



The Investigation Process of Plantation Crimes in the Production Forest Area

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Article Info

Article History

Revised : 2024-11-10

Accepted : 2024-12-03

Published : 2024-12-09

Keywords:

Investigation, Crime, Plantation, Production Forest

Abstract

Law No. 18 of 2013 on the Prevention and Eradication of Forest Destruction regulates the unauthorised use of the area. The investigation process of the criminal offence of plantation in a production forest area by investigators at the West Pasaman Police Satreskrim begins with receiving a report. Plantation activities without a business permit in the Production forest area, in Jorong Pigogah Patibubur Nagari Air Bangis, Sungai Beremas District, West Pasaman Regency. After checking the crime scene, it was found that there were palm oil plants aged 1 (one) to 2 (two) years and a wooden hut. Taking the coordinate points shows that the crime scene is included in the production forest area and the reported party cannot show legal legality, so this can be used as preliminary evidence by the investigator. The investigation period was deemed insufficient by investigators to complete the investigation of the case. In addition to running away, the suspects often use the mode of claiming to be indigenous people around the forest. They claim that the land used as a plantation is customary land/customary forest. The obstacles in the investigation process of plantation crimes in production forest areas by investigators at the West Pasaman Police Criminal Investigation Unit are the location of the crime scene which is far from residential areas, the difficulty of reaching the location or crime scene (TKP) to handle criminal cases, the facilities used are still limited as well as the number of members who handle various incidents with the guidance of time all must be fulfilled. The lack of budget makes it difficult to bring in expert witnesses to provide testimony. Experts are needed, especially forest damage experts, legal experts, and planologists. The lack of maximum supporting facilities, such as GPS devices that function to find out the coordinates of the crime scene are only available 2 pieces. This is not proportional to the number of forestry crime cases handled by investigators.

INTRODUCTION

Indonesia is one of the countries with the highest biodiversity in the world, all of which are located in Indonesia's Tropical Forests. Makarao said that the environment is the unity of space with all objects, forces, states and living beings, including human beings and their behavior, which affect the continuity of life and the welfare of humans and other living beings.¹ In criminal acts, there are elements that must be applied, namely subjective elements and objective elements. "The subjective element is the element that comes from within the perpetrator and the objective element is the element from outside the perpetrator".²

The subjective elements are the elements that are attached to the perpetrator or that are related to the perpetrator and are included in it, namely everything contained in his heart.³

¹ Mohammad Taufik Makarao, *Aspek-Aspek Hukum Lingkungan*, Indeks Kelompok Gramedia, Jakarta, 2004, p. 6

² Leden Marpaung, *Asas Teori Praktik Hukum Pidana*, Sinar Grafika, Jakarta, 2005, p. 9-10

³ *Ibid.*, p. 193

Meanwhile, what is meant by objective elements are elements that are related to the circumstances, that is, in which circumstances the actions of the perpetrator must be carried out. The elements of the criminal act must be applied by the investigator in the investigation. In plantation crimes, investigations can be carried out by the Police and civil servant investigators.

With the fulfillment of all elements of unlawful acts as determined in Article 50 paragraph (3) letter a of Law Number 41 of 1999 concerning Forestry, namely "Everyone is prohibited from working and/or using and/or occupying forest areas illegally". If the provisions in Article 50 paragraph (3) letter a of Law Number 41 of 1999 concerning Forestry are violated, they shall be subject to criminal sanctions in the provisions of Article 78 paragraph (2) of Law Number 41 of 1999 concerning Forestry, namely "Whoever deliberately violates the provisions as referred to in Article 50 paragraph (3) letter a, letter b, letter c, Law Number 41 of 1999 concerning Forestry is threatened with imprisonment for a maximum of 10 (ten) years and a maximum fine of Rp 5,000,000,000.00 (five billion rupiah)". The problem discussed was the investigation process of plantation crimes in the production forest area by investigators at the West Pasaman Police Satreskrim.

RESEARCH METHODS

The research specification is descriptive analytical *research*. The approach used in this study is a normative juridical approach by conducting research on inventory and legal systematics of legal rules related to the investigation of plantation crimes in production forest areas. Supported by an empirical juridical approach, by conducting research to see how these legal rules work in practice in the investigation conducted by West Pasaman Police Satreskrim investigators.

RESULTS AND DISCUSSION

The Investigation Process of Plantation Crimes in Production Forest Areas by Investigators at the West Pasaman Police Satreskrim

Forest destruction is becoming more widespread and complex. Many changes in the designation of forest areas to plantation areas are not based on the procedure for changing the designation as per the applicable provisions.⁴ The policy of releasing forest areas for the benefit of the sector providing large plantation areas (oil palm and rubber), in its implementation, also has an impact on the deforestation of forest areas due to the behavior of plantation company entrepreneurs, thus threatening the sustainability of Indonesia's forest areas.⁵

Legal principles provide nourishment to the legal system, so that it is not only a building of legislation, but a building that is full of values and has its own philosophy and spirit. As a consequence if we abandon the principles of law, there is chaos in the legal system.⁶

Forestry crimes are a series of activities that are an interrelated chain.⁷ After checking the crime scene, it was found that there were oil palm plants 1 (one) to 2 (two) years old and a wooden hut. The perpetrator violates article 92 Paragraph (1) letter a or b or article 93 Paragraph (1) letter b Jo Article 17 Paragraph (2) letter a, letter b and letter d of Law Number 18 of 2013 concerning the prevention and eradication of forest destruction as amended in article 37 number 16 paragraph (1) letter a and letter b and/or article 37 number 17 paragraph (1) letter b Jo Article 37 number 5 paragraph (2) letter a, letters b and d of Law Number 11 of 2020

⁴ Iskandar, *Hukum Kehutanan, Prinsip Hukum Pelestarian Fungsi Lingkungan Hidup dalam Kebijakan Pengelolaan Kawasan Hutan Berkelanjutan*, CV. Mandar Maju, Bandung, 2015, p.107

⁵ *Ibid*, p.13

⁶ Satjipto Rahardjo, *Sisi-sisi Lain dari Hukum di Indonesia*, Kompas, Jakarta, 2003, p. 141.

⁷ Irwan, *Efektivitas Penyelesaian Perkara Tindak Pidana Kehutanan di Kantor Kejaksaan Negeri Sinjai*. Al Hikam 4.2 (2017), pp. 276-293

concerning Job Creation *Juncto* Article 55 paragraph (1) to 1e of the Criminal Code. Furthermore, investigators examined the location coordinate points to find out whether it was a production forest area or not.

Then the investigator collected evidence to complete the file of the case, evidence was obtained Based on the Confiscation Warrant Number.: SP-SITA / 02/ II / 2022/ Reskrim, dated February 11, 2022, the following evidence has been confiscated:

- a. 1 (one) unit of dump truck Toyota Dyna Merrah color
- b. 1 (one) unit of orange hartop car
- c. oil palm fruit of approximately 5 (five) tons
- d. 2 (two) pieces of gauges made of iron
- e. 1 (one) copy of the Cooperation Agreement for Transportation Services / and the Sale of FFB Fruit between the Air Bangis Semesta / Plasma 374 Cooperative on behalf of the first party Widya Afdi and the second party Eki Asida.
- f. 1 (one) sheet of Work Order (SPK) for the transportation of plasma garden fruit 374 KSU Air Bangis, dated January 30, 2022.

The perpetrators who ordered the act to be carried out were the name WIDYA AFDI, and the name EFENDI EFENDRA Pgl PENDI, by instructing and giving RIO IRAWAN et al wages to work to carry out plantation activities starting from harvesting and transportation as evidenced by SPK (Employment Agreement). Until then the case was in the status of investigation because the suspect escaped when summoned. The land that was previously worked by the suspect was simply abandoned. Based on Article 39 of Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction, investigators are only given 60 days and can be extended for a maximum of 30 days to complete the case file. The period of time was not enough for investigators to complete the investigation of the case. In addition to fleeing, the suspects often use the mode of claiming to be indigenous people around the forest. They claimed that the land used as a plantation was customary land/customary forest.⁸

If the taking of the coordinate point shows that the crime scene is included in the production forest area and the reported person cannot show legal legality, then this can be used as preliminary evidence by the investigator. Article 37 of Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction regulates the examination of evidence for acts of forest destruction, namely:

- a. Evidence as intended in the Criminal Procedure Code; and/or
- b. Other evidence in the form of:
 - 1) electronic information;
 - 2) electronic documents; and/or
 - 3) map.

After obtaining sufficient preliminary evidence, the investigation was upgraded to an investigation with a case title mechanism. At the beginning of the investigation, the investigator informed the Public Prosecutor of KEJARI West Pasaman through SPDP. In the process of fingerprinting, investigators complete the information materials, both documents, witness statements, expert statements, and matters related to the investigation process of forest encroachment crimes.

After the investigator completes the case file, the case file is then handed over to the Public Prosecutor. Then the prosecutor conducted a study on the case file for 14 days. If the prosecutor states that the case file is incomplete, then the case file is returned to the investigator accompanied by instructions that must be fulfilled by the investigator. Furthermore, the investigator fulfilled the prosecutor's instructions, after being fulfilled, the case file was sent back until it was declared complete. Then the investigator sent the suspect and evidence to the

⁸ Wawancara dengan Penyidik Reserse Kriminal Khusus Polres Pasaman Barat, Wednesday, March 12, 2024.

prosecutor to be presented to the court hearing.

In Law Number 41 of 1999 concerning Forestry, 4 (four) types of sanctions can be applied to perpetrators who commit criminal acts or unlawful acts in the forestry sector. The three types of sanctions regulated in Law Number 41 of 1999 concerning Forestry are as follows:⁹

- a. Criminal sanctions as regulated in Article 78 are in the form of imprisonment and fines.
- b. Sanctions Actions regulated in Article 79 paragraph (1) that: State wealth in the form of forest products and other goods, both in the form of findings and/or loot from the proceeds of crime or violations as referred to in Article 78 is auctioned for the State.
- c. Sanctions for compensation regulated in Article 80 paragraph (1): "Any unlawful act regulated in this law, without prejudice to the criminal sanction as provided for in Article 78, obliges the person responsible for the act to pay compensation in accordance with the level of damage or consequences caused to the State, for the cost of rehabilitation, restoration of forest conditions, or other necessary actions.
- d. Administrative sanctions are regulated in Article 80 paragraph (2): Every holder of a business license for the use of areas, business licenses for the use of environmental services, business permits for the use of forest products, or permits for the collection of forest products regulated in this law, if they violate provisions outside the criminal provisions as stipulated in Article 78, are subject to administrative sanctions. Administrative sanctions imposed include fines, revocation of permits, termination of activities, and/or reduction of area (Explanation of Article 80 paragraph (2)).

The state of law, which is only constructed as a legal building, needs to be made more complete and intact, in terms of the need to make it have a political structure as well.¹⁰ Law enforcement is a concretization of the state of law. Conceptually, the essence and meaning of law enforcement lies in the activity of harmonizing the relationship of values described in the principles that are stable and embodied and the attitude of action as a series of elaboration of the final stage of values, to create, maintain, and maintain the peace of life. There are four factors that must be considered in consistent law enforcement in the forestry sector, namely:

There is community participation in supporting law enforcement in the forestry sector, because without community participation, it is difficult for law enforcement to process it.¹¹ Law enforcement can be carried out against people who are able to be legally responsible. Moeljatno for the ability to be responsible must have the following things: First, the ability to distinguish between good and bad deeds; in accordance with the law and against the law. Here, the factor of reason is very decisive whether or not it can distinguish between permissible and non-permissible actions. Second, the ability to determine one's will according to one's awareness of the good and bad deeds. Here the factor of feeling or will, is very decisive with regard to the adjustment of one's behavior with the conversion to do or not to do a forbidden act.¹²

There are many parties involved and benefit from plantation activities in production forest areas. Various modes that are usually carried out by involving many parties and systematically and organized. In general, those who play a role are laborers or loggers, communities around forests, financiers (cukong), legal entities or corporations, brokers, transportation providers and business security often as business security are from political

⁹ Salim H.S., *Dasar-Dasar Hukum Kehutanan*, Edisi Revisi, Sinar Grafika, Jakarta, 2006, p. 147.

¹⁰ Satjipto Rahardjo, *Negara Hukum yang Membahagiakan Rakyatnya*, Genta Publishing, Yogyakarta, 2009, p. 8.

¹¹ Salim H.S., *Op.Cit.*, pp. 3-4.

¹² Moljatno, *Asas-asas Hukum Pidana*, Cetakan Kedua, Bina Aksara, Jakarta, 2016, p. 35.

officials, government officials, the TNI, and the police.¹³

The practice of abandoning land is often carried out by plantation companies, due to weak supervision and enforcement of repressive (administrative) laws on the policies that have been set. The policy of releasing forest areas for the provision of large plantation areas in its implementation has an impact on deforestation or encroachment of forest areas, due to the behavior of entrepreneurs and plantation companies, thus threatening the sustainability of Indonesia's forests.¹⁴

Obstacles in the Investigation Process of Plantation Crimes in Production Forest Areas by Investigators at the West Pasaman Police Satreskrim

Forests have a very important position and role in supporting national development. This is because forests are beneficial to the greatest welfare and prosperity of the people of Indonesia and are indispensable for living things.¹⁵ The number of forests in Indonesia is very large with more than 100 million hectares and Indonesia ranks third in the world having the largest tropical rainforest after Brazil and the Democratic Republic of the Congo. In addition, Indonesia is the fourth largest country with 8% of the world's carbon reserves or the equivalent of 8800 MtC (*million tone carbon*).¹⁶

By paying attention to the vastness of forests and carbon reserves in Indonesia that it has become an international concern, Indonesia is expected to be able to preserve its forests and be inseparable from the issues of global warming and climate change that are currently a concern for the world.¹⁷

Forestry, one of the most important sectors that needs special attention, accounts for more than 67% of Indonesia's land area in the form of forests.¹⁸ The definition regulated in Law Number 41 of 1999 which reads "Forestry is a management system related to forests, forest areas, and forest products that are organized in an integrated manner".

Forests are assets that must be regulated and maintained by the government and the community who must participate in maintaining their sustainability, providing usefulness for all mankind and forests must continue to be maintained, cared for and used optimally for the maximum prosperity of the people in a sustainable manner. One of the determinants of the buffer of life and the source of people's welfare is forests, their condition is declining. Sustainable and globally minded forest management and management must absorb the aspirations and participation of the community based on the highest legal norm in Indonesia, namely Pancasila.¹⁹

First, namely the location of the crime scene that is far from residential areas, Visiting the Crime Scene (Crime Scene) which is far from residential areas and cannot be reached with either four-wheeled or two-wheeled conditions, so that visiting the crime scene on foot and a considerable distance, the location of the crime scene far from residential areas is often an obstacle in handling criminal acts. Then, the second obstacle that is often encountered is the limitation of facilities, infrastructure and personnel, To handle criminal cases, the facilities used

13 Suryanto, et. al, *Illegal Logging Sebuah Misteri dalam Sistem Pengrusakan Hutan Indonesia*, Balai Penelitian dan Pengembangan Kehutanan Kalimantan Indonesia, Kalimantan, 2005, pp. 94-99.

14 Iskandar, *Op.cit*, p. 74

15 Tantra Perdana Sani, "Pembukaan Lahan Perkebunan di dalam Kawasan Hutan Tanpa Izin Ditinjau dari Undang-Undang Perusakan Hutan", Skripsi, Sarjana Hukum, Fakultas Hukum, Universitas Sumatera Utara, Medan, 2017, p.1.

16 Yasir Said, Ifrani, *Pidana Kehutanan Indonesia: Pergeseran Delik Kehutanan Sebagai Premium Remedium*, CV. Hikam Media Utama, Bandung, 2019, p.1.

17 *Ibid*

18 Dodik Ridho Nurrochmat, *Strategi Pengelolaan Hutan*, Pustaka Pelajar, Yogyakarta, 2005, p. 1.

19 Abdul Muis Yusuf, Mohammad Taufik Makarao, *Hukum Kehutanan Di Indonesia*, Rineka Cipta, Jakarta, 2011, p. 1.

are still limited as well as the number of members who handle various incidents with time guidance must all be met. The West Pasaman Resort Police have limited personnel to handle criminal cases, because the many criminal cases that occur in West Pasaman make personnel limited in the West Pasaman Resort Police. Many criminal cases must be resolved immediately within the shortest possible timeframe. Next is the constraint of cost limitations in criminal case investigations. In order to carry out the investigation process for a criminal act, it requires a lot of money to expedite the investigation process. The costs incurred to carry out the investigation process usually use money from the investigator himself, because if he waits for the budget from his superiors, it will actually slow down the investigation process. However, in this case, the money owned by an investigator is not enough to cover the budget incurred during the investigation process. So that the budget for the investigation process in criminal acts must be immediately budgeted and immediately issued to be used as it should.

In law enforcement theory, the function of law and criminal law, in addition to functioning as maintaining order, also functions to achieve legal goals, namely: preventing the occurrence of criminal acts. In this regard, a solution is needed to solve the problem of law enforcement implementation with an approach to the transparency of law enforcement.

Soerjono Soekanto said that the main problem of law enforcement actually lies in the factors that affect it, as follows²⁰:

1. The legal factor itself (the law).
2. Law enforcement factors, namely the parties that form and apply the law.
3. Factors of facilities or facilities that support law enforcement.
4. Community factors, namely the environment in which the law applies or is applied.
5. Cultural factors, namely as the result of works, creations, and tastes that are based on human karsa in life associations.

These five factors are closely related to each other, because they are the essence of law enforcement, as well as a benchmark of the effectiveness of law enforcement. If you pay attention to the five factors that affect the law enforcement of Soerjono Soekanto, in general it is the same as the legal system as stated by L. M. Friedman who divides it broadly into three components. The three components in question are legal structure, legal substance, and legal culture or culture.²¹

CONCLUSION

The investigation process into plantation crimes in production forest areas by investigators at the West Pasaman Police Satreskrim began by receiving reports of alleged criminal acts committing, ordering to carry out or participating in plantation activities without a business license in the production forest area, in Jorong Pigogah Patibubur Nagari Air Bangis, Sungai Beremas District, West Pasaman Regency. After checking the crime scene, it was found that there were oil palm plants 1 (one) to 2 (two) years old and a wooden hut. Taking the coordinate point shows that the crime scene is included in the production forest area and the reported person cannot show legal legality, then this can be used as preliminary evidence by the investigator. The investigator is only given 60 days and can be extended for a maximum of 30 days to complete the case file. The period of time was not enough for investigators to complete the investigation of the case. In addition to fleeing, the suspects often use the mode of claiming to be indigenous people around the forest. They claimed that the land used as a plantation was customary land/customary forest

²⁰ Soerjono Soekanto, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*, PT. Raja Grafindo Persada, Jakarta, 2008, pp. 8-9

²¹ Soleman B. Taneko, *Pokok-Pokok Studi hukum dalam Masyarakat*, PT. Raja Grafindo Persada, Jakarta, 1993, hlm. 27. Mengutip pendapat dari Lawrence M. Friedman, *Law and Society, an Introduction*, Prentice Hall, New Jersey, 1977, p. 7.

Obstacles in the investigation process of plantation crimes in production forest areas by investigators at the West Pasaman Police Satreskrim are the location of the crime scene which is far from residential areas, the difficulty of the distance of the location or crime scene (crime scene) to reach To handle criminal cases, the means used are still limited as well as the number of members who handle various incidents with time guidance must all be met. The lack of budget results in difficulty bringing in expert witnesses to provide evidence. The experts needed are mainly forest destruction experts, legal experts, and planologists. There is a lack of optimal supporting facilities, such as GPS tools that function to find out the coordinate points of the crime scene, only 2 pieces are available. This is not comparable to the number of cases of forestry crimes handled by investigators,

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