

The Nature of Legal Regulations on The Merauke Integrated Food and Energy Plantation Project

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Citation: Ramadhan, M. F., Naw², Khalid, H. and Abbas, I. (2026). The Nature of Legal Regulations on The Merauke Integrated Food and Energy Plantation Project, *Journal of Cultural Analysis and Social Change*, 11(1), 3001-3006. <https://doi.org/10.64753/jcasc.v11i1.4603>

Published: March 01, 2026

ABSTRACT

This research was conducted with the objective to analyze the nature of the regulations governing the Merauke Integrated Food and Energy Plantation Project. This research uses a normative-empirical legal approach. The normative approach is conducted through a review of laws and regulations, regional regulations, and customary law related to the protection and preservation of forest resources. The empirical approach examines its implementation in Merauke Regency through interviews with law enforcement officials, customary leaders, and forestry agencies. The results of this research indicate that the nature of legal regulations for the protection and preservation of forest resources in Merauke Regency reflects the importance of forests as a life-support system and living space for indigenous Papuans, with law functioning as an ecological instrument to safeguard their sustainability. However, the existing regulatory framework still reveals disharmony and overlapping norms, which weaken legal certainty and reduce the effectiveness of forest protection. This suggests the need for normative renewal oriented toward ecological justice, positioning the protection of natural and customary forests as a fundamental boundary for development within the Merauke Integrated Food and Energy Plantation Project.

Keywords: Construction, Norms, Forestry, Merauke.

INTRODUCTION

Indonesia is one of the countries endowed with abundant natural resources, particularly in the forestry sector. The distribution of forest resources in Indonesia is relatively even, stretching from the western to the eastern parts of the archipelago. These forest resources are intended to be utilized for the benefit of the Indonesian people to support their livelihoods and national development. However, such utilization must be carried out responsibly, as forests play a crucial role in maintaining environmental balance, ecological sustainability, and the continuity of life. According to data from the Ministry of Environment and Forestry (KLHK), Indonesia's forest area in 2019 reached 94.1 million hectares, or approximately 50% of the country's total land area. The largest remaining forest areas are primarily found in Papua, Kalimantan, Sulawesi, and Sumatra. Indonesian forests are highly diverse in terms of types, functions, and potentials that can be harnessed for public welfare and national development. These include timber resources, non-timber forest products, environmental services, and nature-based tourism. From the timber potential alone, there are at least 4,000 species of wood, of which 267 are classified as having high economic value. Economically, the forestry sector's average contribution to Gross Domestic Product (GDP) during the period of 2017–2021 ranged between 0.6% and 0.7%. Meanwhile, its contribution to Non-Tax State Revenue (PNBP) during the same period averaged IDR 4.82 trillion per year out of a total national PNBP exceeding IDR

300 trillion annually. One of the regions that significantly contributes to Indonesia's forest wealth is Merauke Regency in Papua Province. This area contains approximately 7 million hectares of conservation and protected natural areas, as well as 7.8 million hectares of protected forest. In 2022, Papua's total forest cover reached 33.12 million hectares, exceeding that of Kalimantan (31.10 million hectares), Sumatra (16.01 million hectares), and Sulawesi (10.86 million hectares). With a composition of 84% forest and 16% non-forest land, Papua is now the largest forested region in Indonesia, replacing Kalimantan, which was previously known as the "lungs of the world." This shift is largely attributable to the high rate of deforestation in Kalimantan, driven by illegal logging, land burning, conversion of forest for agriculture and plantations, climate change, infrastructure development, and weak forest governance. This situation raises a critical question: will Papua experience the same environmental degradation? In 2023, Greenpeace Indonesia estimated that approximately 7.5 million hectares of Papua's natural forest could be lost due to land-based investment policies aimed at accelerating economic growth in four newly established provinces: Southwest Papua, Central Papua, Highland Papua, and South Papua. According to Greenpeace campaigner Nicodemus Wamafma, the limited fiscal capacity of these new provinces has encouraged local governments to prioritize land-based investments to finance development, potentially at the expense of environmental sustainability. One concrete example of this risk is the planned oil palm plantation concession covering 269,648 hectares in Merauke Regency. Additionally, in the name of food security, a large-scale rice estate project of one million hectares has been initiated in Ilwayab District, Merauke, based on Minister of Environment and Forestry Decree No. 835/2022, which permits the use of 13,540 hectares of protected and production forest for food security infrastructure. However, spatial analysis conducted by the PUSAKA Foundation indicates that the project overlaps with indigenous customary forests and areas of high conservation value, including sacred sites, ancestral pathways, traditional food gardens, hunting grounds, and customary conservation zones. The project is also alleged to violate indigenous rights, environmental rights, and the principle of Free, Prior, and Informed Consent (FPIC), as affected communities were not adequately consulted prior to project implementation. Furthermore, under Minister of Environment and Forestry Regulation No. 7 of 2021, any forest area utilization must comply with administrative and technical requirements, including the submission of environmental documents such as AMDAL or UKL-UPL.

Nevertheless, local residents claim that the Merauke rice estate project has not yet obtained proper environmental permits, raising concerns about potential forestry crimes. Illegal logging, defined as the unauthorized cutting, transportation, processing, and trading of timber, constitutes a serious crime in Indonesia due to its multidimensional impacts—ecological, social, economic, and cultural. It leads to biodiversity loss, ecosystem degradation, and long-term environmental damage, contradicting the principles of natural resource conservation, which emphasize sustainable use, habitat protection, ecosystem restoration, and community awareness. To combat illegal logging, conservation-based strategies such as strengthened law enforcement, reforestation, forest certification, and community empowerment are essential. Indonesia's legal framework for forest protection includes the 1945 Constitution, the Criminal Code, Law No. 5 of 1990 on Conservation of Living Natural Resources, Law No. 41 of 1999 on Forestry, Law No. 32 of 2009 on Environmental Protection, Law No. 18 of 2013 on Forest Destruction Prevention, and Law No. 6 of 2023 (Job Creation Law). However, the Job Creation Law has introduced significant legal challenges by shifting several criminal sanctions in forestry law to administrative sanctions, creating regulatory inconsistencies and weakening deterrence against environmental crimes. Therefore, it is imperative that Indonesia's legal framework integrates conservation principles more strongly to prioritize environmental protection over purely economic interests. This forms the basis for further research into the legal construction of illegal logging crimes in Indonesia as a contribution to strengthening environmental governance and forest protection.

METHOD

Legal research is a scientific activity based on specific methods and systematic procedures aimed at studying one or several legal phenomena through analysis, in which research methods function as structured ways of thinking and acting that are carefully prepared to achieve research objectives, because without an appropriate method, research cannot properly formulate, identify, analyze, or solve legal problems, making the choice of method highly significant in determining the quality, validity, and credibility of scientific findings; this study employs a normative-empirical (socio-legal) legal approach, where the normative aspect involves examining statutory regulations, regional regulations, and customary law governing the protection and conservation of forest resources to identify underlying principles and legal norms, while the empirical aspect involves assessing their implementation in Merauke Regency through in-depth interviews with law enforcement officials, forestry agencies, local government authorities, and indigenous leaders, as well as field observations of forest management practices, with the integration of both approaches intended to compare law in books and law in action and identify factors influencing the effectiveness of forest protection, so as to formulate a more ideal and context-sensitive legal regulatory model;

the research was conducted in Merauke Regency, Papua Province, selected purposively due to its unique ecological, social, and legal characteristics, its vast forest areas, and the presence of active customary law amid pressures from large-scale development projects, and was carried out over one month from June 1 to July 1, 2025, covering preparation, data collection, analysis, and final reporting; this study utilized both legal materials (primary, secondary, and tertiary) and empirical data obtained through interviews and field observations to provide a comprehensive understanding of forest law governance; the population consisted of relevant stakeholders in forest law enforcement and management in Merauke, with purposive sampling including six indigenous representatives, three business actors, three civil society organizations, and six law enforcement officials; data collection was conducted through field research (interviews and observations) and library research, while data analysis employed qualitative methods presented descriptively with interpretation to generate evidence-based conclusions.

RESULT AND DISCUSSION

THE NATURE OF LEGAL REGULATION OF THE MERAUKE INTEGRATED FOOD AND ENERGY PLANTATION PROJECT

The Historical Evolution of Legal Regulation on the Conservation of Forest Resources in Indonesia Indonesia is widely recognized as one of the most biologically diverse countries in the world and possesses the third largest expanse of tropical rainforest after Brazil and the Democratic Republic of Congo. The total forest area is estimated at approximately 120.4 million hectares, representing around 68 percent of Indonesia's total landmass. These forests have historically played a crucial role not only in sustaining ecological balance but also in shaping the socio-economic, cultural, and political trajectory of the Indonesian archipelago. Forests have served as sources of livelihood, cultural identity, spiritual value, and economic wealth for various indigenous communities across the islands. However, despite this abundance, Indonesia's forest cover has undergone a dramatic and continuous decline over the past several decades, both in terms of spatial extent and ecological quality. This reduction in forest area cannot be attributed to a single factor but rather to a complex interplay of demographic, economic, political, and institutional dynamics. On the one hand, population growth and increasing demand for land, timber, and agricultural commodities have intensified pressure on forest resources. Millions of rural households depend directly or indirectly on forests for subsistence, including fuelwood, food, medicinal plants, and building materials. On the other hand, state-driven development policies have historically treated forests as a strategic economic asset to be exploited for national revenue generation, particularly during periods of economic modernization and industrial expansion. Since the late 20th century, timber, palm oil, mining, and large-scale agricultural projects have become central pillars of Indonesia's economic development strategy, often at the expense of environmental sustainability.

The commodification of forest resources in Indonesia did not begin in the modern era; rather, it has deep historical roots that can be traced back to the arrival of the Dutch East India Company (Vereenigde Oostindische Compagnie, VOC) in the early 17th century. From the outset, forests—particularly teak forests—were regarded as highly valuable assets due to their durability, strength, and suitability for shipbuilding, military infrastructure, and colonial architecture. Even before the formal establishment of Dutch colonial rule, local Javanese rulers had already developed systems of forest governance, including tribute payments in the form of teak logs (known as *glondong pangareng-areng*) delivered by regional regents to the royal courts. Historical records indicate that by the 16th century, organized teak forest management already existed in regions such as Bojonegoro in East Java. These forests were carefully regulated to ensure a steady supply of timber for the construction of palaces, fortifications, irrigation systems, and maritime vessels. Traditional forest officials, known as *Juru Wana* or *Juru Pengalasan*, were responsible for overseeing forest use, preventing illegal logging, and maintaining customary land boundaries. These early governance structures reflected an indigenous understanding of forest conservation, albeit one primarily oriented toward political authority and economic tribute rather than modern ecological sustainability. With the expansion of VOC influence across Java in the 17th and 18th centuries, traditional forest governance systems were gradually subordinated to colonial administrative control. The VOC established direct authority over large swathes of teak forests in northern Central Java and East Java, integrating them into the colonial economic system. However, despite nearly three centuries of control, the VOC did not implement comprehensive sustainable forest management practices. Instead, its primary concern was to regulate logging activities to secure a reliable supply of timber for European shipyards, military fleets, and colonial infrastructure projects. Forest protection measures existed, but they were largely instrumental rather than conservation-oriented. By the late 18th century, rampant corruption, mismanagement, and financial insolvency led to the collapse of the VOC in 1799. By that time, extensive exploitation had severely degraded many of Java's teak forests. Large areas had been overharvested, and regeneration efforts were minimal or poorly planned. When the Dutch colonial state formally assumed control over Indonesian territories, it inherited a landscape already significantly altered by centuries of extractive practices. Recognizing the strategic importance of teak for naval and commercial purposes, the Dutch colonial government

sought to rehabilitate Java's degraded forests. Under Governor-General Willem Deandels (1808–1811), the first formal colonial forestry administration was established, continuing to rely on the *blandong* labor system, which compelled local villagers to work in forest maintenance and timber extraction.

In 1874, two German forestry experts, Gustav Mollier and Carl Wilhelm Nemich, were invited to design a modern silvicultural system for Java. Their proposals reflected competing philosophies of forest management: Mollier advocated a monoculture plantation model centered on teak, prioritizing economic efficiency and predictability, while Nemich proposed a more diversified, mixed-species approach that aligned more closely with ecological principles. The colonial government ultimately adopted Mollier's monoculture system, rejecting Nemich's alternative on the grounds that it did not sufficiently serve the economic interests of the Dutch empire. This decision had profound long-term implications for Indonesia's forest landscape, institutionalizing a production-oriented forestry regime that privileged commercial timber extraction over ecological resilience and community livelihoods. The legacy of this system persists in many aspects of Indonesia's contemporary forestry governance. Following Indonesia's independence in 1945, the newly formed Republic inherited both the colonial legal framework and its centralized approach to forest management. The 1945 Constitution (UUD 1945) established state sovereignty over natural resources, including forests, under Article 33, which asserts that land, water, and natural resources are controlled by the state and used for the greatest benefit of the people. However, in practice, forest governance continued to rely heavily on Dutch colonial regulations from 1927 and 1932, as Indonesia lacked the institutional capacity to immediately develop a comprehensive new legal framework. During the tumultuous years of Japanese occupation (1942–1945), the Indonesian National Revolution (1945–1949), and the early decades of independence, significant portions of forest resources were depleted due to war, political instability, and economic hardship. Many remaining large trees dated back to Dutch-era plantations, as reforestation efforts during the revolutionary period were minimal. Nevertheless, Indonesia's early post-independence forestry system retained elements of sustainability inherited from colonial silviculture, albeit often at the cost of traditional community-based forest use practices.

In 1961, the Indonesian government centralized forest management on the island of Java by transferring control of all state forests—except protected areas such as nature reserves, wildlife sanctuaries, national parks, and tourism forests—to a state-owned enterprise, initially known as *Jawatan Kehutanan* (Forestry Agency) and later reorganized as *Perhutani*. In 1963, this institution was formalized as a State-Owned Enterprise (PN *Perhutani*), and in 1972 it was transformed into a Public Enterprise (*Perum Perhutani*) under Government Regulation No. 15 of 1972. *Perum Perhutani* was mandated to manage state forests across Central Java, East Java, and later West Java, with a primary focus on teak production. Its governance structure reflected the legacy of Dutch colonial forestry, emphasizing centralized control, large-scale plantation management, and commercial timber extraction. Although *Perhutani* was legally required to balance economic objectives with environmental conservation, in practice, its operations often prioritized revenue generation.

Over time, *Perhutani's* institutional status underwent several changes. In 1986, Government Regulation No. 36 introduced organizational reforms, later refined by Government Regulation No. 53 of 1999. During the Reformasi era, *Perhutani* was briefly converted into a limited liability company (PT) in 2001, reflecting broader neoliberal trends in state enterprise restructuring. However, this move was later reversed in 2003, restoring *Perhutani's* status as a Public Enterprise (*Perum*) under Government Regulation No. 30, subsequently updated by Government Regulation No. 72 of 2010. Despite these changes, the fundamental philosophy of forest governance in Java remained largely unchanged: forests were treated primarily as economic assets under state control, rather than as shared ecological and cultural resources. Meanwhile, outside Java—particularly in Kalimantan, Sumatra, and Papua—forest management followed different trajectories, characterized by large-scale logging concessions, plantation expansion, and mining operations, often facilitated by national development policies. The historical evolution of Indonesia's forestry law and policy reflects shifting political ideologies and economic priorities across different eras. During the Old Order (1945–1966), forest governance was influenced by nationalist ideals and state sovereignty over natural resources. Under the New Order (1966–1998), forestry became deeply intertwined with industrialization, foreign investment, and resource extraction, leading to widespread deforestation and social conflict. In the Reformasi era (post-1998), there has been increased recognition of environmental rights, indigenous land claims, and sustainable development, yet implementation remains inconsistent. Understanding this historical trajectory is essential for analyzing contemporary legal frameworks governing forest conservation, including those relevant to large-scale projects such as the Merauke Integrated Food and Energy Plantation Project.

The legacy of colonial-era monoculture forestry, centralized state control, and production-driven policy continues to shape Indonesia's forest governance by structuring legal norms, institutional routines, and unequal power relations. This historical reading confirms that forestry regulation has never been merely technical or politically neutral; it has always been embedded in wider contests over authority, capital, and ideology. Across successive eras—colonial administration, early independence, authoritarian rule, and democratic transition—distinct legal instruments, bureaucratic designs, and policy priorities were produced, each leaving durable marks on

Indonesia's forest landscapes. Under Dutch rule, law primarily operated to secure extraction for imperial gain, especially through the regulation of teak in Java and Madura and the consolidation of forests as state domain. During the Japanese occupation, formal continuity of certain colonial rules masked a sharp deterioration in governance, as wartime imperatives intensified exploitation, redirected forests toward military needs, and accelerated land conversion with minimal regard for conservation. After independence, Indonesia's constitutional mandate to place natural resources under state control for public welfare did not immediately dismantle colonial legal inheritances; instead, forestry administration initially relied on translated colonial regulations while gradually building national institutions and enterprises. Under the New Order, forestry law became a core instrument of state-led development, enabling concession-based exploitation and bureaucratic dominance that frequently marginalized indigenous communities and sidelined ecological considerations. In the Reformasi era, legal reforms have attempted to reconcile economic growth with environmental protection and social justice, yet normative contradictions persist—especially where state-centric control remains strong and participatory safeguards remain weak. These tensions become particularly visible in places such as Merauke, where large-scale development agendas intersect with extraordinary biodiversity, living indigenous tenure systems, and fragile ecosystems. The Merauke Integrated Food and Energy Estate therefore should not be treated as an isolated initiative, but as part of a long continuum of forest governance that repeatedly prioritizes economic interests over ecological sustainability and indigenous rights. By tracing forest-law development from the Dutch period through Japanese occupation, independence, and successive Indonesian governments, this study seeks to expose the underlying legal ideologies, power structures, and governance paradigms that still shape contemporary policy choices, and to assess whether current frameworks can genuinely deliver conservation, equitable resource distribution, and sustainable development in Papua and beyond. Ultimately, the historical record points to the need for a paradigm shift in Indonesia's forestry law—away from extractive, centralized, and state-centric models and toward an inclusive, participatory, and ecologically grounded approach that recognizes indigenous rights, safeguards biodiversity, and secures intergenerational justice.

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