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EFFECTIVENESS OF THE IMPLEMENTATION OF CRIMINAL AND ADMINISTRATIVE SANCTIONS AGAINST PERPETRATORS OF FOREST AND LAND BURNING

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Abstract

The burning of forests and land constitutes a form of environmental crime that causes serious damage to ecosystems, leads to air pollution, creates public health issues, and results in significant social and economic losses. Rokan Hilir Regency, in Riau Province, is particularly vulnerable to forest and land fires, necessitating effective law enforcement through the application of both criminal and administrative sanctions. This study aims to analyze the legal framework governing the imposition of criminal and administrative sanctions on those responsible for forest and land fires based on the Forestry Law and the Law on Environmental Protection and Management to evaluate the effectiveness of these sanctions in Rokan Hilir Regency, and to identify the obstacles hindering law enforcement. The study employs a socio-legal (empirical-juridical) research method, which examines statutory provisions in relation to their practical application. Data sources include primary data gathered through interviews with law enforcement officials, relevant government agencies, and other stakeholders involved in addressing forest and land fires as well as secondary data obtained through a literature review of legislation, books, academic journals, and other legal documents. The findings are expected to shed light on the effectiveness of criminal and administrative sanctions in deterring offenders, preventing the recurrence of forest and land burning, and restoring environmental functions. Furthermore, the study seeks to identify challenges in law enforcement encompassing legal substance, legal structure, and the legal culture of the community to formulate strategies for more optimal, integrated, and equitable law enforcement in Rokan Hilir Regency.

Keywords: Legal Effectiveness, Criminal Sanctions, Forest and Land Burning

INTRODUCTION

Land burning is one of the most serious forms of environmental law violations in Indonesia because it causes multidimensional impacts, ranging from forest ecosystem damage, air pollution, public health problems, to economic losses across regions and countries. The practice of land burning is often associated with the rapid and cheap clearing of land for plantations and agriculture, especially in areas with extensive peatlands. Rokan Hilir Regency, as one of the regions in Riau Province, frequently faces the problem of recurring forest and land fires, so the issue of law enforcement and the application of sanctions against perpetrators of land burning is highly relevant in the context of forest and environmental protection (Rahmadi, 2018).

Developments in environmental legal regulations are also related to Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation, which was then enacted into law through Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law. This regulation amends several provisions in sectoral regulations, including the Forestry Law and the Environmental Management Law. Therefore, in this study, Perppu Number 2 of 2022 and Law Number 6 of 2023 need to be positioned as part of legal developments that influence the formulation of provisions related to forest and land burning.

Law Number 41 of 1999 concerning Forestry serves as the primary legal instrument for maintaining the function of forests as a life-support system. This law not only regulates aspects of forest management and utilization but also establishes strict prohibitions and criminal sanctions for any act that damages forests, including forest and land burning. Therefore, discussions regarding sanctions against land burners cannot be separated from the forestry legal framework and the underlying environmental legal principles (Hadjon, 2015).

Law Number 41 of 1999 explicitly prohibits forest and land burning. Article 50 paragraph (3) letter d states that everyone is prohibited from burning forests. This provision is imperative and applies to everyone, both individuals and legal entities. This prohibition reflects the desire of the lawmakers to provide maximum protection for forest areas from actions that have the potential to cause extensive and difficult-to-recover ecological damage.

Violations of this prohibition are subject to criminal sanctions as stipulated in Article 78 of the Forestry Law. Article 78 paragraph (3) states that anyone who intentionally burns a forest can be punished with a maximum prison sentence of 15 (fifteen) years and a maximum fine of IDR 5,000,000,000.00 (five billion rupiah). This criminal threat indicates that forest burning is classified as a serious environmental crime due to its broad and long-term impacts.

In addition to deliberate acts, the Forestry Law also regulates sanctions for acts of forest burning committed due to negligence. Article 78 paragraph (4) states that acts that result in forest fires due to negligence are punishable by a maximum prison sentence of 5 (five) years and a maximum fine of IDR 1,500,000,000.00 (one billion five hundred million rupiah). This regulation confirms that Indonesian forestry law not only adheres to the principle of mens rea in the form of intent, but also provides legal consequences for negligence that causes forest damage.

From an environmental law perspective, land burning contradicts the principles of sustainable development and the precautionary principle. Modern environmental law positions environmental protection as a public interest that must be safeguarded by the state through effective regulatory instruments and law enforcement. The Forestry Law, as part of the environmental legal regime, serves to ensure that forest utilization does not compromise its ecological function (Santosa, 2017).

The principle of strict liability is also relevant in the context of land burning, particularly when the act causes significant harm to the community and the environment. Although the Forestry Law emphasizes criminal sanctions, the application of the principle of

environmental liability allows perpetrators of land burning to be held accountable without requiring a thorough proof of fault, as long as environmental damage can be proven. This principle aligns with the spirit of environmental protection, which prioritizes restoration and prevention of damage (Hamzah, 2016).

Furthermore, environmental law also emphasizes the importance of deterrent law enforcement. The heavy criminal sanctions and fines stipulated in the Forestry Law are intended to deter potential perpetrators of land burning. However, the effectiveness of these sanctions depends heavily on the consistency of law enforcement officials in investigating, prosecuting, and punishing perpetrators.

Article 50 of the Forestry Law is a prohibition norm that serves as the basis for law enforcement against land burning. This article prohibits not only forest burning, but also other acts that damage forests, such as illegal logging and the use of forest areas without permits. In the context of land burning, Article 50 paragraph (3) letter d is the core provision most frequently used by law enforcement officials.

Article 78 further regulates the criminal sanctions that can be imposed on violators of Article 50. The structure of Article 78 demonstrates a distinction between deliberate and negligent acts. This distinction reflects the principle of proportionality in sentencing, where the level of culpability of the perpetrator is directly proportional to the severity of the sanction imposed. Thus, the law provides judges with the opportunity to objectively assess the elements of culpability in each forest fire case (Prasetyo, 2019).

In addition to criminal sanctions, the Forestry Law also allows for additional sanctions, such as confiscation of tools used to commit crimes and mandatory reparation of forest damage. This aligns with the restorative justice approach in environmental law, which emphasizes environmental restoration as the primary goal of law enforcement.

Rokan Hilir Regency is an area in Riau Province characterized by extensive peatlands and is prone to fires. Land clearing by burning is still common, both by individuals and business groups. This situation presents a significant challenge for local governments and law enforcement officials in effectively enforcing the provisions of the Forestry Law.

In law enforcement practices in Rokan Hilir Regency, the application of sanctions to land burners often faces various obstacles, including limited evidence, the difficulty of proving intent, and socio-economic factors that still rely on traditional land clearing methods. Nevertheless, law enforcement officials have attempted to use the Forestry Law as the primary legal basis for prosecuting land burners, particularly when these acts occur within forest areas.

The implementation of Article 78 of the Forestry Law in Rokan Hilir Regency demonstrates that severe criminal sanctions can be an effective law enforcement tool if supported by good coordination between the police, prosecutors, and forestry agencies. Several land burning cases that have been prosecuted demonstrate the state's commitment to protecting forests and the environment from systematic destruction.

The imposition of sanctions against land burners under Law No. 41 of 1999 concerning Forestry is a manifestation of the state's commitment to protecting forests and the environment. The prohibitions and criminal sanctions stipulated in Articles 50 and 78 of the Forestry Law provide a strong legal basis for prosecuting those who burn land, whether intentionally or negligently. From an environmental law perspective, these sanctions aim not only to punish the perpetrators but also to prevent environmental damage and restore the ecological function of forests.

In Rokan Hilir Regency, the implementation of sanctions against land burners still faces various challenges, but the Forestry Law remains the primary instrument in law enforcement. Going forward, the effectiveness of the implementation of sanctions depends heavily on consistent law enforcement, increased public legal awareness, and synergy

between the central and regional governments. Forest protection as a strategic natural resource can be achieved sustainably for the benefit of current and future generations.

RESEARCH METHODS

The type of research in this paper is Sociological Legal Research. Sociological legal research aims to understand how law works in society. Thus, it is hoped that researchers will be able to reveal the effectiveness of the application of law in society and be able to identify unwritten laws that apply in society. Data in sociological legal research can be analyzed qualitatively. Data collected from Primary, Secondary, and Tertiary Data are then analyzed qualitatively. Qualitative analysis in the analysis does not use numbers or statistics or mathematics or the like, but rather explanations in the form of sentences presented clearly.

RESULT AND DISCUSSION

A. The Effectiveness of the Implementation of Criminal and Administrative Sanctions Against Forest and Land Burners in Rokan Hilir Regency Based on Law Number 41 of 1999 and Law Number 32 of 2009

The effective application of criminal and administrative sanctions against perpetrators of forest and land fires is a crucial aspect of environmental law enforcement in Indonesia. Forest and land fires not only damage ecosystems but also impact public health, air quality, economic activity, and the sustainability of community life. This issue is of particular concern in Rokan Hilir Regency, Riau Province, given the region's characteristics, which include forests, peatlands, plantations, and agricultural areas that are vulnerable to fire, particularly during the dry season.

Forest and land burning is fundamentally contrary to the principles of environmental protection and management. Fires can occur due to natural factors or human activity, but if the fire is caused intentionally, negligently, or by clearing land by burning, the perpetrators can be held legally accountable in accordance with statutory provisions. In the context of law enforcement, the issue that needs to be considered is not only how the perpetrators are punished, but also whether the punishment can provide a deterrent effect, prevent recurrence of the offense, restore the damaged environment, and protect the community from the impacts of the fire.

Legally, the prohibition on forest and land burning is contained in Law Number 41 of 1999 concerning Forestry and Law Number 32 of 2009 concerning Environmental Protection and Management. Both laws have interrelated regulatory scopes. The Forestry Law provides protection for forest areas and forest functions, while the Environmental Protection and Management Law provides a broader legal basis for preventing pollution and environmental damage, monitoring business activities, and legal accountability for perpetrators of pollution and environmental damage.

Thus, the effectiveness of law enforcement against forest and land fires must be seen through the integrated application of criminal and administrative sanctions. Criminal sanctions are aimed at providing accountability for actions that fulfill the elements of a crime, while administrative sanctions serve as a control and oversight instrument to ensure that any activity that has the potential to cause environmental damage is carried out in accordance with legal obligations. The two should not be viewed as interchangeable instruments, but rather as means of law enforcement that can be applied according to the characteristics of the violation and applicable legal provisions.

Forests and land are natural resources that play a vital role in human life due to their ecological, economic, and social functions. Forests are not only used as a source of raw materials and for economic activities, but also serve to maintain ecosystem balance, preserve biodiversity, regulate water management, and control climate change. Therefore, the

utilization of forest resources must be carried out with due regard for the principles of sustainability and continuity. From an environmental law perspective, forest protection is not solely related to the state's interest in controlling natural resources, but also represents a form of protection for the community's right to a good and healthy environment (Rangkuti, 2015).

Forest and land burning is a form of environmental destruction that has widespread impacts that are not limited to the location of the fire. Fires can result in the loss of vegetation cover, damage to soil structure, disruption of animal habitats, increased greenhouse gas emissions, and the emergence of air pollution that endangers public health. These problems are further complicated when fires occur on peatlands because organic material in the soil can burn and produce smoke over a long period of time. Therefore, forest and land burning must be viewed as both a legal and ecological issue that requires management through prevention, monitoring, enforcement, and environmental restoration (Rahmadi, 2019).

In the Indonesian legal system, forest and land protection has a constitutional basis as reflected in Article 28H paragraph (1) and Article 33 paragraph (3) and paragraph (4) of the 1945 Constitution of the Republic of Indonesia. These provisions provide the basis that the utilization of natural resources must be aimed at the prosperity of the people and implemented with due regard to the principles of sustainable development and environmental awareness. Consequently, every person or business entity that carries out land utilization activities has an obligation to prevent environmental damage. This obligation applies not only when business activities are in progress, but also includes preventive measures against the possibility of fires (Rangkuti, 2015).

According to Siti Sundari Rangkuti, environmental law is an instrument that regulates the relationship between humans and the environment, including regulating utilization, preventing pollution, and mitigating environmental damage. This thinking demonstrates that enforcing environmental law is not sufficient after damage has occurred. The state must use legal instruments to control human activities from the planning stage to the implementation of activities that have the potential to cause damage. In the case of forest and land fires, this approach places monitoring and prevention as equally important as imposing sanctions on perpetrators (Rahmadi, 2019).

Law No. 41 of 1999 concerning Forestry, as most recently amended by Law No. 6 of 2023, provides the legal basis for protecting forest areas from burning. Article 50 prohibits forest burning, while Article 49 stipulates the responsibility of rights holders or business permit holders to prevent and control forest fires in their work areas. This regulation is crucial because the responsibility for forest protection rests not only with the government but also with any party that obtains rights or carries out business activities in the areas they manage (Rahmadi, 2019).

Meanwhile, Law Number 32 of 2009 concerning Environmental Protection and Management, as amended, provides broader regulations regarding the prohibition of land clearing by burning, criminal liability, and the application of administrative sanctions. Article 69 paragraph (1) letter h prohibits land clearing by burning, while Article 108 regulates the criminal threat for such acts. In addition, Articles 98 and 99 provide the basis for criminal liability for acts that intentionally or through negligence result in exceeding the quality standards or criteria for environmental damage. These provisions must be applied based on the elements of each crime, so that the occurrence of a fire cannot automatically be considered proof of the guilt of an individual or corporation (Rahmadi, 2019).

These legal regulations demonstrate that handling forest and land fires has two primary objectives: holding those responsible accountable and ensuring environmental protection. Criminal penalties are aimed at actions that fulfill the elements of a crime, while administrative sanctions are aimed at controlling activities that fail to meet legal obligations. Both instruments need to be implemented in an integrated manner so that law enforcement not

only results in punishment but also prevents recurrence of fires and encourages the restoration of damaged environments (Rahmadi, 2019).

Criminal sanctions are a law enforcement instrument used by the state to hold parties accountable for acts prohibited by law. In environmental law, criminal sanctions serve to protect public interests and environmental sustainability. The imposition of criminal sanctions is not only intended to inflict suffering on the perpetrator, but also to warn the public and businesses against actions that could result in environmental pollution or damage. Therefore, criminal sanctions in environmental cases have the dimensions of protection, prevention, and enforcement of legal responsibility (Rahmadi, 2019).

According to Takdir Rahmadi (2019), environmental law enforcement can be carried out through administrative law, civil law, and criminal law. These three instruments have different characteristics and objectives, but they can be used in a complementary manner to control activities that cause environmental damage. Criminal law enforcement is necessary, especially for acts that have a serious level of error and impact and meet the elements of a criminal offense. This idea is relevant in handling forest and land fires, because fires caused intentionally or due to negligence that meet the elements of a criminal offense cannot be resolved simply with an administrative warning.

In its application, Article 108 of Law Number 32 of 2009 provides a criminal threat to anyone who clears land by burning as referred to in Article 69 paragraph (1) letter h. In addition, Article 98 and Article 99 regulate criminal liability for acts that result in exceeding the quality standards or criteria for environmental damage, based on intent and negligence respectively. Therefore, law enforcement officers must determine the appropriate criminal provisions based on the facts of the act, the form of error, the consequences that arise, and elements that can be proven in the judicial process (Mukau, 2016).

Tirza Sisilia Mukau (2016) in her research on the application of criminal sanctions against perpetrators of forest or land fires explained that the criminal provisions in the Environmental Protection and Management Law have provided the basis for imposing prison sentences and fines on perpetrators. However, law enforcement still faces obstacles in the form of planning and budget issues, weak supervision, unclear land status and use, limited professionalism of officers, and weak inter-institutional coordination. The results of this study show that the existence of severe criminal threats does not necessarily result in effective law enforcement if it is not supported by adequate institutional capacity and evidence.

In the context of Rokan Hilir Regency, the application of criminal sanctions must take into account the characteristics of the area and the cause of the fire. Case investigations should focus on determining whether the fire originated from land clearing by burning, whether there was an element of intent or negligence, and whether the perpetrator had a legal relationship to the burned land. This determination is crucial so that law enforcement is not based solely on the presence of fire or the extent of the burned land, but also on proof of the actions and accountability of the parties involved (Johar, Daeng, & Manihuruk, 2022).

Proving the crime of forest and land burning requires a scientific approach because the characteristics of the fire can cause the loss or alteration of evidence. Investigators need to gather witness statements, location documentation, expert examination results, land ownership data, area maps, and other evidence that can explain the origin and cause of the fire. Hotspot data can provide initial information to identify locations potentially prone to fires, but cannot stand alone as evidence that a particular party is the perpetrator. Tracing the source of the fire and the causal relationship between the perpetrator's actions and the resulting consequences remains necessary (Mukau, 2016).

Criminal liability must also consider the possibility of corporate involvement. In plantation and forestry activities, fires can be related to the activities of workers, field supervisors, managers, or company policies. Therefore, law enforcement should not stop at

workers directly at the fire site if there are indications of involvement by other parties. Investigations must investigate who gave the order, who had control authority, whether the company fulfilled its prevention obligations, and whether the act was committed for the benefit or profit of the business entity (The, 2017).

Research by Olivia Anggie Johar, M. Yusuf Daeng, and Tri Novitasari Manihuruk (2022) on criminal liability for environmental pollution and destruction due to forest and land fires in Riau Province provides direct relevance to this issue. The study examines criminal liability for environmental pollution and destruction and the application of liability to corporations. This discussion demonstrates the importance of using environmental criminal law instruments to reach both individual and corporate perpetrators who meet the requirements for criminal liability.

The application of criminal penalties to corporations is crucial because corporations possess greater economic resources, organizational structures, and land management capabilities than individual workers. If a company is proven to have committed a crime through activities carried out for the benefit of the business entity, then accountability can be directed at the corporation and/or its management based on applicable provisions. In addition to the principal penalties, Article 119 of the Environmental Protection and Management Law also provides for the possibility of additional penalties or disciplinary action, such as confiscation of profits, closure of business premises, and the obligation to make reparations for the consequences of the crime (The, 2017).

Thus, the effectiveness of criminal sanctions in Rokan Hilir Regency must be assessed based on the authorities' ability to identify the true perpetrators, prove the elements of the crime, and ensure that court decisions provide legal consequences commensurate with the actions. Severe penalties will not have optimal deterrent effect if law enforcement is inconsistent or only reaches perpetrators on the ground. Conversely, law enforcement that reaches those responsible, including corporations, will send the message that forest and land burning is not a justifiable means of economic gain (Rahmadi, 2019).

Administrative sanctions are a legal instrument that plays a crucial role in monitoring and controlling business activities that have the potential to cause environmental damage. Unlike criminal sanctions, which aim to hold criminals accountable through the judicial process, administrative sanctions are more focused on restoring compliance with legal obligations. The application of administrative sanctions allows the government to take action against business owners who violate environmental requirements without having to wait for more extensive damage to occur (Rahmadi, 2019).

Takdir Rahmadi explained that administrative law is one of the main instruments in environmental law enforcement because the government has the authority to supervise and control activities related to the use of natural resources. Administrative instruments play a strategic role in preventing pollution and damage because they can be used to order the cessation of violations, correct non-compliance, and ensure that business activities are carried out in accordance with environmental requirements. Therefore, the application of administrative sanctions should not be viewed as a formality, but rather as a truly implemented control mechanism (Rangkuti, 2015).

In Law Number 32 of 2009, as last amended by Law Number 6 of 2023, the provisions of administrative sanctions are contained in Article 76 and related articles, including Article 82C. Types of administrative sanctions include written warnings, government coercion, administrative fines, suspension of business permits, and revocation of business permits. Implementation regulations are also contained in Government Regulation Number 22 of 2021. The imposition of sanctions must take into account the type of violation, the level of seriousness, the authority of the authorized official, and established procedures (Rahmadi, 2019). A written warning may be issued if a violation of administrative obligations

is discovered that still needs to be corrected by the business person in charge. Government coercion has a more direct function because it can take the form of an order to stop the violation, take certain actions, or fulfill obligations that have not yet been fulfilled. Administrative fines represent a financial consequence for administrative violations, while freezing and revoking business permits are more severe measures if the legal requirements are met. Therefore, the type of sanction must be selected proportionally based on the characteristics of the violation and not solely on the magnitude of the anticipated impact (Rahmadi, 2019).

In plantation and forestry business activities in Rokan Hilir Regency, administrative oversight can be directed at examining companies' readiness to prevent fires. This inspection includes the availability of water sources, firefighting equipment, fire control personnel, early warning systems, emergency procedures, and the implementation of environmental management obligations. If a company is found to be failing to meet these obligations, authorized officials can impose administrative sanctions in accordance with applicable regulations. This approach is important because fire prevention must be part of the business's management responsibilities, not just actions taken after a fire occurs (Mukau, 2016).

The application of administrative sanctions also requires consideration of the business permit holder's responsibility for the area they manage. This responsibility must be analyzed based on legal obligations and the facts surrounding land ownership and management. A fire within a business area is grounds for an inspection, but it is not necessarily evidence that a company has committed a crime. The government needs to assess whether the company has fulfilled its prevention obligations, whether there have been any violations of environmental requirements, and whether specific administrative actions can be imposed based on the results of the inspection (Kezia, 2021).

In a study on criminal acts by plantation businesses clearing or cultivating land by burning, Walean Lerry Kezia (2021) explained that the prohibition on clearing and cultivating land by burning also relates to the responsibilities of plantation businesses. The study shows that plantation activities cannot be separated from the obligation to comply with environmental protection regulations. This means that companies' economic interests must be pursued while adhering to legal prohibitions and taking responsibility for the resulting environmental impacts.

The effectiveness of administrative sanctions can be assessed by changes in the behavior of business managers after the sanctions are imposed. If the company immediately stops the violation, fulfills its prevention obligations, repairs fire control facilities, and implements recovery measures as instructed by authorized officials, then the administrative sanctions have resulted in compliance. However, if repeated warnings are issued without any tangible changes, this may indicate weak oversight and follow-up. Therefore, the government must ensure re-inspection after sanctions are imposed (Rahmadi, 2019).

The application of administrative sanctions must also consider environmental restoration aspects. Fires that cause damage cannot be handled simply by halting activities or paying fines if restoration obligations have not been met. Recovery can include land rehabilitation, restoring peat ecosystem functions, controlling water management, and replanting vegetation appropriate to the area's characteristics. These actions must be based on technical assessments to ensure that the restoration truly restores the damaged environmental function (Rangkuti, 2015).

Thus, administrative sanctions play a crucial role in preventing forest and land fires in Rokan Hilir Regency, particularly for businesses with environmental management obligations. Their success cannot be measured solely by the number of warnings or fines issued, but rather by the level of company compliance, the reduction in violations, the readiness of fire control facilities, and the implementation of environmental restoration

(Rahmadi, 2019). The effectiveness of implementing criminal and administrative sanctions can be analyzed using Soerjono Soekanto's law enforcement theory. According to Soerjono Soekanto (2014), the success of law enforcement is influenced by five factors: legal factors or statutory regulations, law enforcement factors, facilities and infrastructure factors, community factors, and cultural factors. These five factors are interrelated and inseparable because the operation of law in society is influenced by the conditions of legal norms and the social environment in which the law is applied.

First, legal factors or statutory regulations. From a substantive legal perspective, Indonesia already has provisions prohibiting forest and land burning and threatening sanctions against perpetrators. The Forestry Law and the Environmental Protection and Management Law provide the basis for government and law enforcement officials to take action. However, their effectiveness depends on the clarity of the provisions' application, the appropriateness of the elements of the crime to the facts, and the alignment of administrative and criminal authority. If regulations are not consistently applied, the threat of severe sanctions may not necessarily lead to compliance (Soekanto, 2014).

Second, the law enforcement factor. Law enforcement officials have a responsibility to enforce legal provisions professionally and non-discriminatory. Handling forest and land fires requires investigators to be skilled in understanding environmental crimes, gathering evidence, examining experts, and identifying individual and corporate accountability. Weak coordination, limited technical capabilities, and inadequate oversight can result in cases not being handled optimally. Therefore, improving the quality of human resources and inter-agency cooperation are crucial for effective law enforcement (Soekanto, 2014).

Third, infrastructure and facilities. Law enforcement requires adequate equipment and budget support. In fire management, these facilities include operational vehicles, fire extinguishers, communications equipment, hotspot monitoring systems, area maps, and laboratory testing facilities. Limited facilities can hamper early detection, extinguishing, evidence collection, and determining the cause of a fire. Therefore, the availability of facilities must be part of environmental law enforcement and prevention policies (Soekanto, 2014).

Fourth, community factors. Public legal awareness influences compliance with the burning ban. Communities who do not yet understand the legal consequences and ecological impacts of burning are likely to continue using fire as a method of land clearing. To address this issue, the government needs to develop legal education and assistance regarding land clearing methods without burning. Public participation is also needed in reporting fire incidents and providing information on those suspected of burning (Soekanto, 2014).

Fifth, cultural factors. Community habits regarding land use can influence the success of law enforcement. The long-standing practice of clearing land by burning cannot be immediately eliminated simply through the threat of criminal penalties. A shift in mindset is needed through environmental education, economic empowerment, and the provision of alternative land management practices. Recognition of local wisdom must remain within legal boundaries and cannot be used as an excuse to carry out burning that violates regulations (Soekanto, 2014).

Based on these five factors, the effectiveness of criminal and administrative sanctions in Rokan Hilir Regency must be measured through the relationship between the existence of regulations, the capacity of officials, supporting facilities, community compliance, and land management practices. If all five factors are balanced, law enforcement has the potential to produce better results. Conversely, if oversight is weak and perpetrators cannot be identified, criminal and administrative sanctions risk remaining merely written regulations that do not result in real changes in community and company behavior (Mukau, 2016).

Law enforcement against forest and land fires can face both legal and non-legal

obstacles. Legal obstacles relate to the application of legal provisions, proving elements of a crime, and determining who is responsible. Meanwhile, non-legal obstacles can include limited human resources, operational facilities, geographic conditions, institutional coordination, and public awareness. Both types of obstacles can impact the success of law enforcement if not addressed in a planned manner (Mukau, 2016).

Based on the overall description, the author argues that the effectiveness of implementing criminal and administrative sanctions against perpetrators of forest and land fires in Rokan Hilir Regency cannot be sufficiently measured by the severity of the penalties stipulated in the laws and regulations. A more substantive measure is the state's ability to prevent fires, identify responsible parties, prove violations, impose consistent sanctions, and ensure environmental recovery. This approach aligns with environmental law thinking, which positions law enforcement as a means of controlling human behavior in the utilization of natural resources.

According to the author, the application of criminal sanctions plays a crucial role in holding perpetrators accountable for burning intentionally or through negligence, fulfilling the elements of a criminal offense. Meanwhile, administrative sanctions play a crucial role in ensuring that every business entity fulfills its fire prevention and control obligations. If both instruments are applied consistently, law enforcement will not only focus on punishment but will also encourage compliance with environmental protection obligations (Mukau, 2016).

The author also believes that law enforcement must pay equal attention to both individual and corporate perpetrators. Action against individuals who commit arson should be taken in accordance with the elements of the crime, but serious investigations of companies should also be carried out if the fire is related to business areas or if there are indications of violations of fire control obligations. The principle of justice requires that every party proven to have committed a violation receive legal consequences commensurate with the level of culpability and responsibility, regardless of economic or social status (Pandeirot, 2016).

This effectiveness must also be demonstrated through law enforcement data in Rokan Hilir Regency. Required data include the number of fire incidents, the number of police reports, the number of resolved cases, the number of individual and corporate suspects, court decisions, the types of administrative sanctions imposed, and the implementation of environmental restoration. Without such data, assessments of the success or failure of sanctions implementation remain normative analyses and cannot fully reflect the empirical state of law enforcement in the region.

Thus, the authors conclude that the effectiveness of implementing criminal and administrative sanctions against perpetrators of forest and land fires in Rokan Hilir Regency must be achieved through integrated, consistent law enforcement that is oriented toward environmental protection. Criminal sanctions must provide accountability for actions proven to meet the elements of a crime, while administrative sanctions must ensure compliance with environmental management and protection obligations. The success of both instruments should ultimately be reflected in a reduction in fire incidents, increased community and company compliance, and the restoration of damaged environmental functions.

B. Inhibiting Factors Causing the Ineffectiveness of Sanctions Against Land BurnersIn Rokan Hilir Regency

1. Law Enforcement Factors in the Application of Sanctions to Land Burners

Law enforcement against perpetrators of land burning is a crucial part of environmental protection and management efforts. However, the existence of laws and regulations prohibiting burning does not necessarily guarantee that violations can be optimally prevented. The effectiveness of sanctions enforcement is greatly influenced by the ability of authorities to identify perpetrators, gather evidence, prove guilt, and ensure that

every violation carries legal consequences. If this process is not carried out properly, the threat of criminal sanctions or administrative sanctions has the potential to have no significant impact on the behavior of the community and business actors (Soekanto, 2014).

According to Soerjono Soekanto (2014), law enforcement is influenced by five factors: legal factors, law enforcement, facilities, society, and culture. These five factors are interrelated in determining the success or failure of law enforcement in society. This theory is relevant for analyzing the problem of land burning in Rokan Hilir Regency because the ineffectiveness of sanctions is not always caused by weak regulations, but can also stem from the implementation of official duties, limited facilities, the socio-economic conditions of the community, and the habit of clearing land by burning.

From a law enforcement perspective, one potential obstacle is suboptimal monitoring of areas with fire potential. Monitoring only occurs after a fire appears, leading to reactive government action. However, prevention should be implemented before a fire occurs through patrols, land monitoring, inspections of business activities, and oversight of fire control obligations. When monitoring is not carried out routinely, perpetrators can exploit the situation to start fires without being detected early (Rahmadi, 2019).

In the context of Rokan Hilir Regency, oversight issues require attention due to the region's characteristics, including plantations, peatlands, and other areas requiring continuous monitoring. The vastness of the oversight area and the varying geographic conditions can make it difficult for authorities to quickly reach fire locations. Consequently, by the time a fire is discovered, it may have already spread to other areas, making it more difficult to determine the fire's origin and identify the responsible parties. This situation can hamper the law enforcement process from the initial stages of case handling.

In addition to oversight, ineffective law enforcement can also be influenced by a lack of consistency in imposing sanctions. Law enforcement that fails to provide concrete consequences for each violation can lead to the perception that land burning is a relatively low-risk activity. If violations are only addressed through warnings without further investigation into the obligations that must be fulfilled, the goal of prevention will not be optimally achieved. Therefore, sanctions must be implemented based on the level of violation, the nature of the error, and applicable legal provisions (Soekanto, 2014).

2. Factors of Weakness in Proof and Difficulty in Identifying the Perpetrator

One of the main obstacles to enforcing sanctions against land burners is the difficulty of proving who actually started the fire. The occurrence of a fire on a plot of land does not automatically prove that the land owner, authority, or manager is the perpetrator. Law enforcement officials must establish a link between a person's actions and the fire through valid evidence. This difficulty is compounded if the fire has spread, witnesses are unaware of the initial incident, or the conditions at the scene have changed due to the fire extinguishing process (Mukau, 2016).

In land burning cases, the evidence must distinguish between a fire and the crime of arson. Fires can occur for various reasons, so investigators must determine whether human action was deliberate or negligent, fulfilling the elements of a crime. This should include witness testimony, location conditions, evidence, expert examination results, and information regarding community or company activities prior to the fire. Without adequate evidence, sanctions risk violating the principles of legal certainty and criminal liability (Rahmadi, 2019).

Tirza Sisilia Mukau (2016), in her research on the application of criminal sanctions to perpetrators of forest and land fires, explained various obstacles to law enforcement, including issues of evidence, oversight, budget constraints, and inter-agency coordination. The study demonstrated that law enforcement for land fires requires technical and institutional

support, not just criminal provisions that impose penalties. Therefore, weaknesses in identifying perpetrators can prevent cases from proceeding optimally even though the fire incident has been identified.

The use of monitoring technologies such as hotspot data and satellite imagery has not yet fully resolved the evidentiary challenges. This data is useful for identifying locations prone to fires and determining priorities for field investigations. However, hotspot information does not directly explain who started the fire, how it started, or whether there was an element of intent or negligence. Therefore, field verification and expert support are needed to connect technological information with legal facts that can be used in the investigation process (Mukau, 2016).

Difficulties in identifying perpetrators can also arise if the burning is carried out through intermediaries or field workers. In such circumstances, the person found at the location may not necessarily be the one giving the order or making the decision. Investigations need to trace working relationships, communications, land management activities, and who benefits from the activity. If the investigation focuses solely on the individual carrying out the physical act, other parties with legal involvement and responsibility may be overlooked (The, 2017).

3. Factors of Limited Facilities, Infrastructure, Budget, and Human Resources

Facilities and infrastructure are crucial supporting factors in successfully enforcing law enforcement against land burning. Authorities require operational vehicles, fire extinguishers, safety equipment, communication devices, monitoring technology, and laboratory testing facilities to handle fires quickly and accurately. Limited facilities can cause delays in reaching fire locations, hinder evidence collection, and reduce authorities' ability to conduct comprehensive oversight (Soekanto, 2014).

The geographical conditions of Rokan Hilir Regency, which encompasses plantations and peatlands, require operational facilities tailored to the specific characteristics of the area. Fires located far from road access or in hard-to-reach areas can complicate extinguishing and investigations. If transportation and supporting equipment are inadequate, firefighting can be delayed and cause further damage. This impact is felt not only by the community but also makes it difficult for authorities to obtain intact evidence.

In addition to limited facilities, human resource capacity also impacts the effectiveness of law enforcement. Handling land burning cases requires investigators who understand environmental criminal law and forestry, peatland characteristics, and methods for investigating the cause of fires. A lack of expertise or limited technical skills can hinder the process of determining the source of the fire, assessing environmental damage, and proving the relationship between the perpetrator's actions and the resulting consequences (Mukau, 2016).

Budget constraints can also impact the intensity of patrols, surveillance activities, field inspections, and inter-agency coordination. Environmental law enforcement activities require significant funding, especially when fire locations are widespread and require technical inspections. If the budget is only available for post-fire response, prevention and surveillance activities may not receive sufficient support. As a result, law enforcement is more focused on post-damage rather than preventing violations (Mukau, 2016).

4. Weak Factors in Inter-Agency Coordination and Supervision of Companies

Handling land burning cannot be handled by a single agency, as the issue encompasses the police, environmental, forestry, disaster management, and local government authorities. The police are responsible for investigating and prosecuting suspected criminal acts, while environmental and forestry agencies are responsible for oversight and administrative

handling, in accordance with applicable regulations. If coordination between agencies is not optimal, information exchange and follow-up on field findings can be delayed.

Coordination issues can also arise in the provision of data on land status, forest boundaries, manager identities, and business permits. Unsynchronized data can make it difficult for authorities to determine who has legal responsibility for fire locations. Therefore, an integrated information system is needed between local governments, forestry agencies, environmental agencies, and law enforcement officials to ensure that inspections can be conducted based on accurate data (Mukau, 2016).

Oversight of companies engaged in plantation or forestry activities is also a crucial aspect of law enforcement. Companies are obligated to implement fire prevention measures in their work areas in accordance with statutory provisions. However, if routine inspections of fire extinguishing equipment, personnel, water sources, and fire control procedures are not conducted, these obligations could potentially be met administratively without adequate implementation in the field (Rahmadi, 2019).

Olivia Anggie Johar, M. Yusuf Daeng, and Tri Novitasari Manihuruk (2022) in their study on criminal liability for environmental pollution and destruction due to forest and land fires in Riau Province illustrate the importance of law enforcement against those responsible for the fires. This research is relevant because the issue of fires in Riau cannot be separated from the relationship between human activity, land management, environmental damage, and criminal liability. Therefore, corporate oversight must be accompanied by an examination of possible corporate involvement if indications of legal violations are found.

Weak corporate oversight can lead to sanctions being applied that fail to address the root of the problem. If law enforcement is directed solely at workers who directly cause fires, while company policies, management orders, or oversight failures are not examined, the accountability of more involved parties may be overlooked. Corporate investigations must be based on evidence and criminal liability provisions, not solely on the occurrence of fires within company premises (The, 2017).

5. Socio-Economic Factors and Community Habits in Clearing Land

Socioeconomic factors are one of the factors that can influence community non-compliance with the ban on land burning. In agricultural and plantation activities, land clearing is often related to economic capacity, equipment availability, the size of the land being managed, and knowledge of land cultivation methods. For some communities, using fire is considered a faster and cheaper way to clear land than using heavy equipment or mechanical methods. These economic considerations can encourage people to continue using burning despite being aware of the legal prohibition (Mukau, 2016).

These issues demonstrate that law enforcement cannot be separated from the living conditions of the community. A ban on burning accompanied only by the threat of criminal penalties without guidance and the provision of alternative land management practices is potentially ineffective. Communities need an understanding of the impacts of burning and knowledge of land clearing methods that minimize environmental damage. Therefore, local governments need to develop agricultural mentoring programs, environmental education, and assistance with land management facilities to provide communities with safer and more legally compliant options (Rahmadi, 2019).

Habitual factors also influence the success of sanctions. The habit of clearing land by burning can develop because the practice has been going on for a long time and is considered part of land management activities. In such circumstances, the threat of punishment does not always immediately change people's behavior. Change requires a continuous process of education, outreach, guidance, and supervision. Law enforcement must be able to raise awareness that the use of fire for land clearing can have consequences that go beyond

individual interests, as smoke and environmental damage are felt by the wider community (Soekanto, 2014).

In this regard, the provisions of Article 69 paragraph (2) of Law Number 32 of 2009 need to be understood correctly. Recognition of local wisdom in land clearing by burning is a limited exception, not the freedom for everyone to burn land. This exception has certain requirements, including land area limits, the use of local varieties, and the existence of firebreaks. If these provisions are not understood correctly, it can lead to the misunderstanding that all forms of land burning are permitted based on community customs (Rahmadi, 2019).

Shahira Harun and Ali Yusri's (2016) research on the coordination between the Riau Provincial Government and the Rokan Hilir Regency Government in handling forest and land fires during the 2010–2013 period is also relevant for explaining social and institutional issues in the study area. The study identified several factors hindering coordination, including a lack of oversight, communication, awareness of the importance of coordination, participant competence, financial support, facilities, and political commitment. These findings demonstrate that fire management in Rokan Hilir requires the involvement of various parties and cannot simply rely on post-fire enforcement.

6. Factors of Unsynchronized Regulations and Weak Implementation of Legal Accountability

Another factor that can hinder the effective application of sanctions is the complexity of legal regulations related to forestry, plantations, and environmental protection. Land burning can be linked to various legal provisions, requiring authorities to determine the appropriate legal basis for the location, nature of the act, legal subject, and consequences. These differences in regulatory scope require a thorough understanding to avoid errors in determining the provisions used to prosecute perpetrators (Rahmadi, 2019).

Law No. 41 of 1999 concerning Forestry regulates the prohibition of forest burning and the obligation to prevent fires by business rights or permit holders. Meanwhile, Law No. 32 of 2009 regulates the prohibition of land clearing by burning, criminal acts of pollution and environmental damage, and administrative sanctions. These differences in the objects of regulation can cause difficulties if authorities do not first determine the status of the area and the nature of the act. Determining whether a location is a forest area, an area for other uses, or a business activity area is crucial in determining the appropriate legal provisions (Rangkuti, 2015).

Land status and ownership issues can pose significant obstacles to law enforcement. In certain locations, there may be discrepancies between land ownership data, forest area maps, and business permit information. This ambiguity can make it difficult to determine which party is responsible for fire prevention. In criminal cases, this situation can also hinder the evidentiary process if the relationship between the perpetrator, the fire management, and the location of the fire cannot be adequately explained (Mukau, 2016).

Law enforcement against land burning can also be ineffective if accountability is only directed at the perpetrators who directly carry out the actions. In company operations, it is possible that field workers carry out activities based on the orders or policies of others. Therefore, investigations need to be directed at determining the relationship between worker actions, company oversight, management policies, and the interests of the business entity. Law enforcement must be able to reach parties proven to have legal involvement or responsibility, not just those physically present at the scene (The, 2017).

The research of Olivia Anggie Johar, M. Yusuf Daeng, and Tri Novitasari Manihuruk (2022) on criminal liability for environmental pollution and destruction due to forest and land fires in Riau Province explains the importance of applying criminal liability to both individual and corporate perpetrators. The research uses a sociological legal approach, with the research

location being the Riau Regional Police. The relevance of this research lies in the affirmation that forest and land fires are not only a matter of individual physical actions but can also be related to the liability of business entities if the legal elements and provisions are met.

Ineffective corporate accountability can lead to inequities in law enforcement. If field workers are prosecuted, but the involvement of management or the business entity is not adequately investigated, the goal of law enforcement to reach the responsible parties is not achieved. However, corporate accountability cannot be based solely on the fact that a fire occurred on company premises. Authorities must still prove the connection between the act and the business entity, the fault or basis for liability, and the elements of the alleged crime (Rahmadi, 2019).

From an administrative perspective, ineffectiveness can occur if government oversight focuses solely on document review without ensuring compliance with obligations in the field. A company may have environmental documents and fire control procedures, but these documents do not necessarily prove that firefighting equipment, personnel, water sources, and monitoring systems are actually available and functioning. Therefore, administrative oversight must be implemented through factual audits and evaluations of the company's compliance (Rangkuti, 2015).

7. The Impact of Inhibiting Factors on the Effectiveness of Law Enforcement

These various inhibiting factors are directly related to the successful implementation of criminal and administrative sanctions. Weak oversight can prevent fires from being detected early, while difficulties in establishing evidence can hinder the identification of perpetrators. Limited facilities and expertise can slow down the investigation process, while weak coordination can result in the inability of authorities to provide the information they need in a timely manner. If all of these obstacles occur simultaneously, the law enforcement process has the potential to produce suboptimal results (Soekanto, 2014).

From a societal perspective, the ineffectiveness of sanctions can be seen when the practice of burning land persists despite public awareness of the legal prohibition. This situation may indicate that the law enforcement approach has not fully addressed the factors influencing community behavior. Therefore, the government needs to combine enforcement with economic development and empowerment so that legal compliance is not only driven by fear of punishment, but also by awareness of the importance of protecting the environment (Harun & Yusri, 2016).

From a company perspective, ineffectiveness can be seen if fire prevention obligations are not implemented diligently or government oversight is unable to ensure compliance on the ground. This situation needs to be addressed through regular inspections, the application of proportional administrative sanctions, and criminal proceedings if actions are found to constitute a crime. Law enforcement must ensure that a company's economic interests are not placed above its obligation to protect the environment (Johar, Daeng, & Manihuruk, 2022).

According to the author, the fundamental problem causing the ineffectiveness of sanctions against land burners in Rokan Hilir Regency lies not only in the severity of the threat of punishment, but also in the gap between legal provisions and their implementation. Regulations have provided a basis for prohibiting burning and holding perpetrators accountable, but the success of their implementation depends on the ability of officials to prove the act, the firmness of the government in carrying out supervision, and the awareness of the community and companies in fulfilling legal obligations (Soekanto, 2014).

Therefore, the author argues that obstacles to law enforcement need to be addressed through institutional reform, improved investigation quality, strengthened administrative oversight, synchronized land ownership data, and increased public participation. The government must also ensure that every proven violation receives legal action in accordance

with the provisions, without discriminating against perpetrators based on their social status or economic ability. Thus, the application of sanctions should not stop at the formality of sentencing, but rather truly protect the environment and prevent a recurrence of land burning in Rokan Hilir Regency (Rahmadi, 2019).

CONCLUSIONS

Effectiveness of the Implementation of Criminal and Administrative Sanctions Against Forest and Land Burners in Rokan Hilir Regency Based on Law Number 41 of 1999 and Law Number 32 of 2009, the implementation of criminal and administrative sanctions basically has an adequate legal basis. Both laws authorize law enforcement officers and related agencies to take action against acts of forest and land burning, both through criminal proceedings and the imposition of administrative sanctions. However, the effectiveness of their implementation is not only determined by the existence of laws and regulations, but also by the consistency of law enforcement, the ability to prove, supervision, coordination between agencies, and compliance of the community and business actors. Thus, the implementation of sanctions cannot be considered effective as a whole if the action is not able to provide a deterrent effect and prevent the recurrence of forest and land burning.

Inhibiting Factors Causing the Ineffective Implementation of Sanctions Against Land Burners in Rokan Hilir Regency that the application of criminal sanctions against perpetrators of forest and land fires still faces problems in the process of identifying the perpetrators, collecting evidence, proving the relationship between the act and the resulting fire, and determining the responsible party. Meanwhile, administrative sanctions have an important role in encouraging compliance by business actors through written warnings, government coercion, freezing, and even revocation of permits in accordance with applicable provisions. However, administrative sanctions will not provide optimal results if supervision of business activities is not carried out continuously and the implementation of sanctions is not accompanied by an evaluation of environmental recovery. Therefore, law enforcement needs to integrate criminal and administrative sanctions so that they are not only oriented towards punishment, but also towards environmental recovery and prevention of future fires. Inhibiting factors that cause the less than optimal implementation of sanctions against land burners in Rokan Hilir Regency include limited human resources, facilities and infrastructure for extinguishing and investigating, difficulties in finding and proving the identity of perpetrators, the vast area prone to fires, weak coordination between agencies, and less than optimal supervision of community activities and plantation companies. Furthermore, socioeconomic factors, the habit of clearing land by burning, and low legal awareness also contribute to the occurrence of land burning. These various obstacles demonstrate that the problem of forest and land burning cannot be resolved simply by imposing sanctions, but requires an integrated law enforcement approach, consistent monitoring, increased legal awareness, and the provision of alternative land clearing methods without burning.

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