



Legal Impact of the Division of Mandatory Government Affairs to the Society

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Abstract

This article examines the division of concurrent authority between the central and local governments in Mandatory Government Affairs and its implications for fulfilling citizens' basic service rights. Using an interdisciplinary legal approach, the research explores the persistence of centralized bureaucratic influence in regional governance and evaluates whether the current separation of mandatory affairs aligns with regional needs or hampers local welfare. Findings indicate that the central government continues to dominate decision-making due to the legacy of centralized bureaucracy. The authority division under Article 12 paragraphs (1) and (2) creates legal ambiguities, conflicts with principles of good governance, and undermines interrelated human rights. Consequently, these issues impact the formulation of Regional Revenue and Expenditure Budgets (APBD), impeding the welfare of communities, as exemplified by the case of Parepare City.

A. Introduction

Indonesia's vast territory requires a strong constitutional¹ foundation in order to effectively support governance at both central and regional levels. To facilitate this, the decentralization policy divides administrative responsibilities between the central government and regional authorities.²

¹ Terrance Sandalow, "Constitutional Interpretation," *The Michigan Law Review Association* 79, no. 5 (1981): 1033–72, <https://doi.org/10.2307/1288056>.

² Fidelx Pius Kulipossa, "Decentralisation and Democracy in Developing Countries: An Overview," *Development in Practice* 14, no. 6 (2004): 768–79, <https://doi.org/10.1080/0961452042000284003>.



The decentralization policy aims to promote political democratization³ and enhance public welfare.⁴ It empowers local governments to maximize their political capacity by educating citizens to participate in civil society⁵ and by providing comprehensive public services tailored to regional needs.⁶

The 1945 Constitution of the Republic of Indonesia establishes nine governance principles⁷, including autonomy and assistance⁸, harmonious and equitable relations between central and local governments, and the exercise of the broadest possible regional autonomy.⁹ These principles guide governance structures, resulting in the formation of provincial and district/city governments that manage both mandatory and discretionary central government functions to improve community welfare in line with local characteristics and advantages.¹⁰

The classification of governmental functions is detailed in Law Number 23 of 2014 on Local government (Local Government Law). Article 9 divides government affairs into three categories: absolute, concurrent, and general. Absolute affairs remain fully under central government authority (Article 9(2)), concurrent affairs involve shared responsibilities between the central and local governments, enabling regional autonomy (Articles 9(3) and 9(4)), and general affairs fall under the President's authority as head of government (Article 9(5)).¹¹

Article 10(1) of the Local Government Law mentions Absolute Government Affairs¹² include foreign policy, defense, security, judiciary, monetary and fiscal affairs, and religion, which then become the full business of the Central Government", or can also be delegated to the Provincial Government based on the principle of deconcentrating¹³ (Article 10 Paragraph 2 of the Local Government Law). The authority of the Local government, which consists of

³ Marcus Mietzner and Edward Aspinall, "Problems of Democratisation in Indonesia; Elections, Institutions and Society," *ISEAS Publishing* 9 (2010): 1–20, <https://doi.org/10.1355/9789814279918>.

⁴ Suryo Gilang Romadlon, "Implikasi Pergeseran Sistem Politik Terhadap Hukum Dan Birokrasi Di Indonesia," *Jurnal Konstitusi* 13, no. 4 (2016): 868–85, <https://doi.org/10.31078/jk1349>.

⁵ Simone Chambers and Jeffrey Kopstein, "Civil Society," *The Oxford Handbook of Political Theory* 1 (2006): 363–81, <https://doi.org/10.1093/oxfordhb/9780199548439.003.0020>.

⁶ Faridah Djellal, Faïz Gallouj, and Ian Miles, "Two Decades of Research on Innovation in Services: Which Place for Public Services?," *Structural Change and Economic Dynamics* 27 (2013): 98–117, <https://doi.org/10.1016/j.strueco.2013.06.005>.

⁷ Wenjun Wu, Tiejun Huang, and Ke Gong, "Ethical Principles and Governance Technology Development of AI in China," *Engineering* 6, no. 3 (2020): 302–9, <https://doi.org/10.1016/j.eng.2019.12.015>.

⁸ David Ellerman, "Autonomy-Respecting Assistance: Toward an Alternative Theory of Development Assistance," *Review of Social Economy* 62, no. 2 (2004): 149–68, <https://doi.org/10.1080/00346760410001684424>.

⁹ Reynold Simandjuntak, "Sistem Desentralisasi Dalam Negara Kesatuan Republik Indonesia Perspektif Yuridis Konstitusional," *De Jure: Jurnal Hukum Dan Syar'iah* 7, no. 1 (2015): 57–67, <https://doi.org/10.18860/j-fsh.v7i1.3512>.

¹⁰ Zhihan Lv et al., "Government Affairs Service Platform for Smart City," *Future Generation Computer Systems* 81 (2018): 443–51, <https://doi.org/10.1016/j.future.2017.08.047>.

¹¹ Muhtadin, "Analisis Pelaksanaan Otonomi Daerah Dan Desentralisasi Pemerintahan Dalam Perspektif Undang-Undang 23 Tahun 2014 Tentang Pemerintah Daerah," *AHKAM* 2, no. 2 (2023): 233–51, <https://doi.org/10.58578/ahkam.v2i2.1029>.

¹² Saptono Jenar, "The Acceleration Development of Disadvantaged Region: On Government Affairs Perspective," *Nurani Hukum* 4, no. 2 (2021): 1–15, <https://doi.org/10.51825/nhk.v4i2.12214>.

¹³ Irina Adriana Bilouseac, "Decentralization and Deconcentration-Necessary Conditions for the Emergence of Local Democracy Elements," *The USV Annals of Economics and Public Administration* 9, no. 1 (2009): 352–57, <http://annals.feaa.usv.ro/index.php/annals/article/viewArticle/189>.

“mandatory government affairs”¹⁴ and “optional government affairs”¹⁵, is Concurrent Government Affairs (Article 11 Paragraph 1 of the Local Government Law).

Mandatory Government Affairs are obligations that all local governments must fulfill (Article 1, point 14). These are further categorized into affairs related to basic services and those unrelated to basic services (Article 11(2)). General Government Affairs, related to maintaining harmonious relations across ethnic, religious, racial, and social groups—as foundational pillars of the nation—are delegated to the President, who further delegates implementation at the regional level to governors and regents/mayors. This delegation ensures alignment with Pancasila, the 1945 Constitution, and the principle of Unity in Diversity^{16, 17}.

This paper focuses on Concurrent Government Affairs¹⁸, specifically the division between mandatory affairs related to basic services and those not related. This distinction implies a governmental prioritization, with certain areas designated as national priorities under Article 12.

Article 12(1) lists basic service-related affairs, including Education, Health, Public Works and Spatial Planning, Public Housing and Settlement Areas, Peace and Public Order, and Social Affairs. Article 12(2) enumerates non-basic service affairs, such as Labor, Women’s Empowerment and Child Protection, Food, Land, Environment, Population Administration, Community and Village Empowerment, Family Planning, Transportation, Communication and Information, Cooperatives, SMEs, Investment, Youth and Sports, Statistics, Standardization, Culture, Libraries, and Archives.

The division of mandatory government affairs into those related to basic services and those unrelated has created a legal gap affecting the continuity of public services. This separation potentially impacts the financing of essential service facilities and infrastructure. Public services—including the provision of public goods such as roads, markets, hospitals, terminals, and schools, as well as regulatory services like issuing National Identity Cards and Building Permits—are structured to meet fundamental community needs.¹⁹ However, financing for these services, derived from the Revenue Sharing Fund, General Allocation Fund, and Special Allocation Fund, is often allocated unevenly due to this separation.²⁰

¹⁴ I Nyoman Tingkes, I Ketut Sirna, and Ida Ayu Putu Sri Widnyani, “Mandatory Affairs Development Transformation in Five Regional Apparatus Organizations Not Related to Basic Services in Badung Regency, Bali,” *Jurnal Ekonomi Dan Bisnis Jagaditha* 10, no. 2 (2023): 144–53, <https://doi.org/10.22225/jj.10.2.2023.144-153>.

¹⁵ Suacana I Wayan Gede and Suaib Eka, “Rest Affairs Implementation and Priority Optional Affairs of Bali Provincial Government, Indonesia,” *International Journal of Physical and Social Sciences* 6, no. 3 (2016): 64–82, www.indianjournals.com/ijor.aspx?target=ijor:ijpss&volume=6&issue=3&article=007.

¹⁶ Andri Fadillah, Yuanyuan Wang, and Guijiao Zou, “Pancasila Ideology: The Importance of the Role of Students and the Government in Upholding the Ideology of Pancasila,” *International Journal of Educational Narratives* 1, no. 4 (2023): 200–204, <https://doi.org/10.55849/ijen.v1i4.279>.

¹⁸ Ali Mukti Tanjung, Gunawan Undang, and Aji Primanto, “Social Policy in the Implementation of Concurrent Government Affairs in the Nias Archipelago Area, Indonesia,” *Khazanah Sosial* 5, no. 2 (2023): 318–30, <https://doi.org/10.15575/ks.v5i2.25728>.

¹⁹ Inggit Akim and Sapriani, “Implementasi Kebijakan Pelayanan Administrasi Terpadu Kecamatan Dalam Meningkatkan Kualitas Pelayanan Publik Di Kabupaten Nunukan,” *Borneo Law Review* 1, no. 1 (2017): 82–104, <https://doi.org/10.35334/bolrev.v1i1.711>.

²⁰ Arthaingan Helmina Mutiha, “The Effect of Regional Own-Source Revenue, Tax Revenue-Sharing Fund, General Allocation Fund and Special Allocation Fund to the Human Development Index (Based on the Research of Provincial Government in Indonesia),” *KnE Social Sciences* 3, no. 11 (2018): 609–24, <https://doi.org/10.18502/kss.v3i11.2792>.

This raises critical questions: Why does centralized authority remain predominant in Indonesia's regional governance? Is the decentralization model, which separates mandatory government affairs into basic and non-basic services (Article 12(1) and (2) of the Local Government Law), consistent with the General Principles of Good Governance? Moreover, what are the implications of this separation for regional welfare?

This article seeks to explore the persistence of centralized governance culture in Indonesia and critically assess whether the legal separation of mandatory government affairs serves or hinders the welfare of regional communities. Although recent studies—such as Rumesten et al. (2020)²¹ Hamja (2020)²² and Muhtadin (2023)²³ that have addressed aspects of regional autonomy and decentralization under Law No. 23 of 2014, none have specifically analyzed the impact of dividing mandatory government affairs into basic and non-basic services.

The originality of this article lies in its focus on the legal and practical consequences of this separation, arguing that it may constrain regional budget realization and ultimately impede public welfare. This perspective advances the discourse by highlighting the need for a robust legal framework that ensures balanced and effective decentralization.

This research employs an interdisciplinary approach within legal science, commonly known as socio-legal research.²⁴ This method integrates legal analysis with insights from social sciences—such as sociology, historical anthropology, administrative theory, and basic rights theory—to examine legal phenomena within their broader social, political, economic, and cultural contexts. By combining multiple disciplines simultaneously, the research transcends isolated legal analysis and adopts a holistic interdisciplinary perspective.²⁵

The interdisciplinary approach is essential for critically reviewing the separation of Mandatory Government Affairs as regulated in the Local Government Law. Recognizing that policies have both direct and indirect impacts, this research rigorously evaluates and selectively interprets data. The initial stage involves a critical assessment of source validity, focusing on the authenticity of the source, data quality, and overall reliability. Subsequently, data are analyzed with careful selectivity. To concretely address the two main issues introduced in this article, the research applies this socio-legal framework to government policies in Parepare City, South Sulawesi Province.

B. Discussion

1. Historical Legacy of Centralized Governance

According to Indriyany, during the Old Order, President Soekarno exercised a highly centralized and authoritarian leadership style, employing a strict system of rewards and

²¹ Iza Rumesten, Helmanida Helmanida, and Agus Ngadino, "Pengaturan Pembagian Urusan Pemerintahan; Kritik Terhadap Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah," *Simbur Cahaya* 27, no. 1 (2020): 134–55, <https://doi.org/10.28946/sc.v27i1.808>.

²² Buhar Hamja, "Pemisahan Dan Pembagian Kekuasaan Dalam Konsep Negara Hukum Dan Demokrasi," *Justisia: Jurnal Ilmu Hukum* 7, no. 14 (2020): 975–1000, <https://jurnal.umm.ac.id/index.php/justisia/article/view/1293>.

²³ Muhtadin, "Analisis Pelaksanaan Otonomi Daerah Dan Desentralisasi Pemerintahan Dalam Perspektif Undang-Undang 23 Tahun 2014 Tentang Pemerintah Daerah."

²⁴ Sunardi Purwanda and Andi Sri Rezky Wulandari, "Socio-Legal Studies: Methodical Implications of Legal Development in Indonesia," *Al 'Adl* 16, no. 2 (2023): 152–63, <https://doi.org/10.31332/aladl.v16i2.6129>.

²⁵ Suteki and Galang Taufani, *Metodologi Penelitian Hukum (Filsafat, Teori, Dan Praktik)* (Depok: Rajawali Pers, 2018), pg. 146-147.

punishments while withholding power from other political actors and regions.²⁶ Decision-making was dominated by Soekarno, with little to no power-sharing. Similarly, under the New Order regime of Soeharto, centralized governance persisted, characterized by an “iron fist” approach that prioritized stability and development controlled exclusively from the center²⁷. Political participation was suppressed, and the public was treated as mere objects of development. Local governments functioned as mere extensions of the national government, without autonomy or involvement in planning.

This centralized governance model persisted for approximately 39 years, spanning the first two regimes of the republic. Over this period, a governance culture emerged in local governments and communities marked by passivity, dependence on central directives, risk aversion, and tendencies toward corruption, collusion, and nepotism.

The collapse of this centralized system sparked the Reformasi era in 1998, ushering in democracy and decentralization as corrective measures. Decentralization granted regions greater autonomy, enabling local governments to share authority equitably with the center and encouraging active regional participation in governance.

The decentralization policy, a hallmark of the democratic Reformasi period, revitalized the vision of regional autonomy. It promised that local governments and communities would no longer be distant from the center or burdensome to it, but instead would have the authority to determine their own development priorities and identities.²⁸

This policy was motivated by Indonesia’s vast geographical expanse, cultural diversity, socio-economic disparities, and local political demands.²⁹ Decentralization and regional autonomy formally began on January 1, 2001, marking a historic shift in the relationship between central and local governments and transforming the societal mindset away from centralized control concentrated in Jakarta.

Logemann defines decentralization as the transfer of authority to regional power apparatuses that govern themselves with autonomy—exercising power based on their own initiative, a concept van Vollenhoven termed *eigenmeesterschap* (self-mastery). Joenianto views decentralization as the delegation of authority from the central government to local governments, enabling them to regulate and manage certain affairs as their own household matters.³⁰ Similarly, Irawan Sujito describes decentralization as the delegation of governmental authority to others for execution. Linguistically, decentralization derives from “*de*” (meaning detachment) and “*centrum*” (meaning center).³¹ While this may sound anarchic,³² Situmorang clarifies that decentralization does not imply secession from the state but rather the devolution

²⁶ Ika Arinia Indriyany, “Analisis Sistem Pemerintahan Di Indonesia, Masih Relevankah Konsep Negara Kesatuan?,” *Journal of Social Politics and Governance (JSPG)* 1, no. 1 (2019): 1–13, <https://doi.org/10.24076/JSPG.2019v1i1.153>.

²⁷ Derry Aplianta, “Indonesia’s Response in the South China Sea Disputes: A Comparative Analysis of the Soeharto and the Post-Soeharto Era,” *JAS (Journal of ASEAN Studies)* 3, no. 1 (2015): 1–21, <https://doi.org/10.21512/jas.v3i1.749>.

²⁸ Scott L. Greer, *Territory, Democracy and Justice: Regionalism and Federalism in Western Democracies* (New York: Palgrave Macmillan, 2006), pg. 121-123.

²⁹ Kausar Ali Saleh, “Mengelola Hubungan Pemerintah Pusat Dengan Pemerintahan Daerah Yang Efektif Dan Efisien Dalam Politik Desentralisasi,” *Ilmu Dan Budaya* 40, no. 55 (2018): 6289–6304, <https://doi.org/10.47313/jib.v40i55.408>.

³⁰ Simandjuntak, “Sistem Desentralisasi Dalam Negara Kesatuan Republik Indonesia Perspektif Yuridis Konstitusional.”

³¹ Dedi Soemardi, “Masalah Desentralisasi,” *Jurnal Hukum & Pembangunan* 18, no. 2 (2017): 141–54, <https://doi.org/10.21143/jhp.vol18.no2.1250>.

³² Robert M. Dowling, “On Eugene O’Neill’s ‘Philosophical Anarchism’,” *The Eugene O’Neill Review* 29, no. 1 (2007): 50–72, <https://www.jstor.org/stable/29784831>.

of certain powers from the central government to local governments to allow them to manage their own affairs.³³

Historically, the concept of a unitary state has long acknowledged the principle of delegating authority from the center to the regions.³⁴ N. Huda states that the authority exercised by regions is a delegation from the central government, granted in part to be regulated locally.³⁵ After the Reformasi era, Article 1 Paragraph 1 of the 1945 Constitution was elaborated into Chapter VI, which governs Local government. Article 18 Paragraph 1 affirms that the unitary state of the Republic of Indonesia is divided into provinces consisting of regencies and cities, each with its own local government. Article 18 Paragraph 2 stipulates that local governments regulate and manage their own affairs based on the principles of autonomy and assistance tasks, under the leadership of governors (provinces), regents (regencies), and mayors (cities). Article 18 Paragraph 4 mandates that these leaders are democratically elected. Article 18 Paragraph 5 guarantees the widest possible autonomy for regional leaders and their apparatuses, except for government affairs legally designated as central government responsibilities. Finally, Article 18 Paragraph 6 grants regional leaders the authority to enact regional regulations and other rules to implement autonomy and assistance tasks.

From this historical and juridical perspective, it can be concluded that the division of governmental affairs between the central and local governments in Indonesia is rooted in the unitary state principle. This division is fundamentally based on arrangements of autonomy and assistance tasks, as enshrined in Article 18 Paragraph 6 of the 1945 Constitution.

The typical concept of a unitary state is fundamentally top-down, where the central government shapes and directs the regions rather than vice versa. The authority exercised by local governments is essentially a delegated mandate, and regional regulations are prohibited from contradicting central (national) laws, as the latter do not require recognition by the regions.³⁶ The Regional People's Representative Council (*DPRD*), as the legislative body at the regional level, is similarly restricted and cannot enact regulations that conflict with national legislation passed by the House of Representatives. Moreover, the executive authority possesses the power to annul or revoke regional legislation enacted by the *DPRD*.

The authority devolved to local governments is primarily executive power, delegated from the President, who holds supreme governmental authority as stipulated in the 1945 Constitution. The President bears ultimate responsibility for governance at the national and regional levels alike. This framework underlines that decentralization within Indonesia's unitary state differs from federal systems, in which decentralization can extend to legislative and judicial powers.³⁷ In Indonesia, decentralization is largely limited to executive functions, as local governments lack legislative or judicial authority.³⁸ The President, as the highest executive authority, retains the ability to supervise, guide, monitor, and evaluate the implementation of regional autonomy across provinces and districts/cities.³⁹

³³ Hariyanto, "Hubungan Kewenangan Antara Pemerintah Pusat Dan Pemerintah Daerah Berdasarkan Negara Kesatuan Republik Indonesia," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 3, no. 2 (2020): 99–115, <https://doi.org/10.24090/volksgeist.v3i2.4184>.

³⁴ Delfi Suganda, "Pancasila, Keragaman Dan Negara Kesatuan," *Al-Ijtimai: International Journal of Government and Social Science* 1, no. 2 (2016): 42–51, <https://journal.ar-raniry.ac.id/jai/article/view/532>.

³⁵ Rahmat Robuwan, Wirazilmustaan Wirazilmustaan, and Rio Armada Agustian, "Konsep Hubungan Kewenangan Antara Pemerintah Pusat Dan Pemerintah Daerah Dalam Bingkai Negara Kesatuan Dengan Corak Otonomi Luas," *Progresif* 12, no. 2 (2018): 2131–45, <https://doi.org/10.33019/progresif.v12i2.976>.

³⁶ Ni'matul Huda, *Hukum Pemerintahan Daerah* (Bandung: Nusa Media, 2019), pg. 78–84.

³⁷ Hamja, "Pemisahan Dan Pembagian Kekuasaan Dalam Konsep Negara Hukum Dan Demokrasi."

³⁸ Saleh, "Mengelola Hubungan Pemerintah Pusat Dengan Pemerintahan Daerah Yang Efektif Dan Efisien Dalam Politik Desentralisasi."

³⁹ Sri Nur Hari Susanto, "Desentralisasi Asimetris Dalam Konteks Negara Kesatuan," *Administrative Law and Governance Journal* 2, no. 4 (2019): 631–39, <https://doi.org/10.14710/alj.v2i4.631-639>.

Historically and legally, Indonesia has implemented decentralization within the framework of a unitary republic. Article 18 Paragraph 2 of the 1945 Constitution enshrines the principle that local governments regulate and manage their own affairs based on autonomy and assistance tasks. This constitutional provision affirms that local governments enjoy autonomous authority within the unitary state structure, albeit limited to autonomy and assistance duties.⁴⁰

The overarching objective of regional autonomy is to accelerate the welfare of local communities by improving public services, empowering citizens, fostering community participation, and enhancing regional competitiveness. This is pursued while upholding the principles of justice, democracy, equity, and regional distinctiveness within the unitary state system of Indonesia.⁴¹ Although the 1945 Constitution establishes a division of powers between the central and local governments, the unitary state concept theoretically recognizes only a single sovereign government. Scholars such as Kusnardi and Saragih argue that the central and local governments do not possess equal standing; the center wields considerably greater authority, rendering local governments subordinate or derivative entities.⁴²

The dominance of central government power over regional authorities is clearly evident, particularly in determining which areas of governance are classified as mandatory government affairs. The central government retains the authority to define these sectors, as stipulated in the Local Government Law, which directly influences the scope and actions of local governments.⁴³

Local governments, operating under the framework of Concurrent Government Affairs, are authorized by the central government to manage both “Mandatory Government Affairs”⁴⁴ and “Elective Government Affairs”⁴⁵. Within the category of Mandatory Government Affairs, distinctions are made between basic service affairs and non-basic services, which also fall under the jurisdiction of local governments. Article 9 Paragraph 3 of the Local Government Law defines Concurrent Government Affairs as those shared between the central government and provincial and regency/city governments. Furthermore, Article 11 Paragraph 1 clarifies that Concurrent Government Affairs comprise both Mandatory Government Affairs and Elective Government Affairs entrusted to provincial and regency/city governments.

Historically, since the Old Order era and increasingly during the New Order regime, Indonesia’s governmental system operated in a highly centralized manner characterized by a top-down approach. Policies were formulated and controlled centrally from Jakarta and implemented by regional bureaucracies with little to no opportunity for local deliberation or innovation. The regional bureaucracy functioned primarily as an extension of central power rather than as an adaptive public service institution. Consequently, local bureaucracies developed a subordinate culture, lacking the autonomy to think independently or to act proactively. This bureaucratic culture fostered a tendency to await orders from superiors and to

⁴⁰ Dudung Abdullah, “Hubungan Pemerintah Pusat Dengan Pemerintah Daerah,” *Jurnal Hukum Positum* 1, no. 1 (2016): 83–103, <https://doi.org/10.35706/positum.v1i1.501>.

⁴¹ Sherlock Halmes Lekipiouw, “Konstruksi Penataan Daerah Dan Model Pembagian Urusan Pemerintahan,” *Sasi* 26, no. 4 (2020): 557–70, <https://doi.org/10.47268/sasi.v26i4.414>.

⁴² Muhammad Yusrizal Adi Syaputra and Mirza Nasution, “Legal Protection of the Constitutional Rights of the Indigenous Faith Believers in Indonesia,” *Pertanika Journal of Social Sciences & Humanities* 28, no. 2 (2020): 1215–31, [http://www.pertanika.upm.edu.my/pjssh/browse/regular-issue?article=JSSH\(S\)-1157-20](http://www.pertanika.upm.edu.my/pjssh/browse/regular-issue?article=JSSH(S)-1157-20).

⁴³ Richard Briffault, “Our Localism: Part II--Localism and Legal Theory,” *Columbia Law Review* 90, no. 2 (1990): 346–454, <https://doi.org/10.2307/1122776>.

⁴⁴ Enrico Adhanur Karyadi and Hasna Imtiyaz Hanifah, “The Effect of Mandatory Expenditures on Basic Services of The Local Government on Gross Per Capita Regional Domestic Products in East Java Province,” *Jurnal REP (Riset Ekonomi Pembangunan)* 7, no. 1 (2022): 90–105, <https://doi.org/10.31002/rep.v7i1.61>.

⁴⁵ Ahmad Yani, “Penataan Urusan Pemerintahan Pilihan Dalam Pelaksanaan Otonomi Seluas-Luasnya Pada Negara Kesatuan Republik Indonesia,” *Jurnal Bina Praja* 15, no. 3 (2023): 557–70, <https://doi.org/10.21787/jbp.15.2023.557-570>.

avoid risks, which resulted in delays in addressing local community needs and stifled innovation in public service delivery at the regional level.

2. Discrepancy between the Concept of Separation of Mandatory Government Affairs and General Principles of Good Governance

The division of authority from the Central Government to Local governments embodies the principle of autonomy, aiming to improve public welfare, services, empowerment, participation, and regional competitiveness.

However, the Central Government's sole authority to categorize Mandatory Government Affairs into "basic" and "non-basic" services limits local governments to merely executing central directives. This legal framework reduces regional administrations to implementers without discretion over local priorities.

Although decentralization emerged as a response to decades of centralized rule, the current system still positions regions as recipients of central instructions, perpetuating central dominance under legislative legitimacy.

As a result, regions cannot fully address local needs in their budgets. For example, environmental protection may be underfunded if classified as a non-basic service, while sectors like Public Housing, deemed basic services, receive priority regardless of regional urgency. There is a mismatch between the separation of Mandatory Government Affairs into "basic" and "non-basic" services and the General Principles of Good Governance, particularly the principle of public interest. This principle, emphasized in four key laws—Law No. 28/1999 on Clean State Administration, Law No. 30/2014 on Government Administration, Law No. 25/2009 on Public Services, and the Local Government Law—prioritizes public welfare by ensuring services are aspirational, inclusive, selective, and non-discriminatory, avoiding favoritism toward personal or group interests.

Kuntjoro Purbopranoto argues that the public interest principle addresses the rigidity of legal certainty, which often fails to keep pace with community dynamics. Jazim Hamidi adds that the public interest principle primarily serves national and societal development, supported by legislation.⁴⁶

The principle of public interest emphasizes prioritizing public welfare—national, state, and societal interests—based on legislation. It demands governance that is aspirational, inclusive, selective, and non-discriminatory, with no room for personal or group interests. This principle targets common welfare by ensuring broad community benefit, improving quality of life, protecting vulnerable groups, upholding human rights,⁴⁷ and promoting social and economic justice⁴⁸.

Public interest also entails restricting private interests when they conflict with broader societal needs, grounded in the principle of social justice for all Indonesians. Development and its outcomes must enhance the welfare of the entire population without discrimination across sectors.⁴⁹ However, the division of Concurrent Government Affairs between central and local governments—as regulated in Article 12 paragraphs (1) and (2) of the Local Government Law—draws a clear line between "basic services" and "non-basic services." This division influences how budgets are allocated, often prioritizing basic services and potentially leading to unequal treatment in funding.

⁴⁶ Cekli Setya Pratiwi et al., *Asas-Asas Umum Pemerintahan Yang Baik* (Jakarta: Lembaga Kajian dan Advokasi untuk Independensi Peradilan, 2016), pg. 86-89.

⁴⁷ Syafrizal Syafrizal, Fikri Aulia Akmal, and Sunardi Purwanda, "Human Rights Review on Age Limitation of Candidates for Regional Heads," *Amsir Law Journal* 6, no. 1 (2024): 21–27, <https://doi.org/10.36746/alj.v6i1.590>.

⁴⁸ Sunardi Purwanda et al., "Haluan Kesejahteraan Sosial Dalam Diskursus Teori-Teori Keadilan," *Jurnal Dinamika Hukum* 25, no. 1 (2024): 152–61, <https://doi.org/10.35315/dh.v25i1.9819>.

⁴⁹ Pratiwi et al., *Asas-Asas Umum Pemerintahan Yang Baik*.

“Basic services” are defined in Article 1 point 16 of the Local Government Law and Article 1 point 4 of Minister of Home Affairs Regulation No. 100 of 2018 as public services that fulfill the basic needs of citizens. As a result, Mandatory Government Affairs related to education, health, public works, housing, public order, and social affairs are prioritized. Meanwhile, areas such as labor, environment, food, women and child protection, civil registration, community empowerment, transportation, and culture are treated as secondary, despite their long-term impact on public welfare.

Local governments are obligated to implement laws resulting from the concurrent division of authority.⁵⁰ However, the classification of Mandatory Government Affairs into “basic” and “non-basic” services restricts regional discretion in identifying and prioritizing services according to local needs. This rigid categorization becomes a standard procedure with unequal status, limiting flexibility and potentially undermining regional welfare through skewed budget allocations.⁵¹

For instance, if a region prioritizes environmental protection over public housing, its efforts may be constrained because the Environment sector is not classified as a basic service, unlike Public Housing and Settlement Areas. As a result, the Environment sector is unlikely to receive higher or prioritized funding, regardless of regional urgency.

A similar issue is highlighted in the author’s dissertation *Hakikat Pemenuhan Hak Atas Buku Bacaan untuk Masyarakat di Daerah Terdepan, Terluar, dan Tertinggal*, which contrasts the treatment of Education (a basic service) and Libraries (a non-basic service).⁵² This separation contradicts the human rights principle that rights are interrelated, interdependent, and indivisible. As Knut D. Asplund notes, developed countries traditionally emphasize Civil and Political Rights (CPR), while developing countries focus on Economic, Social, and Cultural Rights (ESCR).⁵³ This distinction led to a consensus—reaffirmed in Point 5 of the Vienna Declaration and Programme of Action—that all human rights must be treated holistically, fairly, and without hierarchy.^{54,55} Education and libraries, under ESCR, are inherently linked, and their artificial separation undermines the fulfillment of fundamental rights.⁵⁶

The intrinsic link between education and libraries is reinforced in General Comment No. 13, Paragraph 2 of the 1999 International Covenant on Economic, Social and Cultural Rights (ICESCR), which identifies libraries as essential components of the right to education—equally important as school buildings, sanitation, drinking water, competent teachers, and teaching materials. This underscores the state’s obligation to provide libraries, including adequate books, as part of its responsibility in fulfilling the right to education.

Bahtiar, Head of the Information Centre at the Ministry of Home Affairs, echoed this concern during a Coordination Meeting on Regional Budget Allocation for the National Library of Indonesia on 4 July 2019. He criticized the separation of education (a basic service) from libraries (a non-basic service), advocating for a revision of the Local Government Law to

⁵⁰ Hamja, “Pemisahan Dan Pembagian Kekuasaan Dalam Konsep Negara Hukum Dan Demokrasi.”

⁵¹ Rumesten, Helmanida, and Ngadino, “Pengaturan Pembagian Urusan Pemerintahan; Kritik Terhadap Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah.”

⁵² Sunardi Purwanda et al., “The Existence of the Right to Books for Frontier, Outermost and Disadvantaged Regions as Part of the Right to Enjoy Education,” *Journal of Law, Policy and Globalization* 95, no. 2002 (2020): 42–47, <https://doi.org/10.7176/jlpg/95-07>.

⁵³ Lucy Richardson, “Economic, Social and Cultural Rights (and beyond) in the UN Human Rights Council,” *Human Rights Law Review* 15, no. 3 (2015): 409–40, <https://doi.org/10.1093/hrlr/ngv016>.

⁵⁴ Sunardi Purwanda, Mira Nila Kusuma Dewi, and Nurul Miqat, “The Right to Reading Materials,” *Arena Hukum* 18, no. 1 (2025): 53–72, <https://doi.org/10.21776/ub.arenahukum2025.01801.3>.

⁵⁵ Purwanda et al., “The Existence of the Right to Books for Frontier, Outermost and Disadvantaged Regions as Part of the Right to Enjoy Education.”

⁵⁶ Mona Zulficar, “From Human Rights to Program Reality: Vienna, Cairo, and Beijing in Perspective,” *American University Law Review* 44, no. 4 (1995): 1017–36, <https://digitalcommons.wcl.american.edu/aclr/vol44/iss4/4/>.

elevate libraries to the status of basic services alongside education. According to him, "...libraries can develop if there are strong regulations... they must be aligned with education."⁵⁷

Under Law Number 23 of 2014 on Local government, basic services correspond to basic needs, implying that non-basic services address non-essential needs. This distinction not only creates legal inconsistencies and contradicts the General Principles of Good Governance but also violates the human rights principle of indivisibility, interdependence, and interrelation. Furthermore, this classification influences the realization of Regional Budgets, potentially hampering public welfare.

For instance, the financing of facilities and infrastructure—often covered by the Special Allocation Fund (DAK), Revenue Sharing Fund (DBH), and General Allocation Fund (DAU)—is affected by this service categorization. The DAK in particular is distributed based on general, special, and technical criteria. While general criteria reflect regional fiscal capacity, special criteria are shaped by statutory mandates and regional characteristics as defined by relevant ministries.⁵⁸ Consequently, the classification of services into basic and non-basic, as stipulated in Article 12 Paragraphs 1 and 2 of Law No. 23/2014.

3. Potential Implications of the Separation of Mandatory Government Affairs on Community Welfare

All provincial and district/city governments in Indonesia have synchronized their 2022 Development Work Plans (*RKPD*) with national development goals to support the President and Vice President's vision and mission. This alignment is reflected in the five main directives of the President, particularly Directive Point 5, which emphasizes the strengthening of infrastructure to support economic development and "basic services." In this context, the Parepare City Government's preparation of its 2022 General Budget Policy is based on the 2022 Parepare City *RKPD*, which in turn refers to the city's current economic conditions and projections. The budget policy document highlights that regional economic conditions are influenced by national and provincial trends, thus requiring consideration of economic indicators such as Economic Growth, Inflation Rate, Economic Contribution/Structure, GRDP per Capita, Unemployment Rate, Poverty Rate, and the Human Development Index (HDI) in planning urban development.

The city's regional expenditure policy, as formulated in the 2018–2023 Regional Medium-Term Development Plan (*RPJMD*), prioritizes the fields of Education and Health—classified as Mandatory Government Affairs related to basic services—and Tourism, categorized as an Elective Government Affair. The focus on these three sectors is consistent with two out of six expenditure directives: (1) targeting mandatory and optional government affairs that are regional priorities, and (2) prioritizing direct expenditures to improve public services, particularly basic services in education, health, tourism, and supporting social and public infrastructure.⁵⁹

However, such prioritization inherently causes disparities in budget allocations, especially for sectors not categorized as basic services. Sectors such as culture, libraries, and archives—which are integrally linked to the education sector—are relegated to complementary roles rather than core priorities. Consequently, the budgetary allocations for these sectors remain limited,

⁵⁷ Berry, "Kemendagri Dorong Penguatan Kelembagaan Perpustakaan Daerah," Media Infopublik, 2019, <https://infopublik.id/kategori/sorot-politik-hukum/430661/kemendagri-dorong-penguatan-kelembagaan-perpustakaan-daerah>, accessed January 14, 2025.

⁵⁸ Kemenkumham, *Laporan Akhir Analisa Dan Evaluasi Hukum Tentang Perimbangan Keuangan Negara Antara Pusat Dan Daerah (UU No. 33 Tahun 2004)* (Jakarta: BPHN, 2009).

⁵⁹ Pemkot Parepare, *Kebijakan Umum APBD (KUA) Tahun Anggaran 2022* (Parepare: Humas Pemkot Parepare, 2022).

impeding the fulfilment of community rights related to cultural development, access to knowledge through libraries, and preservation of public records. The marginalization of these sectors indicates a structural gap in policy implementation, as the local government's focus on legally designated basic services undermines the holistic development of human rights, which are indivisible, interdependent, and interrelated.

Without adequate recognition and funding, the cultural, library, and archival sectors in Parepare City will continue to be underdeveloped, limiting their potential to contribute meaningfully to regional human development and the broader educational ecosystem.

The findings indicate that cultural values and practices in Parepare City are largely confined to ceremonial expressions, such as those featured during the city's annual anniversary celebrations. According to Mayor Taufan Pawe, events like local arts and culture parades are intended to preserve cultural heritage for future generations (Kembaroginews.com). However, such celebrations are largely momentary in nature. This raises critical questions: what enduring cultural values can be imparted through an annual event, and to what extent can they influence younger generations?⁶⁰ Cultural preservation requires sustained integration into daily community life, rather than reliance on sporadic ceremonial moments. A striking perspective on cultural decline comes from Zafran, a young resident of Parepare, who shared his reflections during the Makassar Biennale 2021. He observed that the city's architectural heritage is diminishing, as historical buildings are increasingly demolished or repurposed. He remarked that the label "Parepare is close to history" is no longer applicable, given the rapid loss of physical historical markers.⁶¹

This sentiment is echoed in the Makassar Biennale 2023, where efforts were made to revive the cultural memory of the city. Through community-led cultural activities, especially around the old port area of Cappa Ujung, residents and youth reanimated the identity of Parepare's "old town," breathing life back into deteriorating historical spaces.

Similar concerns are evident in the library sector. During a working visit to the Parepare City Library Office, Rudy Najamuddin, Chair of Commission I of the Parepare Regional House of Representatives, noted several shortcomings, including inadequate facilities and insufficient budget allocations (Suarajatappareng.com). Mayor Pawe has expressed intentions—though not formalized plans—to establish a national-scale library to enhance the city's literacy ecosystem. He emphasized the importance of promoting both financial and digital literacy.

The archival sector in Parepare City appears to be the most neglected. Unlike the library, which already faces numerous challenges, the archives are only a sub-unit under the Parepare City Library Office and receive even less attention. Several young residents have voiced concerns over the lack of accessible archival materials documenting Parepare's history. For instance, Onet, a young commercial artist, expressed frustration over the scarcity of archival resources, which hinders his efforts to understand the city's past.⁶²

Despite these challenges, some independent efforts have emerged. The Sampan Institute, a local community organization, has actively engaged in preserving Parepare's historical records. Through research and documentation, the institute contributes to the city's collective memory and provides limited access to archival materials otherwise unavailable through official channels.

The neglect of archives, libraries, and cultural resources undermines the constitutional right to knowledge and information as enshrined in Articles 28C(1) and 28F of the 1945 Constitution.

⁶⁰ Andi Musran, "Anak Muda Dan Narasi Sejarah," *Media Artefact*, 2021, <https://artefact.id/2021/11/23/anak-muda-dan-narasi-sejarah/>.

⁶¹ Baiba Tjarve and Ieva Zemīte, "The Role of Cultural Activities in Community Development," *Acta Universitatis Agriculturae et Silviculturae Mendelianae Brunensis* 64, no. 6 (2016): 2151–60, <https://doi.org/10.11118/actaun201664062151>.

⁶² Musran, "Anak Muda Dan Narasi Sejarah."

These provisions guarantee every citizen the right to self-development, access to education, and the use of science, technology, arts, and culture to improve their quality of life. They also affirm the right to communicate, seek, and disseminate information through any available means.

Similarly, environmental issues are inherently tied to public health. Article 28H(1) of the Constitution guarantees the right to live in physical and spiritual well-being, including access to adequate housing, a good and healthy environment, and health services. Environmental justice, therefore, is inseparable from the broader struggle for equitable living conditions.⁶³

Budgetary constraints significantly impact the realization of these fundamental rights. Marginalizing sectors such as culture, libraries, and archives—which are integral to education—and the environment—which underpins public health—creates systemic disparities. When the state prioritizes certain sectors over others, it risks perpetuating unequal access to essential resources and rights, thereby fostering discrimination in public service delivery.

C. Conclusion

Although local governments have been granted the authority to regulate and manage their own affairs, in practice, the central government retains significant control over many aspects of public life. This enduring dominance is rooted in the legacy of a centralized bureaucratic system, which continues to shape governance at the local level. As a result, local governments often experience stagnation in the quality of public services—posing a serious obstacle to the development of democratic, effective, and citizen-centered governance.

The division of concurrent authority between central and local governments, as outlined in Article 12, paragraphs (1) and (2) of the Local Government Law, ostensibly delineates responsibilities for the provision of basic public services. However, this division often results in legal ambiguities and inconsistencies that are misaligned with the General Principles of Good Governance. Furthermore, such fragmentation undermines the interrelated, interdependent, and indivisible nature of human rights.

These structural issues have direct consequences for the formulation and implementation of Regional Budgets (*APBD*). Budgetary disparities arising from the unclear allocation of responsibilities between levels of government hinder the fulfillment of fundamental community needs, including access to education, information, and a healthy environment.

D. Suggestion

The current division of “mandatory government affairs” into categories of “related to basic services” and “not related to basic services” warrants reconsideration by lawmakers. The government must ensure equitable fulfillment of citizens’ diverse needs across all sectors, avoiding the prioritization of certain areas over others. Given the variability of regional needs, effective governance requires mechanisms that actively capture and respond to local aspirations. This can be achieved by directly engaging with communities through regional representative institutions or by enabling regional leaders to articulate their constituents’ demands in consultations with the president.

⁶³ Severinus Savio Cimi and Edison R. L. Tinambunan, “Penegakan Hak-Hak Ekologis Masyarakat Setempat Sebagai Wujud Pengakuan Eksistensi Manusia Menurut Armada Riyanto,” *Ganaya: Jurnal Ilmu Sosial Dan Humaniora* 6, no. 1 (2023): 128–43, <https://doi.org/10.37329/ganaya.v6i1.2089>.

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