

Bridging Legal Gaps: Harmonizing the Roles of BPBD, Bakesbangpol, and Bakorwil in Regional Governance

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Abstract. *Good regulations are harmonious laws. Disharmony of laws and regulations gives rise to complex legal issues, at least problematic in the context of fulfilling the objectives of legal uncertainty. One of the disharmonizations of existing regulations is the regulation regarding the existence of regional institutions in the form of bodies. By using a normative legal study method, this study found that there is a disharmonious form of regulatory material regarding the duties and functions of several regional apparatuses in the form of bodies in Indonesia. There are three regional apparatuses in the form of bodies that have different duties and functions as regulated in Law No. 23 of 2014 concerning Regional Government and Government Regulation Number 18 of 2016 concerning Regional Apparatus, namely Regional Disaster Management Agency (BPPD), the National and Political Unity Agency (Bakesbangpol), and the East Java Province Regional Government and Development Coordinating Agency (Bakorwil). Findings of disharmony in regulatory matters like this have caused several regional government regulations in Indonesia to lack legal certainty. For this reason, it is important to immediately carry out efforts to harmonize the laws and regulations that regulate the duties and functions of regional apparatus in the form of bodies.*

Keywords: *Certainty; Disharmony; Governance; Regional.*

1. INTRODUCTION

The consequence of granting regional autonomy in administering government in Indonesia is the division of government affairs between the central government and regional governments. In its implementation, the granting of Regional Autonomy from the Central government to regions is carried out by regional heads and DPRD with the assistance of Regional Apparatus. In the context of government administration, the existence of regional apparatus is nothing other than an embodiment of the mandate

of the 1945 Constitution of the Republic of Indonesia (UUD 1945), namely protecting the entire Indonesian nation and all of Indonesia's blood, advancing general welfare, making the nation's life intelligent, and participating in implementing order. world. The state as a large organization will not be able to realize these ideals without the existence of smaller organizational units within a state, including organizational units in provincial and district/city areas called regional apparatus.¹

Constitutionally, the existence of regional apparatus as the main element in the administration of regional government can be traced to the adoption of the principle of decentralization in the administration of regional government as regulated in Article 18 paragraph (5) of the 1945 Constitution which in principle confirms that the administration of regional government is carried out by adhering to the principle of the widest possible autonomy. in breadth, except for government affairs which are determined by regulations as central government affairs.²The presence of the principle of decentralization has had an impact on the transfer of authority which was initially the authority of the central government and then shifted to the authority of regional governments which were hierarchical in nature.³

In its development, the dynamics of regional government administration arrangements have also touched on regulatory aspects related to regional apparatus as an important element in regional government administration. This is because the existence of regional apparatus as supporting elements for regional heads and the DPRD in administering regional government has a strategic role in implementing regional development programs. However, the existence of regional apparatus is often characterized by inconsistencies in the regulations that underlie the existence of regional apparatus, thereby obscuring legal certainty regarding their form, duties, and functions. One of the regulatory inconsistencies in question is the regulation of the form, duties, and functions of regional apparatus in the form of bodies in the current regional government organizational structure.

Referring to Government Regulation Number 18 of 2016 concerning Regional Apparatus, regional apparatus in the form of regional bodies are designed with the function of supporting the implementation of regional government carried out by other regional apparatus. With this function, regional apparatus in the form of an agency has a strategic position in supporting regional government programs in the areas of development planning, finance, education and training, research and development, personnel, and other supporting functions in accordance by statutory provisions.

¹ Jorawati Simarmata,(2018), "Legal Politics of Restructuring the Formation of Post-Reform Regional Apparatus (A Glance at Responses to Government Regulation Number 18 of 2016 concerning Regional Apparatus)", *Indonesian Legislation Journal*, Volume 13 No .4, p. 347–58, doi:10.54629/jli.v13i4.133 .

² Government of the Republic of Indonesia, Constitution of the Republic of Indonesia 1945.

³JorawatiSimarmata., (2018) "Legal Politics of Restructuring the Formation of Post-Reform Regional Apparatus (A Glance at Responses to Government Regulation Number 18 of 2016 concerning Regional Apparatus)," *Indonesian Legislation Journal*/Volume 13, p. 347–58

However, regulations regarding the existence of several regional apparatuses in the form of bodies still leave legal problems both related to the form of regional apparatuses and related to the accuracy of the tasks and functions of the regional apparatuses in the form of bodies.

To emphasize the picture of the legal problems in question, in this article, the author takes examples of problems related to the form, duties, and functions of three regional apparatuses in the form of bodies formed in the administration of regional government in Indonesia. The three regional apparatuses in the form of bodies are:

Table 1. Regulation Of Duties And Functions Of Regional Apparatuses In The Form Of Bodies

Regional Nomenclature	Apparatus	Form of Regional Apparatus	Regulations that regulate duties and functions
Regional Management (BPBD)	Disaster Agency	Body	1. Law of the Republic of Indonesia Number 24 of 2007 concerning Disaster Management. (Law 24/2007) 2. Minister of Home Affairs Regulation Number 46 of 2008 concerning Organizational Guidelines and Work Procedures for Regional Disaster Management Agencies. (Permendagri 46/2008)
National Unity and Politics Agency (Bakesbangpol)		Body	Minister of Home Affairs Regulation Number 11 of 2019 concerning Regional Apparatus Carrying out Government Affairs in the Field of National Unity and Politics. (Permendagri 11/2019)
East Java Province Regional and Coordinating Agency (Bakorwil East Java)	Development Agency	Body	1. East Java Province Regional Regulation Number 16 of 2016 concerning the Formation and Composition of the Regional Coordinating Body for Government and Development of East Java Province. (East Java Regional Regulation 16/2016) 2. East Java Gubernatorial Regulation No. 71 of 2023 concerning Position, Organizational Structure, Description of 3. Duties and Functions and Work Procedures of the Agency. (East Java Gubernatorial Regulation 71/2023)

Source: Related Laws and Regulations

The problem with the three regional apparatuses in the form of bodies is related to the inconsistency in the material regulating the duties and functions of the three regional apparatuses in each of the regulations underlying the three regional apparatuses which

are linked to the material regulating the duties and functions of regional apparatuses in the form of bodies as contained in the Law No. 23 of 2014 concerning Regional Apparatus and Government Regulation Number 18 of 2016 concerning Regional Apparatus.

From the results of reading legal documents regarding Law 24/2007 and Minister of Home Affairs Regulation 46/2008 which contains material regarding tasks, and functions BPBD, then Minister of Home Affairs Regulation 11/2019 which contains material regarding tasks and functions of Bakesbangpol, as well as East Java Regional Regulation No. 16 of 2016 and East Java Gubernatorial Regulation 71/2023 which contains material for regulating the tasks and functions of the East Java Regional Coordinating Board, it can be seen that the three regional apparatuses in the form of bodies have different duties and functions. BPBD organizes disaster management sub-affairs,⁴ Bakesbangpol organizes government affairs in the field of national unity and politics,⁵ and Bakorwil East Java carries out the task of assisting the Governor in coordinating guidance, supervision, monitoring and evaluation of government administration, development and assistance tasks as well as optimizing the potential development of Regency/City Regional Governments.⁶ The duties and functions of BPBD are related to the implementation of regional government affairs, the duties and functions of Bakesbangpol are related to the implementation of general government affairs, and the duties and functions of Bakorwil East Java are carrying out the tasks and functions of coordinating, supervising and supervising the administration of district/city government in the East Java region.

As a rule of law, the problem of dis-harmonization of institutional arrangements for regional apparatus in the form of bodies is an important issue to address, because this concerns legal certainty over the administration of regional government. Therefore, based on the regulatory legal facts as described above, this article asks the following main questions: First, what is the description of the regulation of duties and functions of regional apparatus in the form of bodies in the existing positive law? So is this kind of regulatory practice by the concept of legal certainty? And finally, what is the urgency of the discourse on harmonization of regulations governing regional apparatus in the form of bodies in the administration of regional government in Indonesia?

2. RESEARCH METHODS

In answering all these questions, the author analyzed various regulations governing the administration of regional government and regional apparatus in Indonesia which

⁴ Article 1 numbers 6 and 7, Minister of Home Affairs Regulation Number 46 of 2008 concerning Organizational Guidelines and Work Procedures for Regional Disaster Management Agencies.

⁵ Section 2 Ministry of Home Affairs of the Republic of Indonesia, Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 11 of 2019 concerning Regional Apparatus Carrying Out Government Affairs in the Field of National Unity and Politics.

⁶ Article 4 Paragraphs 2 and 3 East Java Provincial Government, East Java Provincial Regulation Number 16 of 2016 concerning the Formation and Composition of the East Java Province Regional Government and Development Coordinating Body.

were also linked to existing legal concepts. Therefore, the author categorizes this paper as a form of normative legal research. The approach used in preparing this research is the statutory approach. The legislative approach is used to understand the laws and regulations that regulate regional apparatus institutions in the form of bodies in the administration of regional government in Indonesia. This study was prepared using data from a literature review. Data obtained from the literature review were analyzed descriptively-qualitatively.

3. RESULTS AND DISCUSSION

3. 1. Achieve regulatory consistency to create legal certainty

Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia states that "The Indonesian state is a state of law", in the context of a state, the law is the main thing in the life of the nation and state. A legal state is a state that applies the principle of legality where all state actions through state organs are based on and by the law.⁷The principle of legality in state administration at least adopts Gustaf Radbruch's thinking, in the concept of "Teaching on Standard Priorities" which states that there are three basic legal ideas or three legal objectives. The three legal objectives are justice, expediency, and legal certainty. Justice is the most important of these three things, but this does not mean that the other two elements can be immediately ignored. Good law is a law that can synergize these three elements for the welfare and prosperity of society.⁸Of these three elements, the element of legal certainty requires that the law can function as regulations that must be obeyed in its implementation and that existing norms contain basic legal principles. The principle of the rule of law in Indonesia was born from the meaning of the state of law in the Rechtsstaat. Continental Europe or Anglo-Saxon rule of law, but Indonesia has established the basis for state administration based on law. Although in this context the rule of law is not always synonymous with written legal products, the existence of written legal products including statutory regulations must be able to realize the goal of legal certainty in state administration. Even statutory regulations as written law are the essence or an important part of the legal system of a democratic legal state.⁹

⁷ JCT Simorangkir,(1983), *Indonesian Law and Constitution: Widely Distributed Essays*. 2 (Jakarta: Gunung Agung).p. 36

⁸R. Tony Prayogo, (2016), "Application of the Principle of Legal Certainty in Supreme Court Regulation Number 1 of 2011 concerning the Right to Judicial Review and in Constitutional Court Regulation Number 06/PMK/2005 concerning Procedure Guidelines in Reviewing Laws (The Implementation of Legal Certainty Principle in Supreme Court Regulation Number 1 Of 2011 On Material Review Rights And In Constitutional Court Regulation Number 06/Pmk/2005 On Guidelines For The Hearing In Judicial Review)", *Indonesian Legislation Journal*. Vol. 13 NO. 02 – June, p.191 - 202

⁹ Delfina Gusman and Andi Nova, (2012) "The Position of MPR Decisions Based on Law no. 12 of 2011 concerning the Formation of Legislative Regulations", *Journal of Legal Dynamics*, Volume 12 No. 3, p.118 doi:10.20884/1.jdh.2012.12.3.118.

In forming legal rules, there is a main principle to create clarity regarding legal regulations, this principle is legal certainty.¹⁰Legal certainty refers to the application of law that is clear, permanent, and consistent where its implementation cannot be influenced by subjective circumstances.¹¹In the context of the formation of legal norms, legal certainty is an important substance that is closely tied to and cannot be separated from the law, especially for written legal norms, therefore written legal norms without legal certainty will lose their meaning. Tata Wijayanta defines legal certainty as "the clarity of a regulation so that it can become a rule for the people who are subject to the regulation".¹²Legal certainty can be interpreted in 2 senses, firstly as being able to determine the law that is applied/applicable to certain issues, and secondly as legal protection so that every person in a lawsuit is protected from arbitrariness.¹³

Legal certainty can be interpreted as meaning that legal rules are formed based on certainty of authority and certainty of substance, promulgated clearly and logically. Clear in the sense that it does not give rise to doubt (multiple interpretations) and is logical. It is clear in the sense that it forms a system of norms with other norms so that it does not clash or give rise to norm conflicts. Legal certainty refers to the application of law that is clear, permanent, and consistent, the implementation of which cannot be influenced by subjective circumstances. Legal certainty is closely related to the consistency of the substantive content contained in existing legal norms, including the integration of legal norms in one statutory regulation with legal norms in other statutory regulations. If there is a condition where legal norms in one statutory regulation and legal norms in other statutory regulations conflict with each other, then in that condition it can be said that legal certainty has not been created.

Based on the explanation of the definition and meaning above, in the context of state administration, legal certainty can also be interpreted as meaning that the normative clauses in regulations governing state administration are in a consistent status, do not conflict with each other, and are in a harmonious system. Regulatory policies regarding the administration of regional government should also refer to such conditions. Regulations governing the administration of regional government must have legal certainty and the regulations must not conflict with each other or be in a consistent trend. Positive legal provisions that are incompatible with the same regulatory object without any confirmation regarding which norms should be applied will give rise to

¹⁰ Mario Julyano and Aditya Yuli Sulistyawan,(2019). "Understanding the Principle of Legal Certainty Through the Construction of Legal Positivism Reasoning", *CREPIDO*, Volume 1 No.1, p. 13–22, doi:10.14710/crepido.1.1.13-22.

¹¹ Tony Prayogo, (2018), "Application of the Principle of Legal Certainty in Supreme Court Regulation Number 1 of 2011 concerning the Right to Judicial Review and in Constitutional Court Regulation Number 06/PMK/2005 concerning Procedure Guidelines in Reviewing Laws", *Indonesian Legislation Journal*, Volume 13 No.2, p. 191–201, doi:10.54629/jli.v13i2.151.

¹² Tata Wijayanta, (2014), "The Principles of Legal Certainty, Justice and Benefits about Commercial Court Bankruptcy Decisions", *Journal of Legal Dynamics*, Volume 14 No.2, p. 216–26, doi:10.20884/1.jdh.2014.14.2.291.

¹³ Mahmud Marzuki, (2017), *Legal Research: Revised Edition* (Jakarta: Prenada Media).p. 98

uncertain law.¹⁴Legal uncertainty is contrary to Article 6 Paragraph 1 letter i of Law no. 12/2011 that "every content of legal regulations must reflect the principle of legal certainty" which according to his explanation "the meaning of the principle of order and legal certainty is that order in society must be able to be realized by every content of legal regulations through guarantees of legal certainty".¹⁵

3.2. Authority to Manage Regions and the Existence of Regional Apparatus

In the Indonesian context, the division of affairs between the Central and Regional Governments currently refers to the provisions in Law No. 23 of 2014 concerning Regional Government with a model of division of affairs which is described in detail and definitively with a clear division of affairs which includes absolute government affairs, government affairs concurrent and general government affairs.¹⁶Absolute government affairs are government affairs that are completely within the authority of the center so it can be said that absolute government affairs are not related to the principles of decentralization or autonomy. This matter consists of:¹⁷

1. Foreign policy;
2. Security;
3. Justice;
4. National monetary and fiscal; And
5. Religion.

Concurrent government affairs are government affairs that are divided between the central government and regional governments, namely provinces and districts/cities. So that apart from concurrent affairs which are owned by the central government, there are also concurrent affairs which are divided among the regions, and concurrent affairs which are handed over to the regions are the basis for implementing Regional Autonomy.¹⁸Concurrent matters that fall under regional authority are further divided into mandatory affairs and optional matters. Obligatory affairs consist of mandatory affairs related to basic services and mandatory affairs not related to basic services.¹⁹

The last one is general government affairs. General government affairs are government affairs that fall under the authority of the President as head of government.²⁰Law No.

¹⁴ Nurfaqih Irfani, (2020), "The Principles of Lex Superior, Lex Specialis, and Lex Pesterior: Meaning, Problems, and Their Use in Legal Reasoning and Argumentation", *Indonesian Journal of Legislation*, 17.3, pp. 305–25, doi:10.54629/jli.v17i3.711.

¹⁵ Kristian Vincent Gunawan and Raden Mas Gatot Prasetyo Soemartono, (2023), "Use of the Derogation Principle in Resolving dis-harmonization of the Inventory of Traditional Cultural Expressions", *Kertha Patrika*, Volume 45 No.2, p. 201–20, doi:10.24843/KP.2023.v45.i02.p05.

¹⁶Article 9 and see attachment Government of the Republic of Indonesia, Law No. 23 of 2014 concerning Regional Government. Division of Concurrent Government Affairs Between the Central Government and Provincial and Regency/City Governments

¹⁷ See Article 9 paragraph (2) and Article 10 paragraph (1), Law No. 23 of 2014 concerning Regional Government.

¹⁸ Article 9 paragraphs (3) and (4), Law No. 23 of 2014 concerning Regional Government.

¹⁹ Article 12 paragraphs (1), (2), and (3), Law No. 23 of 2014 concerning Regional Government.

²⁰ Article 9 Paragraph (4), Law No. 23 of 2014 concerning Regional Government.

23 of 2014 concerning Regional Government details the forms of general government affairs as follows:²¹

- a. Developing national insight and national resilience to strengthen the practice of Pancasila, implementation of the 1945 Constitution of the Republic of Indonesia, preservation of Bhinneka Tunggal Ika as well as maintaining and preserving the integrity of the Unitary State of the Republic of Indonesia;
- b. Fostering national unity and integrity;
- c. fostering inter-tribal and intra-tribal harmony, religious communities, races, and other groups to realize local, regional and national security stability;
- d. Handling social conflicts by statutory provisions.
- e. Coordination of the implementation of tasks between government agencies in provincial and district/city regions to resolve problems that arise by taking into account the principles of democracy, human rights, equality, justice, privileges and specialties, regional potential, and diversity by the provisions of statutory regulations ;
- f. Development of democratic life based on Pancasila; And
- g. Implementation of all Government Affairs which are not within the authority of the Region and are not carried out by Vertical Agencies.

Government affairs that are distributed to the regions ultimately give rise to consequences for the regions to manage the delegated affairs themselves within the framework of the widest possible autonomy by establishing regional apparatus as instruments for administering government affairs handed over to the regions. This is in line with the provisions of Article 18 paragraph (5) of the 1945 Constitution of the Republic of Indonesia which emphasizes that regional governments exercise the broadest possible autonomy, except for government affairs which are determined by law to be central.²²The government affairs referred to here are concurrent government affairs that fall under regional authority. In the context of the division of government affairs, the main basis for the formation of regional apparatus into regional government organizations is the division of concurrent government affairs.²³The implementation of regional autonomy with the principle of broadest autonomy provides flexibility for regional governments to organize their regional apparatus organizations.²⁴ Regional apparatus is part of the organization/instrument within the regional government which is responsible to the regional head in the administration of regional government. The formation of regional apparatus in each regional government is

²¹ Article 25 paragraph 1, Law No. 23 of 2014 concerning Regional Government.

²² Syafa'at Anugrah Pradana, (2023), "Interpretation of the Authority of Services and Agencies in Regional Government Structures", *Udayana Master of Law Journal*, Volume 12 No.2 p. 422–39, doi:10.24843/JMHU.2023.v12.i02.p13.

²³ Salmon Bihuku, (2018), "Concurrent Government Affairs According to Law No. 23 of 2014 concerning Regional Government", *LEX ADMINISTRATUM*, Volume 6 No.1. p.210

²⁴ Khotman Annafie and Achmad Nurmandi, (2016), 'Special Autonomy Institutions (Otsus) in Maintaining Cultural Values in the Special Region of Yogyakarta Province', *Journal of Governance and Public Policy*, Volume 3 No.2, p. 304–38, doi:10.18196/jgpp.v3i2.2632.

based on consideration of regional potential, regional characteristics, and regional needs.²⁵

In positive law, the phrase regional apparatus in the regional government organizational structure refers to Law No. 23 of 2014 concerning Regional Government and Government Regulation No. 18 of 2016 concerning Regional Apparatus. Law No. 23 of 2014 and PP 18 of 2016 divide the regional apparatus organizational structure which consists of:²⁶

- a. The regional Secretariat;
- b. DPRD Secretariat;
- c. Inspectorate;
- d. Service; And
- e. Body
- f. District (for Regency/City Government)

Understanding the differences between each regional apparatus is based on the function of each element of the regional apparatus which in the conception of organizational formation is divided into 5 (five) elements.²⁷ where the regional head plays the role of strategic apex/top strategy, the regional secretary is in the middle line position, the regional service acts as the operating core, the supporting bodies/functions as technostructure, and the supporting staff as supporting staff.²⁸ The strategic apex position held by the regional head is the peak of power/authority in determining and ensuring that organizational goals are effectively achieved in another sentence it can be said that the strategic apex position held by the regional head is a position that determines the direction of policy and the effectiveness of regional government administration. Furthermore, the middle line position held by the regional secretary is a middle position that connects the strategic apex position with the operating core position. The operating core position is held by regional officials in the form of departments. Regional apparatus in the form of an office is the implementer of the core function (operating core) which carries out duties and functions as an assistant to the Regional Head in carrying out the function of regulating and managing according to the field of government affairs handed over to the region, both mandatory and optional matters. Meanwhile, regional bodies carry out supporting functions (technostructure) with the duties and functions of assisting regional heads in carrying out regulatory and management functions to support the smooth implementation of the core functions (operating core) carried out by the department.

²⁵ Muhammad Iqbal and Andri Sandria, (2020), "Organizational Structure Arrangement of Regional Apparatus of Sleman Regency, Special Region of Yogyakarta", *Moderat: Scientific Journal of Government Science*, 6.2, p. 294–309, doi:10.25157/moderat.v6i2.3368.

²⁶ Article 209 paragraphs (1) and (2) Law 23 of 2014 concerning Regional Government, Article 5 paragraphs (1) and (2) PP 18 of 2016 concerning Regional Apparatus

²⁷ Henry Mintzberg, 1983, *Structure in Fives: Designing Effective Organizations*, (New Jersey: Prentice-Hall). P 153

²⁸ General Explanation, Government Regulation Number 18 of 2016 concerning Regional Apparatus.

The main basis for the formation of regional apparatus is that government affairs are handed over to the regions to carry out Government Affairs which are the authority of the Regions as well as carry out Assistance Duties.²⁹This means that the formation of a regional apparatus aims to accommodate government affairs that are handed over to the regions, namely concurrent affairs that are distributed to the regions, both in the form of mandatory and optional affairs.

3.3. Problems of Legal Certainty in the Institutional Regulations of Regional Apparatus in the Form of Bodies

The problem of legal certainty regarding the institutional regulation of regional apparatus in the form of bodies is closely related to the problem of dis-harmonization of laws and regulations governing regional apparatus institutions in the form of bodies in Indonesia or is related to the coherence of existing regulatory materials. Therefore, in this discussion, the author will explain the problem of legal certainty in the context of dis-harmonization/coherence in the institutional regulation of regional apparatus in the form of bodies.

In general, one indicator of normative coherence in statutory regulations is the existence of regulatory consistency in positive law in Indonesia which can be read from the existence of a hierarchy of statutory regulations in Indonesian constitutional life.³⁰In countries that make legislation (legislation/law and regulation), the main source of formal law, inconsistency/disharmony in the positive legal system is a frequent occurrence.³¹In the KBBI, the word disharmony means irregularity and/or incongruity.³²Article 1 number 2 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 2 of 2019 concerning Resolving Disharmony in Legislative Regulations Through Mediation defines disharmony in statutory regulations as a condition where there is a collision between laws or authorities that arise due to the enactment of statutory regulations. Norm disharmonization/conflict occurs when several legal rules that contradict each other regarding the same regulatory material, thereby contradicting the principle of legal certainty.³³

²⁹Article 209 paragraph 3 of Law 23 of 2014 and general explanation of PP 18 of 2016

³⁰ Dian Agung Wicaksono, (2013), "Implications of the Re-Existence of TAP MPR in the Hierarchy of Legislative Regulations on Guarantees of Fair Legal Certainty in Indonesia", *Journal of the Constitution*, Volume 10 No.1, p. 143–78, doi:10.31078/jk1017.

³¹Nurfaqih, (2020), "The Principles of Lex Superior, Lex Specialis, and Lex Pesterior: Meaning, Problems, and Their Use in Legal Reasoning and Argumentation", *Indonesian Journal of Legislation*, Volume 17 No. 3, pp. 305–25, doi:10.54629/jli.v17i3.711.

³²KBBI Online. Disharmony. Available from <https://kbbi.web.id/disharmoni>. (Accessed 20 May 2024)

³³Nurfaqih Irfani. (2020), "The Principles of Lex Superior, Lex Specialis, and Lex Pesterior: Meaning, Problems, and Their Use in Legal Reasoning and Argumentation", *Indonesian Journal of Legislation*, Volume 17 No.3, pp. 305–25, doi:10.54629/jli.v17i3.711.

In the context of regulations regarding regional apparatus in the form of bodies, determining the existence of problems related to the dis-harmonization of institutional arrangements for regional apparatus in the form of bodies refers to the principle of norm derogation. To understand the existing form of dis-harmonization, the first step that needs to be taken is to outline the norms for institutional regulation of regional apparatus in the form of bodies in general as regulated in Law No. 23 of 2014 concerning Regional Apparatus and Government Regulation No. 18 of 2016 concerning Regional Apparatus. The description of these norms is explained as follows:

Table 2. The Norms For Institutional Regulation Of Regional Apparatus In The Form Of Bodies In General As Regulated In Law No. 23 Of 2014 Concerning Regional Apparatus And Government Regulation No. 18 Of 2016 Concerning Regional Apparatus

Legislation	Norm Material
Chapter 219 Law No. 23 of 2014 concerning Regional Government	<p><i>paragraph (1)</i> <i>The agency as intended in Article 209 paragraph (1) letter e and paragraph (2) letter e was formed to carry out supporting functions for Government Affairs which fall under the authority of the Region including:</i></p> <ul style="list-style-type: none"> <i>a. planning;</i> <i>b. finance;</i> <i>c. staffing and education and training;</i> <i>d. research and development; And</i> <i>e. other functions by statutory provisions.</i>
Article 24 and Article 46 PP 18 of 2016	<p><i>paragraph (1)</i> <i>Regional Bodies are supporting elements of Government Affairs that fall under the authority of the Region.</i></p> <p><i>paragraph (3)</i> <i>The Regional Agency as intended in paragraph (1) has the task of assisting the governor in carrying out supporting functions for Government Affairs which are the authority of the Region.</i></p> <p><i>paragraph (5)</i> <i>Supporting elements for Government Affairs include:</i></p> <ul style="list-style-type: none"> <i>a. planning;</i> <i>b. finance;</i> <i>c. staffing;</i> <i>d. education and training;</i> <i>e. research and development; And</i> <i>f. other supporting functions by statutory provisions.</i> <p><i>paragraph (6)</i> <i>Regional Bodies that carry out other supporting functions are formed with the following criteria:</i></p> <ul style="list-style-type: none"> <i>a. ordered by statutory regulations; And</i> <i>b. provide services that support the implementation of the duties and functions of all provincial regional apparatus.</i>

Explanation of Article 24PP 18 of 2016	<i>Paragraph (1)</i> <i>What is meant by "supporting elements of Government Affairs which are the authority of the provincial region" is a Regional Apparatus work unit that provides services to other Regional Apparatus organizations, including the implementation of planning, finance, personnel, research and development, education and training functions, as well as other functions by the provisions of the legislation.</i>
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Source: Law No. 23 Of 2014 Concerning Regional Apparatus And Government Regulation No. 18 Of 2016 Concerning Regional Apparatus

From the provisions above it can be understood that a regional apparatus in the form of a body is a regional apparatus that carries out supporting functions in the administration of government affairs by the areas of function regulated in Law No. 23 of 2014 and PP 18 of 2014. In this section, it is necessary to emphasize that regional apparatus in the form of a body is not regional apparatus whose duties and functions are to carry out regional government affairs or to carry out government affairs which are not matters within the authority of the region, for example carrying out absolute affairs or carrying out general government affairs. A regional apparatus in the form of a body is a regional apparatus that carries out supporting functions in the implementation of regional government affairs carried out by other regional apparatus. The differentiating factor between agencies and agencies lies in the substance of their authority, where agencies are in charge of mandatory and optional government affairs relating to implementation elements, while agencies are always concerned with managerial aspects and personnel planning as well as financial aspects.³⁴

In Indonesia, regulations related to regional apparatus institutions in the form of bodies are not only contained in Law No. 23 of 2014 concerning Regional Government as well as in Government Regulation Number 18 of 2016 concerning Regional Apparatus. In practice, separate regulations for several regional apparatuses in the form of bodies of this kind contain regulatory material that is disharmonious/inconsistent. There are at least three regulations related to the institutionalization of regional apparatus in the form of bodies which are disharmonious/inconsistent with the institutional arrangements of regional apparatus in the form of bodies as regulated in Law No. 23 of 2014 concerning Regional Government and Government Regulation Number 18 of 2016 concerning Regional Apparatus. The first is a legal issue related to the existence, duties, and functions of Bakorwil East Java, the second is a legal issue regarding the duties and functions of BPBD, and the third is a legal issue regarding the duties and functions of Bakesbangpol. These three legal issues can be described as follows:

A. East Java Bakorwil

³⁴JorawatiSimarmata., (2018),"Legal Politics of Restructuring the Formation of Regional Apparatus Post-Reformation (A Glance at Responses to Government Regulation Number 18 of 2016 concerning Regional Apparatus)", *Journal of Indonesian Legislation* Volume 13, No. 4 p.347–58

Bakorwil East Java is a regional apparatus within the East Java Provincial Government in the form of a body. The existence of Bakorwil East Java itself is formally based on regulations in the form of regional regulations, namely in East Java Regional Regulation No. 16 of 2016 concerning the Formation and Structure of the Coordinating Body for Regional Government and Development of East Java Province and East Java Governor Regulation No. 71 of 2023 concerning Position, Organizational Structure, Description of Duties and Functions and Work Procedures of the Agency.

The core point regarding the problems related to the existence of the East Java Bakorwil emerges when examining the position of the East Java Bakorwil as a regional apparatus in the form of a body as based in the East Java Regional Regulation No. 16 of 2016 and the East Java Governor's Regulation No. 71 of 2023 related to the legal basis for the formation of a regional apparatus in the form of an entity as regulated in PP 18 of 2016 concerning Regional Apparatus. As stipulated in PP 18 of 2016 concerning Regional Apparatus, provincial regional apparatus in the form of a body is a type of regional apparatus that carries out supporting functions in the implementation of regional government affairs in 5 (five) specific functional areas and 1 (one) other functional area provided that the other functional areas the ordered by statutory regulations and provides services that support the implementation of the duties and functions of all provincial regional apparatus. The five fields are planning, finance, personnel as well as education and training, research, and development. The condition of the East Java Bakorwil itself is not included in the 5 (five specific areas) and currently, there are no statutory regulations at the central level that order the formation of the East Java Bakorwil.

From the results of the observations carried out, it was found that there were regulatory conditions in the laws and regulations that were not in harmony regarding the existence of the East Java Regional Bakorwil. An overview of this unconformity can be explained in the following table:

Table 3. East Java Province Regional Coordinating Agency for Government and Development (Bakorwil).

Norm Clause Matching		Explanation of Regulatory Inconsistency Findings
Reference Norms	Inconsistent Norms	
Article 219 Law No. 23 of 2014:	Article 4 East Java Regional Regulation No. 16 of 2016:	
paragraph (1) <i>The agency as intended in Article 209 paragraph (1) letter e and paragraph (2) letter e was formed to carry out supporting functions for Government</i>	paragraph (2) <i>Bakorwil carries out the task of assisting the Governor in coordinating guidance, supervision, supervision, monitoring, and evaluation of government</i>	If you look closely at the provisions of Law No. 23/2014 and PP 18/2016, there are only 5 supporting elements and 1 other supporting element that can be implemented by regional

Affairs which fall under the authority of the Region including:

- a. planning;
- b. finance;
- c. staffing and education and training;
- d. research and development; And
- e. other functions by statutory provisions

Article 24 PP 18/2016:

paragraph (1)

Provincial Regional Bodies as referred to in Article 5 paragraph (1) letter e are supporting elements of Government Affairs which fall under the authority of provincial Regions.

paragraph (2)

The provincial regional body as intended in paragraph (1) has the task of assisting the governor in carrying out supporting functions for government affairs which are the authority of the provincial region.

paragraph (5)

Supporting elements for Government Affairs as intended in paragraph (1) include:

- a. planning;
- b. finance;
- c. staffing;
- d. education and training;
- e. research and development; And
- f. other supporting functions by statutory provisions.

administration, development, and assistance tasks as well as optimizing the potential development of Regency/City Regional Governments.

paragraph (3)

In carrying out the duties as intended in paragraph (2) Bakorwil has the function of coordinating guidance, supervision, supervision, monitoring, and evaluation of government administration, development, and assistance tasks as well as optimizing the potential development of Regency/City Regional Governments.

**Article 78East Java
Gubernatorial Regulation No.
71 of 2023:**

paragraph (1)

The Coordinating Agency for Regional Government and Development has the task of assisting the Governor in coordinating guidance, supervision, supervision, monitoring and evaluation of government administration, development, and assistance tasks as well as optimizing the potential development of district/city governments

apparatus in the form of an agency, namely the planning element; financial elements; staffing elements; elements of education and training; elements of research and development and other elements by statutory provisions.

The formation of a regional apparatus in the form of a body that carries out other supporting functions has the requirement that it must be ordered by statutory regulations and provide services that support the implementation of the duties and functions of all provincial Regional Apparatuses. These two conditions are cumulative, meaning that both conditions must be met by all without exception.

Findings:

The regulation on the existence of Bakorwil as a regional apparatus in the form of a body is inconsistent with the regulations in Law No. 23/2014 and Pp 18/2016 which require that the formation of a regional apparatus in the form of a body must be in charge of one of the 5 elements as regulated in article 2019 paragraph (1) of Law No. 23/2014 and Article 24 paragraphs (1), (2), and paragraph (5) of PP 18/2016 or its establishment are statutory regulations and provide services that support the implementation of the duties and functions of all provincial Regional Apparatus.

Bakorwil's duties and functions as regulated in East Java Regional Regulation No. 16 of 2016 and East Java Gubernatorial Regulation No. 71 of 2023 are not related to the 5

paragraph (6)

Provincial Regional Bodies that carry out other supporting functions as intended in paragraph (5) letter f are formed with the following criteria:

- a. ordered by statutory regulations; And*
- b. provide services that support the implementation of the duties and functions of all provincial regional apparatus.*

functional areas as regulated in Law No. 23 of 2014 and PP 18/2016. Apart from that, there are no statutory regulations at the central level that mandate the formation of Bakorwil as a regional apparatus.

B. Bakesbangpol

The next legal problem lies in the duties and functions of Bakesbangpol. Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 11 of 2019 concerning Regional Apparatus Carrying Out Government Affairs in the Field of National Unity and Politics regulates that Bakesbangpol is a regional apparatus that carries out duties and functions in the field of national unity and politics. If we look closely, the description of duties and functions in the field of national unity and politics can be said to be a description of general government affairs.

This means that the Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 11 of 2019 designs Bakesbangpol as a regional apparatus that carries out general government affairs in the region, not as a regional apparatus that carries out supporting functions in the implementation of regional government affairs like a regional apparatus in the form of a body as regulated in PP 18 of 2016 concerning Regional Apparatus. An overview of regulatory inconsistencies related to Bakesbangpol's duties and functions can be further explained in the following table:

Tale 4: National and Political Unity Body

Norm Clause Matching		Explanation of Regulatory Inconsistency Findings
Reference Norms	Inconsistent Norms	
Article 1 Law No. 23/2014 number 23 <i>Regional Apparatus is a</i>	Article 122 PP 18/2016 paragraph (1) <i>When this Government Regulation</i>	Law No. 23/2014 has divided types of government affairs in its regulatory clauses. there are absolute

supporting element for the regional head and DPRD in the implementation of Government Affairs which falls under the authority of the Region.

Article 209 Law No. 23/2014

verse 3

Provincial and district/city Regional Apparatus as referred to in paragraph (1) and paragraph (2), apart from carrying out Government Affairs which are the authority of the Region, also carry out Assistance Duties.

Article 9 Law No. 23/2014

paragraph (1)

Government Affairs consists of absolute government affairs, concurrent government affairs, and general government affairs.

paragraph (3)

Concurrent government affairs as referred to in paragraph (1) are Government Affairs which are divided between the Central and Regional Governments of provinces and districts/cities.

paragraph (4)

Concurrent government affairs handed over to the Regions are the basis for implementing Regional Autonomy.

paragraph (5)

General government affairs as referred to in paragraph (1) are Government Affairs which fall under the authority of the President as head of government.

Article 25 Law No. 23/2014

paragraph (1)

General government affairs as

comes into force, all Regional apparatuses carrying out Government Affairs in the field of national unity and politics will continue to carry out their duties until statutory regulations regarding the implementation of general government affairs are promulgated.

paragraph (2)

The budget for the implementation of Government Affairs in the field of national unity and politics as intended in paragraph (1) is charged to the Regional Revenue and Expenditure Budget until statutory regulations regarding the implementation of general government affairs are promulgated.

Article 4 Minister of Home Affairs Regulation 11 of 2019

paragraph (1)

The provincial national unity and the political body are under and responsible to the governor through the provincial regional secretary.

paragraph (2)

Regency/city national unity and political bodies/offices are subordinate to and responsible to the regent/mayor through the regency/city regional secretary.

Article 5 Minister of Home Affairs Regulation 11 of 2019

paragraph (1)

The provincial national and political unity body has the task of assisting the governor in carrying out his duties in the field of national and political unity in the province.

paragraph (2)

The provincial national and political unitary body, in carrying out its duties as intended in paragraph (1), carries

government affairs, concurrent government affairs, and general government affairs. In the context of the existence of regional apparatus, only concurrent government affairs which are divided into regions can be accommodated in the tasks and functions of regional apparatus, because in principle the formation of regional apparatus is a consequence of the existence of government affairs which fall under regional authority (concurrent government affairs which are divided among regions). This means that the duties and functions of regional apparatus are not a means of carrying out affairs other than concurrent affairs that fall under regional authority (not to carry out absolute government affairs and not to carry out general government affairs).

General government affairs are the authority of the President as head of government related to maintaining the ideology of Pancasila, the 1945 Constitution of the Republic of Indonesia, Bhinneka Tunggal Ika, guaranteeing

intended in Article 9 paragraph (5) include:

a. fostering national insight and national resilience to strengthen the practice of Pancasila, implementation of the 1945 Constitution of the Republic of Indonesia, preservation of Bhinneka Tunggal Ika as well as maintaining and preserving the integrity of the Unitary State of the Republic of Indonesia;

b. fostering national unity and unity;

c. fostering inter-tribal and intra-tribal harmony, religious communities, races, and other groups to realize local, regional, and national security stability;

d. handling social conflicts by statutory provisions;

e. coordinating the implementation of tasks between government agencies in provincial and district/city regions to resolve problems that arise by taking into account the principles of democracy, human rights, equality, justice, privileges and specialties, regional potential, and diversity by the provisions of statutory regulations;

f. development of democratic life based on Pancasila; And;

g. implementation of all Government Affairs which are not the authority of the Region and are not carried out by Vertical Agencies.

paragraph (2)

General government affairs as intended in paragraph (1) are carried out by the governor and regent/mayor in their respective

out the functions of:

a. formulation of technical policies in the field of national unity and politics

b. implementation of policies in the fields of fostering Pancasila ideology and national insight, organizing domestic politics and democratic life, maintaining economic, social, and cultural resilience, fostering inter-tribal and intra-tribal harmony, religious communities, races and other groups, facilitating community organizations, as well as implementing vigilance national and handling social conflict

c. implementation of coordination in the fields of fostering Pancasila ideology and national insight, organizing domestic politics and democratic life, maintaining economic, social, and cultural resilience, fostering inter-tribal and intra-tribal harmony, religious communities, races and other groups, facilitating community organizations, as well as implementing vigilance national and handling social conflict

d. implementation of monitoring, evaluation, and reporting in the fields of fostering Pancasila ideology and national insight, organizing domestic politics and democratic life, maintaining economic, social, and cultural resilience, fostering inter-tribal and intra-tribal harmony, religious communities, races, and other groups, facilitating community organizations, as well as implementing national vigilance and handling social conflicts;

e. implementation of regional leadership coordination forum facilitation

harmonious relations based on ethnicity, religion, race, and between groups as pillars of national and state life and facilitating democratic life.

Findings:

Law No. 23/2014 stipulates that general government affairs are the authority of the president, the implementation of which is delegated to the governor/regent/mayor with the assistance of vertical agencies. However, PP 18/2016 regulates that the implementation of affairs in the field of national unity and politics, which are general government affairs, is carried out by regional officials.

This arrangement certainly conflicts with the regulations regarding the position of regional officials as assistants to the regional head and DPRD in carrying out government affairs that fall under regional authority. By examining these arrangements, the findings obtained are that there have been inconsistent arrangements in Article 122 paragraph (1) and paragraph (2) PP 18/2016 as well as regulations in Permendagri 11 of

work areas.

paragraph (3)

To carry out general government affairs as intended in paragraph (2), governors and regents/mayors are assisted by Vertical Agencies.

paragraph (5)

Governors and regents/mayors in carrying out general government affairs are funded by the APBN.

2019 regarding the provisions governing the duties and functions of regional apparatus as regulated in Law No. 23/2014 and PP 18/2016.

Therefore, the implementation of general government affairs should not be contained in a regional apparatus because a regional apparatus is an assistant instrument for the regional head and DPRD in the administration of government affairs which are the authority of the region, namely concurrent affairs which are the authority of the region.

C. BPBD

Another legal problem related to the duties and functions of regional apparatus in the form of bodies is regarding the duties and functions of BPBD in Indonesia. BPBD itself is a regional apparatus whose existence is based on Law No. 24 of 2007 concerning Disaster Management and Minister of Home Affairs Regulation Number 46 of 2008 Guidelines for the Organization and Work Procedures of Regional Disaster Management Agencies. Provincial BPBD is a provincial regional apparatus formed to carry out duties and functions to carry out disaster management, while Regency/City BPBD is a Regency/City regional apparatus formed to carry out duties and functions to carry out disaster management.³⁵

From the provisions of this article, it can be understood that BPBD is a regional apparatus whose duties and functions are carrying out the administration of regional government affairs. This means that BPBD is an operating core element, not a technostructure element like a regional apparatus in the form of a body. The legal problem related to BPBD is related to the inconsistency of the regulations in Law No. 24 of 2007 concerning Disaster Management and Minister of Home Affairs Regulation

³⁵ Article 1 Paragraph 6 and 7 of Minister of Home Affairs Regulation Number 46 of 2008

Number 46 of 2008 Guidelines for the Organization and Work Procedures of Regional Disaster Management Agencies which are linked to the regulations in Law No. 23/2014 and PP 18/2016. An overview of regulatory inconsistencies related to BPBD's duties and functions can be described in the following table:

Table 5: Regional Disaster Management Agency

Norm Clause Matching		Explanation of Regulatory Inconsistency Findings
Reference Norms	Inconsistent Norms	
<p>Regional disaster management is part of government affairs which falls under regional authority. This matter is included in Government Affairs in the Sector of Public Peace and Order and Community Protection in the disaster sub-affairs where the central government has authority in national disaster management, the provincial government has authority in provincial disaster management, and the district government has authority in district/city disaster management.³⁶</p> <p>Article 9 Law No. 23/2014</p> <p>paragraph (1)</p> <p>Government Affairs consists of absolute government affairs, concurrent government affairs, and general government affairs.</p> <p>paragraph (3)</p> <p>Concurrent government affairs as referred to in paragraph (1) are Government Affairs which are divided between the Central and Regional Governments of provinces and districts/cities.</p> <p>paragraph (4)</p> <p>Concurrent government affairs handed over to the Regions are the basis for implementing Regional Autonomy.</p>	<p>Article 5 Law 24/2007</p> <p><i>The government and regional governments are responsible for implementing disaster management.</i></p> <p>Article 18 Law 24/2007</p> <p>paragraph (1) The regional government as intended in Article 5 establishes a regional disaster management agency.</p> <p>paragraph (2) The regional disaster management agency as intended in paragraph (1) consists of:</p> <p><i>a. bodies at the provincial level are led by an official at a level below the governor or echelon Ib level; And</i></p> <p><i>b. The agency at the district/city level is led by an official at a level below the regent/mayor or echelon IIa level.</i></p> <p>Article 20</p> <p><i>The regional disaster management agency has the following functions:</i></p> <p><i>a. formulating and establishing disaster management policies and handling refugees by acting quickly and precisely, effectively and</i></p>	<p>Findings</p> <p>The provisions of Law No. 23/2014 and Article 117 paragraph (1) PP 18/2016 regulate that disaster sub-affairs are part of regional government affairs in the field of peace and public order and community protection. According to the provisions of Article 117 paragraph (1) PP 18/2016, this sub-affair is carried out by regional officials as regulated in laws and regulations regarding disaster management. So the reference is Law 24 of 2007 concerning Disaster Management. However, Article 18 paragraph (1) of Law 24/2007 regulates that the regional apparatus that carries out disaster sub-affairs</p>

³⁶Matrix for the Division of Concurrent Government Affairs Between the Central Government and Provincial and Regency/City Governments. Attachment to Law of the Republic of Indonesia Number 23 of 2014 concerning Regional Government

Article 11 Law No. 23/2014**paragraph (1)**

Concurrent government affairs as intended in Article 9 paragraph (3) which are the authority of the Region consist of Mandatory Government Affairs and Optional Government Affairs.

paragraph (2)

Mandatory Government Affairs as intended in paragraph (1) consist of Government Affairs related to Basic Services and Government Affairs not related to Basic Services.

Article 12 Law No. 23/2014**paragraph (1)**

Mandatory Government Affairs relating to Basic Services as intended in Article 11 paragraph (2) include:

- a. education;
- b. health;
- c. public works and spatial planning;
- d. public housing and residential areas;
- e. **peace, public order, and protection** public; And
- f. social.

Article 13 PP 18/2016**paragraph (1)**

The provincial Regional Service as intended in Article 5 paragraph (1) letter d is the implementing element of Government Affairs which is the authority of the Region.

In Article 117 paragraph (1) PP 18/2016 it is regulated that "Provisions regarding Regional Apparatus that carry out disaster sub-affairs are regulated by statutory regulations regarding disaster management".

efficiently; as well as

coordinating the implementation of disaster management activities in a planned, integrated, and comprehensive manner.

in the region is in the form of a body (Regional Disaster Management Agency). This is where the regulatory inconsistency occurs. Law No. 23/2014 and PP 18/2016 regulate that the regional apparatus in question is the regional apparatus that carries out government affairs, but if you read the provisions of Article 18 of Law 24/2007 it is known that the regional apparatus that carries out disaster sub-affairs takes the form of a body.

3.4. Urgency of Settings Synchronization

In the context of regional government administration, as an element of *techno-structure*, the existence of regional apparatus in the form of a body is designed to provide supporting functions for the duties and functions of other regional apparatus in the administration of regional government. However, in practice, the existence of regional apparatus in the form of these bodies still leaves problems related to legal certainty, both regarding their position and the consistency of the organization's form of regulation. Therefore, efforts to synchronize regulations governing the position, duties, and functions of regional apparatus in the form of bodies are worth highlighting as an effort to realize legal certainty in the administration of regional government in Indonesia. This discourse of change at least relies on the argument that creating regulatory certainty regarding the position, duties, and functions of regional apparatus in the form of bodies is part of the effort to realize good regional governance.

The norm clauses that need to be revised to create consistency in regulating the existence, duties, and functions of regional apparatus in the form of bodies in Indonesia are:

Table 6. The norm clauses that need to be revised to create consistency in regulating the existence, duties, and functions of regional apparatus in the form of bodies in Indonesia

Regional Disaster Management Agency

Subject matter	Regulatory Clauses	Information
adjustment to the form of regional apparatus	Article 18 paragraph (1) Law 24/2007 <i>Regional government as intended in Article 5 establishing a regional disaster management agency.</i>	Improvement efforts: restore consistency in regulations regarding the form of regional apparatus that carries out disaster sub-affairs by containing the implementation of disaster sub-affairs into regional apparatus in the form of offices. Therefore, it is necessary to amend the provisions of Article 18 paragraph (1) of Law 24/2007 with a clause containing material that: 1. <i>The regional government forms a regional apparatus that carries out disaster sub-affairs</i> 2. <i>Fire sub-affairs are carried out by regional apparatus in the form of a department</i>

National and Political Unity Body

Subject matter	Regulatory Clauses	Information
Returning consistency to the	I. Article 122 paragraph (1) PP	Improvement efforts:

regulation that regional apparatus only facilitates the implementation of government affairs that fall under regional authority

18/2016.

When this Government Regulation comes into force, all Regional apparatuses carrying out Government Affairs in the field of national unity and politics will continue to carry out their duties until statutory regulations regarding the implementation of general government affairs are promulgated.

2. Minister of Home Affairs Regulation 11 of 2019 concerning Regional Apparatus Carrying Out Government Affairs in the Field of National Unity and Politics

• It is necessary to revise Article 122 paragraph (1) PP 18/2016 and revoke Permendagri 11 of 2019.

This norm clause indirectly recognizes that regional apparatus can carry out general government affairs. This is contrary to the position of regional officials as assistants to the regional head and DPRD in carrying out regional government affairs which are the authority of the region. General government affairs are not matters within the authority of the regional government. Because Law No. 23/2014 stipulates that general government affairs fall under the authority of the president as head of government.

East Java Province Regional Coordinating Agency for Government and Development (Bakorwil).

Subject matter	Regulatory Clauses	Information
evaluation regarding the position of Bakorwil as a regional apparatus	1. East Java Regional Regulation No. 16 of 2016 2. East Java Gubernatorial Regulation No. 71 of 2023	These two regional regulations are not synergistic with the norm clauses which regulate the duties and functions of regional apparatus as regulated in Law No. 23/2014 concerning Regional Government and PP 18/2016 concerning Regional Apparatus.

Remedial Efforts:

evaluation of East Java Regional Regulation No. 16 of 2016 and East Java Gubernatorial Regulation No. 71 of 2023

4. CONCLUSION

In the context of a rule of law, the existence of laws and regulations that have legal certainty is the main thing, not least in the context of regulations related to regional institutional institutions. Disharmonization regarding the institutional regulation of regional apparatus is a bad thing in the practice of regional government administration in Indonesia. In its implementation, it was found that the regulation of regional apparatus was in an inconsistent condition, especially the regulation for several regional apparatus in the form of bodies, namely the arrangements for BPBD, Bakesbangpol, and Bakorwil East Java. If we refer to Law No. 23 of 2014 concerning Regional Government and PP 18 of 2016 concerning Regional Apparatus, regional

apparatus in the form of bodies should have duties and functions in providing supporting tasks and functions to other regional apparatus in the administration of regional government, but some regional apparatus are in the form of bodies. has duties and functions that are not by the duties and functions of regional apparatus in the form of a body. So then there needs to be an improvement effort to create harmonization of regulatory materials related to institutional regional apparatus in the form of bodies.

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