



# The Urgence of Governance of Village Regulations and Traditional Regulations as Peatland Management Effort Based on Green Economy in Jambi Province

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**Abstract.** Peatlands are currently an option in conducting land extensification in carrying out various business activities. At least there are several things that make peatlands increasingly massively used in various business activities, such as the rate of land conversion in agriculture, the increase in population, and the desire to make Indonesia a world food barn. The use of peatlands has the potential for harmful impacts to the community, this is because peatlands are easy to burn and cause air pollution to become worse. This happened in 2015 and 2019 when forest fires occurred on peatlands in Jambi Province, causing very bad air pollution. To prevent this, the village government has an important role through the governance of village regulations regarding peatlands in the village. In addition, to strengthen this, it is necessary to manage customary regulations to be in line with village regulations, so that in this way the local wisdom of indigenous peoples can be maintained. However, in Jambi today there are still many villages that do not yet have the governance of village regulations and customary regulations governing peatland issues. Therefore, this study will describe the urgency of managing village regulations and customary regulations as an effort to manage green economy-based peatlands in Jambi Province. This study uses a normative juridical method, using a statutory and conceptual approach. It was found in this study that at the regional regulation level, the government has given special attention by issuing regional regulations on peatland management, but at the village level there are still many who do not have these regulations. The urgency of the governance of village regulations and customary regulations is to preserve the environment so that the basis of a green economy can be achieved, and local wisdom of rural communities can also occur.

**Keywords:** green economy · peat land · village regulations · customary regulations

## 1 Introduction

Indonesia is a country that has the largest amount of productive land in the world. However, the growing economic needs prompted a massive expansion to meet these

needs. This causes the narrowness of productive land, so that it must be carried out on marginal agricultural lands such as peatlands. The extensification of peatlands in Indonesia is also driven by the natural state of Indonesia, which is the second largest country in the world that has peatlands with an area of 22.5 million hectares [1].

One example of today's commodity that takes advantage of the role of peatlands is palm oil in line with the increasing demand for edible oil and biodiesel in international and domestic markets [2]. National Strategic Program (PSN) based on Presidential Regulation Number 109 of 2020 concerning the Third Amendment to Presidential Regulation Number 3 of 2016 concerning Acceleration of Implementation of National Strategic Projects [3].

The use of peatlands at this time is not solely for business purposes. Many peatlands are managed directly by communities and even indigenous peoples for the common good. Of course this is based on the potential of peatlands which not only have economic benefits, but are also beneficial for the existing social ecosystem. However, of course, it is possible that these two interests are not in line between the community and private companies that use peatlands as the company's operational medium.

Good regulatory governance by involving all parties who use peatlands is certainly very important. Through this management, conflicts of interest or conflicting and detrimental practices can be prevented, especially in the rights of indigenous peoples who occupy peatlands and have their status as ulayat lands. So that the governance of this regulation is not only held at the provincial or district/city level but directly through village regulations.

Through good regulatory governance, all the negative impacts of business conducted on peatlands can be avoided, for example, forest fires. One of the provinces that has serious problems with this is Jambi Province, which is the third largest province with peatlands on Sumatra Island, which in 2018 reached 736,227.20 ha [4]. These negative impacts occur because of the irresponsible attitude of those who use peatlands for their interests. In addition, the lack of regulations governing peatlands is also a problem that must be resolved. Therefore, to achieve the fulfillment of all interests that exist in the community related to the use of peatlands, it is up to the village level to have these rules.

In addition, another thing that needs to be considered is the continuity between those who use peatlands and local wisdom represented by indigenous peoples. In realizing this, of course, there needs to be an interrelated synergy between entrepreneurs who use peatlands, communities, and indigenous peoples through the management of village regulations and customary regulations to be harmonized so that there is no conflict with each other as well as entrepreneurs who use peatlands.

The Jambi Provincial Government has actually paid special attention to the existence of peatlands in Jambi by ratifying the Jambi Provincial Regulation Number 1 of 2020 concerning Peatland Governance. In the consideration section, it has been explained that the establishment of Jambi Province Regional Regulation Number 1 of 2020 concerning Peatland Governance is intended to preserve the peat ecosystem in Jambi Province for the welfare of the community.

However, there are still fundamental problems from the enactment of Jambi Province Regional Regulation Number 1 of 2020 concerning Peatland Governance, namely related

to the absence of Village Regulations that regulate further regarding peatland management in each village. This is very necessary considering that in order to protect the livelihoods of many people, it is necessary to have very technical regulations that are adapted to village conditions as well as to be harmonized with local Customary Regulations to ensure that in the implementation of the use of peatlands, nothing harms the community.

Indeed, in the Jambi Provincial Regulation Number 1 of 2020 concerning Peatland Governance, it is stated that the governor gives recognition to the ecosystem and community protection system and customary law communities, but this is not a detailed matter but only a general provision. Therefore, to ensure legal certainty from entrepreneurs using peatlands, it is necessary to manage village regulations and customary regulations in every village as part of peatland management in Jambi Province.

By implementing this governance, it will avoid damage to peatlands due to land clearing. Clearing oil palm land on peatlands will encourage damage and natural imbalances due to land clearing for development reasons. This of course will only make peatlands experience damage.

By harmonizing the Village Regulations and local wisdom as outlined in the Customary Regulations, it will further emphasize the implementation of the green economy concept as an idea to carry out business activities that do not damage the environment and harm the community. With the governance of regulations at the village level, village authorities can take firm steps to take action against entrepreneurs who use peatlands who do not comply with existing regulations. This study will identify more deeply the urgency of managing village regulations and customary regulations as an effort to manage green economy-based peatlands in Jambi Province.

## **2 Materials and Methods**

This research is based on a normative study by analyzing various statutory provisions relating to peatlands. This study uses several approaches including the law application approach, conceptual approach, and case approach. Collecting data in this study uses a literature study through a search for literature materials for further inventory into good legal materials.

## **3 Results and Discussion**

### **3.1 Peatland Management in Jambi Province**

Utilization of peatlands is a necessity in the midst of less and less productive land that has been used for various activities. The use of peatlands as agricultural land is at least triggered by several things, such as the rate of land conversion in agriculture, the increase in population, and the desire to make Indonesia a world food barn [5]. However, the use of peatlands has challenges that are not easy considering that peatlands are known to be very vulnerable to adverse changes in characteristics. If there has been a change in these characteristics, then the peat land becomes unproductive.

The wrong use of peatlands can also cause an increase in the effect of greenhouse gases, considering that peatlands in their natural state have the function of being a carbon sink which contributes to reducing the effect of greenhouse gases on the atmosphere. So that if a peat forest is cut down, the carbon that was previously in the peat forest becomes easily oxidized into CO<sub>2</sub> gas which can accelerate the rate of greenhouse gases [6].

In addition, peatlands also have the characteristics of being highly flammable during the dry season. According to the Ministry of Environment and Forestry, peat soil has sponge like properties, which is very easy to absorb water during the rainy season, even peatlands can hold water to the maximum, but in the dry season, peatlands become dry land and are highly flammable, considering that that in peat there is fuel which is plant remains below the soil surface. This is what makes it difficult to detect if there is a fire on peat land because the fire spreads below the ground surface [7].

The dangerous potential possessed by peatlands must of course be managed properly by the government so that these negative impacts can be prevented to a minimum. Delayed prevention due to the absence of good management will certainly threaten the safety of the lives of everyone around peatlands. With good management from the government, this has shown that the government is not serious about protecting its people.

Management of peatlands by the government is one of the efforts to increase income so that it can have an impact on people's welfare. Proactive government in responding to every problem is a manifestation of the implementation of the general principles of good governance (AUPB) [8]. So if there is no active effort in the welfare of the people, it will not be included in the AUPB.

The management of this peatland must of course be based on the provisions of the AUPB. According to Solechan, in the implementation of AUPB, the first thing that needs to be done is related to the completeness of good and correct legal administration. In other words, for every implementation of the AUPB there must be a legal rule that regulates it (at the statutory or regional level) [9].

In implementing peatland management, the provisions contained in the Jambi Provincial Regulation Number 1 of 2020 concerning Peatland Governance still discuss many things that are still too general in nature. Peatland management in Jambi Province is based on several things, for example, harmonization between development plan documents, ecosystem characteristics, sustainability, harmony, balance, inter-regional cooperation, legal certainty, and stakeholder involvement. In planning and managing the peat ecosystem, these are compiled on the basis of a national peat ecosystem protection and management plan and a provincial peat ecosystem function map. In preparing and determining the protection plan, it refers to the results of the inventory and field verification.

Everyone who will use the peat ecosystem in Jambi Province must adjust to the peatland management that has been determined by the governor as part of maintaining the hydrological function of peat. The obligation to control this ecosystem is part of the task of the local government as referred to in Article 10 paragraph (1) of Jambi Province Regional Regulation Number 1 of 2020 concerning Peatland Governance.

The position of indigenous peoples' rights to peatlands in Jambi Province is highly protected based on Article 13 paragraph (1) of Jambi Province Regional Regulation Number 1 of 2020 concerning Peatland Governance that the Governor recognizes the existence of an important ecosystem protection system in customary areas and has an

obligation to provide protection against the rights of communities and indigenous peoples to natural resources located on their peatlands.

The rights of indigenous peoples to their lands have been recognized through Article 18 paragraph (2) of the 1945 Constitution that “The State recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with community development and the principles of the Unitary State of the Republic of Indonesia, which are regulated in law.” The Constitutional Court through its Decision Number 35/PUU-X/2012 related to the judicial review of the Forestry Law has also strengthened the ownership of indigenous peoples over their *ulayat* lands. The decision basically states that customary law communities are recognized as independent legal subjects, which also includes the recognition of *ulayat* land.

The acknowledgment contained in the 1945 Constitution and the affirmation by the Constitutional Court through its decision show that the position of indigenous peoples has its own specificity, considering the characteristics of its local wisdom. The recognition of the rights of indigenous peoples is an inseparable part of the historical aspect of the existence of indigenous peoples in Indonesia.

Recognition of indigenous peoples means acknowledging the rights attached to them, including the customary lands they have. In addition, the juridical consequence of recognizing indigenous peoples is the recognition of local wisdom as an inseparable part. In protecting the environment, indigenous peoples have distinctive characteristics, which are related to the notion of environmental sustainability. For example, the Baduy community still believes in *karuhun* or so-called ancestors. The Baduy believe that the land that exists today is the land of *karuhun* which is a relic of their ancestors and must be protected and cared for properly. Therefore, the Baduy tribe holds the *pikukuh karuhun*, namely *Lojor teu meunag* is cut, the cottage *teu meunang* is spliced, which means that the length cannot be cut, the short cannot be spliced, it cannot be reduced, it cannot be exceeded, that's what it is. In addition, there are other sentences which state that mountains cannot be melted down, land cannot be destroyed, sacred lands cannot be tampered with.

Recognition of such customary beliefs will certainly benefit the environment if it is carried out consistently. Moreover, between indigenous peoples and their customary lands, it is something that is mutually dependent because it is carried out to meet basic needs, such as food, and so on. Therefore, the recognition of indigenous peoples in Jambi Province Regional Regulation Number 1 of 2020 concerning Peatland Governance is a very positive thing and is in line with the recognition contained in the 1945 Constitution and the Constitutional Court Decision.

Furthermore, with regard to taking action if there are actions that do not meet the protection obligations, then do not comply with the norms, standards, procedures, and criteria for peat management, as well as converting land, the Regional Government can apply disincentives for this matter. In addition, there are also administrative sanctions that are coercive in nature to temporarily stop activities.

In managing peatlands, these plans are included in the Regional Long-Term Development Plan (RPJPD) and the Regional Medium-Term Development Plan (RPJMD). The period for the implementation of peatland management can be said to be very long, namely from 2020 to 2050 and periodic supervision is carried out by the Governor.

### **3.2 The Urgency of Governance for Village Regulations and Customary Regulations as an Effort for Green Energy-Based Peatland Management in Jambi Province**

The village is the smallest unit in an autonomous region and has its own autonomous nature. Like other autonomous regions, villages also have the same authority within the scope of the management of autonomous regions, such as the formation of village regulations which are the authority of village officials. Village regulations are formed as a form of protection and regulation of local community activities. This is as the meaning of the village, that in Article 1 number 2 of Law Number 6 of 2014 concerning Villages, village government is interpreted as the implementation of government affairs and the interests of local communities in the government system of the unitary state of the Republic of Indonesia.

Seeing this definition shows that the establishment of a village aims to uphold the interests of the community in rural areas. Villages are formed in such a way as other regional levels through village democratization aspects, so that the implementation of village governance is based on fundamental democratic principles. Recognition of the village has been recognized since the days of the founding parents forming Indonesia, Mohammad Yamin stated that “The State, Village and all customary law alliances, which were renewed by means of rationalism and the renewal of the times, were made the bottom leg of the structure. Between the top and the bottom, the middle section is formed as the Regional Government.” [10].

Widjaja said that the village became an autonomous institution through traditional customs and had its own laws and was relatively independent [11]. Giving autonomy and flexibility to the village will certainly encourage the optimization of the welfare of the village community. The granting of village autonomy through Law Number 6 of 2014 concerning Villages is not a grant of autonomy as in the beginning of the existence of the village, and is subject to the laws and regulations and the 1945 Constitution [12]. As an entity that existed before Indonesia’s independence, the village has distinctive characteristics that are not owned by the village by other autonomous regions. The village has a strong influence on the regulation of the customary system in the local government system, managing existing local resources and the socio-cultural life of the community [13].

On this basis, village regulations become an important authority to strengthen the village foundation as a local government. The formation of village regulations is carried out by the village head which is then discussed by the Village Consultative Body and a mutual agreement is taken on the draft village regulation. This authority shows not only autonomy at the village level but also democratization progress.

In the case of peat management as an instrument of protection, there is an urgency to manage village regulations so that they can optimally protect the interests of village communities as a form of village government responsibility in realizing all village interests. However, in practice there are still various problems in the formation of village regulations such as the knowledge and ability of the village government to enforce village regulations [14]. With limited capabilities, of course, it is possible that the formation of village regulations can give birth to problems in the future if they are not prepared in

accordance with the principles of formation and the principle of harmonization in the formation of regulations.

Village regulation governance to direct and realize green economy-based peatland management is very possible to be carried out by the village government. Through the formation of village regulations in accordance with the principles of establishing regulations and harmonization with higher regulations, it will force entrepreneurs using peatlands to follow all the rules set by village regulations. To direct the interests of a green economy, the village government can also accommodate various rights owned by local indigenous peoples through customary regulations by including matters that are relevant and have a correlation with the realization of a green economy.

Through the governance of village regulations and customary regulations that are directed to support the green economy, it will protect the interests of village communities and avoid losses in the use of existing peatlands. The position of village regulations as part of statutory regulations is recognized in Article 8 paragraph 2 of Law Number 12 of 2011 concerning the Establishment of Legislation which states that statutory regulations are recognized for their existence and have binding legal force as long as they are ordered by applicable laws and regulations. Higher or formed on the basis of authority. On the basis of this authority, it shows that the village regulations established by the village head as the administration of village government are included in the binding legislation [15].

The urgency of governance of village regulations and customary regulations to direct business activities in the use of green economy-based peatlands is very necessary considering that many forest fires are intentionally carried out for the purpose of clearing company land, such as the case of burning peat land with an area of 500 hectares which causes air pollution in 2019 [16]. Peatland fires in Jambi had reached their worst phase in 2015 and 2019 which caused economic paralysis of the local community [17]. This wide-ranging effect certainly encourages the protection of village communities in each village through the governance of village regulations that are strengthened by customary regulations.

In addition, governance of village regulations and customary regulations that lead to green economy-based peatland management will also help strengthen local wisdom because it aligns the interests of local communities with business activities. In this way, the sociocultural aspects will also be strengthened through good governance in village regulations and customary regulations in Jambi Province.

By balancing the interests of various groups, the village can be said to have realized the main goal of good governance, namely the achievement of a state of government that can guarantee the interests of balanced public services through the involvement of all parties in it [18]. The governance of village regulations and customary regulations will create good, responsible, efficient, and effective state governance to synergize constructive interactions between the state, the private sector, and the community [19].

The governance of village regulations and customary regulations in Jambi Province must also be followed by including this green economy-based peat management plan through the Village Medium-Term Development Plan. In the governance rules, village regulations and customary regulations will also be designed regarding efforts related to preventing forest fires that are prone to occur on peatlands. In this way, the governance

of village regulations and customary regulations will further strengthen the position of village communities and indigenous peoples in Jambi Province.

## 4 Conclusion

Based on the analysis of the discussions carried out, it was found that the Jambi Provincial government has a concern for maintaining peatland management and the rights that exist in the community through the establishment of Jambi Provincial Regulation Number 1 of 2020 concerning Peatland Governance which emphasizes protecting the rights of indigenous peoples. Regulations regarding peatlands must also be regulated through the governance of village regulations and customary regulations so that they can emphasize the protection of village communities and indigenous peoples. The urgency of governance of village regulations and customary regulations related to green economy-based peatland management is to protect the interests of village communities and indigenous peoples towards their environment so as to minimize losses given to the community. In addition, this governance will also strengthen the local wisdom of the community by incorporating green economy-based peatland management arrangements that practice following the customs of indigenous peoples.

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