



Analysis Of Change in The Minimum Extent of Forest Areas in The Job Creation Law Through An Environmental Perspective

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ABSTRACT

Forests have a very essential role in countries with the high rainfall intensity and vulnerable to disasters regarding the balance of water systems that can lead to floods up to sedimentation. Therefore, it is very important to have the minimum limit of forest areas which is regulated and maintained in the Forestry Law, with the aim of optimizing the social, ecological, and economic benefits of the local communities. Through the Job Creation Law, the obligation to maintain a forest area of at least 30% in the Forestry Law is eliminated. The reason is its obligation is irrelevant to the current developments. The minimum policy of 30% forest area is like a double-edged sword, among others, the provinces with forest areas under 30% as in Java must buy the land to be used as a forest area for the substitute. Then, some islands such as Papua, Sumatera, Kalimantan, and other islands with about 70% forest area will endanger the environment because it provides up to 30% for deforestation. Therefore, a question arises for this study to be carried out related to how the impact of the policy of restrictions forest areas in the job creation law in environmental aspects. In this study, the authors used the methods of normative legal research. The result of this study was the loss of 30% forest area. This Job Creation Law Policy will certainly increase deforestation rates, and of course it will have an impact on the natural environment that has an important role in human, plant, and animal life. Biodiversity and animals living in the forest will be reduced since their habitat has been damaged and can cause disasters, such as landslides and floods if the state of the forest continues to have deforestation. The 30% minimum limit must be applied to the islands with less than 30% forest area.

ABSTRAK

Hutan memiliki peran yang sangat esensial di negara-negara dengan intensitas curah hujan yang tinggi dan rentan terhadap bencana terkait dengan keseimbangan tata air yang dapat mengakibatkan banjir hingga sedimentasi. Oleh karena itu, sangat penting untuk memiliki batas minimal kawasan hutan yang diatur dan dipelihara dalam UU Kehutanan, dengan tujuan untuk mengoptimalkan manfaat sosial, ekologi, dan ekonomi masyarakat setempat. Melalui UU Cipta Kerja, kewajiban menjaga kawasan hutan minimal 30% dalam UU Kehutanan dihilangkan. Pasalnya, kewajibannya tidak relevan dengan perkembangan saat ini. Kebijakan minimal 30% kawasan hutan ibarat pedang bermata dua, antara lain provinsi dengan luas hutan di bawah 30% seperti di Jawa harus membeli lahan untuk dijadikan kawasan hutan pengganti. Kemudian, beberapa pulau seperti Papua, Sumatera, Kalimantan, dan pulau-pulau lain dengan luas hutan sekitar 70% akan membahayakan lingkungan karena menyediakan hingga 30% untuk deforestasi. Oleh karena itu, timbul pertanyaan untuk dilakukan penelitian ini terkait bagaimana dampak kebijakan pembatasan kawasan hutan dalam undang-undang penciptaan lapangan kerja dalam aspek lingkungan. Dalam penelitian ini, penulis menggunakan metode penelitian hukum normatif. Hasil dari penelitian ini adalah hilangnya 30% kawasan hutan. Kebijakan UU Cipta Kerja ini tentunya akan meningkatkan laju deforestasi, dan tentunya akan berdampak pada lingkungan alam yang berperan penting dalam kehidupan manusia, tumbuhan, dan hewan. Keanekaragaman hayati dan satwa yang hidup di hutan akan berkurang karena habitatnya telah rusak dan dapat menimbulkan bencana, seperti tanah longsor dan banjir jika keadaan hutan terus mengalami deforestasi. Batas minimal 30% harus diterapkan pada pulau-pulau dengan luas hutan kurang dari 30%.

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I. INTRODUCTION

Looking at the natural resources, Indonesia is a country that has wealth, beauty and fertility, so it is not surprising that Indonesia has a lot of flora and fauna scattered throughout the territory of Indonesia. Natural resources owned in all regions of Indonesia can be utilized, managed, enjoyed, and produced by Indonesia people. They must concern to sustainability, which is also natural resources and can be used as natural tourism and artificial tourism (Putri, 2020; Sukamto, 2017). The control of natural resources requires the government's attention and cooperation with the surrounding community and other institutions, such as NGOs in the field of natural resources and the environment. Forest is one of the largest natural resources owned by Indonesia (Ali & Kassim, 2021; Nugroho, 2017; Putri, 2020). It is one of the countries that has a very large forest in the world. Indonesian forests are spread across various big islands, namely Java island, Kalimantan island, Sumatra island, and Papua. Natural wealth in the form of forests is a gift given by God that are very valuable. Therefore, the forest must be maintained and utilized as well as possible (Maryudi, 2016; Risna Nurrohmah, 2021; Talumepa, 2020).

Forest is an ecosystem unit of land that contains natural resources which dominated by trees in the natural community environment, one with another and can not be separated (Fadli et al., 2019). We can find forests in the tropics and cold climates, in the lowlands and in the mountains, and on large continents and on small islands. All animals including the smallest and other plants also various other non-living elements including part of the constituent can not be separated from the forest (Talumepa, 2020). So, for the sustainability of existing ecosystems, forests have a very important role. Forest care and management in Indonesia is not the government's responsibility. But, the community must also contribute to the preservation of forests in Indonesia (Septianingrum, 2018).

In Article 18 paragraphs (1) and (2) of Law No. 41 of 1999 concerning the forestry mentioned that the government establishes and also maintains the forest area for each watershed, and or island in order to optimize the benefits of environmental, economic, and social of the surrounding community. Moreover, the forest area must be maintained which is 30% of the river or island flow with a proportional distribution (Mubarak, 2019).

Five years later, on March 11, 2004. The declaration of 30% forest obligation is still maintained by the government through Government Regulations in Lieu of Law on this Forestry Law. Then, the regulation was established into Law No. 19 of 2004 (Yusyanti, 2019). The 30% minimum area limit has been pointed out in the Forestry Law. Indonesia is a country with high rainfall intensity and is very vulnerable to disruption of the balance of water systems causing the flood to sedimentation. Therefore, it needs at least a forest area which is regulated and maintained in this Forestry Law, with the aim to optimize the social benefits, ecological, and economic for the local communities (Talumepa, 2020).

Through the existence of the Job Creation Law, the declaration of the obligation to maintain forest areas of at least 30% in the Forestry Law is eliminated. A number of 30% of the regulation is handed over to the central government. Then, it was changed to a lower level than the Law, namely

Government Regulation. The reason is related to the obligation in maintaining a 30% forest area which has irrelevant to the current development, considering that the forest area in Java is less than 30% (Fadli et al., 2019; Mubarak, 2019; Novalia, 2020).

The 30% minimum policy of forest area is like a double-edged sword, among others, for provinces with forest areas under 30% as in Java must buy land to be used as forest areas as a substitute. Then, some islands such as Papua, Sumatra, Kalimantan and other islands that have forest areas around 70% will endanger the environment because it provides opportunities for deforestation up to 30% (Ahmad et al., 2017; Yusyanti, 2019).

II. RESEARCH METHOD

This research used normative juridical research methods (Irianto, 2017). It is a document study with materials derived from laws, books, legal norms, literature, and other scientific references related to this study. The author conducted 2 (two) approaches, by examining the laws and regulations in accordance with the resolved law or approach legislation (The Statue Approach) and the approach is carried out in a way closer to referring to existing legal principles. These principles can be found in the law doctrines and in the perceptions of scholars (The Conceptual Approach) (Benuf & Azhar, 2020).

III. RESULT AND DISCUSSION

A. Forest Advantages

Forest is an area or region overgrown by various plants and other trees. Forest areas are widespread throughout the world, both in sub-tropical and tropical climates (Talumepa, 2020). According to Government Regulation No. 28 of 1985, forest protection activities have the aim to preserve the forest in order to fulfill its function as it should. To achieve this goal, all actions and efforts must be taken to limit and prevent damage to forests and ecosystems caused by irresponsible human actions, fires, natural phenomena, pests and diseases, as well as to maintain and defend the rights of the state to the forest products. God not only complements the beauty of His earth, but there are many benefits of the forest that are very important for the creatures life (Novalia, 2020). Below are the following advantages:

B. Producing oxygen for life

Forest is a set of trees that have a very important role as an oxygen producer in the world. Green plants will produce oxygen from a photosynthesis process that takes place during the day. With a large number of trees, the forest will provide the oxygen supply with the large enough for human life on earth (Safe'i et al., 2020).

C. Absorbing Carbon Dioxide

During the day, the trees produce oxygen. At the same time, trees also absorb carbon dioxide needed as a photosynthesis process. There is a great balance between oxygen and carbon dioxide in these trees, because carbon dioxide is a dangerous gas if inhaled excessively by humans (Safe'i et al., 2020).

D. Preventing Erosion

The large forests will also help to prevent soil erosion or erosion disasters. Soil erosion can be caused by water and a small population of forests. The forest has a function to accommodate and absorb a large amount of water. As a result, floods and landslides can be controlled. Otherwise, if the arid and barren areas will cause prone to landslides and floods. This is another land function that we often forget. Beside, the illegal logging was done by illegal loggers who do not have a sense of responsibility for the safety of the earth. Not only did they betray many people, but they also betrayed the earth as their home (Maulana et al., 2021).

E. Protecting Areas and Tourism

The existence of biodiversity and animals in the forest area also has the function as a place to protect biodiversity and rare animals. Their habitat is preserved on the territory of forest areas. In addition, forests can also be used as objects of research and tourism (Eddy et al., 2015).

F. Environmental Management and Protection

Problems regarding the environmental management and protection become one of the factors that determine the success of environmental sustainability. Changes that occur in the environment can also affect the socio-cultural life of the village community, both changes in lifestyle, emotions, beliefs and knowledge of the community (Maryudi, 2016). Therefore, the environmental management and protection are certainly not merely on the interference from several dimensions (Prastyo et al., 2021), namely:

G. Environmental Management and Protection in the Political Dimension;

Politics can be used as a dimension that gets the most attention in the fields of philosophy, theology, law, and social, especially the concept of justice. Its concept aims that each individual will receive something reasonable. Besides, the involvement of individuals in various positions in the political dimension is an important condition to be able in achieving a goal. The difficulty in achieving the political goals of environmental management and protection is the use of technology for development, for example, chemicals technology will reduce quality and will also release waste that will pollute the environment. Indeed, the government or state politically can impose unfair conditions on industrial development with the reason to protect the environment and the peace of the general public.

H. Environmental Management and Protection in the Economic Dimension;

It can be seen from the efforts of countries in the world in experiencing a highly increasing industrialization process, and Indonesia is no exception. This process will continue to occur and expand in various forms of companies that aim to eradicate poverty and improve the level of balanced income. This concept is very important to achieve a goal of justice for all Indonesian people. Through this aim, the priority of national development rests more on efforts that will accelerate the process of achieving high levels of economic growth and industrialization. This rapid increase in economic development will have implications for the environment ability to accommodate various types of industrial waste. Environmental issues are the main concern of the government and society. This is caused by the negative impact of rapid urbanization, economic development, and modernization processes that cannot be avoided. The economic dimension has a welfare and prosperity factor which are an important factor in realizing an authoritative Environmental Law system. To observe the extent to which of the economic dimension plays a role in supporting the management and protection of the environment, it is necessary to coordinate between the political and economic dimensions.

I. Environmental Management and Protection in the Socio-cultural Dimension.

Socio-cultural is a concept with a group of people or several groups that make decisions to live together through efforts to utilize the environment to meet the needs of living together. Dialectically, to deal with each development and provide space, the society study the stage of development.

J. Deforestation

Deforestation is a transfer of forests to be used as land for certain purposes. In general, deforestation will reduce the crown of trees that are below the minimum threshold of about 10% for the long term. In other words, deforestation can be the forest development or deforestation so that the forest area can be used as other things. This forest transfer is generally used for non-forest as well as for urban, agricultural or livestock (Wahyuni & Suranto, 2021). As a resource, the environment is an important asset for the welfare of society. The wealth of nature, earth, and water can be used to the greatest extent for the people prosperity. Deforestation in Indonesia is mostly caused by a corrupt political and economic system, which considers that natural

resources, especially forests, as a source of income can be exploited for personal and political interests (Hultera et al., 2020). In fact, humans, both as objects and subjects of development, are part of the ecosystem. So, this holistic view is used in development ecology. Indonesia has the fastest annual deforestation in the world. Between 2000 and 2005, there were 1,8 million hectares of forest were destroyed per year. There was 2% rate of forest destruction every year, equivalent to 51 kilo meters per day. From an area of 1.919.440 square kilo meters, Indonesia's total forest area reaches 120,35 million hectares. If deforestation continuously happens, the impact can reduce biodiversity and animals living in the forest because the habitat where they live has been damaged. Besides, it can cause disasters, such as landslides and floods if the state of the forest continues to experience deforestation (Barri et al., 2018; Watch Indonesia, 2019).

K. Obligations of Business Actors to the Use of Forest Areas

Forest area is a natural resource that aims to the importance for the forestry sector and non-forestry sector development. The use of this forest area can be aimed at the development of sectors outside forestry. The use of forest areas in the non-forestry sector can only be done through a mechanism of the Forest Areas Exchange (*TMKH*) or Permission to Borrow Forest Areas (*IPPKH*). The difference between the Forest Areas Exchange (*TMKH*) and the Permission to Borrow Forest Areas (*IPPKH*) is if the (*TMKH*) is a use of forest areas by changing the allocation of forest areas to non-forest areas. It is balanced by including replacement land from non-forest areas to the forest areas. The use of forests with the Forest Area Exchange (*TMKH*) mechanism has a condition that there must be replacement land outside the forest area to be replaced as forest area since the development interest of the non-forestry sector are using forest area gradually which will reduce the area of forest area. Forest areas used with the forest area exchange mechanism (*TMKH*) are limited production forest areas and permanent production forests in which there is no forest utilization or forest use permission. Meanwhile, the mechanism for Borrowing and Using Forest Areas (*IPPKH*) is the used for development purposes in the non-forestry sector by not reducing the allocation and function of forest areas. The use of forest areas with the mechanism of Borrowing and Using Forest Areas (*IPPKH*) has a period of time that is returned to the state. Through the *PPKH* mechanism, the used forest areas are protected forests and production forests (Asmarudin et al., 2019). Based on Article 22 concerning the regulation of the Minister of Environment and Forestry of the Indonesia Republic No P.50/Menlhk/Sethen/Kum.1/6/2016 on Guidelines for Borrowing to Forest Areas, after the Holder of A License to Borrow to Use Forest Areas obtaining the determination of the working area of the Permission to Borrow to Use Forest Areas as referred to in Article 20 paragraph (3) of this regulation .

L. The impact of the policy of limiting Forest Areas in the Job Creation Law in Environmental aspects.

Forest area is an area designated and/or determined by the government to maintain its existence for permanent forest. In Law No. 41 of 1999 on Forestry, it is stated that forest areas according to their functions are categorized as protected areas, namely protected forests (*HL*), Nature Reserve Areas (*KSA*) consisting of: Nature Reserves (*CA*) and Wildlife Reserves (*SM*); Nature Conservation Areas (*KPA*) consisting of: Forest Park (*Tahura*), Nature Tourism Park (*TWA*), National Parks and Hunting Parks. While the cultivation areas are categorized as Limited Production Forest (*HPT*), Convertible Production Forest (*HPK*) and Permanent Production Forest (*HP*).

The existence of its area is a result of the strengthening process of the forest area which includes stages, starting from the arrangement of forest area boundaries, mapping of forest areas, determination of forest areas, and designation of forest areas. These levels contain legal consequences, so that by *de jure*, forest area will be presence at least after designated by the Minister of Forestry as a forest area included in its boundaries even though it is still in the map.

Forest area change is a process of change occurs to a certain forest area into a non-forest area or into a forest area with other forest functions. Changes in forest areas occur due to the changes in

the principal function of forest areas, or changes in the function of forest areas into other functions and changes in the allocation of forest areas from forest areas to non-forest areas and the designation of other partial use areas into forest areas.

Referring to the forest areas, in Article 18 paragraphs (1) and (2) of Law No. 41 of 1999 on Forestry, there is a point stating that the government establishes and also maintains the forest area for each watershed, and or island in order to optimize environmental benefits, economic benefits, and social benefits of the surrounding community. Due to the big dependence of communities on forest products, the social and economic aspects of those living near forests are a consideration that cannot be underestimated. Thus, the community still needs forest areas for shelter and as part of its existence from a sociological and economic point of view. Then in order to fulfill this expectation, the forest area must be maintained, which is 30% of the river or island flow with a proportional distribution (Talumepa, 2020).

According to the history of forestry legislation, the 30% requirement has existed since Law No. 5 of 1967 on Basic Provisions of Forestry and its explanation was ratified. According to Article 7 Paragraph (2), the minister determines the area of forest areas by taking into account the land use plan set by the government. In this article, it is emphasized that the government must establish a large enough forest area with appropriate distribution and location in order to fulfill the needs of the Indonesian people for forest products and other benefits to achieve forest utilization efforts as intended. In Article 6 sub a to d., The minimum area of land that must be maintained as a forest area is to be around 30% of the land area, taking into account the socio-economic needs of the Indonesian people as well as physical, climatic, and water management procedures (Mubarak, 2019; Talumepa, 2020).

Based on the provisions of Article 7 mentioned above, it is clear that the legislator at that time (1967) had considered the importance of at least one island or watershed area to be able to guarantee the balance of ecosystems within an island. Although the forest area was largely intact and there were not many uses or unlawful activities in the forestry and mining sectors, the idea in question was unusual and up-to-date (Rumondang et al., 2022).

Indonesia is a country with high rainfall intensity and is very vulnerable to disruption of the balance of water systems causing the flood to sedimentation. Therefore, it needs at least a forest area which is regulated and maintained in this Forestry Law, with the aim to optimize the social benefits, ecological, and economic for the local communities (Talumepa, 2020).

The presence of the Job Creation Law, the declaration of the obligation to maintain forest areas of at least 30% in the Forestry Law is eliminated. A number of 30% of the regulation is handed over to the central government. Then, it was changed to a lower level than the Law, namely Government Regulation. The reason is related to the obligation in maintaining a 30% forest area which has irrelevant to the current development, considering that the forest area in Java is less than 30% (Kemsetneg RI, 2020).

With the revocation of the provisions Article 18 paragraph (2) of Law No. 41 of 1999 on Forestry, the social and economic benefits of forest areas have been ignored by lawmakers and are more important than forest cover (the environment in the narrow sense) whether it is a forest area or not. The revocation review of Article 18 paragraph (2) is a setback in the field of Forestry Law development because there is a broken chain in the regulation since 1967, namely the sociological aspect in the process of designing legislation. The removal of these criteria will also complicate forestry and agrarian reform initiatives, especially in remote island areas. For this reason, it is necessary to review the procedure for revocation of the provisions of Article 18 paragraph (2) (Amania, 2020).

Based on this situation and according to policy-makers, the academic text of the Job Creation Law explains that the obligation to maintain a minimum of 30% forest is no longer relevant to be

applied because of the current development considering the island of Java which has less than 30% forest area. Forest cover and forest areas must be maintained by concerning the proportional distribution through considering the carrying capacity, biogeophysical capacity, flora diversity, and watershed characteristics (Amania, 2020; Undang-Undang Cipta Kerja, 2020).

In order to calculate these aspects of the criteria, the government will use the weighing figures and the number of scores as the criteria for determining production and protected forests. Actually, by calculating in a new way the job creation law that is overhauled can change its area into a production forest area and forest closure outside the forest area only. As for the conservation forest area and the existing protected forest area can not be contested because both are included in the protected area that must be maintained its integrity (Ginting, 2021).

The loss of 30% of forest area in the Job Creation Law will certainly increase the deforestation rate, and it will have an impact on the environment that has an important role in human, plant, and animal life. Biodiversity and animals living in the forest will be reduced because their habitat has been damaged and can cause disasters, such as landslides and floods if the state of the forest continues to have deforestation (Hanifah, 2021).

Environmental recovery efforts from damage to conservation forest areas and protected forest areas should be prioritized first compared to production forest areas and forests outside forest areas. It aims as a life support system, such as preventing floods, regulating water systems, preventing seawater intrusion, controlling erosion and maintaining soil fertility (Laws No.41/1999 on Forestry). Therefore, with the elimination of 30% minimum of this forest area, the determination of forest areas in an area must be reviewed by concerning the needs of each region in terms of environmental aspects and the sustainability of human life, plants, and animals to be able in determining the minimum number of forest areas in an area (Jumanah, 2020; Undang-Undang Cipta Kerja, 2020).

IV. CONCLUSSION

The Job Creation Law provides the obligation to maintain forest areas of at least 30% in the Forestry Law is eliminated. A number of 30% of the regulation is handed over to the central government. Then, it was changed to a lower level than the Law, namely Government Regulation. The reason is related to the obligation in maintaining a 30% forest area which has irrelevant to the current development, considering that the forest area in Java is less than 30%. Based on this situation, with the loss of 30% forest area in the Job Creation Law, this will certainly cause deforestation rates to increase, and of course it will have an impact on the environment that has an important role in human, plant, and animal life. Biodiversity and animals living in the forest will be reduced since their habitat has been damaged and can cause disasters, such as landslides and floods if the state of the forest continues to have deforestation. The 30% minimum limit must be applied to the islands with less than 30% forest area. In the Job Creation Law whose purpose is to create and increase jobs and investment in the national interest. This job creation law must also pay attention to environmental aspects. The environment is very important to fulfill daily human needs.

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