

Confusion in Forest management in the age of regional autonomy

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ABSTRACT

The forest area, shared at KPH became part of strengthening the management of the national forestry system, provincial governments, and district/city governments. KPH is set in one or more major functions of the forest and one of the administration areas or crosses the territory of the government administration. In that case one can include, kph over the main function of forests, and determine the degree of functionality-based KPH dominance. The organization established by the KPH Governments, encompasses the organizations of KPHK or KPHL and the region it works kph Province, a kph organization set by the provincial government, including organizations and crosses kph KPHL District/City and an organization KPH set by county government / The city, the content of the institution and within Kphp KPHL District / City

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I. Introduction

The forest is one of the natural resources that are economical, ecological and social. Natural tropical forests serve as the lungs of the world and life so that the buffer system should keep preserved and maintained with proper forest development.

The condition of forests, seen from land/vegetation closure, experiences rapid changes and dynamics, by development and the passage of time. Many of the factors that lead to these changes, among others, population, and development beyond forestry at a rapid pace have a major influence on increasing the demand for land and forest products as well as unclarity of the Forest area manager's organization. These conditions exacerbated by the existence of forest encroachment and the incidence of forest fires that led to the extent of damage to the tropical natural forest in Indonesia.

In the Constitution Republic of Indonesia Year 1945, it is primarily article 33 as the cornerstone of the constitutional requirement that, for the sake of the earth, water and natural resources in them are state-controlled and used for the sake of the greater part of human prosperity. The forestry institution is consistent is

made up of soul and populist, just and sustainable spirit. Therefore, a forestry organization should make with the fundamental advantages and sustainability, grassroots, justice, community, openness, and alignment are based on morals and worship.

Possession is not the mastery of the forest by the state, but the state gave the government authority to manage and take care of everything relating to forests. Forest areas and forest products and forest area, to impose or change the status of the Forest area, organizing and establishing the legal relationship between the person with forests or forest areas and forest products, as well as arranging legal acts of afforestation. The government also has the authority to grant permission and rights to the other party to undertake activities in the field of forestry. However, for some things that are very important, significant and extensive and strategic value. The Government should pay attention to the aspirations of the people through the approval of the House of Representatives.

II. Discussion

Along with the main pillars of the state of law, which is the principle of legality (*legaliteitbeginsel or het beginsel van wetmatigheid van bestuur*), Based on this principle implies that the government's authority derives from the legislation, which means that it is the source of government authority by legislation. Theoretically, it is the powers that come from the legislation contained in three ways, namely attribution, delegation, and mandate. With regard to attribution, substitution, and this mandate, H.D. van Wijk/Willem konijnenbelt (mustamin DG Matutu, 2003:19) defines as follows: 1) *Attributie: toekenning van een bestuursbevoegheid door een wetgever aan een bestuursorgaan* (Attribution is the grant of authority by government lawmakers to government organs); Government authorization by lawmakers to government organs). 2) *Delegatie: overdracht van een bevoegheid van het ene bestuursorgaan aan een ander* (Delegation of authority the Pelimpahan government is an organ of government to the organs of the lainya government); 3) *Mandaat: een bestuursorgaan laat zijn bevoegheid namens Item uitoe fenen door een ander* (The mandate occurs when government organs allow those powers exercised by other organs on its behalf). As for delegate the government's authority through this delegation is the following terms:1) The delegation should be definitive, and the delegation (Telecanians) Unable to use its authority delegated; 2. Delegates should be based on the provisions of the regulation –invitations, which means that representatives are only possible if there is provision for it in the legislation; 3) delegate not to a sub-conference, that is, the hierarchy of staffing is not allowed to the presence of representatives; 4) The obligation to provide a description (description), this means that telecankers are authorized to seek clarification on the operation of the Authority; 5) Regulatory Policy (beleidsregelTelecankers), means giving instructions (instructions) on the use of the Authority.

Even according to H. Triepel (Mustamin DG. Matutu, 2003:21) The occurrence of the transfer of authority in the meaning of party representatives (the donor *Delegate* Lose its authority either in its entirety (in total), or only for analysis (by means of an intensive) or by creating some voluntary competitor, while still maintaining (not redirecting) authorisation to SI Recipient of a delegation.

Even in the legal authority, the same is not true of power. The powers only describe the right to do or not. The authority, by law, means the rights and obligations. (*Duties and duties*). Linked to the autonomy of the region. Rights include the sense of force to regulate itself and its managervegelola while the obligation, while an obligation means, must arrange in one. The vertical means of power to run the government in one orderly government bond to run a government in one State government bond is generally orderly.

So does the sense of authority derive from the law of the government institution, which can generally be described the rules governing the acquisition and use of government authority by public law in the legal relationship Public (HR Ribi, 2006:101).

In government Regulation, No. 25 the year 2000 concerning the authority of the Government and the authorities of the province as an autonomous authority mentions that the government Are the government's rights and powers to set or retrieve policy in the framework of the government institution.

From the above explanation, the authors may remove the red thread that authority belongs to state agencies in making true, holding fixations, or issuing a decision that is always based on an authority derived from the Constitution "Attribution," "representatives" or "mandate." Attribution refers to the authority of the originator by the Constitution (the Constitution) or the provisions of the Law of State Administration. About the delegation of

authority, the authority of Pelimpahan to other countries must be reconfirmed. Because the mandate does not take place any delegate in the sense of granting authority. However, officials have given the mandate to act on behalf of the donor of the mandate. Judging from the above sources of authority, according to H. Tries (DG. Mustamin Matutu, 2003:17) the transfer of authority in the sense of a delegation that is a party-party donor (a delegate) loses its authority either in its entirety (in total), or only For an analysis of the (partly) or by simply creating a voluntary type of competitor, while still maintaining (without redirecting) the delegation Authority Sipenerima (Delegates)

A. Authority in the legislation in the field of forestry

Environmental regulations before that, the form of the rules, the implementing regulations or the law needs to be clarified. Generally, implement legislation in force such as the steps below:

By following the example of the forestry law, i.e. the Law No. 41 year 1999 Jo Act No. 19 of 2004 the year passed down through the government regulation, which includes PP No. 34 year 2004 for Forest Grammar and preparation of the management plan Forest and PP No. 6/07 conversion pp 03 year 2008 PP No. 35 year 2002. Reforestation fund reforestation; Regulation No. 44 of the year 2004 concerning forest planning; and pp. 45 year 2004 on the protection of forests, which so far has not failed to do: research and development, education and training, as well as the extension of forestry; Indigenous forest; And the role of the community. Well then PP graduated back again to the President, issued as no 41 the year 2004, Presidential Ordinance No. and dozens of other lower article articles existing within the PP. For the technical level of implementation of the rules, then they were also issued out of the rules and letter of decision of the Minister of Forestry, i.e. technical established throughout the country. From the SK or Candy Technical Instructions for service in the city and county for the implementation of environmental

management and one of its sub-forests was forestry.

Forestry Management Authority where a level area of the city and County uses GR No. 62 the year 1998 for the Division of Central and regional authorities in the management of the forest. A protected forest and the forest City put into a PP, then for managing its environment through Perda for environmental management, waste management, and supersede other senior management according to the needs of the area.

From the way that the Perda goes back to technical agencies through the work plan and the annual budget from a unit of local government, more work has been presented to Parliament, after Parliament has passed the programming environment, forestry and others can run.

The following will elaborate a forest management authority set out in the legislation on forestry:

B. Law No. 41 1999 of the forestry year.

In Act No. 41-year 1999 it was stated that the goal of forest management is to maximize ELWa as well as versatile and sustainable prosperity for the people. He further mentioned that forest management undertakes activities including a. Forestry planning; B. forest management; C. Research and development, education and training, as well as the extension of forestry; and d. Supervision

C. PP No. 6 the year 2007, about Forest grammar and preparing forest management plans and forest use.

In PP No. 6 the year 2007 he mentioned that the forests and the Tata forest management plan, as well as the use of the forest, are part of forest management. Forest plan and forest management plans, as well as the use of forests in the whole forest area, are the authority of central government and local governments. Forest management activities will further be clarified on article 2 in this Regulation, including forest management includes the following activities: preparation

of forest and forestry management plans, use of forests, use of forest areas, restoration and restoration Protection of forests and forests and nature conservation.

D. The regulation No 44 of the year 2004 concerning forestry planning.

On PP No. 44 of the year 2004, the unit set in more detail PHP was established in part five of the control area. About article 26 reference was made to the establishment of the field of forestry management aimed at realizing efficient and sustainable forest management. The field of forest management established for the level of a. Province; B. District/city; C. Management of the unit.

Ot further mentioned in article 28 paragraph 2 that a forest management unit comprises: a — the Union for the conservation of forest management in forestry conservation; B. Unitary management of protected forest in the protected forest; C. Unity of production forest management in forest production.

The procedure referred to in article 30 of the Unity of forest management is as follows

1. The governor with consideration of the Bupati/Walikota shaped the forest management Unit protected architecture areas and the forest management of production units.
2. The forest management unit architecture referred to in point (1) is constructed based on the criteria and standards set by the minister.
3. The architecture of the forest management unit referred to in point (1) proposed by the governor to ministers.
4. By the proposal referred to in point (3), the minister laid down the landing unit for the management of protected forest and the production forest management unit.

5. Based on the forest management Unit of reserve directives as referred to in point (4), the Governor formed a unit of control of the protected production units relating to forests and forests.

6. Establish a forest management unit as referred to in point (5) to the minister to set out as forest management units.

4. Decision Letter of the Minister of Forestry of Indonesia, No. 230/Kpts-II/2003 dated 14 July 2003 on the establishment of the unity of production forest management.

In the second part of this title, it regulates the formation of the forest management criteria of the production. About article 7 reference was made to the principle of forming the production union consisting of forest management :

- A. Policy principles;
- B. The principle of ecology;
- C. The principle of culture and social
- D. Principles of Economics.

E. Devolved Forest Management Authority

By-Law No. 32 the year 2004 for local governance and Government Regulation No. 25 the year 2000 for authority of the government and provincial government, then authority of the Government (Center) in forest and land rehabilitation only is limited to setting a general pattern of forest and land rehabilitation, macro preparation, planning of assignment criteria, standards, norms and guidelines, technical and institutional guidance, as well as monitoring and management. While forest and land rehabilitation organizations (in production forests, protected forests, forest rights, and landholdings) organized by the local governments, particularly the regency/town governments, except in the forest conservation region, are still the authority The Government (the center).

Based on Act No. 25 of 1999 central government funding and the balance of the area

mentioned that the use of reforestation funds 40% had been allocated to the production areas for reforestation activities and 60% A government-run center for reforestation activities. Government-based regulation number 104 the year 2000 on equalization funds it was mentioned that 40% of earmarked reforestation funds are a special allocation Fund (DAK) for forest and land rehabilitation in producing regions (Kabupaten/Kota).

In organizing its forest management in the Forestry Department it manages a technical operation (UPT) that works in the area, which is the Watershed Management Hall (Bpdas), but the operational organization of the recovery maintained The provincial government and especially the area/city government (Department of the Forestry Section). Regarding increasing the intensity of mastery of technology and disseminating knowledge about forestry.

In article 4 of Act No. 19-year 2004 concerning forestry authorizes the Government to:

1. Setting and caring for everything related to forests, forest areas and forest products;
2. Set a specific area status as a forest or forest area rather than a forest area; And
3. Establish and define the legal relationship between the forests, as well as the imposition of the Perbutan law from Kehutan

To find out who and which organizations have a right to run the authority has gained control of forests and forest areas, there are several articles and laws of forestry in the articles of the Forestry Administration designated by the legislation acting for and acting for and on behalf of the State and the Government to exercise the right to master the State against forests in the form of delegation of authority.

With regard to the direct achievement of the objectives in accordance with the soul of the Autonomous Region, the Government (the center) has set the general and standard pattern as well as the criteria for forest and land rehabilitation (Forestry minister's decision No. 20/Kpts-II/2001), including Re-establish the forest that

guides forest and land rehabilitation Organizing for governments, local governments (provinces and Kabupaten/Kota) as well as the community.

According to Cheema and Rondinelli (Syed Ridho Nurrochmat, 2005:36), The administrative tasks of Desentralisasi Penyerarahan were to the central authorities in the area. In this case, the decision-making authority basically remains firmly in the hands of central government, only that the location exists in the area. In this sense, although some authority delegated to the good era, however, its implementation (stable) accounted for the central government.

Di bidang kehutanan, proses evolusi meliputi pengalihan tanggung jawab dan wewenang dari pemerintah pusat kepada otoritas di daerah termasuk lembaga nonpemerintah atau kelompok masyarakat dalam pengelolaan sumber daya hutan. Aplikasi devolusi kehutanan antara lain adalah *community Based Management dan o-Management Community Based Forest Managemetn*, artinya pengelolaan hutan berbasis masyarakat, yakni kelompok masyarakat lokal diberikan otoritas sebesar-besarnya dalam pengelolaan sumber daya hutan.

Berdasarkan lingkup kewenangan, sedikitnya ada tiga aspek penting yang dapat didesentralisasikan kepada daerah yakni administratif, fiskal, dan politik. Desentralisasi fiskal merupakan salah satu isu menonjol dalam pelaksanaan otonomi daerah di Indonesia, di samping desentralisasi administratif dan politik. Desentralisasi administratif berkaitan dengan penyerahan kewenangannya kepada lembaga pemerintahan di daerah untuk melaksanakan fungsi pelayanan publik, sedangkan desentralisasi politik mengacu kepada seberapa luas kewenangan yang diserahkan kepada daerah dalam mengambil kebijakan. Keputusan politik untuk mendevolusikan kewenangan dari pemerintah pusat kepada daerah, hanya dapat terlaksana jika pemerintah daerah mempunyai kapasitas yang cukup dalam pengelolaan administratif, fiskal, dan politik (Mainzen-Dick, 1999: 22).

III. Conclusion

The arrangements regarding the government's authority in forest management still experience many restrictions, as well as a large number of regulations of the duration of the Undang-Undang operation No. Forty-one of the year 1999 on forestry not yet published, as well as other legislation regulations Associated with the management of the forests, are still overlapping, as is the division of authority between the Centre and the regions which are not yet clear.

The result of forest management also derives from an autonomy impact area, where Law No. 32 of the year 2004 on the issue of local governance relates in particular to forest management issues still divided in half, one side remains the central authority And on the other hand already devoted to local government issues. The result of a forest management authority as an early occurrence of the massive use of the forest, which was contrary to any damage the parties participating in it continue to be covered by this related responsibility Responsibility.

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