

Constitutional Consistency of Indonesia's Job Creation Law and Its Impact on Regional Autonomy

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Abstract

The enactment of Law No. 6 of 2023 on the Ratification of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation into law is a legal instrument designed to simplify regulations in order to encourage investment and national economic growth. Nevertheless, this bill has sparked controversy regarding its consistency with the constitutional principles in the 1945 Constitution, especially in terms of local government policy on natural resource management. This study aims to analyze the constitutional consistency of the Job Creation Law and evaluate its legal implications for regional autonomy, particularly in relation to the reduction of local government authority in managing natural resources and policy-making. This study uses a normative legal method with an approach based on laws such as the 1945 Constitution, Law Number 6 of 2023, and Law Number 23 of 2014 on Regional Government. Findings indicate inconsistencies between the provisions of the Job Creation Law and constitutional values related to public participation and workers' rights. A phenomenon of re-centralization of authority has been observed, whereby strategic regional powers such as risk-based licensing (OSS), mining, spatial planning, and environmental supervision have been transferred to the central government. This has resulted in a weakening of regional control functions and a significant decline in Regional Original Revenue (PAD) due to cuts in regional levies. Conclusion The Job Creation Law redefines regional autonomy by placing decentralization under the control of national interests, which has the potential to erode the autonomous identity of regions. Regulatory corrective measures are needed to restore the balance of central-regional relations so that they remain within the constitutional corridor.

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Introduction

The government of a country uses regulation as the main tool to keep society orderly and organized. Whether it is government policy in the form of laws, regulations, or other actions, the purpose of the regulation in question is as a tool capable of resolving issues within society.¹ Indonesia has a lot of legislation, one of which is civil law. Civil law governs the legal system in the legal nation of Indonesia. The constitution is ranked first in the hierarchy of rules and regulations in civil law nations. Every nation with civil law has a written constitution.² In order to ensure that the structure and material functions of laws and regulations create a functional relationship between one regulation and another, Indonesia is composed of a wide range of different institutions, each of which has a function and is also material according to its level.³ The adoption of omnibus legislation methodology, a legislative practice primarily associated with common law regimes, caused a paradigm shift in Indonesia's legal system, which was previously rooted in the civil law heritage passed down from Dutch colonial rule.⁴ According to Black's Law Dictionary, which was referenced in Constitutional Court Decision No. 91/PUU-XVIII/2020, an omnibus law is legislation that deals with multiple objects or items at once; it can include many things or have multiple purposes, which fundamentally challenges Indonesia's traditional legislative methods.⁵

The Indonesian legal system has difficulties and issues as a result of the creation of omnibus laws, especially Law Number 11 of 2020 on Job Creation. A rise in additional rules and legal ambiguity may result from the omnibus method's complicated lawmaking process. The creation of statutory rules through omnibus statutes may not adequately represent the goals of justice, public welfare, and legal clarity.⁶ Furthermore, Indonesia's lawmaking process has come under fire for being hurried and missing community input, which has affected the caliber and efficacy of the laws produced. These difficulties show that in order to guarantee that the desired results are obtained in Indonesia's legal

¹ Ratna Cahya et al., "Responsibilitas Pemerintah Daerah Kabupaten Ciamis Dalam Meningkatkan Pelayanan Publik Melalui Omnibus Law," *Jurnal OTONOMI* 1, no. 1 (2024): 59–71.

² Novendri M. Nggilu et al., "Indonesia's Constitutional Identity: A Comparative Study of Islamic Constitutionalism," *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 2 (2024): 480–500; Jihan Y. Latif and Suci Khairunnisa Latedu, "Ensuring Constitutional Identity: Amendments, Judicial Review, and Public Participation in Constitutional Dynamics," *Nternational Journal of Constitutional and Administrative Law* 1, no. 2 (n.d.): 101–15; Siti Hasanah and Firzhal Arzhi Jiwantara, "Non-Formal Legitimacy of Constitutional Change and Public Perception in The Reform of the 1945 Constitution Through Constitutional Court Decisions," *Jurnal IUS Kajian Hukum Dan Keadilan* 13, no. 3 (2025): 621–37, <https://doi.org/10.29303/ius.v13i3.1841>.

³ Iwan Iwan et al., "The Omnibus Law on Job Creation and Pancasila As the Legal Ideology in Indonesia," *Jurnal Pembaharuan Hukum* 7, no. 3 (2020): 246–61, <https://doi.org/10.26532/jph.v7i3.13458>.

⁴ Bobi Yusuf Noor Fajar and Zaid, "A Critical Review On The Job Creation Omnibus Law-Forming Process," *Syiah Kuala Law Journal* : 5, no. 2 (2021): 195–211, <https://doi.org/10.24815/sklj.v5i2.21605>.

⁵ Lega Rahayu Febriana et al., "The Legal Politics Of The Formation Of Job Creation Law Within The Framework Of Responsive Laws," *Multidisciplinary Indonesian Center Journal (MICJO)* 2, no. 2 (2025): 2323–38.

⁶ Ahmad Ariawan Rahmat, "Legal Policy in the Formation of the Omnibus Law on Job Creation in Indonesia," *Inaugural Hybrid International Conference on Law and Social Sciences* 2, no. 2 (2022): 1–15, <https://doi.org/10.20885/iustum.vol30.iss2.art1.3>.

system, a more open, inclusive, and well-defined approach to law development is required.⁷

After gaining a legal foundation through Law Number 13 of 2022, the regulation of the omnibus law in Indonesia has advanced. The omnibus legislation does not, however, fully govern the process of creating laws. This indicates that it has not been subject to stringent and comprehensive regulation. From a legal standpoint, there are no explicit clauses (*lex certa*) that define the limits of what is relevant material substance for omnibus law drafting. The People's Representative Council (Dewan Perwakilan Rakyat, or DPR) of Indonesia enacted this measure on October 5, 2020, with the goal of lowering the regulatory requirements for business permit applications and land acquisition procedures in order to increase employment and both local and international investment. This law was stipulated following President Joko Widodo's promise to amend various laws that inhibit job creation.⁸ To develop investment-related legislative tools that might boost interest in investing in Indonesia, Indonesia may enact an omnibus bill. This is due to the complexity of the issues covered by investment law. Not only is it a problem with investors coming to invest their money, but it is also strongly tied to a number of other issues including infrastructure, employment, fiscal and non-fiscal incentives, and more. The intricacy of this issue is the reason why the Investment Law does not yet control it.⁹

Through the implementation of policies within the business sector's legal framework, the omnibus law aims to increase investment in Indonesia. There are currently worries that bureaucracy is complicated, laws are overly onerous, legal goods in the investing industry are undesirable, and excessive restrictions have serious repercussions. However, the idea to create an Omnibus Law has special challenges for improving the legal system since it contains a lot of information that is often unorganized, and it is likely to have errors in terminology or construction. However, the government passed the Job Creation Bill, which has since been ratified, to increase investment in Indonesia. When this rule was established under the Omnibus Law policy, several concerns surfaced. Good Governance is established as a result of the Omnibus Law's incorporation of the General Principles of Good Governance (AUPB).¹⁰ In order to preserve workers' rights and maintain a healthy labor market, labor laws are crucial for regulating the relationship between companies and employees.¹¹

The lack of systems to monitor and evaluate the law makes matters worse. The transfer of municipal power to the central government is governed by many regulations. In terms of government administration, the president has the power to enact or implement laws

⁷ Marsudi Dedi Putra et al., "Legislative Formation Design Using the Right Omnibus Law in Indonesia," *International Journal of Social Science Research and Review* 6, no. 7 (2023): 119–29, <https://doi.org/10.47814/ijssrr.v6i7.1295>.

⁸ Sudharto P. Hadi et al., "A Sustainability Review on the Indonesian Job Creation Law," *Heliyon* 9, no. 2 (2023): 1–7, <https://doi.org/10.1016/j.heliyon.2023.e13431>.

⁹ GaluhKartiko et al., "Application Of Omnibus Law In The Investment Field As A Efforts To The Settlement Licensing Regulation And Harmonization Of Law Regulation In Indonesia," *Omnibus Law Opportunities And Challenges Towards Entrepreneurs And Labor : Comparative Review Law*, 2020, 1–20.

¹⁰ Aida Mardatillah, "Kebijakan Omnibus Law Dalam Menata Good Governance Di Indonesia," *Palar: Pakuan Law Review* 7, no. 2 (2021): 220–33.

¹¹ Arifuddin Muda Harahap et al., "Challenges And Problems In Labour Law From The Perspectives Of Indonesia And Malaysia," *Malaysian Journal of Syariah and Law* 12, no. 3 (2024): 535–49.

on behalf of local governments. In autonomous areas, local administrations really organize the government. The essence and process of the proper, which is the giving of power, have been reduced to the simple submission of matters or assignments (delegation). For instance, local administrations lose responsibility over spatial management in their areas when basic licensing is implemented; instead, the authority is fully transferred to the central government.¹² Opportunities to create new jobs may arise from ease of investing and ease of establishing businesses and firms. The community's buying power is anticipated to rise as a result of increased investment, which will positively affect economic growth, development, and community welfare.

Various perspectives on the application of omnibus law in Indonesia make this topic interesting. Description of previous research conducted by Luthvi Febryka Nola by raising issues or topics entitled "The implementation of omnibus law in Indonesian labor law".¹³ The focus of Luthvi's research is to discuss the position of the omnibus law in the hierarchy of legislation in Indonesia related to labor law after the publication of the job creation law. In this study, the author focuses on omnibus laws in Indonesian labor law. Omnibus laws in Indonesian labor law are examined using theories of law formation and law enforcement. This study reveals that the concept of omnibus law has been implemented in the drafting of several laws. In the context of labor law, Law No. 13 of 2003 on Labor is the result of the consolidation of six ordinances and nine previous laws. This legislative process faced complex challenges as it had to balance various interests, required a lengthy timeframe, and incurred significant costs. In contrast, the Job Creation Law (Law No. 11 of 2020), despite its relatively brief deliberation process in the House of Representatives, had undergone thorough preparation by the Government before ultimately facing various legal challenges following its enactment. From studies conducted by previous researchers, the author did not find any similarities in terms of theme, as the topic of this paper focuses on the Job Creation Law with the principle of decentralization guaranteed by the constitution, which has a significant impact on the implementation of regional autonomy.

Problem Statement

This research examines how the Omnibus LAW cipta works in line with constitutional principles in Indonesia, and the significant impact on the implementation of regional autonomy policies that are narrowed in authority.

Methods

This research is normative in nature. The process of problem solving based on relevant literature and law is known as normative research. Research on legal principles, legal systematics, and the level of legal synchronization constitutes normative legal research. This method involves a discussion of every law related to the situation at hand (legal

¹² Rulli Putra Ananda, "Kewenangan Pengelolaan SDA Oleh Pemerintah Daerah Pasca Omnibus Law," *Jurnal Rechten: Riset Hukum Dan Hak Asasi Manusia* 4, no. 3 (2022): 50–62, <https://doi.org/10.52005/rechten.v4i3.106>.

¹³ Luthvi Febryka Nola, "Penerapan Omnibus Law Dalam Hukum Ketenagakerjaan Di Indonesia," *Kajian* 25, no. 3 (2020): 217–29.

problem). In supporting the implementation of this research, the researcher used a statute approach in the form of the 1945 Constitution, Law Number 6 of 2023 concerning the stipulation of government regulations replacing Law Number 2 of 2022 concerning Job Creation into Law and Law Number 23 of 2014 concerning Regional Government. The technique for collecting legal materials was carried out through literature. The researcher recorded, grouped, and compiled legal materials collected from official government websites and publicly available archives of regulations in accordance with the type of legal material, which was ultimately regulated by scientific writing guidelines.

Omnibus Legislation and the Transformation of Decentralization in Indonesia

1. Omnibus Law with the Principle of Decentralization

The process of creating legislation known as omnibus law governs and addresses all issues pertaining to all kinds of topics, substance, and legislative subjects. The term omnibus law is derived from the Latin "omnibus," which means for all or many. Since "law" implies "law," "omnibus law" may be described as "law for all." This suggests that one law can govern all conversations, making things simpler. According to Glen Stuart Krutz who uses the term omnibus drafting defines omnibus drafting is any major legislation that: covers three or more major topic policy areas or ten or more sub-topic policy areas, and is greater than the average plus one standard deviation from the main bill in words.¹⁴ Whereas Bivitri Savitri stated an omnibus bill is a statute designed to address significant problems facing a nation. The objective is to abolish and amend some laws in addition to focusing on major concerns. Based on Fachri Bachmid's legal expertise said omnibus law is a legal product concept that combines various topics, materials, subjects, and regulations from each different sector to produce a single, extensive, and comprehensive product.¹⁵ Both written and unwritten laws are essential to a nation's existence. From law has been a part of a nation from its founding, it cannot be separated from its history. Particularly in light of the existence of the rule of law, which serves as the foundation for ultimate authority. The legislation is viewed as a guideline to preserve people' human rights while limiting the ruler's power.¹⁶

Until recently, the idea of an omnibus bill was unknown and had not been applied in legislative procedures. The Job Creation Law is a substantial shift from the nation's customary legislative procedures. Although this new strategy seeks to simplify rules and cut down on bureaucratic red tape, it has sparked questions about openness and public involvement. The provisions of the Job Creation Law create a number of concerns, especially in a state governed by the rule of law where political authority must follow the rule of law and refrain from conflicting with more important legislation. There are questions about whether the Job Creation Law's legal provisions clash with present rules and if it will render other laws unconstitutional. The main concern is how it affects citizens' fundamental rights, particularly those of workers who were not heavily involved

¹⁴ Charles Simabura and M. Nurul Fajri, "Konstitusionalitas Penerapan Mekanisme Omnibus Law Dalam Pembentukan Undang-Undang Di Indonesia," *Jurnal Konstitusi & Demokrasi* 2, no. 1 (2022): 60–80, <https://doi.org/10.7454/JKD.v2i1.1204>.

¹⁵ Ibid'

¹⁶ Putu Eva Ditayani Antari, "The Implementation of Omnibus Law in Indonesia Law Making Process on Philosophy Review," *De Jure: Jurnal Hukum Dan Syar'iah* 14, no. 1 (2022): 179–94.

in its creation. The law's normative legal problems draw attention to possible inconsistencies with current labor laws. Although the law is likely to have positive economic effects, there are also known social hazards, especially those related to labor rights.¹⁷ As is the case in Indonesia at the moment, the idea of Omnibus Law may really be seen as a way to streamline a number of legislation. Aside from excessive regulation, there are a number of other significant problems.¹⁸ The first is the lack of coordination between national and regional legislative planning. Second, the content that is meant to be governed differs from the laws' similarities. Third, the issue of "hyper-regulation" arises from noncompliance with such documents, and fourth, the efficacy of laws is frequently a problem when they are implemented.

Another explanation for making Law No. 6 of 2023 on the enactment of government regulations replacing Law No. 2 of 2022 on Job Creation into law still shows that there are obstacles in communication and relations between state administrators and citizens. The process of making laws should actually represent the interests of the general public. Additionally, the central government interferes in the creation of local regulations, preventing local governments from forming policies freely.¹⁹ This is because of several provisions that affect the way regional autonomy is implemented, particularly in the area of regional jurisdiction, where local governments' authority is eliminated and replaced by the Central Government's, particularly in the licensing process for important industries, and special economic zones. Because of the central government's interference, this might have an impact on local revenue (PAD) and limit local governments' ability to create policies.²⁰ Article 18 of the Constitution of the Republic of Indonesia (UUD 1945) of 1945 stipulates that Indonesia must respect a unitary state with a decentralized organizational structure.

Transferring power to local governments so they may manage their own homes from the central government.²¹ However, this authority transfer was not fully granted. The presence of regional autonomy is one way that the decentralization concept is applied. An authority where an area is in charge of its own affairs is known as regional autonomy.²² However, decentralization has disadvantages, such as: First, there are still many problematic municipal ordinances in place (Perda). Second, local budgets and Transfer Allocation Funds to Regions and Village Funds (TKDD) provide more funds to staff expenses and bureaucracy, which results in inefficiencies and disruptions to welfare. Third, there is a lot of excitement about the expansion of areas that can charge the state

¹⁷ Zainul Akhyar and Mariatul Kiptiah, "The Constitutional Implications of Indonesia's Omnibus Job Creation Law on Workers' Rights," *Contemporary Readings in Law and Social Justice* 16, no. 1 (2024): 97–104.

¹⁸ Adi Subowo and Joko Ismono, "Juridical Analysis Of The Establishment Of Job Creation Law According To Legal Theory," *Jurnal Magister Hukum "Law and Humanity* 74, no. 2 (2024): 167–85.

¹⁹ Meima, "Pembentukan Undang Undang Cipta Kerja Dan Implikasinya Terhadap Otonomi Daerah," *Wacana Paramarta Jurnal Ilmu Hukum* 20, no. 4 (2021): 1–13.

²⁰ Kinanthi Puspitaningtyas and Sri Hartini, "Kewenangan Daerah Di Sektor Lingkungan Hidup Pasca Diberlakukannya Undang-Undang Nomor 6 Tahun 2023," *Refleksi Hukum : Jurnal Ilmu Hukum* 8, no. 6 (2023): 123–42.

²¹ Yulia Neta et al., "Implications Of Omnibus Law On Job Creation Towards Regulations In Decentralization Perspective," *Journal Fh Unila* 6, no. 1 (2022): 63–76, <https://doi.org/10.25041/cepalo.v6no2.2683>.

²² Firman Freaddy Busroh, "Konseptualisasi Omnibus Law Dalam Menyelesaikan Permasalahan Regulasi Pertanahan," *Arena Hukum* 10, no. 2 (2017): 227–50.

budget. Fourth, low regional income generation is a result of inadequate tax authority. Fifth, the topics of development planning and execution give rise to the problem of national development integration. The last point is the problem of regional disparities in development. The less-than-ideal decentralization conditions that are also unrelated to the development objective can be explained by this fact. Decentralization is anticipated to lower prices and provide more efficient and focused services, such as in the economic sector. In terms of politics, it should be able to foster grassroots democracy, lessen the central government's abuse of power, and provide psychological fulfillment. It is anticipated to reduce bureaucratic red tape and improve the efficiency of decision-making in the administrative area. Appreciating and fostering local variety and culture is anticipated in the social and cultural domains.²³

The right of local governments to control the matters entrusted to them must be respected by the central government in a decentralized unitary state. There are three different ways that decentralization may be used, including:²⁴

1. Territorial Decentralization

The delegation of governmental power to a public entity (openbaar lichaam). Similar to a self-governing Guild (zelf regende gemmenchappen), an organization that looks out for and governs the public interest in a certain field. The general body or organ gained autonomy as a result of the authority exchange;

2. Functional Decentralization (including services/interests)

Organize and take care of the functions of a particular local government by an organ or functionally separate organization.

3. Administrative Decentralization (also known as deconcentration)

Decentralization of authority to carry out the duties of the central government in administering local government by local officials themselves.

When viewed normatively, some regulations explicitly suggest a decrease in the protection of workers' and marginal communities' rights. Examples of major developments that tend to reduce workers' negotiating strength include agreements pertaining to labor relations, outsourcing systems, working hours, leave benefits, and severance compensation.²⁵ The job development law's labor articles are no longer seen as balanced in terms of considering the idea of "fairness" between employers and employees. Lack of clarity on short-term employment contracts that are continuously extended (specific time work agreements) and termination procedures that are seen to be more advantageous for employers are just two examples of how the new rules create room for work flexibility without sufficient protection.²⁶

²³ Suhud Alynudin et al., "Hubungan Pusat-Daerah Pasca Undang-Undang Cipta Kerja," *Jurnal Ilmiah Niagara* 15, no. 2 (2023): 213-30.

²⁴ Alynudin et al., "Hubungan Pusat-Daerah Pasca Undang-Undang Cipta Kerja."

²⁵ Mirza Satria Buana and Rahmat Budiman, "Indonesia's Minimum Wage Policy After The Omnibus Law: A Comparative Analysis From Islamic Principles," *Uum Journal of Legal Studies* 13, no. 2 (2022): 187-214.

²⁶ Yogi Setiawan et al., "Analisis Kritis Terhadap Implementasi Undang-Undang Cipta Kerja Dalam Perspektif Hak Asasi Manusia Dan Prinsip Keadilan Sosial Di Negara Hukum," *YURISDIKSI: Jurnal Ilmu Hukum Dan Humaniora* 1, no. 1 (2025): 19-27.

Regional authorities' involvement in business licensing in the region is impacted by modifications to business licensing procedures outlined in the job creation statute. Local governments' jurisdiction to award business licenses is partially delegated to the central government and partially transferred to local governments as a result of the job creation law's explanation of risk-based business licensing and company size. The sphere of government affairs as an object of regional authority in the framework of business licensing in accordance with revisions in Local Government legislation in the job creation law, including sector-specific requirements. The issuance of the omnibus LAW certainly provides significant changes to local government policies that are narrowed, so that local governments cannot freely make policies that have been taken over by the central government. Some examples of local government authority affairs that are taken over by the central government over the applicable law on job creation are listed in the following table:

Table 1. Local Government Authority Transferred by Omnibus Law

No	Areas Of Authority	Local Government Authority Before Omnibus Law	Post-Omnibus Law Changes	Legal Basis	Impact on local governments
1.	Licensing Attempt	Issuing business licenses (IMB, location permits, environmental permits)	Authority transferred to the center via OSS, Local Government only verify data	PP No. 5/2021	Loss of licensing control
2.	Mining	Issuing small scale mining permits (IUPK)	Mining license authority entirely at the center	UU No. 3/2020	Loss of control over natural resources
3.	Layout	Establish RDTR (detailed spatial plan) and building permit	Must adjust to the RZUN (National Main Zone plan) set by the center	PP No. 21/2021	Spatial authority was drastically reduced
4.	Environment	Issuing EIA/UKL-UPL permits and supervising their implementation	Environmental permits are combined in the central business agreement, The Local Government only gives recommendations	PP No. 22/2021	Environmental surveillance weakened
5.	Investment	Have the right to veto investments that are not in accordance with local regulations	National Strategic Projects (PSN) cannot be rejected by the Regional Government	PP No. 10/2021	Loss of control over investments
6.	Employment	Setting the minimum wage District / City (UMK)	Only the provincial Minimum wage (UMP) applies, MSEs are removed	Pasal 88-90 UU Cipta Kerja	Wage flexibility increases, but local labor

					protection decreases
7.	Regional Retribution	There are 32 types of retribution (e.g.g., market retribution, business license)	Trimmed to 16 types of retribution	PP No. 28/2021	Reduced local revenue (PAD)
8.	Industrial	Regulating licensing of small and Medium Industries (IKM)	Industry licensing taken over via OSS Center	PP No. 7/2021	Centralization of industrial policy
9.	Plantation	Issuing a plantation location permit	Permission is determined by the center, The Local Government only recommendations	PP No. 18/2021	Difficult to control land conversion
10.	Trade	Regulating trade and traditional market business licenses	Business licensing taken over the center, the Regional Government only supervise operations	PP No. 29/2021	Reduced local trade authority
11.	Health	Issuing permits for hospitals and private clinics	Licensing standards determined by the center, The Local Government only verification	PP No. 34/2021	Centralization of Health Services
12.	Transportation	Manage public transport permits and routes	Route authority and licensing taken over the center	PP No. 41/2021	Regional transport autonomy lost

Source: Primary Data Processed in 2025

Based on the description of Table 1 Above, with the enactment of Omnibus Law of local government in matters of policy making has been narrowed due to the recentralization of the authority of policy implementation. For example, in the field of licensing, local governments initially issued business licenses (IMB, location permits, and environmental permits). However, with the Omnibus Law, Authority is transferred to the center via OSS, the Regional Government only verifies data related to permits. Recentralization of the authority of the central government regarding the mining sector after the job creation law can be seen in the table below:

Table 2. Reduction of Local Government Authority in mining.

No.	Previous Government Authority	Local	Post-Omnibus Law Changes	Legal Basis	Impact on local governments
1.	Issuing IUP (mining business license) for non-metallic minerals & rocks		Authority entirely to the center via OSS	Pasal 36 UU 3/2020	Lost revenue & mine spatial control
2.	Supervise small-scale mining operations (IUPK)		Main supervision by EMR Centre	Pasal 95 UU 3/2020	Difficult control of illegal mines
3.	Establish people's mining area (WPR)		WPR must match the National Mining Area (WPN) Center	Pasal 93 UU 3/2020	Can not determine the location of the mine
4.	Collecting regional mining permit levy		Replaced Center (non-tax revenues)	PNBP PP 55/2021	PAD from mining drastically reduced
5.	Manage reclamation & post-mining		Standards determined by the center, The Local Government only coordination	PP 26/2022	Environmental oversight authority weakened
6.	Issuing permits for Mineral/Coal Transportation		Authority to the Ministry of energy and Mineral Resources	Pasal 162 UU 3/2020	Can not control the circulation of mining products

Source: Primary Data Processed in 2025

Due to the aforementioned shift of power, the Central Government now has the ability to influence local governments' budgetary policies, particularly when it comes to setting local tax rates and levies. The central government may take the following actions:

1. May change the tax rate and levy rate with the determination of the tax rate and levy rate applicable nationally; and
2. Supervision and evaluation of local regulations related to taxes and levies that hinder the investment ecosystem and ease of doing business.²⁷

The central government's interference resulted in the region's loss of autonomy. Local governments had the power to determine local tax rates and levies prior to the job creation law's passage; in this instance, the decentralized system functions fully, and the central government's power is restricted to monitoring pertinent local laws and does not extend to tax setting. The authority of local governments to conduct government, particularly in the area of taxes and levies, does not reflect a fully decentralized system because the central government maintains control over local regulations through the evaluation of draft local regulations and local regulations in the tax.²⁸

²⁷ Pasal 156 Ayat (2) Undang – Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja.

²⁸ Nabila Alif Radika Shandy and Allan Fatchan Gani Wardhana, "Bagaimana Hubungan Pusat Dan Daerah Pasca Penetapan Undang-Undang Cipta Kerja? Kasus Penetapan Pajak Daerah," *AS-SIYASI: Journal of Constitutional Law* 2, no. 1 (2022): 93–114.

The enactment of the omnibus law in the Job Creation Law reflects a pragmatic regulatory ambition that ignores the ontological aspects of participatory law formation. The author believes that although regulatory simplification is an urgent need to overcome hyper-regulation, the imposition of a single standard from the center through this instrument has reduced the meaning of Article 18 of the 1945 Constitution, which guarantees the right of regions to regulate their own affairs. The essence of decentralization, which should be a means of distributing power, has now shifted to merely an administrative instrument to facilitate the interests of investors, which at a certain point actually distances the law from the ideal of social justice for all people. In addition, there are internal contradictions in the government's narrative; on the one hand, it promises efficiency, but on the other hand, it creates new legal uncertainty due to the large number of overlapping implementing regulations. The central government's hegemony in unilaterally determining Norms, Standards, Procedures, and Criteria (NSPK) shows that this spirit of "recentralization" is not merely an effort at harmonization, but a form of systematic erosion of regional sovereignty wrapped in the rhetoric of economic efficiency. This triggers the risk that regions will become mere administrative spectators without the political bargaining power to protect their local wisdom. The lack of public involvement in the process of drafting this law is a formal flaw that violates the principle of people's sovereignty. Without the active involvement of local communities and labor unions, the resulting law tends to be elitist and only benefits certain groups. This imbalance confirms that the top-down approach promoted by the Job Creation Law has the potential to generate social resistance at the local level, which could hinder the initial objectives of the investment itself.

2. The Development of Regional Autonomy after the Enactment of the Omnibus Law

The government is trying to implement an omnibus law, a new legal innovation. The Omnibus LAW aims to solve the nation's problems that conflict with regulations, especially in the field of investment. An omnibus law brings together several complicated topics and unifies them in one legal framework. Omnibus laws usually include current regulations that need to be improved and refined. A comprehensive and rapid ethos of relaxation and reform in many areas including in job creation measures. It is generally believed that the key to improving productivity and competitiveness is liberalization and relaxation.²⁹ Academics, practitioners, and policymakers have all expressed worry about Omnibus LAW. According to some authors, the bill is necessary and would assist Indonesia in drawing in more foreign investment, which would lead to promising growth.³⁰ Since the demand for good governance in Indonesia is closely tied to the implementation of regional autonomy, granting regional autonomy in general is actually crucial to achieving better governance and its effective and efficient utilization to accelerate the improvement of public welfare. Theoretically, decentralization and regional autonomy should strengthen local community participation, foster local democracy, bring the nation closer to the community, respect local identity and diversity,

²⁹ Anak Agung Sagung Laksmi Dewi et al., "The Urgency of Indonesian Omnibus Law Implementation Related to Foreign Investment," *Substantive Justice International Journal of Law* 6, no. 2 (2023): 83–93.

³⁰ Muhamad Rosyid Jazuli et al., "The Importance of Institutional Quality: Reviewing the Relevance of Indonesia's Omnibus Law on," *Humanities and Social Sciences Communications Volume* 9, no. 1 (2022): 1–13, <https://doi.org/10.1057/s41599-022-01343-w>.

and improve the quality of community services that are pertinent to local needs. In the autonomous territory of the system of special public services, licensing is one of the most significant considerations.³¹

Article 236 paragraph (1) of Law No. 23 of 2014 on Local Government, as most recently revised by Law No. 11 of 2020, grants each area the authority to establish regional policies and/or regulations as one type of regional autonomy. Decentralizing the authority that has been concentrated in the hands of the central government is necessary to implement the regional autonomy policy. Power moves from the center to districts and cities across Indonesia as a result of the decentralization process, which transfers authority from the central level to the relevant local administration. If, under the initial circumstances, the government's power flowed from the regional to the central level, then, ideally, since the regional autonomy policy was put into place, the power dynamics will flow from the center to the regions in the opposite manner.³²

Critics contend that the law erodes workers' rights, lacks transparency, and unfairly advantages elite interests, despite the government's claim that it is crucial for attracting investment and simplifying regulations. The law's extensive revisions to labor laws have generated a lot of controversy since some believe they might result in increased job instability, decreased pay, and diminished labor rights. Limited public engagement in the legislative process has also been a source of concern, which has increased doubts about its inclusivity and justice.³³ Furthermore, there are political traits like the rise of new people with a strong sense of personal accountability and a tight bond with the government, which is marked by a smaller degree of social and economic divide.³⁴

The connection of power, financial ties, relationships resulting from the regional government's organizational structure, and supervisory relationships are the factors that influence the interaction between the center and the regions in an autonomy. The first is the authority dynamic between the region and the center. This authority connection has to do with the regional home system's hierarchy. Where it will have an impact on how much power both the federal government and local governments have to plan and conduct any kind of government activity. Stated differently, the connection between this authority and the regions will decide the extent of government affairs. This authority connection is based on an affair being submitted, recognized, or omitted as a regional household affair. The division of affairs includes absolute government affairs, which are completely under the authority of the central government, concurrent government affairs, which are divided into central and regional government affairs, which include mandatory government affairs and optional government affairs tailored to a region's

³¹ Eki Furqan and Rizky Arifianto, "Authority Of Regional Governments In Implementing Licensing After The Job Creation Law Entitles," *International Journal of Law Society Services* 5, no. 1 (2025): 25–43.

³² Malicia Evendia and Ade Arif Firmansyah, "Environmental Protection Post Establishment Of Omnibus Law On Job Creation In The Persective Of Local Government Authority," *Progressive Law Review* 5, no. 1 (2023): 51–67.

³³ Vincentius Pantjahjono Heru Prasetyo et al., "Evaluating The Implications of Indonesia ' s Omnibus Law : Legal , Political , and Economic Perspectives," *Law Development Journal* 7, no. 225 (2025): 132–43.

³⁴ Sugeng Dwiono et al., "An Analysis on the Omnibus Law and Its Challenges in Indonesia : The Perspectives of the Constitutional and the Islamic Law," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 2 (2024): 706–25, <https://doi.org/10.22373/sjnhk.v8i2.22720>.

potential, and general government affairs, which are under the authority of the president as head of government.³⁵

Based on the regulation on the division of authority, duties and responsibilities contained in Law No. 23 of 2014, we currently use the concept of material households. It relies on a clear and distinct separation of responsibilities between the central government and local governments. The notion of material home acknowledges the distinction between central and local activities. It is also found in the Code of Local Government, where government functions are controlled in detail. Clearly, government affairs are divided into absolute, concurrent, and mandatory government affairs, with a clear distinction between levels of local government, namely provincial government and local government districts/cities. Regional head as the head of government in this case the governor and Regent/mayor who acquire the authority based on the concept of decencentration from the central government, have the right to select what business possibilities they wish to have.³⁶ However, the authority must follow the broad principles of good administration. However, following the ratification of Law Number 11 of 2020, it establishes a bar paradigm for the concept of decentralization, which is returned to centralization, in which the authority of autonomous regions is withdrawn and must be in accordance with the central government's norms. This is reflected in the following revision to Article 16 of Law 23 of 2014.³⁷

- 1) The central government in conducting concurrent government affairs as meant in Article 9 paragraph (3) is authorized to:
 - a. establish norms, standards, procedures, and criteria in the framework of the administration of Government Affairs; and
 - b. carry out the construction and supervision of the administration of Government Affairs that become the authority of the District.
- 2) Determination of norms, standards, procedures, and criteria as referred to in Paragraph (1) letter A refers to or adopts good practices.
- 3) Norms, standards, procedures, and criteria as referred to in Paragraph (1) letter a are in the form of provisions of laws and regulations stipulated by the Central Government as rules of implementation in the implementation of concurrent government affairs under the authority of the Central Government and under the authority of local governments.
- 4) The central government may delegate the regulation on the implementation of norms, standards, procedures, and criteria as referred to in paragraph (3) to the regional head as stipulated by the Regional Head regulation.
- 5) The authority of the Central Government as referred to in Paragraph (1) letter b is assisted by ministries and non-ministerial government agencies.
- 6) The exercise of authority by non-ministerial government agencies as referred to in paragraph (5) shall be coordinated with the relevant ministries. Determination

³⁵ Danetta Leoni Andrea, "Penyelenggaraan Otonomi Daerah Bidang Pendidikan Berdasarkan Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah," *Jurnal Ilmu Hukum Kyadiren* 1, no. 2 (2020): 155–65.

³⁶ Andi Islamuddin et al., "Perbandingan Kewenangan Kepala Daerah Menurut Undang-Undang No 23 Tahun 2014 Dan Undang-Undang No 11 Tahun 2020 Tentang Cipta Kerja," *Journal of Lex Generalis (JLS)* 2, no. 10 (2021): 2610–25.

³⁷ Pasal 16 Undang-Undang 23 Tahun 2014 Pemerintah Daerah.

of norms, standards, procedures, and criteria as referred to in Paragraph (1) letter a shall be carried out no later than 2 (two) years from the date the government regulation on the implementation of concurrent government affairs is promulgated.

The recentralization of authority in the field of environmental management and protection to be revoked and controlled by the central government is one of the major changes in legal politics following the creation of the Omnibus Law. This can be seen from the Omnibus Law's provisions on environmental protection and management; sections on environmental permits that were changed to environmental approvals still apply.³⁸ In addition to endangering the existence of communities and customary law communities in environmental and land management based on local wisdom, the central government's stronghold on the provisions of this omnibus law can also jeopardize the roles and functions of local governments that are supposed to be environmental agencies in the area. Both provinces, districts and cities are authorized in accordance with the provisions of Law No. 23/2014 on Regional Government. In the end, this greatly reduces and undermines the function of the environmental organization in the region.

Stronger environmental safeguards that would have been governed by the previous local government are weakened as a result of the local government losing authority over environmental permits inside its own borders. The loss of local governments' power to control spatial planning and organize regions linked to environmental protection is another adverse effect. The Omnibus law's amendment may grant the central government more power to decide on spatial policy, which might not completely take into account particular environmental factors at the regional level. Furthermore, changes to the legislation could make it more difficult for local governments to enforce stronger penalties and regulations for environmental infractions. At the local level, this may affect more efficient law enforcement and improved environmental protection.³⁹

Applying the job creation law will provide challenges, as evidenced by the issue of government administration, specifically the power of local governments to appeal to the center government to remove investment restrictions. The president may end up holding an excessive amount of power as a result of local governments' jurisdiction being transferred to the central government. Decentralization, authoritarianism, and even anti-democracy are other issues that are thought to have the potential to have a negative effect because they distance public services from participation. The government will then prepare closed and opaque policies that have immunity from investment management officials, which could lead to opportunities for institutional state corruption and possibly open gaps in land extortion. Another effect is the ease with which capital owners,

³⁸ Alofsen Sianturi, "Degradasi Kewenangan Pemerintah Daerah Dalam Pengelolaan Dan Perlindungan Hukum Lingkungan Pasca Omnibus Law," *Journal of Academic Literature Review* 2, no. 8 (2023): 693–701.

³⁹ Nurul Khoirotul Hijriah and Fauzi Syam, "The Impact Of Omnibus Law On Local Government Authority In The Management Environment," *Journal of Administration Law* 5, no. 1 (2024): 29–42.

particularly foreigners, can enter Indonesia, endangering the livelihoods of small-scale fishers, farmers, and local producers.⁴⁰

In this situation, local governments are free to decide on issues pertaining to public services, development, and the management of natural resources, while the region's economy has restrictions that influence policy. Increased community involvement in decisions pertaining to local interests and the flexibility to choose the course of development are two benefits of regional autonomy. The central government gives local governments the power to handle the majority of matters within their own purview under the framework of regional autonomy. At the local level, it seeks to enhance community welfare and quicken the development process. Therefore, it is anticipated that regional autonomy would result in a government that is more receptive to the demands and goals of the local populace.⁴¹ Nevertheless, regional autonomy is not always implemented without problems. There are a number of difficulties, including the incapacity of local governments to make strategic decisions, the inefficiency of their resource management, and the possibility of conflicts of interest between them and the federal government. Furthermore, one of the factors influencing the effective implementation of regional autonomy is the disparity in resources and competencies among areas. However, regional autonomy is still regarded as a crucial step in advancing democratic values and enhancing Indonesians' quality of life. It is intended that by granting regions autonomy over their own local affairs, a more effective, responsive, and inclusive form of governance would be developed to better serve the needs of people across Indonesia. As a result, initiatives to further enhance the application of regional autonomy take precedence in the pursuit of sustainable development in Indonesia.

Reduction of some local government policies will result in aspects of the implementation of local government. The authority of local governments is now based on standards and norms established by the central government through regulations and not laws. The complexity of combining national and local laws within the parameters of regional autonomy can be solved with this approach. But this approach is the same as ignoring local government as a component that requires authority in the management of power.⁴² Omnibus law legislation also makes it difficult to realize how different the circumstances and possibilities are in every area. In the meanwhile, local governments have had the chance to innovate thanks to the division of powers, which will have an impact on public services. This is to allow local governments to fulfill their responsibilities and authorities on discussions in their areas, with the central government stepping in only when necessary.

⁴⁰ Yusika Riendy, "Dampak Undang-Undang Cipta Kerja Terhadap Otonomi Daerah Ditinjau Dari Pasal 26 Undang-Undang No. 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup," *Pamulung Law Revi* 4, no. 1 (2021): 79-90.

⁴¹ Muhammad Adiguna Bimasakti, "Kewenangan Pemerintah Daerah Otonom Melakukan Perjanjian Keperdataan Dan Batasannya Dalam Kerangka Hubungan Wewenang Pemerintah Pusat Dan Daerah," Pengadilan Tata Usaha Negara Mataram, 2024, <https://www.ptun-mataram.go.id/berita/artikel/581-kewenangan-pemerintah-daerah-otonom-melakukan-perjanjian-keperdataan-dan-batasannya-dalam-kerangka-hubungan-wewenang-pemerintah-pusat-dan-daerah.html>.

⁴² Sandy Gustiawan Ruhayat et al., "Regional Authority In Protection And Management Of The Environment Post-Application Of The Copyright Law," *Bina Hukum Lingkungan* 7, no. 1 (2022): 39-58.

Since the enactment of the Job Creation Law, regional autonomy has undergone a degradation in meaning from political autonomy to purely administrative-technical autonomy. The withdrawal of strategic authorities such as risk-based licensing (OSS), spatial planning, and environmental management to the central government has crippled local innovation and the ability of regions to respond quickly to specific community needs. The author argues that without control over these legal instruments, local governments have lost their teeth in protecting ecological and social interests in their respective regions. Furthermore, the fiscal weakening of regions due to the reduction of certain types of levies has had a direct impact on the decline in Regional Original Revenue (PAD). This creates a deeper dependence on central transfer funds, which can be used politically as a means of control to ensure that regions comply with the national economic agenda unconditionally. This imbalance of power relations indicates that regional autonomy is no longer seen as an instrument for the welfare of the local people, but rather as a bureaucratic obstacle that must be cut back in order to accelerate capital. The author also highlights the risk of administrative authoritarianism emerging, where the President's power becomes too dominant in intervening in regional regulations. When the central government has the authority to unilaterally cancel or change regional tax and levy rates, the principle of regional independence, which is the spirit of autonomy, collapses. Without a clear division of responsibilities and mutual respect, the central-regional relationship will revert to the centralistic pattern of the past, which has proven to be unsuccessful in maintaining political stability and long-term economic equality.

Conclusion

Based on reviews conducted by research related to “Constitutional Consistency of Indonesia's Job Creation Law and Its Impact on Regional Autonomy,” various perspectives have emerged regarding the Job Creation Law (Law No. 6 of 2023). The enactment of the Job Creation Law through the omnibus law method has fundamental implications for Indonesian constitutional law, particularly in the reinterpretation of the relationship between the central and regional governments. There has been a paradigm shift from pure decentralization to “controlled decentralization” or recentralization, in which regional independence is now positioned as a subordinate instrument under national economic interests. This theoretically tests the resilience of Article 18 of the 1945 Constitution, in which restrictions on public participation and the disregard for local sovereignty in the formation of this law are considered a threat to the integrity of a democratic constitutional state. In the realm of administrative law, this law redefines government authority by transferring strategic powers such as risk-based licensing (OSS), spatial planning, and environmental supervision from local to central government. This has led to a degradation of the meaning of autonomy from political autonomy to mere administrative-technical autonomy, driven by standardization through Norms, Standards, Procedures, and Criteria (NSPK) unilaterally determined by the center. This administrative hegemony risks creating deeper fiscal dependence due to cuts in local revenue, which could ultimately stifle innovation and local government capacity. As a practical recommendation, immediate regulatory corrective measures are needed to restore the balance of central-local relations and keep them within constitutional boundaries. The central government must strengthen collaboration and coordination with local governments in policy implementation to ensure that investment efficiency does not sacrifice the autonomous identity and local wisdom of the regions. In addition,

strict supervision of the implementation of NSPK is crucial to prevent “administrative authoritarianism,” as well as the need to return some fiscal and licensing policy instruments to the regions in order to maintain financial independence and the effectiveness of environmental protection at the local level.

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