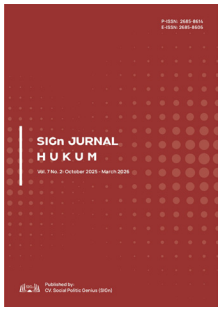

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Article Title

The Legal Policy of Decentralization in Strategic Natural Resource Management: Acceleration of Local Government Independence Pursuant to the Rule of Law Principle

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ABSTRACT

This research is motivated by the emergence of a constitutional anomaly: the recentralization of strategic natural resource management authority, which undermines the principle of regional autonomy as mandated by Article 18 of the 1945 Constitution. Although Law Number 23 of 2014 has regulated the distribution of concurrent government affairs, the enactment of recent sectoral regulations, such as Law Number 6 of 2023 and Law Number 2 of 2025, has conversely pulled licensing and fiscal management authority back to the central government. This study aims to formulate a natural resource governance transformation model that integrates local government independence with the principle of national legal certainty across the forestry, mineral and coal, oil and gas, geothermal, and fisheries sectors. The research method employed is normative legal research using statute, conceptual, and case approaches, analyzed qualitatively and prescriptively. The results indicate systematic norm disharmony and fiscal barriers resulting from central intervention—such as the 0% royalty policy—which significantly reduces fiscal capacity and regional administrative authority. The research concludes that accelerating regional independence requires legal policy reconstruction by implementing the FPIC principle to synchronize rights and guarantee national legal certainty and regional investment stability. The implications of this research demand harmonizing sectoral regulations that respect regional attributive authority and strengthening legislative oversight functions to realize accountable natural resource governance within a just Rule of Law framework.

Keywords: *Concurrent Governance; Decentralization; Legal Policy; Natural Resources; Regional Independence.*

INTRODUCTION

The Rule of Law Principle (*Rechtsstaat*), as stipulated in Article 1 section (3) of the 1945 Constitution, mandates the supremacy of law to guarantee justice and certainty in every public policy. In the context of state governance, the effectiveness of decentralization serves as the primary benchmark for realizing these constitutional ideals. This measure aims to bring public services closer to the community and foster local government independence (Helandri et al., 2025). Synchronization between national legal norms and local needs is an absolute prerequisite. This is because the dichotomy of approaches in legal science demands systemic coherence between central and local policies to prevent regulatory vacuums or overlaps (Qamar & Rezah, 2022). Therefore, strengthening the structure of Indonesian Constitutional Law must be centered on efforts to maintain the harmony of authority within the framework of the Unitary State of the Republic of Indonesia.

The legal policy of strategic natural resource management, encompassing the forestry, mineral and coal, oil and gas, geothermal, and fisheries sectors, is often trapped in the dialectic between the state's right to control and regional autonomy. Pursuant to Article 33 section (3) of the 1945 Constitution, natural resources are controlled by the state for the greatest prosperity of the people. These provisions were subsequently decentralized through Law Number 23 of 2014[1] to encourage local fiscal

[1]Law Number 23 of 2014, as amended several times, lastly by Article 176 of Government Regulation in Lieu of Law Number 2 of 2022.

independence (Kamal, 2019; Sugianto et al., 2025). However, in its implementation, the distribution of concurrent government affairs is frequently distorted by sectoral policies. These policies prioritize macroeconomic efficiency over the strengthening of legal policy capacity at the local level (Hakim et al., 2025). This condition raises doubts about the state's consistency in fulfilling its mandate of the broadest possible autonomy for resource-producing regions.

The urgency of this research stems from a constitutional anomaly: a massive recentralization of authority through the latest legislative products. The enactment of Law Number 4 of 2009, as most recently amended by Law Number 2 of 2025, explicitly pulls licensing authority back to the central government. This policy is considered detrimental to the spirit of decentralization as it ignores the role of regions in determining Mining Business License Areas within their own jurisdictions (Tinambunan et al., 2022). The downstreaming paradox promoted by the central government through Law Number 2 of 2025 creates regulatory disharmony. This inhibits legal certainty for business actors while simultaneously marginalizing local authority (Pohan et al., 2025).

A similar condition occurs in the forestry sector following the enactment of Law Number 6 of 2023. In this sector, the transformation of legal policy leans more toward administrative deconcentration. Local governments have lost substantial discretion in strategic decision-making regarding forest governance due to the dominance of centrally determined technical standards (Ramadhan et al., 2022). This uncertainty is exacerbated by overlapping authorities in marine and coastal areas for archipelagic regions, as regulated in Article 27 through Article 30 of Law Number 23 of 2014 (Wardani, 2023). This weak harmonization demonstrates that the performance of decentralization in Indonesia is still overshadowed by political network interests that do not fully support the strengthening of local institutions (Baidhowah, 2022; Nggilu et al., 2025).

The acceleration of local government independence requires adequate regional competency to manage government affairs professionally (Prasetyo et al., 2021). The transformation of natural resource governance depends not only on the delegation of administrative authority but also on the exercise of fair fiscal sovereignty through Law Number 1 of 2022. However, challenges arise when central fiscal policies provide incentives, such as the 0% royalty rate under Article 128A of Law Number 4 of 2009[2]. This policy could erode revenue-sharing funds for local areas (Lewis, 2023). Development inequality, particularly in eastern Indonesia, proves that the budget management mandate has not been optimally used to rectify regional economic disparities (Farida et al., 2021; Nathan et al., 2022).

[2]Article 128A, as inserted through Article 39 point 1 of Government Regulation in Lieu of Law Number 2 of 2022.

Rigid oversight is a vital pillar to ensure accountability for local independence and to prevent bureaucratic pathology in the management of natural resource funds. Dysfunction within internal oversight and audit systems often leads to budget misappropriation at the local level, which harms state finances (Pade & Rasdianah, 2025). Therefore, the oversight function of local representative bodies regarding budget utilization must be strengthened. This step is essential to ensure that local policies align with national and regional development plans (Sudarsono et al., 2024). Transparency and integrity in financial governance are absolute requirements for the realization of clean and dignified local governance in the eyes of the law.

Although this manuscript focuses on local government capacity, synchronization with the rights of Customary Law Communities after Constitutional Court Decision Number 35/PUU-X/2012 remains a crucial instrument for national legal certainty. The integration of the Free, Prior, and Informed Consent (FPIC) principle into the local governance framework is an effective strategy for mitigating agrarian conflict (Bachmid, 2022; Arsyad et al., 2025). By incorporating FPIC into the licensing instrument, local governments can simultaneously guarantee investment stability and protect communal land rights (*hak ulayat*) (Kusniati, 2024; Simatupang et al., 2025). This legal synchronization is expected to create an inclusive natural resource management model that supports local economic sustainability.

Based on the background presented above, this research aims to formulate a natural resource governance transformation model that integrates local government independence with the principle of national legal certainty. Specifically, this study intends to analyze constitutional anomalies resulting from norm disharmony and the recentralization phenomenon in Law Number 23 of 2014 and Law Number 2 of 2025 that hinder local authority. Furthermore, this research evaluates the acceleration of fiscal independence and local oversight functions based on Law Number 1 of 2022 and Law Number 6 of 2023. The final stage of the research aims to construct a juridical synchronization mechanism by instrumenting the FPIC principle to achieve national legal certainty. The results of this study are expected to make a scientific contribution to the development of Constitutional Law doctrine on the decentralization of natural resources and to offer policy recommendations for lawmakers to strengthen accountable regional autonomy.

METHOD

This research employs a normative legal research method with a doctrinal approach to examine the consistency of norms within the national legal system. The approaches used include the statute, conceptual, and case approaches (Qamar & Rezah, 2020). Through the Statute Approach, this study confronts Law Number 23 of 2014 with the latest sectoral regulations to identify the phenomenon of recentralization

in depth. The Conceptual Approach is applied to dissect the Rule of Law Principle and local legal autonomy. Meanwhile, the Case Approach is used to examine the legal implications of Constitutional Court Decision Number 35/PUU-X/2012 regarding regional authority.

The data used are secondary data sourced from primary, secondary, and tertiary legal materials (Sampara & Husen, 2016). Primary legal materials include the 1945 Constitution, Law Number 4 of 2009, Law Number 23 of 2014, Law Number 1 of 2022, and Law Number 6 of 2023. Secondary legal materials include references from reputable scientific journals discussing legal policy, fiscal decentralization, and budget oversight. Data collection techniques included library research, including an inventory and categorization of relevant legal materials. The research object encompasses natural resource sectors, including forestry, minerals and coal, oil and gas, geothermal, and fisheries.

Data analysis techniques are executed qualitatively using normative evaluation methods and prescriptive legal construction (Irwansyah, 2020). The analysis is conducted in layers to test the alignment of the distribution of government affairs with centralistic national downstreaming policies. A fiscal evaluation of Law Number 1 of 2022 is conducted to assess the regional capacity to manage revenue-sharing funds amid the 0% royalty incentive policy. In the final stage, legal construction techniques are used to formulate the FPIC principle's instrumentation as a solution for rights synchronization within the framework of national legal certainty. The entire analysis is directed toward providing a comprehensive answer to the research objectives regarding the transformation of natural resource governance toward sustainable local government independence.

RESULTS AND DISCUSSION

A. Constitutional Anomaly: Regulatory Disharmony and the Symptom of Sectoral Authority Recentralization in Natural Resources

The phenomenon of authority recentralization in natural resource management following the enactment of regulations for strategic industrial sectors constitutes a constitutional anomaly. This condition undermines the pillars of local autonomy. Pursuant to Article 18 section (2) and section (5) of the 1945 Constitution, regions are granted the authority to exercise the broadest possible autonomy. However, the reality of sectoral legislation frequently involves the unilateral withdrawal of authority to the central government. This is clearly evident in the transition of mineral and coal mining authority. The enactment of Law Number 3 of 2020 explicitly abolished regional authority in issuing Mining Business Licenses. This policy was further reinforced by the enactment

of Law Number 2 of 2025. This law positions the central government as the sole authority for determining priority areas for mining business licenses to accelerate downstreaming. This paradigm shift is considered contrary to the spirit of concurrent government affairs as stipulated in Article 14 section (1) of Law Number 23 of 2014 (Prasetyo et al., 2021; Tinambunan et al., 2022).

This recentralization phenomenon creates a paradox in national mineral downstreaming policy, characterized by significant regulatory disharmony. The lack of harmony between central and local regulations creates structural barriers to accelerating investment and achieving legal certainty at the local level (Pohan et al., 2025). The withdrawal of authority from the center ignores the existence of local governments, which best understand the geographical and sociological characteristics of their territories. Under Law Number 2 of 2025, the state seeks to resolve overlapping permit areas through centralized national mechanisms. However, this step often disregards regional spatial planning aspirations. Consequently, the policy synchronization between the mandate of Article 14 of Law Number 23 of 2014 and the practice of sectoral legislation is not coherent (Helandri et al., 2025; Pohan et al., 2025).

In the forestry sector, the transformation of legal policy following Law Number 6 of 2023 demonstrates a shift in decentralization characteristics toward dominant administrative deconcentration. Local governments have lost discretion in strategic decision-making regarding forest governance in their regions. This authority is now bound by strict standards and regulations set by relevant ministries (Ramadhan et al., 2022). The current legal structure no longer reflects the substantial delegation of power to the regions. Regions are now merely positioned as administrative technical implementers. The negation of regional capacity to manage concurrent government affairs undermines regional responsibility for environmental issues (Prasetyo et al., 2021; Ramadhan et al., 2022).

The complexity of recentralization also extends to the authority over marine areas and archipelagic regions regulated in Article 27 through Article 30 of Law Number 23 of 2014. Although Article 27 section (1) of the said Law grants provincial governments the authority to manage natural resources in the sea, the withdrawal of marine management authority from the regency/city level to the provincial level is often problematic. This policy ignores the interests of coastal communities at the local level. The disregard for the characteristics of archipelagic regions as referred to in Articles 28 and 29 of the Law renders economic development strategies irrelevant (Wardani, 2023). This misalignment demonstrates that harmonizing the regulatory hierarchy from the central to the local level remains a major obstacle to creating coherent legal unity (Wardani, 2023; Nggilu et al., 2025).

A critical analysis of decentralization performance shows that sectoral recentralization often masquerades as a pretext for strengthening investment and simplifying licensing. However, concentrating power without considering regional competencies creates the potential for abuse of authority at the central level. Furthermore, this practice marginalizes local public participation (Prasetyo et al., 2021; Baidhowah, 2022). Local legal autonomy, which should serve as an instrument for regions to formulate context-specific regional regulations, has been paralyzed by the dominance of uniform national norms. This condition systematically erodes the Rule of Law Principle, which guarantees popular sovereignty through a balanced distribution of power (Qamar & Rezah, 2022; Helandri et al., 2025).

As a synthesis of this initial section, regulatory disharmony resulting in the recentralization of natural resource authority represents a disregard for the principle of legal certainty. The failure to guarantee the stability of regional authority will continue to result in horizontal and vertical conflicts. This hinders the vision of local government independence in managing natural resource potential sustainably (Hakim et al., 2025; Helandri et al., 2025; Sugianto et al., 2025). Optimizing the roles of representative bodies and oversight mechanisms is necessary. This measure aims to ensure that every national legislative product remains within the constitutional corridors that respect regional autonomy rights (Baidhowah, 2022; Wardani, 2023).

B. Acceleration of Fiscal Independence: Construction of Financial Relations and Regional Oversight Functions

Local government independence within the decentralization framework is inseparable from autonomous and accountable fiscal sovereignty. Based on the Rule of Law Principle, regional fiscal capacity is an absolute prerequisite for the sustainability of autonomy. Without financial support, local legal autonomy would become a paralyzed normative entity. In this context, regional revenue management must be directed toward increasing fiscal capacity to fund concurrent government affairs (Kamal, 2019). The financial relationship between the central and local governments must be positioned as an instrument for the redistribution of justice. Regions producing strategic natural resources are entitled to a fair proportion to accelerate development without disregarding national fiscal integrity (Lewis, 2023).

The enactment of Law Number 1 of 2022 provides momentum for the restructuring of natural resource revenue-sharing fund allocations. Article 111 section (3) of the said law regulates the proportion of natural resource revenue-sharing funds covering the forestry, mineral and coal, oil and gas, geothermal, and

fisheries sectors. However, the effectiveness of this regulation depends heavily on transparency in the calculation of non-tax state revenue. These data are often asymmetrical between central authorities and regional claims. Optimizing the utilization of natural resource revenue-sharing funds, as referred to in Article 111 section (3) of the law, must be directed toward productive spending that yields economic impacts for local communities (Farida et al., 2021; Lewis, 2023).

Challenges to regional fiscal independence are increasingly complex due to central policy interventions that potentially reduce regional revenue. A fiscal anomaly is evident in Article 128A of Law Number 4 of 2009. This provision offers incentives in the form of a 0% production fee or royalty for license holders engaged in coal development. Critically, this policy directly reduces the value of revenue-sharing funds received by local areas. This practice undermines the principle of certainty in revenue sharing, which the state should guarantee (Lewis, 2023; Pohan et al., 2025). This demonstrates a lack of synchronization between national downstreaming ambitions and the protection of regional fiscal rights.

Development inequality and fiscal capacity gaps between regions, particularly in eastern Indonesia, prove that the budget management mandate has not been optimal. Existing fiscal decentralization has not fully addressed regional economic disparities because expenditure allocations are often not oriented toward productive sectors (Farida et al., 2021). Therefore, the effective implementation mechanism for tax options (*opsen pajak*) starting January 5, 2025, as regulated in Article 191 of Law Number 1 of 2022, must be strictly monitored. The objective is to avoid burdening the investment climate while ensuring liquidity for local governments. Without strong economic independence, regional legal autonomy will remain dependent on centralist transfers (Farida et al., 2021; Lewis, 2023).

The dimension of independence also demands strengthening oversight functions to prevent bureaucratic pathology and corruption. The presence of abundant natural resources has been proven to moderate the relationship between fiscal decentralization and the level of regional financial irregularities (Nathan et al., 2022). Oversight dysfunction and the failure of internal local inspectorate systems to detect fund misappropriation are often major obstacles to independence (Pade & Rasdianah, 2025). Consequently, strengthening the oversight function of the Regional House of Representatives over budget utilization is necessary. This effort aims to guarantee that every rupiah from natural resource exploitation returns to the public interest in the region (Kamal, 2019; Sudarsono et al., 2024).

Systematically, the acceleration of local government independence requires the integration of administrative authority and fiscal authority, maintained consistently. Synchronization between Law Number 23 of 2014 and Law Number 1

of 2022 must close fiscal recentralization loopholes that disadvantage the regions. Rigid law enforcement regarding regional financial governance and effective legislative oversight are primary instruments in maintaining the integrity of the Rule of Law (Nathan et al., 2022; Sudarsono et al., 2024; Helandri et al., 2025). With guaranteed fiscal sovereignty, regions possess broader legal discretion to formulate natural resource management policies aligned with sustainable development aspirations (Prasetyo et al., 2021; Nggilu et al., 2025).

C. Juridical Synchronization: Instrumentation of the FPIC Principle in Realizing National Legal Certainty

The dynamics of recognizing the rights of Customary Law Communities (*Masyarakat Hukum Adat*) represent a manifestation of the legal pluralism principle constitutionally acknowledged through Article 18B section (2) of the 1945 Constitution. Constitutional Court Decision Number 35/PUU-X/2012 fundamentally deconstructed the national forestry regime. The ruling's verdict (*amar putusan*) affirmed that "Customary Forest" is not a part of "State Forest", but is instead categorized as "Right-bearing Forest". This shift in juridical status demands synchronization between the administrative authority of local governments under Law Number 23 of 2014 and the constitutional rights of Customary Law Communities. Without coherent synchronization, the discourse on regional independence will continue to face legal legitimacy barriers from local entities (Bachmid, 2022; Hakim et al., 2025).

Within the Rule of Law Principle (*Rechtsstaat*) framework, the instrumentation of the FPIC principle must be positioned as a mechanism to strengthen national legal certainty. This principle serves a preventative function against agrarian disputes. The FPIC principle provides space for right-holders to grant or withhold consent regarding any policy or development project (Kusniati, 2024). Disregarding this principle in mining or forestry licensing processes frequently generates investment uncertainty. This is triggered by social resistance that ultimately leads to permit cancellations through judicial channels. Therefore, integrating FPIC into national law is a legal necessity (hard law) to ensure the operational sustainability of local governments (Kusniati, 2024; Sugianto et al., 2025).

Sociological reality shows that the lack of legal synchronization often triggers sectoral conflicts, reducing the effectiveness of decentralization policies. The centralistic approach to conservation policies has proven unable to accommodate local wisdom. This condition creates tension between state preservation interests and the right to life of Customary Law Communities within their jurisdictions (Arsyad et al., 2025). Such conflicts not only socially disadvantage the community

but also undermine the stability of the natural resource governance pursued by the regions. The transformation of legal policy for natural resource management requires a reformulation that makes public participation a primary pillar (Arsyad et al., 2025; Helandri et al., 2025).

Formal recognition of the existence of Customary Law Communities through the establishment of Regional Regulations is a crucial instrument of local legal autonomy. Legal autonomy provides local governments with the space to design norms that accommodate legal plurality without undermining the principle of unity of the national legal system (Qamar & Rezah, 2022). Accelerating the formation of Regional Regulations for the recognition of Customary Law Communities is a prerequisite for regions to possess full legitimacy in managing strategic natural resource sectors. This includes marine and fisheries affairs as regulated in Article 27 of Law Number 23 of 2014. The effectiveness of establishing these regional regulations relies heavily on political commitment and the quality of legislation produced by regional representative bodies (Baidhowah, 2022; Nggilu et al., 2025).

The development of fair economic partnership models in natural resource management must be based on the principles of distributive justice and substantive empowerment of local entities. Strengthening the regional economy by optimizing the potential of natural resources and involving local communities has been proven to create sustainable economic independence (Simatupang et al., 2025). In this context, the FPIC principle ensures that every collaboration in the utilization of natural resources is based on informed consent and transparent information. This aligns with efforts to strengthen regional competency that respects diversity to achieve public welfare goals (Prasetyo et al., 2021; Simatupang et al., 2025).

Comprehensively, juridical synchronization through the instrumentation of the FPIC principle is a fundamental strategy in strengthening the framework of Indonesian Constitutional Law. National legal certainty can only be achieved through harmony between the state's authority over natural resources under Article 33 of the 1945 Constitution and the protection of the constitutional rights of Customary Law Communities pursuant to Article 18B section (2) of the 1945 Constitution. The synthesis between fiscal sovereignty (Kamal, 2019; Lewis, 2023), administrative authority (Ramadhan et al., 2022; Tinambunan et al., 2022), and rights synchronization (Kusniati, 2024; Hakim et al., 2025) is the primary key. Upholding the Rule of Law Principle at the local level, which respects participation, will guarantee the creation of social-ecological justice throughout the territory of the Republic of Indonesia (Wardani, 2023; Helandri et al., 2025).

CONCLUSIONS AND SUGGESTIONS

The conclusions of this research indicate that Indonesia's legal policy on strategic natural resource management is currently in a constitutional anomaly. This condition is triggered by the massive phenomenon of recentralization of authority. The withdrawal of licensing authority and the determination of mining areas through Law Number 3 of 2020 and Law Number 2 of 2025 have significantly eroded the essence of regional autonomy guaranteed by the constitution. This phenomenon creates systematic regulatory disharmony. The mandate of concurrent government affairs in Law Number 23 of 2014 has been sidelined in favor of centralistic national downstreaming ambitions. Consequently, local governments have lost the legal discretion to manage the potential of natural resources within their own territories. This impedes achieving regional independence as the primary objective of the decentralization policy.

Local government independence is also hindered by inconsistencies in central fiscal policies, which tend to reduce regional revenue capacity. Although Law Number 1 of 2022 has attempted to structure fairer financial relations, interventions under the 0% Royalty policy in Law Number 6 of 2023 may actually disadvantage local areas. This condition proves that weak administrative authority is directly proportional to regional fiscal vulnerability. Therefore, accelerating independence requires strengthening the oversight functions of legislative bodies and regional inspectorates. This effort is essential to ensure budget accountability and prevent bureaucratic pathologies that harm regional finances.

As a constructive solution, juridical synchronization through the instrumentation of the FPIC principle is an absolute prerequisite for realizing inclusive national legal certainty. The recognition of the rights of Customary Law Communities following Constitutional Court Decision Number 35/PUU-X/2012 must not be viewed as an investment barrier. Conversely, this principle serves as an effective risk mitigation instrument for agrarian conflicts in the regions. By integrating the FPIC principle into licensing mechanisms, local governments gain strong social and legal legitimacy in managing strategic natural resource sectors. This governance transformation will create a balance between national economic interests, regional autonomy, and the protection of citizens' constitutional rights within a just Rule of Law framework.

Based on these conclusions, the following prescriptive suggestions are proposed. *First*, the Central Government and the House of Representatives need to harmonize and synchronize sectoral laws and regulations in the natural resources sector. This step is vital to restore the decentralized attributive authority of regions and end the constitutional anomaly. *Second*, Local Governments are urged to immediately initiate the formation of Regional Regulations regarding the recognition and protection of

Customary Law Communities as the legal basis for implementing the FPIC principle. This strategy will strengthen regions' bargaining position in negotiating large-scale concessions while simultaneously guaranteeing investment security and stability. *Third*, there is a need to strengthen the institutional capacity of regional inspectorates and optimize the oversight role of the Regional House of Representatives over the utilization of natural resource revenue-sharing funds. This measure aims to ensure that the acceleration of fiscal independence is truly allocated to productive sectors for the welfare of local communities.

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