

Legal Policy in Forest Management for The Development of The Capital City of Nusantara

Dzulkarnain Alghafuru Syahputra¹⁾, Muklis Al'anam²⁾ & Taufan Fajar Sasongko³⁾

¹⁾Universitas Airlangga, Surabaya, Indonesia, E-mail: dzulkarnain.alghafuru.syahputra-2025@fh.unair.ac.id

²⁾Universitas Airlangga, Surabaya, Indonesia, E-mail: muklis.alanam-2025@fh.unair.ac.id

³⁾Universitas Airlangga, Surabaya, Indonesia, E-mail: taufan.fajar.sasongko-2025@fh.unair.ac.id

Abstract. *The development of the Nusantara Capital City (IKN) in East Kalimantan has major implications for forest management, given that the area is dominated by tropical forest ecosystems and former mining sites. Forest management policy in the development of IKN is geared towards realizing the concept of a sustainable forest city, with a target of at least 65–70% of the area being green space. Through legal frameworks such as Law No. 3 of 2022 on the National Capital, the Forestry Law, and Presidential Regulation Number 63 of 2022 on the IKN Master Plan, the government has reaffirmed its commitment to conservation, land rehabilitation, protection of indigenous communities, and the development of a green economy. However, the implementation of these legal policies faces challenges, such as overlapping land claims, potential conflicts of interest between development and conservation, and weak environmental oversight and enforcement. This legal policy research, based on normative analysis using a legislative and conceptual approach, concludes that the success of forest management in IKN development depends not only on existing regulations but also on consistent implementation, inter-institutional synergy, and active involvement of local and indigenous communities. Thus, forest management law policy in the IKN is expected to become a model for sustainable development that balances ecological, economic, and social interests.*

Keywords: *Capital City; Forest; Management; Policy; Nusantara.*

1. INTRODUCTION

Policies formulated in legislation are the product of political bargaining, or what Ronald Dworkin refers to as compromise (Ronald Dworkin, 2006). Policies born of political compromise often do not ideally reflect legal theory or pure principles of justice, but rather are the result of negotiations between political actors, bureaucrats and other stakeholders. In the context of forest management in the Capital City of Nusantara (IKN), this compromise is clearly evident in regulatory efforts to balance the demands of national infrastructure development with the obligation to preserve the environment and guarantee the rights of indigenous peoples. Thus, the politics of law in the

development of IKN is not merely technocratic in nature, but also fraught with political compromise processes that play a role in determining the direction and quality of forest management in the future.

Article 16 paragraph (1) of Law No. 3 of 2022 concerning the National Capital stipulates that land acquisition by the Nusantara Capital Authority and by ministries/institutions in the IKN area shall be carried out through the mechanism of forest area release and land acquisition in accordance with the provisions of the applicable laws and regulations. Meanwhile, based on the 2024 report by Forest Watch Indonesia (FWI), deforestation in the IKN area reached around 18 thousand hectares, with details of 14.01 thousand hectares in production forests, 3.14 thousand hectares in other use areas, and the rest covering 807 hectares in forest parks, 9 hectares in protected forest areas, and 15 hectares in other areas (Anggi Putra Prayoga, 2024).

Large-scale deforestation in the IKN area has caused various adverse effects, including the loss of flora and fauna habitats, increased soil erosion, and environmental pollution. Furthermore, the conversion of natural forests has the potential to eliminate the important role of forests as guardians of water and soil balance, regulators of microclimate, and sources of food and medicine for communities. Deforestation in the IKN also weakens Indonesia's position in fulfilling its international commitments on emission reduction.

Forest management is not only an ecological responsibility, but also a legal obligation regulated by various laws and regulations. This is confirmed in Law No. 41 of 1999 concerning Forestry, which states that forests have an important function for environmental sustainability, social life, and economic development. Therefore, the objectives of forest management based on legal concepts can be formulated as follows:

1. Ensuring Forest Function Sustainability (Sustainability Principle); Forest management must be based on the principle of sustainability so that its ecological, social, and economic functions are maintained. This is in accordance with the principle of sustainability in forestry law, whereby forests must not be exploited beyond their carrying capacity.
2. Protection of the Rights of Communities and Future Generations Forest law affirms that forests are not only the property of the current generation, but also the right of future generations. Therefore, forest management must take into account intergenerational equity so that its benefits can be enjoyed sustainably.
3. Balance between Utilisation and Protection (Environmental Justice); The concept of law requires a balance between the utilisation of forest resources for development and the obligation to preserve the environment. This means that the use of forest resources must be carried out wisely while still considering the environment's capacity to support and accommodate these activities.

4. Fulfillment of State Obligations in the Constitution; Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia states that the earth, water and natural resources are controlled by the state and used for the greatest prosperity of the people. Thus, the state is obliged to manage forests in a fair, transparent and accountable manner for the benefit of the people.

5. Contribution to Global Commitments (International Responsibility); Based on various international agreements ratified by Indonesia through Article 5 paragraph (2) of Law No. 16 of 2016 concerning the Ratification of the Paris Agreement to the United Nations Framework Convention on Climate Change, forest management must also be directed at reducing the rate of deforestation and carbon emissions. This indicates that forest management is a dual responsibility, both nationally and within the framework of international law.

The objective of forest management based on legal concepts is to ensure that forests continue to provide ecological, social and economic benefits in a sustainable manner, while protecting the rights of communities and future generations (Elly Kristiani Purwendah, 2019). The state is obliged to implement the principle of environmental justice by balancing utilisation and protection, as mandated in the 1945 Constitution of the Republic of Indonesia. Furthermore, forest management is also an important instrument for Indonesia in fulfilling its global responsibilities on climate change issues through controlling deforestation and reducing carbon emissions. With this legal basis, forest management is not merely a policy option, but a legal obligation that must be implemented consistently.

2. RESEARCH METHODS

This research uses a normative method because the focus of the study is on legal norms governing disaster management and government authority from an administrative law perspective (Marzuki, 2005). The objects of analysis include Law Number 24 of 2007, the Law on State Administration, implementing regulations, and technical regulations governing administrative actions in emergencies. This approach was chosen to assess the suitability of legal arrangements to the needs of effective and accountable disaster governance.

The legal materials used consist of primary legal materials (relevant laws and decisions), secondary legal materials (academic literature, scientific journals, and expert opinions), and tertiary legal materials (legal dictionaries and regulatory indexes). These three types of legal materials are systematically analyzed to strengthen the theoretical basis and clarify the concepts of authority, discretion, government responsibility, and the legal relationship between the state and citizens in the context of disasters.

The analytical techniques used are systematic, grammatical, historical, and teleological interpretation methods to assess the consistency between norms and the suitability of their application to legal objectives. A conceptual approach is used as a complement to strengthen understanding of administrative authority and government actions in emergency situations. All these methods produce a comprehensive picture of the effectiveness and legality of disaster management in Indonesia. (Terry Hutchinson, 2010).

3. RESULTS AND DISCUSSION

3.1. Forest Management Policy in the Development of the Capital City of Nusantara

The term forestry, known as "*Kehutanan*" in Indonesian, *waldbau* in German, and *bosbouw* in Dutch, refers to activities related to forests, including their management. In 1808, Daendels used the term *baschwezen* or forestry, which at that time was interpreted as all activities related to the existence of forests, the utilisation of forest products, logging, and other activities, or referred to as forest exploitation (Sadikin Djajapertjunda & Edje Djamhuri, 2013). Forestry policy in Indonesia has long been implemented since the Dutch colonial era, starting with the VOC (Vereenigde Oostindische Compagnie) and the era of Governor-General Daendels. After Indonesia gained independence, during the New Order era, Law No. 5 of 1967 concerning Basic Forestry Provisions was enacted, which focused on an economic exploitation approach to forest products. Subsequently, Law No. 41 of 1999 concerning Forestry was implemented with a focus on forest conservation and its ecological, social and economic functions.

The concept of forestry law places the state as the authority that controls, regulates, and supervises, in accordance with the provisions of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (Fatma Ulfatun Najicha & I Gusti Ayu Ketut Rachmi Handayani, 2017). Therefore, the phrase 'controlled by the state' is not interpreted as absolute ownership, but rather as public authority to control, regulate and supervise the use of natural resources, including forests (Andi Bustamin Daeng Kunu, 2012). From a legal policy perspective, this authority forms the basis for how the state shapes, determines the direction of, and implements forest management regulations. In other words, forestry legal policy is the embodiment of the state's policy choices in balancing development and environmental conservation interests. In the context of IKN development, forest management legal politics is reflected in legislative and executive decisions regarding the extent to which forests are converted, protected, or restored. This shows that legal politics plays a role in determining the direction of state policy: whether it favours ecological sustainability, short-term economic interests, or the achievement of international commitments related to climate change.

Forestry law policy in the development of the new capital city cannot be separated from the state's responsibility to interpret the phrase "controlled by the state" progressively, which means not only providing space for investment, but also ensuring a balance between utilisation and conservation. This requires regulations that are not only responsive to the needs of new capital infrastructure development, but also accommodative of ecosystem protection, indigenous peoples rights, and the state's constitutional obligation to protect the environment. If forestry law policy leans more towards economic interests alone, the risks of ecological damage, agrarian conflict, and weak law enforcement will be even greater. Conversely, if the legal orientation is directed towards the principles of sustainable development, then the development of the IKN can become a model of natural resource management that is in line with social justice and global commitments in addressing the climate crisis.

The development of the National Capital City, which requires massive land conversion, has the potential to cause deforestation, loss of forest ecological functions, and

weaken Indonesia's commitment to emission control. Therefore, the article entitled 'The Politics of Forest Management Law in the Development of the Capital City of Nusantara' aims to examine how state policies and regulations in managing forests in the IKN area must be based on the principles of sustainability, intergenerational justice, and the fulfilment of constitutional obligations. This article also aims to highlight that the legal politics of forest management not only concerns development aspects, but also the state's responsibility to maintain the ecological and social functions of forests and Indonesia's commitment to international law on climate change. Thus, this article is expected to provide a critical analysis of the direction of the legal politics of forest management in the IKN so that development does not sacrifice environmental sustainability or the rights of future generations.

The continuation of legal policies related to forestry policy is reflected in the enactment of Law No. 32 of 2009 concerning Environmental Protection and Management, which emphasises the principle of sustainable development through the obligation to conduct an Environmental Impact Assessment (EIA). Furthermore, Law No. 18 of 2013 concerning the Prevention and Eradication of Forest Destruction strengthens the aspect of law enforcement. Law No. 6 of 2023 concerning Job Creation opens up opportunities for the liberalisation of forest area utilisation, including facilitating the conversion and licensing of forest land use. Finally, Law No. 3 of 2022 concerning the National Capital City (IKN) provides the legal basis for the development of the IKN in forest areas.

The history of forestry policy shows variations in the political direction of forestry legislation in Indonesia, reflecting the different interests of policymakers. Article 35 of Law No. 6 of 2023 concerning Job Creation states that in order to make it easier for the community, especially business actors, to obtain business permits and to simplify investment requirements in the forestry sector, this Government Regulation in Lieu of Law amends, repeals or establishes new provisions in several related regulations:

1. Law No. 41 of 1999 concerning Forestry;
2. Law No. 18 of 2013 concerning the Prevention and Eradication of Forest Destruction.

This policy is geared towards business interests to facilitate incoming investors. The logic behind the regulations has changed. Prior to Law No. 6 of 2023, Law No. 41 of 1999 emphasised a balance between ecological, social and economic functions. Law No. 18 of 2013 strengthened law enforcement aspects to prevent forest destruction. This changed after the enactment of Law No. 6 of 2023, which focuses on facilitating investment through the simplification of permits, the transformation of environmental permits into environmental approvals, and the removal of several criminal sanctions that previously bound business actors. The idea of developing and relocating the capital to East Kalimantan was carried out, among other things, to encourage equitable economic growth throughout Indonesia (Yanti Fristikawati & Nugroho Adi Pradana, 2022).

The amendments made through Article 35 of Law No. 6 of 2023 to Law No. 41 of 1999 and Law No. 18 of 2013 indicate a shift in the political orientation of forestry law from the principle of ecological-social-economic balance towards a pro-investment deregulation logic. Previous regulations that strictly governed the use of forest areas

and strengthened criminal sanctions for forest destruction have now been relaxed under the pretext of facilitating investment and simplifying licensing. As a result of this policy, mechanisms to control deforestation have been weakened, the protection of indigenous peoples' rights has been increasingly neglected, and several criminal provisions have lost their effectiveness. This situation contradicts constitutional principles, particularly Article 33 paragraph (3) and Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, and has the potential to hinder Indonesia's commitment to the Paris Agreement by increasing the likelihood of forest degradation. In the context of IKN development, Law No. 6 of 2023 provides a legal basis for accelerating the conversion of Kalimantan's forests for national strategic projects, which ultimately strengthens the dominance of economic and political interests over ecological protection and social justice.

Policies regarding the development of the National Capital City (IKN) and Law No. 6 of 2023 reflect the dominance of economic and political interests in the formulation of forestry laws. The law no longer functions as a tool for protecting natural resources, but rather as an instrument of deregulation to attract capital. Forestry policy should not solely support investment, but must be based on constitutional principles that affirm that forests and natural resources are controlled by the state for the greatest prosperity of the people and to guarantee the right of every individual to a healthy and decent environment. This requires forestry regulations that prioritise ecological functions, strengthen oversight instruments, public participation, and law enforcement against forest destruction. The conversion of forest areas for development, including national strategic projects such as the IKN as regulated in Article 16 paragraph (3) of Law No. 3 of 2022, which states that 'Land for public interest development in the IKN is one type of land acquisition for public interest development', must be carried out through strict mechanisms that ensure transparency, fairness for indigenous communities, and long-term ecosystem sustainability.

The development of a new capital city should not only be viewed as an administrative issue related to land acquisition, but also as a test of the state's commitment to the principles of sustainable development. Regulations that allow for the conversion of forest areas must be accompanied by strong environmental accountability mechanisms, including the obligation to prepare transparent and participatory environmental impact assessments (EIA), the application of the principles of free, prior, and informed consent (FPIC) for indigenous communities, and the establishment of clear boundaries for areas that must not be disturbed in order to preserve critical ecological functions such as water catchment areas and habitats for endemic species. Therefore, the future direction of forestry law policy must be positioned as an instrument to maintain a balance between development interests, social justice, and ecological sustainability, so that the development of the IKN is truly in line with the constitutional mandate and global commitments to climate change mitigation.

3.2. The Legal Consequences of the Development of the Capital City of Nusantara on Forest and Environmental Protection

A policy formulated by the government cannot be separated from the legal implications of its implementation. We do not deny that every policy has its shortcomings.

However, as citizens, we must be responsive to all existing policies. The process of drafting Law No. 3 of 2022 took only 43 days. This relatively short duration limited public participation, raising questions about the quality of the law's substance due to its seemingly rushed drafting. This has led to allegations of material defects due to inconsistencies with the 1945 Constitution of the Republic of Indonesia. An example of this can be seen in Article 5 paragraph (4) of Law No. 3/2022, which places the Head of the Authority on an equal footing with ministers, with the mechanism for appointment, designation and dismissal by the President after consultation with the House of Representatives. This provision contradicts Article 1(2) of Law No. 3/2022, which states that the archipelago has a special status equivalent to that of a province, thereby substantively creating a conflict of norms with Article 18(4) of the 1945 Constitution, which stipulates that the head of a provincial government shall be elected democratically (Elsa Benia & Ghina Nabilah, 2022).

The construction and relocation of the IKN will be carried out in stages in accordance with Article 7(2) of Law No. 3 of 2022. This development is planned in five stages, namely:

1. 2022–2024;
2. 2025–2029;
3. 2030–2034;
4. 2035–2039; and
5. 2040–2045 (Najwa Tasya, 2024).

In the first three stages, the focus of implementation includes resolving overlapping land ownership disputes, developing public infrastructure, and strengthening the role of community leaders and indigenous and local communities in various aspects of development and economic opportunities.

IKN development policies can be found in aspects of forestry that have an impact on ecology and law. Some of these potentials continue to exist as IKN development is completed, therefore the ecological impact that occurs. In the context of ecological reality, the relationship between humans and their environment is not a reciprocal one, but rather shows that humans are completely dependent on nature, while nature does not have the same dependence on humans. Awareness of this dependence calls for the emergence of an ecological ethic that places the needs of other species as an integral part of moral considerations. Therefore, ecological justice must be viewed simultaneously, not only for the benefit of humans, but also for the survival of non-human beings, without placing one party in a subordinate position to the other (Andreas Tedy Mulyono, 2022). The development of the new capital city and the relocation of the centre of government is not only a political and economic project, but also concerns environmental conservation issues, given that the new capital will be permanent. In the context of sustainable development, this development is related to three main pillars, namely ecology (environmental conservation), economy (economic growth), and social justice. However, in practice, it is often difficult to harmonise these three aspects simultaneously due to the diverse interests of stakeholders. From a conservation perspective, economic development should be designed to be adaptive and take ecological sustainability into account so that natural resources can be optimally utilised without sacrificing environmental balance (Andreas Tedy Mulyono, 2022). Ecological aspects are often viewed as obstacles in the development process.

Under certain conditions, these obstacles can be minimised without posing significant risks, but in other situations, they are treated partially and only addressed based on the needs of specific projects, rather than as strategic issues in overall development policy (Andreas Tedy Mulyono, 2022).

Ecological justice is a crucial principle because it ensures a balanced distribution between humans and other humans, as well as between humans and non-human beings, in terms of benefits and responsibilities towards the environment (Muklis Al'anam, 2025). Ecological justice demands that development not only prioritise economic and political interests, but also pay attention to the ecological rights of local communities, especially indigenous communities whose livelihoods depend on forests, as well as the intrinsic rights of nature to remain sustainable (Slamet Subekti, 2016). If the development of the IKN is only oriented towards economic growth, then the potential for injustice will arise, whereby indigenous peoples and future generations will have to bear the brunt of ecological damage, while the profits are enjoyed by capital owners and elite groups. Therefore, the application of the principle of ecological justice requires policies that guarantee transparency, public participation, protection of the rights of indigenous peoples, and ethical treatment of biodiversity. Thus, the development of the IKN has the potential to become an example of sustainable development practices that not only balance the ecological, economic, and social pillars, but also ensure the fair distribution of benefits and environmental responsibilities for all parties. Ecological justice is achieved when humans assess nature not solely in terms of economic benefits, but also take into account the cultural, health, biological, social, and spiritual values that exist in the environment (Mella Ismelina Farma Rahayu, 2012).

The conversion of forest areas for development purposes has the potential to violate the principle of sustainability, as existing legal provisions are often tightened through derivative regulations or specific provisions in Law No. 3 of 2022 and Law No. 6 of 2023 (Muklis Al'anama & Hendro Prabowo, 2025). This situation opens up the possibility of legal derogations that could weaken the binding force of general rules on environmental protection, thereby creating legal uncertainty. On the other hand, legal consequences may also arise in the form of potential conflicts of norms and weak enforcement of environmental law. When forest protection as regulated in Law No. 41 of 1999 conflicts with provisions on accelerating the development of the IKN as a National Strategic Project, there is a risk of subordinating ecological protection to economic and political interests. This has implications for an increase in environmental disputes, including civil lawsuits, environmental criminal charges, and constitutional challenges to government policies in the Constitutional Court. Furthermore, the failure to apply the principle of public participation and the disregard for the rights of indigenous peoples in natural resource management risks violating the constitutional rights of citizens, as guaranteed in Article 28H of the 1945 Constitution of the Republic of Indonesia on the right to a good and healthy environment. Therefore, the development of the IKN not only causes ecological problems but also has legal consequences that could weaken the legal legitimacy of the project.

The development of the IKN also raises issues regarding land rights. In fact, land issues in the IKN development area are inextricably linked to numerous overlapping permits, ranging from mining, forest areas, to oil palm plantations. In addition, there are also indigenous communities that have occupied the area for decades. The

Agrarian Reform Consortium (KPA) has warned that the IKN megaproject in Penajam Paser Utara and Kutai Kartanegara Regencies has the potential to cause a significant escalation of agrarian conflicts. According to Roni Septian Maulana, Head of the KPA Policy Advocacy Department, this situation can be compared to various other National Strategic Projects (PSN) such as the construction of airports, dams, toll roads and hydroelectric power plants, which have been proven to often cause agrarian disputes in various regions (Umar Sholahudin & Abdus Sair, 2022).

The potential for land rights transfers in the IKN area is very high, given that the area is not vacant land, but has been controlled and utilised by the community for a long time, making it prone to land speculation. Data from the East Kalimantan Provincial Office of the National Land Agency shows that as of 6 February 2021, there were 37,695 registered land parcels in the IKN area, with a total area of 42,026.18 hectares (Aditya Nurahman & Putrida Sihombing, 2021). The legal implications of potential land rights transfers in the IKN area could have a number of serious consequences. First, if land acquisition is carried out without regard for the rights of communities that have long controlled and used the land, this could potentially violate the principles of legal certainty and protection of land rights as stipulated in Law No. 5 of 1960 concerning Agrarian Principles. Second, land speculation practices can lead to overlapping ownership and agrarian disputes, which in turn can increase the litigation burden on the courts and hinder the IKN development process itself. Third, as some of the land is under the control of indigenous communities, the disregard of customary rights may imply a violation of the constitutional rights of indigenous communities as recognised in Article 18B(2) of the 1945 Constitution of the Republic of Indonesia, making it vulnerable to legal challenges, whether through the general court system, administrative courts, or constitutional review in the Constitutional Court. Fourth, weak supervision of land rights transfers could open the door to corruption, collusion, and nepotism (KKN) in the licensing and compensation processes, which is contrary to the principles of clean and accountable governance. Therefore, the development of the IKN without strict legal regulations in aspects related to land has the potential to not only trigger social conflict but also cause legal problems that can erode legitimacy and sustainability.

4. CONCLUSION

Forest management policies in the development of the National Capital City (IKN) indicate a shift in the orientation of forestry regulations from a spirit of environmental protection and conservation towards accelerated development and investment interests. A number of regulations, such as those related to Forestry, the Environment, Job Creation, and the IKN, show a lack of harmony, where ecological protection is often sacrificed for economic and political interests. This reflects that the direction of legal policy in forestry policy is still heavily influenced by the interests of policymakers, so that public participation, the rights of indigenous communities, and the principles of ecological sustainability are often not properly accommodated. Legally, the development of the IKN has consequences for forest and environmental protection, including potential conflicts of norms, weak law enforcement, and the neglect of communities' constitutional rights to a good and healthy environment. The conversion of forest areas and potential agrarian conflicts in the IKN development area highlight the need to strengthen legal instruments, transparency, and the enforcement of ecological justice principles so that development is not only oriented towards economic

growth but also ensures ecosystem sustainability. Therefore, the success of IKN development is not only measured in political and economic terms, but also in terms of the extent to which the project complies with the principles of environmental law, social justice, and the environment. In the future, the government must direct its policies towards the following: First, in formulating forest management policies for the development of the new capital city, the government needs to reaffirm the constitutional principle that forests and natural resources are managed by the state for the highest welfare of the people, while guaranteeing the right to a good and healthy environment. This can be achieved through the formulation of more detailed derivative regulations that emphasise ecological protection, community participation, and respect for the rights of indigenous communities affected by development. Second, to minimise legal consequences such as regulatory conflicts and weak environmental protection, it is necessary to strengthen oversight mechanisms, ensure transparency in land use conversion, and coordinate across sectors to prevent regulatory overlap in IKN development policies. In addition, the application of the principle of ecological justice must be the main foundation, where development does not only focus on economic interests but also ensures environmental sustainability, social justice, and the protection of the rights of future generations.

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