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## Legal Policy for Protection and Management Peatland

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### Article Info

#### Article History:

Received : 22-07-2020

Revised : 08-08-2020

Accepted : 13-08-2020

Published : 21-08-2020

#### Keywords:

Peatlands,  
 Legal Policy,  
 Law Enforcement,  
 Government Power.

### Abstract

In 2015, Indonesia experienced the highest level of fire in the world, with more than 50 percent occurring on peatlands. This event put Indonesia in the spotlight on managing peatlands that were seen as ignoring commitments to reduce greenhouse gas emissions and prevent other fire losses, including school closures, respiratory problems and early deaths. This study analyzes peatland management policies in Indonesia in a legal perspective. This research uses a legal policy approach, which is an approach that is carried out by observing the laws and regulations relating to the policy issues studied. The results show that as a rule of law where government power is regulated by law, efforts to restore and protect peatlands in Indonesia are not optimal. Law enforcement support, including the establishment of new regulations regarding the spatial plan of peatlands which requires the preservation of protected peatlands as determined, has yet to materialize.

## INTRODUCTION

Praise from world leaders, including former US Vice President Al Gore, for the efforts of the Government of Indonesia to restore and protect peatlands as part of climate change mitigation efforts at the COP23 UN Climate Change Conference in Bonn, Germany, in November 2017 is a pride in itself for Indonesia. The effort, led by President Joko Widodo, is an important strategic step, especially after the 2015 forest fires which mostly occurred on carbon-rich peatlands. The fire resulted in 19 fatalities, 500,000 people suffered from acute respiratory infections and more than 4 million students dropped out of school for one month, with economic losses estimated at Rp221 trillion. The fire also released 1.62 billion metric tons of greenhouse gases (GHG) into the air, equivalent to the emissions produced by around 350,000 vehicles in one year.<sup>1</sup>

Unfortunately the praise only lasted for a while, because a year after the UN Climate Change Conference COP23, major peatland fires in Indonesia re-occurred. Highlighted the

<sup>1</sup> Wulansari, Ica. "Climate Change Diplomacy in Joko Widodo's Administration." *Journal Analisis CSIS* 43, no. 4, (2014).

commitment and seriousness of the Indonesian government regarding sustainable peatland governance. The main highlight relates to the weak peatland legal protection policy. Instead of strengthening existing regulations, Indonesian government policies often contradict the principles of good peatland protection.<sup>2</sup> Instead of conducting a moratorium on peatlands, some peatlands have obtained business, plantation and agricultural licenses or land rights. This situation certainly has the potential to cause conflicts between new regulations and permits or rights. Permit or right holders usually use the legal system as an excuse to reject new regulations, where legal certainty is narrowly interpreted as legal regulations must not be changed. Permit holders reasoned that they had obtained permits legally so that the new regulation should not affect the concession.

A similar conflict occurred recently when the Ministry of Environment and Forestry (KLHK) issued a regulation requiring forestry plantation permit holders to adjust their work plans to a new peatland plan prepared by the ministry. As a result of the conflict, the lawsuit was filed by Riau-KSPSI, a labor union in the forestry industry. The union submitted a request to the Supreme Court to conduct a judicial review of this new regulation and cancel it. The Supreme Court granted the petitioner's request, stated that the new regulation contradicted Law 41/1999 on Forestry and recommended that regulators conduct academic studies in the formation of new regulations.

With these conditions raises an important question, namely whether the legal system does not allow the government to change legal regulations that have a negative impact on permits and obligations or existing legal rights? The legal system is actually a way for a democratic state to prevent the practice of arbitrary and discriminatory governance.<sup>3</sup> The law, as a set of regulations that must be obeyed by the community, should be issued by the authorities in accordance with the standards, procedures and objectives set by law. There is a growing opinion among legal experts that the legal system should not only be based on formal procedures, which stipulate that the rule of law must be clear, open, relatively stable and made based on the law. They assume that the legal system must also take into account the values in society, especially human rights, justice and morals.

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<sup>2</sup> Susanti, A., Karyanto, O., Affianto, A., Ismail, I., Pudyatmoko, S., Aditya, T., Haerudin, H., & Nainggolan, H. A. "Understanding the Impacts of Recurrent Peat Fires in Padang Island – Riau Province, Indonesia". *Jurnal Ilmu Kehutanan*, (2018).

<sup>3</sup> Deni Bram. *Politik Hukum Pengelolaan Lingkungan Hidup*. (Malang : Setara Press, 2014)

The 1945 Constitution (UUD), the highest law in the Indonesian legislative hierarchy, recognizes the values of that society. The Constitution recognizes human rights, such as the right to a clean and healthy environment and the right to justice.<sup>4</sup> Human rights must be respected on the basis of moral considerations, religious values, security and public order. Therefore, the rule of law in Indonesia follows not only standard procedures but also community values. In addition, stable laws do not mean that laws cannot be changed. Instead, laws must continue to be adjusted to protect prosperity and justice in society. Law 12/2011 concerning Formation of Legislation in fact allows retroactive laws in Indonesia as long as they do not include criminal provisions, provided the impact of the new regulations on existing legal obligations and rights is also regulated.

In connection with the protection of peatlands in Indonesia, the issuance of the new regulation by KLHK is an effort to implement Government Regulation 71/2014 concerning Protection and Management of Peat Ecosystems, Law 32/2009 concerning Environmental Protection and Management and the 1945 Constitution. All this law prohibits land clearing in protected peat areas and requires business owners to mitigate and restore peat damaged by business activities.

The obligation of business owners to conserve protected peatlands and mitigate environmental damage is not new.<sup>5</sup> This obligation has been applicable to business entities at least since the issuance of Law 4/1982 concerning Basic Provisions for Environmental Management and Presidential Decree 32/1990 on Management of Protected Areas. Therefore, the statement that this new regulation results in significant changes to business responsibilities needs to be reviewed.

When peat and environmental issues intersect with existing permits or rights, the legal system must be interpreted in a sensitive, accurate, comprehensive and careful manner. The application of the legal system must not only be seen as procedural protection, but also the protection of the values of society and the objectives of the state stipulated in the Constitution. In the above case, the Supreme Court has raised the importance of fulfilling procedures. However, the substantive approach in interpreting the legal system must continue

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<sup>4</sup> Mahfud MD. *Politik Hukum Indonesia*. (Jakarta: LPES, 1998)

<sup>5</sup> Osaki M., Nursyamsi D., Noor M., Wahyunto, Segah H. Peatland in Indonesia. In: Osaki M., Tsuji N. (eds). *Tropical Peatland Ecosystems*. (Tokyo: Springer, 2016).

to be improved. A narrow interpretation of the legal system can endanger the public interest in a good and healthy environment and can lead to abuse of the law itself.<sup>6</sup>

## **PEATLAND PROTECTION AND MANAGEMENT IN PERSPECTIVE LAW OF ENVIRONMENT AND FORESTRY**

Forest fires on peatlands in 2015 triggered the birth of various policies from the crisis which is called the "biggest environmental crime in the 21st century". In an effort to bridge the various interests above that emphasize efforts to save Indonesia's forests and in accordance with the agenda of improving governance which will encourage coordination of institutions' functions and mandates to run faster and more efficiently, on January 21, 2015, President Joko Widodo issued Presidential Regulation No. 16 of 2015 concerning the Ministry of Environment and Forestry (KLHK). This Perpres merged the Ministry of Environment and Ministry of Forestry and merged the REDD + Management Agency and the National Council on Climate Change (DNPI) into the Directorate General of Climate Change Control under the ministry.

President Jokowi's policy once again indirectly shows that peatlands have a very important aspect in environmental sustainability that needs to be regulated in higher laws and specifically governs the limits of management and use. In response to accelerating the recovery of peat damaged by fire, the President issued Presidential Regulation No. 1 of 2016 concerning the Peat Restoration Agency (BRG).

So far, peatland management has been among the environmental and forestry regimes.<sup>7</sup> When referring to the regulation and institutional management of peatlands, the Ministry of Forestry and the Ministry of Environment have different references in treating peatlands. The Ministry of Forestry refers to Law Number 41 of 1999 concerning Forestry and its derivative regulations, while the Ministry of Environment refers to Law Number 32 of 2009 concerning Environmental Protection and Management and its derivative regulations.<sup>8</sup> As a result, in managing peatlands there are significant differences between the Ministry of Forestry and the Ministry of Environment.

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<sup>6</sup> Nugroho, S. P. *Analisis Luas Hutan dan Lahan Terbakar di Indonesia 2015*. 2015, Retrieved from <http://disasterchannel.co/index.php/ebook/download/34>

<sup>7</sup> I Nyoman Nurjaya, "Sejarah Hukum Pengelolaan Hutan di Indonesia". *Jurnal Jurisprudence* 2, no. 1 (2005).

<sup>8</sup> Kementerian Lingkungan Hidup RI. *Strategi Nasional Pengelolaan Lahan Gambut Berkelanjutan*. (Jakarta: Kementerian Lingkungan Hidup RI, 2012).

UU no. 41/1999 Article 1 number 2 forest is defined as an ecosystem unit in the form of a stretch of land containing biological natural resources dominated by trees in their natural environment, which cannot be separated from one another. The definition of forest in this article does not identify peatlands as forests, because peatlands are not "dominated by trees". The Ministry of Forestry sees peat as a flooded area or is classified as wetlands. Meanwhile according to Article 21 paragraph (3) of Law no. 32/2009 peat is as an ecosystem. The definition of an ecosystem is the order of environmental elements which constitutes a whole and integrated whole that influences one another in shaping the balance, stability and productivity of the environment.

There are also differences between the Ministry of Forestry and the Ministry of Environment regarding the criteria for protected functions and aquaculture functions. The resource person of this writing stated that the Ministry of Forestry views peat as land that should be used, not protected. According to him, this is the reason for HTI, almost all of the HPH in Jambi and South Sumatra are on peatlands. The Ministry of Environment divides the criteria for protection functions and peat culture functions based on criteria of 3 (three) meters. Peat with a thickness of less than 3 (three) meters is peat with a cultivation function, while peat with a thickness of more than 3 (three) meters is peat with a protected function.

This criterion first appeared in Presidential Decree No. 32/1990 concerning Management of Protected Areas. In Article 10 of the Presidential Decree the criteria for protecting peat soils are 3 (three) meters or more in thickness at the headwaters and swamps. This point becomes a separator between peat and protected functions and aquaculture functions. This regulation is followed by further regulations governing peat until finally in PP No. 71/2014 as amended by PP No.57 / 2016.

The next thing that is important to note is the spirit of values or the principle of establishing Law No. 41/1999 and Law No. 32/2009. The value of sustainability is not the main foundation in the formation of Law No. 41/1999. This is also reinforced by Nurjaya's study which argues that Law no. 41/1999 has a state-based development paradigm, the use of development management that has a centralistic pattern and is solely oriented towards economic growth supported by repressive legal and policy instruments.

In addition to the different regulatory perspectives in the two laws above, this section reviews a number of regulations that have the potential to create a gap for efforts to create

good peat ecosystem management. First reviewed PP No. 71/2014 as perfected by PP No. 57/2016, hereinafter referred to as PP concerning Peat. The consistency of PP regarding this peat vertically with Law No. 32/2009 on Environmental Protection and Management / UUPPLH which is the main regulation of the PP on Peat seems to need further testing.

In principle, the scope of the PP regarding peat is in accordance with the scope of the UUPPLH. The scope of the PP on peat contains aspects of planning, utilization, control, maintenance, supervision and law enforcement. This scope is in line with Article 4 of Law no. 32/2009. PP regarding peat has also accommodated the subjective rights of the people recognized in Article 65 of the UUPPLH. However, there are several aspects which have not been fully accommodated by the PP regarding peat.

A review of the PP on peat produced inconsistencies in the UUPPLH. The findings include aspects of: 1) Planning; 2) Control; 3) Maintenance; and (4) Administrative Sanctions. Planning is regulated in Chapter III UUPPLH. Article 5 states that environmental protection and management planning is carried out through stages: a) Environmental inventory; b) Determination of ecoregion areas; and c) Preparation of the Environmental Protection and Management Plan (RPPLH).

The logic of UUPPLH thinking above is the same as the logic of PP thinking about peat which in Chapter II of Planning, First Part General, Article 4 states that the Planning for Protection and Management of Peat Ecosystems is carried out through stages: a) Inventory of peat ecosystems; b) Determination of the function of peat ecosystems; and c) Preparation and Determination of the Peat Ecosystem Protection and Management Plan Furthermore, in Article 6 paragraph (1) the UUPPLH is detailed regarding the implementation of an environmental inventory stating that the environmental inventory as referred to in Article 5 letter a consists of environmental inventory: a) Level national; b) Island / Islands Level; and c) Ecoregion area level.

In this section the logic of the UUPPLH above is not followed by the PP on Peat. The PP on Peat does not divide the peat ecosystem inventory at the island / island level and at the regional level. Article 5 paragraph (2) of the PP on Peat states that the implementation of the inventory referred to in paragraph (1) shall be carried out by taking into account the indicative map of the distribution of national Peat Ecosystems as listed in the Appendix which is an inseparable part of this Government Regulation.

Control in UUPPLH is regulated in Chapter V. Article 13 paragraph (2) states that the control of pollution and / or environmental damage as referred to in paragraph (1) includes: a). prevention; b) countermeasures; and c) recovery. The same thing is regulated in the PP regarding peat in Chapter IV Control. Article 22 paragraph (2) of PP concerning peat states that peat ecosystem damage control consists of: a) prevention of damage to peat ecosystems; b) prevention of damage to peat ecosystems; and c) recovery of damage to peat ecosystems.

In the scope governing the Control aspects above, there are some rules that are out of sync between the PP regarding peat and the UUPPLH. First, in the prevention section. Article 22 a PP concerning peat states that prevention of damage to peat ecosystems as referred to in Article 22 paragraph (2) letter a is carried out by:

- a) Preparation of technical regulations;
- b) Development of an early detection system;
- c) Strengthening government institutions and community resilience;
- d) Increasing public legal awareness;
- e) Securing fire-prone and ex-fire areas.

The prevention instruments regulated in the PP on Peat above are not synchronous with the prevention instruments regulated in the UUPPLH. Article 14 of the UUPPLH states that instruments for preventing pollution and / or environmental damage consist of: a) KLHS; b) spatial layout; c) environmental quality standards; d) standard criteria for environmental damage; e) environmental impact analysis; f) UKL-UPL; g) licensing; h) environmental economic instruments; i) environmental based legislation; j) environment based budget; k) environmental risk analysis; l) environmental audit; m) other instruments according to the needs and / or development of science. Thus it appears that there are instruments that are not accommodated and / or out of sync with the PP on Peat.

Second, it is still in the prevention section. Article 22 paragraph (2) letter a point 2 above stipulates that one of the instruments to prevent peat ecosystem damage is the development of an early detection system. This is out of sync when compared to the UUPPLH. Early detection system instruments in the UUPPLH are not included in the scope of prevention, but in the scope of prevention.

Maintenance in UUPPLH is regulated in Chapter VI. In Article 57 paragraph (1) it is stated that environmental preservation is carried out by efforts of: a) conservation of

natural resources; b) reserves of natural resources; and / or c) preservation of atmospheric functions. These three instruments are important factors in maintaining a good environment. In the PP concerning peat, the scope of maintenance is regulated in Chapter V. In Article 33, it is stated that peat ecosystem maintenance as referred to in Article 17 paragraph (1) letter b is carried out through efforts of: a) peat ecosystem reserves; b) preservation of the impact of peat ecosystems as controllers of the impacts of climate change. Through this maintenance instrument, it appears that the PP on peat only accommodates reserves and conservation, but does not accommodate conservation as an important instrument for peat ecosystem conservation.

Furthermore, administrative sanctions on the UUPPLH and PP peat regulate the same thing. UUPPLH administrative sanctions are regulated in Chapter XII Supervision and Administrative Sanctions. Article 76 paragraph (2) states that administrative sanctions consist of: a) written warning; b) government coercion; c) freezing of environmental permits; or d) revocation of environmental permit. These four types of administrative sanctions have been accommodated by the PP regarding peat in Article 40 paragraph (2). Article 79 of the UUPPLH also stipulates that those responsible for businesses and / or activities that do not carry out government coercion are subject to administrative sanctions in the form of freezing and revocation of environmental permits. This procedure has also been accommodated by the PP regarding peat in Article 42, Article 43 and Article 44.

However, there are things that are not accommodated by the PP regarding peat. Fines for business actors. Article 81 of the UUPPLH states that any party responsible for a business and / or activity that does not carry out administrative sanctions in the form of government coercion may be fined for any late implementation of government coercion sanctions. However, the PP on Peat regulates that fines for business operators who are late in implementing government coercion are not apparent.

## **POLICY RESTORATION OF YET PEOPLE HASN'T OPTIMUM BECAUSE IT'S STILL WEAK LAW ENFORCEMENT**

The government continues to strive to improve peatland management, for example by designing and implementing various policies as a form of concern for the sustainability of



peatlands.<sup>9</sup> One of them is to launch a restoration or restoration of peat ecosystems that are damaged and degraded. The basis for implementing this activity is regulated through PP No. 71 of 2014 which was later refined by PP No. 57 of 2016 concerning the protection and management of peat ecosystems. Actions for protection and management of peat ecosystems in this regulation include planning, utilization, control, maintenance, supervision and law enforcement, with the aim of preserving and preventing damage to the functioning of peat ecosystems.

Peatland fires that often occur almost every year have encouraged the government to improve forest and land governance including peatlands.<sup>10</sup> The improvement was carried out by issuing a number of regulations including Perpres No.1 Year 2016 concerning Peat Restoration and PP No.57 Year 2016 concerning Amendment to PP No. 71 of 2014 concerning Protection and Management of Peat Ecosystems. But the government's policy to carry out peat restoration is still considered not optimal. Various groups, such as NGOs and environmentalists, continue to highlight government policies that are considered not yet serious.

The NGOs considered that there had not been any serious efforts by the government to carry out peatland restoration, especially on the company's concession land. The lack of recovery efforts has led to peatland fires potentially continuing to occur every year. Instead of evaluating peatlands in the concession area, the government has instead issued a permit for the use of peatlands by companies. Land fires continue to recur and occur in the same company. Large companies are often free from legal threats. In fact, as was known on August 7, 2019, President Joko Widodo has issued Presidential Instruction No. 5 of 2019 concerning the Cessation of Granting of New Permits and Improving Governance of Primary Natural Forests and Peatlands. This Presidential Instruction was signed to continue efforts to save the existence of primary natural forests and peatlands, as well as efforts to reduce emissions from deforestation and forest degradation.

The President has also instructed several ministers, including the Minister of Environment and Forestry; Minister of Agrarian Affairs and Spatial Planning / Head of National Land Agency; Minister of Public Works and Public Housing; to the regional head to stop granting new licenses of primary natural forests and peatlands in conservation forests,

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<sup>9</sup> Tedy Prasetyawan. "Masa Depan Lahan Gambut Indonesia". *Jurnal Aspirasi*, no. 2, (2010).

<sup>10</sup> Muhammad Noor. *Debat Gambut; Ekonomi, Ekologi, Politik, dan Kebijakan*. (Yogyakarta: Gadjah Mada University Press, 2016).

protected forests, production forests, as stated in the Indicative Map on the Termination of New Licensing. This cessation of the issuance of new permits applies to the use and use of primary natural forest areas and peatlands, with the exception.

It's just that it needs to be reminded that PP No. 57 of 2016 only regulates the business responsible for controlling damage to peat ecosystems with the scope of prevention, mitigation and recovery of damage. While the restoration or restoration of peat ecosystems is a form of corporate responsibility to restore the function of peat ecosystems by carrying out several activities, such as building canal blocking (rewetting) or wet peatlands. This serves to keep the peat wet and avoid drought that is prone to burning.

The company should re-plant peat-friendly plants that make the peat ecosystem function regained.<sup>11</sup> The company also needs to revitalize the livelihoods of the local community, so that the community has alternative businesses to improve the economy and maintain the peat ecosystem in order to remain good. However, unfortunately the provisions stipulated in PP No.57 of 2016 have not been implemented optimally. For example, from the monitoring of the coalition of civil society in the concession area 34 companies of industrial timber estates (HTI) or oil palm have no restoration as mandated by regulation. In the past four years, it was noted that companies that have peat in their concessions have not carried out their peatland restoration obligations. This is because supervision of this regulation is very weak and there are no strict sanctions. For this reason, the threat of peatland fires in the future is still very real.

Data from TUK Indonesia records that more than 60 percent of HTI concession areas in Sumatra and 39 percent in Kalimantan are managed by 7 group companies. Related to the 7 groups of companies, there are 8 pulp companies in Indonesia that are involved in environmental, social and governance issues. These companies have the potential to be designed to facilitate basic erosion and profit transfer (BEPS) and tax avoidance. Linda said the area of HTI permits in Indonesia was 11.2 million hectares with a total of 336 Business Permits for the Utilization of Timber Forest Products in Plantation Forests (IUPHHK-HT). The government must open data related to the licensing of various companies so that the community can conduct monitoring.

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<sup>11</sup> Page, S. E. "The Ring of Fire: Tackling Indonesia's Peatland Fire Dynamic". *Proceedings of the International Peat Congress*, Kuching, Malaysia, 2016.

## **ADMISSION OF REGULATION CONCERNING PEAT BEING OBSTACLES IN SUSTAINABLE PEAT GOVERNANCE**

Indonesia has attracted much attention from the world in its peat governance. At the COP 23 meeting, all participants praised Indonesia's commitment in restoring degraded peatlands as part of climate change mitigation efforts. This positive sentiment did not come immediately, but rather because the government had undertaken various restoration efforts, ranging from peat mapping to the formation of the Peat Cares Village. One of the important advances is the issuance of four ministerial regulations of the Ministry of Environment and Forestry (KLHK) on the protection of peatlands, as a follow-up to the 2016 Presidential Regulation which prohibits companies from planting on peatland categorized as conservation areas.

Despite these advances, peatland restoration efforts faced obstacles when the Indonesian Supreme Court annulled Minister of Environment and Forestry Regulation (PermenLHK) No. 17/2017, which requires companies to convert the concession land that is included in the category of peat ecosystem areas with the function of protection and restore the peatlands through wetting and planting. If the company's concession is above at least 40 percent of the protected peat area, they have the right to request land swaps.

The canceled PermenLHK had previously invited fierce debate between businesses, including trade unions, and the Ministry of Environment and Forestry and environmentalists.<sup>12</sup> On the one hand, the regulation is needed to avoid further degradation of peatlands which can cause forest fires. On the other hand, business operators and trade unions are concerned about the potential economic loss and job loss due to the conversion of company concessions into protected areas. Although the government has promised to replace the concession land through a land exchange policy as stipulated in PermenLHK No. 40/2017, business operators and laborers are still worried about the availability and location of the land to be exchanged.

In June 2019, a trade union in Riau Province, KSPSI, demanded that the PermenLHK be reviewed by the Supreme Court, with the main reason that the regulation was a violation of the 1999 Forestry Law and the 2007 Spatial Planning Law. On October 2, the court won the union and canceled the PermenLHK.

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<sup>12</sup> Sitorus, Tiopan B. dan Rini Maryam. "Politik Hukum Pengelolaan Lahan Gambut di Indonesia". *Jurnal Legislasi Indonesia* 15, no.3(2018).

Some environmental activists consider this ruling as a significant stumbling block to achieving the target of 2 million hectares of peatland restoration by 2020, mainly because around 1.4 million hectares of peatlands that must be restored are within company concessions. In contrast, environmental law experts and KLHK representatives explained that the court's decision did not change the company's obligation to restore the peatland ecosystem as stipulated in the Presidential Regulation in 2016. In fact, the cancellation of PermenLHK No. 17/2017 is the company's loss because the company no longer has the right to ask for land compensation.

The main consideration of the Supreme Court to win KSPSI is because the Supreme Court said that PermenLHK No. 17/2017 aims to include peat ecosystems as a new category in the function of forest zones that currently exist for conservation, protection, and production, which are listed in the Forestry Law of 1999. Therefore, the court considers PermenLHK No. 17/2017 as a violation of the 1999 Forestry Law and regulating peatlands is not the KLHK's authority as stipulated in the Forestry Law. This consideration is not only worrying but also highlights the misconception of the Supreme Court regarding the extent of the KLHK's authority.

First, the court should consider that KLHK is a ministry formed by the merger of four state organizations: the Ministry of Forestry, the Ministry of Environment, the Agency for Reducing Emissions from Deforestation and Forest Degradation (BP-REDD +), and the National Council on Climate Change. As stated in Presidential Regulation No. 16/2015, KLHK now adopts and implements the mandates and functions of the four organizations, including the issuance of regulations on forests and non-forests in relation to environmental aspects. The mandates and functions of the four organizations also give authority to KLHK to regulate all government and private activities that have an impact on the environment.

Second, in making decisions, Supreme Court courts rarely refer to Law No. 32/2009 on Environmental Protection and Management and focuses only on the 1999 Forestry Law. The limited court verdict refers to the court's lack of understanding of the importance of this law as a basis for all activities related to environmental aspects - both those within the land ecosystem peat, forest area, Other Use Areas (APL), or others. An incomplete legal examination in canceling PermenLHK no. 17/2017 actually creates legal uncertainty for communities affected by irresponsible management of peat ecosystems.

The Supreme Court holds a key role in the implementation of good governance because it has the authority to regulate the harmony of derivative regulations with the laws that shelter them. Even when the cancellation of PermenLHK No. 17/2017 will not have a significant impact on the progress of peatland restoration, the reason the court in canceling the regulation can set a legal precedent and allow a domino effect to invalidate other ministerial regulations. Therefore, it is very important for judges in the Supreme Court to correct their misconceptions regarding peatland issues and the scope of KLHK's authority.

More important than that, non-governmental organizations (NGOs) and affected communities also need to closely monitor the process in the Supreme Court, especially because the decisions of the Supreme Court are final without any chance to appeal. The importance of monitoring and following the process from the early stages of the court allows NGOs and affected communities to provide views through the mass media. In this way, we can jointly prevent the possibility of a domino effect from the misunderstanding of judges and continue to apply existing regulations for better peatland governance.

## CONCLUSION

The dynamics of massive peatland degradation occurring in Indonesia are a consequence of land exploitation caused by large-scale agricultural and plantation activities. Both bring with them the same coverage of clearing forest and drainage areas, so that the wet and wet peat areas become dry. When this situation is mixed with the long drought climate that has hit, all of them gave birth to an increase in fire intensity over the past five years. The increase in fire intensity is also caused by the absence of government policy initiatives in fire control (for example, a policy on drainage prohibition and burning ban). It also includes weak law enforcement against fire perpetrators which has led to increased vulnerability from landscape changes to fires.

The fires that occur on peatlands not only cause economic and environmental losses, but also cause humanitarian disasters. To respond to this humanitarian disaster, Indonesia must continue to increase efforts to protect and restore this carbon-rich ecosystem. Therefore, changing the way Indonesia manages peatlands is crucial to achieving national commitments in reducing greenhouse gas emissions and also preventing the harmful effects of fires. The overall participatory and sustainable approach to peatland management requires a management that ensures the continuation of the coordination process between the relevant

institutions. In the context of sustainable management of peatlands, prevention is an important and more important aspect to take as an initial action because it is far better than taking action at the time of the incident. The most important aspect of prevention in a legal perspective is strict and authoritative law enforcement.

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