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Arrangement of Selected Government Affairs in the Implementation of Broad Autonomy in the Unitary State of the Republic of Indonesia

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Abstract: Implementing government affairs with broad autonomy, especially elective government affairs can promote and develop regional potential. However, in its regulation and implementation, some problems hamper creativity and the development of regional potential. This study aims to evaluate the development and practice of elective government affairs in Indonesia, find a way to strengthen elective government affairs, and realize the widest possible autonomy in the Unitary State of the Republic of Indonesia system. The research used normative law through a statutory, conceptual, and historical approach. The results showed that first, the development of regulations governing government affairs in Indonesia is only explicitly regulated in two laws, namely Law 32/2004 and Law 23/2014. On the other hand, this study found anomalies in the regulation of elective government affairs in Law 23/2014, namely that not all selected government affairs are delegated to provinces and districts/cities even though elective affairs have very potential in developing the potential and distinctiveness of the region. Not only that, in practice, selected government affairs are sometimes hampered by the application of NSPK from the central government. Second, the strengthening of selected government affairs to implement the widest possible autonomy can be done by strengthening selected government affairs based on the NKRI system and redesigning NSPK in the implementation of selected government affairs in the regions.

Keywords: Selected Government Affairs; Broad Autonomy; Unitary State of the Republic of Indonesia (NKRI); Regional Potential and Distinctiveness.

1. Introduction

According to [Cheema and Rondinelli \(1984, pp. 28–31\)](#), the success of decentralization is determined by several criteria: first, achieving political direction, such as stability and political support and national unity; second, increasing effectiveness for development; third, increasing economic efficiency and managerialism by providing space for the center and regions to be able to contribute to development; fourth, increased sensitivity to community needs by the government. Fifth, increasing administrative independence in supporting development; sixth, supporting planned decentralized development. This success can only be achieved if the division of central and regional authority/affairs is designed and implemented well.

These six points can be a benchmark for the government to measure the extent to which regional autonomy is implemented in a quality manner. Regional autonomy from a political aspect can be used to reduce national disintegration and avoid the threat of regional separation from the territory of the unitary state. With quality regional autonomy, we can achieve equal physical development and strengthen social, cultural, and economic development according to regional characteristics. Regarding government governance, regional autonomy can speed up the process of public services in the regions. Therefore, the quality of regional autonomy is not determined by the number of delegated authority matters, as stated by Fasler (as cited in [Muluk, 2009, p. 24](#)), However, the main point of the broad autonomy (decentralization) lies in the freedom (independence) of regions in organizing and managing their respective interests, as stated by [Manan \(2001, p. 141\)](#).

The views expressed by [Cheema and Rondinelli \(1984\)](#) and [Manan \(2001\)](#) boil down to the principle of regional independence in governing and administering their respective regions. Regional independence is achieved not only based on the number of affairs delegated to the region but also based on the recognition of the sovereignty of the people in the region ([Kusnadi & Dewansyah, 2010, p. 86](#)), freedom in developing regional potential, and trust in the central government through transferring affairs or authority to regional governments. A normative study conducted by Said revealed that quality decentralization starts from the greatest possible independence and autonomy. Consequently, regional governments have the authority to manage their households except for matters determined by the central government ([Said, 2015, p. 583](#)). Regional independence through accommodating the interests of the people in the region will become a bridge for aspirations from the region to the center so that the policies set reflect the interpretation of the will of the regional community, not the sole interpretation of the central government.

However, regional independence in carrying out regional autonomy has clashed with the claims of a unitary state system. The unitary state system requires the central government to have the authority to determine the authority, structure, and form of regional government in the context of implementing regional autonomy ([Nurbaningsih, 2019, pp. 54–55](#)). In line with [Strong's view \(2015, p. 112\)](#) that a unitary state that has regional autonomy must still be controlled by the central government as a result of the central government having sovereignty. The central government can even interfere in any matter in the administration of regional government as long as it concerns the public interest and is for the sake of realizing the goals of regional autonomy ([Nurbaningsih, 2019, p. 55](#)). This view is in line with a systematic reading of the 1945 Constitution, especially Indonesia as a unitary state in Article 1 paragraph (1), and unitary territories are divided into provinces and provincial regions are divided into districts or cities in Article 18 paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

Pustolat Strong becomes a barrier between regional autonomy and the concept of a unitary state. The meaning of regional autonomy is limited to authority that has been delegated vertically by the central government. In this condition, autonomy is often reduced to the dominance of the central government over the regions, even though the implementation of democracy and the manifestation of people's sovereignty resides in the regions. So, one of the government's efforts to maintain regional independence within the framework of a unitary state is the delegation of selected government affairs. Elective government affairs are one government affair divided and delegated to the regions (apart from mandatory government affairs). Based on Law Number 23 of 2014 concerning Regional Government (UU 23/2014), selected government affairs are carried out by regional governments based on regional potential and uniqueness. Article 12 paragraph (3) of Law 23/2014 determines optional government affairs, including: "a. marine and fisheries; b. tourism; c. agriculture; d. forest; e. energy and mineral resources; f. trading; g. industry; and h. transmigration".

These government affairs are classified as concurrent government affairs (Wicaksono, 2015, p. 478). Selected government affairs in the regions can be understood as the authority possessed by the regions in implementing decentralization according to regional characteristics. Selected government affairs can support the fulfillment of the criteria: "increasing effectiveness for development" as postulated by Cheema and Rondinelli (1984, p. 31). Apart from that, when linked to the concept of regional autonomy in various theoretical perspectives, for example in liberal democracy, Smith assesses that regional autonomy can bring positive developments to the quality of democracy in the region and can provide direct benefits to the people in the region (Muluk, 2009, pp. 4–5). Likewise, the public choice theory conception of regional autonomy assesses that implementing regional autonomy should be an intermediary for improving community welfare through public choice. This conception assumes that with regional autonomy, people can choose where to live in one area by comparing various public service packages that are more profitable for themselves (Muluk, 2009, p. 6). Selected government affairs are in line with these two conceptions because selected government affairs provide democratization space for regions to determine selected affairs that are in line with regional needs so that they will indirectly provide benefits to the people of the region.

At a practical level, even though selected government affairs are a manifestation of regional democratization to develop regional potential and uniqueness, it was found in this study that not all elective government affairs in the attachment to Law 23/2014 are delegated to provinces or districts/cities. There are 36 selected government sub-affairs mentioned in the attachment to Law 23/2014. However, seven sub-affairs are not delegated to provinces, and 14 are not delegated to districts/cities. This is certainly not in line with implementing the widest possible autonomy, thus hampering regional creativity in developing regional potential. The problem is further exacerbated by the requirement for regional governments to follow the norms, standards, procedures, and criteria (NSPK) that the center has set [vide: Article 16 paragraph (1) letter a of Law 23/2014] in implementing regional autonomy. This position will have the opportunity to reduce the concept of regional autonomy in the landscape of strengthening regional democratization to develop regional potential according to the aspirations and needs of local communities.

Departing from these problems, a decentralization design to realize the widest possible regional autonomy in the Republic of Indonesia system can be carried out, one of which is strengthening selected government affairs in the regions to implement autonomy in the future. The study will examine how the development and practice of government affairs are options for implementing broad autonomy in Indonesia. What

are the forms of strengthening government affairs in broad autonomy in the Unitary State of the Republic of Indonesia? Therefore, this study is considered important to initiate strengthening selected government affairs in the implementation of broad autonomy in the Republic of Indonesia system so that several criteria for the success of decentralization can be realized in the future.

2. Methods

This research uses normative legal methods to answer legal issues based on identifying the problems that have been raised (Marzuki, 2010, p. 34). In addition, this study is exploratory with the aim of gaining a deeper understanding (Sumardjono, 2021, p. 6) of the development and practice of selected government affairs with broad autonomy in the system of the Unitary State of the Republic of Indonesia.

The research used a statutory approach, a conceptual approach, and a historical approach. The conceptual approach is related to broad autonomy, regional autonomy from a democratic perspective, and public choice theory. The legislative approach is in the form of the 1945 Constitution, mainly articles containing the Unitary State of the Republic of Indonesia, the position of the President as head of government, provisions for regional autonomy, and laws regarding regional government. The conceptual approach is related to a unitary state and broad autonomy. The historical approach is related to the history of Indonesia's post-independence regional autonomy arrangements until now.

The data source is secondary data consisting of primary legal materials, namely the 1945 Constitution of the Republic of Indonesia and related laws and regulations; secondary legal materials such as research results, journals, and books; and tertiary legal materials, namely dictionaries and encyclopedias (Sumardjono, 2021, p. 22). A qualitative analysis is carried out through issue categorization based on the problems and data collected (Sumardjono, 2021, p. 36) to solve the identified problems that have been raised.

3. Results and Discussion

In this discussion, we will describe the development and practice of selected government affairs and the strengthening of selected government affairs in implementing the broad autonomy in the Republic of Indonesia system.

3.1. Development and Practice of Selected Government Affairs in the Broad Autonomy

In this sub-discussion, the author will analyze the development of legislative regulations and the practice of regional autonomy as widely as possible by making the delegation of selected government affairs the object of analysis. This will be analyzed based on the conception of regional autonomy in the theoretical landscape of liberal democracy by Smith, who revealed that regional autonomy has two main aspects: first, increasing regional democratization capabilities through political education leadership training, and creating political stability. Second, the regional government can provide benefits to local communities through political equality, responsiveness, accountability, accessibility, and distribution of power (Muluk, 2009, p. 6). Apart from that, it will also be analyzed based on the concept of public choice theory, assessing that regional autonomy can be an alternative for regions or communities to develop themselves (Muluk, 2009, pp. 6–7). There are various benefits to the public choice theory conception of regional autonomy. First, the government is quick to respond to

community preferences. Second, local governments can meet the demand for public goods. Third, being able to provide satisfaction with the offer of public goods (Muluk, 2009, p. 6).

However, the concept of regional autonomy in a democratic landscape and public choice theory will not be achieved if the government still tends to use Marxist interpretations in managing regional autonomy. According to the Marxist interpretation, regional autonomy will not create conditions for democracy in the region because of various obstacles such as economic, political, and ecological. There are three aspects of the Marxist conception of rejecting regional autonomy: first, the regional division will lead to the accommodation of capital, thus creating capitalists in the regions. Second, the politicization of regional autonomy has led to unstable collective consumption (public services). Third, regional democratization will not be realized due to threats and obstacles from capitalists in the regions. Fourth, the regional government will only become an extension of the central government so that it will actually strengthen the capitalist monopoly (Muluk, 2009, p. 9). It seems that the Marxist approach requires that a country does not need to be divided into autonomous regions and can simply be run in a unitary state system.

3.1.1. Selected Government Affairs in Various Laws Selected Government Affairs in Various Laws

The Marxist approach seems to require that a country not be divided into autonomous regions and can simply be run in a unitary state. Analysis carried out on several laws regarding regional autonomy that have been in force in Indonesia regarding the division of regional government affairs found several differences in the regulations, including:

First, Law Number 22 of 1948 concerning the Establishment of Basic Rules Regarding Self-Government in Regions that Have the Right to Regulate and Manage Their Households (UU 22/1948). In Explanation II, section 13 of the quo Law, there are two forms of regional government: regional implementation based on regional autonomy and government based on medebewing (assistance duties). The difference between autonomy and assistance tasks in these provisions is shown in that regional autonomy is handed over two affairs, namely full handover, which includes principles and principles and mechanisms for implementing these affairs, and incomplete submission, namely that the central government determines the principles. In contrast, regional governments are only free to carry out these affairs. Meanwhile, medebewing (assistance duties) is carrying out central government affairs, which are seconded to regions based on regional capabilities. A formal household system still demonstrates the implementation of autonomy in this law because it does not specify matters of central and regional authority, including matters of elected government. However, through this law, attention to the transfer of some central government affairs to the regions has been regulated and even further regulated in government regulations, including the division of ordinary autonomous regions and special regions (Safitri, 2016, p. 80). The absence of elective government affairs but, on the other hand, providing freedom of principles, principles, and implementation mechanisms for certain matters to the regions is an incarnation of the mixed concept between democracy and Marxist in implementing regional autonomy. There is still the government's reluctance to provide space for independence to regions with a fairly strong centralized pattern.

Second, Law Number 1 of 1957 concerning the Principles of Regional Government (UU 1/1957). The quo law is centralized and does not explicitly regulate the division of central and regional government affairs. Article 3, paragraph (1) of the quo Law only

divides regional levels, namely: Regional Level I, Regional Level II, and Regional Level III. Ambiguity was found in the explanation of the law; it is said that the distribution system of household affairs (material or real) is unclear because the conditions of society change so that, at a certain time, it may become a regional government matter. Still, because changes occur, this matter can be withdrawn by the central government or on the contrary. However, on the other hand, it is also mentioned the importance of legal certainty in the implementation of regional autonomy, but the division of government affairs it is not a division whose contents can be detailed in the law. The absence of a clear division of affairs and the fact that, at any time, regional government affairs can be withdrawn by the central government shows the existence of legal uncertainty. The development of Law 1/1957 was amended through Law Number 73 of 1957 concerning Amendments to the Law concerning the Principles of Regional Government 1956. This change was made to regulate the determination of the population by the number of members of regional people's representative councils in level I regions, II, and III. Second, the law does not yet regulate the existence of elective government affairs that regions can carry out. The implementation of these two laws also did not last long because on July 5, 1959 a presidential decree was issued to replace the 1950 Constitution and was followed by several presidential policies which changed the centralized system to centralized (Rahim et al., 2023, p. 2153). The quo Law shows that regional autonomy is implemented formally, but materially, it is more directed towards a Marxist interpretation and follows the unitary state conceptual model as expressed by Strong.

Third, Law Number 18 of 1965 concerning the Principles of Regional Government (UU 18/1965). The provisions of the quo Law also do not provide a detailed division between central and regional affairs. Article 39, paragraph (1) of a quo law states that regional governments have the right to carry out their household affairs. Then, it is also explained in the explanatory provisions regarding the complexity of determining regional government affairs because, in some regions, there are unique characteristics and characteristics that the central government might miss so that they are not regulated in detail. Therefore, matters that are of regional concern and have regional potential can be carried out by the local government as long as they do not conflict with the principles and principles of regional autonomy and national interests. This explanation is a strong argument for the absence of a clear division of affairs between the central and regional governments. This law still recognizes regional autonomy even though elaborating legal norms is very centralized. One of the main points of the A quo Law is strengthening the position of regional heads in the Republic of Indonesia system (Gadjong, 2011, p. 163). The pattern of regional autonomy in a quo Law is also still far from the regional democratization approach, so that the space for regional independence is very limited.

Fourth, Law Number 5 of 1974 concerning the Principles of Government in the Regions (UU 5/1974). The quo law also does not contain a division of central and regional government affairs. Recognition of the implementation of regional autonomy and the rights and authority of regions to manage their household affairs is stated in Article 7. Then, in Article 8, paragraphs (1) and (2), the quo law determines that additional government affairs for regions are determined by Government Regulations accompanied by instruments and equipment and sources of financing. However, the centralized pattern in this law can be seen in the presence of central government authorities who can take over regional government affairs at any time, as mentioned in Article 9. On the other hand, the quo Law does not divide government affairs into a material household system. Law 5/1974 does not have significant differences from the previous law, namely Law 18/1965. This is influenced by the two laws being born in

the same regime, namely the New Order regime (Prasetyo, 2022, p. 157). The quo law also does not truly demonstrate the realization of regional democratization through strengthening the division of affairs between regions.

Fifth, Law Number 22 of 1999 concerning Regional Government (UU 22/1999). The quo law only contains central government affairs, which cannot be implemented by provincial, district, and city governments. It is stated in Article 7, paragraph (1), that there are exceptions to regional authority, which are the authority of the central government, including foreign policy, defense and security, justice, monetary and fiscal, religion, as well as other areas of authority. Details of other fields are explained in paragraph (2), namely planning and control policies, national development, finance, state economy administration, and so on up to national standardization. This law basically only emphasizes central government affairs, which cannot be delegated to the regions, and no division of affairs is an optional division of affairs. However, the quo law is quite accommodating of new things related to the regional government, such as the separation between regional government in the executive and legislative fields and establishing a pattern between the Regional Representatives and regional heads monitoring and balancing each other (Abdullah, 2016, p. 92). A quo law does not provide reinforcement for the concept of regional democratization, which is shown by the lack of detailed delegation of selected government affairs to the regions.

Sixth, Law Number 32 of 2004 concerning Regional Government (UU 32/2004). The quo law was born after reform in Indonesia, and one of the demands for reform was to end centralized power. The law states a division of affairs between the central and regional governments. It is determined in Article 10 paragraph (3) that central government affairs include foreign policy, defense, security, justice, national monetary and fiscal, and religion. Meanwhile, optional provincial, district, and city government affairs are stated in Article 13 paragraph (2) and Article 14 paragraph (2) of the quo Law, namely, including government affairs that exist and have the potential to improve community welfare in accordance with the conditions, characteristics, and the superior potential of the region concerned. The provisions of this law do not provide limitations regarding the types of optional affairs that regional governments and only state can carry out in general that optional government affairs are carried out to improve welfare in accordance with the unique conditions and potential of the region. Further provisions regarding selected government affairs are further regulated in PP No. 38 of 2007 concerning the Division of Government Affairs, Provincial Regional Government, and District/City Regional Government. Law 32/2004, as a demand for reform, also does not only adhere to one household teaching but combines material and real household teaching (Aritonang, 2016, p. 47). Although the quo law does not limit elective government affairs, there has been attention to developing regional democratization through leadership training, creating political stability, responsiveness, and regional accountability by providing independence to regions to determine the potential that can be developed in the region.

Seventh, Law Number 23 of 2014 concerning Regional Government (UU 23/2014). The law contains a detailed distribution of selected government affairs in an appendix to the law. In Article 12, paragraph (3) of the quo Law, it is stated that selected government affairs include marine and fisheries, tourism, agriculture, forest, energy and Mineral Resources, trading, industry, and transmigration. Construction of division of affairs in Law 23/2014 through first dividing absolute government affairs and then delegating residual affairs to regions (Aritonang, 2016, p. 48) to the delegation of selected government affairs. The detailed determination of government affairs shows increasingly concrete efforts to provide space for regions to be creative and develop regional potential in accordance with the widest possible autonomy in the

regional democratization landscape. Through the quo law, which provides for a choice of government affairs, in principle, it will develop political education and leadership training and create political stability, political equality, responsiveness, accountability, accessibility, and distribution of power (Muluk, 2009, p. 6).

A brief comparison of the regulation of selected government affairs in various laws regarding regional government that have been in force in Indonesia can be seen in Table 1.

Table 1. Comparison of Selected Government Affairs Arrangements

	Law 22/1948	Law 1/1957	Law 18/1965	Law 5/1974	Law 22/1999	Law 32/2004	Law 23/2014
Selected Government Affairs	None	None	None	None	None	Any [Unspecified]	Any [marine and fisheries; tourism; agriculture; forest; energy and Mineral Resources; trading; industry; and transmigration]

Source: Processed by Authors from various Laws, 2023.

Based on Table 1, it can be seen that only 2 (two) laws determine optional matters in the implementation of regional autonomy. This can be understood after the reform; decentralization of government gained as wide a place as possible due to the traumatic experience of centralized government before the reform. The lack of detailed distribution of government affairs, especially elective affairs, occurred because the pattern of government before reform was very centralized and restricted the widest possible implementation of autonomy. Apart from that, in developing regional autonomy arrangements in Indonesia, it is still very difficult to separate regional democratization from the Marxist interpretation and Strong’s conception of the unitary state. It cannot be denied that there is a design for a unitary state in accordance with the mandate of the 1945 Constitution in Article 1 paragraph (1).

3.1.2. Problems of Distribution of Selected Government Affairs in the Regions

The division of selected government affairs in Law 23/2014 regulates elective affairs that are in detail under the authority of the center, provinces, and districts/cities. This can be seen in the attachment to the quo law. Generally, selected government affairs include marine and fisheries, tourism, agriculture, forest, energy and mineral resources, trading, industry, and transmigration.

Analysis carried out on the attachment to Law 23/2014 found that not all selected government sub-affairs were delegated to provinces and districts/cities. First, marine and fisheries. There are 7 (seven) selected sub-government affairs in this field. However, 2 (two) sub-affairs are not delegated to the province: 1) fish quarantine, quality control, and safety of fishery products, and 2) development of human resources for marine and fisheries communities. Meanwhile, there are 4 (four) sub-affairs that are not delegated to districts/cities, namely: 1) marine, coastal, and small islands; 2) management and marketing; 3) fish quarantine, quality control, and safety of fishery products; and 4) development of human resources for marine and fisheries communities.

Second, tourism. There are 7 (seven) sub-affairs in this field. However, 2 (two) sub-affairs are not delegated to the provincial and district/city governments, including 1) agricultural quarantine and 2) plant varieties.

Third, forestry. There are 6 (six) selected sub-government affairs in this field. However, 2 (two) sub-affairs are not delegated to the provincial government, namely: 1) forest planning and 2) forestry supervision. There are 4 (four) sub-affairs which are not delegated to districts/cities, namely: 1) forest planning; 2) forest management; 3) education and training, counseling and community empowerment in the forestry sector; and 4) forestry supervision.

Fourth, energy and mineral resources. There are 5 (five) sub-affairs in the elected government. There is 1 (one) sub-affair that is not delegated to the province, namely oil and natural gas. 4 (four) sub-affairs are not delegated to districts/cities, including 1) geology, 2) minerals and coal, 3) oil and coal, and 4) electricity.

Fifth, trading. There are 5 (five) sub-affairs in this field. These 5 (five) sub-affairs are delegated to the provinces and districts/cities. Sixth, industry. In this sub-affairs, there are 3 (three) sub-affairs, namely industrial development planning, licensing, and the national industrial information system, and all of these sub-affairs are also delegated to the provincial, district, and city governments. Seventh, transmigration. There are 3 (three) sub-affairs in this field, namely transmigration area planning, transmigration area development, and transmigration area development, and all these matters are also delegated to provinces, districts/cities.

From this analysis, several selected government affairs are not delegated to the provinces and districts/cities. This number can be seen in [Figure 1](#).

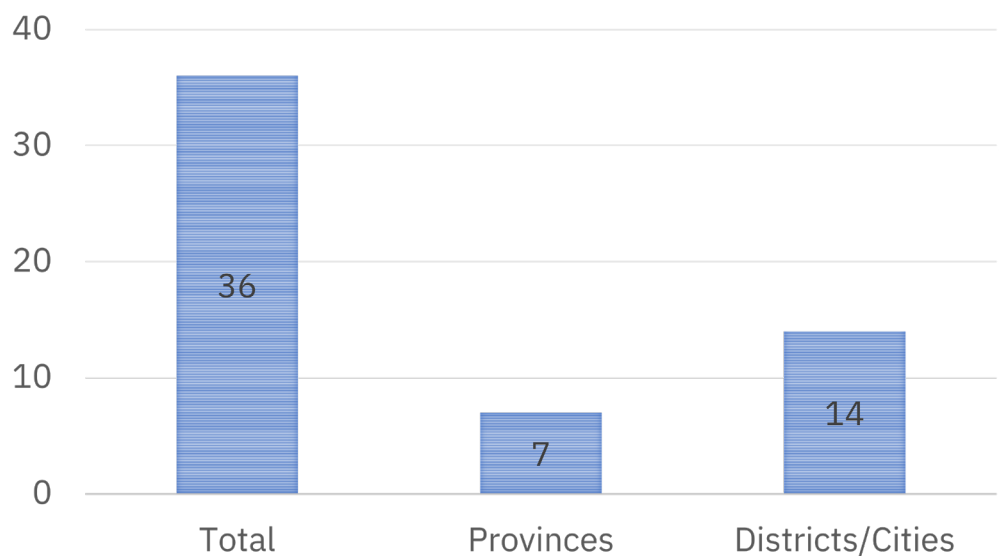


Figure 1. Number of Selected Government Affairs That Are Not Delegated to Provinces and Districts/Cities

Based on [Figure 1](#), not all certain affairs in selected government sub-affairs are delegated to provinces or districts/cities, such as maritime affairs and fisheries, tourism, and forestry. One of the financial aspects or regional finances for carrying out selected government affairs influences this. The distribution of authority is largely determined by the regional ability to finance the implementation of this authority because the implementation of regional authority cannot possibly run without regional financial readiness ([Halik, 2015, p. 133](#)). Apart from these factors, efficiency and effectiveness factors also influence the delegation of authority ([Smith, 1937, p. 1103](#)). Apart from that, aspects of readiness theoretical capabilities, and human resources also determine the delegation of authority.

However, according to the author, selected government matters related to regional potential and uniqueness should also be delegated to the district/city government. Even though the implementation of concrete government affairs (including electives) is carried out based on the principles of accountability, efficiency, and externalities, as well as national strategic interests [vide: Article 13 paragraph (1) Law 23/2014], there are restrictions on the space for regional governments to explore regional specificities in discretionary matters will hamper the widest possible autonomy in the regions.

The next anomaly is that although there are several selected government affairs delegated to provinces and districts/cities that aim to increase the potential of plural regions, they are hampered by the NSPK from various ministries which regional governments must follow (Amelia et al., 2023) in carrying out selected affairs. Article 16 paragraph (1) letter a of Law 23/2014 determines the authority of the central government to determine norms, standards, procedures, and criteria (NSPK) in the implementation of concurrent government affairs (including elective government affairs). The NSPK determination must be the basis for regional governments in carrying out selected government affairs. In the author's opinion, this normative imperative will disrupt regional creativity in carrying out chosen affairs, and if it is enforced in a formalistic manner, it has the potential to conflict with the spirit of broadest autonomy in Article 18 paragraph (5) of the 1945 Constitution.

Ministries or institutions that determine NSPK in the form of statutory regulations on selected matters become limitations for local governments in regulating and managing their households. The rigid stipulation of NSPK sometimes implies that regional regulations are only copies of NSPK without efforts to harmonize and fulfill the legal needs of regional communities (Wicaksono & Rahman, 2020, p. 244). This condition will be even more anomalous when matters of choice, which are regional specifics, are restricted through rigid and inflexible NSPK. Even though the decentralized format must remain in accordance with a unitary state so that the central government has the authority to determine NSPK as the standard for implementing regional authority, this does not mean that all concurrent government affairs, especially elective affairs in the regions, must be carried out according to NSPK guidelines, because elective affairs have a scope of uniqueness that cannot be made uniform.

3.2. Strengthening Selected Government Affairs for the Implementation of Broad Autonomy in the Unitary State of the Republic of Indonesia

In this sub-discussion, we will conceptualize strengthening selected government affairs based on previously described practical problems. Strengthening selected government affairs is based on the concept of implementing regional autonomy as postulated by Cheema and Rondinelli (1984) and Manan (2001) states that quality regional autonomy is characterized by regional independence in terms of politics, public services, governance, and socio-cultural development and increasing access to regional democratization. Apart from that, the concept of a constitutional state is based on the views of Strong (2015). There are two important aspects in this strengthening, namely first, giving authority to regions to carry out elected government affairs, and second, redesigning the NSPK in implementing elected government in the regions.

3.2.1. Granting Authority to Regions to Carry Out Selected Government Affairs

As shown in Figure 1, not all optional government affairs are delegated to provinces, districts/cities. This causes the possibility of regional potential or uniqueness that cannot be implemented due to restrictions on selected government affairs. This pattern leads to a closed list system (closed list) (Sa'adah, 2014) selected government

affairs are determined in law so that their weaknesses can close the potential space for provincial or district/city areas that do not receive a delegation of elective government affairs. According to the author, this is very contrary to the definition of “elected government affairs” in Article 1 point 15 of Law 23/2014, which states that optional government affairs are government affairs that the region must carry out in accordance with the potential of the region. The definition shows the words “must be carried out by the regional government”, but ironically, not all of these matters are delegated to the regions, so all selected government sub-affairs can’t be implemented by the regions.

Even though some selected matters affect the lives of many people, such as mineral and coal matters, some matters, such as fisheries, maritime affairs, and agriculture, not all of these selected sub-affairs can be carried out by local governments. In the future, it is necessary to organize the delegation of elective government affairs in more flexible regions that accommodate regional rights, such as combining the open list system and closed list system in the regulation of elective government affairs in regional government laws. All aspects related to the potential for regional excellence are left entirely to the regions, and regions have the autonomous right to choose according to regional characteristics to be implemented based on the principles of national strategic development. This will improve the quality of regional autonomy implementation, as mentioned by [Cheema and Rondinelli \(1984\)](#) improving regional managerial aspects in economic development.

The rationalization of merging open and closed lists was carried out considering that strengthening selected government affairs in the regions to create broad autonomy must remain guided by the Unitary State of the Republic of Indonesia. The constitutional landscape of the unitary state of Indonesia is contained in Article 1, paragraph (1) of the 1945 Constitution ([Huda, 2022, pp. 47–48](#)). Strong found that there are 2 (two) main characteristics of a unitary state, namely: 1) the supremacy of the central Parliament and 2) the absence of subsidiary sovereign bodies ([Strong, 2015, p. 111](#)). First is the central Parliament’s supremacy (according to Strong, every unitary state has the supremacy of a central parliament (central government). This is different from a federal country, which has two parliamentary institutions, namely the federal and state parliaments. In a unitary state, there is only one Parliament (government) which has absolute supreme power ([Strong, 2015, p. 112](#)). This shows that in a unitary state, there is only one highest government holder (President), and there cannot be any other highest government holder in the regions [vide: Article 4 paragraph (1) of the 1945 Constitution]. Second, the absence of subsidiary sovereign bodies. According to [Strong \(2015, pp. 112–113\)](#), unitary states have regional governments that can be controlled by the central government, including the central government granting or revoking the delegation of rights and authority to regional governments. This is different from a federal state, which has state government authority that cannot be added or revoked by the federal government unless specified in the constitution.

However, in line with the implementation of regional autonomy as widely as possible, it gives authority to regions to regulate and manage their regions, giving them the power to run government in the region in accordance with the ties of the state government as a whole ([Said, 2015, p. 581](#)). Through broad autonomy, the vertical division of power requires the central government’s power to be distributed to the regions to manage their households. However, this power distribution pattern still obtains control from the central government through supervision. Based on this, the delegation of power or affairs from the central government to the regions is carried out to develop a unitary state. In line with this, elective government affairs in the regions that have the essence of administering affairs according to their particularities

and potential must be given flexibility to the regions. Because regional freedom to implement policies and programs will support regional progress (Pratiwi, 2021, p. 43). By innovatively developing this potential, such as in the fields of agriculture and marine, tourism, trade, and industry, it will increase regional income, which will indirectly affect the welfare of the people in the region, ultimately impacting the unitary state. So that in this context, selected matters are organized and directed so that they are in line with the principles of national strategic development [vide: Article 13 paragraph (1) Law 23/2014].

3.2.2. NSPK Redesign in the Implementation of Selected Government in the Regions

Article 16 paragraph (1) letter a of Law 23/2014 stipulates the existence of NSPK for the implementation of concurrent government affairs, including elective government affairs in the regions. Indirectly, the determination of the NSPK could conflict with Article 18 paragraph (5) of the 1945 Constitution (implementation of the widest possible autonomy) if it is determined formally and limits the space for regional creativity. On the other hand, the determination of NSPK for elective government affairs shows that there is an inconsistency in the definition of “elective government affairs” in Article 1 number 15 of Law 23/2014, which states that elective government affairs are affairs carried out based on “regional potential.” It is difficult to uniformize the implementation of “potential” in each region through the NSPK because regions have geographic diversity and cultures that are different from each other.

Another problem is that if the NSPK provides rigid guidelines for regions due to concerns about the emergence of problematic regional regulations, then the Regional Long-Term Development Plan (RPJPD) and Regional Medium-Term Development Plan (RPJMD) will not be realized in stages. The NSPK orientation is not necessarily in accordance with the RPJPD and RPJMD that the region has determined. However, NSPK is generally still needed as a guide for regional governments in implementing regional autonomy within the framework of a unitary state (Nurbaningsih, 2019, p. 305).

The implementation of selected government affairs in regions with obligations must be based on the NSPK (Wicaksono & Rahman, 2020), in the future, it must be redesigned by establishing a general NSPK to accommodate regional uniqueness and potential. In this option, the NSPK only regulates the basic provisions (principles and principles) that the regions must guide to avoid conflict with national strategic development. The NSPK that is made in general will better reflect the implementation of the broadest possible autonomy and regional independence in carrying out selected (asymmetric) government affairs in accordance with the quality of regional autonomy implementation, as stated by Manan (2001) states that it is not just the number of affairs delegated to the regions but rather the quality of independence of the delegated affairs. Second, implementing selected government affairs remains guided by the NSPK while simultaneously being able to carry out innovation and creativity based on regional needs. NSPK is only used as a formal standard, but its implementation is carried out at the discretion of the regional government. This is done if the NSPK does not contain regional communities’ real conditions and legal needs. However, implementing government policies must still be based on the principles of externality, efficiency, accountability, and national strategic interests. Third, the principles and methods of implementing selected government affairs are left entirely to the regions without the need for NSPK guidelines. This can be applied to certain selected matters, which must be carried out based on local regional wisdom. In this option, the implementation of selected government affairs is carried out asymmetrically without the need for uniformity in each region. Even though the principles and implementation

methods are completely left to the regions, their elaboration must remain within the unitary state system adopted in Indonesia. However, this option requires human resources and regional governments that has the capacity to ensure that the broadest authority is not misused (Wicaksono & Rahman, 2020, p. 244).

The redesign is intended to bring about regional autonomy by providing space for flexibility (freedom) in managing affairs under regional authority. The content of regional autonomy does not have to be the same because everything must be adapted to real conditions. The region should make this inequality as a form of respect for positive discrimination (Nurbaningsih, 2019, p. 22). However, it needs to be emphasized that the NPSK redesign is not intended to abandon the unitary state because these two things complement each other in the development of society at large. Central and regional decentralization must have common ground and synergy in a unitary state. Likewise, the central and regional governments must have a synergistic point that is a partnership (not superior-subordinate) in improving the quality of public services, advancing prosperity and democracy collectively.

4. Conclusion

The research showed that the development of regulations governing government affairs in Indonesia is only explicitly regulated in two laws, namely Law 32/2004 and Law 23/2014. On the other hand, this study found an anomaly in regulating elective government affairs in Law 23/2014, namely that not all selected government affairs are delegated to provinces and districts/cities even though elective affairs have great potential in developing regional potential and uniqueness. Not only that, but in practice, elective government affairs sometimes need to be improved by implementing NSPK from the central government. Second, strengthening elective government affairs to implement the broadest possible autonomy can be done by strengthening elective government affairs based on the NKRI system and redesigning the NSPK in implementing elective government affairs in the regions.

Based on this, this study recommends that regions be given authority to regulate and manage selected government affairs that have potential and can advance the region, such as marine and fisheries, agriculture, and tourism, and redesign the NSPK in the implementation of selected government affairs. However, to implement these recommendations, practical further research is needed regarding the effectiveness of combining open and closed lists of selected government affairs in future regional government laws.

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