

**UNDP**

---

Sub-Regional Resource Facility for the  
Pacific, Northeast, and Southeast Asia  
Bangkok SURF



Substantive Research Paper – Indonesia

---

**The role of the Governor and of the provincial administration**

**Comparative experiences**

Patrick Keuleers

*Policy advisor on Public Administration Reform*

## ***TABLE OF CONTENT***

**I. Introduction: the role of the governor in Indonesia**

**II. The former and current system of local government in Indonesia**

**III. Purpose of this paper**

**IV. Brief overview of the models of local government**

- a) *The dual hierarchy model:*
- b) *The single hierarchy model:*
- c) *The split hierarchy model:*

**V. Overview of comparative experiences / systems**

*IV.1. Norway*

*IV.2. Sweden*

*IV.3. Japan*

*IV.4. Thailand*

*IV.5. Philippines*

*IV.6. Role of Governors in federal systems: Canada, USA, Russia and India*

## I. Introduction – The role of the governor in Indonesia

In 1999, Indonesia launched a local governance reform initiative, which was seen by some scholars to be the largest experiment in decentralization of powers. Two fundamental laws were voted in 1999: Law nr. 22 on Regional Governance and Law nr. 25 concerning the fiscal balance between the central government and the regions. Separate laws have been issued granting special autonomy to the provinces of Aceh and Papua.

Under the new laws all public service delivery functions except defense, foreign affairs, monetary and trade policy and legal systems were to be decentralized to sub-national governments. These services will be delivered mainly by regencies (kabupaten or districts and kota or municipalities, both subdivided into sub-districts) and cities, with provinces performing the role of coordinators. The previous hierarchical relationship between the provinces and the districts has been abolished. But coordination of the regencies and cities will remain in the hands of the governor, as the representative of the central government.

While decentralization is probably the only appropriate political response to social uprising in Indonesia and also a viable solution to restore the social fabric damaged by political apathy, there seems to be currently a “hidden” debate between those in favor of a possible re-centralisation (by a comprehensive review of Law 22) and those in favor of further refining the process (by implementing Law 22 with some improvements and by adapting existing laws and regulations that are in contradiction with the basic decentralization framework). The latter see the decentralization process as an opportunity for greater participation of citizens in the democratic process and for recognizing specific local conditions within the unitary state.

But there seems to be a general consensus that certain articles in the Law nr 22 need revision. Such a revision of the Law had been prepared recently, but it was withdrawn from circulation, because it went far beyond the changes that were initially anticipated. Apparently, the draft even tempted to re-establish a hierarchical relationship between the province and the regency.

One of the remaining discussion points relates to the role of the province and of the provincial governor in particular. According to article 30 of Law nr. 22, the Head of the provincial region (the governor) has a dual role. He is the head of the provincial region as a decentralised constituency. In that capacity the governor is responsible to the provincial DPRD (elected council). But the governor is also the (delegated) representative of the central government and as such he/she is responsible to the President. The problem is that these “delegated” responsibilities have not yet been clarified. Consequently, most regency governments refuse any instructions or invitations coming from the Governor, referring to article 4 as the key regulator of the relationships between the two forms of decentralised government: “*Regions shall be independent; there shall be no hierarchical relationship between them*”.

According to article 31 of Law nr. 22 the procedures for the implementation of the responsibility of the governor as the representative of the central government shall be stipulated by a regulation of the government. So far these regulations have not yet been issued, as they are part of the larger debate between those in favour and those against decentralisation.

To improve the quality of services provided at the local levels, the Indonesian government, with the assistance of the donor community, is developing Minimum Service Delivery Standards (MSS). The guidelines for implementing the MSS are developed by the central agencies. The MSS are intended to provide guidance to the regions in delivering services to their residents. They also provide the tools for the local communities to **measure** service delivery.

But who will monitor the adherence to these standards? What degree of control should be exercised by the central government agencies regarding the quality of service delivery by the local government institutions. Who will ensure that the interests of the citizens are properly served by the local governments? Also, with regard to local regulations, how much central involvement and veto powers are needed.

When discussing these questions, some would like to see a stronger role for the governor, at least until the system becomes more mature<sup>1</sup>. They also argue that, in a country which has the reputation of being one of the most corrupt nation in South East Asia, and a judiciary that is among the worst state institutions affected<sup>2</sup>, it would not be a wise decision to place local governments in the hands of the court system (as is the tendency in a number of countries). Another argument used in favour of a stronger role for the governor is that the rapid “big bang” approach to decentralisation, which is applied in Indonesia has, rarely worked elsewhere. Those who remain sceptical see a role for the governor in ensuring a more controlled (and incremental decentralisation) process. It seems however that the political imperatives for decentralisation currently outweigh technical considerations relating to managerial performance<sup>3</sup>. In the current political and social climate, excessive control, either by the central ministries or the governor, is likely to be considered counter to the spirit of decentralisation in Indonesia.

This fear for a stronger role of the governor is understandable. The position is still associated with the former centralised control system, in which the governor represented the central power, and reported directly to the President. But there are other reasons, such as the examples of other countries where local elites have easily captured the benefits of decentralisation (Bangladesh for example) or where devolution from the centre rapidly resulted in a form of centralised government at the sub-national levels.

## **II. The former and current system of local government in Indonesia**

Under the Soeharto regime, line functions (service delivery) at the local levels were performed by two types of agencies: the offices of the local (regional) governments (the dinas at provincial and the dinas at district level) and the offices of the central ministries (the kanwil at the provincial level and the kandep at the district level<sup>4</sup>).

The key position at the local level was the Head of the Region (Governor). He was both the head of the local services and (as the delegated representative from the central government) also the head of the central government agencies in the region. The Head of the Region was responsible to the President, not to the local population.

There were also elected councils at the provincial and district level, but these councils (DPRDs) operated merely as deliberative bodies.

---

<sup>1</sup> Control at the local levels is waning. For example, the value of illegal mining exports is estimated to run at 150 million US\$ while illegal timber revenues amount to nearly 2 billion US\$. Regional governments appear to be unable or unwilling to deal with these problems (Turner, M., Decentralisation in Indonesia, in Asian Review of Public Administration, January-June 2001, Volume XIII, Number 1, pp. 74).

<sup>2</sup> Stealing from the People (Book 2): The big feast: Soldier, Judge, Banker, Civil Servant. Partnership for Governance Reforms in Indonesia, January 2002, p.28 & 29.

<sup>3</sup> Turner 2001, p. 80.

<sup>4</sup> Turner 2001, pp. 69 – 81.

Under the Soeharto regime, local government was mainly a form of delegated authority, within a deconcentrated system. Indonesia is now moving to a system of representative local government (devolution). To this end, the Law nr 22 introduced a number of fundamental changes. First, the hierarchical relationship between the province and the district has been abolished. The regencies/districts are now autonomous local governments which have become the focus of sub-national governance in Indonesia. Second, the DPRD's are no longer deliberative councils, they have now become the local legislative councils. Third, the heads of the provincial region, regency region and municipal region are now elected by the DPRD's (not by the population directly) and shall be accountable to their respective councils. Fourth, the former dinas and kanwil (at provincial level) and dinas and kandeup (at district level) are now being merged and brought under the control of the autonomous regions. An important transfer of functions<sup>5</sup> and related staff<sup>6</sup> is taking place from the central government to the provinces and further to the regencies/municipalities<sup>7</sup>.

### **III. Purpose of this paper**

Most countries exhibit some sort of mix (at least at the provincial level) of devolution and deconcentration. This mix is often materialised in the position of the governor. Various options have been adopted by different countries. Some granted the governor merely a representative function (Sweden). Others have restricted the delegated responsibilities of the governor as the representative of the central government to a "strict" minimum. Others have used the mechanism of the delegated authority for the purpose of strengthening the power of the central government (French system). Those that moved to federalism designed a new and powerful role for the governor (USA, Canada, Russian Federation, India). And some countries such as Sri Lanka and the Philippines are currently involved in a heated debate on whether or not they should adopt a federal system or maintain a unitary state. Some countries also tend to weaken the classical hierarchical relationship between different levels of government and to strengthen the role of the judiciary in handling conflicts of power between the central and local governments and between the different levels of local governments. In these cases, it is the responsibility of the courts to assess the legality of the decisions/legal acts taken by the local governments.

Many of the discussion points and problems on the role of the governor arising today in Indonesia, need to be analysed in light of these two graduations of decentralised governance. For example, the recent tendency of the central ministries to increase their ministerial budgets for local activities is an attempt to regain control over the regions through mechanisms of deconcentration.

Such struggle between different forces is not unusual. In many countries, central government agencies and officials still play important administrative roles in regional and local areas. Even in countries that are well-known for their advanced systems of representative local government (such as Sweden, Great-Britain and the Netherlands), central government agencies and officials

---

<sup>5</sup> Public works, education and culture, health, agriculture, communication, industry and trade, capital investment, environment, land, cooperatives and manpower affairs.

<sup>6</sup> The Kabupaten (regencies) and kota (municipalities) have been given the responsibility "to conduct appointment, transfer, dismissal, stipulation of pension, salary, allowances and employee welfare as well as education and training.

<sup>7</sup> But there seems to be a lack of "participatory governance" at the sub-district (kecamatan) and the urban village level, with heads of these units being appointed officials and the heads of the urban villages reporting to the sub-districts. Rural villages in contrast have elected heads and a Rural Representative Board.

are in charge of certain regional and local tasks, in addition to their monitoring and controlling activities.

In order to stimulate and enrich the debate on the further development of local governance in Indonesia, and at the request of the UNDP Country Office, this paper provides a comparative overview of the role of the governor in some selected countries. But for a good understanding of some of the different solutions adopted, the next chapter first provides a brief overview of three general models for local government service delivery.

#### **IV. Brief overview of the models of local government**

The following provides a brief overview of the different systems of local government, in particular where it comes to defining the relationship between central government representation and local government administration. Leemans<sup>8</sup> distinguishes three main models: (a) the dual hierarchy model, (b) the single hierarchy model and (c) the split hierarchy model.

a) ***The dual hierarchy model:***

In this case, central government field administration (deconcentrated services) exist besides the agencies of the representative local government. Central government agencies at the various levels then usually have a dual function: they are in charge of certain public functions but also monitor and control local government institutions at the same and /or lower levels. In some countries (Finland for example) central government field administration is only found at the provincial level with only local representative institutions at the lower levels. Elsewhere (e.g. a number of countries in Africa, Laos, Vietnam) local constituencies are almost completely serviced by the field offices of the central government agencies.

The dual hierarchy model entails considerable risk of overlap and even competition between the tasks and activities of the central government field agencies and the representative local government institutions at the same level. Often the latter are also subject to a stricter control by the former.

b) ***The single hierarchy model:***

In this case, only one integrated organisation for government and administration exists at each level, composed of central government officials and local representatives. The administrator (often called governor) is most frequently the chairman of the local representative organ and also heads the local administrative machinery. Whether emphasis is given to the central government administration or to the representative local government in the operation of the local institutions, may differ considerably from country to country.

This single hierarchy model offers the advantage that it enables to avoid overlapping of tasks and responsibilities. The system also promotes area coordination and the integration of policy and action. In a new decentralised system, provided that the central government field agencies accept that the training of local staff is an important element of their task, this model could furnish a suitable starting point for the development of representative institutions at the local levels. It offers the best way to gradually develop local administration into local representative institutions.

---

<sup>8</sup> Leemans, A.F., Changing Patterns of Local Government, International Union of Local Authorities, Den Haag.

c) **The split hierarchy model:**

This model is similar to the dual hierarchy model but in this case the central government field administration does not overlap with the local representative government institutions. In this model, the local governments transfer responsibilities to central government field agencies in their territory, in cases where the former cannot adequately provide these services themselves. This easily leads to a situation where the (central) field administration is well developed (e.g. Great Britain) while local governments remain weak in service delivery capacities. There are a variety of reasons why such transfer to central government field agencies takes place (inadequate resources of the local government units, inadequate size, inadequate performance or simply the tendency of the central government ministries and agencies to regain authority over local service delivery<sup>9</sup>).

Under Soeharto, the system of local government in Indonesia was closest to the dual hierarchy system, but with this nuance that the state administration (central government agencies) and the local administration were in fact part of the same unitary state institution. The State was indivisible and the local government institutions (not really representative) were to be seen as organs of state administration at the local levels. As representative local government then become established, there is either a tendency to integrate the field offices of the central government into the local government administration (single hierarchy model) or to grant these field agencies more autonomy (split hierarchy model).

In the case of Indonesia, it would seem that the central government wants to increase its supervisory role over the local governments, but it is not yet clear how they will try to achieve this. One way would be through an increase in the deconcentration budget, which serves to continue the former centrally managed project approach in the regions, mainly for infrastructure projects. Such an increase in the allocation of “deconcentrated funds” is risky as it will increase the dependency of the local governments units on the central ministries, especially if these funds are implemented through projects or agencies, which are managed by the central ministries. The other way to do this is by increasing the role of the governor as the delegated official of the central government, in charge of monitoring, coordinating and facilitating the activities of these government agencies and local governments in the region<sup>10</sup>.

In many countries, the higher local government tier (often the province) has no representative government, either because the area is considered too large for representative institutions or because central government fears that historical power centres or ethnic movements would seize any opportunity to stimulate regional allegiance and delay national integration. Another reason is because of central government’s doubts as to whether the representative bodies at that level would be able to fully understand and appreciate the complexity of policy making at that level and sensibly decide on (the more complex) problems of regional policy. This explains for

---

<sup>9</sup> In India for example, local government functions which were initially devolved to the local governments were transferred back to the central government field agencies, because of inadequate fulfilment of their responsibilities, lack of resources, ineffective staff and signs of mal-administration. The same also happened in France and Germany where the weakness of the local communities necessitated a serious increase in central government field administration involvement.

<sup>10</sup> For examples, Bapenas (the central Planning Ministry) claims to be responsible for the screening of local plans to see whether they are in line with the general development plan. They would like to delegate this responsibility to the governor. The Ministry of Home Affairs claims to be responsible for assessing the legality of regulations issued by the regencies. They would like to delegate this task also to the governor.

example the predominance of central government bureaucracy in the local administration both in France and in Great Britain.

## **V. Overview of comparative experiences / systems**

The following provides an overview of the different systems in place in various countries and the role the provincial governor is playing in these systems.

### **IV.1. Norway**

#### **a) Background**

Norway has an extensive public sector, which claims around 50 per cent of the country's gross domestic product (GDP). Concretely, this is evident in the very sharp growth which has been seen in municipal expenditure, which increased from around 8% of GDP in 1945 to just over 20% today. A concrete illustration of the scope of the present municipal sector - and this applies to both counties and municipalities - is that one in five Norwegian workers is employed in local government, and in a number of municipalities the ratio is even considerably higher.

With the exception of public social security and pension schemes administered by the central government, most welfare schemes are administered at the municipal level (by the municipal council) - in particular health services, care of the elderly, day-care centres and basic education. Counties and municipalities and counties account for two-thirds of all public services.

The present municipal system was established by the Local Government Act of 1847, which underwent extensive revision in 1993. But even though there is now a far more extensive municipal sector than could be imagined in 1847, the formal framework and systems for local self-government are very much the same now than they were 160 years ago.

The basic principle is "negatively delimited self-government", which means that a municipality can undertake any task except for those explicitly prohibited under national law. The cornerstone on which municipal self-government in Norway rests is the principle of independence vis-à-vis central authorities and a preference for local choice in solving problems.

But in practice, this principle has been undermined through comprehensive national legislation regarding standards for service delivery, imposed on the municipal governments. Moreover, in contrast to other Nordic and most European countries, municipal self-government is not enshrined in Norway's constitution, and thus has no constitutional protection against shifting political demands<sup>11</sup>. It means that the national legislative authorities can, at any time, by simple majority, review the legal framework of municipal self-government (the Local Government Act) This gives central authorities great influence on the content and scope of municipal activities.

---

<sup>11</sup> In all three other Nordic countries (Sweden, Denmark and Finland) local self-government is constitutionally protected. For example, the Finish Constitution states that "the administration of the local authorities shall be based on self-government by the citizens". The Swedish constitution states that the principle of government by the people also includes local self-government.

## b) Structure of Local Government

As of January 2001, the country is divided into 19 counties (similar to a province) and 435 municipalities. The capital city – Oslo – has status both as a municipality and a county and exercises the competences of both tiers of local government. The county geographically encompasses the municipalities within its borders; in other words, any given territory is legally and administratively part of both a county municipality and a municipality.

The county and the municipality both have their separate elected councils with a total of approximately 14.000 councilors nationwide.

According to the Local Government Act, all municipalities and counties must have a Council, a Chairman of the Council (Mayor) and a Head of Administration (Chief Executive Officer). The Council is the supreme body and can specify policies, tasks and investments. The Council is elected for four years. Within certain limits the Council has the right to allocate funds, set property taxes, impose user fees, and exercise authority in the form of regulations that are binding on the inhabitants.

The **counties** are presently responsible for the establishing and functioning of:

- health services (hospitals, institutions for drug/alcohol abusers, services for the mentally handicapped, dental services for those aged 0-20, children under care)
- secondary education
- county corporate planning
- regional trade and industry policies
- communication (county roads, public transport)
- cultural heritage preservation.

The **municipalities** are responsible for the establishment and functioning of:

- kindergartens
- primary schools
- health centres/primary health services
- care for the elderly
- social welfare
- culture and leisure (cinema, sports, music schools etc.)
- communication (municipal roads)
- water works, sewers, refuse collection and disposal
- local mapping and surveying
- municipal public housing
- operation of public utilities
- tax collection

There are extreme variations in size of the municipalities (more than half of Norwegian municipalities have fewer than 5,000 inhabitants, while only 10 municipalities have a population of more than 50,000). There are also substantial differences with respect to area, topography, settlement patterns and industrial structure. **This fragmentation and the great disparities make it extremely difficult for the central government to introduce simple and standardized solutions for providing welfare state services**<sup>12</sup>. The system is dependent on local adjustments,

---

<sup>12</sup> The smallest municipality (Utsira, an island on the south-west coast) has 250 inhabitants. The largest, Oslo, has 510,000 inhabitants.

and such adjustments are normally made far better by municipal bodies elected by popular vote than by some form of local branch of the central authorities or field service.

### **c) Central-local relationships**

Central government intervention in municipal operations de facto has deprived municipalities of the independence they assumed they would have according to the main principles underlying local government legislation.

Over the course of the first 100 years of municipal self-government the relationship between central government and municipality was basically characterized by mutual non-interference, a laissez-faire attitude that held sway until the mid-1930s. It was in the wake of an extensive municipal debt crisis in the 1920s that the central government abandoned its laissez-faire policy vis-à-vis the municipalities in favour of a more interventionist policy. Interestingly, it were the representatives from the municipal sector themselves who put pressure on the central government to become involved in the operations of the municipalities, and to assume clear responsibility, not least with respect to the financial situation of the municipalities. The first and most important departure from the government's early policy vis-à-vis the municipalities came with the introduction of the tax equalization fund in 1935. The establishment of this fund paved the way towards what would become a main principle of post-war public policy vis-à-vis the municipalities, namely equalization and national parity in the provision of services.

The main component of the municipalities' income is still local, namely the municipal income tax<sup>13</sup>, that the central government also regulates through the establishment of maximum tax rates, which make it impossible for the municipalities to regulate their income level according to the quantity of their tasks. In this sense, the perception of a lack of local independence is based mainly on limited financial resources, and less on the fact that most municipal tasks are regulated through public legislation.

### **d) The county and the county governor (Fylkesmannen)**

In Norway, the County (province) is an independent organ which is hierarchically between the state and the local governments (municipalities). It has both a political and an administrative function. The County Parliaments are elected every four years. These elections are held simultaneously with the municipal elections.

The County Governor is formally the representative of the state in each county<sup>14</sup>. The governor has a monitoring and control function in relation to the municipalities. He also has important management and guidance duties with regard to these municipalities. He/she monitors the municipal administration and municipal economy, in accordance with the Local Government and Municipalities Act of 25 September 1992.

Important to mention also is the role of the County Governor in areas such as environmental protection<sup>15</sup>, agriculture, civil preparedness, care-giving services and within the family sector<sup>16</sup>.

---

<sup>13</sup> Approximately 40% of local authority revenues come from transfers from the central authorities, 42% from local taxes.

<sup>14</sup> The Major of Oslo is the representative of the state in the City of Oslo.

<sup>15</sup> Also in accordance with the constitution, every person has a right to an environment that is conducive to health and to natural surroundings whose productivity and diversity are preserved. Natural resources should be made use of on the basis of comprehensive long-term considerations whereby this right will be safeguarded for future generations as well.

For example, the county governor's environmental department plays a central role in monitoring the state's environment policy, both as authorising body and as mediator of national environment policy to local authorities and other bodies.

The County Governor plays an active role in creating debate and promoting regional co-operation on Agenda 21 strategy. Dialogue and debate provide the major basis of this work. The county governor therefore collaborates directly with the regional Local Agenda 21 centres, and assists with the formulation of county-level environmental strategy.

By virtue of its role as a **knowledge bank**, the office of the county governor<sup>17</sup> also has an important responsibility for advising local authorities and other local and regional organisations<sup>18</sup>.

The County Governor executes his responsibilities under the authority of the Ministry in charge of Government Administration (Department of Government Services), but he/she also executes functions on behalf of other ministries. The Department of Government Services is responsible for the coordination and administrative management of the County Governors, including their budgets, personnel matters, the use of IT, and administrative organisation and rationalisation. The Department is also responsible for further development of the role and function of the County Governor in the local administration.

There is also a Ministry of Local Government and Regional cooperation, specifically in charge of legal revisions and matters related to the municipalities.

#### e) **Towards a new structure of local government?**

Today, despite increased government control, the municipalities act more and more as major partners of the central government authorities rather than playing their traditional role as populist counterweights to central government power.

In June 1998 the Norwegian Government appointed a committee to consider the sharing of tasks and responsibilities between the three levels of government: national, county (the regional elected level) and municipality (the local elected level). The committee was also asked to evaluate the number and size of counties or regions and the distribution of responsibilities and tasks in case of a re-demarcation of the counties. In essence, the county level or at least the existence of a regional "elected" level of government in addition to the national level and the municipal level is now being questioned. The tendency is either to dissolve the county level (or at least the elected councils at that level) or to reduce their number. The role of the governor in particular does not seem to be questioned.

---

In order to safeguard their right in accordance with the foregoing paragraph, citizens are entitled to be informed of the state of the natural environment and of the effects of any encroachments on nature that are planned or commenced.

<sup>16</sup> The County Governors also have a particular role to play in ensuring the correct implementation of the constitutional rights and provisions (e.g. According to the Constitution, it is the responsibility of the authorities of the State to create conditions enabling the Sami people (the Laplanders) to preserve and develop their language, culture and way of life).

<sup>17</sup> The Offices of the County governors all together employ a total of approximately 1,750 persons.

<sup>18</sup> See also the role of the Norwegian Association of Regional Authorities (all counties and municipalities are member).

The Forum of County Mayors (chairmen of the county councils) reacted with a position paper, stating that the “The New County (region)” should be given major tasks within the following areas:

- Education
- Development of infrastructure – transport systems and public transportation
- Industrial and trade development – public administrative facilitation
- Culture
- Preventive health policies
- Environment, spatial administration and regional planning
- International cooperation on regional development

Their key message was that “in order to solve the regional development tasks in the future, Norway needs a strong, autonomous, directly elected, regional level of government, with responsibility for all the political processes on the regional level and with a clear definition of power and economic resources. The reform must imply a considerable and systematic decentralisation of power from the state to the new regional elected level, especially concerning tasks of great importance for regional development.”

#### **IV.2. Sweden**

##### **a) Structure of Government**

Sweden is governed at three different levels: the central level, the regional or county level and the local level. Elections to the county and local governments take place on the same day as elections to the Riksdag (national Parliament).

Sweden is divided into 21 counties, each with a county administrative board. The county administrative boards represent the central government at the county level and are headed by a County Governor appointed by the Government.

Special regional associations have been set up in three counties. They serve as a platform for cooperation between municipalities and county councils. The purpose is to achieve more effective use of resources and to strengthen local influence on developments.

Sweden is also divided into 23 county council districts. They handle matters that are too comprehensive and costly for individual municipalities. Their main area of responsibility is medical and health care. Other areas include dental care, education (largely training for nurses) and cultural activities, such as museums and theatres. Responsibility for public transport systems may be shared with municipalities.

At the local level Sweden is divided into 289 municipalities. All municipalities are obliged to provide certain basic services, including education, nursery care, care of the elderly in the home, social welfare services and environmental and health protection measures.

##### **b) The county governors**

The county governors in Sweden have played a very important role in previous eras as part of the Crown’s efforts to assert control over its wide-ranging territory. Currently, the county governor (the “Landshövding”) is a function which is similar to the Norwegian governor, which means that they are mainly chief administrative officers who at the same time represent the central

government. The Landshövding is also appointed by the government. He/she presides over the county administrative board, whose members are appointed by the elected county council. The county administrative board is responsible for regional planning, environmental protection, civil defence, tax collection, the registration of births and deaths and the police authority.

The Swedish county governor today seems to have far less authority over the municipalities. As a result, the municipalities in Sweden are much more autonomous than is the case in Norway. For example, Swedish municipalities have the authority to impose taxes on their inhabitants, more directly than is the case in Norway, where such decisions first need to be approved by the higher authorities.

In contrast to his Norwegian colleague, the Swedish governor has no oversight role with regard to the municipalities in the county. In fact, the Swedish Local Government Act gives the power of assessment of legality of municipal acts to the courts. Also, decisions of the local governments are subject to appeals to the County Administrative Courts. The County Administrative Courts are responsible for assessing the legality of the municipal acts, and for investigating appeals against such decisions.

### **Norway and Sweden: Summary**

*In both countries, the governor is an appointed official, nominated by the government, who acts as the official representative of the state in the county. In both countries there is an elected county council, chaired by the mayor. The governor acts as the chief executive officer of the county. In the case of Norway, the governor also has specific tasks, as the representative of the central government, to monitor the performance of the municipalities. This does not seem to be the case in Sweden, where the role of overseeing the municipalities and assessing the legality of their acts and decisions, has been given (indirectly) to the County Administrative Court. This means that there is de facto no hierarchical dependence between the county and the municipality.*

*The latter is an interesting evolution which also took place in France for example. But in a young democracy like Indonesia such a system may not be feasible for the moment. In fact, in a country where central-local relationships and accountabilities still are not yet clearly defined and where the legal system is considered weak and lacking public credibility (mainly because of corruption being widespread<sup>19</sup>), appointing the judiciary as the gatekeeper of the local governance system is just too risky.*

---

<sup>19</sup> Stealing from the People (Book 2): The big feast: Soldier, Judge, Banker, Civil Servant. Partnership for Governance Reforms in Indonesia, January 2002, p.28 & 29.

### IV.3. Japan<sup>20</sup>

#### a) Introduction

Japan is a typically unitary state. The principle of local autonomy is embedded in the Constitution. Until April 2000, when the new decentralisation law came into effect, the local government system in Japan was characterised by hierarchical dependence between the different levels of local government.

The basic units of local government in Japan are the prefectures and the municipalities. Thus the local government system in Japan is two-tiered: the prefectures serve wider areas, the municipalities (cities, towns or villages) provide local services. The prefectures and municipalities have comprehensive administrative powers within their respective jurisdictions.

Japan has 47 prefectures ranging in population from 10 million in Tokyo Metropolis to 600,000 in Totorri Prefecture. The prefectures undertake all the functions required by an area greater than that of the individual municipalities and those requiring either prefecture-wide or nation-wide uniformity.

12 cities of more than 500,000 inhabitants received the status of “designated city”, which is similar to the prefecture, meaning that they are authorised to administer the same level of governmental jurisdiction in 18 policy areas including social welfare, public health and urban planning etc. In 1994, the Law was amended to include also the concept of the core cities (21). These cities with a population of over 300,000 may undertake the functions of the designated cities with the exception of those which may be more efficient if handled in an integrated manner by the prefectures<sup>21</sup>.

The prefecture are further subdivided into 3,232 municipalities<sup>22</sup> (compared to some 10,000 in the 1950's) ranging in population from 3 million to less than 200. In other words, every citizen in Japan lives both in a prefecture and a municipality. The municipalities carry out all other functions. But in reality, the line of demarcation is not so clearly defined and both tier of government shares responsibilities for functions in the same field.

---

<sup>20</sup> Japan supports the internationalisation of local authorities through overseas offices of the Council of Local Authorities for International Relations (CLAIR). The Council of Local Authorities for International Relations (CLAIR) is a semi-government organisation established by Japanese prefectures and municipalities. CLAIR has an international network of offices in New York, London, Paris, Singapore, Seoul, Beijing and Sydney. CLAIR serves as a clearinghouse for international exchange and cooperation activities promoted by Japanese prefectures and municipalities. CLAIR also conducts research on contemporary local government systems in other countries, studies best practices, and coordinates overseas study programs for Japanese Civil servants and foreign civil servants. Further information on Japanese local government and the activities of CLAIR can be found at: <http://www.jlga.org.au/>

<sup>21</sup> It is also interesting to mention the concept of the “Municipal cooperatives” and “Wide-area Unions”. These are usually formed by two or more municipalities to carry out functions that would be more efficiently carried out in cooperation (e.g. establishment and management of schools and hospitals). Wide-area unions are a form of union of local authorities, which can accept delegation of authority or functions directly from the state or from the prefectures.

<sup>22</sup> In 1947, there were still 10,505 municipalities but as a result of amalgamation policies, in 1965 that number had dropped to 3,392. By 1995, another 215 municipalities had been merged.

## **b) The Local Autonomy law of 1947**

### *Functions and financing of local governments*

The local governments in Japan have two types of functions: first, to provide services to the local population and second to carry out the activities necessary for their own continued existence including the enactment of by-laws and regulations, financial administration and elections. These functions cover most aspects of domestic life, except for diplomacy, national security, trials and prosecutions.

Prefectures responsibilities include:

- functions which are areas related (such as regional development plans, forestry conservation and river improvements,
- functions requiring uniform processing within the prefecture or throughout the country (for example maintaining standards for compulsory education)
- functions involving communication between the central government and municipalities, or entailing advice and guidance from municipalities
- functions whose scale of operations is deemed inappropriate for municipalities (e.g. the establishment and management of secondary schools and hospitals)

Municipalities' responsibilities include:

- functions related to day-to-day matters (resident and family registration, various certificates etc.)
- functions concerned with public health and safety and environmental conservation (fire services, sewage disposal, water supply and public parks)
- functions concerned with urban development (city planning, construction and maintenance of roads, rivers and other public facilities)
- functions concerning the establishment and management of various municipal facilities including public halls, nurseries, primary and lower secondary schools and libraries.

In Japan there is an interesting inverse relationship between revenue collection and expenditure. While the ratio of tax revenue sources between central and local government is roughly 2:1 in favour of the central government, the enormous financial transfers from central to local government change the expenditure ratio to almost 1:2 (local expenditure is almost double as high as central government expenditure). This unique sharing of revenues comes from the strong belief that local government is the corner-stone of democracy and as the level of government closest to the people it should get a greater share of revenues to meet their needs

### *Governors and other local authorities*

Governors, mayors and members of local assemblies are directly elected by the communities they serve<sup>23</sup>. The councils elect their chairman and vice-chairmen.

Governors<sup>24</sup> and mayors are like chief executive officers (executive arm of the local government), they are responsible for the overall consistency of the local authority's services and functions and

---

<sup>23</sup> Before, Governors in Japan used to be centrally appointed by the Minister of Home Affairs.

<sup>24</sup> Under the Local Autonomy Law of 1947 the governor's responsibility includes: (1) submitting bills to the Council, (2) preparing and executing budgets, (3) levying and collecting local charges, taxes and fees, (4) supervising and submitting accounts to the Assembly for approval, (5) acquiring, managing and disposing of

are authorised to represent the local authority externally. They are responsible for the execution of the affairs of the local authority including those of the elected council<sup>25</sup> and the administrative committees. Governors and mayors have a right to veto any decision made by the council and demand that it be reconsidered.

Governors and mayors can be dismissed by a vote of non-confidence of 2/3 of the members of the council.

There is no body that represents the central government as a whole in any region (this reflects the regional nature of local government as a comprehensive administrative body). There are local branches of some of the central ministries. But governors and mayors have statutory obligations to perform functions as agents on behalf of the central government and other local authorities. These functions are identified as “functions delegated to the local executive heads”. These functions are quite numerous and include: river maintenance/management, family registration etc. **These functions are listed in an appendix to the Local Autonomy Law 1947**<sup>26</sup>. The executive authority of the local governments (governor, mayor) are required to perform those functions as an agent of the delegating authority (prefectures can also delegate functions to the municipalities!) and under the delegating authority’s direction and supervision. If the local authority fails to perform these functions, the minister can execute the delegated functions directly, in place of the local authority.

So despite the fact that they were elected, as much as 80% of their duties and responsibilities were in fact delegated by the central government. Consequently, governors and mayors act as both elected representatives of their local authority and as heads of local “branches” of central government. In addition to confusion over boundaries of responsibility between local authority and state, it also poses the problem of conflict of interest for those elected. It also undermined the sense of local identity among both local officials and residents and brought with it a lack of accountability.

### *Central – local relationships*

The system characterised by a high level of uniformity (with the exception of Tokyo and the 12 large cities). The reason for this is that the level and quality of service delivery should be similar throughout Japan. Secondly, the idea was to apply whenever possible, national solutions to local circumstances, rather than finding ad hoc solutions.

Central government influences local government mainly in three ways:

1. Legislative intervention (as long as such legislation does not contradict the idea of local autonomy stated in the constitution)

---

assets, (6) establishing, managing and abolishing public facilities, (7) appointing and dismissing officials and other employees.

<sup>25</sup> Under the Local Autonomy Law of 1947 the council, as the local government’s legislative arm is responsible for (1) enacting, amending and abolishing by-laws, (2) determining the budget, (3) authorising the settlement of accounts, (4) decide on levying and collecting of local charges, taxes and fees, (5)authorising and concluding contracts, (6) acquiring or disposing of specified assets, (7) ordering audits of administrative affairs, (8) receiving and considering petitions from residents, (9) submitting opinions on matters concerning the public interest of local public bodies.

<sup>26</sup> Apparently, an English translation of the law of 1947 and of the more recent decentralisation law of April 2000 is not available.

2. Judicial intervention (all lawsuits involving local governments are submitted to the Court of Justice, including litigation between the central and the local governments or between the local governments themselves)
3. Administrative intervention (most common form of intervention, which can be by means of setting administrative standards, quasi-judicial interventions such as administrative appeals etc.). Administrative interventions can be non-authoritarian (advice , recommendations,..) or authoritarian (inspections, permissions, the provision of subsidies, approval of loans etc.).

The Ministry of Home Affairs is in charge of local government. It is a relatively small ministry, that provides leadership and advice on local government issues. One of its main functions is to collaborate with the Ministry of Finance regarding local financing.

Prefectures and municipalities are mutually independent entities. The legal relationship between them is not based on hierarchical subordination. But prefectures may give municipalities various guidance and advice from a wider regional perspective. Also some prefectural business involve approvals from the concerned municipalities.

So interference mainly comes from the central government. The philosophy of the Law was that interference by the central government should be kept to a minimum and should mainly consist of advice, recommendations and technical support. Central government should respect the independence of the local governments and limit the exercise of its administrative powers and involvement with local affairs only to cases involving nation-wide comprehensive policies.

In reality there was an extensive involvement of the central government in local affairs and local governments saw this as unnecessary interference with their dependence. This led to the reform process that ended with the approval of the new Decentralisation Law in April 2000.

### **c) The new Decentralisation Law of April 2000<sup>27</sup>**

Interestingly, the process started in 1993, with a Resolution for the Promotion of Decentralisation, passed in the Parliament and a Law for the Promotion of Decentralisation, voted in 1995. Based on this law, the government established a Decentralisation Promotion Committee<sup>28</sup> chaired by a business man, to study different methods of decentralisation. The Committee was appointed for 5 years to advise the Prime Minister. It took 7 years to get the legislation approved.

The collective decentralization law came into effect on April 1 2000<sup>29</sup> for the purpose of establishing an equal and cooperative relationship between the central and local governments.

The standardised system<sup>30</sup> which enabled Japan to build up national uniform standards for service delivery was no longer deemed efficient in light of globalisation and strong regional differences

---

<sup>27</sup> Japan is an example where local government reforms are seen to be essential to improve the democratic system. But it moved towards more autonomy of the local levels, after having reached a certain stage of maturity (incremental approach with nearly 10 years of debate on the new decentralisation law). On the contrary, New Zealand is an example where local government has achieved independence and autonomy through the managerialist reforms of the New Zealand economy, based on principles of efficiency and subsidiarity (big bang approach).

<sup>28</sup> The other members included two former governors, one acting mayor, two academics and one independent reviewer. The members were appointed with the approval of the National Parliament.

<sup>29</sup> The reform package aimed for drastic changes in the legal framework of local government, involving amendments to no less than 475 existing laws, and accompanied by over 4000 pages of reference documents.

in population, climate, economy, industry and culture. In order to take into account these regional differences and still provide a cohesive approach to nationwide issues and international affairs, central government has sought to achieve a balance: no longer a master/servant relationship, but one of partnership and equality between central and local governments, where local residents can both enjoy the right to make decisions on those issues concerning them, and bear the responsibility for those decisions. Local governments are now expected to carry out the administration works independently, so that their operations will fit the actual conditions of individual local sectors. In addition, varying degrees of power have been devolved to both prefectures and municipalities according to their size.

The system of “mandated functions<sup>31</sup>” to local organs (which made local authorities subordinate to central government) is now replaced by a system of “self-governing functions” (e.g. urban planning) and “statutory entrusted or legally delegated functions” (the latter are related to functions that should normally be executed by the central government – e.g. elections). The system where public employees are temporarily assigned as national government officials was abolished. Direction and supervision from central government over mandated functions was also abolished.

The new law introduces the concept of shared responsibility and reinforces local government’s fundamental role to govern at the local level. This fundamental concept of local autonomy is to be applied in legislation, legal interpretation and application. Involvement of central government in the affairs of the prefectures and of the central government and the prefectures in the affairs of the municipalities has been restricted<sup>32</sup> (it requires a foundation in law or in an ordinance based on such a law). Central government involvement in local affairs must be transparent and publicly announced. In cases of complaints about excessive involvement of central government in local affairs can be brought before the Committee for Handling Disputes between Central and Local Government, established in the Office of the Prime Minister.

The new legislation also seeks to improve the framework for handling disputes between the central and local governments and especially between the local governments themselves.

A special City System regulates the transfer of authority to cities with populations of more than 200,000.

The Local Administration Bureau is engaged in the planning of the local government system and the development of an ideal relationship between the central government and local governments. Now that decentralization has entered the implementation phase, it is necessary to establish and improve a **simple and efficient local administration system that adequately meets the diversifying needs of residents**<sup>33</sup>. To this end, local governments are increasingly requested not only to promote local administrative reforms such as reviewing office work or duties, streamlining organizations or structures, and implementing administrative assessments, but also to ensure the observance of the information-disclosure ordinance, the administrative procedures

---

<sup>30</sup> With the exception of Tokyo and 12 of the larger metropolitan cities, The Local Autonomy Law of 1947 granted all local authorities basically identical functions. This emphasis on uniformity and central guidance was rooted in the belief that the quality and level of services should be identical throughout the whole country.

<sup>31</sup> Under this system, the state regarded prefectures and municipalities as administrative substructures and governors and mayors as local representatives (see above).

<sup>32</sup> In principle, local governments should have full responsibility for the functions they carry out. As a result, grants from the central government have to be reduced and the local tax system reviewed accordingly.

<sup>33</sup> Local public service departments are now working to gain agreement from the local residents on such matters as the establishment of civil service ethics and working hours.

ordinance, and to reinforce the audit function. The Local Administration Bureau is in charge of supporting the local governments in this undertaking, for example, through information services or planning of measures to improve the administrative system. The Bureau also plans a variety of measures to support the voluntary merger of municipalities<sup>34</sup>.

#### **Japan: summary**

*The experience of Japan is interesting for Indonesia. While the governor and mayor performs functions on behalf of the central government, they do not engage in supervisory functions over the municipalities. Especially under the new decentralisation law, the independence of the different layers of local governments has been emphasised. But it took more than 50 years of experience with decentralised governance under the previous law (1947) before making this move. In fact, the previous law had also emphasised the independence of the local governments, but the reality turned out to be different and there has been serious interference in local affairs by the central government. Given the current pressures from the centre and the weakness of the accountability frameworks, the Indonesian system may well see itself going through a similar process, where more concrete independence of the different layers of local government will be operationalised after a longer period of trial and error, characterised by stronger oversight functions from the central government (possibly, but not necessarily – as was shown in the Japanese experience -through the provincial governor).*

#### **IV.4. Thailand**

##### **a) Current structure of local administration and local government<sup>35</sup>.**

A distinction is made between the provincial administration and the local governments:

- Provincial administration (75 provinces). The administration of a province is headed by a provincial governor and his/her deputies. Provinces are deconcentrated units that are administratively divided into a number of districts, headed by district officers under the responsibility of the provincial governor. A district is divided into subdistricts (*Tambon*) headed by a subdistrict chief (*Kamnan*). A subdistrict consists of several villages, headed by village heads.
- Local government is executed through six different forms of local authorities. The local governments and provincial administration are to some extent overlapping.

Thailand is divided administratively into provinces, districts and subdistricts. These are administrative areas under the authority of the provincial administration. At the same time these are the geographical areas in which the various local government forms function. The provincial governors and district officers are the major authorities in the provincial administration and act as the representatives of the central government in the provinces. Administrative power is, however, centralized at the level of the central administration. The Department of Local Administration, under the Ministry of the Interior, is in charge of provincial as well as local administration. Other departments of the central government also have their branch offices in the provinces. The

---

<sup>34</sup> With the signature of at least 1/50<sup>th</sup> of the local electorate, residents can demand the organisation of a merger conference, allowing them a more direct participation in the merger process.

<sup>35</sup> The foundation of the country's administrative structure in 3 levels: central administration, provincial administration and local government was laid down in the Public Administration Act of 1933.

provincial administration is essentially an appointed agent of the central government, through the Ministry of the Interior. To a large extent, the administrative power of local governments in the provinces is wielded under these central government agents, i.e. governors and district officers. The relationship between these levels of government clearly suggests an important degree of centralization.

#### b) **Forms of local government in Thailand**

Local government in Thailand is organized in 6 different forms. **Urban-based forms** of local government include:

- The Bangkok Metropolitan Administration (BMA), a strong-executive form of local government specific to Bangkok. The City is divided into 38 districts and numerous subdistricts, headed by appointed officers. The governor is the chief executive of Bangkok who is directly elected by voters. The governor may be recalled by a referendum or dismissed by the Minister of Interior. The governor appoints 4 deputy governors and all the district officers. The Bangkok Metropolitan Assembly is the elected legislative branch of the administration. At district level, a council of 7-10 members is elected to act as a liaison between the people and the district officers. The BMA falls directly under the supervision of the Minister of Interior.
- The City of Pattaya, which is a form of local government specific to Pattaya. The city is managed by a city manager hired by the City Council under a four-year contract. The Council has 17 members, 8 of whom are appointed. The manager answers to the City Council and manages the city according to policy guidelines given by the Council.
- The Municipality, governing urban centres in the provinces. A municipality is based on the council-mayor form of local government. In 1996 there were 146 municipalities divided over 3 categories: 9 City municipalities; 89 Town municipalities; and 48 *Tambon* municipalities. Generally a municipality resembles the division of power at the national level. A municipality council functions as a legislative branch of government, while the municipal executive board constitutes the executive branch. Voters elect the municipal council, which then elects the mayor as the chief executive. The mayor then appoints 2-4 councilors as members of the executive board. The council cannot recall or dissolve the executive board but can suggest the provincial governor, who acts in the name of the Minister of Interior, to dissolve the executive board. Actual power is in the hands of the provincial governor who is a representative of the central government.

**Rural-based forms** of local government include:

- The Provincial Administrative Organization (PAO) that constitutes local government at the provincial level. According to the Provincial Administration Organization Act (1997) the Provincial Administration Assembly elect the chief executive of the PAO. The term of the Assembly is 4 years. Until 1997 the provincial governor was by law the chief executive of a PAO. The amendment of the Provincial Administrative Organization Act in 1997 now allows a chief executive of the PAO to be elected by the councilors. There are as many PAOs as there are provinces (75).
- The *Tambon* Administrative Organization (TAO). A *Tambon* is a rural administrative division at the sub-district level comprising of a few villages. Since 1972, every *Tambon* in the country has a *Tambon* council, a consultative body that gives advice to the *Tambon* chief. The *Tambon* chief or subdistrict chief is appointed by the governor. The chief and the *Tambon* council are part of the provincial administration under the supervision of a

district officer and the provincial governor. Members of a *Tambon* council are partly elected by voters and partly appointed by the provincial governor. There are currently 2761 TAOs.

- The *Sukhapiban*<sup>36</sup> or Sanitary Committee is the smallest and oldest form of local government in Thailand. The *Sukhapiban* takes the forms of a committee, chaired by a district officer who is a provincial administration official and comprising of 9 members; 3 elected, 3 appointed and 3 ex-officio. The main function of *Sukhapiban* is to provide and maintain basic sanitary services to the communities. In 1996, there were 984 *Sukhapiban* throughout the country, mostly in rural centres.

Each of these forms of local government is operating independent from the others. However, all are subjected to a considerable degree of control by the central government through the Department of Local Administration in the Ministry of the Interior. The role of the governor, as the representative of the central government remains important.

### c) Local Government Functions

Local government functions can be classified into 3 types: statutory, discretionary and those specified by other legislation (e.g. the City Planning Act of 1975). The laws that establish each particular form of local government specify the statutory and discretionary functions. All forms of local government perform similar functions. However, urban local governments perform more complex services than rural local governments. The following specification of local government functions is based on those of urban local governments:

**Statutory functions:** (1) Maintenance of law and order; (2) Provision of public transport; (3) Provision of sanitary services (water supply, waste disposal, sewage and drainage); (4) Provision of fire engines; (5) Prevention and control of communicable diseases; (6) Provision of slaughterhouses; (7) Provision of public health services; (8) Provision of welfare for mothers and children; (9) Provision and maintenance of public recreation space and facilities; and (10) Provision of primary education.

**Discretionary functions:** (1) Provision of market places, ports and ferry services; (2) Provision of crematoriums; (3) Provision and maintenance of hospitals; (4) Provision of public utilities; (5) Provision and maintenance of parks, zoos and recreation areas as well as sport facilities; (6) Provision of vocational training; (7) Promotion of citizen's occupation; (8) Improvement of slum dwellings; and (9) Maintaining government enterprises.

De facto, the scope of local government functions is very limited. In addition, many functions at the level of local government are performed by the central government whose departments (e.g. town-planning department, the department of public health and the revenue department) extend their operations into the provinces (see above: dual hierarchy model) This not only leads to confusion but also impedes the development and growth of local government as a whole.

---

<sup>36</sup> This was the first form of local government, established in 1898. The function of the *Sukhapiban* was to oversee the sanitary provisions for urban as well as rural districts. The *Sukhapiban* of Bangkok was the first urban sanitary district. Provincial government was initiated 16 years later through the Local Government Act of 1914. The law formally institutionalized the *Sukhapiban* and set up provincial administrations to oversee their functioning all over the country.

#### d) **The future of local government in Thailand**

Until now, the system of public administration in Thailand has been very centralised. Authority was delegated from the capital to the provinces and then to local areas. Local government in Thailand so far has been subjected to strong control by the central government, which collects most of the revenue and central ministries and departments signing for more than 90% of the national public expenditure. These central departments undertake most development projects in local communities, both urban and rural. What is left to the local government is hardly adequate to meet the needs of local communities. All local governments are dependent on the central government for grants in order to implement larger development projects.

Under the new constitution in Thailand, local governments are supposed to receive 10 per cent of the Value Added Tax (VAT) collected by the central government, in addition to their existing sources of revenues. But even today, Thailand's governance structure remains strongly centralized, with the central government controlling most of the taxes in the country and distributing grants to local governments at its discretion.

But a revival of interest in local government may be expected. Under the 1997 Constitution, the need for people's participation in local government is specially emphasized. All members of the legislative and executive branches of local government must be elected and may be recalled by the people's collective petitions.

Moreover, the new Constitution stipulates that the central government must allow autonomy for local government "according to the principles of self-government and local people's will" (Article 282.) According to Article 283 of the Constitution, the supervision of local government may be maintained only as required by law and if it is in the interest of local people or of the country at large. Supervision must not infringe upon the essentials of the principal of self-government. More specifically Article 283 of the 1997 Constitution stipulates that all local governments must have the autonomy to formulate their own policies in government, general management, personnel management and finance as well as to determine their authority *vis-a-vis* the central government and other local governments. The adjudication of cases of dispute between the central and local government units, or between local governments will be the responsibility of the administrative courts.

But not everybody seems to be optimistic and the government currently seems to struggle with how to guide the decentralization process further without losing control over the process. In fact, actual implementation of decentralization measures outlined in the 1997 constitution has lagged badly, particularly in Thailand's historically restive southern reaches. More broadly, there are fears that the current government is trying to re-interpret" certain power-devolving articles. It would appear that the government is presently testing a "CEO-Governor" initiative that, in the name of efficiency, will hand decision-making power to the "un-elected" provincial governors rather than to the elected CEO of the PAO. Observers would see this project as a cynical effort to re-centralize. The key argumentation given by the central government agencies is that "most villages are still not ready to govern themselves".

While it is true that capacity building at the local level remains a key issue, this argument is routinely used by central bureaucrats all over the world, who are unwilling to hand over power. In response, the 9th National Plan (2002-2006) will concentrate upon improving the development capability of the local administrations. Development plans will integrate all aspects, monitoring systems will be enhanced, information system upgraded, and human resource capability increased.

### **Thailand: summary**

*The difficulties encountered by the Thai government in the implementation of the 1997 Constitution and the implicit resistance encountered at the level of the central ministries, inevitably recall the situation in Indonesia. While the new constitution strongly advocates for local autonomy, de facto the system remains centralised, and there seems to be a tendency to use the position of the provincial governor as a means to strengthen central control over the decentralisation process.*

*This also recalls the situation in Japan where, despite the fact that the 1947 Local Autonomy Law had emphasised the independence of the local governments, serious interference in local affairs was maintained by the central government. The Thai system of decentralisation is by no means as far-reaching as the Indonesian reforms. But still, even modest reform initiatives that aim to transfer powers to the periphery, appear to meet resistance and counter-lobbying from the central government. In many of these cases, the central government will try to use the position of its closest ally at the local level: the provincial governor, to ensure that crucial link between the centre and the local governments.*

*A report has been finalised on the role of the governors and the chiefs of districts in the local administration in Thailand. Once translated in English, this 500 page document in Thai will be of great value to all those who study the role of state officials at the local levels.*

### **IV.5. Philippines**

*The overthrow of authoritarian rule in Indonesia has facilitated the release of powerful centrifugal forces which are challenging the state. After East Timor, there are other movements for secession in Aceh and West Papua (former Irian Jaya). In both provinces, opposition to Jakarta's rule is more open and widespread. But demands for the creation of new provinces are also emerging, and to be seen as expressions of these centrifugal forces which also exist at the regency levels. A number of them have already been approved, but the cost implications of these new creations are important.*

*Also important to mention is the violence that threatens the stability of some of the other provinces (Maluku, Lombok, Sulawesi and Kalimantan). The insecurity in these provinces has implications on the orderly implementation of the decentralisation process and an important impact on the debate for further decentralisation, or, as some would like to see, more central control.*

*The management of diversity in an archipelago of over 200 million people appears to be extremely difficult and it is not yet sure to what extent the decentralisation process will solve or accelerate these problems.*

*In this regard, it is interesting to look at another archipelago that is currently engaged in a debate for federalism: the Philippines. The country also faces certain internal insecurity and instability problems (i.e.State of Mindanao). .*

#### **a) Present system**

##### *Background*

The experience of the Philippines is an important case study for Indonesia. Being also an archipelago of more than 7000 islands, its history of central-local relationships is a story of tensions between the forces of centralism and localism.

Under Spanish colonial rule, the purposes of the local government institutions (provinces, cities, municipalities and villages) was to extract taxes and maintain control. A patterns of centralised governance, focusing on the capital Manila was established, which lasted for more than three centuries.

With Independence in 1946 came also a trend towards decentralisation, but until the early 1990's, centralisation remained a dominant feature in governance with strong central control over the periphery (mainly through the Ministry of Local Government). Although local government units performed certain functions themselves, they acted as agents of the national government in the administration of major government services and implementation of national policies<sup>37</sup>.

A new Local Government Code was finally approved in 1991, representing a radical measure to increase local autonomy. Interestingly, the implementation of the code was also to be done in three phases: the change phase (1991-1994), the transition phase (1994-1996) and the stabilisation phase (1996-onwards).

### *Structure of local government*

The Philippines is a unitary state, with four levels of government: (1) the national level, (2) the provinces and the (highly urbanized) cities, (3) the municipalities and the component cities, and (4) the barangays. The Law stipulates special arrangements for the autonomous regions in Muslim Mindanao and the Cordilleras as well as for the National Capital Region.

There are 78 provinces and 1543 municipalities in the Philippines (and some 50,000 barangays). An elected mayor is the chief executive of the municipality. There is also a legislative council, chaired by the vice-mayor<sup>38</sup>. The mayor is a powerful and dominant figure in municipal government in the Philippines. He/she has important policy and planning functions. He/she has also supervisory functions regarding the barangays in the municipality. He/she is concerned with initiating and maximizing revenue through licensing, tax and other measures, enforcing laws and regulations, peace and order and appointing officials. **The mayor reports to the provincial governor.**

The provinces are the largest political and administrative units within the local government structure and are comprised of municipalities and component cities.

An elected governor is the chief executive officer of the province. The provincial council (legislative body) is presided over by the vice-governor. The provincial council is composed of elected members from the municipal councils, the president of the provincial barangay federation and the president of the provincial youth federation. The governor has wide-ranging powers and responsibilities. He/she is the link between central and local government. The Local Government Code also lists a number of mandatory positions which the governor must appoint. This has seriously increased the power of the governor as these positions are now removed from central control<sup>39</sup>.

---

<sup>37</sup> Turner, M., Philippines: from centralism to localism, in Marc Turner (ed.) central Local relations in Asia-Pacific, Convergence or Divergence, 1999, p. 98.

<sup>38</sup> The Local Government Code of 1991 provides a six-page list of the varied and wide powers of the municipal council.

<sup>39</sup> Turner 1999, p.105.

The mayor of the highly urbanized cities has responsibilities which are similar to the provincial governor.

The province fulfills both a developmental role and a supervisory role. It has responsibilities in the following fields: agricultural extension and on site-research services, health services, provincially funded infrastructure, upgrading of tax information and collection services.

### *Central-local relationships*

In contrast to the Indonesian system (article 4 of the Law nr 22) there is an hierarchical relationship between the levels of government in the Philippines. “*The President of the Philippines shall exercise general supervision over local governments. Provinces with respect to component cities and municipalities, and cities and municipalities with respect to component barangays shall ensure that the acts of their component units are within the scope of their prescribed powers and functions*”. Both the provincial governor (or the mayor of the highly urbanized city) and the municipal mayor (or the mayor of the component cities) play an important supervisory role.

The President still has the authority to exercise general supervision over the local government units. This authority has been delegated to the Department of Interior and Local Government (DILG). In addition to its supervisory role, the DILG also provides technical assistance, build administrative and technical capacity, monitor, evaluate, consult and coordinate. It must be a facilitator of development<sup>40</sup> and be responsive to the expressed needs of local government units.

### *Special regions*

In accordance with the Constitution of 1986<sup>41</sup>, the government attempted to set up two special regions: The Region of Muslim Mindanao and the Cordillera Administrative Region<sup>42</sup>.

In the **Cordillera** only one province voted in favor of incorporation. As a result, the whole region was declared an Administrative Region, with all regional government offices remaining under the supervision of the national departments<sup>43</sup>.

In **Mindanao**, only 4 provinces voted in favor of the special Muslim Region (9 provinces and all cities voted against). The Organic Act establishing the Region allocates its jurisdiction and functions<sup>44</sup>. The Region has an elected governor as the chief executive and an elected council as

---

<sup>40</sup> Through its magazine “Innovations” the department disseminates examples of innovative and best practices throughout the archipelago. Also interesting is the “Galing Pook Initiative”, an awards programme managed by the DILG and the Asian Institute of Management, to reward and publicize best practices in local government. It enabled the DILG’s Local Government Academy to shift its training focus from a capacity-building approach to an experimental learning approach (Turner 1999, p. 115).

<sup>41</sup> There shall be created autonomous regions in Muslim Mindanao and in the Cordilleras consisting of provinces, cities, municipalities, and geographical areas sharing common and distinctive historical and cultural heritage, economic and social structures, and other relevant characteristics within the framework of this Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines.  
All powers, functions, and responsibilities not granted by this Constitution or by law to the autonomous regions shall be vested in the National Government.

<sup>42</sup> The creation of the autonomous region shall be effective when approved by majority of the votes cast by the constituent units in a plebiscite called for the purpose, provided that only provinces, cities, and geographic areas voting favorably in such plebiscite shall be included in the autonomous region.

<sup>43</sup> Turner, 1999, p. 106.

<sup>44</sup> (1) Administrative organization; (2) Creation of sources of revenues; (3) Ancestral domain and natural resources; (4) Personal, family, and property relations; (5) Regional urban and rural planning development; (6) Economic, social, and tourism development; (7) Educational policies; (8) Preservation and development of the cultural

the legislative body. The governor appoints a cabinet and has supervisory powers over all local government units in the region. The act also stipulates that the region may have jurisdiction over the powers, functions and responsibilities of certain national departments<sup>45</sup>. But the President maintains supervisory powers over the region and the local government units comprising it. Typical for Mindanao region is that the regional judiciary reflects both the national system and the special requirements for the region – there are both Muslim and tribal courts.

The **Metro Manila Development Authority (MMDA)** is a public corporation which performs planning, monitoring and coordinating functions and also exercises regulatory and supervisory authority over the delivery of metro-wide services within Metro Manila. The Council of MMDA includes the mayors of the 8 cities and 9 municipalities that comprise the territory of the metropole. In contrast to the other governors, the governor of the MMDA is not elected but appointed by the President. The governor holds Cabinet rank. But the legislation creating the MMDA guarantees the autonomy of the local authorities within the metropolitan authority.

**b) Role of the provincial governor (article 85 of the Local Government Code of 1991)**

According to article 85, the governor, as the chief executive of the province, shall exercise such powers and perform duties and functions as provided by the Code and other applicable laws.

The duties and functions of the governor are divided in four categories:.

1. General supervision and control
2. Law enforcement and implementation of policies, programs and projects
3. Revenue generation
4. Service delivery

*(1) General supervision and control over all programs, projects, services, and activities of the province. In this respect the governor shall:*

- (i) Determine the guidelines of provincial policies and be responsible to the sangguniang panlalawigan (provincial council – legislative body) for the program of the government;
- (ii) Direct the formulation of the provincial development plan, with the assistance of the provincial development council, and upon approval there of by the sangguniang panlalawigan, implement the same;
- (iii) Present the program of government and propose policies and projects for the consideration of the sangguniang panlalawigan at the opening of the regular session of the sangguniang panlalawigan every calendar year and as often as may be deemed necessary as the general welfare of the inhabitants and the needs of the provincial government may require;
- (iv) Initiate and propose legislative measures to the sangguniang panlalawigan and as often as may be deemed necessary, provide such information and data needed or requested by said sanggunian in the performance of its legislative functions;
- (v) Appoint all officials and employees whose salaries and wages are wholly or mainly paid out of provincial funds and whose appointments are not otherwise provided in the Code, as well as those he may be authorized by law to appoint;

---

heritage; and (9) Such other matters as may be authorized by law for the promotion of the general welfare of the people of the region.

<sup>45</sup> The defense and security of the regions however shall be the responsibility of the National Government.

- (vi) Represent the province in all its business transactions and sign in its behalf all bonds, contracts, and obligations, and such other documents upon authority of the sangguniang panlalawigan or pursuant to law or ordinance;
- (vii) Carry out such emergency measures as may be necessary during and in the aftermath of man-made and natural disasters and calamities;
- (viii) Determine the time, manner, and place of payment of salaries or wages of the officials and employees of the province, in accordance with law or ordinance;
- (ix) Allocate and assign office space to provincial and other officials and employees who, by law or ordinance, are entitled to such space in the provincial capital and other buildings owned or leased by the province;
- (x) Ensure that all executive officials and employees of the province faithfully discharge their duties and functions as provided by law and Code, and cause to be instituted administrative or judicial proceedings against any official or employee of the province who may have committed an offense in the performance of his official duties;
- (xi) Examine the books, records and other documents of all offices, officials, agents or employees of the province and, in aid of his executive powers and authority, require all national official and employees stationed in the province to make available to him such books, records, and other documents in their custody, except those classified by law as confidential;
- (xii) Furnish copies of executive orders issued by him to the Office of the President within seventy-two (72) hours after their issuance;
- (xiii) Visit component cities and municipalities of the province at least once every six (6) months to deepen his understanding of problems and conditions, listen and give appropriate counsel to local officials and inhabitants, inform the officials and inhabitants of component cities and municipalities of general law and ordinances which especially concern them, and otherwise conduct visits and inspections to ensure that the governance of the province will improve the quality of life of the inhabitants;
- (xiv) Act on leave applications of officials and employees appointed by him and the commutation of the monetary value of leave credits in accordance with law;
- (xv) Authorize official trips of provincial officials and employees outside of the province for a period not exceeding thirty (30) days;
- (xvi) Call upon national official or employee stationed in or assigned to the province to advise him on matters affecting the province and to make recommendations thereon; coordinate with said official or employee in the formulation and implementation of plans, programs, and projects; and when appropriate, initiate an administrative or judicial action against a national government official or employee who may have committed an offense in the performance of his official duties while stationed in or assigned to the province;
- (xvii) Authorize payment for medical care, necessary transportation, subsistence, hospital or medical fees of provincial officials and employees who are injured while in the performance of their official duties and functions, subject to availability of funds;
- (xviii) Represent the province in inter-provincial or regional sports councils or committees, and coordinate the efforts of component cities or municipalities in the national or regional paralarong or sports development activities;
- (xix) Conduct an annual paralarong panlalawigan, which shall feature traditional sports and disciplines included in national and international games, in coordination with the Department of Education, Culture and Sports; and
- (xx) Submit to the Office of the President the following reports: an annual report containing a summary of all matters pertinent to the management, administration and

development of the province and all information and data relative to its political, social and economic conditions; and supplemental reports when unexpected events and situation arise at any time during the year, particularly when man-made or natural disasters or calamities affect the general welfare of the province, region or country;

(2) *Enforce all laws and ordinances relative to the governance of the province and the exercise of the appropriate corporate powers, implement all approved policies, programs, projects, services and activities of the province. In this respect the governor shall:*

- (i) Ensure that the acts of the component cities and municipalities of the province and of their officials and employees are within the scope of their prescribed powers, duties and functions;
- (ii) Call conventions, conferences, seminars, or meetings of any elective and appointive officials of the province and its component cities and municipalities, including national officials and employees stationed in or assigned to the province, at such time and place and on such subject as he may deem important for the promotion of the general welfare of the province and its inhabitants;
- (iii) Issue such executive orders for the faithful and appropriate enforcement and execution of laws and ordinances;
- (iv) Be entitled to carry the necessary firearm within his territorial jurisdiction;
- (v) In coordination with the mayors of component cities and municipalities and the National Commission, formulate the peace and order plan of the province and upon its approval, implement the same; and
- (vi) Call upon the appropriate national law enforcement agencies to suppress disorder, riot, lawless violence, rebellion, or sedition or to apprehend violators of the law when public interest so requires, and the police forces of the component city or municipality where the disorder or violation is happening are inadequate to cope with the situation or the violators;

(3) *Initiate and maximize the generation of resources and revenues, and apply the same to the implementation of development plans, program objectives and priorities (as provided in Rule 30 of the Code), particularly those resources and revenues programmed for agro-industrial development and country wide growth and progress. In this respect the governor shall: :*

- (i) Require each head of an office or department to prepare and submit an estimate of appropriations for the ensuing calendar year, in accordance with the budget preparation process;
- (ii) Prepare and submit to the sanggunian for approval the executive and supplemental budgets of the province for the ensuing calendar year.
- (iii) Ensure that all taxes and other revenues of the province are collected, and that provincial funds are applied to the payment of expenses and settlement of obligations of the province, in accordance with law and ordinance;
- (iv) Issue licences and permits and suspend or revoke the same for any violation of the conditions upon which said licenses or permits had been issued, pursuant to law or ordinance;
- (v) Adopt adequate measures to safeguard and conserve land, mineral, marine, forest and other resources of the province, in coordination with the mayors of component cities and supply management in the province; and protect the funds, credits, rights and other properties of the province; and
- (vi) Institute or cause to be instituted administrative or judicial proceedings for violation of ordinances in the collection of taxes., fees or charges, and for the recovery of

funds and property; and cause the province to be defended against all suits to ensure that its interests, resources and rights shall be adequately protected.

(4) *Ensure the delivery of basic services and the provision of adequate facilities as specified in Rule V of the Code, and in addition thereto, the governor shall:*

- (i) Ensure that the construction and repair of roads and highways funded by the National Government shall, as far as practicable, be carried out in a spatially contiguous manner and in coordination with the construction and repair of the roads and bridges of the province and of its component cities and municipalities; and
- (ii) Coordinate the implementation of technical services by national offices for the province and its component cities and municipalities, including public works and infrastructure programs of the provincial government and its component cities and municipalities.

(5) *Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.*

### **c) Towards federalism?**

While central agencies still have doubts about the technical ability of local government units and some would even argue that central government has maintained its traditional supervisory and compliance roles, it is evident that there has been a gradual improvement in central-local relationships over the years.

But local government officials are increasingly turning away from the centre and identifying with their local units and local innovation is becoming more common. Some of them are entering cooperative ventures to exert influence. The Leagues also play an important role (there are leagues for barangays, municipalities, cities and provinces).

On the other hand, the DILG is seen to orient its activities still more towards supervision than towards capacity building and central agencies still press their own programmes rather than tailoring them to the specific needs of the localities.

But after all, there is general agreement that decentralised governance in the Philippines has proceeded steadily and that there are clear indications that real gains have been made in promoting local autonomy and participation (of the citizenry, NGOs and the private sector).

But what is the trend? What will be the next step? While many agree that the current system still needs to be approved, already there seem to be pressures for moving to the next level in the decentralisation process : federalism.

Previous attempts to amend the 1987 Constitution had been rejected twice by the people – during the Ramos and Estrada presidencies – as politically motivated. Now there seems to be a movement to attract legislative support for a constitutional amendment which is presented as to be the “panacea” to the country’s political ills. The proposal for a federal system was announced on the internet ([www.bulatlat.com](http://www.bulatlat.com)).

The proposal seeks to change the present unitary government into a federal system. The plan, says its architect, Jose Abueva, a political scientist and former president of the University of the Philippines (UP), would enhance “nationhood, democracy and progress.” The proposal seeks to amend the 1987 Constitution by 2008 to pave the way for the adoption of the federal system.

In the Senate, the federalism bill was proposed late last year by Senate President Aquilino Pimentel, Jr. and a number of other senators. The chair of the Senate Committee on Constitutional Amendments had said she would call for a constitutional convention to take up the proposal. Ratification of the bill would have been scheduled in the May 14 elections.

Support for the scheme came in particular from Mindanao politicians, who described federalism as “the antidote to secession.” This opinion was shared by the president of the Islamic Directorate of the Philippines.

15 years ago, the first civilian uprising led to the downfall of the Marcos dictatorship. More recently, millions of Filipinos enraged by high-level corruption, economic plunder and gangsterism, rose to topple the discredited president, Joseph Estrada.

Today the country remains torn by two wars – the Moro secessionist war and the Marxist-led people’s democratic revolution. Some people believe that the federalism scheme is the answer to these problems.

The drafter of the proposal, a former UP president, envisions a two-stage process for the shift from the present unitary system to a federal one, which will begin this year and will end in 2010. In the transitional stage (2000-2009), the 14 existing administrative regions would be reorganized into 10 larger administrative or “socio-economic regions.” The local governments would be given more substantial autonomy as “proto-states” of an emergent federalism.

The 10 administrative regions would be: Metro Manila, Northern Luzon, Cordillera, Central Luzon, Southern Tagalog, Bicol-Samar, Visayas-Palawan, Western Mindanao, Bangsa Moro and Eastern Mindanao. Metro Manila would be the national capital and the site of the federal government.

In 2008, the charter would be amended to pave the way for the adoption of the federal system.

The proposal calls for the federal government to exercise concurrent powers and functions with the component states in such fields as science and technology, education, health and welfare, agricultural development, trade and industry, transportation and communication, protection of labor and workmen’s compensation, and national culture and the arts.

Exclusive to the federal government are national powers and functions involving national policy, planning and legislation, national security and defence, foreign relations, monetary system, federal appellate courts of justice, civil service, elections and audit.

All other powers and functions, would belong to the states and their local governments. These include certain powers of taxation, fund-raising and borrowing.

It is said that the 10-year timeframe for the shift to federalism would allow the nation ample time to undergo the transition stage of building the enlarged administrative regions and giving them substantial autonomy as ‘proto-states,’ and then preparing the federalization scheme and the specific constitutional changes to be submitted for the people’s ratification.”

The main arguments given by the drafter and his supporters are the following:

- a) a federal system would bring about national unity and identity while preserving the nation’s cultural diversity and social pluralism.

- b) the Philippines is ready for a federal system since it has achieved “sufficient national unity and democratization, including a measure of decentralization and local autonomy”;
- c) there have been growing difficulties and frustration with the country’s highly-centralized unitary system, despite the 1987 Constitution’s design for “participatory democracy, local autonomy and an active role for civil society in governance”;
- d) federalism will respond to the demands of local leaders for their release from the costly, time-consuming, stifling and demoralizing effects of excessive centralization and controls by the national government in the unitary system.”
- e) a federal system will greatly increase the capacity of the people and the government to deal with the country’s chronic problem of poverty, injustice and inadequate social services and infrastructure – said the author of the proposal

#### **IV.6. Role of Governors in federal systems: Canada, USA and Russia**

##### **a) Canada – State of Ontario**

The Lieutenant Governor of Ontario is appointed by the Governor General on the recommendation of the Prime Minister of Canada and the Federal Cabinet. The appointment is for a period of not less than five years and the salary is paid by the federal government.

According to the Constitution Act, 1867, Lieutenant Governors are not removable from Office within five years of their appointment, except for reasons which must also be publicly communicated to the Senate and the House of Commons. Lieutenant Governors serve until the Governor General-in-Council appoints a new person to fulfill the role. They have generally served between four and seven years in office, and usually about five years.

##### **Role and Responsibilities of the Lieutenant Governor, The Queen's Representative in the State of Ontario**

The governor has two main roles: (a) a constitutional role and (b) a community role.

###### **Constitutional Role**

- Facilitates the smooth functioning of the Constitution, ensuring that the democratic will of Ontarians and their elected representatives is upheld, and that the unwritten constitutional conventions of responsible parliamentary government are respected;
- Summons the Legislative Assembly to meet and outlines the Government's legislative plans in the Speech from the Throne, provides Royal Assent to bills to signify that they have completed all the parliamentary steps to enable them to become law, and prorogues the Assembly to end a sitting or dissolves the Assembly, which results in a provincial election;
- Appoints a Premier by determining which party has the support of the majority in the Legislative Assembly, and officiates at the swearing-in of cabinet ministers and other officials nominated by the Premier; accepts the resignation of an outgoing Premier and ensures that the will of the elected Legislative Assembly is respected in the event that a Government has lost the support of the House or the electorate; and ensures that a Premier and Government are in place in the event of parliamentary stalemate;
- Approves Cabinet decisions and various appointments to give them the force of law, thus signifying the end of an approval process started in Ontario Government ministries;
- Acts on the advice of elected officials, but may exercise the right to be consulted, to encourage and to warn.

### **Community Role**

- welcomes the Queen and members of the Royal Family, world leaders and their diplomatic representatives, and as their official host in Ontario, provides opportunities for them to gain an appreciation of Canada, and of this province and its people
- acts as a host for events in the life of Ontario held at Queen's Park, and attends hundreds of events organized by community, educational, volunteer and other groups throughout the province, speaking publicly about the people, culture and heritage of Ontario to honour citizens and reflect the diversity of the province
- represents the people of Ontario and the characteristics of the province, rather than the policies of the government of the day, and provides leadership by lending the dignity of the office to worthwhile causes to encourage volunteers and others whose contributions add to the quality of life in Canada
- presents orders, decorations, medals and honours to outstanding Ontarians, including the Order of Ontario, Ontario Medal for Good Citizenship, Ontario Medal for Police Bravery, Ontario Medal for Firefighter Bravery, Ontario Medal for Young Volunteers, Lieutenant Governor's Community Volunteer Award, Lincoln M. Alexander Award, Senior Achievement Award and Community Action Award, as well as national honours presented at the request of the Governor General, Lieutenant Governor's awards, and other awards presented on behalf of organizations in Ontario
- congratulates Ontario residents and organizations on important occasions, sends greetings to mark significant birthdays and anniversaries, writes messages to be read or published for special events, and conveys messages of sympathy on behalf of all citizens

### **b) USA – State of Texas**

The Governor of Texas is the chief executive of the state and is elected by the citizens every four years. The Governor must be at least 30 years old and be a resident of Texas for the five years immediately prior to the election.

The Governor makes policy recommendations that lawmakers in both the House and Senate chambers may sponsor and introduce as bills. The Governor appoints the Secretary of State, as well as members of boards and commissions who oversee the heads of state agencies and departments.

The constitutional and statutory duties of the Governor include:

- ❑ Signing or vetoing bills passed by the Legislature.
- ❑ Serving as commander-in-chief of the state's military forces.
- ❑ Convening special sessions of the Legislature for specific purposes.
- ❑ Delivering a report on the condition of the state to the Legislature at the beginning of each regular session.
- ❑ Estimating of the amounts of money required to be raised by taxation.
- ❑ Accounting for all public moneys received and paid out by him and recommending a budget for the next two years.
- ❑ Granting reprieves and commutations of punishment and pardons upon the recommendation of the Board of Pardons and Paroles and revoking conditional pardons.
- ❑ Declaring special elections to fill vacancies in certain elected offices.
- ❑ Appointing qualified Texans to state offices that carry out the laws and direct the policies of State government. Some of these offices are filled by appointment only. Others are ordinarily elected by the people, but the Governor must occasionally appoint individuals to fill vacancies in those offices. The Governor also appoints Texans to a wide range of advisory bodies and task forces that assist him with specific issues.

### **Some differences between the Canadian system and the American system**

The Canadian and American systems of government are both democracies modeled on the British parliamentary system. Early in their political history both Canada and the United States chose the federal system, dividing power between regional and national governments and giving them their own areas of jurisdiction. In spite of their similarities, however, the Canadian parliamentary system contrasts sharply with the American presidential system.

#### *The Constitutions*

The Canadian Constitution of 1867 established a national government that was suited to a small population spread over a vast territory. Provincial government was limited to local matters. Although the Constitution has never been changed in this respect, the way it has been interpreted over the years has led to a gradual increase in the power of the provinces.

In contrast, the American Constitution was framed in 1787 to protect the independence of the 13 original states and to prevent the central government from gaining too much power. Each state was free to create a government within the framework of the Constitution. Yet since 1787 the federal government's areas of jurisdiction have expanded at the expense of the states'.

#### *The Legislatures*

All provincial Canadian Legislatures are unicameral, meaning that there is only one body of elected representatives (the Legislative Assembly).

In the United States all Legislatures except Nebraska's are bicameral. That is, the people elect two groups of representatives: a House of Representatives and a Senate.

#### *The Person at the Top*

Canada and its provinces recognize the British monarch as the **head of state**, while real power is held by the **head of government** (the Premier or Prime Minister) and cabinet. In Canada the Prime Minister selects the Lieutenant Governor to represent the monarch at the state level. The Lieutenant Governor gives Royal Assent to bills, opens and closes sessions of the Legislature, and accepts the Premier's resignation if the government is defeated in the Assembly.

In the United States the heads of state and government are one and the same; that is, the Governor.

### **c) The Russian federation – Role of the Governor of Samara Region**

Samara Region (3.27 million people) is one of the autonomous regions (oblasts) that make up the Russian federation. It is well known for its economic development potential (petroleum, aerospace industries, machinery construction, hydro-energy and automobile industries) and rated as one of the five Russian regions that are most attractive for investors.

In 1990 the city and the oblast were given back their historic names – Samara and Samara Oblast. The territory of the Samara Region comprises 11 towns, 24 urban villages and 27 rural districts (comprising 324 local rural administrations). The largest cities is Samara city with 1.21 million people. The city is divided into city districts),

The Governor of Samara Oblast is the supreme official of the regional government and the head of the Samara Oblast Administration. He/she exercises his powers through the system of executive bodies of the Samara Oblast.

The Oblast Governor is elected for a 5 year term, by citizens of the Russian Federation who have the right to vote within the territory of the Samara Oblast, on the basis of the universal, equal and direct suffrage by ballot. The governor cannot be elected for more than two consecutive terms.

The role of the governor in such an autonomous region within the Russian federation is the following<sup>46</sup>:

- form Samara Oblast Administration and head it by his undivided authority in accordance with Samara Oblast Charter;
- insure the protection of rights and freedoms of Samara Oblast citizens, the integrity of and the rule of law and order in the territory of Samara Oblast;
- introduce legislation to the Duma (legislative council) of Samara Oblast;
- promulgate laws of Samara Oblast;
- represent Samara Oblast in domestic and foreign affairs and conduct negotiations and sign treaties and agreements on behalf of Samara Oblast;
- provide for the coordinated operation of every and each executive body of Samara Oblast;
- act as loan manager when granting loans from Samara Oblast budget funds;
- appoint to and dismiss from their office deputies of Samara Oblast Governor and heads of Samara's executive bodies;
- form and head Samara Oblast Governor's deliberative and subsidiary agencies;
- appoint one half of the membership of Samara Oblast Election Commission;
- grant incentives to or impose penalties on officials appointed by him;
- represent Samara Oblast in relations with federal bodies, or governments of other Russian regions, or bodies of local self-government, or in foreign economic affairs and in doing that sign treaties and agreements on behalf of Samara Oblast;
- grant his consent to the appointment of Public Prosecutor of Samara Oblast;
- grant his consent to the appointment or the dismissal of the head of Samara Oblast Department of Home Affairs;
- introduce to the Duma of Samara Oblast candidates for judges of the Charter Court of Samara Oblast;
- grant his consent to the appointment of magistrates in Samara Oblast;
- propose candidates for the position of Human Rights Commissioner of Samara Oblast.

In exercising his powers Samara Oblast Governor shall observe the Constitution of the Russian Federation and federal laws, the Charter of Samara Oblast and laws of Samara Oblast, and fulfil Ukases of the President of the Russian Federation and resolutions of the Russian Federal Government.

In administering the executive bodies of Samara Oblast, Samara Oblast Governor shall do the following:

- introduce to the approval and confirmation by the Duma of Samara Oblast a draft law on Samara Oblast budget and a draft law on the execution of the previous year's Samara Oblast budget;

---

<sup>46</sup> The Terms of reference of the Governor are published on the website of samara Region ([www.adm.samara.ru/en/content/17](http://www.adm.samara.ru/en/content/17))

- introduce to the consideration by the Duma of Samara Oblast legislation on regional taxes, or regional tax privileges, or financial obligations of Samara Oblast, or other involving expenditures to be covered with Samara Oblast budget funds;
- introduce to the approval and confirmation by the Duma of Samara Oblast programs and forecasts of the region's social and economic development and regional target programs;
- organize the formation of off-budget funds and other monetary funds and provide control over them being allocated for the purposes specified;
- approve and confirm the structural organization of the executive power of Samara Oblast and the regulations of executive bodies of Samara Oblast, and form the executive bodies of Samara Oblast;
- provide for the necessary co-operation between executive bodies of Samara Oblast and bodies of local self-government;
- provide pursuant to federal law for the coordinated and concerted activities of Samara Oblast Administration and territorial agencies of federal executive bodies in the territory of Samara Oblast;
- consider reports and accounts of heads of executive bodies of Samara Oblast;
- organize in accordance with federal law and Samara Oblast law audits of executive bodies of Samara Oblast and of bodies of local self-government;
- introduce to the consideration by federal executive bodies drafts of legal acts within their terms of competence;
- repeal any legal act set by any executive body of Samara Oblast in case it is in contradiction with federal law or Samara Oblast law;
- appoint to or dismiss from their positions in accordance with effective law directors of any public enterprise, organization or institution, which is the property of Samara Oblast;
- receive from enterprises, organizations or institutions located within the territory of Samara Oblast any necessary information to estimate the region's social and economic development, as well as information on their projects and programs which can produce ecological or demographic effects or otherwise interfere with any interests of the people of Samara Oblast;
- otherwise act in accordance with federal law and Samara Oblast law.

The Samara Oblast Governor shall not simultaneously be a deputy of any legislative body, except that he is the member of the Federal Council, or of any body of local self-government or be otherwise engaged in any gainful activity except teaching, scientific research or other creative occupation.

#### **d) Role of the Governor in India**

(For more details and authenticity, see the Constitution of India)

- There shall be a Governor for each state (Articles 153 of the Constitution of India).
- The executive power of the State shall be vested in the Governor and shall be exercised by him either directly or through officers subordinate to him in accordance with the Constitution of India (Article 154)
- The Governor of a State shall be appointed by the President by warrant under his hand and seal (Article 155).
- A person to be eligible for appointment as Governor should be citizen of India and has completed age of 35 years (Article 157).
- The Governor shall not be a member of the Legislature or Parliament; shall not hold any office of profit, shall be entitled to emoluments and allowances. (Article 158)

- Every Governor and every person discharging the function of the Governor shall make a subscribe an oath or Affirmation(Article 159).
- The President may make such a provision as he thinks fit for the discharge of the functions of the Governor of a State in any contingency not provided for in Chapter II of the Constitution.(Article 160).
- The Governor shall have the power to grant pardons, reprieves, etc. (Article 161).
- There shall be council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions except in so far as he is by or under the Constitution required to exercise his functions or any of them in his discretion. (Article 163).
- The Governor appoints Chief Minister and other Ministers. (Article 164).
- The Governor appoints the Advocate General for the State. (Article 165).
- All executive actions ,of the Governor of a State shall be expressed to be taken in the name of Governor. (Article 166).
- The Governor shall from time to time summon and prorogue the House and dissolve the Legislative Assembly. (Article 174).
- The Governor may address the Legislative Assembly....; The Governor may send messages to the House. (Article 175).
- Special Address to the House by the Governor. (Article 176).
- The Governor assents, withholds assent or reserves for the consideration of the Bill passed by the Legislative Assembly. (Article 200).
- The Governor shall in respect of every financial year cause to be laid before the House.... a statement of the estimated receipts and expenditure.(Article 202).
- No demand for a grant shall be made except on the recommendation of the Governor. (Article 203(3)).
- The Governor shall .....cause to be laid before the House another statement showing estimated amount of expenditure. (Article 205).
- The Governor may promulgate the ordinances under certain circumstances. (Article 213).
- The Governor is consulted for appointment of Judges of High Court. (Article 217).

\*\*\*\*\*