

# How Do Indonesian Laws and Regulations Shape the Political Landscape of Forestry Licensing?

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## **ABSTRACT**

*This research aims to analyze the evolution of forestry licensing regulations before and after the enactment of the Job Creation Law (CK Law). Utilizing a normative juridical approach, this study examines conceptual, statutory, and historical aspects of forestry law. The findings reveal that the politics surrounding forestry law significantly impact the balance between investment-driven economic interests and the preservation of sustainable forest cover. Prior regulatory issues in forest management remain unaddressed by the CK Law, which primarily emphasizes the exploitation of forest resources. This focus could exacerbate carbon emissions as forest utilization investments increase. While the changes introduced by the CK Law are designed to boost investment by simplifying licensing procedures, permitting multi-business activities, and facilitating foreign investment, they also present challenges for natural resource management. The revisions dilute commitments to forest conservation, reinforce disparities in forest product utilization between large corporations and local communities, and marginalize traditional forest-dependent populations. The novelty of this research lies in its critical examination of how legal reforms aimed at economic growth may unintentionally undermine long-term environmental sustainability and social equity. The urgency of this issue is highlighted by the potential long-term consequences of these legal changes on both environmental health and community welfare. This study contributes to the broader discourse on balancing economic development with environmental protection in Indonesia's forestry sector.*

*Keywords: Legal Politics, Licensing, Forestry, Legislation.*

## I. INTRODUCTION

Forests are part of Indonesia's natural resources. Its management is constitutionally based on Article 33 paragraph (3) of the 1945 Constitution which states "The land and water and the natural resources contained therein shall be under the control of the State and shall be used to the greatest extent for the prosperity of the people". This article is evidence that Indonesia is a welfare state with abundant natural resources to realize this welfare (Asshiddiqie, 2010). In addition, it illustrates a principle, a belief that government leaders hold dear and have always fought for (Manan et al., 1995).

Forests are natural resources that have strategic value for the progress of the nation and state. In addition, these natural resources are used for public welfare (Supriadi, 2010). The law that regulates forest management is Law No. 41/1999 on Forestry, which has been amended by Law No. 19/2004 on the Stipulation of Government Regulation in Lieu of Law No. 1/2004 on the Amendment of Law No. 41/1999 on Forestry into Law.

There are many changes in the forestry law. First, forest management issues include conversion, confirmation, fires, encroachment, destruction, and conflicts with customary law communities. Second, the Forestry Law has undergone several judicial reviews at the Constitutional Court. There were at least 8 (eight) cases in the Constitutional Court that challenged various articles in the Forestry Law, resulting in 4 (four) Constitutional Court Decisions, among others: Constitutional Court Decision No. 34/PUU-IX/2011, in the case of Article 4 paragraph (2) letter b and paragraph (3) of the Forestry Law. Constitutional Court Decision No. 45/PUU-IX/2011, in the case of Article 1 paragraph (3) of the Forestry Law Constitutional Court Decision No. 35/PUU-X/2012, in the case of Article 1 point 6, Article 4 paragraph (3), Article 5 paragraph (1), paragraph (2), paragraph (3), and paragraph (4), as well as Article 67 paragraph

(1), paragraph (2) and paragraph (3) of the Forestry Law, and Decision No. 95/PUU-XII/2014, in the case of Law No. 18/2013 on Prevention and Eradication of Forest Destruction and Law No. 41/1999 on Forestry.

There are other laws enacted after the Forestry Law, which include: Law No. 26 of 2007 on Spatial Planning. Law No. 18 of 2013 on Prevention and Eradication of Forest Destruction. Law No. 6 of 2014 on Villages. Law No. 23 of 2014 on Regional Government, which underwent fundamental changes in terms of the authority of the central and regional governments in forest management. Law No. 37 of 2014 on Soil and Water Conservation, and Law No. 39 of 2014 on Plantations.

The House of Representatives (DPR RI) addressed the above situation by including changes to the Forestry Law in the National Legislation Program (prolegnas) for the 2015-2019 Period, number 66 of 169 bills (Helmi & Hartati, 2022). And the 2020-2014 national legislation is number 41 of 247 bills (DPR RI, 2024). However, in the same prolegnas, the government submitted a bill on Job Creation using the omnibus law method and on October 5, 2020 it was passed into Law Number 11 of 2020 on Job Creation (Job Creation Law), one of which amended the Forestry Law. One of the most significant changes that occurred is that some of the main regulatory bases relating to the forestry sector in the Forestry Law have been changed, especially those relating to licensing in the forestry sector.

The Job Creation Law changes the political direction of forest management law in Indonesia. Particularly with regard to licensing, changes were made with the implementation of a risk-based approach. Timber forest utilization requires a single permit. Non-timber businesses and utilization of environmental services only require standards. In addition, accelerating the process of forest area gazettelement by accelerating forest area boundary demarcation activities, ensuring

conformity with spatial planning, and encouraging the application of forest area mapping in the One Map Policy.

Affirmation that the government has the authority to change the type and purpose of forest areas, as well as to regulate the use of forest areas through borrow-to-use licenses. Forest sustainability and business security are two factors considered when choosing a business license for forest utilization. In terms of licensing in the forestry sector, Law No. 41/1999 on Forestry underwent several changes, including: changes in the designation of forest areas that are significant, extensive, and of strategic value to the government; creation of a digital map of forest areas; increased ease and acceleration of licensing; Forest Area Utilization Permits; and Forest Area Borrowing and Use Permits.

As mentioned earlier, some important changes in this Job Creation Law are as follows: the forest area utilization licensing mechanism is only used for timber forest utilization; licensing for non-timber utilization and environmental services is only required to meet general standards. All types of forest area utilization licenses are thoroughly explained in the Forestry Law, which consists of 8 (eight) points that divide types of licenses according to forest functions and designations. In addition, the licensing mechanism is simplified into one type, namely business licenses (Simangunsong, 2021).

By using this business licensing scheme, the licensing authority intervenes in forest areas. The consequences will be more massive and will make it easier for anyone, especially those who have large capital and are close to the authorities, to obtain business licenses in forest areas. If licenses are given easily without considering environmental aspects, it is very dangerous for the future of the environment. In addition, the basic principle of the current restrictions on utilization of protected forests aims to ensure that protected forests continue to perform their main functions as life support systems, such as regulating water systems, preventing flooding, controlling erosion, preventing seawater intrusion,

and maintaining soil fertility. As protected forests are increasingly unprotected, these restrictions are in place.

The current method of utilizing protected forests is threatened by the Job Creation Law. At first, the category of utilization of protected forests only consisted of environmental services and utilization of non-timber forest products (NTFPs) in accordance with the mandate of the Forestry Law, but now there are clauses relating to the utilization of forest areas. As with geothermal utilization without a permit, but only by complying with the standards, standards, procedures, and criteria, as well as the use of areas with borrow-to-use approval, this authority has been given to the Central Government.

As a result of the enactment of this Job Creation Law, protected forests become highly vulnerable to exploitation for exploitation purposes such as conversion to mining, plantations, and other non-forestry activities. Protected forests, which serve as permanent life buffers, can obviously be lost and damaged as a result. And as the role of the central government is increasingly centralized, this centralization can lead to differences in benefits between the center and the regions (Helmi, 2021).

In the Forestry Law, changes in the designation and function of forest areas must be authorized by the House of Representatives, but in this Job Creation Law, only the government can decide how to change the designation and function of forest areas. These changes do not need to be authorized by the House of Representatives, except for policies that support the Vegetable Strategic Project. This could lead to communities losing the ability to oversee the implementation of forest development by expressing their aspirations through the House of Representatives, especially regarding forest designation plans and utilization of forest products. This may also lead to more transfers of forest areas that are not in line with their functions (Sebijak-institute.fkt, 2020).

The Constitutional Court (MK) granted a judicial review of the Job Creation Law in its Decision Number 91/PUU-XVIII/2020 which was read out on November 25, 2021 with the following ruling: In the Province: rejecting the revised petition from Applicant I and Applicant II; rejecting the revised petition from Applicant III, Applicant IV, Applicant V, and Applicant VI. In the subject matter of this petition: it is declared that the petition of Applicant I and Applicant II cannot be accepted; part of the petition of Applicant III, Applicant IV, Applicant V, and Applicant VI is granted; and it is declared that Law Number 11 of 2020 concerning Job Creation (State Gazette of the Republic of Indonesia of 2020 Number 245, Supplement to the State Gazette of the Republic of Indonesia Number 6573) has no legal basis and is contrary to the 1945 Constitution of the Republic of Indonesia if it is not corrected within 2 (two) years from the date this decision is read. In addition, it is affirmed that Law Number 11 of 2020 on Job Creation remains in effect until improvements to its formation are completed in accordance with the deadline set out in this decision, and the legislators are required to complete the changes no later than 2 (two) years after this decision is read. If the legislators are unable to complete the revision of Law Number 11 of 2020 within 2 (two) years, then the provisions or materials of the law that have been revoked or amended by the law will re-apply.

In addition, based on the following considerations, the Court's decision to enact Law 11/2020 is unconstitutional because the Court must balance between the formal requirements for making laws that fulfill the elements of legal certainty, expediency, and justice. In addition, it must also consider the strategic objectives of the establishment of the Law a quo. Therefore, enacting Law 11/2020 which has been declared conditionally unconstitutional has juridical consequences for the validity of Law 11/2020 a quo, so that the Court provides an opportunity for the legislators to improve Law 11/2020 in accordance with the procedures for the formation of laws that meet the methods and methods of law which must

also be subject to the fulfillment of the requirements of the principles of law formation that have been determined.

The Constitutional Court's decision above can be justified only limited to the procedural requirements and methods of forming the Job Creation Law by using the Omnibus Law method, not to the specific substance of licensing in general or special licensing in the forestry sector. This is as stated by President Joko Widodo: brothers and sisters of one nation and tribe. I convey the government's and my commitment to the structural reform, deregulation and debureaucratization agenda in light of the Constitutional Court's decision on the Job Creation Law. I will continue to oversee and ensure legal security and government support for ease of investment and business. The government respects and immediately implements the decision of the Constitutional Court (MK) Number 91/PUU-XVIII/2020 as a democratic country based on law. I have asked the Coordinating Minister and relevant ministers to immediately follow the Constitutional Court's decision. It has been decided by the Constitutional Court that the Job Creation Law will remain in effect. The government and DPR as lawmakers are given at least two years to fix things. Therefore, all regulations related to the current Job Creation Law are still in effect. Therefore, all regulations stipulated by the current Job Creation Law are still in effect. After the Constitutional Court declared that the Job Creation Law is still in effect, all of its materials and rules remain in effect, without a single article being canceled or invalidated. Therefore, I give assurance to investors and business actors at home and abroad that the safety and security of investments that have been made and those that are being processed are still guaranteed. I repeat, I promise that the government will ensure that investment in Indonesia is safe and secure (Presidenri.go.id, 2021).

Permits as “instruments in administrative law, which are intended to influence people's behavior, in order to follow what is recommended in order to achieve concrete goals” (Helmi, 2013). Licensing is “the granting of legality to

individuals or certain businesses/activities, either in the form of a license or business registration.” Permits are “one of the most commonly used instruments in administrative law” to direct the behavior of the public (Hadjon, 1993).

Political law or legal policy is “the official line (policy) about the law that will be enforced either by new laws or by replacing old laws, in order to achieve state goals” (Mahfud, 2009). Moreover, political conceptions and power are of utmost importance in the process of law formation. This is because law is almost always a political tool and the place of law in the state depends on the balance of politics, the definition of power, the development of political, economic, social ideologies, and the role of the state (Lev, 1990). Starting from the above, this paper will discuss various issues including how the forestry licensing arrangements before the Job Creation Law in the perspective of Indonesian laws and regulations? And how is the legal politics of forestry licensing after the Job Creation Law in the perspective of Indonesian laws and regulations?

## **II. RESEARCH METHODS**

This research uses the juridical normative method. The use of normative juridical research is a type of research in which the research objective is to study positive law related to the subject matter that has been determined. Therefore, this research studies legal principles, systematics, the level of synchronization, comparison, and legal history. In particular, it discusses how the licensing regulations in the forestry sector before the Job Creation Law and how the legal regulations for licensing in the forestry sector after the Law took effect from the point of view of the Indonesian legal system.

The approach in this research consists of a statutory approach, case approach, historical approach, and conceptual approach. The use of conceptual approach in this research is due to the research of principles, doctrines and theories related to the problem of “Legal Politics of Forestry Licensing in the Perspective of Indonesian Legislation”. Likewise, the use of a statutory approach



means that this legal research is carried out by reviewing or analyzing laws and regulations that are relevant to the subject matter of this research. Furthermore, the use of a historical approach means here that how to examine problems related to history. The legal materials used are primary legal materials and secondary legal materials collected through literature studies, which are then arranged systematically to be discussed and analyzed qualitatively and descriptively, in order to answer the problems discussed. collection techniques, data processing techniques and data analysis.

### **III. RESULT OF RESEARCH AND ANALYSIS**

#### **A. Legislation Related to Forestry Licensing Prior to the Job Creation Law in Indonesia**

Forestry licensing is regulated by Law No. 41/1999 on Forestry. This law begins with a statement that the state controls forests, as it states, "All forests in the territory of the Republic of Indonesia and the natural resources contained therein shall be controlled by the State for the prosperity of the people." On the basis of state control of forests, the government is authorized to: a. regulate and manage all matters related to forests, forest areas, and forest products; b. determine the status of an area as a forest area or non-forest area; and c. regulate and determine the legal relationship between individuals and forests, including legal actions related to forests (Nurlinda, 2016).

In accordance with Article 33 of the 1945 Constitution, which serves as the constitutional basis, the state is obliged to control the earth, water and natural resources within for the greatest prosperity of the people. Therefore, forestry management must always contain the spirit of populism, justice and sustainability. The implementation of forestry needs to be carried out with the principles of benefit and sustainability, prioritizing the interests of the people, justice, togetherness, openness, and integration, based on ethical values and accountability. Forest control by the state does not mean ownership, but rather the state authorizes the government to regulate and manage all aspects related to

forests, forest areas, and forest products; determine and change the status of forest areas; regulate and determine legal relations between communities and forests or forest areas; and manage legal actions related to forestry.

This is in line with research from Supriadi, (2010) which reveals that in the forestry sector, there are a number of goals to be achieved for the welfare of the people in a fair and sustainable manner. These objectives include ensuring the existence of forests with sufficient area and proportional distribution, optimizing various forest functions, increasing carrying capacity in watershed areas, strengthening community capacity and independence in a participatory, fair and environmentally sound manner. This is expected to create social and economic resilience and the ability to deal with external changes, while ensuring a fair and sustainable distribution of benefits.

In addition, the government has the authority to grant licenses and rights to other parties in running forestry-related businesses. The government also establishes and maintains adequate forest areas in watershed areas or islands with proportional distribution in order to maintain a balance of environmental, socio-cultural and economic benefits. Forests in Indonesia are divided into two categories: state forests and private forests.

In the concept of forestry law according to Murhaini, (2012) explains that one of the main elements of forests is the law governing forests, both written and unwritten, which regulates the relationship between forests and the state, as well as the relationship between individuals and forests. Forests also have elements such as the set of regulations in the forestry sector, both written and unwritten, which stipulate sanctions for those who violate them, legal relationships, forest management, forest users and products, and the wealth contained therein (Pamulardi, 1995).

State forests are defined as forests located on unencumbered land according to Law No. 5/1960, including forests previously controlled by

customary law communities known as “ulayat forests, clan forests, or other designations.” This is because the State as an organization of power has the right to control and manage these forests. This is because the State as an organization of power has the right to control and manage these forests.

Therefore, customary law communities have the authority to conduct forest management activities and collect forest products as long as the customary law community still exists and is recognized. However, a hak forest is a forest located on land that has land rights regulated by Law No. 5/1960 on the Basic Regulation of Agrarian Principles, such as Property rights, Business Rights, Right of Use. Using the forest requires a permit to utilize the area, environmental services, timber and non-timber forest products, and collection of timber and non-timber forest products.

Permit holders not only have the right to utilize the forest, but are also responsible for any disturbance to the forest and the area granted to them. Forest protection efforts are carried out to ensure that the status, function and condition of forests are maintained by preventing and reducing damage caused by human and livestock activities, fire, natural forces, pests and diseases. Forest protection also includes safeguarding and maintaining the rights of the state, communities and individuals to forests, forest areas and forest products, including investments and facilities related to forest management.

For any individual who commits an unlawful act in the forestry sector, this law includes criminal provisions, compensation, administrative sanctions, and dispute resolution. It is expected that severe criminal and administrative sanctions will deter forestry law violators. As stipulated in the Criminal Procedure Code (KUHAP), certain civil servant officials whose responsibilities include forest management are given special authority as investigators.

The regulation of Law No. 18/2013 on Prevention and Eradication of Forest Destruction is intended to prevent and eradicate the severe forest

destruction in Indonesia. The presence of forests in Indonesia, which is one of the largest tropical forests in the world, plays an important role in the survival of countries around the world, especially in reducing the impact of climate change. Therefore, to support sustainable forest management and forestry development for the benefit of the people, their use and utilization must be carried out in a planned, rational, optimal, and responsible manner in accordance with the carrying capacity, taking into account the preservation of environmental functions and balance.

Based on this idea, this law makes efforts to eradicate forest destruction by prioritizing justice and legal certainty, sustainability, state responsibility, community participation, liability and coordination. In addition to its repressive nature, this law also has a restorative nature. The objectives of this law are as follows: a. to provide a firmer and more complete legal umbrella for law enforcement officials to eradicate forest destruction so as to provide a deterrent effect for perpetrators; b. to improve the ability and coordination of law enforcement officials and related parties through the institution for the prevention and eradication of forest destruction in the cleanup efforts. a) prevention of forest destruction; b) eradication of forest destruction; c) institutions; d) the role of the community; e) international cooperation; f) protection of witnesses, reporters, and informants; g) financing; and h) sanctions are part of this law (Purnomo, 2012).

In this law, the scope of forest destruction includes processes, methods, or actions that damage forests through illegal logging and/or illegal use of forest areas. Illegal logging refers to all organized activities of utilizing timber forest products illegally, while illegal use of forest areas refers to all organized activities conducted within forest areas for plantations and/or settlements. Communities that have lived in the forest area for generations and have engaged in farming activities following the rotational traditions established by their group receive an exemption for traditional farming activities.

Law Number 41 of 1999 resulted in Government Regulation Number 44 of 2004 concerning Forestry Planning. This Government Regulation specifically regulates forestry planning. Forest planning is the process of determining the goals, activities, and tools necessary for sustainable forest management. The goal is to provide guidelines and a path to ensure that the objectives of forestry management are achieved in the most just and sustainable manner for the people. This regulation is closely related to tenure conflicts because it governs how an area is designated as state forest land, and therefore the process must be legally guaranteed. Forest planning includes activities such as a. Forest inventory; b. Forest area designation; c. Forest area utilization; d. Formation of forest management zones; and e. Preparation of forest management plans (Kesuma, 2024).

Government Regulation Number 45 of 2004, amended by Government Regulation Number 60 of 2009, on Forest Protection Articles 46 to 51 and Articles 77 and 80 of Law Number 41 of 1999 on Forestry is further implemented through this government regulation. This government regulation governs forest protection, including preventing and limiting damage to forests, forest areas, and forest products caused by humans, livestock, fires, natural forces, pests, and diseases.

Forest protection is an effort to prevent and limit damage to forests, forest areas, and forest products caused by humans, livestock, fires, natural forces, pests, and diseases, as well as to uphold and maintain the rights of the state, society, and individuals over forests, forest areas, forest products, investments, and devices related to forest management. Forest protection includes: a. securing the work area related to forests, forest areas. Forest protection encompasses: a. maintaining the security of the work area related to forests, forest areas, and forest products, including plants and animals; b. preventing forest damage caused by humans and livestock, fires, pests, and diseases, as well as natural forces; c. taking initial action against forest security disturbances in the work area; and d.

reporting any legal violations in the work area to the relevant forestry agency (Aksinudin, 2023).

Government Regulation of the Republic of Indonesia Number 6 of 2007 on Forest Management and Forest Management Plans and Utilization of Forests in connection with Government Regulation of the Republic of Indonesia Number 3 of 2008. This Government Regulation regulates forest utilization and is an implementation of Law Number 41 of 1999 on Forestry. Forest utilization means utilizing forest areas, benefiting from environmental advantages, utilizing timber and non-timber forest products, and harvesting these products fairly and effectively while maintaining their sustainability. The goal of forest utilization is to obtain optimal, fair, and sustainable forest products and services for the welfare of the community. Utilization of the area, Utilization of environmental services, Utilization of timber and non-timber forest products, and Utilization of timber and non-timber forest products (Salsabila & Hernawan, 2024).

Problems in forest utilization often arise when holders of rights and permits grant access to the community to jointly utilize forest areas, which then leads to land ownership conflicts. Initially, the community was given access to utilize the forest land together, such as seasonal farming under the tree canopy. However, the community that was supposed to relocate after the planting season chose to stay because they felt the location was suitable for farming (Nurlinda, 2016). Government Regulation of the Republic of Indonesia Number 10 of 2010 on Procedures for Changes in Designation and Function of Forest Areas is a government law created to fulfill Article 19 of Law Number 41 of 1999 on Forestry. In this government regulation, the following matters will be regulated: a). Changes in the form of forest areas; and b). Changes in their functions.

To optimize the functions and benefits of forests and forest areas, in accordance with the provisions of Article 19 of Law Number 41 of 1999 on Forestry, as amended by Law Number 19 of 2004, and considering national

developments and community aspirations, in principle, forest areas can have their designation or function changed. To maintain a balance between environmental, socio-cultural, and economic benefits, changes in the designation and function of forest areas must be directed towards a sustainable distribution of forest area functions and benefits, while still maintaining the ideal area and distribution (Lazarus, 2023).

Article 38 of Law Number 41 of 1999 concerning Forestry is regulated by Government Regulation of the Republic of Indonesia Number 24 of 2010 concerning the Use of Forest Areas. This regulation governs the use of part of the forest area for development purposes outside of forestry activities. The use of forest areas means using part of the forest area for development purposes without changing the function and designation of the area. The use of forest areas is classified into two categories: non-commercial use and commercial use. Non-commercial use includes the use of forest areas without the aim of making financial profit. The use of forests for commercial purposes is the use of forests to seek profit. In addition to forestry activities, development that utilizes forest areas includes mining, religious activities, the construction of power generation installations, transmission, and distribution of both new and renewable electricity; the development of telecommunications networks; radio and television stations; as well as the construction of public roads, toll roads, and railway lines. In addition, it also includes transportation facilities that are not classified as public transportation for transporting production results, as well as other means and facilities.

The problems arising from the use of forest areas can be categorized into two stages. First, the application for the use of forest areas for commercial purposes often results in claims or lawsuits against the requested forest areas. The party claiming the forest area feels entitled to it and hopes to receive compensation. In the second stage, the applicant is required to provide one hundred compensation plots. Regulation of the Minister of Forestry of the

Republic of Indonesia Number: P. 32/Menhut-II/2010 on the Exchange of Forest Areas was created to fulfill Article 9 paragraph 2 and Article 11 paragraph 2 of Government Regulation Number 10 of 2010 concerning Procedures for Changing the Designation and Function of Forest Areas. Development outside of permanent forestry activities; Elimination of enclaves to facilitate forest area management; or Improvement of forest area boundaries.

## **B. Changes to the Forestry Law in the Job Creation Law and its Impact on Forest and Environmental Governance**

One of the government's initiatives, the Job Creation Law, was proposed to the House of Representatives in February 2020 and included in the 2020 National Legislation Program (Prolegnas) of the Indonesian House of Representatives. Academic manuscripts, drafting procedures, stakeholder and local government participation, as well as licensing and supervision issues are some of the sectors directly affected. One of the basic laws, such as Law Number 12 of 2011 jo Law Number 15 of 2019 concerning the Formation of Legislation, Law Number 32 of 2009 concerning the Protection and Management of the Environment, Law Number 23 of 2014 concerning Regional Government, Law Number 23 of 2014 concerning Government Administration, as well as sectoral laws in the field of natural resources, has been reduced in terms of its content (Nugroho, 2020).

According to Satjipto Rahardjo, the Job Creation Law has been flawed since its inception due to its non-participatory and non-transparent process. Years pass before a draft law can be enacted into law, starting from the preparation of the Problem Inventory List (DIM), the Academic Manuscript (NA), to discussions about the regulated content and harmonization with other regulations. The fact that legal products are completed quickly and on time indicates that they meet the needs and interests of certain groups (Widiaryanto, 2020).



A total of 18 articles of the Forestry Law were amended, 9 of which directly relate to the management of protected forest areas and production forests. However, this study will only discuss a few changes, such as changes in the proportion of forest areas that must be maintained, simplification of permits for the utilization of protected forests and production forests, the possibility of foreign investment in the utilization of protected forest areas, and the mainstreaming of social forestry (Monitasari et al., 2021). After the Basic Forestry Law No. 5 of 1967, which adopted part of the Dutch East Indies forest management, Article 18 of the Forestry Law was amended by removing the provision on the minimum area of forest that must be maintained at 30% per Watershed Area (DAS) or island proportionally. Next, Law Number 41 of 1999 follows up on this regulation. Nevertheless, this arrangement is not actually supported by scientific evidence.

**Table 1. Amendments to Article 18 of Law Number. 41 of 1999 on Forestry by Law Number. 11 of 2020 on Job Creation**

<b>Law Number. 41 of 1999 on Forestry</b>	<b>Law Number. 11 of 2020 on Job Creation</b>
<p style="text-align: center;"><b>Article 18</b></p> <p>(1) The government establishes and maintains the adequacy of forest area and forest cover for each watershed area, and/or island to optimize environmental benefits, social benefits, and economic benefits for the local community.</p>	<p style="text-align: center;"><b>Article 18</b></p> <p>(1) The Central Government establishes and maintains the adequacy of forest area and forest cover for each watershed area, and/or island to optimize environmental benefits, social benefits, and economic benefits for the local community.</p>
<p>(2) The area of forest that must be preserved as referred to in paragraph (1) is at least 30% (thirty percent) of the area of the watershed and/or island with a proportional distribution.</p>	<p>(3) The Central Government regulates the area that must be preserved according to the physical and geographical conditions of the watershed and/or island.</p>

	<p>(4) Further provisions regarding the area of forest land that must be preserved, including regions with national strategic projects, are regulated in Government Regulations.</p>
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Furthermore, the Job Creation Law simplifies various types of business permits for the utilization of protected forests and production forests found in the Forestry Law into a single form of Business Licensing. This means that the utilization of protected forests and production forests only requires Business Licensing, without the need to obtain several other business permits. Additionally, the Job Creation Law emphasizes that the authority to grant Business Licensing belongs to the central government. In the context of Constitutional Law and Administrative Law, the terms power and authority are closely related to the execution of government duties. Authority holds an important position in the study of Constitutional Law and Administrative Law. Therefore, the importance of this authority can be viewed as one of the most crucial aspects of Administrative Law, where rights and authority also encompass obligations that must be fulfilled (Tjandra, 2021).

**Table 2. Changes to Articles 26 and 28 of Law Number. 41 of 1999 on Forestry by Law Number. 11 of 2020 on Job Creation**

<b>Law Number. 41 of 1999</b>	<b>Law Number. 11 of 2020 on Job Creation</b>
<p>Article 26 (1) The utilization of protected forests is carried out through the granting of business permits for the utilization of embali, business permits for the utilization of environmental</p>	<p>Article 26 (1) The utilization of protected forests as referred to in paragraph (1) is carried out with the issuance of a Business License from the Central Government.</p>

<p>services, and permits for the collection of non-timber forest products.</p>	
<p>Article 28 (2) The utilization of production forests is carried out through the granting of business permits for re-utilization, business permits for environmental service utilization, business permits for timber forest product utilization, business permits for non-timber forest product utilization, permits for timber forest product collection, and permits for non-timber forest product collection.</p>	<p>Article 28 (3) The utilization of production forests as referred to in paragraph (1) is carried out with the issuance of a Business License from the Central Government.</p>

*Source: of Law Number. 41 of 1999 on Forestry by Law Number. 11 of 2020 on Job Creation*

It is hoped that the simplification of the number of permits will reduce costs and shorten the time required for entrepreneurs to start forestry businesses. The reason is that investors believe that the procedure for forest reallocation permits 121 is complicated. However, with the changes in regulations, the process of applying for a business license has become shorter. To begin with, the Minister of Forestry Regulation No. P.11 of 2008 concerning the Second Amendment to the Minister of Forestry Regulation No. P.19 of 2007 on the Procedures for Granting Licenses and Expanding Work Areas for the Utilization of Timber Forest Products in Industrial Forest Plantations within Production Forests stipulates that the process of applying for a Timber Forest Product Utilization Business License in Industrial Forest Plantations (IUPH HK HTI) requires at least 80 working days (Pielmus, 2018).

The Minister of Environment and Forestry Regulation (Permen LHK) No. P.9 of 2015 changed this period to 30 working days, and Permen LHK No. P.28 of 2018 reverted it to 18 working days. Minister of Environment and Forestry Regulation No. 8 of 2021 on Forest Management and Preparation of

Forest Management Plans, as well as Forest Utilization in Protected Forests and Production Forests (Permen LHK No. 8 of 2021), which is a derivative regulation of the Job Creation Law, increases the permit issuance period to 39 working days.

Then, the Job Creation Law allows foreign investment to enter the management of protected forests. Before the Forestry Law, one of the legal subjects that could obtain a permit for the utilization of environmental services was "Indonesian private enterprises." Then, the Job Creation Law removed the word "Indonesian" from that provision. This means that foreign-owned private enterprises have the ability to apply for permits to utilize environmental services in protected forests.

**Table 3. Amendments to Article 27 of Law Number 41 of 1999 concerning Forestry by Law Number 11 of 2020 concerning Job Creation**

<b>Law Number 41 of 1999 concerning Forestry</b>	<b>Law Number 11 of 2020 concerning Job Creation</b>
Article 27 (1) Business utilization permits for areas as referred to in Article 26 paragraph (2) may be granted to: a. individuals, b. cooperatives.	Article 27 (1) Business Licensing as referred to in Article 26 paragraph
(2) Environmental service utilization business permits as referred to in Article 26 paragraph (2), may be granted to: a. individuals, b. cooperatives, c. privately-owned Indonesian enterprises, d. state-owned enterprises or regional-owned enterprises. Non-timber forest product harvesting permits as referred	(2) may be granted to: a. individuals; b. cooperatives; c. state-owned enterprises; d. regional-owned enterprises; or e. private-owned enterprises

to in Article 26 paragraph (2), may be granted to: a. individuals, b. cooperatives	
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*Source: Law Number 41 of 1999 concerning Forestry by Law Number 11 of 2020 concerning Job Creation*

In addition, foreign investors are only allowed to engage in large enterprises with investments exceeding 10 billion rupiah, excluding the value of land and buildings, and must be in the form of a limited liability company regulated by Indonesian law and based in Indonesia. However, non-timber forest products such as rattan, agarwood, pine, bamboo, and other resins are considered sectors allocated to MSMEs.

Furthermore, the Minister of Environment and Forestry Regulation No. 3 of 2021 on Business Activity Standards in the Implementation of Risk-Based Business Licensing in the Environmental Sector 130 and Forestry states that all investors can engage in businesses utilizing protected forests, regardless of the classification of the business. Thus, foreign investors have the opportunity to invest in ventures related to the utilization of protected forests. However, the Investment Coordinating Board (BKPM) must re-examine this finding. As a result, a lot of foreign capital might enter this sector. On the contrary, in the utilization of protected forests, competition between small and large enterprises will occur perfectly, highlighting the differences between the community and large entrepreneurs in the utilization of protected forests. Due to competition with large entrepreneurs, community management access will become increasingly limited.

#### IV. CONCLUSIONS AND SUGGESTIONS

##### A. Conclusions

This research found that, first of all, the issues related to forest management are not addressed by the forestry licensing regulations of the CK

Law. However, the provisions of the CK Law focus on the exploitation of forest resources, which can exacerbate carbon emissions along with increased investment in forest utilization. As long as the rights of customary law communities still exist and are recognized, state control over forests does not contradict national interests. As regulated in Article 10 of Law Number 41 of 1999 on Forestry, the purpose of forest management by the government is to obtain the greatest possible benefits and to be useful and sustainable for the prosperity of the people. Several articles of the Forestry Law have been amended following the issuance of the Job Creation Law and its derivative regulations. Four of these changes are the proportion of forest area that is preserved, the simplification of permits for the use of protected forests and production forests, the possibility of foreign investment in the use of protected forest areas, and the mainstreaming of social forestry. It is very interesting that the four amendments to the Forestry Law made in the Job Creation Law have two opposing sides.

Second, Law Number 41 of 1999 on Forestry, Law Number 23 of 2014 on Regional Government, Law Number 5 of 1960 on UUPA, and the Minister of Forestry's Instruction Number 31/Kpts-II/2001 on Community-Based Forest Management, reflect the relationship between the government and the community in efforts to improve the management and utilization of forest resources. On one hand, the changes in the Forestry Law through the Job Creation Law are expected to attract more investment by simplifying the licensing process, allowing for various businesses, and opening up opportunities for foreign investment. However, on the other hand, this change also has the potential to harm natural resource management because it can eliminate the commitment to preserve forests in an area and reinforce and maintain inconsistencies in the utilization of forest products.

## B. Suggestions

Based on the discussion results that have been presented, several suggestions that the author can offer are as follows: First, many regulations in the forestry sector are inconsistent, irregular, and not comprehensive, leading to various disputes and conflicts on the ground, harming the government, entrepreneurs, and the community, especially those living in and around the forest. Therefore, all legislation related to forestry needs to be promptly revised and aligned. Second, Law Number 41 of 1999 on Forestry must be amended because there are several issues with its content.

## REFERENCES

- Aksinudin, S. (2023). Implikasi Pertanahan Dalam Penanganan Konflik Agraria di Indonesia. *Litigasi*, 24 (2), 184–204.
- Asshiddiqie, J. (2010). *Green Constitution: Nuansa Hijau Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*. Rajawali Pers.
- DPR RI. (2024). *Program Legislasi Nasional*. Dpr.Go.Id. <https://www.dpr.go.id/uu/prolegnas-long-list?>
- Hadjon, P. M. (1993). *Pengantar Hukum Perizinan*. Yuridika.
- Helmi. (2013). *Hukum Perizinan Lingkungan Hidup*. Sinar Grafika.
- Helmi. (2021). Kewenangan Daerah Dalam Perizinan Berusaha dalam UU Cipta Kerja. *Simbur Cahaya*, 6, 15–39. <https://doi.org/10.28946/sc.v28i2.1170>
- Helmi, H., & Hartati, H. (2022). *POLITIK HUKUM PERIZINAN BIDANG KEHUTANAN DALAM PERSPEKTIF PERATURAN PERUNDANG-UNDANGAN DI INDONESIA*. Magister Ilmu Hukum.
- Kesuma, C. P. (2024). Tinjauan Pemanfaatan Hutan Pinus di Kabupaten Gayo Lues Berdasarkan UU No. 41 Tahun 1999 Tentang Kehutanan. *Aliansi: Jurnal Hukum, Pendidikan Dan Sosial Humaniora*, 1 (4), 215–235. <https://doi.org/https://doi.org/10.62383/aliansi.v1i4.319>
- Lazarus, R. J. (2023). *The making of environmental law*. University of Chicago Press.
- Lev, D. S. (1990). *Hukum dan Politik di Indonesia (Kesinambungan dan perubahan)*.
- Mahfud, M. (2009). MD, Politik Hukum Di Indonesia (cet. ke-2). *Jakarta: Rajawali Pres*.

- Manan, B., Mashudi, & Magnar, K. (1995). *Pertumbuhan dan Perkembangan Konstitusi Suatu Negara*. Mandar Maju.
- Monitasari, R. G., Furqon, E., & Khaerunnisa, E. (2021). Implikasi Penerapan Metode Omnibus Law Dalam Sistem Pembentukan Perundang-Undangan Indonesia Ditinjau Dari Undang-Undang Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan. *Jurnal Dialektika Hukum*, 3 (1), 21–44.
- Murhaini, S. (2012). Hukum Kehutanan (Penegakan Hukum Terhadap Kejahatan di Bidang Kehutanan). *Yogyakarta: Laksbang Grafika*.
- Nugroho, W. (2020). *Bencana Lingkungan & Urgensi Omnibus Law Lingkungan*. Hukumonline.Com. <https://www.hukumonline.com/berita/a/bencana-lingkungan-urgensi-omnibus-law-lingkungan-lt5e1edc4e585a1/>
- Nurlinda, I. (2016). Telaah atas materi muatan rancangan undang-undang pertanahan. *Jurnal Bina Mulia Hukum*, 1 (1), 1–13.
- Pamulardi, B. (1995). *Hukum Kehutanan dan Pembangunan Bidang Kehutanan*. PT Raja Grafindo Persada.
- Pielmus, C. G. (2018). Innovation in teaching english for law enforcement: a technology-integrated approach. *Society. Integration. Education. Proceedings of the International Scientific Conference*, 3, 566–579.
- Presidenri.go.id. (2021). *Pemerintah Hormati Putusan MK Terkait UU Cipta Kerja*. Presidenri.Go.Id. <https://www.presidentri.go.id/siaran-pers/pemerintah-hormati-putusan-mk-terkait-uu-cipta-kerja/>
- Purnomo, A. (2012). Menjaga hutan kita: pro-kontra kebijakan moratorium hutan dan gambut. In *kompas gamedia*. Kompas Gramedia.
- Salsabila, A. N., & Hernawan, D. (2024). Analisis Yuridis Penguasaan Tanah Terlantar Ex Hak Guna Usaha Oleh Masyarakat Desa Kasomalang. *Litigasi*, 25 (1), 124–142.
- Sebijak-institute.fkt. (2020). *Empat Potensi Dampak Kebijakan Omnibus Law di Sektor Kehutanan dan Lingkungan*. Sebijak.Fkt.Ugm.Ac.Id. <https://sebijak.fkt.ugm.ac.id/2020/10/06/empat-potensi-dampak-kebijakan-omnibus-law-di-sektor-kehutanan-dan-lingkungan/>
- Simangunsong, C. J. (2021). UU Cipta Kerja Dan Implikasinya Kepada Hutan, Lingkungan Hidup, Dan Masyarakat Hukum Adat Di Tanah Papua. *ECONUSA*. Accessed May, 9.
- Supriadi. (2010). *Hukum kehutanan & hukum perkebunan di Indonesia*. Sinar Grafika.



Tjandra, W. R. (2021). *Hukum administrasi negara*. Sinar Grafika.

Widiaryanto, P. (2020). Rasionalitas Kebijakan Konsepsi Hutan Dan Penghapusan Batas Minimal Kawasan Hutan 30 Persen. *GEMA PUBLICA*, 5 (2), 140–155. <https://doi.org/https://doi.org/10.14710/gp.5.2.2020.140-155>