Criminal Law Policy Against Illegal Logging as an Effort to Protect National Forest Areas (Study on Solok Protection Forest Management Unit)

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Abstract
The criminal act of illegal logging in detail has been regulated in Law Number 41 of 1999 concerning Forestry although the law does not mention the term illegal logging in limitation. In an effort to improve ecological functions and restore natural resource reserves, the West Sumatra Provincial government has made policies to reduce the rate of forest destruction (per year) through efforts to reduce critical land area and maintain forest sustainability, including by protecting forests from illegal logging and forest fires which are the cause of forest destruction. The problems discussed in this study are (1) what is the criminal law policy carried out in the context of preventing and enforcing the law against illegal logging? (2) What efforts can be made to enforce the law against illegal logging? This research is a legal research with analytical descriptive specifications. The approach used is the Normative Juridical approach as the main approach supported by the Empirical Juridical approach. The data used are secondary data and primary data collected through literature studies and interviews. The data obtained are analyzed qualitatively and presented in an analytical descriptive form. Based on the results of the discussion and analysis, it can be concluded that First, the Criminal Law Policy Carried Out in the Framework of Prevention and Enforcement of Illegal Logging Crime is illustrated in the Legal Policy on illegal logging based on Law Number 41 of 1999 concerning Forestry which explains crimes in the forestry sector formulated as stated in Article 50 and Article 78, However, the so-called forestry crime is not formulated firmly, giving rise to multiple interpretations in some circles. Second, Law enforcement efforts against Illegal Logging crimes that can be carried out are: Harmonizing regional regulations with Law Number 41 of 1999 concerning Forestry, Providing severe sanctions against perpetrators of illegal logging crimes, Improving coordination between fellow law enforcement officials and with other related agencies, Eradicating corruption through the application of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, Entrapping perpetrators of illegal logging crimes integrally (comprehensively), and Increasing the facilities, infrastructure, and operational budget for handling cases of illegal logging.

1. INTRODUCTION
In order to build a national legal framework, it is necessary to understand and live so that every form of law and legislation is always based on morals, soul and essence contained in the view of life of the Indonesian nation, namely Pancasila and the 1945 Constitution and must be adjusted to the demands of the times, especially in line with the demands of reform in the field of law. Therefore, the law must be able to keep up with the changes that occur in society. Law can serve to control society and can also be a means to effect change in society.¹

According to Barda Nawawi Arief, criminal law reform is not only concerned with the issue of substance, but is related to existing values. For this reason, in his view, he stated that criminal law reform essentially contains meaning, an effort to reorient and reform criminal law in accordance with the socio-political, socio-philosophical and socio-cultural values of Indonesian society that underlie social policies, criminal policies and law enforcement policies in Indonesia.  

The law enforcement process includes the stages of making laws or laws. The formulation of the minds of lawmakers as outlined in laws and regulations will also determine how law enforcement is carried out. Material criminal law seen from a dogmatic-normative angle, according to Barda Nawawi Arief, has substance in 3 (three) main issues of interrelated criminal law, namely what actions should be punished, what conditions should be met to dispute or account for someone doing the act, and sanctions or crimes that should be imposed on that person.  

Criminal law policy essentially contains state policy in regulating and limiting power, both the authority of the community in general to act and behave as well as the power or authority of the ruler or law enforcement in carrying out their duties to ensure that the community obeys and obeys the rules that have been set. Criminal law policies are made to regulate people's behavior so as not to commit crimes or do things that can damage themselves and the surrounding environment. One of the interesting criminal law policies to discuss is the criminal law policy related to environmental destruction crimes such as illegal logging crimes.  

The criminal act of illegal logging in detail has been regulated in Law Number 41 of 1999 concerning Forestry. To overcome the rampant criminal act of illegal logging, the ranks of law enforcement officials (National Police investigators and PPNS investigators whose scope of duty is responsible for forest management, the Prosecutor's Office and Judges) have used Law Number 41 of 1999 concerning Forestry as a legal instrument for efforts to overcome illegal logging crimes, although the law does not mention the term illegal logging in its limitations.  

To optimize the carrying capacity of forests and land in improving ecological functions and restoring natural resource reserves, improving the quality of forests and land can be achieved by reducing the rate of forest destruction (per year) through efforts to reduce the area of critical land and maintain forest sustainability, including by protecting forests from illegal logging and forest fires which are the causes of forest destruction. West Sumatra Province has a forest area of ± 2,286,883.10 Ha, critical land of 630,695 Ha, meaning that 27.58% of the forest area of West Sumatra Province identified has decreased ecological and ecosystem carrying capacity (critical). The regulatory conditions and legal basis for illegal prevention and eradication are not comprehensive enough. Therefore, the legal politics of forestry development need to be studied comprehensively, especially the participation of the community in preventing illegal logging. This study provides thoughts on criminal law policies against illegal logging cases as an effort to protect national forest areas in Solok Regency.  

Based on the above background, the author is interested in raising in a scientific paper in the form of a thesis entitled "Criminal Law Policy Against Illegal Logging as an Effort to Protect National Forest Areas. (Study on Solok Protection Forest Management Unit).  

Based on this background, the problems discussed are:

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1. What is the criminal law policy carried out in the context of prevention and law enforcement against illegal logging?
2. What efforts can be made to enforce the law against illegal logging?

2. RESEARCH METHODS

The research specification is descriptive analytical, with the normative juridical approach method as the main approach and supported by an empirical juridical approach. The two types of data used are primary and secondary data. Primary data is obtained directly from the field, namely from parties who are competent in providing information related to problems in research. Secondary data is obtained from document studies. The data obtained is then analyzed quantitatively.

3. RESULTS AND DISCUSSION


Forest destruction that occurs in Indonesia is almost certainly 70 to 80 percent man-made. Therefore, the government has issued various legal policies in order to eradicate or at least minimize forest damage caused by human actions. Criminal law policies carried out in the context of prevention and law enforcement against illegal logging are rules made in detail to regulate and prevent the occurrence of illegal logging crimes.

The crime of illegal logging is a criminal act in a large capacity because it involves human life and the ecosystem around it, therefore it needs hard work in handling it for the creation of the aspired law enforcement. In the Framework of Prevention and Law Enforcement against Illegal Logging, the Indonesian government has made a Criminal Law policy which is illustrated in the legislation in the field of Forestry related to the Criminal Act of Illegal Logging which is a lex specialis against the Criminal Act of Illegal Logging. The first policy is illustrated in Law Number 41 of 1999 concerning Forestry.

In Law Number 41 of 1999 concerning Forestry, the formulation of the definition of the criminal act of Illegal Logging is explicitly not found, but illegal logging can be identified with acts or actions that result in destroying forests, for that regarding forest destruction this is affirmed in Article 50 paragraph (2) of Law Number 41 of 1999 concerning Forestry. According to Article 50 paragraph (2) of Law Number 41 of 1999 concerning Forestry, forest destruction is the occurrence of physical, physical or biological changes, which cause the forest to be disturbed or unable to play a role in accordance with its function. According to Article 50 and Article 78 of Law Number 41 of 1999 concerning Forestry, the criminal act of illegal logging is based on forest destruction.

According to Law Number 41 of 1999 concerning Forestry, the elements that can be used as a legal basis for criminal law enforcement against illegal logging crimes are as follows:
1) Any natural person or legal entity and/or business entity.
2) Perform prohibited acts either intentionally or because of negligence.
3) Causing forest destruction, in the following ways:
   a. Damaging forest protection infrastructure and facilities
   b. Activities that fall outside the licensing provisions thus damage the forest.
   c. Encroaching on the banks of rivers, ravines, and beaches prescribed by law.
   d. Cutting down trees without permission.
e. Receiving, buying or selling, receiving exchanges, accepting deposits, storing, or possessing forest products known or reasonably suspected to be illegal forest products.

f. Transport, control or possess forest products without SKSHH.

g. Carrying heavy equipment and other tools for forest product management without a permit.

Then, the Criminal Law Policy carried out in the context of prevention and law enforcement against Illegal Logging can also be seen in Law Number 5 of 1990 concerning the Conservation of Biological Natural Resources and their Ecosystems. Law Number 5 of 1990 concerning the Conservation of Biological Natural Resources and their Ecosystems regulates two types of criminal acts, namely crimes and violations, while there are three kinds of criminal sanctions, namely imprisonment, confinement and fines. In addition to Law Number 41 of 1999 concerning Forestry and Law Number 5 of 1990 concerning Conservation of Biological Natural Resources and their Ecosystems, the Criminal Law Policy carried out in the context of prevention and law enforcement against Illegal Logging can also be seen in Government Regulation Number 28 of 1985 concerning Forest Protection. According to Article 18 of Government Regulation Number 28 of 1985 concerning Forest Protection, there are two types of criminal acts in the forestry sector, namely crimes and violations. While there are three kinds of criminal sanctions, namely imprisonment, confinement, fines and confiscation of objects used to commit crimes and / or violations.

Based on the results of research and observation of crime cases in the forestry sector, namely in the Solok Regency area, the Criminal Law Policy carried out in the context of Prevention and Law Enforcement against Illegal Logging Crimes has been applied to the act of using, using and utilizing forest products in the form of wood without a valid permit from the authorized official which is categorized as an illegal logging crime. At the application stage of Law Number 41 of 1999 concerning Forestry, the perpetrators are charged with articles as mentioned and formulated in Article 50 juncto Article 78 of Law Number 41 of 1999 concerning Forestry. The absence of a definition of illegal logging is often misinterpreted and overlapped in interpreting what is meant by illegal logging itself in the application stage.

Looking at the formulation of the elements of the Illegal logging criminal act in various provisions of the existing law on forestry shows the selectivity of this legal provision. The target of law enforcement in the criminal provisions has not been able to reach all aspects of illegal logging crimes. The formulation of criminal elements in Article 50 paragraph (3) point f of Law Number 41 of 1999 is indeed to be applied to perpetrators, especially people who commit timber theft without permission or people who are hired by investors to carry out illegal logging and to entrepreneurs who violate logging concessions or who are without permission to carry out logging operations.

If connected with the theory of the legal system according to Lawrence M. Friedman who states that: "the legal system does not only refer to rules (codes of rules) and regulations (regulations), but also includes structures, institutions, and processes (procedures) that fill it and are related to existing laws developing in society (living law) and legal culture (legal structure)," the Criminal Law Policy carried out in the context of Prevention and Law Enforcement against Illegal Criminal Acts The logging described above has indeed described the five characteristics of the legal system. But the problem today is no longer about the nature of legal policies, but the compatibility of one legal policy with another. Judging from the theory of criminal politics, the Criminal Law Policy carried out in the context of Prevention and Law Enforcement against Illegal

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Logging Crimes does emphasize more on the penal approach, the policies made emphasize countermeasures according to the criminal law system rather than preventive countermeasures. The rules, formulations of offenses made in such a way have illustrated that non-penal efforts have not been fully adopted in the Criminal Law Policy carried out in the context of Prevention and Law Enforcement against Illegal Logging Crimes in Indonesia.

According to the author, based on what has been described above, to fulfill the feeling of justice, the Criminal Law Policy carried out in the context of Prevention and Law Enforcement against Illegal Logging Criminal Acts should include the formulation of criminal sanctions for illegal logging carried out by civil servants or government officials, especially to officials who have authority in the forestry sector. The author assesses that officials have the potential to increase the intensity of illegal logging crimes. If criminal sanctions against officials involved in illegal logging crimes are regulated and formulated specifically, of course, the formulation of criminal sanctions is not the same as criminal sanctions carried out against persons or individuals.

3.2. Law Enforcement Efforts Against Illegal Logging

According to KBBI, the word "effort" means effort (to achieve a goal, solve a problem, find a way out). Meanwhile, Law Enforcement can be interpreted as. Law enforcement is an effort to realize legal ideas and concepts that are expected by the people to become reality. In other words, law enforcement is an effort to realize the ideas of justice, legal certainty and social benefits into reality. So law enforcement is essentially the process of embodiment of ideas. Then, Illegal Logging is all forestry activities related to harvesting, logging, processing and taking wood in forests that are contrary to applicable law. So, in simple terms, law enforcement efforts against the criminal act of Illegal Logging are efforts made to find justice, or legal certainty related to forestry-related activities that are contrary to applicable law.

Handling cases of illegal logging in practice is very complicated and not easy. As discussed above, law enforcement efforts against illegal logging crimes need to be carried out because criminal law policies carried out in the context of prevention and law enforcement against Illegal Logging still need to be refined. The law enforcement efforts against illegal logging include the following:
1) Harmonizing local regulations with Law Number 41 of 1999 concerning Forestry
2) Provide severe sanctions against perpetrators of illegal logging crimes
3) Improve coordination among fellow law enforcement officials and with other relevant agencies
4) Eradicating corruption through the implementation of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Corruption
5) Entrap perpetrators of illegal logging crimes integrally (thoroughly)
6) Increase facilities, infrastructure, and operational budget for handling illegal logging criminal cases

When viewed from law enforcement theory, the law enforcement efforts described above have included law enforcement described by Muladi which states that law enforcement is divided into three parts, namely total law enforcement, full law enforcement, and actual law enforcement. Then, when viewed from the factors that affect law enforcement according to Soekanto, the law

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8 Department Education and Culture Dictionary Big Indonesian, Balai Pustaka, 1997, Pp. 70
9 Dellyana Shant, Concept Enforcement Law, Liberty, Jakarta, 1988, Pp. 32
enforcement efforts described above are indeed strongly influenced by socio-cultural factors, applicable law, the character of law enforcement, society and facilities.

According to the author, in addition to carrying out law enforcement efforts against the criminal act of Illegal Logging as described above, there are efforts that are also quite complicated to do, namely efforts related to imposing punishment on perpetrators who are immune to the law such as state officials. The author assesses, The main problem with the failure of law enforcement against illegal logging cases is that the intellectual actors have been too strong to be penetrated by the law. The immunity of illegal logging perpetrators to the law is due to its association with government institutions and civilian and military officials who back it so that perpetrators are very difficult to touch by the law. The settlement of illegal logging cases in court, which has been heard so far, generally only ends in confiscation and auction of catch wood products, not a few of which end in free verdicts due to lack of evidence of involvement.

4. CONCLUSION

The conclusions in the study are First, the Criminal Law Policy Carried Out in the Framework of Prevention and Enforcement of Illegal Logging Crime is illustrated in the Legal Policy on criminal acts illegal logging based on Law Number 41 of 1999 concerning Forestry which explains crimes in the forestry sector is formulated as stated in Article 50 and Article 78, but Regarding the so-called forestry crime, it is not formulated firmly, giving rise to multiple interpretations in some circles. Second, Law enforcement efforts against Illegal Logging crimes that can be carried out are Harmonizing regional regulations with Law Number 41 of 1999 concerning Forestry, Providing severe sanctions against perpetrators of illegal logging crimes, Improve coordination among fellow law enforcement officials and with other related agencies, Conduct eradication of corruption through the implementation of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, Entrap perpetrators of illegal logging crimes integrally (comprehensively), and Increase facilities, infrastructure, and operational budgets for handling cases of illegal logging crimes.

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