

Industrialization of Business Licensing: Influence on Environmental Wisdom?

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ABSTRACT

This article critically analyzes the implications of licensing simplification which has the impact of making business licensing easier. This raises the crucial question of whether the licensing simplification model has an impact on the industrialization of business licensing and the effect on the degradation of environmental wisdom? This research uses the method Qualitative research with data collected and analysis is more qualitative in nature. Qualitative analysis is used by adopting an investment model as a form of implementing business permits in environmental protection in France and Japan with the composition of France being a country without environmental wisdom and Japan having very strong environmental wisdom values. As a result, these two countries implemented a green investment model which emphasizes that economic growth must also pay attention to environmental protection. The environment is also positioned as a legal subject with the same rights as other legal subjects. The government has an important role in forming regulations that lead to a green economy so that every business activity places green investment as the foundation for implementing business activities.

INTRODUCTION

Licensing problems try to have an influence in attracting investors to invest their capital. A situation that seeks to strengthen the economic position through business activities that have an impact on the environment. Investment and environmental sustainability are like two opposing sides. In terms of issuing business permits, the Job Creation Law makes the process of applying for business permits easier. The AMDAL/UKL/UPL aspect is no longer important for business actors when applying for permits. PP No.22/2021 only requires government approval.(Sulung Nugroho & Lathif, 2024)This condition places investment as an entry point for environmental damage,It is recorded that various regulations that weaken environmental protection have been passed, from the Water Resources Law, the Agricultural Cultivation Systems Law, and finally by turning a deaf ear and ignoring various people's aspirations, the Mineral and Coal Law was passed, including the discussion of the Job Creation Law which was carried out during the pandemic with various polemics. emerging. (Walhi, 2020)

The correlation between business licensing and investment opens up a link that has sparked controversy due to changes in regulations related to business licensing by giving rise to risk-based licensing nomenclature as a form of legal reform in the licensing sector. The government wants to carry out legal reform to create a strong legal culture by organizing regulations, improving law enforcement institutions, and building a legal culture.(Setiarma, 2024). Consideration of licensing simplification seeks to resolve investment problems which are considered difficult and complicated, as a form of business to open up as much space as possible for investors to invest their capital in Indonesia. Investment is an opportunity to develop a country's economy, but the impact of investment without consideration must also be taken into account. Some countries see environmental issues and sustainable development as parameters of agreements between countries and investors. At this point, some countries have explicitly included environmental and sustainable development issues in their preambles and/or treaty provisions, balancing the rights and obligations of countries and investors.(Widiatedja & Wairocana, 2017).

About \$200 billion was invested in nature-based solutions throughout 2022. However, the difference between the value of financing for nature-based solutions and the flow of funds for activities that directly harm nature is thirty times greater. This shows how important it is to increase funding to address the interconnected nature of land degradation, biodiversity loss and climate change.(Hijauku.com, 2023)The environmental and social damage caused by investment in Morowali is proof that our development plans do not pay attention to sustainability principles. Even though economic growth in the area has reached double digits (20.34% in 2023), the poverty rate in the area remains double digits (12.5% in 2022).(Ramda, 2024)This is in line with the Kuznets environmental curve theory, which states that the level of ecological damage is proportional to the economic growth of developing countries.(Ramda, 2024)

As a country that places the environment as a sacred value and local wisdom, the environment should be positioned as a legal subject that must be

protected. National policies for environmental protection and management must be applied consistently from the center to the regions and must be implemented comprehensively. In developing countries, including Indonesia, environmental damage tends to follow economic growth. The consequences that emerge then are that apart from actually causing degradation in the quantity and quality of natural resources which gives rise to global climate change (ecological loss), it also closes the space for community participation and community access to nature as a source of life (economic loss), and displaces and ignores local cultural variations that reflect the environmental wisdom of indigenous people in the management and utilization of natural resources (social and cultural loss). (Aziz Nasihuddin, 2017)

In accordance with his philosophical findings, environmental management, which has been a part of society's culture for a long time, is expected to save nature from destruction. The flow of globalization, apart from being clearly dangerous for the environment, on the other hand is also dangerous for society's culture, and it is not impossible that it will also give rise to social pathology. (Thohari, 2022) The value of environmental wisdom is the main capital in controlling the environment. The important keys to environmental management and protection have been available and have existed since ancient times as noble values passed down from generation to generation. Developing local wisdom in managing natural resources and the environment has its own advantages. This can not only maintain the balance of natural resources and the environment, but can also preserve the culture of local communities. (Purnama Wati & Hidayah, 2017) Land conversion activities cause environmental wisdom to be eroded under the influence of modernization developments. The presence of efforts to simplify licensing seeks to contribute to creating open space for further eroding changes in the function of the environment. This situation highlights the importance of environmental justice. (Yuniardi et al., 2024)

Various disputes sometimes arise as a result of conflicts that arise with communities around the scope of the business, both civil society and traditional communities as parties who have had a long-standing closeness to the environment. The lawsuit arose from the people of Celukan Bawang Buleleng as a result of the Decree of the Governor of Bali Number 660.3/3985/IV-A/DISMPT, which granted an Environmental Permit for the Construction of a Steam Power Plant (abbreviated as PLTU) PT PLTU Celukan Bawang. (DatikNews, 2019) Another dispute that has arisen is the dispute regarding PT Tanaya Pesona Batur (abbreviated as TPB) which will build an amusement park in the Mount Batur Bukit Payang Nature Tourism Park (abbreviated as TWA) area, which covers the areas of North Batur Village, Central Batur Village and South Batur Village as well as there is a gazettement of a forest area which confiscates community land that has been controlled for generations in and around the forest area in the Gunung Batur Bukit Payang TWA. (DetikBali, 2023)

So far, due to the emergence of changes in various laws, including those related to licensing, this has made this topic interesting to research. Matthew

Delvian Suyana, et al focused his research on efforts to monitor risk-based business licensing and environmental approvals. The government, in making decisions regarding approval of environmental permits, must prioritize the precautionary principle from all sides.(Matthew Delvian Suyana, et.all, 2023)Apart from that, Ahmad Redi, et al places research on the function of business licensing for legal protection and empowerment in realizing a welfare state.(Ahmad Redi, et.all, 2022)The study conducted by Ifrani, et al explains the sanctions in terms of law enforcement for business permits that violate the environment.(Ifrani & Safitri, 2020)Meanwhile, Fauzi Hadi Al Amri stated regarding environmental permits in business activities after the enactment of the Job Creation Law,Initially environmental permits in business activities were license-based, whereas currently it is more of a risk-based permit.(Fauzi Hadi Al Amri, 2022)Various studies and research related to business licensing only place research on business licensing on the impact of business and the environment in general, while the impact on environmental wisdom through local wisdom has not been a researched topic.

THEORETICAL REVIEW

Licensing is an action that is prohibited unless permitted with the aim that certain limitations are determined for each situation in the relevant provisions.Licensing is the granting of legality to a person or certain business actor/activity, either in the form of a permit or business registration certificate. Permits are one of the instruments most widely used in administrative law, to control the behavior of citizens. Apart from that, permission can also be interpreted as a dispensation or release from a prohibition.(Cigugur, 2023)Business licensing is the registration of business activities carried out by business actors to start and develop their business. This permission is granted by a ministry, institution or regional government in the form of a letter or decision or fulfillment of requirements that have legal force.(Hafidz et al., 2023) Business licensing is sometimes related to environmental use. The environment as nature has sacred value, which is manifested in the corridor of environmental wisdom. Environmental wisdom is meant as an activity and process of thinking, acting and behaving wisely and judiciously in observing, utilizing and processing nature as a living environment and human life in a reciprocal manner.(MH Heikal, 2017)This wisdom is positive human behavior in relating to nature and the surrounding environment which can be sourced from religious values, customs, ancestral advice or local culture, which is built naturally in a community to adapt to the surrounding environment.(Aziz Nasihuddin, 2017)

The importance of the green concept of the constitution as a form of policy or constitution which places the green concept as a form of legislation protecting the environment. In his book on the term "green", "Hot, Flat, and Crowded: Why We Need a Green Revolution", Thomas L. Friedman emphasizes that "green" is no longer a fad, a platitude, or something that is considered good. "Green" is now the way to grow, build, design, produce, work and live better.(Eko Nurmardiansyah, 2015)The concept of a green

constitution was influenced by the development of an understanding that makes the environment part of the center of life (ecocracy).(Arrsa et al., 2024)

METHODOLOGY

This research study reflects research that is descriptive-analytic in nature, a type of research that does not only stop at mere description but also goes to efforts to study the characteristics of resolving cases of business licensing problems with the research method used is a qualitative research method.

Often called a naturalistic research method because the research is carried out in natural conditions (natural setting); also called the ethnographic method, because initially this method was more widely used for research in the field of cultural anthropology; It is called a qualitative method, because the data collected and the analysis is more qualitative in nature.

RESULTS

Industrialization of Business Licensing Efforts to Simplify Licensing

The government continues to be committed to improving the investment ecosystem and ease of doing business by carrying out business licensing reforms. Business licensing reform is very important because various licensing obstacles are still one of the main obstacles to investment entering Indonesia.(Haryo Limanseto, 2021)Risk-Based Business Licensing carries the concept of "trust but verify", which means that the Government will provide trust to business actors by providing various conveniences and speeds with various breakthroughs in obtaining business permits, but at the same time, the Government also encourages strengthening the implementation of supervision (but verify) in the implementation of business activities.(Haryo Limanseto, 2021)

The method for simplifying licensing and the principles of risk-based licensing is implemented by the government by enacting the Job Creation Law and Government Regulation Number 5 of 2021 concerning the Implementation of Risk-Based Business Licensing and in regions with PP No. 6/2021, using the OSS RBA application.(Rosari et al., 2024)This method is implemented with a licensing simplification system by establishing procedural simplification, namely basic licensing requirements, simplifying bureaucracy in government by implementing an electronic-based government system, namely an integrated system and licensing norms and standards.(Rosari et al., 2024)The transformation in simplifying licensing in the Job Creation Law is due to complicated and bureaucratic business licensing being the main obstacle to economic growth. Long and complicated licensing processes hinder investment and slow down the pace of business. Therefore, the background to the Job Creation Law highlights the need to simplify business licensing to create a more friendly and efficient business climate.(Acep Rohendi, 2023)

Efforts to simplify licensing are also being made by merging environmental permits into business permits. Various polemics have emerged, namely that environmental permits have been abolished and changed to environmental approvals.(Bilal & Imam Budi Santoso, 2021)The impact of

simplifying permits, including efforts to eliminate environmental permits, results in exclusivity for business actors. The expected investment for economic growth leads to industrialization efforts in business licensing. Industrialization is a process of economic modernization that covers all economic sectors that are related to each other and the processing industry. (Pramesti et al., 2023) This means that the author describes that the simplification of business permits is an indication of the emergence of efforts to modernize economic growth by making investment easier. At that time there was an industrialization context for the emergence of business permits for business activities in various sectors, including those related to environmental use.

The government needs to pay attention to the use of the environment, because before the enactment of massive risk-based business licensing. A related application is the extraction of large-scale nickel mines to supply battery needs. In 2021, it is estimated that the area of nickel mining concessions in Indonesia will reach 999,587.66 hectares, of which 653,759.16 hectares are suspected to be in forest areas. (Ghofar et al., 2023) Nickel mining in Indonesia will expand in 2022 with the granting of nickel mining concessions to 1,037,435.22 hectares, of which 765,237.07 hectares are in forest areas. The expansion of nickel mining, especially in forest areas, will expand deforestation in Indonesia and will increase the release of greenhouse gas emissions into the atmosphere, instead of trying to reduce them. (Ghofar et al., 2023) Granting concession permits to business actors must be carefully considered because concessions are a form of business permit with a very high risk scale and can create environmental damage.

Industrialization can be realized by simplifying permits because making investment easier will speed up investors to invest their capital in Indonesia. However, it is necessary to review the simplification of licensing, whether it is able to attract investors to invest their capital in Indonesia. As is known, in 2017 the government issued regulations to make it easier for investment to enter Indonesia, namely Presidential Regulation (Perpres) Number 91 of 2017 concerning the Acceleration of Business Implementation. This presidential decree was issued in order to improve the Ease of Doing Business (EoDB) ranking in Indonesia. (DPMPTSP, 2019) The target is for Indonesia to enter the top 40 rankings. Specifically in 2018, Indonesia's EoDB ranking was ranked 72nd, up 19 points from the EoDB ranking in 2017 which was at position 91. Unfortunately, Indonesia's EoDB ranking fell one place in 2019 to position 73. (DPMPTSP, 2019) However, these regulations are not such that they can improve the investment climate in Indonesia. Even though it has been socialized to the regions in the hope of making licensing easier, in reality this regulation is not enough to attract incoming investment. Until finally the government issued several related regulations to make the licensing process easier. (DPMPTSP, 2019) The presence of licensing simplification apparently does not provide an open space for investors to enter on an ongoing basis. Various problems related to security, order, law and other internal conditions are a concern for investors. You need to think about the right concept to attract more interest to investors.

Investing with the concept of neglecting and destroying the environment is not a solution that attracts investors' interest. Efforts to create changes in the function of the environment have not only given rise to many polemics regarding public acceptance, not only on material issues, in this case the provisions on business permits in the environmental sector, but also formal issues.(Wildanu et al., 2023)The government's efforts to industrialize business licensing for investment and economic growth apparently do not provide a solution to environmental damage caused by licensed business activities. When the government invests, it turns out it will sacrifice environmental sustainability. This phenomenon places risk assessment in business licensing requiring many sources of quantitative and qualitative data and also in its implementation it was found that in the risk approach some events were considered failures because initially small risks could grow due to lack of control.(Wildanu et al., 2023)

Judging from the existence of industrialization, it seems that it does not favor society. As a country of law, Indonesia should pay attention to the objectives of the law in its function of supporting society. Gustav Radbruch, through the theory of legal objectives, places 3 forms of legal objectives, namely, certainty, justice and expediency. In the environmental context, the UN recognition of the right to a clean, healthy and sustainable environment implicitly confirms the existence of ecological justice as the main value that determines the quality of a policy.(Binawan & Soetopo, 2022)Ecological justice places the condition that a healthy ecosystem and environment is a value of justice that is placed in the policy space.

RoomThis policy can be realized by placing a green concept in every policy. A green constitution can provide a concept of protection related to the environment. The constitution regulates the environment as the substance of its regulations as a step towards placing the environment as a legal subject worthy of protection. Several countries have placed green constitutions in their constitutions, such as Ecuador through its constitution in 2008 which explicitly gives constitutional rights to the environment as a legal subject. There is also a strong belief in the importance of the environment and sustainable development which is reflected in the French Constitution, which was last amended in 2005, which places environmental rights on a par with human rights as citizens.(Yusa & Hermanto, 2018)It is important for the government to address this, policies related to the use of the environment should place the environment like humans who have the right to protection.

DISCUSSION

Environmental Wisdom Due to Industrialization Business Licensing

Environmental wisdom is an appreciation for noble values that have existed for generations. The concept of sustainable development is actually also a concept that is conditioned to protect environmental wisdom. As expressed by I Made Arya Utama and I Nengah Suharta, they stated thatThe relationship between the principles of environmentally sound development and the concept of sustainable development by Daud Silalahi is like two sides of the same coin, so

they are interrelated. Therefore, it is not an exaggeration when Hardjasoemantri states the principle of environmentally friendly development as a key word in implementing current and future development. (Utama & Suharta, 2018)

Indonesia is actually one of the countries that has a very good concept of sustainable development. Environmental wisdom describes the concept of environmental protection as local wisdom values passed down from generation to generation. Some of the environmental wisdom of indigenous communities in Indonesia, namely Bali, is through the tradition of the tumpek ceremony. Ketut Sudarsana, based on his writing, said that Tumpek is one of the many Hindu religious holidays based on pawukon (wuku), which is celebrated every six months (210 days), namely every Saturday kliwon with its respective wuku which changes every month or 35 days. (Sudarsana, 2017) North Sumatra, through the Mantari Bondar tradition is a tradition of Hatabosi Village, an abbreviation of four villages, namely Haunatas, Tanjung Rompa, Bonan Dolok and Siranap. Mantari Bondar is a local wisdom that is hundreds of years old and is carried out to protect forests and water sources. Mantari means minister, while Bondar is a water channel or flow, so it basically means an officer who looks after water channels and forests. (Indonesia Travel, 2024) Mantari Bondar itself oversees Penjago Bondar, all of whom are elected through local community customary meetings. (Indonesia Travel, 2024) West Lampung, through the sea ruwat tradition which has become a tradition for coastal communities. Initially it was held by many people on the coast of Java and then spread to Sumatra, especially in Lampung. Basically, this tradition is an expression of gratitude to God who has given blessings from the sea as well as a request for protection from God. (BPK IX, 2019) Yogyakarta, Gunung Kidul via Rasulan. The apostolic tradition is an expression of gratitude for the abundant harvest obtained during the year, this tradition is also to ask for safety and ward off danger. The apostolic tradition is held once a year after the harvest, which is carried out in almost all villages in the Gunung Kidul area. (Daniswari, 2022)

These traditions are carried out to respect the sacred values passed down from ancestors and also to preserve the environment. This is a strong foundation for keeping the environment stable and sustainable. This potential becomes an aesthetic value for the government to maintain traditional values which have become cultural heritage in each region. The behavior of business activities should remain within the corridor to help maintain local wisdom. Local communities should be played as part of the investment industrialization. The function of environmental wisdom has the potential to safeguard all forms of business activities that utilize the environment.

Indonesia has actually benefited from various traditions to protect and respect the existence of the environment. Several countries in the world are moving sporadically to direct their investment growth through the concept of green investment. Green investments are practically considered as expenditures made by organizations/companies to have a positive impact on the environment. (Alfarisy et al., 2023) France is one of the countries that has changed the mindset of simple thinking by placing its people's electricity needs on independence. The small village of Le Sequester has a population of 2,000 people

and is located near the city of Toulouse in southwestern France. However, the small village is now at the forefront of the green electricity revolution. Through enercoop, a French cooperative launched in 2005 and providing 100% renewable energy throughout the country through a large network of small-scale producers. Enercoop positions itself as an investment alternative to giant energy companies that only pursue profits and dominate the energy market with fossil fuels and nuclear energy.(DatikNews, 2023)Meanwhile, Japan is a strong country with various traditions, including environmental wisdom traditions. JJapan has also been successful in building an environmentally friendly economy or a green and energy efficient economy. Through the mottainai tradition, a Japanese culture that maintains cleanliness through the concept of recycling. Japan not only adheres to the 3Rs, but in its development its traditions have accumulated into a 4R lifestyle, namely reduce, reuse, recycle, and added with respect (respect for the environment). This tradition is also inherent in the investment pattern which is carried out by always prioritizing the interests of nature as a subject that must be respected.(Son, 2020)Business people in Japan have been indoctrinated to have a work ethic like the work ethic of the Japanese people who really respect nature.

The conditions that arise in various countries in efforts to protect the environment are very diverse, but one thing that is common is that efforts to maintain the function of the environment and preserving nature are the goals of every country in every policy related to business activities. Indonesia, through regulatory regulations related to licensing, places existing conditions in an effort to exclude the environment. The concept of simplifying licensing is not the right solution for placing efforts to increase economic growth. France even takes a leading position in seeking the independence of local communities in providing the electricity needs of their citizens. Through the concept of a green electricity revolution by using domestic companies to operate business activities and involving local communities while still paying attention to the environment. Meanwhile, Japan, with its strong traditions, places a work ethic that always respects the environment. Indonesia, with its various traditions that have been passed down from generation to generation, places nature as a part that should not be disturbed or damaged. The government must clearly regulate business licensing, the concept of green investment and a green constitution that places nature as a legal subject, not a legal object, so that the environment also has human rights to always be treated, appreciated and respected like other legal subjects. The government should place the environmental wisdom possessed by each region as an ethos and myth dedicated to defending nature, so that business actors participate in placing this ethos and myth in a pattern of business activities.

CONCLUSIONS AND RECOMMENDATIONS

Simplification of licensing seeks to bring about multiple interpretations of government policy. The perception that the government's efforts are only concerned with economic growth without paying attention to the environment creates space for public thought regarding industrialization regarding the permits issued. The pattern of simplifying licensing for the sake of investment

growth turns out to not be the right solution, because the conditions that arise related to investment are not only about difficult licensing but various aspects that arise as a result of various inappropriate government policies, for example security and order which give the effect of fear. investors. The consequences arising from the simplification of licensing have an impact on the decline of environmental wisdom, because the simplification of licensing means that environmental permits merge with business permits and AMDAL metamorphoses into environmental approval. The value of local wisdom as a tradition is not used as a strong pattern and foundation for maintaining the investment concept by placing nature as part of the subject as well.

Through this research, a recommendation is presented by comparing it with various countries that place the environment empirically, not just normatively, as a legal subject. Countries with no traditions and countries with strong traditions in protecting nature also have the same pattern of thinking, namely that nature is placed as a subject that is respected and appreciated. The government should regulate green investment models using the hexahelix strategy as a basis for building collaboration, synergy between stakeholders must be optimized to build major changes in society. Combining the roles of academia, business, community, government, law and regulation, and media is very important. Whatever role you play, the goal you want to achieve remains the same, namely working together to build change to achieve sustainable development goals. This strategy is also synergized by placing environmental wisdom and optimizing the role of local (customary) communities to jointly realize the concept of green investment.

FURTHER STUDY

This research only focuses on reviewing business permits related to environmental wisdom, further research could study legal studies for regulatory purposes related to green investment in other concepts.

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