

## Role of Forest Management Units in Managing the Crime of Illegal Logging

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### Abstract

This study aims to determine the form and analyze law enforcement against illegal logging crimes in the process of tackling as well as to find out the obstacles faced and provide solutions in overcoming the crime of illegal logging according to KPH Pati Central Java related to forest management. This study uses a sociological juridical approach. Weak law enforcement against perpetrators of illegal logging. The policy of overcoming the crime of illegal logging in the KPH Pati area of Central Java is carried out with 2 (two) facilities, namely non-penal facilities and penal facilities. Non-penal means consist of 2 (two) patterns, namely the preemptive pattern and the preventive pattern. The penal tool uses a repressive pattern. The obstacles faced by KPH Randublatung in tackling the crime of illegal logging consist of external obstacles. The solution to the obstacles to the KPH Pati in Central Java is conducting outreach to local residents, conducting patrols, installing signposts that are prohibited from illegally cutting trees.

Keywords: Law Enforcement; forest management; Criminal act; Illegal logging.

### 1. Introduction

In order to build the basic framework of national law, it is necessary to understand and live it so that every law and legislation is always based on the morals, soul and nature contained in the Indonesian nation's view of life, namely Pancasila and the 1945 Constitution and must also be adapted to the demands of the times, especially in line with the demands for reform in the field of law.

Therefore the law must be able to follow the changes that occur in society. Law can function to control society and can also be a means to make changes in society.<sup>1</sup>

According to Barda Nawawi Arief, criminal law reform does not only concern the substance, but always relates to existing values. For this reason, in his view, he stated: "The reform of criminal law essentially implies an effort to reorient and reform criminal law in accordance with the socio-political, socio-philosophical and socio-cultural values of the Indonesian people that underlie social policies, criminal policies and policies. law enforcement in Indonesia."<sup>2</sup>

Satjipto Raharjo, as quoted by Nyoman Sarikat Putra, said:<sup>3</sup>, that the law enforcement process also extends to the stage of making laws/laws. The formulation of the mind of the legislators as outlined in the legislation will also determine how the law enforcement will be implemented. Material criminal law, viewed from a dogmatic-normative point of view, according to Barda Nawawi Arief, has substance in 3 (three) main problems of criminal law (meaning: material criminal law) lies in interrelated

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<sup>1</sup> Satjipto Raharjo, 1996, *Ilmu Hukum*, PT. Citra Aditya Bhakti, Bandung, , p. 189

<sup>2</sup> Barda Nawawi Arief, 2002, *Bunga Rampai Kebijakan Hukum Pidana*, Citra Aditya Bakti, Bandung, p. 28

<sup>3</sup> Nyoman Sarikat Putra Jaya, 2005, *Kapita Selekta Hukum Pidana*, Badan Penerbit Undip, Semarang, p.

issues, namely:<sup>4</sup> what actions should be punished; what conditions should be met to blame/account for someone doing the act; and What sanctions/criminals should be imposed on that person?

Criminal law policies essentially contain state policies in regulating and limiting power, both the authority of the community in general to act and behave as well as the power or authority of the ruler/law enforcement in carrying out their duties ensuring that the community obeys and obeys the rules that have been set. Criminal law policy is a series of processes consisting of three stages, namely: the legislative/formulative policy stage; judicial/applicative policy stage and executive/administrative policy stage.

Based on the three descriptions of the policies of criminal law enforcement, there are three powers/authorities, namely the legislative/formulative powers authorized in terms of determining or formulating what actions can be criminalized which are oriented to the main problems in criminal law including acts that are against the law, mistakes/criminal liability and what sanctions can be imposed by acts of law, judicial/applicative power is the power in terms of applying criminal law by law enforcement officers or courts in the matter of applying criminal law by law enforcement officers or courts and executive/administrative powers in implementing criminal law by implementing/criminal execution apparatus.

Based on the three stages of law enforcement policies mentioned above, crime prevention is always oriented towards efforts to achieve community welfare. As stated by Barda Nawawi Arief<sup>5</sup> that the policy or effort to overcome crime (criminal policy) is essentially an integral part of efforts to protect society (social defense) and efforts to achieve public welfare (social welfare). Along with the development of modern society's life in the face of globalization and the process of industrialization and modernization will foster changes in social processes in the order of people's lives.

The process of industrialization and modernization and especially industrialization forestry has had a major impact on the sustainability of forests as a support of life and the life of creatures in the world. Forest is a very important resource not only as a resource of wood, but rather as a component of the environment.<sup>6</sup>

Based on the above background, the objectives of this study are 1) knowing and analyzing KPH Pati policies in overcoming criminal acts of illegal logging, as well as the constraints of KPH Pati Central Java in overcoming criminal acts of illegal logging and their solutions.

## 2. Research Methods

Research methods in sociological juridical research which in other words is a type of sociological legal research. The sociological juridical objective is an approach that looks at the legal reality in society. Data collection techniques in this study were carried out by means of library research and field studies. Data analysis was carried out after

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<sup>4</sup> Barda Nawawi Arief, 2005, *Beberapa Aspek Kebijakan Penegakan dan Pengembangan Hukum Pidana Edisi Revisi*, Citra Aditya Bakti, Bandung, p. 136

<sup>5</sup> Barda Nawawi Arief, 2002, *Masalah Penegakan Hukum dan Kebijakan Penanggulangan Kejahatan*, PT. Citra Aditya Bakti, Bandung, p. 73

<sup>6</sup> Siswanto Sunarso, 2005, *Hukum Pidana Lingkungan Hidup dan Strategi penyelesaian sengketa*, Rineka Cipta, Jakarta, p. 6

the data had been collected, the data obtained from further research was analyzed using qualitative analysis, namely by describing the data and facts produced or in other words, by describing the data with sentences arranged in detail, systematically, and analytically. So that it will be easier to make conclusions from research in the field with an interpretation, evaluation and general knowledge

### **3. Results and Discussion**

#### **3.1. District Forest Management Unit policy Pati in tackling the crime of illegal logging**

At this level, the policy of overcoming the crime of illegal logging in KPH Pati also uses 2 (two) facilities, namely:

##### *3.1.1. Non-Penal Means, consisting of 2 (two) patterns as follows:*

First, preemptive. The preemptive pattern is to take early prevention in order to eliminate, reduce, and close the intention of a person or group to commit a criminal act of illegal logging. The real implementation carried out by KPH Pati is to carry out socialization and counseling to residents in forest areas, carry out sympathy patrols, provide clean water assistance, health assistance, educational assistance, and carry out Community Forest Management; Secondly, Preventive. The preventive pattern is intended to prevent, eliminate, reduce, and close the opportunity for a person or group to commit illegal logging crimes. The actual implementation carried out by the starch FMU is as follows:

- Carrying out forest security patrols, namely carrying out supervision carried out by moving from one place to another that is considered prone to illegal logging by 2 (two) to 3 (three) or more people who have the responsibility of securing their forest area.
- Carrying out forest security guarding, namely guarding at the guard posts that have been provided and determined whose placement is based on the points prone to the occurrence of criminal acts of illegal logging which are carried out 24 hours a day.<sup>7</sup>
- Institutional development (Capacity Building) by providing guidance and a good understanding of how to tackle illegal logging crimes, build discipline and cohesiveness among personnel, Penal Means by using Repressive Patterns. Repressive activities are activities with penal facilities. Non-judicial law enforcement to reduce, suppress or stop forestry crimes Conduct law enforcement operations; Collecting information on the results of reports from residents around the starch KPH area; Safeguarding evidence from the proceeds of illegal logging; Supervise the perpetrators, witnesses and evidence of illegal logging crimes.

##### *3.1.2. Forestry Crime*

Crimes in the forestry sector as a crime punishable by imprisonment include the following acts:

- Damaging forest protection facilities and infrastructure and causing forest damage (Article 178 (1) of Law No. 41 of 1999.

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<sup>7</sup>Agus Ridwan, "Personal Interview", deputy head of KPH Pati, Central Java, 6 December 2021, 12.30-13.30 WIB.

- Burning Forests (Article 178 paragraphs 2 and 3 of Law No. 41 of 1999).
- Cutting down trees and possessing forest products illegally (Article 78 (3) of Law No. 41 of 1999).
- Mining and exploration and exploitation of mining materials without a permit (Article 78 (5) jo Pasa138 (4) LAW No. 41 of 1999).
- Having forest products without a certificate (Article 178 (6) in conjunction with Article 50 (3) of Law No. 41 of 1999).
- Herding cattle. The act which is threatened with this provision is whoever deliberately herds livestock in a forest area which is not specifically appointed by the competent authority, is threatened with a maximum imprisonment of three months and a maximum fine of ten million rupiahs. Carrying heavy equipment without a permit (Article 78 (8) of Law No. 41 of 1999). Throw away dangerous objects.
- Bringing protected wildlife or plants. Article 178 (12) of Law No. 41 of 1999).

Crimes in the forestry sector include 15 types of crimes that can be classified into 3 groups, namely: prohibition of destroying forest protection facilities and infrastructure; prohibition of causing forest damage; and prohibition that is administrative in nature but provides criminal sanctions.

The first and third groups are formal crimes (formal offenses); while the second group is a material crime (material offense) which requires the occurrence of forest damage. The third group of types of crimes in the forestry sector<sup>8</sup>

### 3.1.3. *Illegal Logging*

One of the crimes in the forestry sector as mentioned above is timber theft or logging or better known as illegal logging. Grammatically, the meaning of illegal logging is cutting down wood and then bringing it to a sawn place which is illegal, against the law or illegal. In the Presidential Instruction of the Republic of Indonesia No. 5 of 2001 concerning Eradication of Illegal Logging and Illegal Forest Products Circulation in Forest Areas of Central Java

Conceptual law enforcement from the core and meaning of law enforcement is an activity of a combination of the values outlined in the principles or views of good values and a series of final stages of value elaboration to create, maintain and maintain peace in social life.

Author's Analysis of this research is to identify and analyze law enforcement against illegal mining in Indonesia. Based on the results of the study, it can be concluded that illegal mining law enforcement is an unlawful act, regulated in Law No. 4 of 2009 concerning Mineral and Coal Mining, the threat of punishment is regulated from Articles 158 to 165. State Administrative Law enforcement in mining crimes illegal activities by law enforcement officers are carried out preventively. Supervision in mining administration law enforcement is limited to the provisions of Article 39, Article 78, and Article 79 concerning Mining Business Permits (IUP) or Special Mining Business Permits (IUPK). The signs contained in the Mining Business Permit (IUP) or Special Mining Business Permit (IUPK), are obligations that must be carried out by the recipient of the

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<sup>8</sup>Agus Ridwan, "Personal Interview", deputy head of KPH Pati, Central Java, 6 December 2021, 12.30-13.30 WIB.

Mining Business Permit (IUP) or Special Mining Business Permit (IUPK), and if a violation is committed, the official who issuing a permit has the right to impose sanctions. Based on the proposal, it is hoped that there will be coordination and integration between relevant agencies, especially to carry out socialization activities for legal counseling regarding Law Number 4 of 2009<sup>9</sup>.

Law enforcement on the handling of a criminal case is very necessary in order to create a real rule and function of legal norms in people's lives. Not only that, law enforcement can be said as one of the efforts in dealing with crimes rationally that fulfills a sense of justice and as a reaction given to criminals.

Legal factor; Laws governing law enforcement against perpetrators of illegal logging have been clearly regulated in Law no. 18 of 2013 concerning Prevention and Eradication of Forest Destruction and the Criminal Code. This shows that the legal rules governing the criminal act of illegal logging.<sup>10</sup>

Law Enforcement Factor. In the process of law enforcement against illegal logging, the Central Java Police, Central Java High Court, and Central Java High Court in carrying out their duties and authorities are very responsive to incoming reports regarding illegal logging crimes. Based on this, the enforcement carried out by the above agencies has carried out their main duties and responsibilities well, in terms of the process of investigation, arrest, prosecution to decisions made by perpetrators of illegal logging in forest areas.<sup>11</sup>.

However, there are obstacles that trigger not optimal supervision of perpetrators of illegal crimes, due to the large number of perpetrators of criminal acts so that law enforcement officers cannot supervise every perpetrator of criminal acts.

Factors of Supporting Facilities or Facilities: Transportation facilities There must be transportation facilities, especially for forest police in carrying out patrols to reach remote places which are expected to be able to monitor forest conditions that are prone to illegal logging crimes; Guard post The establishment of a guard post in the forest area which aims to monitor the state of the forest in order to avoid illegal logging activities in the forest area of Central Java<sup>12</sup>.

Community Factor; Community knowledge and awareness in Central Java regarding illegal logging is still very low. This is evidenced by the number of cases of illegal logging in Central Java.

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<sup>9</sup> Grahita Fidianto, Umar Ma'ruf and Aryani Witasari, "The State Financial Recovery on Criminal Acts of Corruption through Approach to Criminal Claim", *Law Development Journal*, Vol 3, No 4 (2021) url: <http://jurnal.unissula.ac.id/index.php/ldj/article/view/18067>

<sup>10</sup> Agus Ridwan, "Personal Interview", deputy head of KPH Pati, Central Java, 6 December 2021, 12.30-13.30 WIB.

<sup>11</sup> Agus Ridwan, "Personal Interview", deputy head of KPH Pati, Central Java, 6 December 2021, 12.30-13.30 WIB.

<sup>12</sup> Agus Ridwan, "Personal Interview", deputy head of KPH Pati, Central Java, 6 December 2021, 12.30-13.30 WIB.

Community Cultural Factors; in Central Java still adhere to customs and traditions. In addition to using legal rules, in carrying out the law enforcement process one must also pay attention to the customs of the people of Central Java.<sup>13</sup>

### **3.2. The constraints of the District Forest Management Unit. Pati, Central Java, in tackling illegal logging crimes**

Constraints of FMU Pati: Road access in the forest area of KPH Pati which is very difficult to pass is also an obstacle factor in eradicating the crime of illegal logging. This is because it is a natural factor in the forest area, not to mention if during the rainy season the road is sometimes impassable by vehicles. Difficult road access in preventive efforts makes it difficult for forest rangers to reach all very large forest areas.

Juridical Obstacles to Enforcement of Forestry Law; Juridical obstacles that accompany the performance of law enforcement against crimes in the forestry sector can come from factors of legal substance and from law enforcement officials. In terms of legal substance, there are several problems that interfere with the performance of law enforcement against criminal acts in the forestry sector, namely:<sup>14</sup>Forestry Criminal Law provisions cannot touch intellectual actors; The Difficulty of Proving Forestry Crimes; The Scope of Formulation of Offenses and Criminal Sanctions is still Narrow; Not Determined Ecological Compensation; No Special Judicial Institution for Forestry Crimes Was Formed.

Non-Juridical Constraints; Non-juridical barriers that become obstacles to the performance of law enforcement against criminal acts in the forestry sector are related to issues of legal structure and legal culture, which include: Weak Coordination between Law Enforcers; Barriers to the Foreclosure Process; Limited Funds in Process; Law enforcement; Lack of Law Enforcement Facilities and Infrastructure.

Improvement Efforts in Optimizing Law Enforcement Against Crimes in the Forestry Sector; Several obstacles in law enforcement against crimes in the forestry sector show that legal provisions in the forestry sector have not been able to accommodate the development of crimes in the forestry sector, including illegal logging. The criminal provisions in the Forestry Law have not been effective in dealing with criminal cases in the forestry sector, which have recently grown rapidly and widely.

### **3.3. What is the solution for the District Forest Management Unit? Patience to the obstacles to combating illegal logging**

the implementation of the law on illegal logging in the Pati KPH, Central Java, is carried out through a harmonious, precise and integrated mechanism, including:

Preventively; Prevention of criminal acts of illegal logging carried out preventively, is a policy carried out as an effort to prevent starch from the possibility of increasing illegal logging in the starch area of Central Java.

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<sup>13</sup>Agus Ridwan, "Personal Interview", deputy head of KPH Pati, Central Java, 6 December 2021, 12.30-13.30 WIB.

<sup>14</sup>Agus Ridwan, "Personal Interview", deputy head of KPH Pati, Central Java, 6 December 2021, 12.30-13.30 WIB.



Repressive law enforcement; Repressive law enforcement is an action taken at the time of illegal logging or after illegal logging has occurred which requires skilled, professional and authoritative law enforcement officers. The method of law enforcement for repressive criminal acts is more focused on the process of arrest, detention, investigation, prosecution and up to the judicial process. As for law enforcement actions for repressive criminal acts

#### 4. Conclusion

Road access in the forest area of KPH Randublatung which is very difficult to pass, There is still weak coordination in handling illegal logging crimes with related parties, The surrounding community is difficult to communicate with. Law enforcement against crimes in the forestry sector encounters several obstacles, both juridical in nature originating from the laws and regulations governing forestry, namely the formulation of forestry offenses cannot reach intellectual perpetrators of crimes in the forestry sector, proof is difficult, the scope of the formulation of offenses is still narrow, ecological compensation is not regulated, and a special judicial institution for forest crimes is not established. Meanwhile, non-juridical barriers include weak coordination between law enforcement,

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