

## Challenge Indonesia's Regulation of International Crime in Illegal Logging

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### ABSTRACT

Wild Logging is difficult to eradicate because it is not only a matter of how the law must be enforced but also because it involves many issues, such as the participation of law enforcement officers. The study employs the descriptive-analytic approach to acquire in-depth data that will be meaningful. Examine the challenges of transnational crime related to illegal logging. The conclusion, Illegal Logging falls under the category of Transnational Crime because its activities frequently involve more than one nation, both in terms of preparation, planning, and supervision, as well as in terms of the damage it causes.



## 1. Introduction

A forest is a field where trees are grown. It is a living association of living nature and its natural habitat, and the government has declared it a forest.<sup>1</sup> The position and function of Indonesia's living natural resources and ecosystems are essential to life. Elements of living natural resources and their ecosystems are interdependent, so damage will disrupt ecosystems and influence land conservation and the depletion of water sources and springs. Recent years have witnessed an increase in the scope and complexity of deforestation. Not only production forests but also protected and conservation forests were destroyed. Deforestation has evolved into a crime with extraordinary effects, an organized structure, and the participation of numerous national and international actors. The damage level has reached a grave concern for the survival of the nation and state. Destruction of forests must consequently be handled with extreme care.

As forest crimes such as illegal logging, unpermitted mining, and illegal harvesting of forest products and plantations continue, sustainable forest development requires significant effort. This crime has severely damaged the state's social, cultural, and ecological life. It has contributed to an increase in global warming, which has become a national, regional, and international concern.<sup>2</sup> Therefore, the government regulates every aspect of the environment. Indonesia already has several forestry regulations, including the Law on forestry in the RI Law Number 41 of 1999 concerning Forestry, Law Number 18 of 2013 regarding the Prevention and Eradication of Forest Destruction, and Presidential Instruction Number 4 of 2009 regarding the Eradication of Logging. Illegally In Forest Areas And Its Distribution Throughout The Republic Of Indonesia's Territory.

<sup>1</sup>Paul Magdon and others, 'Translating Criteria of International Forest Definitions into Remote Sensing Image Analysis', *Remote Sensing of Environment*, 149 (2014), 252–62 <https://doi.org/10.1016/j.rse.2014.03.033>

<sup>2</sup>Christine Overdeest and Jonathan Zeitlin, 'Constructing a Transnational Timber Legality Assurance Regime: Architecture, Accomplishments, Challenges', *Forest Policy and Economics*, 48 (2014), 6–15 <https://doi.org/10.1016/j.forpol.2013.10.004>

These regulations are anticipated to be able to rest crimes, which, according to Rahmi Hidayat, consist of 1. logging of protected species, 2. illegal harvesting of timber, and 3. illegal transportation of timber. 2. falsifying ayu harvesting documents; 3. contracting with local businesspeople to purchase ayu harvesting documents. Wood harvested from protected areas 4. logging in conservation areas 5. timber harvesting beyond concession boundaries 6. logging in areas where logging is prohibited, 7. logging in excess overmits 8. logging without authorization, obtaining concessions through unlawful means, Transporting wood without a license, 11. illegal importation of timber, 12. the export and import of tree species prohibited by international agreements such as CITES, 13. misrepresenting the value and quantity of timber exports 14. forest management that disregards environmental, social, and labor laws 15. industrial use of illegally obtained wood.<sup>3</sup>

Among the characteristics of transnational crime are: The crime was committed in multiple nations. Preparation, direction, planning, and supervision occurred in a foreign country. The offense involved an organized criminal group and was executed in various countries. The impact on other nations is severe. Considering these characteristics, Indonesia is one of the countries that is frequently the target, object, or subject of transnational or cross-border criminal activity. Based on Ministry of Forestry data and information, Singapore and Malaysia have been identified as countries where illegal timber is laundered (logging laundry). From Indonesia, Singapore receives numerous shipments of illegal timber. In addition, the unlawful wood is "washed" into legal wood. The "legal" asphalt (real but fake) wood was traded only. Buyers of tropical timber from Japan, Europe, and the United States when purchasing wood from Singapore also "feel nothing."<sup>4</sup>

Visible is the involvement of the Malaysian government in illegal logging in Indonesia, particularly in West Kalimantan. As a form of participation in the Illegal Logging process, the Malaysian state and its official's laundering of illegal timber from Kalimantan. All wood originating from Kalimantan, regardless of whether it has a Certificate of Legal Forest Products (SKSHH) or not (illegally obtained wood), is stated in an official document issued by the government or officials of Malaysia. Depending on the official letter or copy, all or a portion of the timber in Malaysia is re-exported to Japan, the United States, and several European nations. From a criminological standpoint, Malaysia's attitude openly issues official documents stating that all timber in Malaysia comes from their forests and cases or encourages illegal logging in West Kalimantan because the policy indirectly appears to open the market. The color of the wood is black. They were especially mindful of the proximity of the West Kalimantan and Malaysian borders.

Illegal Logging is difficult to eradicate because, as stated previously, it is not only a question of how the law must be enforced but also involves numerous complications, such as the involvement of law enforcement officers. The perpetrators include more than just individuals. However, they are believed to involve corporations and government officials. Have a respectable position in society as the perpetrator and a neat and well-planned system so that it is difficult to determine who the "intellectual actor" is; even the involvement of citizens or foreign countries in Illegal Logging is almost a necessity—especially given the geographical conditions of Indonesia, particularly West Kalimantan, which is immediately adjacent to a neighboring country (Malaysia). This may make it

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<sup>3</sup>Luca Tacconi, Rafael J. Rodrigues, and Ahmad Maryudi, 'Law Enforcement and Deforestation: Lessons for Indonesia from Brazil', *Forest Policy and Economics*, 108, September 2018 (2019), 101943 <https://doi.org/10.1016/j.forpol.2019.05.029>

<sup>4</sup>Nathan Iben, Christian Pilegaard Hansen, and Benjamin Cashore, 'Timber Legality Verification in Practice: Prospects for Support and Institutionalization', *Forest Policy and Economics*, 48.1 (2014), 1–5 <https://doi.org/10.1016/j.forpol.2014.11.001>

difficult for the Indonesian National Police to eradicate Illegal Logging, despite assistance from other institutions such as the Ministry of Forestry's Special Police (Polsus) for the forestry sector.<sup>5</sup> President Susilo Bambang Yudhoyono has issued Presidential Instruction (Inpres) No. 4 of 2005 regarding eradicating illegal logging in Indonesia's forest areas and distribution throughout the country.

## 2. Research Method

This study employs the descriptive-analytic approach to acquire in-depth data, as stated by Sugiyono, and it will be meaningful. Qualitative methods significantly impact the research's content, suggesting that qualitative approaches reveal the nature of the relationship between researchers and informants, objects, and research subjects. Meanwhile, descriptive research is a study that aims to describe current phenomena, whether natural or artificial. Descriptive research provides systematic, factual, and accurate descriptions of a population's or area's facts and features. This study examines the challenges of transnational crime related to illegal logging.

## 3. Results and Discussion

### *Transnational Crime Related to Illegal Logging*

Transnational crime threatens social, economic, political, and global security and peace. It is impossible to separate the development of this international crime from the advancement of science and technology. In addition to facilitating human trafficking from one location or country to another, science and technology hurt the growth, increase, variety, and prevalence of criminal activity. Transnational crimes have evolved into organized criminal acts, as evidenced by their scope, nature, mode of operation, and perpetrators.<sup>6</sup> According to Bassiouni, an international crime must include three elements: international elements, transnational elements, and necessary elements. This global factor consists of direct threats to world peace, indirect threats to peace and security, and emotional instability. Global Internationals include actions that affect more than one country, activities that involve or affect citizens of more than one country, and infrastructure and methods used outside a country's territorial boundaries. In the meantime, the element of necessity is incorporated into the eye component of the condition of international cooperation to implement countermeasures.<sup>7</sup>

Globally, transnational crimes such as human smuggling (human trafficking), drug trafficking (drug-trafficking), timber smuggling (illegal Logging), acts of piracy, internet crime (cyber-crime), terrorism, money laundering, arms smuggling, and a variety of other international economic crimes are a direct result of the speed of globalization. No nation is safe from the danger posed by Transnational Crime. However, Transnational Crime will increasingly find a fertile operating environment in countries with weak state authority. In addition, geographical conditions are also quite decisive. For instance, Indonesia's position as an archipelagic nation with long and open borders has the potential to become a Transnational Crime operating area. In Transnational Crime, there are multiple vital characters. Specifically, transnational crime typically forms transnational organized crime,

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<sup>5</sup>Joung Hun Lee and others, 'Profit Sharing as a Management Strategy for a State-Owned Teak Plantation at High Risk for Illegal Logging', *Ecological Economics*, 149, July 2017 (2018), 140–48 <https://doi.org/10.1016/j.ecolecon.2018.03.005>

<sup>6</sup>Sciverse Sciencedirect, 'Transnational Environmental Crime – a Common Crime in Need of Better Enforcement', *Environmental Development*, 6 (2013), 108–16 <https://doi.org/10.1016/j.envdev.2013.01.003>

<sup>7</sup>John William Coyne and Peter Bell, 'The Role of Strategic Intelligence in Anticipating Transnational Organised Crime: A Literary Review', *International Journal of Law, Crime and Justice*, 39.1 (2011), 60–78 <https://doi.org/10.1016/j.ijlcrj.2011.02.003>

which is difficult to dismantle through legal investigation alone. Transnational Crime involves international networks. Most transnational crimes are motivated by power and profit, promising lucrative profits and making it simple to recruit local players due to a convergence of interests.<sup>8</sup>

Today, crimes are committed not only within a country's territorial boundaries but also beyond those borders. This method is typically called "transnational crimes" or "cross-border crimes." Illegal Logging is a crime that demonstrates the nuances of Transnational Crime and other crimes, such as smuggling, women trafficking, and other crimes. Illegal Logging is considered a Transnational Crime because it frequently involves more than one country in terms of preparation, monitoring, and impact.<sup>9</sup> UNODC classifies forestry crimes as Transnational Crimes. According to UNODC research, criminal proceeds can move from one crime to another, including those involving forestry natural resources. The assessment was communicated by the National Project Coordinator of UNODC Indonesia, Marius Gunawan, in conjunction with the Law Enforcement Training for Central Kalimantan Forestry Police (Polhut) on Tuesday (11/12) at the Aquarius Hotel in Palangka Raya. UNODC estimates that approximately forty percent of processed wood exports from East Asia and the Pacific are made from illegally harvested timber (Illegal Logging). Therefore, the UNODC urges policymakers to view environmental crime as a severe type of transnational organized crime. In addition, they request their support for changes in good governance and strong involvement of the criminal justice system to save the endangered species, communities, and habitats in their vicinity.

The prevalence of timber theft from Indonesian forests by actors from neighboring countries or actors who actively facilitate the trade in illegal logging contributes to transnational crime in the forestry sector. This is due to the significant disparity between the demand and supply of legal timber, which is between 35 and 40 million cubic meters per year for the domestic industry alone. Illegal logging fills the deficit. In the year 2000, 65 percent of the total supply was accounted for by industries dependent on illegally harvested timber. Illegal logging is the greatest threat to the economic, ecological, and social sustainability of forest functions. Indonesia's forest losses due to unfair logging practices are estimated to reach US\$ 5.7 billion or approximately Rp. 46.74 trillion per year, not including the value of losses from ecological aspects such as the destruction of endangered species and the disruption of watersheds, which impact human life and its surroundings and potentially cause environmental damage. The effects of natural disasters like mudslides, forest fires, and droughts. Since the perpetrators have an extensive network and are difficult to apprehend, efforts to combat the problem of timber theft are complicated. The government has issued Presidential Instruction No. 4 of 2005 concerning the Eradication of Illegal Logging in Forest Areas and Its Circulation Throughout the Territory of the Republic of Indonesia to address this issue from a legal standpoint. Based on strict law enforcement, it is anticipated that the new spirit will dismantle the illegal timber distribution network domestically and internationally.<sup>10</sup>

Not only does Transnational Crime identify the actors, but also the process and its significance. Not only are there actors from the country in question, but also actors from outside the country. Actors in Transnational Crime necessitate the participation of non-

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<sup>8</sup>Robert Killebrew, Matthew Irvine, and David Glaser, 'A New U.S.-Colombian Relationship: Transnational Crime and U.S. National Security', *Orbis*, 56.2 (2012), 233-48 <https://doi.org/10.1016/j.orbis.2012.01.006>

<sup>9</sup>Brandon M. Stewart Beth A. Simmons, Paulette Lloyd\* and Princeton University, 'The Global Diffusion of Law: Transnational Crime and the Case of Human Trafficking', *International Journal of Transnational Crime*, 14.11 (2013), 22274-330 <https://doi.org/10.1017/S0020818318000036>.The

<sup>10</sup> Beth A. Simmons, Paulette Lloyd\* and University.

state actors. The process also indicates international travel. The word transnational, if separated into its parts, trans and national, not only signifies these two things but also, following the translation across and national (which can be read as a country), the word transnational or across-country can also be read as having the significance of passing through the country (the state has been transferred to another entity), i.e., its significance is felt not only by the state but also by human society. However, its scope is narrower than that of the term global. The Transnational Crime of Illegal Logging in Indonesia is evident in its size and perpetrators. Because ecosystems have a unique way of relating to one another, Indonesians and the global populace will feel the effects of deforestation in Indonesia. Damage to ecosystems in one region can have repercussions in another. Then, Illegal Logging in Indonesia has aspects of Transnational Crime from multiple perspectives.

The perspective of the involved actors. Involved in illegal logging in Indonesia are numerous actors and a vast network that does not only include local actors. Transnational Crime is a component of global relations, which is believed to be on the rise in tandem with the expanding role of non-state actors in international relations. Foreign participation in Illegal Logging in Indonesia can take four forms: foreign financial institutions, foreign countries, direct movement of foreign individuals such as kong, and foreign companies as purchasers of illegal forestry products from Indonesia.

Why should the former be considered a component of the Transnational Crime aspect of Illegal Logging in Indonesia? Numerous parties will later assert that there is currently no legal regulation governing Illegal Logging in terms of Transnational Crime. No ASEAN framework, for instance, has addressed Illegal Logging as a transnational issue. However, this can be refuted by pointing out that it is only valid if we rely solely on codified law. In contrast, codified law is only one component of evolving social norms. Therefore, we can say that foreign financial institutions are complicit in the Transnational Crime of Illegal Logging in Indonesia, as the capital they have invested in various Indonesian companies is utilized for Illegal Logging. They can monitor the utilization of their funds. This is their responsibility. This intersects with corporate social responsibility and ecolabel standards, for instance.<sup>11</sup> As members of the international community, international financial institutions cannot be separated from these standards. Their identities, interests, and behaviors are inextricably linked to these standards.

Meanwhile, why do foreign nations have Transnational Crime elements? Because the involvement of foreign countries will never be established formally or legally, but rather *de facto*. In addition, the private sector follows the participation of foreign nations, for instance, by acting as a broker or carrying out legalization. Next, it involves multiple countries. Therefore, it is more accurate to refer to it as a transnational crime than an international crime. In the meantime, the reason why foreign companies as buyers of illegal forestry products from Indonesia can be included as Transnational Crimes is that, if we examine the various cases that have occurred with multiple *modus operandi*, we can no longer assume that foreign companies importing different wood products from Jambi do not know that the product he purchased was illegal timber. The legal presumption that third parties are always presumed innocent cannot be addressed here because there are numerous ways to circumvent this. In addition, from the perspective of the perpetrators, the participation of local actors (Indonesian citizens) in Illegal Logging in Indonesia demonstrates the characteristics of Transnational Crime as a component of transnational relations. Let's examine the flow of Illegal Logging in Indonesia, even though ordinary

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<sup>11</sup>Ida Aju Pradnja Resosudarmo and others, 'Indonesia's Land Reform: Implications for Local Livelihoods and Climate Change', *Forest Policy and Economics*, 108.August 2018 (2019), 101903 <https://doi.org/10.1016/j.forpol.2019.04.007>

people carry it out. We may find that the timber resulting from illegal logging flows to various companies, where it is processed and exported.<sup>12</sup>

The second reason why Illegal Logging in Indonesia is a facet of Transnational Crime is its magnitude. Illegal Logging is massive and pervasive, as evidenced by the quantity and value of smuggled timber and activities. Illegal logging is a series of activities ranging from acquiring capital to harvesting and utilizing wood. Logging is only one of the activities that can be observed with the naked eye. This process becomes illegal due to the illegality of an earlier step in this sequence.<sup>13</sup> Whereas, Illegal Logging, the process of becoming illegal, can occur at multiple points and involve numerous parties from various nations. In other words, illegal logging in Indonesia is a form of transnational crime due to the nature of the practice. This is why Illegal Logging in Indonesia can be categorized as Transnational Crime when viewed in scope.

From the standpoint of its significance. Additionally, transnational crime implies the offense's effect or value that transcends national borders. And Illegal Logging in Indonesia has such a significant meaning. Illegal logging in Indonesia has damaged the country's tropical rain forests, one of the world's lungs. The destruction of Indonesian forests is thus significant not only for Indonesia but also for the global community. Because of the significance of Indonesian forests as one of the world's oxygen-producing tropical forests, forest-related crimes in Indonesia have become transnational crimes.<sup>14</sup>

#### ***Transnational Forest Crime Prevention in Indonesia***

Stakeholders participated in the prevention of illegal logging. Most optimization studies concentrate on strategic decisions based on linear models and deterministic parameters. Experts or professionals from government departments, academia, and the industry were involved, primarily consisting of interviews and surveys.<sup>15</sup> In this regard, Presidential Instruction No. 4 of 2005 is straightforward due to the absence of a specific regulation regarding Transnational Crime about Illegal Logging in Indonesia. Although the TNI has no authority in law enforcement in general, its participation in efforts to prevent and eradicate forest crimes, such as Illegal Logging, is necessary.<sup>16</sup> Long before Presidential Instruction No. 4 of 2005 was issued, the Ministry of Forestry and the TNI Headquarters had collaborated to eradicate forest crimes, particularly in this instance involving the Navy. Directorate General of PHKA, through the "Wanabahari" operation, had taken various legal actions, including arrests, against ships in Indonesian waters suspected of transporting illegal timber. The process was conducted as part of the Navy's efforts to uphold the Republic of Indonesia's sovereignty in its territorial waters.

Even though forest crime activities such as "Illegal Logging" show an extraordinary massive increase from day to day, the government, in this case, the Ministry of Forestry, feels the need to

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<sup>12</sup>Farwiza Farhan and Paul Hoebink, 'Can Campaigns Save Forests? Critical Reflections from the Tripa Campaign, Aceh, Indonesia', *Forest Policy and Economics*, 105.August 2018 (2019), 17–27 <https://doi.org/10.1016/j.forpol.2019.04.012>

<sup>13</sup>Katri Hamunen and others, 'Sustainability of Nordic Non-Timber Forest Product-Related Businesses – A Case Study on Bilberry', *Forest Policy and Economics*, 109.September (2019), 102002 <https://doi.org/10.1016/j.forpol.2019.102002>

<sup>14</sup>Ahmad Maryudi, 'Choosing Timber Legality Verification as a Policy Instrument to Combat Illegal Logging in Indonesia', *Forest Policy and Economics*, 68 (2016), 99–104 <https://doi.org/10.1016/j.forpol.2015.10.010>

<sup>15</sup>Andreia Santos and others, 'Assessment and Optimization of Sustainable Forest Wood Supply Chains – A Systematic Literature Review', *Forest Policy and Economics*, 105.May (2019), 112–35 <https://doi.org/10.1016/j.forpol.2019.05.026>

<sup>16</sup>Melissa Davoust and others, 'Examining the Implementation of Police-Assisted Referral Programs for Substance Use Disorder Services in Massachusetts', *International Journal of Drug Policy*, 92 (2021), 103142 <https://doi.org/10.1016/j.drugpo.2021.103142>

coordinate with TNI Headquarters to implement various prevention and eradication efforts against this crime. This partnership between the Ministry of Forestry and the TNI Headquarters was announced publicly in a press release dated January 15, 2003, with the number 51/II/PIK-1/2003. One of the reasons for the collaboration between the Ministry of Forestry and the TNI Headquarters is to preserve Indonesia's tropical forests, which are in a dire state. In addition to ecological and economic damage, the destruction of Indonesia's tropical forests has caused moral, social, and cultural harm to the people of Indonesia. Currently, illegal logging occurs not only in production forests but also in conservation areas, including national parks, protected forests, and other conservation areas, and in some instances, even within the core zones of national parks.<sup>17</sup>

Since the reformation, the TNI's function has been restored to its original purpose, namely state defense. According to TAP Number VI and TAP Number VII/MPR/2000, the TNI is involved in domestic affairs, particularly civic missions. Similarly, Law Number 22 of 2002 about the Indonesian National Police states in Chapter VII, Article 41, Paragraph 1: "In carrying out security duties, the Indonesian National Police may request assistance from the Indonesian National Armed Forces, which Regulations will further regulate." Government. This provision would allow the Ministry of Forestry to include the TNI and the POLRI in preventing and eradicating forest crimes. Realizing that illegal logging has become so severe, the president, via Instruction No. 4 of 2005, feels compelled to reaffirm the Indonesian National Armed Forces' commitment to Arrest every offender caught in illegal logging trafficking or timber smuggling originating from or entering the Republic of Indonesia. Based on sufficient initial evidence and in accobyplicable laws and regulations, by land or water. And increase security along state boundaries where illegal logging in forest areas and their seas are prevalent.<sup>18</sup>

Aspects of Transnational Crime in Illegal Logging in Indonesia are possible due to the agent-structure relationship and the discourse mechanism in the norms or rules that exist in society, including norm diffusion. In law, politics, socio-culture, and economics, models are prevalent. To combat illegal logging, its underlying rules and practices must be modified. This must occur not only at the national level but also at the transnational level. All involved agents should make this effort. The issue cannot be resolved solely by enhancing the timber trade system rules; regulations in the political, economic, legal, and socio-cultural spheres must also be implemented. In addition, there is a need for an epistemic community that studies Illegal Logging in Indonesia, disseminates information, and forms interaction networks with other institutions in other regions and countries.<sup>19</sup>

#### 4. Conclusion

Illegal Logging falls under the category of Transnational Crime because its activities frequently involve more than one nation, both in terms of preparation, planning, and supervision, as well as in terms of the damage it causes. In the meantime, the increase in illegal logging cases in Indonesia has not been matched by a corresponding renewal of regulations, so the only source of information on the subject is Presidential Instruction No. 4 of 2005, which also regulates agencies that cooperate in the prevention of transnational crimes related to illegal logging.

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<sup>17</sup>Sulistya Ekawati and others, 'Policies Affecting the Implementation of REDD+ in Indonesia (Cases in Papua, Riau and Central Kalimantan)', *Forest Policy and Economics*, 108.September 2018 (2019), 101939 <https://doi.org/10.1016/j.forpol.2019.05.025>

<sup>18</sup>Fiona Meehan, Luca Tacconi, and Kushartati Budiningsih, 'Are National Commitments to Reducing Emissions from Forests Effective? Lessons from Indonesia', *Forest Policy and Economics*, 108.July 2018 (2019), 101968 <https://doi.org/10.1016/j.forpol.2019.101968>

<sup>19</sup>Alexander Pfaff and others, 'Governance, Location and Avoided Deforestation from Protected Areas: Greater Restrictions Can Have Lower Impact, Due to Differences in Location', *World Development*, 55 (2014), 7–20 <https://doi.org/10.1016/j.worlddev.2013.01.011>

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