FOREST GOVERNANCE AND LAW ENFORCEMENT IN INDONESIA

by:

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2 (two) Fundamental Pre-requisites that need to be improve on Forest Governance and Law Enforcement in Indonesia:

1. Solid and precise forest regulations
2. High commitment and self-discipline of all stakeholders to implement forest regulations.
4 (four) main components on Forest Governance in Indonesia should be improve:

1. Regulations on Forest and Forestry
2. Organization and Human Resources Development
3. Controloing in the field
4. Performance Evaluation of the operators
6 (six) weaknesses in Indonesia Forest & Forestry Regulations:

1. Not Synchronize between a regulation with the other:
   - Between UU No. 41/1999 and UU No. 22/1999
   - Between PP No. 6/1999 and UU No. 41/1999
   - Areal overlapping between HPH (given by central government) and HPHH (given by local government)
6 (six) Weaknesses in Indonesia Forest & Forestry regulations (cont.):

2. Inconsistency in the forest industry policies:
   - Kepmen No. 23/Kpts-II/94 vs PP No. 6/1999
   - Spatial land use Planing

3. Irrelevant regulation
   - Food corps planting along the left-and-right side of the logging road (in the logged over forest) ~ 50 ha yearly.
6 (six) weakness in Indonesia Forest & Forestry Regulations (Cont.):

4. Unreasonable Regulations
- The same exploitation factor for all cut tree
- Tree planting along the logging road (in the logged over forest) ~ 200 ha yearly.
- Tree planting on the bare land min. 300 ha/year
- The criterion of 40 % slope (= 22°) for protected areas
- Annual production target (inv.100%) ≤ 5 years planing (inv.5%) ≤ 20 years long-term planning (inv.1%)
6 (six) Weakness in Indonesia Forest & Forestry regulations (Cont.):

5. Regulation and evaluation of companies' performance are not orientated to outcome, but more on bureaucracy.

6. Excessive documents, books and reports.
Sucofindo observations, 2001:

- HPH has 17 rights and 146 (31)~115 obligations
- 114 regulations (not included circular letters) for every HPH
- ± 1,599 documents to proceed forest (wood) utilization
- 24 institution visited to run 43 activities or 169 matters in forest (wood) utilization
- 2.179 man-days per year to get forest utilization permit
- Rp 203,000/m3 (or US $ ± 22.5/m3) log-transaction cost

"...alaa mak birokrasiii..!!"
Organization and Man Power in Forestry

1. Disproportionate man power in the central government, while the self governing district have inadequate skilled personals
2. Strong local fanaticism
3. More orientated to act of giving permit (desk job) than toward lead in the field
4. Unprofessionally and not transparently on man power recruitment
5. Law salary and lack of supporting the equipments & supplies
Control in the Field

1. Lack of continuously control
2. Result of controlling is undisclosed
3. No clear actions as a follow up of control.
4. Control is not executed independently
5. Overlapping authorities among control agencies
Performance Evaluation of Forestry Companies

1. Performance evaluation is based on administrative rather than on its outcome
2. Evaluation system is not transparent and obscured
3. The development of reward and punishment system is not in balance
4. Performance bond not yet implemented.
Forest Law Enforcement

1. Improving law and regulations on forestry
2. The function and authority of the field officers should be broadened
3. Good commitment to enforce the law. The skill and mental of the officers have to be developed
4. Methods to prove the violation of forestry regulations should be cleared and easier
5. More personals not a priority, The priority should be given to improve the quality of the human resource and the system
6. Penalties not be emphasized toward issuing financial fines

7. Every District should openly publish the development of indictment cases of law breakings in forestry

8. The logging administration made simpler, more general, indisputable, justifiable, and verifiable.

9. Need to establish some kind of Ombudsman that charges in forestry

10. Multilateral agreement to prevent illegal log reaching the global market
.....Thank you....
Forest GOVERNANCE and FOREST LAW ENFORCEMENT in Indonesia
(Pengurusan Hutan dan Penegakan Hukum Kehutanan di Indonesia)

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ABSTRACT

There are 2 (two) fundamental prerequisites to govern the forest and to enforce forest law:

1. The quality of ratified regulations should be solid and precise in order to assure an effective implementation of forest governance.

2. Forest Law should be enforced with a high commitment and self-discipline as a safeguard for correct implementation of forest laws.

Those two assertions are highly interrelated, like the two sides of a coin.

Some of the flaws in the forestry regulations in Indonesia are as follows:

1. Inconsistencies from one regulation to another
2. Inconsistencies in the forest industry policies
3. Numerous irrelevant regulations
4. Numerous unreasonable regulations
5. The contents of regulations are not based on outcomes but rather directed more toward the fulfillment of administrative and procedure needs
6. Excessive documents, books, and reports that need to be fulfilled in the process of forest utilization

Aside from the amendments in forestry regulations, in order to have good forest management in Indonesia, some weaknesses in the organizations and human resource development, control systems, and evaluation of companies in forestry should also be improved.

Some aspects that need to be addressed to improve forest law enforcement in Indonesia are as follows:

1. Amendment in some of the articles and the improvement in the quality of the regulations on forestry
2. Broader authorization of field law enforcement officers
3. High professionalism and better code of conducts of the law enforcement officers
4. Simpler and more distinct methods/ways to prove infringements in forestry law
5. Prioritization in the improvement of man power quality and the system of enforcing forestry law, rather than adding more law enforcement officers
6. More severe penalties for misdemeanors, and not merely oriented toward financial fine
7. Public account made by every Regent through the mass media with regards to the development of indictment cases
8. Simpler, verifiable, and liable logging administration
9. The existence of an Ombudsman specifically deals with charges/misdemeanors in forestry is imperative
10. There is a need for multilateral agreements among countries to prevent the products of illegal loggings from reaching the global market.
There are 2 (two) fundamental prerequisites that need to be improved and order to govern the forest and enforce the forest law:

1. The ratified regulations should be solid and precise in order to assure an effective implementation of forest governance.

2. Forest Law should be enforced with a high commitment and self-discipline as a safeguard for correct implementation of forest laws.

The aforementioned assertions are highly interrelated and should be implemented concurrently. When one of it is not met, law enforcement and forest governance would not likely be successful.

I. Forest Governance

There are 4 (four) main components that should be improved in forest governance:

a. Regulations on forest and forestry
b. Organization and human resources development
c. Controlling in the field
d. Performance evaluation of the operators

A. Regulations on Forest and Forestry

There are 6 (six) weaknesses on forest regulations in Indonesia that should be corrected:

7. Inconsistency from one regulation to another, such as:

   - Between the Forestry Act No. 41, 1999 versus the Autonomy Act No. 22, 1999. In the Forestry Act No. 41, 1999, the central government authorizes a portion of forest management to the local government, whereas in the Autonomy Act No. 22, 1999, the management of production forest is fully under the authority of the local government.

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2 Indonesian Forest Practitioner
- Between Government Regulation (PP) No. 6, 1999 on Forest Management and Forest Yield Collection from Production Forest versus the Forestry Act No. 41, 1999. Actually, with the enactment of the Forestry Act No. 41, 1999, the PP No. 6, 1999 could no longer be used and should be replaced, since it was not based on the Forestry Act No. 41, 1999.

- There have been numerous cases of authorizations on Forest Yield Harvesting issued by the Regents in which the locations are overlapped with valid Forest Concessionaires.

8. There have been some inconsistencies in the forest industry policies, such as:

- Between the Minister of Forestry Decree No. 23, 1994 on the renewal of Forest Concessionaire versus PP No. 6, 1999. The Minister Decree states that term of a Forest Concessionaire could be renewed if it has shown good performance and met certain criteria. However, PP No. 6, 1999 states that the size of any Forest Concessionaire that has exceeded certain area limitations will be reduced in spite of good performance.

- In the Forestry Agreement (FA) and the Minister of Forestry Decree No. 684, 1993, every Forest Concessionaire is required to have integrated log industry or has any stakeholder relationship. To the contrary, the Minister of Forestry Decree No. 620, 1998 totally calls for an opposite direction policy.

- There is not clear direction with regard to long-term forest utilization due to the repeated change in forest status and function. The Consensus Forest Land Use Planning (TGHK) was replaced by the Provincial Spatial Structure Planning and another type of land use based on a harmonization between the two land use plannings.

9. There have been some irrelevant regulations, such as:

- The requirement to grow food crops along the left-and-right-side of the road in the logged over forest covering an area of 50 hectare per year.
10. There are some unreasonable regulations, such as:

- The use of the same exploitation factor for all cut trees to determine production estimate per cut.

- The requirement to plant trees on the left and right side of the road (in the logged over forest) along 2 km with a width of 2 x 500 meter or equivalent to 200 hectares per year.

- The requirement to plant a minimum of 300 hectares bare land per year with forestry plants (although the hectarage bare land that can be planted with forestry plants does not necessarily exist)

- The criterion of 40% slope for protected areas is fallacious, since 40% = 22°, or a terrain of more or less flat.

- The Annual Planning Goals (RKT) should not exceed the Five-year Planning Goals (RKL), while the Five-year Goals should not exceed the Long-term Planning Goal (RKPH). Those are questionable since the cruising intensity of RKT is 100%, while the RKL is only 5% and the RKPH is only 1%.

11. Regulations in forestry and evaluation of company's performance is not outfitted on the outcome base regulation, but conformed more on the basis of administrative and procedure standpoints.

12. There have been excessive documents, books, and reports that has to be fulfilled in the process of forest utilization.

B. Organization and Man power in Forestry

Some of the flaws that need to be addressed are:

1. Disproportionate man power in the central government, while the self-governing provinces have inadequate skilled personels.

2. Strong local fanaticism hinders non-native immigrants from pursuing good career in the local areas.

3. The organization is more oriented toward publishing permits (desk jobs) rather than toward management in the field.

4. Recruitments and man power development are done unprofessionally and concealed (with a tendency toward cronyism).

5. Not supported by adequate salary, equipments, and supplies.
C. Control

Some of the aspects that need improvement are:

1. Lack of continuous control
2. Undisclosed results of evaluations
3. No clear actions as a follow-up of control
4. Control is not executed independently
5. Overlapping authorities among current control agencies (the function of each control agency should be made clear)

D. Performance Evaluation of Forestry Companies

Some of the weaknesses in the evaluation process of a company’s performance that need for improvement are:

1. Currently, the performance of a company is evaluated more based on administrative and procedures, rather than on its yield/outcome/ physic.
2. Evaluation system and its results are not transparent and obscured.
3. There is a disproportionate reward and punishment system, and it is geared more toward financial penalty.
4. The mechanism to guarantee jobs has not been developed.

E. Law Enforcement

Law enforcement in forestry in Indonesia would be more effective if the following aspects are addressed, such as:

1. The shortcoming in the current forestry regulations mentioned earlier needs to be rectified, since it opens up the opportunity to do blackmailings and frauds, and impedes law enforcement.
2. The functions and authority of law enforcement officers need to be made clearer and more distinct, so that they could enforce the law swiftly, conspicuously, and prominently.
3. Professionalism and proper code of conduct among the law enforcement officers need to be improved. They need to be directed toward commitment strengthening in a clear, distinct, systematic, and continuous fashions.
4. The methods/ways to prove any wrongdoings in forest management need to be made more distinct and easier, so that unsubstantiated charges of law infringements which are not backed by sufficient evidence as are now often occurring could be minimized.

5. Priority should be addressed to the upgrading of law enforcement officers and improving the law enforcement system, not to the recruiting of more personnel.

6. Penalties for misdemeanors should be made clear and rigid, and not only oriented toward issuing financial fines.

7. Every local/regional leader is obliged to make updated reports published in the mass media with regards to the development of indictment cases of lawbreakings in forestry.

8. The logging administration needs to be made easy, simpler, more general, indisputable, justifiable, and verifiable, rather than the now full of trivial details which in turns nurturing frauds and manipulations.

9. There is an urgent need to establish some kind of Ombudsman that deals specifically with indictments/wrongdoings charges in forestry.

10. There is a need for multilateral agreements among countries to prevent the products of illegal loggings from reaching the global market.