

Law Enforcement Challenges In Forest Destruction: Evidence from Batam City

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ABSTRACT

Forests are a priceless gift and mandate from God Almighty and one that must be grateful for. Forests are a national development capital that has ecological, socio-cultural benefits and influences economic conditions as well as trade and industry conditions. Damage to the Batam City forest area due to illegal logging and theft of forest products and causing huge losses, so there is a need for a very fast handling. The problems studied in this research are forest protection arrangements and challenges to forest destruction law enforcement in Batam City. This study uses normative legal research methods. Normative legal research or library research is research that examines document studies, namely using various secondary data such as laws and regulations, court decisions, legal theories, and can be in the form of opinions of scholars. The results of the research show that law enforcement against forest protection Law Number 41 of 1999 concerning Forestry in exercising its authority to protect forests is carried out in a preventive and repressive manner

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PRELIMINARY

Forest destruction can have both positive and negative impacts on environmentally sound development.¹ Forests as one of the determinants of life support and a source of people's welfare are decreasing day by day, therefore their existence must be maintained continuously, so that they remain sustainable, and handled with noble character, fairness, authority, transparency, as well as professionalism and responsibility.² In the development of human life and civilization, forests are increasingly being used to meet the needs of life. Forest utilization is carried out in various ways and intensities, ranging from uses that do not really affect the climax conditions of the forest to actions that cause significant changes in the composition of the forest. Actions that cause changes in the composition of forests, namely forest destruction, especially in the form of illegal logging, mining without permits, and plantations without permits, have caused losses to the state, damaged socio-cultural life

¹ Pasai, M. (2020). Dampak kebakaran hutan dan penegakan hukum. *Jurnal pahlawan*, 3(1), 36-46.

² Nisa, A. N. M. (2020). Penegakan hukum terhadap permasalahan lingkungan hidup untuk mewujudkan pembangunan berkelanjutan (studi kasus kebakaran hutan di indonesia). *Jurnal Bina Mulia Hukum*, 4(2), 294-312.

and the environment, as well as an increase in global warming which has become a national, regional and international. and international.³

In line with Article 33 paragraph 3 of the 1945 Constitution as a constitutional basis, it is explained that the land, water and natural resources contained therein are controlled by the state and used for the greatest possible benefit of the people. Articles 7 to 8 of Law No. 18 of 2013 concerning the Prevention and Eradication of Forest Destruction regulate illegal logging. The Law on Prevention and Eradication of Forest Destruction is intended to prosecute massive and organized forestry crimes. In the Law on Prevention and Eradication of Forest Destruction it is stated that forest is an ecosystem unit in the form of a stretch of land containing biological natural resources dominated by trees in the natural community of the environment which cannot be separated from one another.

Based on Article 1 paragraph (1) of Law Number 5 of 1967 concerning Basic Forestry Provisions which have been renewed by Law Number 41 of 1999 concerning Forest Protection. What is called a forest is a field where trees grow, which in its entirety constitutes a living community of the biological world and its natural environment. Forests as part of the national natural resources have meaning and an important role in various aspects of social life, development and the environment. Forests have various benefits for life, both direct benefits and indirect benefits. The benefits of the forest are obtained if the forest is guaranteed to exist so that it can function optimally.⁴ Forests are resources that need to be protected in the context of mitigating the impacts of climate change.⁵ The issue of forestry is an important issue in every discussion and agreement on climate change both nationally and internationally.⁶ So that the development of regulations regarding forests in Indonesia is important in efforts to mitigate the effects of global climate change. Law enforcement against forest protection is an act that provides strict sanctions against violators who try to damage forest sustainability. This research focuses on law enforcement on forest destruction in Katam City. Forests in Batam City are still protected by the Batam Authority, namely the Batam City Administration Agency.

METHOD

This study uses normative research methods. Normative legal research is legal research that places law as a building system of norms. The system of norms built is regarding principles, norms, rules of law, court decisions, agreements, and doctrines/teachings. The process of legal research is carried out by the author by examining library materials or secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials. These materials are arranged systematically, studied, then a conclusion is drawn in relation to the problem under study. Normative legal research or library research is research that examines document studies, namely using various secondary data such as laws and regulations, court decisions, legal theories, and can be in

³ Ardiyanto, S. Y., & Hidayat, T. A. (2020). Pola Penegakan Hukum Terhadap Pelaku Pembakaran Hutan dan Lahan. *PAMPAS: Journal of Criminal Law*, 1(3), 79-91.

⁴ Bawono, B. T., & Mashdurohatun, A. (2011). Penegakan Hukum Pidana Di Bidang Illegal Logging Bagi Kelestarian Lingkungan Hidup Dan Upaya Penanggulangannya. *Jurnal Hukum Unissula*, 26(2), 12290.

⁵ Lukito, W. (2018). Implementasi Pelestarian Lingkungan Hidup Dalam Bidang Penegakan Hukum Pidana Terhadap Kasus Illegal Logging (Studi Kasus Polres Rembang). *Jurnal Hukum Khaira Ummah*, 13(1), 153-160.

⁶ Hamid, M. A. (2016). Penegakan Hukum Pidana Lingkungan Hidup Dalam Menanggulangi Kerugian Negara. *Legal Pluralism: Journal of Law Science*, 6(1).

the form of opinions of scholars.⁷ The following is a further explanation of data sources in normative research. Types and sources of data that will be used as a basis to support this research are data collected from secondary data. Secondary data is data that is generally ready to be made. The data source is in the form of secondary data which is commonly used in normative legal research which is divided into 3 (three), namely primary legal material, secondary legal material, and tertiary legal material.

RESULT AND DISCUSSION

Indonesia's Forest Protection Regulations

Forests are assets that must be protected, but they also have a function as a source of prosperity, where forest resources have great economic value, so they must be managed as well as possible for the prosperity of the people.⁸ In this initial arrangement, the concept of state control over forest resources arose which later became the basis for formulating government regulations and policies in forest management in Indonesia.⁹ For the Indonesian people, forests are a gift and a mandate from God who bestowed upon the Indonesian nation, is controlled by the state, provides multipurpose benefits for mankind, therefore it must be grateful for, managed and utilized optimally, and its preservation is maintained for the greatest prosperity of the people, for present and future generations.¹⁰ Environmental management as a conscious effort to maintain and improve environmental quality is carried out so that the needs of present and future generations can be met as well as possible in realizing justice between generations.¹¹

Forest protection whose regulation is regulated by Law Number 5 of 1967 which has been renewed by Law Number 41 of 1999 in its development has had several implementing regulations which can be classified according to several provisions, including: 1) Protection of forest areas, forest reserves, forests others, namely delineation of boundaries is carried out on each forest area that has been designated as a forest area in accordance with applicable laws and regulations except with legal authority according to applicable laws and regulations and everyone is prohibited from cutting, moving, damaging or removing forest area boundary markings ; 2) Protection of forest land. Activities that can damage the soil around forest areas are exploration and exploitation with the aim of extracting excavated materials which are carried out in forest areas or forest reserves granted by the competent authority after obtaining approval from the minister, in the event that the determination of the area concerned as a forest area is carried out after granting of exploration permits, further implementation of said exploration and exploitation activities must be in accordance with ministerial instructions. In forest areas and forest reserves, it is prohibited to collect forest products by using tools that are not suitable for the conditions of the soil and field or by carrying out other actions that can cause damage to the soil and stands; 3) Protection against forest destruction. Protection of forest land is an effort to protect and maintain land

⁷ Disemadi, H. S. (2022). Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies. *Journal of Judicial Review*, 24(2), 289-304.

⁸ Runtukahu, E. (2014). Hambatan dan Upaya Pembinaan Penegakan Hukum terhadap Kejahatan di Bidang Kehutanan. *Lex et Societatis*, 2(2).

⁹ Muthmainnah, W. R., & Lestari, I. (2020). Penegakan Hukum Lingkungan Terhadap Kerusakan Lingkungan Hidup. *Madani Legal Review*, 4(2), 96-107.

¹⁰ Prasetyo, A. (2013). Penegakan hukum tindak pidana pembakaran hutan di wilayah kabupaten kotawaringin timur. *Diponegoro Law Journal*, 2(3), 1-10.

¹¹ Budyatmojo, W. (2013). Penegakkan Hukum Tindak Pidana Illegal Logging (Antara Harapan Dan Kenyataan). *Yustisia Jurnal Hukum*, 2(2).

around forest areas, forest reserves, and other forests. Apart from forestry officers or people whose duties or interests are justified in forest areas, anyone is prohibited from bringing tools commonly used to cut, divide, burn forests without permission from the competent authority; 4) Protection of forest products, in order to protect the rights of the state concerned with forest products, all forest products are subject to measurement and testing. The results of measurement and testing of forest products are the basis for calculating the amount of the imposed state levies. In order to prove the legitimacy of forest products and the fulfillment of the obligations of the imposed state levies so that the forest products can be used or transported, they must have a valid certificate. Provisions regarding certificates of legality of forest products and procedures for obtaining them are regulated by the minister.

Based on the enactment of Law Number 5 of 1967 concerning Basic Provisions on Forestry which has been renewed by Law Number 41 of 1999 concerning Protection of Forests and Forest Areas. Forest Development aims to achieve maximum benefits as well as multi-purpose and sustainable, both directly and indirectly in an effort to build a just and prosperous Indonesian society based on Pancasila. Therefore, the aspect of forest development is a unified whole between juridical, technical, management and administrative aspects. Meanwhile, according to the function of the forest can be divided into 4 (four), namely 1) Protection Forest is a forest area based on the condition and physical characteristics of the area, there is a need for guidance to be maintained; 2) Production Forest is a forest area that is maintained as a forest area and functions to obtain forest products for public consumption, industry and export; 3) Nature Reserve Forest is a forest area based on the condition and physical characteristics of the area, it is necessary to develop and maintain the diversity of plant and animal species; and 4) Tourism Forest is a forest area based on the condition and nature of the area that needs to be developed and maintained as a forest for the development of education, tourism recreation and hunting.

Environmental Damage Enforcement in Batam City

The city of Batam is divided into 12 sub-districts, 9 sub-districts in the mainland area and three of which are sub-districts located outside Batam Island and consisting of small islands, namely Rear Padang District, Bulang District, and Galang District. These three districts are referred to as hinterland districts. It is necessary to pay attention to the islands that make up Batam City to find out their development because administratively they are still included in the Batam City area as a National Strategic Area. The center of Batam City which is on the mainland, Batam Island, is a point of growth and development and is important for the progress of Batam City as a whole. conditions in the island hinterland sub-district in Batam City make a difference that connects the city center to the sub-district center. Two other hinterland sub-districts have been connected by a bridge so that movement to the city center can be reached by land transportation, while Rear Padang District can only be reached by sea transportation to make movements from or to the city center island. This difference directly makes a difference in the movement of residents of Rear Padang District in their activities and fulfilling needs that should be able to move directly to the city center. The infrastructure problem faced is that there is still a lack of basic infrastructure in Batam City and the Batam City government center has not yet been completed.

The Batam District Court (PN) Panel of Judges finally sentenced the Director of PT Prima Makmur Batam (PMB) Ramudah alias Ayang (44) to 7 years in prison and a fine of IDR 1 billion, a subsidiary of 6 months in prison. The decision of the Panel of Judges was handed down after the perpetrators were legally and convincingly proven to result in exceeding the standard criteria for damage to land in the protected forest area. The perpetrators had

destroyed the Sei Hulu Lanjai and Tanjung Kasam Protection Forests, Nongsa District, Batam City, Riau Archipelago Province.

Previously, investigators from the Ministry of Environment and Forestry (KLHK) investigated the destruction of this protected forest. Furthermore, the Public Prosecutor (JPU) at an online hearing on November 23, 2021 demanded Ramudah be sentenced to 9 years in prison, fined Rp. 1 billion, a subsidiary of 6 months in prison. In the same case as the corporate crime case, PT PMB was sentenced by the Batam District Court judge with a fine of Rp. 2.5 billion in that case. PT PMB committed environmental destruction to build housing plots and buildings without permits within the Sei Hulu Lanjai Protection Forest area of 13,846 ha and Tanjung Kasam Protection Forest area of 5,416 ha, in Nongsa District, Batam City, Riau Archipelago Province.

Director of Criminal Law Enforcement, Directorate General of Law and Law, KLHK Yazid Nurhuda revealed, before law enforcement, the Protected Forest Management Unit (KPHL) Unit II Batam as the area stakeholder had given a warning to stop all illegal activities in the forest area without the minister's permission. However, all of this was ignored by PT PMB. Seeing that there was still forest clearing to make way for housing plots using heavy equipment at that location, the Director General of Legal Aid and the Leaders of Commission IV of the DPR RI arrested Zazli bin Kamel (37), Commissioner of PT PMB who was at the location. For this case, Zazli was found guilty by the Batam District Court and sentenced to 5 years and 6 months in prison and a fine of Rp. 1 billion, a subsidiary of 3 months in prison. Currently, Zazli is serving his sentence at the Balerang Detention Center. The Ministry of Environment and Forestry has also taken action against the perpetrators of destroying the environment and forest areas, namely PT Kayla Alam Sentosa (KAS) and PT Alif Mulia Jaya Batam (AMJB),"

For corporate crimes, PT. KAS and PT. AMJB was sentenced by a Batam District Court judge with a fine of Rp. 6 billion. As for individual crimes, the suspects IDM (50) Director of PT KAS and DMO (49) Director of PT AMJB are threatened with imprisonment for a maximum of 10 years and a fine of up to Rp. 10 billion as stipulated in Article 98 Jo Article 116 paragraph (1) letter b Law 32 2009 PPLH which is currently still in the trial process at the Batam District Court. PT PMB violated Article 98 Jo Article 116 paragraph (1) letter a UU 32 2009 PPLH. With the threat of imprisonment for a maximum of 10 years and a fine of up to Rp. 10 billion. In addition, as stipulated in Article 119 UU 32 PPLH, in addition to the main punishment, for corporate crimes additional punishment can be imposed, one of which is environmental restoration in the form of repairs due to criminal acts. Meanwhile, Ratio Ridho Sani, Director General of Law and Law at the Ministry of Environment and Forestry, said that the Ministry of Environment and Forestry will not stop taking action against perpetrators of environmental and forestry destruction. Especially the perpetrators of destruction of protected forests. We will take strict action against perpetrators of crimes, both individuals and corporations. Perpetrators of crimes that seek profit by threatening the lives of many people, the environment, and state losses, must be punished in the strictest sense.

The Challenges of Handling Forest Damage in Batam City

Forest resources have a function as a support for human life and other living things which in the provisions of the 1967 Forestry Law,¹² does not explicitly separate the concept of forestry as a support for life and a source of people's prosperity, but from several regulatory formulations it can be interpreted through definitions in identifiable norms. in

¹² Ardiyanto, S. Y., & Hidayat, T. A. (2020). Pola Penegakan Hukum Terhadap Pelaku Pembakaran Hutan dan Lahan. *PAMPAS: Journal of Criminal Law*, 1(3), 79-91.

relation to the function of the forest as a life support system, among others: First, the definition of protected forest as a forest area which due to its natural nature is designated to regulate water management, and Second, the definition of nature reserve forest is a forest area which because of its unique nature is specifically designated for protection biological nature and/or other benefits, namely: nature reserve forests related to their unique natural conditions including the animal nature and vegetable nature, needing to be protected for the benefit of science and culture, are called nature reserves and nature reserve forests designated as a place where wild animals live which has a unique value for science and culture and is a national wealth and pride, is called a wildlife sanctuary.

Forest as a life support was not defined explicitly and explicitly at the beginning of the regulation¹³, this was because the Indonesian state in the 1960s was just about to start carrying out development. Policies that are not oriented towards the excessive use of natural resources, including forests, have resulted in the impact of resource utilization on the environment not yet being felt. Indonesia only realized the impact of development, especially global development during the evaluation of World Development in the First Decade of 1960-1970.³³⁴ which ended with the convening of the Stockholm 1972 Declaration of the United Nations Conference³³⁵ on the Human Environment, where the impact of universal development had an impact on human life globally and across borders. countries including Indonesia.

In order to regulate ecosystem protection as a support system for human life and other living things, the government has stipulated Law no. 5 of 1990 concerning the Conversion of Biological Natural Resources and Their Ecosystems (KSDAHE) which will become the basis for maintaining ecosystem functions, especially prioritizing the function of forests as life support. Regulations regarding ecosystem protection are a form of state responsibility in protecting ecosystems at the level of law after the enactment of the forestry law. The regulation regarding KSDAHE is determined based on several considerations, including that Indonesia's living natural resources and their ecosystems which have an important position and role for life are gifts from God Almighty, therefore they are managed and utilized in a sustainable, harmonious, harmonious and balanced manner for the welfare of the Indonesian people.

Batam consists of islands with different sizes or areas with the growth center island located on Batam Island. Batam City has one large island, namely Batam Island and 329 inhabited islands located in the Batam City area. The development of growth centers in a mainland should be able to influence developments in the surrounding areas. The role played by the growth center can increase the growth and development of the background area or hinterland. The development and growth of the mainland can also be influenced by the relationship with the background areas because there is mutual influence between regions for the development and progress of each region. The city of Batam is divided into 12 sub-districts, 9 sub-districts in the mainland area and three of which are sub-districts located outside Batam Island and consisting of small islands, namely Rear Padang District, Bulang District, and Galang District. These three districts are referred to as hinterland districts. It is necessary to pay attention to the islands that make up Batam City to find out their development because administratively they are still included in the Batam City area as a National Strategic Area. The center of Batam City which is on the mainland, Batam Island,

¹³ Nisa, A. N. M. (2020). Penegakan hukum terhadap permasalahan lingkungan hidup untuk mewujudkan pembangunan berkelanjutan (studi kasus kebakaran hutan di indonesia). *Jurnal Bina Mulia Hukum*, 4(2), 294-312.

is a point of growth and development and is important for the progress of Batam City as a whole.

CLOSING

The results of the research show that law enforcement against forest protection Law Number 41 of 1999 concerning Forestry in exercising its authority to protect forests is carried out in a preventive and repressive manner. Attention to the protection of biological resources and ecosystems has been demonstrated by the international community with the 1992 United Nations Conference on Environment and Development held in Rio de Janeiro. At the 1992 Earth Summit, several issues were agreed that were directly related to the protection of global environmental functions, including the protection and impacts of utilization of biological resources and ecosystems, including the issue of climate change. The results of the agreement at the conference have become one of the foundations for the growth and development of the environmental law system in Indonesia. If you look closely at the definition of illegal logging in laws and regulations, especially in forestry laws, you will not find a clear definition of this.

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