Constitution. From the very beginning of its establishment as a modern nation-state, the US has tried to accommodate the diversity of its member states by institutionalising a balance between the power of the national government and the basic rights of the states. As Kenneth Janda, Jeffrey M. Berry and Jerry Goldman put it: “[The US] *federal system of government was designed to allay citizens’ fears that they might be ruled by majorities of citizens who were residents of distant regions and with whom they did not necessarily agree or*

⁴ My description of the American federal system in this paper is mainly based on two important text books on the American political system. The books are written by Steffen W. Schmidt, Mack C. Shelley II and Barbara A. Bardes, *American Government and Politics Today* (Belmont, CA: Wadsworth Publishing Company, 1997) and Kenneth Janda, Jeffrey M. Berry and Jerry Goldman, *The Challenge of Democracy* (Boston: Houghton Mifflin Company, 1992).

share interests. By recognizing the legitimacy of the states as political divisions, the federal system also recognize the importance of diversity”⁵.

How about the protection of the individual basic rights from incursions by the national government? This was again a part of the bargaining process between the Federalists and the delegates from member states. In fact, some member states had included a list of basic civil liberties in their state constitution before the US Constitution was ratified. Moreover, the colonists had just rebelled against the British government to defend their basic human rights. The Bill of Rights, the first ten amendments to the Constitution, was then accepted as a constitutionally-sanctioned mechanism how the national government should respect the individual rights of the American people.

How does the federal form of government fit into the American political culture? It was Alexis de Tocqueville, a French traveller, who was amazed at the degree to which Americans were eager to form groups or associations as a mechanism to organize and articulate their interests. Writing in the *Federalist Papers* (*Federalist* No. 10), James Madison said that the emergence of “factions” in American society was inevitable. Therefore, according to Madison, the government was supposed to respect people’s freedom to form associations. Had the United States developed into a unitary system, it would have been more difficult for its various political subcultures and interest groups to influence government behaviour.

As far as the division of governmental authority is concerned, the US Constitution sets out different types of power: the powers of the national government, the powers of the states and prohibited powers. The national government has both expressed and implied powers. The expressed powers include setting standards for weight and measures, making uniform naturalization laws, admitting new states, establishing post offices and declaring war. The implied powers refers to the inherent power of the national government (Article I, Section 8, on the elastic clause or the proper and necessary clause) which is often used to strengthen the scope of its authority. An example of the inherent power is the power of the national government to formulate and implement American foreign policy. The state governments have the right to regulate commerce within its borders and provide for a militia. They are also responsible for the

⁵ Kenneth Janda, Jeffrey M. Berry and Jerry Goldman, *Ibid.* p. 141.

protection of the health, morals, safety and welfare of the people (police power). Another classification of powers is the concurrent powers which are granted both to the national government and the state governments. For instance, the power to tax. These powers are not specifically stated in the Constitution but they are implied. A number of powers which are not expressly delegated or implicitly to the national government are prohibited to it. For example, the national government cannot create a national public school system. Hence, a heavily decentralized and diversified American educational system.

It is the state which has the authority to establish local government in the US. There are four major types of local government units commonly practiced in the US: municipalities, counties, towns and townships, and special districts. A municipality is a political entity created by the people of a city or town to govern themselves locally. Today the US has nineteen thousand municipalities. Big municipalities (with populations over a million) include New York, Chicago, Los Angeles, Houston, Detroit, and Philadelphia. Counties are the chief governmental units set up by the state as political extensions of its authority. Counties function to apply state law and administer state business at the local level. There are over three thousand counties in the US. Big counties are divided into several dozen townships which perform the same functions but within a smaller geographical scale. Special districts, like school districts, are one-function governments that are created by the state legislature and governed by a board of directors. There are forty-four thousand special districts in the US.

What are then the factors behind the sustainability of American federalism in spite of the diversity of its people? What are the binding ties which have united the American people especially since the Civil War? There are at least two factors that can be mentioned here. The first factor has much to do with the history of the American political system as I have already explained above. Before the American federal form of government was established, the member states had already their own tradition of self-government. Their voluntary incorporation into the new federation was based on a constitutionally-sanctioned agreement (compromise) that the national government would not be allowed to infringe on the constitutional rights of the states. On top of that, with the functioning of its bicameral system at the national level, the American diverse member states are well-represented in the legislative process of decision-making. Moreover, with the annual increase of the Federal Grants-in-Aid (thus a shift towards a central

government spending) there has been an interdependence or a workable partnership between the national government and the state governments. Thus, there is a tendency that the US federal system has shifted from a dual federalism (using a layer-cake metaphor) to a cooperative federalism (using a marble-cake metaphor).

The second factor behind the viability of American federalism is related to the fact that the American people have an exceptionally high level of consensus on core political (not cultural) values which are embodied in the Constitution. Those values are democracy, liberty, individualism, liberalism, and equality. The US federal system is believed to be the institutionalisation of those values in the governing process of the American society.

Reflecting on Indonesia's Democratic Transition

With the ongoing communal violence in certain regions like Maluku and West Kalimantan and the escalation of the activities of the armed rebel groups in certain provinces like Aceh and Irian Jaya, many wonder if the Indonesian unity can be sustained within the existing framework of a unitary state. It is argued that Indonesia is too vast and pluralistic to be governed within the framework of such system. Those who favour a federal state tend to believe that Indonesian regions can only achieve economic progress if they have more freedom to deal with their development needs themselves. But is it true that federalism is more decentralized than a unitary constitution? Is there a strong foundation to believe that the Indonesian unity can be strengthened if we use a federal form of government?

We ought to be more careful and critical in finding alternatives to our unitary system. Our dissatisfaction with the functioning of the unitary state may lead us to believe that a federal system must be better. Such belief should be read more as a matter for empirical investigation rather than a definition. After all, when it comes to the analysis of the real function of both federations and unitary states the distinction between the two becomes much less clear. Changing into a federal form of government is not in itself a guarantee that the national unity can be easily maintained. The collapse of former Yugoslavia or the continuing struggle of the Quebecois in Canada is a real proof that national disintegration can also be a serious problem for federations. Moreover, there is no clear and sufficient evidence that the performance of federal states like Brazil, Nigeria, or India is better than Indonesia as far as economic equality is concerned. In

other words, there is no automatic correlation between federalism and economic welfare at the local level.

There is no doubt that Indonesia does need a fundamental change in the organization of the relationship between the central government and its sub-national governments. However, considering the fact that the dissatisfaction of the regions has more to do with the leadership style and the political behaviour of the New Order government than with the formal organization of the state, merely changing from unitary to federal state may never lead to a permanent solution.

Many believe that with the passage of two new bills on regional autonomy and revenue sharing between the centre and regions Indonesia will have a greater chance to reduce the gap in economic development between Java and the outer island especially those with an abundance of natural resources. Under the new regional autonomy bill regional administrations and legislatures have a greater say in managing their affairs. Local government at the regency and mayoralty level is allowed to draft locally favourable regulations without much interference from the central government. The new bill stipulates a wide-ranging regional autonomy provisions which include authority to control areas such as ports, industrial sites, plantations, mining, forestry and tourism. Thus, it reverses the tradition of centralization of control in those policy areas.

Former regime of president Soeharto used to rely on a centralistic approach in dealing with the problem of national unity. There seemed to be a clientilistic relationship between the central government and the sub-national governments. Local government officials paid more attention to the problem of how to appease their superiors in Jakarta rather than promote the interests of their citizens. As a result, local citizens tended to be alienated from the governing system. No wonder if local citizens have never perceived themselves as part of the governing system. They have been victimized by the collusive nature of the relationship between the central elite and the local government.

If the above observation is correct then the main agenda is not so much to speculate the possibility of adopting a federal form but how to work out the regional autonomy that has already been guaranteed in the new bill. Many scholars have mentioned the importance of more territorial decentralization to the regions. However, before such step is taken, it is necessary to include a thorough observation on the administrative capacity of the local government upon

which its function is actually based. Administrative capacity can be understood as the capability to manage public affairs so that people's interests can be met through the provision of government services. The level of administrative capacity at the local level is determined by several factors including scale of population and resources (human and financial resources), sufficient administrative opportunities (such as autonomy, efficiency, and competences), transparent and democratic modes of organization and operation⁶.

There is, however, an increasingly persuasive suggestion that decentralization should be planned and implemented with a certain degree of precaution and sensitivity to political and ideological configurations at the local level. Decentralization should be promoted within the context of establishing more constructive linkages between levels of government. Decentralization should not be made an end in itself. B.C. Smith argues that we should reject a romantic view of decentralization. It can be good for some development goals but damaging for others. Development goals of territorial justice and redistribution of wealth, for instance, may be better served by centralizing authority⁷.

On top of that, we have to be very careful in giving more power to the sub-national governments because it could lead to another process of centralization at the local level. Keith Griffin argues that democratisation at the local level should precede decentralization. Greater decentralization will not necessarily lead to the empowerment of the local people. Moreover, mechanisms of public control (through parliament, mass media, public debates, etc.) over the governing process seem to be more active and progressive at the central level⁸.

Considering the fact that the underdevelopment of some Indonesian regions has been due to the lack of good governance and misuse of power by certain political elite during Soeharto's rule and not to the nature of the unitary state itself, some improvement in the relationship between the centre and the regions might be more preferable and thoughtful than adopting a federal form. However, it is still essential to increase the administrative capacity of local government and to democratise the policy-making process at the local level. Hopefully, by

⁶ See Rudolf Maes, "Local Self-Government and Territorial State", paper presented in a conference sponsored by the Institute for European Policy KU Leuven and the Comenius University Bratislava, 28-30 April 1996, p. 5.

⁷ See B.C. Smith, *Decentralization: The Territorial Dimension of the State* (London: George Allen and Unwin, 1985) pp. 79-83,

⁸ See Keith Griffin, "Economic Development in a Changing World", *World Development* Volume 9, No. 3, 1981, p. 225.

carefully designing more appropriate central - local relationship the economic gap between Jakarta and some remote regions like Irian Jaya, Flores, Kalimantan, Aceh, and other peripheral islands might become more bridgeable. After all, there is no moral justification whatsoever in that Jakarta or Java should always be more prosperous and developed than other areas.

Concluding Remarks

It is easy for the Indonesian political scientists to be impressed by the workability and sustenance of the American federal system. There seems to be a good match between the Americans' high level of consensus on some democratic principles and the way they institutionalise them in their political system. Moreover, even before the ratification of the federal Constitution the member states of the Union had already practiced some form of self-government. The most important lesson we could learn from America's democratic experience is that the government cannot deny the diversity of its people. However, due to a marked contrast between the Indonesian political values and those of the American people, imposing the American system on our context does not seem to be a sensible and realistic choice. Whether we maintain the unitary system or adopt a federal form of government is not that important. Far more important is what we do with the system. Therefore, our pressing agenda is how to create a democratic government with a sufficient capability to satisfy the basic needs of the Indonesian people. Adopting a federal form of government without creating first a good and credible governance will only create more problems rather than solutions.