Title: Potential Conflicts Between the Omnibus Law and the Paris Agreement in Indonesia's Environmental Policy

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Abstract
This article discusses the potential conflicts between certain provisions in Law No. 11 of 2020 on Job Creation (Omnibus Law) which has been revised in Law No. 6 of 2023, and the Paris Agreement, an international treaty binding countries to reduce greenhouse gas emissions and combat climate change. Several provisions in the Omnibus Law relax environmental regulations, such as reducing the requirements for Environmental Impact Analysis (Amdal), eliminating environmental permits as a prerequisite for business licenses, accelerating the conversion of forest land, and simplifying the permitting process in the extractive sector. These provisions could lead to increased deforestation and carbon emissions, which contradict Indonesia's obligations under Articles 4 and 5 of the Paris Agreement to reduce emissions and protect forests. Through the ratification of the Paris Agreement via Law No. 16 of 2016, Indonesia committed to taking concrete steps to mitigate greenhouse gas emissions. However, policies in the Omnibus Law risk undermining this commitment by weakening environmental safeguards. This article emphasizes the need for a reevaluation of national regulations to ensure alignment with international obligations, as well as the importance of maintaining Indonesia's credibility in the global fight against climate change..
Keywords: Paris Agreement, Omnibus Law, carbon emissions, environment, policy.

A. INTRODUCTION

The Paris Agreement, adopted in 2015, represents a historic global commitment to address climate change by reducing greenhouse gas emissions and implementing strategies to adapt to and mitigate its impacts (UNFCCC, 2015). Indonesia, as one of the world's largest contributors to tropical forest loss, holds a critical position in the global climate agenda due to its vast tropical rainforests and rich biodiversity, which play a significant role in carbon sequestration (Austin et al., 2019). To solidify its commitment, Indonesia ratified the Paris Agreement through Law No. 16 of 2016, thereby making it a binding source of law in the country. This legal commitment obligates Indonesia to implement environmental policies and sustainable development strategies that support greenhouse gas emissions reduction, deforestation control, and the conservation of natural ecosystems (Republik Indonesia, 2016).

However, the enactment of Law No. 11 of 2020 on Job Creation, commonly known as the Omnibus Law, has sparked significant debate regarding its environmental implications and potential conflicts with international agreements like the Paris Agreement. The Omnibus Law was designed as a regulatory reform to streamline Indonesia's legal framework and attract foreign investments. It introduces a series of amendments across multiple sectors, including labor, taxation, land use, and environmental management. However, critics argue that certain provisions within the law undermine critical environmental protections, particularly those related to Environmental Impact Analysis (Amdal) requirements, environmental permits, forest conservation, and land-use controls (Hadi et al., 2023).

One major area of concern is the relaxation of Environmental Impact Analysis (Amdal) requirements for businesses. Traditionally, Amdal has been a crucial tool for assessing the environmental impact of proposed projects, especially those that might significantly alter landscapes or

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ecosystems. Under the Omnibus Law, however, certain business projects are exempt from conducting a full Amdal, reducing accountability for environmental degradation and raising concerns about unchecked industrial expansion in environmentally sensitive areas (Saputra & Dhianty, 2022). This relaxation contradicts Article 4 of the Paris Agreement, which emphasizes the importance of national efforts to reduce emissions through sustainable practices and careful impact assessment. Without a robust Amdal requirement, projects that might have been previously restricted due to their environmental impact may proceed unchecked, potentially increasing Indonesia's greenhouse gas emissions.

Furthermore, the elimination of environmental permits as a prerequisite for business licensing poses a direct threat to environmental oversight. Environmental permits historically ensured that businesses complied with environmental standards before beginning operations. By removing this requirement, the Omnibus Law facilitates a more business-friendly but environmentally-risky regulatory framework. This policy shift raises concerns that Indonesia may face challenges in meeting its Paris Agreement commitments, as weaker permitting processes could lead to increased emissions and environmental degradation (Peterson, 2022).

Another contentious aspect of the Omnibus Law is its provisions on forest land conversion and land-use planning. Forests are vital carbon sinks, essential for mitigating climate change and supporting biodiversity. The Omnibus Law's amendments make it easier for industrial projects to access forested lands, including those previously protected under environmental regulations. This regulatory relaxation undermines Article 5 of the Paris Agreement, which encourages the conservation and enhancement of natural carbon sinks, including forests . By making forest areas more accessible to industrial activities, the Omnibus Law increases the risk of deforestation, thereby releasing stored carbon into the atmosphere and further exacerbating global warming (Austin et al., 2019).

The urgency to align national policies with international commitments has never been greater. Indonesia's strategic location and rich natural resources make it uniquely positioned to contribute significantly to the Paris Agreement's goals. However, domestic policies that prioritize economic growth at the expense of environmental protections challenge the integrity of these international commitments. Studies suggest that policies facilitating industrial expansion, particularly in the absence of strong environmental safeguards, may hinder long-term sustainable development goals and complicate Indonesia's efforts to mitigate climate change (Sembiring et al., 2020). The Omnibus Law's approach reflects an attempt to balance economic interests with environmental obligations, yet the weakened regulatory framework risks contradicting the foundational principles of the Paris Agreement.

In response to these concerns, it is crucial to examine the implications of the Omnibus Law through a legal lens, analyzing how specific articles may conflict with Indonesia's international obligations. Such an analysis can inform policy adjustments that better align with the Paris Agreement, ensuring that economic development does not come at the expense of environmental sustainability. By scrutinizing the intersection of national legislation and global environmental commitments, this article aims to contribute to ongoing discussions about the alignment of Indonesia's domestic policies with its role as a responsible global citizen committed to addressing climate change.

B. RESEARCH METHOD

The research referenced in this study adopts a normative legal research approach, commonly used in legal studies to analyze legal principles, legislation, and case law (Soekanto & Mamudji, 2001). The primary focus is on the textual analysis of Law No. 11 of 2020 on Job Creation (Omnibus Law), which was later amended by Law No. 6 of 2023, as well as Law No. 16 of 2016, which ratifies the Paris Agreement as binding legal sources in Indonesia. This approach enables an examination of the relationship between national legislation and international commitments, specifically analyzing how certain provisions of the Omnibus Law align or conflict with Indonesia's obligations under the Paris Agreement.

The study specifically concentrates on legal documents, including the articles within the Omnibus Law as amended by Law No. 6 of 2023, that pertain to environmental regulations, as well as the full text of the Paris Agreement. Furthermore, existing legal interpretations, environmental regulations, and judicial opinions related to these laws are reviewed to determine how Indonesian legal frameworks support or potentially undermine the principles outlined in the Paris Agreement.

The research procedure involves systematically examining the relevant articles in the Omnibus Law, as amended by Law No. 6 of 2023, that impact environmental protections, such as those concerning Environmental Impact Analysis (Amdal), environmental permits, and forest land conversion. Each provision is analyzed to identify language or mandates that may conflict with Article 4 and Article 5 of the Paris Agreement, which address emission reductions and forest conservation. In this context, it is crucial to note that Law No. 11 of 2020 on Job Creation was amended by Law No. 6 of 2023, which reflects changes and updates to the original legislation.

C. FINDINGS AND DISCUSSION

Analysis of Conflicting Articles Between Indonesia's Omnibus Law and the Paris Agreement in Environmental Policy

The Omnibus Law on Job Creation (UU No. 6/2023) brings substantial amendments to several existing laws in Indonesia, with notable implications for the mining and forestry sectors. While the law is designed to stimulate economic growth and streamline business regulations, concerns have been raised about its alignment with Indonesia's international environmental commitments, particularly those under the Paris Agreement. Ratified through Law No. 16 of 2016, the Paris Agreement calls for global efforts to limit climate change, including reducing greenhouse gas emissions, protecting carbon sinks, and promoting sustainable development. This analysis explores potential conflicts between the Omnibus Law and Indonesia's obligations under the Paris Agreement, focusing on the mining and forestry sectors, which are critical to Indonesia's climate strategy.

One of the key amendments in the Omnibus Law is found in Article 39, paragraph 5, which revises Article 128A of Law No. 4/2009 on Mineral and Coal Mining. This amendment allows Production Operation Permit Holders (IUP) engaged in the development and utilization of coal to receive preferential treatment regarding state revenue obligations:

"Pemegang IUP atau IUPK pada tahap kegiatan Operasi Produksi yang melakukan Pengembangan dan/atau Pemanfaatan Batubara sebagaimana dimaksud dalam Pasal 102 ayat (2) dapat diberikan perlakuan tertentu terhadap kewajiban penerimaan negara sebagaimana dimaksud dalam Pasal 128."

This provision may create a significant conflict with Indonesia's commitments under the Paris Agreement. Article 4 of the Paris Agreement mandates that countries take urgent action to reduce greenhouse gas emissions, aiming for a balance between emissions from human activities and the capacity of natural systems to absorb these emissions. The preferential treatment provided to coal mining operations could incentivize further coal production, which is a major source of carbon emissions. This could impede Indonesia's efforts to transition to cleaner, low-carbon energy sources and hinder its ability to meet its Nationally Determined Contributions (NDCs), as outlined in Article 4.2 of the Paris Agreement. The NDCs require countries to take domestic actions to mitigate climate change, and by prioritizing coal, Indonesia may struggle to fulfill its emission reduction targets, thus undermining its international climate commitments.

The Paris Agreement calls for the phasing out of fossil fuel subsidies and increasing investments in clean energy to achieve long-term sustainable development. Therefore, the fiscal incentives for coal under Article 128A of the Omnibus Law are inconsistent with the objectives of the Paris Agreement, which advocates for the reduction of fossil fuel dependence and the promotion of renewable energy sources. If Indonesia continues to prioritize coal through such measures, it risks creating a policy environment that runs counter to global efforts to limit global warming to below 2°C, with an aspiration to limit it to 1.5°C.

Another significant amendment in the Omnibus Law relates to forestry regulations. Article 36, paragraph 4 amends Article 15(4) of Law No. 41/1999 on Forestry, which directs the central government to prioritize the establishment of forest areas in strategic regions:

"Pemerintah Pusat memprioritaskan percepatan pengukuhan kawasan hutan sebagaimana dimaksud pada ayat (1) pada daerah yang strategis."

While this provision aims to accelerate forest designation in strategic areas, it raises concerns about its potential environmental impact, particularly in ecologically sensitive or biodiverse regions. The lack of specific guidelines on sustainable forest management in this provision could lead to deforestation or the conversion of forested land for non-forest uses. Such activities could significantly reduce Indonesia's capacity to absorb carbon, which directly conflicts with the objectives of the Paris Agreement.

Article 5 of the Paris Agreement stresses the importance of conserving and enhancing carbon sinks, particularly forests, as a means to mitigate climate change:

"Parties should take action to conserve and enhance… sinks and reservoirs of greenhouse gases as referred to in Article 4, paragraph 1(d), of the Convention, including forests" (UNFCCC, 2016, Article 5).

Indonesia is home to some of the world's largest rainforests, which play a critical role in absorbing carbon dioxide from the atmosphere. Deforestation and the conversion of forest areas into agricultural or industrial land could undermine Indonesia's ability to meet its climate goals, particularly in terms of carbon sequestration. The revision of Article 15(4) in the Omnibus Law, without clear criteria for sustainable land use, could exacerbate the country's deforestation problem and potentially increase emissions from land-use change. This would not only hinder Indonesia's efforts to reduce emissions but also undermine the global goal of maintaining the integrity of carbon sinks, as stipulated in the Paris Agreement.

Broader Implications of the Omnibus Law for Climate Policy and Sustainable Development

The broader implications of the Omnibus Law suggest a development-centered approach that prioritizes economic growth over environmental protection. This is evident in the amendments to the mining and forestry sectors, where fiscal incentives for coal extraction and the prioritization of forest development in strategic areas may lead to increased emissions and unsustainable land use practices. These changes could significantly hinder Indonesia's ability to meet its long-term climate goals under the Paris Agreement.

Article 4 of the Paris Agreement emphasizes the need for parties to adopt long-term low greenhouse gas emission development strategies. The Omnibus Law's focus on boosting coal production and potentially enabling land-use changes in sensitive forest areas could take Indonesia in the opposite direction, creating a trajectory misaligned with the global effort to limit temperature increases to 1.5°C above pre-industrial levels. As a major contributor to emissions from deforestation and fossil fuel consumption, Indonesia has a critical role to play in global climate efforts. The failure to integrate stringent environmental safeguards in the Omnibus Law could prevent the country from achieving the required emissions reductions and climate resilience, undermining both its own sustainability and its global climate commitments.

The Omnibus Law's amendments raise significant concerns regarding Indonesia's ability to meet its obligations under the Paris Agreement. The preferential treatment for coal production in Article 128A could impede efforts to reduce greenhouse gas emissions and transition to renewable energy, while the amendments to forestry law in Article 15(4) could lead to unsustainable land use and the degradation of vital carbon sinks. These provisions are not in harmony with the Paris Agreement's goals of emission reductions, sustainable development, and climate change mitigation. For Indonesia to uphold its international commitments, it is crucial that national policies, including the Omnibus Law, be aligned with global climate objectives. This requires a shift towards sustainable development practices, prioritizing the preservation of forests and the reduction of fossil fuel dependence in favor of cleaner, renewable energy sources. Through such measures, Indonesia can contribute meaningfully to the global effort to combat climate change and limit the effects of global warming.

The Economic and Social Costs of Environmental Degradation under the Omnibus Law

The Omnibus Law on Job Creation (UU No. 6/2023) introduces sweeping amendments to various regulations, including those governing the mining, forestry, and environmental sectors. While the law's primary goal is to stimulate economic growth, it also raises significant concerns regarding its potential to exacerbate environmental degradation. As such, the economic and social costs of environmental degradation resulting from the Omnibus Law warrant critical examination, particularly in terms of long-term sustainability and the well-being of communities that rely on healthy ecosystems.

Environmental degradation has direct and indirect economic impacts that can hinder the long-term growth and stability of the Indonesian economy. One of the most significant economic costs is the loss of ecosystem services, such as water purification, flood control, and soil fertility, which are critical for agriculture, fisheries, and tourism. Deforestation, which could be accelerated by the Omnibus Law’s provisions regarding forest land-use change, threatens Indonesia’s rich biodiversity, which underpins vital sectors like tourism, agriculture, and fisheries (Saputra & Dhianty, 2022). Deforestation also contributes to soil erosion, which reduces agricultural productivity and increases the costs of flood mitigation and water treatment (Jermain et al., 2024).

Furthermore, the law’s provisions that favor coal mining, such as preferential treatment for coal production permits, have been criticized for locking Indonesia into a carbon-intensive development model. As global markets increasingly shift towards green energy, continued reliance on fossil fuels could lead to stranded assets in the mining sector, further contributing to long-term economic losses (Höök & Tang, 2013). In addition, the negative impact of coal extraction on local communities, such as health costs from pollution and the displacement of communities, could create further social and economic burdens (Toumbourou et al., 2022).

The social costs of environmental degradation under the Omnibus Law are equally concerning, particularly for vulnerable communities. The law’s potential to accelerate deforestation, habitat destruction, and pollution poses a threat to public health. Air and water pollution from mining operations, for example, can lead to respiratory and cardiovascular diseases, as well as contamination of water sources that are critical for drinking and irrigation (Forest Watch Indonesia, 2020). In regions where mining and deforestation are prevalent, such as in Kalimantan and Papua, communities already face the burden of poor air quality and water pollution, and the expansion of these industries under the Omnibus Law could exacerbate these issues.

Moreover, the law's lack of clear protections for indigenous peoples and local communities in areas affected by mining and forestry changes could deepen social inequalities. Indigenous populations, who depend on forests for their livelihoods, may face displacement or loss of access to resources if forest land-use policies are relaxed to promote development (Sundberg, 2019). This displacement can lead to increased poverty, loss of cultural heritage, and conflicts over land rights.

Social unrest can also arise when the perceived benefits of economic growth are unevenly distributed. If economic activities such as coal mining or large-scale plantations lead to environmental destruction, it can provoke public opposition and resistance from local communities and environmental groups. This could result in protests and legal challenges, which not only increase political instability but also incur significant legal and policing costs (Wahyono et al., 2024).

In the long run, the economic and social costs of environmental degradation under the Omnibus Law may outweigh the short-term economic gains from increased industrial activities. The ongoing degradation of ecosystems and climate change impacts can threaten food security, increase the frequency of natural disasters, and reduce the country's ability to sustain growth in key sectors like agriculture, fisheries, and tourism. A failure to align economic policies with environmental sustainability could undermine Indonesia's future economic stability and global competitiveness.

The economic and social costs of environmental degradation resulting from the Omnibus Law are substantial and far-reaching. While the law may contribute to immediate economic growth, it risks undermining long-term sustainability by neglecting environmental protections in key sectors such as forestry and mining. The resulting costs, both economic and social, could include the loss of ecosystem services, public health issues, social inequality, and political instability. For Indonesia to achieve truly sustainable development, it is crucial to consider the broader consequences of the Omnibus Law and implement stricter environmental safeguards that align with both national and international climate commitments.

D. CONCLUSION

The Omnibus Law on Job Creation in Indonesia raises significant concerns regarding the country's ability to meet its commitments under the Paris Agreement. The preferential treatment for coal production in Article 128A may hinder efforts to reduce greenhouse gas emissions and transition to renewable energy, while amendments to forestry law in Article 15(4) could result in unsustainable land use and degradation of critical carbon sinks. These provisions are misaligned with the Paris Agreement's goals of reducing emissions, promoting sustainable development, and mitigating climate change. For Indonesia to honor its international commitments, it is crucial that national policies, including the Omnibus Law, align with global climate objectives. This requires a shift toward sustainable development practices, with an emphasis on forest preservation and reducing dependence on fossil fuels in favor of cleaner, renewable energy sources. By adopting such measures, Indonesia can contribute meaningfully to the global effort to combat climate change and promote a sustainable future.

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