



Relationship for the Establishment of Local Regulations in the Job Creation Law

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Abstract

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The job creation law was born with the aim of opening the widest possible investment climate in Indonesia. To date, investors still face obstacles in investing in the form of difficult regulations. This can be seen in the inadequate coordination between local regulations and central government regulations. Based on this, the problem arises how is the relationship for the establishment of local regulations in the job creation law? The method used in this research is normative legal research with a qualitative approach method with a focus on regulations and related data to answer problems. It can be concluded that Article 174 of the job creation law adds rules regarding the relationship between the central and local governments, namely the authority of local governments as part of the presidential authority. Article 176 a quo also changes a number of local government authorities. For example, the licensing authority in Article 350 of Law 23/2014. In PP No 6/2021, Article 3 Implementation of Business Licensing in the Regions is carried out by the Central Government, Provincial Government, and City/Regency Government in accordance with their respective authorities based on the provisions of laws and regulations. From the licensing rules, it is not executive preview as a form of preventive supervision, but top-down control that dominates. This has the potential to eliminate local content and conditions based on regional interests.



A. Introduction

In November 2020, the President of Indonesia, Mr. Joko Widodo ratified and enacted Law Number 11 of 2020 on Job Creation, commonly known as the Omnibus Law. This legislation marks a significant advancement in Indonesia's legal framework¹, designed to stimulate economic development by attracting more investment.² The Omnibus Law consolidates various legislative areas into a single, comprehensive framework and aims to enhance the legislative capabilities of Indonesia's House of Representatives, reinforcing the country's commitment to the rule of law.³ It amends, repeals, or introduces new provisions in 78 existing laws and has been implemented through 51 regulations, including 47 government regulations and four presidential regulations.⁴ The strategic objectives of the Job Creation Law focus on enhancing the investment ecosystem and business operations, protecting and improving worker welfare, supporting and safeguarding micro, small, and medium enterprises (MSMEs), and expanding government and national strategic project investments.⁵ The overarching goal is to create a conducive investment environment that boosts job creation, spurs economic growth, reduces unemployment, and increases worker productivity.

Under the leadership of President Joko Widodo and Vice President Ma'ruf Amin, the Indonesian government has set a visionary goal to establish Indonesia as a developed nation by 2045, a milestone known as "Indonesia Gold." Recognizing that education and human resource development are crucial for any developing country aiming for optimal economic growth and increased global competitiveness, these factors are prioritized to ensure prosperity for all its citizens.⁶ President Widodo emphasized the necessity of establishing a robust foundation starting with infrastructure, which is then followed closely by the development of human resources.⁷ According to Finance Minister Sri Mulyani, there are five essential pillars for achieving Indonesia Gold by 2045: firstly, robust infrastructure; secondly, high-quality human resources; thirdly, readiness to adopt new technologies; fourthly, comprehensive and mature regional planning; and fifthly, a sustainable, credible, advanced, and healthy economic and financial sectors.⁸

The Job Creation Law, acclaimed for enhancing the investment climate and ensuring legal certainty⁹, significantly influences the legislative framework at the regional level. This law has precipitated the revision of existing regional regulations, which are local government enactments that operationalize higher-level statutes.¹⁰ The creation of the Job Creation Law necessitates the drafting of numerous new regional regulations and the amendment of existing ones, particularly in response to changes in national laws that the Job Creation Law consolidates. The relationship between the central and local governments, both in terms of

¹ Muhammad Zubi, Marzuki, Ibnu Affan, "Tinjauan Yuridis Perlindungan Hak-Hak Normatif Tenaga Kerja Setelah Berlakunya Undang-Undang Cipta Kerja (Omnibus Law)", *Jurnal Ilmiah METADATA*, Volume 3 Nomor 3 September 2021 : 1171

² Ida Hanifah, "Peluang Tenaga Kerja Asing Untuk Bekerja Di Indonesia Berdasarkan Rancangan Undang-Undang Cipta Kerja" *DE LEGA LATA: Jurnal Ilmu Hukum* Volume 6 Nomor 1, Januari – Juli 2020.

³ Wicipto Setiadi, "Simplifikasi Regulasi Dengan Menggunakan Metode Pendekatan Omnibus Law", *Jurnal Rechts Vinding*, Volume 9 Nomor 1, April 2020.

⁴ Adhi Setyo Prabowo, Politik Hukum Omnibus Law. *Jurnal Pamator*, Volume 13 No. 1, April 2020, p. 4.

⁵ *Ibid.*

⁶ Priyono Budi Santoso, Martinus Tukiran, Choi Chi Hyun, Laksmi Mayesti Wijayanti, Masduki Asbari, Agus Purwanto, "Review Literatur: Pengembangan Sumber Daya Manusia Dan Pendidikan Dalam Rangka Meningkatkan Pertumbuhan Ekonomi", *Journal Of Industrial Engineering & Management Research (Jiemar)* Vol. 1 No. 2: Oktober 2020.

⁷ Priyono Budi Santoso, Martinus Tukiran, Choi Chi Hyun, Laksmi Mayesti Wijayanti, Masduki Asbari, Agus Purwanto, "Review Literatur: Pengembangan Sumber Daya Manusia Dan Pendidikan Dalam Rangka Meningkatkan Pertumbuhan Ekonomi", *Journal Of Industrial Engineering & Management Research (Jiemar)* Vol. 1 No. 2: Oktober 2020.

⁸ <https://nasional.kontan.co.id/news/sri-mulyani-beberkan-tantangan-bagi-indonesia-untuk-jadi-negara-maju-di-2024> di akses Selasa, 5 Oktober 2021 | 13:43 WIB.

⁹ Nila Amania' "Problematika Undang-Undang Cipta Kerja sektor Lingkungan Hidup" Syariati: *Jurnal Studi Al-Quran dan Hukum*, Vol. VI No. 02, November 2020.

¹⁰ Bagir Manan, *Menyongvong Fajar Otonomi Daerah*, PSH FH UII, Yogyakarta, 2002, p. 136

authority and financial aspects, is a critical area affected by these changes. The readiness of various stakeholders to address the substance of interest and achieve harmonization of rules is crucial. Ideally, regional regulations (*Perda*) should cover key areas including matters related to local government administration and organizational structures, as well as duties and governmental support (*Mendebewind*).

Perda or regional regulation is an essential legal tool for local governments in Indonesia, empowering them to exercise autonomy and manage their affairs.¹¹ These regulations support provincial governments in their autonomous functions and have been further emphasized with the introduction of Law 11/2020 on Job Creation, necessitating a review and adjustment of existing regional laws to align with national legislation. Guided historically by Law 23/2014 on Local government and Law 33/2004 on Financial Balance between Governments, the Ministry of Home Affairs, through the Directorate General of Regional Autonomy (*Otda*), issued a directive (letter numbered 188/1518/*OTDA* dated March 9, 2021) mandating all local governments to scrutinize and adjust their regulations. Local legislative bodies (*DPRD*) are urged to update or draft new regional regulations (*propemperda*) not yet included in their programs, ensuring that regional regulations are synchronized with national law, fostering a conducive business environment and robust regional development in line with national objectives.

The adjustment of the Job Creation Law alongside Regional Regulations and Regional Head Regulations, as requested by the Ministry of Home Affairs, presents significant challenges. Regional Regulations are legal instruments formulated through a democratic process involving the *DPRD* (local legislative councils) and regional executives such as Governors, Regents, or Mayors. These local regulations, often referred to as local wet, are analogous to national laws but differ in their scope, applying only within the province or district where they were enacted.¹² The implementation of regional autonomy necessitates the formation of these regulations as integral components of regional governance, with various regional policies requiring legal backing through such statutes. Given the decentralized framework, regions are endowed with the authority to manage their affairs autonomously. However, it is critical to note that the concept of regional autonomy, as understood by C.W. Van Der Pot as running one's own household (*eigen huishouding*)¹³, does not equate to the notion of a sovereign state. This distinction brings forth the issue of harmonizing and synchronizing the Job Creation Law with local regulations in a way that respects and incorporates regional-based interests which will be discussed in this research.

This research employed a qualitative methodology focused on understanding social phenomena within society through normative legal research. The chosen technique involves Data Collection Techniques with Documents, where the author gathers Laws, Literacy Books, and Scientific Journals as materials to aid in conducting the analysis. This approach allows for an in-depth exploration of the relationship between the formation of regional regulations and the Job Creation Law.¹⁴

The Job Creation Law, ratified with the objective of expanding investment opportunities across Indonesia, including at the regional level, occasionally faces challenges. A significant

¹¹ Rosjidi Ranggawidjaja, *Pengantar Ilmu Perundang-undangan Indonesia*, Penerbit Mandar Maju, Bandung, 1998, p. 23.

¹² Yuswanto dan M. Yasin Al Arif, Diskursus Pembatalan Peraturan Daerah Pasca Putusan MK No. 137/PUU-XIII/2015 dan No. 56/PUU-XIV/2016 The Discourse of Cancellation Local Regulation Following the Constitutional Court Decision No. 137/PUU-XIII/2015 and No. 56/PUU-XIV/2016, *Jurnal Konstitusi*, Volume 15, Nomor 4, Desember 2018. p.711.

¹³ Rudy, *Hukum Pemerintahan Daerah Perspektif Konstitualisme Indonesia*, Bandarlampung: Indepth, 2012, p.31

¹⁴ Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif dan R&D*. Bandung : Alfabeta, 2008. p. 45

issue identified is the disharmony between central and regional regulations, which can delay the licensing process essential for business operations and investment flows. The novelty of this research lies in its potential to significantly aid both central and local governments in formulating local regulations. As a result of the Job Creation Law, local governments are tasked with creating derivative regulations aligned with national objectives, specifically designed to enhance their capacity to attract investment. This includes simplifying the licensing process, facilitating business operations, and generating employment opportunities. The findings of this research could thus make a substantial contribution to improving the regulatory framework at both local and central government levels, ensuring a more cohesive and effective implementation of the Job Creation Law.

B. Discussion

Article 1, Paragraph (1) of the 1945 Constitution states, "The State of Indonesia is a Unitary State, in the form of a Republic." Additionally, Articles 18, 18A, and 18B address local government, including the division of authority and regional finance. Law 23/2014 outlines the principles for organizing government affairs.

1. Decentralization of the handover of affairs by the central government to autonomous local governments based on the principle of autonomy. Financing by *APBN*.
2. Deconcentration of delegation of government affairs which are the authority of the central government to the Governor as a representative of the central government, to vertical agencies in certain areas, and/or to governors and regents/mayors in charge of general affairs. Financing by *APBN*. There is a Deconcentration Fund. Activities such as counseling, research etc.
3. Co-administration tasks, assignments from the central government to autonomous regions to carry out some government affairs. Which is the authority of the central government or provincial/municipal regions. To carry out as a government affair which is the authority of the province. Funding from the center comes from the state budget, usually for physical activities. For example, infrastructure that adds to government assets. The activities are physical, for example land acquisition, buildings, equipment and machinery, roads etc.

The authority of the central government is either exercised directly by the central government itself or through vertical organizations in the regions. Additionally, certain centralized functions are delegated to regional task forces. In this context, autonomy is distinct from sovereignty (*souveriniteit*), where autonomy is an attribute of the state rather than of its constituent parts such as municipalities (*Gemeente*), provinces, etc. These entities possess only those rights granted by the state, allowing them to operate independently (*zelfstandig*) but not as independent (*onafhankelijk*)¹⁵ or parallel authorities to the state. The delineation of government affairs can be categorized in detail into Absolute, Concurrent, and General functions.

1. **Absolute**, Government Affairs which are fully under the authority of the central government, the principle can be carried out alone, can be deconcentrated to vertical agencies, cannot be assigned assistance to autonomous regions because there is no OPD to implement or financed from the state's budget (*APBN*).
2. **Concurrent**, Government Affairs which are divided between the central government and regencies/municipalities and concurrent Government affairs which are handed over to the
















¹⁵ Yuri Sulisty, Antikowati, dan Rosita Indrayati, "Pengawasan Pemerintahan terhadap Produk Hukum Daerah (peraturan daerah) Melalui Mekanisme Pembatalan Peraturan Daerah Berdasarkan Undang-Undang Nomor 32 Tahun 2004 tentang Pemerintahan Daerah", Jurnal Lentera Hukum, Vol. 1 No. 1, April 2014, p. 4.

regions become the basis for implementing regional autonomy, the Principle of Overall Affairs which becomes the regional authority based on the principle of implementation. Service affairs become the regional authority carried out based on the principle of autonomy with the Local Government's Budget (*APBD*). Regulate and manage the affairs that have been handed over to the regions in accordance with the aspirations of the local community and regional conditions within the framework of the Unitary State of the Republic of Indonesia.

3. **General**, Government Affairs under the authority of the President as head of the Government. In principle, government affairs are the authority of the President as the head of government whose implementation is carried out in the regions by governors, regents/mayors in their regions and from the state budget. Implementation, in the regions carried out by governors, regents and mayors assisted by vertical agencies. The Governor is responsible to the President through the Minister of Home Affairs and the Regent/Mayor is responsible to the Minister of Home Affairs through the Governor as the representative of the Central Government.

In Law 23/2014, financial relations between the central and local governments are outlined to support the administration of government affairs that are delegated and/or assigned to regional authorities. According to Article 279, the provisions include several key mechanisms: the establishment of regional income sources through regional taxes and retributions; the provision of funds sourced from the financial balance between the central and local governments; the allocation of funds for the implementation of special autonomy for certain local governments as specified by law; and the provision of loans, grants, emergency funds, and fiscal incentives.

Picture 1. Simplified Sector Licensing Coverage

CAKUPAN PERIZINAN SEKTOR YANG DISEDERHANAKAN			
		JUMLAH UU	JUMLAH PASAL
 Pertanian		6	69
 Pendidikan		5	48
 Kesehatan Obat & Makanan		5	43
 Kelautan & Perikanan		4	38
 Energi & Sumber Daya Mineral		4	87
 Transportasi		4	152
 PUPR		4	85
 Perdagangan		3	49
 Pos, Telekomunikasi & Penyiaran		3	12
 Pariwisata		2	9
 Pertahanan & Keamanan		2	8
 Kehutanan		1	12
 Ketenaganukliran		1	9
 Perindustrian		1	11
 Keagamaan		1	15
TOTAL		46	647

SUMBER: UU Cipta Kerja

The financial relationship between central and local governments as detailed in Law 33/2004 is designed to ensure a balanced financial framework between the government and regions, acting as a subsystem of state finances. This arrangement stems from the division of tasks between the central and regional levels or results from the relationships between various functions or affairs. In the context of decentralization, the provision of state financial resources to the regions is predicated on the assignment of tasks, with careful consideration for maintaining fiscal stability. The financial equilibrium achieved between the center and the regions forms a comprehensive system that embodies the principles of decentralization, deconcentration, and co-administration. This framework includes other income streams beyond Own-source Revenue (PAD), such as balancing funds and regional loans.

Regarding the authority and financial relationships, adjustments necessitated by the Job Creation Law cannot be refused by the government. This law, which revised 700 articles across 52 laws concerning licensing, aims to integrate and simplify regulatory processes to enhance business efficiency and effectiveness. The simplification includes key basic permits such as the Location Permit, which is governed by 51 articles under 4 laws; the Environmental Permit, covered by 36 articles under 2 laws; and the Building Permit, regulated by 48 articles under 2 laws.

The Job Creation Law aims to simplify and integrate a variety of permits into three basic categories: location, environmental, and building permits. Of the 700 articles in this law, they are intended to serve as a guideline for Local Government's Regulations, which directly impact the community. Given that Local Government's Regulations are closely connected to the daily lives of citizens, the potential for disharmony and overlapping regulations is significant, particularly concerning the distribution of authority between Central and Local governments. For instance, cumbersome licensing processes have been identified as barriers to investment, prompting reforms to transition from permit-based to risk-based licensing. This involves a registration system that includes a business identification number (*NIB*), requiring that all activities and practitioners meet certified professional standards.

The creation of regional regulations often stems from the design of regional autonomy, which is linked to the freedom and independence of regions to manage their own affairs.¹⁶ In light of the Job Creation Law and its associated legal products, local governments are now tasked with reviewing their legal frameworks to amend, repeal, or introduce new regulations. These changes must align with the underlying principle of the law to protect human rights, ensuring that the presence of law serves to uphold human dignity rather than constrain or erode fundamental human values.¹⁷

Considering the balance of philosophical and social values in the formulation of regional regulations is crucial. Regulations need open access to participatory community involvement, ensuring they are genuinely oriented towards local community interests and not just tools for legitimizing government actions and investment priorities at the expense of public services and welfare. Formally, regulations are structured hierarchically, with lower-level regulations derived from and not conflicting with higher-level laws. However, their substance must also seriously consider the state's duty to promote the welfare of its people. Gustav Radbruch famously articulated that the noble purpose of law is to achieve justice, benefit, and legal certainty.¹⁸

¹⁶ Fatkhul Muin, "Otonomi Daerah Dalam Persepektif Pembagian Urusan Pemerintah-Pemerintah Daerah Dan Keuangan Daerah," *FIAT JUSTISIA: Jurnal Ilmu Hukum*, 2015.p 3.

¹⁷ Mukhamad Luthfan Setiaji and Aminullah Ibrahim, "Kajian Hak Asasi Manusia Dalam Negara The Rule Of Law : Antara Hukum Progresif Dan Hukum Positif," *Lex Scientia Law Review* 2018. p. 5.

¹⁸ Tata Wijayanta, "Asas Kepastian Hukum, Keadilan Dan Kemanfaatan Dalam Kaitannya Dengan Putusan Kepailitan Pengadilan Niaga," *Jurnal Dinamika Hukum*, 2014. p. 3.

The method of Evidence-Based Policy Making (EBPM), first introduced in the UK in 1997 by then-Prime Minister Tony Blair, emphasizes the use of scientifically valid evidence in policy development. In this approach, valid evidence is what can be scientifically presented to policymakers, often sidelining contributions from the general public despite their potential relevance. The general process of evidence-based policymaking includes identifying policy problems, gathering and analyzing evidence, formulating policy options, implementing policies, and monitoring and evaluating their impact illustrated in the following figure.

Taking into account the balance of philosophical and social values in the formation of regional regulations is important. Open access to participatory community involvement is required. To be seriously oriented to the interests of the local community. It is not only a tool for the legality of government actions and investment orientation, ignoring public services and welfare. Formally, positive law (regulation) is constructed in layers and layers, low regulations are sourced from and must not conflict with higher regulations. But materially substance must be serious not to neglect the purpose of the state's duty to prosper the people. Gustav Radbruch stated that the noble purpose of law is to achieve justice, benefit and legal certainty.¹⁹

The Evidence-Based Policy Making (EBPM) method, introduced in the UK in 1997 by then-Prime Minister Tony Blair, emphasizes the importance of grounding policy decisions in scientifically validated evidence. In this approach, the evidence considered valid is typically that which can be scientifically conveyed to policymakers. Contributions from the lay public, even if well-referenced, are often classified as unscientific due to the perception that the lay public does not possess expert status. This perspective can sometimes limit the scope of input considered during the policymaking process, potentially overlooking valuable grassroots insights.²⁰ The general process of EBPM can be outlined in a series of steps illustrated in the following figure.

Picture 2. The Importance of Evidence Based Policy in Policy Making

Pentingnya Evidence Based Policy Making dalam Pembuatan Kebijakan



Evidence-Based Policy Making (EBPM) is a methodological approach that involves determining, formulating, deciding, implementing, and monitoring policies by leveraging scientific evidence to inform public policy changes. This approach utilizes a comprehensive

¹⁹ Tata Wijayanta, "Asas Kepastian Hukum, Keadilan Dan Kemanfaatan Dalam Kaitannya Dengan Putusan Kepailitan Pengadilan Niaga," *Jurnal Dinamika Hukum*, 2014. hlm. 3.

²⁰ Cahyo Seftyono, *Transformasi Noise Menjadi Voice: Politik Keterbukaan Pengetahuan dalam Kekinian Diskursus Evidence Based Policy di Indonesia*, (Usulan Penelitian untuk Disertasi S3 Universitas Gadjak Mada, 2020, hlm. 6

evidence base, drawn from a diverse array of available data and research, to guide future policy decisions. The evidence used in EBPM can be categorized into four main types as follows.²¹

1. Statistical and administrative data to describe the current state of an issue and explain historical trends.
2. Research-based evidence, to describe causal relationships, and also to explain the relationship between issues.
3. Evidence from communities and stakeholders, to provide an understanding of who assesses the policy and how they respond
4. Evidence from evaluations, to explain past successes or in similar situations;

Evidence-Based Policy Making (EBPM) employs scientific data and research to underpin the formulation and implementation of regulations with authority, particularly within the sphere of governance. This method is crucial for grounding decision-making processes in solid evidence, although it may face limitations when analyzing current evidence to forecast future trends or in capturing the full scope of government authority.

The principle of legality serves as a foundational element in every state and government administration, ensuring that all actions possess legitimate authority granted by law. This principle underscores that governmental power must be legally sanctioned and circumscribed. According to H.D. Stout, authority in this context is derived from the law that governs public organizations, encompassing a comprehensive set of rules regarding the acquisition and exercise of governmental powers in public legal relations. F.P.C.L. Tonnaer adds that governmental authority, in this regard, is viewed as the capacity to enact and enforce positive law, thereby establishing a legal relationship between the government and its citizens.²²

Regional autonomy, as conceptualized by Bagir Manan, can vary significantly depending on the extent of freedom granted to local governments. Manan identifies autonomy as "limited" if regional affairs are specifically delineated and development is strictly regulated, if a rigorous supervision system undermines regional independence, and if financial relationships between the central and local governments constrict the regions' financial autonomy.²³ Conversely, "broad autonomy" rests on the principle that most governmental matters are local except those explicitly reserved for the central government, thus allowing greater self-governance. This framework is useful in analyzing legislative changes such as those seen in the Job Creation Law, which impacts regional governance. Article 174 of this law states that local government authority is essentially an extension of Presidential authority, illustrating a shift toward centralized control and echoing Manan's concept of limited autonomy. Further, Article 176 revises various powers of local governments, reinforcing centralization.

The relationship between government and citizens, as envisaged by F.P.C.L. Tonnaer, ideally involves a framework where legal relationships are defined through clear authority and regulatory mechanisms. This is reflected in the ongoing adjustments to the law surrounding regional authority over licensing. According to Article 350, paragraph (1) of Law 23/2014, local governments are mandated to provide licensing services as stipulated by laws and regulations. However, the Job Creation Law modifies this by emphasizing that regional heads must administer Business Licensing services not only in compliance with existing laws but also according to norms, standards, procedures, and criteria set by the Central Government. This amendment indicates an increase in central oversight and intervention, particularly highlighted

²¹ Loise Shaxson, "Pelajaran untuk Membangun dan Mengelola Basis Bukti untuk Kebijakan", *Working Paper 10 Knowledge Sector Initiative*, 2016 p. 4.

²² Ridwan HR, *Hukum Administrasi Negara*, Yogyakarta: UII Press, 2003, p. 70-71.

²³ Bagir Manan, *Hubungan antara Pusat dan Daerah Menurut UUD 1945*, Jakarta: Pustaka Sinar Harapan, 1994, p.37.

by provisions that allow the central government to take over licensing duties if local entities fail to comply after two warnings.

Further centralization is evident in the changes introduced by the Job Creation Law to Article 250 of Law 23/2014 concerning Local government. This amendment prohibits regional and local regulations from contradicting higher laws and mandates coordination with the ministry responsible for domestic government affairs, involving the Ministry of Law and Human Rights and other relevant vertical agencies in the process of forming laws and regulations. Non-compliance with these stipulations results in stringent administrative sanctions, such as the suspension of financial rights for regional heads and members of regional legislative assemblies (*DPRD*) for up to three months. Specifically concerning regional regulations on taxes and levies, penalties can escalate to delays or even the suspension of disbursement of general allocation funds (*DAU*) and profit-sharing funds.

The Constitutional Court of Indonesia, in its decisions No. 137/PUU-XIII/2015 and No. 56/PUU-XIV/2016, addressed the nature of supervision over regional regulations by the executive branch. The Court found that executive examinations of these regulations were inconsistent with the statutory framework and infringed upon the principle of the rule of law. Importantly, these decisions do not eliminate the concepts of central and regional oversight over regional regulations, which can still be conducted through preventive supervision. Instead, they specifically annulled Article 251 of Law 23/2014, which dealt with repressive supervision, thereby shifting the repressive review of regional regulations from the executive to the judiciary, specifically to the Supreme Court.

This judicial shift implies that while repressive supervision—wherein actions are taken after a law has been enacted and potentially found problematic—is no longer within the purview of the executive, preventive supervision, which occurs before a law is enacted to ensure compliance with higher laws, remains intact. This restructuring was intended to preserve the rule of law by preventing potential overreach by the executive branch and maintaining a balance of power. Furthermore, the cancellation of Article 251 does not weaken the central government's role in supervising regional legislation but instead refocuses it towards models of executive preview as a form of preventive supervision.²⁴ This approach aims to rectify and prevent discrepancies and lack of synchronicity in the establishment of regulations, ensuring that regional laws align with national standards and objectives.

C. Conclusion

The Job Creation Law has significantly altered the distribution of authority between central and local governments, particularly concerning business licensing. Previously, local governments held the authority to issue permits and set the Standard Procedures and Criteria Norms (*NSPK*) based on overarching laws. Under the new Job Creation Law, while the authority to issue permits remains with local governments, the *NSPK* is now determined by the central government. This centralization aims to streamline processes across regions, ensuring consistency in implementation. If local governments fail to comply with these norms, the central government has the authority to take over the permitting process within specified limits. This change reflects a broader aim to simplify the regulatory environment, ostensibly to facilitate investment and job creation.

²⁴ Ibid..., Yuswanto dan M. Yasin Al Arif, p 726-730

However, this shift towards centralization has raised concerns about the balance of power and the autonomy of local governments. Ideally, effective coordination and harmonization between government levels would result in laws that are not only of higher quality but also responsive to local conditions. Yet, the centralization embedded in the Job Creation Law has led to potential conflicts of interest between the center and the regions, complicating the law's objectives. Such tensions underscore the need for a careful evaluation of how centralized policies might impact regional governance and the ability of local administrations to manage their own affairs effectively, highlighting the delicate balance required between national goals and regional autonomy.²⁵

1. The regulation of the central and regional relationship model in regional administration which tends to be centralized as stipulated in the Job creation law, has the potential to cause conflict or dispute between the government.
2. Changes in authority and division of affairs have implications for changes in the distribution of regional finances. Financial changes will follow the transfer of authority and additional affairs.
3. Decentralization is a way for a regime or state to bring about a system that better reflects democratic values, because some of the authority has been handed over to local (regional) governments to be actively involved in responding to matters closely related to people's lives in the regions.

The affirmation of government affairs as the authority of the President, implemented by state ministries and regional administrators, is designed to protect, serve, empower, and foster the prosperity of communities. However, recent legislative changes, such as Article 174 of the Job Creation Law and Article 176, have altered the relationship between central and local governments, particularly in areas like licensing authority. Additionally, Presidential Regulation No. 6/2021 stipulates that business licensing in regions is overseen by various government levels based on their respective jurisdictions, with limitations set by Article 10. While local governments can establish support systems for the Online Single Submission (OSS) system, they must adhere to norms, standards, procedures, and criteria determined by the Central Government.

This top-down approach to licensing regulation appears to prioritize centralized control over local autonomy, potentially disregarding the Constitutional Court's decision No. 56/PUU-XIV/2016, which annulled Article 251 of Law 23/2014 pertaining to repressive supervision. This shift towards centralized control risks sidelining local nuances and interests, potentially stifling regional development initiatives. As a result, there's a concern that these changes could undermine the ability of local governments to address local needs effectively and promote inclusive development strategies aligned with regional interests.

The essence of a democratic political framework lies in empowering the people to actively shape state policies, ensuring their voices are heard and their potential maximized. In this configuration, the government functions more as a "committee" tasked with executing the will of the people and their representative bodies. Political parties, meanwhile, play a proportional role in influencing state policies, reflecting the diverse perspectives and interests within society.²⁶ As a result, the true measure of democratic policies lies in their reflection of societal welfare as shown by:.

²⁵ Dr. Yuswanto, SH., MH., *Bahan Kuliah Hukum Perimbangan Keuangan, Pertemuan ke VI. MIH Unila, 2021.*

²⁶ Sugiarto, Dr. H. Imawan, SH, MH – Taufik, Moh., MM, MH, *Hukum dan Kebijakan Publik (Peran Negara dan Hukum dalam Mewujudkan Kesejahteraan Masyarakat)*, Tanah Air Beta, hlm. 25

1. Active involvement of all stakeholders in policy formulation will increase the democratic level of a policy. Therefore, public participation is decided, implemented, has social responsibility within the framework of achieving common goals.
2. Dialogic framework for policy formulation is supported by adequate scientific logic. Hence, the dialogue in policy formulation is not merely “debate stage.” The character of a public policy that is full of interests can be balanced with the existence of scientific evidence that supports its formulation.

Effective promotion of economic, political, and socio-cultural equality, alongside equal treatment under the law, is best achieved through the creation of equitable prosperity. This prosperity fosters socio-political stability as all citizens achieve physical and mental well-being, which in turn empowers communities towards self-reliance, independence, and dignity. However, conflicts of interest between central and regional authorities can intensify under centralized policies, as observed with the implementation of the Job Creation Law. Such changes in authority and regional affairs lead to shifts in financial distribution, potentially sparking disputes between different levels of government. This situation undermines the principle of decentralization, which is essential for upholding democratic values by involving stakeholders in decision-making processes that directly affect their local communities.

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