

RESEARCH ARTICLE

SOCIO-ECONOMIC AND LEGAL ANALYSIS ON FOREST PROTECTION

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ABSTRACT

The protection of forests today is not just a problem is regional (national) but it is a world problem (global). This is related to the function of forests in maintaining ecological balance which also affects the global climate, such as the effect of 'global warming' which can threaten the safety of living things. Nevertheless, reality shows that the economic function of the forest, i.e., as a source of the eye livelihood for a group of people, as a means of accumulation capital (capital) for entrepreneurs (capitalist), and as a source of foreign exchange for countries, often defeating forest functions in maintaining equilibrium ecological (including global climate). The continued pressure of population increased is one of the factors that contribute to accelerating forest destruction. This is due to the need for more land and more building materials, both for settlement and land for activities farming, and materials for new buildings. Utilization excessive forest economic functions by a human (forest exploitation) without caring about ecological balance can be catastrophic for humans themselves and require far-reaching economic and social costs greater than the economic results that have been obtained.

Keywords: *Forest Protection; Environmental Law Policy; Socio-Economic Analysis*

INTRODUCTION

Indonesia is a country rich in minerals, including gold, silver, coal and other state-controlled for the greatest prosperity of the people (Salim, 2003). As we all know that forest is the lungs earth where various living animals, trees, minerals, and various other resources that we can get from the forest are priceless to humans. Forest is also a natural resource that provides great benefits for human welfare, both tangible benefits are felt directly, or intangible that is felt indirectly. Direct benefits such as a supply of timber, animals, and mining products (Erbaugh & Nurrochmat, 2019; Harbi, Erbaugh, Sidiq, Haasler, & Nurrochmat, 2018).

While indirect benefits such as recreational benefits, water conservation and regulation, erosion prevention. The existence of forests, in this case, the carrying capacity of forests against all aspects of human life, animals, and plants is determined on the high level of human consciousness of the importance of forests in the utilization and management of forests. Forests become a medium of mutual relationships between humans and other living things with natural factors comprising ecological processes and are a cyclic unity that can support life (Reksohadiprojo, 2000; Shah & Baylis, 2015; Armitage, 2002).

Forests are natural resources that have various functions, both ecological, economic, social, and cultural necessary to support human life and other living things (Wheeler, Hammer, Kraft, Dasgupta, & Blankespoor). It is, therefore, necessary to do so control of forest destruction through forest protection activities. So that in general forest protection is an activity to keep the forest from factors that can cause damage to trees or tree stands in protection, conservation or production achieved optimally and sustainably in accordance with its designation. A factor which can cause damage to trees or tree stands is including land encroachment, illegal logging, fire, pests, diseases, and shepherding (Arif, 2001).

FOREST AND THE PROTECTION

The definition of forest protection is firmly established in the Regulations Government Number 45 of 2004 Article 1 which is the translation of Law Number 41 Year 1999 Article 47, forest protection defined as an attempt to prevent and limit forest destruction, forest areas and forest products, caused by human actions, livestock, fires, natural powers, pests and diseases, as well as maintaining

and safeguarding the rights of countries, communities and individuals over forests, forests, forest products, investments and management-related tools Forest (*see also Kaskoyo, Mohammed, & Inoue, 2014*). In the definition clearly stated that there are 2 (two) activities major in forest protection in Indonesia, namely:

1. Prevent and limit damage to forests, forest areas, and forest products which is caused by human actions, livestock, fire, disaster nature, pests, and diseases.
2. Maintain and safeguard the rights of the state, society, and individuals on forests, forest areas, forest products, investments and tools related to forest management.

The forest is conceptually juridical formulated in Article 1 Paragraph (1) Law No. 41 of 1999 on Forestry. According to the Law Forest is a unity of ecosystem in the form of the expanse of land containing biological resources dominated by trees in the environmental alliance of environment, which one with others cannot be separated. From the definition of the forests mentioned, there are elements that include:

- a. An ecosystem unity
- b. In the form of a stretch of land
- c. Contains natural resources and its natural environment that is not
- d. can be separated from one another.
- e. Able to benefit sustainably.

There are two benefits of forests: (1) Direct benefits are benefits that can be felt / enjoyed directly by the community, i.e., the community can use and utilize forest products, such as timber which is the main forest product, as well as various forest products such as rattan, sap, fruits, honey and others, (2) Indirect benefits are benefits not directly enjoyed by the community, but that can be felt is the existence of the forest itself, such as can regulate the water system, can prevent erosion (*Salim, 2003; Koh & Ghazoul, 2010; Kaskoyo, Mohammaed, & Inoue, 2017*).

The four basic characteristics are owned by a region called forest, is a series of a unity of components that are intact and interdependent to the function of ecosystems on earth. The existence of forests as a global sub-ecosystem identifies important positions as the lungs of the world (*Zain, 1996*).

In general, the classification of natural resources is divided into forms (*Zain, 1997*):

- a. land of rivers
- b. forest with various results
- c. natural land for beauty, recreation or for scientific research

- d. terrestrial and marine fisheries
- e. fuel and non-fuel mineral resources
- f. non-mineral energy sources such as: geothermal, solar power, wind, a source of hydropower, tidal wave.

REGULATIONS FOR FOREST PROTECTIONS

1. Law Number 5 of 1990

Law Number 5 of 1990 is about conserving natural resources consisting of 14 chapters and 45 chapters. Constitution this does not specifically set about forest protection but is an effort to realize the preservation of biological natural resources as well as the balance of the ecosystem so as to better support the effort improvement of people's welfare and quality of human life through life protection system protection activities, preservation the diversity of plant and animal species and their ecosystems, the sustainable use of biological natural resources and their ecosystems. While the intended natural resources are the elements biodiversity in nature consisting of vegetable natural resources (plants) and animal natural resources (animals) that together with non-biological elements in its surroundings as a whole form an ecosystem.

This law further regulates the determination of a territory accordingly with the designation of the protected area as a protection system a life buffer intended for the maintenance of an ecological process support the survival of life to improve prosperity society and quality of human life; as nature reserve area preservation areas of the diversity of plants and animals together its ecosystem, also serves as a system protection area buffer life; Nature conservation areas have functions protection of life buffer systems, preservation of diverse types of plants and animals, and the sustainable use of resources biological nature and its ecosystem. This law is used as the basis/reference for the issuance of law others related to forest protection.

2. Act Number 12 of 1992

Law No. 12 of 1992 is a regulation regulate the system of cultivation of plants where therein specially regulated on the protection of cultivated plants, Article 1 concerning general provisions, Article 20 until Article 27 concerning the implementation of protection cultivated plants, Article 60 on legal sanctions for offender's implementation of cultivation plant protection. Protection activities done in an effort to prevent losses on cultivation plants caused by plant-

disturbing organisms (all organisms that can damage, interfere with life, or causing plant death) through a pest control system integrated (Article 20 paragraph 1). Integrated pest management activities include (Article 21): a. prevention entry of plant pest organisms to in and spreading from one area to another within the territory of the state Republic of Indonesia in accordance with the laws and regulations apply; b. pendent plant pest organisms; c. addiction plant-disturbing organisms (*see also Margono, Potapov, Turubanova, Stolle & Hansen, 2014*).

3. Law No. 16 of 1992

Law No. 16 of 1992 specifically regulates animal quarantine, fish, and plants to prevent the entry of pests and animal diseases, fish pests and diseases, and pest organisms hazardous or infectious plants that can damage resources biological nature to the territory of the Republic of Indonesia, preventing its spread from one area to another, and prevent the exit from the territory of the country Republic of Indonesia due to animal, fish and plant traffic interstate and from another area of territory within the territory of the state Republic of Indonesia, whether in the framework of trade, exchange, or its spread. In this law is stipulated on general provisions (articles 1-4), quarantine requirements (article 5-8), quarantine measures (articles 9-22), quarantine area (article 23), species of pests and diseases of organism's bullies, and carrier media (articles 24-25), entry points and expenses (articles 26 to 27), coaching (articles 28 to 29), investigations (article 30), criminal sanctions (Article 31), transitional provisions (Article 32) and cover (Articles 33 to 34).

4. Law Number 41 of 1999

Law Number 41 of 1999 is a legislation that set about forestry principles. This law constitutes a substitute for the previous forestry law is the Law Number 5 Year 1967 considering it is no longer in accordance with the principal control and management of forests, and the demands of the development of the situation. In general, this law regulates activities in the field of forestry in Indonesia including forest protection activities. In this law, the activities of forest protection and nature conservation is part of forest management activities (Article 21). Activities forest protection and nature conservation are specifically regulated in the article 46 to 51. In connection with forest protection and nature conservation, this law provides for:

- a. The objective of forest protection, i.e., to protect forests, forest areas and environment, for protection functions, conservation functions, and functions

- b. production, achieved optimally and sustainably (Article 46).
- c. The scope of forest protection activities, i.e., prevention and limiting damage to forests, forest areas, and forest products caused by human actions, livestock, fire, power nature, pests, and diseases; maintain and safeguard rights countries, communities and individuals on forests, forest areas, yields forests, investments, and management-related tools forest (Article 47).
- d. Forest protection authority and responsibility (Articles 48 to 49)
- e. Criminal sanctions (Article 50)
- f. Special police authority to ensure the implementation of forest protection (Article 51).

5. Government Regulation Number 45 of 2004

Government Regulation Number 45 of 2004 on Forest Protection is the implementation of Articles 46 to 51 and Articles 77 and 80 Law No. 41 of 1999 on Forestry. Rules The government consists of 57 chapters and 10 Chapters and its Explanations and promulgated on October 18, 2004, during the reign of President Megawati Soekarnoputri. With the enactment of the Regulations This Government, the Government Regulation Number 28 of 1985 on forest protection is no longer applicable. Government Regulation Number 45 The Year 2004 on Forest Protection is one of the Regulations Government mandated by Law Number 41 Year 1999 on forestry-related issues of forest management. Activities forest management includes: [a] forest governance and forest management planning; [b] forest use and use of forest areas; [c] forest rehabilitation and reclamation and [d] forest protection and nature conservation. The following is the disclosure of the divisions of the Government Regulation.

a. Chapter I General Provisions.

It consists of 3 sections and 6 chapters [chapters 1 to 6]. In the Understanding section, we identified five causes of forest destruction, forest and forest products, i.e., human, livestock, fire, natural resources, pests, and diseases. Its authority is in the hands of the [Central] Government and / or the Regional Government, or in the hands of state-owned enterprises (if any delegation of authority from the central government). The activities are in Conservation Forest Management Unit [KPHK], *Hutan Lindung* [KPHL] and Production Forest [KPHP]. It is also regulated on forest protection with the specific objectives set by the Minister of Forestry, which includes activities: research and development, education and training and religion and culture. While the main objective of forest protection is to safeguard the forest, forest products, forest area and environment so that 3 functions of the forest are achieved

optimally and sustainably. To achieve that goal is done by two principles: preventing and limiting the destruction of forests, forest areas and forest products, and maintaining and safeguarding the rights of countries, communities and individuals to forests, forests, forest products, investments and tools relating to forest protection activities.

b. Chapter II implementation of forest protection.

Consists of 4 sections and 11 Articles [chapters 7 to 17]. This chapter sets forth the four causes of forest destruction, forest, and forest products, namely human [first part], disruption of livestock [second part], natural resources [third part], pests and diseases [fourth part]. In this chapter, there is several chapters that seem to be trying to set limits on illegal logging practices, ie Article 12 [regulates the obligation to complete validity certificates of forest products on forest products] and article 14 [forest utilization can only be done after permission from authorized officials]. Another important article is that indigenous and tribal peoples are the implementing and responsible parties in forest protection activities over the forest areas they manage. The customary law community in question is indigenous peoples whose reality is still present and acknowledged its existence.

c. Chapter III forest protection from fire.

It consists of 3 sections and 14 chapters [chapters 18 to 31]. This chapter specifies the causes of damage to forests, forest areas and forest products Fire. There are two fire-causing actors: human and human nature. Article 19 provides that everyone is prohibited from burning forests. But there are exceptions: limited fires of forests for special purposes or inevitable conditions, including: fire control, pest and disease eradication and the promotion of plant and animal habitats, which must obtain the minister's permission first. It is also stipulated that the preparation and clearing of land for gardens and plantations is not included in a specific purpose or condition that is inevitable.

d. Chapter IV forestry police, PPNS (Civil Servant Investigator) forestry and forestry security units.

It consists of 3 sections and 10 chapters [chapters 32 to 41]. This chapter sets out the officers in charge of forest protection activities. In this case, there are 3 apparatus: forestry police, forestry PPNS and forest security units. One authority of the forestry police is, in the event of being caught red-handed, to arrest the suspect for submission to the authorities. The authorities here are PPNS Forestry. The forestry police also have the authority to conduct investigations on the orders of the competent authorities. PPNS Forestry

officials have the authority to perform investigations related to forestry crimes. In its investigation task, PPNS Forestry Officer coordinates and is supervised and supervised by POLRI, but not as a subordinate. The result of the investigation by PPNS Forestry Officer is submitted to the Prosecutor. However, when the PPNS Officer encounters a suspected act as a forestry crime, he must submit it to the POLRI Investigating Officer. The forest security unit is a security unit established by the forest management or permit holder. The main task is limited to physical safeguards in the area of forest which is the responsibility.

- e. Chapter V criminal sanctions. It is organized in 3 chapters [article 42 to Article 44].
This criminal sanction shall be imposed on any person who violates the provisions concerning the obligation of validation of forest products as well as forest utilization permits and the use of forest areas.
- f. Chapter VI indemnification. Organized into 2 chapters [chapters 45 to 46].
This chapter specifies that the responsible person of the act shall pay compensation for the act of obeying the law stipulated in the Act Forestry. The compensation payment will not reduce the criminal sanction. Indemnification, which must be deposited into the treasury, used for rehabilitation, restoration of forest conditions or necessary measures. The amount of compensation, set by the minister, is determined on two counts: the extent of forest destruction and the effects it has on the state. The basis of the two is the physical change, physical or biological nature.
- g. Chapter VII guidance, control, and supervision.
It consists of two parts and six chapters [chapters 47 to 52]. Guidance, control, and supervision are done in stages where the minister has the authority to do these three things to the governor's policy. So is the governor to the *Bupati* or Mayor. Guidance activities in question are the provision of guidelines, guidance, training, direction and or supervision. Control activities are monitoring, evaluation and/or follow-up activities. The result of the control performed by the Governor is followed up by Regent or Mayor. There are no rules governing the follow up by whom the ministries control. In contrast to guidance and controls are regulated Furthermore, by the minister, the provisions on supervision shall be regulated in a separate Government Regulation.
- h. Chapter VIII other provisions.
Arranging on the management of evidence in forestry criminal cases. The treatments are different, some have to be stored in the relevant agency, a

state confiscated storage house or plant and wildlife conservation agency, some are auctioned off as soon as possible, or otherwise seized for the state.

i. Chapter IX transitional provisions.

The only article in this chapter, article 55, provides that existing forest protection implementing regulations, to the extent not in conflict with this PP, are deemed to be fixed valid until the issuance of new implementing regulations based on this PP.

j. Chapter X cover provisions.

Contains provisions that revoke the old PP of forest protection [PP No. 28 of 1985] and the enactment of this PP since its enactment. In addition to the above legislation at the local level, in some areas have been had regional regulations governing forest protection activities to implement forest protection in production forests, protection forests unencumbered by customary forests and forests, and provincial or Regency/municipal forest parks, such as in West Nusa Tenggara and Tarakan Provinces.

6. Regional Regulation of Tarakan City Number 12 of 2004

This local regulation provides for the protection of forests and forest products the territory of Tarakan City which is an attempt to prevent and limit the destruction of forests, forest areas, and forest products, retain and safeguarding regional rights over forests, forest areas, and forest products and maintain and preserve the types of plants and animals.

7. West Nusa Tenggara Province Regulation No. 5 of 2007

This regulation regulates the protection of forests, flora and fauna in the province of West Nusa Tenggara with efforts to prevent and limiting damage to forests, forest areas, forest products and their distribution, preventing and limiting threats to the existence of flora and fauna rare from human actions, pests, diseases, fire, predators, nature, pests and diseases, as well as maintaining and preserving rights state, community rights and individual rights over forests, forest areas, forest products, rare flora and fauna and their habitats.

CONCLUSION

From the above description it can be concluded that forest protection activities in Indonesia are expressly regulated in Government Regulation Number 45 of 2004 which is the implementation of Articles 46 to 51 and Article 77 and Article 80 of

Law No. 41 of 1999 on Forestry. Law Number 5 Year 1990 is the basic/reference for the issuance of other laws relating to forest protection. Law No. 12 of 1992 specifically regulates the cultivation of crop protection while Law No. 16 of 1992 specifically regulates animal quarantine, fish, and plants to prevent the entry of pests and diseases. In addition to these laws in some areas have local regulations governing forest protection for the implementation of forest protection at the local level.

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“The forest is a peculiar organism of unlimited kindness and benevolence that makes no demands for its sustenance and extends generously the products of its life activity; it affords protection to all beings, offering shade even to the axe-man who destroys it.”

Gautama Buddha