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Between Ambition and Caution: Legal and Strategic Review of Government Decision-Making in Infrastructure Projects during Fiscal Crisis

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ABSTRACT

In regional fiscal policy, infrastructure projects are often proposed as long-term solutions to stimulate economic growth and regional development. However, when such projects are promoted under weak fiscal conditions amid declining local revenues and increasing expenditure pressures a strategic and ethical dilemma arises: should governments take the risk in pursuit of development ambition, or adopt a more cautious approach to maintain fiscal sustainability? This paper critically examines government decision-making on infrastructure projects during fiscal crises through legal and strategic policy analysis. Although such decisions may be legally valid, this study argues that there are normative boundaries and public responsibilities that must be upheld, including principles of fiscal prudence, efficiency, and social justice. When these boundaries are disregarded, policies may remain procedurally legal but substantively flawed. By integrating legal reasoning with policy reflection, this paper highlights the need for multidimensional risk evaluation including potential impacts on public services and poverty before such projects are executed. Without reform in governance and decision-making mechanisms, ambitious infrastructure initiatives risk undermining fiscal legitimacy and eroding public trust in regional government.

Keywords: Decision Making; Fiscal Sustainability; Infrastructure Policy; Legal Framework; Public Trust; Social Justice.

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INTRODUCTION

Theoretically and *de jure*, the implementation of fiscal decentralization has shifted budget management from being centralized under the national government to a more decentralized arrangement. Decentralization provides regional governments with the autonomy to manage and control their own finances. The primary objective of this policy is to improve the welfare of local communities through policies that are better aligned with the specific needs and characteristics of each region (Chalid, 2005). This authority is stipulated in Law Number 25 of 1999, which was later amended by Law Number 33 of 2004 along with its implementing regulations. These regulations provide regional governments with the flexibility to determine development priorities and strategies, including the financing of infrastructure projects.

Infrastructure projects are frequently proposed by regional governments as long-term solutions to stimulate economic growth and regional development. Infrastructure is viewed as a growth enabler or a gateway to increased economic activity through improved connectivity, enhanced productivity, and job creation. Under strong fiscal conditions, financing infrastructure projects is relatively manageable and the economic benefits can be realized in the medium to long term.

However, the reality in many regions shows a different picture. Local Own-Source Revenue tends to slow down, dependence on central government transfers remains high, and routine expenditure burdens continue to rise. This situation creates both a strategic and ethical dilemma for regional governments: whether to take the risk of implementing infrastructure projects in pursuit of development ambitions with the hope of increasing future revenue, or to exercise restraint to maintain fiscal sustainability and the quality of public services in the present. On one hand, implementing infrastructure projects has the potential to increase regional revenue if successful, but on the other hand, forcing such projects during periods of fiscal weakness may disrupt financial stability and place additional strain on future budgets.

To date, most studies on infrastructure development have focused on technical and economic aspects such as project planning, budgeting mechanisms, or projections of financial benefits. Meanwhile, discussions that integrate legal analysis with strategic policy evaluation, particularly in the context of regional fiscal crises, remain limited. In fact, development decisions based solely on procedural legality without considering the principles of fiscal prudence, efficiency, and social justice risk producing policies that are legally valid but substantively flawed.

Therefore, although *de jure* decentralization grants regional governments full authority to determine their development priorities, public policy considerations must remain paramount. Infrastructure development should also take into account its social impact on communities, including the potential decline in the quality of public services, the widening of social inequalities, and fiscal vulnerabilities that could undermine public trust in regional government.

Based on this background, this paper aims to analyze the decision-making of regional governments in implementing infrastructure projects under fiscal pressure, using a legal and public policy analysis approach. This study highlights the importance of multidimensional risk evaluation that takes into account the impact on public services, poverty alleviation, and the fiscal legitimacy of the region.

LITERATURE REVIEW

Legal Framework of Fiscal Decentralization in Indonesia

The reform of fiscal decentralization in Indonesia began with Law No. 25 of 1999 concerning the Fiscal Balance between the Central and Regional Governments, which was later updated by Law No. 33 of 2004. This regulation serves as the foundation for allocating authority over regional financial management and establishes the principles of money follows function, proportionality, transparency, and fiscal accountability. According to the Ministry of Finance (Kementerian Keuangan Republik Indonesia, 2021), while decentralization provides decision-making flexibility, it also creates challenges in the form of high dependence on central government transfers and weak regional fiscal capacity.

In the context of administrative law, this framework grants legal authority for regional governments to set development priorities, including infrastructure. However, as emphasized by (Allen and Tommasi, 2001) in *Managing Public Expenditure*, the authority to undertake public spending must be accompanied by mechanisms for controlling fiscal risks to avoid threatening budget sustainability. This means that the fiscal rule of law not only concerns procedural legality but also entails a substantive obligation to ensure that regional expenditures align with the principle of fiscal prudence.

Infrastructure as a Growth Enabler and Fiscal Risk Challenges

Development economics literature generally views infrastructure as a catalyst for economic growth through improved connectivity, productivity, and employment opportunities. However, IMF reports on fiscal decentralization in Indonesia indicate that the success of infrastructure projects is highly dependent on the initial fiscal conditions of the region. When local own-source revenue declines and the burden of recurrent expenditure increases, infrastructure financing can lead to prolonged deficits.

(The OECD, 2019) in *Managing Corruption and Fraud Risks in Infrastructure Projects* stresses that infrastructure risks are not limited to technical and financial aspects but also include integrity, transparency, and their impact on public services. Similarly, the (Inter-American Development Bank, 2024) in *Transparency and Integrity Principles in Infrastructure* introduces governance standards that combine legal aspects, risk management, and the safeguarding of public interest, all of which must be embedded before the commencement of a project.

Procedural Legality versus Substantive Legitimacy

One of the major debates in legal literature concerns the distinction between legality and legitimacy. (Fuller, 1969) in *The Morality of Law* outlines eight principles of the inner morality of law, such as clarity, consistency, and openness, which are essential for a legal rule to function justly. However, compliance with these principles does not automatically guarantee the substantive justice of a policy.

(Waldron, 2006) argues that the legitimacy of public policy is determined not only by adherence to legal procedures but also by public acceptance of the policy's impacts. In the context of infrastructure, this means that while a development decision may be lawful, it can still be substantively flawed if it ignores social justice principles, undermines fiscal sustainability, or harms public services.

Social Justice Perspective in Fiscal Decision-Making

(Rawls, 1999) theory of justice, particularly the difference principle, provides a normative framework stating that public policy should improve the position of the least advantaged groups. In the context of regional infrastructure projects, policy evaluation should not only focus on return on investment but also consider the potential impacts on equitable access to public services, poverty reduction, and social inequality.

This perspective is particularly important given that World Bank reports on decentralization in developing countries reveal that infrastructure development concentrated only in growth centers often widens interregional disparities. Therefore, the principle of social justice should be adopted as a normative constraint in fiscal decision-making.

Gaps in the Literature and Relevance of This Study

Most literature on infrastructure in Indonesia continues to focus on technical aspects such as project planning and budgeting as well as economic benefits such as growth and job creation. Discussions integrating legal analysis with strategic policy evaluation, especially in the context of regional fiscal crises, remain relatively limited. As demonstrated in OECD and IDB guidelines, the integration of these two perspectives is essential to prevent policies that are legally valid but substantively flawed.

This study fills that gap by combining legal reasoning, fiscal governance principles, and public policy risk analysis. Its focus is on the normative constraints that local governments must uphold when facing the dilemma between development ambitions and fiscal sustainability, as well as the implications for legitimacy and public trust.

RESEARCH METHOD

This study employs a normative juridical approach combined with public policy analysis to examine the legal framework and policy implications of fiscal decentralization and infrastructure development at the regional level in Indonesia. The normative juridical method is used to analyze statutory regulations, legal doctrines, and principles of fiscal governance that define and limit the authority of local governments in infrastructure decision-making. Public policy analysis is incorporated to evaluate the strategic consequences of these decisions, particularly regarding fiscal sustainability, social justice, and public legitimacy.

The research utilizes secondary data obtained from three main sources. Primary legal materials include national laws and regulations related to fiscal decentralization, regional financial management, and infrastructure procurement. Secondary legal materials consist of scholarly literature, academic journals, and reports from reputable international institutions such as the OECD, IMF, World Bank, and IDB. Tertiary legal materials, including legal dictionaries and encyclopedias, are used to refine the conceptual framework and ensure terminological accuracy.

Data collection is conducted through library research, which involves identifying, compiling, and reviewing relevant legal documents, policy reports, and scholarly works. This process ensures a comprehensive understanding of both the legal and policy dimensions of the issue.

Data analysis is carried out using a qualitative method with two key stages. The normative analysis examines the alignment of regional infrastructure policies with principles of administrative law, fiscal governance, and distributive justice. The evaluative analysis assesses the potential policy risks from fiscal, social, and legitimacy perspectives, identifying conditions under which policies may be legally valid but substantively flawed.

RESULTS

Principles of Regional Financial Management under Indonesian Law

The legal framework governing regional financial management in Indonesia is primarily regulated under Law No. 17 of 2003 on State Finance and Law No. 23 of 2014 on Regional Government. These two regulations serve as the juridical foundation for regional governments in planning, implementing, and accounting for regional budgets.

Article 3 paragraph (1) of Law No. 17 of 2003 stipulates: *"State finances shall be managed in an orderly manner, in compliance with statutory regulations, efficiently, economically, effectively, transparently, and responsibly, while taking into account a sense of justice and propriety."*
From this provision, several key principles can be identified as inherent in the management of budgets by regional governments.

Table 1. Principles of Public Financial Management in Article 3(1) of Law No. 17/2003

Principle	Definition According to Legal Sources
Orderliness	*Orderly; regular; consistent with rules or regulations.* According to Black's Law Dictionary, "orderly" refers to a condition that conforms to applicable rules and is free from disorder.
Obedience to Laws	*Obedience; compliance with law.* "Compliance" is defined as the act of adhering to applicable legal provisions, rules, or orders.
Efficiency	*Efficiency: The ability to accomplish a job with a minimum expenditure of time and effort.* This means the optimal use of resources to achieve the best results with minimal sacrifice.
Economy	*Economical: Using resources with prudence and without waste.* Defined as the prudent or non-wasteful use of public funds.
Effectiveness	*Effective: Producing the intended or expected result.* This means an action is able to achieve the intended objectives.
Transparency	*Transparency: Openness; full disclosure.* Defined as the openness of the government in providing access to information so that the public can exercise oversight.
Accountability	*Accountability: The state of being answerable or liable.* Refers to the obligation of public officials to account for every action, use of funds, and decision to both the law and the public.
Justice	*Justice: The constant and perpetual disposition to render every man his due.* This refers to the moral and legal principle of granting each person their rights proportionally.
Propriety	*Propriety: Fitness; appropriateness; conformity with what is considered right or proper.* Refers to the alignment of actions with prevailing norms of decency and ethics.

Based on the table, it is evident that the legal framework emphasizes the importance of the principles of accountability, efficiency, effectiveness, transparency, and sustainability. This indicates that, normatively, every regional development decision, including large-

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scale infrastructure projects, is bound by clear legal limitations.

and Ethical Dilemmas in the Decline of Regional Original Revenue (PAD) and Infrastructure Development

Several regions in Indonesia are experiencing a slowdown or even a decline in Regional Original Revenue (PAD). At the same time, dependence on fiscal transfers from the central government is increasing, while routine regional expenditures continue to rise. This situation creates a strategic and ethical dilemma for local governments: should they continue investing in new infrastructure projects with the hope of increasing PAD in the future, or exercise restraint to maintain fiscal sustainability and the quality of public services today?

Table 2. Data on the Decline of Regional Original Revenue (PAD) in Several Regions (2023–2025)

Region	Period	PAD Decline
South Tapanuli Regency	2025 (up to July)	PAD decreased by 41.43% YoY (from Rp119.72 billion to Rp90.29 billion)
Ogan Ilir Regency	2025 (up to August)	PAD decreased by 9.99% YoY (from Rp239.68 billion to Rp62.65 billion)
Sarolangun Regency	2024	PAD decreased by approximately Rp4.7 billion from taxes, retributions, and other revenues
Kebumen Regency	2021–2024	PAD increased in 2021–2022 but declined in 2023 (from Rp512.5 billion to Rp463.7 billion)

Source: Databook Regional Fiscal

Table 2 demonstrates how declining PAD varies across regions and highlights the fiscal pressures that local governments face. When PAD declines while routine expenditures rise, local governments confront a decision-making dilemma: pursue ambitious infrastructure projects to boost future revenue, or prioritize fiscal prudence and social responsibility to protect essential public services.

A Multidimensional Approach to Decision-Making in Infrastructure Projects

Table 3. Gap between Economic and Legal Assessments in Infrastructure Projects

Region / Project Type	Economic Assessment Focus	Legal Assessment Focus	Notes
General Infrastructure Projects in Indonesia	High – cost-benefit analysis, ROI, productivity, employment	Low – legal compliance rarely analyzed, regulatory risks underexplored	Most projects include detailed financial feasibility but minimal legal scrutiny
Road Construction Projects	High – traffic improvement, trade facilitation	Very Low – limited evaluation of regulatory procedures or fiscal prudence	Legal review often limited to permit acquisition

Public Facility Development	Moderate – expected social and economic benefits	Very Low – rarely assesses statutory obligations or accountability principles	Focus primarily on economic justification
Large-Scale Investment Projects	High – investment attraction, multiplier effects	Low – legal frameworks, normative boundaries, and public accountability often overlooked	Potential risk of legally valid but substantively flawed policies

Source: Authors' compilation based on literature review and empirical observations (OECD, IDB, IMF reports; Indonesian APBD project documentation 2019–2023)

Table 3 highlights a significant gap between economic and legal assessments in infrastructure projects across various regions in Indonesia. Most infrastructure projects, including road construction, public facilities, and large-scale investments, focus on economic analysis such as cost-benefit, productivity, return on investment, and multiplier effects. These evaluations generally consider medium- to long-term economic impacts, including job creation and the expansion of the local economic base.

However, legal and regulatory aspects are often overlooked or treated merely procedurally. Evaluations regarding legal compliance, normative boundaries, principles of accountability, fiscal prudence, and social impact on the public rarely form an integral part of the planning and decision-making process. This situation has the potential to produce policies that are legally valid but substantively flawed.

Table 4. Public Trust Index in Local Governments

Region	Public Service Rating	Public Trust Level	Notes
West Java	Excellent	High	Citizens are satisfied with service quality and transparency
East Java	Excellent	High	Focus on public service efficiency and digital innovation
Yogyakarta Special Region	Excellent	High	Citizen participation-based service programs implemented
South Sumatra	Excellent	Medium-High	Some infrastructure projects running smoothly
South Kalimantan	Excellent	Medium-High	Improvements in administrative services and information disclosure
Central Java	Excellent	High	Public service performance supported by internal oversight
DKI Jakarta	Excellent	High	Digital public services facilitate citizen access

Source: (Indikator Politik Indonesia, 2024)

This data highlights the strong relationship between the quality of public services, compliance with regulations, and public trust in local governments, while also emphasizing the importance of a multidimensional governance approach in managing public projects and fiscal responsibilities. If local governments fail to consider legal principles, transparency, and social impacts in the planning and implementation of infrastructure projects, public trust may decline. Abandoned or poorly managed infrastructure projects, misallocated funding, or neglect of basic public services can create negative perceptions, undermine government legitimacy, and weaken public support for development policies.

DISCUSSION

The findings of this study highlight the complex interactions between the legal framework, fiscal governance, and public policy in local government decision-making concerning infrastructure projects. Based on Table 1, several legal principles act as normative constraints for local governments in managing public finances, namely orderly administration, compliance with laws and regulations, efficiency, economy, effectiveness, transparency, and accountability. These principles not only establish procedural legality but also provide a substantive foundation to ensure public expenditure aligns with fiscal prudence and public interest.

The principle of orderly administration requires that local financial management be conducted systematically, consistently, and according to established procedures. According to Black's Law Dictionary (Garner, 2019), orderly administration means that activities are conducted with regularity and do not conflict with prevailing legal norms. This principle prevents arbitrary actions and creates legal certainty for fiscal decision-making. (Allen and Tommasi, 2001) emphasize the importance of internal control mechanisms in public expenditure to ensure compliance with established procedures, which is particularly relevant in the context of fiscal decentralization in Indonesia.

The principle of compliance with laws and regulations emphasizes that all budget management must adhere to the existing legal framework. Beyond Law No. 17 of 2003 on State Finance and Law No. 23 of 2014 on Local Government, other relevant regulations include:

- Law No. 25 of 2009 on Public Services, which stipulates that budgets should support quality public services that meet community needs;
- Law No. 30 of 2014 on Public Administration, governing the procedures for clean and accountable public administration, including financial management;
- Law No. 28 of 2002 on Public Buildings and Infrastructure, which mandates that local governments plan infrastructure projects with attention to safety, sustainability, and social impact;
- Law No. 6 of 2014 on Villages, which sets limits on budget utilization according to local development priorities.

These laws operationalize the broader constitutional rights and obligations enshrined in the 1945 Constitution of the Republic of Indonesia, which establish that the state is responsible for the management of public finance in a transparent, accountable, and fair manner. Citizens have a constitutional right to access quality public services, and local governments are obliged to utilize budgets not only for administrative purposes but to guarantee welfare, safety, and social justice.

The principles of efficiency and economy require the use of minimal resources to achieve maximum results, while effectiveness ensures that budgets achieve their intended objectives. (Chalid, 2005) notes that many local governments face dilemmas when local revenue slows and central transfers are limited; decisions to invest in infrastructure must consider the risk that large expenditures could compromise the ability to deliver essential public services effectively.

The principle of transparency emphasizes open access to information so that citizens can assess local government decisions. Accountability requires officials to answer for every public spending decision to the public and oversight institutions. (Behn, 2001) highlights that democratic accountability involves three dimensions: outcomes, process, and legitimacy, all relevant to avoiding policies that are legally valid but substantively flawed.

This legal framework provides normative guidance enabling local governments to:
1. Make decisions that are both legally and ethically sound;
2. Balance infrastructure development ambitions with fiscal sustainability;
3. Ensure that every project enhances community welfare, not merely short-term economic growth.

Multidimensional Approach in Infrastructure Project Decision-Making

As shown in Table 3, many infrastructure projects across Indonesian regions tend to focus primarily on economic considerations such as cost-benefit analysis, productivity, return on investment, and multiplier effects. While these evaluations are essential to ensure that projects generate financial benefits and stimulate local economic growth, findings indicate that legal and regulatory approaches are rarely given serious attention. In many cases, project decisions may be procedurally valid, but they seldom consider the normative limits explicitly outlined in laws governing financial management and public interest.

This raises a critical question: does procedural legality automatically guarantee substantive compliance with principles such as accountability, transparency, fiscal prudence, and public welfare protection? Administrative law doctrine and public governance literature emphasize that procedural legality alone is insufficient. As (Waldron, 2006) argues, the legitimacy of public policy must include societal acceptance of the policy's impact, meaning decisions focused solely on economic considerations risk producing legally valid but substantively flawed outcomes.

Moreover, integrating legal principles into infrastructure planning is not merely a formality. Principles such as orderliness, compliance with laws and regulations, efficiency, economy, effectiveness, transparency, and responsibility as articulated in Law No. 17 of 2003 and Law No. 23 of 2014 provide clear normative constraints for local governments. For instance, the principle of orderliness requires budget management to be systematic and consistent, preventing arbitrary decisions, while transparency and accountability emphasize the need for tangible public reporting and oversight.

Therefore, although infrastructure projects may increase local revenue (PAD) and stimulate short-term economic growth, neglecting legal frameworks and fiscal governance principles can create significant risks:
1. Social harm and unequal public service distribution, as budget allocations for urgent community needs may be reduced to accommodate development ambitions.
2. Erosion of legitimacy and public trust, as seen in stalled projects and public perception of local service quality.
3. Fiscal vulnerability, since large expenditures on infrastructure without adherence to fiscal prudence principles can result in budget deficits or excessive dependence on central transfers.

Thus, a multidimensional approach that integrates economic, legal, fiscal governance, and social impact considerations becomes essential. This ensures that projects are not only legally compliant but also equitable, sustainable, and substantively enhance public welfare.

Public Policy Risk Analysis: Fiscal, Social, and Legitimacy Dimensions

Infrastructure projects, while aimed at boosting local economic growth, carry significant policy risks if not evaluated through a multidimensional lens. Empirical data from several Indonesian provinces indicate that high infrastructure spending does not automatically translate into improved welfare outcomes and may, in fact, exacerbate social and fiscal risks.

For example, Table 4 illustrates the relationship between local government spending priorities and poverty rates:

Region	Social Spending (% of Budget)	Infrastructure Spending (% of Budget)	Poverty Rate (%)
West Java	36	24	9.0
Central Java	32	28	10.2
East Java	34	26	9.5
Jakarta	40	20	5.5

Source: (Badan Pusat Statistik (BPS), 2023-2025), Provincial APBD Reports

The data suggests a clear pattern: provinces that prioritize social spending alongside infrastructure investment tend to maintain lower poverty rates. Conversely, regions with relatively low social spending despite high infrastructure allocations—show higher poverty levels, highlighting the potential social trade-offs of infrastructure-focused strategies.

Further, the Public Trust Index indicates that delays or mismanagement in infrastructure projects, particularly those funded by local budgets (PAD), directly affect citizen confidence in local government. Stalled projects, lack of transparency in budget allocation, and neglect of normative legal principles can undermine public trust, even if projects are technically legal.

CONCLUSION

This study highlights the intricate interplay between legal frameworks, fiscal governance, and public policy in the context of regional infrastructure development in Indonesia. Key findings can be summarized as follows:

1. Legal and Normative Constraints
   Regional financial management is guided by clear legal principles such as orderliness, compliance with laws, efficiency, economy, effectiveness, transparency, accountability, justice, and propriety. These principles establish both procedural and substantive limitations, ensuring that infrastructure projects align with fiscal prudence, public welfare, and legal compliance.
2. Fiscal and Strategic Dilemmas
   Declining Regional Original Revenue (PAD) combined with rising routine expenditures creates a tension for local governments. While infrastructure projects may stimulate future revenue, they also carry risks of diverting funds from essential public services, potentially undermining social welfare and fiscal sustainability.
3. Economic vs. Legal Assessment Gap
   Most infrastructure projects in Indonesia focus primarily on economic evaluations, such as cost-benefit analysis and return on investment. Legal compliance and normative considerations are rarely systematically incorporated, which can result in policies that are legally valid but substantively flawed.
4. Social and Public Trust Implications
   Empirical evidence indicates that project prioritization impacts poverty reduction and public trust. Regions balancing social and infrastructure spending maintain lower poverty levels and higher public confidence. Conversely, neglecting legal principles and social

considerations can erode legitimacy, exacerbate inequalities, and weaken citizen trust in local governance.

5. Multidimensional Decision-Making Imperative
Integrating economic, legal, fiscal, and social considerations is crucial for sustainable infrastructure development. Such a multidimensional approach ensures projects are not only financially and legally sound but also equitable, socially responsible, and capable of enhancing long-term public welfare.

Overall, regional governments must adopt a governance strategy that goes beyond procedural legality, incorporating ethical, fiscal, and social dimensions into infrastructure planning. By doing so, local administrations can balance developmental ambitions with fiscal responsibility, ensure accountability, and maintain public trust while advancing sustainable regional growth.

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