

ENVIRONMENTAL CONSERVATION IN THE FIELD OF CRIMINAL LAW ENFORCEMENT AGAINST ILLEGAL LOGGING CASES

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Abstract

Forest destruction has threatened the survival of people's lives so it is necessary to prevent and eradicate effective forest destruction and provide a deterrent effect to perpetrators, therefore a strong legal basis is needed that is able to guarantee the effectiveness of law enforcement. The research objective is to identify and analyze environmental conservation efforts in the field of criminal law enforcement against illegal logging cases in Indonesia. The approach method used in this study is a qualitative approach. The specifications in this research are descriptive analytical, namely providing a detailed, systematic and comprehensive description by classifying, connecting, comparing and giving meaning to legal aspects related to environmental conservation efforts in the field of criminal law enforcement against illegal logging cases in Indonesia. The results of the research on environmental conservation efforts in Indonesia were carried out by producing Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction and in the Criminal Code which in several articles threatens with criminal acts of illegal logging so that it has a function in protecting the environment. prevention and law enforcement against illegal logging.

Keywords: *Conservation, environment, law enforcement, illegal logging.*

A. Background

According to Law Number 41 of 1999 concerning Forestry, the act of using forest product wood without the permission of the competent authority is subject to a criminal offense as stated in Article 50 in conjunction with Article 78 of Law Number 41 of 1999 which in fact carries a more severe penalty than if subjected to Article - article in the Criminal Code. Provisions for the explanation of Article 50 of Law Number 41 of 1999, which is meant by people are legal subjects, both individuals, legal entities and business entities without providing further explanation on the formulation of the crime so that criminal sanctions against individuals and corporations are also applied equally.¹

To overcome the rampant crime of illegal logging, the ranks of law enforcement officers (Police investigators and Civil Service investigators whose scope of duties are responsible for forest management, the Prosecutor's Office and Judges) have used Law no. 41 of 1999 was amended by Law No. 19 of 2004, the two laws concerning Forestry as a legal instrument to tackle the crime of illegal logging, although limitatively, the law does not state their existence. term illegal logging.²

In the opinion of Haryadi Kartodiharjo, illegal logging is illegal logging of wood and violates laws and regulations, namely in the form of theft of wood within the State forest area or private (owned) forest and or the holder of the permit logging more than the allotment that has been

stipulated in the permit.³

There are various cases in the area where a person simply to fulfill economic needs cuts, takes and carries a log from the forest without the permission of the authorized official, is subject to a criminal act of illegal logging if it is associated with the purpose of punishment, causing problems related to the purpose of crime prevention (criminal policy) as an effort to protect society to achieve justice and social welfare, making the idea fair enough that those who simply fulfill their economic needs or stomachs are threatened with the same punishment as the owners of capital who clearly steal forest wood with the aim of obtaining the maximum profit.⁴

Environmental problems are complex and interesting problems to be studied in depth, this is what attracts the authors to conduct research on existing criminal policies in their efforts to enforce environmental law in Indonesia. In anticipating efforts to tackle the crime of illegal logging, it is very important to carry out a criminal law policy, especially legislative policy, namely how to formulate an act that is considered a criminal act of illegal logging, what conditions must be met to blame or account for someone committing illegal logging and what sanctions or penalties should be imposed and how the judiciary implements these legislative policies. From the various descriptions above, a research was conducted on Environmental Conservation Efforts in the Enforcement of Criminal Law Against Illegal Logging Cases in Indonesia.⁵

B. RESEARCH METHODS.

This type of research is a sociological juridical research. The approach method used in this research is a qualitative approach. The specifications in this research are descriptive analytical, namely providing a detailed, systematic and comprehensive description by classifying, connecting, comparing and giving meaning to legal aspects related to environmental conservation efforts in the field of criminal law enforcement against illegal logging cases in Indonesia. The data used are primary and secondary data, obtained by conducting a literature study, and interviews with investigators. The results of the study were analyzed using a qualitative descriptive method.

C. Results and Discussion

One form of crime in the forestry sector is timber theft or logging or better known as illegal logging. The definition of illegal logging in the existing laws and regulations is not explicitly defined explicitly. However, the terminology of illegal logging can be seen from its literal meaning, namely from English. In The Contemporary English Indonesian Dictionary, illegal means illegal, prohibited or contrary to law. In Black's Law Dictionary illegal means "forbidden by law, unlawful" means that which is prohibited by law or illegal. Logs are logs (logging means cutting down wood and bringing it to a sawn place). In general, illegal logging implies activities in the forestry sector or which are a series of activities that include logging, transportation, processing to buying and selling activities (including export-import) illegal timber that does not have a permit from the competent authority so that it is contrary to the applicable law. , or actions that can cause forest damage.⁶

The elements contained in the crime of illegal logging include the existence of an activity, felling wood, transporting wood, processing wood, selling wood, buying wood, can damage the forest, there are legal rules that prohibit and conflict with applicable laws. Illegal logging is a series of activities in the forestry sector in the context of the utilization and management of timber forest

products that are contrary to applicable laws and/or have the potential to damage forests. Meanwhile, based on this literal understanding, Sukardi concluded that illegal logging literally means cutting down the wood then brings to the sawn place as opposed to legal or illegal. Another definition of illegal logging is derived from a workshop organized by the Indonesian Non-Governmental Organization (NGO) Telapak in 2002, namely illegal logging is a forest operation or activity that has not received a permit and is destructive.⁷

In the juridical sense in the Law of the Republic of Indonesia Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction, it provides an understanding of illegal logging as all organized illegal use of timber forest products. Forest damage according to Law Number 41 of 1999 concerning Forestry in the elucidation of Article 50 paragraph (2), namely that: "What is meant by damage is the occurrence of changes in its physical, physical or biological characteristics, which causes the forest to be disturbed or unable to function in accordance with function." The term "forest damage" contained in the prevailing laws and regulations in the forestry sector is interpreted to mean that forest destruction has a dualistic meaning, namely: first, forest damage that has a positive impact and obtains approval from the government cannot be categorized as an unlawful act. Second, damage that has a negative (harmful) impact is a real action against the law and against policy or without government approval in the form of a permit.⁸

The definition of illegal logging is given by Rahmawati Hidayati et al. said that illegal logging based on linguistic terminology comes from two syllables, namely illegal which means illegal practice and logging which means logging or harvesting timber. Thus, illegal logging can be defined as the practice of illegally harvesting timber. From the aspect of semantic simplification, illegal logging is often defined as the practice of illegal logging. As for the integrative aspect, illegal logging is defined as the practice of harvesting timber and

The process is illegal or does not follow the established procedures and procedures. The process starts from planning activities, agreements, capital, harvesting activities, to post-harvesting activities which include transportation, trading, processing, to smuggling.⁹

The essence of the practice of illegal logging (illegal logging) is the destruction of forests which will have an impact on losses both 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. Viewed from the social aspect, illegal logging causes various conflicts such as conflicts over forest rights, conflicts in authority to manage forests between the Central Government and Regional Governments as well as local indigenous peoples. Cultural aspects such as community dependence on forests are also affected which in turn will change the perspective and behavior of local indigenous peoples towards forests.¹⁰

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- a. Forest Management System in Indonesia which opens space for illegal logging practices;
- b. The level of welfare (salary) of officials, officers and communities around the forest is low;
- c. Bad mentality;
- d. Weak control, both institutional control and social control.

The impact of ecological (environmental) damage due to illegal logging (illegal logging) according to various studies conducted by environmental and forestry observers that various natural disasters that occurred were allegedly the result of forest destruction as a result of illegal logging (illegal logging). In addition to natural disasters, illegal logging also causes damage to flora and fauna and the extinction of rare species.²

Therefore, the utilization and conservation of forest resources needs to be carried out through a processing system that can maintain and improve its functions and roles for the benefit of present and future generations. 3 of 2005 concerning the Eradication of Illegal Logging in forest areas and its circulation throughout Indonesia and issued Circular Letter Number 01 of 2008 concerning Guidelines for Handling Forestry Crime Cases. This effort is a legal umbrella in the eradication of illegal logging (illegal logging) which is expected to save the continuity of forests in Indonesia.¹¹

The crime of illegal logging is a complex problem for forestry development but realizing the importance of forests for the survival of mankind in general and the Indonesian nation in particular, it is imperative that we do forest conservation and protect its existence for the survival of human beings themselves so as to prevent acts of illegal logging. illegal logging actors who only seek personal gain. Crimes against forestry are special crimes regulated by criminal provisions. There are two criteria that can show 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 two criminal laws whose specific actions are criminal acts that are carried out specifically in certain fields such as fiscal law which are 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.¹²

A criminal act in the forestry sector (illegal logging) as an event that has been or is being or will occur in the form of an act of violating a prohibition or obligation with the threat of criminal sanctions in Law Number 41 of 1999 concerning Forestry or Law Number 18 of 2013 concerning Prevention and Eradication Destruction of Forests (P3H) for anyone who violates the law. Deforestation, especially in the form of illegal logging, mining without permits, and plantations without permits, has caused state losses, damaged socio-cultural and environmental life, and increased global warming which has become a national, regional and international issue.¹³

Forest destruction is also the destruction of the environment, which according to Law Number 32 of 2009 concerning Environmental Protection and Management (UUPPLH), is defined as an action that causes direct changes to physical and or biological properties that result in the environment not functioning in supporting sustainable development. The definition of environmental destruction itself can be seen in Article 1 point 16 of the Law on Environmental Protection and Management, which defines environmental destruction as "an act of a person causing direct or indirect changes to the

physical, chemical and/or biological properties of the environment so that it exceeds standard criteria for environmental damage.¹⁴

Forest destruction has become a crime that has extraordinary, organized and transnational impacts carried out with a sophisticated modus operandi, has threatened the survival of people's lives so that in the context of preventing and eradicating effective forest destruction and providing a deterrent effect, a strong and capable legal basis is needed. ensure the effectiveness of law enforcement.

D. CONCLUSION

In anticipating efforts to tackle the crime of illegal logging, it is very important to carry out a criminal law policy, especially legislative policy, namely how to formulate an act that is considered a criminal act of illegal logging, what conditions must be met to blame or account for someone committing illegal logging and what sanctions or penalties should be imposed and how the judiciary implements these legislative policies. From the various descriptions above, a research was conducted on Environmental Conservation Efforts in the Enforcement of Criminal Law Against Illegal Logging Cases in Indonesia.

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