

## **ONRECHTMATIGE OVERHEIDSDAAD BY THE GOVERNMENT REGARDING KALIMANTAN FOREST AND LAND FIRES**

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### **Abstract**

Onrechtmatige Overheidsdaad is a study of the legal conceptions related to unlawful acts by the government in Central Kalimantan. One example of this is the government's lack of responsiveness in handling a case involving the lives of the general public. As a result, a number of people sued the government through the Palangkaraya District Court. The government is declared to have committed an unlawful act and a complete consideration has been carried out by the assembly. There is one case regarding this, namely in the form of negligence or lack of swift handling by the government in tackling forest and land fires in Central Kalimantan.

**Keywords:** Onrechtmatige Overheidsdaad, Karhutla, Central Kalimantan.

### **A. INTRODUCTION**

Government Actions (Bestuurshandeling) are actions carried out by the government or authorities as state administrators which of course can influence the interests of the community as citizens and have a relationship between the public interest and the private interests of the community as legal subjects in public law and civil law. And what's more, the government has enormous power so that it can enforce its will legally, which of course still uses good legal instrument procedures on the community. 1 One of the most important characteristics of legal action carried out by the government is that it takes the form of unilateral government decisions and decrees.

It is said to be unilateral because the government takes legal action depending on the unilateral will of the government, does not depend on the will of other parties and does not require adjustments to the will (willing) of other parties. 2 And it is possible that at any time the government's actions or actions can be resulting in losses felt by the community, whether done intentionally or unintentionally so that it is possible for the government to act against the law (Onrechtmatige Overheidsdaad).

After the Covid-19 pandemic, the government has various other problems, one of which is global warming. This issue related to global warming has also been agreed upon by several countries in the world, specifically in the Paris Agreement in 2015, that the weather which is now increasingly hot and unpredictable means there is a high risk of forest fires which of course will not only have an impact on the economic sector.

The Paris Agreement contains a joint commitment to prevent the average increase in global temperature, namely below 2°C, and is also continued with efforts to limit the increase in temperature to 1.5°C above the temperature in the pre-industrialization era. This effort is expected to significantly reduce the risks and negative impacts caused by climate change.<sup>3</sup>

One of the detrimental impacts of climate change is forest fires. In Indonesia itself, forest fires have become a national issue that should be of special attention to the government. It can be said that this happens repeatedly every year, especially on the southern island of Sumatra and the island of Kalimantan.

Since 1997, Indonesia has provided dirty air to neighboring countries in the form of smog. Such events have a huge impact on the health sector and daily community activities. Continuing from 2009-2019, it was recorded that forest fires that occurred throughout Indonesia caused 443,278 deaths. According to Databoks, 2019, the victims consisted of 32 people who died, 373 were seriously injured and 442,873 were forced to evacuate due to forest fires.<sup>4</sup>

One of the centers of forest and land fires (karhutla) on the island of Kalimantan is in Central Kalimantan and in 2015 this was the worst fire case in Indonesia. This is because air pollution caused by smoke generated by forest and land fires hit Central Kalimantan, specifically the capital city of Palangkaraya, reaching 20 times above the normal limit.

This has been set by the Ministry of Environment and Forestry (KLHK) and the Disaster Management Agency. The region has set water reserves at the location to extinguish the flames, so that residents in the capital city of Palangkaraya are forced to survive breathing in air pollution fumes caused by this case.

Many underprivileged residents were unable to evacuate their families out of the city so they were forced to live by breathing air pollution fumes caused by this incident. Many residents died because their lungs were damaged due to inhaling the thick smoke that lasted for three months. In this way, the government is considered to have committed an unlawful act because the government shows that it is not serious in handling this case and considers cases of land and forest fires (karhutla) as just normal incidents even though many millions of people have the unfortunate fate of needing government assistance because they are affected by the haze.

There are several important questions as the focus of discussion in the research article about the Government's Onrechtmatige Overheidsdaad on Forest and Land Fires in Kalimantan, namely: How can unlawful acts by the government be carried out and what are the procedures for legal protection for the community? What factors cause forest and land fires (karhutla) in Central Kalimantan? What is the impact of forest and land fires (karhutla) in Central Kalimantan? What are the factors that could result in the government being sued by the community regarding illegal actions in cases of forest and land fires (karhutla) in Central Kalimantan? How are monitoring and law enforcement efforts regarding cases of forest and land fires (karhutla) in Central Kalimantan.

## **B. RESEARCH METHODS**

In writing this scientific article, a normative juridical research method or a type of qualitative research is used, the approach of which is based on regulatory sources from literature guides and available data and uses methods to study concepts, theories, understanding and principles of law and statutory regulations. related to writing. In writing this scientific article, the source of the relevant regulations uses a discussion about a lawsuit by a group of people against unlawful acts by the government in Central Kalimantan, specifically in the capital city of Palangkaraya, which resulted in relatively severe forest and land fires (karhutla).

## **C. ANALYSIS AND DISCUSSION**

The government's lack of responsiveness in handling a case that concerns the lives of the wider community is an example of government action that is against the law. We discussed this problem through the problem of forest and land fires (Karhutla) that occurred in Central Kalimantan Province.

In our discussion we focus on analyzing legal perceptions related to illegal acts committed by the government, how to provide legal protection for the community, analyzing factors that result in the government being sued by the community regarding these illegal acts and how law enforcement can be carried out in relation to this.

Forest and land fire cases. Apart from that, we also provide a comprehensive explanation regarding the background, impact, data and factors causing the occurrence of forest and land fires in Central Kalimantan. Apart from that, we also explain the government's efforts in handling forest and land fires cases in Central Kalimantan along with additional solutions in efforts to resolve these cases.

### **1. Government Actions against the Law (Onrechtmatige Overheidsdaad) and Legal Protection for the Community**

In article 1365 of the Civil Code which explains the meaning of unlawful acts. In Indonesian jurisprudence, the definition of an unlawful act committed by the government is if there is a legal regulation which states that an unlawful act has occurred and this happens if there is an arbitrary act carried out by the government, this is based on the Supreme Court's decision in the case of civil servants, namely the Decision No. 66K/Sip/1952. So, based on this jurisprudence, it is explained that the benchmarks for unlawful acts committed by the government are government actions that violate the provisions of applicable laws and formal regulations, as well as the authorities violating interests in society that must be obeyed.

In the general explanation in the fifth paragraph of Law Number 30 of 2014 concerning Government Administration, this general explanation is explained so that it can be understood that the public receives legal protection and can file a lawsuit when the government makes a mistake or acts against the law.

In the past, legal protection for the community before the existence of the State Administrative Court (PTUN), all community lawsuits against the government (Onrechtmatige Overheidsdaad) or agencies as defendants were submitted to the general court to be followed up by a civil judge, usually this matter was submitted using Article 1365 of the Civil Code, this is because there are losses resulting from these problems. With provisions originating from the Civil Code, civil judges have the authority to issue orders or prohibitions to take special action and punish the government by compensating for the losses caused.

However, now if this case is more dominant in civil matters then it goes to general court and if this case is more dominant in the nature of administrative or public law then it becomes the authority of the state administrative court (PTUN) with the state administrative judge as the party handling the problem.

#### **a. Community Legal Protection for Government Actions in the Scope of Civil Law**

The body of public law is the Government. The Government can carry out acts or legal actions in the field of civil law, for example making agreements, buying and selling, renting. So with this, it is possible for unlawful acts to be born by the government (onrechtmatige overheidsdaad), if this happens then the civil judge is permitted to implement various orders or prohibitions and has the authority to determine the nominal amount of compensation to be paid by the government because there is community legal protection against the government's actions against laws that have been regulated based on Article 1365 of the Civil Code to be tried in the scope of general court.

#### **b. Community Legal Protection for Government Actions in the Scope of Public Law**

Legal actions carried out by the government usually take the form of decisions that are unilateral and coercive or do not have to be in accordance with the wishes of other parties or the community as citizens. So in this case the entire community is obliged to receive legal protection for the actions of the government as a public legal entity, because: 1) The community as citizens in carrying out various things always depends on the decisions issued by the government. For example, you must have permission from the government when you want to build a business; 2).

The roles of the government and citizens are not equal because their duties and thoughts are different and the position of citizens is very weak compared to the government. And 3) Various conflicts between the community as citizens and the government due to government administrative actions or decisions that are one-sided so that they conflict with the personal interests of the community.

As a result of the issuance of a decision or administrative action, there are procedures for legal protection that can be carried out, namely through two channels, Administrative Efforts and Lawsuits in the State Administrative Court (PTUN). Article 48 of the State Administrative Court Law (PTUN) regulates administrative efforts, stating that: firstly, based on statutory regulations, the authority regarding an Administrative Body or Official is given to resolve cases administratively regarding certain state administrative disputes, then the dispute must be

resolved using available administrative methods; secondly, if all related administrative efforts have been implemented then based on paragraph (1) the new court has the right or authority to examine, decide and resolve state administrative disputes. Regarding the general description of article 48 paragraph (1) of the State Administrative Court (PTUN) Law, it can be interpreted that administrative efforts are procedures that have been carried out by people or civil legal entities who are disappointed with the results of the State Administrative Court (PTUN) decision, or in the sense other than that, before a lawsuit is filed which consists of objections and administrative appeals, the settlement has to be carried out within the government itself. Meanwhile, Article 1 paragraph (16) of the Administrative Law explains that administrative efforts are procedures for handling disputes carried out within the government administration environment resulting from detrimental government actions or decisions.

The aim of implementing administrative efforts is to guarantee legal protection that is in line with Pancasila, namely "The principle of deliberative and judicial dispute resolution is the last means." apply for legal protection to the State Administrative Court (PTUN). 6 It is hoped that through available administrative measures, civil legal entities or even people who feel disappointed and disadvantaged by the results of government decisions or actions, must be able to submit administrative measures first. This is stated in Article 2 paragraph (1) PERMA Number 6 of 2018 which explicitly states that "The court has the authority to receive, examine, decide and resolve government administrative disputes after taking administrative efforts", which means that if you object to the results that have been issued then may submit it to the PTUN.

## 2. Analysis of Forest and Land Fire Cases (Karhutla) in Central Kalimantan

According to data from the Indonesian National Carbon Accounting System (INCAS) in 2015, Central Kalimantan has a population of around 2.5 million people. The area is approximately 15.4 million hectares, of which 13 million hectares are forests and 2.7 million hectares are peatlands. 7 The following is data on the area of forest and land fires in 2013-2018:

**Table 1: Area of Forest and Land Fires in 2013-2018**

Forest and Land Fire Area (Ha)	
2013	4,918.74
2014	44,411.36
2015	261,060.44
2016	14,604.44
2017	11,127.49
2018	4,666.39

Source: Processed data from the Ministry of Environment and Forestry of the Republic of Indonesia

Covering data from the Meteorology, Climatology and Geophysics Agency (BMKG) shows that there are 11 provinces in Indonesia that are prone to forest and land fires, namely Aceh, Riau, Jambi, South Sumatra, North Sumatra, Kep. Bangka Belitung, West Kalimantan, East Kalimantan, Central Kalimantan, South Kalimantan and Papua. And of these 11 provinces

there are a number of hot spots (hotspots) which definitely differ each year and the area as in the following table:

**Table 2: Recapitulation of the Number of Hot Spots in 2015-2018**

Province	Year			
	2015	2016	2017	2018
Aceh	218	431	420	124
Riau	4,965	2,120	600	1,154
Jambi	5,164	183	233	154
South Sumatra	21,767	495	594	348
North Sumatra	590	817	245	218
Kep. BangkaBelitung	1,465	262	248	273
West Kalimantan	6,156	2,967	2,010	5,252
East Kalimantan	6,923	1,380	498	326
Central Kalimantan	21,809	724	492	894
South Kalimantan	4,533	199	339	281
Papua	11,134	1,467	861	517

Source: Data from the Official BMKG Instagram Account @infobmkg which has been processed. From this data it can be seen carefully that Central Kalimantan Province very prone to For happen fire forest And laha (Karhutla) compared to other provinces.

**a. Factors Causing Forest and Land Fires (Karhutla) in Central Kalimantan**

The causes of forest and land fires (Karhutla) in general are very varied, including land clearing by burning, cigarette butts thrown carelessly in the bushes, and burning embers carried by the wind to other dry land. (Aza and Tur in Pro Kalteng, 2015)

However, it cannot be denied that the cause of forest and land fires, especially peatlands in Central Kalimantan, is 99% the result of human activity, whether done intentionally or through negligence. And natural factors also contribute, such as prolonged drought. It should also be noted that the fire period generally occurs from June to August, while in September the fire hotspots have started to decrease, because the rain has started to fall. The following are several reasons why fires occur during this month:

- (a) The community has finished clearing the bushes
- (b) At that time there was a very hot and scorching dry season, this made people burn the bushes that had been cut down previously.
- (c) When burning has started, what happens is a series of unexpected and often uncontrollable fires

Based on the information and information that has been collected, it is actually difficult to determine who actually caused the fire and who can be held responsible. In general, it is certain that each agency will accuse each other and will tend to protect its sector or group. In essence, forest and land fires will definitely occur every dry season and there needs to be countermeasures from the government as the provider of protection to reduce the negative impacts they cause. And it needs to be acknowledged that in matters of dealing with forest and



land fires, government agencies and the community, including farmers, plantation companies and Industrial Plantation Forests (HTI) are a single link in a chain that cannot be separated. This has also been proven through direct inspection in the field. So it can be concluded that all parties have the potential to cause forest fires.

### **3. Impacts Resulting from Forest and Land Fires (Karhutla) in Central Kalimantan**

Many groups of orangutans died under fire and the heat of the burning peatlands. Exposure to ISPA that hit Central Kalimantan residents. Central Kalimantan residents felt the impact of fire smoke, suffering from asthma, coughing and shortness of breath. 9

In the plantation crop farming sector, due to smoke the plants do not grow well, their leaves become dry and curly. In addition, smoke that covers sunlight makes these plants lack sunlight supply, making them more susceptible to attack by plant pest organisms.10

A number of activities were disrupted. These include reduced ASN working hours, reduced public traffic activity on the roads, reduced buying and selling activities, and disruption of flight activities. Judging from the economic sector, the haze has an impact on production and worker activities, although it is still limited. Apart from poor air quality, visibility is also very limited, as noted by the BMKG, Tjilik Riwut Palangka Raya Airport throughout the day is very disturbing for residents and vehicle drivers on land and river transportation. It is necessary to cancel the Garuda Indonesia flight considering the latest situation developments regarding the impact of the intensity of the haze on aviation security and safety.11

### **4. The reason the government is being sued by the community for committing unlawful acts in the case of forest and land fires (Karhutla) in Central Kalimantan**

The government was declared to have committed an unlawful act in Central Kalimantan in the case of forest and land fires (karhutla), because in this case a group of 7 (seven) people in Central Kalimantan sued the government through the Palangkaraya District Court in Decision Number 118/Pdt.G/LH/ 2016/PN Plk on March 22 2017, a group of people named Afandi, Arie Rompas, Fatkhurrohman, Nordin, Herlina, Kartika Sari, and Mariaty. This lawsuit contains justice for the people affected by forest and land fire smoke. President of the Republic of Indonesia Joko Widodo as defendant I, Minister of Environment and Forestry of the Republic of Indonesia as defendant II, Minister of Agriculture of the Republic of Indonesia as defendant III, Minister of Agrarian Affairs and Spatial Planning, Head of the National Land Agency of the Republic of Indonesia as defendant IV, the Minister of Health of the Republic of Indonesia as defendant V, the Governor of Kalimantan as defendant VI and the Regional Representative Council of Central Kalimantan Province as defendant VII.

As quoted from the Supreme Court Decision Directory website, the President of the Republic of Indonesia Joko Widodo is defendant I, who according to Article 4 paragraph (1) of the Constitution holds and holds government power, which means he has the obligation and responsibility to carry out the messages stated in the 1945 Constitution and regulations. other legislation which functions to create Indonesia's ideals from the start, namely protecting the entire Indonesian nation and all of Indonesia's blood and to promote general welfare, educate

the life of the nation, and participate in implementing world order based on independence, eternal peace and social justice. Article 17 of the 1945 Constitution states that "the President in carrying out his duties is assisted by State Ministers and each Minister is in charge of certain affairs in government". Furthermore, article 3 of Law Number 39 of 2008 concerning state ministries states that "Ministries are subordinate to and responsible to the President". Meanwhile, Article 7 paragraph (2) of Law 23 of 2014 concerning Regional Government, states that "The President holds final responsibility for the administration of government affairs carried out by the Central and Regional Governments."

Because the Panel of Judges has carried out complete considerations regarding the role, obligations and responsibilities of Defendant I, namely Joko Widodo as President of the Republic of Indonesia, based on the provisions of the article mentioned above, the Government in this case of forest and land fires (karhutla) is recognized as having committed an unlawful act. It is considered that the government has a big role in carrying out measures to prevent and overcome forest and land damage. So with this in mind, defendant I Joko Widodo as the President of the Republic of Indonesia or the highest holder of government power should carry out various preventive actions together with the Ministers to realize concrete steps or actions to prevent and reduce the continuation of forest and land damage, most importantly regarding preventing burning of forests and land for the benefit of individuals who cause smoke haze and result in forest and land fires in the Central Kalimantan Province region almost every year and causing many victims, which it is hoped will not happen again, but previously defendant I also stated that he had implemented the proposed preventive measures even though in reality This incident in Central Kalimantan Province always took place from 1997 to 2015. So based on this, as explained in the Law, the Assembly considers that Defendant I has not optimally carried out efforts to control forest and land fires which cause thick haze in Kalimantan Province. Middle. The President of the Republic of Indonesia Joko Widodo as defendant I has actually delegated authority in the performance of his duties to the relevant Ministers, namely defendant II, defendant III, defendant IV, defendant V. But in fact defendant II, defendant III, defendant IV and defendant V with their performance as Ministers or in this case, as assistant to the president, he has not carried out his duties, responsibilities and assurances to the fullest in relation to the prevention and management of thick haze incidents in Central Kalimantan Province.

In fact, the defendants have indeed made efforts to prevent and control the thick haze caused by forest and land fires in Central Kalimantan, this is proven based on the evidence presented by the defendants. However, the efforts carried out were not optimal and the performance of the defendants was very slow in calculating the spread of smoke haze caused by forest and land fires in Central Kalimantan Province. This thick haze has embarrassed the country of Indonesia because it spread to neighboring countries, namely Malaysia and Singapore, and resulted in people dying and struggling with suffering from Acute Respiratory Infections (ARI) as well as disrupting community activities and transportation activities in Central Kalimantan Province. because of the thick smoke caused by forest and land fires in 2015. So according to the Panel of Judges, based on this incident, defendants I to defendant V must be prepared to bear all the risks of their actions and are willing to take responsibility for their work capacity which has



not been carried out optimally because it is based on the law and according to the panel the defendants are qualified to carry out unlawful acts due to their capacity. Work on controlling cases of thick smoke in Central Kalimantan Province is very slow and not optimal.

Therefore, the Palangkaraya District Court granted the lawsuit on March 22 2017 and named the President of the Republic of Indonesia Joko Widodo as defendant I, the Minister of Environment and Forestry of the Republic of Indonesia as defendant II, the Minister of Agriculture of the Republic of Indonesia as defendant III, the Minister of Agrarian Affairs and Spatial Planning Head of the Agency The National Land Affairs of the Republic of Indonesia as defendant IV, the Minister of Health of the Republic of Indonesia as defendant V, the Governor of Kalimantan as defendant VI and the Regional Representative Council of Central Kalimantan Province as defendant VII were sentenced or determined to create several regulations aimed at preventing the occurrence of forest and land fires. 12 With regard to This is defendant I throughn Defendant VII filed an appeal because he did not accept the results of the decision. However, the Palangkaraya High Court objected to the lawsuit and even upheld the decision of the Palangkaraya District Court Number 118/Pdt.G/LH/2016/PN Plk. This is known based on the case number36/PDT/2017/PT PLK. Defendants I and VII again did not accept the results of the decision and submitted an appeal to the Supreme Court but the application was rejected. This is known based on cassation case number 3555 K/PDT/2018 on 16 July 2019.

Several sentences that must be carried out by defendants I to defendant VII are:

- This is directed at defendant I to issue implementing regulations for Law Number 32 of 2009 concerning Environmental Protection and Management, which are important for preventing and controlling forest and land fires, by involving community participation, namely:
  1. Government regulations concerning procedures for determining the carrying capacity and carrying capacity of the environment;
  2. Government regulations concerning environmental quality standards, which include: water quality standards, sea water quality standards, ambient air quality standards and other quality standards in accordance with developments in science and technology;
  3. Government regulations regarding standard criteria for environmental damage related to forest and/or land fires;
  4. Government regulations regarding environmental economic instruments;
  5. Government regulations regarding environmental risk analysis;
  6. Government regulations regarding procedures for dealing with environmental pollution and/or damage; And
  7. Government regulations regarding procedures for restoring environmental functions;
  8. Government Regulation or Presidential Regulation so that it can become the legal basis for the formation of a joint team.

- This was directed at defendant II to immediately carry out the revision of the National Level Forestry Plan as stated in the Minister of Forestry Regulation Number 41 of 2011 concerning Facilitation Standards for Facilities and Infrastructure for Model Protected Forest Management Units and Model Production Forest Management Units.
- This was also addressed to defendants II to defendant VI to form a functioning joint team, namely:
  1. Review and revise business permits for managing burned and unburned forests and plantations based on fulfilling the criteria for issuing permits as well as the carrying capacity and capacity of the environment in the Central Kalimantan Province region;
  2. Enforcing civil, criminal and administrative environmental laws on companies whose land has fires;
  3. Create a roadmap for early prevention, control and recovery of forest and land fire victims as well as environmental restoration;
- This is also addressed to defendant I and defendant II, defendant V and defendant VI to quickly take action:
  1. Establishing a special hospital for lungs and other diseases caused by smoke air pollution in Central Kalimantan Province which can be accessed free of charge for smoke victims;
  2. Order all regional hospitals in the province of Central Kalimantan to waive medical fees for people affected by the haze in Central Kalimantan Province;
  3. Create a pollution-free evacuation area to anticipate the potential for forest and land fires resulting in smoke and air pollution;
  4. Prepare technical evacuation instructions and collaborate with other institutions to ensure the evacuation runs smoothly.
- This is also addressed to defendant I, defendant II and defendant VI to make:
  1. Map of forest, land and plantation fire vulnerability in the Central Kalimantan Province region;
  2. Standard policy for forest and plantation fire control equipment in the Central Kalimantan Province region.
- This is also directed at defendant II and defendant VI to carry out:
  1. Announce to the public the burned land and the company holding the permit;
  2. Developing an information disclosure system for forest, land and plantation fires in the Central Kalimantan Province region;
  3. Announce environmental guarantee funds and mitigation funds originating from companies whose land was burned;
  4. Announce forest conservation investment funds from companies holding forestry permits;

- This is aimed specifically at defendant VI to form a special team for early prevention of forest, land and plantation fires throughout Central Kalimantan Province based in village areas containing local communities, then defendant VI is required to:
  1. Allocate funds for team operations and programs;
  2. Carrying out regular training and coordination at least every 4 months a year;
  3. Providing equipment related to forest and land fires;
  4. Making the team a source of information on early prevention and management of forest and land fires in Central Kalimantan Province.

**a. Factors Inhibiting Efforts to Prevent and Handle Forest and Land Fires (Karhutla) in Central Kalimantan**

Cases of forest and land fires (karhutla) are recurring events that occur almost every year. Especially during the prolonged dry season coupled with climate change and it will get worse when extreme climate phenomena such as El Nino symptoms occur. Natural factors in the Central Kalimantan region are obstacles in the process of extinguishing forest and land fires, with dry peat soil, limited water sources and extremely dry weather being the main obstacles in extinguishing these fires.

It should be noted that generally the policy pattern implemented by regional governments is to prevent and control forest and land fires (karhutla) in normal situations with an emergency alert status determined by the Regional Head and handled by the Fire Brigade. Then, if the status changes to a disaster emergency, then the handling of forest and land fires is carried out by several agencies that are members of the Forest and Land Fire Control Task Force (Dalkarhutla Task Force). Quantitatively, the human resources that are members of the Central Kalimantan Province Karhutla Task Force are still inadequate, so they need assistance from the National Disaster Management Agency (BNPB) to extinguish fires. If viewed from a quality perspective, not all of the Central Kalimantan Province Karhutla Task Force have the expertise and competence in forest and land fire extinguishing techniques, making the extinguishing process take quite a long time. And efforts to prevent and handle forest and land fires in Central Kalimantan Province are also hampered by inadequate, limited budgets and a lack of facilities and infrastructure. 13

**5. Law Enforcement Efforts and Supervision of Forest and Land Fire (Karhutla) Cases in Central Kalimantan**

Law Number 23 of 1997 Law concerning Environmental Management. Law Number 41 of 1999 concerning Forestry, in Article 50 paragraph 3, forest burning is subject to a maximum prison sentence of 15 years in prison and/or a maximum fine of IDR 15 billion. Law Number 18 of 2004 concerning Plantations regulates the obligation to preserve environmental functions. Law Number 19 of 2004 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2004 concerning Amendments to Law Number 41 of 1999 concerning Forestry into Law.

Law Number 32 of 2009 concerning Environmental Protection and Management. The existence of efforts to enforce environmental law through criminal law is how the three main problems in criminal law are outlined in laws which more or less have a role in carrying out social engineering, namely which includes the formulation of criminal acts, criminal responsibility, and sanctions, both criminal and administrative. -orderly.

The various provisions regarding forest fires/burning contained in the forestry law actually do not provide adequate attention to fire prevention efforts, because the prohibition on burning forests contained in the forestry law can apparently be overruled for special purposes as long as permission is obtained from officials. authorized person.14

#### **D. CONCLUSION**

Based on the problem formulation and all the descriptions, the conclusions that can be drawn are: First, Government Actions Against the Law (Onrechtmatige Overheidsdaad) and Legal Protection for the Community.

The definition of unlawful acts committed by the government is regulated in Article 1365 of the Civil Code which states "Every act violates the law, which brings loss to another person requires the person whose fault it was to cause the loss, to compensate for the loss." In Indonesian jurisprudence, the criteria for unlawful acts committed by the government have shifted to the Supreme Court's decision in the Kasum case (Decision No. 66K/Sip/1952), whose legal rule states that unlawful acts occur when there is arbitrary action by the government.

*Both*, The impact resulting from forest and land fires (karhutla) in Central Kalimantan in the health sector and forest and land fires which caused prolonged thick smoke haze to cover the airspace of Palangkaraya as the capital of Central Kalimantan Province, in mid-September 2019 was in the category of very dangerous to human lives who inhaled it. Economic Sector Then the agricultural plantation sector was affected by burned land. Transportation Sector A number of activities were disrupted.

These include reduced ASN working hours, reduced public traffic activity on the roads, reduced buying and selling activities, and disruption of flight activities. The reason the government was sued by the community for committing unlawful acts in the case of forest and land fires (karhutla) in Central Kalimantan.

The government was declared to have committed unlawful acts in the case of forest and land fires (karhutla) in Central Kalimantan, therefore a group of people sued the government through the District Court Palangkaraya, Central Kalimantan on March 22 2017 to ask for justice, a group of people sued the President of the Republic of Indonesia Joko Widodo as defendants I to VII by the minister and the Regional Representative Council of Central Kalimantan Province.

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