


Administrative Localism and Vertical Normative Conflict in the Riau Islands Regional Legal Aid Regulation

Pery Rehendra Sucipta,^{1*} Niken Febriani Safitri²

¹ *Department of Law, Raja Ali Haji Maritime University, Tanjungpinang, Indonesia*

² *Master Student of Law Programme, Padjadjaran University, Bandung, Indonesia*

 Corresponding Author: peryhrehsucipta@umrah.ac.id

Article Info:

Abstract

Keywords:

Administrative localism
Legal aid
Normative conflict
Politics and Policy harmonization
Access to justice

Article History:

Received on April 17, 2025
Revised on May 22, 2025
Accepted on May 22, 2025

This study examines political and policy conflicts in the implementation of regional legal aid regulations in Indonesia. Although legal aid is a constitutional right guaranteed equally to all citizens, Regional Regulation of Riau Islands Province Number 3 of 2017 (Perda Kepri 3/2017) imposes residency-based administrative requirements that potentially restrict access for non-local residents. The regulation reflects administrative localism, namely the use of regional autonomy and bureaucratic mechanisms to redefine access to constitutional rights and public services. This research employs normative legal methods using statutory, conceptual, and policy approaches. The analysis focuses on the normative structure of Perda Kepri 3/2017 and its compatibility with higher legal instruments governing legal aid, population administration, and public services. The findings show that administrative localism operates through three interconnected layers: definitional restrictions, substantive-procedural limitations, and institutional gatekeeping mechanisms. These arrangements create vertical normative conflicts with the Legal Aid Law, the Population Administration Law, Presidential Regulation No. 67 of 2011, and the Public Services Law. The regulation also reveals a broader political policy conflict between the principle of equal citizenship promoted by the central government and regional policy preferences emphasizing territorial and fiscal prioritization within Indonesia's decentralized governance system. This study concludes that the issue is not merely juridical but also politics, as regional discretion has narrowed the implementation of universal constitutional rights. Accordingly, the study recommends a three-tier harmonization strategy consisting of vertical regulatory revision, horizontal inter-regional cooperation, and a rights-based reorientation of regional public service policies to ensure equal access to legal aid throughout Indonesia.

INTRODUCTION

Access to legal aid is a constitutional right guaranteed by Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia and operationalized through Law Number 16 of 2011 on Legal Aid. That Law defines legal aid recipients inclusively as

"individuals or groups of impoverished persons" without requirements based on domicile or residential identity of any particular region, a normative choice reflecting the character of access to justice as a right inherent in one's citizenship status and substantive condition, not in one's administrative residential location (Wibowo & Bangun, 2021). Within the decentralization framework, the authority to regulate and administer legal aid is delegated to regional governments through regional regulations that must hierarchically conform to higher norms (Irfani, 2020). In practice, however, the regional legislative process frequently produces instruments that whether explicitly or through concealed normative construction impose restrictions not recognized in their parent regulation, creating systemic distortions in access to public services that constitute fundamental rights (Chandranegara, 2019). This tendency represents one of the pathologies of decentralization identified by Bakarbesy (2012) as a consequence of regional autonomy not counterbalanced by universally applicable principles of rights protection.

Regional Regulation of Riau Islands Province Number 3 of 2017 on Legal Aid (Perda Kepri 3/2017) exemplifies this distortion. The definition of "legal aid recipient" in Article 1 number 7 is grammatically inclusive and does not incorporate local residency requirements. However, the systematic construction of surrounding norms from the definition of "community" (masyarakat) in Article 1 number 5, which requires valid residential identity in Riau Islands Province, to the procedural mechanism of Article 20 paragraph (2), which mandates a certificate of poverty from the village head or sub-district head "where the legal aid applicant is domiciled" creates normative conditions that expose non-registered residents to the risk of exclusion from legal aid access. This analysis proceeds as a normative risk assessment: the structural ambiguity identified in the regulation generates significant legal exposure to exclusionary administrative interpretation, particularly given the geographical characteristics of Riau Islands as an archipelagic region with high cross-regional population mobility, encompassing internal migrant workers, inter-island fishermen, and maritime accident victims present in the territory yet not formally registered as residents. These groups represent the most legally vulnerable parties while simultaneously facing the greatest structural barriers to formal protection (Hapsari, 2021).

Prior studies have examined various dimensions of legal aid implementation in Indonesia. Gustaf (2021) and Andhini (2021) identified a mismatch between the inclusive normative design of legal aid and exclusionary implementation mechanisms. Ekawati et al. (2019) affirmed that the principle of equality before the law requires the state to act objectively without regard to administrative status. Wibowo and Bangun (2021) established that procedural barriers obstructing the poor's access to legal aid constitute a denial of constitutional rights. Utami et al. (2025) found that the dominance of regional fiscal logic in legal aid provision yields low service quality and narrow coverage. Ab. Wahab and Khairi (2020) demonstrated that residency requirements in public services consistently discriminate against vulnerable groups lacking formal residential status. Nevertheless, these studies have not specifically analyzed the normative mechanisms through which regional regulations construct residency-based restrictions, have not systematically identified their vertical normative conflicts, and have not offered a tiered policy harmonization model as a conceptual solution which constitutes the primary contribution of the present research.

Based on the foregoing, this study pursues three objectives: first, to analyze the normative construction of "legal aid recipient" in Perda Kepri 3/2017 and identify the mechanisms through which administrative localism is institutionalized therein; second, to examine the vertical normative conflicts between Perda Kepri 3/2017 and higher norms in the legislative hierarchy; and third, to formulate a policy harmonization model capable of correcting such distortion. This study employs normative legal research methodology with a statutory approach and a conceptual approach (Marzuki, 2017), using primary legal materials

comprising relevant legislation and secondary legal materials comprising literature in public administrative law and constitutional law. The three objectives correspond to three research questions: (1) how does the normative construction of Perda Kepri 3/2017 impose local residency requirements on access to legal aid?; (2) does such construction conflict with higher norms in the legislative hierarchy?; and (3) what policy harmonization model is most appropriate for correcting the identified distortion?

From a constitutional perspective, the restriction of legal aid through local residency mechanisms raises a fundamental issue concerning the transformation of universal rights into territorially conditioned entitlements. Legal aid is normatively designed as an instrument for protecting equality before the law and ensuring substantive access to justice for vulnerable citizens regardless of their administrative status (Shucksmith et al., 2019; Waliden et., 2022). However, when regional regulations insert domicile-based administrative filters, the implementation of constitutional rights becomes contingent upon local bureaucratic recognition rather than citizenship itself. This study argues that such a shift constitutes not merely a technical inconsistency in legislative drafting, but a structural reconfiguration of rights through administrative governance. Consequently, the problem examined in this article must be understood as a constitutional governance issue affecting the integrity of Indonesia's national legal system and the uniform protection of citizens' rights within a decentralized state structure.

Moreover, the conflict identified in Perda Kepri 3/2017 cannot be separated from the broader dynamics of political policy within regional autonomy. Decentralization has expanded regional discretion in regulating public services, yet such discretion is frequently shaped by fiscal priorities, territorial politics, and local administrative control. In this context, residency-based requirements function not only as procedural instruments but also as political policy tools for limiting the scope of state obligations toward non-local populations. This creates tension between two competing policy orientations: the rights-based approach promoted by the central legal framework and the territorial-administrative approach adopted by regional governance practices. Therefore, the normative conflict analyzed in this study simultaneously reflects a conflict of legal policy, institutional authority, and political priorities in the governance of public services in Indonesia.

METHOD

This study constitutes normative legal research grounded in the paradigm of legal positivism, employing both a statutory approach and a conceptual approach (Marzuki, 2017). The statutory approach examines all relevant provisions of Perda Kepri 3/2017 together with hierarchically superior norms, encompassing the 1945 Constitution, Law No. 16 of 2011 on Legal Aid, Law No. 24 of 2013 on Population Administration, Law No. 25 of 2009 on Public Services, Law No. 12 of 2011 on the Formulation of Legislation, and Presidential Regulation No. 67 of 2011. The conceptual approach operationalizes the key analytical framework of the study. Administrative localism is defined operationally as the systematic tendency of regional legal instruments to restrict access to universal constitutional rights through local administrative gatekeeping mechanisms as distinguished from ordinary administrative discretion (which may remain within constitutional bounds when exercised inclusively) and from fiscally justified local prioritization (which may be constitutionally permissible where restrictions are proportionate to legitimate fiscal accountability objectives). This operational distinction enables the analysis to evaluate whether the normative construction in Perda Kepri 3/2017 crosses the threshold from constitutionally permissible local governance into constitutionally problematic exclusion of rights. Legal materials consist of primary legal materials comprising legislation, secondary legal materials comprising journal articles and

textbooks, and tertiary legal materials comprising official statistical data from BPS Riau Islands, Basarnas RI, the Ministry of Marine Affairs and Fisheries, and the Riau Islands Provincial Manpower and Transmigration Office (Soekanto & Mamudji, 2015).

Legal materials were collected through library research and retrieval of scientific literature from accredited national law journal databases. Analysis proceeded through three stages of legal interpretation: first, grammatical interpretation to examine the meaning of norms based on their textual formulation; second, systematic interpretation to read the regulatory norms as an interrelated whole and identify the mechanisms through which administrative localism operates within the regulation's architecture; and third, hierarchical interpretation to confront the identified normative construction against higher norms on the basis of *lex superior derogat legi inferiori* (Irfani, 2020; Usfunan, 2020). It bears explicit emphasis that the analytical focus throughout these stages is normative risk assessment: the study identifies the legal exposure created by the structural ambiguity in Perda Kepri 3/2017, rather than asserting that systematic exclusion has been empirically documented in implementation. Historical and teleological interpretations were not employed as primary methods given the limited accessibility of the academic paper and deliberation records of Perda Kepri 3/2017; however, the teleological perspective was applied implicitly through analysis of the considerations and general explanation of Law No. 16 of 2011 (Chandranegara, 2019).

RESULTS AND DISCUSSION

Normative Construction of the Concept of “Legal Aid Recipient” in Perda Kepri 3/2017: Grammatical Analysis

Grammatical examination of Regional Regulation of Riau Islands Province Number 3 of 2017 on Legal Aid (Perda Kepri 3/2017) requires careful reading of three definitional concepts that are structurally interrelated and form a subject-condition chain determining who is entitled to access legal aid services (Amin, 2021; Budijanto et al., 2022). These three concepts are “community” (masyarakat) (Article 1 number 5), “impoverished community” (masyarakat miskin) (Article 1 number 6), and “legal aid recipient” (penerima bantuan hukum) (Article 1 number 7). The first concept defines community as “an individual or group of individuals who possess valid residential identity in Riau Islands Province” a formulation that explicitly incorporates local residency requirements as a constitutive definitional element. The second concept defines “impoverished community” as that part of the community (as referred to in number 5) whose socio-economic condition is categorized as poor, demonstrated by a Certificate of Poor Family (Kartu Keluarga Miskin) or Certificate of Poverty (Surat Keterangan Miskin) issued by the village or sub-district head. The third concept defines “legal aid recipient” as “an individual or group of individuals who are facing a legal problem and whose economic and social limitations render them unable to bear the operational costs of legal proceedings.”

When Article 1 number 7 is examined in grammatical isolation, a significant finding emerges. The definition of legal aid recipient contains only two cumulative elements: (1) currently facing a legal problem, and (2) possessing economic and social limitations such that litigation costs cannot be borne. No phrase explicitly incorporates local residency requirements. This creates a fundamental point of grammatical tension: should “legal aid recipient” be read as a species of the genus “community” (number 5) incorporating local residency requirements, or as an independent concept standing on its own substantive criteria? The answer demands a systematic reading of the regulation's overall normative construction.

It is important at this stage to specify the analytical posture of this study. The structural ambiguity identified above constitutes a normative risk: it creates conditions in which exclusionary interpretation is administratively available and structurally encouraged, without being textually inevitable. Whether implementing officials in practice have consistently adopted the exclusive interpretation is an empirical question beyond the scope of a normative analysis. The contribution of this study is to demonstrate that the architecture of Perda Kepri 3/2017 generates significant legal exposure to such exclusion—an exposure that, given the demographic profile of Riau Islands, translates into identifiable and measurable social risk for vulnerable non-resident populations.

Systematic Reading: Two Mechanisms of Residential Exclusivism

Systematic examination of Perda Kepri 3/2017 reveals that although Article 1 number 7 is grammatically inclusive, the overall normative construction imposes local residency requirements through two overlapping mechanisms. The first mechanism is definitional: it operates through the formation of a genus proximus that links “legal aid recipient” with “impoverished community” and subsequently with “community” conditioned on local residency. This is evident from Article 1 number 10, which defines “legal aid” as assistance provided to “legal aid recipients who constitute impoverished community members” thereby normatively linking legal aid recipient (number 7) with impoverished community (number 6), which in turn constitutes part of community (number 5) conditioned on local residency. The normative chain thus formed is: legal aid → provided to → impoverished community → constituting part of → community → which possesses → valid residential identity in Riau Islands. Through this systematic reading, the inclusive definition in Article 1 number 7 is effectively “drawn into” an exclusive scope through hierarchical definitional interconnection.

The second mechanism operates at the procedural level and may prove more determinative in practice. Article 20 paragraph (2) requires applications to be accompanied by a valid identity document and a Certificate of Poverty from the village head or sub-district head “where the legal aid applicant is domiciled.” That final phrase is not merely a neutral procedural requirement. It constitutes a disguised substantive norm: an applicant who is factually poor but neither domiciled nor registered in Riau Islands cannot obtain the required certificate from the relevant local official. The procedural requirement thus operationalizes and simultaneously legitimizes residency-based access restrictions that find no explicit basis in the definitional text of Article 1 number 7.

It is analytically important to note that this finding does not foreclose the possibility of inclusive implementation through administrative discretion. In principle, an implementing official could adopt the inclusive interpretation of Article 1 number 7 and accept alternative documentation—for example, a poverty certificate issued by competent officials in the applicant's region of origin. Such discretionary flexibility would enable access without textual authorization from the regulation. However, discretionary inclusion of this kind operates outside and despite the textual design of Article 20 paragraph (2), which as written creates a structural presumption favoring the exclusive interpretation. The normative risk therefore concerns not whether inclusive implementation is technically possible, but whether the regulatory architecture systematically enables and encourages it a question the present analysis answers in the negative.

Perda Kepri 3/2017 thus exhibits significant structural ambiguity: Article 1 number 7 is grammatically inclusive, yet the systematic construction creates residency-based restrictions. In the context of public service delivery, this ambiguity is particularly consequential because frontline bureaucrats tend to adopt the interpretation most easily

operationalized administratively namely, the exclusive interpretation requiring completeness of local residency documents rather than the inclusive interpretation demanding more complex substantive assessment.

Administrative Localism as a Normative Phenomenon: Three Layers of Manifestation

The combination of these two mechanisms demonstrates that Perda Kepri 3/2017 contains what, from the perspective of public administrative law, may be qualified as administrative localism. Madanipour defines localism as a form of governance in which the distribution of power, roles, and responsibilities is reconfigured to prioritize local interests making it inherently susceptible to exclusionary tendencies when not counterbalanced by universal rights protection principles (Madanipour, 2017, as cited in LEADER Research, 2019, p. 4). Bakarbesy (2012) warns that decentralization in practice frequently engenders uncontrolled primordial sentiments, wherein local power holders tend to serve only their own group (Bakarbesy, 2012). As operationalized in this study, administrative localism refers specifically to the systematic institutionalization of local residency requirements that exclude non-residents who substantively satisfy the eligibility criteria poverty and legal need from accessing a right constitutionally guaranteed without residential qualification. This definition distinguishes administrative localism from two related but constitutionally distinct phenomena. The first is ordinary administrative discretion: an official who interprets ambiguous norms without systematically excluding any eligible category does not manifest administrative localism. The second is fiscally justified local prioritization: APBD-financed services may apply proportionate local preferences that remain consistent with constitutional and statutory standards without crossing into administrative localism. It is the constitutionally problematic form of exclusion not all expressions of local governance preference that constitutes the subject of the present analysis.

The manifestation of administrative localism in Perda Kepri 3/2017 may be identified across three cumulatively operating layers. The first layer is definitional localism, originating from the definition of “community” in Article 1 number 5, which makes possession of valid residential identity in Riau Islands a constitutive element of the protected subject category. The use of residential identity as a definitional boundary creates an access restriction based on a single administrative attribute. Under human rights law, this constitutes differential treatment: persons in identical substantive conditions equally poor, equally facing legal problems are treated differently based solely on their administrative registration status (Komnas HAM RI, 2017). Consequently, a migrant worker, inter-island fisherman, or maritime accident victim present in the Riau Islands territory yet not locally registered is definitionally excluded from the category of “community” constituting the subject of protection. Such restrictions create conditions in which the most legally vulnerable group faces the greatest difficulty accessing formal protection (Hapsari, 2021).

Table 1 presents selected data on non-registered resident populations in Riau Islands potentially requiring legal aid. This data is employed in this study as contextual reinforcement rather than as empirical proof of systematic exclusion. Its function is to substantiate the demographic plausibility and social urgency of the normative risk identified through legal analysis: to demonstrate that the population categories most exposed to residency-based legal barriers are substantial in size and economically vulnerable. The study does not assert, on the basis of this data, that documented exclusion events have occurred or that the regulation has been consistently implemented in an exclusionary manner. Such empirical claims would require a different methodological design. The contribution of the data is to establish that

the regulatory risk identified is not hypothetical but corresponds to identifiable and significant social groups.

Table 1. Profile of Non-Registered Resident Populations in Riau Islands Potentially Requiring Legal Aid (Selected Data, 2020–2024)

| No. | Population Group | Indicator | Value/Magnitude | Data Source | Year |
|-----|---------------------------|---|--------------------------|------------------------------|------|
| 1 | Internal migrant workers | Lifetime net migration, Riau Islands | 40.55% | BPS Kepri, Long Form SP 2020 | 2023 |
| 2 | Internal migrant workers | Active migrant labor force (different regency/city) | 62,579 persons (6%) | BPS Kepri, Sakernas Aug 2024 | 2024 |
| 3 | Internal migrant workers | Total labor placement 2021–2024 | 71,182 persons | Disnakertrans Prov. Kepri | 2024 |
| 4 | Inter-island fishermen | KUSUKA registration for capture fishermen | 38.57% of potential | KKP RI, KUSUKA Data | 2022 |
| 5 | Inter-island fishermen | Fishermen's Terms of Trade (NTPi), Riau Islands | 92.53 (below 100) | KKP RI, Q4 Data Release | 2022 |
| 6 | Maritime accident victims | Ship accidents (May 2023) | 23 incidents | Basarnas RI, Data Portal | 2023 |
| 7 | Maritime accident victims | Ship accidents (Apr 2022) | 22 incidents | Basarnas RI, Data Portal | 2022 |
| 8 | Maritime accident victims | Malacca Strait–Batam Incident (Aug 2023) | 14 passengers, 3 missing | Health Crisis Center, MoH RI | 2023 |

Source: Compiled from various official sources as listed in the data source column.

The second layer is substantive-procedural localism, operating through Article 20 paragraph (2) by requiring documents that can only be obtained by those registered in the local population administration. This procedural barrier is structural, not incidental: it closes off access not because the applicant fails to meet substantive criteria (poverty and legal need), but solely because the applicant is not administratively registered in the relevant region. Ekawati et al. (2019) note that the state should not restrict the right to legal aid solely based on administrative status but should open more progressive and accommodative schemes for all citizens in need (Ekawati et al., 2019). Wibowo and Bangun (2021) affirm that any

procedural barrier obstructing the poor's access to legal aid constitutes a denial of the constitutional right guaranteed by Article 28D paragraph (1) of the 1945 Constitution (Wibowo & Bangun, 2021). Galanter (1974) warned that procedural and administrative barriers systematically advantage those with access to resources while discriminating against those without, such that exclusive local residency documentation requirements deepen the existing justice gap (Galanter, 1974).

The third layer is institutional localism implicit, yet no less significant. Article 6 governs the Governor's cooperation with accredited legal aid institutions. Articles 26 and 27 stipulate that all legal aid financing is charged to the Riau Islands Provincial Regional Budget (APBD). This fiscal architecture warrants careful analysis before any constitutional characterization is made. The use of APBD as the exclusive source of financing does not, in itself, render every degree of local prioritization impermissible. Regional governments bear legitimate fiscal accountability obligations toward their constituents under the decentralized public finance system. Some APBD-financed services may justifiably prioritize local residents where restrictions are proportionate and the service in question is not a fundamental right constitutionally guaranteed without residential qualification. The constitutional problem in Perda Kepri 3/2017 arises precisely from this latter condition: legal aid access is a fundamental constitutional right operationalized by national legislation in explicitly non-residential terms. Three elements converge to render the institutional localism here constitutionally problematic: the right is constitutional in origin; the national statute guarantees it without residential qualification; and the regional regulation imposes residency requirements the national statute does not authorize (Flora et al., 2024). The problem is not APBD financing per se it is the deployment of that fiscal relationship to justify restrictions on a constitutionally guaranteed right. Utami et al. (2025) reinforce this point, finding that the dominance of regional fiscal logic yields narrow coverage when providers orient toward administrative disbursement requirements rather than substantive rights fulfillment (Utami et al., 2025).

These three layers converge on a fundamental constitutional question: whether a regional norm may legitimately restrict access to rights guaranteed by the constitution solely on the basis of local residential attributes. Ekawati et al. (2019) firmly state that the principle of equality before the law guarantees every person equal protection without regard to administrative status (Ekawati et al., 2019). Gustaf (2021) adds that correcting the mismatch between inclusive normative design and exclusionary implementation mechanisms requires regulatory reform consistent with constitutional principles (Gustaf, 2021). The normative construction of Perda Kepri 3/2017 fails this standard.

Normative Conflict: Perda Kepri 3/2017 within the Framework of the Legislative Hierarchy

The finding of administrative localism across three layers becomes more significant when confronted with norms positioned above it in the legislative hierarchy. In the Indonesian legal system, the normative hierarchy is regulated through Article 7 paragraph (1) of Law Number 12 of 2011 on the Formulation of Legislation, which places Provincial Regional Regulations below Laws, Government Regulations, and Presidential Regulations. The juridical consequence is affirmed by the principle of *lex superior derogat legi inferiori*: when conflicting norms exist and one is hierarchically superior, the higher norm must prevail, and the validity of the lower norm is negated to the extent of the conflict (Irfani, 2020).

The most fundamental normative contrast lies in the comparison between the definition of "legal aid recipient" in Perda Kepri 3/2017 and the same definition in Law Number 16 of 2011 on Legal Aid. That Law, in Article 1 number 2, defines legal aid recipients

as “individuals or groups of impoverished persons” without requirements based on domicile or residential identity. By narrowing the scope of this higher norm from “every impoverished person” to “impoverished persons possessing valid residential identity in Riau Islands,” Perda Kepri 3/2017 substantially adds a new normative element not recognized in its parent legislation. Warjiyati et al. (2024) affirm that norm clashes between lower regulatory products and legislation undermine legal system integrity and generate systemic injustice (Warjiyati et al., 2024).

This conflict acquires additional technical layers when considered alongside two legislative provisions governing the validity of the National Identity Card (KTP). Article 1 number 14 of Law Number 24 of 2013 on Population Administration defines the KTP as “valid throughout the territory of the Unitary State of the Republic of Indonesia.” A KTP issued anywhere in Indonesia therefore carries equivalent national validity. The definition of “community” in Perda Kepri 3/2017 requiring “valid residential identity in Riau Islands Province” implicitly demands a locally-issued KTP a restriction that conflicts with this principle of national KTP validity. Further, Article 10B paragraph (2) of Presidential Regulation Number 67 of 2011 explicitly prohibits all government agencies and regional governments from treating the place of KTP issuance as a consideration in service delivery. This mandatory norm applies directly to legal aid providers partnering with the Riau Islands Provincial Government, rendering the regional regulation’s residency requirements untenable against a specific, positive-technical higher norm.

A further dimension of conflict emerges from Law Number 25 of 2009 on Public Services. Article 4 letter g establishes “equal treatment/non-discrimination” as a fundamental principle of public service delivery. Article 15 letter d obliges service providers to deliver non-discriminatory services. If the national legal aid service standards under Law 16/2011 are inclusive and do not require local residential identity, residency requirements added by Perda Kepri 3/2017 constitute a deviation from national standards, conflicting with Article 17 letter h of Law 25/2009. Chandranegara (2019) affirms that the absence of such harmonization constitutes a defect that may serve as a basis for annulment or adjustment of the problematic regulation (Chandranegara, 2019).

A clarification on the analytical structure of these four normative conflicts is warranted. The conflicts are not entirely independent of one another in their underlying normative foundations several share the equality and non-discrimination principle as their constitutional basis (Sandefur, 2019). They are, however, analytically distinct as specific conflicts: each involves a separate legal norm (Law 16/2011, Law 24/2013, Presidential Regulation 67/2011, and Law 25/2009) and a separate dimension of legal argument (definitional scope, identity document national validity, service delivery obligation irrespective of KTP origin, and non-discrimination principle respectively). The characterization as four distinct layers reflects the cumulative doctrinal weight of the conflict rather than four wholly independent analytical pathways (Tkacheva, 2022). Collectively, these four layers strengthen the normative argument: even if any single layer were contested or deemed insufficient to establish invalidity, the cumulative force of the overlapping conflicts substantially narrows the interpretive space available to uphold the exclusionary construction of Perda Kepri 3/2017.

Ultimately, the structural ambiguity inherent in Perda Kepri 3/2017 between the grammatically inclusive formulation of Article 1 number 7 and the systematically exclusive construction of surrounding norms constitutes a normative defect that is substantive in character, not merely editorial. Irfani (2020) reminds us that in situations of normative ambiguity, the lower norm does not possess the authority to restrict or narrow the scope of the higher norm (Irfani, 2020). In practice, such ambiguity is typically resolved by implementing bureaucrats through the interpretation most easily operationalized administratively namely, the exclusive interpretation requiring local residency documents. As

a result, the constitutional objective of the regulation realizing access to justice for the impoverished as mandated by Law 16/2011 risks reduction to an instrument of service delivery based on local administrative membership rather than universal fulfillment of fundamental rights.

The normative conflicts identified above also produce tangible social consequences, particularly for vulnerable groups with high mobility and weak administrative attachment to a specific region. In practice, residency-based requirements risk excluding migrant workers, inter-island fishermen, temporary laborers, maritime accident victims, and economically disadvantaged individuals residing in Riau Islands without locally issued identity documents from accessing legal aid services. Such exclusion not only limits access to legal representation but also deepens structural inequality before the law, as those most in need of protection become the parties most vulnerable to administrative rejection (Sari and Arifin, 2019). The impact extends beyond individual cases, generating broader public distrust toward legal institutions and reinforcing unequal citizenship within decentralized governance. Consequently, the normative conflict in Perda Kepri 3/2017 is not merely a doctrinal inconsistency within the legislative hierarchy, but a regulatory problem with direct implications for social justice, access to public services, and the realization of constitutional rights in everyday administrative practice

Policy Harmonization Model: From Localism toward Administrative Nationalism

The identification of four layers of vertical normative conflict opens space for a constructive question: what harmonization model is most appropriate to correct such distortion? Chandranegara (2019) affirms that effective harmonization requires alignment not only at the level of normative text, but also at the level of institutional implementation and value orientation (Chandranegara, 2019). Based on this framework, this article proposes three harmonization models arranged in a tiered manner.

The first model is vertical harmonization through regional policy revision the minimum corrective solution. It requires at least three substantive adjustments. First, the definition of “community” in Article 1 number 5 must be revised so that it does not automatically become a cumulative prerequisite for legal aid access. The concept may be retained for the regional government’s general policy framework, but must be expressly separated from the concept of “legal aid recipient,” which should stand as an independent category as intended by Law 16/2011. Second, Article 20 paragraph (2) must be revised to eliminate the concealed domicile requirement embedded in the phrase “from the Village Head or Sub-District Head where the legal aid applicant is domiciled,” replacing it with a more flexible mechanism for demonstrating poverty. Third, the body of the norm should explicitly affirm that legal aid recipient criteria are based solely on economic condition and legal need, without requirements that conflict with higher norms. Warjiyati et al. (2024) remind us that such normative correction constitutes a constitutional obligation of the regulation’s drafter, not merely a discretionary policy choice (Warjiyati et al., 2024).

The second model is horizontal harmonization through inter-regional cooperation. The normative foundation is available in Articles 363 and 364 of Law Number 23 of 2014 on Regional Government. Article 363 paragraph (1) affirms that regions may enter into cooperation based on efficiency and effectiveness of public services. Article 364 paragraph (1) categorizes inter-regional cooperation as mandatory when public service delivery would be more efficient if managed jointly a condition met in an archipelagic region with high cross regional population mobility. Concretely, the mutual recognition mechanism would operate through three components. First, the cooperation agreement would designate poverty certifications *Kartu Keluarga Miskin* or *Surat Keterangan Miskin* issued by competent officials in

the applicant's province of origin as legally equivalent to certifications issued by Riau Islands officials. Second, the agreement would establish a verification protocol enabling legal aid providers in Riau Islands to confirm certificate validity through inter-regional administrative channels or through the Ministry of Home Affairs' national population administration network. Third, financial responsibility for legal aid services extended to non-residents would be allocated through existing inter-regional fiscal transfer mechanisms under Law 23/2014. This framework finds an institutional analogy in cross-regional health service delivery under the national BPJS Kesehatan scheme a workable precedent for service access without local residency requirements.

The third model and the most fundamental is paradigmatic harmonization: a shift in the orientation of regional policy formation from local-wide to nation-wide. Administrative localism as institutionalized in Perda Kepri 3/2017 is not an anomaly. It is a product of a regional autonomy logic that, when not counterbalanced by adequate constitutional awareness, systematically produces exclusive, membership-oriented policies (Bakarbessy, 2012). Regulatory revision alone cannot correct this tendency: without a corresponding shift in value orientation, even revised norms risk implementation with the same exclusionary spirit. At the level of legislative drafting practice, a rights-oriented mindset may be identified through four concrete operational indicators. First, definitional articles should define the subject of service protection by substantive eligibility criteria economic condition, legal need, vulnerability without reference to local residential identity as a constitutive element. Second, evidentiary and procedural articles should explicitly include alternative pathways for persons unable to produce locally-issued documentation. Third, general provisions or considering clauses should affirmatively state the regulation's consistency with national legislation and constitutional rights guarantees, placing the burden of justification on any restriction of access. Fourth, regional governments should proactively consult the national legal aid framework before finalizing regional regulations, rather than treating national standards as minimum baselines subject to unrestricted regional elaboration. Taken together, these indicators operationalize the paradigmatic shift from local constituency service to universal rights fulfillment within the unitary state framework.

Before concluding, a self-reflexive question arising from the study's own analysis merits explicit engagement: is administrative localism as identified in Perda Kepri 3/2017 necessarily a governance pathology, or might some of its manifestations constitute a legitimate consequence of fiscal accountability? The analysis advanced in this article suggests a nuanced answer. Administrative localism, as a category, is not inherently pathological. Regional governments that finance services from their own budgets may have legitimate grounds for establishing local priorities provided such priorities remain proportionate and do not encroach upon rights that national law has constitutionally guaranteed without territorial qualification. The problem in Perda Kepri 3/2017 is not administrative localism as such; it is administrative localism applied to a domain in which the national legislature has already foreclosed the space for territorial restriction. In that specific domain, fiscal accountability cannot serve as constitutional justification for what amounts to a denial of a universally guaranteed right. The analytical distinction this study draws is therefore not between localism as governance pathology and localism as normal administration, but between localism that operates within constitutionally permissible space and localism that operates outside it. Recognizing this distinction preserves the concept's analytical integrity while avoiding the overclaim that all regional differentiation in public service delivery is constitutionally suspect. It also identifies the corrective target with precision: not the elimination of regional fiscal logic, but its confinement to domains where national law permits territorial differentiation.

The projected impact of this three-tier harmonization model extends beyond the correction of Perda Kepri 3/2017 itself. If implemented consistently, the model has the potential to strengthen legal certainty, reduce discriminatory administrative practices, and reinforce the constitutional principle of equal citizenship in decentralized governance. Vertical harmonization would directly eliminate normative inconsistencies within regional regulations, thereby narrowing bureaucratic discretion that enables exclusionary interpretation. Horizontal harmonization through inter-regional cooperation would provide a practical institutional mechanism for protecting highly mobile and vulnerable populations whose legal needs frequently cross administrative boundaries. Meanwhile, paradigmatic harmonization offers a longer-term policy transformation by encouraging regional governments to orient public service regulation toward constitutional rights fulfillment rather than territorial membership protection alone. In this sense, the proposed model is sufficiently robust as a problem-solving framework because it addresses the issue simultaneously at the normative, institutional, and political-policy levels. Nevertheless, its effectiveness will ultimately depend on sustained political commitment, intergovernmental coordination, and supervisory mechanisms from the central government to ensure that regional autonomy operates consistently within constitutional limits and national standards of public service protection.

CONCLUSION

This study concludes that the normative construction of Perda Kepri 3/2017 institutionalizes administrative localism through definitional, substantive-procedural, and institutional mechanisms that indirectly impose local residency requirements on access to legal aid. Such construction generates four cumulative vertical conflicts with higher legal norms: the inclusive definition of legal aid recipients under Law 16/2011, the principle of nationally valid identity documents under the Population Administration Law, the prohibition of KTP-origin discrimination under Presidential Regulation 67/2011, and the principle of equal and non-discriminatory public services under Law 25/2009. Accordingly, the residency-based restrictions embedded in Perda Kepri 3/2017 cannot be constitutionally justified within Indonesia's legislative hierarchy. This study demonstrates that the conflict reflects a broader political-policy problem within decentralized governance. The regulation illustrates how regional autonomy may shift from an instrument for expanding public welfare into a mechanism for protecting territorial and fiscal interests through exclusionary administrative policies. In this context, legal conflict does not stand independently as a purely juridical issue, but represents the outcome of competing policy orientations between constitutional universalism promoted by the central legal framework and localized political preferences emphasizing regional membership and budgetary control. The study therefore argues that administrative localism should be understood not only as a legal defect but also as a manifestation of political policy choices shaping the distribution of rights and public services in Indonesia.

Based on these findings, this study recommends that the Riau Islands Provincial Government immediately revise Perda Kepri 3/2017 by removing domicile-based restrictions, separating the concept of "community" from "legal aid recipient," and establishing inter-regional cooperation mechanisms for cross-regional legal aid access. At the national level, the central government should strengthen supervision and harmonization mechanisms for regional regulations to prevent the emergence of discriminatory public service policies under decentralization. Academically, this study contributes the concept of administrative localism as a political-policy analytical framework for examining how regional governance practices may transform universal constitutional rights into territorially restricted

entitlements. The proposed vertical, horizontal, and paradigmatic harmonization model may therefore serve as a broader evaluative framework for future studies on decentralization, public policy, and constitutional governance in Indonesia.

ACKNOWLEDGEMENT

The authors express their sincere gratitude to all parties who have provided support, guidance, and constructive feedback throughout the preparation of this article. Special appreciation is extended to Universitas Maritim Raja Ali Haji and the Master of Law Program at Universitas Padjadjaran, whose institutional collaboration has been instrumental in the realization of this work. The authors also wish to thank the editorial board of Jurnal Kuasa, Department of Social and Political Sciences, Universitas Jambi, for their assistance in facilitating the publication of this article.

REFERENCES

- Ab. Wahab, A., & Khairi, A. (2020). Right to justice and legal aid barriers to the vulnerable non-citizens in Malaysia. *Geografia: Malaysian Journal of Society and Space*, 16(1), 13–23. <https://doi.org/10.17576/geo-2020-1601-02>
- Amin, C. (2021). Implementation of legal aid for the poor as a form of practicing Pancasila values. *The Indonesian Journal of International Clinical Legal Education*, 3(2), 235–244. <https://doi.org/10.15294/ijicle.v3i2.46172>
- Andhini, A. S. D. (2021). Juridical analysis of legal aid implementation for underprivileged communities: Problems and challenges. *The Indonesian Journal of International Clinical Legal Education*, 3(4), 481–498. <https://doi.org/10.15294/ijicle.v3i4.48272>
- Bakarbesy, L. (2012). Regional autonomy and the pathology of decentralization. [Title translated from Indonesian]. *Criminal Law Policy Review*, 1(1).
- Budijanto, O. W., & Rahmanto, T. Y. (2022). Measuring the quality of legal aid services as the embodiment of access to justice for the poor. *Jurnal HAM*, 13(1), 1–20. <https://doi.org/10.30641/ham.2022.13.1-20>
- Chandranegara, I. S. (2019). Forms of regulatory streamlining and harmonization [Bentuk-bentuk perampingan dan harmonisasi regulasi]. *Jurnal Hukum Ius Qui A Iustum*, 26(3), 435–457. <https://doi.org/10.20885/iustum.vol26.iss3.art1>
- Constitution of the Republic of Indonesia of 1945, Article 28D paragraph (1)
- Ekawati, N. W. S., Samiyono, S., & Widodo Dian, G. (2019). Provision of legal aid for the poor as an implementation of the principle of equality before the law [Pemberian bantuan hukum bagi rakyat miskin sebagai implementasi asas equality before the law]. *Jurnal Surya Kencana Dua: Dinamika Masalah Hukum dan Keadilan*, 6(2), 938–953. <https://doi.org/10.32493/SKD.v6i2.y2019.4001>
- Flora, H. S., Hasnia, H., Lubis, A. F., Sarjono, A., & Puwa, S. I. P. (2024). The role of legal aid institutions in supporting access to justice for underprivileged communities. *Abdimas Indonesian Journal*, 4(2), 143–150. <https://doi.org/10.59525/aij.v4i2.398>
- Gustaf, M. A. M. (2021). Legal aid in Indonesia: Problems and challenges. *The Indonesian Journal of International Clinical Legal Education*, 3(2), 163–172. <https://doi.org/10.15294/ijicle.v3i2.46170>
- Hapsari, J. P. (2021). The poor and justice: Implementation of legal aid for the poor in Indonesia (problems and solutions). *The Indonesian Journal of International Clinical Legal Education*, 3(4), 553–568. <https://doi.org/10.15294/ijicle.v3i4.48274>
- Health Crisis Center, Ministry of Health of the Republic of Indonesia. (2023, August). *Initial information on maritime transportation accident in Batam City, Riau Islands, 15 August 2023*.

- Irfani, N. (2020). The principles of *lex superior*, *lex specialis*, and *lex posterior*: Meaning, problems, and their use in legal reasoning and argumentation [Asas *lex superior*, *lex specialis*, dan *lex posterior*: Pemaknaan, problematika, dan penggunaannya dalam penalaran dan argumentasi hukum]. *Jurnal Legislasi Indonesia*, 17(3), 305–325. <https://doi.org/10.54629/jli.v17i3.711>
- Komisi Nasional Hak Asasi Manusia Republik Indonesia. (2017). *Standard norms and regulation number 2 on the elimination of racial and ethnic discrimination* [Standar norma dan pengaturan nomor 2 tentang penghapusan diskriminasi ras dan etnis]. Komnas HAM RI.
- Law Number 12 of 2011 on the Formulation of Legislation, Article 7 paragraph (1).
- Law Number 16 of 2011 on Legal Aid, Article 1 number 2.
- Law Number 24 of 2013 on Amendments to Law Number 23 of 2006 on Population Administration, Article 1 number 14.
- Law Number 25 of 2009 on Public Services, Article 4 letter g.
- Marzuki, P. M. (2017). *Legal research* [Penelitian hukum] (Revised ed.). Kencana Prenada Media Group.
- Ministry of Marine Affairs and Fisheries of the Republic of Indonesia (KKP RI). (2023). *Marine affairs and fisheries data release, Quarter IV 2022*.
- National Search and Rescue Agency of the Republic of Indonesia (Basarnas RI). (2024). *Ship accident data portal 2022–2024*.
- Presidential Regulation Number 67 of 2011 on the Second Amendment to Presidential Regulation Number 26 of 2009 on the Implementation of the National Identity Card Based on National Population Registration Numbers, Article 10B paragraph (2).
- Regional Regulation of Riau Islands Province Number 3 of 2017 on Legal Aid, Article 1 numbers 5, 6, 7, and 10; Article 20 paragraph (2).
- Sandefur, R. L. (2019). Access to what? *Daedalus: Journal of the American Academy of Arts and Sciences*, 148(1), 49–58. https://doi.org/10.1162/daed_a_00538
- Sari, B. R., & Arifin, R. (2019). Implementation of legal aid for disadvantaged communities in Indonesia [Penerapan bantuan hukum bagi masyarakat kurang mampu di Indonesia]. *Diversi: Jurnal Hukum*, 4(2), 218–236. <https://doi.org/10.32503/diversi.v4i2.415>
- Shucksmith, M., Brooks, E., & Madanipour, A. (2019). Leader and spatial justice. *Sociologia Ruralis*, 59(4), 686–706. <https://doi.org/10.1111/soru.12257>
- Statistics Indonesia – Riau Islands Province (BPS Kepri). (2023). *Migration statistics of Riau Islands Province: Results of the 2020 Population Census Long Form*.
- Statistics Indonesia – Riau Islands Province (BPS Kepri). (2023). *Results of the 2020 Population Census Long Form, Riau Islands Province*.
- Statistics Indonesia – Riau Islands Province (BPS Kepri). (2024). *National Labor Force Survey (Sakernas) August 2024: Raw data on the labor force of Riau Islands Province*.
- Sucipta, P. R., & Edison. (2022). Alternatives to the application of discretion in public service models in archipelagic regions [Alternatif penerapan diskresi dalam model pelayanan publik di daerah yang bercirikan kepulauan]. *Presumption of Law: Jurnal Hukum*, 4(1), 64–82. <https://doi.org/10.31949/jpl.v4i1.2078>
- Tkacheva, N. N. (2022). Non-discrimination in the protection of a violated subjective law. *Russian Journal of Criminology*, 16(3), 375–382. <https://doi.org/10.15405/epsbs.2022.01.99>
- Usfunan, J. Z. (2020). Resolution of norm conflicts between legislative regulations in Indonesia [Penyelesaian konflik norma dalam peraturan perundang-undangan Indonesia]. *Jurnal Magister Hukum Udayana*, 9(4), 1190–1203. <https://ojs.unud.ac.id/index.php/jmhu/article/view/66443>

- Utami, N. A. T., & Nugroho, H. (2023). The urgency of paralegal position in law enforcement in Indonesia through the provision of legal aid. *Proceeding ICMA-SURE*, 3(1), 211–220.
- Utami, N. A. T., Prihatini, T., Darmini, N., & Roestandi, A. (2025). Evaluation of legal aid service quality and supervision in Indonesia and Malaysia. *Journal of Human Rights, Culture and Legal System*, 5(1), 187–216. <https://doi.org/10.53955/jhcls.v5i1.502>
- Waliden, I. A. S., Maulida, S. F., & Rachmatulloh, M. A. (2022). Review of the principle of equality before the law in law enforcement in Indonesia [Tinjauan asas equality before the law terhadap penegakan hukum di Indonesia]. *Verfassung: Jurnal Hukum Tata Negara*, 1(2), 123–142. <https://doi.org/10.30762/vjhtn.v1i2.186>
- Warjiyati, S., Sari, Z. N., Salam, S., & Firdaus, A. A. (2024). Norm clash in lex superior derogate legi inferiori principle's implementation on circular letters and laws. *Reformasi Hukum*, 28(3), 234–248. <https://doi.org/10.46257/jrh.v28i3.732>
- Wibowo, A., & Bangun, M. H. (2021). Legal aid by the state as a constitutional right of the poor: Problems and challenges in Indonesia. *The Indonesian Journal of International Clinical Legal Education*, 3(2), 185–196. <https://doi.org/10.15294/ijicle.v3i2.46176>
- Wulandari, C., Wicaksono, S. S., & Khikmah, U. F. (2019). Paralegal existence in providing access to justice for the poor in Central Java. *IJCLS: Indonesian Journal of Criminal Law Studies*, 4(2), 199–206. <https://doi.org/10.15294/ijcls.v4i2.21878>