

The Criminological Ideas in the Criminal Enforcement of Illegal Logging

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Abstract.

The purpose of this paper is to examine and analyze the Criminology review of the factors that cause the occurrence of illegal logging crimes. In this paper, the author uses a normative juridical method. In the conclusion of the discussion that the factors of the occurrence of illegal logging in the perspective of criminology, namely first, the legal factor itself, the better a legal regulation, the more likely it is to enforce it. Both factors are law enforcement, law enforcement is strongly influenced by law enforcement officials. If a regulation is good but the quality and quantity of law enforcement apparatus is low, then the desired law will not be realized. Third, cultural factors play an important role in the occurrence of illegal logging. Illegal logging perpetrators commit these crimes because there are cultural demands that require them. Indonesia has hundreds of tribes and cultures in which the interior is very diverse. Fourth, Community factors can also affect law enforcement itself, because law enforcement comes from the community and aims to achieve peace in society. In this case what is important is the legal awareness of the community, the higher the legal awareness of the community, the better law enforcement.

Keywords. Criminology; Enforcement; Illegal; Logging.

1. Introduction

The Unitary State of the Republic of Indonesia is one of the big countries that prioritizes applicable legal provisions.¹The positive rule of law that applies in Indonesia is clearly an important component in building a safe, peaceful and peaceful life.² As in the Constitution of the Republic of Indonesia, namely the 1945 Constitution of the Republic of Indonesia, which has confirmed that Indonesia is a state of law, this phrase is contained in Article 1 paragraph 3 of the 1945 Constitution of the Republic of Indonesia.³This confirms that the implementation of the Indonesian state government must always be based on and in accordance with the will of the law. The fourth paragraph of the Preamble to the 1945 Constitution, which is the constitutional basis of this country, states that one of the goals of the state is to create general welfare and educate the nation's life.⁴This has

¹Ari Yudistira and Widayati. (2021). *The Investigation Process of Prospective Children in Criminal Action*. Jurnal Daulat Hukum. 4 (1), url:<http://jurnal.unissula.ac.id/index.php/RH/article/view/13695/5374>

²Sumaryono and Kusriyah, Sri. (2020). *The Criminal Enforcement of the Fraud Mode of Multiple Money (Case study Decision No.61 / Pid.B / 2019 / PN.Blora)*. Jurnal Daulat Hukum. 3(1), url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/8811/4075>

³Majelis Permusyawaratan Rakyat Indonesia. (2015). *Undang-Undang Dasar Negara Republik Indonesia tahun 1945*. Jakarta: Sekretariat Jenderal MPR RI, p 116.

⁴Sulistiyawan Doni Ardiyanto, Eko Soponyono, and Sulchan, Achmad. (2020) *Judgment Considerations Policy in Decree of the Court Criminal Statement Based On Criminal Destination*, Jurnal Daulat Hukum, 3(1), url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/8409/4067>

the implication that public welfare is a constitutional ideal, accompanied by the growth of an intelligent Indonesian people who are able to lead the Indonesian nation as a sovereign and prosperous country.⁵

As a state of law, Indonesia applies criminal law in every sector, including in the forestry sector. Forests cannot be separated from a tropical country named Indonesia. Forest resources are one of the creations of God Almighty who have a very important role in maintaining the balance of nature in this universe. In the forest all living things have been created, large, small, and those that cannot be seen with the eye. In addition, it also contains a number of plants that form a stretch, which becomes a unified whole. This is a source of wealth that can be managed properly, which is used to build the nation and state. Therefore, the assets contained in the forest are needed to increase state and regional income.

Natural wealth in the form of forests is also a pillar of the success of development in Indonesia, so it needs to be explored and utilized optimally. Regarding this, Supriadi said that if the forest in an area has experienced a very drastic decline, it will automatically have a negative impact on life, especially for the community, for example there will be drought during the dry season, flooding will occur during the rainy season. Therefore, it is very important to carry out forest management to find out the extent of the utilization and use of the forest area. In addition, the purpose of forest management is to avoid conflicts of interest in forest management, both conflicts between the government and the community, especially people who live around forests.⁶

Forests, which are an important part of the environment in their management, also have principles that are already internationally accepted principles, namely the principle of sustainable forests and the principle of ecolabelling increased international cooperation in forest conservation and sustainable development. The principle of ecolabelling is the principle that all tropical wood sold must come from sustainable forests through a labeling mechanism.⁷

One form of crime in the forestry sector is theft of wood or logging or better known as illegal logging. The forestry law does not specifically mention the term illegal logging as a crime. According to Suriansyah Murhaini, the definition of illegal logging is cutting down wood and then bringing it to somewhere which is illegal.⁸

The problem of crime in the forestry sector has a very broad effect, covering various aspects of life, such as environmental damage and damage to the balance of ecosystems, and harming many people. Referring to these matters, there must be an effort to overcome or at least reduce the occurrence of crimes against

⁵Didi Wahyudi Sunansyah, and Wirasari, Aryani. (2020). *Effectiveness Of Allotment Penalty Imposed By Judge In The Case Of Children For A Child Protection As Victims (Case Study at State Court of Sumber)*, Jurnal Daulat Hukum. 3 (1), url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/8483/3939>

⁶Supriadi. (2011). *Hukum Kehutanan & Hukum Perkebunan di Indonesia*. Cetakan ke-2, Jakarta: Sinar Grafika, p. 113.

⁷Koesnadi Hardjasoemantri. (2002). *Hukum Tata Lingkungan*. Yogyakarta, Gadjah Mada University Press, p.199

⁸Suriansyah Murhaini, (2011). *Hukum Kehutanan*. Cetakan Kedua, Yogyakarta, Laksbang Grafika, p.29-30.

forestry in order to create a balance and harmony of environmental ecosystems and the maximum utilization of forests for the welfare of the people. In Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction (UUP3H) Article 12 letter d it is stated that "Loading, unloading, releasing, transporting, controlling, and/or possessing logging products in forest areas without a permit". Illegal logging is a term for illegal logging, which describes all forestry practices or activities related to timber harvesting, management and trade that are not in accordance with Indonesian law.

Based on the background described above, the purpose of writing is to find out and analyze the Criminology review of the factors that cause the occurrence of illegal logging crimes.

2. Research Methods

To conduct a study in this paper, the author uses a normative juridical method or a written legal approach (statutory approach).⁹This writing uses research specifications in a descriptive analysis or that is exposure to the object of research.¹⁰The data used for this writing is secondary data. To get the data in this paper, used the method of collecting data from library research obtained from library books, laws and regulations, as well as the opinions of legal experts.

3. Research and Discussion

3.1. Criminology Review Factors That Cause Illegal Logging Crime

Criminology is the science that studies crime. The name criminology invented by P. Topinard (1830-1911) a French anthropologist, literally comes from the word "crimen" which means crime or criminals and "logos" which means science, so criminology can mean the science of crime or criminals.¹¹

Crime seen from a formal point of view (according to law) is an act for which the community (in this case the State) is given a punishment, a description that does not provide further explanations such as formal definitions in general. Viewed from the inside to the core, a crime is part of the actions that are contrary to decency.

Making laws that can include a review of the concept of crime, who is the law maker and the factors that must be considered in making the law. Violations of the law that can include who the perpetrator is, why the violation of the law occurs and the factors that influence it. Reaction to law violations through the criminal justice process and public reactions. Later in its development, in order to discuss the dimensions of crime/criminals, criminological theories are known.

According to Andi Hamzah, offense is defined as an act that is prohibited and is threatened with punishment by law (criminal). Meanwhile, according to Moeljatno, it is defined as human behavior that is threatened with criminality by

⁹Johny Ibrahim. (2006). *Teori Dan Metodologi Penelitian Hukum Normatif*. Malang, Bayumedia, p.295

¹⁰Soerjono Soekanto. (1983). *Faktor-faktor Yang Mempengaruhi Penegakan Hukum*. Jakarta, UI Press, p. 10

¹¹Topo Santoso and Eva Achjani Zulfa. (2002). *Kriminologi*. Jakarta, PT Grafindo, p.9

laws and regulations.¹² Meanwhile, Jonkers formulates strafbaarfeit as a criminal event which is defined as an unlawful nature (wederrechtelijk) related to intentional or wrongdoing by an accountable person. Meanwhile, Simons defines strafbaarfeit as an unlawful act that has been carried out intentionally by someone who can be held accountable for his actions and which by law has been declared an act that can be punished.

In criminological theory, Conflict of Sub-culture theory applies, it exists in a society that is not integrated, so that the organization becomes weak. Gang sub-cultures tend to exhibit independent behavior. Its characteristics are violence, confiscation of property, and other deviant behavior.¹³

In this case, in general, illegal logging means activities in the forestry sector or which are a series of activities that include logging, transporting, processing to buying and selling (including export-import) timber that is illegal or contrary to the applicable laws, or acts that are illegal. The essential essence of this illegal logging practice is the destruction of forests which will have an impact on losses from the economic, ecological, as well as socio-cultural and environmental aspects. This is a logical consequence of the function of the forest which is essentially an ecosystem in which it contains three basic functions, namely production (economic) functions, environmental (ecological) functions and social functions.

Crimes against forestry are special crimes regulated by criminal provisions. There are two criteria that can indicate the special criminal law, namely, first, the people or special subjects, and second, the special actions (*bijzonder lijk feiten*). Special criminal law with a special subject means a special subject or perpetrator such as military criminal law which is only for military groups. And the second criminal law whose specific actions are criminal acts committed specifically in certain fields such as fiscal law which is only for fiscal offenses. The crime of illegal logging is a special crime in the category of criminal law whose actions are special, namely for forestry offenses involving the management of timber forest products.

The criminal law enforcement process is interrelated with criminology, because criminology can provide input to criminal law, especially why people commit crimes and the factors that cause them and what efforts must be made so that law enforcers do not violate the law. For this reason, it is criminology that studies the cause and effect, improvement and prevention of crime as a human phenomenon and can gather contributions from various sciences.¹⁴

If analyzed from a criminological perspective, there are 5 (five) causative factors that lead to a paradox in the enforcement of criminal law in Indonesia.

- The legal factor itself
According to Zevenbergen, a legal regulation has juridical force if the legal regulation is formed in a predetermined way.¹⁵ In dealing with illegal logging

¹²Mulyati Pawennei & Rahmanuddin Tomalili, (2015), *Hukum Pidana*. Jakarta, Mitra Wacana Media, p.6

¹³R. Soesilo. (1985). *Kriminologi (Pengetahuan Tentang Sebab-sebab Kejahatan)*, Bogor: Politeia, p.13

¹⁴D. Soedjon. (1979). *Konsepsi Kriminologi dalam usaha penanggulangan kejahatan (Crime Prevention)*. Bandung, Alumni, p.5

¹⁵Purnadi Purbacaraka & Soerjono Soekanto. (1978). *Perihal Kaedah-kaedah Hukum*. Bandung, Alumni, p.114

cases, one of the legal bases used is Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction. However, several articles in the P3H Law are counter-productive where there is a conflict between one article and another. In the criminal provisions of Articles 82 to 103, corporations that destroy forests are subject to fines and fines. However, in Article 109, the principal punishment that can be imposed on corporations is only a fine. Abstract legal substance will have an impact on the responsiveness of legal subjects in encouraging increasing a sense of not having a sense of legal awareness of the existence of regulations that prohibit illegal logging.

- Law enforcement factor

Law enforcement is strongly influenced by law enforcement officials. If a regulation is good but the quality and quantity of law enforcement apparatus is low, then the desired law will not be realized. The implementation of forest protection and forest management to prevent forest damage from illegal logging practices by irresponsible humans requires guarding and supervision by the authorized apparatus, in this case the Forest Police (Polhut). The enactment of the Forestry Law must be able to be used as a weapon for law enforcement officials to take action against illegal logging perpetrators.

- Cultural factors

Cultural factors basically include the values that underlie the applicable law, which values are abstract conceptions of what is considered good and what is considered bad. Customary law is a habit that applies among many people. However, in addition to that, there are also written laws (laws) established by the government. The law must be able to reflect the values that form the basis of customary law so that the law can run effectively. While the habit of influencing law enforcement in law enforcement itself, for example, the existence of bad habits in law enforcement in general in the form of giving envelopes under any pretext for the settlement of a case, both criminal and civil. This habit has been considered a culture in the midst of justice seekers which is already a chronic disease that is difficult to fix. Whereas the habits that are considered cultural are habits that violate existing norms, both legal norms and customary norms that promote a culture of shame to act in violation of existing legal provisions.¹⁶

- Community factors

Community factors can also affect law enforcement itself, because law enforcement comes from the community and aims to achieve peace in society. In this case what is important is the legal awareness of the community, the higher the legal awareness of the community, the better law enforcement will be. On the other hand, the lower the level of public legal awareness, the more difficult it is to implement good law enforcement. What is meant by legal awareness, among others, is knowledge of the law, appreciation of legal functions, obedience to the law.¹⁷

¹⁶Ediwarman. (2012). *Paradoks Penegakan Hukum Pidana Dalam Perspektif Kriminologi di Indonesia*. Jurnal Kriminologi Indonesia. 8(1), p.46

¹⁷D. Schaffmeister & N. Keijzer, E. PH. Sutorius, Terjemahan J.E. Sahetapy. (1995). *Hukum Pidana*. Yogyakarta, Penerbit Liberty, p.214

The use of legal remedies, including criminal law, is one of the efforts that can be used in overcoming social problems, especially in law enforcement. However, besides that it must be based on the aim of achieving the welfare of society in general. However, this legal policy is also included in the field of social policy, namely all rational efforts to achieve public welfare. According to Soerjono Soekanto, law enforcement is an activity to harmonize the relationship of values that are spelled out in solid rules and attitudes of action as a series of final value translations. To create, maintain and maintain peaceful social life.¹⁸

According to Wignjoesobroto, legal awareness is the willingness of the community to behave in accordance with established legal rules. Legal awareness has two dimensions, namely cognitive and affective. Cognitive is knowledge of the law that regulates certain behaviors, whether prohibited or ordered in accordance with predetermined laws. While affective is a form of realization that recognizes that the law must be obeyed.

4. Conclusion

The factors for the occurrence of illegal logging in the perspective of criminology are first, the legal factor itself, the better a legal regulation, the more likely it is to enforce it. Both factors are law enforcement, law enforcement is strongly influenced by law enforcement officials. If a regulation is good but the quality and quantity of law enforcement apparatus is low, then the desired law will not be realized. Third, cultural factors play an important role in the occurrence of illegal logging. Illegal logging perpetrators commit these crimes because there are cultural demands that require them. The law enforcement for illegal logging crimes is not only directed to the enforcement of legal justice, but also to the simultaneous enforcement of social and economic justice. This means that not only give criminal sanctions to the perpetrators, but also so that the perpetrators of forest destroyers restore forest functions to their original state.

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¹⁸Soerjono Soekanto. Loc. cit, p.91

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