

Juridical Review of the Crime of Forest Destruction by Communities Based on the Law Number 18 of 2013

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Abstract: This study aims to: (1) To find out the legal impact of forest destruction by the community according to Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction (2) To find out the government's legal steps against the perpetrators of forest destruction based on Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction. The method used in this writing is to use an empirical research approach. The results of this study are (1) The legal impact related to the crime of forest destruction by the community according to Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction is regulated in several articles where the perpetrators of forest destruction can be subject to imprisonment and fines and the proceeds of criminal acts committed by the perpetrators of forest destruction can be confiscated and confiscated by the state based on court decisions with permanent legal force (2) The government's legal steps against forest destruction perpetrators based on Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction include making preventive efforts in the form of patrols carried out by the forest police and collaborating with other law enforcement apparatus, in addition to that, it is also necessary to establish an Institution for the prevention and eradication of forest destruction. The Research Suggestions are (1) The government should involve the community, in this case the Forestry Police, in an effort to overcome forest destruction, considering that the obligation to protect forests is not only the government's obligation but also the obligation of all people. (2) It is better for the government, in this case the Ministry of Forestry, to immediately establish an Institute for the Prevention and Eradication of Forest Destruction so that the handling of forest destruction can be carried out in an integrated and directed manner by the newly formed institution.

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INTRODUCTION

Forest destruction has developed into a criminal act that has an extraordinary and organized impact and involves many parties, both carried out by corporations and by the community. One of the forest destructions that is often carried out by the community is in the form of illegal logging. Based on data released by the Environment and Forestry Law Enforcement and Security Center (Gakkum KLHK), it was noted that throughout 2023 there were 149 cases of *illegal logging* whose perpetrators were the community¹. If the forest damage due to illegal logging that is carried out now continues to be allowed and no rehabilitation and reforestation efforts are carried out, then in the next 20 years the forests in Indonesia are expected to be completely destroyed, so it will take hundreds of years to repair them². In fact, criminal sanctions against perpetrators of forest destruction are quite severe as stipulated in the provisions of Article 82 paragraphs (1)

¹FWI.or.id. *The Fate of Indonesia's Forests at Ujung Tanduk*, <https://fwi.or.id/nasib-hutan-indonesia-di-ujung-tanduk/> December 23, 2024

²Sadino, *Managing Forests with a Criminal Law Approach: A Normative Juridical Study (Case Study of Central Kalimantan Province)*, Jakarta: Forestry Law and Policy Consultation Bureau, 2012. Page 2.

and (2) of Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction which states that:

An individual who intentionally:

felling trees in forest areas that are not in accordance with forest use permits as referred to in Article 12 letter a;

felling trees in forest areas without having a permit issued by an authorized official as intended in Article 12 letter b; and/or

unlawfully felling trees in forest areas as referred to in Article 12 letter c is punishable by imprisonment of a minimum of 1 (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 the event that the criminal act as intended in paragraph (1) is committed by a natural person residing in and/or around the forest area, the perpetrator shall be sentenced to imprisonment for a minimum of 3 (three) months and a maximum of 2 (two) years and/or a fine of at least Rp500,000.00 (five hundred thousand rupiah) and a maximum of Rp500,000,000, 00 (five hundred million rupiah).

Based on the above provisions, the sanction for people who cut **down trees in forest areas illegally or not in accordance with the permit** is punishable (*illegal logging*) imprisonment of 1 year to 5 years in prison with a fine of 500 million to 2.5 billion. The damage caused by illegal logging activities carried out by the community has reached a very worrying level for the survival of the nation and state. Therefore, the handling of forest destruction must be carried out extraordinarily.

Efforts to deal with forest destruction carried out by communities have actually been carried out for a long time, but they have not been effective and have not shown optimal results. One of the main obstacles is weak law enforcement. Many cases of forest destruction involving large actors, such as companies or certain stakeholders, are not dealt with decisively. In contrast, small communities that depend on forest products for their livelihoods are often targeted by law enforcement. This condition creates legal inequality that affects public trust in the justice system. Even though law enforcement is carried out fairly and firmly without indiscriminate attention.

RESEARCH METHODS

The type of research used in this study is a type of normative research that focuses more on the study of legal norms, laws and regulations, and applicable legal theories, without conducting direct observation or experimentation on social phenomena or human behavior. Normative research is often also called doctrinal research or pure legal research, because it focuses on the study of existing legal provisions, as well as examining legal principles and theories that are relevant to the topic being studied.

RESULT AND DISCUSSION

Legal Impact Related to Forest Destruction by Communities According to Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction

The following author describes the legal impact caused by forest destruction carried out by the community according to Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction is quite serious and criminal and civil in nature, depending on the type of violation, which is as follows:

Jail Crimes and Fines

Criminal acts are often termed as "Criminal Acts", the criminal act in question is an act that is prohibited by the criminal law and threatened with imprisonment and a fine for anyone who violates the prohibition. In Law Number 18 of 2013 concerning the Prevention of Forest Destruction Eradication, prohibited acts are formulated in several articles. The scope of Law Number 18 of 2013 which includes: (1) prevention of forest destruction, (2) eradication of forest destruction, (3) institutions, (4) community participation, (5) international cooperation, (6) protection of witnesses, whistleblowers, informants; (7) financing; and (8) sanctions. Furthermore, the scope of forest destruction intended in this law includes: processes, methods, or

acts of destroying forests through illegal logging activities; and illegal use of forest areas. The meaning of illegal logging is all activities that are organized in the use of timber forest products, while the illegal use of forest areas includes organized activities carried out in forest areas for plantations and/or mining without the permission of the Minister.

Confiscation and Confiscation of Proceeds of Crime

Confiscation and confiscation of the proceeds of crime in the forestry sector is a legal action taken to take over and/or limit ownership rights to assets obtained through forestry crimes. Confiscation is temporary for evidentiary purposes, while confiscation is permanent and aims to return assets to the state or be used for social purposes. Evidence in a criminal case after the judicial process is completed, will be executed in accordance with the sound of the court decision contained in the verdict as stipulated in Article 46 paragraph (2) of the Criminal Procedure Code (KUHP) which states that:

"If the case has been decided, then the object subject to confiscation shall be returned to the person or persons named in the judgment, unless according to the judge's judgment the object is confiscated for the state, to be destroyed or to be destroyed until it can no longer be used or, if the object is still needed as evidence in another case".

Against the court decision which stated that the evidence was confiscated for the state, its execution was through an auction process whose results would be deposited into the state treasury. Law Number 18 of 2013 concerning the Prevention of Eradication of Forest Destruction specifies several criminal acts in the forestry sector as described by the author in the form of table 1 in the discussion above where in some of its provisions it is stated that "All forest products from the proceeds of crime and violations and or tools including means of transportation used to commit crimes and/or violations are confiscated for the state". These provisions can be found in several articles, one of which is the provisions of Article 78 of Law Number 18 of 2013 concerning the Prevention of Forest Destruction Eradication.

Government Legal Steps Against Forest Destruction Perpetrators Based on Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction

Forest destruction that has undermined the preservation of forests and the world's ecological balance is a form of criminal crime that must be resolved. The impact is very devastating on the continuity of the function of the earth's ecosystem buffer forests across territories and across generations. Seeing the development of the modus operandi and locus of illegal logging that is increasingly developing and taking place in all regional functions, the handling must involve all parties (extra ordinary instruments). Based on this, some of the legal steps taken by the government to prevent forest destruction include the following:

Taking Preventive Measures

Preventive forest protection is an activity aimed at preventing, eliminating, reducing, and closing the opportunity for a person or group to commit forestry ³crimes. This effort to prevent forest destruction is also mentioned in the provisions of Article 4 and Article 5 of Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction which states that:

Article 4

"The scope of prevention and eradication of forest destruction includes:

- prevention of forest destruction;
- eradication of forest destruction;
- Institutional;
- community participation;
- international cooperation;

³ Irawati, L. Law Enforcement Against Illegal Logging Perpetrators of Forest Products by the Forestry Police in KPH Kediri, Kediri Regency. Novum: Journal of Law, Volume 3 Number 3. 2016. p. 165

protection of witnesses, whistleblowers, and informants;
financing; and
sanctions"

Article 5

The Government and/or Regional Governments are obliged to prevent forest destruction. Based on the above provisions, the forms of preventive efforts carried out are patrol/patrol activities in the area and/or its jurisdiction, guard according to the orders of the leadership in the area and/or its jurisdiction, and identification of vulnerabilities, disturbances and threats. Forest police to protect forest areas from the threat of illegal logging and patrol every forest area or area designated as natural tourism, so that the community knows that forest areas are very protected by laws and regulations regarding forest destruction. Forestry Police patrol activities are routinely carried out to prevent illegal logging and always involve the surrounding community to work together or cooperate in maintaining and preserving forests.

Forests are natural ecosystems or lungs of the world that must be maintained and protected through the duties of the Forestry Police with routine patrols with the surrounding community, so that people who participate in patrols will understand the function of forests for the world and are protected from illegal logging that can harm natural ecosystems.

Patrol is a forest security supervision activity that is carried out by movement from one place to another by two or three or more people in the forest area that is their responsibility or a certain area where violations or crimes in the forestry sector often occur. Patrols are carried out regularly and selectively or depending on the situation and security conditions of the forest. The purpose of forest security patrols is to prevent disturbances to forests and forest products, to know the field situation and to take action against the perpetrators of violations/crimes found during the patrol.

Types of patrols

Based on the location and type of terrain, forest security patrols can be distinguished from:

Land Patrol: Land patrols can be carried out using cars, motorcycles, elephants or on foot.

Water Patrol: Using water transportation facilities, such as motorboats. It can be done by combing beaches, lakes, following rivers and others

Forms of forest patrols

Wandering, Exploring certain areas on a regular basis.

Persambangan, Patrol which is an inspection to conduct identification and research of certain areas within a period of more than 24 hours.

Joint patrols, this patrol can be carried out together with other agencies such as the Police, Koramil or also a combination of posts or resorts within the area of the Unit or Forest Management section.

Establishment of Forest Destruction Prevention and Eradication Institutions (LPPH)

The establishment of the Forest Destruction Prevention and Eradication Agency (LPPH) aims to centrally address the problem of forest destruction. LPPH is subordinate to and responsible to the President, and consists of elements of the Ministry of Forestry, the Police, the Prosecutor's Office, and other related elements, the Forest Destruction Prevention and Eradication Institute (P3H Institute) as mandated by Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction which will later be formed outside the Criminal Justice System that we have known so far. The P3H institution will be located under and responsible to the President consisting of elements of Forestry, Police, Prosecutor's Office, and other related elements. In addition to having a law enforcement function, this institution also has a coordination and supervision function. This institution can form a task force that carries out legal remedies up to the level of prosecution like the Corruption Eradication Commission (KPK).

The Criminal Justice System (CJS) can no longer be interpreted narrowly as the Police, Prosecutor's Office, Courts and Correctional Facilities, but it has shifted to elements of the Police/other institutions that are given the authority of law enforcement, the Prosecutor's Office, the Court and Correctional. The formation of

a new structure in the criminal justice system in Indonesia that handles special crimes is absolutely necessary so that there are no obstacles in the implementation of law enforcement between institutions in the future or make the domination of one of the law enforcement agencies so as to create the perception of being the sole law enforcer which results in the institution becoming a super body institute. The integration of the criminal justice system (Integrated Criminal Justice System) is realized in synchronization between law enforcement agencies by realizing an integrated criminal justice system.

CONCLUSION

The legal impact related to the crime of forest destruction by the community according to Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction is that the perpetrators of forest destruction can be subject to imprisonment and fines and the proceeds of criminal acts committed by the perpetrators of forest destruction can be confiscated and confiscated by the state based on court decisions with permanent legal force

The government's legal steps against forest destruction perpetrators based on Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction include carrying out preventive efforts in the form of patrols carried out by the forest police and collaborating with other law enforcement apparatus, in addition to that, it is also necessary to establish an Institution for the prevention and eradication of forest destruction as mentioned in the provisions of Article 4 and Article 5 Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction.

SUGGESTION

It is better for the government, in this case the Forestry Police, to involve the community in efforts to overcome forest destruction considering that the obligation to protect forests is not only the government's obligation but also the obligation of all people.

It is recommended that the government, in this case the Ministry of Forestry, should immediately establish an Institution for the Prevention and Eradication of Forest Destruction so that the handling of forest destruction can be carried out in an integrated and directed manner by the newly formed institution.

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