

Legal Rules for Illegal Logging Perpetrators in Conservation Forests

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Abstract

Illegal logging in conservation forests is an environmental crime that damages the ecosystem and the law. Illegal logging in conservation forest areas is a serious violation of forestry law provisions in Indonesia that has the potential to damage the ecosystem and forest conservation functions. Based on the description above, the problems to be studied in the study are: legal protection of conservation forests in laws and regulations in Indonesia and legal sanctions against perpetrators of illegal logging in conservation forests. The research method uses a normative juridical legal research type, so the approach used is the statute approach which includes primary legal materials: Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction, Forestry Law Number 41 of 2013, Government Regulation Number 108 of 2015 also strengthens forest protection by prohibiting logging without a permit. From the results of the study, it can be concluded that the Enforcement of Legal Protection against conservation forests and legal sanctions against perpetrators of illegal logging in conservation forests is not only aimed at providing a deterrent effect through criminal sanctions and fines, but also maintaining the sustainability of forest functions as areas for preserving biodiversity and natural resources. Cases of illegal logging in conservation forests demonstrate the importance of synergy between law enforcement officers and communities to optimize forest protection and eradicate illegal logging practices.

Keywords: *rule of law, conservation forest, illegal logging.*

Introduction

Indonesia is known as a country rich in natural resources, including vast tropical forests. However, the quality of these natural resources is declining due to irresponsible human activities, such as illegal logging and land conversion into plantations. Therefore, sustainable and participatory natural resource management is indispensable to maintain forest sustainability and support regional development in a fair and sustainable manner.¹

Indonesia used to be known for its forests rich in biodiversity and abundant populations of flora and fauna. However, currently, this condition has decreased drastically due to the rampant illegal logging that threatens the sustainability of the forest ecosystem. These illegal activities have caused significant damage to forest areas, making Indonesia one of the most threatened forest countries in the world. Illegal logging not only damages the environment, but also disrupts the balance of ecosystems and threatens the lives of various species that depend on forests as their natural habitat. Therefore, efforts to preserve and manage forests in a sustainable manner are very important to maintain the sustainability of life in them.²

Since ancient times, forests have been used by humans to meet various life needs. However, with the population continuing to grow every year, the forest area has experienced significant shrinkage. If conservation efforts are not taken seriously, forest destruction will worsen and cause habitat extinction for various types of animals.³ In addition, forests are known as the lungs of the world, which are natural resources that have an important role in supporting human well-being. Forests are also habitats for various ecosystems that function to maintain environmental balance. However, there are many development activities and illegal logging practices in various sectors that have had a negative impact on forest conditions. Therefore, efforts to preserve and protect the environment, especially forests, must be enforced.⁴

¹ Wirmayanti, Putu Ayu Irma, Ida Ayu Putu Widiati, and I. Wayan Arthanaya. "Legal Consequences of Illegal Deforestation." *Journal of Legal Preferences*, Vol. 2.No1 (2021) p.197

² Ibid.h.199

³ Sarintan E. Demanik, *Management of Conservation Areas*, Uais Inspirasi Indonesia, Ponorogo, 2020, p.1.

⁴ Abdillah AR Lutfi and Andi Ahmad Afandy, *Law Enforcement of Forest Protection by the Forestry Police*, *Journal of Amsir Litigation*, Vol. 10 No. 4 (2023), p.576

Illegal logging can trigger various natural disasters such as floods, landslides, erosion, and so on. The impact caused is not only limited to natural disasters, but also causes a decrease in soil quality, shrinkage of forest areas due to encroachment, decreased income of people living around forests, and reduced ability of the biosphere to absorb carbon dioxide. As a result, the earth's surface temperature is increasing which contributes to global warming, so forests that previously functioned as the lungs of the world are now losing their role. The Indonesian government actually has a number of regulations and laws that regulate the prohibition and legal sanctions for illegal logging perpetrators.⁵ Cases of illegal logging occur in various protected forest areas in Indonesia. If this illegal logging practice continues, the impact of economic losses for the country will be enormous. In addition to economic losses, the resulting forest damage also has the potential to trigger natural disasters such as floods and landslides, which are difficult to prevent. The arrest of the perpetrators of illegal tree felling is part of the law enforcement process that aims to overcome these criminal acts.⁶ In tackling crime, various reactive actions can be given to perpetrators to achieve the application of criminal law in accordance with current and future conditions.

Research Methods

The method used in this study is normative juridical which focuses on the study of applicable legal norms, such as laws and regulations. Normative law is a process to find a rule of law, as well as legal doctrines to answer the legal problems faced. Normative legal research is carried out to produce new arguments, theories or concepts as a perspective in solving the problems at hand.⁷ By using the *Statue Approach* and the Conceptual approach. This legislative approach is carried out by examining all laws and regulations related to the legal issues being discussed. Meanwhile, the concept approach is used in order to see concepts related to the legal rules of illegal logging of conservation forests.

⁵ Wirmayanti, Putu Ayu Irma, Ida Ayu Putu Widiati, and I. Wayan Arthanaya. *loc.cit.* p.198

⁶ Octavia Zauzah Rachmah, Samuel Bierhof, and Muhammad Fathur Rizqi, *Analysis of Law Enforcement Against Perpetrators of Illegal Logging of Halimun Salak Forest Banten*, Journal Policy, Vol. 2 No. 1 (2024), p.93

⁷ Peter Mahmud Marzuki, *Legal Research*, Kencana, Jakarta, 2021, p. 35.

Research Results and Discussion

1. Legal protection of conservation forests in Indonesian laws and regulations

Conservation forests are forest areas that have special characteristics and play a major role in maintaining the diversity of plants, animals, and ecosystems in them. Meanwhile, protected forests are areas that have the main function as protectors of life support systems with the task of regulating the water cycle and maintaining soil fertility.⁸

Based on the provisions of Law Number 5 of 1990 concerning the Conservation of Biological Natural Resources and Their Ecosystems. The use of conservation forests can be carried out through various activities in accordance with applicable regulations. Among others:⁹

- a) Life support system protection.
- b) Preservation of the diversity of plant and animal species and their ecosystems.
- c) Sustainable use of biological natural resources.

Conservation forests provide various benefits to communities living around forest areas, such as providing environmental services, water sources, and food sources, so there is a need for regulations and regulations that ensure the protection of conservation forests as a whole.

Legal protection of conservation forests in Indonesia is comprehensively regulated in various laws and regulations that aim to preserve forests, forest areas, and forest products from damage caused by human activities and natural factors. Legal protection of conservation forests in Indonesia is strictly regulated through various laws and regulations, especially Law Number 41 of 1999 concerning Forestry and Law Number 5 of 1990 concerning the Conservation of Biological Natural Resources and Their Ecosystems, Government Regulation Number 28 of 2011 which was updated with Government

⁸Abdul Khakim, Indonesian Forest Law (In the Era of Regional Autonomy), Citra Aditya Bakti, Bandung, 2015, p.38

⁹Moses Agusteyn et al., *Criminal Policy of Illegal Logging in Aru Islands Regency*, Journal of Bacarita Law, Vol.4, no. 1 (2023), p.29

Regulation Number 108 of 2015 concerning the Management of Nature Reserves and Nature Conservation Areas. These protection efforts aim to maintain the function of forests as a buffer for life, prevent damage, and defend the rights of the state and communities to forests and their results, so that conservation forests can function optimally as sustainable natural resources for current and future generations.

The government has full authority to regulate, manage, and determine the status of forest areas, including conservation forests, as well as regulate the legal relationship between communities and these forests, while still paying attention to the rights of indigenous peoples who are recognized as existing. Forest protection includes preventing damage caused by human activities, fires, pests, and diseases, as well as involving communities in conservation efforts. In addition, forest utilization business license holders are required to protect forests in their work areas, while communities have an obligation to maintain and maintain forest preservation in accordance with legal provisions.

Forest and environmental management in Indonesia has been determined through various legal regulations, ranging from Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia to other laws and regulations. The purpose of this arrangement is to maintain and improve order and provide legal certainty, so that it is expected to ensure the preservation of forests and the welfare of the community, although Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia emphasizes that natural resources and the environment must be managed for the welfare of the people, the reality on the ground shows a discrepancy. Indonesia is experiencing a very high rate of deforestation, making it one of the countries with the fastest rate of forest loss in the world.¹⁰ This is largely due to political and economic policies that are not in favor of environmental sustainability.

Factors such as pro-investment policies that encourage the conversion of forests into industrial and plantation land, corrupt practices involving collusion between government officials and

¹⁰ Clearestha Nakita, Fatma Ulfatun Najicha, *The Influence of Deforestation and Efforts to Preserve Forests in Indonesia*, Journal of Ius Civile (Reflections on Law Enforcement and Justice), Vol. 6 No. 1 (2022), p.101

businessmen, and weak oversight and coordination between levels of government have exacerbated forest destruction. In addition, the decentralization of the post-New Order government has given greater authority to local governments, but without adequate supervisory capacity, thus opening up opportunities for uncontrolled forest exploitation. As a result, forest conservation efforts that should be a priority in natural resource management are often neglected, threatening environmental sustainability and community welfare in the 1945 Constitution of the Republic of Indonesia, hereinafter referred to as the 1945 Constitution of the Republic of Indonesia, in Article 33 paragraph (3) as follows:

"The earth and water and the natural resources contained in it are controlled by the state and used for the greatest prosperity of the people."

Legal Protection of the Preservation of Local Wisdom which is one of the characteristics of the law that lives in society, where it can be understood with customary law, Indonesia must also have legal protection for conservation forests in Indonesia regulated through various laws and regulations aimed at preserving biological natural resources and their ecosystems.

As an effort to protect the law of genetic biodiversity, Indonesia has implemented various measures to manage biodiversity, including aspects of protection, conservation, and the utilization and sharing of benefits from the use of biological components. These measures are carried out by the government at all levels, from the national level to the international level.¹¹ In article 1 paragraph (2) of Government Regulation Number 108 of 2015 concerning Amendments to Government Regulation Number 28 of 2011 concerning the Management of Nature Reserve Areas and Nature Conservation Areas :

"The Nature Conservation Area, hereinafter abbreviated as KPA, is an area with certain characteristics, both on land and in waters that has the main function of protecting the life support system, preserving the diversity of plant and animal species, and sustainably utilizing Biological Natural Resources and their ecosystems."

¹¹ Tjahjani Joejoen, *Law Enforcement On Biopiracy As Protection Of Genetic Biodiversity (Sdg) In Indonesia*, Proceeding International Conference on Environmental Health, Socioeconomic and Technology. Vol. 1 No. 228 (2022), p.228

2. Legal sanctions against illegal logging in conservation forests

The term *illegal logging* actually does not have a definition that is explicitly and firmly stated in laws and regulations in Indonesia. Linguistically, this term is derived from English. In *The Contemporary English-Indonesian Dictionary*, the word *illegal* is defined as something that is illegal, unlawful, or prohibited. Meanwhile, in *Black's Law Dictionary*, *illegal* is defined as an act that is *forbidden by law, unlawful*. The word *log* refers to logs, and *logging* means the activity of cutting down trees and moving them to a processing place such as a sawmill. Thus, *illegal logging* can be interpreted as tree felling activities that are carried out without a permit and violate the provisions of applicable law.¹²

Illegal logging is the activity of logging, transporting, and shipping wood abroad carried out by individuals or groups, both from the general public and companies, without obtaining an official permit in accordance with the provisions of the applicable law in Indonesia. Therefore, these actions are categorized as illegal logging or destruction of forests. The crime of *illegal logging* contains several important elements, such as the existence of tree felling activities, transportation, processing, sales, and the purchase of wood that damages the forest ecosystem. Illegal logging is a form of utilization of forest resources in the form of timber, but it is carried out in an unlawful manner, which ultimately threatens the sustainability of the forest and has a negative impact on the lives of the surrounding community.

In response to the negative impact and violations committed, the legal system in Indonesia imposes harsh sanctions on illegal logging perpetrators. Sanctions aim to provide warnings and punishments that are severe enough so that the perpetrator feels afraid to repeat his actions. Sanctions are a form of punishment given to parties who violate the provisions in laws and regulations. Illegal logging is the activity of cutting trees in forest areas without obtaining official permits or violating the provisions set by the government.

¹² Putu Ayu Irma Wirmayanti et al, *as a result of illegal logging*, Journal of Legal Preferences, Vol. 2, No. 1 (2021), p.197

Sanctions applied in criminal law for perpetrators who carry out illegal deforestation: regulated in the provisions of Article 50 paragraph (3) of Law Number 41 of 1999 concerning Forestry that:

"Whoever deliberately violates the provisions as referred to in article 50 paragraph (3) letter a, b, or c, is threatened with imprisonment for a maximum of 10 (ten) years and a fine of up to Rp.5,000,000,000.00 (Five Billion Rupiah)

Article 50 paragraph 3 that:

Everyone is prohibited from :

- a. Working on and/or using and or occupying forest areas illegally.
- b. Mining in the forest area
- c. Cutting down trees in forest areas with a radius or distance up to:
 1. 500 (five hundred meters) from the edge of a reservoir or lake
 2. 200 (two hundred meters) from the edge of the spring
 3. 100 (one hundred) meters from the left right of the river bank;
 4. 50 (fifty) meters from the left and right of the edge of the tributary;
 5. 2 (two) times the depth of the gap from the edge of the gap;
 6. 130 (one hundred and thirty) times the difference in tides.

. As a perpetrator of illegal logging, he can be charged with Article 83 Paragraph (1) Letters a, b, c, and Article 82 Letters a, b, c, Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction, in Article 83 reads:

- 1) An individual who intentionally:
 - a. loading, dismantling, discharging, transporting, controlling, and/or possessing the proceeds of logging in forest areas without a permit as intended in Article 12 letter d.
 - b. transporting, controlling, or owning timber forest products that are not jointly equipped with a certificate of legality of forest products as intended in Article 12 letter e; and/or
 - c. utilizing timber forest products that are suspected to come from illegal logging as referred to in Article 12 letter h shall be sentenced to imprisonment for a minimum of one (one) year and a maximum of 5 (five) years and a fine of at least Rp500,000,000.00 (five hundred million rupiah) and a maximum of Rp2,500,000,000.00 (two billion five hundred million rupiah).

In article 83 paragraph (3):
Corporations that:

- a. felling trees in forest areas that are not in accordance with forest use permits as referred to in Article 12 letter a;
- b. felling trees in forest areas without having a permit issued by an authorized official as intended in Article 12 letter b; and/or
- c. . unlawfully felling trees in forest areas as referred to in Article 12 letter c is punishable by imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp5,000,000,000.00 (five billion rupiah) and a maximum of Rp15,000,000,000.00 (fifteen billion rupiah).

With the threat of imprisonment, large fines, and other administrative sanctions, it is hoped that it can reduce and prevent the occurrence of widespread illegal logging practices. Strict law enforcement also serves as a form of protection of natural resources and maintaining environmental sustainability for current and future generations.

Conclusion

Legal protection of conservation forests in Indonesia is regulated through several laws and regulations, including: Law Number 5 of 1990 concerning the Conservation of Biological Natural Resources and Their Ecosystems, Law Number 41 of 1999 concerning Forestry; Government Regulation Number 28 of 2011 which was updated with Government Regulation Number 108 of 2015 concerning the Management of Nature Reserve Areas and Nature Conservation Areas.

Illegal logging is a criminal offense because it violates the provisions of the applicable law and threatens the preservation of life, damages the environment, and equally harms the country economically and ecologically. The sanctions are regulated in Law No. 41 of 1999 concerning Forestry, with a criminal threat of up to 10 years and a fine of Rp5 billion for violators of Article 50 paragraph (3), which prohibits illegal control of forest areas and logging in certain zones. Law No. 18 of 2013 also regulates a maximum penalty of 5 years and a fine of Rp2.5 billion for perpetrators of transporting or controlling forest products without valid documents. Law enforcement against illegal logging faces major challenges, such as limited number of officers, low supervision, and the involvement of certain individuals. There are

weaknesses in environmental criminal sanctions. Law enforcement against illegal logging faces major challenges, such as limited number of officers, low supervision, and the involvement of certain individuals.

Laws and regulations in the field of conservation need to be reviewed and harmonized so that they do not overlap with economic development policies, especially related to the granting of business licenses in forest areas. Empowering communities around forests should be a priority through legal education, conservation training, ecotourism development, and environment-based economic support to strengthen participation in forest protection.

The government needs to strengthen coordination between law enforcement agencies such as the Police, Prosecutor's Office, Ministry of Environment and Forestry, and LMDH for integrated law enforcement against illegal logging. Criminal sanctions must be applied firmly and fairly, including against actors behind the scenes. In addition, education and empowerment of local communities and the provision of environmentally friendly income alternatives are important to prevent illegal logging.

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