

Tension Between Central and Regional Authority: A Normative Legal Analysis Post-Job Creation Law

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Abstract

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Regional autonomy in Indonesia is guaranteed by Article 18 of the 1945 Constitution (*Undang-Undang Dasar 1945/UUD 1945*), granting the widest possible authority for regions to regulate and manage their own affairs, except for matters under the authority of the central government. Law No. 23 of 2014 regulates the division of governmental affairs into absolute, concurrent, and general categories. However, the dominance of central technical regulations, multiple interpretations of concurrent affairs, and limited regional participation often hinder policy innovation at the local level. Following the enactment of Law No. 11 of 2020 on Job Creation, regional authority in licensing, spatial planning, and other strategic sectors has been significantly reduced. The lack of synchronized coordination across governmental levels frequently results in project delays and potential social conflicts. This study employs a normative juridical method to analyze central–regional dynamics, assess power imbalances, and formulate recommendations for strengthening regional autonomy. Findings highlight the need for binding coordination mechanisms and clearer regulations to maintain a balance between central government effectiveness and regional independence.

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1. Introduction

Regional autonomy is one of the important pillars in Indonesia's constitutional system, explicitly recognized in Article 18 of the 1945 Constitution of the Republic of Indonesia (UUD 1945). This article affirms that every region has the right, authority, and responsibility to regulate and manage government affairs within its own territory, except for affairs that are explicitly the authority of the central government. This principle is the foundation for the implementation of decentralization, which is expected to bring services closer to the community, encourage public participation, and create a balance of development among regions. The implementation of regional autonomy is further regulated in Law Number 23 of 2014 concerning Regional Government. This regulation divides government affairs into three main categories, namely absolute affairs, concurrent affairs, and general affairs.¹ Absolute affairs are entirely in the hands of the central government, such as defense, security, foreign policy, monetary policy, and the judiciary.

Concurrent affairs are divided between the central and regional governments, while general affairs are the authority of the President as head of government that do not fall into the previous two categories. This division is theoretically expected to create clarity of authority, but in practice, it often leads to problems. One of the main problems that arises is the dominance of technical regulations from the central government. Many regulations are made in detail by central ministries or institutions,

¹ Jens Hagelstein, Sabine Einwiller, and Ansgar Zerfass. "The ethical dimension of public relations in Europe: Digital channels, moral challenges, resources, and training." *Public Relations Review* 47, no. 4 (2021): 102063.

which limits the space for regional policy innovation.² In addition, multiple interpretations of concurrent affairs often lead to a narrowing of regional authority. The lack of clarity in these boundaries of authority can be exploited by the central government to expand its intervention in affairs that should be the domain of the region. As a result, the autonomy promised by the constitution cannot be fully realized.

The limited participation of regions in the process of drafting strategic policies is also a problem in itself. These obstacles can stem from a lack of access to information, low public awareness, the dominance of certain groups in the decision-making process, and administrative constraints such as weak information systems and a lack of human resource capacity. This condition has an impact on the low quality of regional policies that should be more responsive to local needs. The situation becomes even more complex after the birth of Law Number 11 of 2020 concerning Job Creation. Through this law, a number of authorities previously held by regions, such as business licensing, spatial planning, and certain strategic sectors, were taken over by the central government. This change was made under the pretext of accelerating investment and creating a conducive business climate. However, from the perspective of regional autonomy, this policy raises concerns about the further narrowing of the space for regional governments to regulate their domestic affairs.

² Jose-Luis Hervas-Oliver, Gregorio Gonzalez-Alcaide, Ronald Rojas-Alvarado, and Silvia Monto-Mompo. "Emerging regional innovation policies for industry 4.0: analyzing the digital innovation hub program in European regions." *Competitiveness Review: An International Business Journal* 31, no. 1 (2021): 106-129.

The inconsistency between central and regional policies is a frequent phenomenon. Differences in priorities, planning, and regulations can cause delays in the implementation of development programs, and even trigger social conflicts at the local level. One of the main causes is the absence of a binding cross-level government coordination mechanism, so that each party acts with its own interests. These problems indicate that the relationship of authority between the central and regional governments in Indonesia still faces serious challenges. In this context, a normative juridical study becomes important to critically examine how constitutional provisions and laws are implemented in practice, and to what extent existing regulations are able to guarantee a balance between the effectiveness of the central government and regional independence. This research focuses on analyzing the tension of authority between the central and regional governments, especially in the context of the post-enactment of the Job Creation Law. The aim is to identify the root causes of the problem, evaluate the impact of legal arrangements on regional autonomy, and formulate policy recommendations that can strengthen decentralization without sacrificing national stability. With a normative juridical approach, this research is expected to make both a theoretical and practical contribution to the development of harmonious and just governance.

2. Literature Review

Studies on the relationship of authority between the central and regional governments in Indonesia have been a widely discussed topic in the literature of constitutional law and public administration. Theoretically, the basis for the

regulation of regional autonomy in Indonesia refers to Article 18 of the 1945 Constitution, which recognizes and guarantees the right of regions to regulate and manage their own households. According to Zhu and Zhao,³ this article reflects the principle of decentralization which is one of the important foundations for a modern unitary state. However, its implementation is not free from certain restrictions regulated by law, in order to maintain national integration. Law Number 23 of 2014 concerning Regional Government is the main legal instrument that regulates the division of government affairs into three categories: absolute affairs, concurrent affairs, and general affairs. Rawat,⁴ emphasizes that this division is intended to prevent overlapping authorities and ensure clarity of functions between levels of government. However, practice in the field shows the dominance of technical regulations from the central government that limit the movement of regions.

The phenomenon of multiple interpretations of concurrent affairs has become one of the root causes of the tension in central-regional relations. The lack of clarity in the definition and criteria of concurrent affairs allows the central government to expand its intervention, thereby reducing the essence of autonomy. This condition is exacerbated by the limited participation of regions in the process of drafting national strategic policies, which is often caused by structural obstacles and weaknesses in administrative capacity. The birth of Law Number 11 of 2020 concerning Job Creation adds to the complexity of this authority relationship.

³ Zhu, Xufeng, and Hui Zhao. "Experimentalist governance with interactive central–local relations: Making new pension policies in China." *Policy Studies Journal* 49, no. 1 (2021): 13–36.

⁴ Pragati Rawat. "A systematic review of multiple terminologies for ICT in government: A mesh of concentric and overlapping circles." *Bulletin of Science, Technology & Society* 40, no. 1-2 (2020): 3–14.

Several studies, such as those conducted by Talitha et al.⁵ show that the centralization of authority in business licensing and spatial planning can accelerate investment, but on the other hand, it reduces the role of regional governments in managing local resources and development policies. This raises the risk of marginalizing local interests in the national decision-making process.

From a constitutional law perspective, the relationship between the center and the regions must be placed within a framework of functional equality, where the central government acts as a macro policy director and the regions act as implementers who are adaptive to local conditions. Sawiftri et al.⁶ asserts that the success of regional autonomy is highly dependent on a proportional balance between regional independence and central control. Therefore, the literature emphasizes the importance of a binding coordination mechanism as an instrument to prevent policy disharmony and potential social conflicts. From the various findings in the literature, it can be concluded that the main problem of the central-regional authority relationship in Indonesia lies in the inconsistent implementation of the principle of autonomy guaranteed by the constitution, the lack of clarity in technical regulations, and the weak coordination mechanism.

⁵ Tessa Talitha, Tommy Firman, and Delik Hudalah. "Welcoming two decades of decentralization in Indonesia: a regional development perspective." *Territory, Politics, Governance* 8, no. 5 (2020): 690-708.

⁶ Ni Putu Yuliana Ria Sawitri, Luh Putu Virra Indah Perdanawati, Ni Nyoman Sudiyani, and Made Setini. "Local revenue and financial independence on economic growth through capital expenditure." *Jurnal Ekonomi* 25, no. 2 (2020): 320-336.

3. Method

This research uses a normative juridical method that focuses on the study of valid positive legal norms, both in the form of laws and regulations, doctrines, and relevant court decisions. The normative juridical approach was chosen because this research aims to analyze the constitutional provisions and laws related to the relationship of authority between the central and regional governments, and to examine the legal implications of regulatory changes after the enactment of Law Number 11 of 2020 concerning Job Creation. Thus, this research not only discusses the legal text formally, but also considers the legal interpretations that are developing in the practice of Indonesian state administration.

The data sources used in this study include primary, secondary, and tertiary legal materials. Primary legal materials include the 1945 Constitution, Law Number 23 of 2014 concerning Regional Government, Law Number 11 of 2020 concerning Job Creation, as well as their implementing regulations. Secondary legal materials consist of constitutional law literature, previous research findings, scientific articles, and the opinions of experts relevant to the research topic. Tertiary legal materials are in the form of legal dictionaries, encyclopedias, and other supporting sources that help clarify the meaning of the legal terms used like Google Scholar, Elsevier or Researchgate. The analysis in this study was conducted through legal interpretation methods to understand the intent and scope of the regulation of central and regional authority. The interpretation approach includes grammatical interpretation to understand the meaning of legal language in the text of the regulation, systematic interpretation to see the relationship between norms in the legal system, and

historical interpretation to trace the background of the formation of the rules. In addition, teleological interpretation is also used to identify the purpose of the lawmakers, especially related to decentralization and regional autonomy.

The analysis process is carried out qualitatively by examining the relationship between the valid legal norms and the reality of their application in the field. This research also uses a limited comparative study to see the practice of regulating regional autonomy in other countries as a consideration for formulating policy recommendations. The results of this analysis are then compiled in the form of a logical and structured legal argument, so as to provide a clear picture of the problems and solutions offered. With this normative juridical method, the research is expected to provide a comprehensive understanding of the dynamics of central-regional authority relations, identify the potential for regulatory disharmony, and formulate recommendations for strengthening coordination mechanisms and the implementation of regional autonomy that is in line with the principles of a unitary state and the mandate of the constitution.

4. Results

4.1. Dynamics of Authority between Central and Regional Governments

Post-Law No. 23 of 2014

The implementation of regional autonomy in Indonesia has undergone a very significant change since the enactment of Law Number 23 of 2014 concerning Regional Government. This law explicitly divides government affairs into three main categories, namely absolute affairs, concurrent affairs, and general affairs. Absolute

affairs cover strategic fields that are entirely the authority of the central government, such as state defense, national security, foreign policy, monetary policy, and the judiciary. Concurrent affairs are further divided into mandatory affairs and optional affairs, the implementation of which can be regulated by regional governments according to the needs, characteristics, and capacity of each region. Meanwhile, general affairs are closely related to the authority of the President as head of government, which transcends administrative boundaries and has a wider scope of interest.

Although normatively this division is intended to create clarity of authority, avoid overlapping, and ensure a proportional division of roles, the reality in the field shows that its implementation often gives rise to quite complex problems.⁷ One of the main obstacles faced is the dominance of technical regulations by ministries or institutions at the central level, which indirectly limits the space for regional governments. Implementing regulations prepared by the central government often regulate in detail the technical implementation of regional authority, so that the space for policy innovation at the local level becomes limited. This condition is clearly contrary to the spirit of decentralization mandated by the 1945 Constitution, which should give regions the flexibility to regulate policies according to the needs and potential of their respective regions.

Another problem that is no less crucial is the multiple interpretations in the regulation of concurrent affairs. The lack of clarity in the boundaries of authority in

⁷ Huw Roberts, Alexander Babuta, Jessica Morley, Christopher Thomas, Mariarosaria Taddeo, and Luciano Floridi. "Artificial intelligence regulation in the United Kingdom: a path to good governance and global leadership?." *Internet Policy Review* 12, no. 2 (2023): 1-31.

a number of government fields allows the central government to expand its intervention in affairs that should be the domain of the region. For example, in the management of natural resources, the central government often takes over authority for reasons of national interest, even though the law actually gives space for regions to manage this potential according to local characteristics and the needs of their communities. Situations like this give rise to political and administrative friction between the center and the regions, which in turn has implications for the slow decision-making process and the hampered implementation of development programs in various sectors.

In addition, the limited participation of regional governments in the drafting of strategic policies at the national level is also a factor that hinders the effectiveness of regional autonomy. The policy formulation process is often carried out with a top-down approach without involving the regions adequately. This obstacle is further exacerbated by the lack of human resource capacity in the regions, weak government information systems, and limited access to national planning data and documents that should be a reference. As a result, the resulting policies are often irrelevant to local needs, less responsive to specific problems in the regions, and even have the potential to cause a mismatch between national development plans and regional development priorities.

The inconsistency of policies between the central and regional governments further complicates the existing authority relationship. Differences in development priorities, differences in regulatory interpretation, and delays in planning synchronization can lead to various consequences, such as delays in strategic

projects, budget waste, and in some cases, trigger the potential for social conflict at the local level. The absence of a binding cross-level government coordination mechanism worsens the situation, because each party tends to maintain its own interests without a clear and structured framework for cooperation.

The results of the analysis of the implementation of Law No. 23 of 2014 show that although the legal framework has regulated the division of authority in a detailed and specific manner, its implementation still faces serious obstacles. These obstacles mainly stem from central dominance in technical regulations, multiple interpretations of concurrent affairs provisions, limited regional participation in strategic policy processes, and weak coordination mechanisms that have binding legal force. This condition indicates an urgent need to strengthen the principles of regional autonomy through regulatory revision, increasing the capacity and quality of governance at the regional level, and establishing a formal coordination forum that is binding and has legal legitimacy to ensure synergy between the central and regional governments to achieve inclusive and just national development goals.

4.2. Impact of Law No. 11 of 2020 on Job Creation on Regional Autonomy

The ratification of Law Number 11 of 2020 concerning Job Creation brought about a very fundamental and significant change in the governance of authority between the central government and regional governments in Indonesia. One of the most prominent aspects that has attracted a lot of attention is the transfer of some regional authority, especially related to business licensing, spatial planning, and natural resource management, to the central government. This strategic step is based on the main argument that the centralization of authority will be able to accelerate

the licensing process, create more solid legal certainty for investors, and encourage national economic growth to be more equitable and sustainable.

However, when viewed from the perspective of implementing the principles of regional autonomy, this policy raises a number of reasonable concerns related to the increasingly narrowing space and flexibility for regional governments to determine the direction of their own regional development according to local characteristics and priorities. As a very clear example, the authority for licensing in the mining, forestry, and fisheries sectors, which was previously legally at the provincial or district/city government level, has now been largely transferred and controlled directly by the central government.⁸ This change has a real impact on the reduced opportunities for regions to independently optimize their local economic potential, as well as manage environmental sustainability in accordance with the needs, interests, and aspirations of the local community who best understand the conditions of their region.

In addition to the reduction of authority, the Job Creation Law also raises new and quite complex problems, especially related to the harmonization and synchronization of regulations. The implementing regulations issued after the enactment of this law are often not fully in sync with various regional regulations that have existed before. As a result, this condition triggers confusion and uncertainty in the implementation of policies in the field. In many cases, regional governments are faced with a difficult dilemma, which is between having to comply

⁸ U. M. T. Press. "Ecological Idealism in the Regulation of Tin Mining in Bangka Belitung: Reasoning About Crucial Articles." *Journal of Sustainability Science and Management* 18, no. 9 (2023): 17-37.

with the new central regulations or maintaining regional regulations that have been adjusted to local conditions, needs, and interests.

From the perspective of inter-level government relations, the centralization of authority implemented through the Job Creation Law tends to shift the pattern of relationships from one that was originally a relatively equal partnership to a subordinate relationship pattern that places regional governments more as mere implementers of central policy. The center now has greater and more dominant control over affairs that were previously concurrent or divided, so that the role of the region becomes more limited to just operational technical functions. This condition has the great potential to weaken the principle of local democracy which is one of the spirits of regional autonomy, while also reducing the community's sense of ownership over the direction and content of development policies in their own regions.

The inconsistency of policies as a result of the change in authority also has a direct impact on the delay in the implementation of various strategic projects in the regions. A number of projects that require central approval are often hampered by a longer and layered bureaucratic process, while on the other hand, regional governments lose the flexibility to respond quickly to urgent needs or emergencies in their regions. Based on these findings, it can be concluded that although the Job Creation Law has a normatively positive goal of encouraging investment and accelerating the rate of national economic growth, its implementation still needs to be balanced with a solid mechanism to ensure the active participation of regional governments and protect the interests of local communities. Without a clear,

structured, and legally binding coordination framework, this policy runs the great risk of worsening the imbalance in central-regional relations and hindering the achievement of the goals of regional autonomy as mandated by the state constitution.

5. Discussion

The results of the study show a structural tension in the relationship of authority between the central and regional governments, both in the period after Law No. 23 of 2014 and after the enactment of Law No. 11 of 2020 concerning Job Creation. This tension is not only administrative but also affects the quality of governance and the effectiveness of decentralization. Normatively, the division of government affairs in Law No. 23 of 2014 is intended to provide clarity of authority and avoid overlapping. However, implementation in the field shows strong central dominance through technical regulations that are binding and detailed. This dominance limits the space for regional innovation, which is actually one of the main goals of autonomy. Multiple interpretations of concurrent affairs provide a loophole for the center to expand its intervention, so that the balance of authority becomes uneven. This phenomenon is in line with the findings of Rochmawati et al.⁹ who asserts that the lack of clarity in the boundaries of concurrent affairs is the root of many conflicts of authority in Indonesia.

⁹ Ida Rochmawati, Rusdiono Rusdiono, and Arifin Arifin. "The Involvement and Conflict of Authority of Actors Managing the Indonesia-East Malaysia Border Area." *Journal of Governance* 7, no. 3 (2022): 608-622.

The problem became even more complex after the enactment of the Job Creation Law. The centralization of authority in the fields of business licensing, spatial planning, and natural resource management is intended to create efficiency and increase investment attractiveness. However, this policy actually narrows the space for regions, shifts the central-regional relationship from a partnership to a subordination, and raises resistance from regional governments who feel they have lost their strategic role. The negative impact that arises is not only related to the loss of regional independence but also the potential for weakening local democracy. Regional autonomy is essentially a mechanism to bring the decision-making process closer to the community, so that policies can be more responsive to local needs and aspirations. When the main authority moves to the center, decisions become further from the community, both geographically and politically, which has the potential to reduce the legitimacy of policies.

The inconsistency of regulations between the center and the regions is also a major obstacle. Differences in substance between the implementing regulations of the Job Creation Law and regional regulations cause confusion in implementation. As a result, strategic projects are often delayed, the budget is not optimal, and the community experiences the direct impact of delayed public services. The problem of cross-level government coordination is a crucial point. Currently, the existing coordination mechanism is non-binding, so it does not have the legal force to compel. Without a binding coordination mechanism, each level of government tends to act with its own priorities, which are often not in sync with each other. In this

context, De Matteis,¹⁰ emphasizes the importance of a clear and structured mechanism for resolving conflicts of authority, so that central-regional relations can be managed productively.

This discussion confirms that the tension in central-regional authority is not just a technical problem, but also a conceptual one. A reinterpretation of the concept of regional autonomy within the framework of a unitary state is needed, so that decentralization can run effectively without sacrificing national interests. One recommendation that can be proposed is the formation of a national coordination forum that has a strong legal basis, which can be a space for dialogue as well as a mechanism for resolving authority disputes. In addition, revisions to implementing regulations that have multiple interpretations need to be carried out to clarify the boundaries of concurrent affairs, and to ensure that national investment and development policies continue to take local interests into account.

6. Conclusion

This research shows that the relationship of authority between the central and regional governments in Indonesia still faces serious challenges, both in the period after Law No. 23 of 2014 and after the enactment of Law No. 11 of 2020 concerning Job Creation. Although the legal framework normatively regulates the division of government affairs into absolute, concurrent, and general affairs, its implementation is often hampered by the dominance of central technical regulations, multiple

¹⁰ Fabio De Matteis, Piervito Bianchi, Fabrizio Striani, and Daniela Preite. "The relationship between local public policies for economic development and entrepreneurial presence: The Italian case." *Administration & Society* 54, no. 1 (2022): 117-144.

interpretations of concurrent affairs, limited regional participation in the formulation of strategic policies, and weak coordination mechanisms that are binding. The birth of the Job Creation Law strengthens the tendency of centralization of authority, especially in the fields of business licensing, spatial planning, and natural resource management.

This policy is indeed intended to accelerate investment and create legal certainty, but it has implications for the narrowing of the space for regions to regulate development according to local characteristics and needs. The impact not only weakens regional autonomy but also has the potential to reduce the quality of local democracy. To create a balance between the effectiveness of the central government and regional independence, strategic steps are needed in the form of establishing a cross-level government coordination mechanism that is legally binding, clarifying the boundaries of concurrent affairs, and increasing regional administrative capacity. A participatory approach in policy formulation must be strengthened so that decentralization truly becomes a means of empowering regions within the framework of the Unitary State of the Republic of Indonesia.

References

De Matteis, Fabio, Piervito Bianchi, Fabrizio Striani, and Daniela Preite. "The relationship between local public policies for economic development and entrepreneurial presence: The Italian case." *Administration & Society* 54, no. 1 (2022): 117-144.

- Hagelstein, Jens, Sabine Einwiler, and Ansgar Zerfass. "The ethical dimension of public relations in Europe: Digital channels, moral challenges, resources, and training." *Public Relations Review* 47, no. 4 (2021): 102063.
- Hervas-Oliver, Jose-Luis, Gregorio Gonzalez-Alcaide, Ronald Rojas-Alvarado, and Silvia Monto-Mompo. "Emerging regional innovation policies for industry 4.0: analyzing the digital innovation hub program in European regions." *Competitiveness Review: An International Business Journal* 31, no. 1 (2021): 106-129.
- Press, U. M. T. "Ecological Idealism in the Regulation of Tin Mining in Bangka Belitung: Reasoning About Crucial Articles." *Journal of Sustainability Science and Management* 18, no. 9 (2023): 17-37.
- Rawat, Pragati. "A systematic review of multiple terminologies for ICT in government: A mesh of concentric and overlapping circles." *Bulletin of Science, Technology & Society* 40, no. 1-2 (2020): 3-14.
- Roberts, Huw, Alexander Babuta, Jessica Morley, Christopher Thomas, Mariarosaria Taddeo, and Luciano Floridi. "Artificial intelligence regulation in the United Kingdom: a path to good governance and global leadership?." *Internet Policy Review* 12, no. 2 (2023): 1-31.
- Rochmawati, Ida, Rusdiono Rusdiono, and Arifin Arifin. "The Involvement and Conflict of Authority of Actors Managing the Indonesia-East Malaysia Border Area." *Journal of Governance* 7, no. 3 (2022): 608-622.
- Sawitri, Ni Putu Yuliana Ria, Luh Putu Virra Indah Perdanawati, Ni Nyoman Sudiyani, and Made Setini. "Local revenue and financial independence on

economic growth through capital expenditure.” *Jurnal Ekonomi* 25, no. 2 (2020): 320-336.

Talitha, Tessa, Tommy Firman, and Delik Hudalah. “Welcoming two decades of decentralization in Indonesia: a regional development perspective.” *Territory, Politics, Governance* 8, no. 5 (2020): 690-708.

Zhu, Xufeng, and Hui Zhao. “Experimentalist governance with interactive central local relations: Making new pension policies in China.” *Policy Studies Journal* 49, no. 1 (2021): 13-36.