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Community Participation in Environmental Management Based Justice and Human Rights in Indonesia

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Abstract:

Utilization of natural resources on a large scale and uncontrolled have an impact on the environment. Local Governments are less stringent in providing mining permit, without going through a feasibility study will be adverse effects on the environment. After completing the miners mining, they leave gaping holes that are very difficult to be returned to its original condition. In addition, illegal logging is not controlled due to the lack of law enforcement has resulted in environmental damage gets worse. From year to year, deforestation in Indonesia is getting worse. Denuded forest affected resulting in a growing number of natural disasters such as landslides and flash floods. Human behavior today that exploit timeless natural resources, especially forests implications for intergenerational injustice and human rights violations, especially the generations to come in exploiting natural resources and forests. This indicates that humans are now as if it considers itself the most entitled to enjoy the natural resources, without thinking of future generations who also have rights to enjoy the natural resources. If the utilization of natural resources and uncontrolled forest, uncertain future generations can not enjoy a good natural resources and quality. Addressing natural resource conditions are getting worse, then there must be a change in mindset and paradigm, that natural resources are have all generations. Generation are now required to manage it as well as possible for the sake of future generations. The most important thing today is to continue to encourage the active participation of the community in preventing damage to the environment, as a form of moral responsibility towards future generations who also have the same right to enjoy the natural resources.

Keywords: *community participation, environment, justice, human rights*

1. Introduction

United Nations (UN) has set June 5 as World Environment Day. Such determination is intended as a form of moral responsibility of the present generation to the next generation. That preserving the environment is a wise behavior, because our right to enjoy the environment at this time is also right and belongs to the generations to come.

Indonesia is listed as one of the countries with the fastest rate of deforestation. Even Hollywood stars Harrison Ford made the film *Years of Living Dangerously* that explain the facts about the destruction of forests and the environment in Indonesia (Kompas, 2015). Deforestation in Indonesia is one of the central issues of environmental influence on the existence and integrity of the earth. Therefore, when the forest is diminishing extent, then the excess is happening is increasing global warming. Humans are given the authority to exploit the potential of forests to ensure human survival, but was never given the authority to destroy the forest let alone destroy it. Environmental damage that occurs when the forest in particular has resulted in people's lives in danger. The earth is getting hotter, turn erratic climate, sea water broke through to the mainland and other excesses. If we do not address the damage by allowing people who are not responsible for continued exploitation of forests, then one day the earth can not we live because it was getting hot. Remember that the forests of Indonesia and Brazil are the lungs of the world. Therefore, it is crucial to preserve forests for future generations.

Until well into the second millennium, it seems that environmental problems are not getting better. Several reports from the World Bank and Development Project of the United Nations (UNDP) even the United Nations Environmental Programme (UNEP) showed a tendency that the conditions of the global environment is getting worse. Indonesia is one country that current environmental conditions worsened.

Damage to the environment is not controlled primarily due to mining that left scars mine. Damage due to mining of most concern, because the impact of the damage can not be recovered in a short time. Mining company seemed unconcerned with the resulting impact. The rest of the gaping holes in the tin mines of Central Bangka, Bangka Belitung Islands. The area damaged by tin mining continues to grow. Location of mined left just by miners. As a result, land damaged by mining continues to spread in the Pacific Islands (Kompas, 2014). In other areas in Indonesia are found similar cases.

Reality today is the human tendency to exploit natural resources and forests on a large scale. This is certainly detrimental to future generations. They will not be able to enjoy more natural resources that can support their survival. Obviously this condition is injustice, especially for generations to come.

2. Discussion

Uncontrolled exploitation of natural resources and forest this time resulted in injustice for generations to come. Therefore, for the sake of future generations, human (current generation) must behave responsibly and fairly in the enjoyment of natural resources and forests. This means that justice must consider future generations. The author uses the theory of Aristotle and Plato justice (Notohamidjojo, O, 2011) to analyze the utilization of forest resources from the perspective of justice. Aristoteles and Plato not only call for justice as the primary virtue, but also found that the main justice so that in fairness contained all the virtues. Thus, for Aristoteles justice is a virtue that is complete in the sense of justice is not entirely because of the value that should be owned and have it stop at the level of the self; but also an "active implementation", in the sense to be realized in relation to others.

Based on the theories of Aristotle and Plato justice, then the current generation should use natural resources and forests should also consider relationships with other people that generations to come. Utilization of natural resources and forests must be based on the virtue that takes into account the interests of future generations. This means that the use of natural resources and forest regard to fairness of future generations, so that they can be guaranteed to be able to enjoy the natural resources and forests.

The lives of generations to come under threat if the resource is currently in a state of severely damaged. With a severely damaged natural conditions, humans and other creatures will not be able to survive. Principle I of the Declaration of the United National Conference on the Human Environment (Stockholm Declaration) clearly recognizes this, namely: "... both the aspect of man's environmental, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights-even the right to life itself" (Hardjasoemantri, Koesnadi, 1997). That the existence of natural resource sustainability becomes absolutely necessary for the survival of life and civilization of mankind. If desired sustainable human life from generation to generation, the human resources must be available continuously in the balance. Therefore, the current absolute conserve natural resources and forests.

The principles embodied in the concept of sustainable development presented in more detail in the Declaration and international treaties produced by the United Nations Conference on Environment and Development (United Nations Conference on Environment and Development) in Rio de Janeiro in 1992 which includes:

1. The principle of justice between generations (intergenerational equity).
2. The principle of justice in one generation (intra-generational equity).
3. The principle of early prevention (precautionary).
4. The principle of the protection of biodiversity (conservation of biological diversity).
5. The principle of internalization of environmental costs (Hidayat, Arief & FX Adji Samekto, 2007).

Actions past and present generations are very detrimental to future generations in the field of the environment is an injustice. This means that environmental injustice will emerge concerning the interests of intergenerational and intergenerational. A deliberate injustice form of behavior that exploit natural resources and forest impact on environmental degradation.

Future generations will not earn any danger in the environment that can support quality of life and natural resources that have been depleted exploited by past and present generations. Report of the Secretary-General at the opening of the World Summit on Sustainable Development (WSSD) 1992-2002 states social and environmental conditions of the world even worse.

The dominant role of multinational corporations in the world economy is not parallel with the improvement of environmental conditions. Now injustice extraordinary environment. Threatened future generations will not get the same quality of the environment with which we obtain, but get a good environment is a basic human right that has been formally stated in the 1972 Stockholm Declaration.

The principle of intergenerational equity implies that each generation of mankind in the world have the right to receive and occupy the earth is not in poor condition due to the actions the previous generation. The principle of justice in one generation is a principle that talk about justice in a generation of mankind, where the burden of environmental problems should be shared by the community in a generation.

One of the principles in the Act No. 32 of 2009 on the Protection and Management of the Environment is the principle of justice. The principle of justice is that the protection and management of the environment should reflect the proportional fairness for all citizens, both cross-regional, cross-generational, and cross-gender. Therefore, the environment must be managed as well as possible so that the environment is not damaged, so they can be enjoyed by generations to come.

Attitude wise and prudent in managing the environment as well as possible the current generation means to provide the best for generations to come. As stated Ulpianus, justice is the willingness permanent and continuous to give to each person what should her (*iustitia Constans et perpetua voluntas est ius Suum cuique tribuende*). This is consistent with justice Justinian that justice is a virtue that gives results that everyone gets what is a part (Rahardjo, Satjipto, 2006).

At the Conference of the United Nations (UN) in Stockholm Sweden 1972 human rights affirmed in the environmental field, that humans are also responsible for protecting and managing the environment for the benefit of present and future generations. Environmental destruction is the deprivation of human rights. In this regard, the Declaration of Principles II Stockholm Sweden stated that natural resources should be saved for the benefit of (welfare) current and future generations through the planning/management as carefully as possible. However, the convergence between the growing needs of economic development and the increasing world population resulting in the use of natural resources is increasing, then the variance or more types of environmental damage.

The right to obtain and enjoy the natural resources and a good and healthy environment is a human right. In Article 28 H paragraph (1) of the Constitution of the Republic of Indonesia Year 1945 stated that "a good environment and healthy life is a fundamental right of every citizen of Indonesia". Likewise in Article 9 paragraph (3) of Law No. 39 of 1999 on Human Rights states that "everyone is entitled to a healthy environment". The right to a clean environment, healthy and worthy of a fundamental right that can not be transferable.

Declaration of Stockholm - Sweden 1972 is the first international legal instrument which clearly states on human rights in the environmental field. Stated that humans are also responsible for protecting and managing the environment for the benefit of present and future generations. Thus, the destruction of the environment is a deprivation of human rights.

As John Rawls said that human rights are given a place and respect the right of every person to enjoy a decent life as a human being, including those who are most disadvantaged (Ujan, Andre Ata, 2001). What John Rawls in accordance with the context of human rights across the generations will be the utilization of natural resources. This means that humans (generation) now must also pay attention to and respect the rights of future generations to exploit natural resources and forest adequate and quality.

Warning of the importance of attention to rights of future generations based on the current generation of actions that exploit forest resources in and uncontrollably. Associated with the Edith Brown Weiss (1991) stated there are 3 (three) generations past and present actions are extremely detrimental to future generations in the field of environment.

1. Excessive consumption of resources quality, making future generations have to pay more to be able to consume the same resource.
2. The use of natural resources that are currently not known best benefits in excess, is very detrimental to the interests of future generations, because they have to pay in-efficient use of natural resources by past and present generations.
3. The use of natural resources out by past and present generations make future generations do not have a high diversity of natural resources (Hidayat, Arief & FX Adji Samekto, 2007).

Human behavior today that exploit natural resources in the form of uncontrolled mining that contribute to deforestation is a denial of the truth of ecology (ecological truth). Ecological truth is the truth that is based on something that is believed that humans are part of the ecological process. Without nature, no other living things, man will not be able to survive. If humans do the destruction of nature, will undoubtedly occur disruption of life and will have an impact on the economy.

Behavior that is not noticed ecological truth shows dominant view of anthropocentrism. Anthropocentrism is a view of human relationships with the environment, which puts the interests of man as its center. In the extreme, anthropocentrism view denies the existence of the intrinsic value of nature. Then came the exploitative attitudes and behavior without concern for nature with all its contents. Deny human ecological truths and consequently there was global warming, floods, landslides and others.

Damage to the environment in general in Indonesia and Indonesian forests, especially because the state is classified as soft state. That is the position of the state is very weak in the action against the causes of environmental degradation and especially forests. In connection with this we are reminded of the famous name of Gunnar Myrdal with theories of development are much in demand and developed countries around the 1960s and 1970s.

Gunnar Myrdal (1898-1971) was an economist and sociologist from the University of Stockholm, Sweden, who was awarded the Nobel prize for economics in 1974, among others, in recognition of his scientific achievements with book *Asian Drama*. Written in the book are the ins and outs of social conditions - the economy of the South Asian countries, namely Pakistan, India, Sri Lanka and the countries we now know as the ASEAN. Indonesia is often referred to explicitly.

According to Gunnar Myrdal, these countries are "soft state" that is soft states. Soft state is a state whose government (both central and local) as if reluctant to burden people with obligations through legislation (law) or policy (*beleid*) general. Many things go unpunished and are not governed by clear rules. Even if there are regulations, implementation is not enforced. In countries is very low, soft social discipline. That is, the people of these countries are less conscious to comply with regulations and implement policies that have been set.

Relevant to the theory put forward Gunnar Myrdal, the practice in Indonesia is the lack of legal sanctions against the perpetrators and/or wrecking the environment as against illegal loggers are not only destroy the forest ecosystem, but also the country suffered material losses worth billions of dollars. The rate of deforestation in Indonesia is currently the equivalent of 6 (six) times the size of a football field per minute or 2.8 million hectares per year.

The disappointing thing is the imbalance between the number of illegal loggers were arrested law enforcement officers (police) with the police to follow up the success of the legal process to justice those involved in illegal logging. Generally, the police managed to arrest the perpetrator rarely catch the field and the main actor (intellectual actor) which is commonly called the timber barons. Illegal logging barons often escape from the law enforcement process, although it has reached the stage of proceedings in court.

Fitting what was said Honore de Balzac French that the law in the world has become like a cobweb, "*Les lois sont des toiles d'araignées a tavers lesquelles passent les grosses mouches et ou resten les petites*" (law, such webs spider, catches small insects and let the big ones get away). Relevant to this, Pillipe Sands states "laws are spider webs through which the big flies pass and the little ones get caught", meaning that the rule of law only applies to "who cannot afford". Discrimination run where law enforcement has changed from the shelter into a cobweb (Yohanes Suhardin, 2008).

Relying on law enforcement (law enforcement) in preventing damage to the environment is still facing many obstacles, when the mafia law remains rampant in Indonesia. Maximizing the potential that exists in the community is another aspect that is expected to prevent environmental damage is more severe is the active participation of society in preventing environmental damage.

In addition to continuing to encourage and improve enforcement against environmental damage, also must continue increasing intense participation of the whole society. This is in accordance with the principle of participatory contained in Law No. 32 of 2009 on the

Protection and Management of the Environment. The principle of participation is that every member of the community is encouraged to play an active role in decision-making and implementation of environmental protection and management, either directly or indirectly.

Maximize community participation and active role in the implementation of environmental protection and management is one of the best ways to ensure fairness in enjoying a good living environment for generations to come. Preventing deforestation and forest logging is not only the responsibility of the government and only hope the law enforcement, but also community participation is a *conditio sine qua non* (indispensable condition). Because the condition of law enforcement in Indonesia is still full with corruption, collusion, cronyism and nepotism.

The form of community participation is the *first*; provide information about the alleged destruction has occurred and logging. *Second*; monitor the process of the law enforcement by the law enforcement officers who handle cases of illegal logging from the investigation until the court decision is legally binding (*in kracht van gewijsde*). We wish to commemorate World Environment Day on June 5 that would come to be increased participation and public awareness of environmental sustainability, so that acts of vandalism and illegal logging by people who are not responsible can be reduced as much as possible, which means keeping the forests of Indonesia as one lungs of the world.

3. Conclusion

Environmental conditions that have severely damaged the current lead future generations can not take advantage of natural resources and forests. Exploitation of natural resources and forests without regard to the balance and preservation of the environment is injustice for generations to come. Exploitation of natural resources and forests without regard to the balance and preservation of the environment, future generations lose their human rights to exploit natural resources and forests.

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