

SHIFT IN LEGAL PARADIGM FROM DECENTRALIZATION TO CENTRALIZATION IN THE MANAGEMENT OF NATURAL RESOURCES FOLLOWING THE OMNIBUS LAW ON JOB CREATION

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Abstract

The implementation of regional autonomy in Indonesia has undergone significant dynamics, particularly concerning changes in the distribution of authority between the central and regional governments. This reflects fluctuations in authority between the central and regional governments influenced by Indonesia's socio-political needs and context. During various periods, Indonesia has experienced shifts in authority, clearly evident in the Omnibus Law on Job Creation policy, which reinforces centralization in the management of vital sectors such as environmental protection, water resources, and electricity. This study employs a descriptive qualitative approach with case studies to examine the impact of this shift in authority, specifically in natural resource management following the enactment of the Omnibus Law. The research findings indicate that the Omnibus Law on Job Creation strengthens the centralization of authority within the central government, reduces the role of regional governments in natural resource management, and introduces stricter and more structured regulations, although there remains room for regions to tailor policies to local conditions. This shift affects the management of natural resources and oversight by the central government, which focuses on sustainable development and administrative efficiency. Therefore, the design of central-regional relations and the fiscal decentralization scheme must be adapted to existing needs and conditions to achieve ecological balance and sustainable social justice.

I. INTRODUCTION

The implementation of regional autonomy in Indonesia has undergone significant dynamics over time, with fundamental changes in the distribution of authority between the central and regional governments. Indonesia's constitutional history records a tug-of-war for authority between these two parties, depending on the policies and regulations in effect during each governmental period. According to the 2022 assessment report by the People's Consultative Assembly of the Republic of Indonesia (MPR RI) Study Agency, the allocation of authority between the central and regional governments has passed through nine phases, reflecting structural changes in the management of regional governance in accordance with existing regulations (Ibnu Sam Widodo et al., 2022).

One of the models of the relationship between the central and regional governments proposed by Clarke and Stewart, as cited in the studies by Hamidi (2009) and Ibnu Sam Widodo et al. (2022), encompasses three main forms: the relative autonomy model, the agency model, and the interaction model. The relative autonomy model provides regions with greater freedom to act independently, while the agency model emphasizes the role of regions as implementers of policies from the central government. Meanwhile, the interaction model depicts a mutually supportive relationship between the two, influencing trust and collaboration in joint decision-making.

The shift in this central-regional relationship is not only influenced by changes in the models of authority distribution but also by the needs and contexts prevailing in Indonesia. Fluctuations between centralization, decentralization, or a balance of both are adjusted according to the prevailing conditions at the time. This is reflected in the implementation of policies aimed at granting regional autonomy, yet maintaining control in the hands of the central government, in accordance with the fundamental principles of the Unitary State of the Republic of Indonesia as enshrined in the 1945 Constitution (Sembiring et al., 2023).

The shift in authority between the central and regional governments following the enactment of the Omnibus Law on Job Creation demonstrates a

toward stronger tendency centralization. particularly in the management of vital sectors as environmental protection, resources, and electricity. The more structured and stringent regulations in these areas reinforce the dominance of the central government, diminishing the role of regional authorities in many aspects of natural resource management. For example, in the context of environmental forest management, permitting serves as a control mechanism to ensure that activities undertaken comply with applicable legal and environmental standards, as well as maintaining ecological balance. This is essential to prevent damage to vulnerable environmental ecosystems (M. J. Rambe, Siregar, et al., 2024; Tanjung et al., 2023). Nevertheless, despite the increased centralization of authority in the central government, there remains room for regional governments to play a role by tailoring management policies to existing local conditions.

II. RESEARCH METHODS

The research method employed in this study is descriptive qualitative with a case study approach to delve deeper into the dynamics of the distribution of authority between the central and regional governments in Indonesia, particularly following the implementation of the Omnibus Law on Job Creation. This research will analyze policy changes related to the decentralization and centralization of authority, as well as their impacts on natural resource management, through a review of applicable regulations, both those stipulated in laws and related sectoral regulations. Data will be collected through a literature study from various primary and secondary sources. including the assessment report by the MPR RI Study Agency. legislative documents, and scholarly articles. Data analysis will be conducted by identifying patterns and trends in government policies, as well as examining the changes occurring in the structure and distribution of authority between the central and regional governments, in order to understand the social and ecological implications of these shifts.

III. RESULTS AND DISCUSSION

A. Fluctuations in Authority between the Central Government and Regional Governments

The constitutional history of fluctuations in authority between state institutions also manifests in the shifting authority relations between the central government and regional governments. According to the 2022 assessment report by the *MPR RI* Study Agency, the history of the allocation of authority between the central government and regional governments has undergone nine regulatory regime phases (Ibnu Sam Widodo et al., 2022). Each phase of regional government possesses distinct structures and organizations, dependent on general regulations established by legislation.

The relationship between the central and regional governments, as conceptualized by Clarke and Stewart (Hamidi, 2009; Ibnu Sam Widodo et al., 2022), is defined in the following three forms:

- 1. The Relative Autonomy Model. In the relative autonomy model, the central government grants more freedom or authority to regional governments to act, while still within the framework of duties and responsibilities established by legislation (Hamidi, 2009; Ibnu Sam Widodo et al., 2022; Ropii, 2015). By being granted authority and freedom through such legislation, regional governments have more space to act. In this situation, regions can more freely regulate and handle matters that fall under their responsibilities (Hamidi, 2009; Ibnu Sam Widodo et al., 2022; Ropii, 2015).
- 2. The Agency Model. In this agency model, regional governments do not possess significant authority, thereby acting solely as agents or implementers of policies from the central government. Regional governments merely function as instruments of the central government that are obligated to execute policies established by the central government with full compliance (Hamidi, 2009; Ibnu Sam Widodo et al., 2022; Ropii, 2015).
- 3. The Interaction Model. In this interaction model, the existence and role of regional governments depend on the relationships established between the central and regional governments. If the interactions between the two are functioning effectively and mutually supportive, the central government's trust in the regions will become increasingly strong and developed. Conversely, if the relationship between the central and regional governments is poor, it will have a negative impact on the cen-

relationship between the central and regional

governments within the context of a unitary state.

The principle of autonomy in a unitary state affirms that the primary authority resides with

the central government; however, there is the

possibility for the central government to delegate

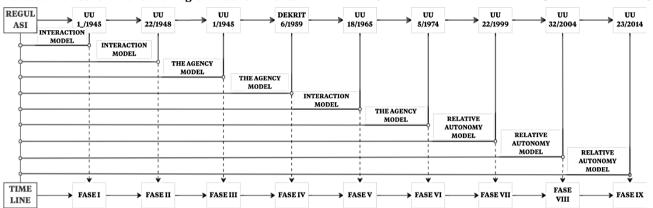
some of its powers to autonomous regions in accordance with their autonomy rights. (J. Rambe,

2017). Nevertheless, the supreme authority

tral government's level of trust in the regions (Hamidi, 2009; Ibnu Sam Widodo et al., 2022; Ropii, 2015).

Below are the outlined model forms in the fluctuations of authority between the central government and regional governments.

Figure. Models in the Fluctuations of Authority between the Central Government and Regional Governments.



Source: Adapted from Ibnu Sam Widodo, dkk. Kajian Akademik: Hubungan Pusat Dan Daerah. Badan Pengkajian MPR RI Tahun 2022.

The development of regional government regulations in Indonesia reflects changes in the distribution of power between the central and regional governments. This can be seen from the various laws enacted, ranging from Act Number 1 of 1945 to Act Number 23 of 2014. Initially, laws such as Act Number 1 of 1945 and Act Number 22 of 1948 adopted the Interaction Model, which emphasized a two-way relationship between the central and regional governments. Over time, Act Number 5 of 1974 employed the Agency Model, which placed greater emphasis on central control over the regions. Finally, with the implementation of Act Number 22 of 1999, Act Number 32 of 2004, and Act Number 23 of 2014 (Ibnu Sam Widodo et al., 2022). Regional governments were granted greater autonomy through the Relative Autonomy Model.

The relationship between the central and regional governments is characterized by fluctuations depending on the prevailing regulations or applicable laws. These fluctuations encompass centralization, decentralization, or a balance between both, tailored to the needs at the time the laws governing such relationships are enacted. If a centralist approach proves disadvantageous, subsequent regulations tend to favor decentralization, and vice versa (Hijriani, 2021).

The description illustrates the dynamics of the

remains vested in the central government (Hijriani, 2021). Therefore, the central-regional relationship is essential and important; however, there is no fixed prescription for such an ideal relationship as it is influenced by ecological and conditional factors that change over time. Consequently, the design of central-regional relations and the fiscal decentralization scheme will continually adapt to existing conditions and needs (Ibnu Sam Widodo et al., 2022).

B. Shifts in Central-Regional Authority in Natural Resource Management Post-Omnibus Law on Job Creation

The omnibus law originates from the United States, which adheres to the common law system, whereas Indonesia follows a civil law system. The concept of the omnibus law, initiated by President Jokowi and his cabinet, has received substantial support. Its objective is to resolve overlapping and disharmonious regulations, as well as to reduce the complex bureaucracy that consumes considerable time and costs in the licensing process. In the Omnibus Law on Job Creation, licensing has been simplified and categorized based on risk levels (low, medium, high), and criminal sanctions have been replaced with administrative sanctions (Aspan & Setiawan, 2023; Sartika Putri, 2021).

The presence of the Omnibus Law on Job Creation is expected to serve as a tool to achieve these objectives. However, it would be unjust to evaluate the omnibus law solely from its positive aspects without considering the potential

weaknesses or negative impacts that may arise (Arief & Ramadani, 2021). These weaknesses include, as Adam Dodek articulates, three objections to the implementation of the omnibus method. First, this method causes the parliament to lose power and encounter difficulties in holding the government accountable. Second, it becomes challenging for members of parliament to conduct objective and balanced reviews in collaboration with the government. Third, the omnibus method appears radical because it not only repeals existing laws but also creates new legal norms the contradict old legal that norms (Chandranegara, 2020).

The omnibus method applied in drafting the Omnibus Bill on Job Creation combines two models: reviewing similar laws and creating new material, as well as repealing related regulations. As a result, the Omnibus Bill on Job Creation contains 1,203 articles and affects 79 acts. Of the entire bill, approximately 347 provisions have been delegated to Government Regulations (Chandranegara, 2020). The 2020 Job Creation Law marks the first use of the omnibus method in Indonesia, although this method is not regulated 2011 Act on Law **Formation** (Chandranegara & Marfungah, 2024; ICLD, 2022). This law was subsequently declared conditionally unconstitutional by the Constitutional Court through case number 91/PUU-XVIII/2020, with a two-year deadline to rectify its formation process. During this period, lawmakers were prohibited from issuing strategic policies related to the Omnibus Law on Job Creation. In addition to focusing on formal aspects, the Constitutional Court also emphasized that the process of forming this law did not follow standard, clear, and definite procedures (Chandranegara Marfungah, 2024; Panjaitan, 2022).

Thus, although the omnibus method was applied in drafting the Omnibus Law on Job Creation, the Constitutional Court underscored the importance of adhering to clear and standard procedures in its formation process (Tanjung, 2024). This leads to further discussion regarding regulations related to the omnibus method in the act on act Formation, as stipulated in Article 42A and Article 97A of the Formation of Laws and Regulations (P3) of 2022. Law Number 6 of 2023 Creation does not replace philosophical, sociological, and juridical aspects of policies in other sectors. Article 42A of the Act P3 of 2022 regulates the use of the omnibus method in drafting regulations, which includes the addition, modification, and repeal of related material in similar regulations. Article 97A affirms that such material can only be changed or repealed by amending the relevant regulations (Samsul, 2024; Satresna, 2023).

Further explanations are detailed in the section on Perppu No. 2 of 2022, which outlines the concrete steps taken as a follow-up to the Constitutional Court Decision No. 91/PUU-XVIII/2020. These steps include: Issuance of Act No. 13 of 2022, which amends Act No. 12 of 2011 to regulate the omnibus method and clarify public Enhancement of meaningful participation. participation through the Task Force for the Acceleration of Socialization of the Omnibus Law on Job Creation across various regions. Technical revisions to Law No. 11 of 2020 and adjustments to the formulation of general provisions in the Government Regulation in Lieu of Law (Peraturan Pemerintah Pengganti Undang-Undang) Law No. 6 of 2023 concerning the Establishment of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation Becoming Law (Undang-Undang (UU) Nomor 6 Tahun 2023 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 Tentang Cipta Kerja Menjadi Undang-Undang, 2023).

Law No. 6 of 2023 concerning the Establishment of Government Regulation in Lieu of Law of the Republic of Indonesia No. 2 of 2022 on Job Creation Becoming Law has a complex structure comprising a total of 15 Chapters, 26 Sections, 51 Paragraphs, and 186 Articles encompassing 887 Clauses, 1,645 Subsections, and 494 Items. In its revision, 385 provisions were amended, 97 provisions were repealed, and 99 new provisions were established. Additionally, this regulation modifies 78 acts covering various sectors.

Law No. 6 of 2023 (Omnibus Law) strengthens the centralization of authority of the Central Government in the management of natural resources across various sectors (Naqiyyah & Sujatnika, 2023; Redi & Chandranegara, 2020), such as environmental protection 2023), water (Puspitaningtyas & Hartini, resources (Kusumaputra, 2021), electricity, mining (Hadi & Michael, 2021), oil and gas, geothermal energy, and plantations. The Central Government plays a dominant role in establishing technical policies, oversight, and licensing, reducing of thereby the role regional governments in many aspects. Nonetheless, some sectors still allow regional governments the flexibility to tailor policies to local conditions. Overall, the Omnibus Law focuses on simplifying procedures and promoting sustainable development while emphasizing stricter control by the Central Government.

Law No. 6 of 2023 signifies a significant shift in authority between the Central and Regional Governments. The re-centralization of authority in the administration of concurrent matters must be understood and interpreted based on the regulation of norms, procedures, and more centralized governance, in accordance with the provisions stipulated in the Omnibus Law on Job Creation (Hadi & Michael, 2021). Therefore, Law No. 6 of 2023 leans more towards centralization, whereas Law No. 23 of 2014 emphasizes decentralization and regional autonomy (J. Rambe, 2017).

Table. Re-centralization of Authority in the Central Government in Natural Resource Management Post-Omnibus Law on Job Creation

No	Sub Sector	Law No. 6 of 2023	Relevant Sectoral Laws	Comparison
1	Environmental Protection and Manage- ment	stipulates that the decision on environmental feasibility is determined by the central government, based on a feasibility testing team established by the central government.	Article 24 of Act No. 32 of 2009 does not specify the party re- sponsible for determining the environ- mental feasi- bility deci- sion, thus providing more space for the role of regional govern- ments.	The resentralization of authority to the central government in Law No. 6 of 2023 reinforces the central government's dominance in determining environmental feasibility.
2	Water Resources	It emphasizes the centralization of authority in the central government, with stricter and more detailed technical regulations.	Act No. 17 of 2019 provides greater space for regional governments in the management of natural resources.	Law No. 6 of 2023 is more structured and central- ized in the management of natural re- sources.

3	Electric Power	Emphasizes "Business Licensing" with more detailed reg- ulations on the utiliza- tion of the electricity grid and electricity tariff man- agement.	Law No. 30 of 2009 provides greater flexibility for regional governments in setting tariffs and managing the electricity sector.	Law No. 6 of 2023 provides a stricter structure in the management of electricity, with a more detailed division of authority between the central and regional governments.
4	Mineral and Coal Mining	It modifies the obligations of holders of Mining Business License (IUP)/ Special Mining Business License (IUPK), with special provisions on the development and utilization of coal (royalty 0%).	Act No. 4 of 2009 regulates the obligations of IUP holders to pay taxes and non-tax state revenues.	Law No. 6 of 2023 provides more detailed regulations on the obligations of IUP/IUPK holders and the imposition of royalties.
	Oil and Natural Gas	State control over this sector is managed by the central government, with the division of business activities into upstream and downstream sectors.	Act No. 22 of 2001 gives more responsibility to the implementing bodies appointed by the government.	Law No. 6 of 2023 regu- lates the management of the up- stream and downstream sectors through the central gov- ernment.

Source: Processed by the author.

A comparison between Law No. 6 of 2023 and Act No. 32 of 2009 indicates a significant shift in the regulation of environmental protection and management, focusing on the centralization of authority within the central government. In terms of environmental feasibility, Law No. 6 of 2023 grants dominance to the central government, reducing the role of regional governments, in contrast to Act No. 32 of 2009, which provided more space for regional involvement. This shift impacts the reduction of regional governments' capacity in enforcing environmental law.

The implementation of decentralization is a response to the failures of a centralized national

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development system and regional demands to obtain benefits and justice in the allocation of resource outcomes natural management (Sembiring, 2022). The central-regional relationship is essential and dynamic, influenced by ecological and conditional factors that change over time, thus the design of relationships and fiscal decentralization schemes must adapt to existing conditions and needs (Ibnu Sam Widodo et al., 2022).

The fundamental principle in the concept of authority relations between the central and regional governments within the Unitary State of the Republic of Indonesia is to grant maximum autonomy in accordance with the Constitution (Sembiring et al., 2023). This aligns of customary the approach communities that emphasize the balance of nature environmental management (participerend cosmisch), thereby ensuring that ecological justice is experienced by all elements of nature, in addition to humans (Nugroho et al., 2018). Thus, the concept of decentralization of authority can support the application of principles of fair and sustainable ecological balance.

In the management of water resources, Law No. 6 of 2023 emphasizes the centralization of authority, while Act No. 17 of 2019 provides more flexibility to regional governments. In the electricity sector, Law No. 6 of 2023 introduces more integrated regulations with strict oversight by the central government, replacing the more flexible Act No. 30 of 2009. Law No. 6 of 2023 details the obligations of holders of Mining Business Licenses (IUP/IUPK) in the mineral and coal mining sectors and increases criminal sanctions as an effort to tighten oversight and ensure compliance with applicable regulations. This is the government's attempt to strengthen control over the management of natural resources, particularly in strategic sectors such as mining (M. J. Rambe, 2022; M. J. Rambe, Sari, et al., 2024). In the oil and gas sector, Law No. 6 of 2023 introduces a more structured licensing system with tighter supervision. In geothermal energy management, although there is an increased role for regional governments, the central government continues to oversee strictly. In the plantation sector, Law No. 6 of 2023 grants greater authority to the central government in technical regulation, while regions retain a role in issuing plantation business licenses. Overall, this shift reflects a tendency towards the centralization of authority with more structured oversight, thereby reducing

the flexibility of regional governments in the management of natural resources.

IV. CONCLUSIONS AND RECOMMENDATIONS

The shift in authority between the central and regional governments in natural resource management following the enactment of Law No. 6 of 2023 (Omnibus Law) demonstrates a more dominant tendency towards centralization. Previously, under older laws such as Act No. 32 of 2009, regional governments held a larger role in managing vital sectors like environmental protection and natural resources. However, with the introduction of the Omnibus Law, the central government has increasingly strengthened its control and oversight over these sectors, including in matters of licensing and technical regulation. For instance, in the sector of environmental protection and management, the government central possesses dominant determining authority in environmental feasibility decisions, contrasting with previous regulations that granted a greater role to regional governments. This shift is also evident in the mining, electricity, and water resources sectors, which have experienced centralization of authority.

Overall, although the Omnibus Law aims to simplify procedures and enhance efficiency, these changes signify a reduction in regional autonomy in natural resource management and place greater emphasis on control by the central government. This affects the capacity of regional governments to enforce laws and manage resources according to local needs. The shift in authority illustrates how the relationship between the central and regional governments remains dynamic and is influenced by contextual needs and regulatory changes. Therefore, despite the objective to improve the effectiveness of natural resource management, it is crucial for the central government to maintain a balance with the needs of the regions to ensure justice and sustainability in natural resource management based on fair ecological principles.

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