

## **Transboundary haze pollution in ASEAN region: Assessment on the adequacy of Regional Framework and National Legal Framework in Indonesia**

Laely Nurhidayah<sup>†</sup>;

<sup>†</sup> Macquarie University, Australia

Leading author: [laely@yahoo.com](mailto:laely@yahoo.com)

Haze pollution is one of the major and ongoing problems in ASEAN region. Indonesia is one of the major sources of haze pollution in ASEAN region. Every year in the dry season forest fires occur in Indonesia. The worst forest fires series were in 1997-1998 and since then were repeated every year with varied intensity. These fires are caused by human activities in burning land/forest for plantation and/or agriculture. The impact of these forest fires are significant causing damage to biodiversity, health, economy and effect on global climate. This haze pollution does not stopping at national borders, and to some extent is causing transboundary pollution to the neighbouring countries such as Malaysia and Singapore. Principle 21 Stockholm Declaration and Principle 2 Rio Declaration which are considered as customary law consist of a duty not to cause environmental harm to other countries or no harm principles. Despite the mandate contain in Stockholm Declaration principle 22 to develop further the international law regarding liability and compensation for the victims of pollution, the law on transboundary pollution remains underdeveloped especially on liability and compensation regime. The trend of approach on addressing transboundary pollution is moving from liability toward more focus on prevention, control, information sharing and co-operation. At regional level, several instruments have been developed to address the issue such as the ASEAN Agreement on Transboundary Haze Pollution (AATHP) which emphasizes on co-operation in its approach. Despite the claim that the Agreement is the first regional arrangement in the world that binds a group of contiguous states and is considered as a global role model for tackling transboundary haze pollution from land and forest fire, this instrument is not significantly effective since Indonesia as a source of pollution has not yet entered into this Agreement. It is argued that the effectiveness of a treaty or agreement required the participation and compliance of "targeted state." Some argue that even if Indonesia ratifies this Agreement this would not solve haze pollution problem. This is due to complex problem management of natural resources and environment governance in Indonesia. In fact to be effective the Agreement requires capacity at national, provincial, municipal and village levels to implement the Agreement. This paper argues that transboundary haze pollution cannot be solved solely on regional level. It needs comprehensive effort and co-operation at regional, national and international level. This paper contends that the current regional legal framework is not adequate to address transboundary haze pollution problems. Liability and law enforcement regimes and incentives are needed to improve the adequacy and effectiveness of regional framework. Therefore, this paper will examine the adequacy of the regional legal framework in addressing transboundary haze pollution and Indonesian legal framework on management of natural resources and environment protection and also the implication of bilateral and international co-operation to address haze pollution.