

Implementation of Forest Protection as Reviewed in Law Number 41 of 1999 Regarding Forestry in the Bangka Belitung Islands Province

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Abstract

The Bangka Belitung Islands Province encompasses a forest area of 653,495.08 hectares, representing 39.26% of its total land area. This includes Production Forests covering 433,471.89 hectares, Protected Forests spanning 183,856.45 hectares, and Conservation Forests totaling 36,166.73 hectares. Given this extensive forest area, the province possesses significant potential for optimal utilization. However, certain forest regions have suffered degradation due to activities that exploit forest resources in violation of established procedures, including illegal mining, illegal logging, agricultural encroachment, and other unlawful practices. The enforcement of criminal and administrative sanctions has proven ineffective in deterring offenders of forestry crimes. Law Number 41 of 1999 regarding Forestry, which is intended to serve as the guiding framework for the management and protection of forest areas, has not effectively contributed to forest conservation. There is a pressing need for concrete measures in forest protection that involve multiple stakeholders to ensure the sustainability of forest areas. Law No. 41 of 1999 has not fully realized its potential as a tool for social engineering in the realm of forest protection.



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1. Introduction

The Bangka Belitung Islands Province encompasses a forest area of 653,495.08 hectares, representing 39.26% of the total land area. This includes 433,471.89 hectares designated as production forest, 183,856.45 hectares as protected forest, and 36,166.73 hectares as conservation forest (Kementerian Lingkungan Hidup dan Kehutanan Republik Indonesia, 2021). Given the forested landscape, the Bangka Belitung Islands Province possesses significant potential for optimal utilization. However, this potential is not matched by effective forest protection measures. This is evidenced by the emergence of numerous forestry conflicts involving various stakeholders, including logging, plantations, mining, settlements, and government-led infrastructure development within forested areas.

The management of forestry crimes is regarded as suboptimal and has failed to exert a deterrent effect on offenders. This is reflected in the persistent increase in the critical land area. According to the Decree of the Director General of Watershed Management and Forest Rehabilitation of the Ministry of Environment and Forestry Number: SK.49 / PDASRH / PPPDAS / DAS.0 / 12/2022, which pertains to the Determination of National Critical Land Maps

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and Data in 2022, the area of critical land in the Bangka Belitung Islands Province encompasses 167,065 hectares, with 55.23% classified as Other Use Areas and 44.78% as Forest Areas. The majority of this critical land is attributed to mining activities and the clearing of agricultural land (Tribunnews Bangka, 2024). If this trend continues, it is anticipated that the forests in the Bangka Belitung Islands Province will face depletion in the near future, resulting in further critical land. Consequently, it is imperative to implement robust measures for forest security and protection, including decisive action against offenders of forestry crimes in accordance with existing laws and regulations, to prevent recidivism among these perpetrators.

The security and management of forestry crimes cannot be the responsibility of a single agency; instead, it requires a collaborative approach that encompasses all stakeholders, including both community members and government entities. Crucially, the involvement of law enforcement personnel, along with the central and local governments, is essential for initiatives such as forest security operations, participatory forest protection, and similar efforts. Adequate security and management of forestry crimes must be underpinned by competent human resources, both in terms of quality and quantity, as well as sufficient facilities and infrastructure. Additionally, fostering public awareness regarding the significance of forests, along with effective communication and forestry education, is imperative to transforming societal mindsets that have historically relied on nature as a vital source of sustenance.

In light of the issues above, the author intends to conduct a more thorough investigation into the measures undertaken for forest protection and the prevention of forestry-related crimes in the Bangka Belitung Islands Province. This inquiry will also encompass the implementation of Law Number 41 of 1999 concerning Forestry, as reflected in the title Implementation of Forest Protection as Reviewed in Law Number 41 of 1999 Regarding Forestry in the Bangka Belitung Islands Province.

2. Research Methods

This research employs the normative-empirical method, a form of legal inquiry designed to comprehend the practical application of law and its functioning within society. Data for the research is predominantly gathered through fieldwork, encompassing observation, interviews, and surveys. The normative-empirical method is significantly shaped by socio-legal research, which examines the implementation of laws and related regulations in societal contexts.

Research on the Implementation of Forest Protection in accordance with Law Number 41 of 1999 concerning Forestry in the Bangka Belitung Islands Province is classified as descriptive research. This classification is suitable as the research seeks to deliver a detailed, systematic, and comprehensive overview of the pertinent issues, aiming to understand the research object concretely without rendering judgments regarding its merits or shortcomings.

3. Results and Discussion

3.1. Prior Investigations

Numerous prior studies have been undertaken on subjects closely related to this research. Below is a summary of previous work, specifically the study by Makruf et al. (2023). The findings of this study reveal that the execution of forest protection policies in North Konawe Regency by the Kendari LHK Gakkum Post is ineffective due to financial constraints.

Facilities, infrastructure, and reliance on the Sulawesi Regional PPHLHK Office significantly impact effectiveness, which is further influenced by public awareness, the capacity of the Gakkum Post, coordination, and socialization. Environmental factors, problem characteristics, and policies or comprehensive laws also play a crucial role in implementation coordination. Recommendations preparation includes improvement, enhancing capacity, budget, HR allocations, and utilization of information technology. It is advised that collaboration and involvement of the Kendari LHK Gakkum Post be strengthened in decision-making processes. In contrast to previous research, a study conducted by Ibrahim et al. (2022) revealed that the implementation of forest protection policy in the Sungai Pulai Protected Forest Area has not been optimal due to several obstacles, including inadequate communication, limited resources, and ambiguous Standard Operating

Procedures. Additionally, the policy implementation process has three indicators that have not been effectively addressed: communication, resources, and bureaucratic structure, while one indicator, disposition, has been successfully implemented. The primary distinction between this research and prior studies, as previously articulated, resides in the locus, object, academic challenges, and legal theory employed by the author in examining the execution of forest protection in the Bangka Belitung Islands Province.

3.2. Forest Conservation and Intrusion in the Bangka Belitung Islands

Forest protection in Indonesia is governed by Law Number 41 of 1999 on Forestry, which in Article 47 defines forest protection as an effort to prevent and mitigate damage to forests, forest areas, and forest products caused by human activities, livestock, fires, natural forces, pests, and diseases, while also upholding and safeguarding the rights of the state, communities, and individuals over forests, forest areas, forest products, investments, and equipment related to forest management. This protection applies not only to the forests themselves but also to the officially designated forest areas. Under Article 1(1) of the same law, a forest area is a specific region determined by the government to maintain its status as a permanent forest. In contrast, a forest is an ecosystem unit of land containing natural biological resources dominated by trees in a natural environment, with these elements forming an inseparable whole. All forests within Indonesia and their natural resources are under state control to ensure the greatest possible prosperity of the people, fairly and sustainably.

Any activity that utilizes forest resources without official authorization is regarded as forest encroachment. Such encroachment constitutes a violation of forestry regulations and may fall into one or more of the twelve acts categorized as forestry crimes. These crimes include damaging forest protection infrastructure or facilities; committing acts prohibited by Article 50(3) of Law No. 41/1999; illegal deforestation; negligently causing forest fires; felling trees or harvesting forest products without a permit; receiving, purchasing, or storing forest products known or suspected to be illegally obtained; conducting mining exploration or extraction without ministerial approval; transporting forest products without a certificate of legality; herding livestock within unauthorized forest areas; bringing heavy equipment or tools typically used for cutting trees without permission; throwing objects that could ignite fires and threaten forest functions; and removing plants or wildlife from forest areas without official consent (Hamzah, 2005).

In the Bangka Belitung Islands Province, forest encroachment has become a pressing problem driven by a combination of economic, social, and institutional factors. The province is Indonesia's largest tin producer, and the potential and reserves of tin are found not only in Other Use Areas (APL) but also inside forest zones. This situation has encouraged widespread illegal mining in both protected and production forests, including the Sujuk and Bubus Protected Forests as well as the Sambung Giri and Lubuk Besar Production Forests. Law enforcement remains weak, and criminal sanctions have not produced a significant deterrent effect, with only a small number of forestry crime cases resulting in judicial decisions. Compounding the problem are overlapping policies and outdated spatial planning. Although forest areas in the province have changed considerably, the provincial spatial plan still relies on Regional Regulation Number 2 of 2014, creating inconsistencies between the current forest area map and the official land-use plan. Some areas designated as APL in the plan are now classified as forest, while other zones that the plan labels as forest have been converted to APL.

Community participation in forest protection is also limited. In villages such as Lubuk Pabrik, Kerantai, Deniang, and Cit, residents often exploit forest resources without authorization, and environmental education remains inadequate. Many people continue to prioritize short-term economic gain over long-term conservation. Population growth and rising demand for agricultural and mining commodities have fueled uncontrolled land conversion, including the establishment of new settlements and the expansion of plantations within forested regions. Data from the Forest Area and Environmental Management Center for Region XIII Pangkalpinang indicate that 38,343.02 hectares of oil palm plantations are located within forest areas without clear ownership,

a figure expected to increase as oil palm remains a key agricultural commodity in the province (Provinsi Kepulauan Bangka Belitung, 2024).

Finally, the government's capacity to respond is constrained. Following the enactment of Law Number 23 of 2014 on Regional Government, authority over forestry shifted from regency and city governments to the provincial and central levels, limiting local governments' ability to manage forests even though the forest areas lie within their jurisdictions. The provincial government has established a Forest Management Unit (UPT KPH), but both human resources and funding from the central and provincial levels remain inadequate. Together, these legal, economic, and governance challenges create a complex landscape in which forest conservation efforts struggle to contain ongoing encroachment in the Bangka Belitung Islands.

3.3. Factors Affecting the Implementation of Forest Protection in the Bangka Belitung Islands Province

The effective implementation of forest protection regulations depends heavily on the quality of law enforcement. As Soekanto (1988) observes, law enforcement is the activity of harmonizing relationships between values articulated in established and enacted rules and the attitudes of society, representing a series of final-stage value interpretations aimed at creating, maintaining, and sustaining peace within social life. Several interrelated factors influence the enforcement of forest protection laws. First are the legal factors themselves, namely the statutes and regulations that provide the normative framework. For any law to deliver beneficial outcomes, it must be clearly formulated, coherent with other regulations, and responsive to social realities. Second are the law enforcement entities, those responsible for drafting, implementing, and upholding the legislation, whose integrity, professionalism, and consistency determine the law's efficacy. Third is the availability of infrastructure and facilities that support law enforcement; without adequate resources, even well-designed regulations and competent personnel cannot operate effectively. Fourth are community factors, referring to the social environment in which the law is applied, including the level of public awareness, compliance, and participation. Finally, cultural factors shape the legal culture itself, encompassing the values, creativity, and collective will that influence how laws are perceived and practiced.

The relationship between law and society can also be understood through Roscoe Pound's theory of Law as a Tool of Social Engineering. Pound distinguishes between "law in books," the written legal text, and "law in action," the practical application of that text. The gap between these two often explains why legal systems struggle to achieve their intended effectiveness. In the context of forest protection, law serves as a mechanism to change societal and corporate behavior. Normatively, the principles of forest protection and the prohibitions against destructive activities are set forth in Article 50 of Law Number 41 of 1999, while criminal and administrative sanctions are stipulated in Article 78 of the same law. Despite these legal provisions, forest encroachment continues in the Bangka Belitung Islands Province, contributing to the expansion of critical land areas. This ongoing degradation is mainly driven by mining and agricultural activities, illustrating the persistent gap between the formal existence of protective laws and their practical enforcement on the ground.

3.4. Forest Protection Policy in the Bangka Belitung Islands Province

The implementation of forest protection in the Bangka Belitung Islands Province can be understood through the lens of Roscoe Pound's legal theory, which highlights three fundamental principles. First is the law in practice, which stresses the importance of applying the law in real situations rather than focusing solely on its written form. Second is the principle of social interests, which requires the law to safeguard not only individual interests but also broader national and communal interests. Third is the balancing of interests, whereby the law serves to reconcile the diverse and often conflicting demands that exist within society.

Protecting forest areas in the Bangka Belitung Islands requires a strategic approach consistent with these principles. As Pound emphasizes, the priority lies in the actual implementation of legal norms rather than merely their textual formulation. The law must function as a mechanism to

secure social interests, extending beyond the concerns of individuals or the state to embrace the well-being of entire communities. Law Number 41 of 1999 on Forestry, therefore, needs not only to be enforced but also to provide solutions that enhance the social and economic welfare of local populations, particularly those whose livelihoods are directly tied to forest resources. In this way, the law becomes an instrument to foster behavioral changes that encourage forest preservation and strengthen community resilience.

An adaptive legal approach is essential to ensure that forest protection policies effectively reach social communities. Public awareness and participation are key factors influencing the success of these policies (Makruf et al., 2023). Without active community involvement, even well-crafted regulations cannot achieve their intended goals. Both the central and regional governments share responsibility for promoting this awareness, which includes improving forestry human resources, providing adequate extension services, and implementing targeted education programs. Their respective duties are delineated within national and provincial policy frameworks, ensuring that the legal system operates coherently across levels of government to safeguard the forests of the Bangka Belitung Islands.

4. Conclusion

An analysis of the implementation of Law Number 41 of 1999 on Forestry in the Bangka Belitung Islands Province shows that the law remains only partially effective. Its limited applicability stems from a combination of factors, including weak law enforcement, inadequate facilities and infrastructure, complex community dynamics, and underlying cultural influences.

Applying Roscoe Pound's concept of law as a tool of social engineering, several strategic recommendations emerge. Strengthening law enforcement against forest encroachment is essential, accompanied by expanded education and outreach programs to build community awareness and participation. Forestry sector policies should be carefully aligned with related sectors to avoid conflicts and create synergies. At the same time, efforts must be directed toward fostering a sustainable forest-based economy that benefits local communities while preserving ecological integrity. Finally, communication strategies targeting village residents and other stakeholders need to be reinforced to encourage long-term behavioral change and ensure the lasting protection of forest resources in the Bangka Belitung Islands.

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