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Saving Forests through Sustainable Financing Instruments and Law Enforcement against Financial Backers

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Abstract

International reports show a correlation between financing and deforestation. Law enforcement has not fully touched financiers and beneficiaries. Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction is a progressive regulation that regulates the punishment of activities to fund forest destruction. Still, the offense is relatively rarely used by law enforcement. This study uses normative legal research methods and case studies. The study aims to dissect the concept of funding forest destruction and explore strategies for implementing sustainable financing. The study results show that the punishment for supporting forest destruction must be done by proving the element of guilt, namely the element of intentionality for individuals and at least culpa lata for corporations. To implement sustainable financing, strategies for financial institutions include strengthening the principal system of recognizing service users, active and continuous monitoring and auditing, and cross-sector collaboration. Financial institutions must also support policies and guidelines related to green financing, anti-money laundering, and anti-deforestation. The challenge of funding forest destruction is the existence of business actors who take refuge in complete permits and the absence of operational definitions in Law Number 18 of 2013. The case study results show that the punishment for funding forest destruction cannot be done partially but must simultaneously ensnare investors, forest destruction actors, and other parties who participate.

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Introduction

NatureFinance's report titled "Breaking the Environmental Crimes-Finance," released on January 12, 2022, shows the connection between environmental crimes and the financial system. NatureFinance is a Swiss-based non-profit organization whose vision is to align global financial policy with nature conservation and restoration issues. The reality presented in the report is unequivocal: environmental crime is one of the five most profitable global criminal activities, generating nearly $300 billion annually and incurring tax revenue losses of almost $30 billion annually. The report exposes that financial institutions often unwittingly provide capital through legitimate investments to environmental criminals. NatureFinance calls on the

global financial community to work with regulators and civil society organizations to take steps to ensure the entire financing value chain is free from environmental crimes.[1]

Meanwhile, a 2022 report from Forests Finance also reported that banks worldwide had provided loans worth USD267 billion to 300 natural resource corporations operating in Latin America, Southeast Asia, and Central and West Africa between 2016-September 2022. These credits have an impact on deforestation and peat destruction in these areas. Forests Finance is a coalition of non-profit organizations consisting of Rainforest Action Network, TuK Indonesia, Profundo, Amazon Watch, Repórter Brasil, BankTrack, Sahabat Alam Malaysia, and Friends of the Earth US. Forests Finance seeks to prevent financial institutions from financing activities at high risk of deforestation through improved transparency, policies, systems, and regulations in the financial system.[2]

Financial institutions are no longer places for laundering money from crime, but there are times when financial institutions also target profits by funding illegal activities. Businesses in the natural resources sector, both legal and illegal, do promise fantastic profits, so there will be many rent-hunters willing to support these activities. International circles are even beginning to argue that environmental crime is more profitable than drug crime or counterfeiting, as Gill Wadsworth, a British financial journalist, argues: "Forget drug smuggling, forgery or vice; if you want to make money from crime, the environment provides the biggest returns" (Wadsworth 2022).

One typology of environmental crime that earns fantastic profits is a crime in forestry. Forest destruction has become a crime of tremendous impact, organized, and capitalized by white-collar syndicates hiding behind field actors, with cross-country networks, task sharing, and sophisticated modus operandi.[3] It has always been a classic problem that law enforcement efforts only target field actors and have not touched the level of financiers, "backing" by officials, "masterminds," to "ultimate beneficial owners." Anyone who benefits from a criminal offense can be held accountable before the law. To have a more deterrent effect, law enforcement must also touch "financial backers." Financiers are beneficiaries of a criminal act. If law enforcement is just about discovering who the suspect is (following the suspect), it is an outdated law enforcement paradigm. Entangling investors is one form of following the money to recover criminal assets.

On August 6, 2013, the government passed Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction (Anti-Forest Destruction Law). The Anti-Forest Destruction Law provides for stricter law enforcement for perpetrators of forest destruction.[3] The previous law, Law Number 41 of 1999 concerning Forestry, was considered inadequate to ensnare organized forest destruction. The Anti-Forest Destruction Law focuses on forest destruction carried out in an organized manner and recognizes criminal acts in the field of forest destruction as serious crimes. The principle of the Anti-Forest Destruction Law is to break every link in the chain of forest destruction and hold every party involved in the vortex of corruption, one of which is the party who funded the crime. The Anti-Forest Destruction Law imposes criminal provisions related to funding forest destruction. Article 94 paragraph (1) point c of the Anti-Forest Destruction Law stipulates that individuals who

[1] NatureFinance, "Breaking the Environmental Crimes-Finance Connection", 2022, page. 6, https://www.naturefinance.net/wp-content/uploads/2022/08/BreakingEnvironmentalCrimesFinanceConnection.pdf, diakses 14 Februari 2023.

[2] Forests & Finance, "Policy Assessment 2022 - Is Your Money Destroying Rainforests or Violating Rights?", 2022, page. 2, https://forestsandfinance.org/wp-content/uploads/2022/10/FF2022-policy-briefer.pdf, diakses 14 Februari 2023.

[3] Anti-Forest Destruction Law then was amended by Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation jo. Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation to become Law (hereafter is called Job Creation Law).

intentionally fund illegal logging and/or illegal use of forest areas directly or indirectly are sentenced to imprisonment between 8-15 years and fines between Rp10,000,000,000.00 to Rp100,000,000,000.00. Then Article 94 paragraph (2) point c postulates that corporations that fund illegal logging and/or illegal use of forest areas directly or indirectly are sentenced to imprisonment between 10 years to life and fines between Rp20,000,000,000.00 to Rp1,000,000,000,000.00.

Why should law enforcement funding forest destruction be carried out in addition to law enforcement of money laundering (TPPU)? The world is getting more sophisticated, and crime typologies are constantly evolving. Perpetrators of money laundering crimes are increasingly Difficult to detect because they have not used old method in money laundering (placement, layering, and integration). The presence of professional money launderers (PML) makes it difficult for law enforcement officials to track assets disguised or hidden by criminal networks. On the other hand, law enforcement against funding forest destruction is an offense that is still relatively rarely used, and there is an opportunity to cause maximum deterrent effects. Funds are the "breath" of a criminal act and, therefore, must be cut off through a combination of TPPU law enforcement and criminalization of funding illegal activities.[4]

This paper analyzes the concept of punishment for funding forest destruction. Law enforcement officials must innovate by implementing as many articles as possible in regulations. In investigating the criminal act of forest destruction, the investigator does not always have to investigate the primary offence alone. Other crimes that accompany the primary offence must also be taken seriously. Lawmakers, of course, are not arbitrary in formulating an article because they want to achieve a goal (legal politics). The experimentation of an article is also simultaneously to test whether the report can be implemented, when applied in the field, as a means for policy improvement in the future. Implementing penalties for funding forest destruction can also be essential to increase business compliance to realize green finance in Indonesia. Thus, there are four issues discussed in this paper, namely: a) dissecting concepts related to the offense of funding forest destruction, b) strategies for implementing sustainable financing for financial institutions, c) challenges in the application of criminal offenses funding forest destruction, and d) case studies of funding forest destruction as lessons for law enforcement officials.

Methods

This study proposes recommendations on law enforcement issues related to funding forest destruction. The study applies normative legal research methods, namely analyzing laws and regulations governing forest destruction financing and the concept of sustainable financing. This research examines legal provisions and legal principles to find solutions to legal problems.

The study uses secondary data sources consisting of primary legal material and secondary legal material. Primary legal materials are laws and regulations, including Anti-Forest Destruction Law; Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering (Anti-Money Laundering Law); Law Number 9 of 2013 concerning the Prevention and Eradication of Criminal Acts of Terrorism Financing (Terrorism Financing Act); Law Number 21 of 2011 concerning the Financial Services Authority; Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector; and Law Number 48

[4] Experts explain the importance of criminalizing financial backers of forest destruction in addition to criminalizing money laundering. Setiono & Husein (2005) have previously identified the involvement of financiers or *cukong* as a factor that makes illegal logging in Indonesia very difficult to combat. Luttrell et al. (2011) then provide recommendations to law enforcement officials to expand the range of action against funders and officials who condone illegal activities in forest areas. The study from Goncalves et al. (2012) further recommends that forestry authorities, investigators, and prosecutors to look at the financial aspects of forest destruction. Regulations in the forestry sector need to be designed to ensnare funders and beneficiaries of the proceeds of crime and tighten supervision in the banking sector for the forest industry.

of 2009 concerning Judicial Power. Then secondary legal materials are scientific studies, legal literature, and international conventions, some of which are the United Nations Convention Against Transnational Organized Crime (UNTOC) and the International Convention on the Eradication of Terrorism Financing, 1999. All data is processed and analyzed descriptively through literature studies. This method is used to develop a conceptual framework for the criminal offense of funding forest destruction and sustainable financing instruments in Indonesia.

This paper also applies a case study approach to identify patterns of handling cases funding forest destruction. The paper uses investigative data (P-21) from the Directorate General of Environmental and Forestry Law Enforcement and two cases (*inkracht van gewijsde*) of funding forest destruction downloaded from the Supreme Court's Case Tracing Information System.

Discussion

Dissecting the Concept of Funding Forest Destruction

Some laws provide penalties for accompanying or assisting in committing a criminal offense, but few provide penalties for funding a criminal offense. Criminalization of the financing of illegal activities has at least four objectives, namely: a) reducing the motivation of any person or corporation to fund criminal acts; b) encouraging financial institutions to tighten standard operating procedures (SOPs) and business processes in financing distribution; c) obtain criminal liability for each beneficiary and affiliated party of a criminal offense; and d) cut off the resources of organized criminal networks.

In addition to being regulated in the Anti-Forest Destruction Law, punishment for funding illegal activities can only be found in Law Number 44 of 2008 concerning Pornography and Law on Terrorism Financing. The concept of punishment in terrorism financing is the main source used as a reference in comparison. The punishment for terrorism financing is regulated in Article 4 of the Terrorism Financing Law, which postulates that any person who knowingly provides, collects, gives, or lends funds, either directly or indirectly, with the intention of being used in whole or in part to commit a criminal act of terrorism, a terrorist organization, or terrorist shall be sentenced to imprisonment for a maximum of 15 years and a maximum fine of Rp1,000,000,000, 00.

The criminalization of terrorism financing has become an international concern and is applied in many countries. Indonesia passed Law Number 6 of 2006 concerning the Ratification of the International Convention for the Suppression of The Financing of Terrorism, 1999. Through this ratification, Indonesia, as part of the international community, must actively participate in eradicating the financing of criminal acts of terrorism, one of which is through the criminal framework. In contrast to funding forest destruction, similar practices have not been widely adopted by other countries, and there is not even an international convention on combating forest destruction financing. Thus, policymakers in Indonesia have been very progressive by regulating penalties for funding forest destruction.

Funding criminal acts in forest destruction is characteristically different from terrorism financing. Activities in the forestry sector are economic activities that bring financial benefits. At the same time, terrorism is a criminal act with a different purpose, namely, to create fear in the community or to perpetuate the existence of terrorists or terrorist organizations. Terrorism financing is carried out from traditional means, such as sympathizer fundraising, to sophisticated ways through cross-border fundraising. A different typology occurs in funding forest destruction crimes, often done through legal investments.

Criminal acts in the forestry sector are organized, so there cannot be only a single perpetrator, but there are parties who fund and enjoy the proceeds of crime. Business of natural resources such as mining or plantations is indeed a high-cost-high-gain activity, so relatively

large capital is needed to work on it. For the mining business, it is necessary to procure sophisticated infrastructure and reliable labor at a high price. For the plantation industry, a long-term business commitment is needed because one crop cycle of oil palm, for example, can take up to 25 years.

So far, the discussion about organized crime is still more about the "proceed of crime." In UNTOC, "proceed of crime" is mentioned 30 times, while "funding of crime" or other words related to funding criminal acts is not even mentioned. To eradicate organized crime completely, it should be not only the results of the crime but also the funding. Money laundering is an offense that occurs downstream while funding illegal activities occurs upstream. Both poles must be eradicated continuously.

The Anti-Forest Destruction Law is a regulation whose content mostly talks about the prohibition and enforcement of rules in forest destruction. Article 11 paragraph (1) of the Anti-Forest Destruction Law jo. Job Creation Law states that forest destruction includes illegal logging activities and/or illegal use of forest areas carried out in an organized manner. Criminal offenses in the Anti-Forest Destruction Law consist of primary offense in the form of a) illegal logging and b) illegal use of forest areas. Article 1 Number 4 of the Anti-Forest Destruction Law defines illegal logging as all organized illegal use of timber forest products. Illegal logging cases are not limited to logging activities in unlicensed forest areas, but also include illegal timber circulation and activities to accommodate and/or utilize illegal timber forest products. Meanwhile, illicit use of forest areas is defined in Article 1 Number 5 of the Anti-Forest Destruction Law as organized activities carried out within forest areas for plantations and/or mining without a Business License from the Government.[5]

In addition, the Anti-Forest Destruction Law regulates the ancillary offense of the primary offense. The typology of ancillary offense of forest destruction can be seen in Articles 19 to Article 28 of the Anti-Forest Destruction Law, including: a) participating in or assisting forest destruction; b) committing malicious conspiracies; c) funding forest destruction directly or indirectly; d) using funds allegedly derived from forest destruction; e) change the status of timber from illegal logging and/or the result of illegal use of forest areas, as if it were legal timber, or the results of the legal use of forest areas for sale to third parties, both at home and abroad; f) utilizing illegally logged wood by changing its shape and size, including waste utilization; g) place, transfer, pay, spend, grant, donate, deposit, carry abroad, and/or exchanging money or other securities and other assets known or reasonably suspected to be the proceed of forest destruction; h) conceal or disguise the origin of property known or reasonably suspected to be derived from the proceeds of forest destruction so that it appears to be legitimate property; i) prevent, hinder, and/or thwart directly or indirectly efforts to eradicate forest destruction; j) utilizing wood from forest destruction originating from conservation forests; k) obstruct and/or thwart any investigation, investigation, prosecution, or examination in a court of law; l) intimidate and/or threaten the safety of officers; m) falsify permits for the utilization of timber forest products and/or the use of forest areas; n) use fake permits for the use of timber forest products and/or the use of forest areas; o) transfer or sell permits issued by competent authorities except with the approval of the Minister; p) damage forest protection facilities and infrastructure; q) damage, remove, or eliminate the outer boundaries of forest areas, forest area function boundaries, or forest area boundaries that are close to state boundaries resulting in changes in the shape and/or extent of forest areas; or r) criminal acts by public officials.

Ancillary offense related to financial crimes in the Anti-Forest Destruction Law has the most severe criminal sanctions compared to the principal crime itself. Funding, laundering wealth, and using funds from forest destruction are punishable by life imprisonment and a fine of IDR 1 trillion if committed by corporations. The formulation of criminal offenses to fund

[5] The details of illegal mining and plantation activities without Business License can be found in Article 17 paragraph (1) and Article 17 paragraph (2) Anti-Forest Destruction Law jo. Job Creation Law.

illegal logging and/or illegal use of forest areas in the Anti-Forest Destruction Law shows that policymakers are aware that criminal acts in the forestry sector are organized crimes and have serious impacts, such as terrorism.

The criminal offense of funding forest destruction, as stipulated in the Anti-Forest Destruction Law, offers several advantages for law enforcement officials. First, the proof is relatively more straightforward than money laundering cases because law enforcement officials do not need to prove whether the funds used to carry out forest destruction came from legitimate results. Second, the act of funding forest destruction is still punishable regardless of whether the funds are used entirely or only in part by the principal criminal. Third, funding forest destruction can be done directly or indirectly. This offense can ensnare parties indirectly providing funds for illegal activities, such as sending funds through intermediaries.

Then when compared to other participation criminal offenses, the offense of funding forest destruction also has advantages. Other ancillary crimes, such as criminal offenses of ordering, organizing, mobilizing, or committing evil conspiracies, have a vast scope of acts. On the other hand, funding is a more specific act. The more specific the action, the more focused the search for evidence. Funding is easier to prove if the investigator has evidence of the flow of funds. The activity of ordering, organizing, mobilizing, or committing evil conspiracies is relatively challenging to prove because there must be orders expressed either orally or in writing, or through electronic media. Evidence of confession in the form of witness statements or statements of the accused cannot be relied upon entirely.

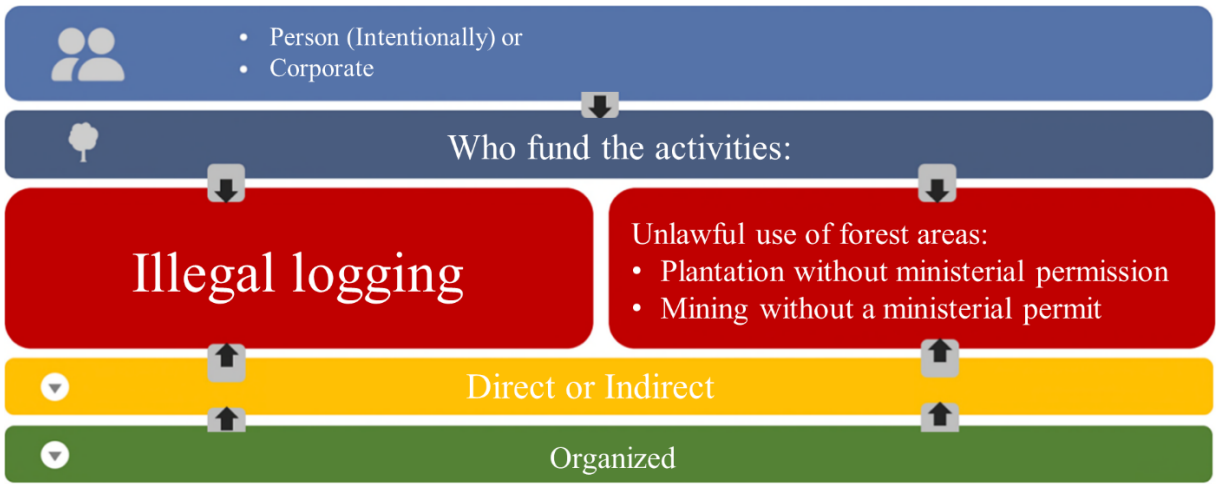

Figure 1. Construction of Article 94 Paragraph (1) Letter c and Article 94 Paragraph (2) Point c of the Anti-Forest Destruction Law

To criminalise the financing of forest destruction, the major crime of forest destruction in the form of illegal logging and/or illegal use of forest areas must have occurred. If the primary offense has not happened, the funding activities cannot be categorized as a criminal offense. This differs from the formulation of terrorism financing stipulated in Article 4 of the Terrorism Financing Law. If a person provides funds to a terrorist or terrorist organization, even though the funds are not necessarily used to carry out terrorist activities-the act is considered a criminal offense. The crime of funding forest destruction is not a stand-alone crime like the crime of financing terrorism. Even though the act of supporting forest destruction has occurred, it is not a criminal offense if the crime of forest destruction is void/not committed.

Who are the legal subjects who can fund forest destruction under the framework of the Anti-Forest Destruction Law? The subject of law includes natural persons (who knowingly) or corporations inside or outside the territory of Indonesia. If we want to know who are the subjects

of corporation, at least we can refer to financial service providers as stipulated in Article 17 Paragraph 1 letter a of the Anti-Money Laundering Law, which includes 16 types of financial service providers, including banks; finance companies; insurance companies and insurance brokerage companies; pension funds of financial institutions; securities companies; investment manager; Custodian; trustee; Depositors as current account service providers; foreign exchange traders; organizer of payment instruments using cards; e-money or e-wallet organizer; cooperatives that carry out savings and loans activities; pawnshops; companies engaged in commodity futures trading; or organizers of money transfer business activities. In addition to the 16 types of financial service providers as stipulated in the Anti-Money Laundering Law, the types of financial service providers were finally expanded through Government Regulation Number 61 of 2021 concerning Amendments of Government Regulation Number 43 of 2015 concerning Reporting Parties in the Prevention and Eradication of Money Laundering Crimes, namely: venture capital companies; infrastructure finance companies; microfinance institutions; export financing institutions; information technology-based lending and borrowing service providers; crowdfunding service providers through information technology-based stock offerings; or information technology-based financial transaction service providers.

Law Number 21 of 2011 concerning the Financial Services Authority can also be used as a reference because the Law introduces the term financial service institution, namely institutions that carry out activities in the banking sector, capital market, insurance, pension funds, financing institutions, and other financial service institutions. However, corporations within the framework of the Anti-Forest Destruction Law are not only limited to corporations in the financial sector because corporations are defined as organized collections of people and/or wealth, both in the form of legal entities and non-legal entities.

In Article 94, paragraph (1) point c of the Anti-Forest Destruction Law, an individual's legal subject must be proven intentional. In contrast to Article 94 paragraph (2) letter c, where the subject of law is a corporation, and no element of intentionality is needed. The absence of the component "intentionally" in Article 94 paragraph (2) point c is considered quite reasonable because the corporation (*rechtspersoon*) as a legal subject is considered to have no will like a human legal subject (*natuurlijk persoon*). Proving intentionality is very difficult; therefore law enforcement against corporate law subjects is relatively easier to prove than individual legal subjects. The corporation does not have to prove the element of intentionality but rather the element of negligence. However, Article 94 paragraph (2) point c should not become uncontrollable that criminalizes many corporations, especially financial institutions, so it needs legal criteria and interpretation. What are the limitations of the criteria for "funding" forest destruction? There must be *mens rea* attested by law enforcement officials.

Actors may carry out illegal activities in business operations and abuse legal funding from fund providers. Is the fund provider still at fault? The basic principle of criminal law is the matter of guilt (*nulla poena sine culpa*). A person can only be punished criminally if he has made a mistake. When a fund is misused to commit forest destruction, then the provider of funds cannot necessarily be blamed if we adhere to the principle of *nulla poena sine culpa*. Thus, even if all elements in Article 94 paragraph (1) point c or Article 94 paragraph (2) point c are fulfilled, an individual or corporation cannot be convicted if there is no element of guilt against him.

The principle of *nulla poena sine culpa* is adopted in Indonesian legal system and can be seen in Article 6 paragraph (2) of Law Number 48 of 2009 concerning Judicial Power, which reads: "No one can be convicted unless the court, due to lawful evidence, finds that a person who is considered responsible, has been guilty of the act charged against him." If the Judge thinks that the funder has no element of guilt, then the Judge can impose a judgment of release from all lawsuits (*ontslag van alle rechtsvervolging*), even though all aspects of the offense are satisfied. Elements of wrongdoing in criminal law include willfulness and negligence. Experts

compile fault gradation categories that indicate the level of error in quality from the heaviest to the lightest, namely: intentionality with objective (*dolus directus*); intentionality with conscious certainty (*opzet met zekerheidsbewustzijn*); intentional with conscious possibility (*dolus eventualis*); severe forgetfulness (*culpa lata*/*grove schuld*); and mild forgetfulness (*culpa levissima*).[6]

Intentionality (*dolus*) and negligence (*culpa*) are forms of guilt and show the inner connection between the doer and the deed. Willfulness is defined as "willing and knowing" (*willens en wetens*), i.e., someone who wills and converts actions and consequences. Article 94 paragraph (1) point c requires the existence of an element "intentionally" for the legal subject of natural persons. How to prove that an act was done intentionally? Three qualifications of mental attitudes in intentionality can be used for proof, as quoted from Erdianti (2019), namely:

a. Intentionality as an intent (*dolus directus*)
   Intentionality as an intention is defined when a person "wants" to do an action as well as "wants" the consequences of that action. This means that the "will" to do so was intended or intended to cause "the desired effect." For example, if someone wants to do illegal logging, he will enter the forest area and cut down the trees.
b. Intentionality with a definite purpose
   The essence of this form of intentionality rests on its consequences. In doing an action, a person realizes with certainty that other products will arise from his actions. Thus, an effort will produce "definite consequences" and "other consequences" that are already known with certainty. For example, suppose there are business actors who want to carry out plantation activities in forest areas without permits. In that case, other consequences will undoubtedly arise, namely illegal logging for land clearing purposes.
c. Intentional with the conscious possibility (*dolus eventualis*)
   In this form of intentionality, a person performs actions by realizing/imagining other consequences that are likely to occur, even though the other consequences are undesirable. A person is aware of the possibility of other consequences of an action, but he does not cancel his intention, and in the end, the other consequences occur. For example, a heavy equipment rental company lends an excavator to a mining operator. The heavy equipment rental company knew that the mining operator still had a working area that had not been completed with the Forest Area Use Agreement (*Persetujuan Penggunaan Kawasan Hutan*/PPKH) but did not cancel the intention, instead only hoping that the leased equipment would only be used in areas that already had PPKH. It turned out that an unwanted purpose occurred, where excavators were used to mine in areas that did not yet have PPKH and were carried out by law enforcement by the apparatus. Finally, heavy equipment rental companies must be involved in legal matters.

Meanwhile, negligence can be divided into two types, namely, *culpa lata* and *culpa levissima*. *Culpa levissima* is a mild omission, while *culpa lata* is a severe omission. What becomes relevant to criminal law is *culpa lata*, i.e., negligence and omission, and not *culpa levissima*, i.e., negligence so minor that it is unnecessary to cause a person to be convicted (see Farid 2007 quoted from Muntaha 2017; Prodjodikoro 2003 quoted from Wibowo Anjari 2022). *Culpa* has the potential to occur because someone lacks information or does not make reasonable estimates of an action. In addition to two types of negligence in the form of *culpa lata* and *culpa levissima*, legal science also recognizes two other types of negligence, as Tongat (2008) argues, namely:[7]

[6] Wibowo, K. T. & Anjari, W., *Hukum Pidana Materiil*, (Jakarta: Penerbit Kencana, 2022), page. 161.

[7] Cited from Hidayat, Sabrina, *Pembuktian Kesalahan - Pertanggungjawaban Pidana Dokter Atas Dugaan Malpraktik Medis*, (Surabaya: Scopindo Media Pustaka, 2020), page 84.

a. Conscious negligence (*bewuste schuld*)
   In conscious negligence, the perpetrator can be aware of what was done and the (bad) consequences that can occur, but he believes and hopes that the bad consequences will not happen. *Bewuste schuld* is the same concept as *culpa lata*.
b. Unconscious negligence (*onbewuste schuld*)
   In unconscious negligence, the perpetrator commits an act by 'not realizing' the possibility of (bad) consequences, even though he 'should' have foreguessed. In other words, the perpetrator does not consider the possibility of consequences that are prohibited and threatened with a crime. *Onbewuste schuld* is the same concept as *culpa levissima*.

Should the funder know that his funds will be used for illegal activities? In the financial business, all economic business activists must realize that companies in the financial sector have high risks. In addition to being vulnerable to money laundering, funds revolving in the financial industry are vulnerable to being used to fund illegal activities such as terrorism or forest destruction. So this risk must be instilled in the minds of all fund-provider corporations. Therefore, fund providers must carry out a system of due diligence and continuous monitoring and audit to prevent or at least overcome as soon as possible when criminal acts have occurred. Know your customer (KYC) principles are currently metamorphosing into customer due diligence (CDD), even more in-depth CDD, namely enhanced due diligence (EDD). In Indonesia, this system is the principle of recognizing service users (*prinsip mengenali pengguna jasa*/PMPJ). This principle is expected to be effective for anticipating trafficking and funding illegal activities. The debtor must provide accurate and complete information to the financial service provider, including declaring beneficial and ultimate beneficial owners.

For example, when there is a company holding a Forest Utilization Business Permit (*Perizinan Berusaha Pemanfaatan Hutan*/PBPH) that has complete permits and a good reputation in the community, but at the operational stage, it turns out that the company is logging outside the permitted area. Probably the funder do not know the deviant intentions of the company when approving the financing proposal. Such examples do not yet reflect *culpa lata*. Suppose the funder provides funds to business actors who he knows are at high risk of forest destruction. Still, the funder only hopes that forest destruction will not occur without an attempt to cancel the intention to finance. And in fact, forest destruction really occurs so that the funder is classified as *culpa lata*, because he already knows the risks that will happen, even though he does not want these risks. The behavior of fund providers who provide funding without supplementing it with PMPJ and active monitoring and audit can be considered *culpa lata* and can be subject to criminal liability.

Sustainable Financing Implementation Strategy

The government, through the Indonesia Financial Services Authority (OJK), has released the Indonesian Sustainable Finance Roadmap 2015-2019. This roadmap was then operationalized with the issuance of OJK Regulation Number 51/POJK.03/2017 concerning the Application of Sustainable Finance for Financial Service Institutions, Issuers, and Public Companies. The OJK regulation introduces a new obligation for financial service institutions to prepare a Sustainable Finance Action Plan and Sustainability Report to the public that contains economic, financial, social, and environmental performance.

On January 12, 2023, the government again spawned the financial sector omnibus law through Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector. The law revises sixteen regulations in the financial sector. An important content in this omnibus law is the application of sustainable finance, which is regulated in a specific chapter, that is Chapter XVII. All financial business actors, issuers, and public companies are mandated to internalize sustainable finance principles by doing: a) business

practices and investment strategies that integrate environmental, social, and governance aspects; and b) development of products, transactions, and services to finance sustainable activities and transition financing. Article 224 of Law Number 4 of 2023 also mandates the Ministry of Finance, the OJK, and Bank Indonesia to establish a sustainable finance committee.

Regarding green finance, in general, the strategy model that financial institutions can implement sustainable financing is as follows:

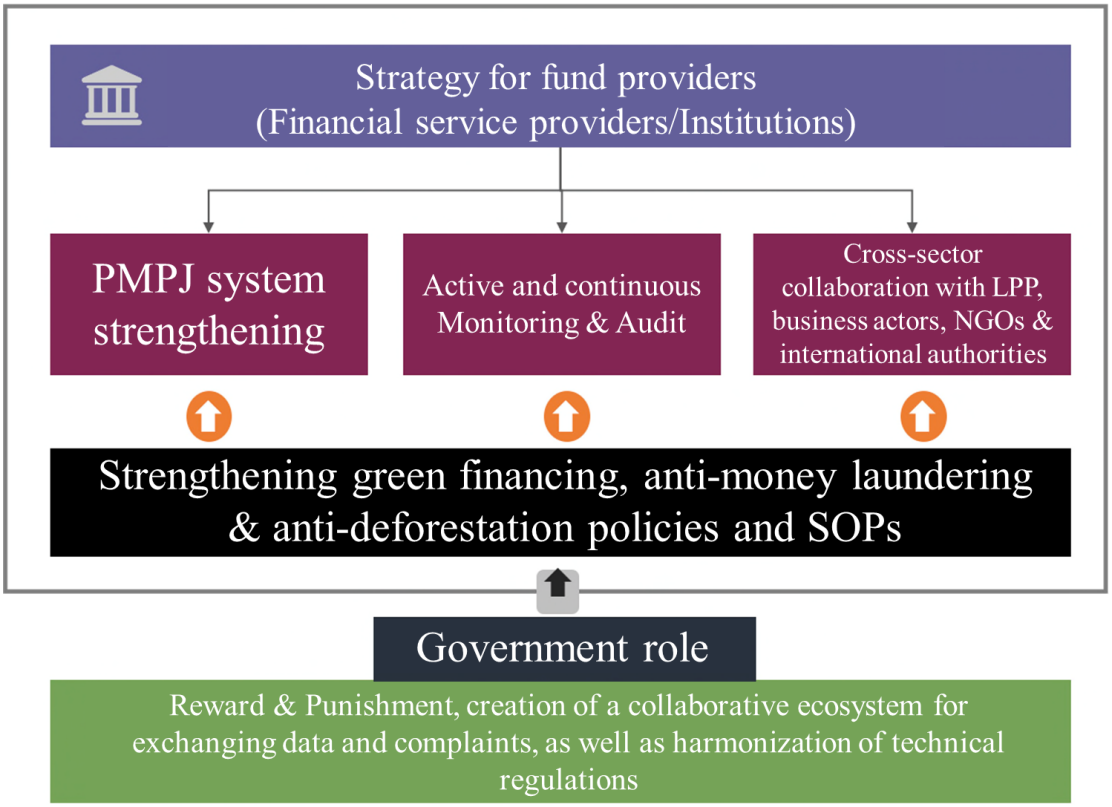

Figure 2. Sustainable Financing Implementation Strategy

The Government of Indonesia seeks to strengthen financial industry governance by introducing anti-money laundering and counter-terrorism financing policies. On the other hand, policies related to pro-environment and anti-deforestation funding have not been fully internalized. PMPJ is indeed challenging to be firmly internalized by all financial institutions. The implementation of PMPJ takes time, human resources, and costs. Competition in the financial industry is also very tight, so financial institutions compete to find as many service users as possible. When financial institutions deal with the law, the risks and costs will far outweigh investing in strengthening the PMPJ system.

Funders need to be more careful in reading financing proposals. Fund providers must know carefully the business processes involved by prospective debtors and the legality needed to run the business. The offense of forest destruction in the Anti-Forest Destruction Law is primarily a formal offense, thus requiring business actors to have permits when doing business in the field of timber or utilization of forest areas for plantation or mining activities. In the utilization and/or collection of timber forest products, business actors must have PBPH, Forest Product Processing Business Permits, and/or Operational Approvals for Forest Product Processing Activities.[8] Regarding the legality of the circulation of timber forest products, the required

[8] To find out Business License in the field of natural resources, we can refer to Government Regulation Number 5 of 2021 concerning Implementation of Risk-Based Business Licensing.

documents include a Certificate of Validity of Timber Forest Products, a transportation note, or a company note.[9]

In the plantation sector, business actors are required to have a Business License in the plantation subsector consisting of activities: cultivation, processing of plantation products integrated with plantation cultivation, processing of plantation products on the SME scale, and plantation seed production; land rights in the form of Business Use Rights (*Hak Guna Usaha*/HGU); and Forest Area Release Approval (*Persetujuan Pelepasan Kawasan Hutan*) if the activity area is within the forest area. It should be noted that specifically for plantation activities built in forest areas without forestry permits carried out before November 2, 2020, the legality given is PPKH, whose duration for one cycle is a maximum of 25 years from the planting period for oil palm plantations or in accordance with permits in their fields for other plantation activities.[10]

In mining activities, the legality that must be owned is Business Licensing. Business Licensing consists of a general survey of upstream and downstream business activities for the oil and gas subsector. Regarding the mineral and coal subsector, Business Licensing consists of activities: mining, special mining, particular mining as a continuation of contract/agreement operations, community mining, rock mining, transportation and sales, mining services, and mining for sales. If mining activities are within a forest area, business actors must pocket PPKH.

All activities in the forestry, plantation, and mining sectors must be equipped with work plans and environmental documents such as Environmental Approvals, Technical Approvals, and other required environmental documents. In addition to the obligation to have complete licensing, responsible business actors can be seen from compliance in paying taxes and non-tax state revenues (PNBP), corporate social responsibility, compliance with local regulations, risk and environmental management (including prevention and control of forest fires), certification, conflict resolution, and partnerships with local stakeholders.

It should be noted that there may be Business License areas for the plantation or mining sector in forest areas that have not been fully equipped with PPKH or Forest Area Release Approval. This is what must be carefully considered by financial institutions. If work areas still have not been equipped with permits in the forestry sector, then the financing proposal must be rejected. If the financial institution is not careful and continues distributing funds, it can be held criminally liable for approving the financing proposal. Financial institutions that passively carry out PMPJ will be vulnerable to the offense of funding forest destruction as Article 94 paragraph (2) point c.

When a fund provider detects illegal activity, it can immediately cut funding. Even fund providers must immediately report to law enforcement officials if they sniff out any illegal activities, either during the proposal stage or at the operational phase. Suspicion of suspicious financial transactions must also be reported to the Financial Transactions Reporting and Analysis Center (PPATK). Financial institutions are expected to be whistle-blowers and strategic partners of law enforcement officials. If a financial institution becomes aware of an allegedly unauthorized activity but does not try to prevent it, the fund provider is perpetuating a criminal act. For this reason, active and continuous audits and monitoring are needed from fund providers to fund users.

Financial institutions also need to expand cross-sector collaboration with strategic stakeholders, namely associations of business actors in the field of natural resources,

[9] Provisions for licensing in timber business can be seen in the Regulation of the Minister of Environment and Forestry Number 8 of 2021 concerning Forest Administration and Preparation of Forest Management Plans, and Forest Utilization in Protected Forests and Production Forests.

[10] See the provisions of Government Regulation Number 24 of 2021 concerning Procedures for Imposing Administrative Sanctions and Procedures for Non-Tax State Revenue Derived from Administrative Fines in the Forestry Sector.

supervisory and regulatory institutions (*Lembaga Pengawas dan Pengatur*/LPP), networks of non-governmental organizations (NGOs) at the national and foreign levels, and international authorities. Business associations have become a filter system to find out more about the business processes to be funded and identify business actors who have high risk. Financial institutions may request clearance from associations to strengthen the base in decision-making. Given that the financial industry is globally connected, alliances at the international level with NGO authorities and networks also need to be knitted. Currently, the Responsibank Coalition consists of a network of civil society organizations in ten countries, namely the Netherlands, Belgium, Denmark, Japan, Germany, Norway, France, Sweden, Brazil, and Indonesia. This coalition is engaged in advocating the role of the financial industry in sustainable development and poverty reduction. In Indonesia, the Responsibank Coalition consists of Perkumpulan Prakarsa, International NGOs Forum for Indonesian Development, Publish What You Pay Indonesia, Indonesian Consumer Foundation (*Yayasan Lembaga Konsumen Indonesia*), *Wahana Lingkungan Hidup*, Indonesian Corruption Watch, Tranformasi untuk Keadilan Indonesia, Kemitraan, The Institute for National and Democratic Studies, and Lokataru Foundation.

The government also has homework to create a conducive sustainable financial atmosphere. First, the government must uphold rewards and punishments to financial institutions. *The Deposit Insurance Corporation* (*Lembaga Penjamin Simpanan*/LPS), through the LPS Banking Awards, for example gives appreciation for financial institutions with green finance initiatives. One of the award categories in the LPS Banking Awards is "The Most Active Bank in Green Banking Practices." Meanwhile, the concrete form of punishment is in the form of strict law enforcement of corporations that provide financing to perpetrators of forest destruction. Second, the government must create an enabling environment so financial institutions can establish close cross-sector collaboration with relevant stakeholders. The government also needs to build a collaboration platform to facilitate data exchange and complaint facilities for financial institutions aware of suspected illegal activities. Third, the government needs to finalize all technical regulations in the financial sector, especially technical guidelines related to sustainable finance committees as mandated by the Law Number 4 of 2023.

Law enforcement against forest destruction activities should not be considered as hindering investment. Investors should not hesitate to fund business activities in forestry and natural resources. After the issuance of Job Creation Law, the forestry business will be more prospective and guaranteed legal certainty, among others, through the launching of a multi-business forestry policy and providing legality for activities built in forest areas without forestry permits carried out before November 2, 2020. Financial institutions are also expected to be more active in financing and empowering forest farmers and forest communities that already have Social Forestry Management Approval or conservation partnerships. The forestry business will not be a "poor" sector because governance is improving.

Challenges to the Application of Criminal Offenses to Fund Forest Destruction

Politically, law enforcement against financing illegal activities in the forestry sector carries a high risk. Many stakeholders will be allergic and resistant. Stakeholders will argue that business actors in the financial industry should not be punished because it will cause market distrust which will eventually lead to a financial crisis. Nevertheless, law enforcement is still needed so that opportunists and rent-seekers do not infiltrate the financial sector in Indonesia. Financial sector governance will be maintained through law enforcement.

There are financial institutions where the majority of customers are business actors in the exploitation of natural resources (forestry, plantations, or mining), so financial institutions must prioritize the precautionary principle. Funding illegal activities is fraught with high risks for

financial institutions. There is double trouble if financial institutions remain desperate for financing illegal activities. First, the risk of financial institutions being subject to criminal sanctions will affect the reputation of financial institutions. The banking business is a trusted business, so a clean reputation is something that the banking industry continues to maintain. Second, financial institutions have a risk of default when the business they fund engages in law enforcement and must cease business operations. A debtor's emergence of non-performing loans can have adverse implications because its history will be recorded in the Financial Information Service System managed by OJK. The inability to pay off credit can make a debtor's score low, so it will be difficult to apply for funding in the future.

The act of funding forest destruction is relatively difficult to detect by law enforcement officials and fund providers. There are business actors as debtors who have complete licenses, so they can take refuge in "legal packaging." This makes it difficult for financial institutions as creditors to sniff out illegal activities in the "legitimate business." In addition, many funds are also legal and have complied with the provisions of laws and regulations, so it can be used as an argument that fund providers do not fund illegal activities.

Regarding the legal framework, the Anti-Forest Destruction Law does not define or explain "funding." In the Terrorism Financing Law, it is elaborated in detail that terrorism financing is an act to provide, collect, give, or lend funds. When talking about funding, the aspects discussed are comprehensive. In addition, there is no definition of "funds" in the Anti-Forest Destruction Law. Can only everyone who funds money be punished, or can it be in the form of other assets? Clarity on the definition of "funds" is essential to be formulated in the Anti-Forest Destruction Law because there are other criminal offenses related to "funds" in the Anti-Forest Destruction Law, namely in Article 99 related to "using funds allegedly derived from illegal logging and/or illegal use of forest areas." The Anti-Forest Destruction Law only defines the term "assets resulting from the criminal act of forest destruction" as any property, whether obtained directly or indirectly from forest destruction activities, including wealth that is then converted, altered, or combined with wealth generated or obtained directly from forest destruction activities, income, capital, or other economic benefits obtained from such wealth from time to time since the occurrence of the crime forest destruction.[11]

When compared with the Terrorism Financing Act, the term "fund" is broadly defined. Article 1 Number 7 of the Terrorism Financing Law defines "funds" as: "all movable or immovable assets or objects, whether tangible or intangible, obtained by any means and in any form, including in digital or electronic format, proof of ownership, or association with all such assets or objects, including but not limited to bank credit, traveler's checks, checks issued by banks, remittance orders, stocks, securities, bonds, draft banks, and debt recognition letters." The use of the term "fund" without a definition is feared to make the act of funding forest destruction in the Anti-Forest Destruction Law has a narrow meaning, only limited to the use of financial assets such as money. Not all funders assist in the form of money but in the form of other assets such as heavy equipment, transport vehicles, fuel, or foodstuffs. Thus, legal practitioners should not use a "legalistic" lens alone in defining the term "funds" in the Anti-Forest Destruction Law. The phrase "fund" in the Anti-Forest Destruction Law must be broadly meant to include all assets, just like the term "fund" in the Terrorism Financing Law.

Case Study of Funding Forest Destruction

In addition to Investigators from the National Police of the Republic of Indonesia, Civil Investigators at central and regional forestry agencies are authorized to investigate cases of forest destruction. In 2015, the Joko Widodo administration established the Directorate General of Environmental and Forestry Law Enforcement at the Ministry of Environment and Forestry (Gakkum KLHK) as a specialist law enforcement unit in the field of environment and forestry.

[11] See Explanation of Article 71 letter f of the Anti-Forest Destruction Law.

From 2015 to 2022, 1,317 investigative cases were transferred to the Prosecutor's Office (P-21). Of these, 7 case files use criminal offenses to fund forest destruction. All of them are charged against individuals, meaning using Article 94 paragraph (1) point c of the Anti-Forest Destruction Law. No corporate suspects have been investigated related to the offense of funding forest destruction.

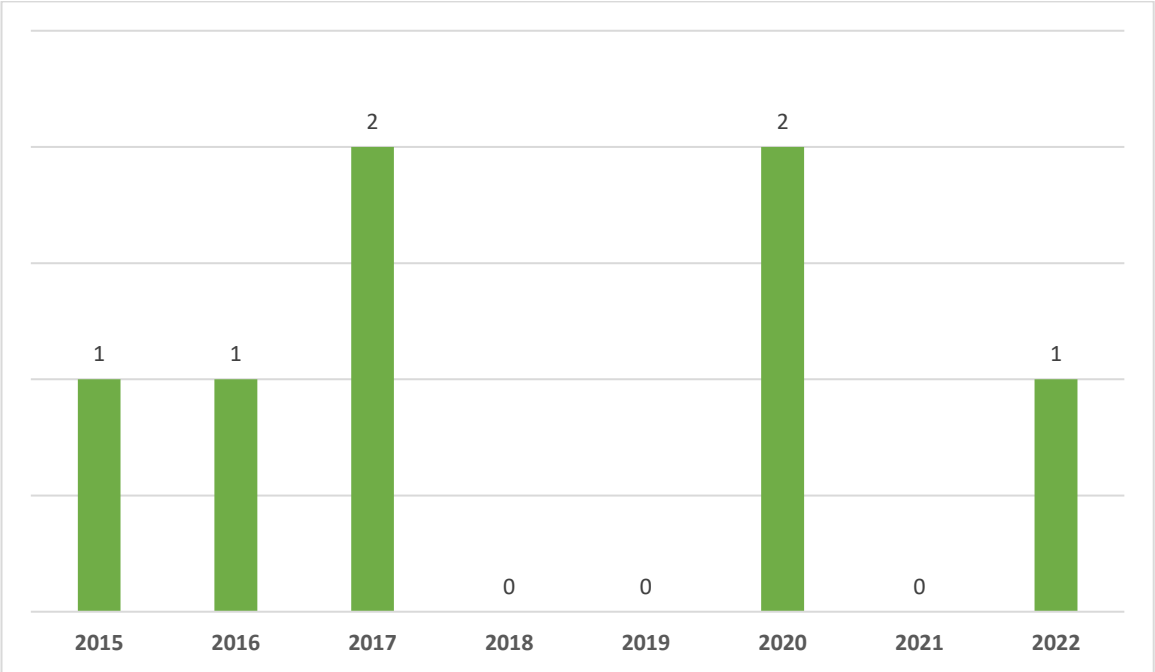

Figure 3. Number of Case Files (P-21) for Funding Forest Destruction
Source: Data on the Achievements of Gakkum KLHK 2015-2022.

From the investigation file that has been P-21, there are several cases where the offense of funding the destruction of the forest was not used as an indictment during the prosecution process. The lack of evidence is one of the reasons the Prosecutor "dropped" the offense of funding forest destruction. On the other hand, there was a case where initially the Civil Investigators of Gakkum KLHK did not use the offense of funding forest destruction, but in the prosecution process, it turned out that the Prosecutor added the charges as in the case of Robinhood Sitorus in Sorong. Based on searches in the Supreme Court's Case Tracing Information System, only two cases (*inkracht von gewijsde*) were found that used the offense of funding forest destruction, namely the case of Robinhood Sitorus in Sorong Regency (investigation process by Gakkum KLHK) and the case of Sapari Pelawi in Karo Regency (investigation process by Police Investigator).

The first case study involves Sapari Pelawi who is charged with committing, ordering to commit and participating in the act, an individual who knowingly ordered, organized, or mobilized illegal logging and/or unlawful use of forest areas, funded illegal logging and/or unlawful use of forest areas directly or indirectly. The case also named Suwardi, Suparman, Syahdan, Abdul Harun, Suwarno, Tunut, and Sandi as defendants in separate case files.

The facts of the trial revealed that Defendant Sapari Pelawi, on October 6, 2018, transferred Rp1,500,000.00 to Suwardi's account as money to cut trees in the State Forest Area, Siosar Village, Tigapanah District, Karo Regency. Kabanjahe District Court Decision Number 495/Pid.B/LH/2018/PN Kbj dated March 11, 2019 jo. Medan High Court Decision Number 368/PID. SUS-LH/2019/PT MDN dated May 28, 2019, stated that Defendant Sapari Pelawi

was legally and conclusively proven guilty of committing a criminal act in order to commit and fund illegal logging directly as the first alternative charge of the Public Prosecutor. The defendant was sentenced to imprisonment for six years and a fine of Rp10,000,000,000.00.

The second case study is the case of a.n. Robinhood Sitorus, who is the owner of PT Rimba Warsamson Lestari. Robinhood Sitorus was charged with knowingly ordering chainsaw operators Marthen Sarira, Taming, Tawang, Wanto, Elias Budo, and Yohanes Montine (all of whom were Witnesses) to carry out illegal logging in the Klamono Nature Park conservation area, Sorong Regency, West Papua Province. The chainsaw operators worked at the processing camp at TWA Klamono and obtained supplies of foodstuffs derived from money given by Defendant to Pasaribu, the coordinator of chainsaw operators. The defendant paid the chainsaw operator Rp1,000,000.00 per cubic of processed wood.

The defendant committed forest destruction by collaborating with indigenous peoples on behalf of Markus Osok, Septinus Osok, and Absalom Osok to process natural forest wood in the Klamono Nature Park. The defendant provided funds to purchase wood from the community based on the Timber Forest Product Collection Permit owned by Markus Osok, Septinus Osok, and Absalom Osok. The logs were then transported to PT Rimba Warmason Lestari, owned by Defendant Robinhood Sitorus, using the Processed Wood Invoice of the registered Timber Shelter of CV Nur Budi. Defendant's partnership with indigenous peoples was established because Defendant was willing to provide funds to indigenous peoples to arrange permits at the Sorong District Forestry Service. If a license has been issued and there is already a timber product, then the wood product will be handed over to the Defendant, taking into account the funds from the Defendant. The funds spent by the Defendant for obtaining forest product collection permits for Markus Osok, Septinus Osok, and Absalom Osok, as well as for logging operations at Klamono Nature Park, amounted to a total of Rp200,000,000.00.

Based on the facts of the trial, Judge of Sorong District Court believed that the defendant was indirectly involved in funding the illegal use of timber products at Klamono Nature Park. Sorong District Court handed down Verdict Number 6/Pid.Sus/2015/PN Son, dated March 30, 2015, stated that Defendant Robinhood Sitorus had been legally and conclusively proven guilty of "knowingly funding the unauthorized use of forest areas directly or indirectly jointly." The verdict sentenced him to nine years imprisonment and a fine of Rp10,000,000,000.00; the judge also ordered that the defendant pay Rp200,000,000.00 in lieu of money. Evidence in the form of six chainsaw units was also seized for the State.

The judge's verdict was quite progressive in determining that the defendant was proven to have funded illegal logging. The judge considered that Defendant provided funds to facilitate the acquisition of timber forest products quickly without considering the legality of the timber forest products. At the same time, wood as the object of the purchased goods did not yet exist, so it was reasonable in law to assess that the timber sale and purchase agreement was solely Defendant's modus operandi to indirectly fund to facilitate Defendant to use of timber forest products illegally. The judge also considered that, in this case, the defendant was not alone. However, there are still other people who should be prosecuted, namely chainsaw operators who directly carry out logging and wood processing actions at Klamono Nature Park, Pasaribu as coordinators, and Timber Forest Product Collection Permit holders, namely Markus Osok, Septinus Osok, and Absalom Osok.

The argument of the District Court Judge was refuted at the appellate hearing. The appellate judge handed down Decision Number 33/Pid.Sus//2015/PT JAP dated May 28, 2015, which accepted the appeal request from the defendant's legal counsel and annulled the Decision of Sorong District Court Number 6/Pid.Sus/2015/PN Son dated March 30, 2015. The panel of judges held that Defendant Robinhood Sitorus did not commit the act of funding illegal logging but was legally and convincingly proven to have committed the crime of deliberately participating in the deliberate use of illegal logging and/or illegal use of forest areas originating

from conservation forests in the third alternative charge as per Article 101 paragraph (1) of the Anti-Forest Destruction Law jo. Article 55 Paragraph (1) 1 of the Criminal Code and Law Number 8 of 1981 concerning the Code of Criminal Procedure (KUHAP). The sentence against the defendant was reduced to two years imprisonment and a fine of Rp1,400,000,000.00, provided that if the fine is not paid, it is replaced with imprisonment for two months.

The defendant is considered not to have funded illegal logging because Defendant is the buyer of timber in the forest area under the permit, while the provision of funds to permit holders and chainsaw operators is only a guide to the purchase of wood and wages that will be calculated from the proceeds of logging from the forest area. The judge also used the judgment of the Panel of Judges of First Instance, which stated that the Defendants' actions were carried out jointly. Still, in reality, Robinhood Sitorus was made the sole Defendant. The appellate judge disputed the status of Pasaribu, who was not a defendant or other party who participated in a criminal act; therefore, the elements of Article 55 Paragraph (1) 1 of the Criminal Code were not proven.

Based on the permanent legal rulings of both cases, important lessons can be learned to improve the effectiveness of investigations into funding forest destruction. It is important to carry out law enforcement against all perpetrators involved. In the case of illegal logging in Karo Regency, the financier, namely Defendant Sapari Pelawi, and seven field actors, were all made Defendants (in separate files). In case 33/Pid.Sus//2015/PT JAP, in which only Robinhood Sitorus (sole defendant) was defended, resulting in the conviction of funding illegal logging being disallowed. The main crime of forest destruction and accompanying crimes must be investigated simultaneously. Cases of funding forest destruction should be carried out simultaneously or immediately after the primary offense is incurred. The investigation will be brighter if the main criminal case file is complete so that evidence and subjects who will be used as suspects have been seen.

These two cases are unique because of the various considerations of the Judge in assessing "down payment." In the case of Robinhood Sitorus, Judge PT Jayapura did not consider that giving “down payment” was an act of funding. Meanwhile, the money in the illegal logging case of Sapari Pelawi was considered by the Judge of first instance and appellate level as funds to carry out illegal logging. Providing funds is reasonable, especially by individual actors, because they want to avoid risks if the work fails or is netted by the apparatus. Perpetrators will tend to argue that the "slack money" is not intended to fund forest destruction but for prepayment of timber forest products/mining products/plantation products, which will be repaid after the activity is completed. Even though the "incandescent money" is given with the intention of "moving" field operators and buying logistics. Thus, “down payment” can be categorized as funds for forest destruction.

Given that the Anti-Forest Destruction Law is intended to ensnare organized criminal networks, it is natural that the prosecutor wants investigators to find all actors involved in forest destruction cases. Investigations are initiated first into the primary offense of illegal logging and/or illegal use of forest areas. When the investigator has found evidence of funding activities against the primary offense of forest destruction, the investigator can immediately make a new Investigation Warrant based on the development of the case. The principal criminal investigation and the crime of funding forest destruction are separated into two case files. Thus, the investigation can be completed quickly because the investigator can use evidence and clues based on the main criminal case file. In investigating a principal criminal case, the investigator must collect evidence regarding the flow of funding and *mens rea* from the funder.

Conclusions

The results of the study provide four conclusions. First, to prosecute activities to fund forest destruction, law enforcement must prove the element of guilt of the subject of the law. For

natural legal subjects, it must be proven that the element of intentionality in funding forest destruction must be proven. As for corporate law, it must at least prove the element of negligence (*culpa lata*). Second, regarding implementing sustainable financing, financial institutions need to strengthen the PMPJ system, active and continuous monitoring and auditing, and cross-sector collaboration with LPPs, business associations, NGOs, and international authorities. These three efforts need to be supported by strengthening policies and SOPs related to green financing, anti-money laundering, and NDPE from financial institutions. The government also has a vital role in creating a conducive financing atmosphere through reward and punishment, creating a collaborative ecosystem for data exchange and complaint facilities, and harmonizing technical regulations. Third, the challenge in applying the criminal offense of funding forest destruction is the existence of business actors who take refuge in complete permits and the absence of operational definitions regarding the terminology of "funding" and "fund" in the Anti-Forest Destruction Law. Fourth, based on case studies of funding forest destruction Robinhood Sitorus in Sorong Regency and Sapari Pelawi in Karo Regency, there is an essential lesson for investigators and prosecutors: the need to carry out law enforcement against all actors involved, including financiers and forest destruction perpetrators, and other parties participating in committing it.

The financial industry in Indonesia will be more compliant and have bright prospects in line with government policies to improve governance in the financial sector. With governance gradually improving, financial institutions should not be afraid to invest their funds in forestry and natural resource entrepreneurs. Law enforcement is essential in realizing improved governance, but law enforcement must also be equipped with sustainable financing instruments. The mix of soft approach instruments in the form of sustainable financing instruments and hard approach in law enforcement is a solution for improving governance. In addition to being supported by the omnibus law of the financial sector, several government agencies have also worked together to produce pro-green finance policies, such as OJK through the Green Taxonomy, PPATK through the Anti-Green Financial Crime (GFC) program, and Bank Indonesia which initiated a Green and Sustainable Money Market Instrument. The criminal presence of funding forest destruction is not aimed at criminalizing the financial services industry. Instead, the desired legal politics is for the financial services industry to increase prudence and contribute more to forest conservation.

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