

LAW ENFORCEMENT AS PART OF FOREST FIRE PREVENTION

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ABSTRACT

Humans live depending on the presence of clean and healthy oxygen (O₂) produced from healthy plants. The biggest source of oxygen (O₂) is the forest that is around us, if the forest is no longer there it will affect human life, for that there is a need for forest conservation. With the Republic of Indonesia Law Number 32 of 2009 concerning Environmental Protection and Management and the Republic of Indonesia Law Number 19 of 2004 concerning Forestry is expected to prevent forest fires by people and corporations. In the regulation it has been regulated regarding law enforcement and sanctions that can be imposed on individuals and corporations that conduct forest fires and damage. Sanctions that can be given either in administration or compensation or criminal, depend on the violations committed.

Keywords: Law Enforcement, Forest Fire Prevention

I. INTRODUCTION

Human life will depend on the condition of the surrounding environment, it is natural resources. We have to maintain natural resources and maintain our sustainability. One of the natural resources is the forest. Forests as subsystems from the life that exists on this earth must be preserved and we must recognize that forests are the world's lung as the biggest source of oxygen (O₂) for human life. In the Agenda 21 of the Summit in Rio de Janeiro in 1992, the benefits of forests as the lungs of the world were made.

Forests have a very important position and role in supporting national development in Indonesia, because forests benefit both directly and indirectly for the prosperity and welfare of the Indonesian people. The direct benefit is to produce wood that has a high economic value, while indirect benefits, namely regulating the water system on the earth, preventing erosion or sedimentation, providing benefits in the tourism sector, as a defense of security, accommodating workers, and increasing the country's foreign exchange (Salim, H.S, 1997:38 - 40).

Indonesia in 2017 has an area of land and waters of the forest area ± 126,094,397.71 hectare, only 43 million ha are still forests. The area of forest is detailed in a limited production forest covering an area of 26,798,382.01 ha, a permanent production forest of 29,250,783.10 hectare, a protected forest of 29,673,382.37 hectare, and a conservation forest covering an area of 27,429,555.99 hectare, and forestry. production that can be converted to an area of 12,942,295.24 (www.bps.go.id/linkTabelStatis/view/id/1716, downloaded at December 23rd, 2017).

Forests that should be maintained and utilized optimally by taking into account the aspects of sustainability have now experienced considerable degradation and deforestation. The occurrence of forest fires is a phenomenon that can endanger forest kelestarian including in Indonesia. In Indonesia, forest fires and peatland fires tend to be a fire phenomenon every year and the peak occurs in 2015, with the Indonesian President directly descending in dealing with this fire problem.

The occurrence of these forest fires not only occurs in the area in one province, but has included in several provinces both on the island of Borneo and on the island of Sumatra. Extensive fire area coverage in a number of these areas can affect the impact of haze for the surrounding community and even reach other countries, such as Singapore and Malaysia. This will have an impact on the health of Acute Respiratory Tract Infection and the economic impact of the wider community by not being able to carry out daily work activities.

Factors that cause forest fires can vary, both from human factors, climate factors, physical conditions of the peatland ecosystem, and the combination of these factors. Of these factors, human factors have an important role in the occurrence of forest fire problems. Human factors that burn forests to open agricultural land and plantations by burning can trigger forest damage. Climate change factors can also cause forest fires, with rising temperatures that are getting hotter due to long droughts that can occur for months. Which factor is the most dominant in contributing to forest fires, will continue to be a debate that never ends, because of the many interests both in terms of social, economic and political in it.

Apart from the debate over which factors caused forest fires, the human factors were dominant in causing fires. Humans who have been equipped by God with reason and have been equipped with the ability of knowledge and technology and accompanied by the responsibility to preserve nature must be placed in the determinants of this fire.

Humans both by God and the law of the State and the public are given the right to utilize and maintain the natural resources that have been given to humans, are obliged to maintain and maintain sustainability including preventing fire and recovering damage from fire. In the Republic of Indonesia Law Number 32 of 2009 concerning the Protection and Management of the Environment and the Republic of Indonesia Law Number 19 of 2004 concerning Forestry, has been regulated regarding law enforcement and sanctions that can be imposed on individuals and corporations that conduct forest fires and damage. In this

paper, we will discuss law enforcement and sanctions that can be imposed on individuals or corporations if they are burning intentionally or unintentionally.

II. DISCUSSION

Issues that are often associated with forest fires occur due to climate change and the presence of human activities that produce greenhouse gases (GHG). Climate change that has occurred in the past five years has caused a lot of controversy among the community, both remembered by politicians, practitioners and academics with the discussion of forest fires. Climate change is meant here is a change in climate elements in the long term (50 years-100 years) which is affected by human activities that produce greenhouse gas (GHG) emissions (Daniel Mudyarso, 2003:11). But for changes caused by natural factors, such as the addition of aerosols from volcanic eruptions, it is not taken into account in the sense that climate change is not taken into account in the understanding of climate change.

Forest is an area that is overgrown with trees and other plants. Such areas exist in large regions of the world and serve as carbon dioxide sinks, animal habitats, hydrological current modulators, and soil conservationists, and one of the most important aspects of the Earth's biosfera. Definition of forest according to Article 1 number 1 of the Republic of Indonesia Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction, namely: "an ecosystem unit in the form of a stretch of land containing biological natural resources dominated by trees in the natural community of the environment that cannot be separated from one another". Fire is the burning of something that causes danger or brings disaster. Fires can occur, due to natural processes such as climate, volcanic eruptions or because of deliberate burning to open agricultural or plantation land, and human negligence.

Definition of Forest Fire according to Regulation of Minister of Forestry Number 195/Kpts-II/1996, namely: "a condition in which forests are hit by fire resulting in damage to forests and forest products that cause economic and environmental losses". Forest fires are one of the impacts of people's economic pressure on forest resources that are the needs of the community for the interests of agricultural land, plantations, housing, and others. The impacts associated with forest fires are environmental damage and pollution, such as damage to flora and fauna, soil pollution, smoke and water. Forest fires in Indonesia occur almost every year, although the frequency, intensity, and width of the area are different. In general, forest fires that occur in Indonesia are caused by three main factors, namely fuel conditions, weather, and social culture (Fachmi Rasyid, 2014:47-59). According to Danny, the main cause of forest fires in East Kalimantan was due to human activities and only a small part was caused by natural events (Danny. w, 2001:33).

Forest fires are one of the more frequent forms of disturbance. The negative impacts caused by large forest fires include ecological damage, decreasing biodiversity, declining economic value of forests and soil productivity, micro and global climate change, and the smoke disrupting public health and disrupting land, river, lake, sea and air transport. Smoke disruption due to the recent Indonesian forest fires has crossed national borders.

There is a term in society that says preventing is better than it has already happened. By preventing forest fires as early as possible, it will have a positive impact on the ecological, social and economic community. Ecologically, preventive measures will not cause damage to natural resources and can even maintain the sustainability of the natural environment ecosystem function. If the environmental ecosystem can be maintained through daily, monthly and annual prevention mechanisms, then the impact is very positive for the natural environment and for the common interest.

Preventive action is also very socio-economic advantage for the community, because it will prevent humans and other living things from being victims of something negative, such as death, illness, and others. Preventive actions of something negative will also be politically beneficial for the government, namely increasing the legitimacy of the leader or the highest authority in the group, society, nation, and the State becomes stronger.

One of the most visible effects of mismanagement of forest management over the past 30 years is the increasing frequency and intensity of forest and land fires, especially in Kalimantan and Sumatra. Wet tropical forests that have not been felled (undisturbed) are generally truly resistant against fires and will only burn after a prolonged period of drought. In contrast, forests that have been logged, processed, degraded, and overgrown with bushes are far more susceptible to fires.

Various processes of forest degradation and deforestation transform vast forest areas in Indonesia from a fire-resistant ecosystem to an ecosystem that is vulnerable to fire. This fundamental change, coupled with the occurrence of the El Nino climate phenomenon, has caused severe fires that have occurred over the past 20 years.

Large-scale forest fires produce mist that is not easily lost during the dry season both throughout Sumatra and Kalimantan, but generally the fog disappears in September when heavy rain and extinguishing fires have occurred. But the fires that occurred in the past two years could not be extinguished by the rain and produced a thick fog and spread to neighboring countries, such as Malaysia and Singapore, so that air quality dramatically deteriorated and triggered complaints that attracted media attention. global.

The impact of forest fires with an area of + about one million square kilometers that produces and occurs fog, will affect approximately 70 million people. Various transportation accidents on land, air and sea due to poor visibility caused by haze resulting from forest fires can have a negative impact on transportation safety and human health. Hospitals and clinics are visited by people seeking treatment for various diseases related to breathing, eyes and skin due to forest fires. Many schools, offices, business venues, and airports are closed due to the influence of the haze of forest fires, and tourists both local and

international cannot visit tourist destinations which will change the economic conditions of tourist destinations to be difficult and reduce regional income.

In the context of risk management, forest fires can have a negative impact on all living things, ecosystems and government. The spirit to take action to prevent forest fires has become part of the management and utilization of forest areas. This can be observed from the legislation, namely the Republic of Indonesia Law Number 32 of 2009 concerning Environmental Protection and Management, Republic of Indonesia Law Number 19 of 2004 concerning Forestry, Republic of Indonesia Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction, and other implementing regulations, namely the Republic of Indonesia Government Regulation Number 45 of 2004 concerning Forest Protection, the Republic of Indonesia Government Regulation Number 6 of 2007 concerning Forest Management.

Based on the regulations above, it can reflect the provisions that contain the spirit of preventing forest and land fires. Although the spirit of prevention is already in the regulation and becomes part of the existing legislation, the potential for forest fires can arise at any time due to the burning by someone, the company and a prolonged drought climate. If we look at the regulations mentioned above whether it is regulations concerning forestry and environmental management, then the provisions can already be comprehensively assessed.

As with the regulations, there are rules regarding law enforcement in it, namely (1) prohibition for anyone who burns, including throwing things such as cigarette butts that are still burning which results in a fire, it will get criminal sanctions. Although in Article 11 of the Republic of Indonesia Government Regulation Number 45 of 2004 concerning Forest Protection, there are exceptions by allowing forest fires, but the acquisition can only be done with certain conditions, namely there are special objectives or conditions that require burning such as wider fire control / prevention or eradicating pests or fostering habitat and animals, carried out with the permission of the authorized official, and according to the procedures established by the Minister of Environment and Forestry; (2) the existence of obligations for the government, state-owned forest management companies, holders of forest utilization permits, customary law communities who manage customary forests, and forest owners the right to protect forests, including preventing and limiting forest damage caused by fires. In addition, the Republic of Indonesia Government Regulation Number 45 of 2004 concerning Forest Protection further emphasizes that these parties must secure their working areas and prevent other parties from taking actions that lead to forest destruction including fire; and (3) the obligation to prevent and limit damage to forests as a result of natural disruption by: making a map of the location of fire-prone disasters, creating a fire flow in forest prone to fires, especially during droughts, and monitoring the bio-physical environment that has the potential to cause natural disasters Fire.

In the regulation of environmental protection and management, there is also law enforcement against individuals and corporations that carry out forest fires, namely: (1) every person as stipulated in Article 69 paragraph (1) letter of the Republic of Indonesia Law Number 32 of 2009 concerning Environmental Protection and Management is prohibited from clearing land by burning. Nevertheless in the Elucidation of paragraph (2) there are exceptions that allow burning as a method of land clearing with the following conditions: must be in a manner based on local wisdom procedures such as making a partition to prevent the spread of fire outside the area of land that is burned and only on land as large as land that can be effectively supervised by an owner of the stated land covering a maximum area of 2 Ha; (2) in the context of peat ecosystem management there is a prohibition for everyone to open land in the peat ecosystem with a protected function because it will damage the peat dome which serves as a water storage to maintain water volume so that there is no fire, making drainage channels which cause peatland dry and the impact has the potential to fire, and burn peatlands.

Administrative sanctions in the form of freezing or revocation of environmental permits without reprimand can be applied if the corporation commits a land burning violation which results in a very serious threat to humans and the environment. This is contained in Article 80 of the Republic of Indonesia Law Number 32 of 2009 concerning Environmental Protection and Management. For compensation and criminal sanctions for every person who burns land is contained in Article 108 of the Republic of Indonesia Law Number 32 of 2009 concerning Protection and Management of the Environment, namely: "Every person who burns the land as referred to in Article 69 section (1) letter h, shall be sentenced to a minimum of 3 (three) years imprisonment and a maximum of 10 (ten) years and a fine of at least Rp. 3,000,000,000.00 (three billion rupiahs) and a maximum of Rp. 10,000,000,000.00 (ten billion rupiahs) ".

III. CONCLUSION

Repressive law enforcement is the imposition of sanctions on anyone who violates a ban or obligation related to fire prevention or acts of burning forests and land. The sanctions can be in the form of administrative, compensation and / or criminal payments. The important aspect is that the sanctions must cause violence or will not repeat the actions that are done either for the perpetrator not to do it anymore or for those who are expected not to commit the same social deterrent. For this reason, there is a need for strict supervision that must be carried out by the government in terms of granting new land clearing permits to prevent repetition of land clearing by burning. Whereas sanctions that can be imposed on the corporates that conduct arson that cause forest fires is can only be subject to revocation of environmental permits. Because in the Republic of Indonesia Law Number 32 of 2009 concerning the Protection and Management of the Environment, does not know the criminal for corporates, only those who give orders that can be subject to criminal penalties.

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