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Coercive Fiscal Harmonization: Conditional Transfers, Budgetary Earmarking, and Indonesian Local Constitutional Autonomy

Harmonisasi Fiskal Koersif: Transfer Bersyarat, Earmarking Anggaran, dan Otonomi Konstitusional Daerah Indonesia

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Abstract

Constitutional guarantees of subnational autonomy in Indonesia clash with statutory fiscal recentralization, yet existing scholarship overlooks how cumulative expenditure locks and anti-leakage transfer contractions create dual-principal agency distortions. This study evaluated the constitutionality of intergovernmental fiscal controls in Indonesia by applying doctrinal legal research integrated with a four-stage proportionality test and comparative constitutional analysis across the United States, Australia, India, Germany, and Spain. The findings demonstrate that converting unconditional equalization block grants into earmarked specific transfers, enforcing uniform mandatory spending thresholds of forty percent for infrastructure and thirty percent for personnel, and cutting regional transfers by nearly one-quarter fail constitutional necessity and balancing standards, transforming autonomous partnerships into hierarchical agency relations. Although central tightening seeks to curb local electoral clientelism, uniform caps penalize accountable and low-capacity jurisdictions. Conceptualizing coercive fiscal harmonization, this study prescribes three-tier governance-based asymmetric decentralization, independent equalization commissions, and ring-fenced municipal revenue bonds for decentralized unitary states.

Abstrak

Jaminan konstitusional otonomi daerah di Indonesia berbenturan dengan resentralisasi fiskal statutori, namun literatur terdahulu mengabaikan bagaimana penguncian belanja kumulatif dan pemangkasan transfer antikorupsi menciptakan distorsi keagenan prinsipal ganda. Penelitian ini mengevaluasi konstitusionalitas pengendalian fiskal antarpemerintah di Indonesia menggunakan metode penelitian hukum doktrinal yang dipadukan dengan uji proporsionalitas empat tahap serta perbandingan konstitusional di Amerika Serikat, Australia, India, Jerman, dan Spanyol. Temuan penelitian membuktikan bahwa pengubahan dana penyeimbang umum tanpa syarat menjadi transfer terikat, penerapan batas belanja wajib seragam empat puluh persen untuk infrastruktur dan tiga puluh persen untuk pegawai, serta pemangkasan transfer daerah hampir seperempat melanggar standar keharusan dan keseimbangan konstitusional sehingga mengubah kemitraan otonom menjadi hubungan keagenan hierarkis. Walaupun pengetatan pusat bertujuan menekan klientelisme elektoral lokal, pembatasan seragam menghukum daerah yang akuntabel dan berkapasitas rendah. Mengonseptualisasikan harmonisasi fiskal koersif, studi ini merumuskan desentralisasi asimetris tiga klaster berbasis tata kelola, komisi penyeimbang independen, dan obligasi pendapatan daerah bagi negara kesatuan.

A. INTRODUCTION

1. Background

Constitutional relations between central fiscal authority and subnational autonomy in Indonesia have entered a period of acute normative tension following the enactment of Law No. 1 of 2022 on Financial Relations between the Central Government and Regional Governments (the HKPD Law). At the constitutional level (*das Sollen*), Articles 18(2) and 18(5) of the 1945 Constitution of the Republic of Indonesia (the 1945 Constitution) establish provincial, regency, and municipal governments as autonomous legal entities empowered to regulate and administer their own governmental affairs under the principles of autonomy, co-administration (*tugas pembantuan*), and the broadest possible self-governance. Article 18A(2) reinforces these guarantees by mandating that intergovernmental financial relations, public service delivery, and natural resource utilization be regulated and executed justly and harmoniously by statute, while respecting regional specificities and territorial diversity pursuant to Articles 18A(1) and 18B(1).[1] In empirical fiscal administration (*das Sein*), however, the statutory architecture of the HKPD Law—operating in conjunction with annual State Budget (*Anggaran Pendapatan dan Belanja Negara*, or APBN) adjustments—institutionalizes top-down expenditure controls that substantially constrict the discretionary space of Regional Budgets (*Anggaran Pendapatan dan Belanja Daerah*, or APBD). This normative divergence crystallized in the transition from the 2025 State Budget (Law No. 62 of 2024) to the initial 2026 State Budget (Law No. 17 of 2025), wherein the aggregate ceiling for Intergovernmental Transfers to Regions (*Transfer ke Daerah*, or TKD) contracted from an initial allocation of IDR 919.87 trillion (and a revised outlook of IDR 864.10 trillion) in 2025 to IDR 692.99 trillion in the initial 2026 posture—representing a 24.66% aggregate reduction from the prior statutory ceiling and a contraction of up to 29.34% across specific equalization components—to accommodate centralized national priority programs alongside binding subnational expenditure mandates.[2] The resulting fiscal

[1] Constitution of the Republic of Indonesia 1945 [Undang-Undang Dasar Negara Republik Indonesia Tahun 1945], arts. 18(2), 18(5), 18A(1)–(2), 18B(1).
[2] Republic of Indonesia, Law No. 1 of 2022 on Financial Relations between the Central Government and Regional Governments [Undang-Undang Nomor 1 Tahun 2022 tentang Hubungan Keuangan antara Pemerintah Pusat dan Pemerintahan Daerah], State Gazette of the Republic of Indonesia Year 2022 No. 4, Supplement to the State Gazette No. 6757, arts. 107(2), 107(4), 109(1), 146(1), 147(1); Republic of Indonesia, Law No. 62 of 2024 on the State Budget for Fiscal Year 2025 [Undang-Undang Nomor 62 Tahun 2024 tentang Anggaran Pendapatan dan Belanja Negara Tahun Anggaran 2025], State Gazette of the Republic of Indonesia Year 2024 No. 226, Supplement to the State Gazette No. 6995, art. 11; Republic of

compression prompted the Regional Autonomy Watch (*Komite Pemantauan Pelaksanaan Otonomi Daerah*, or KPPOD) and the Indonesian Forum for Budget Transparency (*Forum Indonesia untuk Transparansi Anggaran*, or FITRA) to petition the Constitutional Court in pending Case No. 171/PUU-XXIV/2026, challenging the constitutionality of Articles 107(2), 107(4), 109(1), and 146(1) of the HKPD Law.[3]

International scholarship on intergovernmental fiscal relations remains divided over the constitutional and economic boundaries of central spending power. Grounded in second-generation fiscal federalism, one body of scholarship demonstrates that allocative efficiency and downward democratic accountability require pairing political devolution with robust local tax autonomy and predictable, unconditional block grants. Weingast argues that excessive central intervention through grant conditionality severs the fiscal link between local revenue generation and constituent service preferences, while Gonschorek's empirical analysis of Indonesian intergovernmental transfers reveals that discretionary specific-purpose grants remain far more susceptible to political favoritism than formula-based equalization block grants.[4] Reinforcing this perspective, Hummel's panel assessment of Indonesian local government financial performance demonstrates that heavy structural dependence on central transfers weakens subnational fiscal solvency and operational adaptability during macroeconomic contractions.[5] Conversely, a competing technocratic and macro-institutional stream maintains that conditional transfers and central spending rules serve as indispensable corrective instruments to enforce minimum service standards, mitigate vertical fiscal imbalances, and internalize cross-jurisdictional externalities. Within this framework, Lewis characterizes the HKPD

Indonesia, Law No. 17 of 2025 on the State Budget for Fiscal Year 2026 [Undang-Undang Nomor 17 Tahun 2025 tentang Anggaran Pendapatan dan Belanja Negara Tahun Anggaran 2026], State Gazette of the Republic of Indonesia Year 2025 No. 180, Supplement to the State Gazette No. 7145, art. 11; Ministry of Finance of the Republic of Indonesia, *Laporan Analisis Perkembangan Keuangan Daerah dan Kinerja Penyerapan Anggaran Pendapatan dan Belanja Daerah 2025* (Jakarta: Directorate General of Fiscal Balance [DJPK], 2026), 14–19, https://djpk.kemenkeu.go.id/?p=73685.

[3] Constitutional Court of the Republic of Indonesia [Mahkamah Konstitusi Republik Indonesia], Case No. 171/PUU-XXIV/2026 on the Material Judicial Review of Law No. 1 of 2022 on Financial Relations between the Central Government and Regional Governments, Preliminary and Plenary Hearing Transcripts (Risalah Sidang), July 21, July 28, and August 6, 2026 (pending decision, accessed October 31, 2026), 4–18, https://tracking.mkri.id/index.php?id=171%2FPUU-XXIV%2F2026&page=web.TrackPerkara.

[4] Barry R. Weingast, "Second Generation Fiscal Federalism: Political Aspects of Decentralization and Economic Development," *World Development* 53 (January 2014): 15–18, https://doi.org/10.1016/j.worlddev.2013.01.003; Gerrit J. Gonschorek, "Subnational Favoritism in Development Grant Allocations: Empirical Evidence from Decentralized Indonesia," *World Development* 139 (March 2021): 105299, at 2–5, https://doi.org/10.1016/j.worlddev.2020.105299.

[5] Daniel Hummel, "Local Government Financial Performance and Decentralization in Indonesia," *State and Local Government Review* 58, no. 2 (2026): 208–14, https://doi.org/10.1177/0160323X251364379.

Law's restructuring of regional taxes and performance-based transfer conditions as a necessary rationalization measure to improve subnational spending quality, echoing comparative analyses by Fenna and Phillimore on how central governments manage vertical fiscal imbalance and equalization pressures in federal systems, as well as Tillin's account of how centralized fiscal designs historically emerged to preserve national macroeconomic integration.[6]

Recent comparative constitutional and public choice scholarship nevertheless questions whether uniform central expenditure controls consistently yield efficient subnational governance. Analyzing a panel of 518 subnational regions across 30 Organisation for Economic Co-operation and Development (OECD) countries, Rodríguez-Pose and Vidal-Bover establish that devolving administrative responsibilities without commensurate financial resources—generating unfunded mandates that violate the foundational maxim that finance follows function—produces a statistically significant contraction in regional economic output.[7] In the constitutional domain, Bromley-Trujillo and Dichio document how executive administrations increasingly leverage conditional grant withholding as a transactional lever to compel subnational policy compliance, testing the judicial boundaries of unconstitutional fiscal coercion originally articulated by the United States Supreme Court in *National Federation of Independent Business v. Sebelius* and building upon Kincaid's foundational taxonomy of coercive federalism.[8] Within decentralized unitary states and asymmetric systems, uniformity in fiscal regulation produces comparable structural distortions. Taufik demonstrates that converting Indonesia's General Allocation Fund (*Dana Alokasi Umum*, or DAU) into earmarked specific grants alongside a rigid 30% personnel expenditure ceiling severely constrains low-capacity regencies tasked with absorbing nationally mandated Government

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[6] Blane D. Lewis, "Indonesia's New Fiscal Decentralisation Law: A Critical Assessment," *Bulletin of Indonesian Economic Studies* 59, no. 1 (2023): 4–12, https://doi.org/10.1080/00074918.2023.2180838; Alan Fenna and John Phillimore, "Fiscal Equalisation in Australian Federalism: Share and Share Alike?," *Australian Journal of Politics & History* 71, no. 4 (2025): 703–9, https://doi.org/10.1111/ajph.13063; Louise Tillin, "Building a National Economy: Origins of Centralized Federalism in India," *Publius: The Journal of Federalism* 51, no. 2 (Spring 2021): 163–68, https://doi.org/10.1093/publius/pjaa039.

[7] Andrés Rodríguez-Pose and Miquel Vidal-Bover, "Unfunded Mandates and the Economic Impact of Decentralisation: When Finance Does Not Follow Function," *Political Studies* 72, no. 2 (2024): 654–62, https://doi.org/10.1177/00323217221136666.

[8] Rebecca Bromley-Trujillo and Michael A. Dichio, "The State of American Federalism 2024–2025: Resisting and Reinforcing the Rise of the Transactional Presidency," *Publius: The Journal of Federalism* 55, no. 3 (Summer 2025): 425–31, https://doi.org/10.1093/publius/pjaf023; *National Federation of Independent Business v. Sebelius*, 567 U.S. 519, 577–85 (2012); John Kincaid, "From Cooperative to Coercive Federalism," *The ANNALS of the American Academy of Political and Social Science* 509, no. 1 (May 1990): 148–51, https://doi.org/10.1177/0002716290509001013.

Employees with Work Agreements (*Pegawai Pemerintah dengan Perjanjian Kerja*, or PPPK).[9] Similarly, comparative empirical studies on Spain's decentralized financing system by López-Laborda, Rodrigo, and Sanz-Arcega, Aparicio-Pérez et al., and Gray demonstrate that imposing standardized fiscal rules without calibrating for territorial asymmetries in revenue capacity and tax visibility intensifies intergovernmental political friction and allocative distortion, while Bock and Blemings show how local electoral cycles systematically skew subnational infrastructure maintenance.[10]

Domestic legal and public administration scholarship on Indonesian decentralization exhibits a parallel analytical bifurcation. On one side, normative constitutional and regional development studies by Talitha, Firman, and Hudalah and by Jati critique the post-2014 shift from broad political devolution toward an administrative-technocratic model, arguing that sectoral recentralization under Law No. 23 of 2014 on Regional Government and Law No. 6 of 2023 on Job Creation reduces autonomous regions to hierarchical administrative agents of central ministries.[11] On the other side, institutional governance assessments by Hidayat, Hospes, and Termeer and financial intermediation studies by Aswan et al. emphasize that persistent subnational elite capture, clientelist budgeting driven by high direct local election (*Pemilihan Kepala Daerah*, or Pilkada) costs, and bureaucratic rent-seeking undermine the developmental promises of decentralization, thereby supplying a policy rationale for tighter central fiscal oversight.[12]

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[9] Mohamad Taufik, "Dampak Pengangkatan Pegawai Pemerintah dengan Perjanjian Kerja (PPPK) terhadap Pemerintah Daerah dengan Kapasitas Fiskal Rendah," *Jurnal Impresi Indonesia* 4, no. 5 (2025): 1364–70, https://doi.org/10.58344/jii.v4i5.6498.

[10] Julio López-Laborda, Fernando Rodrigo, and Eduardo Sanz-Arcega, "Do You Know to Whom You Pay Your Taxes? The Case of Decentralised Spain," *Social Policy & Administration* 57, no. 5 (2023): 772–79, https://doi.org/10.1111/spol.12910; Daniel Aparicio-Pérez, Maria Teresa Balaguer-Coll, Arne Risa Hole, and Emili Tortosa-Ausina, "Politics Versus Economics: The Case of Spanish Regional Financing," *Political Studies* 74, no. 1 (2026): 116–24, https://doi.org/10.1177/00323217251315990; Caroline Gray, "Elite Perceptions of the Legitimacy of Asymmetric Fiscal Decentralisation: Evidence from Spain," *The Annals of Regional Science* 75, no. 3 (2026): 106, at 3–9, https://doi.org/10.1007/s00168-026-01542-2; Margaret Bock and Benjamin Blemings, "Road Maintenance Over the Local Election Cycle," *Public Choice* 198, no. 1 (January 2024): 131–38, https://doi.org/10.1007/s11127-023-01115-3.

[11] Tessa Talitha, Tommy Firman, and Delik Hudalah, "Welcoming Two Decades of Decentralization in Indonesia: A Regional Development Perspective," *Territory, Politics, Governance* 8, no. 5 (2020): 693–701, https://doi.org/10.1080/21622671.2019.1601595; Wasisto Raharjo Jati, "From a Semi-Federal to an Administrative-Technocratic Model: The Paradigm Shift in Decentralization in Contemporary Indonesia," *Bisnis & Birokrasi: Jurnal Ilmu Administrasi dan Organisasi* 31, no. 1 (2024): 39–45, https://doi.org/10.20476/jbb.v31i1.1437.

[12] Andi Rahmat Hidayat, Otto Hospes, and Catrien J. A. M. Termeer, "Why Democratization and Decentralization in Indonesia Have Mixed Results on the Ground: A Systematic Literature Review," *Public Administration and Development* 45, no. 2 (May 2025): 161–68, https://doi.org/10.1002/pad.2095; Andi Aswan, Sabbar Dahham Sabbar, Shahid Bashir, and Andi Ratna Sari Dewi, "Linking Regional Investments

Despite these contributions, a critical theoretical, doctrinal, and comparative gap persists in the literature. Prior Indonesian legal studies have largely examined recentralization through the lens of sectoral licensing revocation or regional tax simplification, without doctrinally evaluating how the simultaneous convergence of three fiscal instruments under the HKPD Law—the conversion of unconditional DAU equalization grants into earmarked transfers (Article 109), unilateral executive authority to adjust TKD ceilings (Article 107), and cumulative mandatory spending thresholds capping personnel costs at 30% while mandating a 40% infrastructure floor (Articles 146 and 147)—effectuates a *de facto* constitutional transformation of vertical power relations. Furthermore, existing scholarship has not subjected these cumulative expenditure locks to a structured four-stage constitutional proportionality test juxtaposed against the Constitutional Court's *open legal policy* doctrine as evolved in Decisions No. 52/PUU-IX/2011, No. 46/PUU-XII/2014, and No. 117/PUU-XXI/2023. Nor has domestic legal research systematically weighed subnational evidence of unfunded mandates against the executive branch's policy rationale that transfer tightening serves as a disciplinary mechanism to curb budget leakage driven by prohibitive local electoral financing.

Addressing these blind spots, the legal novelty of this study lies in conceptualizing *coercive fiscal harmonization* within a decentralized unitary state and evaluating its constitutionality by integrating a doctrinal proportionality analysis of the HKPD Law with agency theory and comparative fiscal constitutionalism. Rather than treating central expenditure controls either as a purely technical exercise in macroeconomic discipline or as an unmitigated violation of local self-rule, this study introduces a differentiated constitutional framework that reconciles national anti-leakage imperatives with territorial autonomy. This article argues that the cumulative operation of conditional DAU earmarking, uniform mandatory spending ratios, and TKD ceiling contractions under the HKPD Law exceeds the bounds of proportional fiscal harmonization under Article 18A(2) of the 1945 Constitution, transforming the constitutional partnership between central and regional governments into a quasi-hierarchical agency relationship characterized by regulatory fiscal recentralization.[33] Although central fiscal tightening pursues a legitimate constitutional aim of curbing local budgetary inefficiency linked to high electoral costs,

and Revenues at the Provincial Level to Investment Loan Decisions by Local Government Banks in Indonesia," *Public and Municipal Finance* 13, no. 2 (2024): 33–39, https://doi.org/10.21511/pmf.13(2).2024.04.

imposing uniform expenditure ratios across fiscally heterogeneous jurisdictions penalizes public service delivery in low-capacity and well-governed regions without resolving the structural incentives of political corruption. Reconstructing Indonesian public finance law requires replacing uniform regulatory coercion with a three-tier model of governance-based asymmetric fiscal decentralization administered by an independent fiscal commission, institutionalizing project-based municipal revenue bonds fortified by strict no-bailout and public-choice safeguards, and reforming local campaign financing alongside upstream natural resource revenue governance under Article 33 of the 1945 Constitution.

2. Research Questions

To test this central thesis, the analysis is structured around three sequential legal questions that guide the organization of the Results and Discussion:

a. How do the mechanisms of conditional transfer earmarking and cumulative mandatory expenditure thresholds under Articles 107, 109, 146, and 147 of the HKPD Law reconfigure subnational budgetary sovereignty and the vertical distribution of power when evaluated through a constitutional proportionality test and the Constitutional Court's *open legal policy* jurisprudence under Articles 18, 18A, and 18B of the 1945 Constitution?

b. How does the tension between subnational unfunded mandates and central anti-leakage fiscal controls explain the structural principal-agent distortions in Indonesian intergovernmental finance?

c. How can comparative constitutional principles governing fiscal coercion, independent equalization commissions, and asymmetric decentralization across five jurisdictions inform the normative reconstruction of Indonesian public finance law to reconcile national fiscal efficiency with subnational constitutional autonomy?

3. Research Method

This study employed a doctrinal legal research design to examine the constitutional and statutory restructuring of intergovernmental fiscal relations in Indonesia.[13] A purely doctrinal methodology—augmented by comparative constitutional analysis and the examination of official budgetary realization records—was selected because the research

[13] Terry Hutchinson, "Doctrinal Research," in *Research Methods in Law*, ed. Dawn Watkins and Mandy Burton, 3rd ed. (London: Routledge, 2025), 12–18, https://doi.org/10.4324/9781032710372-2.

questions center on the normative validity, hierarchical coherence, and constitutional proportionality of statutory fiscal rules rather than behavioral survey observations. All methodological procedures were executed in four operational stages.

First, four analytical approaches were applied sequentially. The statutory approach examined the normative synchronization and hierarchical consistency between Articles 18, 18A, 18B, 22D, 23, and 33 of the 1945 Constitution and organic legislation governing intergovernmental transfers, mandatory spending caps, and subnational borrowing. The conceptual approach operationalized four theoretical frameworks as analytical parameters: second-generation fiscal federalism, principal-agent theory regarding vertical accountability distortions, public choice theory concerning the budget-maximizing bureaucrat and soft budget constraints, and the concept of coercive fiscal harmonization.[14] The analytical approach dissected the *ratio decidendi* of Indonesian Constitutional Court decisions concerning central intervention in regional finance and evaluated the pending constitutional claims in Case No. 171/PUU-XXIV/2026. Finally, the comparative approach examined constitutional mechanisms regulating vertical fiscal imbalance, grant conditionality, and territorial asymmetry across five jurisdictions—the United States, Australia, Germany, Spain, and India—selected based on a strict *tertium comparationis*: each comparator features an entrenched constitutional framework governing central-subnational fiscal transfers and offers distinct institutional mechanisms—judicial anti-coercion limits (the United States), independent grants commissions (Australia and India), upper-house co-determination and constitutional debt-brake rules (Germany), and asymmetric *Foral* versus common fiscal regimes (Spain)—to evaluate Indonesia's unitary decentralization architecture.

Second, the research analyzed authoritative primary and secondary legal materials. Primary domestic legal materials comprised the 1945 Constitution; Law No. 33 of 2004 on Financial Balance; Law No. 23 of 2014 on Regional Government; Law No. 10 of 2016 on Regional Head Elections; Law No. 3 of 2020 on Mineral and Coal Mining; Law No. 1 of 2022 on Financial Relations between the Central Government and Regional Governments

[14] Michael C. Jensen and William H. Meckling, "Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure," *Journal of Financial Economics* 3, no. 4 (October 1976): 308–10, https://doi.org/10.1016/0304-405X(76)90026-X; William A. Niskanen, *Bureaucracy and Representative Government* (Chicago: Aldine-Atherton, 1971), 36–42; Laurence E. Lynn, "The Budget-Maximizing Bureaucrat: Is There a Case?," in *The Budget-Maximizing Bureaucrat: Appraisals and Evidence*, ed. André Blais and Stéphane Dion (Pittsburgh: University of Pittsburgh Press, 1991), 61–67, https://doi.org/10.2307/jj.6167291.7.

(the HKPD Law); Law No. 6 of 2023 on Job Creation; Law No. 17 of 2023 on Health; Law No. 62 of 2024 on the 2025 State Budget; Law No. 17 of 2025 on the 2026 State Budget; Presidential Regulation No. 5 of 2025 on Forest Area Enforcement; and implementing Minister of Finance Regulations (PMK No. 211/PMK.07/2022, PMK No. 212/PMK.07/2022, PMK No. 134 of 2023, PMK No. 87 of 2024, and PMK Nos. 15, 29, 30, and 35 of 2026).[15] Judicial authorities included Constitutional Court Decisions No. 002/PUU-I/2003, No. 52/PUU-IX/2011, No. 46/PUU-XII/2014, No. 25/PUU-XIV/2016, No. 64/PUU-XVIII/2020, and No. 117/PUU-XXI/2023, alongside official preliminary hearing transcripts (*risalah sidang*) in pending Case No. 171/PUU-XXIV/2026.[16] Comparative primary sources included the United States Constitution (Article I, Section 8, Clause 1), the Unfunded Mandates Reform Act of 1995, and Supreme Court decisions in *South Dakota v. Dole* and *NFIB v. Sebelius*; Section 96 of the Australian Constitution; Articles 107, 109(3), and 115 of the German Basic Law (*Grundgesetz*); the 1978 Spanish Constitution and Organic Law 8/1980 (LOFCA); and Article 280 of the Constitution of India.[17] Secondary materials encompassed Scopus-indexed legal and public finance articles published primarily between 2020 and 2026, official reports from the Directorate General of Fiscal Balance (DJPK) of the Ministry of Finance, the Audit Board of Indonesia

[15] Republic of Indonesia, Law No. 33 of 2004 on Financial Balance between the Central Government and Regional Governments, State Gazette Year 2004 No. 126, Supplement No. 4438, arts. 27–37; Law No. 23 of 2014 on Regional Government, State Gazette Year 2014 No. 244, Supplement No. 5587, arts. 9–15; Law No. 3 of 2020 on the Amendment to Law No. 4 of 2009 on Mineral and Coal Mining, State Gazette Year 2020 No. 147, Supplement No. 6525, art. 4; Law No. 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation into Law, State Gazette Year 2023 No. 41, Supplement No. 6856; Law No. 17 of 2023 on Health, State Gazette Year 2023 No. 105, Supplement No. 6887, arts. 401–412; Presidential Regulation No. 5 of 2025 on Forest Area Enforcement [Peraturan Presiden Nomor 5 Tahun 2025 tentang Penertiban Kawasan Hutan], Cabinet Secretariat Gazette Year 2025 No. 5, arts. 1–6.

[16] Constitutional Court of the Republic of Indonesia, Decision No. 002/PUU-I/2003 (Judicial Review of Law No. 22 of 2001 on Oil and Gas), December 21, 2004, 208–9; Decision No. 52/PUU-IX/2011 (Judicial Review of Law No. 33 of 2004 on Financial Balance), May 23, 2012, para. 3.14; Decision No. 46/PUU-XII/2014 (Judicial Review of Law No. 28 of 2009 on Regional Taxes and Retributions), May 26, 2015, para. 3.16; Decision No. 25/PUU-XIV/2016 (Judicial Review of Law No. 31 of 1999 on the Eradication of Corruption Offenses), January 25, 2017, para. 3.10.4; Decision No. 64/PUU-XVIII/2020 (Judicial Review of Law No. 3 of 2020 on Mineral and Coal Mining), October 27, 2021, para. 3.17; Decision No. 117/PUU-XXI/2023 (Judicial Review of Law No. 1 of 2022 on Financial Relations between the Central Government and Regional Governments), February 29, 2024, paras. 3.15–3.18.

[17] U.S. Const. art. I, § 8, cl. 1; Unfunded Mandates Reform Act of 1995, Pub. L. No. 104-4, 109 Stat. 48 (codified at 2 U.S.C. §§ 1501–1571); *South Dakota v. Dole*, 483 U.S. 203, 211 (1987); *National Federation of Independent Business v. Sebelius*, 567 U.S. 519, 580–82 (2012); Australian Constitution s 96; Basic Law for the Federal Republic of Germany [Grundgesetz für die Bundesrepublik Deutschland], May 23, 1949, BGBl. I at 1, as amended, arts. 107, 109(3), 115; Spanish Constitution [Constitución Española], Boletín Oficial del Estado [B.O.E.] No. 311, December 29, 1978, art. 157 and First Additional Provision; Organic Law 8/1980 of September 22 on the Financing of the Autonomous Communities [Ley Orgánica de Financiación de las Comunidades Autónomas, LOFCA], B.O.E. No. 236, October 1, 1980, as amended by Organic Law 2/2012, B.O.E. No. 103, April 30, 2012; Constitution of India, art. 280.

(BPK), and the Corruption Eradication Commission (KPK), and purposefully selected regional budget profiles representing three distinct fiscal typologies: high own-source revenue capacity (Bandung City), severe transfer dependency (Central Tapanuli Regency), and resource-producing revenue-sharing dependency (Siak Regency).

Third, legal materials and fiscal records were collected between January 2025 and a formal data cut-off date of October 31, 2026, using the Legal Documentation and Information Networks of the Audit Board (JDIH BPK) and the Ministry of Finance (JDIH Kemenkeu), the Constitutional Court case-tracking portal, HeinOnline, Westlaw, Scopus, and official foreign legislative repositories. Under the study's inclusion criteria, statutory norms, judicial decisions, and audited government fiscal reports served as authoritative evidence of legal and budgetary baselines, whereas public statements by executive officials regarding estimated budget leakage or campaign costs were incorporated strictly as contextual evidence of the government's policy rationale rather than independent empirical proof.

Fourth, the collected materials were examined through a four-layered legal analysis technique. Systematic interpretation assessed the internal coherence between the expenditure earmarking clauses of the HKPD Law and Article 18A(2) of the 1945 Constitution. Teleological interpretation evaluated the *ratio legis* of central transfer controls against subnational public service obligations. A structured four-stage constitutional proportionality test—assessing legitimate constitutional aim, suitability, necessity (least-restrictive means), and balancing in the strict sense—was applied in tandem with the Constitutional Court's *open legal policy* doctrine to determine whether cumulative mandatory spending locks infringe the core of regional autonomy. Throughout each thematic subsection, arguments were structured using deductive legal syllogism following the Issue, Rule, Application, and Conclusion (IRAC) logic.

B. RESULTS AND DISCUSSION

1. Conditional Transfer Earmarking, Mandatory Spending Locks, and Constitutional Proportionality Under the HKPD Law

The primary doctrinal question in contemporary Indonesian public finance law is whether shifting intergovernmental fiscal transfers from unconditional block grants to performance-conditioned specific grants and cumulative mandatory expenditure earmarking under Articles 107, 109, 146, and 147 of Law No. 1 of 2022 on Financial

Relations between the Central Government and Regional Governments (the HKPD Law) represents a constitutionally permissible exercise of macroeconomic policy synchronization, or instead infringes the core guarantee of subnational autonomy under Articles 18(2), 18(5), 18A(1)–(2), and 18B(1) of the 1945 Constitution of the Republic of Indonesia (the 1945 Constitution). This normative conflict forms the crux of the material judicial review pending before the Constitutional Court in Case No. 171/PUU-XXIV/2026, filed by the Regional Autonomy Watch (*Komite Pemantauan Pelaksanaan Otonomi Daerah*, or KPPOD) and the Indonesian Forum for Budget Transparency (*Forum Indonesia untuk Transparansi Anggaran*, or FITRA), and requires close scrutiny against the Court's prior fiscal jurisprudence in Decisions No. 52/PUU-IX/2011, No. 46/PUU-XII/2014, and No. 117/PUU-XXI/2023.[18]

At the constitutional level, Articles 18(2) and 18(5) of the 1945 Constitution vest provincial, regency, and municipal governments with the authority to regulate and administer their own governmental affairs according to the principles of autonomy and co-administration (*tugas pembantuan*), exercising the broadest possible self-governance save for matters reserved by statute to the central government. Article 18A(2) stipulates that financial relations, public services, and natural resource utilization between the central and regional governments must be regulated and executed "justly and harmoniously" (*adil dan selaras*) by statute, while Articles 18A(1) and 18B(1) require legislative designs to respect regional specificities and diversity.[19] Under Indonesia's first-generation post-*Reformasi* fiscal framework, codified in Law No. 33 of 2004 on Financial Balance between the Central Government and Regional Governments, the constitutional mandate of just and harmonious fiscal relations was operationalized by maintaining a strict statutory boundary between the General Allocation Fund (*Dana Alokasi Umum*, or DAU)—conceived as an unconditional fiscal equalization block grant over which the Regional Head and the Regional House of Representatives (*Dewan Perwakilan Rakyat*

[18] Constitutional Court of the Republic of Indonesia [Mahkamah Konstitusi Republik Indonesia], Case No. 171/PUU-XXIV/2026 on the Material Judicial Review of Law No. 1 of 2022 on Financial Relations between the Central Government and Regional Governments, Preliminary and Plenary Hearing Transcripts (Risalah Sidang), July 21, July 28, and August 6, 2026 (pending decision, accessed October 31, 2026), 4–22, https://tracking.mkri.id/index.php?id=171%2FPUU-XXIV%2F2026&page=web.TrackPerkara;
Constitutional Court of the Republic of Indonesia, Decision No. 52/PUU-IX/2011, May 23, 2012, para. 3.14; Decision No. 46/PUU-XII/2014, May 26, 2015, para. 3.16; Decision No. 117/PUU-XXI/2023, February 29, 2024, paras. 3.15–3.18.
[19] Constitution of the Republic of Indonesia 1945 [Undang-Undang Dasar Negara Republik Indonesia Tahun 1945], arts. 18(2), 18(5), 18A(1)–(2), 18B(1).

Daerah, or DPRD) exercised autonomous budgeting authority—and the Special Allocation Fund (*Dana Alokasi Khusus*, or DAK), which functioned as a supplementary specific-purpose grant.[20]

The enactment of the HKPD Law restructures this normative baseline through two interlocking regulatory mechanisms. First, Articles 107(2), 107(4), and 109(1) of the HKPD Law—operationalized through Minister of Finance Regulations (PMK) No. 211/PMK.07/2022, No. 212/PMK.07/2022, No. 134 of 2023, No. 15 of 2026, No. 29 of 2026, No. 30 of 2026, and No. 35 of 2026—transform the DAU from a single unconditional block grant into a bifurcated instrument comprising an unearmarked base allocation and an earmarked specific-grant allocation (*DAU yang ditentukan penggunaannya*).[21] Disbursed in monthly installments of one-twelfth of the annual ceiling or withheld non-cash through the Treasury Deposit Facility (TDF) for three-month holding periods under PMK No. 30 of 2026, the earmarked DAU component restricts regional spending strictly to central priorities: salaries for Government Employees with Work Agreements (*Pegawai Pemerintah dengan Perjanjian Kerja*, or PPPK), sub-district (*kelurahan*) funding, education, healthcare, and public works. Second, the HKPD Law imposes uniform mandatory expenditure ratios (*mandatory spending*) across all subnational budgets (*Anggaran Pendapatan dan Belanja Daerah*, or APBD). Article 146(1) caps regional personnel expenditure at a maximum of 30% of total APBD spending (excluding teacher allowances channeled through Intergovernmental Transfers to Regions, or TKD), subject to a five-year transition window ending in 2027 pursuant to Article 190(1). Concurrently, Article 147(1) mandates that regional governments allocate at least 40% of total APBD expenditure to public service infrastructure (calculated net of revenue-sharing and

[20] Republic of Indonesia, Law No. 33 of 2004 on Financial Balance between the Central Government and Regional Governments [Undang-Undang Nomor 33 Tahun 2004 tentang Perimbangan Keuangan antara Pemerintah Pusat dan Pemerintahan Daerah], State Gazette of the Republic of Indonesia Year 2004 No. 126, Supplement to the State Gazette No. 4438, arts. 27–37, 38–42.

[21] Republic of Indonesia, Law No. 1 of 2022 on Financial Relations between the Central Government and Regional Governments [Undang-Undang Nomor 1 Tahun 2022 tentang Hubungan Keuangan antara Pemerintah Pusat dan Pemerintahan Daerah], State Gazette Year 2022 No. 4, Supplement No. 6757, arts. 107(2), 107(4), 109(1); Ministry of Finance of the Republic of Indonesia, Regulation No. 211/PMK.07/2022 on the Third Amendment to PMK No. 139/PMK.07/2019 on the Management of DBH, DAU, and Special Autonomy Funds, Official Gazette of the Republic of Indonesia [Berita Negara Republik Indonesia, BNRI] Year 2022 No. 1334, arts. 14–19; Regulation No. 212/PMK.07/2022 on Regional Performance Indicators and General Provisions for Earmarked DAU, BNRI Year 2022 No. 1335, arts. 2–8; Regulation No. 134 of 2023, BNRI Year 2023 No. 975, arts. 10–15; Regulation No. 15 of 2026 on Procedures for Disbursing DAU, DBH, or Village Funds for Red-and-White Village/Sub-district Cooperatives, BNRI Year 2026 No. 112, arts. 3–9; Regulation No. 29 of 2026, BNRI Year 2026 No. 204, arts. 2–5; Regulation No. 30 of 2026 on Non-Cash DBH and DAU Management through the Treasury Deposit Facility, BNRI Year 2026 No. 205, arts. 4–7; Regulation No. 35 of 2026 on DBH and DAU Management, BNRI Year 2026 No. 241, arts. 11–18.

transfers to lower-tier regions and villages), subject to a parallel five-year transition period under Article 190(2). Crucially, Articles 148 and 161 of the HKPD Law, read in conjunction with Article 34 of PMK No. 211/PMK.07/2022 and PMK No. 35 of 2026, enforce these thresholds by authorizing the Minister of Finance to impose administrative sanctions in the form of delaying or deducting DAU and Revenue Sharing Fund (*Dana Bagi Hasil*, or DBH) disbursements against non-compliant regions.[22]

These HKPD Law thresholds operate alongside sectoral spending mandates. Article 31(4) of the 1945 Constitution and Article 49(1) of Law No. 20 of 2003 on the National Education System require regional governments to allocate a minimum of 20% of the APBD to education. In the healthcare sector, although Articles 401 to 412 of Law No. 17 of 2023 on Health formally repealed the rigid 10% statutory APBD floor previously mandated under Article 171(2) of Law No. 36 of 2009, regional governments remain legally bound by compulsory Universal Health Coverage (*Jaminan Kesehatan Nasional*, or UHC) contribution quotas, minimum service standards, and earmarked health DAU components that continue to absorb approximately 8% to 10% of subnational budgets in practice.[23] Simultaneously, the aggregate national ceiling for TKD underwent a substantial contraction between the 2025 and 2026 fiscal years. Whereas Law No. 62 of 2024 on the 2025 State Budget set the initial TKD ceiling at IDR 919.87 trillion (later adjusted to a revised outlook of IDR 864.10 trillion), Law No. 17 of 2025 on the 2026 State Budget reduced the initial TKD posture to IDR 692.99 trillion—representing an aggregate statutory contraction of IDR 226.88 trillion (24.66%) from the initial 2025 ceiling, or IDR 171.11 trillion (19.80%) from the revised 2025 outlook, with specific formula-based equalization lines contracting by up to 29.34%, while preliminary 2027 medium-term fiscal projections discussed in parliamentary deliberations contemplated further compression toward IDR 600 trillion.[24] Figure 1 illustrates the combined structural effect

[22] Republic of Indonesia, Law No. 1 of 2022, arts. 146(1), 147(1), 148(1)–(2), 161(1)–(3), 190(1)–(2); Ministry of Finance of the Republic of Indonesia, Regulation No. 211/PMK.07/2022, art. 34; Regulation No. 35 of 2026, arts. 28–31.
[23] Constitution of the Republic of Indonesia 1945, art. 31(4); Republic of Indonesia, Law No. 20 of 2003 on the National Education System, State Gazette Year 2003 No. 78, Supplement No. 4301, art. 49(1); Law No. 17 of 2023 on Health [Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan], State Gazette Year 2023 No. 105, Supplement No. 6887, arts. 401–412, 454 (repealing Law No. 36 of 2009 on Health, art. 171).
[24] Republic of Indonesia, Law No. 62 of 2024 on the State Budget for Fiscal Year 2025, State Gazette Year 2024 No. 226, Supplement No. 6995, art. 11; Law No. 17 of 2025 on the State Budget for Fiscal Year 2026, State Gazette Year 2025 No. 180, Supplement No. 7145, art. 11; Ministry of Finance of the Republic of Indonesia, *Laporan Analisis Perkembangan Keuangan Daerah dan Kinerja Penyerapan Anggaran Pendapatan dan Belanja Daerah 2025* (Jakarta: Directorate General of Fiscal Balance [DJPK], 2026), 14–23, https://djpk.kemenkeu.go.id/?p=73685; Akmalal Hamdhi, "Tok! Dana TKD Disepakati Rp 693 T untuk

of central fiscal concentration, TKD contraction, and cumulative APBD expenditure locks.

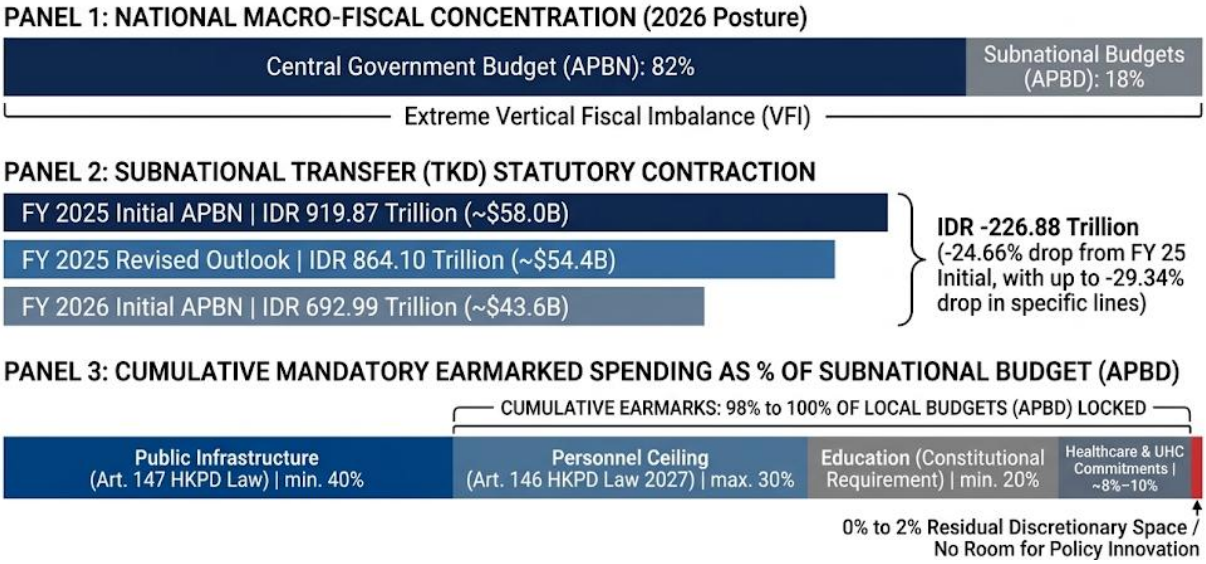

Figure 1. The Anatomy of Fiscal Consolidation: National Concentration, TKD Contraction, and Earmarked Mandatory APBD Expenditure

Source: Author's compilation based on Law No. 1 of 2022 (arts. 107, 109, 146, 147), Law No. 62 of 2024 (2025 APBN), Law No. 17 of 2025 (2026 APBN), and Ministry of Finance DJPK (2026).

As illustrated in Figure 1, while central administration of public revenues historically fluctuated between 70% and 82% over the post-2014 decade, the 2026 fiscal posture concentrates approximately 82% of national fiscal liquidity within the central APBN, leaving over 500 subnational governments to administer 18% of aggregate public resources under pre-committed expenditure locks. Evaluating the application of Articles 107, 109, 146, and 147 of the HKPD Law through systematic interpretation reveals that this statutory architecture reconfigures subnational constitutional autonomy across three primary dimensions.

First, in the domain of budgetary sovereignty, converting the DAU from an unconditional block grant into an earmarked transfer while locking between 90% and 100% of total APBD expenditure into statutory quotas reduces the legislative budgeting power of the DPRD and the Regional Head under Article 18(2) of the 1945 Constitution to an administrative accounting exercise. In normative terms, this structural lock-in challenges the technocratic premise advanced by Lewis and the macro-institutional

Tahun 2026, Dipangkas Rp 171 T," *Investor Daily*, September 19, 2025, https://investor.id/macroeconomy/410062/tok-dana-tkd-disepakati-rp-693-t-untuk-tahun-2026-dipangkas-rp-171-t.

theory of Tremblay and Boadway—arguments invoked by the Central Government during the Constitutional Court hearings in Case No. 171/PUU-XXIV/2026 on July 21 and August 6, 2026—which frame flexible TKD ceilings under Article 109(1) and earmarked DAU allocations as neutral rationalization tools designed to curb spending duplication.[25] While macro-institutional fiscal theory rightly recognizes that targeted conditional grants can internalize cross-border spillovers, the near-total displacement of unconditional block grants in Indonesia validates the second-generation fiscal federalism thesis of Weingast, supported empirically in the Indonesian context by Gonschorek and Hummel: when subnational governments lose discretionary control over both marginal tax rates and general equalization transfers, downward political accountability to local voters is severed.[26] Extending Kincaid's concept of coercive federalism and Fenna and Phillimore's analysis of vertical fiscal imbalance into the setting of a decentralized unitary state, this mechanism operates as *coercive fiscal harmonization*: rather than amending Article 18 of the 1945 Constitution formally, the central executive curtails local operational autonomy through grant conditionality, TDF liquidity withholding, and ministerial technical guidelines.[27]

Second, in the domain of developmental agenda-setting, Articles 107 and 147 of the HKPD Law compel subnational governments to align their regional development plans linearly with the National Medium-Term Development Plan (*Rencana Pembangunan Jangka Menengah Nasional*, or RPJMN), the Government Work Plan (*Rencana Kerja*

[25] Blane D. Lewis, "Indonesia's New Fiscal Decentralisation Law: A Critical Assessment," *Bulletin of Indonesian Economic Studies* 59, no. 1 (2023): 6–14, https://doi.org/10.1080/00074918.2023.2180838; Jean-François Tremblay and Robin Boadway, "A Theory of Fiscal Imbalance," *FinanzArchiv* 62, no. 1 (2006): 9–17, https://doi.org/10.1628/001522106776667004; Constitutional Court of the Republic of Indonesia, Case No. 171/PUU-XXIV/2026, Hearing Transcripts of July 21 and August 6, 2026 (pending decision, accessed October 31, 2026), 12–29.

[26] Barry R. Weingast, "Second Generation Fiscal Federalism: Political Aspects of Decentralization and Economic Development," *World Development* 53 (January 2014): 15–20, https://doi.org/10.1016/j.worlddev.2013.01.003; Gerrit J. Gonschorek, "Subnational Favoritism in Development Grant Allocations: Empirical Evidence from Decentralized Indonesia," *World Development* 139 (March 2021): 105299, at 4–9, https://doi.org/10.1016/j.worlddev.2020.105299; Daniel Hummel, "Local Government Financial Performance and Decentralization in Indonesia," *State and Local Government Review* 58, no. 2 (2026): 210–18, https://doi.org/10.1177/0160323X251364379.

[27] John Kincaid, "From Cooperative to Coercive Federalism," *The ANNALS of the American Academy of Political and Social Science* 509, no. 1 (May 1990): 148–51, https://doi.org/10.1177/0002716290509001013; Alan Fenna and John Phillimore, "Fiscal Equalisation in Australian Federalism: Share and Share Alike?," *Australian Journal of Politics & History* 71, no. 4 (2025): 704–11, https://doi.org/10.1111/ajph.13063; Wasisto Raharjo Jati, "From a Semi-Federal to an Administrative-Technocratic Model: The Paradigm Shift in Decentralization in Contemporary Indonesia," *Bisnis & Birokrasi: Jurnal Ilmu Administrasi dan Organisasi* 31, no. 1 (2024): 41–46, https://doi.org/10.20476/jbb.v31i1.1437.

Pemerintah, or RKP), and National Strategic Projects (*Proyek Strategis Nasional*, or PSN). Although the Central Government and the House of Representatives (*Dewan Perwakilan Rakyat*, or DPR) testified in Case No. 171/PUU-XXIV/2026 that such linear synchronization is required to preserve national macroeconomic coherence, imposing an identical 40% physical infrastructure floor and 30% personnel cap across all provinces, regencies, and municipalities disregards the constitutional mandate of territorial asymmetry under Articles 18A(1) and 18B(1) of the 1945 Constitution. Consistent with comparative findings by López-Laborda, Rodrigo, and Sanz-Arcega and by Aparicio-Pérez et al., applying uniform fiscal formulas across jurisdictions with vastly divergent geographic cost structures and socioeconomic baselines induces severe allocative distortion.[28] Archipelagic regencies or urban municipalities that already possess mature road networks—but urgently require operational expenditure for maritime logistics, agricultural extension, or healthcare personnel—remain legally compelled to channel 40% of their net budgets into capital infrastructure nomenclature to avoid TKD deduction sanctions under Article 148 of the HKPD Law.

Third, in the domain of vertical power relations, the convergence of earmarked transfers and mandatory spending ratios introduces a structural agency distortion. Operationalizing Jensen and Meckling's principal-agent framework within public-sector constitutional design, democratic decentralization establishes a primary agency relationship in which local citizens act as principals who elect the Regional Head and DPRD as their agents to allocate public resources according to local preferences. Under the HKPD Law, however, the central government leverages its control over 82% of national fiscal resources to interpose itself as a dominant bureaucratic principal, creating a dual-principal conflict that subordinates downward electoral accountability to upward administrative compliance with the Ministry of Finance.[29] Table 1 synthesizes this normative shift from constitutional decentralization to coercive fiscal harmonization.

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[28] Julio López-Laborda, Fernando Rodrigo, and Eduardo Sanz-Arcega, "Do You Know to Whom You Pay Your Taxes? The Case of Decentralised Spain," *Social Policy & Administration* 57, no. 5 (2023): 774–82, https://doi.org/10.1111/spol.12910; Daniel Aparicio-Pérez, Maria Teresa Balaguer-Coll, Arne Risa Hole, and Emili Tortosa-Ausina, "Politics Versus Economics: The Case of Spanish Regional Financing," *Political Studies* 74, no. 1 (2026): 118–29, https://doi.org/10.1177/00323217251315990.

[29] Michael C. Jensen and William H. Meckling, "Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure," *Journal of Financial Economics* 3, no. 4 (October 1976): 308–15, https://doi.org/10.1016/0304-405X(76)90026-X; Tessa Talitha, Tommy Firman, and Delik Hudalah, "Welcoming Two Decades of Decentralization in Indonesia: A Regional Development Perspective," *Territory, Politics, Governance* 8, no. 5 (2020): 695–703, https://doi.org/10.1080/21622671.2019.1601595.

Table 1. Comparative Matrix of Constitutional Decentralization and Coercive Fiscal Harmonization Under the HKPD Law

Constitutional & Fiscal Dimension	Constitutional Decentralization Paradigm (Arts. 18, 18A, and 18B of the 1945 Constitution)	Coercive Fiscal Harmonization Regime (Law No. 1 of 2022 on HKPD)
Budgetary Sovereignty	Autonomous discretion rests with the Regional Head and DPRD to formulate the APBD based on local constituent needs.	APBD composition is locked top-down by cumulative statutory quotas (min. 40% infrastructure, max. 30% personnel, min. 20% education, ~8%–10% health/UHC).
Nature of Transfer Instruments	DAU operates as an unconditional block grant for horizontal and vertical equalization; DAK serves as a supplementary specific grant.	DAU is bifurcated into earmarked specific grants (PPPK, sub-districts, education, health, public works); TKD ceiling cut by 24.66% in 2026 APBN.
Development Agenda-Setting	Grounded in regional geographic specificities, local economic potential, and asymmetric territorial diversity.	Subordinated to linear alignment with the RPJMN, RKP, and PSN under threat of TDF holding or TKD deduction sanctions (Arts. 148 & 161).
Vertical Power Structure	Just and harmonious constitutional partnership within a decentralized unitary state under Article 18A(2).	Dual-principal agency distortion wherein subnational governments function as administrative executors of central ministerial directives.
Accountability Trajectory	Downward democratic accountability toward local voters and elected regional legislatures.	Upward bureaucratic accountability toward the Ministry of Finance and central technical ministries.

Source: Author's doctrinal synthesis of the 1945 Constitution (arts. 18, 18A, 18B), Law No. 33 of 2004, and Law No. 1 of 2022 (arts. 107, 109, 146–148, 161).

Determining whether this structural transformation violates the 1945 Constitution requires testing Articles 107, 109, 146, and 147 of the HKPD Law against the Constitutional Court's *open legal policy* (*kebijakan hukum terbuka*) doctrine and a structured four-stage constitutional proportionality test. In Indonesia's unitary constitutional system, the Central Government consistently defends fiscal standardization by invoking *open legal policy*, arguing that Article 18A(2) delegates wide legislative discretion to the DPR and the President to design intergovernmental fiscal rules. However, a rigorous reading of the Constitutional Court's *ratio decidendi* across three landmark decisions demonstrates that legislative discretion in public finance is constitutionally bounded. In Decision No. 52/PUU-IX/2011 (reviewing DAU calculation formulas under Law No. 33 of 2004), the Court held in paragraph 3.14 that while statutory transfer formulas fall within legislative policy leeway, central fiscal arrangements must never impair the institutional survival of autonomous regions or their capacity to deliver basic public services.[30] Similarly, in Decision No. 46/PUU-XII/2014 (reviewing regional retribution restrictions under Law No. 28 of 2009), the Court ruled in paragraph 3.16 that

[30] Constitutional Court of the Republic of Indonesia, Decision No. 52/PUU-IX/2011 (Judicial Review of Law No. 33 of 2004 on Financial Balance), May 23, 2012, para. 3.14, at 84–86.

central statutory controls over subnational revenues are constitutionally valid only insofar as they preserve the substantive meaning of local self-governance under Article 18A(2).[31] Most recently, in Decision No. 117/PUU-XXI/2023 (reviewing regional tax rate ceilings under the HKPD Law), the Constitutional Court held in paragraphs 3.15 to 3.18 that national harmonization of local tax rates constitutes a permissible *open legal policy* within a unitary state specifically because regional governments retain residual fiscal space to adjust tax rates and allocate revenues according to local economic conditions.[32]

When the cumulative operation of DAU earmarking (Article 109) and uniform expenditure locks (Articles 146 and 147) is subjected to a four-stage proportionality analysis alongside this jurisprudence, a clear constitutional defect emerges:

a. **Legitimate Constitutional Aim (*Legitimate Goal*):** The contested provisions satisfy the first stage, as curbing unproductive bureaucratic expansion, accelerating basic infrastructure delivery, and maintaining national fiscal discipline pursue valid constitutional objectives under Article 23(1) of the 1945 Constitution.
b. **Suitability (*Geeignetheit*):** Earmarking transfers and capping personnel spending are rationally connected to the goal of preventing routine administrative overhead from crowding out capital investment.
c. **Necessity (*Erforderlichkeit* / Least-Restrictive Means):** The statutory scheme fails at the necessity stage. To prevent budgetary waste in poorly governed regions, the legislature need not impose an identical, rigid 40% infrastructure floor and 30% personnel cap—nor convert the DAU into a specific grant—across all 548 provinces, regencies, and municipalities regardless of their fiscal self-reliance or audit integrity. Differentiated, governance-conditioned thresholds represent a significantly less restrictive regulatory alternative that achieves fiscal discipline without extinguishing the budgetary discretion of well-governed or structurally constrained jurisdictions.

[31] Constitutional Court of the Republic of Indonesia, Decision No. 46/PUU-XII/2014 (Judicial Review of Law No. 28 of 2009 on Regional Taxes and Retributions), May 26, 2015, para. 3.16, at 112–15.
[32] Constitutional Court of the Republic of Indonesia, Decision No. 117/PUU-XXI/2023 (Judicial Review of Law No. 1 of 2022 on Financial Relations between the Central Government and Regional Governments), February 29, 2024, paras. 3.15–3.18, at 95–103.

d. Proportionality in the Strict Sense (*Angemessenheit* / Balancing): The cumulative pre-commitment of nearly 100% of APBD expenditure space imposes a disproportionate burden on subnational constitutional autonomy under Article 18(2) and violates the mandate of "just and harmonious" relations respecting regional diversity under Articles 18A(1)–(2) and 18B(1). Unlike the narrow tax rate adjustments upheld in Decision No. 117/PUU-XXI/2023, locking the entirety of the expenditure budget leaves regional legislatures with zero residual policy discretion.

Consequently, in deciding pending Case No. 171/PUU-XXIV/2026, the Constitutional Court faces three doctrinal trajectories. An outright rejection based on an uncritical application of *open legal policy* would hollow out Article 18A(2) by legitimizing regulatory recentralization. Conversely, an unconditional invalidation of Articles 107, 109, 146, and 147 would create a regulatory vacuum that removes statutory checks against local bureaucratic bloat. The most doctrinally coherent resolution is a conditionally unconstitutional (*inkonstitusional bersyarat*) ruling: holding Articles 109(1), 146(1), and 147(1) of the HKPD Law conditionally unconstitutional to the extent that DAU earmarking and mandatory spending thresholds are applied uniformly without asymmetric calibration for regional fiscal capacity, geographic specificities, and audited governance performance.

2. Unfunded Mandates, Anti-Leakage Fiscal Controls, and Principal-Agent Distortions in Subnational Finance

The second analytical question concerns how the tension between subnational unfunded mandates and central anti-leakage fiscal controls explains the underlying principal-agent distortions in Indonesian intergovernmental finance. Resolving this question requires evaluating statutory mandates against official subnational budgetary realizations while critically testing the central executive's policy rationale against institutional audit records.

The governing normative standard is anchored in the fiscal federalism principle that *finance follows function*, codified in Article 18A(2) of the 1945 Constitution and Article 282(2) of Law No. 23 of 2014 on Regional Government, which mandates that every delegation or assignment of governmental affairs must be accompanied by commensurate funding. Under general principles of administrative law and the maxim *lex non cogit ad impossibilia* (the law does not compel the impossible)—invoked by constitutional experts

during the July 28 and August 6, 2026 hearings in Case No. 171/PUU-XXIV/2026—the state cannot impose binding expenditure quotas or civil service hiring mandates while simultaneously withdrawing the revenue instruments required to fulfill them, only to penalize fiscally constrained regions through transfer deductions under Articles 148 and 161 of the HKPD Law.[33] This statutory matrix interacts directly with Article 50 of the HKPD Law (which consolidates local consumption taxes and caps regional tax rates), Law No. 3 of 2020 on Mineral and Coal Mining and Law No. 6 of 2023 on Job Creation (which recentralize resource licensing to Jakarta), PMK No. 15 of 2026 (which authorizes direct monthly DAU, DBH, and Village Fund deductions to repay up to IDR 3 billion per unit in 72-month state bank loans channeled through PT Agrinas Pangan Nusantara for Red-and-White Village/Sub-district Cooperatives), and Articles 2 and 3 of Law No. 31 of 1999 as amended by Law No. 20 of 2001 on the Eradication of Corruption Offenses read alongside Constitutional Court Decision No. 25/PUU-XIV/2016.[34]

Applying these legal standards to official budgetary realization records across three purposefully selected subnational typologies—high own-source revenue (*Pendapatan Asli Daerah*, or PAD) urban autonomy (Bandung City), severe transfer dependency (Central Tapanuli Regency), and resource-producing revenue-sharing dependency (Siak Regency)—demonstrates how uniform fiscal tightening generates acute unfunded mandates. Table 2 reconciles the macro-fiscal and regional budgetary baselines across the 2025–2026 fiscal cycle.

[33] Republic of Indonesia, Law No. 23 of 2014 on Regional Government, State Gazette Year 2014 No. 244, Supplement No. 5587, art. 282(2); Constitutional Court of the Republic of Indonesia, Case No. 171/PUU-XXIV/2026, Hearing Transcripts of July 28 and August 6, 2026 (pending decision, accessed October 31, 2026), 19–34.

[34] Republic of Indonesia, Law No. 1 of 2022, art. 50; Law No. 3 of 2020 on the Amendment to Law No. 4 of 2009 on Mineral and Coal Mining, State Gazette Year 2020 No. 147, Supplement No. 6525, art. 4(2); Law No. 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation into Law, State Gazette Year 2023 No. 41, Supplement No. 6856, annex at 412–18; Ministry of Finance Regulation No. 15 of 2026, arts. 4–8; Law No. 20 of 2001 on the Amendment to Law No. 31 of 1999 on the Eradication of Corruption Offenses, State Gazette Year 2001 No. 134, Supplement No. 4150, arts. 2–3; Constitutional Court of the Republic of Indonesia, Decision No. 25/PUU-XIV/2016, January 25, 2017, para. 3.10.4, at 114–16.

Table 2. Reconciliation of National TKD Contractions and Subnational Budgetary Realizations Across Three Regional Typologies (2025–2026)

Fiscal Indicator / Jurisdiction	FY 2025 Statutory Baseline / Realization	FY 2026 Statutory Baseline / Allocation	Variance / Structural Ratio	Primary Official Legal & Budgetary Source
National TKD Ceiling (Aggregate)	IDR 919.87T (Initial) / IDR 864.10T (Outlook)	IDR 692.99T (Initial APBN Posture)	-24.66% vs. Initial (-19.80% vs. Outlook; up to -29.34% in specific lines)	Law No. 62 of 2024 (art. 11); Law No. 17 of 2025 (art. 11); DJPK Kemenkeu (2026).
National Natural Resource DBH	IDR 26.14T (Producing Regions Baseline)	IDR 11.00T (Adjusted Allocation)	-57.92% contraction in producing-region DBH lines	Law No. 17 of 2025; PMK No. 29 of 2026; PMK No. 35 of 2026.
Bandung City (High-PAD Urban Typology)	TKD Baseline prior to 2026 adjustment	TKD cut by ~IDR 600B; PAD projected at IDR 3.60T	Exposed 2026 APBD to a projected IDR 300B deficit buffered by PAD	Bandung City Regional Government Fiscal Report (2026).
Central Tapanuli Regency (Low-PAD Typology)	Total Revenue: IDR 1,145.9B (SILPA financing: IDR 166.2B)	PAD: IDR 112.3B (9.80% of revenue); Total Spending: IDR 1,312.1B	Operating Spending: IDR 932.5B (71.07%); Infrastructure: 23.00%	North Sumatra Provincial Development Administration Report (2026).
Siak Regency (Resource-Producing Typology)	Oil, Gas, and Forestry DBH Baseline	Regular TKD/DBH reduced by ~IDR 500B (~50%)	Effective net regional share ~6.5% after energy subsidy burden-sharing	DPR RI & DJPK Regional Transfer Reconciliation Records (2026).

Source: Author's compilation from Law No. 62 of 2024, Law No. 17 of 2025, Ministry of Finance DJPK (2026), and Provincial/Municipal APBD Realization Reports (2026).

As documented in Table 2, the impact of transfer contractions diverges sharply across regional fiscal typologies. In Bandung City, where central transfers contracted by approximately IDR 600 billion in the 2026 fiscal year—initially exposing the municipal budget to a projected IDR 300 billion deficit—a robust local tax base yielding IDR 3.60 trillion in PAD enabled the municipality to absorb the shock by rationalizing non-essential travel allowances and deferring secondary capital projects.[35] Conversely, in low-capacity jurisdictions such as Central Tapanuli Regency, PAD accounts for only IDR 112.3 billion, or 9.80% of total regional revenue (IDR 1,145.9 billion), while total APBD expenditure reaches IDR 1,312.1 billion (with the IDR 166.2 billion variance covered by Budget

[35] Diskominfo Kota Bandung, "Pemkot Bandung Jaga PAD Tembus Tiga Triliun Demi Layanan Warga," Portal Resmi Pemerintah Daerah Provinsi Jawa Barat, March 12, 2026, https://www.jabarprov.go.id/berita/pemkot-bandung-jaga-pad-tembus-tiga-triliun-demi-layanan-warga-22718; Rifat Alhamidi, "APBD Kota Bandung 2026 Terancam Defisit Rp 300 Miliar," *Detik Jabar*, October 24, 2025, https://www.detik.com/jabar/berita/d-8186336/apbd-kota-bandung-2026-terancam-defisit-rp-300-miliar.

Financing Surplus, or SILPA, carryovers).[36] In Central Tapanuli, total operating expenditure—which encompasses personnel salaries, goods and services, subsidies, and social grants—absorbs IDR 932.5 billion (71.07% of total expenditure), leaving capital infrastructure spending at 23.00%.

A precise doctrinal distinction must be drawn here: whereas Article 146(1) of the HKPD Law caps *personnel expenditure* (*belanja pegawai*) at 30% rather than total operating expenditure (*belanja operasi*), personnel outlays alone in low-PAD regencies average between 38% and 48% of the APBD due to nationally mandated two-stage PPPK appointments that lack earmarked DAU coverage for Additional Employee Income (*Tambahan Penghasilan Pegawai*, or TPP) allowances.[37] Although Article 190 of the HKPD Law grants a five-year transition period until 2027 before the 30% personnel ceiling and the 40% net infrastructure floor become fully binding under threat of transfer delays or deductions (Articles 148 and 161), compressing personnel spending to 30% while simultaneously elevating net public infrastructure spending from 23% to 40% by the 2027 statutory deadline is mathematically unattainable for transfer-dependent regencies experiencing a 24.66% to 29.34% contraction in TKD inflows. Similarly, in resource-producing jurisdictions such as Siak Regency, the recentralization of mining and forestry licensing under Law No. 3 of 2020 and Law No. 6 of 2023, combined with a national DBH contraction from IDR 26.14 trillion in 2025 to IDR 11.00 trillion in 2026 and energy-subsidy burden-sharing deductions, reduced local transfer receipts by roughly IDR 500 billion (~50%), leaving the regency with an effective revenue share of roughly 6.5% while bearing uncompensated environmental and road remediation costs from crude palm oil and mineral extraction.[38] These patterns substantiate Rodríguez-Pose and Vidal-Bover's cross-national proof that violating the *finance follows function* maxim through unfunded

[36] Biro Administrasi Pembangunan Provinsi Sumatera Utara, *Progress Report Pengendalian Pembangunan Provinsi Sumatera Utara: APBD Kabupaten Tapanuli Tengah Tahun 2026* (Medan: Pemerintah Provinsi Sumatera Utara, April 15, 2026), 2–6, https://prp2sumut.sumutprov.go.id/kabupaten-kota-detail3-2026-Z3lXb3lwZDJjY2NSQStvT2xsM3Yrdz09.
[37] Mohamad Taufik, "Dampak Pengangkatan Pegawai Pemerintah dengan Perjanjian Kerja (PPPK) terhadap Pemerintah Daerah dengan Kapasitas Fiskal Rendah," *Jurnal Impresi Indonesia* 4, no. 5 (2025): 1365–72, https://doi.org/10.58344/jii.v4i5.6498; Ministry of Finance of the Republic of Indonesia, *Laporan Analisis Perkembangan Keuangan Daerah 2025*, 28–33.
[38] Ministry of Finance of the Republic of Indonesia, Regulation No. 29 of 2026, annex I; Siti Laela and Nursita Sari, "Bupati Siak Singgung Keadilan Fiskal: Daerah Kaya Alam Malah Dibuat Miskin," *Kompas*, May 14, 2026, https://video.kompas.com/watch/1935569/bupati-siak-singgung-keadilan-fiskal-daerah-kaya-alam-malah-dibuat-miskin.

mandates systematically depresses subnational economic capacity.[39]

Compounding these fiscal pressures is bureaucratic paralysis driven by the fear of criminalization among local budget officials. Although the Constitutional Court held in Decision No. 25/PUU-XIV/2016 (paragraph 3.10.4) that corruption offenses under Articles 2 and 3 of Law No. 31 of 1999 require proof of an actual and certain state financial loss (*actual loss*), regional law enforcement investigations frequently scrutinize administrative budget reallocations through the lens of potential loss, prompting risk-averse regional treasurers to delay capital disbursement and park between IDR 150 trillion and IDR 234 trillion in idle APBD balances across Regional Development Banks (*Bank Pembangunan Daerah*, or BPD) and Government Securities (*Surat Berharga Negara*, or SBN).[40]

To maintain analytical balance, however, these subnational claims must be weighed against the central executive's constitutional duty under Article 23(1) of the 1945 Constitution to ensure transparent, efficient, and accountable state financial management. In public statements and policy directives accompanying the 2026 APBN adjustments, the administration of President Prabowo Subianto justified TKD tightening as a deliberate disciplinary measure to curb systemic budgetary inefficiency and elite capture. Evaluating this executive rationale requires strictly separating verified institutional audit data from rhetorical political claims:

a. **Macroeconomic Inefficiency vs. Direct Budget Leakage:** The executive branch has repeatedly cited an Incremental Capital Output Ratio (ICOR) of approximately 6.5 to support the political claim that up to 30% of aggregate state and regional expenditure (roughly IDR 1,000 trillion out of an APBN/APBD posture of IDR 3,700 trillion) is lost to procurement markups and rent-seeking.[41] From an economic and legal standpoint, however, ICOR

[39] Andrés Rodríguez-Pose and Miquel Vidal-Bover, "Unfunded Mandates and the Economic Impact of Decentralisation: When Finance Does Not Follow Function," *Political Studies* 72, no. 2 (2024): 658–69, https://doi.org/10.1177/00323217221136666.
[40] Constitutional Court of the Republic of Indonesia, Decision No. 25/PUU-XIV/2016, para. 3.10.4, at 115; Nastitya Fionny Brilliyanti, "Membedah Fenomena Dana Mengendap di Kas Daerah," Directorate General of Treasury, Ministry of Finance of the Republic of Indonesia, November 18, 2025, https://opini.kemenkeu.go.id/pages/read/membedah-fenomena-dana-mengendap-di-kas-daerah; Andi Aswan, Sabbar Dahham Sabbar, Shahid Bashir, and Andi Ratna Sari Dewi, "Linking Regional Investments and Revenues at the Provincial Level to Investment Loan Decisions by Local Government Banks in Indonesia," *Public and Municipal Finance* 13, no. 2 (2024): 35–41, https://doi.org/10.21511/pmf.13(2).2024.04.
[41] M. Ilham Ramadhan Avisena, "Prabowo: Rp1.000 Triliun Bocor," *Media Indonesia*, April 10, 2026, https://mediaindonesia.com/politik-dan-hukum/914207/prabowo--rp1000-triliun-bocor.

measures the marginal capital required to generate an additional unit of output—reflecting structural infrastructure gestation lags, regulatory licensing bottlenecks, and logistical costs—and cannot be equated doctrinally or empirically with a 30% corruption leakage rate. Nevertheless, official audit reports from the Audit Board of Indonesia (BPK) and enforcement records from the Corruption Eradication Commission (KPK) independently confirm persistent vulnerabilities in subnational procurement, fictitious travel claims, and social-grant misappropriation.[42]

b. **Bureaucratic Bloat and Basic Infrastructure Deficits:** Official data published by the Directorate General of Fiscal Balance (DJPK) of the Ministry of Finance verify that across 25 years of decentralization, regional personnel spending averaged 32.4% nationally and exceeded 36% in numerous districts, crowding out maintenance for primary schools and regency roads and prompting direct central intervention under Presidential Instruction (Inpres) No. 3 of 2023 on Accelerating Regional Road Connectivity alongside centralized targets to renovate 67,000 dilapidated schools and 5,000 village bridges.[43]

c. **Electoral Clientelism and High Pilkada Campaign Costs:** Both KPK enforcement studies and systematic literature reviews by Hidayat, Hospes, and Termeer confirm that the prohibitive cost of contesting direct regional head elections (*Pilkada*)—estimated in policy studies and executive assessments at IDR 50 billion for regency/mayoral races and IDR 200 billion to IDR 260 billion for gubernatorial contests—creates acute pressure for elected executives to recoup campaign outlays by steering APBD infrastructure contracts to political financiers, a pattern reinforced by Bock and Blemings's public-choice evidence on electoral infrastructure cycles.[44]

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[42] Audit Board of the Republic of Indonesia [Badan Pemeriksa Keuangan Republik Indonesia, BPK], *Ikhtisar Hasil Pemeriksaan Semester (IHPS) II Tahun 2025* (Jakarta: BPK RI, 2026), 45–62; Komite Pemantauan Pelaksanaan Otonomi Daerah (KPPOD), "Terbukti Korupsi, Sebagian Kepala Daerah Masih Bisa Mencalonkan Lagi," KPPOD Policy Brief, February 19, 2026, https://www.kppod.org/berita/view?id=1697.
[43] Ministry of Finance of the Republic of Indonesia, *Laporan Analisis Perkembangan Keuangan Daerah 2025*, 31–39; President of the Republic of Indonesia, Presidential Instruction No. 3 of 2023 on Accelerating the Improvement of Regional Road Connectivity [Instruksi Presiden Nomor 3 Tahun 2023 tentang Percepatan Peningkatan Konektivitas Jalan Daerah], March 16, 2023, dicts. 1–4.
[44] Andi Rahmat Hidayat, Otto Hospes, and Catrien J. A. M. Termeer, "Why Democratization and Decentralization in Indonesia Have Mixed Results on the Ground: A Systematic Literature Review," *Public Administration and Development* 45, no. 2 (2025): 163–69, https://doi.org/10.1002/pad.2095; Margaret

d. Compensatory Grassroots Liquidity Flows: The central government further contends that reductions in regency-level TKD ceilings are offset by direct fiscal transfers to Indonesia's 75,000 villages, combining statutory Village Funds (*Dana Desa*) averaging IDR 1 billion per village annually with projected operational spending by Free Nutritious Meals (*Makan Bergizi Gratis*, or MBG) service units estimated by executive policymakers to circulate between IDR 7 billion and IDR 10.8 billion per village annually.[45]

Figure 2 and Table 3 synthesize this structural tension between subnational unfunded mandates and the central government's anti-leakage policy rationale.

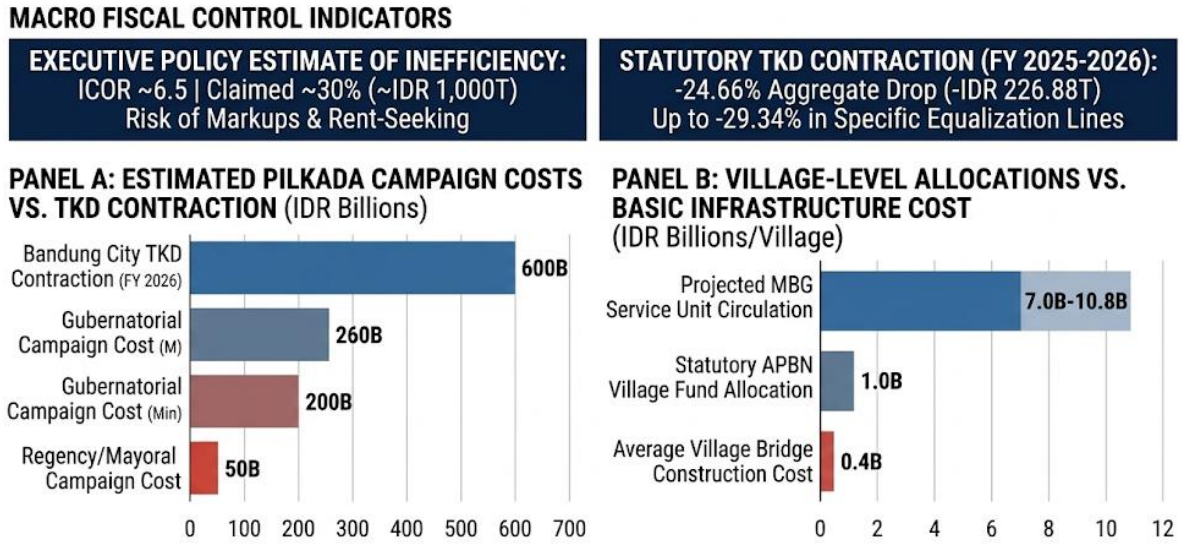

Figure 2. The Dialectics of Fiscal Control: Estimated Local Electoral Pressures vs. Statutory TKD Contractions and Village-Level Allocations

Source: Author's compilation from DJPK Kemenkeu (2026), KPK & KPPOD Governance Reports (2025–2026), and Constitutional Court Hearing Transcripts in Case No. 171/PUU-XXIV/2026.

Bock and Benjamin Blemings, "Road Maintenance Over the Local Election Cycle," *Public Choice* 198, no. 1 (2024): 134–45, https://doi.org/10.1007/s11127-023-01115-3; Erik Erfinanto, "Akbar Pertanyakan APBD Jadi Bancakan Oligarki Daerah Gegara Ongkos Politik Selangit, Ini Jawaban Prabowo," *Afu*, May 4, 2026, https://afu.id/nasional/akbar-pertanyakan-abpd-jadi-bancakan-oligarki-daerah-gegara-ongkos-politik-selangit-ini-jawaban-prabowo.

[45] Auliya Umayna Andani, "Prabowo Sebut MBG & Dana Desa Bikin Rp10,8 M Beredar di Desa," *Tirto*, May 2, 2026, https://tirto.id/prabowo-sebut-mbg-dana-desa-bikin-rp108-m-beredar-di-desa-hwgP.

Table 3. Dialectical Synthesis of Subnational Autonomy Claims and Central Efficiency Rationales

Fiscal Governance Issue	Subnational & Fiscal Federalism Perspective	Central Executive Policy Rationale	Doctrinal & Agency-Theory Evaluation
2026 TKD Contraction (IDR 919.87T / 864.10T to IDR 692.99T)	Triggers unfunded mandates, depletes SILPA, and constrains PPPK payrolls in transfer-dependent regencies.	Disciplinary adjustment to curb estimated budget leakage and reallocate ~IDR 226.88T toward national priority programs.	Across-the-board cuts penalize accountable regions and impair basic public services without isolating corrupt actors.
Uniform Mandatory Spending (Min. 40% Infrastructure; Max. 30% Personnel)	Ignores fiscal asymmetry; low-PAD regions (e.g., Central Tapanuli) face mathematical impossibility before the 2027 transition deadline.	Necessary statutory check because regional personnel spending averaged 32.4%–36%, neglecting school and road maintenance.	Valid *ratio legis*, but uniform single ratios fail the constitutional necessity test under Articles 18A(2) and 18B(1).
Resource Licensing Recentralization & DBH Reductions	Erodes producing-region entitlements (e.g., Siak Regency losing ~50% DBH) while regions bear ecological remediation costs.	Direct village transfers (IDR 1B Village Fund plus projected IDR 7B–10.8B MBG circulation) bypass rent-prone regency bureaucracies.	Village-level program spending cannot legally substitute for transparent, constitutional DBH entitlements under Article 18A(2).
Idle APBD Bank Balances (IDR 150T–234T)	Driven by delayed central technical guidelines for earmarked DAU and fear of criminal prosecution under potential-loss standards.	Reflects weak local cash management and treasury arbitrage favoring commercial bank deposit interest over capital execution.	Requires synchronizing BPK audit standards with Decision No. 25/PUU-XIV/2016 (*actual loss*) and accelerating PMK issuance.

Source: Author's evaluation based on Law No. 1 of 2022, Constitutional Court Case No. 171/PUU-XXIV/2026, DJPK Kemenkeu (2026), and BPK Audit Reports (2025–2026).

Evaluating this dialectic through Jensen and Meckling's agency theory and Weingast's second-generation fiscal federalism resolves the apparent paradox between the two positions.[46] As Weingast and Shah demonstrate, when local electoral institutions are distorted by clientelist campaign financing, subnational executives face perverse incentives to act as rent-seeking agents, validating the central government's concern over local elite capture. Yet imposing an undifferentiated TKD contraction alongside uniform expenditure locks across all subnational units misdiagnoses the agency problem: across-

[46] Jensen and Meckling, "Theory of the Firm," 312–18; Weingast, "Second Generation Fiscal Federalism," 18–23; Anwar Shah, "A Practitioner's Guide to Intergovernmental Fiscal Transfers," *Revista de Economía y Estadística* 44, no. 2 (2006): 135–48, https://doi.org/10.55444/2451.7321.2006.v44.n2.4088.

the-board central coercion punishes citizens and civil servants in accountably governed and low-capacity jurisdictions while leaving the underlying electoral incentives of corrupt local elites intact.

3. Comparative Fiscal Constitutionalism and the Normative Reconstruction of Indonesian Public Finance Law

Addressing the third research question requires examining how comparative constitutional systems regulate the boundary between central spending power and subnational fiscal autonomy, and translating those comparative lessons into a coherent normative reconstruction (*ius constituendum*) of Indonesian public finance law.

a. Comparative Constitutional Benchmarks Across Five Jurisdictions

A structured comparative analysis across five jurisdictions—the United States, Australia, India, Germany, and Spain—reveals four institutional mechanisms designed to prevent central transfer conditionality from degenerating into unconstitutional coercion.

First, **United States** constitutional jurisprudence establishes an explicit judicial boundary against coercive grant conditions. While the Supreme Court held in *South Dakota v. Dole* that Congress may attach policy conditions under the Spending Clause (Article I, Section 8, Clause 1) when withholding only 5% of federal highway funds—characterizing the sanction as "relatively mild encouragement"—Congress subsequently enacted the Unfunded Mandates Reform Act (UMRA) of 1995 to curb statutory mandates lacking federal funding.[47] Crucially, in *National Federation of Independent Business (NFIB) v. Sebelius*, the Supreme Court invalidated a statutory provision threatening to strip states of 100% of their existing Medicaid funding if they declined to expand program eligibility, holding that when conditional grants constitute a major portion of subnational budgets, threatening severe withholding crosses the constitutional line from persuasion to compulsion ("a gun to the head").[48] As Bromley-Trujillo and Dichio demonstrate in their analysis of transactional federal grant withholding during the 2024–2025 term, the *NFIB* anti-coercion standard remains the primary judicial bulwark protecting subnational autonomy when executive administrations leverage fiscal dependency to compel policy

[47] *South Dakota v. Dole*, 483 U.S. 203, 211 (1987); Unfunded Mandates Reform Act of 1995, Pub. L. No. 104-4, 109 Stat. 48 (codified at 2 U.S.C. §§ 1501–1571); Theresa Gullo, "History and Evaluation of the Unfunded Mandates Reform Act," *National Tax Journal* 57, no. 3 (2004): 561–67, https://doi.org/10.17310/ntj.2004.3.04; Thomas Döring and Jan Schnellenbach, "A Tale of Two Federalisms: Germany, the United States and the Ubiquity of Centralization," *Constitutional Political Economy* 22, no. 1 (2011): 88–95, https://doi.org/10.1007/s10602-010-9096-2.
[48] *National Federation of Independent Business v. Sebelius*, 567 U.S. 519, 579–85 (2012).

compliance.[49] Transposed to Indonesia's pending review in Case No. 171/PUU-XXIV/2026, where TKD inflows finance between 70% and 90% of most regency budgets, threatening transfer deductions under Articles 148 and 161 of the HKPD Law for failing to meet uniform 40% infrastructure and 30% personnel thresholds exhibits the precise structural compulsion prohibited under the *NFIB* doctrine.

Second, **Australia** and **India** demonstrate the institutional role of independent constitutional commissions in mediating severe Vertical Fiscal Imbalance (VFI). Under Section 96 of the Australian Constitution, the Federal Parliament may grant financial assistance to any state "on such terms and conditions as the Parliament thinks fit," a power broadly construed by the High Court of Australia, as Gogarty documents, enabling tied grants (Specific Purpose Payments and National Partnership Payments) to account for roughly 45% to 50% of federal transfers.[50] However, as Fenna and Phillimore show, Australia counterbalances executive discretion in general revenue sharing through the Commonwealth Grants Commission (CGC)—an independent statutory body that calculates horizontal fiscal equalization relativities using objective demographic, geographic, and cost-disability metrics insulated from short-term partisan bargaining.[51] Similarly, Article 280 of the Constitution of India establishes an independent constitutional Finance Commission appointed every five years to determine both the vertical share of central taxes devolved to the states and the horizontal equalization formula across Indian states, which Tillin and Reddy, Reddy, and Chakraborty identify as a vital institutional check against arbitrary central earmarking.[52] In Indonesia, by contrast, the Regional Autonomy Advisory Council (*Dewan Pertimbangan Otonomi Daerah*, or

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[49] Rebecca Bromley-Trujillo and Michael A. Dichio, "The State of American Federalism 2024–2025: Resisting and Reinforcing the Rise of the Transactional Presidency," *Publius: The Journal of Federalism* 55, no. 3 (2025): 426–35, https://doi.org/10.1093/publius/pjaf023.

[50] Australian Constitution s 96; Brendan Gogarty, "Making Sense of s 96: Tied Grants, Contextualism and the Limits of Federal Fiscal Power," *Melbourne University Law Review* 42, no. 2 (2019): 462–78, https://hdl.handle.net/102.100.100/557831; Neil Warren, "National Fiscal Consolidation and the Challenge to Australian Federalism," *The Economic and Labour Relations Review* 24, no. 2 (2013): 165–73, https://doi.org/10.1177/1035304613482819.

[51] Fenna and Phillimore, "Fiscal Equalisation in Australian Federalism," 705–14; Select Committee on the Reform of the Australian Federation, *Australia's Federation: An Agenda for Reform* (Canberra: Parliament of the Commonwealth of Australia, June 2011), chap. 4, at 57–64, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Former_Committees/reffed/reffed/report/index.

[52] Constitution of India, art. 280; Louise Tillin, "Building a National Economy: Origins of Centralized Federalism in India," *Publius: The Journal of Federalism* 51, no. 2 (2021): 170–79, https://doi.org/10.1093/publius/pjaa039; Y. V. Reddy, G. R. Reddy, and Pinaki Chakraborty, "Origins of Fiscal Federalism," in *Indian Fiscal Federalism*, 2nd ed. (Oxford: Oxford University Press, 2025), 14–17, https://doi.org/10.1093/9780198971658.003.0002.

DPOD) under Law No. 23 of 2014 is chaired by central ministers, leaving DAU earmarking formulas and TKD performance indicators entirely within the unilateral discretion of the Ministry of Finance.

Third, Germany illustrates how upper-house legislative co-determination compensates for standardized fiscal rules. While Article 107 of the German Basic Law (*Grundgesetz*, GG) governs horizontal and vertical fiscal equalization (*Länderfinanzausgleich*) and Articles 109(3) and 115 GG codify a strict constitutional debt brake (*Schuldenbremse*) constraining structural budget deficits across the *Länder*, Bury and Feld emphasize that German states retain potent institutional protection through the Bundesrat: any federal statute affecting *Länder* revenues or administrative execution requires the formal consent (*Zustimmungsgesetze*) of the upper chamber composed of state executive delegates.[53] In Indonesia, the Regional Representative Council (*Dewan Perwakilan Daerah*, or DPD) possesses only consultative authority over the Draft State Budget Law under Article 22D(2) of the 1945 Constitution, lacking any veto or co-decision power when the central executive and the DPR reduce TKD ceilings under Article 109(1) of the HKPD Law.

Fourth, **Spain** provides a directly applicable model of asymmetric fiscal decentralization within a decentralized unitary state (*Estado de las Autonomías*). Anchored in the First Additional Provision of the 1978 Spanish Constitution and the First Additional Provision of Organic Law 8/1980 (LOFCA) alongside the Basque Economic Agreement (Law 12/2002), the Foral Regime (*Régimen Foral*) territories of the Basque Country and Navarre exercise comprehensive tax autonomy and remit an negotiated annual quota (*cupo*) to Madrid, whereas the fifteen autonomous communities under the Common Regime (*Régimen Común*)—governed by Law 22/2009 and Organic Law 2/2012 on Budgetary Stability—rely on shared taxes and central equalization funds.[54] Empirical

[53] Basic Law for the Federal Republic of Germany [Grundgesetz für die Bundesrepublik Deutschland], May 23, 1949, BGBl. I at 1, arts. 107, 109(3), 115; Yannick Bury and Lars P. Feld, "Fiscal Federalism in Germany," in *The Forum of Federations Handbook of Fiscal Federalism*, ed. Jean-François Tremblay (Cham: Springer, 2023), 172–89, https://doi.org/10.1007/978-3-030-97258-5_5; Constitution of the Republic of Indonesia 1945, art. 22D(2).

[54] Spanish Constitution [Constitución Española], Boletín Oficial del Estado [B.O.E.] No. 311, December 29, 1978, art. 157 and First Additional Provision; Organic Law 8/1980 of September 22 on the Financing of the Autonomous Communities [LOFCA], B.O.E. No. 236, October 1, 1980, First Additional Provision, as amended by Organic Law 7/2001, B.O.E. No. 311, December 28, 2001, and Organic Law 2/2012, B.O.E. No. 103, April 30, 2012; Law 12/2002 of May 23 Approving the Economic Agreement with the Autonomous Community of the Basque Country, B.O.E. No. 124, May 24, 2002; Law 22/2009 of December 18 Regulating the Financing System of the Common Regime Autonomous Communities, B.O.E. No. 305, December 19, 2009, arts. 1–12.

evaluations by Aparicio-Pérez et al. and Gray confirm that while asymmetric fiscal regimes accommodate territorial diversity, maintaining interregional legitimacy requires grounding asymmetric tiers in transparent, objective fiscal-capacity and governance indicators rather than opaque political bargaining.[55]

b. Institutionalizing an Independent Fiscal Commission and Governance-Based Asymmetric Decentralization

Synthesizing these doctrinal and comparative findings, reconstructing the HKPD Law requires shifting from uniform regulatory coercion to Governance-Based Asymmetric Fiscal Decentralization administered by an Independent Fiscal Equalization Commission (*Komisi Independen Perimbangan Keuangan*).

First, to establish a firm constitutional and statutory foundation without infringing the budgetary authority of the DPR and the President under Article 23(1)–(2) of the 1945 Constitution, the HKPD Law should be amended to replace the executive-dominated DPOD with an Independent Fiscal Equalization Commission modeled on the Australian CGC and Indian Finance Commission, adapted to Indonesia's bicameral legislative architecture under Article 22D(2). Composed of non-partisan public finance economists and constitutional law experts nominated jointly by the President, the DPR, and the DPD, the Commission would be statutorily mandated to publish binding objective calculation worksheets for DAU, DAK, and DBH formulas and submit its annual regional fiscal capacity assessments simultaneously to the DPR and the DPD prior to APBN deliberations. While final enactment of the APBN remains vested in the DPR and the President pursuant to Article 23(2), requiring the executive to provide a formal written justification to the DPR and the DPD whenever proposed TKD ceilings deviate from the Commission's baseline institutionalizes a procedural check that operationalizes the DPD's constitutional mandate under Article 22D(2).

Second, Articles 109, 146, and 147 of the HKPD Law should be reconstructed to classify Indonesia's provinces, regencies, and municipalities into three asymmetric governance clusters evaluated annually by the Independent Fiscal Equalization Commission based on three verifiable metrics: (1) PAD-to-total-revenue ratio; (2) three-year consecutive BPK Unqualified Audit Opinions (*Wajar Tanpa Pengecualian*, or WTP)

[55] Aparicio-Pérez et al., "Politics Versus Economics," 125–36; Caroline Gray, "Elite Perceptions of the Legitimacy of Asymmetric Fiscal Decentralisation: Evidence from Spain," *The Annals of Regional Science* 75, no. 3 (2026): 106, at 5–12, https://doi.org/10.1007/s00168-026-01542-2.

paired with the KPK Monitoring Center for Prevention (MCP) integrity score; and (3) fulfillment of basic Minimum Service Standards (SPM).[56] Table 4 details the legal parameters, fiscal cost estimations, and procedural safeguards across the three clusters.

Table 4. Normative Architecture of Governance-Based Asymmetric Fiscal Decentralization

Asymmetric Cluster & Objective Thresholds	Treatment of Transfer Instruments (DAU, DAK, & DBH)	Calibration of Mandatory Spending (Arts. 146 & 147 HKPD Law)	Fiscal Cost Estimation, Due Process & Judicial Safeguards
Cluster I: Autonomous Block-Grant Track (PAD ≥ 25% of revenue; 3-year WTP audit; KPK MCP score ≥ 80; SPM fulfillment ≥ 85%)	100% of DAU disbursed as an unconditional block grant; full, on-time DBH disbursement; priority performance incentives.	Exempted from rigid 40% infrastructure and 30% personnel single ratios; full APBD discretion vested in Regional Head & DPRD; eligible to issue Municipal Revenue Bonds.	Zero additional central fiscal burden; rewards local tax effort and clean governance with substantive constitutional autonomy.
Cluster II: Assisted Empowerment Track (PAD < 25% of revenue [e.g., Central Tapanuli or archipelagic regions]; WTP audit; KPK MCP score ≥ 70)	Regular DAU supplemented by asymmetric cost-disability grants; 100% of nationally mandated PPPK salaries and TPP allowances funded directly via central APBN.	Infrastructure floor calibrated asymmetrically (20%–30%) to geographic cost indices; full exemption from Art. 148/161 TKD deduction sanctions.	**Estimated Central Fiscal Cost:** IDR 35T–42T/year across ~160 low-PAD regencies, funded sustainably by reallocating central ministerial DAK buffers and recurring mineral royalty compliance.
Cluster III: Corrective Administrative Track (Recurring BPK audit disclaimers/adverse findings; KPK MCP score < 60; severe SPM deficits with high idle cash)	DAU operational overhead earmarked; capital DAK executed under joint technical supervision with BPKP and line ministries.	Strict 40% basic infrastructure floor and caps on official travel/discretionary overhead enforced; barred from issuing subnational debt.	**Due Process & Citizen Safeguards:** Mandatory 60-day corrective notice; ring-fenced protection ensuring zero cuts to basic health/education services; right of appeal to the State Administrative Court (PTUN).

Source: Author's normative reconstruction integrating Law No. 1 of 2022, Spanish LOFCA asymmetric principles, and Australian CGC equalization methodology.

Crucially, the design in Table 4 resolves two potential structural vulnerabilities. First, for Cluster II, transferring 100% of the salary and TPP allowance burden for nationally mandated PPPK personnel to the central APBN is estimated to require IDR 35 trillion to IDR 42 trillion annually across approximately 160 low-PAD regencies—a recurring obligation equal to roughly 18% of the IDR 226.88 trillion TKD reduction enacted in the 2026 APBN, which can be financed sustainably by reallocating

[56] Shah, "Practitioner's Guide to Intergovernmental Fiscal Transfers," 150–62; Weingast, "Second Generation Fiscal Federalism," 20–24; Hummel, "Local Government Financial Performance," 219–24.

deconcentrated ministerial infrastructure buffers and recurring mining royalty revenues rather than relying on one-time administrative fines. Second, for Cluster III, to prevent corrective oversight from reproducing arbitrary coercion or punishing local residents for the criminal malfeasance of an individual regional head, the statutory framework must codify three procedural due process safeguards: (1) *service ring-fencing*, guaranteeing that conditional earmarking targets only discretionary bureaucratic overhead (such as official travel and ceremonial spending) while maintaining 100% of basic citizen service allocations; (2) *administrative due process*, requiring formal notification and a 60-day remediation window before Cluster III placement; and (3) *judicial control*, granting regional governments an expedited right of appeal before the State Administrative Court (*Pengadilan Tata Usaha Negara*, or PTUN) to challenge arbitrary classification by central ministries.

c. Fortifying Municipal Revenue Bonds, Electoral Campaign Audits, and Upstream Resource Governance

To complement asymmetric transfer reform, three structural mechanisms must be institutionalized within Indonesian public finance law.

First, for high-capacity Cluster I jurisdictions (such as DKI Jakarta, Bandung City, and Surabaya City), Municipal Bonds (*Obligasi Daerah*) regulated under Articles 154–159 of the HKPD Law and PMK No. 87 of 2024 offer a market-based instrument to finance capital infrastructure without burdening the central APBN.[57] However, as public choice theory established by William A. Niskanen demonstrates—and as critically refined by Laurence E. Lynn—bureaucrats and subnational politicians face structural incentives to maximize discretionary budgetary slack rather than long-term financial solvency, creating acute moral hazard and soft budget constraint risks if subnational borrowers anticipate a central government bailout.[58] To prevent municipal debt crises, the HKPD Law and PMK No. 87 of 2024 must codify four cumulative legal safeguards: (1) an explicit statutory no-bailout clause stipulating that the Central Government bears zero liability for defaulted

[57] Republic of Indonesia, Law No. 1 of 2022, arts. 154–159; Ministry of Finance of the Republic of Indonesia, Regulation No. 87 of 2024 on Procedures for the Issuance and Repurchase of Regional Bonds and Regional Sukuk by Regional Governments, BNRI Year 2024 No. 815, arts. 4–16.
[58] William A. Niskanen, *Bureaucracy and Representative Government* (Chicago: Aldine-Atherton, 1971), 36–43; Laurence E. Lynn, "The Budget-Maximizing Bureaucrat: Is There a Case?," in *The Budget-Maximizing Bureaucrat: Appraisals and Evidence*, ed. André Blais and Stéphane Dion (Pittsburgh: University of Pittsburgh Press, 1991), 63–74, https://doi.org/10.2307/jj.6167291.7; Abdul Aziz, "Obligasi Daerah Jakarta Berisiko Picu Moral Hazard," *Investor Trust*, September 8, 2026, https://investortrust.id/business/115972/obligasi-daerah-jakarta-berisiko-picu-moral-hazard.

municipal principal or coupon obligations; (2) restricting debt issuance exclusively to self-liquidating Revenue Bonds (*obligasi pendapatan*) backed by project cash flows rather than general APBD revenues; (3) mandatory automated monthly escrow provisioning (sinking funds) from the first year of issuance; and (4) an independent pre-issuance expenditure efficiency audit verified by the BPK and the Financial Services Authority (*Otoritas Jasa Keuangan*, or OJK).

Second, severing the link between prohibitive local election costs and APBD procurement manipulation requires enforcing existing statutory campaign finance controls alongside pre-office financial audit certification. Rather than creating duplicative bureaucratic academies, Article 65 of Law No. 10 of 2016 on Regional Head Elections—which already mandates that the General Elections Commission (*Komisi Pemilihan Umum*, or KPU) facilitate and fund broadcast campaign advertisements equally across public frequency spectrums—must be paired with mandatory real-time digital auditing of campaign contribution accounts (*Rekening Khusus Dana Kampanye*) by the Financial Transaction Reports and Analysis Centre (PPATK) and compulsory pre-inauguration certification in regional financial statement analysis and *actual loss* legal standards conducted jointly by the BPK, KPK, and the Ministry of Home Affairs.[59]

Third, expanding national fiscal space under Article 33(2) and (3) of the 1945 Constitution—which under Constitutional Court Decisions No. 002/PUU-I/2003 (pages 208–209) and No. 64/PUU-XVIII/2020 (paragraph 3.17) encompasses state policy formulation (*beleid*), administration (*bestuursdaad*), regulation (*regelendaad*), management (*beheersdaad*), and supervision (*toezichthoudendaad*)—must be harmonized with regional autonomy under Article 18A(2).[60] While law enforcement operations such as the Forest Area Enforcement Task Force (*Satgas PKH*) under Presidential Regulation No. 5 of 2025 generate vital one-off state asset recoveries, one-time administrative fines cannot sustainably finance recurring public expenditures. Instead, permanent fiscal expansion requires institutionalizing joint central-regional digital production and royalty monitoring systems in the mineral, coal, and plantation

[59] Republic of Indonesia, Law No. 10 of 2016 on the Second Amendment to Law No. 1 of 2015 on the Stipulation of Government Regulation in Lieu of Law No. 1 of 2014 on the Election of Governors, Regents, and Mayors into Law, State Gazette Year 2016 No. 130, Supplement No. 5898, art. 65(1)–(2).
[60] Constitution of the Republic of Indonesia 1945, art. 33(2)–(3); Constitutional Court of the Republic of Indonesia, Decision No. 002/PUU-I/2003, December 21, 2004, 208–9; Decision No. 64/PUU-XVIII/2020, October 27, 2021, para. 3.17, at 231–34; President of the Republic of Indonesia, Presidential Regulation No. 5 of 2025 on Forest Area Enforcement, Cabinet Secretariat Gazette Year 2025 No. 5, arts. 1–6.

sectors. Amending the HKPD Law to mandate full disclosure of central DBH calculation worksheets to producing regions and allocating a dedicated ecological remediation share within the DBH formula reconciles Article 33 resource sovereignty with the constitutional guarantee of just and harmonious intergovernmental finance under Article 18A(2).

C. CONCLUSION

Converting unconditional equalization block grants into earmarked specific transfers alongside uniform mandatory expenditure ratios under Law No. 1 of 2022 fails the constitutional necessity and strict balancing standards of proportionality, reconfiguring the autonomous partnership guaranteed under Articles 18, 18A, and 18B of the 1945 Constitution into a quasi-hierarchical arrangement. The dialectical tension between subnational unfunded mandates and central anti-leakage controls reveals a dual-principal agency distortion wherein uniform transfer contractions penalize public service delivery in low-capacity and accountably governed jurisdictions without resolving the electoral financing incentives driving local elite capture. Drawing on comparative fiscal constitutionalism, reconciling national macroeconomic discipline with territorial self-governance requires establishing judicial limits against coercive transfer conditions and replacing uniform expenditure locks with a three-tier model of governance-based asymmetric fiscal decentralization administered by an independent fiscal equalization commission. Complementing this asymmetric architecture with project-based municipal revenue bonds fortified by strict no-bailout safeguards, transparent local campaign finance auditing, and joint central-regional monitoring of natural resource royalties under Article 33 of the 1945 Constitution sustainably expands national fiscal space while preserving the substantive core of subnational constitutional autonomy.

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