

## Repositioning DPD Oversight in Aceh's Licensing Qanun and Asymmetry

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**Abstract.** The enactment of Law No. 6 of 2023, which ratified the Job Creation Government Regulation in Lieu of Law (Perppu Cipta Kerja), has significantly reshaped Indonesia's regulatory governance, particularly by streamlining business licensing through national standards. In Aceh, an autonomous region operating under asymmetric decentralization as established by Law No. 11 of 2006, these reforms have created friction with existing qanun, resulting in regulatory disharmony. This study analyzes the functional diffusion of the legislative oversight role of the Regional Representative Council (DPD RI) over licensing-related qanun in Aceh and evaluates its institutional effectiveness within the context of asymmetric decentralization. The research utilizes a juridical-empirical approach and qualitative methods. Data collection involved interviews and document analysis of qanun, DPD regulations, Constitutional Court decisions, and relevant statutory laws. Institutional and comparative analyses were conducted to examine the normative, structural, and functional dimensions of oversight, with references to countries that implement asymmetric decentralization. The findings indicate that DPD oversight in Aceh exemplifies functional diffusion driven by institutional requirements and limited regional coordination. Although symbolically important, its strategic impact is constrained by overlapping authorities, limited mandates, and insufficient stakeholder engagement. Comparative perspectives from Spain, India, and South Africa reveal alternative mechanisms for vertical legal harmonization through judicial or parliamentary means. Strengthening the DPD's oversight function will require regulatory reform, increased institutional capacity, and enhanced collaboration among stakeholders to achieve substantive legislative oversight.

**Keywords:** Legislative Oversight, DPD RI, Qanun, Business Licensing, and Asymmetric Decentralization

**Abstrak.** Pengesahan Undang-Undang Nomor 6 Tahun 2023 yang menetapkan Perppu Cipta Kerja telah membentuk ulang tata kelola regulasi di Indonesia, termasuk penyederhanaan perizinan berusaha melalui standar nasional. Di Aceh – yang memiliki otonomi asimetris berdasarkan Undang-Undang Nomor 11 Tahun 2006 – reformasi ini menimbulkan friksi dengan Qanun yang sudah ada, sehingga memicu disharmoni regulasi. Penelitian ini bertujuan mengkaji difusi fungsional pengawasan legislasi Dewan Perwakilan Daerah (DPD RI) terhadap Qanun terkait perizinan di Aceh serta menilai efektivitas kelembagaannya dalam kerangka desentralisasi asimetris. Penelitian menggunakan pendekatan yuridis-empiris dengan metode kualitatif. Data diperoleh melalui wawancara dan analisis dokumen terhadap Qanun, peraturan DPD, putusan Mahkamah Konstitusi, dan peraturan perundang-undangan terkait. Analisis kelembagaan dan perbandingan digunakan untuk mengeksplorasi aspek normatif, struktural, dan fungsional pengawasan, dengan studi perbandingan dari negara-negara yang menerapkan desentralisasi asimetris. Hasil penelitian menunjukkan bahwa pengawasan DPD di Aceh mencerminkan fenomena difusi fungsional yang dipicu oleh kebutuhan kelembagaan dan lemahnya koordinasi daerah. Meskipun memiliki signifikansi simbolis, pengaruh strategisnya terbatas karena tumpang tindih kewenangan, keterbatasan otoritas, dan minimnya keterlibatan pemangku kepentingan. Studi perbandingan dari Spanyol, India, dan Afrika Selatan menunjukkan mekanisme alternatif harmonisasi hukum vertikal melalui jalur yudisial atau parlementer. Dengan demikian, penguatan fungsi DPD membutuhkan reformasi regulatif, peningkatan kapasitas institusional, dan kolaborasi lintas-aktor agar efektivitas pengawasan legislasi benar-benar dapat terwujud.

**Kata kunci:** Pengawasan Legislasi, DPD RI, Qanun, Perizinan Berusaha, dan Desentralisasi Asimetris

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## INTRODUCTION

The enactment of Law No. 6 of 2023, which formalizes Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation, represents a pivotal shift in the relationship between the central and local governments, particularly regarding business licensing system. This reform seeks to promote harmonization, simplification, and regulatory efficiency across regions, all of which are critical for fostering a competitive investment environment. Before this reform, Indonesia's business licensing system exhibited stagnation, as indicated by the country's 73rd position in the 2019 Ease of Doing Business (EoDB) index, highlighting significant structural deficiencies.<sup>1</sup> The earlier Governance 1.0 model depended on manual public services, characterized by overlapping governmental authority and excessive political intervention. These conditions constituted substantial obstacles to effective and accountable regulation.<sup>2</sup> Empirical research by Maidin and Maharani further demonstrates that regional licensing processes were slow, uncertain, and susceptible to corruption, compounding the challenges faced.<sup>3</sup>

In response, the government implemented the Online Single Submission – Risk-Based Approach (OSS-RBA) system through Government Regulation No. 5 of 2021, as amended by Government Regulation No. 28 of 2025, and Government Regulation No. 6 of 2021 on the Implementation of Licensing in Regions. This policy is consistent with the constitutional mandates outlined in Articles 28F and 28H (2) of the 1945 Constitution, which guarantee access to public services and legal certainty. Nevertheless, a study by KPPOD identifies substantial challenges related to

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<sup>1</sup> Kementerian Investasi, “Penghentian EODB Dan Kelanjutan Kemudahan Berusaha Di Indonesia,” <https://www.jentera.ac.id/>, no. November (2021), [https://www.jentera.ac.id/wp-content/uploads/2021/11/Jentera\\_Penghentian-EODB-dan-Kelanjutan-Kemudahan-Berusaha-di-Indonesia\\_Dendy-Apriandi\\_BKPM.pdf](https://www.jentera.ac.id/wp-content/uploads/2021/11/Jentera_Penghentian-EODB-dan-Kelanjutan-Kemudahan-Berusaha-di-Indonesia_Dendy-Apriandi_BKPM.pdf).

<sup>2</sup> Eko Prasjo, “Membangun Birokrasi Digital,” *Fakultas Ilmu Administrasi Universitas Indonesia*, 2021, <https://fia.ui.ac.id/membangun-birokrasi-digital/>.

<sup>3</sup> Andi M Rusdi Maidin et al., “Effectiveness of Licensing Services for Issuing Business Identification Numbers Through the Oss-Rba System at the Investment and One-Stop Integrated Service Office of Sinjai Regency,” *THE American Journal of Humanities and Social Sciences Research (THE AJHSSR)*, 2023.

institutional readiness, infrastructure, and human resources at the regional level, which impede the comprehensive implementation of the system.<sup>4</sup>

The complexity increases when the OSS-RBA system is implemented in regions with asymmetric autonomy, such as the Province of Aceh. Under a special status granted by Law No. 11 of 2006 on the Governance of Aceh, the regional government has the authority to establish qanun (local regulations), including in the licensing area. Articles 12 and 16 of the law confer legislative authority upon the Aceh Government and the Aceh House of Representatives (DPRA) over matters that do not fall under the jurisdiction of the central government, including investment, spatial planning, health, education, cooperatives, and manpower. In practice, however, several of these sectors constitute concurrent governmental affairs, the regulation of which must adhere to the national norms, standards, procedures, and criteria (NSPK) established by the central government. The spatial planning sector, for instance, serves as a fundamental prerequisite for business licensing, and its regulatory framework must comply with the provisions of Government Regulation No. 21 of 2021 on Spatial Planning Implementation. Similarly, the sectors of investment, health, education, and manpower, although regulated through qanun as part of regional autonomy, remain subject to the national NSPK determined by the central government. As for the cooperative sector, although it falls within regional authority, its regulation must align with national standards and guidelines to ensure policy uniformity across Indonesia. This condition creates tension between local legal norms (qanun) and national standards (NSPK), particularly in the context of national investment regulatory reform.<sup>5</sup>

The Regional Representative Council (DPD RI) plays a strategic role in overseeing regional legislation, as outlined in Law No. 2 of 2018, DPD RI Regulation No. 2 of 2019, and DPD RI Regulation No. 4 of 2022. However, the DPD's legal mandate for this function is unclear compared to the Ministry of Home Affairs (Kemendagri), whose

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<sup>4</sup> KPPOD, *Evaluasi Setahun OSS: Studi Pelaksanaan PP No. 24 Tahun 2018 Di Daerah*, ed. Boedi Reza, *Knowledge Sector Initiative* (Jakarta: KPPOD, 2019), [https://www.kppod.org/backend/files/laporan\\_penelitian/Evaluasi Setahun OSS-KPPOD.pdf](https://www.kppod.org/backend/files/laporan_penelitian/Evaluasi%20Setahun%20OSS-KPPOD.pdf).

<sup>5</sup> Rifqy Maulana and Jamhir Jamhir, "Konsep Hukum Perizinan Dan Pembangunan," *Jurnal Justisia: Jurnal Ilmu Hukum, Perundang-Undangan Dan Pranata Sosial* 3, no. 1 (2019): 90–115.

authority is structural and functional.<sup>6</sup> Scholars like Muhammad Roqib,<sup>7</sup> Basri Mulyani,<sup>8</sup> and Rifa'i<sup>9</sup> have identified weaknesses in the constitutional foundation of the DPD's oversight function. Rifa'i, for example, questions its constitutional basis, as Article 22D of the 1945 Constitution only grants the DPD authority to oversee national laws, not regional legislation. Studies by Hartati et al.,<sup>10</sup> Stefania A. Felicia et al.,<sup>11</sup> and Mihradi et al.<sup>12</sup> also highlight an unclear distribution of authority between the DPD and Kemendagri, weakening oversight effectiveness.

An empirical report by BULD DPD RI in 2023 indicates that the DPD's monitoring of licensing-related qanun in Aceh is primarily confined to assessing their alignment with national policies.<sup>13</sup> For instance, an inspection conducted by H. Sudirman (Haji Uma) at the Mall Pelayanan Publik in Lhokseumawe identified inconsistencies between the qanun and national regulations.<sup>14</sup> This situation exemplifies the functional diffusion of the DPD's role into the administrative sphere. This article addresses a gap in the literature by empirically analyzing the DPD's legislative function within the framework of special autonomy. Employing a juridical-empirical methodology, the study examines the current status of the DPD's oversight function

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<sup>6</sup> A. Zarkasi Muhammad Rifa'i, Hartati, "Kewenangan Pengawasan Dewan Perwakilan Daerah (DPD) Terhadap Rancangan Peraturan Daerah Dalam Perspektif Peraturan Perundang-Undangan," *Hangoluan Law Review* 3, no. 2 (2024): 472–506; Fransiscus Xaverius Wartoyo and Teguh Prasetyo, "Optimalisasi Badan Pemerintah Daerah Terhadap UU No. 13 Tahun 2019 Tentang Pemantauan Dan Evaluasi Peraturan Daerah Perspektif Teori Keadilan Bermartabat," *Jurnal Lembannas RI* 10, no. 3 (2022): 165–76.

<sup>7</sup> Muhammad Roqib, "Kewenangan Dewan Perwakilan Daerah Dalam Pengawasan Peraturan Daerah," *Jurnal Justiciablen* 4, no. 2 (2021): 11–18.

<sup>8</sup> Basri Mulyani, "Menggagas Penataan Regulasi Dalam Pembentukan Peraturan Daerah Dengan Konsep Omnibus Law," *JURIDICA: Jurnal Fakultas Hukum Universitas Gunung Rinjani* 3, no. 2 (2022): 61–78, <https://doi.org/10.46601/juridica.v3i2.198>.

<sup>9</sup> Muhammad Rifa'i, Hartati, "Kewenangan Pengawasan Dewan Perwakilan Daerah (DPD) Terhadap Rancangan Peraturan Daerah Dalam Perspektif Peraturan Perundang-Undangan."

<sup>10</sup> Muhammad Rifa'i, Hartati.

<sup>11</sup> Stefania A Felicia et al., "Eksistensi Dewan Perwakilan Daerah Sebagai Kamar Kedua Dalam Sistem Bikameral Di Indonesia," *Justitia Jurnal Hukum* 4, no. 1 (2020).

<sup>12</sup> Raden Muhammad Mihradi et al., "Kewenangan Dewan Perwakilan Daerah Republik Indonesia Melakukan Pemantauan Dan Evaluasi Rancangan Peraturan Daerah Dan Peraturan Daerah Pasca Putusan Mahkamah Konstitusi Nomor 56/PUU-XIV/2016," *PALAR (Pakuan Law Review)* 9, no. 1 (2023): 1–13.

<sup>13</sup> DPD RI, "SENATOR" (Jakarta: 2023, n.d.), [https://upload.wikimedia.org/wikipedia/commons/d/df/Majalah\\_Senator\\_Agustus\\_2023.pdf#:~:text=Menurut Haji Uma%20C pene%02rapan Qanun,undang.Ke%20khusus%20san.](https://upload.wikimedia.org/wikipedia/commons/d/df/Majalah_Senator_Agustus_2023.pdf#:~:text=Menurut%20Haji%20Uma,pene%02rapan%20qanun,undang.Ke%20khusus%20san.)

<sup>14</sup> Said R Rahmad, "Kesiapan Pemerintah Aceh Dalam Deregulasi (Qanun Aceh) Dan Kebijakan Penanaman Modal," *Sumber: Http://Acebinstitute. Org/Wp-Content/Uploads/2014/10/KESIAPAN\_ PEMERINTAH\_ ACEH\_ DALAM\_DEREGULASI\_QANUN\_ ACEH \_DAN\_KEBIJAKAN\_PENANAMAN\_ MODAL. Pdf. Diakses Tanggal 21 (2020).*

concerning licensing qanun in Aceh and proposes a repositioning to enhance its strategic significance and effectiveness.

## RESEARCH METHOD METHODOLOGY

This study employs a field research approach to collect empirical data on the legislative oversight function of the Regional Representative Council of the Republic of Indonesia (DPD RI). It focuses on oversight by DPD members representing Aceh Province. The research primarily examines how the DPD supervises the monitoring and review of qanun. This includes both draft regulations (raqaan) and enacted laws related to risk-based business licensing in Aceh Province between 2021 and 2025.

The research applies a juridical-empirical method, combining normative legal analysis with direct field observation of its implementation.<sup>15</sup> A statute-based approach examines the legal provisions that underpin the DPD's oversight role, particularly with respect to legislative functions. The analysis focuses on national regulations that define the division of authority between central and regional governments, as well as legislative oversight statutes. Additionally, a comparative approach juxtaposes Indonesia's framework with oversight mechanisms in places such as Singapore's centralized, sectorally coordinated licensing model and similar unitary states. This comparison clarifies both the strengths and limitations of Indonesia's context. Key legal instruments analyzed include:

- a. Government Regulation (GR) No. 5 of 2021 on Risk-Based Licensing (as amended by GR No. 28 of 2025),
- b. GR No. 6 of 2021 on the Administration of Licensing at the Regional Level,
- c. Law No. 17 of 2014 in conjunction with Law No. 13 of 2019 (Third Amendment to Law No. 17/2014 on the People's Consultative Assembly, House of Representatives, Regional Representative Council, and Regional People's Representative Council/ MD3 Law),
- d. DPD Regulation No. 2 of 2019, and

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<sup>15</sup> Suyanto, *Metode Penelitian Hukum Pengantar Penelitian Normatif, Empiris Dan Gabungan*, ed. Suyanto, 1st ed. (Jawa Tengah: Unigres Press, 2023).

- e. DPD Regulation No. 4 of 2022 which regulates mechanisms for the oversight and monitoring of regional legislation.

The main object of analysis in this study is the legislative process surrounding the risk-based business licensing qanun in Aceh Province, and the supervisory role of the Regional Legislative Affairs Committee (BULD) of the DPD RI. Data collection employed multiple instruments:<sup>16</sup>

- a. Direct observation of legislative processes and DPD oversight activities,
- b. In-depth interviews with key informants, including members of the DPD's BULD, officials from the Legal Bureau of Aceh Provincial Secretariat, and representatives of the Investment and One-Stop Integrated Services Office (DPMPTSP) of Aceh Province.

All data were systematically collected and analyzed using a qualitative-inductive framework.<sup>17</sup> The analysis commenced with a conceptual review of legal reform theories and legislative oversight principles, followed by an empirical assessment of the DPD's execution of its oversight function within the context of local autonomy and asymmetric decentralization in Aceh. This approach enables the study to bridge normative frameworks with empirical realities and to develop an ideal model for repositioning the DPD's oversight function to enhance its strategic relevance and impact.

## RESULTS AND DISCUSSION

### **Functional Diffusion of Legislative Oversight by the DPD in Local Legislation: Between Attribution, Soft Bicameralism, and Asymmetric Implications**

#### **Legal and Institutional Framework of the DPD**

The establishment of the DPD was one of the state institutional innovations resulting from the amendments to the 1945 Constitution of the Republic of Indonesia (UUD NRI

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<sup>16</sup> Direct monitoring of the legislative process and the oversight activities of the Regional Representative Council (DPD) was conducted through field observations beginning on 2 November 2023, followed by a data-based material observation in November 2024.

<sup>17</sup> Agus Satory et al., "Metode Penelitian Hukum," *Penerbit Tahta Media*, 2024.

1945) undertaken between 1999 and 2002. Historically, the idea of forming the DPD stemmed from the need to strengthen regional representation in the national legislative process.<sup>18</sup> Prior to the amendments, the mechanism of regional representation was embodied in the Utusan Daerah (Regional Envoys), who sat in the People's Consultative Assembly (MPR). Still, their role was minimal and largely symbolic.<sup>19</sup>

Article 22D of the UUD NRI 1945 explicitly sets out the status, functions, and powers of the DPD. It affirms that the DPD is authorised to submit bills to the House of Representatives (DPR) relating to regional autonomy, relations between the central and regional governments, the establishment and expansion of regions, the management of natural resources and other economic resources, and the fiscal balance between the centre and the regions. In addition, the DPD has the function of providing considerations to the DPR on bills concerning the state budget (APBN), taxation, education, and religion, and of exercising oversight over the implementation of laws in those fields.<sup>20</sup>

From a constitutional law perspective, the existence of the DPD reflects an attempt to accommodate the principle of territorial representation within Indonesia's representative system.<sup>21</sup> This principle differs from political representation, which underpins the DPR. In representation theory, territorial representation is intended to ensure that regional interests are not marginalised in the formation of central policies, particularly in a decentralised state such as Indonesia.<sup>22</sup>

The establishment of the DPD also reflects the application of checks and balances between the centre and the regions within a unitary state framework.<sup>23</sup> Nevertheless,

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<sup>18</sup> Bambang Sadono, "Politik Hukum DPD RI Dalam Sistem UUD 1945 Pasca Amandemen," *Jurnal Majelis Media Aspirasi Konstitusi*, 2017.

<sup>19</sup> Pasal 22D dan 22C UUD NRI 1945.

<sup>20</sup> Undang-Undang Nomor 17 Tahun 2014 tentang MPR, DPR, DPD, dan DPRD (UU MD3) beserta perubahannya.

<sup>21</sup> Hanugra Ryantoni et al., "Reconstructing The Relationship Regional Representative Council of The Republic of Indonesia with Regional Government for The Optimization of Regional Autonomy," *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 23, no. 3 (2024): 1861–77.

<sup>22</sup> Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan (UU P3) beserta perubahannya.

<sup>23</sup> Benediktus Hestu Cipto Handoyo, "The Regional Representative Council (DPD RI) and Checks and Balances in Indonesia's Legislative Process," *Jurnal Ius Constituendum* 9, no. 3 (2024): 542–63.

the design of the DPD's powers has shown limitations from the outset. Unlike senates in federal countries that possess legislative powers equal to those of the lower house, the DPD was granted only limited legislative functions, requiring the DPR's involvement at every stage of law-making.<sup>24</sup>

At the same time, the constitutional character of the DPD should be read not only from the text of the UUD NRI 1945 but also from the minutes of the amendment debates, which reveal a political tug-of-war between the desire to strengthen the role of the regions and concerns about the fragmentation of legislative power. Consequently, the DPD was established with limited legislative power, rendering it structurally subordinate to the DPR.<sup>25</sup>

The DPD's legislative authority is further regulated in the MD3 Law. Article 249 of the MD3 Law stipulates that the DPD's legislative authority includes: submitting specific bills, participating in the discussion of certain bills, providing considerations to the DPR, and overseeing the implementation of laws within its areas of competence.<sup>26</sup>

Oversight by the DPD is non-binding; its outputs take the form of recommendations that are not legally binding but carry political and strategic weight in policy-making. In practice, this authority is often narrowed by the DPR, which holds the primary legislative power. This has drawn criticism from constitutional law scholars who argue that the DPD has not yet functioned optimally as a vehicle for regional representation in policy formation.<sup>27</sup>

From the perspective of administrative law, the DPD's oversight authority is attributive, i.e., granted directly by the Constitution or statute. However, this attribution is limited by the subject-matter scope enumerated exhaustively in Article 22D of the UUD NRI 1945 and Article 249 of the MD3 Law. In other words, the DPD does not have direct oversight over all areas of government, let alone over regional

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<sup>24</sup> Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah.

<sup>25</sup> Peraturan DPD Nomor 1 Tahun 2022 tentang Tata Tertib.

<sup>26</sup> Peraturan DPD Nomor 4 Tahun 2022 tentang Pemantauan dan Evaluasi Raperda dan Perda.

<sup>27</sup> Putusan Mahkamah Konstitusi No. 92/PUU-X/2012; No. 79/PUU-X/2014; dan No. 15/PUU-XIII/2015



regulations, unless such matters intersect with the implementation of laws within its remit.<sup>28</sup>

DPD Regulation No. 1 of 2022 on Rules of Procedure and DPD Regulation No. 4 of 2022 on the Monitoring and Evaluation of Draft Regional Regulations (Raperda) and Regional Regulations (Perda) are internal instruments used to broaden oversight coverage. While this step reflects institutional initiative, it has generated juridical debate because it intersects with the powers of the DPR and regional governments. This phenomenon is referred to in the literature as functional diffusion, whereby an institutional function extends into domains not explicitly regulated due to practical necessities or policy vacuums.<sup>29</sup>

### **Context of Functional Diffusion in Legislative Oversight**

The monitoring and review of regional regulations by the DPD RI, particularly regarding licensing-related qanun in Aceh, illustrate a phenomenon of functional diffusion. This process involves the expansion of legislative functions into the domain of regional regulation beyond what is explicitly mandated by statute. In practice, the DPD not only oversees the implementation of national laws but also actively evaluates the substance of draft and enacted regional regulations, especially in the context of the implementation of the Job Creation Law and Government Regulation (GR) No. 5 of 2021 in conjunction with GR No. 28 of 2025, and GR No. 6 of 2021. This reflects a shift in the DPD's role from an institution that merely provides normative considerations to an active regulatory actor, albeit one that does not formally possess final authority.<sup>30</sup>

Theoretically, this pattern can be explained through the work of Peters, known as functional diffusion, a condition in which an institutional function extends into domains originally outside its remit due to policy vacuums or weak effectiveness of the primary actor.<sup>31</sup> Peters uses the term functional diffusion to describe a process whereby a function originally attached to one domain of authority “diffuses” into

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<sup>28</sup> Risalah Sidang Amandemen UUD 1945 (1999–2002).

<sup>29</sup> Ratna Herawati, “Peran Anggota Dewan Perwakilan Daerah Republik Indonesia Dalam Rangka Menyerap Aspirasi Daerah (Studi Kasus Di Provinsi Jawa Tengah),” *LAW REFORM* 3, no. 2 (2006): 60–81.

<sup>30</sup> Andy Omara et al., “Perkembangan Teori Dan Praktik Mengenai Parlemen Di Indonesia,” *Mimbar Hukum Universitas Gadjah Mada* 33, no. 1 (2021): 161–87.

<sup>31</sup> B Guy Peters, *Institutional Theory in Political Science: The New Institutionalism* (Edward Elgar Publishing, 2019).

other areas that are “not explicitly” granted by the constitution or by statute. Such expansion does not necessarily occur through formal legal reform; it often emerges gradually through institutional practice. In the context of Indonesia, the DPD fills the space between national-level oversight by the DPR and technocratic oversight by the Ministry of Home Affairs over regional legislation. However, because the DPD’s juridical mandate concerning the oversight of draft and enacted regional regulations is not explicitly defined in Article 22D of the 1945 Constitution or in Articles 248 and 249 of the MD3 Law, this practice generates tension between the principle of legality and the requirements of institutional necessity.

Within the administrative-law framework, the attribution of legislative-oversight authority extends only to statutes. This is evident in Article 95B of Law No. 15 of 2019, which specifies that monitoring and review apply to laws, not to regional legislation. Despite this, Article 8(2) of Law No. 12 of 2011 opens a window via the phrase “based on authority” (*berdasarkan kewenangan*), which the DPD interprets as a basis for broadening its oversight to draft and enact regional regulations. The use of this extensive interpretation illustrates a practice of legislative stretching, i.e., the expansion of authority without explicit amendment, grounded in institutional needs and political legitimacy.

The relationship between the DPD and the DPR also reflects a model of soft bicameralism, in which two legislative chambers are unequal in both function and political influence.<sup>32</sup> Although the DPD is an institution of territorial representation, its legislative power is highly limited. Efforts to strengthen the DPD’s position through Constitutional Court Decisions No. 92/PUU-X/2012, No. 79/PUU-X/2014, and No. 15/PUU-XIII/2015 have not been fully reflected in the enactment of Law No. 13 of 2019, which continues to maintain the DPD’s subordinate position within the parliamentary system. Accordingly, functional diffusion in the oversight of local legislation becomes a means by which the DPD expands its institutional relevance within a predominantly mono-legislative architecture.

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<sup>32</sup> Jovano Deivid Oleyver Palenewen, “Structuring the Authority of the DPD RI as Consistency in the Bicameral System Penataan Kewenangan DPD RI Sebagai Konsistensi Dalam Sistem Bikameral,” n.d.

In Aceh, where asymmetric decentralization is established by Law No. 11 of 2006, the phenomenon is particularly complex. Legislative autonomy exercised through qanun creates a duality of norms between national standards (NSPK) and local preferences. Amid the evaluative framework of the Ministry of Home Affairs and the coordinating role of the governor as the central government's representative, the DPD's presence in overseeing Aceh's draft of regional regulations often produces normative and jurisdictional overlaps. Although lacking binding power, DPD recommendations have, first, political and symbolic effects in gauging the extent to which Qanun aligns with national regulatory reform and, second, political and administrative effects on the Job Creation Law in the ex post or retrospective evaluation of its implementation<sup>33</sup> in Aceh.

Given this complexity, a differentiated role model is required, one that positions the DPD not as a normative enforcement body but as a guardian of decentralization, i.e., an overseer of the continuity of regional autonomy values within the framework of national regulation. In this model, the DPD's legislative-oversight function over local regulation could be institutionalised through joint review with the Ministry of Home Affairs, provided it is reinforced by revisions to the MD3 Law and the Law on Law-Making (UU P3) to clarify the boundaries and mechanisms of oversight.

### **Analysis of the Functional Diffusion of the Legislative Oversight of the Regional Representative Council (DPD RI) and Its Institutional Effectiveness toward Licensing Qanuns in Aceh**

#### **Asymmetric Decentralization and Aceh's Licensing Authority**

This study rests on the dynamics of Indonesia's governance and public law following the enactment and subsequent updates of the Job Creation Law (UU Cipta Kerja/Ciptaker), which have brought significant structural changes to the business-licensing system at both national and regional levels.<sup>34</sup> The regulatory reform introduces a risk-based approach to licensing implemented through the Online Single Submission – Risk-Based

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<sup>33</sup> Randall Lutter, "The Role of Retrospective Analysis and Review in Regulatory Policy" (Northern Virginia, n.d.).

<sup>34</sup> Seto Sanjoyo et al., "Perizinan Berusaha Melalui Online Single Submission Sebagai Ketaatan Hukum Dalam Rangka Meningkatkan Investasi," *Borneo Law Review* 4, no. 1 (2020): 64–78.

Approach (OSS-RBA). This transformation marks a fundamental shift in the design of authority relations between the central government and regional governments, as regulated in Article 174 of the Job Creation Law.<sup>35</sup> Whereas the decentralisation framework initially prioritised delegation to regional authorities, including asymmetric decentralisation for jurisdictions with special status such as Aceh, recent policy developments demonstrate tendencies toward recentralisation through mechanisms such as deconcentration and co-administration (*tugas pembantuan*). The central government, while still delegating certain affairs, retains primary control over licensing deemed strategic, high-risk, or cross-provincial in impact.

The division of concurrent governmental affairs after the Job Creation Law is channelled through revisions to Law No. 23 of 2014 on Regional Government, the technical elaboration of which is set forth in Government Regulation (GR) No. 5 of 2021, in conjunction with GR No. 28 of 2021. In general, authority is allocated through two main approaches. First, it refers to the general principles of Article 13 of Law No. 23 of 2014, which groups affairs based on criteria of externalities, accountability, and efficiency. Second, this concept involves a dual categorical distribution, combining the classification of enterprise risk levels with territorial scale.<sup>36</sup> In practice, undertakings characterized by high risk or cross-jurisdictional scope, such as those in energy and mineral resources, nuclear power, defence, telecommunications, education, and religion, are placed under the exclusive authority of the central government. In contrast, provincial and district or municipal governments are responsible for sectors with low to medium risk, where impacts are limited to local areas.<sup>37</sup>

In the sectors of marine and fisheries, agriculture, industry, trade, transportation, tourism, manpower, health, as well as public works and public housing, regional authority focuses more on licensing for micro, small, and medium enterprises (MSMEs) and ventures with localised impacts. However, when the risk classification rises or the scope of the enterprise spans administrative boundaries, authority

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<sup>35</sup> Helmi, “Kewenangan Daerah Dalam Perizinan Berusaha Dalam UU Cipta Kerja,” *Simbur Cahaya*, no. 6 (2021): 15–39, <https://doi.org/10.28946/sc.v28i2.1170>.

<sup>36</sup> Nurainun Mangunsong, “Penataan Regulasi Perizinan Berusaha Di DIY” (Universitas Islam Indonesia, 2025).

<sup>37</sup> Mangunsong.

automatically shifts to the provincial or central level. This pattern indicates that the risk-based approach in Indonesia functions not only as a risk-management instrument but also as a mechanism that delimits regional authority.<sup>38</sup>

The implementation of OSS-RBA plays an important role in simplifying bureaucracy and accelerating licensing processes, with the aim of increasing transparency and reducing administrative transaction costs. However, the centralisation of procedures presents new challenges, particularly in regions with special status such as Aceh. The system may enhance formal efficiency, yet has not fully accommodated jurisdictions with distinctive legal frameworks, institutional structures, or regulatory preferences, such as qanun in Aceh. This raises a fundamental question regarding the extent to which OSS-RBA can adapt to the design of asymmetric decentralisation established in Law No. 11 of 2006 on the Governance of Aceh (UUPA).

In a comparative overview, Singapore applies a model that centralizes licensing processes without concentrating substantive authority in a single agency. Through the BizFile+ and GoBusiness Licensing platforms, Singapore has developed a licensing system that is swift, integrated, non-overlapping, and rigorously risk-based. Its strengths lie in legal certainty, procedural transparency, and robust inter-agency coordination, while still maintaining sectoral distributions of authority.<sup>39</sup>

By way of comparison, Singapore applies a model that centralises licensing processes without concentrating substantive authority in a single agency. Through the BizFile+ and GoBusiness Licensing platforms, Singapore has built a licensing system that is swift, integrated, non-overlapping, and rigorously risk-based. Its strengths lie in legal certainty, procedural transparency, and robust inter-agency coordination, while still maintaining sectoral distributions of authority.<sup>40</sup>

In Indonesia, similar objectives are pursued through the Job Creation Law and GR No. 5 of 2021 in conjunction with GR No. 28 of 2025, but the complexity of authority allocation remains a central obstacle. The dual-categorical scheme combining business

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<sup>38</sup> Mangunsong.

<sup>39</sup> Mangunsong.

<sup>40</sup> Mangunsong.

scale and risk level does not yet enjoy fully uniform national standards, creating difficulties of application in the regions, especially in jurisdictions with special autonomy regimes such as Aceh. This underscores the importance of examining Aceh's licensing-related qanun, situated at the intersection of the national legal system and regional legal particularity. The analysis explains how interactions between the national legal framework and asymmetric autonomy shape licensing patterns, and how potential overlaps or lack of synchronisation can be managed within the prevailing legal framework.<sup>41</sup>

In Indonesia, the context of licensing reform cannot be separated from the Job Creation Law, together with GR No. 5 of 2021, in conjunction with GR No. 28 of 2025, which fundamentally reshaped the risk-based licensing scheme. The reference to these regulations is intended to provide the primary framework for reading Aceh's qanun, thereby making its position and challenges visible within the dynamics of post-reform national law.<sup>42</sup> Once this national framework is established, the analysis is then broadened through a comparative perspective by examining models from other unitary states, such as Singapore's risk-based licensing system, to illustrate alternative approaches to regulatory streamlining. In this way, both the advances and the limitations of the Job Creation Law's implementation in the context of asymmetric autonomy can be understood more comprehensively.

Within the context of asymmetric authority (autonomy), the government of Aceh has the right to regulate and administer governmental affairs across all public sectors, except those reserved as the central government's exclusive authority (Article 7 of the UUPA). Included within this autonomy are:

- a. Investment and business licensing, including administrative services across districts or municipalities;
- b. Spatial planning and its supervision;

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<sup>41</sup> Wawancara dengan Biro Hukum Setda Provinsi Aceh, Muhammad Junaidi, dan Divisi Pembinaan dan Pengawasan Peraturan Daerah dan Peraturan Kepala Daerah Kabupaten/Kota, Marfithah tanggal 02 November 2023 (data sudah diperbarui).

<sup>42</sup> Wawancara dengan Biro Hukum Setda Provinsi Aceh, Muhammad Junaidi, dan Divisi Pembinaan dan Pengawasan Peraturan Daerah dan Peraturan Kepala Daerah Kabupaten/Kota, Marfithah tanggal 02 November 2023 (data sudah diperbarui).

- c. Empowerment of cooperatives and MSMEs, as well as labour across jurisdictions;
- d. Environmental management and land affairs, among others (Article 16 of the UUPA).

Nevertheless, the national application of the Job Creation Law and its implementing regulations, such as GR No. 5 of 2021 in conjunction with GR No. 28 of 2025 and GR No. 6 of 2021, gives rise to overlaps of authority between the central government and the government of Aceh. Many aspects within the business-licensing cluster intersect with the substance of Aceh's qanun (regional regulations), including licensing-issuance mechanisms, OSS obligations, and standards for supervision and administrative sanctions.

These circumstances produce complex harmonisation challenges: vertically, in aligning Aceh's qanun with higher-level instruments such as government regulations and national statutes; and horizontally, in reconciling qanun with other regional regulations and with technical instruments issued by the governor and by regents or mayors. For example, the implementation of the online single submission (OSS) system, mandated nationally under the Job Creation Law and GR No. 5 of 2021, sometimes conflicts with the licensing requirements stipulated in Aceh's qanun. While national law requires uniform OSS-based registration, certain qanun still mandate parallel local licensing steps, creating both vertical inconsistencies with GRs and statutes and horizontal overlaps with regulations issued at the provincial and district or city levels.

### **Empirical Findings: Sample Mapping of Affected Qanun and Head-of-Region Regulations (Perkada)**

The enactment of Law No. 6/2023 on Job Creation, implemented through Government Regulation (GR) No. 5/2021 on Risk-Based Business Licensing, GR No. 28/2025, and GR No. 6/2021 on the Administration of Business Licensing in the Regions, has significantly influenced regulatory dynamics in Aceh. As part of the adjustment process, the government of Aceh conducted an inventory of qanun and regulations issued by regional heads affected by these reforms. This initiative was

guided by Minister of Home Affairs Circular No. 188/1518/OTDA and reinforced by the Governor of Aceh Letter No. 188/13123 dated 30 July 2021. Although the scope of affected regulations is limited, given the breadth of special authority granted under Law No. 11/2006 on Aceh Governance (UUPA), the adjustments remain crucial to maintain coherence between the national legal framework and Aceh's asymmetric autonomy.<sup>43</sup>

### Data on Aceh Regulations Affected

#### Aceh Qanun (Provincial Level)

No	Legislation	Status/Description of Change
1	Qanun Aceh No. 5 of 2018 on Investment	Remains valid; requires adjustments in risk-based licensing provisions, standard certification, supervision mechanisms, dispute resolution, and administrative sanctions.
2	Qanun Aceh No. 9 of 2004 on Cooperative Empowerment	Amended; adjusted to the norms of Government Regulation No. 7 of 2021.
3	Qanun Aceh No. 10 of 2004 on Small Business Center Empowerment	Amended; synchronized with Government Regulation No. 7 of 2021.
4	Qanun Aceh No. 19 of 2013 on the Provincial Spatial Plan 2013–2033	Amended; incorporates norms supporting the administration of business licensing.
5	Qanun Aceh No. 1 of 2020 on Coastal Zone and Small Islands Zoning Plan (RZWP3K)	Revoked; merged into omnibus qanun on RTRW and RZWP3K.

#### Qanun of Banda Aceh Municipality

No	Legislation	Status/Description of Change
1	Qanun Kota No. 1 of 2020 (Building Permit Levy/IMB)	To be reviewed; synchronized with the new IMB/PBG provisions.
2	Qanun Kota No. 4 of 2010 (Licensing and Non-Licensing Services)	To be reviewed.

<sup>43</sup> Ni'matul Huda, *Desentralisasi Asimetris Dalam Negara Kesatuan Republik Indonesia: Kajian Terhadap Daerah Istimewa, Daerah Khusus, Dan Otonomi Khusus* (Bandung: Nusamedia, 2014); Wais Alqarni et al., "Dynamics of Asymmetric Decentralization on the Implementation of Regional Autonomy in Aceh," *Journal of Governance and Public Policy* 9, no. 3 (2022): 185–94.



No	Legislation	Status/Description of Change
3	Qanun Kota No. 4 of 2009 in conjunction with Qanun Kota No. 2 of 2018 (Municipal Spatial Plan)	To be reviewed.
4	Qanun Kota No. 10 of 2004 (Buildings)	To be reviewed.
5	Qanun Kota No. 8 of 2003 (Employment)	To be reviewed.

Overall, the number of regional regulations in Aceh affected by the business licensing reform following the enactment of Law No. 6 of 2023 remains relatively limited, since much of the licensing substance falls under Aceh's special authority as stipulated in Law No. 11 of 2006 on the Governance of Aceh (UUPA).<sup>44</sup> Nevertheless, the limited scope of affected regulations does not diminish the urgency of legislative oversight, which remains crucial to ensure that regulatory adjustments remain aligned with Aceh's special autonomy.<sup>45</sup> In this context, the dynamics of functional diffusion in legislation after the enactment of Government Regulation (PP) No. 5 of 2021, in conjunction with PP No. 28 of 2025 and PP No. 6 of 2021, have become a significant test for the role of the Regional Representative Council (DPD RI), particularly through its Regional Legislation Affairs Committee (BULD). This notion of functional diffusion reflects DPD's efforts to synchronize regional regulations with national norms while maintaining Aceh's unique legislative prerogatives guaranteed under the UUPA.<sup>46</sup>

Aceh possesses broad authority in spatial planning, investment, MSME development, and labor affairs across districts and municipalities, which naturally intersect with the licensing clusters regulated nationally. However, this authority faces substantial challenges due to the uniformity imposed by the Job Creation Law and its derivative regulations, which require comprehensive alignment with national standards. This situation tests the effectiveness of DPD Aceh's BULD, both institutionally and methodologically, as well as its capacity to articulate regional interests in legal harmonization. Based on DPD Regulation No. 1 of 2022 and No. 4 of 2022, BULD has

<sup>44</sup> Wawancara dengan Biro Hukum Setda Aceh, Muhammad Junaidi, dan Divisi Pembinaan dan Pengawasan Peraturan Daerah dan Peraturan Kepala Daerah Kabupaten/Kota, Marfithah tanggal 02 November 2023.

<sup>45</sup> Wawancara dengan Marzuki, Bagian DPMPPTSP Banda Aceh, 3 November 2023. Wawancara juga dengan Zahrul (Bagian Hukum Kota Banda Aceh), 3 November 2023.

<sup>46</sup> Alqarni et al., "Dynamics of Asymmetric Decentralization on the Implementation of Regional Autonomy in Aceh."

a strategic mandate to formulate monitoring objectives, evaluate regulations, and submit policy recommendations. On paper, this mechanism is adequate to oversee the adjustment of affected qanuns; however, its implementation in Aceh remains largely administrative and lacks methodological differentiation reflecting regional distinctiveness. Monitoring activities are conducted in a normative format similar to those of executive evaluations (by the Ministry of Home Affairs and the Ministry of Law and Human Rights), without the development of an evaluative model that incorporates Aceh's socio-legal context.<sup>47</sup>

For instance, in the evaluation of Qanun Aceh No. 5 of 2018 on Investment, BULD has not introduced an integrated OSS framework that maintains Aceh's unique licensing requirements. Similarly, the creation of a provincial monitoring team or field-based mechanism, designed to facilitate communication among DPD, local governments, and the community, has not been effectively implemented. The absence of public participation through dialogues or focus group discussions has limited the empirical data available to support arguments for regulatory synchronization.<sup>48</sup> As a result, several strategic sectors, including spatial planning, investment, cooperatives, and manpower, demonstrate vertical disharmony. For example, Aceh's spatial planning policies, regulated under qanun, require substantive approval from the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) pursuant to PP No. 21 of 2021, thereby constraining Aceh's autonomy in determining local zoning. Similarly, investment and labor regulations that were once shaped by local norms must now conform to national NSPK standards, reducing flexibility in adapting to Islamic principles and the local socio-economic context. This reflects a persistent imbalance between *lex specialis* (Aceh's autonomy) and *lex generalis* (national law), which has yet to be resolved through an effective normative reconciliation mechanism.

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<sup>47</sup> Wartoyo and Prasetyo, "Optimalisasi Badan Pemerintah Daerah Terhadap UU No. 13 Tahun 2019 Tentang Pemantauan Dan Evaluasi Peraturan Daerah Perspektif Teori Keadilan Bermartabat"; Muhammad Rifa'i, Hartati, "Kewenangan Pengawasan Dewan Perwakilan Daerah (DPD) Terhadap Rancangan Peraturan Daerah Dalam Perspektif Peraturan Perundang-Undangan."

<sup>48</sup> Wawancara dengan Bp. Mahfuz Lc, tanggal 1 November 2023, dan Ade Chandra, tanggal 6 November 2023, dan telah dikonfirmasi kembali pada 1 Desember 2024.

Following the Constitutional Court Decision No. 137/PUU-XIII/2015, which revoked the president's authority to annul regional regulations, DPD Aceh's legislative oversight has become even more constrained.<sup>49</sup> At the *ex post* (curative) stage, BULD's role remains limited due to overlapping authority with executive institutions. Evaluation and harmonization of regional regulations have already been carried out by the Ministry of Home Affairs and the Ministry of Law and Human Rights through legal facilitation and regulatory inventories, rendering BULD's oversight largely duplicative rather than complementary. Institutional coordination is also weak as BULD Aceh operates with limited regional infrastructure while the DPD headquarters is based in Jakarta, resulting in communication gaps and delays in identifying substantive legal issues. Methodologically, monitoring activities remain normative, lacking a regulatory impact assessment (RIA) framework to evaluate socio-economic and business implications. Nevertheless, Qanun Aceh No. 9 of 2004 and No. 10 of 2004 require adjustments that necessitate deeper analytical approaches to MSME conditions in light of the Job Creation Law.

Therefore, both *ex ante* (preventive) and *ex post* (curative) oversight functions of the DPD need to be reconstructed within the epistemological framework of the DPD's authority as a regional representative institution. The DPD can develop an asymmetry-based legislative oversight system to assess the effectiveness of the Job Creation Law and its implementing regulations in Aceh, while maintaining respect for Aceh's special autonomy. In this regard, BULD should act as an asymmetric harmonization actor, proactively integrating local values into national policy frameworks. For instance, under Qanun Aceh No. 5 of 2018 on Investment, BULD could recommend amendments introducing locally grounded risk-based standards, such as investment criteria aligned with Islamic law or regional priority sectors. Likewise, for Qanun Aceh No. 19 of 2013 on Spatial Planning, BULD could ensure that revisions to spatial plans incorporate national policies while preserving local control over coastal zoning. Unfortunately, such differentiated functions have not been prominently demonstrated; the harmonization process continues to follow a generic

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<sup>49</sup> Muhammad Rifa'i, Hartati, "Kewenangan Pengawasan Dewan Perwakilan Daerah (DPD) Terhadap Rancangan Peraturan Daerah Dalam Perspektif Peraturan Perundang-Undangan."

pattern, failing to leverage Aceh's asymmetric autonomy as a negotiating instrument for articulating regional interests within the national legislative system.

### **Comparative Evaluation and the Repositioning of the DPD's Legislative Oversight Function in the Context of Aceh**

Within the framework of asymmetric decentralization in Indonesia, Aceh occupies a unique constitutional and political position, endowed with legislative autonomy in several licensing sectors. The Law on the Governance of Aceh (UUPA) grants the region broad authority over public affairs, including investment, spatial planning, micro, small, and medium enterprises (MSMEs), environmental management, and land affairs. This authority is exercised within the unitary state of the Republic of Indonesia (NKRI), pursuant to Articles 18, 18A, and 18B of the 1945 Constitution, which regulate regional autonomy, the recognition of special regions, and equitable central-regional relations.

Within this legal architecture, the Regional Representative Council (DPD), through its Regional Legislation Committee (BULD), holds a mandate to monitor and evaluate regional regulations, including qanun, to ensure harmonization with national law. This role has become even more significant following the enactment of Government Regulation No. 5 of 2021, in conjunction with Government Regulation No. 28 of 2025 and Government Regulation No. 6 of 2021. The licensing cluster directly intersects with Aceh's regulatory domain, positioning the DPD as a mediator in potential conflicts between the national regulatory framework under the Job Creation Law and Aceh's qanun-based legal system.

To assess the relevance and reconstruction of functional diffusion of legislative oversight of qanun by the DPD in Aceh, it is necessary to examine comparative concepts and practices in other jurisdictions.

First, Spain's model of asymmetric decentralization grants extensive legislative authority to its autonomous communities. Oversight of regional legislation is exercised judicially by the Constitutional Court (Tribunal Constitucional), which may annul regional laws that conflict with the constitution or the national legal framework. This *ex post* judicial review safeguards legal coherence while respecting legislative

autonomy, with judicial review typically initiated by the central government or other autonomous communities.<sup>50</sup> The relevance for Indonesia lies in highlighting that Aceh's qanun, though enjoying special autonomy under the UUPA, lacks an equally robust judicial review mechanism dedicated to its harmonisation. The DPD's role in overseeing Aceh's legislative output remains advisory, without the corrective authority seen in Spain.

Second, prior to the repeal of Article 370 in 2019, the state of Jammu and Kashmir in India enjoyed special constitutional status with its own constitution and extensive legislative autonomy. Oversight of state laws was conducted by both the president of India and the Supreme Court. The president could withhold assent to state legislation deemed incompatible with the Indian Constitution, while the Supreme Court could annul laws contravening constitutional provisions. This dual mechanism combined political and judicial oversight to preserve constitutional coherence.<sup>51</sup> By comparison, the DPD has no veto power or direct role in withholding assent to regional regulations; its recommendations on Aceh's qanun carry persuasive weight but not binding force, underscoring the limited corrective leverage of Indonesia's oversight framework.

Third, in Italy, the Corte Costituzionale (Constitutional Court) plays a pivotal role in mediating conflicts between regional and national legislation. While regions possess the authority to enact laws under the Italian Constitution, regional legislation conflicting with national interests or constitutional norms may be challenged by the central government before the Constitutional Court. This process ensures a balance between regional autonomy and national unity.<sup>52</sup> The Italian case underscores that Indonesia lacks an institutionalised judicial forum to specifically adjudicate conflicts

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<sup>50</sup> David Parra Gomez, "Legislative Oversight of Government in Argentina and Spain: Corollary and Proposals in Light of Their Comparative Analysis," *Revista Juridica Austral* 5 (2024): 725.

<sup>51</sup> Anirudh Burman, "Legal Framework for the Parliamentary Oversight of the Executive in India," *NUJS L. Rev.* 6 (2013): 387.

<sup>52</sup> Marco Di Folco, "Il Nuovo Regolamento Della Commissione Parlamentare per Le Questioni Regionali Sulla Consultazione Delle Autonomie Territoriali: Un Passo Avanti Verso La Realizzazione Del Principio Di Leale Collaborazione Ne Procedimento Legislativo," 2018; Jakob WIENEN and Stewart DICKSON, "Local and Regional Democracy in Italy," *The Congress of Local and Regional Authorities*, vol. 33, 2014, [https://wcd.coe.int/ViewDoc.jsp?Ref=CG\(23\)12&Language=lanEnglish&Ver=original&Site=Congress&BackColorInternet=C3C3C3&BackColorIntranet=CACC9A&BackColorLogged=EFEA9C](https://wcd.coe.int/ViewDoc.jsp?Ref=CG(23)12&Language=lanEnglish&Ver=original&Site=Congress&BackColorInternet=C3C3C3&BackColorIntranet=CACC9A&BackColorLogged=EFEA9C).

between qanun and national regulations; instead, the DPD can only raise findings with relevant ministries or, indirectly, with the Constitutional Court, leaving a structural oversight gap.

Fourth, in South Africa, the National Council of Provinces (NCOP) serves as a legislative chamber that involves provincial delegations in national lawmaking, particularly in matters affecting provincial competencies. Although the NCOP lacks the authority to annul provincial laws, it prevents legal conflicts by proactively engaging at the early stages of policymaking.<sup>53</sup> By contrast, the DPD does not integrate regional representation into national lawmaking processes but supervises regulations after they are enacted. This highlights the reactive, rather than preventive, nature of the DPD's oversight role.

From these comparisons, several important structural and functional distinctions emerge:

- a. **Corrective Authority:** Spain, India, and Italy grant judicial or executive powers to annul or reject regional laws, while the DPD's oversight is non-binding and lacks corrective authority.
- b. **Institutional Integration:** South Africa's NCOP integrates regional voices into national legislative processes to prevent disharmony; by contrast, the DPD is structurally separated and can only intervene post-enactment.
- c. **Methodological Diversity:** International models combine judicial review, executive veto, and preventive participation, while the DPD's oversight remains limited to formal compliance review, lacking comprehensive policy evaluation.

This comparative framing demonstrates that the DPD's function, particularly in Aceh, is structurally weaker and procedurally narrower than international counterparts, which explains recurring challenges in harmonising qanun with national legislation.

Building on this, the relevance and reconstruction of the DPD's oversight function in Aceh can be developed through four strategic pillars:

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<sup>53</sup> Murray et al., "Speeding Transformation: NCOP's Role in the Oversight Process," 2017.

**From Passive Observer to Strategic Mediator** – The DPD must transform from a reactive role confined to compliance reviews into an active mediator between Aceh's qanun framework and national licensing norms under the Job Creation Law. This shift requires building trust among the Aceh government, the Aceh Parliament, civil society, and the central government. Structured deliberative processes must be institutionalized to reconcile legal pluralism with regulatory coherence, particularly in the context of national standards, procedures, and criteria (NSPK).

**Strengthening Institutional and Political Capacity** – Effective oversight demands robust institutional foundations, including proportional budget allocations for legislative supervision in special autonomous regions; recruitment and training of experts in asymmetric decentralization law, comparative constitutional law, and policy analysis; and the establishment of formal collaboration frameworks with the Aceh Parliament and provincial executive to set joint oversight agendas and share legislative information.

**Strategic Use of Oversight Instruments** – The DPD's constitutional rights to submit questions, issue opinions, and conduct field visits should be leveraged as strategic monitoring and review tools to balance local and national interests, rather than mere formalities. Field visits should target regulatory bottlenecks, while the right to question can be used to pressure the central government to address systemic legal disharmony. Recommendations should focus on policy reform rather than mere compliance.

**Dual-Track Monitoring and Evaluation System** – An effective oversight model should incorporate vertical harmonization indicators, which assess formal compliance with national law, alongside substantive measures that protect Aceh's legal identity. This dual-track strategy ensures national legal coherence while respecting regional diversity. Monitoring instruments should include legal conformity matrices; assessments of social, economic, and cultural impacts of regulatory harmonization; and stakeholder satisfaction indices to evaluate the legitimacy of outcomes.

From this analysis, it is evident that the DPD's current legislative oversight over qanun operates within a limited legal and institutional framework, rendering it more

symbolic than strategic. Comparative experiences show that effective oversight in systems of asymmetric decentralization relies on corrective authority, institutional integration, methodological diversity, and participatory engagement. Although the DPD lacks formal authority to annul qanun, it can reposition itself through strategic mediation, capacity building, and the adoption of a dual-track oversight system that simultaneously upholds Aceh's autonomy and preserves national coherence. In this way, the DPD can transform from a peripheral observer into a central actor in Indonesia's asymmetric decentralization, fulfilling a dual role as both a guardian of legal harmonization and a protector of substantive regional autonomy.

## CONCLUSION

The DPD's oversight of licensing-related qanun in Aceh demonstrates a diffusion of function driven by institutional necessity rather than formal jurisdiction. Although this oversight addresses vertical disharmony in the implementation of the Job Creation Law, the DPD's role remains predominantly symbolic due to constrained authority, insufficient coordination, and limited responsiveness to Aceh's asymmetric autonomy. This situation underscores the disparity between institutional expectations and actual influence, indicating that oversight has not yet developed into a substantive mechanism for resolving regulatory misalignment.

Therefore, strengthening the DPD's oversight model is urgent, particularly in the context of asymmetric decentralization. The institution must be repositioned as a dialogic partner mediating central-regional interests through inclusive and adaptive mechanisms. Strategic steps include enhancing political and institutional capacity, providing adequate infrastructure, and utilizing available instruments such as questioning rights and legislative visits. A monitoring system sensitive to Aceh's legal particularities is also crucial. Such measures would transform the DPD's role into a more responsive and constructive function within Indonesia's unitary framework.



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## COMPETING INTEREST

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