

## **The Authority of the Local Government in Forest Management and Its Implication toward Local Autonomy in Riau Province**

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### **Abstract**

The authority of local government in the forest management in Riau Province has not been implemented well as there is abuse in it committed by the functionaries as well as the community around of the forest area. It was found that forest management by the regency government is still far from the principles of well government management, transparency, participation, accountability, and professionalism. There are obstacles for local government to implement the forest management authority in Riau Province regarding among others, firstly, law and regulations; secondly, permit and supervision instruments; thirdly, law enforcement officers; and fourthly, community. Meanwhile, the system of local government authority in the forest management can be conducted through first, the system of forest management through Unity of Forest Management (KHP) concept; second, the system of community participation by involving the local community more broadly in planning, maintenance, management, decision making, implementation, and supervision. In order to give comprehension for local community the importance of sustainable forest management program for future generations, it is expected that counseling and socialization be intensified. The implication of forest management towards local autonomy shows a dynamic transformation, authority friction over forest management, namely from decentralization to centralization.

**Keywords:** Authority, Local Government, Forest Management, Local Autonomy

## A. Introduction

*Hutan mempunyai kedudukan, fungsi dan peranan yang sangat penting dalam menunjang pembangunan nasional. Hal ini disebabkan karena hutan bermanfaat bagi sebesar-besarnya kemakmuran dan kesejahteraan rakyat Indonesia.*<sup>1</sup> Forest is a priceless gift from God. Therefore man has a responsibility to protect and preserve it by among others avoiding to causing damages on this earth in order to keep it preserved not only for today but also in the future.

As long as the forest management is concerned with respect to local autonomy based on the Law Number 23 / 2014 about Local Government replacing the Law Number 32 / 2004 about Local Government, it found that more than a half of authority are divided into central and provincial. Regencies or city still have some authorities over some issues though no more bigger than what Local Government law has provided. The Law Number 23 / 2014 about Local Government places all forestry planning matters on the hand of Central Government (in this case The Ministry of Environment and Forestry (KLHK)). The Local Government law shall not explicitly provide forestry planning authority to province and regency.

With forestry matter as the local authority, there is only a conservation that is applied for Regency/ City, management of the public forest park (TAHURA). Similarly, with respect to other strategic authorities such as suggestion for changing status and function of forest from forest area to non-forest area, there is no regency authority for forest areas exchange. The implementation of production and protection forest areas utilization were applied to provincial government.<sup>2</sup> There is a friction authority happened in the forest manage-

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1 Salim H.S., *Dasar-dasar Hukum Kehutanan*, Edisi Revisi, Sinar Grafika, Jakarta, 2013, p. 1.

2 Bernadinus Steni, *Membedah Undang-Undang Pemerintahan Daerah yang Baru, Apa yang Baru dalam Pembagian Urusan dan Kewenangan Pusat-Daerah di Bidang Sumber Daya Alam*, Institut Penelitian Inovasi Bumi (INOBU), 2016, p.

ment based on the Law Number 23 / 2014 about local government that was regulated previously in the Law Number 32/ 2004.

Forestry decentralization implementation was characterized by business and power interests toward forest authority. On the one side, there is no discharge from central government that already hold, while on the other side, local government competes to reach the authority and position in their own region by any means. As the results of the interests are forest damages resulting in bad influences for environment, economy, institutional and social politics especially with regard to accessibility and biodiversity of forestry resources.<sup>3</sup> The way of exploitative and business oriented natural resources utilization gave impact to the deflation of people living standard increasing poverty level in the society who live around the forest. Forest damage rate has increased as a result of mismanagement of forest area which has been implemented for ten years like the one in Riau Province.

The forest area based on the Department of Forestry in Riau Province is 8.6 million hectare. To be specified by its function are as follow: 228,793.82 hectare (2.66%) is a conservative forest, 1.605.762,78 hectare (18,67%) is a permanent tree farm, 1.815.949,74 hectare (21,12%) is a limited tree farm, and 531.852,65 hectare (6,19%) is a natural conservation forest and 4.277.964,39 hectare (49,75%) is a productive conservative forest.

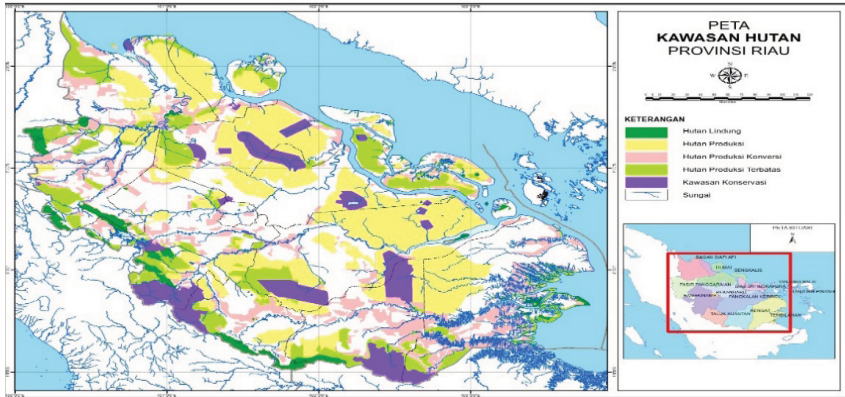
Compared to other provinces, Riau Province is in the highest rank for reforestation (73.653,7 hectare/year), but the gross deforestation area in this province is also very large (275.593,1 hectare/year), so that the increasing of forest is not comparable to the it reduction. As a result, the deforestation rate in Riau Province is still in the highest rank (201.939,4 hectare/year). The condition influenced by the quantity of Forest Area Utilization, especially the Business Permit for the utilization of Forest Timber Nature Product (*IUPHHK-HA*) and

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3 Iskandar, *Hukum Kehutanan, Prinsip Hukum Pelestarian Fungsi Lingkungan Hidup dalam Kebijakan Pengelolaan Kawasan Hutan Berkelanjutan*, Mandar Maju, Bandung, 2015, p. 5.

Map: Riau Province Forest Area



Source : Dinas Lingkungan Hidup dan Kehutanan (Department of Forestry and Environment) Riau Provinsi, 2017

Business Permit of Timber and Plantation Forest Product Utilization (IUPHHK-HT). The high change in forest cover caused by farming and plantation activities also unauthorized taking in this area.<sup>4</sup>

Forest management in Riau Province has caused many problems; firstly, it began from deforestation and degradation of the forest; secondly, there is a conflict with the local community when environmental pollution occurs as the corporation of industrial forest and oil palm plantations operated; thirdly, the forest damage in Riau has caused flood in every rainy season and forest fires during dry season; and fourthly, the corruption practices is the access to monopolistic practices and ecological damage. The forest management practices has failed to guarantee the sustainable natural forest in Riau that would potentially threat the existence of forest and community in Riau. Floods and forest fires that occurred in Riau Province have proofed that the existing forest of Riau can no longer maintain the environmental balance. The forest management slogans for community welfare is beyond the expectation and reality. In addition, the

4 Direktorat Inventarisasi dan Pemantauan Sumber Daya Hutan, 2015, Direktorat Jenderal Planologi Kehutanan dan Tata Lingkungan Kementerian Lingkungan Hidup dan Kehutanan, 2015, *Deforestasi Indonesia Tahun 2013-2014*, Kementerian Lingkungan Hidup dan Kehutanan, 2015, p. 43.

poverty is still there among the community who live around the forest.<sup>5</sup>

There is a fundamental problem that arises in some incompatible legal instruments, Local Government and Forestry law. The Ministry of Forestry believed that forestry decentralization is regulated with several restrictions that appropriate in forestry law, while local government hold on Local Government Law which gives much authority for the local, especially in giving business claim for production forest. However, after the friction authority of forest management occurred, another problem appeared, the implementation in field that gives some impacts for forest management institutions, there is a half-hearted in forest management by Forest Management Unit (FMU) that does not work optimally, determination of forest area boundaries that still inflicts a conflict between community and corporate parties, even forest corruption become one from the causes of forest damage that bring out some disadvantage not only for countries but also community and environment. While the problem that was brought up in this journal is how the local government authority in forest management in Riau Province. What are the obstacles for local government in the implementation of forest management authority in Riau Province and how is the local government authority system in forest management as well as the implications for local autonomy.

This research is a legal research with empirical type of legal research which is also called as field research.<sup>6</sup> Empirical legal research is a type of legal research that analyzes and examines the work of law in society.<sup>7</sup> Empirical legal research is a legal research methodology that seeks to see the law in a real sense or, in another words, to see

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5 Jaringan Kerja Penyelamat Hutan Riau (Jikalahari) dalam 14 Tahun Melawan Monopoli Pengusaha Hutan dan Lahan, *Catatan Hitam Tata Kelola Hutan dan Lahan di Riau 2002-2016*, Pekanbaru, 2016, p. 144.

6 Jonaedi Efendi dan Johnny Ibrahim, 2018, *Metode Penelitian Hukum Normatif dan Empiris*, Prenadamedia Group, Jakarta, p. 149.

7 Ishaq, 2017, *Metode Penelitian Hukum, Penulisan Skripsi, Tesis serta Disertasi*, Alfabeta, Bandung, p. 70.

and examine how the law work in society.<sup>8</sup>

Empirical legal research use 2 kinds of data, there are (1) primary data, data that obtained the source directly from the field, and (2) secondary data. Secondary data includes primary legal material, secondary legal material, and if necessary tertiary legal material.<sup>9</sup> The field data needed as supporting data is obtained through information and opinions from respondents determined in purposive sampling (determined by the researcher based on their want) and random sampling (determined by the researcher randomly).<sup>10</sup> The data in empirical legal research consists of primary data and secondary data. The primary data was collected through observation, interview, and questionnaire. Data analysis used in empirical legal research can be done qualitatively, which describe the data in a quality and comprehensive manner in the form of regular sentences, logic, not overlapping, and effective in order to ease comprehension and interpretation data.<sup>11</sup> Based on the research characteristic that used analytic descriptive research method, thus the data analysis is qualitative approach towards primary data and secondary data.<sup>12</sup> Then, followed by deduction analysis.

## **B. Local Government Authority in Forest Management in Riau Province**

Local government authority in forest management regulated in the Law Number 23/2014 about Local Government and the Law Number 41/1999 about forestry, Government Regulation Number 6/2007 that regulates forest system, forestry plan, and forestry utilization. The Law Number 23/2014 Article 9 paragraph (1) Dividing government business into absolute government business, concurrent government business, and general business. Especial for concurrent gov-

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8 Jonaedi Efendi dan Johnny Ibrahim, *Op Cit*, p. 150.

9 Abdul Kadir Muhammad, 2004, *Hukum dan Penelitian Hukum*, Citra Aditya Bakti, Bandung, p. 151.

10 Zainuddi Ali, 2009, *Metode Penelitian Hukum*, Sinar Grafika, Jakarta, p. 107.

11 Ishaq, *Op Cit*, p. 74.

12 Zainuddi Ali, *Op Cit*, p. 107.

ernment business which is local authority consists of Compulsory Government Business and Alternative Government Business. Alternative Government Business covers: marine and fisheries, tourism, agriculture, forestry, minerals and energy resources, trade, industry and transmigration. Similarly, the Law Number 41/1999 about Forestry, in Chapter VIII Article 66 regulated that to implelement forestry management, the government give a half of their authority to local government. The delivery of some authority aim to improve the forest management effectiveness to develop local autonomy.

The management of government business in marine and fisheries, tourism, agriculture, forestry, minerals and energy resources context are divided into Central Government and Local Government. While government business in forestry related to management of the public forest park (TAHURA) in regency/ city became local authority. The other strategic authorities such as business transformation suggestion and forest functions from forest area becoming non-forest area also the suing as well as no regency authority for forest area exchange. The implementation of productive and protected forest utilization will be handled by province government.

The distribution for Forestry Government Business covers: First, Forest planning is for central government authority that consists of: (a) Forest inventory managing; (b) forest area inauguration managing; (c) forest area stewardship managing; (d) forest area forming managing; and (d) national forest planning managing.

Second, forest management. Central Government Authority in forest management are: (a) forest system managing; (b) forest management planning; (c) forest utilization managing; (d) forest rehabilitation and reclamation managing; (e) forest protection managing; (f) forest products management and administration managing; (g) forest area management for specific purposes managing (KH-DTK). While Province Government Authority in forest management consists of: (a) Forest system unit management except conservation forest management (KPHK); (b) forest system unit management planning except conservation forest management (KPHK); (c) forest utilization in productive and protected forest area, covers: (i) forest

area utilization; (ii) non-timber forest products utilization; (iii) forest products collecting; (iv) environmental services except storage and / or absorption of victims utilization; (d) rehabilitation outside the forest area of country; (e) forest protection in protected and productive forest; (f) non-timber forest products utilization managing; (g) timber forest product utilization managing with more than 6,000 m<sup>3</sup>/year of production capacity; (h) KHDTK management for religious purposes.

Third, Living Natural Resources conservation and the ecosystem. There are Central Government Authorities in Living Natural Resources conservation and the ecosystem: (a) nature reserve and nature conservation managing; (b) plants and wild animals conservation; (c) environmental conditions of nature conservation areas utilization sustainably; (d) the implementation of utilization of wild plants and animals. While the province government authority in conservation of natural resources and ecosystems, such as : (a) The implementation of protection, preservation, and utilization of forest park sustainable (TAHURA) the cross regional of regency/city; (b) The implementation protection of wild plants and animals that are not protected and/or not included in Appendix CITES and (c) The implementation of the area management has an important ecosystem value and nature reserve buffer area and the nature conservation area. The authority of Regency/City Regional Government in the conservation of biological Natural Resources and their ecosystem only in the implementation of the forest park management (TAHURA) District / City.

Fourth, Education and Training, Counseling and Community Empowerment in Forestry Sector. Central government authority in Education and Training, Counseling and Community Empowerment in Forestry Sector such as : (a) organizing education and training also forestry secondary education; (b) national forestry counseling. While the province government authority in Education and Training, Counseling and Community Empowerment in Forestry Sector, such as : (a) the implementation of province forestry; (b) the community empowerment in forestry sector.



Fifth, Watershed Management (DAS). Central government be competent to held Watershed Management (DAS) as well as province government. They are able to held DAS management across the cities and in cities area in one province area. Sixth, Forestry Supervision. Central government be competent to held forest management supervision.

Forest management covers (a) forest system and forest management planning (b) forest are utilization (c) rehabilitation and reclamation and (d) forest protection and conservation. Related to the Local Government Authority in forest management in Riau Province has not been running as yet so far, because there is deviation in it, that caused by functionaries as well as individual community around of the forest area. Forest management by the regency government is still far from the principles of well government management, transparency, participation, accountability, and professional. Forest management in Province or Riau causing so many problems, firstly, it starts from deforestation and degradation the forest of Riau, secondly, there is a conflict with the local community and environmental pollution occurs when corporation of industrial forest and oil palm plantations have operate, thirdly, the forest damage in Riau causing flood every rainy season and forest fires during dry season, and fourthly, the corruption practices is the access to monopolistic practices and ecological damage. The forest management practices should be able to guarantee the sustainable natural forest in Riau but that is not implemented, and the forest management threatens the existence of forest and community in Riau. Floods and forest fires that occurred in Riau Province have proofed that existing forest in Riau can no longer maintain environmental balance. The forest management slogans for community welfare seemed to have failed, while the poverty among the community still existed around forest<sup>13</sup> states.

Local government is the authorized and responsible party if

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13 Jaringan Kerja Penyelamat Hutan Riau (Jikalahari) dalam 14 Tahun Melawan Monopoli Pengusaha Hutan dan Lahan, *Catatan Hitam Tata Kelola Hutan dan Lahan di Riau 2002-2016*, Pekanbaru, 2016, p. 144.

there is a declining of forest production and authority manipulation in business and forest purposes. Local government have to supervise and coordinate through Forestry Department and Central Government, in order to uphold environment law in forest management.<sup>14</sup> However, corruptive behavior and authority manipulation in permission as well as weak supervision also law uphold are the causes off the forest damage so far.

Corruption permission was definite as authority manipulation in the inappropriate permission as the provisions. The corruption of fences court has been impose punishment toward a governor, 2 regents, and 3 Head of Department in Riau Province because achieved a bribe and dividend in 20 permissions of forest utilization in Riau Province (*Putusan Pengadilan Tipikor Kejahatan dan Kehutanan Riau 2009-2012*/the Decision of Corruption Court over Criminality and Forestry). According to the Corruption Eradication Commission (KPK) study in 2010 found 79 inappropriate permissions of forest utilization. Forest Law Enforcement, Governance and Trade (SVLK) is a legal market instrument in the forest management policies which is a way to wash permissions of corruption that happened in forestry sector.<sup>15</sup> Forestry corruption (IUPHHKHT Permission and RKT) for 20 HTI corporations who involve a convict Governor of Riau, Rusli Zainal, 2 regents (Azmun Jaafar and Arwin AS), 3 Heads of Forestry Department in Riau also a planning offer the function of forest corruption and land related to RTRWP of Riau that involves Governor, Anas Ma'mun and a plantation businessman. Those give a bad impact for forest condition. Forest management unit has not been functioning in the forest management planning, national forest policy, province and regency / city related to forestry in order to be implemented, held a forest management event in their region, monitoring and scoring also give a chance for investment so the forest management objec-

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14 Arnita, 2013, *Pengelolaan Hutan dalam Rangka Otonomi Daerah oleh Pemerintah Aceh Utara*, Kanun Jurnal Ilmu Hukum No. 59 Tahun XV (April 2013), p. 85.

15 Transparency International Indonesia Local Unit Riau, *Sistem Verifikasi Legalitas Kayu (SVLK) dan Pengabaian Pelanggaran Perizinan di Indonesia (Studi Kasus Riau)*, 2013, p. 1.

tives will be reached.

Furthermore, illegal login is also the cause of the forest damage in Riau Province. Forest exploitation be perceived too much. Therefore corruption practices in forest management and forest exploitation policy involve unstoppable forest damage.

### **C. The Obstacles for Local Government in Forest Management Authority in Riau Province**

There are several obstacles for local government in forest management authority in Riau Province, such as:

#### ***1. Law and Regulation***

Inconsistent of law related to forestry give impact to rules of law in forestry. Forestry rules give an impact to forest product utilization permission. Inconsistent of law types that appear such as an opposition between the Law Number 41 / 1999 about forestry that decide a type of permission suitable with main function of forest utilization. Related to this, Ministry was attributive authorized related to giving and organizing many types of that permissions but based on Government Regulation Number 34 / 2002 which is give different description because the Ministry only give his permission for Forest Plantation Wood Production Permit (IUPHHK) for nature forest and plantation forest, in the Government Regulation explanation was determined that every region can held authority given by IUPHHK institutional, vision also mission. It means government regulation contents encourage decentralization of permission that every region already state their readiness for IUPHHK.<sup>16</sup> Inconsistent of regulation also leads corruption practices in forestry sector. The criteria of are that provided for HTI permission giving such as vacant land, read etc. are doesn't work. Corruption chance related to supervision happen be-

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16 Sudi Fahmi, 2010, *Konsistensi Hukum antara Pemerintahan Pusat dan Daerah, Studi atas Pelaksanaan Desentralisasi dalam Bidang Kehutanan*, Diterbitkan atas Hibah Pemerintahan Provinsi Riau Tahun 2009-2010, Penebit Total Media, Yogyakarta, p. 11.

cause of weak implementation in field. There are rules and principle policy about conservation forest system in which government has to supervise toward that rules but their unprofessional become a constraint of forest management. Law inconsistency Central and Local Government authority delegation also give impact about uncertainty of law and forest area status. Uncertainty problem of overlapping land ownership caused forest damage.

## ***2. Permission Instrument and Supervision***

There must be permission in forest management but the permission was abused. The abused permission become one of forest damage causes in Riau Province. Giving permission for inappropriate area was indicated that there is a corruption practices. Corruption in forest area zoning related to lay out planning such as : (1) Creating uncertainty toward forest area zoning by keeping national land use plan (RTRWN), forest use agreement (TGHK), province land use plan (RTRWP), and regency land use plan (RTRWK) so if there is a law breaker, law will followed him, (2) free of responsibility toward TGHK, RTRWP, and RTRWK through RTRWP revision as well as RTRWK in order to protect the corruptors.<sup>17</sup>

Bad supervision involves country loss reach 35 billion rupiah/year. A result of study state that weak supervision in lend use system permission involves non text country achievement lost caused by meaning in forest area about 15.9 billion rupiahs/year.<sup>18</sup>

## ***3. Law Enforcer***

The minimum of Forest Management Unit (KPH) role in Riau Province become the obstacle of forest management. Besides, forest corruption has been massive and structured.

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17 Rafli, 2011, *Menyerahkan Hutan ke Pangkuan Modal, studi kasus Provinsi Riau*, Wacana Penataan Ruang dan Pengelolaan Sumberdaya, Jurnal Ilmu Sosial Transformatif, edisi 26 Tahun XIII 2011, Penerbit Insist, Yogyakarta, p. 161

18 Annual Report of the KPK 2017, Demi Indonesia untuk Indonesia, Jakarta, p. 19.

#### **4. Community**

The minimum of community involvement role become the obstacle of forest management. Inconsistent of law leads a conflict that appear in businessmen and community, businessmen and government and also community and government. The example that happen in Riau Province, PT. Sumatera Riang Lestari (SRL) one of subsidiaries of *Riau Andalan PULP and Paper (RAPP)* group. Since IUPHHK HT was applied in 1992 PT SRL area from 143,205 ha increase became 215,305 ha in 2007. It means through 15 years HTI concession area of PT SRL increased 72,100 ha. Almost every year the legality is change. The newest legality, Permit of Timber and Plantation Forest Product Utilization – Plantation Forest (IUPHHK-HT) *Nomor SK 208-MENHUT-II/2007* on 25<sup>th</sup> May 2007 215,305. It leads a conflict with community of Pulau Ruptat sub-district because community area includes in company concession. As well as incident of *Pulau Padang* community that refused the existence of PT.RAPP because community found that its existence was against *SK Dirjen Bina Usaha Kehutanan Kemenhut No:5.3/VI-BUHT-2012* (Decrit of General Direcorate of Forest Entrepreneurship) about temporary activity has stopped the IUPHHK-HT PT RAPP in *Pulau Padang* until there was a further information.

#### **D. Local Government Authorities System for the Future in Forest Management and Its Implication toward Local Autonomy**

Decentralization of forest resources management in Indonesia basically to save Indonesian forests which are in damage. However, wrong forest resources management can give bad effect for forest based on the statement above so local government authority system in forest management for future will be passed :

1. Forest management system through forest management unit (KHP) concept. KHP is a way of decentralization process and delegacy authority that characterized by clear distributing between government authority business function and forest management

operational event.<sup>19</sup> In it development KPH there are so many obstacle that experienced by KPH especially from local that caused by decentralization of local autonomy. Beside that, need regulation reformation that was supported by many business layers, even central government, local government, third party as well as local community which is still needed for KPH development.

Ineffective of management system will lead high deforestation level which leads smallest unit of management system inception that already stated by *UU No 41 Tahun 1999 Pasal 10, 12, dan Pasal 17 Ayat (1)*.

## 2. Community role system

Based on the Law Number 41 / 1999 about Forestry that open a chance to do well forest management system in Indonesia. The information access for community are given a legal foundation that is Article 68 Paragraph 2 Point B that state if community can: “knowing forest planning purposes, forest product utilization and forestry information”. Community chance for their participation also be regulated in Article 70 Paragraph 3 that state if “in order to increase community role and local government can be helped by forest observer forum”.

Unfortunately, if the implementation always becoming a difficult bureaucracy process. One of the difficult challenges in forestry context is certainty related to land and area that manage by community who leave around the forest. The implication of forest management toward local autonomy shows a dynamic changing, laws that regulate local government after reformation seems 1998 until now successively are the Law Number 22 / 1999 about local government was changed by the Law Number 32 / 2004 about local government and was change by the Law Number 23 / 2014 about local government which apply a forest management authority friction decentralization into centralization.

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19 Ridzky, Sigit, [www.mongabai.co.id](http://www.mongabai.co.id) , 2014, accessed 20 August 2018.

## **E. Conclusion**

The authority of local government in forest management in the Riau Province has not been running as yet so far, because there is deviation in it, that caused by functionaries as well as individual community around of the forest area. Forest management by the regency government is still far from the principles of well government management, transparency, participation, accountability, and professional.

The obstacle for local government in forest management authority in Riau Province regarded with are among others: first, law and regulation; second, permission instrument and supervision, third, law enforcer, fourth, community. Local government authorities system for the future in forest management and Its Implication toward Local Autonomy can be done by first, forest management system through forest management unit (KPH) concept, second, community role system that involve local community broadly in planning maintaining, managing, decision making, implementing, and supervising. The implication of forest management toward local autonomy show a dynamic changing, authority friction in forest management that from decentralization became centralization.

There is a authority distribution based on decentralization principles clearly between regency government, province government, and central government in forest management in order to certainty law in everlasting forest management. Maximization role and job of Forest Management Unit (KPH) in Riau Province related to forest management. Community role are very important for forest management and also supervisor toward government policy in forestry.

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