



Dynamics of Legal Certainty in Forest Area Management Between Economic Utilization and Environmental Sustainability

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Abstract. *This study explores the crucial role of legal certainty in the management of natural resources, with a focus on forest areas, as a key factor in ensuring a balanced approach to economic use, environmental sustainability, and the protection of community rights. Forests, both with and without tree cover, require clear legal frameworks to prevent overlapping claims, illegal activities, and degradation. The state's authority in regulating the status and function of forest areas is vital and must be supported by coherent, enforceable policies. Employing a normative juridical method, this research examines primary, secondary, and tertiary legal sources, particularly Law Number 41 of 1999 concerning Forestry, to assess the extent to which Indonesia's legal system provides certainty in forest area governance. The findings reveal that legal certainty is still challenged by overlapping regulations, inconsistencies in enforcement, and gaps between formal legal provisions and their implementation in the field. These issues often lead to land conflicts, unclear tenure rights, and unsustainable exploitation. Nevertheless, when implemented effectively, the legal framework has the potential to promote responsible management practices, preserve biodiversity, and safeguard indigenous and local communities' rights. The study underscores the need for harmonizing sectoral laws, strengthening institutional coordination, and improving transparency in forest area designation and use. Legal certainty is not only a prerequisite for sustainable development but also a cornerstone for legal justice and equitable resource governance. This paper contributes to the discourse on forest policy reform and aims to inform legislators, policymakers, and stakeholders involved in natural resources management about the importance of strengthening legal foundations for better governance and sustainability.*

Keywords: *Forestry Law, Legal Certainty, Natural Resources*

Abstrak. Penelitian ini mengkaji peran krusial kepastian hukum dalam pengelolaan sumber daya alam, dengan fokus pada kawasan hutan, sebagai faktor kunci dalam memastikan pendekatan yang seimbang terhadap pemanfaatan ekonomi, keberlanjutan lingkungan, dan perlindungan hak-hak masyarakat. Hutan, baik yang bertutupan pohon maupun tidak, memerlukan kerangka hukum yang jelas untuk mencegah klaim yang tumpang tindih, kegiatan ilegal, dan degradasi. Kewenangan negara dalam mengatur status dan fungsi kawasan hutan sangat vital dan harus didukung oleh kebijakan yang koheren dan dapat ditegakkan. Dengan menggunakan metode yuridis normatif, penelitian ini mengkaji sumber hukum primer, sekunder, dan tersier, khususnya Undang-Undang Nomor 41 Tahun 1999 tentang Kehutanan, untuk mengkaji sejauh mana sistem hukum Indonesia memberikan kepastian dalam tata kelola kawasan hutan. Temuan penelitian menunjukkan bahwa kepastian hukum masih terkendala oleh peraturan yang tumpang tindih, inkonsistensi dalam penegakan hukum, dan kesenjangan antara ketentuan hukum formal dan implementasinya di lapangan. Permasalahan ini seringkali berujung pada konflik lahan, ketidakjelasan hak tenurial, dan eksploitasi yang tidak berkelanjutan. Namun demikian, jika diterapkan secara efektif, kerangka hukum tersebut berpotensi mendorong praktik pengelolaan yang bertanggung jawab, melestarikan keanekaragaman hayati, dan melindungi hak-hak masyarakat adat dan lokal. Studi ini menggarisbawahi perlunya harmonisasi peraturan sektoral, penguatan koordinasi kelembagaan, dan peningkatan transparansi dalam penetapan dan pemanfaatan kawasan hutan. Kepastian hukum bukan hanya prasyarat bagi pembangunan berkelanjutan, tetapi juga landasan bagi keadilan hukum dan tata kelola sumber daya yang berkeadilan. Makalah ini berkontribusi pada wacana reformasi kebijakan kehutanan dan bertujuan untuk memberikan informasi kepada legislator, pembuat kebijakan, dan pemangku kepentingan yang terlibat dalam pengelolaan sumber daya alam tentang pentingnya penguatan landasan hukum untuk tata kelola yang lebih baik dan berkelanjutan.

Kata Kunci: Hukum Kehutanan, Kepastian Hukum, Sumber Daya Alam

1 INTRODUCTION

Legal certainty in natural resource management is a fundamental principle in a state of law that aims to ensure that regulations related to forest management and other natural resources can be implemented fairly and sustainably (Chandra, 2024). Without legal certainty, various policies related to forestry have the potential to overlap and cause ambiguity in implementation in the field. With legal certainty, each policy can have a clear basis, thereby preventing legal disputes and protecting all parties involved in natural resource management, including indigenous peoples, business actors, and the government (Isnaeni, 2017).

Legal uncertainty in the forestry sector can trigger various problems, one of which is a conflict of interest between the government, the community, and the private sector (Farina, 2024). For example, overlapping permits in the utilization of forest areas often cause conflicts between concession companies and indigenous peoples who have long lived in the area. In addition, weak legal certainty can also trigger uncontrolled exploitation of natural resources, thereby damaging the balance of the ecosystem and threatening long-term environmental sustainability (Jazuli, 2017). Therefore, strict and consistent regulations are needed in the management of natural resources so that the interests of various parties can be protected in a balanced manner.

Legal certainty in the management of natural resources also plays an important role in creating economic and social stability (Prawira, 2024). Clarity of regulations in the management of forest areas can encourage responsible investment in the forestry sector and other natural resource-based industries. On the other hand, communities that depend on forests for their daily lives also need legal guarantees so that they can access and manage natural resources legally and sustainably (Wahanisa, 2021). Thus, legal certainty not only functions as a regulatory instrument, but also as a mechanism that ensures that the use of natural resources can provide economic, social, and ecological benefits fairly and evenly.

The government has a central role in determining forest areas and their management following the mandate of Law Number 41 of 1999 regarding Forestry (Paksi, 2017). Based on these regulations, the state is responsible for forest management to achieve people's prosperity in a just and sustainable manner. In its implementation, the government is given the authority to regulate and manage everything related to forests, including determining the status of certain areas as forest areas or vice versa (Safitri, 2014). The management is performed by considering ecological, social, and economic aspects so that the balance between forest utilization and sustainability is maintained.

In determining forest areas, the government divides them into several functions, namely conservation forests, protected forests, and production forests. Conservation forests aim to protect ecosystems and biodiversity, while protected forests function to maintain ecosystem balance, such as protecting river basins (Novytsari, 2024). Meanwhile, production forests are designated for forestry-based economic activities, such as wood and non-timber forest products. The determination of these functions is conducted through land use policies, which must consider various factors, including the welfare of local communities and national development needs (Arba, 2022).

However, in its implementation, forestry policies often face various challenges. One of the main challenges is changes in land use, either due to the conversion of forests to agricultural land, plantations, or settlements (Munthe, 2025). In addition, overlapping permits between the central and regional governments are often a source of conflict in forest management. The involvement of the private sector in forest exploitation often gives rise to an imbalance in the distribution of benefits, especially for indigenous peoples who have historical ties to forest areas.

The implementation of forestry policies faces various challenges, one of which is the lack of legal certainty in the application of regulations (Malihah, 2022). The many overlapping regulations between the central and regional governments cause inconsistencies in forest management. This inconsistency often results in contradictory policies, making it difficult for stakeholders to manage forests effectively (Ardalepa, 2024). In addition, regulatory changes that are not accompanied by a clear transition mechanism also exacerbate legal uncertainty in the forestry sector.

Conflicts over ownership and forest management rights are serious challenges in the implementation of forestry policies. Governments, indigenous communities, and companies often have conflicting claims to forest areas (Sonia, 2020). Legal ambiguity in establishing and recognizing natural resource management rights often leads to prolonged disputes, even leading to the criminalization of Indigenous communities who have long lived side by side with the forest. On the other hand, companies that have business permits often get privileges, even though in some cases they violate the principles of environmental sustainability (Kontesa, 2023).

Another major challenge is the rampant illegal logging activities, land conversion for industrial interests, and weak law enforcement against environmental violations (Nasrullah, 2022). Although regulations have regulated the protection of forest areas, law enforcement still faces various obstacles, such as lack of supervision, limited resources, and corrupt practices

involving certain individuals (Putra, 2024). Therefore, efforts are needed to strengthen legal certainty in the management of natural resources under the Forestry Law. This aims to ensure the sustainability of natural resources so that the ecological, social, and economic benefits of forests can continue to be enjoyed by future generations.

2 METHOD

This study uses a normative legal approach, namely a research method that focuses on the analysis of laws and regulations related to legal certainty in the management of natural resources, especially regarding the management of forestry natural resources. The data sources used include three categories, namely primary law in the form of Law No. 41 of 1999 concerning Forestry as the rationale for analyzing related regulations. In addition, this study also utilizes secondary legal sources, such as books, scientific journals, and relevant legal studies to provide theoretical and academic perspectives on the issues studied. Tertiary legal sources, such as legal dictionaries and encyclopedias, are also used to provide a deeper understanding of legal concepts related to forestry policies and legal certainty in the management of natural resources.

3 RESULT AND DISCUSSION

Legal Certainty in Natural Resource Management Regulations According to the Forestry Law

Legal certainty is one of the fundamental principles in a state of law that emphasizes the existence of clear, consistent, and predictable rules in their application. According to Gustav Radbruch, legal certainty is one of the three main values of law, in addition to justice and benefit. Legal certainty in forestry law means that regulations related to forest management must have certainty in terms of substance (normative), institutions (implementation), and law enforcement (Astuti, 2017). With legal certainty, interested parties, including the government, the community, and the private sector, can clearly understand their rights and obligations.

Natural resource management, especially in the forestry sector, requires clear and firm legal certainty to ensure a balance between economic utilization, environmental sustainability, and protection of community rights. Forest resources that have high economic value are often the object of interest of various parties, including the government, indigenous peoples, and the private sector. Without clear regulations and consistent law enforcement, these interests can collide and cause prolonged conflict. Therefore, legal certainty is a fundamental element in sustainable forest management.

Law Number 41 of 1999 concerning Forestry is the main legal basis for regulating forestry governance in Indonesia. This law emphasizes that forestry management must be based on the principles of benefit and sustainability, democracy, justice, togetherness, openness, and integration. These principles aim to create a fair, transparent, sustainable forest management system. However, in its implementation, various challenges are still faced, including overlapping regulations, weak law enforcement, and political intervention that hinders the consistency of forestry policies.

Law Number 41 of 1999 regulates various aspects related to forest resource management. Article 2 states that:

"Forestry management is based on benefit and sustainability, democracy, justice, togetherness, openness, and integration."

This provision emphasizes that forest management must be carried out sustainably by considering the benefits for the community and maintaining its sustainability for future generations. Furthermore, in Article 4 Paragraph (1), it is stated that:

"All forests within the territory of the Republic of Indonesia, including the natural resources contained therein, are controlled by the state for the greatest prosperity of the people."

This provision gives full authority to the state in determining forestry policies to ensure that the utilization of forest resources is carried out for the welfare of the community. However, in practice, the implementation of this rule often experiences obstacles, especially in ensuring a balance between economic interests and environmental protection.

Article 5 Paragraph (1) also explains the grouping of forest areas based on their function, namely:

"Based on their function, forests consist of conservation forests, protected forests, and production forests."

This provision emphasizes that each forest area has a different designation, so its utilization must be adjusted to its function. For example, conservation forests are designated for ecosystem protection, while production forests can be utilized for economic activities while still paying attention to the principle of sustainability.

The main objective of forestry management as regulated in Article 3 is for the greatest prosperity of the people in a just and sustainable manner. To achieve this objective, the law emphasizes the importance of maintaining the existence of forests with sufficient area and proportional distribution. Article 3 reads:

"Forestry management aims for the greatest prosperity of the people in a just and sustainable manner by:

- a. ensure the existence of forests with sufficient area and proportional distribution;
- b. optimize various forest functions, including conservation, protection, and production functions to achieve balanced and sustainable environmental, social, cultural, and economic benefits;
- c. increase the carrying capacity of river basins;
- d. increase the ability to develop community capacity and empowerment in a participatory, equitable, and sustainable manner;
- e. ensure equitable and sustainable distribution of benefits;
- f. increase the ability to create jobs to improve community welfare;
- g. ensure the sustainability of life systems and increase resilience to global change."

The provisions in Article 3 emphasize that the main objective of forestry management in Indonesia is to ensure that forests remain sustainable and provide benefits to the people fairly and sustainably. One aspect emphasized is the importance of maintaining the proportional area and distribution of forests, so that they can optimally fulfill various ecological, social, and economic functions. In addition, this article also highlights the importance of a balance between conservation and economic utilization aspects, including increasing community involvement in forest management and ensuring that the benefits of forest resources can be felt fairly by all levels of society. (Steni, 2010).

In addition, forest management must pay attention to various forest functions, namely conservation, protection, and production functions, to achieve balanced environmental, social, cultural, and economic benefits. Another important aspect of forestry policy is increasing the carrying capacity of river basins and empowering communities in a participatory manner so that the benefits of forest management can be widely felt by the surrounding community.

In terms of authority, Article 4 emphasizes that the state has control over forests, which gives the government the authority to regulate all aspects related to forestry, including determining the status of forest areas and regulating legal relations between communities and forests. However, this authority must still pay attention to the rights of indigenous peoples, as long as their existence is recognized and does not conflict with national interests. It is important in preventing conflicts over ownership and management of forest land that often occur between the government, indigenous peoples, and the private sector. With this regulation, it is expected that forest resource management can run fairly, and sustainably, and provide optimal benefits for all parties.

The state has full authority in managing forest resources as regulated in Law Number 41 of 1999 concerning Forestry. Article 21 emphasizes that forest management includes various important aspects, namely forest planning and preparation of forest management plans, forest utilization and use of forest areas, forest rehabilitation and reclamation, and forest protection and nature conservation (Nugroho, 2014). This authority aims to ensure that forest resource management is carried out optimally and sustainably, while still paying attention to the balance between economic, ecological, and social benefits.

Determination of forest areas is a crucial aspect of forestry management because it has direct implications for legal certainty in land use. Article 22 regulates forest management as part of more intensive forest area management, which includes the division of forest area blocks based on ecosystem, type, function, and utilization plan. The provision aims to avoid overlapping land ownership and use, which is often a source of conflict between communities, governments, and forestry companies. In addition, with the division of forest blocks and plots, management plans can be prepared systematically and implemented within a certain period to ensure the sustainability of the forest ecosystem.

In land use and sustainability, forest utilization must be carried out by paying attention to community welfare and environmental sustainability, as emphasized in Article 23. To ensure the continuity of forest ecosystem functions, the government is also responsible for forest and land rehabilitation as stated in Article 40. It seeks to restore, maintain, and increase the carrying capacity and productivity of forests so that the ecosystem is maintained and can function as a support for life. In addition, forest protection and nature conservation as regulated in Article 46 are the state's obligations to maintain the balance of forest protection, conservation, and production functions optimally. With this regulation, it is hoped that forest management can be carried out responsibly, providing benefits to the entire community, and supporting environmental sustainability for future generations.

Implications of Legal Certainty on Sustainable Natural Resource Management

Legal certainty in natural resource management refers to the existence of clear, consistent, and enforceable rules that provide guarantees for all parties involved in the utilization of natural resources. In legal theory, legal certainty is a fundamental principle in a state of law (*rechtstaat*) that ensures that every policy and regulation is permanent, predictable, and does not change arbitrarily. The urgency of legal certainty in the forestry, fisheries, and mining sectors is crucial because it concerns ownership rights, business permits, and ecosystem sustainability. Without legal certainty, the potential for conflicts over land and resource

ownership increases, uncontrolled illegal exploitation occurs, and environmental damage occurs due to irresponsible activities. Therefore, strong regulations and strict law enforcement are needed to ensure a balance between the utilization of natural resources and their sustainability for future generations.

Legal regulations related to legal certainty in natural resource management in Indonesia are based on various regulations that govern the utilization, protection, and sustainability of natural resources. One of the main regulations is Law No. 41 of 1999 concerning Forestry, which regulates sustainable forest management by emphasizing aspects of planning, utilization, rehabilitation, and conservation of forest areas. This regulation aims to provide legal certainty in forestry governance, including in determining the status of forest areas and their management rights so that there is no overlapping ownership or irresponsible exploitation. In addition, Law Number 32 of 2009 concerning Environmental Protection and Management is an important legal basis in ensuring that the utilization of natural resources is carried out sustainably by considering environmental aspects and ecosystem balance.

The government has an extensive role and authority in determining natural resource management policies to ensure legal certainty for the community and business actors. Through licensing policies, supervision, and law enforcement, the government is responsible for ensuring that every utilization of natural resources is by applicable regulations and does not harm the public interest. The principle of state responsibility contained in Article 2 of Law No. 32 of 2009 emphasizes that the state is responsible for protecting and managing the environment sustainably. It includes monitoring of natural resource exploitation activities and law enforcement against parties who violate the rules, including environmental destruction and illegal exploitation.

In addition to the regulatory and policy aspects, legal certainty in natural resource management is also closely related to ownership rights and use rights for natural resources. Legal certainty in this aspect is important to prevent ownership conflicts, whether between individuals, indigenous communities, or corporations. In the management of forestry and mining natural resources, use rights or management permits granted by the government must have a clear legal basis, including extension mechanisms, supervision, and sanctions for violations. Legal uncertainty in the ownership and management rights of natural resources can result in agrarian conflicts, excessive exploitation, and unequal access to resources. Therefore, strict regulations and good coordination between the central government, regional governments, and the community are essential to ensure that natural resource management is carried out fairly, and sustainably, and provides benefits for current and future generations.

Legal certainty plays an important role in preventing over-exploitation and environmental degradation by providing clear rules regarding the use of natural resources. Strict regulations regarding exploitation permits, supervision, and sanctions for violations can limit activities that damage the environment, such as illegal logging, illegal mining, and water or air pollution. With legal certainty, business actors are required to comply with established environmental standards, such as environmental impact analysis (AMDAL) and the precautionary principle in managing natural resources. In addition, legal certainty also ensures that Indigenous peoples and local communities have protected rights in managing natural resources sustainably according to their local wisdom.

In terms of sustainable natural resource governance, legal certainty has a significant impact on three main aspects: environmental, social, and economic. Environmentally, clear regulations encourage the wise use of natural resources, including rehabilitation and conservation efforts. From a social aspect, legal certainty reduces land conflicts and ownership disputes, especially between indigenous peoples, the government, and companies. Meanwhile, economically, stable legal policies provide investment certainty for business actors, thereby encouraging economic growth without sacrificing the sustainability of the ecosystem. With regulations governing ownership rights and mechanisms for the use of natural resources, both individuals and corporations have a clear legal basis for carrying out economic activities based on natural resources.

One example of the success of implementing legal certainty in natural resource management can be seen in forest management in Kalimantan through the Village Forest and Community Forest schemes. With regulations governing community management rights over forest areas, local communities can utilize forest products sustainably without damaging the ecosystem. This scheme is supported by regulations that ensure forest sustainability by requiring reforestation programs and conservation-based management. Similar successes have also occurred in fisheries management in Indonesia through the quota-based fisheries management system, which limits the amount of fish caught to prevent overfishing and maintain a balanced marine ecosystem. This case study shows that legal certainty that is properly implemented can create a balance between natural resource utilization and environmental sustainability.

One of the primary challenges in realizing legal certainty in natural resource management is the overlapping regulations and weak coordination between institutions. In Indonesia, various regulations regarding natural resources are issued by the central and regional governments, which are often not aligned and cause uncertainty in their implementation. For

example, differences in authority between the Ministry of Environment and Forestry, the Ministry of Energy and Mineral Resources, and local governments often trigger regulatory conflicts, especially in granting exploitation permits. In addition, weak law enforcement is also a serious obstacle, where many cases of illegal exploitation and environmental pollution do not receive strict sanctions due to corruption, lack of supervision, or intervention by political interests.

The role of the community and the private sector is critical in encouraging legal certainty to maintain the sustainability of natural resources. Community participation in environmental supervision and advocacy can pressure the government to be more transparent and responsible in managing natural resources. For example, indigenous communities who actively fight for their customary forest management rights can prevent unsustainable land conversion. On the other hand, the private sector also has a role in implementing sustainability-based business practices, for example through environmental certification such as the Indonesian Sustainable Palm Oil (ISPO) or the Forest Stewardship Council (FSC) for the forestry sector. If companies are committed to the principles of sustainability and comply with existing regulations, legal certainty in natural resource management can be increasingly realized.

To strengthen legal certainty in natural resource management, more comprehensive policy reforms and increased supervision are needed. Policy reform can be done by aligning overlapping regulations, clarifying licensing mechanisms, and tightening sanctions for perpetrators of environmental destruction. In addition, supervision must also be improved by involving technology such as Geospatial Information Systems to monitor land cover changes in real-time and whistleblower systems to encourage public participation in reporting environmental violations. With a combination of regulatory reform, strengthening supervision, and collaboration between governments, society, and the private sector, legal certainty in the management of natural resources can be more assured, so that environmental sustainability is maintained.

4 CONCLUSION

Legal certainty in forestry management is a crucial element that ensures clarity, consistency, and sustainability in the utilization of forest resources, as regulated in Law Number 41 of 1999 concerning Forestry. Clear regulations are needed to avoid ownership conflicts, prevent illegal exploitation, and ensure a balance between economic, social, and environmental aspects. The state has full authority to determine, regulate, and supervise forest

management to achieve the goal of people's welfare in a just and sustainable manner. With legal certainty, it is hoped that forestry policies can be implemented effectively, provide protection for the community, and ensure the sustainability of forest ecosystems for future generations.

Legal certainty in natural resource management is a crucial factor in ensuring environmental sustainability, social stability, and certainty of economic investment. The major challenges include overlapping regulations, weak law enforcement, and intervention by political interests that hinder consistent policy implementation. The active role of the community and the private sector is key to encouraging transparency and sustainable natural resource management practices. Therefore, more comprehensive policy reforms increased technology-based supervision, and synergy between the government, community, and business are the main solutions to strengthening legal certainty. With these steps, natural resource management can be carried out fairly, and sustainably, and provide long-term benefits for future generations.

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