

FORESTRY AFFAIRS IN THE LAW OF THE REPUBLIC OF INDONESIA NUMBER 23 OF 2014 CONCERNING LOCAL GOVERNMENT: A REVIEW

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ABSTRACT

This research studies forestry affairs in the Republic of Indonesia Law Number 23 of 2014 concerning Regional Government. There has been a significant change in authority regarding the authority related to forestry affairs. The central government has more power than the provincial and district/city governments. The smallest authority is at the district/city government level, where only the authority is given to the management of community forest parks (TAHURA), resulting in the absence of a forestry service in the district/city government. The provincial government is an institution that has sufficient power in forestry management, although its authority is still not as large as the central government. This paper is expected to provide a complete understanding to the general public regarding the authority of each level of government.

Keywords: Law 23/2014; local government; forestry; authority; power.

INTRODUCTION

Implementation of decentralization in a district should refer to the authority restructuring or reorganization of the government system to establish a system of shared responsibility between central and local government institutions based on the subsidiary principle. It is anticipated that these conditions will result in a better government system since they improve the quality and efficacy of the government system as a whole, including openness and accountability and the authority and capacity of a region. In addition, it enhances the chances for communities to engage in economic, social, and political decision-making and assists the development and expansion of people's capacities concerning their duties (Prihatin & Wicaksono, 2020; Wicaksono, 2019; Wulandari et al., 2019).

Government affairs in the forestry sector are related to forest affairs, forest areas, and forest products in an integrated manner (Kambey, 2015). Government affairs in the forestry sector are carried out based on the Forestry Law and related to other laws, one of which is the regional government law. The administration of forestry affairs is shared between the Central Government, Provincial Governments, and Regency/City Regional Governments. In addition, Law Number 23 of 2014 concerning Regional Government regulates the division of government affairs, including the forestry sector, with the classification of concurrent-elective government affairs, namely government affairs divided between the Central Government and provincial and district/city governments. The implementation of government affairs is based on accountability, efficiency, externalities, and national strategic interests. Based on Article 14 of the Regional Government Law, government affairs in the forestry sector are only divided between the Central and Provincial

Governments, except those relating to the management of regency/city forest parks, which fall under the authority of the Regency/CityRegion.

Forests play an important role in people's lives, especially people who still use forests as their main source of life (Luxon, 2008; Nursal, Syafi'i W, 2016; Pausas et al., 2008; Postero & Tockman, 2020; Suparmini et al., 2013; Suwarno & Bramantyo, 2019; Yen Ai-Ching & Chen Yin-An, 2013). In addition, forests also function as a deterrent to climate change which is increasingly worrying (Dyarto & Setyawan, 2021; Hepburn, 2007; Lohmann, 2008; Othman et al., 2009; Rumayor et al., 2022; Streck, 2020). Forests have a big role in human life, while the forest functions to (1) regulate water systems or maintain hydrological functions and prevent erosion; (2) as a source of extraction production materials such as firewood, fiber, fruit, and others; (3) wood production based on a sustainable production system; (4) recreational needs; (5) protection of various types of flora and fauna, and; (6) germplasm warehouse or as storage of genetic resources (Dominguez Garcia et al., 2017; dos Santos et al., 2020; Hovardas, 2021; Liang et al., 2020; Mustofa, 2013; Page et al., 2018; Zulkarnaen Defry; Oktorini, Yossi, 2016). Forests are very useful for humans, but, unfortunately, humans often exploit the existence of forests and their functions.

Therefore, forestry affairs are very important to be regulated in Law, especially in regional government laws. These forestry affairs are related to the management authority at the government level, which ones are regulated by the central government, which ones are by the provincial government, and which ones are by the district/city governments.

This paper reviews the authority of each level of government, from the central government and provincial government to district/city governments, based on Law 23/2014, where this Law is an important reference in the administration of government in Indonesia.

THE HISTORY OF FORESTRY AFFAIRS FROM THE NEW ORDER TO THE PRESENT

At the beginning of his reign, the New Order faced a severe political and economic crisis. This condition was marked by very high inflation, with the average price of goods rising 500%. The market rate of the rupiah against the US dollar fell from Rp5,100 in early 1965 to Rp50,000 in the fourth quarter (Aswicahyono et al., 2009; Green, 2004; Hadad et al., 2011; Hartini et al., 2005; Nasution, 2002; Simms & Rowson, 2003; Sunderlin et al., 2001; Wihantoro et al., 2015).

The New Order era focused on inventorying natural resources that could be immediately exploited as a strategic source of state revenue. One of them is forests and especially natural forests located outside Java Island. At the same time, the government is preparing laws and their derivative regulations as a legal basis for investment entry. Then, successively, Law Number 1 of 1967 concerning Foreign Investment (PMA), Law Number 5 of 1967 concerning the Principles of Forestry (UUPK) was issued, and the Law on Identification of Barriers to Establishment of Forest Areas in Provinces concerning Domestic Investment. (PMDN), then Government Regulation (PP) Number 21 of 1970 concerning Forest Concession Rights (HPH) and Forest Product Collection Rights (HPHH) (Kartikawangi, 2017; Oliva et al., 2022; Royer et al., 2015).

As a result, in the 1970s, the forestry sector contributed the second largest foreign exchange after oil. Forest Concession Rights (HPH) granted without an auction procedure between 1967-1980 were granted to 519 HPHs with 53 million ha. In 1989 there were 572 units of HPH permits controlling 64 million hectares of Indonesia's production forests. (Zainal, 2018).

At the beginning of the reform, the forestry sector was still a source of foreign exchange income for the country. Forestry policy during the reformation period began with the issuance of Law No. 41/1999 on forestry. This Law is a legal regulation that replaces the Basic Forestry Law No. 5/1967. In Law No. 41 of 1999, the central government was given the authority to determine forest areas that divided forest areas in Indonesia into state and private forests. A state forest is a forest designated by the central government to be managed by the state, while a private forest is a forest area that can be privately owned (Rauf et al., 2020).

Then came decentralization to the regions regulated by Law 32/2004 on regional government. Decentralization accommodates broader local government authority. The authority in the forestry sector is the authority given by the Central Government to the regions. Regions are free to regulate and issue forestry sector permits. This is in stark contrast to the New Order era, which ignored the government's authority in all sectors, including forestry. Provincial governments and district/city governments can use their powers to administer forestry affairs. However, this is also a problem where many regional heads have carried out the sale of forest area release permits in Indonesia. Heads of regions previously in the New Order era only had very little authority in managing forestry resources in Law 32/2004 received more authority. This had led to many cases of corruption or abuse of power when the Law was enacted. (Zainal et al., 2017)

Over time, Law Number 23 of 2014 concerning Regional Government was issued. Law Number 23 of 2014 explains that the authority of the forestry sector is the domain of central authority through the Ministry of Environment and Forestry. This means that previously, forestry affairs in the regions are pulled back to the center. However, the provincial government also has the authority over the forestry sector. One of them is regarding the formation of a Forest Management Unit (KPH), which is completely handed over to the Provincial Government (except for the Conservation Forest Management Unit). District/City Governments only have the authority to manage TAHURA (Public Forest Plants).

DIVISION OF AUTHORITY IN THE FORESTRY SECTOR

Based on Law 23/214, the following is the division of authority between the central government, provincial governments, and district/city governments:

Table 1. Forestry Sector Sub Affairs

No	Sub Affairs	Central Government	Provincial Government	Regency/City Government
1	2	3	4	5
1	Forest Planning	a. maintenance forest inventory. b. maintenance area strengthening forest. c. maintenance area management forest. d. maintenance territory formation forest management.	-----	-----

No	Sub Affairs	Central Government	Provincial Government	Regency/City Government
1	2	3	4	5
		e. Plan execution national forestry		
2	Pengelolaan Hutan	<p>a. maintenance forest inventory.</p> <p>b. maintenance area strengthening forest.</p> <p>c. maintenance area management forest.</p> <p>d. maintenance territory formation forest management.</p> <p>e. Plan execution national forestry</p> <p>a. Organizing forest.</p> <p>b. Plan execution forest management.</p> <p>c. maintenance forest use and use area forest.</p> <p>d. maintenance rehabilitation and reclamation forest.</p> <p>e. maintenance forest protection.</p> <p>f. maintenance processing and results administration forest</p> <p>g. maintenance area management forest with a purpose special (KHDTK).</p>	<p>a. Implementation of forest management management unit forest except on management unit conservation forest (KPHK).</p> <p>b. implementation of the plan unit management forest management except on the management unit conservation forest (KPHK).</p> <p>c. implementation of utilization forest in forest area production and forest protection, including:</p> <ol style="list-style-type: none"> 1) Area utilization forest; 2) Utilization of results Non-timber forest; 3) Revenue collection forest; 4) Service utilization environment except utilization storage and carbon absorption. <p>d. Implementation of rehabilitation in outside the forest area country.</p> <p>e. Implementation of protection forest in a protected forest, and production forests.</p> <p>f. Execution of processing</p>	

No	Sub Affairs	Central Government	Provincial Government	Regency/City Government
1	2	3	4	5
			<p>non-timber forest products.</p> <p>g. Execution of processing wood forest products with a production capacity of < 6000 m/year.</p> <p>h. Management implementation KHDTK for the benefit of religion.</p>	
2.	Source Conservation Natural Resources and Ecosystem	<p>a. maintenance area management nature reserves and areas nature conservation.</p> <p>b. maintenance plant conservation and wildlife.</p> <p>c. maintenance the use of sustainable environmental conditions conservation area natural.</p> <p>d. maintenance use of wild plant and animal species.</p>	<p>a. Implementation protection, preservation and utilization sustainable forest park highway (TAHURA) cross District/city area</p> <p>b. implementation of protection wild plants and animals unprotected and not included in the appendix (Appendix) CITES.</p> <p>c. Management implementation important ecosystem value areas and buffer areas nature reserve area and nature conservation area</p>	Management implementation on District/city Community Forest Park (TAHURA).
4	Education and Training, Counseling and Empowerment Community in the field of Forestry	<p>a. maintenance education and training and education forestry medium.</p> <p>b. maintenance forestry counseling national.</p>	<p>a. Implementation of counseling provincial forestry.</p> <p>b. community empowerment in the forestry sector</p>	~~~~~

No	Sub Affairs	Central Government	Provincial Government	Regency/City Government
1	2	3	4	5
5	Regional Management River Flow (DAS)	Management implementation watershed.	Watershed management implementation cross-district/city and within the Region regency/city in 1 (one) provincial area.	~~~~~
6	Supervision Forestry	maintenance supervision of forest management.	~~~~~	~~~~~

Source: Attachment to Law no. 23 of 2014 concerning Regional Government

In terms of planning, which includes implementing forest inventories, area gazettelement, area management, formation of forest management areas, and national forestry plans, the central government takes full responsibility. Then, forest management is fully centralized except for the provincial government's planning and implementation of forest management units (KPH) but not for conservation forest management units (KPHK). The issue of utilization is regulated by the central government except for forest utilization in production areas and protected forests, and even then, only for the utilization of non-timber forest products and environmental services by the provincial government. If the Implementation of Rehabilitation is the central authority, except outside the state forest area is done by the provincial government. The provincial government carries the protection of areas by the central government except for protected forest areas and production forest areas. The central government regulates the processing of forest products, except for timber forest products with a production capacity of less than 6000 m² per year and non-timber forest products by the provincial government.

Regarding forestry affairs related to conservation, the central government is fully implementing the protection, preservation, and sustainable use of Forest Parks (TAHURA) across districts/municipalities under the authority of the provincial government. At the same time, TAHURA is located in the district/city by the district/city government. Protection of wild plants and animals that are not protected and are not placed on the CITES Appendix list by the provincial government. The provincial government manages critical ecological value areas and buffer zones for nature reserves and nature conservation areas.

Then several other matters related to forestry authority are the provincial forestry counseling and community empowerment carried out by the provincial government, then the Management of Watersheds (DAS) in 1 (one) provincial area by the provincial government, and finally, full supervision by the central government.

From the description above, most of the authority is in the hands of the central government, a small part is only in the provincial government, and the district/city government gives only 1 (one) authority, namely the management of TAHURA or Grand Forest Park. This means that forest management, which has been largely decentralized (Implementation of Law 32/2004), has failed to safeguard the concept of regional autonomy in the forestry sector. This is evident by the accelerating rate of land and forest ecosystem deterioration, whose negative effects are directly felt by the Indonesian people.

IMPLICATIONS OF CHANGES IN AUTHORITY IN THE FORESTRY SECTOR

Amendments to the Law on regional government from Law Number 32 of 2004 to Law Number 23 of 2014 concerning regional government have brought changes to the regulation of the authority for forestry affairs, which previously was the authority of the Regency/City regional government, but through Law No. -Law Number 23 of 2014, this matter becomes the authority of the provincial government. The transfer of authority in dealing with affairs in certain fields, everything that will happen due to the transfer of authority has been considered. However, if observed from the aspect of effectiveness and optimal handling of these affairs, the management by the Regency/City as regulated in Law Number 32 of 2004, is following the concept of regional autonomy where the Regency/City regional government is closer and understands the situation and potential - regional potential. The change in the transfer of authority from the Regency/City regional government to the provincial government authority normatively provides an overview of the affairs of the forestry sector to be a major issue faced by the provincial government because it will collect and handle all forestry sectors in all Regencies/Cities. Thus, the transfer of This authority will impact the affairs handled by the provincial government, one of which is in the field of forestry.

CONCLUSION

The implementation of the authority for forestry affairs in Law 23/2014 can be a recentralization effort, where regional authorities (provincial and district/city) only have very limited authority in managing forestry affairs. On the one hand, it can be said that this is a pretty good evaluation. When UU32/2004 was implemented, many forestry affairs were handed over to local governments. What happened was deforestation got worse because the head of the government could easily grant permits—the regional head in power at the time. With the withdrawal of the authority for forestry affairs to the central government, it is hoped that this will not happen again because it is easier to monitor.

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