

Restorative justice of land fire on tropical peatland in Palangka Raya City, Central Kalimantan

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ABSTRACT

Peatland forest fires continue to occur every dry season in Indonesia. Many efforts have been made by the government, universities, non-governmental organizations and police/army. However, there are still fires. One of the solutions offered in this study is the application of restorative justice, especially for small-scale land burners. There are two locations that are prone to fire at Palangka Raya City, Central Kalimantan, as well as Pahandut District and Jekan Raya District in Indonesia, since in the 2019 fires, these two areas exhibited a fairly high level of land fire vulnerability. Based on these data, these two locations will be monitored with routine patrols. Research from 2020 – 2022, restorative justice was carried out for 3 arsonists with different motives. This gives researcher an idea that the cause of peatland fires is caused by human behaviour factors. Although this study is very short, it is expected to provide a deterrent effect for arsonists and prevent other communities from burning their land in the next year, especially during the dry season.

Keyword: Peatland, Forest, Land fire, Restorative.

Article type: Short Communication.

INTRODUCTION

Peatland forest fires that cause haze disasters cause negative impacts including economic, social, health and environmental impacts (The World Bank 2016). Total economic loss from the agriculture, forestry, transportation, trade, industry, tourism sectors at the time of the peat forest fire in 2015 was Rp. 221 trillion, while in 2019 was Rp. 72.95 trillion (Tuhulele 2014). Globally forest and peatland fires are a contributing factor to Greenhouse Gas almost around 63% followed by the industrial sector 25%. Zainal *et al* (2017) found that the main causes of peat forest fires in Riau Province, mostly caused by humans were 99%, carried out by private sector and the community itself, while those caused by natural factors were very small (1%). This is also supported by the author's experience in dealing with peatland fires, the cause of which fires are purely Intentional factors from humans, which then expand due to very dry environmental factors and wind. Central Kalimantan Province with an area of approximately 153,564 km², consists of 1 (one) city and 13 districts. Palangka Raya City with an area of 2,853.52 km², with peatland, covers an area of 1,114.70 km² or about 39% of its area (Suwarno *et al.* 2016). The composition of peatland utilization in Palangka Raya City consists of forest, residential, agricultural and vacant/scrubland areas. The increasing of needs as well as the limited non-peatland available have caused peatlands to begin to be utilized. The conversion of peatland functions for other activities such as agriculture, plantations and infrastructure such as road construction and housing, is always followed by the creation of drainage channels/trenches to drain/dispose of water on the peat, so that peat dries quickly due to its high porosity.



As a result, during the dry season, dry peat is very vulnerable to fire, coupled with community activities that clear empty yards by burning. Fire is very easy to spread and expand due to dry land conditions. Especially in Palangka Raya City in 2019 there were 246 fire spots recorded (Tribrata news 2019). Prevention efforts carried out to reduce these fires by means of socialization to the community have been carried out by all parties and agencies from the centre to the regions. Tribrata news (2019), warned that clearing land by burning is an illegal act that should be taken decisively. Laws and regulations have been made by the government to overcome those who clear land by burning. Efforts to prevent forest and peatland fires from recurring continuously need preventive measures such as socialization by means of focus group discussions, installing banners prohibiting burning and building networks in community groups, so that arson perpetrators can be known and quickly dealt with (Xiong *et al.* 2020). It is necessary to strengthen administrative capacity to prevent forest fires, socialization and education of residents living in fire-prone areas. In addition, residents get higher awareness and compliance with policies on forest and peatland fires. Criminal law is the last resort in law enforcement. There are still other ways that can be done to have a deterrent effect on perpetrators of crime. This study tries to prioritize *restorative justice* in solving cases, however, on the scale of small fires carried out by communities with the motive of land clearance. Decree of the Director General of the General Court Agency No. 1691/DJU/SK/PS.00/12/2020 dated December 22, 2020, concerning "Guidelines for the Application of *Restorative Justice* in the General Court Environment", where the principle of restorative justice is law enforcement in solving cases that can be used as an instrument of recovery and has been implemented by the Supreme Court (MA) in policy enforcement. National Police Chief General, Listyo Sigit Prabowo said "Restorative justice as a form of problem solving that meets the sense of justice, is well formulated so that the sense of justice is truly realized" (<https://nasional.kompas.com/2021/03/01/09271601>). This statement is in line with the National Police Regulation of the Republic of Indonesia No. 8 of 2021 concerning "Handling Criminal Acts Based on Restorative Justice". Article 1 (one) says that Restorative Justice is the resolution of criminal acts by involving perpetrators, victims, perpetrators' families, victims' families, community leaders, religious leaders, traditional leaders or stakeholders to jointly seek a just solution through peace by emphasizing restoration to the original state. Objectives of this study was to implement restorative justice for peatland burning perpetrators at the community level to provide a deterrent effect against arsonists and prevent the spread of peatland fires.

MATERIALS AND METHODS

According to Ditkrimsus Polda Kalteng (2019), there are two locations that are prone to fire at Palangka Raya City, Central Kalimantan; Pahandut District and Jekan Raya District, since in the 2019 fires these two areas had a fairly high level of land fire vulnerability (Fig. 1). Based on these data, these two locations will be monitored with routine patrols. If there is a fire incident, we should immediately identify information related to the landowner, the culprit and the motive for burning. After all the information and the culprits are obtained, it is decided to consider the application of restorative justice.

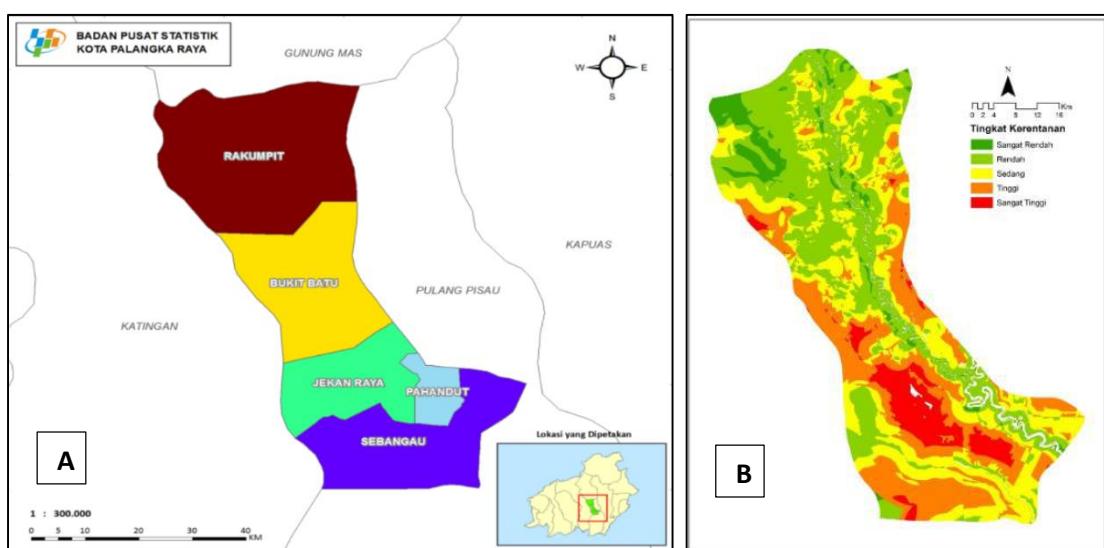


Fig. 1. Research location (A); land fire vulnerability (B).

RESULTS AND DISCUSSION

The implementation of *Restoration Justice* for peatland talent actors from 2020 – 2022 is presented in Table 1.

Table 1. Application of *Restoration Justice* to perpetrators of peatland burning in 2020 – 2022.

Year	Sum of Case	Burning area	Reasons for Restorative Justice	Reason of perpetrators set fire to the land
2020	1	225 m ²	<ul style="list-style-type: none"> - Cooperative - Confess his actions - Take part in fighting fires - Regret his actions and not repeat them again - The area of burning is small and not widespread 	<ul style="list-style-type: none"> - Land clearing land for gardening
2021	1	200 m ²	<ul style="list-style-type: none"> - Cooperative - Confess his actions - Participate in fighting fires - Regret his actions and not repeat them again - The burned area is small and not widespread 	<ul style="list-style-type: none"> - Land clearing
2022	1 (4 perpetrators/ firefighters)	100 m ²	<ul style="list-style-type: none"> - Cooperative - Confess his actions - Directly extinguish fires - Regret his actions and not repeat them again - The burned area is small and not widespread 	<ul style="list-style-type: none"> - Economic motives (if there is a fire incident, the funds will be disbursed)

The laws and regulations all prohibit burning peatland and huge fines for those caught burning, starting from Criminal Law Articles 187 and 188 of the, Law No. 41 of 1999, Law No. 32 of 2009, Law No. 39 of 2014 and Regional Regulation No. 1 of 2020. The reality on the field is that there are still peatland forest fires, likely due to the way the approach does not involve related stakeholders. Restoration justice is an alternative to prevent and provide a deterrent effect for arsonists.

The application of restoration justice is only for small-scale of peatland fire and does not spread widely to other places (Table 1). National Police Regulation of the Republic of Indonesia No. 8 of 2021 concerning "Handling Criminal Acts Based on Restorative Justice" article 8, explains material requirements that can be applied to Restorative Justice, including:

- a. does not cause unrest and/or rejection from the community;
- b. does not have an impact on social conflicts;
- c. does not have the potential to divide the nation;
- d. not radicalism and separatism;
- e. not a repeat perpetrator of a Criminal Act based on a Court Decision;
- f. not Criminal Acts of Terrorism, Crimes Against State Security, Criminal Acts of Corruption and Criminal Acts Against People's Lives.

The fire incident in Jekan Raya District, Palangka Raya City in 2020 (ProKalteng.co.id, August 12, 2020), has gone through an investigation process starting from the Crime Scene, interviews with local residents, examination of witnesses, so that the conclusion is aimed at one suspect. This case was not forwarded to court. The suspect was charged with participating in extinguishing the fire completely, and it should be reported every Monday and Thursday until finally the suspects promise not to repeat their actions. The reason for burning is to clear peat land for gardening, where the chemical characteristic of peat is acidic (low pH). So to raise the pH of peat should be given dolomite lime or ash from burning. Burnt ash can fertilize peatlands (increase pH). Ash contains oxides Ca and Mg (Saidy et al. 2020; Ryadi et al. 2016; Foletto et al. 2006). According to Maftu'ah et al. (2013), when reacting with water, OH⁻ ions will contribute to the soil that react with H⁺ ions, resulting in a reduction in H⁺ ion concentration and an increase in peat pH. In the 2021 fire incident in Pahandut District, Palangka Raya City, to the perpetrators applied *restorative justice*. Perpetrators only cleared land by burning, since it is faster and cheaper, the area burned is small, cooperative, participate in extinguishing fires. Also in 2022, in Pahandut District, Palangka Raya City, *restorative justice* was also carried out for arsonists, however, it was slightly different, since

it was carried out by the fire team during patrols. After the fire incident, an investigation by researchers began with directed and structured interviews with landowners. The landowner's confession was only burning to grow vegetables. The wood, twigs and dry leaves to be burned are collected somewhere and controlled when burned. After a while, four of firefighters came to make bigger fire spots in the corners of the land. The fire was out of control, so the firefighter immediately extinguished the peatland fire until it was extinguished. Based on the information of the owner of the land, the researcher went to the firefighter office that burned the land, they admitted their actions, promised not to repeat them again by making a sealed and signed statement, witnessed by the leader of the Fire Team. The motive for the arson by the Fire Team was suspected to be related to the budget, since based on the Fire Department's Budget Implementation List (DIPA), the budget can come out if there is a fire disaster. According to the Law Number 24 of 2007 concerning Disaster Management, the status of a Disaster Emergency is a state determined by the government (President, Governor or Regent / Mayor) for a certain period of time on the basis of recommendations of institutions tasked with tackling disasters, so that at that time the budget can be issued. Research from 2020 – 2022, *restorative justice* was carried out for 3 arsonists with different motives. This gives researcher an idea that the cause of peatland fires is caused by human behaviour factors. Nazifah, *et al.* (2020) pointed out that peatland forest fires are mostly caused by human behaviour, only a small part is caused by nature. According to results of Yulianti *et al.* (2020), cause of peatland forest fires is clearing land for economic activity, fishing, burning trash, accident/failure and throwing away cigarette butts. Although this study is very short, it is expected to provide a deterrent effect for arsonists and prevent other communities from burning their land in the next year, especially during the dry season.

CONCLUSION

Peatland forest fires continue to occur every dry season, many efforts have been made by the government, universities, non-governmental organizations and police/ army, however, there are still fires. One of the solutions offered in this study is the application of *restorative justice*, especially for small-scale land burners. Researchers argue that if this activity is followed up with law enforcement to provide a deterrent effect so that early fire prevention can be done.

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