



# Marine and Fisheries Development Policy After the Enactment of the Job Creation Act

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Article Info	Abstract
<p><b>Keywords:</b> Job creation Law; Marine; Fisheries; Coastal Environment.</p>	<p><b>Introduction:</b> In 2020, the Government of Indonesia enacted the Job Creation Law (UU Cipta Kerja). The government drafted the law to assist Indonesia's economic development to attract investors to invest in Indonesia. When the omnibus law was rolled out for several laws into one, the marine and fisheries industry sector showed signs of decline in terms of utilization, which will have a negative impact on the sector.</p> <p><b>Purposes of the Research:</b> The article observes the Marine and Fisheries sector issues after enacting the Job Creation Law. This law dramatically impacts the fishers' communities living in coastal areas and the marine environment. After that, questions will arise regarding the fate of fishers, coastal areas, and the marine environment after enacting this Job Creation Law.</p> <p><b>Methods of the Research:</b> This writing was written using normative data collection methods such as books, journals, laws and regulations, and other sources that helped the author in completing this article.</p> <p><b>Results / Findings / Novelty of the Research:</b> The results showed that, in the lives of coastal communities, especially small-scale fishers; coastal areas affected by regulatory changes; and the abolition of the Komnaskajiskan, which is needed for optimizing the assessment of fish resources in the context of determining the potential and number of allowable catches, lastly related to the marine environment which is also affected by the simplification of regulations that became the Job Creation Law.</p>

## 1. INTRODUCTION

In the Marine and Fisheries Section of the Job Creation Law that the regional units listed in Government Regulation (PP) Number 27 of 2021 concerning Governance in the Marine and Fisheries Sector<sup>1</sup>, it is claimed that the government can improve performance in the industry while still prioritizing sustainability factors<sup>2</sup> in the marine environment, the lives of people who live in coastal areas with their main livelihood as fishermen and the coastal area itself.

Based on Law Number 31 of 2004 as amended by Law Number 45 of 2009 concerning Fisheries, it is sufficient to provide a basis, direction and progress for policies on the

<sup>1</sup> Merdeka, "Lewat UU Cipta Kerja, Indonesia Permudah Investasi Di Sektor Kelautan Dan Perikanan," Merdeka.com, 2021.

<sup>2</sup> Rully R. Ramli, "Simak Poin Penting Aturan Turunan UU Cipta Kerja Sektor Perikanan Dan Kelautan," Kompas.com, 2021.

governance of the Indonesian fishery sector. However, the implementation of these policies has not been going well.<sup>3</sup> In the process of its formulation, the existence of the Job Creation Law in marine and fisheries is seen as increasingly irrelevant. Especially for applying principles and requirements that are more ethical, fair, and just and transparent (transparency in the fishery sector).

Under President Joko Widodo, the government has made efforts to reform the Fisheries Law. However, the draft amendments to the Law have not been discussed in the House of Representatives (DPR) during the 2014-2019 period. The impetus for making changes needs to be carried out and colour the dynamics of Indonesian marine and fisheries governance in the 2019-2024 era.<sup>4</sup>

Then, the changes in the Maritime Affairs and Fisheries sector in the Job Creation Law are divided into several groups. Some severe problems related to the marine and fisheries sector should be highlighted in the Job Creation Law.<sup>5</sup> The Job Creation Act has removed and replaced several phrases. For example, the Employment Creation Act has abolished the National Commission for the Assessment of Fish Resources as contained in Article 27 point 2 of the Job Creation Law. The core zone of the National Conservation Area can change according to the policy of the Central Government. In the environmental section, there is a change in Article 24, paragraph 5 of the Environmental Law, wherein the environmental permit is abolished, it is replaced with a business license. Article 23 number 2 regarding amendments to Article 20 paragraph 3 of the Law on the Environment. The central government must approve the disposal of waste into environmentally friendly media. Then, public access to information and involvement becomes increasingly tricky. Small and medium business actors will be increasingly burdened because obtaining permits must always be with the central government, regardless of the risks of both large- and small-scale businesses.<sup>6</sup>

This research is different from previous research which put more emphasis on the Job Creation Law (Omnibus Law) and its implications for sustainable development in the marine sector.<sup>7</sup> Furthermore, some research discuss regulatory reform policies through the implementation of omnibus law in Indonesia<sup>8</sup> and the problems of the Employment Act in the environmental sector.<sup>9</sup> The difference in this paper from previous works is that the author focuses on three variables: fishers, coastal areas, and the marine environment, where the published work does not determine the threat of potential claims from the works that have been made and prevention to challenge the claim.

This journal article observes issues in the Marine and Fisheries sector after enacting the Job Creation Law. This Law significantly impacts fishers' survival, communities living

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<sup>3</sup> econusa, "Koalisi Ngo Untuk Perikanan Dan Kelautan," March 2020, 9.

<sup>4</sup> econusa.

<sup>5</sup> kumparanBISNIS, "10 Isu Serius Bagi Sektor Kelautan Dan Perikanan Di Omnibus Law UU Cipta Kerja," 2020.

<sup>6</sup> ICEL, "Catatan Atas RUU Cipta Kerja," 2020, 20.

<sup>7</sup> Stephanie Juwana, Gabriella Gianova, and Gridanya Mega Laidha, "RUU (Omnibus Law) Cipta Kerja Dan Implikasinya Terhadap Pembangunan Berkelanjutan Di Sektor Kelautan" (Jakarta Pusat, August 2020).

<sup>8</sup> Ima Mayasari, "Kebijakan Reformasi Regulasi Melalui Implementasi Omnibus Law Di Indonesia," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 9, no. 1 (2020): 1-15.

<sup>9</sup> Nila Amania, "Problematika Undang-Undang Cipta Kerja Sektor Lingkungan Hidup," *Syariat: Jurnal Studi Al-Qur'an Dan Hukum* 6, no. 02 (December 2020): 209-20, <https://doi.org/10.32699/SYARIATI.V6I02.1545>.

in coastal areas, and the marine environment, whose livelihoods depend on the marine and fisheries sector. After that, the question will arise: What will be the fate of fishermen, coastal communities, and the marine environment after enacting this Job Creation Law? To what extent does the Job Creation Law appear detrimental to the directly affected people or coastal communities? Will the sustainable development of the marine environment be affected by this Job Creation Law?

## 2. METHOD

The research method in writing this journal uses the normative method of library law research carried out by examining library materials or secondary data. The data was obtained through research through data collection, which includes legal materials, books, journals, and electronic media, to assist in completing the writing of this journal.

## 3. RESULTS AND DISCUSSION

### 3.1 Small Fishermen and Indonesia's Marine Potential

In almost every region of Indonesia, the ratification of the Job Creation Law has been met with opposition from various community groups. The public expressed various types of criticism because several clauses in the Articles of the Job Creation Law were deemed to only provide a 'red carpet' for business actors to invest. Instead, it prioritizes the protection of fisheries, fish habitats, and fishing populations and communities on small islands.<sup>10</sup> Indeed, protecting marine and fishery resources and the people who live around them is very important due to excessive exploitation of natural resources and the fear of human rights violations for vulnerable communities. That there should be broad agreement that investment is not a prohibited issue. The protection program needs to be underlined, which ensures that this investment does not jeopardize the long-term survival of Indonesia's marine life.

Meanwhile, there must be a balance between Indonesian people who live by the sea and those disadvantaged by big investors. Communities are less involved in their participation in formulating this Job Creation Law. Those who should be involved live in the affected environment, such as fishermen. Licensing in the fishing industry is dangerous for small fishers and long-term sector governance and growth. It is because developers or owners of capital are given space in drafting the Job Creation Law.<sup>11</sup> In addition, the determination to defend the sea area is still unclear. As a result, the rights of vulnerable communities and small fishers are threatened in the name of investment.<sup>12</sup>

The opening of export faucets for lobster seeds, their operation in Natuna Regency, and ending the policy of sinking illegal fishing vessels and their sinking through court decisions are examples of government policies in today's marine and fisheries industry. This means that there is no certainty that the future of coastal and marine areas can be appropriately handled. Oversimplifying licenses or permits and softening law enforcement can harm marine and aquatic ecosystems. The current policy objective of the regime is to

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<sup>10</sup> Arnila Wulandani, "Pengesahan RUU Cipta Kerja Tenggelamkan Nelayan Kecil Dan Potensi Kelautan Indonesia - EcoNusa," October 2020.

<sup>11</sup> Greenpeace, "RUU Cipta Kerja Tenggelamkan Nelayan Kecil Dan Tradisional - Greenpeace Indonesia," Greenpeace, October 2020.

<sup>12</sup> Pusat Studi Hukum & Kebijakan Indonesia, "Seri Diskusi Omnibus Vol. 5: Pelindungan Nelayan Dan Tenaga Kerja Sektor Kelautan Dan Perikanan Dalam RUU Cipta Kerja - Pshk.or.Id," PSHK, August 2020.

spur the growth of infrastructure development on a large scale, especially in coastal areas. For example, tourism in the marine industry and fish farming investments are available to as many investors as possible who wish to invest.<sup>13</sup> Due to their natural beauty, coastal areas significantly influence environmental sustainability and encourage the underwater tourism industry.<sup>14</sup>

Meanwhile, in terms of increasing cooperation with fishers, evaluating policies, simplifying licensing, expanding fishing ports, structuring fishing and transporting fish to the Indonesian Exclusive Economic Zone (ZEEI) and the high seas, protecting and encouraging fishers to increase fishers' income is all contained in the plan of Marine and Fisheries Ministry 2020-2024 in marine and fisheries projections.<sup>15</sup> Cultivation must be optimized and strengthened to create jobs, increase profits and added value, and provide a supply of animal protein for public consumption. They are improving the marine and fishery industry by meeting the needs of industrial raw materials, increasing commodity efficiency, and adding value to encourage investment and exports of fisheries and marine resources. Coordination with related agencies can be used to manage offshore, maritime and small island zones and improve control of marine and fisheries facilities and fish quarantine. Furthermore, marine and fisheries science can increase creativity and human resources, especially in coastal communities.<sup>16</sup>

This can be interpreted as the discovery of enormous potential capacity in the marine and fishery market, so that maintenance must be carried out in accordance with sustainable development standards so that existing natural resources can be appreciated not only now but also in the future. Unfortunately, the Job Creation Act does not agree with this spirit. The Job Creation Law encourages investment growth by ignoring the importance of maintaining the ecosystem's carrying capacity and the needs of vulnerable communities in the marine and fisheries sector.

### 3.1.1 Renewal of Law on Fisheries and Fisheries Industry

Efforts to Reform Law 31 of 2004 Jo. Law 45 of 2009 started in President Joko Widodo's administration (2014-2019). Unfortunately, until the end of its first term (October 2019), the Jokowi administration failed to achieve the desired reforms. The inability to amend the Fisheries Law has shown that the Ministry of Maritime Affairs and Fisheries (KKP), led by Minister Susi Pudjiastuti, is very careful when fostering discourse and law reform in the House of Representatives. And this is normal when faced with the pros and cons that continue to roll towards efforts to form vital policy initiatives and the government (especially with the firmness of the relevant ministries) in managing IUU (IUU fishing can be interpreted as illegal, not being reported to the authorized fisheries management institution and fishing activities that have not been regulated in existing regulations.)

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<sup>13</sup> BBCNEWS, "Edhy Prabowo Dan Kebijakan Ekspor Benih Lobster, Benarkah Membuat 'Everybody Happy'? - BBC News Indonesia," November 2020.

<sup>14</sup> Usrotul Hasana, "Pemberdayaan Masyarakat Pesisir Melalui Pengembangan Klaster Ikan Di Desa Kilensari Kecamatan Panarukan Kabupaten Situbondo," *Acton* 15, no. 1 (2019): 57.

<sup>15</sup> Danang Hardianto and Paramita Prananingtyas, "Aspek Hukum Penanaman Modal Perikanan Tangkap Terhadap Zona Ekonomi Eksklusif Indonesia (Zeei) Berdasarkan Permen Kp No. 30 Tahun 2012," *Law Reform* 11, no. 2 (2015): 172, <https://doi.org/10.14710/lr.v11i2.15764>.

<sup>16</sup> Thea Fathanah Arbar, "Kontroversi Menteri Edhy, Dari Cantrang Hingga Ekspor Lobster," *CNBC Indonesia*, January 2020.

activities and encouraging fundamental changes in fisheries and marine governance in Indonesia.

Reforms of Law 31 of 2004 in conjunction with Law 45 of 2009 are naturally still needed and affect Indonesian marine and fisheries governance dynamics in the current government era (2019-2024). President Joko Widodo was re-inaugurated as President of the Republic of Indonesia following the results of the 2019 General Election. Rolling out the Omnibus Law under the pretext of rapid development, election, and policy direction to the Joko Widodo Government in recommended amounts on various aspects and contours and the marine and marine fisheries industry has shown. It shows signs of long-term decline. This policy approach is questionable. On top of that, the negative impact on the Omnibus Law should be more vigilant and addressed.<sup>17</sup>

There are many problems with fisheries regulations. Other shortcomings in the marine and fisheries sector can be in the form of licensing issues that are long, difficult, involve various ministries/agencies and regions, and are inefficient. A study conducted by the Indonesia Ocean Justice Initiative (IOJI) on the much-needed permits for most activities in the marine sector found this reality. One example is a permit to conduct a marine tourism business (resort) which requires a minimum of 5 (five) permit instruments. The Ministry of Finance noted that 17 (seventeen) licensing instruments must be obtained by business actors with a waiting period of 661 days.<sup>18</sup> Another example is licensing in the capture fisheries sector. Based on the Minister of Marine Affairs and Fisheries Regulation Number 30 of 2012 concerning Capture Fisheries Business in the Fisheries Management Area of the Republic of Indonesia, catching or transporting fish is carried out using ships of more than 30 GT,<sup>19</sup> business actors need at least: (1) Fishery Business Permit (SIUP)<sup>20</sup>; (2) approval for the procurement of fishing vessels; (3) fishing vessel book; (4) VMS transmitter installation certificate<sup>21</sup>; (5) Fishing Permit (SIPI) or Fish Transport Vessel Permit (SIKPI)<sup>22</sup>; and (6) ship operational documents.<sup>23</sup>

Various permits were combined or changed into the Job Creation Law to bypass the licensing process. However, the licensing process must pay attention to the carrying capacity of the ecosystem to build an economy based on sustainable development. It is to ensure that the exploitation of natural resources is carried out within the limits of sustainability.<sup>24</sup> The environmental permit is indeed a requirement for the issuance of a business permit,<sup>25</sup> but in this case, the business permit has been cut, including the coastal environmental permit.

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<sup>17</sup> Lusia Arumingtyas, "Was-Was 'Sapu Jagat' Omnibus Law," MONGABAY, January 2020.

<sup>18</sup> Stephanie Juwana, Gabriella Gianova, and Gridanya Mega Laidha, "RUU (Omnibus Law) Cipta Kerja Dan Implikasinya Terhadap Pembangunan Berkelanjutan Di Sektor Kelautan."

<sup>19</sup> Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia, Pub. L. No. 30 (2012).

<sup>20</sup> Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia.

<sup>21</sup> The Ministry of Marine Affairs and Fisheries, "The Vessel Monitoring System (VMS) Is a Fishing Vessel Monitoring Program" (2003).

<sup>22</sup> Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia.

<sup>23</sup> Rizky Argama, "Kertas Advokasi UU No 11 Tahun 2020 Tentang Cipta Kerja Bidang Sumber Daya Alam," 2020.

<sup>24</sup> Amania, "Problematika Undang-Undang Cipta Kerja Sektor Lingkungan Hidup."

<sup>25</sup> Muhamad Ramdan Andri Gunawan Wibisana, "Pengelolaan Lingkungan Melalui Izin Terintegrasi Dan Berantai: Sebuah Perbandinagn Atas Perizinan Lingkungan Di Berbagai Negara," *Jurnal Hukum Dan Pembangunan* 48, no. 2 (March 2018): 249, <https://doi.org/10.21143/JHP.VOL48.NO2.1662>.

### 3.2 Coastal Zone and Job Creation Act

The zoning plan for coastal areas and small islands (RZWP-3-K), which has become a direction in the use of space in coastal areas and small islands, is affected by the exclusion of the integration of the Regional Spatial Plan (RTRW). In reality, many human activities on land will impact pollution and damage coastal ecosystems. RZWP-3-K is a marine spatial planning instrument that can be changed even more than once if there is an economic interest. Namely, the National Strategic Project requires a spatial change. Existing restrictions will make it difficult for the community to have smaller coastal areas.<sup>26</sup>

Article 19 number 3 letter b is about amendments to Article 51 of the WP-3-K Law and Addition of Definitions in Article 1 number 27 Management of Coastal Areas and Small Islands (WP-3-K). Article 19 number 3 letter b of the Job Creation Law states: *The authority of the Central Government in implementing the spatial planning of national strategic areas includes: b. spatial planning of national strategic areas.*<sup>27</sup>

Meanwhile, Article 1 number 27, Management of Coastal Areas and Small Islands (WP-3-K), states: *Major Impact is the occurrence of adverse changes in environmental functions on a wide scale and long-lasting intensity caused by a business and/or activity in the Coastal Zone and Small Islands.*<sup>28</sup> Furthermore, in article 51 paragraph 1, the Minister can determine: a. HP-3 in Certain National Strategic Areas, b. Permits for the use of Small Islands have a significant impact on environmental changes, and; c. Changes in the status of the core zone in the national Marine Protected Area.<sup>29</sup>

In this regulation, the core zone can be changed to no longer a conservation area if a national strategic project requires the marine area to carry out its activities. Article 19 number 2 regarding amendments to article 7 paragraph 5 of the Law on the Management of Coastal Areas and Small Islands (WP-3-K): *Business Licensing for activities other than those referred to in paragraph (1)*<sup>30</sup> is granted in accordance with the provisions of laws and regulations.<sup>31</sup>

The previous ones were: *The Regency/City Regional Government shall prepare a detailed Zoning Plan in each particular Coastal Zone and Small Islands within its territory.*<sup>32</sup> If there is a change in the national policy of a strategic nature, it can be used as the basis for the RZWP-3-K Review to be carried out more than 1 (one) time in 5 (five) years.

Article 16 paragraphs 1 and 2 of Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands jo. Law Number 1 of 2014 states:

- (1) *Everyone who uses space from part of Coastal Waters and permanently uses part of small islands must have a Location Permit.*<sup>33</sup>
- (2) *As mentioned in paragraph (1), Location Permits shall be the basis for granting Management Permits.*<sup>34</sup>

Then in Article 18, number 11 of the Job Creation Law:

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<sup>26</sup> ICEL, "Catatan Atas RUU Cipta Kerja."

<sup>27</sup> "Job Creation Law," Pub. L. No. Article 19 number 3 letter b (2020).

<sup>28</sup> "Management of Coastal Areas and Small Islands," Pub. L. No. Article 1 number 27 (2007).

<sup>29</sup> Management of Coastal Areas and Small Islands.

<sup>30</sup> Management of Coastal Areas and Small Islands.

<sup>31</sup> Management of Coastal Areas and Small Islands.

<sup>32</sup> Management of Coastal Areas and Small Islands.

<sup>33</sup> Management of Coastal Areas and Small Islands.

<sup>34</sup> Management of Coastal Areas and Small Islands.

- (1) *Utilization of space from Coastal Waters must be in accordance with the spatial plan and/or zoning plan.*
- (2) *Everyone who utilizes the space from the Coastal Waters as referred to in paragraph (1) is obliged to fulfil the Business Permit related to Utilization in the Sea from the Central Government.*<sup>35</sup>

After enacting the Job Creation Law, the word from location permit was changed to every space user must fulfil business permits related to utilization at sea from the Central Government. The coastal waters area must be utilized in accordance with the spatial planning and/or development plan so that this change does not cancel the conformity process fundamentally.<sup>36</sup>

The concept of coastal area management focuses on the characteristics of the coastal area itself. The core of the concept of area management combines adaptive, integrated, environmental and ecosystem development, economic and social systems in society. The strategies and policies taken are based on the characteristics of the coast, existing resources, and the need for utilization and sustainability. Therefore, in the planning process in coastal areas, decisions must be directed at maintaining future generations or in the appropriate part of sustainable development. Ideally, a coastal area management process includes planning, implementation, and evaluation. It must involve at least three elements: researchers, government, and communities directly involved or inhabiting the area.<sup>37</sup>

### **3.3 Future Projections and Policy Directions in the Marine and Fisheries Environment After the Issue of the Job Creation Act**

After the issuance of the Job Creation Law, it can be said that community involvement is weak in the planning section on spatial planning, Environmental Impact Analysis (AMDAL/ *Analisis Mengenai Dampak Lingkungan*) and environmental licensing. In the AMDAL process, the group's involvement in the preparation and assessment process is very weak. The AMDAL planning stage is limited to those who are specifically affected directly. Broad participation (including conservation groups, environmentalists, and affected communities) is essential. Those who are personally affected are usually disadvantaged communities who cannot express their aspirations (who have no voice) and have low levels of legal literacy and knowledge need assistance and support. Regarding public participation in the issuance and receipt of environmental permits, the government is obliged to publish applications and documentation of permits received based on Government Regulation No. 27 of 2012 concerning "Environmental Permits". Community groups and the environmental sector will receive input, recommendations, and views on the permit application based on the announcement of the permit application.<sup>38</sup>

The community also has the right to apply to the PTUN (State Administrative Court) to revoke environmental permits if it is found that there is an error. This provision is no longer valid in the Job Creation Law. The environmental permit is revoked and combined

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<sup>35</sup> "Job Creation Law," Pub. L. No. Article 18 point 11 (2020).

<sup>36</sup> Maret Priyanta, "Implikasi Konsep Kesesuaian Kegiatan Pemanfaatan Ruang Laut Dalam Pengelolaan Sumber Daya Kelautan Berkelanjutan," *Jurnal Wawasan Yuridika* 5, no. 1 (April 2021): 28, <https://doi.org/10.25072/JWY.V5I1.361>.

<sup>37</sup> Muhamad Dio Fabianto and Pieter Th. Berhиту, "Konsep Pengelolaan Wilayah Pesisir Secara Terpadu Dan Berkelanjutan Yang Berbasis Masyarakat," *Jurnal Teknologi* 11, no. 2 (2014): 2057.

<sup>38</sup> Indonesia Ocean Justice Initiative (IOJI), "Analisis UU Cipta Kerja Sektor Kelautan Dan Perikanan," 2020, 9.

with a business license. As a result, there is no longer any community involvement in the environmental permitting process.<sup>39</sup> The primary role of environmental permits is preventive, namely, the prevention of pollution/pollution, as evidenced by the commitment stated as a requirement in terms of permits. On the other hand, other tasks that are suppressive/repressive are to overcome pollution and/or damage to environmental areas, which are manifested in the form of revocation of permits.<sup>40</sup>

### 3.3.1 The Job Creation Law in the Marine Sector Is a Barrier to the Realization of Sustainable Development

By having a sea area that covers 2/3 (two-thirds) of the total land area, Indonesia relies heavily on the marine sector to meet food needs, provide employment, support the livelihoods of most of its population, and contribute to the country's economy. Therefore, the marine sector needs to be managed in accordance with the ideals of sustainable development. Thus, the current generation can enjoy the natural wealth of the marine sector while ensuring a just future. Several factors have hindered the realization of sustainable development in the marine sector since the enactment of the Job Creation Law, including:

- a) The definition of an environmental permit as a preventive instrument will be lost if it is changed to an approved arrangement;<sup>41</sup>
- b) Exceptions from the obligation to stipulate plans for spatial planning and/or zoning, as well as revisions to spatial plans, if there is a national strategy that is strategic, less spatial, which is required to pay attention to the carrying capacity of the ecosystem;
- c) The Job Creation Law does not regulate the collaboration process between the ministry in charge of regulation and the central government, which is in charge of licensing, to ensure that usage remains within sustainable limits;
- d) The abolition of provisions relating to National Commission for the Assessment of Fish Resources (*Komnaskajiskan/ Komisi Nasional Pengkajian Sumber Daya Ikan*) reduces the importance of research as a component of long-term growth;
- e) Supervision schemes and imposing sanctions that are not optimal will ensure law enforcement for business actors, prevent violations, and have a deterrent effect.

The success of the Job Creation Law in supporting sustainable growth can also be undermined by the lack of proper governance enforcement and institutions. They are not yet fully prepared to implement the provisions of the Job Creation Act. According to Indonesia's ranking in the World Governance Indicators, Indonesia's "good governance" has not yet been deeply embedded in the country's bureaucratic culture.<sup>42</sup> The consistency of public services cannot be guaranteed without good governance. Investor confidence in Indonesia will be affected as a result.<sup>43</sup>

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<sup>39</sup> Indonesia Ocean Justice Initiative (IOJI).

<sup>40</sup> Muhammad Akib, *Politik Hukum Lingkungan : Dinamika Dan Refleksinya Dalam Produk Hukum Otonomi Daerah*, Jakarta: RajaGrafindo Persada (Jakarta: RajaGrafindo Persada, 2012).

<sup>41</sup> Rhiti and H.Pudyatmoko, "Kebijakan Perizinan Lingkungan Hidup Di Daerah Istimewa Yogyakarta," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 28, no. 2 (June 2016): 265, <https://doi.org/10.22146/JMH.16725>.

<sup>42</sup> Bayu Kharisma, "Good Governance Sebagai Suatu Konsep Dan Mengapa Penting Dalam Sektor Publik Dan Swasta (Suatu Pendekatan Ekonomi Kelembagaan)," *Jurnal Buletin Studi Ekonomi* 19, no. 1 (February 2014): 14.

<sup>43</sup> Stephanie Juwana, Gabriella Gianova, and Gridanya Mega Laidha, "RUU (Omnibus Law) Cipta Kerja Dan Implikasinya Terhadap Pembangunan Berkelanjutan Di Sektor Kelautan."



### 3.3.2 Realizing a Sustainable Ocean Economy in the Management of the Marine and Fisheries Sector

The definition of a Sustainable Ocean Economy, also known as a Sustainable Blue Economy, is an ocean-based economy that supports current and future generations,<sup>44</sup> emphasizing contributions to food security, poverty reduction, livelihoods, jobs, income, health, protection, equity and political stability.<sup>45</sup> To ensure economic and social security from time to time, the Sustainable Ocean Economic seeks to maintain sustainability, efficiency, durability, core role, and the inherent value of marine ecosystems.

Two fundamental elements are needed to build a sustainable ocean economy. The first step is to conserve and, if possible, improve the environment. The second component is, maximizing opportunities to maximize economic growth while adhering to sustainable values with new technologies. Suppose the first factor is carried out and applied. In that case, the almost small fish population will have the opportunity to regenerate to obtain higher productive economic benefits.<sup>46</sup>

Coastal habitats such as mangroves and coral reefs can increase the benefits of coastal defence against storms and sea-level rise if conserved and restored. These various actions must be complemented by introducing the second aspect, namely increasing economic growth with new technologies in accordance with the concept of sustainability.<sup>47</sup> Offshore wind energy<sup>48</sup> and tidal energy innovations<sup>49</sup> are 2 (two) examples in aquaculture engineering, for example, prioritizing the idea of biodiversity and reducing environmental impacts in the fishing industry.<sup>50</sup>

Without the idea of 'sustainable' and a sustainable ocean economy, the importance of the marine economy will decline as the level of exploitation increases. As a result, Indonesia has no alternative but to include sustainable development in the maritime industry or a sustainable marine economy to use marine assets to spur economic growth.

### 3.3.3 There is no Coordination Mechanism between the Ministries and the Central Government to Ensure and Ensure Utilization Stays at the Sustainability Limit

So far, the marine and fisheries management problem is a lengthy licensing method, and many sectors are involved. Therefore, reducing licensing methods to deal with the quality of permits that hinder the economic process is necessary. However, environmental safety measures must also be maintained. Because the licensing is not complicated under

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<sup>44</sup> Nike Afriati, "Kepentingan Indonesia Dalam Forum Global Ocean Action Summit for Food Security and Blue Growth Tahun 2014," *JOM FISIP* 3, no. 1 (2016): 8.

<sup>45</sup> WWF, "Principles of a Sustainable Blue Economy," 2018.

<sup>46</sup> Biro Komunikasi, "Kuatkan Komitmen Dalam Pengelolaan Laut Berkelanjutan, Kemenko Marves Terus Dukung Penerapan Sustainable Ocean Economy Di Indonesia," Kementerian Koordinator Bidang Kemaritiman Dan Investasi, April 2021.

<sup>47</sup> Maulinna Kusumo Wardhani, "Kawasan Konservasi Mangrove: Suatu Potensi Ekowisata," *Jurnal Kelautan: Indonesian Journal of Marine Science and Technology* 4, no. 1 (April 2011): 68, <https://doi.org/10.21107/jk.v4i1.891>.

<sup>48</sup> Anna J. Wiczorek et al., "A Review of the European Offshore Wind Innovation System," *Renewable and Sustainable Energy Reviews* 26 (October 2013): 295, <https://doi.org/10.1016/J.RSER.2013.05.045>.

<sup>49</sup> Bharthi, Hemavathi, and Shobha Rani, "Tidal Energy - A Source of Clean Energy," *International Journal of Current Research* 9, no. 09 (September 2017): 57923.

<sup>50</sup> Stephanie Juwana, Gabriella Gianova, and Gridanya Mega Laidha, "RUU (Omnibus Law) Cipta Kerja Dan Implikasinya Terhadap Pembangunan Berkelanjutan Di Sektor Kelautan."

the new law, it is feared that there will be a large-scale business expansion in coastal and marine areas.<sup>51</sup>

Suppose environmental ecosystems are not given any attention. In that case, no management or control action can maintain the utilization of coastal areas and marine space. The Job Creation Law does not provide a robust coordination system between authorized license holders. The Investment Coordinating Committee, for example, is the body that reports directly to the President and regulatory agencies (controlled by the Minister and local government). The Committee's task is to ensure that the control continues to function and supervise so that the user does not exceed the sustainability limit.<sup>52</sup>

### 3.3.4 Abolition of KOMNASKAJISKAN in the Job Creation Act

Article 7 paragraph (1) and paragraph (3) of Law Number 31 of 2004<sup>53</sup> concerning "Fisheries" which has been amended by Law Number 45 of 2009 (Fishing Law), confirms that regarding the consideration of the Minister of Fisheries after evaluation and consideration from the National Commission of Assessment of Fish Resources (Komnaskajiskan) deals with the capacity and allocation of fish resources and the number of fish catches/ transports allowed in the Indonesian Fish Cultivation Area.<sup>54</sup>

The presence of Komnaskajiskan also does not rule out the possibility that the ministry cannot act arbitrarily in issuing fisheries resource management policies. Unfortunately, the commission institution was built to be passive because of its strategic role, thus limiting the space for Komnaskajiskan to be adopted by the Ministry of Maritime Affairs and Fisheries. Komnaskajiskan needs to be strengthened based on how its jurisdiction has been implemented so far. Meanwhile, the Komnaskajiskan Law was revoked by Article 27, paragraph 2 of the Job Creation Law. There is no longer a commission to provide considerations recommendations to determine the potential and number of allowable catches. The central government now can determine the capacity and distribution of fish stocks and the number of catches permitted within the fisheries management area. The essential elements of science relevant to sustainable development have been reduced due to these reforms. The value of research in long-term sustainability was emphasized by the Indonesia Ocean Justice Initiative (IOJI) in the report of the United Nations Conference on Environment and Development, which took place in Rio de Janeiro, Brazil, in 1992 (Agenda 21)<sup>55</sup>. According to the Conference, scientific information should be used to promote sustainable development goals.<sup>56</sup>

Meanwhile, the roadmap for Indonesia's Sustainable Development Goals issued by the Ministry of National Development Planning/National Development Planning Agency (BAPPENAS) 2020 states as follows:

*By 2020, effectively regulate harvesting and stop overfishing, illegal fishing and destructive fishing practices, and implement science-based management plans to restore fish stocks appropriately in the shortest possible time, at least to a level that can produce maximum*

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<sup>51</sup> Stephanie Juwana, Gabriella Gianova, and Gridanya Mega Laidha.

<sup>52</sup> Stephanie Juwana, Gabriella Gianova, and Gridanya Mega Laidha.

<sup>53</sup> "Fisheries," Pub. L. No. Article 7 Paragraph 3 (2004).

<sup>54</sup> Argama, "Kertas Advokasi UU No 11 Tahun 2020 Tentang Cipta Kerja Bidang Sumber Daya Alam."

<sup>55</sup> United Nations Sustainable Development, "Agenda 21: Sustainable Development Knowledge Platform," United Nations Conference on Environment & Development, June 1992.

<sup>56</sup> Moh. Fadli, Mukhlis, and Mustafa Lutfi, *Hukum & Kebijakan Lingkungan*, 1st ed. (Malang: Universitas Brawijaya Press, 2016).

sustainable yields according to their biological characteristics. (In Indicator: Proportion of catch of marine fish species within safe biological limits.) 14.4.<sup>57</sup> Increase scientific knowledge, develop research capacity and transfer marine technology, taking into account the Intergovernmental Oceanographic Commission Criteria and Guidelines on Marine Technology Transfer, to improve marine health and increase the contribution of marine biodiversity to the development of developing countries, in particular small island developing countries, least developed countries and all countries. (In Indicator: Proportion of total expenditure on research allocated to research in marine technology). 14.a.<sup>58</sup>

One of them is a scientific evaluation that represents a long-term view of sustainable growth focused on a combination of economic and social life. It should also form the basis for research on existing developments and possible forecasts used in policy formulation.<sup>59</sup> The abolition of the article regarding the position of Komnaskajiskan in conducting research work weakens the clarification of the report so that it can jeopardize the achievement of sustainable development goals in the fisheries sector.

### 3.3.5 Threats to Humans and the Marine Environment from the Job Creation Act

The Center for Law and Policy Studies (PSHK/*Pusat Studi Hukum dan Kebijakan Indonesia*) assessed that the Job Creation Law proposed by the government to accelerate the investment process could endanger human rights and environmental sustainability. PSHK is concerned that specific mandatory protocol procedures related to public and environmental assessments will be shortened due to the existence of the Job Creation Law.<sup>60</sup> Previously, the Indonesian Forum for the Environment (WALHI/*Wahana Lingkungan Hidup Indonesia*) was worried that the omnibus law of the new Job Creation Law would circumvent environmental protection instruments. As a result, there is talk of excluding or removing the AMDAL. This initiative has a higher chance of facilitating investment opportunities. The government must enact the omnibus law of the Job Creation Law on agrarian reform and natural resource management in response to the MPR TAP No. IX/2001.<sup>61</sup>

Foreign fishing vessels that catch or transport fish in the Indonesian Fisheries Management Area (WPP-NRI) will also benefit from the Law on Job Creation in the Fisheries Sector. Although this standard is the same as the provisions in the Fisheries Law, it is not in accordance with the policy directives of the first era of President Joko Widodo, which prohibits foreign businesses from catching fish in the WPP-NRI as stated in the Presidential Regulation concerning the "List of Closed Business Fields and Open Business Fields". With Requirements in the Investment Sector Law Number 44 of 2016. The business fields mentioned in the regulation have requirements open to the investment sector. Domestic businesses with fisheries in WPP-NRI need to be supported with the support of the Presidential Regulation and improve the legislative defence. The Job Creation Law also

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<sup>57</sup> Kementerian Perencanaan Pembangunan Nasional/ Badan Perencanaan Pembangunan Nasional., *Metadata Indikator Edisi II Pilar Pembangunan Lingkungan Pelaksanaan Pencapaian Tujuan Pembangunan Berkelanjutan/ Sustainable Development Goals (TPB/SDGs)*, ed. Vivi Yulaswati et al., 2nd ed. (Kedeputan Bidang Kemaritiman dan Sumber Daya Alam, Kementerian Perencanaan Pembangunan Nasional/ Badan Perencanaan Pembangunan Nasional., 2020).

<sup>58</sup> Kementerian Perencanaan Pembangunan Nasional/ Badan Perencanaan Pembangunan Nasional.

<sup>59</sup> Hira Jhamtani, "Pembangunan Berkelanjutan Di Tengah Globalisasi: Adakah Harapan?," *Global: Jurnal Politik Internasional* 5, no. 1 (September 2002): 2, <https://doi.org/10.7454/global.v5i1.203>.

<sup>60</sup> Rakhmat Nur Hakim, "Omnibus Law Dikhawatirkan Ancam HAM Dan Kelestarian Lingkungan," *Kompas.com*, January 2020.

<sup>61</sup> Achmad Nasrudin Yahya, "Walhi Khawatir Omnibus Law Pangkas Instrumen Perlindungan Lingkungan," *Kompas.com*, December 2019.

abolished the Fisheries Business Permit (SIUP) requirements for small-scale fishers and/or small-scale fish cultivators. Thus, small-scale fishers and/or small-scale fish cultivators must obtain a permit. It is not fair if the inhabitants of the coast.<sup>62</sup>

#### 4. CONCLUSION

One of the industrial sectors covered by the Job Creation Act is the marine and fishery industry. The authors summarise the three crucial things that will become the marine and fisheries sector descriptions, especially small fishers. First, coastal areas are affected by regulatory changes. Second is the abolition of the Komnaskajiskan, which is needed to optimize the assessment of fish resources in determining the potential and number of allowable catches. Third, it is related to the marine environment, which is also affected by simplifying regulations that become the Job Creation Law. This paper was written based on concerns and findings that easy licensing in the Job Creation Act will enable large-scale industrial growth in coastal and marine areas. Without compromising the value of essential licenses for economic development, this is achieved without regard to the potential of the ecosystem and the lack of regulation or control that would sustain current levels of utilization. Changes in the concept of Small Fishermen caused legal confusion. As well as the empowerment and safety of Small Fishermen, it has not been improved. In the case of coastal areas and the marine environment, the Job Creation Act abolishes the AMDAL Committee. It limits those who can participate in the AMDAL program for those who are directly affected.

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<sup>62</sup> Fisheries.

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