ABSTRACT

Logging Concession in Indonesia

SIUN

The objective of the research dissertation was to find out and develop legal concepts of logging concession in Indonesia, including: (a) the basis of state's authority in regulating and controlling the logging concession, (b) basis of logging concession establishment and management and (c) the traditional people or indigenous people's right in the logging concession.

The forest area in Indonesia achieved 144.5 million hectares. Since 1967-1980, 519 logging concessions with areas 53 million hectare were issued. This figure rose to 651 logging concessions with areas 69.4 million hectares in June 1998. However, in late 2003 this figure decreased to 363 logging concessions and HPHTI with area 32.18 million hectare.

Article 33 (paragraph 3) of Constitution 1945 became a foundation for the state's authority to manage, regulate and control allotment and utilization of forest as a part of natural resources for optimal usage of people welfare. In technical and operational context, this constitution's mandate was executed based on Act No.5/1967 as amended by Act No. 41/1999 on Forestry. In addition, definition of responsibility and financial distribution of forest products between central government and regional government have been regulated in Act No. 32 and 33/2004. The legal authority could be obtained through attribution, mandate and delegation through which the government issued logging concession composed of harvesting, rejuvenating, maintenance and protection, processing and marketing.

Furthermore, to determine legal status and legal certainty of forest areas the government must establish certain forest areas as the protected forest, productive forest and conserved forest, and then they must be maintained and kept, "moratorium", minimum 30% of the land area.

The government's recognition over the traditional people's right was abstract or blurred since they must get permission from the competent authority or logging concession holder in taking benefit of forest products. Because the traditional people or indigenous people's right represented human rights then the government should protect such right and try to realize it. For justice there should be obvious law regulating distribution of benefits resulting from logging concession for the traditional people.

Key word: Logging concession

In Indonesia