



Investment License and Environmental Sustainability in Perspective of Law Number 11 The Year 2020 Concerning Job Creation

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Abstract

Abstract

Many factors influence and even hinder investment activities in Indonesia, including reforming policies and their implementation. Among those factors are bureaucratic problems and obstacles, uncertainty in the interpretation and implementation of regional autonomy, human resources and labor policy issues, and a high level of corruption. The government made a breakthrough in regulating investment licensing through law No. 11 of 2020 concerning job creation with the omnibus law method. In addition to investment issues, changes to regulations in the environmental sector that revise, delete and revoke several articles contained in the provisions of Law No. 32 of 2009 concerning PPLH. The purpose of this article is to find out the investment licensing arrangements in law No. 11 of 2020 concerning job creation and knowing environmental sustainability according to law No. 11 of 2020 concerning work creation. This research method is a type of normative legal research with a legal approach, historical approach, and conceptual approach. Research results with the enactment



of law No. 11 of 2020 concerning job creation, more or less regulatory arrangements will affect investment in a country. Investment regulations that do not overlap and do not conflict with each other are investors' expectations. For this reason, it is necessary to arrange regulations that have the spirit of encouraging and supporting investment growth and the sustainability assessment criteria in law No. 11 of 2020 concerning job creation and its derivatives are still following environmental prevention instruments which include the process of planning, utilization, control, maintenance, supervision, and law enforcement. It's just that community involvement in the Amdal document is indeed reduced as in the provisions of the work creation law, which amends Article 26 UU No. 32 of 2009 regarding the preparation of the amdal document. It is carried out by not involving the community directly affected by the planned business and/or activity.

A. Introduction

The government made a breakthrough in regulating investment licensing through Law No. 11 of 2020 concerning work created using the omnibus law method. Law No. 11 of 2020 concerning job creation revises, amends, and removes several regulations due to over-regulation and overlapping rules that are considered to slow down the pace of investment.¹ The regulation is the flagship program of the Jokowi-Ma'ruf Amin government to boost economic growth.² The government also seeks to provide legal certainty regarding investment by revising regulations in the context of simplifying licensing related to investment, both the licensing process and the types of permits issued by ministries/agencies. Creating a conducive investment climate and supporting facilities will increase investment in Indonesia. To ensure legal certainty for investors, deregulation and debureaucratization are efforts the government needs to simplify investment regulations.³

The problem of investment in Indonesia, many factors influence and even hinder investment activities, including reforming policies and their implementation due to the lack of consistency in policies. The inconsistency can be seen in the primary duties and functions of the Investment Coordinating Board (BKPM), whether as a one-stop service center or as a promotion center. This will confuse investors. BKPM is an authorized institution related to the implementation of investment in Indonesia.⁴ Second, bureaucratic problems and obstacles due to open opportunities for corruption or illegal levies can lead to a bad investment climate in Indonesia. Third, uncertainty in the interpretation and implementation of regional autonomy

¹ Antoni Putra, "Implementation of Omnibus Law in Regulatory Reform Efforts," Indonesian Legislation Journal 17, No. 1 (2020): 1–10

² Ima Mayasari, "Regulatory Reform Policy Through the Implementation of Omnibus Law in Indonesia," Rechts Vinding Journal: Media for National Law Development 9, No. 1 (2020): 1–15.

³ Muhammad Baidarusa, Chintya Dewi Nimas Ayu Anggraenib, Hazada Zafira Maulizac. "Tinjauan Atas Regulasi Penanaman Modal Guna Meningkatkan Ketertarikan Investasi Infrastruktur Strategis Di Indonesia". *Jurnal Badan Pendidikan Dan Pelatihan Keuangan Kementerian Keuangan Republik Indonesia*, 11 No 1 (2018) : 75

⁴ Ni Putu Mirah Wulansari, "Tugas Dan Fungsi Badan Koordinasi Penanaman Modal Ditinjau Dari Undang-Undang Nomor 25 Tahun 2007 Tentang Penanaman Modal", *Jurnal Ilmu Hukum* (2015) : 1

because many regional regulations in the investment sector show that understanding regional autonomy is still wrong. Fourth, human resources and non-transparent labor policy issues have resulted in less productive employment conditions. Fifth, the level of corruption is still high, where the implementation of regional autonomy, which still shows various weaknesses, has even further spread the practice of corruption and illegal levies to the regions.⁵

Investment can drive the economic life of a country because capital formation can increase production capacity, increase national income and create new jobs, which will expand job opportunities.⁶ Investment itself has such a complex arrangement. In addition to the provisions in Law no. 25 of 2007 concerning Investment, several sectoral laws and regulations were received. So the chance of overlapping between Law no. 25 of 2007 with extensive sectoral laws.⁷

Therefore, omnibus law revokes several conflicting and overlapping laws and regulations regarding investment activities. The form of investment licensing regulations which are considered convoluted licensing processes or procedures are contained in the Regulation of the Head of the Investment Coordinating Board No. 12 of 2009 concerning Guidelines and Procedures for Application for Investment, especially in Article 34 paragraph (1) and paragraph (3), namely⁸ that the article regulates the licensing process for foreign investment which is convoluted and multi-layered because to obtain the issuance of an application for a principle permit one must go through many relevant agencies in this matter, so that it can hinder investors from investing their capital, especially for foreign investors. In addition to investment issues, changes in the environmental sector by establishing new regulations related to business permits and revising, deleting, and revoking several articles contained in the provisions of Law no. 32 of 2009 concerning PPLH.

The form of change that was criticized by some circles regarding the abolition of the Amdal assessment commission in the provisions of Article 29, Article 30, and Article 31 of Law no. 32 of 2009 concerning PPLH, in which the abolition of the amdal assessment commission will at least have new impacts, one of which has the potential to deprive the local community of business actors of information access, especially in locations that are difficult to reach or unfriendly to access to technology in the preparation of amdal. AMDAL studies the significant impact of a planned business and/or activity on the environment, which is required for the decision-making process regarding the implementation of the business and/or activity.⁹ The AMDAL assessment commission was formed by the local Regional Head consisting of 2 people from the Government, 2 Expert Teams, and one representative from the potentially affected community and environmental organizations. Still, this rule has been replaced with the provisions of Article 24 of the Job Creation Law by establishing The Feasibility Test Institute established by the Central Government is tasked with testing environmental feasibility, which consists of elements of the central government, elements of local governments and certified experts.

⁵ Johan Hursepuny, "Investment and its Problems in Indonesia," *Jisamar (Journal Of Information System, Applied Management, Accounting, and Research)* 3, No. 2 (2019): 72–78.

⁶ Poppy Camenia Jamil, Restu Hayati, "Penanaman Modal Asing di Indonesia". *Jurnal Ekonomi KIAM*, 31 No. 2 (2020): 1.

⁷ Muhammad Insa Ansari, "Omnibus Law for Managing Investment Regulations," *Rechtsvinding Media for National Law Development* 9, No. 1 (2020): 71–90.

⁸ Andika Wahyu Wibowo and Ida Bagus Rai Djaja, "Constraints of Foreign Investment Licensing in Indonesia," *Kertha Negara Journal, Journal of Legal Studies* 01, No. 01 (2013).

⁹ Endang Susilowati, Sukriyah Kustanti Moerad. "Perubahan Persepsi Melalui Pelibatan Masyarakat dalam Proses Analisis Mengenai Dampak Lingkungan (AMDAL) PLTGU Perak". *Jurnal Sosial Humaniora (JSH)*, Vol 9 No. 2 (2016) : 142

Influence all forms of decisions in the EIA process. Another amendment to the PPLH Law relates to community participation in preparing the Amdal document, which only involves the community directly affected by the planned business and/or activity. This is considered to suppress the role of community involvement optimally. The limitation of community involvement is compared to the spirit of democracy in the government administration system. In contrast, in the previous provision, community involvement was carried out by providing transparent and accountable information on every business and/or activity before the activity was carried out, involving the affected community, environmentalists and other parties.

Other changes are also in the preparation of the Amdal document for the initiator to appoint another party who is required to have a certificate of competence in preparing the Amdal, which is the problem with the form of the competency criteria for preparing the Amdal. The provisions of Article 34 related to UKL-UPL are more simplistic and standardized for UKL-UPL, where the role of the central government is given the authority to determine the types of businesses and activities that must be completed with UKL-UPL. This has an impact of tug-of-war with local government authorities as stipulated in UUPPLH. Meanwhile, related to businesses or activities that are not required to be equipped with UKL-UPL, are required to make a statement of ability to manage and monitor the environment, which is integrated into the Business Identification Number (NIB).

The change, which is also a polemic against the abolition of Article 38 and Article 93 in the Job Creation Law closes the gap for the public, which has the impact of filing a lawsuit against the decision of state administrative officials who issue environmental licensing decisions that are not following environmental documents such as Amdal through the decision of the Administrative Court. State efforts, even though the community's right to sue to seek justice, is guaranteed in principle 10 of the 1992 Rio de Janeiro Declaration concerning the environment and humans. The government must guarantee the right of access to justice for the term environmental approval as a substitute for environmental licensing. Besides that, changes are also made to the provisions of environmental feasibility in the announcement process to the public through the electronic system set by the central government. This is a weakness because many regions cannot access electronic information systems due to limited facilities, infrastructure, and digital literacy. The Job Creation Law is also considered to weaken law enforcement. The change is contained in the provisions of Article 88 of the UUPPLH regarding absolute responsibility for losses that occur without the need to prove the element of error. The law changes the provisions of Article 88 to eliminate "without the need for proof of the element of guilt". The provision of the principle of absolute liability (strict liability) is a principle of legal liability that occurred in a case in England between *Rylands v. Fletcher* in 1868.¹⁰

The concept of strict liability is a reasonable basis for the plaintiff to prove the element of guilt in the judicial process. The concept of strict liability was applied in Indonesia through the ratification process of the Civil Liability Convention for Oil Pollution Damage (CLC) in 1969 through Presidential Decree No. 18 of 1978. Then the concept was also regulated in Law no. 4 of 1982 concerning Basic Provisions for Environmental Management and Law no. 32 of 2009 concerning Environmental Protection and Management.

¹⁰ Rahmat Saputra, "Construction of Government Regulations After the Ratification of the Job Creation Law on Sustainable Development," *Environmental Law Development* Vol. 5, No. 3 (2021): 399–415

The protection and management of the environment in its implementation is still a problem that has not been resolved until now. Environmental damage and pollution are threats and challenges that must be resolved.¹¹ In addition to the problem of environmental damage and pollution, there are also hazardous and toxic (B3) and B3 waste such as medical waste, aluminum slag, contamination from hoarding hazardous and toxic waste (LB3) in residential areas, mercury and cyanide contamination in various mining locations, etc.¹²

Environmental problems in several developed and developing countries are problems that become the need for sustainable development (Sustainable Development Goals).¹³ The essence of development is to achieve sustainable and environmentally sound growth. The implementation of environmental management needs to be based on legal norms based on the needs of sustainable development (Sustainable Development Goals). It must pay attention to the level of public awareness and international legal instruments that form the basis for environmentally sound policies.¹⁴ Based on the above background, the problem in this research is how the investment licensing arrangements in the enactment of Law no. 11 of 2020 concerning Job Creation and how is environmental sustainability after the enactment of Law no. 11 of 2020 About Job Creation.

Based on this background, the author analyzes the regulations in enacting the law on job creation. The author looks at licensing, regulation, investment, and environmental sustainability and their relevance based on regulations. Through this research, the author hopes to find a relationship between the overlapping regulation of the law with licensing, investment and environmental sustainability. The novelty of this research will significantly contribute to determining licensing, investment, and environmental sustainability because the approach used to determine licensing, investment, and environmental sustainability are more comparative. This research is expected to contribute to the legislation, particularly in the study of licensing, investment and environmental sustainability.

The research method used in this research is normative legal research. Normative legal research uses primary, secondary and tertiary data, a statutory approach, a conceptual approach, and a comparative approach. All data were analyzed using synthetic analysis. From the synthesis analysis results, conclusions are drawn as necessary.

The term investment or investment is prevalent in the business world and legal language. In the business world, the term investment is better known, while in legal language, the term investment is more commonly found. However, the two terms have the same meaning. According to Fitzgerald, investment is an activity related to using the resources (funds) drawn to procure capital goods at this time. These capital goods will produce a flow of new products in the future.¹⁵

¹¹ The Secretariat Of Asian Environmental Compliance and Enforcement Network, "Environmental Compliance and Enforcement in Indonesia Rapid Assessment," *Aric.Adb.Org*, last modified 2008, <https://aric.adb.org/initiative/asian-environmental-compliance-and-enforcement-network>.

¹² AL Sentot Sudarwanto and Dona Budi Kharisma, "Omnibus Law and Environmental Permits in the Context of Sustainable Development," *Rechtsvinding Media for National Law Development* Vol. 9, No. 1 (2020): 101–121

¹³ Mickael B. Hoelmanetall, *SDGs Guide for Local Governments (City and District)* (Jakarta: International NGO Forum on Indonesia Development, 2015)

¹⁴ Siswanto Sunarso, *Environmental Criminal Law and Dispute Resolution Strategies*, ed. PT. First Printing (Jakarta: Rineka Cipta, 2005).

¹⁵ H Salim HS, *Investment Law in Indonesia, Edition 2*. (Depok: Raja Grafindo Persada, 2018).

According to Sjahran Basah, a permit is a legal act of state administration that applies regulations in concrete terms that are sourced from the requirements and procedures stipulated by the laws and regulations. Permissions granted by the authorities significantly affect community activities because these permits allow a person to perform prohibited actions. The public interest requires supervision of the actions taken.¹⁶

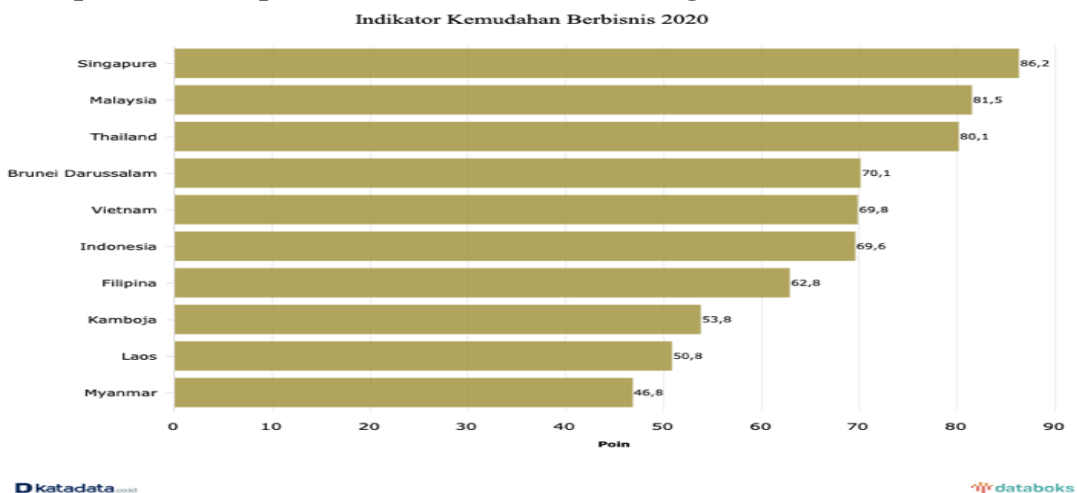
Nature, the continuity of life, and the welfare of humans and other living creatures. The definition of the environment based on the provisions of Article 1 paragraph (1) of Law Number 32 of 2009 concerning Protection and Management of the Environment (in the future referred to as UUPPLH) is the unity of space with all objects, forces, conditions and living things, including humans and their behavior, which affect the environment. The definition of the environment, apart from being regulated based on the provisions of the UUPPLH, was also put forward by experts. According to Emil Salim, the environment is all objects, conditions/conditions and influences in the room we occupy that affect living things, including human life.¹⁷

B. Discussion

1. Investment licensing arrangements in the enactment of Law no. 11 of 2020 concerning Job Creation.

The government's efforts to provide protection include legal certainty, infrastructure improvements, and ease of licensing procedures. Legal certainty regarding investment is regulated in Law Number 25 of 2007 concerning Investment which seeks to accommodate the times, whereas the previous regulation is Law Number 1 of 1967 jo. Law Number 11 of 1970 concerning Foreign Investment and Law Number 6 of 1968 jo. Law Number 12 of 1970 concerning Domestic Investment is deemed not following the times. The background of providing facilities or ease of doing business by re-effectively PTSP are among others: Nawa Cita who wants to make Indonesia a leading country in terms of ease of doing business; the results of the survey on ease of doing business/EODB conducted by the World Bank on 189 countries on ten indicators of ease of doing business for small and medium enterprises (SMEs) in conducting business activities; The following is the ranking in ASEAN in terms of ease of business as follows:

Chart 1
Comparison of Improvements in the Ease of Doing Business in ASEAN Countries



¹⁶ Ridwan HR, State Administrative Law (Yogyakarta: UII Pres, 2003).

¹⁷ I Putu Tuni Cakabawa et. al, Environmental Law Clinic (Denpasar: Udayana University Press, 2015).

During the administration period, President Joko Widodo and Vice President Ma'ruf Amin began to roll out the concept of omnibus law against the legislation. The concept of omnibus law was put forward by Joko Widodo at the beginning of his inauguration as president in the second term of his administration.¹⁸ This concept is presented to reduce bureaucratic obstacles in the investment sector, which is still lagging. In line with that, the Coordinating Ministry for the Economy of the Republic of Indonesia has prepared the concept of an omnibus law, especially regarding business licensing, job creation, and empowerment of micro, small and medium enterprises, along with a review of investment policies. Investment itself has such a complex arrangement. In addition to the provisions in Law Number 25 of 2007 concerning Investment (UUPM), investment is also regulated by several sectoral laws and regulations. So the opportunity for overlap between UUPM and sectoral laws is enormous. For this reason, the concept of omnibus law can be used to revoke several conflicting and overlapping laws and regulations on investment activities.

Realizing the goal of establishing the Government of the Republic of Indonesia and realizing a prosperous, just and prosperous Indonesian society based on Pancasila and the 1945 Constitution of the Republic of Indonesia, the State needs to make various efforts to fulfill the rights of citizens to work and a decent living for humanity through creativity. Job creation is expected to be able to absorb the broadest possible Indonesian workforce during increasingly competitive competition and the demands of economic globalization. To support job creation, it is necessary to adjust various regulatory aspects related to the convenience, protection, and empowerment of cooperatives and micro, small and medium enterprises, improvement of the investment ecosystem, and acceleration of national strategic projects, including increasing protection and welfare of workers.¹⁹

Job creation is an effort to create jobs through facilitating, protecting, and empowering cooperatives and micro, small and medium enterprises, improving the investment ecosystem and facilitating business, investing from the Central Government and accelerating national strategic projects. Regulations relating to the convenience, protection, and empowerment of cooperatives and micro, small and medium enterprises, improvement of the investment ecosystem, and acceleration of national strategic projects, including increasing protection and welfare of workers spread across various sectoral laws, are currently unable to meet the needs the law to accelerate work creation so that changes need to be made. Law No. 11 of 2020 was established with the aim of:

- a. Creating and increasing employment opportunities by providing convenience, protection, and empowerment for cooperatives and MSEs as well as national industry and trade as an effort to be able to absorb the broadest possible Indonesian workforce while still paying attention to balance and progress between regions in the national economic unity.
- b. Ensuring every citizen gets a job and fair and proper remuneration and treatment in an employment relationship.
- c. Make adjustments to various aspects of regulation related to alignments, strengthening, and protection for cooperatives and MSEs and national industry; and
- d. Adjusting various regulatory aspects related to improving the investment ecosystem, facilitating and accelerating national strategic projects oriented to national interests based on national science and technology guided by the ideology of Pancasila.

¹⁸ Enrico Simanjuntak, "Revitalization of General Administrative Law through the "Omnibus Law" (Kompas, 18 December 2019) in the opinion was written as follows: "Since it was read in President Joko Widodo's inauguration speech, 20 October 2019, the term omnibus law has continued to decorate the news and mass media opinion. The omnibus law is understood as a method of "sweeping the universe" –omnibus comes from the Latin word, meaning: for all things- which simultaneously changes various laws related to the formation of a new law.

¹⁹ Muhamad Iqbal, "Development of Crime in Criminal Law Enforcement Efforts: Combating Professional Crimes of Trafficking in Human Organs," in *Humanis Proceedings Pamulang University*, 2017.

- e. The enactment of Law no. 11 of 2020 concerning Copyright is expected to provide convenience in the field of investment in Indonesia, especially foreign investment through simplifying investment requirements. The influx of investment will control economic growth while creating more jobs during the Covid-19 Pandemic.²⁰ There are different arrangements regarding foreign investment in Indonesia as enshrined in the Law of the Republic of Indonesia Number 25 of 2007 concerning Investment (Investment Law) and in the Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation (Law on Job Creation). Comparison of Investment Arrangements in the Law of the Republic of Indonesia Number 25 of 2007 concerning Investment and the Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation.

Table 1. Comparison of Investment Arrangements in Law Number 25 of 2007 concerning Investment and Law Number 11 of 2020 concerning Job Creation

No	Investment Law	Job Creation Act
1.	There are differences in terms of domestic investment with the requirements of foreign investors	The terms of domestic investment and the terms of foreign investment are not distinguished
The provisions in Article 12, paragraphs (3), (4) and (5) of the Investment Law are omitted so that the regulation is simplified in the Job Creation Law.		
2.	The authorized party is the Government. Article 13: The fostering and development of micro, small, medium and cooperative enterprises do not provide HR training and provide access to financing.	The Central Government shall stipulate provisions for the Implementation of Investment. Article 13: Fostering and developing cooperatives and micro, small and medium enterprises, providing HR training and providing access to finance.
3.	Government Requires that businesses open to large businesses must cooperate with micro, small, and medium enterprises and cooperatives.	Following their respective authorities, the Central Government or Regional Governments provide convenience for cooperatives and micro, small and Medium Enterprises.
4.	The provisions of cooperatives, micro, small and medium enterprises are still standard and rigid, so they do not provide convenience.	The Central Government provides protection and empowerment of cooperatives and micro, small and medium enterprises.
There are conditions for doing business in Article 13 of the Investment Law, and the Job Creation Law provides ease of doing business.		
5.	It is the Government that provides facilities to investors who make investments.	The one who provides facilities to investors who make investments is the Central Government.
6.	Investments that receive facilities do not include the Tourism Sector.	Investments that receive facilities include tourism business development.
7.	Provisions regarding the form of facilities provided for investment still contain complexities.	Simplification and convenience The form of facilities provided for investment is carried out following the provisions of the legislation in the field of taxation.
There is a simplification of investment provisions in the Job Creation Law.		
8.	Article 25: The investment company is determined by the agency that owns it unless otherwise stipulated in the law	Article 25: The Central Government sets investment companies' norms, standards, procedures, and criteria.

²⁰ Muhamad Iqbal Susanto, "The Legal Position of People Power and Its Relevance to the Right to Freedom of Expression in Indonesia," *Volksgeist: Journal of Legal and Constitutional Sciences* Vol. 2, No. 2 (2019): 225–237.

Based on the table above, there has been a regulatory arrangement against Law no. 25 of 2007 concerning Investment based on Law no. 11 of 2020 concerning Job Creation. More or less, regulatory arrangements will affect investment investors in a country. Investment regulations that do not overlap and do not conflict with each other are investors' expectations. For this reason, it is necessary to arrange regulations that encourage and support investment growth.²¹ Of course, the question is, will the omnibus law increase investment growth? This question is interesting to analyze using the views of Lawrence M. Friedmann. In Friedmann's view, the legal system has 3 (three) elements, namely structure, substance, and culture.²² The structure of the legal system consists of elements of law enforcement agencies, law enforcement authorities, and law enforcement procedures. The legal system, in terms of structure, refers to institutions or institutions, such as the legislature, executive, and judiciary, and how these institutions carry out their functions. The structure also means institutions that enforce a legal system itself. The substance is a legal system's fundamental rules, norms, rules, and behavior patterns. The legal substance concerns the applicable laws and regulations that have binding power and serve as guidelines and can be appropriately implemented.

Culture concerns the legal culture, which is the attitude of humans as part of society, including the legal culture of law enforcement officers towards the law and the legal system. Legal culture is more directed at people's attitudes, respect, or community expectations of the law and the legal system. Legal culture describes attitudes and behavior towards the law and the factors determining how the legal system gets a place and is accepted by citizens. Simply put, the level of community compliance with the law is an indicator of the functioning of the law in society. Moving on from Friedmann's view, the three elements of the legal system must be present and run simultaneously. Legal culture describes attitudes and behavior towards the law and the factors determining how the legal system gets a place and is accepted by citizens. In short, investment regulation only means that it only has one element, namely substance. In addition, there is a need for an apparatus that organizes investment and harmonizes the rights and obligations of investors and the government. And supported by the apparatus's readiness to adjust to global investment developments. In addition, many other things need to be considered by the government, especially in providing convenience for investors to invest in the country.

Simply put, the level of community compliance with the law is an indicator of the functioning of the law in society. Moving on from Friedmann's view, the three elements of the legal system must be present and run simultaneously. In short, investment regulation only means that it only has one element, namely substance. In addition, there is a need for an apparatus that organizes investment and harmonizes the rights and obligations of investors and the government. And supported by the apparatus's readiness to adjust to global investment developments. In addition, many other things need to be considered by the government, especially in providing convenience for investors to invest in the country.

However, Law no. 11 of 2020 concerning Job Creation creates a conducive climate for investment in the country regarding regulatory arrangements. Overlapping arrangements related to the investment will be overcome by enacting Law no. 11 of 2020 concerning Job Creation. In addition, it is necessary to strive for law enforcement to create legal certainty. Hopefully, the legal certainty in the legislation aligns with the legal certainty in law enforcement. Because, after all, legal certainty in law enforcement is an important measure to assess legal certainty.

²¹ Munir Fuady, *Theory of Business Law: In Theory and Practice*, Ketig Book (Bandung: PT. Citra Aditya Bakti, 2002).

²² Lawrence M Friedmann and Grant M Hayden, *American Law: An Introduction* (Newyork: Oxford University Press, 2017).

2. Environmental Preservation after The Enactment of Law No. 11 of 2020 Concerning Job Creation

Sustainable development is a multidimensional development paradigm that considers the interests of future generations in addition to meeting current needs.²³ Meanwhile, Mannion stated that the concept of sustainable development is a necessity to reconcile economic development, quality of life, and the environment in various political frameworks that are interrelated at the international and global levels. Regarding sustainable development, two essential aspects influence each other: environmental and developmental. Development is a process that is generally planned deliberately in society to lead to better living conditions. The basic concept of sustainable development begins with the unlimited number of human needs that are not in line with the existence of limited natural resources. The pillars of sustainable development in economic, social, and environmental sustainability must develop in a balanced manner; otherwise, the development will be trapped in the conventional development model, which emphasizes economic growth only and leaves social and environmental development behind.²⁴

Criticism of the regulation of natural resource management in Law no. 11 of 2020 concerning Job Creation. The government hopes that the Employment Creation Law can be a tool for economic transformation to avoid the middle-income trap to reach a Golden Indonesia before 2045. As well as make Indonesia a country with the fifth economic power in the world.²⁵ Unfortunately, these good intentions are not reflected in the process of formation and substance in the Job Creation Law. The lack of public participation in the formation process is one of the sectors that has received criticism. In terms of substance, the Job Creation Law is also considered unfriendly to the environment and threatens marginalized communities. Various relaxations in environmental requirements for business actors in the Job Creation Law have the potential to cause side effects. For example, environmental pollution threatens the safety of future generations, such as the non-fulfillment of the right to a good environment and a safe place to live.²⁶ The Job Creation Law changes the method of business licensing from one based on environmental permits to one based on risk and business scale. Business licensing is only required for low-risk businesses by issuing a Business Identification Number (NIB). Medium-risk business licenses are added with the fulfillment of standard certificates. Meanwhile, high-risk people require approval from the central government to start a business. Meanwhile, the Environmental Impact Analysis (Amdal) is only for high-risk business activities to the environment. In addition, community participation in the licensing process is reduced. The Job Creation Law only allows people directly affected to be involved in preparing the Amdal. So far, in Law Number 32 of 2009 concerning Environmental Protection and Management (UU PPLH), people in the affected environment are involved in making the Amdal, not only people directly affected by a business but also parties such as environmentalists.²⁷

²³ Niken Pratiwi, Dwi Budi Santosa, Khusnul Ashar, "Analisis Implementasi Pembangunan Berkelanjutan Di Jawa Timur", *Jurnal Ilmu Ekonomi dan Pembangunan*, 18 No. 1 (2018) : 1

²⁴ Muhammad Suparmoko, "Konsep Pembangunan Berkelanjutan Dalam Perencanaan Pembangunan Nasional Dan Regional", *Jurnal Ekonomika dan Manajemen* Vol. 9 No. 1 (April 2020) : 41

²⁵ Airlangga Hartarto in Gora Kunjana, "The Ciptaker Bill Balances the Benefits for the Community and the Interests of Business Actors", <http://brt.st/6P8f>, accessed on October 14, 2020

²⁶ Indonesian Center for Environmental Law, Various Problems in the Environmental and Natural Resources Sector Job Creation Law, series #3: analyst series 6 october 2020, <https://icel.or.id/wp-content/uploads/ICEL-SERI-ANALISIS-UU-CIPTA-KERJA-SEKTOR-LH-DAN-SDA-compressed.pdf>, accessed on October 14, 2020

²⁷ Republic of Indonesia, Law Number 32 of 2009 concerning Environmental Protection and Management, Article 26 paragraph (3)

In addition, the Job Creation Law also eliminates the opportunity for the public to file objections to the Amdal.²⁸ Regarding waste management, the Job Creation Law allows individuals or business entities to dispose of hazardous and toxic (B3) management waste in rivers and seas and put them on the ground with permission from the government.²⁹

The issuance of a waste disposal permit is very dangerous for the environment because it has the potential to cause pollution, while the requirements and procedures for the disposal of B3 waste into environmental media (rivers, land, sea, and air) are not regulated in detail in the Job Creation Law. In managing B3 waste, the absolute responsibility of business actors who pollute B3 waste is weakened. The phrase "loss that occurs without the need for proof of an element of guilt" in Article 88 of the PPLH Law is changed to "loss from its business or activity". With this change, the responsibility of business actors for environmental pollution due to B3 can only be prosecuted after first providing evidence to see whether or not there is an element of error.³⁰

Criticism of the management of natural resources in the Job Creation Law is not only on the amendments to the PPLH Law but also on several other laws, such as Number 39 of 2004 concerning Plantations (Plantation Law), Law Number 3 of 2020 regarding Amendments to Law Number 4 of 2009 concerning Mineral Mining, and Coal (Minerva Law), and Law Number 2 of 2012 concerning Land Procurement for Development in the Public Interest (Land Procurement Law for Development in the Public Interest). The Job Creation Law amends Article 16 of the Plantation Law, which provides a maximum limit of 3 years and six years after obtaining land rights for business actors to cultivate their plantation land. In the Job Creation Law, the time limit is shortened to 2 years after receiving the status of land rights. The Job Creation Law does not change the consequences for business actors if the concession is not carried out, namely the appropriation of the part of the plantation land that has not been cultivated.

However, the Job Creation Law abolished the administrative sanction for the violation, which was previously regulated in Article 18 of the Plantation Law. The absence of such sanctions raises questions about the effectiveness of implementing these provisions in the field. Then, the Job Creation Law also amends Article 34 of the Law on Land Procurement for Development in the Public Interest. Based on the change, the state can carry out unilateral land grabbing for reasons of public interest with the compensation value determined by the appraiser (appraisal). This is different from the previous arrangement, which used a deliberation process. To determine compensation in the Job Creation Law, the compensation value determined by the appraiser is final and binding and becomes the basis for determining the form of compensation. The existence of the deliberation process based on the new arrangement is uncertain because the reference to the paragraph that regulates it is not found in Article 34. With this change, the only opportunity for the community to file an objection is through the courts. Limited resources in the community, especially the marginalized, are increasingly pressing their chances of getting their rights or at least getting proper compensation. From several problems above, it can be seen that the government has neglected the environmental and community protection sectors in regulating the management of natural resources. The government wants to solve real problems on the ground, but the paradigm used entirely uses

²⁸ Compare Article 26 of Law Number 32 of 2009 concerning Environmental Protection and Management with Article 26 of Law Number 32 of 2009 the amended version of the Job Creation Law.

²⁹ Article 61A amendments to Law Number 32 of 2009 concerning Environmental Protection and Management in the Job Creation Law.

³⁰ Lusia Arumingtyas and Sapariah Satri, "The Horror of the Job Creation Bill, from Lost Environmental Permits to Weak Legal Sanctions", <https://www.mongabay.co.id/2020/02/14/horror-ruu-cipta-work-dari-permission-environment-lost-until-weakened-sanctions-law/> accessed on August 7, 2020

economic growth with a short-term business perspective.³¹ The management of natural resources has a great potential to damage the environment and cause the community to become victims, primarily indigenous peoples, who often conflict with the management of natural resources. According to an academician from Gadjah Mada University (UGM) Totok Dwi Widianoro, the Job Creation Law reduces the prudential aspect of managing natural resources. Changes in the regulation of the Job Creation Law can potentially cause excessive exploitation of natural resources, resulting in environmental damage and threatening the community.³²

C. Conclusion

Based on the discussion above, the conclusions of this study are as follows:

1. The implementation of the Investment Law has many overlaps based on aspects of authority, rights and obligations, protection, and law enforcement. Whereas based on an analysis of the principles and indicators of Law no. 25 of 2007 concerning Investment is considered not to meet the indicators of the involvement of indigenous peoples, local communities, women and other marginalized communities. While Law no. 32 of 2009 concerning PPLH has fulfilled the principles and indicators, there are still overlaps based on aspects of authority, rights and obligations, protection, and law enforcement in the application of environmental protection and management. With the enactment of Law no. 11 of 2020 concerning Job Creation, more or less regulatory arrangements will affect investment investors in a country. Investment regulations that do not overlap and do not conflict with each other are investors' expectations. For this reason, it is necessary to arrange regulations that encourage and support investment growth.
2. Whereas the principle of sustainable development is contained in Law no. 32 of 2009 concerning PPLH's management of natural resources as stated in Articles 63 and 64. This is intended to increase the role of local communities and maintain environmental functions. On the other hand, in Law no. 11 of 2020 concerning Job Creation, the lack of public participation in the formation process is one of the sectors that has received criticism in the formation. In terms of substance, the Job Creation Law is also considered unfriendly to the environment and threatens marginalized communities. Various relaxations in environmental requirements for business actors in the Job Creation Law have the potential to cause side effects. The Job Creation Law changes the method of business licensing from one based on environmental permits to one based on risk and business scale. However, the sustainability assessment criteria in Law no. 11 of 2020 concerning Job Creation and its derivatives still follow environmental prevention instruments, including planning, utilization, control, maintenance, supervision, and law enforcement. It's just that community involvement in the Amdal document is indeed reduced as in the provisions of the Job Creation Act, which amends Article 26 UU no. 32 of 2009 regarding the preparation of the Amdal document was carried out by involving the community who were directly affected by the planned business and/or activity.

³¹ CNN Indonesia, "Expert: The Copyright Act is Full of Exploitation of Natural Resources to Humans," <https://www.cnnindonesia.com/nasional/20201006160926-32-555036/pakar-uu-ciptaker-sarat-exploit-sda-to-human>, accessed on November 9, 2020

³² Ibid,

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