



## The Concept of Sustainable Development in Indonesian's Forest Law (Case Study: Tesso Nilo's National Park in Pelalawan Regency, Riau Province, Indonesia)

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**Abstract** Tesso Nilo National Park has a forest area approximately 153 000 hectares located in the 4<sup>th</sup> district in Riau Province, Indonesia. The park is one of eight blocks of natural forests at Pelalawan Regency in Riau Province. With its rich resources, it provides benefits for the economic development of the people and community. While the mobility of people from the other side, interests of forestry potential is so high, resulting in the emergence of bad things to the preservation of forests and the environment of the forest resource itself. In line with rapid population growth and increasing demand for wood, plantations and agricultural land expansion, and excessive timber industry practices coupled with the level of exploitation of forest resources on a large scale, through large scale cultivation without any effort adequate conservation and rehabilitation, as well as policy issues that are less supportive of forest conservation and forest law enforcement failures increased the level of deforestation or forest loss. The study used survey research involving observation. Population sampling was done by purposive sampling or selection of a deliberate consideration of respondents where actors consisting of three different stakeholder groups on the basis of formal and informal institutions. The group was the Government, Society, and other groups that were not incorporated in the two previous groups. The factors that specifically affected the implementation of Forest law are as follows: unfinished boundaries, lack of quality and quantity of personnel, existence of tenure and encroachment, inconsistent land use designation, existence of settlements in the region, uncontrolled logging or timber theft, fire hazard, overlapping with plantation, weak oversight of the access road around region, and lack of coordination among relevant agencies. Governments need to improve the coordination system to each relevant agency to carry out protection and conservation of the Tesso Nillo forest areas as well as enforcing in the law against any encroachment and violations under the legislation.

**Keywords** environment, environmental law, forest, forest law

### INTRODUCTION

Tesso Nilo forest is surrounded by four conservation areas namely Kerumutan Wildlife Reserve, Bukit Tigapuluh National Park, Mount Rimbang Baling Wildlife Reserve and Nature Reserve. Clearing of forests for other uses have been cut off. Connectivity between Tesso Nilo forest and these conservation areas formed a landscape area of 3 million hectares called Tesso Nilo landscape of Bukit Tigapuluh. The landscape is associated with biological corridors and buffer zones which consist of natural forests, production forests, and timber and oil palm plantations, including farming communities. The mechanism of protection using the landscape approach allows wildlife to move more freely while providing a large survival support system.

In the last 30 years timber for Indonesia has achieved the highest revenue from the export of natural resources. Nevertheless, excessive felling, deforestation and the conversion of remaining forests continue to plantations. The forest fires in Indonesia are a man-made environmental disaster. The reasons are firstly found directly in Indonesia but also in the development of global markets, because the raw materials, must give way to forests of Indonesia for their production (pulp, rubber, palm oil), commercial products worldwide (Sri Wahyuni, 2006).

Since 1982, Indonesia has a legislation to protect the environment, but their application and monitoring for various reasons, is flawed. Thus, the environmental legislation can be characterized as inadequate and confusing, and it seems to lack a certain determinant and transparency in the enforcement of laws. Although the Indonesian government Agenda 21, the Program of Action of the environmental conference in Rio in 1992, has committed to integrate environmental concerns into all policies and to pursue a policy of sustainability. It is subject to a high degree of economic conflicts of interest, Forestry, according to the Forestry Law Number 41 Year 1999, is a system that has to do with the management of forests, forest lands, and forest products organized in an integrated manner. Forest is a unitary form of landscape ecosystems biological resources, dominated by trees in their natural environment. The two cannot be separated. Forest area is a specific area or a designated area and assigned by the government to be protected as permanent forests. State forest is a forest that is on land which is not encumbered land rights. Private forest is a forest that is on land encumbered land rights. Indigenous forest is a country forest in the territory of indigenous peoples. Production forests are forests that have the principal function of producing forest products. Protected forests are forest areas that have basic functions as protection of life support systems to manage the water system, preventing floods, controlling erosion, preventing sea water intrusions and maintain soil fertility.

In line with rapid population growth and increasing demand of wood, plantations and agricultural land expansion; excessive timber industry practices coupled with the level of exploitation of forest resources on a large scale cultivation without any effort of adequate conservation and rehabilitation; policies that are less supportive of forest conservation and forest law enforcement failures increased the level of forest loss.

On July 3, 2007 Governor of Riau issued Decree No. Kpts: 271.a/VII/2007 about the formation of response teams and land encroachment and expansion in Tesso Nilo National Park with tasks to:

- 1) Make the steps on handling forest encroachment and its implementation in accordance with their respective authority.
- 2) Identify the perpetrators of forest encroachment and seek alternatives after exiting from Tesso Nilo forest.
- 3) Make efforts in accelerating the process of expansion of Tesso Nilo National Park in the Department of Forestry
- 4) Make a plan and implement the Tesso Nilo forest rehabilitation in collaboration with relevant agencies.

The findings of this study include how is Riau Province government policy towards the concept of sustainable development of Indonesian's Forest Law considering the case of Tesso Nilo's National Park in the Pelalawan Regency.

## **OBJECTIVE**

Tesso Nilo National Park has a forest area approximately 153 000 hectares located in the 4<sup>th</sup> district in Riau Province, Indonesia. The park is one of eight blocks of natural forests at Pelalawan Regency in Riau Province. With its rich resources, it provides benefits for the economic development of the people and community. While the mobility of people from the other side, interests of forestry potential is so high, resulting in the emergence of bad things to the preservation of forests and the environment of the forest resource itself. In line with rapid population growth and increasing demand for wood, plantations and agricultural land expansion, and excessive timber industry practices coupled with the level of exploitation of forest resources on a large scale through large scale cultivation without any effort, adequate conservation and rehabilitation, as well as policy issues that are less supportive of forest conservation and forest law enforcement failures increased the level of deforestation or forest loss.

## **METHODOLOGY**

The study is a survey research descriptive analysis of means. This is an in-depth study on the protection and conservation of the Tesso Nilo forest area during the previous and the present time. In accordance with the development of the field, the nature of this study will be flexible to follow the pattern of thought and the final analysis of results so as to provide an explanation of the past, an explanation of what now is being held on that are expected to answer the problem. The population and sample selection is done by purposive sampling where respondents are three groups of stakeholders: from formal and informal institutions: the Government, the Society, and the other group which consists of those that do not belong to the two previous groups.

## **RESULTS AND DISCUSSION**

The current policy includes the Governor of Riau policy as an instrument of law. The resolver is difficult to implement due to a variety of issues and problems especially in answering some of the main interests which include: protecting the forest, rationalizing utilization of resources, resolving uses and conflicts and reaching a balance between the interests of society and developing, while providing protection to the potential existing resources. In connection with the policy of the Governor of Riau and implementation according to Law No. 41 year 1999, Article 46 states that: "Forest protection and nature conservation aimed at keeping the forest, so that protection, conservation functions and production functions are achieved in an optimal and sustainable degree".

1. The type of stakeholders classified in terms of institution, tenure or ownership of natural resources and attitude show two levels: the formal and the informal institutions. From these two levels of four different stakeholder groups of institution: the Government, Public, Private or corporate and other groups are those that are not incorporated in the three previous groups.
2. Based on the control and the possession of the land around Tesso Nilo forest, two groups of stakeholders were identified, namely the main or primary stakeholders and secondary stakeholders.
3. Based on Stakeholder's Attitude  
Stakeholder's groups can also be distinguished by its attitude towards the Tesso Nilo forest conservation. There were three stakeholder categories namely: Support Groups, Opposition Groups and the Opportunists.
4. Support Group  
Support groups are stakeholders who are committed to the preservation of the Tesso Nilo forest without any desire of commercial gain of exploiting it. There are 15 institutions that supported the Tesso Nilo forest which include the Central Government through the Ministry of Forestry, NGOs working in the field of conservation, local government, the Press in Riau, Institutions of Higher Education, Research and others.
5. Opposition groups  
Usually based on economic interests and opportunity. There are nine institutions into opposition. These opposition groups tend to oppose the Tesso Nilo forest conservation because the presence of conservation efforts will disrupt their opportunity to exploit the forest resources for economic benefit.
6. Opportunist groups  
Matters concerning the management of forests can be seen from the articles such as following: Article 4 of Forest Law Number 44 Year 1999 which states that "all the forests within the territory of the Republic of Indonesia, including natural resources contained therein under the state's overall prosperity for the people. Forest control by any State referred to in paragraph (1) authorizes the government to: Set up and take care of everything related to the forest, forest, and forest products. Determine the status of certain areas as forest area or forest area as a non-forest area, and regulate and establish legal relations between the people with the forest and set up legal actions concerning forestry. Forests by the State shall respect the customary law, as long as it exists and its existence is recognized and does not conflict with national interests".

From the above description is concluded that the of Law Number 22 Year 1999 on local government by Forest Law No. 41 Year 1999 on the harmonization of forest seen in terms of forest management with the authority that is in the hands of government (central government), but provisions of article 10 of Law Number 32 Year 2004 regarding Regional Government which replaced Law Number 22 Year 1999 on the same thing, there is an existence of disharmony in the case of forest administration. Judging from the article 10 of Law No. 32 Year 2004, that only covers government affairs, foreign policy, defense, security, justice, monetary and physical, and religion, thus implied intent that forest management be submitted to the Government, but the Law Number 41 Year 1999 regarding Forestry and Forest Administration has not changed ,still remains with the government (central government). This raises a contradiction in terms of forest administration authority.

Natural resources and environmental accounting includes the calculation of all natural resources and environment, both used and not used in the production process. Natural resources and environmental accounting includes the calculation of stock reserve and natural changes of assets that have economic value (Sherafy and Lutz, 1989).

In gaining a clear illustration of the economic purpose of natural resources accounting, especially in its relationship to economic policy formulation and development planning, both monetary and physical accounting must be conducted. Due to the difficulties in finding a unit of measurement for all sectors and types of natural resources, the compilation of natural resources are considered important and strategic (Sherafy and Lutz 1989; Pearce et.al. 1989).

Forests are numerous suppliers of renewable raw materials and commodities. Through its function of protecting watersheds and soils is base-existence of many industries. The tropical hardwood products that were exported in 1986 by tropical countries represented, only 3% of the wooden total degradation in developing countries. However, most of these exports come from the rainforests of a small number of tropical countries, where they constitute a very large share of wood degradation. This was particularly the case in the eastern tropics (Siegenthaler/Oeshger, 1987).

The genesis of the concept of sustainable development is commonly reported to the 1987 Brundtland Report, which contains the well-known definition of “sustainable development” as: development that meets the needs of the present without compromising the ability of future generations to meet their own needs (World Commission on Environment and Development, 1987).

In an era of increasing economic globalization, the traditional environmental and social challenges seem to have gained a new dimension which must be taken into account. However, pursuant to the Johannesburg Declaration, “the rapid integration of markets, mobility of capital and significant increase in investment flows around the world has opened new challenges and opportunities for the pursuit of sustainable development (Massimiliano Montini, 2008).

The complexity of the concept of sustainable development is well known. Due to its vagueness and often perceived irreconcilable nature of its basic pillars, namely the economic, environmental and social dimensions, the concepts of sustainable development is still denied the recognition of the status of a “legal principle” by most scholars and by the relevant practice of States, although this does not render its role less pivotal in contemporary international as well as national law (Lowe, 1999).

From this analysis, all the main difficulties related to the recognition of the role of a legal principle to the concept of sustainable development, such as, first of all, the uncertainty to its legal content as well as the absence of adequate criteria for its justifiability, are clearly outlined. Starting from this analysis, a similar though even more incisive approach was then proposed in a seminal article by Vaughan Lowe, which stated that the argument that sustainable development is a norm of customary international law, binding on and directing the conduct of States, and which can be applied by Tribunals, is not sustainable (Lowe, 1999).

Government regulation number 34 year 2002 is on Forest and Forest Management Planning, Forest Utilization and Forest Use Zone, which is the implementing regulations of Law Number 22 Year 1999 regarding Regional Government (Autonomous Region). Forest governance and forest management planning, forest use, and use of forest area are a part of forest management. Furthermore, forest management is a part of forest management with the authority of the Central

Government. This means that the activities of forest governance, forest management planning, forest use and forest use is the authority of the Central Government. Thus, the licensing arrangements for the utilization of forest wood in natural forests and plantations is given by the Minister of Forestry on the recommendation of the Regent / Mayor and the Governor as set out in PP (Government Regulation) No.34 year 2002. However, this has been adjusted to the legislation in the field of Local Government (Law No. 22 of 1999).

Although Law No. 41 year 1999 as if themselves to the authority of the central government. However, PP (Government Regulation) Number 34 year 2002 has been adjusted. As a follow-up submission to the central authority of the local area utilization permit, environmental services business license, the license of utilizing non-timber forest products, and permit harvesting of timber and non timber has been delivered and given to the area (Regent / Mayor) if that located in within the district / city. Likewise, if located in the area of Trans regency / city in one province the authority is granted to the Governor. But if the forest is located in the province to permit cross-utilization it's still remaining in the hands of the Minister of Forestry. For the unity and equality policies in the treatment of contour system of forest ecosystems, the policy for granting permits to utilization of forest products, in PP (Government Regulation) 34 year 2002 is still on hold by the government, in this case the Minister of Forestry. Access to information and public participation are essential building blocks for sustainable development. This prepares citizens to become informed decision makers, offering a basis for stimulating creative solutions to environmental, social and developmental problems, and providing a foundation for building consensus on critical priorities. Governments and institutions governed by transparency, openness, accountability and community participation are more capable of reconciling the needs of present and future generations, balancing private and public interests, and harmonizing economic development with social and environmental needs. Thus, improved access to information and participation in decision-making will more likely lead to overall sustainable development (Wahyuni, 2011).

## **CONCLUSION**

1. The factors that specifically affect the implementation of Decree No. 271.a/VII/2007 Governor of Riau in the protection and conservation of the Tesso Nilo forest areas as follows:
  - a. Aspects of Management
    - Boundaries are not yet complete (how about uncompleted or unfinished delineation of boundaries?)
    - Lack of quality and quantity of personnel
    - Lack of quality and quantity of facilities and infrastructure
  - b. Aspects of the Area:
    - The existence of tenure and encroachment (how about prevalence of encroachment)
    - The land use designation is inconsistent with that of oil palm, rubber and acacia, etc.
    - The existence of settlements in the region
    - There is still logging / timber theft (how about unresolved logging practices)
    - Prone to fire (vulnerability to fire hazards)
    - Overlap with plantation
  - c. Weak oversight of the access road
    - Lack of coordination among relevant agencies, it is seen from: 1) National Self-Help Program (Prona Self-Help) Budget 1998/1999 by the Office of the National Land Indragiri Hulu in the region that issued the certificate on behalf of the Tesso Nilo forest, Plantation
2. Government needs to improve the coordination system with each relevant agency that carry out protection and conservation of the Tesso Nilo forest areas as well as enforcing the law against any encroachment and violations under the legislation.
3. In anticipation of the issue and application of empirical authority in the field, a recommendation can be submitted to the Central Government to conduct an evaluation or revision of several laws and regulation relating to the protection and conservation systems taking legal action in case of

violation and encroachment in Tesso Nilo forest, as well as avoiding overlaps of authority in the field with the drafting of forest area management, in line with the spirit of autonomy.

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