

Reconstruction of The Policy License for Tourism Businesses: Challenge and Opportunity for Social Welfare

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ABSTRACT

The government's policy of revoking the authority of local governments to issue permits for the tourism business sector has caused chaos in the management and supervision of tourism businesses. This takeover of authority is closely related to the business licensing regulations regulated in the Omnibus Law. This research aims to determine the challenges and opportunities in licensing policy issues in the tourism sector that need reconstruction. The research method applied is normative legal research with a statutory and conceptual approach. The Omnibus Law is the prominent rule that be analyzed. Meanwhile, the concepts of licensing, authority, and the principle of community participation are used as the basis for analyzing and reconstructing regulations. The results of this research show that there are challenges in reconstructing licensing regulations in the Omnibus Law due to differences in perspectives on licensing concepts between the central government and regional governments, which have implications for shifting the objectives of issuing permits and the transfer of authority to issue licenses that the regional government initially owned created chaos in the supervision of tourism business activities. Still, the opportunity in this policy reconstruction is that it is still possible to revise laws based on the principle of real participation with community involvement mechanisms that can influence the final results of policy decisions, as well as active collaboration between governments at the central, regional and regional levels, stakeholders and the community in developing the tourism sector which can realize social welfare.



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1. Introduction

Entrepreneurs must register their businesses to obtain a business operational permit to run a tourism business.¹ In the context of administrative law, a permit is a state

¹ Peci Lyons, Sara Mynott, and Jess Melbourne-Thomas, 'Enabling Indigenous Innovations to Re-Centre Social Licence to Operate in the Blue Economy', *Marine Policy*, 147 (2023), 105384 <https://doi.org/10.1016/j.marpol.2022.105384>

administrative decision—*beschikking* that has legal consequences.² *Beschikking* is a unilateral legal action in the government sector based on authority carried out by a government agency. This concept shows that permits are regulatory norms or government juridical means so that when people carry out certain activities, they must comply with applicable legal provisions. This means that permission is a preventive instrument. In line with the concept of granting business permits that remain in favor of the community, Tatiek Djatmaiti (2003) emphasized that the main aim is to prevent deviant behavior from the community in order to comply with applicable legal provisions and not just be a source of income. Income refers to the income from taxes and levies obtained as a result of a business operating after obtaining permission from the government.

In the tourism business, permits cannot be seen as an attempt to gain economic profits but are also intended to improve community welfare and protect the interests of community members.^{3,4} Tourism business permits are also an instrument of government control over the implementation of business activities in various tourism areas. Without a permit, a tourism business cannot know and control the type of activity, the identity of the business owner, objects and responsibilities, and the use of tourist areas, which influence spatial planning in the area. Granting permits by the competent government is essential in managing tourism businesses, which can have an economic and social impact on the community.⁵ Gregory Poelzer et al. 's (2020) research explains how a business needs to meet certain criteria to obtain a social license to operate and guarantee business continuity.⁶ Economic growth, job opportunities, and quality of life are always expected from the emergence of tourism businesses.⁷ Anne Nielsen's research states that granting permits to carry out business activities is subject to regulations or supervision by the licensing authority.⁸ The control will support and monitor the negative impacts of tourism businesses, because tourism also have a negative effect on the tourism industry and the shadow economy in an area.⁹

Permits are issued by the authorized government based on statutory regulations. Because, in terms of norms, the character of permission is a form of normstelling (related

² Suparto Suparto and others, 'Administrative Discretion in Indonesia & Netherland Administrative Court: Authorities and Regulations', *Journal of Human Rights, Culture and Legal System*, 4.1 (2024), 75–100 <https://doi.org/10.53955/jhcls.v4i1.189>

³ Yousuf A. Vawda, 'Compulsory Licenses and Government Use: Challenges and Opportunities', in *Access to Medicines and Vaccines* (Cham: Springer International Publishing, 2022), pp. 73–104 https://doi.org/10.1007/978-3-030-83114-1_3

⁴ Lego Karjoko, I Gusti Ayu Ketut Rachmi Handayani, and Willy Naresta Hanum, 'Legal Policy of Old Wells Petroleum Mining Management Based on Social Justice in Realising Energy Sovereignty', *Sriwijaya Law Review*, 6.2 (2022), 286–303 <https://doi.org/10.28946/slrev.Vol6.Iss2.1745.pp286-303>

⁵ David Boto-García and others, 'Consumers' Demand for Operational Licencing: Evidence from Airbnb in Paris', *Annals of Tourism Research*, 100 (2023), 103566 <https://doi.org/10.1016/j.annals.2023.103566>

⁶ Gregory Poelzer and others, 'Licensing Acceptance in a Mineral-Rich Welfare State: Critical Reflections on the Social License to Operate in Sweden', *The Extractive Industries and Society*, 7.3 (2020), 1096–1107 <https://doi.org/10.1016/j.exis.2020.05.008>

⁷ Markus Pillmayer and Nikola Naumov, 'Open Innovation in Tourism', in *Reference Module in Social Sciences* (Elsevier, 2024) <https://doi.org/10.1016/B978-0-443-13701-3.00251-6>

⁸ Anne Ellerup Nielsen, 'License to Operate', in *Encyclopedia of Corporate Social Responsibility* (Berlin, Heidelberg: Springer Berlin Heidelberg, 2013), pp. 1585–91 https://doi.org/10.1007/978-3-642-28036-8_502

⁹ Canh Phuc Nguyen, Christophe Schinckus, and Binh Quang Nguyen, 'Does Tourism Reduce the Shadow Economy? An International Evidence', *Heliyon*, 9.11 (2023), e22399 <https://doi.org/10.1016/j.heliyon.2023.e22399>

norms). The legal regulations used for licensing are interconnected legislation and regulations that designate patterns of authority, procedures, substance, and law enforcement. Thus, formulating correct legislation and regulations is necessary to avoid norm conflicts. In the Indonesian government system, almost all activities carried out are subject to state intervention, a consequence of the welfare state achieving its state goals. Policy instruments—permits are tools, techniques, or means that governments use to achieve their goals.¹⁰ Likewise, licensing in the tourism sector to carry out a tourism business requires the legalization of the business by the government. However, the pandemic era has significantly changed the public policy patterns taken by the central government. Many regulations were issued to respond to this condition.¹¹ Thomas Hale (2021) states that the Covid-19 pandemic has prompted unprecedented government action throughout the world.¹² In the tourism sector, this policy concerns the revocation or takeover of regional authority to issue permits.

Currently, business permits are regulated in Part Four of Law No. 6 of 2023 (Omnibus Law). Article 67 of the Omnibus Law amends several provisions concerning Tourism in Law No. 10 of 2009. The promulgation of this regulation changes the substance of business licensing in the tourism sector, which remains divided between the central government and regional governments. The policy of authority to grant tourism business permits, some of which were taken over, which were initially given by the Regional Government, the authority was returned to the Central Government. Perm issuance is carried out according to authority based on norms, standards, procedures, and criteria established by the Central Government. This has caused various reactions from local governments and tourism entrepreneurs. However, it seriously impacts the essence of the tasks and functions of the Regional Government. However, the following articles state that the provincial and regency/city governments can also issue business permits. However, not all licenses are issued by the central government, and some are issued by the Regional Government, following procedures determined by the central government. For example, the Omnibus Law also changes the Spatial Planning Law; in the latest regulations, the authority of regional governments to regulate, develop, and supervise spatial planning, as well as the implementation of spatial planning for strategic tourism areas is revoked - because the permit givers are no longer the same. The plan must refer to the norms, standards, procedures, and criteria set by the central government as stated in Article 30 of the Omnibus Law. This not only results in a vacuum in the authority of regional governments in preparing spatial plans and managing regional assets for tourism development and

¹⁰ Michael Howlett, *Designing Public Policies* (Second edition. | Abingdon, Oxon; New York, NY: Routledge is an imprint of the Taylor & Francis group, an informa business, 2019.: Routledge, 2019) <https://doi.org/10.4324/9781315232003>

¹¹ Kir Kuščer, Sarah Eichelberger, and Mike Peters, 'Tourism Organizations' Responses to the COVID-19 Pandemic: An Investigation of the Lockdown Period', *Current Issues in Tourism*, 25.2 (2022), 247–60 <https://doi.org/10.1080/13683500.2021.1928010>

¹² Thomas Hale and others, 'A Global Panel Database of Pandemic Policies (Oxford COVID-19 Government Response Tracker)', *Nature Human Behaviour*, 5.4 (2021), 529–38 <https://doi.org/10.1038/s41562-021-01079-8>

management, but this policy also causes a lack of regional government duties in serving the interests of the community in the tourism business sector.¹³

Changes to the Spatial Planning Law's provisions, which eliminate regional governments' authority in issuing permits for the tourism sector, can create conflicts of interest between the central and regional governments, such as in determining strategic area concepts for the tourism sector and spatial planning. This was confirmed by the Head of the Sumenep Regency Licensing Service. Apart from that, there is a gap in determining the concept of strategic areas for the tourism sector and spatial planning between the central and regional governments, which has the potential to create a mismatch between the needs of regional governments and central government policies. The development of the tourism sector carried out by regional governments, which is oriented towards local wisdom, will clash with central government policies in determining strategic areas for the regional tourism sector. The central government's policy of taking over the authority of regional governments creates vacancies, including vacancies in the jobs and duties of regional governments. Regional heads already have their vision and mission in the Regional Medium Term Development Plan (RPJMD), which contains a Detailed Spatial Planning Plan (RDTR) and Regional Spatial Planning (RTRW) for the tourism sector. However, the central government has also canceled or canceled regional government policies in the field of strategic tourism.¹⁴ This crisis creates uncertainty for investors.

Jan M. Smits (2022) explains that the Netherlands is a welfare state committed to the supremacy of law and has a high level of social security, consumer protection, and protection of vulnerable communities in general. As in most civil law systems, Dutch private law was created through close interaction between legislators, the Supreme Court, and academics.¹⁵ The problem of policy-making by the central government that is not in harmony is also faced by the Netherlands. It was found that there was a mismatch between the style of governance policy-making chosen by the central government, the desires of regional governments, and the needs of tourism businesses. The central government prefers direct regulations and policies at the national level based on themes such as spatial planning, integrated water management, nature conservation, and environmental protection. Meanwhile, the tourism recreation sector is only given one portion of the many policy targets. In fact, according to local governments, entrepreneurs and private stakeholders prefer the tourism-recreation sector because this sector is the most desired.¹⁶

What's worse, not only is there a problem with the substance of the regulations, but the Omnibus Law is also complicated in forming statutory regulations. The Omnibus Law was drafted without public consultation. Academics were not directly involved in drafting the

¹³ Abdul Kadir Jaelani, Resti Dian Luthviati, Ahmad Siboy, and others, 'Artificial Intelligence Policy in Promoting Indonesian Tourism', *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 2024, 109–37 <https://doi.org/10.24090/volksgeist.v7i1.10623>

¹⁴ Abdul Kadir Jaelani, Resti Dian Luthviati, Muhammad Jihadul Hayat, and others, 'Halal Tourism Sector and Tax Allowance Policy: A Case Study Observed from Normative Problems to Effective Implementation', *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan*, 23.2 (2023), 185–210 <https://doi.org/10.18326/ijtihad.v23i2.185-210>

¹⁵ Jan M. Smits, 'Law in the Netherlands: A Very Concise Overview', *SSRN Electronic Journal*, 2022 <https://doi.org/10.2139/ssrn.4196156>

¹⁶ Maria Borges, Celeste Eusébio, and Nuno Carvalho, 'Governance for Sustainable Tourism: A Review and Directions for Future Research', *European Journal of Tourism Research*, 7 (2014), 45–56 <https://doi.org/10.54055/ejtr.v7i.139>

law and did not involve trade unions and community groups. The weak concept of democracy and participation between the government, society, and the council creates problems for the state.¹⁷ Apart from that, the most detrimental aspect of the omnibus law is the environmental provisions, which expand the role of the central government and reduce community and regional participation, including, in this case, licensing for the tourism sector, giving rise to pros and cons as well as gaps between parties. Pseudo-participation occurs because there is no public access to updated and complete draft law documents. Annalisa Volpato et al. (2023) highlight that the availability and clarity of information and documents to the public are fundamental elements of transparency in policy formation.¹⁸ This means that effective community involvement in decision-making requires open data and facts and instruments, knowledge, and opportunities to understand these data and facts. In pseudo participation in design, a process in which those affected by design decisions are marginalized and not given any agency.¹⁹

Omnibus Law, in 2020, a material test was submitted. Constitutional Court Decision Number 91/PUU-XVIII/2020 decided that the law does not have conditional binding legal force if improvements are not made within two years from the decision date. All actions/policies that are strategic and have a broad impact must not be carried out. The government is also not allowed to issue new implementing regulations related to the Omnibus Law. The Court called it conditionally unconstitutional. How chaotic state administration was at that time, the central government stopped strategic activities. At the same time, the old regulations were no longer valid because they were revoked and revised by the Omnibus Law - which was decided not to apply. Several regional regulations have even been formed anew based on the old Omnibus Law. Many government authorities have changed but have no regulatory basis. This disrupts the concept of governance based on the rule of law. The government received the authority to carry out its functions based on a rule, but the rule was considered conditionally unconstitutional. In 2022, Government Regulation in Lieu of Law No. 2 of 2022, designated as Omnibus Law—2023.

This condition also impacts tourism businesses in areas already experiencing significant challenges due to the COVID-19 pandemic. The pandemic highlights the complex interrelationships between tourism mobility and immobility, dependency and vulnerability, structural inequalities, and material institutions on multiple scales.²⁰ Willy Legrand et al. (2024) mentioned the global tourism sector's many challenges in achieving its sustainability goals, including concerns about the climate emergency, biodiversity extinction, social inequality, and pandemics.²¹ In Indonesia, this is coupled with uncertain tourism licensing

¹⁷ Catherine Forde, 'Participatory Democracy or Pseudo-Participation? Local Government Reform in Ireland', *Local Government Studies*, 31.2 (2005), 137–48 <https://doi.org/10.1080/03003930500031934>

¹⁸ Annalisa Volpato, Mariolina Eliantonio, and Kathryn Wright, 'Transparency and Participation in the Face of Scientific Uncertainty: Concluding Remarks', *European Journal of Risk Regulation*, 14.2 (2023), 371–81 <https://doi.org/10.1017/err.2023.34>

¹⁹ Victoria Palacin and others, 'The Design of Pseudo-Participation', in *Proceedings of the 16th Participatory Design Conference 2020 - Participation(s) Otherwise - Volume 2* (New York, NY, USA: ACM, 2020), pp. 40–44 <https://doi.org/10.1145/3384772.3385141>

²⁰ Claudio Milano, Ko Koens, and Antonio Paolo Russo, 'The Politics of Urban Tourism (Im)Mobilities: Critical Perspectives on Inequalities and Social Justice', *Cities*, 152 (2024), 105148 <https://doi.org/10.1016/j.cities.2024.105148>

²¹ Willy Legrand, O'Shannon Burns, and Jonathon Day, 'Regenerative Tourism', in *Reference Module in Social Sciences* (Elsevier, 2024) <https://doi.org/10.1016/B978-0-443-13701-3.00244-9>

regulations. Policy clashes between the central government and regional governments give rise to legal uncertainty. In fact, clear and comprehensive regulations should help increase the compliance of tourism business actors with operational permits. Moreover, promulgating the Omnibus Law is intended to facilitate business licensing. However, the Ministry of Tourism and Creative Economy 2023/2024 released data on the main factors influencing the growth of the creative economy precisely because of innovation and creation by business actors. The ease of licensing factor is ranked second to the bottom of the ten indicators. The Omnibus Law should be able to increase the number of licensed business actors. Looking at Tourism Industry Statistics data from the Ministry of Tourism and Creative Economy for all provinces, in 2020, only 5.07% of business actors had tourism business registration permits, only 22.06% of business actors had other licenses, and the remaining 72.87% did not have permits. The realization was not as expected.

Referring to the problems above, it is vital to carry out this research to find various derivative problems as a consequence of legal uncertainty at a practical level in the tourism sector due to the enactment of the Omnibus Law. Many regional or regional government authorities have been revoked by the central government, which impacts the duties and functions of regional governments, such as the authority to create norms, implement public services, control mechanisms for public services, and service institutions in the tourism sector. Apart from that, this policy also creates a legal vacuum, creating uncertainty in managing tourism sector public services. Through this research, it is crucial to convey the idea of reconstructing tourism business permit regulations that are socially just. Previous research by Paul F. J. Eagle et al. provides an interesting picture regarding the urgency of permits in tourism management—permit rules in the United States. The National Parks Act was changed to give the National Park Foundation authority to grant licenses for using trademarks, slogans, etc. Still, all net revenues derived from permits and authorizations are spent on programs, projects, or activities that benefit the National Park Service. The research also emphasizes that every activity providing certain tourism services is based on an agreement. Most institutions require operators to have a license to operate a business.²² Almost in the same vein, Marisha Ewart et al.'s (2024) research examines the relationship between policies, permits, tourism operators/entrepreneurs, and tourism supervision to control sustainable tourism. More comprehensive instruments are needed in high-level tourism sectors.²³

In another study, Alfon O. Sitepu et al. (2021) examined tourism business licensing with the main case study of Lake Toba. It is known that the government's authority to issue permits is discretionary, meaning that it is given the authority to consider based on its initiative. These considerations are based on the conditions for issuing a permit and the juridical consequences that may arise from refusing or granting a permit. This research highlights the fundamental weakness of the licensing bureaucracy: the lack of certainty regarding the timing and clarity of permit issuance.²⁴ Furthermore, Ziang Zhang et al.

²² *Tourism in National Parks and Protected Areas: Planning and Management*, ed. by P. F. J. Eagles and S. F. McCool (UK: CABI Publishing, 2002) <https://doi.org/10.1079/9780851995892.0000>

²³ Marisha Ewart, Pascal Scherrer, and Kay Dimmock, 'Managing Commercial Tourism for Conservation and Sustainable Use: Policy Instrument Interactions in Cape Byron Marine Park, Australia', *Marine Policy*, 166 (2024), 106233 <https://doi.org/10.1016/j.marpol.2024.106233>

²⁴ Alfon Octavianus Sitepu, Faisal Santiago, and Ricky Purwanto, 'The Effectiveness of Licensing on Tourism Business Activity in the Area of the Toba Lake', *Proceedings of the 2nd International Conference*

(2023) examine tourism development in China, creating contradictions and competing interests among stakeholders.²⁵ Grete K. Hovelsrud et al. (2021) explain that there is a need for policy discussions regarding tourism growth, looking at how regional and national governments anticipate and navigate social, political, and environmental changes.²⁶

Based on the legal gap above, it is known that implementing the Omnibus Law has triggered various legal problems at the implementation level and created contradictions in the tourism sector, especially tourism business licensing policies. The most dominant legal issue is the central government's takeover of regional government authority in licensing the tourism sector. Thus, this raises legal matters, including what authority is taken over or withdrawn to the center regarding tourism licensing, what legal consequences arising from the withdrawal or takeover policy, and what legal measures can be taken by regional governments with changes that transfer authority government to the center. This research will focus on answering the problems above with a framework for presenting legal challenges and opportunities. The analysis results are directed at reconstructing the substance of permit policies and suggesting policies that reflect reasonable regulations.

2. Research Method

This research is normative legal research, which emphasizes legal and conceptual approaches. The Omnibus Law in the licensing regulation section seeks to be used as the primary material for policy analysis for the authority to grant tourism business permits. The conceptual approach uses the concepts of permission and authority. These concepts are essential in providing leadership in regulating tourism business licensing. The theory of forming statutory regulations is a basis for analyzing regulatory reconstruction. The data used are primary and secondary legal materials. Primary and secondary legal materials are collected indirectly from intensive and extensive literature studies. Some legal materials, including non-legal materials, are strengthened and validated by experts, actors, and the public. This research also used several primary and secondary legal materials from the Netherlands to support objectivity in thinking. All data collected will be classified, categorized, analyzed, and developed descriptively using deductive legal reasoning. The analysis results will illustrate the challenges and opportunities for tourism business licensing policies after the enactment of the Omnibus Law. Expert opinions and the idealism of the concepts or theories used ultimately produce suggestions for reconstructing regulations that align with social welfare.

3. Results and Discussion

3.1 Challenges in The Reconstruction of Policy License for Tourism Businesses

Bill Bramwell et al. (2011) state that adapted and effective governance is the main requirement in implementing sustainable tourism.²⁷ Implementing the Omnibus Law,

on *Business Law and Local Wisdom in Tourism (ICBLT 2021)*, 605. *Icblt* (2021), 6–11
<https://doi.org/10.2991/assehr.k.211203.002>

²⁵ Ziang Zhang, Huiying Zhang, and Jigang Bao, 'Scale Theory and Tourism Destination Development: Towards a New Theoretical Tool', *Journal of Hospitality and Tourism Management*, 55 (2023), 40–49
<https://doi.org/https://doi.org/10.1016/j.jhtm.2023.02.013>

²⁶ Grete K. Hovelsrud and others, 'Sustainable Tourism in Svalbard: Balancing Economic Growth, Sustainability, and Environmental Governance', *Polar Record*, 57 (2021), e47
<https://doi.org/10.1017/S0032247421000668>

²⁷ Bill Bramwell and Bernard Lane, 'Critical Research on the Governance of Tourism and Sustainability', *Journal of Sustainable Tourism*, 19.4–5 (2011), 411–21 <https://doi.org/10.1080/09669582.2011.580586>

which revokes the authority of regional governments in tourism development, creates serious problems. These authorities include the authority to grant tourism business permits and create operational norms in the tourism sector. The authority of regional governments to serve, register, record, and determine strategic locations in tourism development is no longer given to regional governments. Regional governments no longer have the authority to provide tourism development activities, such as licensing tourism businesses such as restaurants, cafes, and other tourism-supporting facilities and infrastructure. This causes the neglect of services in tourism development and has implications for service vacancies, inefficient service, counter-effectiveness, and counter-productiveness. The central government also revoked the authority of regional governments to formulate and determine unique or specific requirements for local tourism businesses, as well as the authority to determine fees for local tourism development.

In administrative law, the division of authority in administering central and regional government shows a relationship between central and regional government.²⁸ The relationship between the central and regional governments is regulated in Law No. 23 of 2014 concerning Regional Government as the basis for implementing regional government so that there is no overlap in the implementation of authority. The distribution of important authorities, such as this publication, should be regulated so as not to harm the interests of either the central government or regional governments.²⁹ Almost all the regional government's strategic authority to regulate tourism businesses has been taken over. As a result, there is confusion in licensing operational norms, such as regulating tourist area use. The regional government has determined the RDTR and RTRW. However, due to the takeover of regulatory authority, the policies taken by the central government are often not by the RPJMD prepared by regional governments based on the conditions of each region. Local governments are more aware of the potential and need for developing the tourism sector. For example, to make local community events or traditional products into tourism objects and business derivatives, of course, the presence and role of local government is needed, which understands the values of local communities in detail and proportionately. On the other hand, the provisions of the Omnibus Law, which resulted in the loss of the institutional support system in local government, cannot explain in detail the expression of local community needs.

The central government's takeover of the tourism sector licensing authority is not conducive because local governments must wait for central government policies. This is a setback because it negates all the efforts made by the regional government. Therefore, the permit issuance process must be adjusted to central government policy in terms of Standard Procedures and Criteria (NSPK) for investing, using an application made by the central government called Online Single Submission (OSS). The application gives the local government 20 days to decide on issuing the NSPK permit for the licensing process. OSS drives a lack of tasks and uncertainty for local governments. This policy impacts uncertainty in the business world, ultimately resulting in an unfavorable business climate

²⁸ Rio JENERIO and others, 'Financial Relations Between Central Government and Regional Government in Regional Autonomy', *Journal of Political And Legal Sovereignty*, 1.2 (2023), 135-41 <https://doi.org/10.38142/jpls.v1i2.141>

²⁹ Muhammad Fauzan and others, 'Dynamic Relations Between Central and Regional Governments in Indonesia', in *Proceedings of the International Conference on Community Development (ICCD 2020)* (Paris, France: Atlantis Press, 2020) <https://doi.org/10.2991/assehr.k.201017.104>

for the tourism sector. Meanwhile, in practice, it turns out that many investors prefer to comply with the tourism sector development spatial plans set by regional governments, not central government policies.

Tourism development efforts need to pay attention to tourism elements and spatial planning that provide location direction, as well as maintaining the quality of space and maintaining the existence of tourist attractions as assets of a country as a reference in development in an area in terms of space utilization. In this case, local governments better understand the potential and needs for developing the tourism sector in their regions. Regional governments are more aware of their region's needs in the tourism sector. In this case, regions are very interested and speak in their regional context. In Ghana, the government is a driving agent for the tourism industry. The government democratically issues steps and policies to improve the tourism industry and earn foreign exchange from tourism. As a result, the tourism sector grew at a rate of up to 16%.³⁰ This is different from Indonesia, which withdraws the strategic authority of regional governments in tourism management, making it difficult for investors and reducing the role of regional governments in developing their regions. In research, Geeske R. Sibrijns et al. (2021), regarding tourism policy for Amsterdam and The Hague, stated that it is crucial to comprise the interests of all stakeholders involved to ensure sustainable tourism. There is no one-serving-all solution or policy tool.³¹ In case regulations are made that only satisfy one party, they will encounter many challenges.

Ideally, conceptually, permit issuance is carried out by the authorized government based on regulations. The issuance of permits has significant consequences in the implementation of supervision over activities for which permits have been granted.³² Ten Berge said many activities are subject to some form of government licensing control. While this usually aims to enforce or maintain standards, in some cases, the primary aim may be to increase revenue or regulate the number of people involved in the activity. Income from business levies granted permits by the government is still a facet being weighed, especially for regions still advancing their economy and community welfare.³³ However, monitoring permits must also be the main factor in saving the environment and community interests from the impact of implementing tourism businesses. Transferring authority to issue permits to the relevant regulations will affect levy revenues and permit supervision. Both will equally influence the welfare of society.

Regarding levies, Indonesia adheres to a regional autonomy system, and regions have various sources of income to carry out their regional government, including local original

³⁰ Yobo Opare-Addo, 'The National Democratic Government and Tourism Development in Ghana: A Retrospection', *JOURNAL OF TOURISM, CULINARY AND ENTREPRENEURSHIP (JTCE)*, 3.1 (2023), 64–84 <https://doi.org/10.37715/jtce.v3i1.3676>

³¹ Geeske Rosaliene Sibrijns and Dominique Vanneste, 'Managing Overtourism in Collaboration: The Case of "From Capital City to Court City"', a Tourism Redistribution Policy Project between Amsterdam and The Hague', *Journal of Destination Marketing & Management*, 20 (2021), 100569 <https://doi.org/10.1016/j.jdmm.2021.100569>

³² Endah - Pujiastuti and Dewi Tuti Muryati, 'Administrative Sanctions Of Licence Violation In The Field Of Protection And Environmental Management On District/ City In Central Java Province', *Jurnal Dinamika Hukum*, 18.1 (2018), 61 <https://doi.org/10.20884/1.jdh.2018.18.1.604>

³³ Abdul Kadir Jaelani and Willy Naresta Hanum, 'The Restructuring Righteous Foreign Worker Regulations: The Challenge of Enormous Influx of Foreign Workers', *Jurnal Hukum*, 40.1 (2024), 88–117 <https://doi.org/10.26532/jh.v40i1.36781>

income. High local opinion is an indicator of the success of a region in managing its region. This is a form of self-support in financial matters in the region. Levy from permits is one of the reliable contributors to local revenue. Normatively, regional levies or payments for services or the granting of specific permits are specifically given and provided by the regional government to benefit individuals or entities. Levies are a paramount source of regional income to finance regional government operations and improve community services. Regional levies include general, business service, and special licensing levies. A special licensing levy is a levy on special licensing services charged by the local government to individuals or bodies aiming to regulate and oversee space utilization activities, utilization of natural resources, infrastructure, or certain facilities to protect the public interest and preserve the environment. This regional levy has two strategic meanings: as a source of financing for regional development and as a component in implementing regional autonomy.³⁴ Thus, levies are clearly very useful for increasing local revenue, strengthening the role of institutions, and increasing sources of financing for regional public services.

However, the revocation of regional government authority in the tourism sector with the enactment of the Omnibus Law resulted in a decrease in local original income. Previously, regional governments had the authority to carry out tourist destination licensing services, conduct feasibility surveys, and issue business permits. After the enactment of the Omnibus Law, tourist destination permits can be submitted directly to the central government via OSS, and the licensing fees go directly to the central government's state treasury. As a result, local governments do not receive income from the licensing process, even though the tourist destination is in their territory. This, of course, decreases original regional income. Apart from that, if the investment aspect is ignored, the stipulation of regional regulations regarding regional levies can cause significant problems for the region or regional government because business actors will relocate and close their businesses. Legal certainty should be made a requirement for the operational needs of market interactions so that it does not have a negative impact on the economy.³⁵

Ultimately, the government is confused about the essence of issuing business permits. The ideal concept of permits is no longer visible and creates many uncontrollable operational impacts. The business licensing concept offered by Omnibus Law carries the idea of convenience and certainty for business actors to make business investments to increase national competitiveness. The licensing paradigm is changing to be risk-based. This means that the issuance of permits is primarily intended to make it easier for anyone who wants to invest. The focus on economic development is the primary goal. It cannot be denied that the state and regional governments both need investment in regional development. However, confusing the concept of licensing solely to facilitate investment is unwise. Regional tourism development policies no longer look at the potential and priorities of each region. The central government and affected area levies take the authority to form norms and guidelines.

³⁴ Clifford Amoako and others, 'Locational Factors for Local Revenue Mobilisation in a Peri-Urban Municipal Area around Accra, Ghana', *City, Culture and Society*, 36 (2024), 100568 <https://doi.org/10.1016/j.ccs.2024.100568>

³⁵ Aurelien Portuese, Orla Gough, and Joseph Tanega, 'The Principle of Legal Certainty as a Principle of Economic Efficiency', *European Journal of Law and Economics*, 44.1 (2017), 131–56 <https://doi.org/10.1007/s10657-014-9435-2>

Irregularities in tourism management and public services in the tourism sector occur due to changes in business licensing regulations, which are forced to be regulated centrally. Due to the lack of authority, the revocation of regional government authority to manage tourism has a domino effect on the implementation of supervision of business activities at the regional level—supervision as a consequence of chaotic permit issuance. The transfer of authority is the same as the change of party, which should carry out supervision.³⁶ Considering, the intention of permission is to control the consequences of allowing something that was initially prohibited. P. Nicolai said that government authority is the ability to carry out specific legal acts, namely acts or actions intended to give rise to legal consequences, including the emergence and disappearance of legal consequences. The government's authority can be seen from the government's rights and obligations in carrying out these actions.

For example, tourism business actors are required to have a Tourism Business Registration Certificate. It is a permit issued by the OSS on behalf of the minister, head of institution, governor, or regent/mayor after the Business Actor has registered to carry out business or activities and operations through fulfilling requirements or commitments. The purpose of establishing this permit as a commitment after the issuance of a Business Identification Number for tourism business actors in implementing business licensing is to guarantee legal certainty for business actors in the sense of legality that protects the legal umbrella and is valid and binding according to the law. This is valid evidence by statutory provisions. This permit will be used to control the business activities carried out. Thus, policies regarding tourism growth should consider how local and national governments anticipate and navigate rapid social, political, and environmental changes.

The chaotic supervisory obligations due to the transfer of authority indicate that the permits granted are no longer preventive. Tourism permits, especially for natural tourism offered by many regions throughout Indonesia, should be able to act as environmental controls. One instrument that can be used to enforce ecological law is licensing. The function of licensing is to prevent and overcome environmental problems. Therefore, permits are needed to establish businesses and industries. Licensing in the tourism sector can contribute to sustainable economic development. However, apart from that, it also has environmental and social impacts, especially in developing countries such as Indonesia. These impacts include the effects of waste and indigenous culture, which have been recognized and emphasized as an integral and fundamental part of sustainable development. The orientation of local governments towards environmental protection was surveyed in Sweden. Survey results show increasing interest in creating sustainable life, work, and business ecosystems. Thus, the role of local governments in improving environmental ecosystems is essential in building sustainable ecosystem development by becoming more environmentally oriented, especially in the tourism sector.³⁷

³⁶ Sholahuddin Al-Fatih and Mujibur Rahman Khairul Muluk, 'Understanding Beschikking, Regeling and Beleidsregel in Indonesian Legal System', *Audito Comparative Law Journal (ACLJ)*, 4.2 (2023), 87–95 <https://doi.org/10.22219/aclj.v4i2.25417>

³⁷ Jelena Nikčević, 'Strengthening the Role of Local Government to Ensure Sustainable Development of the Cruise Sector: The Case of Kotor', *Marine Policy*, 109 (2019), 103693 <https://doi.org/10.1016/j.marpol.2019.103693>

Even, the licensing requirements provided by the Omnibus Law are divided into classifications based on business risk. Based on the previous Tourism Law, there was no classification of costs and licensing requirements for tourist destinations. This means that permits for all tourist destinations are the same. However, with the enactment of the Omnibus Law, there is a classification of licensing fees for tourist destinations. Apart from that, the licensing requirements for tourist destinations are also different. For example, low-risk tourist destinations may be exempt from licensing fees or provided with simple conditions. However, medium- and high-risk tourist destinations are subject to higher rates or have more complicated requirements. The government should pay more attention to businesses that have been granted permits.³⁸

Currently, all permit applications are processed in the OSS system. The Tourism Department is not involved in determining whether or not a permit application issued by an entrepreneur will be granted. The new agency has authority after the permit is issued. However, its jurisdiction is only limited to maintaining management permits that have been issued. The Tourism Office only combines tourist destinations after obtaining permission from the central government. Before the Omnibus Law, the Tourism Office actively supervised the process from permit issuance to the end. Officers actively supervise and discuss tourist destinations. In addition, they verify local survey results with the central government. After the enactment of the Omnibus Law, the Tourism Office only monitored the tourism industry through the OSS system. As a result, officers do not have an active role; they merely coordinate activities. This is because there is no performance budget. After all, there is no authority—the budget follows the workload. Therefore, supervision of tourism activities has become a severe problem due to changes in the regulations for issuing permits and managing tourism in the regions.

3.2 Opportunities for Social Welfare in The Reconstruction of Policy License for Tourism Businesses

The management of the tourism sector continues to be developed by the government through various government policies that align with the development and contribution of the tourism sector through foreign exchange earnings and economic growth.³⁹ This will increase regional income and regional development, boost investment and labor, and develop businesses spread across various regions. Thus, tourism development contributes to economic growth through multiple channels, including earning foreign exchange, attracting international investment, creating jobs, etc. Government regulations and policies are needed to support tourism development and meet management needs. The chaos in issuing tourism business permits and management authority was triggered by regulations not responsive to regional problems. The result is a shift in regional income from levies. Supervision of tourism activities has loosened due to many changes in the duties of regional government and related agencies. Public services that should be provided well by local governments have become a problem of shifting responsibility to each other. Regional governments no longer feel this is their responsibility due to changes in authority. Meanwhile, the central government is having trouble managing the affairs of hundreds of

³⁸ Francis Arthur-Holmes and George Ofosu, 'Rethinking State-Led Formalisation of Artisanal and Small-Scale Mining (ASM): Towards Mining Licence Categorisation, Women Empowerment and Environmental Sustainability', *Resources Policy*, 93 (2024), 105058 <https://doi.org/10.1016/j.resourpol.2024.105058>

³⁹ Nevenka Čavlek and Stephen Wanhill, 'Foreign Exchange, Tourism', in *Encyclopedia of Tourism* (Cham: Springer International Publishing, 2015), pp. 1–2 https://doi.org/10.1007/978-3-319-01669-6_557-1

districts/cities throughout Indonesia. Thus, granting authority to issue permits and manage the tourism sector to local governments is a crucial factor.⁴⁰

Proposed changes to the substance of non-ideal business licensing arrangements must be made. In the legal system, forming laws and regulations creates an opportunity to change the law. Suppose these rules are no longer relevant and are not in sync with existing shared rules. Therefore, this paper opens up profit factors that can be used to reconstruct licensing regulations in the tourism sector. The substance of the authority to issue permits must be in line with the regulations on regional government authority in managing tourism. Determining transparent and fair boundaries regarding the duties of regional government must return to the concept of division of authority and the relationship between regional government and the central government. It is also essential to reflect on the idea of ideal consent, the purpose of consent, and the consequences of consent. In Law No. 23 of 2014, regional governments have the authority to regulate their government affairs,⁴¹ including establishing policies. The Master Plan for Tourism Development aims to carry out the role of regional governments, which is to provide planning related to regional tourism development. Regional tourism development includes the development of regional tourism destinations, the development of regional tourism marketing, the development of regional tourism, the development of the regional tourism industry, and the development of regional tourism institutions.⁴²

In this case, the provisions relating to the center's takeover of regional permits are returned to the regions. Taking over permits by the center creates contradictions in authority, namely overlapping. This means that a business permit is a regional government policy given to business actors to control economic activities in the local area. In general, licensing has a coaching function in that by granting a business permit by the government; business actors can carry out or run a business. This means that a business permit is a government or regional government policy instrument given to business actors to control economic activities carried out by business actors. Thus, the return of tourism permits to the regions must be carried out. Bearing in mind that the region knows all operations in its area and supervises tourism permits. Several laws compiled in the Omnibus Law have been partially amended. For example, Law No. 4 of 2023 concerning the Development and Strengthening of the Financial Sector and Law No. 3 of 2024 concerning the Second Amendment to Law No. 6 of 2014 concerning Villages. This suggests that partial changes governing the tourism sector are also possible. However, it will be complicated to deal with changes to the sections of the articles that regulate tourism business licensing because they are sequential with licensing in other sectors. However, still, there is a possibility.

⁴⁰ Cipta Indralestari Rachman, Arum Afriani Dewi, and Muhammad Zeta Rifqi, 'Coordination Pattern of Implementation of the Tourism Sector Business Licensing Authority in Indonesia', in *Proceedings of the 3rd International Conference on Business Law and Local Wisdom in Tourism (ICBLT 2022)* (Paris: Atlantis Press SARL, 2023), pp. 129–35 https://doi.org/10.2991/978-2-494069-93-0_16

⁴¹ Muhammad Riyandi Firdaus, Falih Suaedi, and Bintoro Wardiyanto, 'The Function of Local Government in Public Policy Evaluation Networked Modern Stores in Banjarmasin City', *Journal of Local Government Issues*, 6.1 (2023), 35–48 <https://doi.org/10.22219/logos.v6i1.23214>

⁴² Ni Luh Gede Astariyani, Ni Putu Wiwin Setyari, and Bagus Hermanto, 'Regional Government Authority in Determining Policies on the Master Plan of Tourism Development', *Kertha Patrika*, 42.3 (2020), 210 <https://doi.org/10.24843/KP.2020.v42.i03.p01>

Regulation improvements can also be carried out at the level of operational rules/operational standards for implementing central government regulations regarding regional tourism development. Improvements include detailed work implementation standards that are technical and are not covered by provisions issued by the central government. Apart from these recommendations, regional governments can reinterpret articles or legal requirements stipulated by the central government. More technically or concretely, technical provisions can be in the form of interpretations of norms that protect and develop the potential for uniqueness, uniqueness, locality, or regional characteristics. Through this analysis and interpretation, local governments can develop and increase the potential that is not visible to the central government, such as tourism based on religion, local customs, and locality.⁴³ As a comparison, efforts to collect levies in the tourism sector can be seen in Bali, where the tourism potential that has been recognized worldwide with the values of customs, traditions, Hinduism, and Balinese culture has merged into a potential that can be exploited and developed into strengths, abilities, and competitiveness that produce regional retribution. In the Madura region, this is very risky, considering that the customs on Madura Island uphold religious values, making it impossible to develop tourism like in Bali.

Therefore, tourism policies must be formed that pay attention to regional potential. Looking at similar cases with Amsterdam tourism management and the Rotterdam case shows that formulating and agreeing on a tourism policy vision is more accessible than the process of decision-making and implementing the vision.⁴⁴ Pierre and Peters say that effective and responsive governance in tourism crisis management requires the government to change its role from director to driver to facilitate stakeholder collaboration toward common purposes.⁴⁵ In the case of tourism on Terschelling Island in the Netherlands, challenges are solved by pursuing integrated policies aimed at synergistic interactions and getting an overview of all stakeholders in the decision-making process.⁴⁶

Indonesia, as a country of law, should realize legal certainty, which cannot be separated from how laws and regulations are prepared through an excellent legislative process. However, due to the large number of rules that have been promulgated along with implementing rules and amendments, overlapping laws and regulations in force in Indonesia often become a severe problem. Therefore, the government proposes enacting a law that simultaneously revokes and amends several provisions. This method of simplifying regulations is known as the omnibus law method. Black's Law Dictionary defines omnibus law as "a bill including in one act various separate and distinct matters, and particularly one joining a number of different subjects in one measure in such a way as

⁴³ Seguito Monteiro Mangku, Dewa Gede Sudika, Ni Putu Rai Yuliantini, Ruslan Ruslan, 'The Position of Indigenous People in the Culture and Tourism Developments: Comparing Indonesia and East Timor Tourism Laws and Policies', *Journal of Indonesian Legal Studies*, 7.1 (2022), 57–100 <https://doi.org/https://doi.org/10.15294/jils.v7i1.52407>

⁴⁴ Peter Nientied and Rudina Toto, 'Planning for Sustainable City Tourism in the Netherlands', *European Spatial Research and Policy*, 29.2 (2022), 219–34 <https://doi.org/10.18778/1231-1952.29.2.12>

⁴⁵ Yim King Penny Wan and others, 'Destination Governance in Times of Crisis and the Role of Public-Private Partnerships in Tourism Recovery from Covid-19: The Case of Macao', *Journal of Hospitality and Tourism Management*, 51 (2022), 218–28 <https://doi.org/https://doi.org/10.1016/j.jhtm.2022.03.012>

⁴⁶ Jasper Heslinga, Peter Groote, and Frank Vanclay, 'Towards Resilient Regions: Policy Recommendations for Stimulating Synergy between Tourism and Landscape', *Land*, 9.2 (2020), 44 <https://doi.org/10.3390/land9020044>

to compel the executive authority to accept provisions which he does not approve or else defeat the whole enactment." Establishing Omnibus Law in Indonesia was motivated by simplifying regulations in one legal product. The use of the omnibus law method can also be used to suppress sectoral egos to avoid laws and regulations that are not synchronized or harmonious.

The formation of statutory regulations in Indonesia is based on Law No. 12 of 2011 in lieu of Law No. 13 of 2022. When the first Omnibus Law was promulgated in 2020, many problems arose regarding forming statutory regulations. Omnibus Law, at least, does not adhere to the principle of openness. In this case, it would be linked to community participation, hierarchy, and clarity of the legal basis for implementing the method of forming omnibus law. The omnibus method is the omnibus law method commonly used by countries that adhere to a standard law legal system, such as the United States. Meanwhile, Indonesia itself is a country with a civil law legal system. However, it does not rule out the possibility that countries with civil law legal systems apply the omnibus law method in forming statutory regulations. This method has been used in several countries that adhere to a civil law system, such as Canada in criminal law, Vietnam in tax regulations, and Argentina.⁴⁷ Nevertheless, normatively, the problem of the omnibus method has been resolved with the promulgation of Law No. 13 of 2022 concerning the Second Amendment to Law No. 12 of 2011. New regulations are provided for drafting laws using the omnibus method in Article 64.

However, discussing community participation, this issue is the main problem in forming the Omnibus Law, which lies in community participation. The Omnibus Law, in 2020, was declared contrary to Article 96 paragraph (4) of Law No. 12 of 2011, which requires a form of public participation in the formation of legislation in the form of making it easier for the public to obtain information and be given space and have their input considered. In promulgating the Omnibus Law, this was not facilitated by the government. Therefore, a revision was then carried out with a time requirement of two years. If there are no revisions during the two years, then the Omnibus Law will not have a permanent binding legal force.⁴⁸

The problem of issuing permits and managing tourism cannot be separated from the aftermath of the formation of the Omnibus Law, which in 2020 was declared invalid with conditions by the Constitutional Court through Constitutional Court Decision Number 91/PUU-XVIII/2020. The Constitutional Court decided on the formal review of the Omnibus Law that this law did not meet the criteria for the principles of forming reasonable legal regulations as regulated in Law No. 12 of 2011 concerning the Formation of Legislative Regulations. According to the Court, the problem with establishing the Omnibus Law does not involve public participation. The public considers this; the government covered up the formation of the law, which was later discovered to have many

⁴⁷ Supriyadi Supriyadi and Andi Intan Purnamasari, 'Gagasan Penggunaan Metode Omnibus Law Dalam Pembentukan Peraturan Daerah', *Jurnal Ilmiah Kebijakan Hukum*, 15.2 (2021), 257 <https://doi.org/10.30641/kebijakan.2021.V15.257-270>

⁴⁸ Bayu Dwi Anggono, 'Omnibus Law Sebagai Teknik Pembentukan Undang-Undang: Peluang Adopsi Dan Tantangannya Dalam Sistem Perundang-Undangan Indonesia', *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, 9.1 (2020), 17 <https://doi.org/10.33331/rechtsvinding.v9i1.389>

substantive problems. For instance, oil plantation regulations⁴⁹ or the rollback of environmental protection laws.⁵⁰ In fact, in response to the issue of participation, the government has revised the law, requiring meaningful involvement in forming regulations.⁵¹ Strengthening meaningful community involvement and participation is carried out in an orderly and responsible manner by fulfilling three prerequisites: the right to have one's opinion heard (right to be heard), the right to have one's opinion considered (right to be considered), and the right to receive an explanation or answer to the opinion given (right to be explained).

Nonetheless, the revision of the Omnibus Law has still received substantial criticism, including the regulations for business licensing in the tourism sector. This regulation has severe administrative impacts at the regional level. The meaningful participation rules should be able to suppress legal issues that have a broad impact. Thus, it is necessary to question whether meaningful participation is significant. The public can participate, and their opinions are accommodated. However, reading from the explanation of meaningful participation, people's rights are only at the level of being heard and considered. Not at the level where his opinion can influence the policies and regulations that will be formed. Pseudo-participation occurs even when it means participation. The challenge on this occasion is how to develop the capacity of participants/community to ensure a fairer distribution of power in a more meaningful dialogue process.⁵²

Goda Perlaviciute et al. (2020) stated that conditions involving the community when the policy is a *fait accompli* or provides information and consultation to them but do not include their input in the final decision, then pseudo or fake participation occurs, which can trigger community rejection. Effective community participation relies on the fundamental concept of early involvement: involving the community in decision-making. At the same time, all options are still open, and there is an authentic voice, allowing the community to determine the final decision.⁵³ Sherry Arnstein's participation ladder theory has eight steps, which are grouped into three levels. Only the top-level group—the degree of citizen power can be called actual participation. This group consists of the Citizen Control Level, where the public can influence, control, and control public policy from formulation and implementation to the final stage. Under its delegated power, the community negotiates with public officials at this level, which can also result in citizens achieving dominant decision-making authority over specific plans or programs. Third, partnership is a cooperative relationship between the government and the community in development

⁴⁹ Rini Astuti and others, 'Making Illegality Visible: The Governance Dilemmas Created by Visualising Illegal Palm Oil Plantations in Central Kalimantan, Indonesia', *Land Use Policy*, 114 (2022), 105942 <https://doi.org/10.1016/j.landusepol.2021.105942>

⁵⁰ Raynaldo Sembiring, Isna Fatimah, and Grita Anindarini Widyarningsih, 'Indonesia's Omnibus Bill on Job Creation: A Setback for Environmental Law?', *Chinese Journal of Environmental Law*, 4.1 (2020), 97–109 <https://doi.org/10.1163/24686042-12340051>

⁵¹ Sudharto P. Hadi, Rizkiana S. Hamdani, and Ali Roziqin, 'A Sustainability Review on the Indonesian Job Creation Law', *Heliyon*, 9.2 (2023), e13431 <https://doi.org/10.1016/j.heliyon.2023.e13431>

⁵² Lucy Mercer-Mapstone and others, 'Power, Participation, and Exclusion through Dialogue in the Extractive Industries: Who Gets a Seat at the Table?', *Resources Policy*, 61 (2019), 190–99 <https://doi.org/10.1016/j.resourpol.2018.11.023>

⁵³ Goda Perlaviciute and Lorenzo Squintani, 'Public Participation in Climate Policy Making: Toward Reconciling Public Preferences and Legal Frameworks', *One Earth*, 2.4 (2020), 341–48 <https://doi.org/10.1016/j.oneear.2020.03.009>

programs. Power is redistributed through negotiations between citizens and power holders. The rest is pseudo-participation. This means that if participation is only heard and considered, this does not guarantee that the community's opinion will influence the final result.⁵⁴

Because tourism can play a dynamic role in the economic growth of developing countries, tourism development is seen as an instrument for creating jobs and income.⁵⁵ Tourism is a priority for the government because it is the locomotive of the nation's economic movement. Therefore, there is hope that changes in licensing and tourism management regulations will still be possible. These changes must be based on regional tourism development needs. Balancing the rights and obligations of the central government with regional governments. Eliminate regulations that harm regional governments in their efforts to implement regional autonomy. Emphasis on collaboration between stakeholders needed to support the tourism sustainability agenda.⁵⁶ These changes need to be voiced through various stages of changes to statutory regulations. Guarantee real participation. Suggestions from the public and related stakeholders must be ensured that the final policy decision can be changed. This effort must be carried out to take advantage of legal opportunities to correct the chaos in the regulations for issuing permits in the tourism sector. According to Anthony Smith et al. (2019), factors such as limited resources, institutional culture, and community/stakeholder attitudes may limit the development of community involvement.⁵⁷

4. Conclusion

Based on the problem analysis above, the challenges and opportunities in licensing policy issues in the tourism sector are known. The difficulties of reconstructing licensing regulations in the tourism sector include differences in views regarding the licensing concept between the central and regional governments. This has implications for a shift in the purpose of issuing permits, which should be aimed at controlling business activities/community activities, shifting to the concept of permits as validating the ease of business investment for investors. The transfer of authority to issue permits from the regional government to the central government has created chaos in the practical supervision procedures for tourism business activities. Therefore, to overcome the above problems, the regional government's authority to grant business permits in the tourism sector must be returned to the regional government. This is important to create legal certainty in the business world, encourage service efficiency, and create a business climate that supports tourism development. Meanwhile, the opportunity in this policy reconstruction is that it is still possible to revise laws based on the principle of real participation with

⁵⁴ Willy Naresta and others, 'The Geothermal Development Policy on Environmental in Indonesia and the USA', *Journal of Human Rights, Culture and Legal System*, 3.2 (2023), 160–84 <https://doi.org/https://doi.org/10.53955/jhcls.v3i2.85>

⁵⁵ Januardo Sulung Partogi Sihombing and others, 'The Regulation of Legal Protection for Poor Communities Toward Justice in Indonesia and the Netherlands', *Journal of Human Rights, Culture and Legal System*, 4.2 (2024), 331–53 <https://doi.org/10.53955/jhcls.v4i2.274>

⁵⁶ Sonya Graci, 'Collaboration and Partnership Development for Sustainable Tourism', *Tourism Geographies*, 15.1 (2013), 25–42 <<https://doi.org/10.1080/14616688.2012.675513>>. *Tourism and Sustainable Development Goals*, ed. by Jarkko Saarinen (Routledge, 2020) <https://doi.org/10.4324/9780429324253>

⁵⁷ Anthony Smith and others, 'Communicating to and Engaging with the Public in Regulatory Science[Link]', *EFSA Journal*, 17 (2019) <https://doi.org/10.2903/j.efsa.2019.e170717>

community involvement mechanisms that can influence the final results of policy decisions. Apart from that, there is a need for active collaboration between government at the central, regional, and regional levels, stakeholders, and the community in developing the tourism sector, which can realize social prosperity.

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