

LEGAL TURBULENCY IN THE FOREST AREA INAUGURATION ARRANGEMENT IN INDONESIA

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ABSTRACT

Deforestation continues to increase and worry about the future of Indonesia's forests. The fact of the law shows that the regulation of the establishment of forest areas in Indonesia is in the legal turbulence (between order and irregularity). This paper is stated based on the results of a study that discusses why legal turbulence occurs in the regulation of forest area inauguration, what implications it has and how the system of legislation in Indonesia overcomes it. To answer the problem, normative juridical research methods are used with philosophical, conceptual, legal, case and comparison approaches. From the results of the study, it was found: a) the formation of legal turbulence due to inconsistency of the article, b) the arrangement of forest area inauguration was brought into the legal turbulence space because there were delegations by law to the government and the government to do sub-delegations to ministers not according to the delegate non-potent delegare principle In escalation, it combines with the inconsistency of the article which is a legal narrowing (rechtsverfijning) so as to provide an opportunity for the minister to make deviant regulations, and c) the legal implications of legal turbulence in regulating the establishment of forest areas in the form of violations of individual rights, community/indigenous peoples rights, rights regional autonomy. Overcoming legal turbulence in regulating the establishment of forest areas is within the domain of the system of testing legislation that has several weaknesses so that legal turbulence becomes chaotic in the law. The chaotic situation in the law is the same as the legal uncertainty of the forest area which provides the freedom of space for the conversion of forest areas as a result of which deforestation continues to increase and is worrying because there is no legal certainty in the forest area.

Keywords: Legal turbulence, regulation, inauguration, Indonesian forest area.

INTRODUCTION

Forest is "an ecosystem unit in the form of expanse of land containing biological natural resources which is dominated by trees in the fellowship of their natural environment, one and the other cannot be separated" (vide Article 1 number 2 of Act Number 41 of 1999 concerning Forestry, hereinafter referred to as UUK) The primacy of the forest (playing) is one of the determinants of the life support system and the source of people's prosperity. Therefore, its existence must be maintained optimally, maintained its carrying capacity sustainably, and managed with noble character, fair, wise, open, professional, and responsible (vide foundation weighing letter b UUK). However, these considerations are not supported by legal certainty regarding which forest areas and non-forest areas.

The legal uncertainty of forest areas causes deforestation to continue to increase and be alarming. This is not in line with the principle "The State of Indonesia is a legal state" (vide Article 1 paragraph 3 of the 1945 Constitution of the Unitary State of the Republic of Indonesia). As long as there is no legal certainty about forest areas, conflicts between

interests in land tenure are increasing sharply, because there is no guarantee of legal certainty about the status of certain areas as forest areas or as non-forest areas.⁶²

Land tenure conflicts related to the designation of forest areas have become complicated amid the increasing number of regulations issued by government executives (hyper regulation). People find it difficult to know the rules and it is increasingly difficult to understand the rule of law which is generally binding,⁶³ as well as legal arrangements in the forestry sector, what is carried out is government law (*executive heavy*⁶⁴) not state law. This can be seen from the actions of the minister to issue a partial decision (provincial territory union). The minister, freely revoked and issued a new regulation concerning the forest area in the province which caused unclear coordinates of the forest area. Changes in coordinate points tend to expand the forest area, but the meaning of expansion does not mean that deforestation is reduced, on the contrary it is expanding. Because the expansion of the forest area is intended for licensing the conversion of forest areas requested by corporations for plantation or mining areas. This means that the forest area does not expand on the contrary it decreases or equals the increase in deforestation rates.

Behind the legal issue of regulating the inauguration of forest areas, people are actually in a state of being trapped by various arbitrary regulations, a condition termed a situation where people are trapped in a legal turbulence.

RESEARCH METHOD

This type of research is normative juridical research which is a study in the context of the field of law to be able to examine the substance of positive law that exists textually which is not only about norms, but also principles and even the values contained therein relating to forest area regulation. The research approaches used include legislation, case approaches, philosophical approaches, conceptual approaches and comparative approaches.

RESULTS AND DISCUSSION

1. Legal Turbulence and its Clarity

In line with the thinking of Satjipto Rahardjo who suggested the use of other sciences, especially the development of exact theories that could be used to explain the development of

⁶²In line with Prajudi Atmo Sudirdjo's view, as quoted by R.M. Girindro Pringgogidgo in Speech for the Inauguration of Permanent Professor of Law, Faculty of Law, Indonesia University, November 16, 1994 entitled Wisdom, Hierarchy of Legislation and Policy in the Context of Developing State Administrative Law in Indonesia, "in every country there is a dichotomy of interests between people (citizens the country in general) and the ruler of the state ", confirmed by RM Girindro Pringgogidgo, the birth of the principle of the rule of law (rechtsstaat) to prevent conflicts from arising from the existence of the dichotomy. In: Hendra Nurtjahjo, (Editor), *Politik Hukum Tata Negara Indonesia*, Jakarta: Center for Constitutional Law Studies at the Faculty of Law, Indonesia University, 2004, p. 172.

⁶³ In terms of quantity, the laws and regulations made by the Government are increasing in number (hypperegulation) and complexity in law (increasingly complex legal issues) can create alienation of laws, where people have difficulty understanding legal regulations. This is as stated by Richard Susskind "The quantity and complexity of law combine with its lack of intelligibility and inaccessibility to constitute a societal infrastructure which is quite literally disintegrating from the community and state it is meant to sustain. in: Richard Susskind, *The Future of Law, Facing The Challenges of Information Technology*, New York: Oxford University Press, 1998, at. 40.

⁶⁴Executive heavy means: power in one hand that is not carried out according to the principles of democracy, the rule of law, and the state based on the constitution. In: Bagir Manan, (ed) Moh. Fadli, *Dissecting the 1945 Constitution*, Malang: Brawijaya University Press, 2012, p. 115.

legal science and theory in Indonesia.⁶⁵ The use of the term "legal turbulence" has not been so familiarly stated in legal studies but there are already some experts who use it.

According to Michel Serres, turbulence is an intermediate state or intermediary. If we distinguish between the state of regularity and the state of chaos."⁶⁶ An interesting definition, stated by James Gleick, "Turbulence is chaos in its various scales, a small vortex in a large vortex. He is not stable. It is dissipative, meaning it releases energy and then suddenly holds it back. He is a movement in a random time."⁶⁷

Based on exact science, turbulence is placed as an independent and random variable (independent variable) that has the capacity to influence the dependent variable (dependent variable). In the legal social sciences, Independent variables are occupied by legal and legal politics as dependent variables. Between legal turbulence and legal politics have the same capacity as independent variables but differ in dimensions. Clearly, legal politics moves freely at the stage of law formation with the power that influences it both the power to realize a fair law or the power to make the law a contradictory tool of power with the intention to bring justice. As for legal turbulence, it is nothing but the potential that will always be there (a small vortex in the big vortex) of the power facilitator to realize a fair law through the sentence of law. Rather than that, the emergence of legal turbulence is said to be a "phenomenon" because it is very dependent on the presence or absence of direction control.⁶⁸

In relation, conductive legal politics by realizing a fair law through the sentence of law tends not to cause legal turbulence at the implementation level of the law. But if the legal politics are contradictory, then a relationship is formed in the form of a tendency to direct the dissipative⁶⁹ to later reap the benefits of a state of legal turbulence. This is quite reasonable as what Lawrence M. Friedman stated, as follows:

"Of course it is impossible to design a law that can be applied in all relevant situations. Words do not have a fixed meaning; unexpected situations arise. In fact, design design activities often run haphazardly and not carefully. Mistakes crept in even though there were all sorts of vigilance."⁷⁰

What was stated by Lawrence M. Friedman emphasized that man made law⁷¹ it will always have its limitations rather than the adage that appears "the law will always be one step behind the social event that preceded it". Thus the scope of the legal turbulence includes:

⁶⁵See: Satjioto Rahardjo, *Mengajarkan Keteraturan Menemukan Ketidak-teraturan (Teaching Order Finding Disorder)*, Final term of office for Professor of Diponegoro University Semarang on December 15, 2000.

⁶⁶In: Agus Rahajo, *Fenomena Chaos dalam Kehidupan Hukum Indonesia*, Journal of MADAM, Vol. IX No. 2 July 2007, p. 153.

⁶⁷*Loc. cit.*

⁶⁸Fiasco (latin): failure or failure. In: Sudarsono, Kamus Hukum, Jakarta: PT. Rineka Cipta and PT. Bina Adiaksara, 2005. p. 128.

⁶⁹*Dissipative by James Gleick is interpreted: "he releases energy and then suddenly detains him" in haeren with the Government making regulations (besluit) on the basis of the authority of the delegation when the delegating provisions no longer have binding legal force, the Government tries to restrain regulations it is still valid through the transfer of legal activism as an independent regulation (beleid).*

⁷⁰Lawrence M. Friedman, *Sistem Hukum, Perspektif Ilmu Sosial*, (terj. The Legal System: A Social Science Perspective) Translated by M. Khozim. Bandung: Nusamedia, 2011, hlm. 333.

⁷¹ Sorokin was quoted as saying by Edwin M. Schur in his book Law and Society, A Sociological view, Man-made Law, which is often only an instrument to subjugate and exploit a group by another group. The aim is entirely utilitarian: the safety of human life, security of property and ownership, security and order, happiness and well-being or of the whole community, or of the ruling class in society. The norms are relative, can be

- a. The reality of legal turbulence begins with the existence of norm problems which the term is used by various terms found in various legal studies, namely: conflict, obscurity, absence, inconsistency, synchronization, disharmony, and in complexity;
- b. The issue of norms opens a gap for the authorities to make policies that show the dominance of heavy executives, making various interests based on government law not state law; and
- c. Proof of the existence or absence of legal turbulence must be based on indicators that can indicate a state of legal turbulence with its consequences and factors that dominate legal turbulence. In such a law the constitution is an autonomous institution due to the state of legal turbulence which has become no longer an autonomous institution.

Indicators that can show a state of legal turbulence (the trapping of society in a state of legal turbulence) are conceptually proposed by Sudjito, as follows:

"A fluctuation between voidness and plenitude, between legal determinism and legal interdeterminism. On the one hand it is found that the law is firmly applied (to certain people or parties), but on the other hand there are also people or parties who are immune from the law. In the community there are language confusion, legal expressions and decisions, legal truth stirrers, without certainty."⁷²

Based on the scope and indicators to state the truth of the issue of inauguration of forest areas is in a state of legal turbulence, of course, requires an assessment⁷³ against the facts of legal uncertainty in the forest area. This means that a description and analysis of the objectives of the authorities is needed through legal interpretation (ratio of legislation)⁷⁴ make rules that give rise to legal turbulence.

The most important thing in "interpreting legislation"⁷⁵ on the issue of legal turbulence, the regulation of forest area inauguration is about the position of legal turbulence which is a phase that can bring other conditions in the form of chaos in the law, as stated by Sudjito, that:

changed and depend on circumstances. In such a legal system nothing is considered eternal or sacred, in: Satjipto Rahardjo, *Ilmu Hukum*, Bandung: Alumni, 1986, p. 206-207.

⁷²Sudjito, *Chaos Theory of Law: Penjelasan atas Keteraturan dan Ketidakteraturan dalam Hukum*, Journal: Legal pulpit. Vol. 18, No. 2, Juni 2006, hlm. 168-169.

⁷³ In the view of legal experts in Indonesia, "People put value on an object or fact, so that something is considered good, right and so on. Judging also means weighing. Humans connect something with something else then a decision is made. This decision is called a value decision. This means that the value is idiotic, while what can be judged is the fact, after humans put it on it. Facts or objects that can be put value on it are everything that can be captured with the five senses, can be objects, events, events, and attitudes or behavior ". See: S. A. Kodhi and R. Soejadi, *Filsafat Ideologi dan Wawasan Bangsa Indonesia*, Yogyakarta: University Atmajaya, 1988, p. 22. See too Abubakar Busro, *Nilai dan Berbagai Aspeknya dalam Hukum, Suatu Pengantar Studi Filsafat Hukum*, Jakarta: Bhatara, 1989, p. 2. According to Marezela Kordela, in his writing about Legis as a Binding Legal Value Ratio, In: Verena Klappstein and Maciej Dybosky, (ed), *Ratio Legis, Philosophical and Theoretical Perspectives*, (e-book), Switzerland: Springer International Publishing AG, part of Springer Nature, 2018, at. 25.

⁷⁴According to Adam Dyrda, in his writing about *The Real Ratio Legis and Where to Find It, A Few Pragmatic Considerations*, "The term ratio legis is an important term of legal practice. Thus, reflection over the general conceptual content of ratio legis may be a window through which practitioners could see the relevance of philosophizing about terms and arguments applied generally in legal practice". In Verena Klappstein and Maciej Dybosky, *Ibid.* at. 3.

⁷⁵According to Lawrence M. Friedman, "The interpretation of legislation is rooted in the question: Where do the specific rules of legal logic come from, and what is the need for these regulations?" Lawrence M. Friedman, *Sistem Hukum, Perspektif Ilmu Sosial*, Terjemahan *The Legal System: A Social Science Perspective*, Bandung: Nusa Media, 2011, hlm. 332.

"Chaotic situations in law will actually come through a stage known as legal turbulence, and legal turbulence will emerge when the law is no longer an autonomous institution, but becomes a variety of forms of games that are controlled by the chaos machines. They are generally politicians, economists, mass media, and those who have an interest in taking advantage in chaotic situations"⁷⁶.

2. Beginning of Legal Turbulence in Regulating Forest Area Inauguration

UUK stipulates that legal certainty in forest areas obtained after going through forest inventories is continued with the stages of the inauguration process (vide Article 14). The stages of cumulative forest area inauguration process include the stages of the process: a) designation of forest areas, b) arrangement of forest area boundaries, c mapping of forest areas, and d) determination of forest areas, (vide Article 15 paragraph 1). As a legislative product (state law), UUK delegates authority "regulates and manages everything related to forests, forest areas, and forest products and determines the status of certain areas as forest areas or forest areas as non-forest areas to the government (government law)" (vide Article 4 paragraph 2).

Based on the authority of the delegation, the government issued Government Regulation Number 24 of 2004 concerning Forestry Planning (hereinafter referred to as P3K). By the Government the authority that has been granted UUK in the sub-delegation to the minister to provide legal certainty regarding the status, function, location, boundary and area of the forest area (vide Article 15 P3K).

Article 1 point 3 UUK makes the legal narrowing (*rechtsverfijning*) the provisions for the establishment of forest areas regulated by Article 15 paragraph 1. The use of the phrase "designated and or determined" clearly creates norm ambiguity (forming legal turbulence space). Because there are inconsistencies in the article on forest areas, the minister interpreted literally/narrowly that the appointment was the same as the stipulation. In the escalation, the minister only issued a decision to designate a forest area (*besluit*) which stated that it was binding in general. This means that ministers make regulations that are not in accordance with the provisions of the UUK subject matter and put forward the general provisions, namely the defining article (the minister has brought the forest area inauguration arrangement into the legal turbulence space).

Delegation regulations in Indonesia tend to be deviated from their parent rules. Some legal experts in Indonesia provide a view:

According to A. Hamid. S. Attamimi:

"Therefore it is no exaggeration to say that the power to form delegate regulations has the potential to cause irregularities, besides the products produced are not guaranteed to be excessively free. According to the observations of some experts there are so many excessive delegation regulations. Predictably, this is related to the flood of regulations, which are not always good and right. At a certain level, this cannot be dammed, but can only be disciplined and corrected."⁷⁷

⁷⁶Sudjito, *Op.cit.* hlm. 169.

⁷⁷According to A. Hamid S. Attamimi, "if a delegation is indeed needed, it must be seen how the authority of a Government Regulation, for example, and how far Government Regulations may delegate its provisions to lower regulations". A. Hamid. S. Attamimi, *Teori Perundang-Undangan Indonesia. Satu Sisi Ilmu Pengetahuan Perundang-undangan Indonesia yang Menjelaskan dan Menjernihkan Pemahaman*. Speech of Inauguration of Professor remains at the Faculty of Law, Indonesia University, in Jakarta, April 25, 1992, In: Hendra Nurtjahjo (ed), *Politik Hukum Tata Negara Indonesia*, Jakarta: Study Center HTN FH UI, 2004, p. 120.

According to Ateng Syafrudin:

"In Indonesia, delegation of authority has indeed been arranged. However, the potential for irregularities or access to methods and content/material delegated can still occur. In line with the Government's function of regulating and managing."⁷⁸

Sub-delegation of authority regulating in First Aid to the minister should not occur because the main law does not imply that the Government has carried out such sub-delegation or is not in accordance with the principle of delegate non-potent delegare..⁷⁹ Because ministerial decrees are made without going through the process of stages as stipulated in the subject matter of the Law and First Aid, the content of the minister's decree designates the forest area without looking at the object in the field creating a state of legal turbulence (the situation: order and irregularity).

3. Fulfillment of Legal Turbulence Indicators in Regulatory Regulations on Forest Areas

From the results of the study, the regulation of the affirmation of positive forest areas is in a state of legal turbulence. As a description of the results, it is stated in the following table:

Table 1. Indicators of the state of legal turbulence in regulating forest area inauguration.

- I. The occurrence of an intermediate state or boundary between something that is seen as regular (order) Actually there are sources that cause chaos (disorder).

Order	Disorder	Relevance	
		Positive	Negative
Inauguration of the forest area consists of 4 (four) stages of the process based on the results of the forest inventory and refers to the regional spatial plan.	The Minister only carries out the initial stages of the process, namely the appointment of forest areas.	√	
I. Fluctuations occur between legal vacuum (Void) and legal firmness (Plenitude)			
Void	Plenitude	Positive	Negative
The Minister stated that the appointment was the same as the stipulation. The legal certainty of the forest area must be obtained from the implementation of 4 (four) stages of the process.	The Minister states that the violation of entering the designated forest area is threatened with criminality (vide Article 50 paragraph 3 letter a and letter UUK for those who work and or use and or occupy illegal forest areas and penetrate forests) while the appointment by the minister is not legally valid.	√	

⁷⁸In: Moh. Fadli, *Perkembangan Peraturan Delegasi di Indonesia*, Disertation: Doctoral Program in Law Science Faculty of Law, Padjadjaran University, Bandung, 2012, p. 26.

⁷⁹ A Hamid S Attamimi, *Peranan Keputusan Presiden Indonesia dalam Penyelenggaraan Pemerintah Negara*, Disertation, Jakarta: Indonesia University, 1990, p. 349-350. Based on John Lock, *The power of the legislative being derived from the People by a positive voluntary Grant and Institution, can be no other, than what the positive Grant conveyed, which being only to make Laws, and not to make legislators, the legislative can have no power to transfer their Authority of making Laws, and places itu in other hands*. Dalam: Lisa A. Cahil and J. Russel Jackson, *Nondelegation After Mistretta: Phoenix or Phaethon?*, William and Mary Law Review. Vo. 31, Issue 4, Article 7, 1990. at. 1053-1054.

II. The existence of Legal Determination and Legal Determination

Determination	In determination	Positive	Negative
Article 15 paragraph 1 UUK determines (determination) the confirmation of forest area in 4 (four) stages of the process.	Article 1 number 3 UUK makes Article 15 paragraph 1 no longer as a determination and Article 1 point 3 provides a broad policy range in accordance with the wishes of the minister to decide appointed and or stipulated.	√	

III. Law Becomes a Tool of Power, where Power Enacts Legal Regulations Repressively and Strictly against Certain Persons or Parties but Not for Certain Parties or Parties and They Are Immune to the Law

Denial of Justice	On touchable	Positive	Negative
III. Law Becomes a Tool of Power, where Power Enacts Legal Regulations Repressively and Strictly against Certain Persons or Parties but Not for Certain Parties and They Are Immune to the Law	Based on the permit to change the function of the forest area and business use rights on land that has been converted, the corporation complains to the police and residents who oppose it are accused of committing forestry crime. The occurrence of the killing of citizens by corporate collaborators is untouched by law.	√	

Law is No Longer As An Autonomous Institution

The reality of the law (rechtswekelijk heid) There is no legal order so that the law is repressive.

Source: Processed from research results.

4. Legal Implications of Legal Turbulence Conditions in Regulatory Regulations on Forest Areas

From the results of the study, the most significant affected areas were Kotabaru Regency, South Kalimantan Province and Kapuas District, Central Kalimantan Province. For Kotabaru Regency, based on the Decree of the Minister of Forestry No. 435/MENHUT-II/2009 concerning the Appointment of Forest Areas of the Province of South Kalimantan, more than 90% (ninety percent) of the total area of their territory is included in the forest area. For Kapuas Regency, based on Ministerial Decree Number S.575/Menhut-II/2006 concerning Revocation of Decree of the Head of Forestry and Plantation Planology Agency Number 778/VII-KP/2000, 100% (one hundred percent) of the territory of the region is automatically due to revocation the decision of the official is below the minister's level, which applies is the Decree of the Minister of Forestry and Plantation No. 759/Kpts/ UM/10/1982 concerning the Appointment of Forest Areas in the Provincial Provinces of Central Kalimantan.

The implications of the decision to appoint a forest area by the Minister are as follows:

- a. Material rights under individual control, the community / indigenous people are seized / taken by the state because they are included in the forest area;
- b. Everyone is threatened with being convicted because they are in a forest area and law enforcement officers act repressively;
- c. Villages, sub-districts, and regency capitals along with public facilities are included in the forest area; and
- d. There is no more regional autonomy to regulate and manage the region itself because the area of the region is included as a forest area.

Such conditions clearly lead to economic, social and security instability.

5. Weak Point Aspects of the System in Overcoming Legal Turbulence in Settings Forest Area Inauguration

From the results of the study, the most significant affected areas were Kotabaru Regency, South Kalimantan Province and Kapuas District, Central Kalimantan Province. For Kotabaru Regency, based on the Decree of the Minister of Forestry No. 435/MENHUT-II/2009 concerning the Appointment of Forest Areas of the Province of South Kalimantan, more than 90% (ninety percent) of the total area of their territory is included in the forest area. For Kapuas Regency, based on Ministerial Decree Number S.575/Menhut-II/2006 concerning Revocation of H.L.A. Hart sees this problem as a system problem, because between state law and government law which he calls "Primary rules and Secondary rules which are nothing but the center of the system."⁸⁰ Overcoming legal turbulence is largely determined by a system of testing legislation and a hierarchical system of legislation (the power of binding regulations in stages).

From the results of the study, Article 1 point 3 of the Law on Law is the basis for the deviation of ministerial decisions, in which the judicial review is submitted to the Constitutional Court. The Court stated that the phrase: "designated and or" in the provisions of Article 1 point 3 of the Law no longer has binding legal force. It turned out that the Court's decision did not provide any benefit to the party whose constitutional rights were impaired because the minister's decision remained in force and by the minister carried out the transfer of legal activism from the form of delegation regulations (besluit) to independent policy regulations (beleid). The weakness of the system is clear, because in the system of testing legislation in Indonesia there is no institutional constitutional⁸¹ complaint that allows implementing regulations to be included in testing regulations that form the basis of issuing regulations or decisions. In addition, the normalization of the system of legislation is pseudo

⁸⁰In: H.R. Otje Salman. S. dan Anton F. Susanto, *Teori Hukum (Mengingat, Mengumpulkan dan Membuka Kembali)*, Bandung: Refika Aditama, 2006, p. 90-91.

⁸¹ Compare this with the German Federal Constitutional Court. According to Jimly Asshiddiqie and Ahmad Syahrizal, "Requests for constitutional complaints are the right to submit petitions held individually or in groups, when the petition argues that the constitutional rights in question, as stated in the 1949 Basic Law have been violated by various legal products or public court decisions (ordinary judges). Asshiddiqie dan Ahmad Syahrizal, *Peradilan Konstitusi di 10 Negara*, Jakarta: Sinar Grafika, 2011, p. 47-48. see: Bundesverfassungsgerichts-gesetz (BverfGG) First part on the Constitution and Jurisdiction of the Federal Constitutional Court, 13th article states that: The Federal Constitutional Court has the authority to decide: one of them is mentioned in point 8a, namely about constitutional complaints Article 93 (1) nos. 4a and 4b of the Basic Law ". (1) The Federal Constitutional Court shall rule: ..., 4a. on constitutional complaints, which may be filed by any person alleging that he or she has been infringed by public authority; 4b. on constitutional complaints filed by municipalities or associations of municipalities on the ground that their rights to self-government under Article 28 have been infringed by a law; However, the law cannot be challenged in the constitutional court of the land.

because it does not contain regulations regarding the legal status of the implementing regulations or decisions that have been issued based on a provision in the Legislation which stipulates that the provisions of the competent judicial institutions are no longer legally enforceable. binding, then the same thing applies.⁸²

The weakness of the system has resulted in the minister's decision on the appointment of forest areas to be valid until now, the judicial review of the Supreme Court which has the authority to examine legislation under the law has also been hampered by the transfer of legal activism that the decision is now a policy regulation due to the Court's decision The Constitution, while a basic policy regulation test only adheres to the general principles of good governance, while the government postulates that the decision still applies to avoiding legal gaps and preventing forest encroachment. Thus the legal turbulence in the regulation of the establishment of forest areas has shifted into chaos problems in the law.

CONCLUSION

Reflecting on legal turbulence in regulating forest area inauguration, legal turbulence is a phenomenon whose emergence originates from norm inconsistencies in a law that creates further legal turbulence space combined with the delegation of authority regulating by law to the government and by sub-delegation by the government the authority to organize and regulate without an order from the parent law (delegate non potest delegare), arises the nature of the danger that sub-delegates tend to deviate from the provisions of the main law (activation of the norms of law brought into law turbulence space to create chaos in law), that chaos in law is a game of the chaos machines to benefit from legal uncertainty.

Overcoming legal turbulence requires an ideal system in resolving the norms of legislative conflict at different levels, mainly placing gambling reviewing the laws and regulations in one institution or not divided into two institutions or at least there are constitutional complaints and supported by the regulation of relative enforceability norms of implementing regulations or decisions that have been issued based on a provision in the Legislation.

⁸²Referring to Adolf Merkl's theory of the Stairwell structure of legal order, "A legal norm that" das doppelte rechtsantlitz "always has two faces, if upward it comes from and is based on the norms above it and if it is downward it becomes the basis and source of norms. the law below it so that a legal norm has a period of validity (rechtskracht) that is "relative" by that because the validity period of a legal norm depends on the legal norms above it so that if the legal norms above are revoked or deleted, then the norms legal norms underneath which are revoked or deleted too ". In: Maria Farida Indrati, *Ilmu Perundang-undangan (Dasar-Dasar dan Pembentukannya)*, Yogyakarta: Liberty, 2006, p. 25-26.

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