

Progressive Law in Combating Illegal Logging in East Kotawaringin (Kotim) Central Kalimantan

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Abstract

In the progressive legal perspective, there are several dominant factor in terms of illegal logging and eradication. Factors law enforcement, namely the party which forms or apply the rule of law. Interpreted as a law enforcement officer relating to law enforcement. From the aspect of law enforcement officials in law enforcement in illegal logging District Kotim, show mental weakness of law enforcement officials in enforcing the law. In terms of facilities and infrastructure / facilities, the facility is still a shortage of facilities and infrastructure. Not available adequate logistical needs. In terms of the community, that the law enforcement aims to achieve peace in the community. From the aspect of legal culture of society, that became one of the cultural factors that influence the process of law enforcement. In the context of law enforcement in illegal logging District Kotim, the legal culture of society not provide support for the efforts of law enforcement. This is caused by the legal culture of society which considers that illegal logging is not an offense. Here the necessary simplification of the rules more specific regulations in writing, to waive non technical factors, especially at the local level. Therefore, the law is the product of regional regulations, the products of this law should be operational in the sense not merely as the implementation of the legislation on it but also based on concrete reality in the District Kotim. Similarly, the need for a common perception of illegal logging between the government and the public, particularly local communities. Due to differences in perceptions about illegal logging understanding between local people and the Government led to the ineffectiveness of the fight against illegal logging. Development of concepts such as community forestry or local community-based forest management can be used alternative to preserve the forests that included community.

Keywords: Illegal Logging; Legal progressivity; The Area of Forest in East Kotawaringin

A. Introduction

Indonesia has been a concern to maintain the presence and level of mega biodiversity, which owns 10 percent of flowering plants in the world, 17 percent of bird species, 12 percent of species of mammals, 16 percent of species of reptiles, and 16 species of amphibia percent, of the world's population. As understood, the forest resources are being reduced. In the economic perspective, in the midst of increasingly limited forest resources and the declining trend in the economic benefits of the forestry sector (Darmanto, 2003: 44).

Therefore, the forest should be interpreted as "natural resources (SDA) and ecosystem utilization should consider" the nature ". Thus the forest is a resource that is very important not only as a source of timber, but rather as one component of the environment (Siswanto, 2005: 98).

Forests as one part of the wealth of natural resources shared by East Kotawaringin (Kotim), Central Kalimantan. Based on data from the District Forest Service Kotim In 2011, the District has the potential Kotim approximately 1,604,973.38 ha of forest spread over 15 districts. The overall forest consists of Protected Forest (6559.97 ha), Timber Estate (85 230 ha), Areal Transmigration (35094.50), limited production forest (234,804.10 ha), Permanent production forest (388,923.13 ha) , the area of Production Development (595,607.97 ha), Region Settlement and Other Uses (258,123.71 ha) limited production forest (20.310 ha), production forest (104 321 ha).

Judging from the economic aspect, the presence of forests in Kotim very important because the local economy Kotim dependent on the timber industry in particular before the economic crisis in 1998. The wood industry in Kotim take place along with the inclusion of forest concessions (HPH) in the first quarter of 1970, after the central government announced a state forest ownership and was followed by massive concessions to the investors to invest in the islands outside Java in the form of concession rights.

As stated by Sidik R.Usop researchers from the University of Palangkaraya in the executive summary of research on Environmental Quality Decline For Impact Logging Illegal / Illegal Logging in District Kotim showed severe damage to forests. (Bappeda Kalteng. 2010).

In the case of illegal logging activities has caused a very serious impact, especially for the preservation

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of the environment. Illegal logging gives a very detrimental impact on the surrounding community, and even the world community. Losses caused by forest destruction not only damage economic value, but also result in the loss of life that is priceless.

That the condition of forests in Indonesia are broken and many cases has resulted in natural disasters that harm to humans not only in the form of property but also claimed the lives of human beings since triggered floods, landslides, erosion and so on (Nurdjana, IGM, et al, 2011 : 7).

Natural disasters caused by illegal logging also occurred in Kotim as dictated by the director of Save Our Borneo (SOB) Nordin stating that most of the flooding that occurred in Kotim due to mismanagement of space and water catchment areas were converted into palm oil plantation even a few years before going on deforestation due to illegal logging (<http://radarsampit.net,2012>).

Illegal Logging also result in reduced water source forests. The trees in the forest which is usually a water absorbent to provide a source of water for the benefit of local communities, now engulfed the perpetrators of illegal logging. This resulted in local communities around the forests lack of clean water and water for irrigation. According to the compass, in 2007, the last recorded 78 occurrences of drought spread across 11 provinces and 36 districts (Kompas, 2011).

In addition to the impact of the effects as described above, illegal logging has also led to other effects such as encouraging corruption and tax evasion, money laundering, violations of human rights and so on. Illegal logging has caused multidimensional problems related to economic, social, cultural and environmental. This is the consequence of the logical functions of forests which in essence is an ecosystem which contains the basic functions, namely the production function (economy), the function of the environment (ecology), as well as social functions.

Illegal logging even walked with a more open, transparent and many parties involved and benefit from illegal logging activities, the mode is usually done is by involving many parties and in a systematic and organized. In general, those who participate are labor / loggers, investors (financiers), a provider of transportation and security businesses (often as a safety effort is of the bureaucracy, government officials, police, military) and many others.

B. About Progressive Law.

According to law enforcement Satjipto Rahardjo is a process to realize the desires of law becomes a reality (Rahardjo, S, 2007). Furthermore it is said that law enforcement has already begun at the time the legal rules made or created. Law enforcement is a process to realize the desires of law becomes a reality.

Desires are law-making body thoughts laws formulated in legal regulations. Similarly reach the law enforcement process to the making of laws. Formulation thought lawmakers set forth in the rule of law will also determine how the law enforcement run. In fact law enforcement process culminated in its implementation by law enforcement officials (Satjipto Rahardjo.2007: 223).

Based on the above explanation, it can be seen that, talking about the rule of law can not be separated from the context of humanity. The point is that of the law enforcement process itself that is in human as law enforcement officers. Is an indisputable fact that, at this time the development of social life has increased the intensity and complexity of the legal relationship that must be protected in order to achieve justice and truth, even happiness.

As for the estuary of law enforcement, the development of mobility of national law must be accomodates complexity of the problems that grow and thrive in the community. Smoothness social mobility must not be separated from the services and products produced and applicable law.

Therefore, there should be a new consciousness that is understood in the study of law that is, the law is not a thing apart from the context of society, here the law enforcement holding a big hand, and the public was put expectations that laws that have value and weight that can be relied upon. Thus justice and truth, and the pursuit of happiness that the spirit of the law itself can be realized.

As explained Satjipto Rahardjo, in which critical thinking is: "Character and deterministic laws masinal will be lead to a crisis in the realm of science and humanity. This crisis will get a turning point when the development of the idea of the relativity, chaos and complexity as something he deserves in science including law (Rahardjo, S, 2009).

Mentelaah review and study of law and law enforcement within the current social science perspective, it is very relevant if we refer to the progressive legal theory. This is the perspective advanced legal studies. On the basis of optical descriptive of this Satjipto Rahardno, progressive law is considered as a phenomenon in solving legal problems in society, appropriate objective conditions.

The emergence of progressive law to the surface and into a scientific study in the fields of law, to assert that the law must return to the basic philosophy that is: the law is for man, and not vice versa, (Satjipto Rahardjo, 2009: 89). In the context of this law is not just a mere building regulations. But also building ideas, culture, and ideals. At each output thoughts, Satjipto Rahardjo always underlying the basic idea is applicable that "The

purpose of the Law is a happy man." Not the other way, man by law and to serve the law.

Progressive understanding of the law is different from the understanding of the law-positivistic and legalistic rules-based (rule bound). In law legalistic- positivistic science, law as a complex institutional arrangement has been reduced to something simple, linear, mechanistic, deterministic, especially for the benefit of the profession. Up to now, the way of thinking is still dominated by the legacy legal thinking of the 19th century that positivistic-dogmatic.

The use of optical prescriptive thinking by seeing the law as a tool that must be executed, without notice and does not intend to be able to explain the phenomenon of law in society. As stated by Setiawan: "Optical Prescriptive regard law as a tool that must be executed. Legal education institutions that apply the concept of prescriptive optic will teach: the skills of how to master the means (law) was, and how to use it (Setiawan, AM, 2010: 47).

Concepts and thoughts on a very contradictory with a brief sketch of the fruit of thought and the concept of progressive law initiated by Satjipto Rahardjo. The idea of progressive law not only enrich the knowledge of the law, but more than that, it can provide an exemplary. The point is that the obligation for a scientist is to always be humble and open, and has a passion to always be on the search path, liberation and enlightenment. The above is the basis for which is the essence of what is called the "progressive legal thought". On this perspective, there are two (2) types of progressive law enforcement, namely:

- a. Dimension and the human factor in law enforcement progressive actors. Ideally, they consist of a new generation of legal professionals who have a vision and the philosophy underlying the progressive law enforcement;
- b. The need for some sort of revival among academics, intellectuals and scientists and theoreticians Indonesian law.

Therefore, progressive laws have a different shape with the positivistic. For further clarification, this progressive law can lay out through identification sequence consisting of Assumption, Purpose, Spirit, progression, and progressive character of the law itself. Clarification that can be delivered on the basis of terms of proficiency level is as follows:

1. Assumptions:

- a. The law is for man, not vice versa. For the presence of the law is not for himself, but for something larger and larger. That is why when there is a problem in the law, it is the law that should be reviewed and corrected, not the man who pushed for inclusion in the scheme of the law.
- b. Law is not an institution that is absolute and final, because the law is always in the process to continue to be (as a process of law, law in the making).

2. Purpose: The purpose of the law is for the welfare and happiness of man. Not the other way, man must serve the law.

3. Spirit:

- a. Liberation of the type, the way of thinking, principles, and theories that have been used.
- b. The liberation of the culture of the rule of law (administration of justice) which has been in power and felt to hamper efforts to resolve the legal problems in interaction with his fellow citizens.

4. progression:

- a. Aiming for the welfare and happiness of man and therefore regard the law is always in the process of becoming (law in the making).
- b. Sensitive to changes that occur in the community, both locally, nationally, and globally.
- c. Rejecting the status quo when the cause dekadensi, corrupt atmosphere and very detrimental to the interests of the people, causing resistance and further is a rebellion that led to the progressive interpretation of the law.

5. Character:

- a. Progressive legal studies trying to shift the focus of the original law studies using optical laws leading to behavior.
- b. Consciously progressive legal presence in close association with humans and society, to borrow a phrase Nonet and Selznick, responsive type.
- c. Progressive law divided familiar with legal realism, because the law is not seen through the eyes of the law itself, but rather be seen and judged from social goals to be achieved and the consequences arising from the operation of law.
- d. Progressive law has a closeness with sociological jurisprudence of Roscoe Pound that examines the law is not only limited to the study of the regulation but come out and see the effects of the law and the workings of the law.
- e. Progressive law has a closeness with the theory of natural law, because it cares for the things that meta-Juridical.
- f. Progressive law has a closeness with the Critical Legal Studies but broader in scope (Satjipto Rahardjo,

2011: 98).

Reducing legal identification progressive sequence above, it can be understood that, the ideas and concepts as well as the confidence of law enforcement a tool. Means to achieve the purpose of the law itself. Thus the rule of law is not a destination but a process of reaching for the purpose intended by law. Therefore it is all the energy should be deployed so that the law is able to work manifests moral values within the law.

Based on the above, the failure of law enforcement that occurred during this time was caused by the failure of government to enforce the law. It thus has weakened the ideals to realize the values of the law. Especially in the reform era, the era of legal reform can be said is still very poor implementation of the moral values, and has created distance and isolation from society.

Marzuki thesis by citing the results of the rule of law through judicial namely: "Procession of justice as a ritual rich but poor symbol meaning" (Marzuki, S.2011: 109). It thus likened to a handling problem with the legal means to retreat back. Legal legitimacy becomes vague, and therefore need to correct progression back.

Therefore, it should be considered sec dara earnestly, to perform law enforcement efforts by law enforcement theory progressively. The assumption underlying the use of the theory of progressive law enforcement law enforcement is carried out in a concrete reality that implementation through a sociological approach.

This approach views the law and law enforcement from outside the law because the law is and to be part of the social system. While the social system that would give meaning and effect to the law and law enforcement and the judicial process itself.

The basic assumption underlying the optical view of the social sciences in law enforcement is that, the human factor within the optical perspective of social sciences is very important. With the basic assumption that human beings are very relevant even become the main actor in the law enforcement optics social science perspective.

Therefore this perspective deadly that law enforcement alone is not a logical process, but an absolute requirement that human involvement. As Marzuki said: "Law enforcement can not be seen as a logical linear process, but rather something that is complex (S Marzuki, 2011: 79). From the basic assumption that the law for man, not man for the law (Satjipto Rahardjo, 2009: 198).

Thus, law enforcement here as a determinant of human position and orientation point of law. Legal duty to serve man rather than vice versa, thus the law is not an institution that is separated from the human interest. The quality of the law is determined by its ability to serve human welfare.

The above facts into dasarf that adheres to legal progressive "ideology" law that pro justice and legal pro-people. Expectations of this ideology, as well as the dedication of the actors got a major law to perform the recovery. The law offenders prosecuted for promoting honesty and integrity in law enforcement.

They must have the professionalism in law enforcement. Is basically empathy and concern for the suffering of the people and the nation. Interests of the people (wellbeing and happiness), should be the ultimate goal orientation point and the administration of justice, particularly spenegakan law.

Progressive law is very different from the conservative law. That difference must be awareness in law progressive enforcement. The big difference now is what conscious or not, take place in the realm of thought and implementation current law. the hallmark of the progressive law serve mankind, marginalized by the fact that humans are subject to the law even though the law does not correspond to the concrete conditions in society.

C. Profile Case of Illegal Logging and Law Enforcement Progressive

Kotim is the second largest district in Central Kalimantan and contribute significantly to revenue (PAD) from the provincial forest sector, especially timber production. Before the expansion, the District Kotim fed by watersheds Katingan, Seruyan and Mentaya. After the division of the district, the main watershed coursing Kotim is Mentaya watershed.

The forest in Kotim district which is very strategic part of Borneo forests. East Kotawaringin forest is one of the potential forest into the lungs of the world. But the existence of the forest is threatened by illegal logging activities that have been going on since the 1970s. Illegal logging activity increased after the division caused by the deforestation HPH concessions such as government-owned by INHUTANI III.(Indonesian Forestry Industry III)

The perpetrators of illegal logging in the District Kotim getting out of control because of the lack of extra handling of the government in overcoming Illegal Logging. Illegal logging activities in the District Kotim even involving foreign nationals, particularly from Malaysia.

The financiers of the entrance to the border of West Kalimantan / Sarawak continue to go to the District Kotim without official documents and without a work visa in Kotim. Illegal Logging timber is processed semi-finished and then smuggled into Malaysia.

Malaysians out of Borneo without fitted with the official documents, never caught or touched by the security forces. In fact, when there are Indonesian citizens who entered into Malaysian territory without

documents, by the Malaysian government immediately arrested and punished according to the law in force in Malaysia. The Illegal Logging of activities, every month they can raise money that billions of rupiah.

Illegal logging activities in the District Kotim peaked around the year 1997/1998 is mainly done by the community. There are some views that are saying that after the economic crisis and political reform, there are also some changes signifikan in the exploitation of natural resources. The economic crisis and political reform is often regarded as the "ringleader" of the increase in logging activities "wood" illegal ".

On the other hand, there is also the perception, especially from the local community that people living in the area around the concession concession company has been marginalized by the difficulty of obtaining logging permits, especially when compared with the concession that had been granted to logging companies.

The arrival of the era of reform does allow people to excrete the aspirations and desires openly so that the community also undertake forest exploitation activities openly though illegal.

Post-New Order, the strength of the security forces that were previously in charge of securing forest from illegal logging activities reduced significantly. As a result, people are becoming increasingly willing to take illegal forest products. Even sometimes they do resistance against officials who among others is manifested in the form of a post combustion jungle security post, or through the "occupation" of society to the station monitoring station as happened between local communities and officials Tanjung Puting National Park in 2002.

It is based on the previous situation in which the community can only be a spectator in a range of forest resource exploitation activities carried out by the customary concession even though the region is "owned" them. That they not only be a spectator, local residents finally decided to participate in illegal logging activities that have the potential to make money in large quantities and in a short time.

E. Type Case of Illegal Logging in East Kotawaringin

Efforts to combat illegal logging practices have been echoed in Act No. 41 of 1999 on Forestry and Presidential Instruction (Instruction) No. 4 of 2005 on Combating Illegal Logging in Forest Areas and empowerment in the whole territory of the Republic of Indonesia, including in the District Kotim. However, such illegal practices were still going on. Illegal logging mode constantly evolving adapt and tend to be more systematically from year to year.

In this regard, the authors wanted to classify the types of illegal logging that occurred in the district of Kotim into two major groups, namely illegal logging in the form of logging activities conducted on the potential of forest resources not related to "forest conversion" and logging related to "forest conversion" for business development non forestry, especially oil palm plantations.

To illegal logging related to the business of logging of forest resources non-oil, as stated above, has been started since the 1970s until about 2000 whereas the government has issued several permits opening of Forest Conesion (Hak Pengusahaan Hutan-HPH) (IUPHHK) which marks the start ekploitasinya potential of forests Kotim district on a large scale.

Increasing the amount of illegal logging after the district division Kotim done, because of the desire to increase local income through the forestry sector.

Illegal logging has involved nearly all stakeholders because it involves the community, financiers, law enforcement agencies, concessionaires and Local Government Kotim own. Broadly speaking, the modus operandi of illegal logging types performed at that time were:

1. Using a license that is not in accordance with the contents listed in the permit. For example, by using permission HTI (Industrial Plantation Forest) are supposed only to scrub, but used in protected forests.
2. The timber auction system by the illegal loggers. By way of auction, the individuals, especially those involved in illegal logging of the elements of government officials tried to legalize timber that is actually illegal.
3. Utilize community to forest fires. The illegal loggers take advantage of the local people in helping them in looting timber with a reward in the form of high salaries, they deliberately encourage local communities to deforest their land with a very adverse impact on them.
4. Looking for protection from government officials and security forces. That is the practice of illegal logging may not actually happen if nothing is facilitated. Without any other party that opened the way or fail to prevent illegal logging, the action is impossible to walk. This is where the suspected involvement of government officials, even officers, are supposed to supervise.

After the enactment of Law No. 33 of 2004 on Financial Balance between Central and Local Government jo Law No. 32/2004 on Regional Government (Autonomy), then the local government Kotim get the opportunity to increase local income through the use of natural resources, including forest land resources. These opportunities form of economic development based on land resources (land based development programs), namely in the form of construction and development of "agro-industrial" and "agribusiness" with the primary commodity of oil palm plantations (palm oil plantation).

Total area of oil palm plantations in the region Kotim in 2012 that has been planted to \pm 700,000

hectares or 45% of the total area of the District Kotim. This condition is certainly very worrying, because as a result of the expansion of forest clearing (conversion) into oil palm plantations on a large scale are not or less controlled Kotim resulted in forest area only a \pm 475,000 hectares.

Of these, 300,000 ha of which there has been a utilization permit in the form of three companies forest concessions (HPH) / IUPHHKHA still secured a license from the central government activities. Thus the forest area in the district of Kotim only the remaining approximately 175,000 hectares.

From the data obtained by the Special Committee established by the Oil Kotim district legislature, it is known that most of the land owned by the company has in excess of permit Hak Guna Usaha (HGU) is given.

Lately, efforts encroachment by palm oil plantation production forest in the district of Kotim becoming increasingly disturbing. Cases occur primarily around the District Antang Kalang and Parenggean. A large plantation companies private, belonging to the central authorities indicated to violate the production forest area. Even outside Cultivation Rights or Cultivation Rights, or Hak Guna Usaha (HGU) provided by the government.

Cultivation of production forest area has occurred since 2009, and this time the area has been planted with palm trees. The area is encroached upon by growers located in the village area Kuluk Telawang and tumbles Kalang.

Due to encroachment, the potential Meranti forest timber, Keruing, and Banuas the thousands of cubic destroyed, and burned to clear land for palm oil plantations.

Practice expansion of oil production has done a PBS has caused losses to the state and the environment because it has caused a loss of forest functions as a water system that has the potential to cause catastrophic floods, and droughts and forest destruction. According to the village chief tumbles Kalang, the production of forest clearing activities of approximately 2,379 hectares in the village took place outside the forest area permits release.

Nonetheless, cases of alleged crimes of illegal logging by forestry clearing mode for oil palm plantations have not been up to the courts. According to information from the village head tumbles Kalang, was never arrested two illegal loggers by the Forest Police officers.

Suspect John, expanded production forest area for the opening of business area of 4,000 hectares of oil palm plantations. While Abdurahman, reaching an area of 1,000 hectares of oil palm plantations to be as well. Both, allegedly in violation of Law 41 of 1999 on forestry with a penalty of 10 years in prison and a fine of Rp 100 billion.

Both actors as presented above have been arrested, according to information subsequently taken to Jakarta precisely to Mangala Building Wanna Bhakti. But until now there has been a clear continuation of the judicial process against the perpetrators of illegal logging.

F. Distribution and Mode Case of Illegal Logging in East Kotawaringin

To understand the distribution and trend of the occurrence of illegal logging cases in the district Kotim, it is better described in advance about the condition of the district Kotim region. Please note that the District Kotim largely lowland 0-2% with an area of 496,367.68 hectares that includes the south and along the major rivers, while 2-15% grade incline located at the center, behind the area rivers large and along small rivers with a total area of 503,331.89 hectares slope. While 15-40% slope classes are in the north, especially in areas that are not flowing river. With topographical pattern as noted above, it can be said that the northern region is largely a forest area and a water catchment area that is a protected forest area in the district Antang Telaga, hills in the District of Lake Antang, Hill Santuai, and Antang Kalang.

For protected areas have been established based on the Ministry of Forestry of Indonesia No: SK.292 / Menhut-II / 2011, the protected forest area in the district Antang lake with an area of approximately 10603.751 ha. Based on the Decree of the Minister of the same, well defined forest area with the production function, as follows

1. limited production forest area located in District Antang Kalang, District Ponds Antang, and District Hill Santuai with an area of approximately 195,474.370 ha.
2. The permanent production forest area located in Teluk Sampit, District Hanaut Island, distri-tan Mentaya South Downstream, District Mentaya North Downstream, District Seranau, District Parenggean, District Antang Kalang, and District Hill Santuai with an area of approximately 506,287.120 Ha.
3. Production forest area that can be converted are in the entire district with an area of approximately 430,814.608 ha.

Meanwhile, the district Kotim other is an area of peat contained in the Bay of Sampit, Mentaya Lower South, Mentaya Lower North Island Hanaut, Seranau, Baamang, Ketapang, City Iron, Telawang, Cempaga, Cempaga Hulu, Parenggean, Mentaya Hulu, and Ponds Antang and mangrove forest area in the district Hanaut Island and Teluk Sampit with an area of approximately 6200.130 ha.

The area is a local protected area consisting of: the region and the coastal border river border region. Coastal border area in East Kotawaringin determined based on criteria land along the waterfront with a distance of

at least 100 (one hundred) meters from the high tide point toward the ground.

G. Environmental Impact (Social-Biophysical) Illegal Logging in Kotim

Deforestation in the highest Kotim district in Central Kalimantan province. Based Management Agency (BP) Watershed (DAS) Kahayan in 2004 alone the damage has already reached 973 thousand hectares. These include forest degradation caused by improper forest management, forest clearing on a large scale for various purposes of development, excessive logging, looting, encroachment, the occupation of land and forest fires, as well as exacerbated by rampant illegal logging activity.

Rampant illegal logging and the circulation is strongly associated with economic, environmental, and social community, and has brought tremendous impact on environment (bio-physical), economic sustainability, and social and cultural change.

As for the impact of illegal logging activities in terms of an environmental perspective (bio-physical) are:

- a. Increased cause erosion
- b. Decreased Soil Fertility Levels
- c. Elicit Flood and Drought
- d. Declining Biodiversity Forest Resources
- e. Occurrence of Landslide
- f. Forest Fire Occurrence
- g. Kontribusi Against Climate Change and Global Warming

I. Case of Illegal Logging Settlement in the District Kotim

As has been stated above that the practice of illegal logging has affected the economic, ecological and social enormous. The Government through various related agencies have established eradication efforts and countermeasures as priority programs.

Broadly speaking there are two (2) attempts to eradicate illegal logging practices approach by the government Kotim district.

- a. Characteristically Welfare Preventive approach.

The approach taken by the government by way of the local community to join forces to reject the practice illegal forest logging. Forest communities is a major gateway and the locomotive of illegal logging practices because of poverty and helplessness. Because it is the key to successful eradication of illegal logging practices lies in how the parties are able to improve the welfare and independence of the people who live and live around the forest area.

Thus preventive measures are an attempt prevention against illegal logging practices. This work is done through the District Government Kotim District Forestry Office in cooperation with relevant parties in a way:

- b. Efforts for Community Empowerment.

Community empowerment is done in a way to provide guidance to the community by cooperating with the elements that exist in society. This effort is more emphasis to the social aspect is to perform Collaborative Forest Management (CBFM). With the CBFM, Kotim District Government hopes that in forest management can always share with the community. One manifestation of this is the establishment of CBFM Forest Society Institute (LMH).

LMH established by cooperating with public figures around the forest. One example is the LMH LMH Wono Asri village Banyan, Antang Kalang the District Court. LMH was formed and established after the socialization PHBM by INHUTANI III in March 2009 but only has the legality of the law on September 18, 2010 after the publication of the Deed of Establishment LMH Wono Asri by Notary Nanik Purwaningsih, SH No. 57 of 2009. The purpose of the establishment of LMH are:

1. Channelling aspirations of the Great Banyan Village community in the framework of forest management together with INHUTANI III.
2. Exploring the full potential of natural resources and human resources for the Great Banyan Village community can be developed through real participation in the business activities of forest management based on partnership together with Public Corporation INHUTANI III to reaching a forest village communities self-sufficient and sustainable forest equitable, prosperous and prosper
3. Increase the level of awareness, concern and involvement of rural communities Banyan Court in forest management and conservation activities together INHUTANI III in the bonds of a healthy partnership and mutually beneficial
4. Develop forest management enterprises through its cooperation with other interested parties.

Judging from its organizational structure is quite simple and consists of the Chairman, Secretary and Treasurer of the Member subsequently. Under no 4 Section Chairman is sexy Planning, Public Relations Section, Section Sharing and Security Section. While the village chief and the INHUTANI III as Advisor / Trustees. LMH was given special rights that do utilization of production forest area in the district of Kotim. The rights

owned by LMH include:

- a. Utilization of production forest land for agriculture without destroying forest lands and native plants that already exist. The trick is to plant crops that are planted under the stands of forest trees where these plants should not interfere with the forest plants. In addition it may plant species hedges, edges, sidelines, fillers and inserts on an agreement with the INHUTANI accordance with the principle of making forestry plants and considering aspects of soil and water conservation as well as the local social economy.
- b. LMH given the right to collect tree branches for firewood forest region. Meanwhile, the Forest Service Kotim at any time to provide education / socialization of the laws and regulations concerning criminal offenses in the field of forestry to the community, especially members of LMH. The aim is to ensure that small communities in and around forest areas act knowing what is legal or illegal in the forestry sector.

INHUTANI third party itself is obliged to provide land for cooperation kegiagan CBFM areas are land-based, providing forestry plant seeds in reforestation and other stakeholders together to provide guidance and coaching to LMH for the success of CBFM program.

Expected also with the establishment of LMH, the community was able to secure the forest by rejecting any provocation from those who want to profit from illegal logging practices.

J. Factual condition Characteristically Repressive Law Enforcement

Efforts to combat illegal logging through security approach in law enforcement has become one of the policies that must be implemented within the framework of the fight against illegal logging. This forceful measures carried out by holding operations in forest areas are conducted if alleged to have occurred illegal logging in the forest.

This step is intended to make illegal loggers who fled out of the forest area, can be captured by the authorities. In such operations, the combined forces usually directly into the forest to search for the perpetrators of illegal logging are being cut down trees in the forest or transporting timber out of the forest. In addition to entering into the woods, authorities also carry out repressive measures that searched the homes of residents who allegedly used as a concealment of evidence. A search was conducted after forces members gain assurance from previous investigations, on the evidence of illegal logging in people's homes.

Repressive approach in efforts to combat illegal logging practices need to be done to create certainty in business and law enforcement. Security approach made relating to irregularities legislation (in particular in the field of forestry regulations), both related to licensing logging, document the existence of forest products, the transportation process until utilization.

They were arrested along with the evidence that is deemed sufficient to put on trial. Cases of illegal logging that occurs in Kotim so far accomplished in two ways customary fines and legal proceedings. Regarding penalties enacted by the indigenous Dayak people who were the original inhabitants inland Sampit.

For those who do the destruction of forests, including cutting and taking wood from the environment of indigenous forest areas without permission will be fined quite heavy so-called Jipen. Dilingkungan Dayak community is indeed there are some restrictions and local knowledge that should not be violated by the Dayak community itself as well as outsiders. Customary penalty imposed by the severity of the offense.

One of gross violations of durian trees are cut down because they are equal in value to the lives of Demong (Chairman Dayak). Durian tree felling was tantamount to killing Demong. Sufficiently severe sanctions that have to pay a fine in the form of Tajau, jars, reyal are set by Demong. In addition to other Durian trees are kept strictly Mentawak tree, Kembayau, Kapul, Duku, olive and so on.

While the positive law enforcement refers to Law No. 41 Year 1999 on Forestry Article 78 (1) in conjunction with Article 50 (3) and Article 38 (4) provides the legal instrument to impose sanctions for the perpetrators, the owner and storage of illegal timber, but it also set the general crime (tipidum). Because illegal logging categorized as tipidum (not a common criminal), the pattern is similar to handling any rules on criminal offenses in the Criminal Code, namely through the Code of Criminal Procedure in force or under Act No.08 of 1981.

In addition, illegal logging activities is also well exposed to the rules of corruption, as defined in Law No. 31/1999 Article 2 (1) of the Corruption Eradication. Corruption charges levied against an individual or a corporation or servants who committed acts contrary to or in violation of article Article in the field of Administration Wood (TUK). Why Illegal logging is categorized as a crime that should be charged with article about corruption because of illegal logging is detrimental to the State so it is not enough if only charged offense of Forestry. Illegal loggers should be punished cumulatively because they rob forest adverse outcome State. Even the illegal loggers can also be charged with article criminal money laundering.

Furthermore, by looking at the extent of the object approaches and the amount of involvement of the parties, then the actual enforcement of repressive to eradicate illegal logging involves many of the elements of law enforcement, namely: Police Kotim, State Attorney Kotim, District Court Judge Kotim and Civil Servant Investigators / PPNS Kotim District. Even the imposition of a cumulative crime offense against illegal loggers

could involve the central authorities in this case the Commission and INTRAC.

However, illegal logging law enforcement situation which is currently done by the relevant law enforcement agencies, can be revealed by some of its mode as the following description. The point is that illegal logging involving law enforcement officers.

From one Kotim Police investigators in connection with enforcement of illegal logging, stated that the Police was disappointed with its partner fellow law enforcement officers. As known, the role of Kotim Police are conducting an investigation, and the investigation into the cases of illegal logging that occurred in the District Kotim.

Disappointment especially regarding the acquittal of perpetrators of illegal logging in the trial in the District Court District Kotim. Whereas during the investigation conducted by the Police Kotim has been declared complete by the Prosecutor, where evidence and testimony from the public and expert witnesses has led to the involvement of actors who acquitted them. It becomes a question mark and considerable challenges as well as painful in the world of law enforcement, especially against efforts to eradicate illegal logging activities.

Another law enforcement that Kotim District Attorney, stated that the task Attonery Kotim as one element of government agencies in the field of judiciary which has the main task in the context of law enforcement, namely the prosecution. Attonery Kotim parties claimed that the institution was already carrying out its mandate properly.

Although often get complaints from other law enforcement agencies such as the Police of Kotim. Parties Police feel Attonery Kotim less serious in handling the problem of illegal logging which the indication is several times declined the invitation Kotim Police to conduct field survey or checking the scene that the suspect is the base of illegal logging.

Additionally several times going back and forth affair between Kotim Police investigator with the State Attorney of the Attorney Kotim. Request of the Police Investigators actually been anticipated from the outset by the Police Investigator, namely on evidence that should be derived from the forest in the mountains in terms of terrain is quite difficult.

After the case transferred to the hands of the State Attorney Kotim Police investigators, then the responsibility of the investigation into the hands of the Attorney as the prosecutor later. As an illustration for the year 2009 of 11 cases of illegal logging laws that successfully investigated by the Police and handed over to the Attorney Kotim, there are 5 cases that are considered less complete file by Kejari Kotim.

Furthermore, of the 11 cases, there were two cases where the suspect asks for suspension of detention, granted by the Prosecutor Kotim. It shows lack of seriousness of the State Attorney Kotim in handling cases illegal logging activities. In the case according to the Police Kotim illegal logging cases are already eligible for submission to the Court and in legal proceedings. Associated with law enforcement conducted by the District Court Kotim, then the acquittal to be one indication of the lack of seriousness of the efforts of law enforcement in illegal logging.

As an illustration for the year 2009, from 6 cases were successfully developed and processed in the District Court Kotim, two of these cases the perpetrator declared free. Indiscriminate illegal loggers, among others, the judge in deciding the case simply relying on the application of Law No. offense 41/1999 on Forestry and do not apply the cumulative offense, namely the Law of Corruption Act which Nomor31 Pemberantasan of 2009 on the Corruption and Law No. 8 of 2010 on the Prevention and Combating of Money Laundering.

The above shows that the District Court (Judge) still show less show its seriousness in combating illegal logging activities in the district Kotim district. By providing an acquittal for the alleged illegal logging activities is then practically will not give deterrent effect to the perpetrators of such offenses and others. Further related to law enforcement by the Civil Servant Investigators (PPNS) Kotim district, the findings indicate that the party turns its investigators are not prepared to carry out the investigation process. Unpreparedness of this may be due to its human resources, both in terms of quantity and quality / capabilities are minimal.

Even when researchers with the team and members of the Police Kotim invite parties rangers, investigators it was not able to show the location of HPH (forest concession) belonging to the suspects, other than that of members of Forestry invited it turns out there who have never stepped on the location of the forest in the mountains in the area Antang prop. Such a glimpse about the state of law enforcement in illegal logging District Kotim involving law enforcement officials concerned.

K. Conclusion

Illegal loggers in the District Kotim can be classified into: the local community, particularly those residing hereditary surrounding forest area. Immigrant communities, which in his native economic difficulties then work with the community about logging directly. Owners of capital and entrepreneurs as a facilitator or receivers of stolen wood products, including masterminding the theft of wood. Next timber owners or concessionaires As timber thieves and receivers of stolen timber. Government officers and other government apparatus associated directly or indirectly with forest management to manipulate policies in forest management or granting

concessions that ultimately lead to the destruction of forests. Foreign businessmen (mainly from Malaysia) as a timber buyer or receiver of stolen timber.

That the legal efforts are being made to resolve the illegal logging taken two ways, namely customs fines and legal proceedings. UU no. 41 of 1999 on Forestry, in Article 18 paragraph (1) in conjunction with Article 50 (3) and Article 38 (4) provides instruman legal to impose sanctions for the perpetrators, the owner and storage of illegal timber, but it also regulates the General Crime (Tindak Pidana Umum-Tipidum). Therefore categorized as "Tipidum", the pattern is similar to the handling of rules on criminal offenses in the Criminal Code, namely through the Code of Criminal Procedure in force, namely Law No. 8 of 1981 On Criminal Procedure Code. Eradication of illegal logging in the pro justitia less effective due to various constraints.

Of the rule of law, there is a different understanding of the law among law enforcement officers and the public. This is because provisions on illegal logging is propped / compiled on formalistic legal understanding of the substance of less accommodate the interests of local communities / forest. In addition there are many rules in forestry and autonomy associated with illegal logging out of sync. At an environmental perspective, the essence of which is important in the practice of illegal logging is the destruction of forests that would impact on both the economic, ecological and socio-cultural.

Therefore it is not activity through a comprehensive planning process, the potentially destructive illegal logging forests that then impact on environmental destruction. Concrete impact on the deterioration of the environment in Kotim is flooding in the rainy season, Reduced springs upstream because of the trees in the forest which is usually a water absorbent to provide a source of water for the benefit of local communities has been substantially reduced. The next layer is the decreasing availability of arable land, the loss of a variety of fauna and flora and the occurrence of forest fires. In the social dimension, illegal logging in the District Kotim has also led to social conflicts between stakeholders

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