

## Criminal Legal Analysis on Conversion of Forest Areas into Oil Palm Plantations: A Case Study in Belitung Regency

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**Abstract.** *This study aims to analyze the crime of converting forest areas into oil palm plantations in Belitung Regency. The focus of the study is directed at the identification of elements of criminal acts in the misuse of forest areas as well as the application of criminal law and forestry administration in the settlement of these cases. The research method used is normative juridical with a legislative approach and case studies. The results of the study show that the conversion of forest areas without permits violates the provisions of Law No. 41 of 1999 concerning Forestry and Law No. 18 of 2013 concerning the Prevention and Eradication of Forest Destruction. Elements of criminal acts include unlawful acts, environmental damage, and intentional elements. The application of criminal law has not been maximized due to weak supervision, lack of coordination between agencies, and lack of deterrent effect for perpetrators. Meanwhile, from the aspect of forestry administration, the control of permits and the restoration of forest areas are important steps in the effort to solve it. A more stringent legal approach and improved forest governance are needed to prevent the recurrence of similar violations in the future.*

**Keywords:** *Conversion; Criminal; Forestry; Oil Palm.*

### 1. Introduction

Forest areas have a vital function in maintaining ecosystem balance, environmental sustainability, and supporting the social and economic life of the community. (PDF, n.d.-a) As the country with the third largest tropical forest area in the world, Indonesia faces a major challenge in managing and protecting these natural assets. One of the serious problems that often occurs is the conversion of forest areas into plantation land, especially for oil palm cultivation. This practice, although economically beneficial in the short term, is often carried out in violation of applicable legal provisions, ignores the principles of sustainability, and results in extensive environmental damage. (Hafizah, 2023)

Belitung Regency, as part of the Bangka Belitung Islands Province, is not spared from this problem. In recent years, there has been an increase in forest land clearing activities for oil palm plantations. These activities are often carried out without valid licensing procedures, violate the provisions of forestry law, and have the potential to cause significant ecological damage. The phenomenon of illegal conversion of forest areas in Belitung is in the spotlight because in addition to damaging the environment, it also causes agrarian conflicts, violations of the rights of indigenous or local communities, and weakens the government's efforts to achieve sustainable development goals.(Wibowo & Hapsari, 2022)

The crime of forest area conversion, as happened in Belitung, not only involves criminal elements in the form of violations of forestry and environmental laws, but also reflects institutional problems in the application of the law, weak supervision, and gaps in forestry governance. Therefore, an in-depth legal analysis is needed to identify the criminal elements in this case and evaluate the effectiveness of the application of criminal law and forestry administration in resolving the problem.

Normatively, the provisions regarding the protection of forest areas are regulated in Law No. 41 of 1999 concerning Forestry and strengthened through Law No. 18 of 2013 concerning the Prevention and Eradication of Forest Destruction.(PDF, n.d.-b) Both laws affirm that activities in forest areas without permits are unlawful acts that can be punished. In addition, Indonesia has ratified various international instruments related to environmental protection, which strengthen the country's commitment to preserving forests. However, in practice, the implementation of these legal norms still faces various challenges, ranging from weak law enforcement, overlapping regulations, to the involvement of officials in the practice of misuse of forest areas.

Elements of criminal acts in the conversion of forest areas include unlawful acts, environmental damage due to land clearing without permits, and elements of intentionality or gross negligence from the parties involved. The identification of these elements is essential to determine criminal liability, both against individual and corporate perpetrators. In addition, this analysis is also needed to examine the extent to which forestry administration plays a role in preventing and enforcing forest area conversion, for example through licensing systems, area monitoring, and forest rehabilitation.(PDF, n.d.-c; Purwanti et al., 2022)

In the context of Belitung Regency, the misuse of forest areas for oil palm plantations often involves various actors, ranging from individual communities, plantation companies, to the possibility of involvement of local government officials. The complexity of these actors makes handling cases more complicated and demands a legal approach that is not only repressive (criminal law enforcement) but also preventive and corrective through effective forestry administration policies.(Faturachman et al., 2024) Criminal law enforcement aims to provide a deterrent effect, while forestry administration focuses on preventing and restoring the function of forest areas.

The importance of this research is also supported by the fact that forests are not just economic assets, but have very high ecological, social, and cultural value. Forest destruction impacts biodiversity loss, climate change, ecological disasters such as floods and landslides, and loss of livelihoods for forest-dependent local communities. Therefore, allowing the conversion of forest areas to occur without control will bring far greater harm than the short-term economic benefits that may be derived from the expansion of oil palm plantations. (Brilliant Thesalonich Panggabean et al., 2023)

From a legal point of view, cases of illegal forest conversion show a gap between ideal legal norms and the reality on the ground. Many similar cases end without effective law enforcement, due to various obstacles such as weak evidence, uncertainty over the status of forest areas, or political intervention. Therefore, this research is also expected to contribute to formulating recommendations for strengthening environmental criminal laws and forestry administration reform at the regional level, especially in Belitung Regency. (Tanjung et al., 2022)

In addition, this issue has strategic value in supporting the national agenda to reduce greenhouse gas emissions through deforestation reduction and forest degradation (REDD+) programs, as well as strengthening Indonesia's position in various international forums related to climate change and sustainable development. Controlling forest conversion is one of the keys to achieving this target.

Thus, the background of this research departs from concern about the phenomenon of misuse of forest areas in Belitung which has become a complex legal, environmental, and social problem. This study aims to systematically describe the elements of criminal acts in the case of the conversion of forest areas to oil palm plantations and analyze the effectiveness of the application of criminal law and forestry administration in resolving these cases. Through this analysis, it is hoped that a more comprehensive understanding of the problem can be produced, as well as concrete policy recommendations in an effort to protect and preserve forest areas in Indonesia, especially in Belitung Regency.

## **2. Research Methods**

This study used a qualitative approach with a normative-empirical type of legal research. This approach aims to analyze the laws and regulations that govern forest areas and their implementation in practice, especially in the context of the criminal act of converting forest areas into oil palm plantations in Belitung Regency. Normative research was focused on the study of legal documents, while the empirical approach was carried out by digging up information directly from the field regarding the application of the law and the obstacles faced.

This type of normative-empirical legal research allows the incorporation of literature studies with empirical data from the implementation of law in the field. This is important considering that cases of forest conversion often involve legal and social aspects at the same time. In this context, it is not enough to analyze the law based only on the text of the law, but it is also necessary to pay attention to the dynamics of policy implementation and law enforcement by the authorized agencies.

The research location is focused on Belitung Regency because this area has many protected forest areas and production forests that are under pressure due to the expansion of oil palm plantations. The selection of this location is also based on the existence of relevant cases and the availability of key informants from local governments, law enforcement officials, and local communities. The data sources in this study are divided into two, namely primary and secondary data.

Primary data was obtained through semi-structured interviews with informants such as Forestry Service officials, law enforcement, environmental activists, and community leaders. Meanwhile, secondary data comes from literature studies of laws and regulations, court decisions, government reports, scientific articles, and other related documents. Some of the regulations that are the main reference include Law No. 41 of 1999 concerning Forestry, Law No. 18 of 2013 concerning the Prevention and Eradication of Forest Destruction, as well as criminal provisions in the Criminal Code and other environmental regulations.

Data collection was carried out through three main techniques, namely documentation studies, in-depth interviews, and field observations. The documentation study aims to obtain a juridical and theoretical foundation. The interviews were used to dig up empirical information from parties directly involved in the issue of forest conversion. Meanwhile, observations are carried out to understand the factual conditions and the real impact of the practice of transfer of functions.(Ad-Dary, n.d.)

Data analysis was carried out qualitatively with a descriptive-analytical approach. The analysis process starts from the stage of data reduction, organizing, to presenting data in the form of a systematic narrative. The researcher compares the findings in the field with the applicable legal norms to determine the suitability, deviations, and factors that cause the violation.(Ad-Dary, n.d.)

To ensure the validity of the data, the triangulation method is used, both in terms of data sources and collection methods. Validation is carried out by comparing the results of the interview with official documents or related legal decisions. In addition, this study pays attention to ethical principles such as informed consent, maintaining the confidentiality of informant identities, and using data solely for academic purposes.

With this approach, it is hoped that the research will be able to provide a complete picture of the legal issues in the misuse of forest areas, as well as contribute to the formulation of more effective legal solutions in preventing and cracking down on illegal forest area conversion in the future.

### 3. Results and Discussion

#### 3.1 Elements of Criminal Acts in the Case of Forest Area Transfer in Belitung Regency

The crime of converting forest areas into oil palm plantations is a serious violation of the provisions of forestry law and environmental protection in Indonesia.(Fristikawati & Adipradana, 2022) Based on Law No. 41 of 1999 concerning Forestry in conjunction with Law No. 18 of 2013 concerning the Prevention and Eradication of Forest Destruction, any activity that changes the designation and function of forest areas without permission from the central or regional government can be qualified as an unlawful act. To understand the characteristics of this criminal act, it is necessary to examine the elements of the delicacy contained in these provisions.

##### a. Subjective Element: Intentionality (dolus)

In the case of the conversion of forest areas, the element of intentionality can be seen from the actions of the perpetrators who consciously and deliberately cleared forest land for oil palm planting. This practice is usually carried out by cutting down trees, burning land, and building plantation infrastructure, without regard to the legal status of the area. In the context of Belitung Regency, the perpetrators are even said to know the status of the area as a protected forest or production forest, but continue to carry out oil palm plantation activities due to economic motivation.(Suci Ramadhini & Chaerunisak, 2022)

##### b. Objective Elements: Prohibited Acts

Article 17 paragraph (2) of Law 41/1999 states that the use of forests can only be carried out in accordance with its function, namely as protected forests, limited production forests, or conservation forests. Planting oil palm in production forest areas without a permit is included in the category of unlawful acts, because oil palm is not a forestry crop as regulated in the applicable Regulation of the Minister of Environment and Forestry (Permen LHK).

In addition, in a concrete case in Belitung, the perpetrators not only planted oil palm but also erected buildings and opened permanent road access in protected forest areas, which is a form of violation of conservation principles and the principles of environmental prudence.(Afandi et al., 2023)

##### c. Elements of Legal Consequences

The conversion of forest areas results in ecosystem damage, loss of biodiversity, and an increased risk of ecological disasters such as floods and landslides. From a legal perspective, this act can be subject to a maximum prison sentence of 15 years and a fine of up to Rp 10 billion, as stipulated in Article 92 of Law 18/2013.

In some cases, law enforcement officials in Belitung have identified strong criminal elements. However, its handling still faces obstacles in proving the status of land, the existence of permits, and legal protection for communities or business actors who claim to have managed land for decades for generations.(Falka & Sari, 2022)

### **3.2. The Application of Criminal Law and Forestry Administration in Cases of Forest Conversion**

#### **a. Aspects of Criminal Law**

The application of criminal law in the context of the transfer of forest area functions refers to formal and material crimes in environmental and forestry law. Formal delik refers to a violation of legal procedures or permits set by the government. Meanwhile, material offenses emphasize the legal consequences and environmental losses caused.

In the case in Belitung Regency, law enforcement officials such as the District Attorney's Office, the Police, and the Forestry Service have taken law enforcement actions through investigation and investigation of the perpetrators. One of the cases that is of concern is the alleged violation committed by a local businessman who opened an oil palm plantation on the coastal protected forest area in Membalong District, Belitung. (Sianipar, n.d.)

The law enforcement process includes the summoning of witnesses, confiscation of heavy equipment, and verification of spatial data with the support of the Forest Area Monitoring Center. However, this process often faces challenges in the form of limited data on valid forest boundaries, overlapping land claims, and pressure from parties with political or economic power.(Harsastro, n.d.)

#### **b. Aspects of Forestry Administration**

In addition to the criminal approach, handling forest conversion can also be carried out through an administrative mechanism by the Ministry of Environment and Forestry (KLHK) or local governments. These administrative actions include the issuance of warning letters, the freezing of permits, the withdrawal of forest management rights (HPH or HTI), and the restoration of forest area functions (restoration).

In practice, the forestry administration mechanism in Belitung has not run optimally. There are still many cases of neglect and indecisiveness from forestry authorities in cracking down on violations. In some cases, business actors are only subject to light sanctions in the form of administrative reprimands without criminal follow-up. This gives the impression that the existing regulations do not have a deterrent effect.



Furthermore, coordination between central and regional institutions related to spatial planning and forest area management is also still weak. Many forest areas have been included in the regional development plan (RTRW) as agricultural land or plantations, even though they are still legally forest areas. This condition complicates law enforcement because it creates legal loopholes and conflicts between forestry norms and regional development policies.(Sukarno et al., 2023)

#### c. Preventive Efforts and Solutions

To prevent similar crimes in the future, there is a need for institutional strengthening, legal certainty regarding the status of forest areas, and education to the public about the functions and limits of forest use. In addition, a restorative justice approach can be considered to resolve land conflicts in a participatory manner, while still prioritizing environmental protection. (Sukarno et al., 2023)

The application of monitoring technology such as geospatial information systems, satellite imagery, and drones by the government can also be a tool in detecting changes in land function quickly. Community participation through social forestry schemes must also be strengthened so that local communities have legal access to manage forests sustainably without damaging them.

## 4. Conclusion

Based on the results of the research and analysis that has been carried out, it can be concluded that the practice of converting forest areas into oil palm plantations in Belitung Regency is a form of violation of the law that meets the elements of forestry crimes as stipulated in Law No. 41 of 1999 concerning Forestry and Law No. 18 of 2013 concerning the Prevention and Eradication of Forest Destruction.(Caniago et al., 2023) The act of clearing land in forest areas without permits, planting non-forestry commodities such as oil palm, and ignoring the legal status of the area are unlawful acts that have criminal and administrative consequences. The element of intentionality (*dolus*), unlawful acts (logging, burning, conversion), as well as the consequences of environmental damage and loss of the function of forests as a buffer for the ecosystem, have all been fulfilled in the cases that occurred in the region. (Rauf et al., n.d.) On the other hand, the application of the law in resolving cases of forest conversion still faces various structural and substantial obstacles. From the aspect of criminal law enforcement, although the provisions of criminal sanctions are quite strict, their implementation is often constrained by weak valid spatial data, overlapping spatial regulations, and the influence of economic-political forces from business actors. Several cases that have been handled by law enforcement officials such as the Prosecutor's Office and the Police show difficulties in the evidentiary process, especially in proving malicious intent (*mens rea*) and the absence of official permits.

Meanwhile, from the aspect of forestry administration, the actions of local governments and related ministries in providing administrative sanctions for violations of forest areas are still ineffective. Weak supervision, indecisive sanctions in the form of revocation of permits or regional restoration, and lack of coordination between central and regional institutions cause many violations not to be followed up optimally. In addition, the overlapping conflict between the determination of forest areas and regional spatial planning (RTRW) further clouds legal clarity and widens the gap in violations. (Apriani & Fikriana, 2023)

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