



## Land Law Evolution and Investment Dynamics: Historical Perspective and Contemporary Development Nexus

B. F. Sihombing<sup>1\*</sup> and Farhan Friyanto Hamid<sup>2</sup>

<sup>1</sup> Faculty of Law, Universitas Pancasila, Jakarta, Indonesia

<sup>2</sup> Fatih Sultan Mehmet Vakıf Üniversitesi, İstanbul, Turkey

\*Corresponding author: [bfsihombing.fb.up@gmail.com](mailto:bfsihombing.fb.up@gmail.com)

**Abstract.** The enactment of Indonesia's Job Creation Law in 2020, known as the Omnibus Law, marked a pivotal moment in the country's pursuit of economic growth and legal reform, aiming to foster job opportunities and sustainable development while streamlining regulatory frameworks and attracting investments. This paper presents a comprehensive analysis that explores the law's implications in comparison with historical policies such as the 1992 Deregulation Policy Package and the 1993 Deregulation Policy Package. Utilizing qualitative methodology, the research investigates economic impacts through a thorough review of legal documents, policy reports, scholarly articles, and relevant literature, employing thematic analysis to uncover recurrent themes and patterns. The study elucidates how these policies have shaped Indonesia's economic landscape, highlighting their interplay and contribution to the nation's ongoing economic trajectory, offering valuable insights into the intricate dynamics between legal reforms and economic development.

**Keywords:** Indonesia Job Creation Law, Economic impacts, Legal reforms, Sustainable development, Investment attraction

**Abstrak.** Pemberlakuan Undang-Undang Cipta Kerja di Indonesia pada tahun 2020, yang dikenal sebagai Omnibus Law, menandai momen penting dalam upaya pertumbuhan ekonomi dan reformasi hukum negara tersebut, dengan tujuan menciptakan peluang kerja dan pembangunan berkelanjutan sambil menyederhanakan kerangka regulasi dan menarik investasi. Makalah ini menyajikan analisis komprehensif yang menelaah implikasi hukum ini dibandingkan dengan kebijakan historis seperti Paket Kebijakan Deregulasi 1992 dan Paket Kebijakan Deregulasi 1993. Dengan menggunakan metodologi kualitatif, penelitian ini menyelidiki dampak ekonomi melalui tinjauan mendalam terhadap dokumen hukum, laporan kebijakan, artikel ilmiah, dan literatur relevan, dengan menerapkan analisis tematik untuk mengungkapkan tema-tema dan pola-pola yang berulang. Studi ini menjelaskan bagaimana kebijakan-kebijakan ini telah membentuk lanskap ekonomi Indonesia, menyoroti interplay mereka dan kontribusi terhadap lintasan ekonomi negara, memberikan wawasan berharga tentang dinamika rumit antara reformasi hukum dan pembangunan ekonomi.

**Kata kunci:** Undang-Undang Cipta Kerja, Dampak ekonomi, Reformasi hukum, Pembangunan berkelanjutan, Daya tarik investasi



## 1. Introduction

The enactment of the Job Creation Law No. 11 of 2020, often referred to as the Omnibus Law,<sup>1</sup> marked a significant milestone in Indonesia's pursuit of economic growth, job creation, and legal reform.<sup>2</sup> The multifaceted motivations behind the law's issuance reflect the complex interplay of socio-economic imperatives and the government's vision for a prosperous, just, and equitable society, anchored in the nation's foundational principles. At its core, the Omnibus Law was born out of the profound aspiration to realize the principles enshrined in the Pancasila ideology and the 1945 Constitution of the Republic of Indonesia.<sup>3</sup> These guiding principles emphasize the establishment of a State that promotes human dignity, justice, and prosperity for its citizens. In pursuit of this noble vision, the government recognized the indispensable role of ensuring citizens' rights to dignified work and livelihood. This recognition was embedded in the Omnibus Law as a foundational objective, aiming to create an environment that fosters job opportunities and sustainable economic growth.<sup>4</sup>

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<sup>1</sup> Omnibus law, stemming from Latin "omnis" meaning many, refers to cross-sectoral legislation, often termed a "sweeping" law. The term's origin lies in a bus type called "Bus Omni," capable of accommodating numerous passengers and items, first introduced in Paris in 1820. In Latin America, "Omnibus" evolved into a generic term for anything encompassing various aspects. In legal context, it denotes an all-encompassing law covering multiple related laws. Essentially, an Omnibus law is a method for drafting rules incorporating diverse substantive matters. Once enacted, this law can override content from prior regulations. President Joko Widodo proposed the Omnibus Law to address complex permit issues and overlapping regulations impeding investment. This law is a formal legal document, created based on legislative regulation provisions. The Omnibus Law draft comprises three clusters: the Job Creation Bill, Taxation Bill, and Community Empowerment Bill. It replaces some or all existing laws tied to these clusters. Crafting the Omnibus Law faces challenges due to limited understanding among Indonesian Parliament (DPR) members. Special attention is required, given the busy schedules of DPR members potentially slowing down its formation.

<sup>2</sup> Tarmizi, "Legal simplification of land regulation associated with increased investment as the basis for conceptualization of the omnibus law," *Journal of Advanced Research in Law and Economics (JARLE)* 11, no. 47 (2020): 203. See also, Bagus Hermanto and Nyoman Mas Aryani. "Omnibus legislation as a tool of legislative reform by developing countries: Indonesia, Turkey and Serbia practice." *The Theory and Practice of Legislation* 9, no. 3 (2021): 425-450.

<sup>3</sup> Anjar Kususiyanah, "Hubungan Industrial Pancasila Dalam Undang-Undang Cipta Kerja," *Invest Journal of Sharia & Economic Law* 1, no. 2 (2021): 42. See also, Saru Arifin, "Illiberal tendencies in Indonesian legislation: the case of the omnibus law on job creation," *The Theory and Practice of Legislation* 9, no. 3 (2021): 390; Mirza Satria Buana and Rahmat Budiman, "Indonesia's minimum wage policy after the Omnibus Law: A comparative analysis from Islamic principles," *UUM Journal of Legal Studies* 13, no. 2 (2022): 187-214.

<sup>4</sup> Tri Anggoro Putro, "Establishment of Omnibus Law in Solving Investment Issues in Indonesia," *Indonesian Comparative Law Review* 3, no. 2 (2021): 105. See also, Raynaldo Sembiring,

Globalization and the ever-evolving dynamics of the international economy posed challenges that necessitated innovative responses from Indonesia. The country's competitive standing within the global market demanded a workforce equipped with relevant skills and opportunities. The Omnibus Law emerged as a strategic response to this challenge, seeking to absorb the Indonesian labor force to the widest extent possible.<sup>5</sup> By simplifying regulatory frameworks, facilitating business operations, and creating a favorable investment environment, the law aimed to enhance the country's economic competitiveness, drawing local and foreign investors into a dynamic and productive marketplace.<sup>6</sup>

Recognizing the intricate interdependencies within a modern economy, the Omnibus Law embraced a holistic approach. It acknowledged that job creation was not a standalone objective but a composite endeavor that required a harmonious convergence of various sectors.<sup>7</sup> This realization underscored the need for adjustments to existing regulations related to cooperatives, small and medium-sized enterprises (SMEs), investment facilitation, and national strategic projects.<sup>8</sup> The dispersion of these regulations across different sectoral laws presented a fragmentation that impeded comprehensive and efficient job creation efforts. The Omnibus Law aimed to address this challenge by weaving these disparate threads into a coherent legal framework, thus enabling a more streamlined pursuit of employment and economic advancement.<sup>9</sup>

Central to the law's aspirations were principles that laid the foundation for its objectives. These principles included equal rights, legal certainty, ease of doing business, togetherness, and independence.<sup>10</sup> Each principle represented a pillar upon which the law's provisions rested, and collectively they aimed to cultivate an environment conducive to robust economic activity, entrepreneurship, and the realization of citizens' rights. Through a systematic delineation of objectives, the Omnibus Law set out a roadmap for achieving its transformative goals. Foremost

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Isna Fatimah, and Grita Anindarini Widyarningsih. "Indonesia's omnibus bill on job creation: a setback for environmental law?" *Chinese Journal of Environmental Law* 4, no. 1 (2020): 97-109.

<sup>5</sup> Putu Samawati and Shinta Paramita Sari, "The Privilege of The Indonesia Investment Authority in Indonesia Omnibus Law on Job Creation," *Jurnal Cita Hukum* 9, no. 1 (2021): 77.

<sup>6</sup> Muhamad Rosyid Jazuli, Maimanah Mohammed Idris, and Penlope Yaguma, "The importance of institutional quality: Reviewing the relevance of Indonesia's Omnibus Law on national competitiveness," *Humanities and Social Sciences Communications* 9, no. 1 (2022): 3.

<sup>7</sup> Henry Aspan and Abdi Setiawan "Business Institutional Model in the Omnibus Law Cluster as an Effort to Develop SMEs," in *Fifth Annual International Conference on Business and Public Administration (AICoBPA 2022)*, (Amsterdam: Atlantis Press, 2023), 343..

<sup>8</sup> Fahrurrozi Muhammad, "Enforcing Omnibus Law: Formalizing Micro, Small, and Medium Enterprises in Indonesia Using Behavioural Science," *Indonesian Law Journal* 14, no. 2 (2021): 95.

<sup>9</sup> Marcellino Gonzales, "The Role of Law for Small Medium Enterprises (SME's) Protections Faces: The Challenges of Regional Comprehensive Economic Partnership (RCEP) In Indonesia," *Indonesian Law Journal* 14, no. 2 (2021): 173.

<sup>10</sup> Copyright Law No. 11 of 2020 Concerning Job Creation, Article 2 Paragraph (1).

among these objectives was the goal of job creation and employment growth.<sup>11</sup> By providing facilitation, protection, and empowerment to cooperatives, SMEs, and national industries, the law sought to harness their potential to absorb a significant portion of Indonesia's workforce. This pursuit, however, was meticulously balanced with the imperative of regional development, ensuring that the benefits of employment and economic growth were evenly distributed across the nation.<sup>12</sup>

Moreover, the Omnibus Law recognized the critical need to guarantee the rights and welfare of the workforce.<sup>13</sup> It sought to establish a framework that ensured fair treatment, compensation, and work relations for every citizen, irrespective of their position within the labor market. In doing so, the law reinforced the principles of justice and equity while fostering an environment that attracted and retained a skilled and motivated workforce. The legal scope of the Omnibus Law extended beyond employment to encompass a diverse array of strategic policies. These policies spanned areas such as enhancing the investment ecosystem, promoting research and innovation, facilitating land acquisition, supporting economic areas, accelerating national strategic projects, and refining government administration.<sup>14</sup> Each of these components converged to form a comprehensive framework designed to catalyze economic growth and address various challenges impeding Indonesia's development trajectory.

However, the introduction of such a comprehensive law naturally gave rise to intricate legal dynamics and interplays with existing regulations.<sup>15</sup> One area of intersection was the Ministry of Agrarian Affairs and Spatial Planning, or the National Land Agency (*Badan Pertanahan Nasional/BPN*). The Omnibus Law sought to reconfigure the regulatory landscape related to land procurement for development in the public interest. While the intention was to facilitate the investment ecosystem and business activities, discrepancies emerged between these aspirations and the existing legal provisions concerning land acquisition.

A noteworthy concern was the government's interest in streamlining investment processes, yet the domain of land acquisition for public interest largely

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<sup>11</sup> Copyright Law No. 11 of 2020, Article 3.

<sup>12</sup> Ricca Anggraeni and Cipta Indra Lestari Rachman, "Omnibus Law in Indonesia: Is That the Right Strategy?" In *International Conference on Law, Economics and Health (ICLEH 2020)*, (Amsterdam: Atlantis Press, 2020), 180.

<sup>13</sup> Nyoman Mas Aryani, Ayu Putu Laksmi Danyathi, and Bagus Hermanto, "Quo Vadis Protection of The Basic Rights of Indonesian Workers: Highlighting the Omnibus Legislation and Job Creation Law," *Pandecta Research Law Journal* 17, no. 1 (2022): 104.

<sup>14</sup> Copyright Law No. 11 of 2020, Article 6.

<sup>15</sup> Hadry Harahap, B. F. Sihombing, and Adnan Hamid, "Impact of the omnibus Law/Job creation act in Indonesia," *International Journal of Scientific Research and Management (IJSRM)* 8, no. 10 (2020): 266.

involved government entities rather than private investors.<sup>16</sup> This discrepancy created a challenge in aligning the law's objectives with the practical realities of land acquisition for various purposes. The law's engagement with the Ministry of Agrarian Affairs and Spatial Planning therefore prompted a reevaluation of its provisions to ensure that the facilitation of investment did not inadvertently hinder other strategic objectives, such as sustainable land use and agricultural preservation.<sup>17</sup>

As the Omnibus Law unfolded, it evoked significant attention from legal scholars, observers, and the public.<sup>18</sup> Its comprehensive nature, coupled with the ambition of overhauling various sectors, engendered debate and analysis. Ultimately, this discourse culminated in a judicial review before the Constitutional Court. The Court's decision to revise certain provisions of the law and extend its implementation period underscored the significance and complexity of the legal reforms at hand. In a surprising turn of events, the government later introduced additional legislative changes that led to the creation of Law No. 6 of 2023. This development further reflected the evolving legal landscape, showcasing the intricate process of refining and reshaping laws to align with shifting objectives and realities.

One particularly intriguing facet of the Omnibus Law was the emergence of related Government Regulations that delved into specific aspects of the law's implementation.<sup>19</sup> These regulations addressed matters such as management rights, land rights, spatial planning, and geospatial information. The presence of these regulations, each with its own nuanced focus, highlighted the law's complexity and its far-reaching implications. The Omnibus Law's treatment of land acquisition also spotlighted its intricate relationship with pre-existing laws and regulations.<sup>20</sup> The dual presence of the Omnibus Law and Law No. 2 of 2012 concerning Land Acquisition for Development in the Public Interest introduced an element of legal multiplicity. This situation underscored the law's role as a pivot point, necessitating careful coordination and harmonization to ensure a coherent and effective legal framework.

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<sup>16</sup> Syprianus Aristeus, "Transplantation, Legal Adoption, Harmonization of Omnibus Law and Investment Law," *Jurnal Penelitian Hukum De Jure* 21, no. 4 (2021): 507.

<sup>17</sup> Sudharto P. Hadi, Rizkiana S. Hamdani, and Ali Roziqin, "A sustainability review on the Indonesian job creation law," *Helikon* 9, no. 2 (2023): 4.

<sup>18</sup> Sardjana Orba Manullang, "Indonesian law and human rights expert's view on the constitutional court's decision against the manpower law from the omnibus law," *Linguistics and Culture Review* 6, no. S5 (2022): 1.

<sup>19</sup> Imam Kuswahyono and Hikmatul Ula, "Institutional Policy in Land Procurement Under The Omnibus Law Regime," *Branijaya Law Journal* 7, no. 1 (2020): 27.

<sup>20</sup> Krista Yitawati and Anik Haryani, "Omnibus Law Copy Work Field: Benefits or Not for Workers?," In *Proceedings of the 3rd International Conference on Indonesian Legal Studies, ICILS 2020*, July 1<sup>st</sup> 2020, Semarang, Indonesia. 2021.

Comparing the Job Creation Law No. 11 of 2020 to historical policies such as the 1992 Deregulation Policy Package in the Fields of Investment, Trade, Finance, Labor, and Land (*Paket Kebijakan Di Bidang Investasi, Perdagangan, Keuangan, Tenaga Kerja, dan Pertanahan*, acronym as *Pakjul 1992*) and the 1993 Deregulation Policy Package (*Paket Deregulasi 23 Oktober 1993*, acronym as *Pakto*) revealed the evolution of Indonesia's legal landscape over time.<sup>21</sup> While Pakjul and Pakto were characterized by their specific focus on investment and regulatory provisions, the Omnibus Law's sweeping nature embraced a wider canvas of objectives, ranging from job creation to investment facilitation and beyond. This shift underscored the law's ambition to create a comprehensive legal framework capable of addressing the multifaceted challenges of the modern economy.

The issuance of the Omnibus Law, officially titled the Job Creation Law No. 11 of 2020 Concerning Job Creation, was driven by several imperative factors.<sup>22</sup> Firstly, the Indonesian government's commitment to building a just and prosperous society founded on Pancasila and the 1945 Constitution necessitated multifaceted efforts to ensure citizens' rights to decent work and livelihood. This was to be achieved through job creation, reflecting the aspirations of the state. Additionally, in response to the intensifying global competition and the demands of economic globalization, the Law aimed to bolster domestic labor absorption, especially in the aftermath of the Covid-19 pandemic.<sup>23</sup> By enhancing the investment ecosystem, fostering small and medium-sized enterprises (SMEs), and expediting national strategic projects, including the advancement of workers' welfare and protection, the Law sought to underpin job creation.

A fundamental premise of the Job Creation Law is rooted in a set of guiding principles, including the principles of equal rights, legal certainty, ease of doing business, togetherness, and independence.<sup>24</sup> These principles aligned with the

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<sup>21</sup> Ross H. McLeod, ed., *Indonesia assessment 1994: finance as a key sector in Indonesia's development*. Singapore: ISEAS Publishing, 1994.

<sup>22</sup> Imam Koeswahyono and Diah Pawestri Maharani, and Airin Liemanto. "Legal breakthrough of the Indonesian job creation law for ease, protection, and empowerment of MSMEs during the COVID-19 pandemic." *Cogent Social Sciences* 8, no. 1 (2022): 17.

<sup>23</sup> Roland Rajah. "Will Indonesia's Omnibus reforms bolster recovery from COVID-19.," *Lowy Institute*, May 31, 2021. <https://policycommons.net/artifacts/1807686/will-indonesias-omnibus-reforms-bolster-recovery-from-covid-19/2542040/>. See also, Petra Mahy, "Indonesia's Omnibus Law on job creation: legal hierarchy and responses to judicial review in the labour cluster of amendments," *Asian Journal of Comparative Law* 17, no. 1 (2022): 53.

<sup>24</sup> The purpose of the Job Creation Law is: a. to create and enhance job opportunities by providing ease, protection, and empowerment to cooperatives, small and medium-sized enterprises (SMEs), as well as national industries and trade, as an effort to absorb Indonesian labor to the fullest extent possible while still considering the balance and progress between regions within the national economic unity; b. to ensure that every citizen obtains employment, as well as receives fair and proper compensation and treatment in employment relations; c. to make adjustments to various regulatory aspects related to the support, strengthening, and protection of cooperatives, SMEs, and



Law's overarching objectives, which encompassed several vital aspects. Firstly, the Law aimed to promote employment growth by offering support, protection, and empowerment to cooperatives, SMEs, and the national industry. It sought to ensure a balanced and progressive distribution of employment opportunities across different regions within the national economy. Further, it sought to guarantee fair compensation and treatment for all citizens in work relations. The Law also aimed to align, strengthen, and protect cooperatives, SMEs, and national industries through regulatory adjustments, as well as to enhance the investment ecosystem and facilitate the development of national strategic projects based on Pancasila's ideals and guided by national science and technology.

In the context of land-related matters, the Law intersected with the responsibilities of the Ministry of Agrarian Affairs and Spatial Planning/Head of the National Land Agency. The Law's expansive nature touched upon various aspects, including land procurement for development in the public interest. Despite this, conflicts arose as certain provisions in the Job Creation Law contradicted the objectives of previous legislation, leading to complexities in managing land acquisition.<sup>25</sup> An interesting contrast emerged between the Law's intent to facilitate the investment ecosystem and its impact on land acquisition for public interest purposes, where the government took on the role of land acquirer, differing from conventional investment scenarios.

Moreover, the Law's relationship with existing regulations, such as Law No. 41 of 2009 concerning Protection of Sustainable Food Agricultural Land, showcased a need for harmonization.<sup>26</sup> The Job Creation Law expanded the legal landscape, prompting debates within Indonesia's legislative framework. Its controversial nature drew significant attention from legal experts and the public, culminating in a Judicial Review at the Constitutional Court (*Mahkamah Konstitusi*/MK). The Court's decision, dated 25-11-2011, called for revisions to the Job Creation Law by 11-25-2023. Interestingly, the government's subsequent actions led to the issuance of Law No. 6 of 2023, replacing Government Regulation in lieu of Law No. 2 of 2022, on March 31, 2023.

Remarkably, the Job Creation Law spawned additional derivatives, notably Government Regulations (PP), yet some of these regulations did not explicitly address certain issues, such as land-related matters. This gave rise to a juxtaposition, as the Law contained provisions related to land acquisition, existing alongside

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national industries; and d. to make adjustments to various regulatory aspects related to the enhancement of the investment ecosystem, ease and acceleration of national strategic projects oriented towards national interests based on national science and technology, guided by the principles of the Pancasila ideology.

<sup>25</sup> Kuswahyono and Ula, "Institutional Policy," 27.

<sup>26</sup> Tengku Harunur Rasyid, and Yeni Kusumawaty, "Omnibus law and the challenges of the Indonesian agricultural sector: An Islamic perspective," *Islamic Research* 5, no. 1 (2022): 49.

previously established laws on the same subject. This intricate legislative relationship highlighted a novel dynamic within Indonesian legal practice.

The implementation of the Job Creation Law has brought about significant shifts in Indonesia's legal landscape, stirring debates and discussions among legal scholars, practitioners, and the general public. This comprehensive legislation, often referred to as both phenomenal and controversial, has sparked attention due to its far-reaching implications. As the legal construction of the Job Creation Law widens and intertwines with existing regulations, it creates an unprecedented relationship that demands careful analysis and consideration. This paper delves into the intricate web of regulations, explores the interplay between the Job Creation Law and its counterparts, and seeks to unravel the implications of this complex legal phenomenon. Through a comprehensive examination, this study aims to shed light on the multifaceted nature of the Job Creation Law and its intricate connections within Indonesia's legal framework.

## **2. Research Method**

This qualitative research was employed to comprehensively examine the impacts and implications of the Job Creation Law and the Deregulation Policy Packages of 1992 (Pakjul) and 1993 (Pakto) on Indonesia's economic landscape. The case study approach allows for an in-depth exploration of these policies within their specific contexts, enabling a nuanced understanding of their multifaceted effects. The research will involve an extensive review of legal documents, policy reports, scholarly articles, and relevant literature. Thematic analysis will be employed to identify recurring themes, patterns, and concepts within the gathered data. This analysis aims to uncover insights into how these policies have influenced economic growth, investment attractiveness, administrative efficiency, and sectoral transformations. Ethical considerations will be observed throughout the research process, ensuring participant anonymity and data confidentiality to uphold research integrity.

## **3. Results and Discussion**

### **3.1. The Impact of Indonesia's 1992 Deregulation Policy Package on Land and Investment**

In July 6, 1992, Indonesia took a significant step to boost its national economy with the introduction of the Deregulation Policy Package, known as Pakjul. This policy aimed to improve the efficiency of the economy by changing how land



permits worked, particularly for investment purposes.<sup>27</sup> It led to the removal of certain permits in the land sector. This change was brought about through a series of regulations, including Presidential Decrees No. 33 and No. 34 of 1992, which focused on investment procedures and land utilization for foreign investments. Additionally, Head of BPN Regulation No. 3 of 1992 outlined the processes related to land rights.

The subsequent regulations, detailed in Regulation of the Head of BPN No.3 of 1992, provided clearer guidelines for obtaining permits related to land reservation and location.<sup>28</sup> These regulations specified that if someone wanted to use more than 5,000 square meters of land, they needed a Land Reserve and Location permit from the Governor.

A “Location Permit” allowed companies to use land that already had a Land Reserve. To get this permit, companies had to meet certain requirements such as providing their company’s paperwork, tax identification number (*Nomor Pokok Wajib Pajak/NPWP*), and plans for the land. Once the complete application was submitted, the Provincial BPN Regional Office worked with other relevant agencies to prepare and finalize the Location Permit, which was initially valid for 12 months, with an option to extend it for one more year.<sup>29</sup>

Regarding the application process for land rights, if someone wanted to use land for building purposes, they had to fulfill certain prerequisites like having business licenses, proof of land ownership, and tax documents. The Provincial BPN Regional Office would grant these rights based on the size of the land area. For larger areas, approval from the Minister of Agrarian Affairs or the Head of the National Land Agency was required. Certificates were then issued based on these approvals, with processing times varying according to the land area. Building Use Rights were valid for a maximum of 20 years.<sup>30</sup>

The extension of Land Rights had specific processes for Building Use and Cultivation Rights. Extension applications required valid business licenses, evidence of continued land usage, and tax records. The Head of the Provincial BPN Regional Office would grant rights based on land area, and larger areas needed approval from the Minister of Agrarian Affairs or the Head of the National Land Agency. Following these approvals, Certificates were issued, with processing times dependent on land area. Building Use Rights could last up to 20 years, while

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<sup>27</sup> McLeod, *Indonesia assessment 1994*, 23.

<sup>28</sup> Regulation of the Head of BPN No. 3 of 1992 establishes the procedures for obtaining Land Reserve and Location permits, particularly for investments involving larger land areas. It aims to promote efficient and transparent land allocation for investment purposes, contributing to economic development and growth.

<sup>29</sup> Regulation of the Head of BPN No. 3 of 1992.

<sup>30</sup> Regulation of the Head of BPN No. 3 of 1992.

the extension of Cultivation Rights could span up to 25 years. Extension applications needed to be filed a year before the rights' expiration.<sup>31</sup>

The implementation of the Deregulation Policy Package on July 6, 1992, marked a significant turning point in Indonesia's economic journey.<sup>32</sup> With a strong focus on enhancing economic efficiency, Pakjul brought about transformative changes, particularly in the land sector. These changes had widespread implications, shaping the trajectory of investment activities throughout the country.<sup>33</sup>

Pakjul's introduction in July 1992 was aligned with Indonesia's broader mission to strengthen its economic standing.<sup>34</sup> This strategic move aimed to make the nation more competitive by eliminating unnecessary bureaucratic complexities that had hindered the flow of investments. Central to this effort were comprehensive regulations encapsulated within the package, notably Presidential Decrees No. 33 and No. 34 of 1992.<sup>35</sup> These decrees not only reshaped the investment landscape but also underscored the government's commitment to advancing the nation.

Amid these regulatory changes, Head of BPN Regulation No. 3 of 1992 emerged as the guiding framework for navigating companies through the intricacies of land reserves, location permits, land rights, and certificates. This regulation, created to replace outdated provisions, became the foundation of the new investment paradigm. It outlined the prerequisites for acquiring essential land reserves and location permits, forming the basis for investment initiatives.

An essential part of Pakjul's transformation was the evolution of location permits. Categorizing permits based on business nature and required land area

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<sup>31</sup> Regulation of the Head of BPN No. 3 of 1992.

<sup>32</sup> Ian Chalmers and Vedi R. Hadiz, "Economic liberalism: A new orthodoxy," in *The Politics of Economic Development in Indonesia: Contending perspectives*, ed. Ian Chalmers and Vedi R. Hadiz (London: Routledge, 2005), 140.

<sup>33</sup> Mangara Tambunan, "Economic reforms and agricultural development in Indonesia," *ASEAN Economic Bulletin* 15, no. (1998): 50.

<sup>34</sup> Des Alwi Djidin, "The political economy of Indonesia's new economic policy," *Journal of Contemporary Asia* 27, no. 1 (1997): 14.

<sup>35</sup> Presidential Decrees No. 33 and No. 34 of 1992 were instrumental in reshaping Indonesia's investment landscape by introducing a comprehensive framework for land rights and utilization. These decrees aimed to simplify bureaucratic processes, enhance transparency, and attract both domestic and foreign investors. By streamlining procedures for obtaining land reservation and location permits, as well as clarifying rights application processes, these decrees contributed to the nation's economic growth and development. Furthermore, they exemplified the government's commitment to fostering a conducive environment for investment, underscoring Indonesia's determination to position itself as a favorable destination for business ventures. The lasting impact of these decrees continues to reverberate through Indonesia's investment practices, serving as a testament to the nation's dedication to progress and prosperity.

streamlined the application process, attracting investor interest.<sup>36</sup> These adjustments paved the way for easier investment and reflected the government's responsiveness to investor sentiments.

Going deeper, Pakjul's effects extended to building use rights and cultivation rights extensions. These seemingly technical extensions carried profound implications for sustainable investment growth. Changes in criteria, procedures, and authorizations highlighted the government's commitment to nurturing a thriving investment ecosystem. Through these adaptations, Pakjul aimed to facilitate flourishing investments that contribute to the nation's prosperity and economic resilience.<sup>37</sup> Pakjul's impact stretched well beyond its initial implementation. It brought about a significant shift in Indonesia's investment landscape, inviting both local and foreign stakeholders into a revitalized ecosystem. By simplifying regulations and creating a more transparent and flexible framework, Pakjul positioned Indonesia as an appealing investment destination. The enduring legacy of this policy stands as a testament to its enduring role in shaping Indonesia's economic journey.

### **3.2. Further Deregulation Unveiling Indonesia's 1993 PAKTO and its Economic Impact**

The enactment of the 1993 Deregulation Policy Package, known as Pakto, ushered in a new era of economic governance in Indonesia. Distinct from its predecessor, Pakto fortified the government's tools of economic orchestration, enacting a symphony of fiscal, monetary, and administrative instruments.<sup>38</sup> This comprehensive policy suite was designed to invigorate various facets of the economy, reshaping critical sectors and cultivating an environment conducive to investment and growth.

Pakto 1993 unfurled its canvas across an array of critical domains, a reflection of Indonesia's trajectory as an emerging economic powerhouse. This policy tapestry encompassed a diverse spectrum: Export-Import Dynamics marked a crucial sphere of influence, asserting Pakto's role in shaping the nation's global economic positioning.<sup>39</sup> Meanwhile, Tariffs and Trade Procedures underwent recalibration, intricately tied to the tariff framework and import duties, aligning

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<sup>36</sup> Prema-chandra Athukorala and Tran Quang Tien, "Foreign direct investment in industrial transition: the experience of Vietnam," in *The Rise of Asia*, ed. Prema-chandra Athukorala (London: Routledge, 2010), 230.

<sup>37</sup> Eva Ervani, "Analisis Faktor Yang Mempengaruhi Pertumbuhan Ekonomi Di Indonesia Periode Tahun 1980-2004," *Majalah Ilmiah UNIKOM* 7, no. 2 (2011): 224.

<sup>38</sup> Juda Agung. "Financial deregulation and the bank lending channel in developing countries: the case of Indonesia." *Asian Economic Journal* 12, no. 3 (1998): 273.

<sup>39</sup> Dahlan M. Sitalaksana, "Evaluasi empat tahun pakto," *Economic Journal of Emerging Markets* 1, no. 1 (1993): 18.

them with Indonesia's evolving economic vision. Within the Investment Landscape, Pakto's finesse lay in streamlining procedures, rendering them attractive and navigable, paving the way for prospective investors both domestically and abroad.<sup>40</sup> Licensing Dynamics bore Pakto's hallmark, transforming licensing procedures into seamless gateways, aligned with contemporary economic aspirations. The pharmaceutical sector witnessed a paradigm shift with Pakto, redefining regulations and reinforcing the pharmaceutical industry's resilience.<sup>41</sup> And echoing a commitment to responsible development, Environmental Impact Assessment (EIA) became a cornerstone, reflecting Indonesia's stance on sustainable growth.

The symbiotic relationship between Pakto 1993 and the Land Agency, particularly in the realm of licensing, is notable.<sup>42</sup> This was a pivotal interplay of policy forces that culminated in the deletion of the 1992 Pakjul, as it no longer met the government's evolving targets. These policy arcs were underpinned by meticulous legislation, including Presidential Decree No. 97 of 1993<sup>43</sup> and Regulation of the State Minister for Agrarian Affairs/Head of the National Land Agency No. 2 of 1993. These legal instruments served as the conduits through which the policy imperatives of Pakto were brought to life.

Unpacking these regulations, Regulation of the Head of the National Land Agency No. 2 of 1993, as a torchbearer, illuminated the path for obtaining location permits and land rights within the context of investment. This framework represented a departure from its predecessor, Regulation of the Head of the National Land Agency No. 3 of 1993, which delved into procedures for companies to acquire land reserves, location permits, and the intricate processes entailed in the issuance of certificates.

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<sup>40</sup> Chandra Kusuma. *The Rise of the Indonesian Financial Service Authority: Domestic Implementation Gaps in Portfolio Investment Liberalization* (Singapore: Springer Nature Singapore, 2022), 55.

<sup>41</sup> Amalia Dewi Muchtar, "Hubungan Pembagian Dividen Terhadap Harga Saham Pada Perusahaan Farmasi Yang Telah Go Public," (Undergraduate thesis., Universitas Pakuan, 2004). 22.

<sup>42</sup> Tommy Firman, "Land conversion and urban development in the northern region of West Java, Indonesia," *Urban Studies* 34, no. 7 (1997): 1027.

<sup>43</sup> Presidential Decree No. 97 of 1993 marked a pivotal cornerstone within Indonesia's policy landscape, embodying the nation's commitment to dynamic economic governance. Enacted as a driving force behind the 1993 Deregulation Policy Package (PAKTO), this decree resounded with transformative implications, ushering in an era of further deregulation that harmonized with the vision of fostering investment, growth, and economic resilience. Its strategic roadmap streamlined bureaucratic intricacies and paved the way for a more accessible investment environment, influencing diverse sectors from export-import dynamics to tariffs, trade procedures, and the realm of land rights, reshaping rules governing location permits and land acquisition. Intertwined with PAKTO, the decree exemplified a robust commitment to economic advancement, sculpting Indonesia's economic landscape, and setting the stage for an era of investment-driven progress that balances regulatory efficiency with sustainable growth aspirations.

The transformation, beyond its legalities, manifested in tangible distinctions. The shift in permit terminology streamlined Land Reserve Permits and Location Permits of the past into a singular entity – Location Permits. This streamlining aimed to create a more cohesive and accessible framework for businesses.<sup>44</sup> Administrative alterations rerouted application submissions from the Provincial BPN Regional Office to the District/Municipal Land Office Heads. The process condensation consolidated separate applications for land reserve and location permits into a streamlined process exclusively for location permits. Accelerated processing introduced by Pakto shortened the issuance timeline to just 12 working days.<sup>45</sup>

Pakto's gaze extended further into the domain of building use rights and business use rights, anchoring its reforms with precision. Building Use Rights Applicants underwent a transformation in approving authority based on land area, with the Head of Regency/Municipal Land Office and the Head of Provincial BPN Regional Office taking charge. Efficiency in processing reflected Pakto's commitment to streamlining bureaucratic intricacies.

In the grand narrative of Pakjul and Pakto, the underlying thread remains consistent – a dedication to extending a warm embrace to both domestic and foreign investors. This commitment, enshrined in the policy fabric, seeks to position Indonesia as an investment haven. The evolution from Pakjul to Pakto represents a dynamic responsiveness to the ever-changing economic landscape, where Indonesia's aspirations for prosperity are delicately woven into the intricate tapestry of policy evolution.

### **3.3. Evaluating the Job Creation Law of 2020 and its Implications for Land Rights and Investment in Indonesia**

Investment assumes a central role within the context of the Job Creation Law. Article 3(d) underscores the necessity of aligning regulations to stimulate growth in the capital ecosystem, streamline procedures, and expedite strategic national initiatives. These efforts are rooted in local expertise and Pancasila ideology. Chapter III serves as the blueprint for advancing the Investment Ecosystem and Business Activities.

The amalgamation of diverse regulatory concepts within the law aims to fortify the capital ecosystem, enhance adaptability, and expedite critical national initiatives. This comprehensive approach reflects a commitment to leveraging indigenous

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<sup>44</sup> Ibnu Sina Chandranegara, "Bentuk-Bentuk Perampangan dan Harmonisasi Regulasi," *Jurnal Hukum Ins Quia Iustum* 26, no. 3 (2019): 435.

<sup>45</sup> Chandranegara, "Bentuk-Bentuk Perampangan," 435.

expertise and rationality. This ethos is accentuated in the Critical Review Policy Document of Law No. 11 of 2020.<sup>46</sup>

This policy document encompasses various key areas. It addresses controlled cultivation of narcotics and substances classified under Category I. Additionally, the law supervises gambling activities and casinos. Moreover, the safeguarding of endangered fish species aligns with the principles of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Emphasis is placed on responsible coral utilization and sustainable exploitation, while stringent limits are imposed on chemical weaponry production. Detailed guidelines also cover the management of chemical manufacturing for ozone protection.<sup>47</sup>

The existing provisions of the Job Creation Law warrant thoughtful consideration. The potential exclusion of chemical weapon manufacturing from foreign investments merits attention, as this move could inadvertently expose critical sectors to external influence. Such a scenario raises concerns about compromising Indonesia's autonomy, with pivotal national entities potentially becoming vulnerable to foreign control.<sup>48</sup>

Furthermore, refining Article 12 within the Investor Law through Article 77 of the Business Activities Law should incorporate provisions from Presidential Regulation No. 44 of 2016.<sup>49</sup> This entails the categorization of Closed and Open Business Sectors, alongside prerequisites for Foreign Direct Investment Limited Liability Companies (PT PMA). These prerequisites encompass business sector alignment, minimum capital requirements, and foreign capital participation.

The exclusion of "open effort aspects with requirements" in the Job Creation Law creates an environment wherein all business endeavors, except those exclusively under Central Government purview, are accessible to foreign investors. This strategic shift aims to enhance flexibility but potentially sidesteps crucial investment prerequisites that safeguard national interests. This could lead to

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<sup>46</sup> This law regulates efforts for job creation that are expected to absorb Indonesian workforce to the fullest extent amid increasingly competitive dynamics and the demands of economic globalization.

<sup>47</sup> Fakultas Hukum Universitas Gadjah Mada, "Catatan Kritis Terhadap UUNo 11 Tahun 2020 Tentang Cipta Kerja (Pengesahan DPR 5 Oktober 2020)." *Policy Paper*, no. 2/2020, Yogyakarta: Fakultas Hukum Universitas Gadjah Mada, 2020, 12.

<sup>48</sup> Anan Chandrawulan, "Liberalisation of foreign investment law in Indonesia," *International Journal of Private Law* 6, no. 4 (2013): 369.

<sup>49</sup> Adnan Hamid, "Analysis of the importance of omnibus Law Cipta Kerja in Indonesia," *International Journal of Scientific Research and Management* 8, no. 08 (2020): 236.



ambiguity in attracting foreign investments without fully addressing national self-reliance.<sup>50</sup>

Lastly, investment sustainability warrants careful consideration. The Job Creation Law's extensive incentives require rigorous evaluation to ensure sustained investment, both domestically and internationally.<sup>51</sup> The existing array of incentives might lack the necessary assurances for prospective investors. Investment sustainability, a linchpin for economic growth and societal well-being, involves genuine technology transfer, substantial job creation, and multiplier effects that underpin the nation's economic fabric.

#### 4. Conclusion

The impact of Indonesia's 1992 Deregulation Policy Package (Pakjul) on land and investment has been significant and far-reaching. Pakjul, introduced in July 1992, marked a pivotal moment in Indonesia's economic journey by streamlining regulations and procedures related to land permits and investment. Through a series of comprehensive regulations, including Presidential Decrees and Head of BPN Regulations, Pakjul aimed to enhance economic efficiency, attract investment, and eliminate bureaucratic complexities.

The policy overhaul brought about transformative changes in the land sector, particularly in the areas of land permits, location permits, and land rights. By categorizing permits based on land area and business nature, Pakjul simplified the application process, making Indonesia a more attractive investment destination. The policy's effects were not only limited to local stakeholders but also extended to foreign investors, positioning Indonesia as an appealing option for international investment.

Furthermore, Pakjul's enduring impact is evident in its legacy as a foundational framework that contributed to shaping Indonesia's investment landscape. The policy's streamlined processes and transparent regulations served as a blueprint for subsequent reforms, such as the 1993 Pakto. This later policy package, known for its comprehensive approach, continued the trajectory set by Pakjul, further enhancing Indonesia's economic governance and investment environment.

In the broader context, these deregulation efforts aligned with Indonesia's mission to strengthen its economic standing and improve its global competitiveness. The government's commitment to advancing the nation was

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<sup>50</sup> I. Gusti Ngurah Parikesit Widiatedja and I. Nyoman Suyatna, "Job Creation Law and Foreign Direct Investment in Tourism in Indonesia: Is It Better than Before?," *Udayana Journal of Law and Culture* 6, no. 1 (2022): 62.

<sup>51</sup> Putu Samawati, and Shinta Paramita Sari. "Problematic of the draft of omnibus law on job creation in Indonesia," *Journal of Xi'an University of Architecture & Technology* XII, no 3 (2020): 3982

reflected in the strategic measures taken to simplify procedures and encourage investment. As the policy landscape evolved, the interplay between various regulations and legal instruments showcased the dynamic nature of Indonesia's economic governance.

Looking ahead, the lessons learned from the evolution of these policies can serve as valuable insights for future economic reforms. The journey from Pakjul to Pakto and beyond demonstrates Indonesia's adaptability and responsiveness to changing economic dynamics. As Indonesia continues to seek sustainable growth and prosperity, the ongoing evaluation and refinement of policies, such as the 2020 Job Creation Law, will be crucial to ensure that the country remains an attractive and competitive destination for both domestic and international investment.

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