



## **Relationship for The Establishment of Local Regulations in The Job Creation Law**

**Watoni Noerdin**

*Dewan Perwakilan Rakyat Daerah Provinsi Lampung, Indonesia*

*noerdinwatoni@gmail.com*

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**Abstract**

*The job creation law was created to open Indonesia's widest possible investment climate. But so far, investors still face obstacles on investment in the form of complex regulations. This can be seen from the disharmony and lack of coordination between regional and central government regulations. In that regard, how is the relationship between establishing local regulations in 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 several local government authorities. For example, the licensing authority in Article 350 of Law Number 23 of 2014. Under Government regulations Number 6 of 2021, Article 3 regarding the Implementation of Business Licensing in the Regions states that such act is carried out by the Central Government, Provincial Government, and City/Regency Government following their respective authorities based on the provisions of laws and regulations. From the licensing rules perspective, it is not executive preview as a form of preventive supervision but top-down control that*



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*dominates. This can potentially eliminate local content and conditions based on regional interests.*

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## A. Introduction

In November 2020, President Joko Widodo officially ratified and promulgated Law Number 11 of 2020 concerning Job Creation. The Job Creation law, entitled Omnibus Law, is one of the government's progressive steps in the legal field.<sup>1</sup> The government prepared this law to be used as a scheme to develop the Indonesian economy to attract investors to invest in Indonesia.<sup>2</sup> Omnibus Law is a method or concept of making regulations that combine several rules with different regulatory substances into one extensive regulation.<sup>3</sup> The Omnibus Law will be a driver or trigger to strengthen capabilities and implement the legislative function of the House of Representatives in Indonesia as a state of law.<sup>4</sup> This system is usually called the universal sweep law because it can replace several legal norms in one regulation.<sup>5</sup> With the omnibus law method, 1 (one) thematic law changes various provisions regulated in various other laws. Amend, revoke, and or make new provisions in 78 laws. To date, the government has issued 51 implementing regulations consisting of 47 government regulations and four presidential regulations. The Strategic Policy of the job creation law for; 1. Improving the investment ecosystem & business activities; 2. Protection & welfare of workers; 3. Ease, empowerment & protection of MSMEs; 4. Increased government investment & national strategic projects. It is hoped that a conducive investment climate will absorb more workers. Economic growth increases, unemployment decreases and worker productivity increases.

As the Vision of the Government of Indonesia under President Joko Widodo-Ma'ruf Amien, Indonesia Gold prepares Indonesia as a developed country in 2045. Education and human resource development must be a significant concern for all developing countries if they want an optimal level of economic growth, increasing the country's competitiveness to prosper all its people.<sup>6</sup> Quality infrastructure and human resources are the first two stages for a country to become a developed country. "Right now, the foundation needed is infrastructure, then the next big agenda is human resources," explained the President.<sup>7</sup> There are five requirements for Indonesia Gold in 2045, according to the Minister of Finance Sri Mulyani; First, infrastructure. Second, quality human resources. Third, readiness to adopt the technology. Fourth, adequate, comprehensive, and mature regional planning. Fifth, the Indonesian economy and financial sector must be sustainable, credible, advanced, and healthy.<sup>8</sup>

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<sup>1</sup> 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

<sup>2</sup> 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.

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

<sup>4</sup> Rahmat Irwan Novrizal, Marzuki, Mirza Nasution, "Pancasila Sebagai Staatsfundamentalnorm Indonesia Dalam Pembentukan Hukum Nasional (Perspektifundang-Undang Cipta Kerja Nomor 11 Tahun 2020 Tentang Cipta Kerja)", *Jurnal Ilmiah METADATA*, Volume 3 Nomor 2 Mei 2021 : 546

<sup>5</sup> Adhi Setyo Prabowo, Politik Hukum Omnibus Law. *Jurnal Pamator*, Volume 13 No. 1, April 2020, hlm4

<sup>6</sup> 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

<sup>7</sup> <https://www.setneg.go.id/baca/index/tahapan-besar-menuju-indonesia-emas-2045>, di akses Selasa, 20 Oktober 2021 | 13:43 WIB

<sup>8</sup> <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

This law is claimed to help improve the investment climate and realize legal certainty.<sup>9</sup> The consequence of the birth of the Job creation Law impacts the implementing regulations, namely the Regional Regulation. The local government makes all regulations to implement other regulations of a higher degree.<sup>10</sup> In terms of the relationship between the central and regional governments. Both in terms of authority and finance. From the revocation, the changes to the laws summarized in the Job creation Law will produce many new regional and regional regulations. The readiness of various parties regarding the substance of interest and harmonization of rules is an important note. Therefore, ideally, Perda materials generally contain, among others: 1. Matters relating to regional households and matters relating to local government organizations; 2. Matters related to duties and assistance (*Mendebewind*).

Thus Perda is a legal product of the local government. In the context of implementing regional autonomy, exercising rights and authorities. Organize and manage their household affairs. At the same time, Perda legally supports the Provincial Government as an autonomous region.<sup>11</sup> Law 23/2014 concerns Regional Government and Law 33/2004 concerning Financial Balance between Governments. The two laws have been the government's reference. The current consequence must adjust to the existence of the Job creation law. Ministry of Home Affairs (Kemendagri) through the Directorate General of Regional Autonomy (*Otda*). Request all local governments to examine all local regulations and local regulations in force in their respective regions. In the letter numbered 188/1518/OTDA, dated 09-03-2021, it is stated that the stipulation of Law 11/2020 concerning Job creation has implications for the local regulations and regulations that apply to each region. Thus, local regulations must be adjusted immediately. Making changes, revocations, or forming local regulations and/or regulations following Law 11/2020 concerning Job creation. The DPRD is also asked to stipulate a regional regulation plan currently not included in the program for establishing regional regulations (*propemperda*). Each regional head must also add a local regulation plan to the regional head decisions that apply in their respective regions.

Adjustments to the Job Creation Law, Regional Regulations and Regional Head Regulations requested by the Ministry of Home Affairs are homework. Regional policies often have to be based on legal legality in the form of regional regulations. Moreover, Regional Regulations are essentially regional legal products, formed through a democratic process through the representative institutions of the DPRD and the Governor or the Regent/Mayor. Therefore, local regulations are often referred to as local wet, which are the same as laws, the only difference being the scope of their application. If the law applies nationally, then the regional regulation applies to the province or district where the regional regulation was formed. The implementation of regional autonomy and the formation of regional regulations is necessary for the context of regional regulations that cannot be separated from the process of administering regional government.

Due to the scheme of the decentralization design, the regions have the authority to manage their household affairs according to the framework of regional autonomy. This authority also applies to the formation of regional regulations. However, it should be noted and understood that the concept of an autonomous region is not the same as that of a state. C.W. Van Der Pot understands the concept of regional autonomy as running his household (*Eigen houshouonding*).<sup>12</sup> Therefore, what are the problems of implementing the Job Creation Law in

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

<sup>10</sup> Bagir Manan, *Menyongvong Fajar Otonomi Daerah*, PSH FH UII, Yogyakarta, 2002, hlm. 136

<sup>11</sup> Rosjidi Ranggawidjaja, *Pengantar Ilmu Perundang-undangan Indonesia*, Penerbit Mandar Maju, Bandung, 1998, hlm. 23.

<sup>12</sup> Rudy, *Hukum Pemerintahan Daerah Perspektif Konstitualisme Indonesia*, Bandarlampung: Indepth, 2012, hlm.31

terms of harmonization and synchronization with local regulations that can accommodate regional-based interests?

This methodology uses qualitative methods focusing on understanding social phenomena in society.<sup>13</sup> The technique or approach uses Data Collection Techniques with Documents, where the author collects Laws, Literacy Books, and Scientific Journals as data material to facilitate authors in conducting analysis. This research is applied by using normative legal research.

In this research, the authors explain the relationship between the formation of regional regulations and the Job Creation Law. Based on the objectives of the ratification of the Job Creation Law, one of which is to open up the broadest possible investment in Indonesia, including at the regional level. However, in its implementation, there is often disharmony between central and regional regulations, which causes delays in the implementation of the licensing process.

This research's novelty will significantly contribute to the central government and local governments making local regulations. This is a consequence of derivative regulations that local governments must make to implement higher regulations, which are adjusted to the Job Creation Law. Following the Job Creation Law mandate, local governments are also required to take on the role and function of attracting investors, especially in providing ease of licensing, doing business, and creating jobs.

## B. Discussion

In the 1945 Constitution in Article 1 Paragraph (1), namely, "The State of Indonesia is a Unitary State, in the form of a Republic", and Articles 18, 18 A and 18 B, concerning regional government and the relationship of authority and regional finance. In Law 23/2014, the principle of organizing government affairs.

1. Decentralization of the handover of affairs by the central government to autonomous regional governments based on the principle of autonomy. Financing by APBN.
2. Financing by APBN. There is a Deconcentration Fund. Deconcentration of delegation of government affairs is the central government's authority to the Governor as a central government's representative, to vertical agencies in certain areas, and/or to governors and regents/mayors in charge of general affairs. 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 province's authority. Funding from the center comes from the state budget, usually for physical activities. The activities are physical, for example, land acquisition, buildings, equipment and machinery, roads, etc. For example, infrastructure that adds to government assets.

The central government or vertical organizations exercise the central government's authority in the regions. Some are also centralized and handed over to the regions of the seconded task force. In line with this, autonomy has another meaning than sovereignty (*souveriniteit*), where autonomy is an attribute of the state and not an attribute of parts of the state such as Gemeente, Province, and so on. These parts of the country can only have rights that come from the state to be able to stand alone (*zelfstandig*) but still cannot be considered

<sup>13</sup> Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif dan R&D*. Bandung : Alfabeta, 2008. hlm. 45

independent (*onafhankelijk*),<sup>14</sup> independent of or parallel to the state Clarification of government affairs can be seen from Absolute, Concurrent and General in detail:

**1. Absolute**

Government Affairs that are entirely under the central government's authority, the principle can be carried out alone, can be deconcentrated to vertical agencies, and cannot be assigned assistance to autonomous regions because there is no OPD to implement, financed from the APBN.

**2. Concurrent**

Regulate and manage the affairs handed over to the regions following the aspirations of the local community and regional conditions within the framework of the Unitary State of the Republic of Indonesia. Government Affairs are divided between the central government and regencies/municipalities, and concurrent Government affairs handed over to the regions become the basis for implementing regional autonomy, the Principle of Overall Affairs, which becomes the regional authority based on the implementation principle. Service affairs become the regional authority based on the principle of autonomy with the APBD budget.

**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 is 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.

Financial Relations between Central and Regional Governments (HKPD) in Law 23/2014. To finance the administration of government affairs submitted and/or assigned to the regions Article 279, to the regions includes: 1). Provision of regional receiving sources in the form of regional taxes and regional retributions; 2). provision of funds sourced from the financial balance between the finances of the central government and regional governments; 3). Provision of funds to implement special autonomy for certain regional governments as stipulated in the law; and 4). Provision of loans and/or grants, emergency funds, and incentives (fiscal). Financial relations in the administration of government affairs assigned to the regions, accompanied by funding following the government assigned as the implementation of co-administration tasks.

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<sup>14</sup> 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, hlm. 4.

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
<b>TOTAL</b>	<b>46</b>	<b>647</b>

SUMBER: UU CIPTA KERJA

The financial relationship between central and local government HKPD in Law 33/2004. It is intended that the financial balance between the government and the regions is a subsystem of state finances as a consequence of the division of tasks between the center and the regions or arises from the existence of a relationship between functions/affairs. The provision of state financial resources to regions in the context of decentralization is based on assigned tasks with due observance of fiscal stability. The financial balance between the center and the regions is a comprehensive system in the context of implementing the principles of decentralization, deconcentration, and co-administration. Other income other than PAD, balancing funds and regional loans.

From the relationship between authority and financial relations, the government cannot be refused to adjust the existence of the Job creation law. In this case, it can be seen in the Licensing field in the Job creation law. There were 700 articles out of 52 laws governing licensing that aimed to be integrated, efficient, and practical to make doing business easier. Simplification of the listed essential permits; 1. Location Permit 4 Law 51 Articles, 2. Environmental Permit 2 Law 36 Articles, 3. Building Permit 2 Law 48 Articles.

Simplify and integrate essential permits from several laws related to permits in groups into three essential permits, location, environmental, and building permits. Of the 700 articles in the Job creation Law, they will serve as a reference for implementation in the Perda. In the hierarchy of laws and regulations, Perda is a product that is in direct contact with the community, so it has the potential for disharmony clashes and overlapping arrangements are very wide open. Especially in the right of authority between the Central and Regional Governments. For example, licensing issues are considered an obstacle to the investment climate. Simplification of business licensing was made. Registration system with a joint identification number (NIB), all activities and actors meet certified professional standards and must have a permit. One of them, the licensing process for business activities, is changed from permit-based to risk-based.

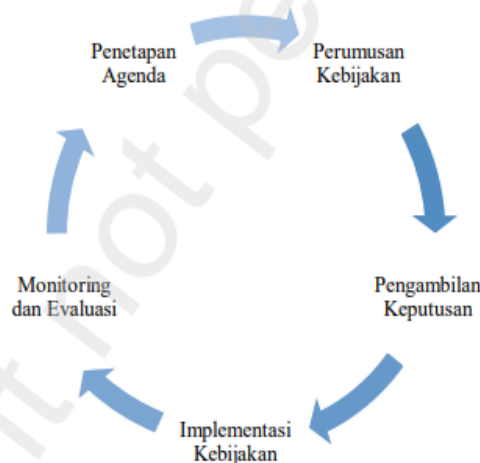
The birth of regional regulations that are regulating, in general, cannot be separated from the design of regional autonomy. The concept of regional autonomy is always associated with the freedom and independence of the region to take care of its household affairs.<sup>15</sup> In the current condition, the local government must identify anything related to the Job creation law and its derivative legal products. So that a study of regional legal products will be carried out, which will be amended, revoked, or a new regional regulation will be formed. However, all should be based on the fundamental essence of the law to protect human rights. Therefore, the presence of law must also humanize humans, not otherwise limit and eliminate fundamental human values.<sup>16</sup>

Taking into account the balance of philosophical and social values in forming regional regulations is essential. 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 material substance must be severe not to neglect the purpose of the state's duty to prosper the people. Gustav Radbruch stated that the noble purpose of the law is to achieve justice, benefit, and legal certainty.<sup>17</sup>

The Evidence-Based Policy Making (EBPM) method was introduced in the UK in 1997 by Tony Blair, the British Prime Minister. In the evidence-based policy approach, what can be considered evidence is scientifically conveyed to policymakers. Even though it has references, a thing conveyed by the lay public is often considered unscientific because the lay public's position is often considered not an expert.<sup>18</sup> The general process in self-policy making can be described in the following diagram:

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

**Pentingnya Evidence Based Policy Making dalam Pembuatan Kebijakan**



<sup>15</sup> Fatkhul Muin, "Otonomi Daerah Dalam Persepektif Pembagian Urusan Pemerintah-Pemerintah Daerah Dan Keuangan Daerah," FIAT JUSTISIA: Jurnal Ilmu Hukum, 2015. hlm 3.  
<sup>16</sup> 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. hlm. 5.  
<sup>17</sup> Tata Wijayanta, "Asas Kepastian Hukum, Keadilan Dan Kemanfaatan Dalam Kaitannya Dengan Putusan Kepailitan Pengadilan Niaga," Jurnal Dinamika Hukum, 2014. hlm. 3.  
<sup>18</sup> Cahyo Seftyono, *Transformasi Noise Menjadi Voice: Politik Keterbukaan Pengetahuan dalam Kekiniam Diskursus Evidence Based Policy di Indonesia*, (Usulan Penelitian untuk Disertasi S3 Universitas Gadjak Mada, 2020, hlm. 6

Where the public uses science to make changes to public policy, EBPM is used to determine, formulate, make decisions, implement policies, and monitor. Through the evidence base, from the various collections of evidence available for the future, to provide information for policy decisions. Such evidence can be classified into four main types, namely:<sup>19</sup>

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 explain the relationship between issues.
3. Evidence from communities and stakeholders provides an understanding of who assesses the policy and how they respond
4. Evidence from evaluations to explain past successes or similar situations;

Based on the EBPM public policy method, it is associated with applying regulations that will be made with authority. Especially concerning governance. Overall it is a limitation in analyzing evidence as the current condition to predict future trends, as well as a government authority.

The principle of legality is the basis of every state and government administration, or in other words, every state and government administration must have legitimacy, namely the authority granted by law. Thus, the substance of the principle of legality is authority, namely the ability to carry out specific legal actions. According to H.D. Stout, authority is an understanding that comes from the law of government organizations, which can be explained as a whole set of rules regarding the acquisition and use of governmental powers by subjects of public law in public legal relations. According to F.P.C.L. Tonnaer, the government's authority is the ability to implement positive law. Thus a legal relationship can be created between the government and citizens.<sup>20</sup>

Regarding regional autonomy. According to Bagir Manan, autonomy can be classified as limited autonomy if regional household affairs are determined categorically and their development is regulated in specific ways. Second, if the supervision and supervision system is carried out in such a way that the autonomous region loses its independence to determine independently ways to regulate and manage their regional households, and Third, the system of financial relations between the center and the regions that raises things such as the limited financial capacity of the original regions which will limit the space for regional autonomy. In contrast to the concept of broad autonomy, which usually departs from the principle that all government affairs are local household affairs, except those determined as affairs of the central government.<sup>21</sup> Bagir Manan's opinion of limited autonomy can be seen in the Job creation Law related to the regional government, one of which is the issue of authority. In CHAPTER XI, Implementation of Government Administration to support the job creation Law, Part One, Article 174 adds one rule regarding the relationship between the central and regional governments. The authority of the regional government as part of the president's authority, "With the enactment of this law, the authority of the minister, head of an institution, or regional government that has been stipulated in the law to implement or form laws and regulations must be interpreted as the implementation of the President's authority". Article 176 a quo also changes several local government authorities.

<sup>19</sup> Loise Shaxson, "Pelajaran untuk Membangun dan Mengelola Basis Bukti untuk Kebijakan", *Working Paper 10 Knowledge Sector Initiative*, 2016 hlm. 4.

<sup>20</sup> Ridwan HR, *Hukum Administrasi Negara*, Yogyakarta: UII Press, 2003, hlm. 70-71.

<sup>21</sup> Bagir Manan, *Hubungan antara Pusat dan Daerah Menurut UUD 1945*, Jakarta: Pustaka Sinar Harapan, 1994, hlm.37.



Ideally, according to F.P.C.L., Tonnaer can create a legal relationship between the government and citizens. In matters of authority regarding licensing Article 350, Law 23/2014 Paragraph (1) states that local governments must provide licensing services following the provisions of laws and regulations. The Job Creation Law adds the central government's authority in this matter, "Regional heads are required to provide Business Licensing services following the provisions of laws and regulations and norms, standards, procedures, and criteria set by the Central Government," under Article 350 paragraph (1) of the Regional Government Law. After being amended by the Job creation law. Then the Job creation Law also gives the central government extra authority in licensing matters. Allowing the takeover of licensing affairs if a regional government does not implement it and does not heed two warnings.

Article 250, Law 23/2014 concerning Regional Government which is amended through the Job creation Law. Regional and local regulations are prohibited from contradicting higher laws and regulations provisions. It is mandated to coordinate with the ministry in charge of domestic government affairs. Involving experts and/or vertical agencies in the regions that carry out government affairs in forming laws and regulations (Ministry of Law and Human Rights). Suppose the Regional Government violates the provisions of Article 250. In that case, it is threatened with administrative sanctions in the form of non-payment of financial rights to regional heads and DPRD members for three months. Specifically for regional regulations on taxes and levies, the sanctions imposed are delays until the withholding of the general allocation fund (DAU) and profit-sharing funds.

When referring to the implementation of the judicial review of the decision, the Constitutional Court's legal considerations in decision no. 137/PUU-XIII/2015 and No. 56/PUU-XIV/2016 solely consider that the examination by the executive is not in line with the statutory regime and violates the concept of the rule of law. Therefore, the Constitutional Court's Decision No. 137/PUU-XIII/2015 and No. 56/PUU-XIV/2016 must be interpreted that the decision does not abolish the concept of central and regional supervision of regional regulations that can be implemented through preventive supervision. Because the Constitutional Court only annulled Article 251, which regulates repressive supervision. MK No. 56/PUU-XIV/2016, the review of Regional Regulations is carried out through Judicial Review at the Supreme Court. The cancellation of Article 251, Law 23/2014 means that repressive supervision of Regional Regulations through executive review can no longer be carried out. The repressive supervision of regional regulations is carried out by a judicial institution, namely the Supreme Court. The decision of the Constitutional Court No. 56/PUU-XIV/2016 is meant only to cancel Article 251, which regulates repressive supervision. Administrative supervision has two forms, namely, repressive supervision and preventive supervision. In Law 23/2014, it is not strong enough to 'abort' the role of the central government to carry out supervision. So there should be an executive preview model as a form of preventive supervision.<sup>22</sup>As a way to overcome disharmony and non-synchronization of the established regulations.

### **C. Conclusion**

So far, there has been a clear division of authority, including the standards and conditions set by the government. Before the creation of the Job creation law, the regional government's authority to issue permits for specific business fields, the Standard Procedures and Criteria Norms (NSPK), were determined by the region based on higher laws and regulations and regulated by the relevant regional government. With the Job creation law, the NSPK is determined by the central government. This means that the authority remains with the relevant

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<sup>22</sup> Ibid...., Yuswanto dan M. Yasin Al Arif, hlm 726 dan 730

local government, following existing laws and regulations, but the central government determines the NSPK. Thus, the work of local governments is simplified as long as their implementation follows the NSPK. However, if the local government does not implement or implement but does not comply with the NSPK, then the central government takes over the permit within a specific limit. In this case, the Job creation Law emphasizes the role and function of local governments as part of the central government system. This is what the Job creation Law means by reorganizing regional authorities in line with the philosophy of the Job creation Law, namely to attract investment, provide ease of licensing and doing business, and create jobs.

Seeing the impact of the Job creation law is a problem. Ideally, coordination and harmonization to realize laws and regulations that are more qualified and responsive are the main issues. Conflicts appear in the interests of the center and the regions in the Job creation law:

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 the distribution of regional finances. Financial changes will follow the transfer of authority and other 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.

Affirmation of government affairs is the power of government which is the authority of the President, whose implementation is carried out by state ministries and regional government administrators to protect, serve, empower, and prosper the community. Article 174 of the Job Creation Law adds one rule regarding the relationship between the central and regional governments. The regional government's authority is part of the president's authority. Article 176 a quo also changes several local government authorities. For example, the authority regarding licensing in Article 350, 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 Governments, and City Regency Regional Governments following their respective authorities based on the provisions of laws and regulations. It also appears that the regional authority is limited by Article 10. The Regional Government can develop a support system for implementing the OSS System (Online Single Submission) following the norms, standards, procedures, and criteria set by the Central Government. From the licensing rules, it's not executive preview as preventive supervision, but top-down control dominates. Without regard to the contents of the Constitutional Court's decision, Number 56/PUU-XIV/2016 is only meant to cancel Article 251 of Law 23/2014, which regulates repressive supervision. This can potentially eliminate local content and conditions based on regional interests.

The sign of a democratic political configuration is that the people's potential plays a leading role in determining state policies. So that the government acts more as a "committee" that must carry out the will of the people and the people's representative body, political parties only function proportionally in determining state policies.<sup>23</sup> Therefore, the mirror of democratic policies toward the welfare of society can be seen:

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<sup>23</sup> 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. So public participation that is about to be decided, and implemented, has social responsibility within the framework of achieving common goals.
2. The dialogic framework for policy formulation is supported by adequate scientific logic. So that dialogue in policy formulation does not become just a “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.

Equality of economic, political, and socio-cultural rights to equal treatment before the law can only be promoted effectively by creating equitable prosperity. Welfare will promote socio-political stability when all citizens are physically and mentally prosperous and encourage community empowerment towards independence and dignity.<sup>24</sup> Conflicts of interest between the center and the regions that tend to be centralized in regulations after the issuance of the Job creation law can cause conflicts or disputes between the government. Changes in authority and division of affairs have implications for the distribution of regional finances. It is counterproductive to the concept of decentralization which reflects more on democratic values by actively engaging stakeholders in responding to matters closely related to people's lives in the regions.

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