

Restoration of Central Power or Betrayal of Regional Autonomy? Analysis of the Impact of Recentralization of Mining Authority in the Era of Limited Autonomy

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Abstract

This study analyzes the impact of re-centralizing mining authority on regional autonomy in Indonesia, focusing on legislative changes from Law No. 22/1999 to the Omnibus Law (Law No. 6/2023). The shift from decentralized to centralized control, accelerated by Law No. 3/2020, transfers authority from districts to provinces, aiming to improve national resource management efficiency. However, the findings reveal critical risks, including weakened environmental oversight, restricted public participation, and reduced local revenues from mining operations. While centralization may streamline

governance, it poses significant challenges for regional governments in managing resources independently, impacting local welfare and sustainable development. This research offers novel insights into the tension between national efficiency and regional autonomy, emphasizing the urgency of re-evaluating policies to balance these interests. The study contributes to the broader discourse on governance by providing policy recommendations for achieving sustainable resource management within a decentralized framework.

Keywords *Mining Authority, Regional Autonomy, Centralization and Decentralization, Environmental Oversight, Resource Management Policy*

Introduction

The 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) provides regional governments with authority rooted in the principle of regional autonomy, as part of a larger framework of decentralization.¹ This framework allows regions to exercise extensive powers², excluding areas specifically designated for the central government. Autonomy, in this context, means the capacity to independently develop and implement policies.³ Legal scholar Bagir Manan elaborates that autonomy fundamentally represents self-sufficiency. While it grants a degree of independence, it does not imply full sovereignty (*onafhankelijkheid*) but rather emphasizes self-management

¹ L N U Ledyawati, "Kewenangan Pemerintah Daerah Dalam Pengelolaan Sumber Daya Alam Pertambangan Minerba Di Era Otonomi Daerah," *Jurnal Agregasi: Aksi Reformasi Government Dalam Demokrasi* 5, no. 1 (2017).

² Boyd, J. E., Adler, E. P., Otilingam, P. G., & Peters, T. (2014). Internalized Stigma of Mental Illness (ISMI) scale: a multinational review. *Comprehensive psychiatry*, 55(1), 221-231.

³ Suwari Akhmaddhian, and Lilis Supriatin. "Kewenangan Perizinan Usaha Pertambangan Pasca Berlakunya Undang Undang Pemerintah Daerah (Studi Di Kabupaten Kuningan Provinsi Jawa Barat)," *UNIFIKASI: Jurnal Ilmu Hukum* 4, no. 2 (2017): 64, <https://doi.org/10.25134/unifikasi.v4i2.730>.

(*zelfstandigheid*)⁴. The purpose goes beyond simply delegating authority from the central government to the regions; it is designed to empower local communities to guide their own development and governance.

Regional autonomy recognizes that each area has distinct social, cultural, political, and natural resource characteristics influenced by its geographical setting. These resources, which include minerals like gold, silver, copper, oil and gas, coal, and more, are governed under Article 33(3) of Indonesia's 1945 Constitution (UUD NRI 1945), granting the state authority over natural resource management. This Right to Control by the state involves the power to regulate, manage, and oversee resource use, ensuring these assets benefit the public welfare.⁵ Although autonomy gives regions some governance authority, the state maintains overarching control over mineral and coal resource management. This centralized framework is intended to support fair and sustainable public welfare and optimize national economic gains.⁶

In a unitary state, governance is arranged through territorial divisions comprising provinces, which are further split into regencies and municipalities. Both central and regional governments, operating at the provincial and regency/municipal levels, exercise governance according to legally assigned authority. During the initial phase of mining management, conflicts arose between central and regional governments over control. The introduction of Law No. 22 of 1999, subsequently replaced by Law No. 32 of 2004 on regional governance, established a new framework that prioritized decentralization principles, including in the mining sector.

Initially, mining management was jointly conducted by the central and regional governments, as outlined in Article 4 of Law No. 4 of 2009. However, with the passing of Law No. 3 of 2020 and the Omnibus Law No. 6 of 2023 on Job Creation, mining management became fully centralized under the central government's authority.

⁴ Ismiyanto Ismiyanto, and Firstnandiar Glica Aini Suniaprily. "Politik Hukum Dalam Upaya Perancangan Kebijakan Publik Otonomi Daerah Pada Masa Reformasi." *Jurnal Penelitian Serambi Hukum* 16, no. 02 (2023): 211-221.

⁵ Nizhaf Roazi Jamil, "Problematika Penerapan Izin Usaha Pertambangan Undang-Undang Nomor 3 Tahun 2020 Tentang Pertambangan Mineral Dan Batubara Serta Dampak Pada Otonomi Daerah," *Staatsrecht: Jurnal Hukum Kenegaraan Dan Politik Islam* 2, no. 2 (2022), <https://doi.org/10.14421/staatsrecht.v2i2.2809>.

⁶ Jamil.

Consistent with these legislative updates, Law No. 23 of 2014 on Regional Government transferred the authority to issue mining licenses from regency/municipal governments to provincial governments. This change has greatly limited the powers previously held by regency/municipal governments, a process this study identifies as the re-centralization of mining authority.

The re-centralization of mining management by the central government marks a departure from the reformist spirit.⁷ To truly optimize regional autonomy, it is essential to restore more authority to regional governments for managing mining activities. This entails empowering local governments, particularly in areas of oversight and licensing, so they can better address the impacts of mining on their communities.⁸ Thus, any legal reforms in mining regulations should take into account various perspectives. The shift in governance principles introduces notable changes to how autonomy is applied, often leading back toward centralization. The evolving authority dynamics in mining governance raise important questions, making this an essential topic for further study in this research.

Previous studies, such as those conducted by Alfredo (2020), Jamil (2022), and Rika Putri Wulandari (2021), have investigated the implications of the authority shift to the central government following Law No. 3 of 2020 on Mineral and Coal Mining. Many journals have discussed the conflict between the re-centralization of the mining sector and the framework of regional autonomy. However, this study distinguishes itself by concentrating specifically on North Kolaka Regency, where the management of nickel mining is prominent. Furthermore, it offers an in-depth analysis of the re-centralization of authority, particularly in relation to environmental impact assessments (AMDAL) and environmental oversight—topics that have received limited attention in prior research. Consequently, this paper presents a novel viewpoint, examining not only the broader implications of policy

⁷ Teguh Prasetyo, and Maharani Nurdin. "Kewenangan Konkuren Pemerintah Daerah Dalam Perizinan Industri Berdasarkan Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja." *Jurnal Kertha Semaya* 9, no. 2 (2021): 314-329.

⁸ See Lusia Indrastuti, and Rian Saputra. "Lost Role of Local Governments in Coal Mining Licensing and Management Environment in Indonesia." *European Online Journal of Natural and Social Sciences* 11, no. 2 (2022): pp-397.

changes but also how these policies are implemented at the local level and their effects on communities and ecosystems.

This study uses a normative legal approach to explore how re-centralizing mining management authority affects regional autonomy in Indonesia, with a particular focus on North Kolaka Regency. Data collection includes a detailed examination of legislative documents and an extensive literature review. The research methodically analyzes laws and regulations concerning mining and regional autonomy to trace the transition from a decentralized governance model to a re-centralized system. Additionally, it compares administrative, financial, and environmental governance in North Kolaka before and after the implementation of re-centralization laws, shedding light on the practical impacts of these legislative changes on regional autonomy and community involvement.

By combining document analysis with comparative assessments, this approach demonstrates how re-centralization has redefined resource management, emphasizing the reduction in local authority and its effects on local governance and environmental practices. The study assesses the impact of policy changes, particularly on environmental oversight, mining revenue for local governments, and public engagement. This integrated approach aims to evaluate how effectively the current legal framework balances national interests with regional autonomy, providing a holistic view of its implications.

The Re-centralization of Regional Government Authority in the Mining Sector

The fall of the New Order regime in 1998 ushered Indonesia into the reform era, highlighted by the enactment of Law No. 22 of 1999 on Regional Governance (UU Pemda 1999). This law embraced the principle of regional autonomy, providing broad authority to regional governments under a decentralized framework.⁹ However, the mining sector continued to operate within a centralized regulatory framework,

⁹ Coen J G Holtzappel, "Introduction. The Regional Governance Reform in Indonesia, 1999-2004," *Decentralization and Regional Autonomy in Indonesia. Implementation and Challenges*, 2009, 1-55.

resulting in a mismatch with the autonomy principles outlined in UU Pemda 1999.

In 2004, the government replaced UU Pemda 1999 with Law No. 32 of 2004, which established a more comprehensive framework for the distribution of powers within the state, including the management of natural resources, particularly minerals and coal. This law also led to revisions in mining regulations that were considered insufficient to meet the changing demands of the sector. As a result, new policies in the mineral and coal (minerba) sector were implemented to ensure that the state, via the central government, retains a significant role in the management and utilization of these resources. The reforms were designed to enhance efficiency and improve overall effectiveness.¹⁰

Law No. 4 of 2009 on Mineral and Coal Mining specifies that the management of mineral and coal resources is distributed among the central government, provincial governments, and regency/municipal governments. Moreover, Article 18(2) of the 1945 Constitution of the Republic of Indonesia emphasizes that regional governments have the authority to regulate and manage their own affairs in line with the principles of autonomy and co-administration. This provision reinforces the status of regional governments as autonomous entities, granting them the power to govern independently and democratically within the regional autonomy framework. The objective of regional autonomy is to promote decision-making processes that effectively address the unique needs and conditions of local communities.¹¹

Article 18(5) of the 1945 Constitution of the Republic of Indonesia establishes that regional governments have extensive autonomy, except for matters explicitly designated to the central government by law. This framework allows regional governments significant power to regulate and manage their own affairs, yet this autonomy is still constrained by limitations set by the central government, particularly in areas like foreign policy, defense and security, the judiciary, monetary and fiscal

¹⁰ Suwari Akhmaddhian, "Kewenangan Perizinan Usaha Pertambangan Pasca Berlakunya Undang Undang Pemerintah Daerah (Studi Di Kabupaten Kuningan Provinsi Jawa Barat)."

¹¹ Ledyawati, "Kewenangan Pemerintah Daerah Dalam Pengelolaan Sumber Daya Alam Pertambangan Minerba Di Era Otonomi Daerah."

policy, religion, and other specified domains.¹² Moreover, this autonomy encompasses a wide range of governance aspects, including planning, implementation, oversight, control, and evaluation. As a result, provincial and regency/municipal governments are granted considerable authority over natural resource management, including mining activities, as long as these actions comply with relevant laws and central government policies. Thus, while regional governments are empowered to make decisions, their actions must align with national regulations to ensure coherence across governance levels.

However, the introduction of Law No. 23 of 2014 on Regional Government redefined the distribution of authority to regulate and manage specific governmental affairs between the central and regional governments. This provision carries considerable implications for the administration of various governmental functions, particularly in improving public services and overseeing natural resources, including the mining sector. The consequences go beyond merely reallocating authority; they also affect administrative frameworks, funding mechanisms, infrastructure development, and the development of policies and decision-making processes.

Law No. 23 of 2014 on Regional Government categorizes governmental affairs into three types: absolute affairs, which are solely the responsibility of the central government; concurrent affairs, which involve shared responsibilities among the central, provincial, and regency/municipal governments; and general affairs, which are directly overseen by the head of government (the president). This reclassification aims to clarify responsibility divisions and improve governance efficiency.

Article 14(1) of Law No. 23 of 2014 specifies that governance in forestry, marine affairs, and energy and mineral resources is a collaborative effort between the central government and provincial governments. This creates a conflict with the powers previously granted to regency/municipal governments under Law No. 4 of 2009 on Mineral and Coal Mining (UU Minerba), which authorized them to

¹² Ayu Putri Miranda Puri and Ni Luh Gede Astariyani, "Kajian Undang-Undang Minerba Terkait Perizinan Usaha Ditinjau Dari Perspektif Otonomi Daerah," *Kertha Semaya: Journal Ilmu Hukum* 10, no. 9 (2022): 1970, <https://doi.org/10.24843/ks.2022.v10.i09.p01>.

issue mining business permits. As a result, the authority of regency/municipal governments in managing mineral and coal mining has been revoked, consolidating licensing powers with the central and provincial governments and leading to legal inconsistencies regarding the role of local governments in the mining sector.

The introduction of Law No. 3 of 2020, which replaces Law No. 4 of 2009, has further complicated the issue of regional mining permits. The 2020 Minerba Law signifies a move towards complete centralization of mining authority, especially concerning licensing. The removal of Articles 7, 8, and 37, which previously governed the issuance of Mining Business Permits (IUP) by provincial and regency/municipal governments, highlights this transition. While Article 35(1) states that mining operations must obtain permits from the central government, Article 35(4) allows for the potential delegation of licensing authority to provincial governments under relevant regulations. Nevertheless, this delegation contradicts the essential principle that licensing authority is centralized within the central government.

With the enactment of Law No. 6 of 2023, which formalizes Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation¹³, the paradigm of comprehensive state control has been reinforced, making decentralization nearly impossible.¹⁴ This shift reflects a re-centralization of authority, stripping regional governments of powers they once held under the era of decentralization and autonomy.¹⁵ Although the new regulation aims to create a more favorable investment climate, the centralization of authority has significantly curtailed the autonomy of regional governments in managing mining activities.¹⁶

The central government's retraction of mining authority from regional governments, referred to in this analysis as re-centralization,

¹³ Ria Maya Sari, "Potensi Perampasan Wilayah Masyarakat Hukum Adat Dalam Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja," *Mulawarman Law Review* 6, no. 1 (2021): 1–14, <https://doi.org/10.30872/mulrev.v6i1.506>.

¹⁴ Sari.

¹⁵ Friskilia Junisa Bastiana Darongke, Dientje Rumimpunu, and Sarah D. L. Roeroe, "Efektivitas Undang-Undang Nomor 3 Tahun 2020 Dalam Pemberian Izin Usaha Pertambangan Mineral Di Indonesia," *Lex Privatum* 10, no. 3 (2022): 2, <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/41456>.

¹⁶ Friskilia Junisa Bastiana Darongke, Dientje Rumimpunu, and Sarah D. L. Roeroe.

presents a misleading promise to local governments. Initially, regional governments were granted the authority to manage their own affairs under the mandate of regional autonomy, as outlined in Article 18(5) of the 1945 Constitution. However, with the enactment of Law No. 3 of 2020 on Mineral and Coal Mining (UU Minerba) and the Job Creation Law, this authority was reclaimed by the central government. Ideally, regional governments should retain control over mining activities within their jurisdictions, including the issuance of mining permits, as they possess a deeper understanding of local characteristics, potential, and the environmental and social impacts of mining operations.

The removal of licensing authority from regional governments undermines the principles of autonomy by diminishing public participation and access to information, ultimately fostering distrust between local communities, regional governments, and the central government. This shift, triggered by the enactment of Law No. 3 of 2020, contradicts the principle of decentralization enshrined in Article 18 of the 1945 Constitution, which grants regions the right to govern their own affairs.¹⁷ It challenges the assumption that regional autonomy aligns with constitutional mandates,¹⁸ revealing a tendency toward centralization that conflicts with the original intent of constitutional reforms. This development raises significant legal and practical concerns, calling into question the extent to which the autonomy granted allows regions to thrive and effectively address the specific needs of their communities.¹⁹

To address these challenges, sectoral regulations must be aligned with decentralization and regional autonomy laws to ensure a fair and rational distribution of authority between the central and regional governments. The withdrawal of regional governments' authority to issue mining permits has created a legal void in environmental oversight and management, further exacerbating governance issues. This

¹⁷ Azmi Fendri, *Pengaturan Kewenangan Pemerintah Dan Pemerintah Daerah* (Rajawali Pers, 2016).

¹⁸ Jorawati Simarmata, "Politik Hukum Restrukturisasi Pembentukan Perangkat Daerah Pasca Reformasi (Sekilas Tanggapan Terhadap Peraturan Pemerintah Nomor 18 Tahun 2016 Tentang Perangkat Daerah)." *Legislasi Indonesia* 13 (2016): 347-358.

¹⁹ Simarmata.

centralization has led to conflicts in the enforcement of administrative law and increased the burden on regional governments in managing mining activities.²⁰ As a result, regional governments are often relegated to passive observers while the central government assumes control over resource management, with little influence over decisions that directly affect them. This situation hampers the implementation of policies tailored to local contexts and undermines the overall effectiveness of natural resource management.

Implications of the Re-centralization of Regional Government Authority in the Mining Sector

The enactment of Law No. 3 of 2020, which amended Law No. 4 of 2009 on Mineral and Coal Mining, and its subsequent revision through Law No. 6 of 2023 on Job Creation, reflects a legal and political effort to review and adjust legislation in support of the national goals outlined in the Preamble to the 1945 Constitution.²¹ Under this framework, the central government now holds full rights and responsibilities for the management of the mineral and coal (minerba) sector, encompassing policy-making, regulation, administration, management, and oversight. Additionally, the central government is tasked with determining prices, production volumes, and the sale of coal, metals, and non-metals.²²

This shift towards a centralized governance paradigm significantly impacts regional authority and the practice of regional autonomy in Indonesia.²³ One of the most notable changes introduced by Law No. 3

²⁰ Muhammad Salman Al Farisi, "Resentralisasi Kewenangan Pengelolaan Pertambangan Mineral dan Batura." *Dharmasiswa: Jurnal Program Magister Hukum FHUI* 2, no. 3 (2023): 1545-1556.

²¹ Andri Yanto, and Faidatul Hikmah. "Aspek Hukum Hak Menguasai Negara di Bidang Pertambangan Pasca Pembaruan Undang-Undang Mineral dan Batubara di Indonesia." *Jurnal Penelitian Hukum De Jure* 23, no. 4 (2023): 419.

²² Akhmaddhian, and Supriatin, "Kewenangan Perizinan Usaha Pertambangan Pasca Berlakunya Undang Undang Pemerintah Daerah (Studi Di Kabupaten Kuningan Provinsi Jawa Barat)."

²³ Rika Putri Wulandari and Muhammad Helmi Fahrozi, "Politik Hukum Pengalihan Izin Pertambangan Pada Pemerintah Pusat Terhadap Kewenangan Pemerintah Daerah," *SALAM: Jurnal Sosial Dan Budaya Syar-I* 8, no. 1 (2021): 191–206, <https://doi.org/10.15408/sjsbs.v8i1.19445>.

of 2020 and the Job Creation Law concerns the regulation of mining business permits (IUP). These reforms removed key provisions from the previous Minerba Law, including Articles 7, 8, 35, and 37, which had delegated IUP issuance authority to regional governments.²⁴

The regulatory changes reflect an increasingly centralized governance system, directly contradicting Article 18(5) of the 1945 Constitution, which promotes regional autonomy in managing various sectors, including mineral and coal mining. Consequently, the concept of the "right to control by the state," once shared between the central and regional governments, has now been consolidated under the central government. This shift persists despite the division of mandatory and discretionary affairs outlined in the Regional Government Law, which theoretically allows regional governments some degree of responsibility in natural resource management.²⁵

Thus, the re-centralization of mining management authority not only transforms governance from decentralization to centralization but also has serious implications for the principle of regional autonomy. The key implications of this shift are as follows:

a) Implications for Regional Finances

The relationship between the central and regional governments in a unitary state often involves competing interests, with the central government striving to maintain control over various governmental affairs. As a consequence of this centralized structure, authority in key areas ultimately rests with the central government, and any powers granted to regional governments can be limited or revoked.²⁶

The re-centralization of mining authority to the central government has had a significant impact on regional revenue in Indonesia. As the country's financial system allocates funds based on delegated functions, the management of regional wealth, including profits from Regional-Owned Enterprises (BUMD) and State-Owned

²⁴ Jailani and Siti Fatimah, "Pengalihan Kewenangan Perizinan Usaha Pertambangan Dalam Undang-Undang Mineral Dan Batubara Perspektif Desentralisasi," *Jurnal Tana Mana* 4, no. June (2023): 45–51, <https://ojs.staialfurqan.ac.id/jtm/>.

²⁵ Jailani and Siti Fatimah.

²⁶ Jamil, "Problematisa Penerapan Izin Usaha Pertambangan Undang-Undang Nomor 3 Tahun 2020 Tentang Pertambangan Mineral Dan Batubara Serta Dampak Pada Otonomi Daerah."

Enterprises (BUMN), has undergone substantial changes. The implementation of Law No. 3 of 2020 and the Job Creation Law has reduced the potential revenue from the mining sector, raising concerns about declining regional income, weakened environmental oversight, and diminished public.²⁷

The case of North Kolaka Regency, a newly autonomous region formed from the division of Kolaka Regency, highlights the region's abundant natural resources in the mining sector. Prior to centralization, between 2010 and 2012, the region's locally generated revenue (PAD) demonstrated substantial growth. In 2010, PAD reached Rp 357.58 billion, increasing to Rp 361.38 billion in 2011, and surging to Rp 491.72 billion in 2012.²⁸ This upward trend reflects the significant contribution of the mining sector under regional government authority, with local management directly benefiting from mining activities and revenue collection.

Between 2017 and 2023, North Kolaka Regency experienced significant changes in its financial structure following the centralization of mining management authority. With the central government assuming control over mining permits, the region's locally generated revenue (PAD) became increasingly reliant on revenue-sharing transfers (DBH) from the central government. These transfers include fixed fees and mining royalties, which have shown variability but with a clear upward trend. For example, in 2017, fixed fees amounted to Rp 15.11 billion, with royalties at Rp 10.38 billion. By 2020, fixed fees decreased to Rp 1.32 billion, while royalties rose to Rp 19.49 billion. In 2023, fixed fees reached Rp 2.5 billion, while royalties surged to Rp 236.12 billion²⁹, reflecting the growing contribution of the mining sector to the region's revenue through DBH.

²⁷ Muhamad Rosyid Jazuli, Maimanah Mohammed Idris, and Penlope Yaguma. "The importance of institutional quality: Reviewing the relevance of Indonesia's Omnibus Law on national competitiveness." *Humanities and Social Sciences Communications* 9, no. 1 (2022): 1-13.

²⁸ BPS Kab. Kolaka Utara, "Badan Pusat Statistik Kabupaten Kolaka Utara Dalam Angka," 2023.

²⁹ Anom, "Postur TKDD" (Kolaka Utara, 2024), <https://djpk.kemenkeu.go.id/portal/data/tkdd?tahun=2020&provinsi=21&pemd a=10>.

The process of decentralization in Indonesia has profoundly transformed the financial interactions between the central government and regional administrations. Although regional governments have lost direct control over mining management, their revenue from revenue-sharing transfers (*Dana Bagi Hasil*, hereinafter as DBH), particularly from mineral and coal royalties, remains substantial.³⁰ This shift, however, has increased regional governments' dependence on central transfers, potentially constraining their autonomy in economic policymaking.³¹ Studies indicate that central transfers, especially the General Allocation Fund (*Dana Alokasi Umum*, hereinafter as DAU) and DBH, positively influence regional economic growth and tax collection efforts.³² Nevertheless, heavy reliance on central transfers raises concerns about its impact on the investment climate and the persistence of regional economic disparities.³³

From a social perspective, ineffective management of revenue-sharing transfers (DBH) risks exacerbating social inequality. If DBH allocations are poorly administered, the economic benefits may be concentrated among a small segment of the population, particularly those directly involved in mining projects or other formal sectors. Successful poverty alleviation programs require the effective management of DBH, which necessitates the active participation of key stakeholders, including local government agencies, communities, and the private sector.³⁴ However, re-centralization may reduce the incentive

³⁰ Nabilla Desyalika Putri and Dian Agung Wicaksono, "Implikasi Legislasi Pengambilalihan Kewenangan Di Bidang Pertambangan Mineral Dan Batubara Oleh Pemerintah Pusat," *Jurnal Legislasi Indonesia* 13, no. 1 (2016): 19–32.

³¹ Awal Nopriyanto Bahasoan, et al. "Otonomi Daerah dan Pertumbuhan Ekonomi di Indonesia: Literature Review." *Ekonomis: Journal of Economics and Business* 8, no.1 (2024): 43-46.

³² Agus Sunarya Sulaeman and Vivin Silvia, "Pendapatan Asli Daerah, Transfer Daerah, Dan Belanja Modal, Pengaruhnya Terhadap Pertumbuhan Ekonomi Regional Di Indonesia," *Jurnal Aplikasi Akuntansi* 4, no. 1 (2019): 97–112, <https://doi.org/10.29303/jaa.v4i1.61>.

³³ Susiyati B Hirawan, "Evaluasi Lima Tahun Desentralisasi Fiskal Di Indonesia," *Jurnal Ekonomi dan Pembangunan Indonesia* 6, no. 2 (2006): 63-82.

³⁴ Iwan Satibi, Ediyanto Ediyanto, and Regan Vaugan, "Konstruksi Konsep Sinergitas Kebijakan Pemerintah Pusat Dan Daerah Dalam Pengadaan Rumah Bagi Masyarakat Berpenghasilan Rendah (Studi Di Kabupaten Bandung Provinsi

for mining companies to engage local communities in their operations, limiting employment opportunities for residents. The sustainable management of natural resources, particularly in mining, should aim to generate income and create jobs for local communities.³⁵

This study highlights the environmental and social challenges associated with re-centralization, using PT RJL's mining operations in North Kolaka as a case example. The company has faced criticism for allegedly failing to benefit the local community and instead causing environmental harm. Pollution from mining activities has disrupted the livelihoods of fishers and farmers in areas such as Lasusua District, affecting both river and marine ecosystems.³⁶ As noted by Astuti et al., nickel mining has severe environmental consequences, including air and soil degradation and land deterioration.³⁷ Furthermore, the presence of nickel mining has not significantly improved the social and economic conditions of local communities, as the benefits are unevenly distributed.³⁸

While re-centralization allows for more integrated national policies, it may weaken environmental oversight at the local level, negatively impacting community well-being through environmental degradation. The effectiveness of local environmental governance varies, with some areas lacking strong institutional and community oversight.³⁹ The

Jawa Barat),” *Kebijakan: Jurnal Ilmu Administrasi* 14, no. 1 (2023): 33–46, <https://doi.org/10.23969/kebijakan.v14i1.5855>.

³⁵ Muhammad Salman Al-Farisi, “Desentralisasi_Kewenangan_Pada_Urusan_Pe.”

³⁶ Muh Rusli, “Laut Di Kolaka Utara Kembali Berwarna Merah, PT Riota Jaya Lestari Diduga Terlibat,” 2024, <https://daerah.sindonews.com/read/1349321/174/laut-di-kolaka-utara-kembali-berwarna-merah-pt-riota-jaya-lestari-diduga-terlibat-1711609430>.

³⁷ Emi Astuti, Muh. Nasir, and Faturachman Alputra Sudirman, “Dampak Aktivitas Pertambangan Nikel Bagi Kehidupan Sosial Ekonomi Masyarakat Kecamatan Tinanggea Kabupaten Konawe Selatan: Studi PT. Baula Petra Buana,” *PAMARENDA: Public Administration and Government Journal* 2, no. 1 (2022): 48, <https://doi.org/10.52423/pamarenda.v2i1.26941>.

³⁸ Wisda Zulaeha and Suwardi, “Dampak Industri Nikel Terhadap Peningkatan Kondisi Sosial Ekonomi Masyarakat Di Desa Papanloe, Kecamatan Pa’Jukukang, Kabupaten Bantaeng,” *Jurnal Mirai Management* 4, no. 2 (2019): 122–36, <https://journal.stieamkop.ac.id/index.php/mirai>.

³⁹ Indraya Kusyuniadi and Imam Buchori, “Efektivitas Pengawasan Kelembagaan Dan Masyarakat Terhadap Kebijakan Penataan Ruang (Kawasan Cagar Alam

authority of regional governments to address environmental issues has been further constrained by the Job Creation Law, limiting their ability to manage environmental challenges effectively.⁴⁰ As a result, local communities may feel excluded from decision-making processes concerning the use of natural resources, leading to dissatisfaction and disengagement.

Achieving a balance between national integration and local environmental protection is essential. Although national policies recognize the importance of local involvement in environmental preservation, meaningful participation is not always ensured⁴¹. To address these challenges, decentralized environmental management is recommended, emphasizing local knowledge, community involvement, and participatory governance.⁴² This approach can strengthen environmental stewardship and ensure that natural resource management aligns with the needs and priorities of local communities.

The re-centralization of authority has also affected governance by reducing local participation. With diminished control over mining management, both communities and regional governments feel marginalized from decision-making processes.⁴³ Consequently, regional governments have become increasingly reliant on central policies for funding allocations and development priorities, limiting their ability to respond swiftly to the specific needs of local communities.

However, revenue-sharing transfers (DBH) offer regions the opportunity to invest in long-term infrastructure projects, such as roads, education, and healthcare, which can enhance community well-being

Geologi Karangsambung)," *Jurnal Ilmu Lingkungan* 18, no. 2 (2020): 209–17, <https://doi.org/10.14710/jil.18.2.209-217>.

⁴⁰ Kusyuniadi and Buchori.

⁴¹ Mustofa Mustofa, "Dana Bagi Hasil Dan Konservasi Sumber Daya Alam Di Indonesia Periode Desentralisasi," *Jurnal Ekonomi Dan Pendidikan* 7, no. 2 (2012): 119–34, <https://doi.org/10.21831/jep.v7i2.569>.

⁴² Krisna Marta Bahari, "Alternatif Menyelesaikan Permasalahan Lingkungan dengan Cara Desentralisasi Lingkungan." *JIM: Jurnal Ilmiah Mahasiswa Pendidikan Sejarah* 9, no.1 (2024): 22-28.

⁴³ Holtzappel, "Introduction. The Regional Governance Reform in Indonesia, 1999-2004."

over time.⁴⁴ Nevertheless, economic diversification remains a significant challenge, as reducing dependency on the mining sector requires strategic planning and long-term investment in other industries, such as agriculture, tourism, or the creative economy.⁴⁵

b) Implications for the Oversight of Mining Activities

The shift of mining permit authority from regional to central government, as established by Law No. 3 of 2020, introduces fresh challenges for effectively overseeing mining operations. Difficult-to-reach geographic areas and the direct impact of mining on local communities necessitate a more efficient and equitable monitoring system.⁴⁶ However, this formal centralization may hinder optimal oversight, given the significant distance between government offices and mining sites. This gap can exacerbate operational issues, such as social conflicts and environmental pollution, particularly if local governments are not actively involved in the monitoring process.

Studies indicate that regional governments possess a deeper understanding of the local social and geographic conditions, which is essential for effective oversight. The withdrawal of mining permit authority from local governments increases the risks of inadequate monitoring, as the local population bears the immediate impact of mining activities.⁴⁷ The vast and diverse geography of Indonesia further complicates the central government's ability to effectively supervise all mining regions.⁴⁸ Additionally, limited human and financial resources at the central level create further challenges for comprehensive oversight.

⁴⁴ Thomas B. Pepinsky and Maria M. Wihardja, "Decentralization and Economic Performance in Indonesia," *Journal of East Asian Studies* 11, no. 3 (2011): 337–71, <https://doi.org/10.1017/S1598240800007372>.

⁴⁵ Holtzappel, "Introduction. The Regional Governance Reform in Indonesia, 1999–2004."

⁴⁶ Sayidatina Hayatuzzahra, and Yuni Yolanda. "Studi Pemilihan Reklamasi Lahan Bekas Tambang yang Berwawasan Lingkungan." *Hexagon* 4, no. 1 (2023): 55–58.

⁴⁷ Barclay, "Local Government , Mining Companies and Resource Development in Regional Australia Meeting the Governance Challenge," no. July (2012), http://www.lga.sa.gov.au/webdata/resources/files/LGA-91837_25_04_71_Impact_of_the_Resources_Boom_in_Regional_Australia_Project_Output.pdf.

⁴⁸ Barclay.

Local communities, as the first to experience the consequences of mining, including air pollution and degraded environmental quality, are directly affected by these activities.⁴⁹ Involving regional governments in oversight enables quicker responses to violations, whereas centralized monitoring systems often delay action on public grievances.⁵⁰

Centralizing control over mining management may also reduce the efficiency of regional autonomy, fostering tensions between regions and the central government and increasing the risk of local conflict.⁵¹ This arises from the perception among regional governments that they are losing control over resources traditionally considered part of their jurisdiction.⁵² Moreover, centralization neglects the importance of community participation in mining-related decision-making, despite such participation being vital to balancing economic interests with environmental protection.⁵³

Effective environmental enforcement in mining operations requires decisive government action and strong community involvement.⁵⁴ However, weak social capital and minimal public engagement in post-

⁴⁹ Mayra Rodríguez-González, and Kevin Torres-Garrido. "Contextualizing a decade of air pollution and population vulnerability in Ecuador." *South Sustainability* 3, no. 1 (2022): e057-e057.

⁵⁰ Sisi Que et al., "The Status of the Local Community in Mining Sustainable Development beyond the Triple Bottom Line," *Sustainability (Switzerland)* 10, no. 6 (2018): 1–11, <https://doi.org/10.3390/su10061749>.

⁵¹ Abrillioga Abrillioga, "Centralization of Authority for Mineral and Coal Mining Business Permits in the Context of the Power Relationship Between Central and Regional Governments," 2024, <https://doi.org/10.4108/eai.21-10-2023.2343502>.

⁵² Dudung Abdullah, "Hubungan Pemerintah Pusat Dengan Pemerintah Daerah," *Jurnal Hukum Positum* 1, no. 1 (2016): 83, <https://doi.org/10.35706/positum.v1i1.501>.

⁵³ Abrillioga, "Centralization of Authority for Mineral and Coal Mining Business Permits in the Context of the Power Relationship Between Central and Regional Governments."

⁵⁴ Kamal Hidjaz, "Effectiveness of Environmental Policy Enforcement and the Impact by Industrial Mining, Energy, Mineral, and Gas Activities in Indonesia," *International Journal of Energy Economics and Policy* 9, no. 6 (2019): 79–85, <https://doi.org/10.32479/ijeep.8146>.

mining land⁵⁵ restoration programs underscore the need for intensified outreach and education about community rights regarding mining activities.⁵⁶ Stricter penalties for corporate offenders could enhance compliance and deterrence.⁵⁷

Environmental law enforcement must reflect legal ideals and democratic values⁵⁸, with a monitoring framework that gradually delegates authority to regional governments to increase community participation.⁵⁹ However, gaps remain in the regulatory framework, particularly concerning reclamation responsibilities for small-scale miners.⁶⁰ Overall, consistent law enforcement and active community involvement are essential to ensuring sustainable mining practices in Indonesia.⁶¹

⁵⁵ Herdiyanti Herdiyanti. "Identifikasi Modal Sosial Masyarakat Terhadap Restorasi Lahan Pasca Tambang:(Studi Masyarakat Desa Bukit Kijang, Kecamatan Namang, Kabupaten Bangka Tengah)." *Jurnal Society* 5, no. 1 (2017): 13-21.

⁵⁶ Kamal Fahmi Kurnia and Terina Tian, "Penyuluhan Hukum Jenis Pelanggaran Hukum Kegiatan Pengabdian Kepada Masyarakat," *JAMS (Jurnal Abdi Masyarakat Saburai)* 01, no. 01 (2020): 15–20.

⁵⁷ Ibrahim Ibrahim; Juanda Juanda, "Desentralisasi Dan Otonomi Daerah; Pelaksanaan Otonomi Khusus Papua Berdasarkan Sistem UUD Negara Republik Indonesia Tahun 1945," *SALAM: Jurnal Sosial Dan Budaya Syar-I*, no. Vol 8, No 5 (2021) (2021): 1565–82.

⁵⁸ Aris Yuni Pawestri, "Cita Hukum Dan Demokrasi Dalam Sistem Penegakan Hukum Lingkungan Indonesia," *Fairness and Justice: Jurnal Ilmiah Ilmu Hukum* 17, no. 2 (2019): 99–100, <http://jurnal.unmuhjember.ac.id/index.php/FAJ/article/view/2796>.

⁵⁹ Eren Arif Budiman and Ahmad Arif Zulfikar, "Pengawasan Pengelolaan Lingkungan Dibidang Pertambangan Berdasarkan Undang-Undang No. 4 Tahun 2009 Tentang Pertambangan Mineral Dan Batu Bara," *Wajah Hukum* 4, no. 2 (2020): 220–28.

⁶⁰ Ade Lutfi Prayogo, "Tanggung Jawab Pelaku Usaha Pertambangan Rakyat Dalam Reklamasi Gumuk Setelah Kegiatan Tambang," *Lentera Hukum* 5, no. 3 (2018): 424, <https://doi.org/10.19184/ejllh.v5i3.8201>.

⁶¹ Nindya Putri Edytya and Reyhan Satya Prawira, "Kenyataan Penegakan Hukum Di Indonesia Dalam Perspektif Hukum Dan Pembangunan: Hukum Harus Ditaati Atau Ditakuti?," *Lex Scientia Law Review* 3, no. 2 (2019): 177–90, <https://doi.org/10.15294/lesrev.v3i2.35399>.

Decentralization of Mining Management in Other Countries

The experiences of various countries in balancing decentralization and centralization in the mining sector offer valuable insights for Indonesia. Countries like Canada, Australia, Brazil, and South Africa demonstrate how different policy frameworks can yield both positive outcomes and distinct challenges. By learning from these nations' successes and best practices, Indonesia can develop more effective and sustainable policies that align with societal needs and environmental demands.⁶²

Canada's success in decentralization is evident in provinces such as Alberta and British Columbia, where local authorities manage mining permits, taxation, and operations independently. The central government's involvement is limited to setting strategic frameworks related to environmental policies and international relations. This model has reduced provincial reliance on federal transfers and enhanced fiscal autonomy. Strict environmental reclamation regulations require mining companies to restore operational sites after closure. Indonesia could adopt this approach by empowering provincial governments in mining management while ensuring that strategic policies and international relations remain under central control.⁶³

Australia employs a model of competitive federalism, with states like Queensland and Western Australia competing to attract mining investments. This competition fosters policy efficiency and innovation within each state. Additionally, mining operations are required to involve Indigenous communities, ensuring sustainable practices and benefits for local populations. While the federal government establishes national environmental standards, states have the flexibility to innovate. Indonesia could harness this competitive spirit to encourage policy innovation across provinces while ensuring that national environmental and social standards are upheld.⁶⁴

⁶² See OECD. *Regulatory Governance in the Mining Sector in Brazil*. (Paris: OECD Publishing, 2022). <https://doi.org/10.1787/63d60aa8-en>.

⁶³ Davide P. Cargnello, and Maryantonett Flumian. "Canadian governance in transition: Multilevel governance in the digital era." *Canadian Public Administration* 60, no. 4 (2017): 605-626.

⁶⁴ OECD. *Regulatory Governance in the Mining Sector in Brazil*.

Brazil integrates decentralization with social welfare efforts by proportionally distributing mining royalties to local governments. These funds are allocated to education, healthcare, and infrastructure, enhancing the well-being of local communities. Public participation in decision-making processes related to mining projects strengthens transparency and accountability. Strict environmental regulations are enforced to prevent ecological damage from mining operations. Indonesia could adopt elements of Brazil's model by enhancing royalty distribution and actively involving local communities throughout the planning and implementation stages of mining projects.⁶⁵

South Africa blends centralization with local participation in mining oversight. Although primary authority rests with the central government, provinces and local communities play essential roles in monitoring mining operations. Collaboration between national and regional governments helps balance national interests with local needs. Corporate social responsibility (CSR) programs further support community welfare around mining sites. Environmental standards are enforced, requiring mining companies to restore land after operations conclude. Indonesia could retain certain aspects of centralized governance while ensuring local involvement in environmental monitoring and oversight.⁶⁶

These countries' experiences illustrate that successful decentralization depends on strong coordination between central and regional governments, community participation, and rigorous environmental regulation. For Indonesia to reclaim and decentralize mining management effectively, it must define proportional authority, granting regions the power to issue permits and oversee mining operations. Meanwhile, the central government should retain control over strategic policies and international relations. Strengthening regional fiscal autonomy by allowing provinces and regencies to collect taxes and royalties will reduce dependence on revenue-sharing transfers

⁶⁵ Cargnello, and Flumian. "Canadian governance in transition: Multilevel governance in the digital era."

⁶⁶ Jamie Boex, Tim Williamson and Serdar Yilmaz. *An Introduction to Decentralization, Multi-Level Governance and Intergovernmental Relations: A Toolkit for Intergovernmental Architecture Analysis*. (New York: World Bank Subnational Governance & Decentralization Global Solutions Group, 2021).

from the central government, fostering greater financial independence at the local level.⁶⁷

Conclusion

This research investigates how the re-centralization of mining management authority affects regional autonomy in Indonesia, particularly analyzing the shift from decentralization to re-centralization that occurred between the implementation of Law No. 22 of 1999 and the Job Creation Law (Law No. 6 of 2023). The analysis reveals that, although re-centralization was intended to enhance efficiency and coordination in natural resource management, it has, in practice, diminished the effectiveness of environmental oversight, restricted public participation, and reduced regional revenues directly generated from mining activities. These challenges significantly limit regional governments' ability to manage their natural resources independently, adversely affecting local welfare and development.

In response to these challenges, several key recommendations are proposed. First, policy adjustments are necessary to restore and clarify regional governments' authority over mining management, including licensing and environmental oversight, enabling them to respond more effectively to local conditions. Second, local capacity must be strengthened through training, resource enhancement, and technical support to improve the effectiveness of mining management and oversight. Moreover, prioritizing increased public involvement in decision-making and establishing strong local environmental monitoring systems is crucial. Lastly, it is vital to revise the revenue-sharing framework for mining to achieve a more equitable distribution of income between the central and regional governments. These approaches aim to support more sustainable and inclusive development, enhancing local welfare through more effective and equitable natural resource management.

⁶⁷ See OECD, *Regulatory Reform in Brazil, OECD Reviews of Regulatory Reform* (Paris: OECD Publishing, 2022). <https://doi.org/10.1787/d81c15d7-en>.

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