



# Problems of Illegal Logging Cases in Indonesia from The View of Criminal Law

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## ***Abstract***

The case of illegal logging or illegal logging which is currently rife in Indonesia, is a crime of forest and environmental destruction, of course the impact generated from these activities is very detrimental to the Indonesian nation. This study uses a descriptive method with a qualitative approach and data triangulation analysis, the results of the study explain that as a country with the 3rd largest forest ownership in the world, Indonesia has a lot of biodiversity and natural resources that are spread to various islands in Indonesia, but behind this phenomenon, turns out to cause a problem caused by a handful of people or corporations who want to destroy forests and the environment to be converted into a place for illegal tree buying and selling transactions, and does not have a valid legal basis, of course this is an action that is very detrimental to many people, because as we know Indonesia's tropical forests have many benefits and functions as a support for the needs of the wider community, for that the government has issued a law to stop and process any person who has changed the function of the forest and caused damage. and losses to the state, then such actions can be categorized as criminal acts, because basically the forest destruction is caused by several factors, and one of them is through the practice of illegal logging or illegal logging of forests and without having an authorized permit from the government.

**Keywords:** Case Illegal Logging, Criminal Law, Indonesia

## **1. Introduction**

The country of Indonesia, which is right on an equator, causes Indonesia to have a lot of diverse forests, especially tropical rain forests located on various Indonesian islands, besides the forest area, it also turns out to have a very important function for all ecosystems on this earth, including forests that are used as For the benefit of national economic growth, in the legal aspect of Law Number 41 of 1999, the government officially states that establishing forest areas with special purposes that are needed for the public interest such as for research and development purposes, education and training, as well as religion and culture, so that forests provide benefits to the community.

In fact, Indonesia is a country with the 3rd largest tropical forest area in the world, Indonesia is only behind Brazil and the Democratic Republic of the Congo, which occupy the first and second positions, respectively, there are 133.6 million hectares of Indonesian forest area and put Indonesia as the owner of the largest tropical forest in the Asia Pacific region, it is not surprising that Indonesia is one of the countries that has earned the nickname as the lungs of the world, because the tropical forest stores oxygen in very large quantities, not only beneficial for the Indonesian state, but also for the community. The world is also helped by the abundance of oxygen reserves in various tropical forests in Indonesia. In addition, Indonesia's forests are also home to many of the world's biodiversity. Around 300,000 species of wild animals or 17% of the world's animals live in Indonesia. Then, Indonesia is a habitat for 515 species of mammals, 1539 species of birds, and 173 species of amphibians, as well as 45% of fish in the world (Eleanora, 2012; Achmad, 2021). Therefore, Indonesia must strive to maintain the sustainability of Indonesia's forests.

Having a very abundant forest area, it turns out to bring a lot of benefits for all Indonesian people, because in addition to being a foreign exchange earner, the function of the forest also absorbs a lot of labor, but on the other hand there is a very complicated problem regarding exploitative and exploitative forest management.

does not side with the interests of the people, in the end leaves a lot of problems, including the level of forest damage which is increasingly worrying from year to year, of course, it is necessary to take firm action from the government as a legal remedy for the parties involved in cases of forest abuse, especially in the case of illegal logging. (Illegal Logging), to transfer forest functions as they should, and of course as an authorized legal action step, the Indonesian government officially issued a law on illegal logging as contained in a Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction and Law No. Law Number 32 of 2009 concerning Environmental Protection and Management.

According to data collected over the last ten years, the rate of forest destruction and conversion in Indonesia reaches two million hectares per year, including cases of illegal logging that spread to various regions in Indonesia. Illegal logging has become the main cause of the most severe forest damage cases over the last few years, in the process this illegal logging activity involves many parties and has been systematically organized, this is of course very far from the real function of nature, where the function of illegal logging is nature according to Law No. 19 of 2004, Paragraph 1). In line with the provisions of Article 33 of the 1945 Constitution which is the constitutional basis that requires that the earth, water and natural resources contained therein be controlled by the State and used for the greatest prosperity of the people, forestry administration always contains the spirit and spirit of the people, is just and sustainable. PIDI: Law No. 19 of 2004, Paragraph 2).

Forests store a lot of natural resources that can prosper human life, besides that the forest also functions very well as preventing flooding and erosion. Forest development is one of the national development targets which is expected to provide the greatest benefit to the people's prosperity, in addition to efforts legislation, the government also takes an approach through an asset tracking mechanism, in suppressing illegal logging in various regions in Indonesia, asset tracing is a tracking

technique using the principles of criminal law, while several stages in the asset tracking mechanism include, initial data review, then draw up an activity plan, then collect information and analyze it in a physical inspection verification and asset assessment, while according to Budyatmojo (2013), that criminal sanctions for illegal logging are regulated in Law no. 18 of 2013, namely Articles 82-85, Articles 94 and 98. However, on the other hand according to Miharja et al (2019), the Law still has problems because the implementing regulations are contrary to higher regulations, there is no system for accumulation of prison sentences and fine.

In essence, abundant natural resources are a gift from God Almighty, for that as a country with a very large area of land and forests, the Indonesian state should be able to manage these resources as well as possible, this is of course as a fulfillment of community welfare. wide and expand the nation's economic system, but in practice it is often found various problems that can disrupt the forest ecosystem, one of the factors that are often found in the destruction of forests and nature is illegal logging or often referred to as (illegal logging), The definition of illegal logging itself can literally be said as an activity in the forestry sector or which is a series of activities that include logging, transportation, processing to buying and selling activities (including export-import) of illegal timber or contrary to applicable laws, or acts which can cause rust about the forest.

Entering the last few years, forest piracy cases in Indonesia have experienced a very high increase in cases, of course this is a very chronic and complex problem in the Indonesian forestry sector, activities such as forest function transfer, illegal logging, to land burning are a series of problems that must be addressed. faced by the people and the government of the country, the most cases of environmental damage are caused by illegal logging/illegal logging, furthermore this illegal logging activity is categorized as an unfathomable environmental crime, of course it is very far from the expectations of the Indonesian government which is trying to provide various educations related to forest protection as an invaluable heritage, the use of economic functions and efforts to protect environmental capabilities so that environmental conditions remain harmonious and balanced in accordance with the principles of sustainable forest management. In Indonesia, there are 120 million hectares of tropical forests in various conditions (Siregar & Silaban, 2020).

## 2. Approach Method

This research uses descriptive analysis research using qualitative methods. Researchers also want to examine a phenomenon that discusses the Problem of Illegal Logging Cases in Indonesia according to the view of civil law. Qualitative research is a scientific research that aims to understand a phenomenon in a natural social context by prioritizing a process of deep communication interaction between researchers and the phenomenon being studied. (Moleong, 2011). The data collection method is a technique used by observation, interviews, literature studies to documentation studies must be based on the relevance of research that occurs in the field.

### **3. Result and Discussion**

#### **3.1 Handling cases of illegal logging in Indonesia**

The development of the globalized world has brought a series of unwanted impacts to several countries in the world, including in Indonesia itself, where in the process of facing industrialization and modernization, a comprehensive understanding and knowledge is needed for the entire community at large, this is currently a big problem. for the country of Indonesia as a result of the increasing world of high globalization, where the forest sustainability sector as a support for national and global life is facing a very complex problem.

The case of environmental damage has indeed become a very serious threat to the development of national ecosystems, forest logging in Indonesia which every year experiences a drastic increase, causes the shrinkage of tropical forests in various regions in Indonesia, considering the rate of forest destruction that occurred in the 1985-1997 period. it is recorded that 1.6 million hectares per year of forest in Indonesia are depleted by various means and actions by a handful of irresponsible people, meanwhile in the period 1997-2000, cases of forest damage increased to 3.8 million hectares per year, with these records, placing Indonesia's position as one of the places with the highest level of forest destruction in the world, of course this is further away from the purpose of the Constitution which states that the function of forests and nature must be utilized as well as possible as a fulfillment of community needs and fulfillment of the national economy, because as we know that tropical forest In Indonesia, there are various benefits and biodiversity that is protected by the government, in the management of a wealth, including forest wealth, it must be properly regulated so that there are no criminal acts, either abuse of authority or about mistakes in its regulation (Gurning L, Manurung M & Simatupang H, 2020).

There are several alternative ways recommended by the government in tackling and resolving illegal logging practices in Indonesia, as we know the increasing practice is caused by the high demand for wood in the global market, and most of the timber shipped is the result of illegal logging crimes. which is currently happening in the country, this has also concluded some opinions that this case does involve the international community as a bridge connecting the smooth running of the practice, through a joint commitment the Indonesian government has actually established a collaboration with the British government through a memorandum of understanding Forest Law Enforcement and Governance, this step was taken as a firmness of the Indonesian government in exposing all forms of crimes against forests and the environment in various regions of Indonesia.

In addition, there are a number of other obstacles that can hinder the process of prosecuting illegal logging cases in Indonesia, such as weak enforcement and supervision of cases that occur in various regions in Indonesia, because so far the forestry law is considered to have no power and position. very high for a handful of people, in addition to the Law also only arrests perpetrators in the field, does not ensnare the main actors or masterminds behind the illegal logging practice, the government should form a special law that only serves and focuses on only one legal case, namely the criminal act of illegal logging, because it is very clear that this practice is an extraordinary crime, in addition to harming state finances, illegal

logging can also be categorized as criminal acts, environmental destruction, corruption, and money laundering. Country

### **3.2 The Impact of Illegal Logging in Indonesia and Provisions in the Provisions of the Criminal Law**

Forest and environmental damage activities that occur in Indonesia are indeed caused by several factors, and one of them is through illegal logging or often referred to as illegal logging, a series of illegal logging and logging activities, through several stages before being exported. to various regions in Indonesia, even the wood shipments also went abroad, in fact the series of logging did not have an authorized permit from any party, so it was against the law or carried out without a valid permit, as for Law no. 41 of 1999 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 that cause the forest to be disturbed or unable to function in accordance with its function.

There are several elements that are included in illegal logging activities including, the existence of an illegal logging activity and without a valid permit, then acts of destroying the forest, transporting wood, processing wood, selling wood, purchasing wood, all of these series are carried out on the basis of personal authority and illegal in nature without a clear legal basis, the term forest damage listed in state legislation, actually has a different dualism meaning, where forest damage is positive, because previously it has obtained permission from the government, usually this action is emphasized in the process of land clearing or land acquisition that is in accordance with the previously agreed process, and secondly, forest destruction actions that will have a negative impact on Indonesian land and forests, these activities are carried out on the basis of personal interests and are against the applicable law. criminal sanctions ng is stipulated in PP No. 28 of 1995 is actually an elaboration of Article 19 paragraph (1) of Law No. 5 of 1967 concerning Basic Provisions of Forestry which reads, the implementing regulations of this law may contain criminal sanctions, in the form of imprisonment or confinement and fines in the form of money.

The government has set a criminal offense for anyone who commits an act of destroying and changing the function of the forest as it should, there are two criteria that indicate a special criminal law for those involved in environmental and forest destruction activities in Indonesia, the crime of illegal logging itself is an act that falls into the category of a special crime, because illegal logging activities themselves involve problems related to the management of timber forest products, and have forestry case offenses that are closely related to elements of general criminal acts in the Criminal Code, can be grouped into several forms of crime in general, namely, destruction forests and the environment, as stated in Articles 406 to 412 of the Criminal Code is limited to only regulating the destruction of goods in the sense of ordinary goods owned by people (Article 406 of the Criminal Code). The goods can be in the form of goods that are lifted and not lifted, but goods that have a social function meaning that they are used for the public interest are regulated in Article 408.

Then the crime of illegal logging cases is included in the crime of theft, where the explanation is contained in Article 362 of the Criminal Code, which has several criteria including, illegal logging can be categorized as illegal taking and unilaterally

controlled. without a sovereign permit, the goods referred to in the article of the criminal law are in the form of wood, as well as plants and plants that are indeed within the territory of the government, of course, these activities include crimes and against the law

The next activity that is included in the crime of illegal logging is smuggling, in fact the government has not made a decision regarding which article can ensnare the smuggling activity, because basically smuggling activities are still categorized and classified as theft cases, but basically the timber smuggling case, still falls within the realm of criminal law, other activities that are included in the crime of illegal logging are counterfeiting, because basically cases of forgery of documents in the name of other people and do not have proof of legal ownership of wood or land, are still included in the criminal law cases contained in Articles 263-276. Counterfeiting of materials and marks is regulated in Articles 253-262, falsification of letters or making of fake letters according to the explanation of Article 263 of the Criminal Code is to make a letter whose contents are not proper or to make a letter in such a way, so that it looks like the original.

Embezzlement also turns out to be part of the illegal logging crime section, as regulated in the Criminal Code articles 372 to 377, a crime that is almost the same as theft in article 362. The difference is that in the case of theft, the property owned is still not in the hands of the thief and is still in the hands of the thief. must be taken first, while, in the case of embezzlement, the goods are hidden first, without the knowledge of the owner, with the aim of transferring permanent ownership rights. Of the various crimes that are part of the case of illegal logging in Indonesia, actually crimes that include forest and environmental destruction are categorized as national economic crimes, these actions can be carried out individually or through a related corporation, with the aim of processing various sources. natural resources that exist in the forest, by processing and selling the logging products without an authorized permit and it is against the sovereign law and can harm many people in it. Furthermore, the Ministry of Forestry stated that the losses due to theft of timber and the circulation of illegal forest products amounted to 30.42 trillions of rupiah per year not including the value of loss of biodiversity and hydrological functions, as well as the social value of disasters and loss of livelihoods due to forest destruction.

The impact of illegal and illegal logging that is currently rife in various regions in Indonesia, of course, causes various losses, not only material, more than that, various ecosystems in the forest environment are being threatened and most of them lose their natural habitat. In order to unravel and narrow the scope of the environmental destroyers, it is necessary to take firm action and create a deterrent effect, so that similar incidents do not recur and cause forests in Indonesia to be damaged and cause enormous material losses for the people of Indonesia, but in reality the destruction and illegal logging of forests is still happening and the numbers are increasing in the past few years, of course this is a big question mark for the Indonesian national forestry sector which has not been able to unravel several cases of forest destruction including illegal logging. What is categorized as a crime is extraordinary because it causes various losses and impacts on environmental damage that are very dangerous to various aspects of life in Indonesia, while according to Anas (2017) the cause of the non-optimal handling of illegal logging cases is due to the

lack of quality and quantity of human resources for law enforcement, and the lack of facilities and infrastructure to support a fair law enforcement process in Indonesia.

As an agricultural country that has a variety of very abundant natural resources, Indonesia is benefited by various forest holdings, and natural resources are very abundant and can be used as capital for national economic growth, because as we know the forest is a place that contains many benefits. such as water, plants, biodiversity and flora and fauna that increasingly complement Indonesia's forest wealth, while the definition of forest according to the Minister of Forestry Regulation no. 14 of 2004 recognized by the UNFCCC (United Nation Framework Convention on Climate Change) which is "An area of more than 6.25 ha with trees taller than 5 meters at maturity and a canopy cover of more than 30 percent." Meanwhile, the definition of forest area in the Minister of Forestry Regulation No. 50 of 2009 namely certain areas designated and or determined by the government to be maintained as permanent forests. However, the magnitude of the benefits of forests in Indonesia is apparently accompanied by threats of forest and environmental destruction in various ways and actions, one of which is through illegal logging or illegal logging. According to Sibrani (2016) and Soedarsono (2010), illegal logging is an effort to cut protected forest trees without considering the forest. damage to ecosystems, illegal logging generally involves several parties, ranging from laborers/loggers, financiers (*cukong*), transportation providers, and business security (bureaucrats, such as government officials, police, and the military).

#### 4. Conclusion

As a country with the third largest forest area owner in the world, Indonesia certainly has a variety of natural resources that can be processed and functioned as an invaluable national wealth, but besides that, Indonesia also has the highest rates of forest and environmental damage in the world. This is caused by several factors, and one of them is through illegal logging, illegal logging of forests, and has a very significant impact on the state of the ecosystem in Indonesia, the losses caused by forest damage not only have an impact on economic value, but also resulting in the loss of priceless lives, the government had originally issued a law to reduce and prevent the widespread practice of illegal logging in Indonesia, as contained in the Environmental Law, namely Law no. 32 of 2009 is an act of a person that causes direct or indirect changes to the physical, chemical, and/or biological properties of the environment so that it exceeds the standard criteria for environmental damage, therefore as citizens who are honest and love the environment of the Indonesian state, it is appropriate for us to always care for and preserve the diversity and ecosystems in forests, seas, mountains, and protect them as a priceless heritage.

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