



## **LOCAL GOVERNMENT ISSUES AFTER THE ENACTMENT OF LAW 11 OF 2020 ON JOB CREATION**

### ***MASALAH PEMERINTAHAN DAERAH PASCA DISAHKANNYA UNDANG-UNDANG 11 TAHUN 2020 TENTANG CIPTA KERJA***

**Syahrial Arsyi Baihaqi<sup>1\*</sup>**

\*Faculty of Law, Universitas Diponegoro

\* [absyahrial002@gmail.com](mailto:absyahrial002@gmail.com)

Volume 3, Number 2, September 2024

Received: Aug 10, 2024 Accepted: Aug 15, 2024 Online Published: September 30, 2024.

---

#### **ABSTRACT**

With the enactment of Law Number 23 of 2014 concerning Regional Government, it provides new regulations regarding the division of authority between levels of government. There are several administrations of government affairs which were previously part of the authority of the Regency/City and later became the authority of the State. The administration of government consists of the implementation of mandatory government and the implementation of elective government which is divided between the central government, provincial regions and regency/municipal regions. Mandatory Government Affairs are divided into Mandatory Government Affairs relating to Basic Services and Mandatory Government Affairs which are not related to Basic Services. The relationship of authority between the Central Government and Regional Governments in the system of the Unitary State of the Republic of Indonesia gave rise to the concepts of centralization and decentralization. The implementation of Regional Autonomy after the existence of Law Number 11 of 2020 concerning Job Creation took over the authority of the regional government, the authority of the Regional Government carried out by the Central Government can affect the existing government system in the region. Adjusted to the administration of government in the implementation of regional autonomy, this can affect local revenue which can have a negative impact on the area.

**Keywords : Local Government, Central Government, Government Affairs.**

### **ABSTRAK**

*Dengan berlakunya Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah, memberikan pengaturan baru terkait pembagian kewenangan antar tingkat pemerintahan. Ada beberapa penyelenggaraan urusan pemerintahan yang sebelumnya merupakan bagian dari kewenangan Kabupaten/Kota dan kemudian menjadi kewenangan Negara. Penyelenggaraan Pemerintahan terdiri atas Penyelenggaraan Pemerintahan Wajib dan Penyelenggaraan Pemerintahan Pilihan yang terbagi antara Pemerintah Pusat, Daerah Provinsi dan Daerah Kabupaten/Kota. Urusan Pemerintahan Wajib dibagi menjadi Urusan Pemerintahan Wajib yang berkaitan dengan Pelayanan Dasar dan Urusan Pemerintahan Wajib yang tidak berkaitan dengan Pelayanan Dasar. Hubungan kewenangan antara Pemerintah Pusat dan Pemerintah Daerah dalam sistem Negara Kesatuan Republik Indonesia memunculkan konsep sentralisasi dan desentralisasi. Pelaksanaan Otonomi Daerah setelah adanya Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja mengambil alih kewenangan pemerintahan daerah, Kewenangan Pemerintah Daerah yang dilakukan oleh Pemerintah Pusat dapat mempengaruhi sistem pemerintahan yang ada di daerah. Disesuaikan dengan penyelenggaraan pemerintahan dalam pelaksanaan otonomi daerah, hal tersebut dapat mempengaruhi pendapatan asli daerah yang dapat berdampak buruk pada daerah tersebut.*

**Kata Kunci : Pemerintah Daerah, Pemerintah Pusat, Urusan Pemerintah.**

---

## **I. INTRODUCTION**

The relationship between the Central Government and Regional Governments is mandated in the 1945 Constitution of the Republic of Indonesia. Where the implementation of the Central Government is carried out by the President who is assisted by one Vice President and assisted by the Minister of State, and the implementation of regional government is carried out by the regional government and the Regional House of Representatives.<sup>1</sup>

Regional Government is the administration of government affairs by the Regional Government and the Regional Representative Council according to the principles of autonomy and assistance tasks with the principle of the widest possible autonomy within the system and principles of the Unitary State of the Republic of Indonesia as referred to in the 1945 Constitution of

---

<sup>1</sup> General Elucidation of Law Number 23 Year 2014 on Regional Government.

the Republic of Indonesia. Regional autonomy has a huge impact on local government. This is because with the enactment of the regional government law, local governments have full authority in carrying out development in their respective regions.<sup>2</sup>

The enactment of Law No. 23/2014 on Regional Government has brought new consequences regarding the mapping of authority between levels of government. There have been some fundamental changes related to the division of government affairs. There are several government affairs that were previously the authority of the Regency / City then became the authority of the Province. The law also confirms the existence of concurrent government affairs which are shared between the Central Government and Regional Governments according to the scope of government administration. Concurrent Government Affairs consist of Mandatory Government Affairs and Preferred Government Affairs which are shared between the Central Government, Provincial Regions and Regency / City Regions. Mandatory Government Affairs are divided into Mandatory Government Affairs related to Basic Services and Mandatory Government Affairs that are not related to Basic Services.<sup>3</sup>

The division of concurrent government affairs between Provincial Regions and Regency / City Regions even though the government affairs are the same, the difference will appear from the scale or scope of the Government Affairs. Provincial and Regency / City Regions have their respective government affairs which are not hierarchical in nature, but there will still be a relationship between the Central Government, Provincial Regions and Regency / City Regions in its implementation by referring to the Norms, Standards, Procedures and Criteria made by the Central Government.<sup>4</sup>

Prior to the enactment of Law No. 23 of 2014 concerning Regional Government, the division of government affairs was first regulated by Law No. 32 of 2004 concerning Regional Government in which the division of concurrent government affairs related to government affairs whose handling in certain fields or fields is carried out jointly between the Government and the Regional Government. Thus there is always a part of the affairs that are the authority of the Government, there is a part of the affairs that are handed over to the Province and there is a part of the affairs that are handed over to the Regency / City.<sup>5</sup>

To develop a mutually beneficial leadership relationship, an agreement is needed to manage the relationship between the Central Government,

---

<sup>2</sup> Rozali Abdullah, *Pelaksanaan Otonomi Luas dengan Pemilihan Kepala Daerah secara Langsung*, (Jakarta: PT Raja Grafindo Prasada, 2005), hlm. 12.

<sup>3</sup> Annex to Law No. 23/2014 on Regional Government.

<sup>4</sup> *Ibid.*

<sup>5</sup> General Elucidation of Law No. 32/2004 on Regional Government.

Provincial Regions and Regency/City Regions. The objectives to be achieved in this research include:

1. Determining the division of government affairs between the Central Government, Provincial Regions and Regency / City Regions.
2. To find out the development of Regional Government in relation to Law Number 32 of 2004 concerning Regional Government and Law Number 23 of 2014 concerning Regional Government.
3. To find out the authority of the Regional Government based on the enactment of Law Number 11 of 2020 concerning Job Creation.

The results of this study are expected to provide benefits in providing benefits to the wider community with knowledge about local government in organizing local government operations, as well as the obligations and responsibilities of local government organizers.

## **II. METHOD**

The problem approach used in this research is a normative juridical approach, by looking at legal issues as rules that exist in the region as the basis for regulation. This research was conducted by collecting legal materials through literature study or literature study.

## **III. ANALYSIS AND DISCUSSION**

### **a. The Problem Approach Used in This Research is a Normative Juridical Approach, By Looking at Legal Issues as Rules that Exist in the Region as the Basis for Regulation**

The mandate of Law Number 32 of 2004 concerning Regional Government, regional government is under the control of the government, except for the administration of government affairs which become Government affairs. In the implementation of government affairs which are the authority of the region, the regional government exercises the widest possible autonomy to regulate and manage its own affairs in accordance with the principles of autonomy and mutual cooperation in managing the affairs charged to the region.

Initially, to realize a proportional political division of government affairs between the Government, Provincial regional governments and Regency / City regional governments, the criteria for the political division of government affairs included externality, accountability, and efficiency.

The externality criterion is based on the idea that the level of government authorized over a government matter is determined by the extent of the impact caused in the administration of the government matter. to prevent overlapping recognition or claims to the impact, the accountability criterion is determined, namely the level of government closest to the impact that arises is the most authorized to administer the government matter. the efficiency criterion is

based on the idea that the administration of government affairs should achieve economies of scale as much as possible.<sup>6</sup>

The relationship of authority between the Central Government and Local Governments in the system of the Unitary State of the Republic of Indonesia gave birth to the concept of centralization and decentralization. Centralization is the concentration of all government authority in the Central Government. Meanwhile, decentralization is a form or act of separating power or authority from organizations, positions or officials.<sup>7</sup>

In Article 2 of Government Regulation No. 38/2007 on the Division of Government Affairs between the Government, Provincial Regional Government, and Regency/City Regional Government, government affairs consist of:<sup>8</sup>

1. Government affairs that are fully under the authority of the Central Government, namely 6 (six) Central Government affairs.
2. Government affairs that are shared between levels and/or structures of government.

Government affairs that are shared between levels of government are all government affairs outside the 6 (six) central government affairs. These affairs consist of 31 (thirty-one) areas of government affairs that are managed or implemented jointly between levels and structures of government, which are then called concurrent government affairs.<sup>9</sup>

#### **b. The Development of Regional Government in Review of Law Number 23 of 2004 Concerning Regional Government and Law Number 23 of 2014 concerning Regional Government**

Law No. 32/2004 on Regional Government has been revoked and replaced by Law No. 23/2014. The most crucial thing about the law is the division of government affairs between the Central Government, Provincial Regional Governments and Regency / City Regional Governments. The changes are categorized into two aspects, namely formal changes and material

---

<sup>6</sup> General Elucidation of Government Regulation No. 38/2007 on the Division of Government Affairs between the Government, Provincial Regional Government, and Regency/City Regional Government.

<sup>7</sup> Muhammad Ridwansyah. (2018). "Upaya Menentukan Konsep Pusat-Daerah Menurut Undang-Undnag Dasar Negara Republik Indonesia Tahun 1945". Tersedia secara online <http://download.garuda.ristekdikti.go.id/article.php?article=633752&val=10359&title=Upaya%20Menemukan%20Konsep%20Ideal%20Hubungan%20Pusat-Daerah%20Menurut%20Undang-Undang%20Dasar%20Negara%20Republik%20Indonesia%20Tahun%201945>

<sup>8</sup> *Ibid.*

<sup>9</sup> The General Elucidation of Law No. 32/2004 on Regional Government states that concurrent government affairs means government affairs whose handling in certain parts or fields can be carried out jointly between the Central and Regional Governments. Thus, in every concurrent affairs, there are always parts of affairs that are the authority of the Central Government, some are handed over to the Province and there are parts of affairs that are handed over to the Regency / City.

changes. The formal change is that the details of the areas of government affairs that are divided between the Central Government, Provincial Regional Governments and Regency / City Regional Governments, which were originally regulated in the appendix to Government Regulation Number 38 of 2007 concerning the Division of Government Affairs between the Government, Provincial Regional Governments, and Regency / City Regional Governments, are now upgraded to become part of the appendix to Law Number 23 of 2014.<sup>10</sup>

The material (substance) changes that have occurred are the following:<sup>11</sup>

1. Change in classification of government affairs.
  - a. Based on Law No. 32/2004 on Regional Government.
    - 1) Affairs that are under the authority of the Government (Center).
    - 2) Affairs that are the authority of the Regional Government.
      - a) Mandatory Affairs.
      - b) Elective Affairs.
    - 3) Remaining Government Affairs.
  - b. Based on Law Number 23 of 2014 concerning Regional Government.
    - 1) Absolute Government Affairs (Central Government).
    - 2) Concurrent Government Affairs (Local Government).
      - a) Mandatory Affairs.
        - (1) Basic Service Affairs.
        - (2) Affairs that are not related to Basic Services.
      - b) Selected Affairs.
    - 3) General Government Affairs (Presidential Authority).
2. Setting criteria for the division of congruent government affairs.
  - a. Based on Law No. 32/2004 on Regional Government Criteria:
    - 1) Externalities;
    - 2) Accountability; and
    - 3) Efficient.
  - b. Based on Law Number 32 of 2014 concerning Regional Government.
    - 1) Principle:
      - a) Accountability;
      - b) Efficiency;
      - c) Externalities; and

---

<sup>10</sup> Reghi Perdana. (2016). "Implikasi Perubahan Pembagian Urusan Pemerintahan Berdasarkan Undang-Undang Nomor 23 Tahun 20014 tentang Pemerintahan Daerah", hal. Tersedia secara online [https://jdih.bappenas.go.id/data/file/perubahan\\_pembagian\\_kewenangan\\_by\\_reghi\\_perdana.pdf](https://jdih.bappenas.go.id/data/file/perubahan_pembagian_kewenangan_by_reghi_perdana.pdf)

<sup>11</sup> *Ibid.*

- d) National strategic interests.
- 2) Criteria:
  - a) Central Government
    - (1) Government affairs that are located across provinces or across the country;
    - (2) Government affairs whose users are cross provincial or cross-state;
    - (3) Government affairs with benefits or negative impacts across provincial regions or across countries;
    - (4) Government affairs whose use of resources is more efficient when carried out by the Central Government; and/or
    - (5) Government affairs whose role is strategic to the national interest.
  - b) Provincial Government
    - (1) Government affairs that are located across regencies/cities;
    - (2) Government affairs whose users are cross regional Regency / City;
    - (3) Government affairs with benefits or negative impacts across regencies/cities; and/or
    - (4) Government affairs whose use of resources is more efficient when carried out by the Provincial region.
  - c) District/City Government
    - (1) Government affairs that are located in the Regency / City area;
    - (2) Government affairs whose users are in the Regency / City area;
    - (3) Government affairs whose benefits or negative impacts are only within the Regency/City area; and/or
    - (4) Government affairs whose use of resources is more efficient when carried out by Regency / City regions.
- 3) Amendments to the annex containing details of the areas of government affairs shared between the Central Government, Provincial Regional Government and Regency/City Regional Government.
- 3. Amendments to the annex containing details of the areas of government affairs shared between the Central Government,

Provincial Regional Government and Regency/City Regional Government.

**c. Regional Government Authority After the Issuance of Law Number 11 of 2020 on Job Creation**

The 1945 Constitution of the Republic of Indonesia recognizes regions as an existential and integral part of the Unitary State of the Republic of Indonesia. The Constitution gives regions the authority to regulate and manage their own government affairs in accordance with the principles of autonomy and assistance. The Central Government and Regional Governments are authorized to organize government affairs. Affairs are divided into absolute government affairs (central authority), general government affairs (authority of the President), and concurrent government affairs (government affairs shared between the Center and the Regions).<sup>12</sup>

With the enactment of Law Number 23 of 2014 concerning Regional Government, Law Number 32 of 2004 concerning Regional Government was revoked and declared invalid. (Article 409 of Law Number 23 of 2014) This has an impact on the division of government management between the Central Government and Regional Governments.<sup>13</sup>

Law No. 23/2014 on Regional Government has a clearer and more detailed perspective on the delegation of authority between the Center and the Regions. In Law Number 23 of 2014 concerning Regional Government, the division of government affairs between the Center and the Regions is inherent in the law itself through its appendix. As well as describing concurrent affairs clearly and in detail through a Norm, Standard, Procedure and Criteria set by the Central Government.<sup>14</sup>

The ratification of Law Number 11 of 2020 on Job Creation took over the authority of local governments, Local Governments do not have full power and power in regulating several matters such as domestic investment and foreign investment. Then the payment of regional taxes and levies due to the worsening economy. When an area with a sufficiently developed tax value and economic development is then taken over its authority and management by

---

<sup>12</sup> Komite Pemantauan Pelaksanaan Otonomi Daerah. Administrasi Pemerintahan dalam Rancangan Undang-Undang Cipta Kerja: Nota Pengantar *Background Note* dan Daftar Inventarisasi Masalah. hal. 3. Tersedia secara online dari: [https://www.kppod.org/backend/files/laporan\\_penelitian/KPPOD%20%28Klaster%20Administrasi%20Pemerintahan%29%200807.pdf](https://www.kppod.org/backend/files/laporan_penelitian/KPPOD%20%28Klaster%20Administrasi%20Pemerintahan%29%200807.pdf).

<sup>13</sup> Artikel LHK. (2020). Pembagian Urusan Pemerintahan Antara Pemerintah Pusat dan Daerah Provinsi dan Daerah Kabupaten/Kota Bidang Kehutanan dalam Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah. Tersedia secara online dari: <https://blogmhariyanto.blogspot.com/2015/11/pembagian-urusan-pemerintahan-konkuren.html>.

<sup>14</sup> Jorawati Simarmata. (2015). Perspektif Kebijakan Daerah dalam Konteks Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah dan Peraturan Perundang-Undangan Terkait.



the Central Government, the Regional Government is no longer able to regulate the Regional Budget that can be managed in the future either in the field of investment or regional tax and levy income.<sup>15</sup>

The authority of the Regional Government that is taken over by the Central Government can affect the existing government system in the region so that the implementation of regional autonomy does not run according to the existing conditions in the region and can affect Regional Original Revenue which can be detrimental to the region. The dominance of the Central Government over government affairs can result in the relationship between the central and regional governments in a country becoming disharmonious or even at an alarming point so that the idea arises to change the Unitary State into a Federal State (State Union), this is triggered by the centralization of government which is considered excessive so that it can cause the financial relationship between the Center and the Regions to be unfair and can cause losses to the regions.<sup>16</sup>

#### **IV. CONCLUSION**

The implementation of Regional Government Affairs is explained in detail in Law Number 23 of 2014 concerning Regional Government as amended several times last by Law Number 11 of 2020 concerning Job Creation, that regions have the authority to manage their own government affairs through regional autonomy in accordance with the circumstances and peculiarities of the region.

Prior to the enactment of Law Number 23 of 2014 concerning Regional Government as amended several times last by Law Number 11 of 2020 concerning Job Creation, Regional Government Affairs were first regulated in Law Number 32 of 2004 and explained in detail through Government Regulation Number 38 of 2007 concerning the Division of Government Affairs between the Government, Provincial Regional Government, and Regency / City Regional Government.

Basically, the enactment of Law Number 23 of 2014 concerning Regional Government as amended several times last by Law Number 11 of 2020 concerning Job Creation perfects the arrangements stipulated in the previous regulations.

With the existence of Law Number 11 of 2020 concerning Job Creation, it has an impact that can affect the regional government system due to the takeover of authority which can provide an attachment between the regional government and the central government.

---

<sup>15</sup> Kumparan. (2020). Omnibus Law Undang-Undang Cipta Kerja Vs Undang-Undang Pemerintahan Daerah: Pemerintah harus Kaji Ulang. Tersedia secara online dari: <https://kumparan.com/bayu-smaga/omnibus-law-uu-cipta-kerja-vs-uu-pemerintah-daerah-pemerintah-harus-kaji-ulang-1umqs7Z6FKN/2>.

<sup>16</sup> *Ibid.*

With the many arguments regarding the Regional Government system related to Law Number 11 of 2020 concerning Job Creation, which regulates the authority of the Regional Government in running the Government in the Region, there is a takeover that provides an attachment between the Regional Government and the Central Government which is feared that there will be a mismatch between the policies provided by the Central Government and the needs that exist in the regions. So it is hoped that the Government and the Legislature can establish coordination so that the implementation of government in the regions can be sustainable and does not conflict with the central government system.

## REFERENCE

- Artikel LHK. (2020). Pembagian Urusan Pemerintahan Antara Pemerintah Pusat dan Daerah Provinsi dan Daerah Kabupaten/Kota Bidang Kehutanan dalam Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah. Tersedia secara online dari: <https://blogmhariyanto.blogspot.com/2015/11/pembagian-urusan-pemerintahan-konkuren.html>.
- Jorawati Simarmata. (2015). Perspektif Kebijakan Daerah dalam Konteks Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah dan Peraturan Perundang-Undangan Terkait.
- Komite Pemantauan Pelaksanaan Otonomi Daerah. Administrasi Pemerintahan dalam Rancangan Undang-Undang Cipta Kerja: Nota Pengantar *Background Note* dan Daftar Inventarisasi Masalah. hal. 3. Tersedia secara online dari: [https://www.kppod.org/backend/files/laporan\\_penelitian/KPPOD%20%28Klaster%20Administrasi%20Pemerintahan%29%200807.pdf](https://www.kppod.org/backend/files/laporan_penelitian/KPPOD%20%28Klaster%20Administrasi%20Pemerintahan%29%200807.pdf).
- Kumparan. (2020). Omnibus Law Undang-Undang Cipta Kerja Vs Undang-Undang Pemerintahan Daerah: Pemerintah harus Kaji Ulang. Tersedia secara online dari: <https://kumparan.com/bayu-smaga/omnibus-law-uu-cipta-kerja-vs-uu-pemerintah-daerah-pemerintah-harus-kaji-ulang-1umqs7Z6FKN/2>.
- Muhammad Ridwansyah. (2018). "Upaya Menentukan Konsep Pusat-Daerah Menurut Undang-Undang Dasar Negara Republik Indonesia Tahun 1945". Tersedia secara online <http://download.garuda.ristekdikti.go.id/article.php?article=633752&val=10359&title=Upaya%20Menemukan%20Konsep%20Ideal%20Hubungan%20Pusat-Daerah%20Menurut%20Undang-Undang%20Dasar%20Negara%20Republik%20Indonesia%20Tahun%201945>

Reghi Perdana. (2016). “Implikasi Perubahan Pembagian Urusan Pemerintahan Berdasarkan Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah”, hal. Tersedia secara online [https://jdih.bappenas.go.id/data/file/perubahan\\_pembagian\\_kewenangan\\_by\\_reggi\\_perdana.pdf](https://jdih.bappenas.go.id/data/file/perubahan_pembagian_kewenangan_by_reggi_perdana.pdf)

Rozali Abdullah, *Pelaksanaan Otonomi Luas dengan Pemilihan Kepala Daerah secara Langsung*, (Jakarta: PT Raja Grafindo Prasada, 2005).