

Government Policy: The Conversion of Protected Forest into Production Forest

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ABSTRACT

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Land disputes involving protected forests and conservation areas have consistently emerged as issues stemming from land utilisation by local communities. The Ministry of Environment and Forestry plays a fundamental role in addressing these conflicts by altering the status of protected forests into production forests. Accordingly, the study aims to analyse the regulatory framework governing the conversion and to evaluate the effectiveness of the authority, local governments, and the Ministry of Environment and Forestry in facilitating the status change. The research employs a descriptive normative legal approach, drawing on empirical data from surveys, interviews with pertinent parties, and field observations in Majalengka Regency, particularly in Nunuk Village (currently Nunuk Baru Village). The research reveals that regulations and the effectiveness of both local government and ministry policies govern the transformation and use of protected forests into production forests. Government Regulation No. 104 of 2015; the Procedures for Changing Forest Area Designation and Function, is a binding regulation that directly addresses the issues. As a result, the residents of Nunuk Village had no grounds to oppose the change. The effective implementation led to the resolution of the land dispute in Nunuk Baru Village, Maja District, Majalengka Regency, between the local community and Perhutani. The residents' struggle to assert their land rights was ultimately victorious, as the Majalengka local government collaborated with the central government to expedite the resolution of the critical issue. In conclusion, the government must prioritise designating production land that can be effectively and sustainably managed by local communities.



Introduction

Indonesia is one of the largest countries in the world with expansive forest areas, serving as a cornerstone in sustaining diverse ecosystems and supporting surrounding communities.¹ Nonetheless, forest management in Indonesia is frequently confronted with intricate challenges, including economic pressures, corporate interests, and land-use conflicts. There are two pivotal categories of forest land status: protected forests and production forests. While protected forests are primarily designated to preserve ecological balance, production forests are allocated for productive endeavors, such as timber harvesting and the exploitation of other forest resources, governed by more lenient regulations.² Economically, forests

¹ Nurwinsyah Rohmaningtyas, "Hutan Wakaf Sebagai Solusi Deforestasi di Indonesia," *ADILLA: Jurnal Ilmiah Ekonomi Syari'ah* 5, no. 2 (29 Juli 2022): 92–102, <https://doi.org/10.52166/adilla.v5i2.3560>, 92.

² Taufiq Ramadhan et al., "Juridical Review of Food Estate Project Land Clearing Against Environmental Damage Judging from Government Regulation No. 23 of 2021 concerning Forestry Implementation," *QISTINA: Jurnal Multidisiplin Indonesia* 3, no. 1 (1 Juni 2024): 689–95, <https://doi.org/10.57235/qistina.v3i1.2377>, 689.

provide added value to surrounding communities by utilizing and selling non-timber forest products.³

A notable case exemplifying the issue is the land dispute in Nunuk Village, Maja District, Majalengka Regency, West Java Province. The case underscores how the conversion of protected to production forest can engender conflicts among local and central governments, local communities, and the private sector. In this context, local governments and the Ministry of Environment and Forestry (KLHK) play a crucial role in implementing sound and equitable policies. The conversion of protected forests to production forests frequently entails complex issues, including regulatory approval, environmental repercussions, and community rights. Communities living in proximity to forests are frequently dependent on forest resources to sustain their livelihoods, utilizing them for essential needs such as sustenance, medicinal purposes, and construction materials.⁴ While local governments seek to enhance economic growth through the exploitation of forest resources, the Ministry of Environment and Forestry holds the responsibility of striking a delicate balance between resource utilization and environmental preservation. Many conservation or protected area management initiatives have faltered due to divergent interpretations of the fundamental principles of conservation, which, in reality, must also integrate the aspirations of local communities to sustainably manage natural resources within these regions.⁵

From a legal perspective, Indonesia has a myriad of regulations governing forest management, notably Law No. 41 of 1999 on Forestry and Ministerial Regulations from the Ministry of Environment and Forestry, which oversee the transformation of forest functions. However, significant challenges exist, particularly when the economic interests of local governments clash with the ecological imperatives that the Ministry of Environment and Forestry is committed to preserve.⁶ At the implementation level, efforts to transform forest conditions face considerable challenges, particularly in coordinating between central and regional governments and securing support from local communities. Regional governments, often constrained by limited human and financial resources, struggle to effectively execute national policies. Additionally, indigenous communities, reliant on the forest for their survival, frequently feel excluded and sidelined in the decision-making process.⁷

Nevertheless, robust policies and effective law enforcement are crucial in maintaining the balance between economic development and environmental protection. For instance, the REDD+ program (Reducing Emissions from Deforestation and Forest Degradation) offers financial incentives to developing countries that successfully protect forests and mitigate

³ R. Rijanta Reni Haryani, "Ketergantungan Masyarakat Terhadap Hutanlindung Dalam Program Hutan Kemasyarakatan," *Jurnal Litbang Sukowati* 2, no. 2 (2019): 72–86, <https://journal.sragenkab.go.id/index.php/sukowati/article/view/70/39>, 74.

⁴ Taufiq Ramadhan, "Tinjauan Yuridis Pembukaan Lahan Proyek Food Estate Terhadap Kerusakan Lingkungan Ditinjau dari Peraturan Pemerintah No 23 Tahun 2021 Tentang Penyelenggaraan Kehutanan," *QISTINA: Jurnal Multidisiplin Indonesia* 3, no. 1 (2024): 688–695, <http://rayanjurnal.com/index.php/qistina/article/view/2377/1897>, hal. 689.

⁵ Anton Silas Sinery dan Jacob Manusawai, "Partisipasi Masyarakat Dalam Program Pengelolaan Hutan Lindung Wosi Rendani (Participation of Communities in the Wosi Rendani Protected Forest Management)," *Jurnal Manusia dan Lingkungan* 23, no. 3 (27 Februari 2017): 394–401, <https://doi.org/10.22146/jml.18811>, 395.

⁶ Ida Nurlinda, "Telaah Atas Materi Muatan Rancangan Undang-Undang Pertanahan," *Jurnal Bina Mulia Hukum* 1, no. 1 (2016): 1–13, <https://jurnal.fh.unpad.ac.id/index.php/jbmh/article/view/12/1>, 8.

⁷ Irnawati Irnawati et al., "Studi Tingkat Pengetahuan Masyarakat terhadap Pengelolaan Hutan Adat Kampung Fategomi Distrik Aitinyo Utara Kabupaten Maybrat," *Abdimas: Papua Journal of Community Service* 6, no. 2 (22 Juli 2024): 72–78, <https://doi.org/10.33506/pjcs.v6i2.3557>, 77.

deforestation. Nevertheless, the efficacy of REDD+ and analogous policies hinges significantly on the fortification of law enforcement and the establishment of a collaborative nexus among the government, indigenous communities, and the private sector. Forest governance in Indonesia falls under the purview of the Ministry of Environment and Forestry, which bears the critical responsibility of formulating national policies on the safeguarding and sustainable utilization of natural resources.⁸ The Ministry of Environment and Forestry is entrusted with the responsibility of delineating forest classifications, determining whether an area is designated as a protected forest, production forest, or conservation forest.⁹

In the context of decentralization, regional governments assume a pivotal role in the execution of forestry policies, primarily owing to their intimate ties with local communities.¹⁰ Nonetheless, the collaboration between the Ministry of Environment and Forestry and regional governments faces significant challenges. Conflicting priorities, particularly the clash between local economic ambitions and national environmental objectives, often fuel tensions. In some instances, regional governments may prioritize converting protected forests into production forests to boost local revenue through taxes and duties from the forestry and plantation sectors.¹¹ In addition, research highlights a stark contrast in the approaches taken by the Ministry of Environment and Forestry and local governments in executing forestry policies. Local communities frequently perceive that their rights to ancestral land and livelihoods are overlooked in these policies. As Muhammad Solihin emphasizes in *Sejarah Desa Kodasari 2009*, the village of Nunuk is thought to have been founded in the late 18th or early 19th century¹². Initially, the residents of the area lived dispersed, with some settling on hilltops, slopes, valleys, and riverbanks. They led separate lives without any sense of unity. However, at one point, the ruler of the Talaga Kingdom suggested that the people in the region unite to form a village and select an elder as the village head (*kuwu*), while matters related to customary traditions would be overseen by the Head of Customary Law. The settlement pattern in each village was tightly clustered, yet separated from others, driven both by strong familial bonds and the need to shield themselves from external threats. The misfortune of Nunuk's inhabitants began when they were compelled to relocate to Kodasari and Ligung under the directive of Regent R.M.A.A. Suriatanudibrata, whose policy sought to resettle communities from southern to northern Majalengka. In 1932, the Regent decreed the migration of residents from villages near the slopes of Mount Ciremai and the mountainous regions of southern Majalengka to the northern areas, specifically to the teak forests of Ligung in the Jatiwangi district. Among the villages ordered to relocate were Nunuk, Gunungrarang, Sukamenak, Cicipung, Anggrawati, and Cengal.

The Regent's decision, supported by the Dutch East Indies Government through the Resident of Cirebon, marked a turning point for the region. Nunuk and its neighboring areas were designated as "pine villages" by the Majalengka Regency, slated for conversion into pine

⁸ Ahmad Maryudi, "Arah Tata Hubungan Kelembagaan Kesatuan Pengelolaan Hutan (KPH) Di Indonesia," *Jurnal Ilmu Kehutanan* 10, no. 1 (January 2016): 57-64.

⁹ Fatma Ulfatun Najicha dan I Gusti Ayu Ketut Rachmi Handayani, "Politik Hukum Perundang - Undangan Kehutanan Dalam Pemberian Izin Kegiatan Pertambangan Di Kawasan Hutan Ditinjau Dari Strategi Pengelolaan Lingkungan Hidup Yang Berkeadilan," *Jurnal Hukum dan Pembangunan Ekonomi* 5, no. 1 (1 Februari 2018): 119-34, <https://doi.org/10.20961/hpe.v5i1.18358>.

¹⁰ Kemas Abdul Somad, "Desentralisasi Dalam Pengelolaan Hutan Di Wilayah Hukum Kabupaten Muara Jambi," *Legalitas* 6, no. 1 (2014): 94-117, <https://doi.org/http://dx.doi.org/10.33087/legalitas.v6i1.127>, 96.

¹¹ Elham Sumarga Aritta Suwarno, Lars Hein, "Governance, Decentralisation and Deforestation: The Case of Central Kalimantan Province, Indonesia," *Quarterly Journal of International Agriculture* 54, no. 1 (2015): 77-100.

¹² Brwa, "Wilayah Adat Kasepuhan Nunuk," <https://Brwa.or.id/>.

forests, effectively erasing their administrative existence. The encroaching deforestation around Mount Ciremai further underscored the urgency of this policy. Bound by the mandate of the Regent and the Dutch Government, the villagers had no choice but to comply and relocate to the prescribed areas. Village leaders from Nunuk, Cipicung, Cieurih, Anggrawati, Cengal, Sukamenak, and Gununglarang gathered at Ayun Bangbing in Nunuk to strategize their exodus and receive the Regent's directives.

The Kasepuhan Nunuk community's deep-seated hostility toward Perhutani led to the complete eradication of its presence. Their fierce resistance left Perhutani unable to reassert control over Nunuk, leaving the forests barren and the threat of flooding omnipresent. This devastation eroded the community's willingness to cultivate timber or long-term crops, viewing such efforts as a means of enriching Perhutani alone. Adding to their plight, they faced harsh penalties if caught harvesting timber, even from trees they had planted with their own hands. On November 29, 2010, Nunuk was reestablished as a village under the name Nunuk Baru, pursuant to Regional Regulation No. 6 of 2010, officiated by the Regent of Majalengka, H. Sutrisno, MSc. Bpk. Dais was appointed as the Acting Village Head (Pjs). The territory of Nunuk Baru was divided into seven blocks: Nunuk, Babakan, Cirelek, Kadut, Citayeum, Cikawoan, and Lengkong. The formal inauguration of the Acting Village Head by the Regent took place on February 20, 2011, at the Nunuk Baru Village Hall.

Comparative research on environmental issues reveals key insights, including a study by Arya Bagus Bagus Satrya Utama titled "*Law Enforcement Against Illegal Logging in Martapura Production Forest Register A.13 (Case Study in East OKU Regency)*." The study underscores the proactive strategies implemented by PT. MHP, the East OKU Regency Government, and the South Sumatra Provincial Forestry Service. These measures encompass community engagement initiatives, comprehensive forest condition assessments, the installation of boundary markers throughout PT. MHP's operational zones, and the establishment of protective ring belts to safeguard the forest's integrity. PT. MHP addresses illegal logging through mediation, with the East OKU Regency Government serving as an intermediary. The study emphasizes the urgency for PT. MHP, the East OKU Regency Government, and the South Sumatra Provincial Forestry Service to implement swift and proactive measures to prevent encroachment before it occurs. In contrast, Dessy Agustina Harahap, in her article "*The Role of Local Governments in Forest Resource Management for Community Welfare Following the Enactment of Law No. 23 of 2014,*" underscores a significant shift in governance, highlighting the diminished authority of district and municipal governments in managing forest resources under the new legislative framework. The matter contradicts the principle of regional autonomy, which grants local governments the right to manage matters related to community welfare in the forestry sector. Overlapping regulations plague the forestry sector, with forest utilization, resource management, and product governance governed by multiple legislative frameworks. The redundancy undermines the legitimacy and legal certainty of their implementation. Thus, coherent forestry legislation is imperative to eliminate legal uncertainty, ensuring forest resources can be efficiently utilized by local governments and communities to promote societal welfare.¹³ The key issues identified are: First, what is the legal foundation for converting protected forests into

¹³ Dessy Agustina Harahap, "Peran Pemerintah Daerah Dalam Pengelolaan Hasil Hutan Demi Kesejahteraan Masyarakat Setelah Keluarnya UU No. 23 Tahun 2014," *Jurnal Ilmu Hukum Prima Indonesia(IHP)* 1, no. 1 (2018): 12-28. 1.

production forests? Second, how effective is the collaboration between local governments and the Ministry of Environment and Forestry (KLHK) of the Republic of Indonesia in executing the transformation?.

Research Methods

The study adopts a descriptive-analytical normative legal approach, integrated with an empirical method, wherein issues are resolved through the analysis of facts in accordance with Indonesia's positive law.¹⁴ The data is analyzed and sourced from legislative regulations, complemented by an exploration of legal theories pertaining to the effectiveness of local governments and the Ministry of Environment and Forestry (KLHK) of the Republic of Indonesia in converting protected forests into production forests.

Results and Discussion

1. *Regulations on the Conversion of Protected Forests to Production Forests.*

The legal basis for converting protected forests into production forests is outlined in Law No. 41 of 1999 on Forestry, specifically in Article 19. Paragraph (1) stipulates that the change in designation and function of forest areas is determined by the government based on integrated research findings; (2) the conversion of forest area designations mentioned in paragraph (1), which have significant impact, broad scope, and strategic value, is implemented by the government with the approval of the People's Representative Council; and paragraph (3) specifies that the procedures for changing the designation and function of forest areas as stated in paragraphs (1) and (2) are regulated by Government Regulation.

Article 2 of Government Regulation No. 104 of 2015 stipulates that the re-designation and functional transformation of forest areas are driven by the need to address national development dynamics and societal aspirations, while ensuring the sustainable and optimal distribution of forest functions and benefits, alongside maintaining forest areas of sufficient size and proportional spread. Government Regulation No. 23 of 2021 on Forestry Administration governs the procedures for altering the designation and function of forest areas, as outlined in Article 75. Paragraph (1) dictates that the transformation of forest functions, as specified in Article 53, letter b, aims to strengthen and optimize the roles of forest areas. Paragraph (2) specifies that such conversions apply to forest areas with primary functions of: a. Conservation Forests; b. Protected Forests; and c. Production Forests. Paragraph (3) further stipulates that the modification of forest functions, as described in paragraph (1), may be executed: a. partially; or b. within provincial territories.

Article 76 outlines that the partial conversion of forest area functions, as referred to in Article 75, paragraph (3), letter a, is executed through the alteration of functions: a. between primary forest area functions; or b. within a primary forest area function. Article 77 specifies that the conversion between primary forest area functions, as mentioned in Article 76, letter a, includes the transformation of: a. Conservation Forest Areas into Protected Forest Areas and/or Production Forest Areas; b. Protected Forest Areas into Conservation Forest Areas and/or Production Forest Areas; and c. Production Forest Areas into Conservation Forest Areas and/or Protected Forest Areas. While, Article 78 states that the conversion of

¹⁴ Ria Ayu Novita, Agung Basuki Prasetyo, and Suparmo Suparno, "Efektivitas Pelaksanaan Undang-Undang Nomor 2 Tahun 1960 Tentang Perjanjian Bagi Hasil Tanah Pertanian (Tanah Kering) Di Desa Bringin, Kecamatan Bayan, Kabupaten Purworejo," *Diponegoro Law Journal* 6, no. 2 (2017): 1-12.

Conservation Forest Areas into Protected Forest Areas and/or Production Forest Areas, as outlined in Article 77, letter a, shall be carried out under the following conditions: a. it no longer satisfies the full criteria for Conservation Forest Areas in accordance with applicable laws and regulations; and b. it meets the criteria for Protected Forest Areas or Production Forest Areas as stipulated by the relevant laws and regulations.

2. ***Effectiveness of the Authority of Regional Governments and the Ministry of Environment and Forestry of the Republic of Indonesia: The Conversion of Protected Forests into Production Forests.***

Authority refers to legal power, the right to govern or act; the right or power of public officials to comply with legal rules in fulfilling public duties. The term "*bevoegdheid*" in Dutch law, as noted by Philipus M. Hadjon, pertains to the distinction between the terms "authority" and "*bevoegdheid*." "*Bevoegdheid*" is used in the context of both private and public law, whereas "authority" is exclusively applied within the framework of public law.¹⁵ In an interview with the Head of the Kasepuhan Customary Village of Nunuk Baru, Abah Enda, on Monday, March 7, 2022, he explained that the relocation to Kudasari through the Bedol Desa program was akin to "moving banana shoots." In this analogy, only the descendants or children relocated, while the elders or the primary families remained in Desa Nunuk. According to him, approximately 40 households made the move to Kudasari, but the main families stayed behind in Nunuk. However, the dispute over land in Desa Nunuk Baru, Maja District, Majalengka Regency, with Perhutani, ultimately yielded a favorable outcome for the village's residents, most of whom rely on farming for their livelihoods.

The community's persistent efforts to claim their land rights were finally answered when the Majalengka Regional Government coordinated with the Central Government to expedite the resolution of the issue. Consequently, representatives from the Ministry of Environment and Forestry (KLHK) conducted an on-site survey. Grounded in Satjipto Rahardjo's theory of legal certainty and the foundational principles of legislative drafting, Article 75(3)(a) of Government Regulation No. 23 of 2021 on Forestry Administration inherently upholds the principle of legal certainty.¹⁶ The Nunuk Baru Village area is classified as a protected forest under the provisions of Government Regulation No. 104 of 2015 concerning Procedures for the Reallocation and Functionality of Forest Areas, subsequently repealed and replaced by Government Regulation No. 23 of 2021 on Forestry Administration. The regulation establishes the framework for modifying forest area functions to enhance their consolidation and optimal use. Such modifications require the prior reclassification of protected forests into production forests, paving the way for their eventual transfer as private property to individuals for the sustainable exploitation of natural resources and productive endeavors.

Conclusion

The legal framework for converting protected forests into production forests is embedded in Law No. 41 of 1999 on Forestry, Government Regulation No. 104 of 2015 on Procedures for the Reallocation and Functionality of Forest Areas, and Government Regulation No. 23 of 2021 on Forestry Administration. These authoritative regulations

¹⁵ Grace Sharon, "Teori Wewenang Dalam Perizinan," *Jurnal Justiciabelen* 3, no. 1 (2021): 50-63.

¹⁶ Michael Edward and I.G.A.M Wardana, "Politik Hukum Demi Kepastian Hukum Kegiatan Usaha Perkebunan Dalam Kawasan Hutan Konservasi Atau Hutan Lindung" (Universitas Gadjah Mada, 2019). Hal. 1.

establish a robust legal basis, ensuring that the transition from protected to production forest is not only feasible but also empowers the Nunuk Baru Village community to sustainably manage and benefit from these forested areas. The effective collaboration between the local government and the Ministry of Environment and Forestry of the Republic of Indonesia in addressing the land dispute in Nunuk Baru Village, Maja District, Majalengka Regency, with Perhutani has culminated in a highly promising outcome for the community, predominantly composed of farmers. The tireless efforts of the villagers to secure their land rights have finally been realized, following a swift and coordinated intervention by the Majalengka Local Government in partnership with the Central Government, expediting the resolution of this critical issue. Thus, the change in the status from protected forest to production forest stands as a commendable achievement, the result of effective collaboration and coordination between the Central Government, represented by the Ministry of Environment and Forestry of the Republic of Indonesia, the Local Government, and the administration of Nunuk Village, now Nunuk Baru, all of which was realized with the consent and backing of the local community.

Suggestion

The Central and Local Governments must intensify legal outreach on Environmental and Forestry Regulations to the public. Enhanced coordination between all levels of government is crucial for effectively addressing land-related issues across Indonesia.

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