# The Implications of Law No. 11 2020 Concerning Job Creation on Regional Spatial Planning and Watershed Management

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***Abstract***

*In 2020, the government issued Law Number 11 of 2020 on Job Creation. This law has received numerous criticisms from the community, especially in the effort to realize self-sufficiency, security, and food sovereignty, as well as to protect agricultural land from the threat of land conversion. The government, on the other hand, claims that a job creation law, often known as omnibuslaw, can simplify and integrate fundamental permits from laws pertaining to location, environmental, and building permits. The problem under study was the implications of Law Number 20 of 2020 concerning Job Creation on spatial planning and watersheds management, employing a normative research method. The results highlight that the aforementioned law has reconstructed law number 26 of 2007 concerning Spatial Planning, which uses digital maps in the determination of RDTR, the integration of spatial planning and zoning plans, as well as the creation of single map policy to overcome land intersection, influencing permits in the regions. In addition, law number 41 of 1999 concerning Forest Area Limits has also been reconstructed, governing the adequacy of forest areas and forest cover in watersheds, which must be maintained at least 30 percent of the area of river basins. The 30% loss of the forest area may result in policy liberalization and the uncontrolled utilization of forest lands for industrial and commercial purposes. At the end, it will exacerbate tensions between spatial planning and watershed management, especially in preserving the adequacy of forest areas and forest cover in watersheds, which is critical to preventing erosion, landslides, and floods, as well as sustaining tree stands, litter, and undergrowth plant.*

## 1. Introduction

These days, spatial planning becomes absolutely indispensable as it influences regional growth and the environment. [1] Spatial challenges are multifaceted, pertaining to inefficient land use, irregular urbanization, high population density, and environmental and sustainability concerns. [2] Several studies have given a summary of miscellaneous issues connected to spatial planning and ways to overcome these problems, including the information on improved strategies, keys to population density,[3] or technology applied to maximize dexterous land utilization.[4] To reiterate, spatial planning indeed contributes to a balance state in all physical or non-physical components of growth. The planning stage is done to realize an ameliorate situation in the future, rooting on the dynamical propensity in the current and former advances. Regional spatial planning or renowned as RTRW (referred to neigborhood and community unit), is the output of spatial planning as a geographical unit containing multi-components with an administrative-based area and system. Due to its space limitation, the basis preparation for spatial planning require regulation and planned action for efficacious fulfillment.[5] Most crucially, biodiversity protection has the potential to strengthen spatial planning control. If the regulation is strong, the environmental management and biodiversity can be sustained. In other words, the animals and flora survival can also be ensured. Otherwise, an improper management of quality improvement may lead to ecological degradation. [6] In regional development, spatial planning must predominantly be conflicts-free and is unsustainable in a land use, as well as the key to a long-term regional growth [7]

The product, the regional spatial layout plan, is in the form of a spatial map document. The Regional Spatial Plan, RTRW in particular, exemplifies a harmonious, desegregated, integrated, and enhanced society. The RTRW is analogous and governs land-use protection, for instance sustainable food agriculture or forest reserving. It is practically designed on a divergent geographical and ecological characteristic of each region. Accordingly, an autonomous local

[1] F. N Almeida, J., Costa, C., & Da Silva, "A Framework for Conflict Analysis in Spatial Planning for Tourism.," *Tourism Management Perspectives* 24 (2017): 94-106.
[2] D. Galland, "Understanding the Reorientations and Roles of Spatial Planning: The Case of National Planning Policy in Denmark," *European Planning Studies* Vol. 20, no. 8 (2012): hlm 1359-1392.
[3] Dikha Budiman, Bias, "Spatial Planning Policy in the Region: Problems and Solutions," *European Planning Studies* Vol. 20, no. 8 (2020).
[4] A. Budiman, H., Suparman, E., & Mashdurohatun, "Spatial Policy Dilemma: Environmental Sustainability and Economic Growth.," *Untag Law Review (ULREV)* 2, no. 1 (2018): 1–11.
[5] Esra Fitrah Alotia, "Kajian Yuridis Mengenai Oeran Pemerintah Daerah Dalam Penataan Ruang Menurut Undang Undang Nomor 26 Tahun 2007," *In The 2nd International Conference of Law, Government and Social Justice (ICOLGAS 2020),* 8, no. 3 (2020).
[6] S. Movono, A., Dahles, H., & Becken, "Fijian Culture and the Environment: A Focus on the Ecological and Social Interconnectedness of Tourism Development," *Journal of Sustainable Tourism* 26, no. 3 (2017): 451–469.
[7] S. Movono, A., Dahles, H., & Becken, "Fijian Culture and the Environment: A Focus on the Ecological and Social Interconnectedness of Tourism Development," *Journal of Sustainable Tourism* 26, no. 3 (2018): 451-469.

government is expected to execute an appropriate Spatial Planning and Utilization policy in compliance.[8] The issuance of Law Number 23 of 2014 (Regional Government) marks a shift in the divison of authority for spatial planning, crashing on its sectoral policies execution in the regions, such as licensing procedure, or even overlapping rules between Regional Apparatus Agencies. Consequently, bribery, extortion and corruption are mundane among unscrupulous governmental officials and businessmen. As a result, the government reforms the law by enacting Law Number 11 of 2020 (Job Creation). The law amends the following provisions; four legislations and 51 (fifty one) articles for location permits; 2 laws and 36 articles for environmental permits; and 2 laws and 48 articles for construction permits.[9] Correspondingly, the regional strategic area imposes its application on the minister and the provincial authorities. This provision, however, is repealed in the Job Creation Law since it transfers to the central government.[10]

Attributing to Job creation law, the regional government authority only covers regulation, guidance, and supervision on province and regency/city spatial planning. Thus, people in the region allude the environmental conservation and recources utilization. In this case, it is because the central government has taken over the local government's right. Essentially, the idea is to delegate decision-making authority to regions because they are experienced at assessing the potential and constraints of environmental use. It is also envisaged that by doing so, environmentally sound policies will be consistent with the region. If the central government takes on this role, there is a risk that incorrect policies would be adopted, resulting in environmental damage. Allowing permits for natural resources without first undergoing an EIA review (the Job Creation Law) would also drive environmental damage even higher. In light of the foregoing, the implications of the job creation law, specifically on regional spatial planning and watersheds management, are further elaborated. Thus, the research question is: How is the job creation law on spatial planning and watershed (DAS) being implicated?

## 2. Research Method

The study employed a normative juridical approach, attributing to legal norms and principles, applicable laws and regulations, legal theories and doctrines, jurisprudences, and other relevant literary inquiries. The data were secondary data which included primary, secondary, and tertiary legal materials. All data were collected by inspecting, gathering, and examining literary studies, laws and regulations, research findings, scientific studies, and other written files. Meanwhile,

[8] Buhar Hamja, "Fungsi Kewenangan Daerah Dalam Perencanaan Tata Ruang Di Daerah Perbatasan Kabupaten/ Kota," *Jurnal Cakrawala Ilmiah* 1, no. 2 (2021): 142.
[9] Tim Penyusun, *Kementerian Koordinator Bidang Perekonomian Republik Indonesia*, 2022.
[10] Anggita Mustika Dewi, "Dinamika Pengaturan Kriteria Pengalihfungsian LP2B Sebelum Dan Setelah Berlakunya Undang Undang Cipta Kerja" 7, no. 1 (n.d.): 83–102.

the analysis was qualitative, with witten and oral legal research materials from respondents, to comprehensively researched and intrepreted in order to obtain the predicted conclusion.[11]

## 3. Results and Discussion

The Regional Government Law of the Republic of Indonesia No. 23 of 2014 states that the region, as a legal autonomy community, has the authority to regulate and manage its area in accordance with the aspirations and interests of its community, as long as it is not irreconcilable with the national legal order and public interest. Thus, regional autonomy refers to the rights, powers, and obligations of autonomous regions, regulating and managing their own government related matters, as well as the interests of the local community within the framework of the Republic of Indonesia's Unitary State.[12] The spatial planning, for instance, the regions are granted the sovereignty to undertake planning, utilization, and supervision based on their respective policies. The limitation of the authority, however, is regulated in the provisions of Regional Government Law Number 23 of 2014, stating that each region can manage its own government programs, including spatial planning.[13]

The government passed the Job Creation Law, often known as the Omnibus Law, in 2020. It was developed to enhance investment and overcome barriers to economic progress. The Job Creation Law is a government-wide initiative aimed at reforming several sectors to boost the country's economic competitiveness. Among the factors are: investment permission. Such a law is projected to decrease administrative burdens, streamline licensing, and accelerate the investment process in Indonesia.[14]

1. The Job Creation Law is created to simplify and clarify labor regulations, thereby creating legal certainty for business actors.
2. It also seeks additional flexibility in personnel management for companies, such as extending working hours, contracts, and flexibility in the layoff process.

The omnibus law technique is involved to simplify the numerous overlapping rules that slow down the investment, specifically in accelerating economic growth or shortening the legislative process. In this case is eradicating the steps by degrees. In other means, you can simply alter the law you wish to amend. Despite the changes

[11] Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta, 2001).
[12] and Luthfia Hidayah Fitri, Winda, "Problematika Terkait Undang-Undang Cipta Kerja Di Indonesia: Suatu Kajian Perspektif Pembentukan Perundang-Undangan," *Jurnal Komunitas Yustisia* 4, no. 2 (2021): 725-735.
[13] & Pramono Purnama, E. E., "Penggunaan Diskresi Oleh Kepala Daerah Untuk Konsistensi Penataan Ruang," *Mimbar Hukum* 33, no. 1 (2020): 263–280.
[14] Tim Penyususn, "Naskah Akademik Rancangan Undang Undang Cipta Kerja" (n.d.).

made by the omnibus law, it is envisaged that the harmony would be preserved.[15]

The job creation law is projected to influence spatial planning, particularly by simplifying regulations and delegating greater flexibility to the central government, such as by designating strategic areas to attract investor. The changes accommodated are the abolition of spatial use permits. The permit is not promptly revoked, but rather replaced with a suitability model for spatial used. This is because the used permits troubled the investors in starting business. Meanwhile, the appropriateness model allows business actors to use a simpler method and an endless amount of space. The following table shows the simple basic licensing:[16]

| No | License Category | Policies governed by the Job Creation Law |
|---|---|---|
| 1 | Location Permit | Employing the RDTR digital map |
| | | Integrating spatial and zoning plans |
| | | A single map policy to prevent overlapping |
| | | RTRW review to address the dynamics of development |
| | | Forest areas are integrated in the RTRW |
| | | Accelerating RDTR determination |
| 2 | Environmental Licensing | Environmental permissions are kept up to date. |
| | | Environmental requirements for medium-risk operations |
| | | EIA is prepared by certified professionals |
| | | EIA for high-risk activities |
| | | The EIA is evaluated by the government |
| 3 | Construction Permit | The building permit is maintained |
| | | Building technical standards are used. |
| | | Prototypes can be used in non-high-risk buildings. |
| | | High-risk structures must be government-approved. |
| | | A certificate of proper function is issued by construction management/Supervisors |

The table shows that the enactment of the Law has had an impact on spatial arrangements governed by Law Number 26 of 2007. It occurs because it limits the jurisdiction of the regional government, particularly in planning, space utilization,

[15] Jimly Asshiddiqie, *Omnibus Law Dan Penerapannya Di Indonesia*, 2020.
[16] Tim Penyususn, *Kementerian Koordinator Perekonomian Republik Indonesia, Booklet Omnibuslaw Cipta Lapangan Kerja*, n.d.

and spatial control. Article 10 specifies spatial planning as a type of business to generate local revenue; defining its strategic areas to increase local revenue. It also applies to regional authorities, as stated in Article 11, which states that regional governments have the right and obligation to select strategic areas capable of developing their region. In addition, all provisions specified in Article 10 and Article 11 are no longer valid after the Law was enacted. Local governments no longer have the authority to establish or manage strategic areas in their regions as the result of the shift. It happens because the central government has seized the power[17].

The shift policies from the regions to the center is evident in several studies, with at least three things changing, the elimination of spatial use permits, the simplicity of spatial planning systems, and the centralization of spatial planning policies.[18] Some of the provisions experience a shift and change policies, *First,* Article 15 of the Job Creation Law states that if the local government has not prepared and provided a Detailed Spatial Plan, the business actor must submit an approval application through an electronic business licensing system for a location permit. Furthermore, approval will be granted by the federal government in compliance with the National Spatial Plan, as well as the Provincial and Regency/City Spatial Plans. *Second*, if province and district/city areas are unable to produce a spatial layout plan within the prescribed time soon after granted a substantive permission, the central government may take over. If no regional regulation has been specified, the regional head concerned must do so within one month. If he does not make a decision within one month, the central government will specify the spatial plan for the area. *Third*, Article 34A stipulates that even if a strategic change in national policy has not yet been incorporated into the spatial arrangement plan or zoning plan, its implementation will nevertheless take place. Furthermore, the implementation can be carried out after receiving advice from the central government on the acceptability of spatial usage activities. [19]

It suggests that the spatial plan does not include a strategic national policy. As a result, it can only be implemented when the central government makes suggestions. Accordingly, the principle of spatial planning should be based on predetermined plans to actualize proper spatial structures and patterns. As a result, if a strategic change affects spatial use in the areas, the planning should be evaluated and adjusted first to ensure that it remains on track. Otherwise, RTRW and RDTR will be rendered ineffective. Besides, the coordination and synchronization between

[17] Suwari Akhmaddhian et al., "The Effectiveness of Post-Mining Land Rehabilitation Policy in Realizing Environmental Sustainability: Lessons from Sukageuri View, Kuningan, West Java," *Journal of Degraded and Mining Lands Management* 11, no. 1 (2023): 5059–5071.
[18] Ngayu Tiara masayu, "Implikasi Undang Undang Cipta Kerja Terhadap Kewenangan Pemerintah Daerah Dalam Melaksanakan Penataan Ruang Nasional Dan Penyelenggaraan Penataan Ruang," *Jurnal Jatiswara* 36, no. 3 (2021): 238–249.
[19] Lusie Stella Anjeli Simbolon, "Pengaruh Undang Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja Terhadap Kewenangan Pemerintah Daerah Dalam Hal Tata Ruang," *Lex Administratum* 11, no. 1 (2023).

the regional government and the central government will not be applicable, particularly if the central government wants something that the regional government cannot deny at any cost.[20]

The Job Creation Law also has an impact on forestry rules, particularly those pertaining to watershed (DAS). As is well known, Article 33 of the 1945 Constitution mandates that the land, water, and natural resources contained therein be controlled by the State and used for the greatest possible prosperity of the people, so that forestry administration always contains the soul and spirit of the people, is just, and sustainable[21]. As a result, forestry administration must be conducted on the basis of advantages and sustainability, democracy, fairness, unity, openness, and integration based on noble character and accountability. State Forest control does not imply ownership, but rather grants the government the authority to regulate and manage everything related to forests, forest areas, and forest products; determine and or change the status of forest area; regulate and stipulate legal relations between people and forests, forest areas, and forest products; and regulate forestry-related legal actions. Furthermore, the government has the authority to grant rights and privileges to third-party forestry corporations.[22]

The Forestry Law establishes a balance between environmental, socio-cultural, and economic benefits. The government determines and maintains an appropriate extent of forest area in watersheds and/or islands through proportional distributionForest resources have a meaningful role in providing industrial raw materials, sources of income, job and employment prospect. Forest products are commodities that can be processed to add value and provide new employment and business opportunities. The processing of forest products must not degrade forests as a supply of industrial raw materials. To ensure a constant balance between the ability to supply raw materials and the processing industry, the minister in charge of forestry regulates, guides, and develops the upstream processing sector of forest products. Forest usage must be expanded beyond the production of wood and non-timber forest products to include germplasm and environmental services in order to maximize the forest's benefits.[23]

All forest principles can be used to maximize advantages while respecting their nature, traits, and vulnerabilities, and it is not justified to change their primary function. The use of forests and forest areas must be tailored to their primary roles

[20] and Retno Widodo Dwi Pramono Purnama, Erma Ekawati, "Penggunaan Diskresi Oleh Kepala Daerah Untuk Konsistensi Penataan Ruang," *Mimbar Hukum* 33, no. 1 (n.d.): 263–280.
[21] Suwari Akhmaddhian, Haris Budiman, and Rahul Bhandari, "The Strengthening Government Policies on Mineral and Coal Mining to Achieve Environmental Sustainability in Indonesia, Africa and Germany," *Bestuur* 11, no. 1 (2023): 95–120.
[22] and Muhammad Iqbal Baiquni Armies, Jessica, Asri Verauli, "Urgensi Perlindungan Hak Kepemilikan Atas Tanah Masyarakat Adat Di Wilayah Ibu Kota Negara Nusantara," *Recht Studiosum Law Review* 1, no. 2 (2022): 14-27.
[23] Nita Triana, "Pendekatan Ekoregion Dalam Sistem Hukum Pengelolaan Sumber Daya Air Sungai Di Era Otonomi Daerah," *Pandecta Research Law Journal* 9, no. 2 (2014): 158–172.

of conservation, protection, and production. Rehabilitation and reclamation of forests and land are critical to restoring forest quality and increasing community empowerment and welfare, so that community engagement forms the core of its success. The applicability of these three roles is very dynamic, and their use must be synergistic. To protect the quality of productive natural forests, conversion to plantation forests must be avoided.[24]

However, since the job creation law was implemented, forestry rules were governed in Law number 41 of 1999, which stated that owing to change, the local government authority was constrained, specifically in maintaining a minimum of 30% of the watershed area. It is a pledge to meet the United Nations Convention on Biological Diversity's 2030 aim. The loss of 30% of the forest area may result in policy liberalization and new chances for controlling the use of forest regions for industrial and commercial development.

## 4. Conclusion

The impication of the law (spatial planning and forest area covering watershed) is apparent, such as the loss of regional authority to regulate regional strategic areas to become National Strategic Areas. The shift in strategic area removes the jurisdiction of the provincial and district administrations, which have been taken over by the central government. The law on the job creation also repeals the provisions of law number 41 of 1999 (Forest Area Limits). The forest acreage and forest cover in watersheds must be maintained at least 30%, according to the United Nations Biodiversity Convention. The loss of 30% of the forest area may result in policy liberalization and new chances for controlling the use of forest regions for industrial and commercial development. Thus, it creates conflict between spatial planning and management of watersheds, especially in maintaining its adequacy. To advise, the government should quickly modify the law to close the regulatory gap and give the central government greater spatial planning authority. As a result, the regions could solely concentrate on a certain spatial planning. It also applies to establishing forest boundaries to avoid disorderly licensing of resource exploitation without having to go through an EIA review of the Job Creation Law, which increases the risk of environmental harm. To establish synchronization between the national and regional governments, legal measures are being implemented. It is because local governments are seen capable in identifying environmental potential and its limits, Thus, the policies implemented are in line with their region.

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[24] Surati Surati, "Study on Socio-Economic of Peatland Community in Tanjung Jabung Timur Regency, Jambi," *Jurnal Ilmu Kehutanan* 15, no. 2 (n.d.): 147–159.

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