

The Imposition of Penalties toward Drivers Transporting Timber Belonging to Business Actors (Study of Judge Decision Number 284/Pid.B/LH/2021/PN RBI)

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Submission	ABSTRACT
Track:	
Received:	Purpose of the study: This article aimed to find out the legal facts in the case of transporting timber by the defendant (truck driver) (Judge Decision Study Number 284/Pid.B/LH/2021/PN RBI) and to understand the basics of the judge's considerations in imposing a criminal sentence on the driver of the timber carrier belonging to the business actor.
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Final Revision:	Methodology: Legal-normative, statutory, and conceptual approaches; types of data in the form of primary and secondary data.
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Available online:	Results : <i>First</i> , the legal facts show that in the case of the defendant (truck driver) transporting timber, there was coercion by business actors on the defendant (truck driver), and even the process of arrest was carried out by the police, as stated in the Raba Bima District Court decision number 284/Pid.B/LH/2021/PN denotes illegal arrest and detention according to the applicable laws and regulations. <i>Second</i> , after careful consideration, the judge imposed a criminal sentence on the defendant (truck driver) because there was no error in personal on the defendant and the fulfillment of the elements of every person, intentional transport of timber as referred to in Law Number 18 of 2013 concerning prevention, eradication, and
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destruction of forests, and participation in committing criminal acts as referred to in Article 55, paragraph 1 of the Criminal Code. But in this case, the judge did not carefully examine, understand, and interpret the element of participation in committing a criminal act so the judge's decision was deemed wrong neither theoretically nor practically.

Applications of this study: It is expected that this research will add insight and knowledge to the community if they experience a similar incident as the Raba Bima District Court Decision 284/Pid.B/LH/2021/PN RBI. Additionally, this research is also expected to provide theoretically and practically benefits for law enforcement and the development of science and special research on aspects of criminal law.

Novelty/Originality of this study: From this research, no one has conducted a study specifically related to the judge's decision to punish the driver, in which the driver was coerced by the owner to transport his timber.

Keywords: Criminal act; Judge's Decision; Timber Transportation

ABSTRAK

Tujuan: Artikel ini bertujuan untuk mengetahui fakta hukum dalam perkara pengangkutan kayu oleh terdakwa (supir truk) dalam Kajian Putusan Hakim Nomor 284/Pid.B/LH/2021/PN RBI dan memahami dasar-dasarnya pertimbangan hakim dalam menjatuhkan pidana terhadap pengemudi pengangkut kayu milik pelaku usaha.

Metodologi: Pendekatan hukum-normatif, perundang-undangan, dan konseptual dengan jenis data berupa data primer dan sekunder.

Hasil : Pertama, fakta hukum menunjukkan bahwa dalam hal terdakwa (supir truk) mengangkut kayu, terjadi pemaksaan pelaku usaha terhadap terdakwa. Bahkan proses penangkapan dilakukan oleh pihak kepolisian, sebagaimana disebutkan dalam putusan Pengadilan Negeri Raba Bima nomor 284/Pid.B/LH/2021/PN merupakan penangkapan dan penahanan yang tidak sah menurut peraturan perundang-undangan yang berlaku. Kedua, setelah melalui pertimbangan yang matang, hakim menjatuhkan pidana kepada terdakwa (sopir truk) karena tidak ada kesalahan pribadi pada terdakwa dan terpenuhinya unsur setiap orang, pengangkutan kayu dengan sengaja

sebagaimana dimaksud dalam Undang-Undang Nomor 18 Tahun 2013 tentang pencegahan, pembasmian, dan perusakan hutan, serta ikut serta melakukan tindak pidana sebagaimana dimaksud dalam Pasal 55 ayat 1 KUHP. Namun dalam hal ini hakim kurang teliti dalam mengkaji, memahami, dan menafsirkan unsur ikut serta melakukan tindak pidana sehingga putusan hakim dianggap salah baik secara teoritis maupun praktis.

Aplikasi penelitian ini: *Diharapkan penelitian ini dapat menambah wawasan dan pengetahuan masyarakat jika mengalami kejadian serupa seperti Putusan Pengadilan Negeri Raba Bima 284/Pid.B/LH/2021/PN RBI. Selain itu, penelitian ini juga diharapkan dapat memberikan manfaat secara teoritis dan praktis bagi penegakan hukum dan pengembangan ilmu pengetahuan serta penelitian khusus pada aspek hukum pidana.*

Kebaruan/Orisinalitas: *Dari penelitian ini, belum ada yang melakukan penelitian secara khusus terkait dengan putusan hakim yang menghukum pengemudi, dimana pengemudi dipaksa oleh pemilik untuk mengangkut kayunya.*

Kata Kunci: Tindak Pidana; Putusan Hakim; Transportasi Kayu

INTRODUCTION

A forest is an ecosystem unit that has a stretch of land as the foundation of flora and fauna where the natural habitat with other living things is inseparable (Garkovich, 1994). Forests are also a force that plays a significant role in the balance of the earth, hence forests should be used for the sake of all creatures, in the present and future. Article 33 of the 1945 Constitution of the Republic of Indonesia affirms that the entire universe can be used optimally for the prosperity of the people (Mawuntu, 2012). In this context, the state, as ruler and holder of the highest sovereignty, is obliged to regulate, protect, and maintain the environment and “sustainable forest” (Siry et al., 2005).

However, the fact shows that the current issue of deforestation is no longer a national issue but global, and it does not even rule out the possibility that such degradation will result in an increase in global emission production by 10% and then an increase in carbon dioxide by 12-17% every year. Such conditions encourage the global community to take the initiative to save forests in certain patterns (Hariyadi & Isnaeni, 2021). However, the problem arises, in which sustainable ecosystem management patterns rely on law enforcement issues and legal protection for forests and communities as integral parts of the environment. The

implementation of the forestry law should be carried out properly, especially at the level of decision-making by judges as well as when implementing the law on illegal logging and the timber transportation (Irawan, 2018).

The judge's decision in a criminal case or criminal act setting may involve a driver transporting timber, in which the timbers come from business actors (business sector). The chronology of this case is explained in Raba Bima District Court Decision Number 284/Pid.B/LH /2021/PN RBI. The accused (driver) was ordered by the owner to load timber. As for the type of timber comprise fords, and rags, as many as 63 (sixty three) logs with a size of 15x20, and some with a size of 12x20, make up the volume of 8,424 m². *Kalanggo* and *Rajumas timber* are types of plant that grow in primary forests with a large size and are still under the protection of the Ministry of Environment and Forestry (Yasin, 2019). Based on witness statements submitted by the public prosecutor, the source of the timber belonging to the business actor was obtained by gathering logs from the farmers, and the business actor sent the timber outside the area, including selling them to lumber shops in the Bima area. The defendant (the truck driver) admitted that when the owner ordered the defendant (the truck driver) to transport timber. There was coercive language in the discourse, thus the defendant (the truck driver) complied with his orders and transported as said. Such circumstance should be addressed by law enforcement officials, including the police, judges, and prosecutors before labelling one as a suspect; let alone sentencing the driver of the timber transporter, who was none other than one making livelihood.

Several previous studies have discussed the punishment for drivers transporting illegal logs not accompanied by a certificate of forest products. Rendi Rezki Irawan (2018) explained that "in the transport of illegal logs, the driver or truck driver is often suspected, including those who help to carry the timber." The form of punishment for drivers transporting illegal logs is stipulated in Article 83 paragraph (1) letter b of Law Number 18 of 2013 concerning the prevention, eradication, and destruction of forests, which explains that "any person or individual who deliberately transports, owns, or loads timber without a valid certificate of forest products shall be punished or imprisoned for a minimum of 1 (one) year, a maximum of 5 (five) years, and a fine is at least Rp. 500,000,000.00 (five hundred million rupiahs) and a maximum of Rp. 2. 500,000,000.00 (two billion five hundred million rupiahs)." Research by Abdul Rahman Upara (2015) entitled "The Process of Investigating the Criminal Act of Processed Timber Transportation without a Certificate of Legitimacy of Forest Products"

shows that "in the case of an investigation into the transportation of processed timber not accompanied by a valid certificate of forest products, carried out by way of summons, arrest, detention, confiscation of evidence, and preparation of case file. The criminal case is then transferred to the public prosecutor, and then proposed to court level. Meanwhile, Santoso, W (2007) found that "the process of cases of transporting illegal timber must be based on the forestry law, but in practice, law enforcement still encounters obstacles both in determining the perpetrators of the crime and obstacles during investigations, including problems with detention orders" in Lampung Province.

Many previous researchers have explained the connection with the criminal act of illegal timber transport, but few has been discussed in connection with the judge's decision against the truck driver transporting timber of the business actor. Based on the decision of Raba Bima District Court Number 284/Pid.B/LH/2021/PN RBI, the sentence for a truck driver is imprisonment for 1 (one) year and a fine of Rp. 500,000,000 (five hundred million rupiahs); if the fine is unpaid, it is replaced by imprisonment for 1 (one) month. So this study formulates the problem regarding the chronology of the case of transporting timber in the District Court's Decision Number 284/pid.b/lh/2021/pn RBI as well as how the judge's considerations in imposing a criminal decision on truck drivers are viewed from District Court's Decision No. 284/Pid.B /lh/2021/PN RBI.

METHOD

The research method used is normative legal, which connects the analysis of normative (doctrinal) and sociological (non-doctrinal) law (Barus, 2013). This research prioritizes discussion of legal norms and texts, but it also examines issues in studies of non-doctrinal jurisprudence or causes outside the law, such as history, economics, social issues, politics, and culture. The approaches used are statute, conceptual, and case. Sources of data are primary and secondary data (Barus, 2013). The analysis technique used the perspective of legal norms and behavior, which seeks objective truth of legal facts, legal events, or incidents and then connects them with legal norms and court decisions, along with data sources relevant to this research topic, and subsequently describes and analyzes it in-depth based on legal theories, and eventually gives final conclusion (Nurhayati et al., 2021).

RESULTS & DISCUSSION

A. Chronology of Timber Transportation Cases by Truck Drivers in the Perspective of District Court Decision Number 284/Pid.B/LH/2021/PN RBI

The chronology of this case began on Friday, May 28, 2021, at 23:00 WITA, in Kawinda Na'e Village, Tambora District, Bima Regency. Based on the legal events described in Raba Bima District Court Decision Number 284/Pid.B/LH/2021/PN RBI, it indicates that the defendant (the truck driver) was detained and arrested by a group of police in the middle of the road. The defendant (the truck driver) was suspected of loading *Kalanggo*, *Rajumas* and *Duabangga*, totaling 63 (sixty three) logs with a size of 15x20 and 9 (nine) logs with a size of 12x20 making up a volume of 8.424 m³. The brand of defendant's truck was an orange-yellow Mitsubishi truck with police number DR 8868 LZ, frame number MHMFE74P5FK140621, and engine number 4D34T-L15064.

The timber transported by the defendant (the truck driver) was not privately owned timber but 63 (sixty three) logs belonged to business actors. Entrepreneurs or business actors paid Rp. 9,000,000 (nine million rupiah) for timber from a farming community, and then the businessman ordered the defendant (the truck driver) to transport, while the defendant (the truck driver) asked the owner of the timber, "Does this timber have any documents?" The owner of the timber answered firmly and even ordered a tone that forced them to say, "The documents are all with me, you just take my timber, if anything happens it will be my responsibility." Finally, the defendant (the truck driver) called the workers to lift the logs onto the truck. On the way, the defendant (the truck driver) was immediately detained by a group of police, whose purpose at first was to see the poisoned residents at the Tambora Health Center.

Based on the chronology of the preceding cases, it can be divided into several models of action, both by the police and by business actors, in ordering and ordering the defendant (truck driver) to transport his logs. The models of action referred to are as follows:

1. Actions of business actors

Timber transportation is an activity of individuals or companies that involves moving timber from the initial location to the processing site or factory, which has been prepared from the start to be exported outside the area. Economically, activities in timber processing and timber buying and selling transactions are capable of providing welfare to anyone who runs them. However, it should be noted that these activities entail extraordinary crimes with

various modes, such as document falsification, money laundering, embezzlement, falsification of permits, and so forth. It is possible that this problem will involve bureaucrats, politicians, businessmen, and police officers (Wirya, 2015).

From the aforementioned chronology, the timber transported by the defendant (the truck driver) was not privately owned but belonged to the businessman, then the owner ordered the defendant (the truck driver) to transport the product, and 289simultaneously the defendant (the truck driver) asked the owner of the timber, "Does this timber have any documents?" If it is further analyzed, this accident shows that there was no cooperation agreement or intention to do action with a careful plan between the business actor and the defendant (the truck driver). Even in this incident, it was not a role that showed a conspiracy between the defendant (the truck driver) and the perpetrator business, but the defendant (the truck driver) committed the act only to fulfill livelihood for his family. In other words, the defendant had no intention of committing a crime.

According to Ericson, "crimes committed by business actors are far more dangerous than crimes in general, because the crimes of business actors do not only involve innocent people like timber drivers who fulfil livelihood by transporting timber, but these crimes also include massive industrial activities of ideas organized by intellectual actors. A simple picture of the crime model of business actors arises when there is an offer from business actors, who then attempt to provoke the common people to take timber from protected area, after which they use these people to transport and take it to the processing site until it is sent out of the area. Such conditions incidently threaten people's lives, as well as making the poor as scapegoat." (Erickson, 2020)

2. Police Actions

The arrest of a suspected of having committed a crime should not be carried out arbitrarily; instead, the arrest should be based on clear actions and directed at the perpetrator committing the elements of a crime. In research conducted by HS Nusi (2016), it was explained that "before issuing an order or making an arrest, one should first collect evidence that can truly support the wrongdoing committed by the potential suspect through investigation, the suspect is also given rights, and at the same time it is the duty of the investigator." (S Nusi, 2016)

Judging from the legal events of the case above, according to the researcher, there was unusual behaviour in the process of the arrest by the police, as explained in the “Decision of the Raba Bima District Court Number 284/Pid.B/LH/2021/PN RBI that on Friday, May 28, 2021, at 23:00 WITA, located in Kawinda Na'e Village, Tambora District, Bima Regency, the defendant (truck driver) was detained and arrested by a group of police in the middle of the road for allegedly loading 63 (sixty three) logs with a size of 15 x 20 cm² and a volume of 8,424 m³. Problems during the action are: *First*, the police intended to go to the Tambora Health Center after finding that several residents had been poisoned. *Second*, during transporting, the police heading to the Tambora Health Center immediately saw the defendant (the truck driver) who was carrying timber using an orange Mitsubishi truck, then being intercepted and immediately checking the timber.

Based on the chronology, it shows that the arrest of the accused (truck driver) was not based on an arrest and detention order issued officially, nor did they go through a proper investigation process. The proses was rather carried out illegally because the police initially did not aim to investigate the timber issue, but to see Tambora residents who were poisoned at the Tambora Health Center. The arrest mechanism has been regulated in Article 18 paragraph (1) of the Criminal Procedure Code (KUHAP), which states that in carrying out detention and arrest duties, the police should show an assignment letter and then give the suspect an arrest warrant explaining the identity of the suspect and explaining the reasons for the arrest, including a brief description of the suspected crime event and including the time and place of examination (Richard, 2015).

M. Yahya Harahap (2006) emphasizes in his book "Discussion of Problems and Application of the Criminal Procedure Code: Investigation and Prosecution" that "if the police do not show an arrest warrant, then the suspect is obliged to deny the letter and has the right to disobey the arrest order because the assignment warrant becomes a formal requirement and correct instructions for police officers, including avoiding acts of arrest by irresponsible elements.”

See also Article 18 paragraph (3) of the Criminal Code, which states that the warrant must also be submitted to the suspect’s family after the arrest was made. M. Yahya Harahap (2006) again explained, "The copy is to provide legal certainty to the suspect's family so that the family knows exactly where the suspect will be taken and where the checkpoint is. If the

notification of the arrest is made verbally, then it is deemed illegal and contrary to Law Number 8 of 1981 on the Criminal Procedure Code.”

B. Basis for Consideration of Judges Handing Down Criminal Decisions Against Timber Transport Drivers Owned by Business Actors: (Study of District Court Decision Number 284/Pid.B/LH/2021/PN RBI).

In principle, determining a criminal act is a long process that begins with the police moves through the prosecutor's office, and finally reaches the court level, where a decision with permanent force is issued. Cases that have been passed by the police, prosecutors, and judges should generate the same perspective and the same attitude in determining sentences (Sherwin, 2006). Ideally, a rule of law should guarantee complete human rights by stating that every citizen is obliged to respect legal values without exception, thus anyone who is legally prosecuted has the right to recognition, guarantees, protection, and fair legal certainty, as well as equal treatment in any countries, before the law, and everyone has the right to be recognized as a person before the law (Baried, 2017).

According to the timeline of this case, it happened on May 28, 2021, at 23:00 WITA, in Kawinda Na'e Village, Tambora District, Bima Regency. Timber types are *Kalanggo*, *Rajumas*, and *Duabangga*, totaling 63 (sixty three) logs³. The brand of the truck of the defendant (the truck driver) was an orange-yellow Mitsubishi truk with police number DR 8868 LZ, frame number MHMFE74P5FK140621, and engine number 4D34T-L15064. This incident was explained in Raba Bima District Court Decision Number 284/Pid.B/LH/2021/PN RBI.

The timber transported by the defendant (the truck driver) was not but 63 (sixty three) logs belonged to business actors. Entrepreneurs/business actors paid Rp. 9,000,000 (nine million rupiah) for timber from a farming community, and then the businessman ordered the defendant (truck driver) to transport his timber, while the defendant (truck driver) asked the owner of the timber "does this timber have letters?" The owner of the timber answered emphatically and even in a forced tone, to the point of saying "the documents are all with me, you just take my timber, if anything happens it will be my responsibility." Finally, the defendant (the truck driver) called the workers to pick up the timber and load the timber onto the truk. On the way, the defendant (the truck driver) was immediately detained by a group of police, whose purpose at first was to see the poisoned residents at the Tambora Health Center.

Based on the above legal facts, the defendant was charged with Article 12 letter e, Jo Article 83 paragraph (1) letter b, of Law No. 18 of 2013, concerning the prevention and eradication of forest destruction, and Jo article 55 paragraph (1) of the Criminal Code. In Article 12, letter e, it says:

Everyone is prohibited from transporting, controlling, or possessing timber forest products that are not accompanied by a certificate of forest product validity. Article 83 paragraph (1) letter b explains that "any individual who deliberately loads, unloads, takes out, transports, controls, and/or has logging results in a forest area without a permit as referred to in Article 12 letter d shall be punished with a minimum imprisonment 1 (one) year and a maximum of 5 (five) years and a fine of at least IDR 500,000,000.00 (five hundred million rupiah) and at most Rp. 2,500,000,000.00 (two billion five hundred million rupiah).

Whereas in Article 55, paragraph (1), of the Criminal Code, it is stated that "those convicted as perpetrators of criminal acts are those who commit, order, and participate in committing acts" – individuals who deliberately transport, control, or possess forest products that are not accompanied by a certificate of legality - (Ponglabba, 2017).

Several provisions of Article 12 letter e, Jo Article 83 paragraph (1) letter b of Law No. 18 of 2013 on prevention and eradication of forest destruction, are found in Jo Article 55 paragraph (1) of the Criminal Code. The defendant was charged by the public prosecutor with an alternative indictment, hence the judges also directly opted for indictment as stipulated in the law and found the elements as follows:

1. Element of Every Person

Each person is an element that can be used as a legal subject or as a person who commits a crime for which the act can be held accountable before the law. In this context, the defendant (the ruck driver) was brought before trial by the public prosecutor, and after his identity was shown before the court, it was found that there was compatibility or the same identity both in the indictment and in the case documents. In another regard, the defendant (the truck driver) is regarded as legally competent, allowing his actions to be legally justified. Therefore, this element has been legally fulfilled (Richard, 2015).

2. Elements of Purpose

The element deliberately transports, controls, or owns timber that is not accompanied by a certificate of forest product validity. According to the legal facts revealed in court, on Friday, May 28, 2021, at 23:00 WITA, timber of the types *Kalanggo*, *Rajumas*, and *Duabangga* would be cut into 63 (sixty-three) pieces³ in Kawinda Na'e Village, Tambora District, Bima Regency. The brand of the truck the defendant was an orange-yellow Mitsubishi truck with police number DR 8868 LZ, frame number MHMFE74P5FK140621, and engine number 4D34T-L15064. This incident was explained in Raba Bima District Court Decision Number 284/Pid.B/LH/2021/PN RBI. According to the judge's consideration, the element of intentionally transporting or loading timber belonging to business actors without being accompanied by a certificate of the legality of forest products has been fulfilled but is not included in the case of controlling or possessing.

3. Participate in Action

The element of participating in committing a criminal act, namely transporting timber that is not accompanied by a certificate of legality of forest products, is present in this element. Those who deliberately plan or involve themselves in helping to transport timber belonging to business actors have as many as 63 (sixty three) rods with a size of 15x20 then 9 (nine) rods with a size of 12x20 a volume of 8.424 m³. According to the Criminal Code's Article 55, paragraph 1, first, "the perpetrators of the crime are those who commit, order, and participate in the act." Based on the indictment, this element has been proven and legally fulfilled.

Because all of the above elements have been fulfilled and legally proven according to law in Raba Bima District Court Decision Number 284/Pid.B/LH/2021/PN RBI, the judge attempted and stated that all the elements contained in Article 12 letter e Jo Article 83 paragraph (1) letter b of Law No. 18 of 2013 Jo article 55 paragraph (1) 1st of the Criminal Code "has been fulfilled, the defendant must be declared legally and convincingly proven to have committed an act or crime by deliberately transporting, controlling, or possessing timber forest products which are not accompanied by a valid certificate of origin," as stated in the public prosecutor's accusation. "the defendant (truck driver) is sentenced to 1 (one) year's imprisonment and a fine of Rp. 500,000,000 (five hundred million rupiah), if the fine is unpaid, it shall be changed into imprisonment for 1 (one) month."

According to the author, the fulfillment of the element of participation by the defendant (the truck driver) as in Raba Bima District Court Decision Number 284/Pid.B/LH/2021/PN RBI above is inappropriate as it is seen from the process of carrying out the transportation of timber to the sale transaction process. In chronology, it is stated that the timber transported by the defendant (the truck driver) was not privately owned but belonged to the business actor. The business actor ordered the defendant (the truck driver) to transport, regardless the defendant asked the owner of the timber "*does this timber have documents*" the owner of the timber answered firmly and even ordered in a forced tone to say "*Documents are all with me, you just bring my timber, if anything happens it will be my responsibility.*" This denotes that there was no cooperation agreement or joint intention to commit a crime between the business actor and the defendant (the truck driver). Even in this incident, it is not the role that indicates a conspiracy between the defendant (the truck driver) and the business actor, but rather the defendant (the truck driver) only sought livelihood.

It would be inappropriate if the defendant (the truck driver) was prosecuted using Article 55 paragraph (1) and Article 56 of the Criminal Code, including in sentencing. the judge was negligent in deciding a case because it is important for the judge to pay attention to the legal basis and the form of the defendant's (the truck driver) actions, either before the incident or after the incident occurred. It covers understanding the concept of participation in committing a criminal act and participating in a criminal act. According to Isdian Anggraeny and Tongat, "Those who participate in committing criminal acts and for their actions shall be interpreted properly so as not to create a misconception of the inclusion concept in criminal law" (Anggraeny & Tongat, 2020). The inclusion provisions in Article 55 paragraph (1) of the Criminal Code states "convicted as perpetrators of criminal acts those who commit, order, and participate in committing acts" of individuals who intentionally transport, control, or possess forest products unaccompanied by a certificate of legality (Ponglabba, 2017).

The concept of inclusion in criminal law is understood as part of an act involving more than one person. The term "participation" (*deelneming*) is the act or actions of someone who plays a role in helping and planning so that a criminal act is achieved (Agus Setyowati, 2018). Van Hamel, (Hilipito, 2016) defines inclusion as "the teaching of accountability and the separation of criminal responsibility in terms of the aspects of legislation carried out by a person with his own actions", which relates to the segregation of criminal responsibility. Firmansyah Hilipito's (2016) research shows that "participating in committing a criminal act"

according to the teachings of inclusion (*deelneming*) should be perceived by those who participate as having something to do with the crime committed. In that context, it becomes important to examine how much criminal responsibility there is between the main actors, or those who order them to commit (*doenplegen*), and those who participate in action (*deelneming*).

The judge should have properly considered the actions of the defendant and not immediately sentenced the defendant (the truck driver) since there was no cooperation agreement or joint intention to commit a crime between the business actor and the defendant (the truck driver). Even in this incident, it was not a role that shows that there was a conspiracy between the defendant (truck driver) and the business actor, but the defendant (truck driver) only sought livelihood. In this case, the one ordering (*doenplegen*) to transport the timber was the business actor or the owner, and essentially, the owner already knew that the belonging did not have legal documents, so the timber boss already had bad intentions without considering the defendant's fate.

Orderers are those who tell others what to do, and the ordered are those who carry out the orderer's instructions. According to Jacques Claessen et al. (2018), "perpetrators are not only those who commit, but those who do not tell others to do what they want " (Blad & Roos, 2018). If it is categorized as a criminal act, the timber boss is referred to the person ordering (*doenplegen*) the accused (truck driver) to transport the timber. **First**, the instrument used in carrying out his will is other person. **Second**, the person who is ordered does not intend to commit a crime and does not intend to plan a criminal act; **Third**, if the act is not motivated by intent, the person who is ordered to transport the timber is pronounced not guilty and cannot be punished.

The actions of the defendant (the truck driver) who participates (*deelneming*) or as a person ordered by the business party has at least 2 (two) main conditions to be punished for participating in criminal acts, namely: **First**, there is an agreement both in writing and verbally between the informant and those who participated, bad intentions, cooperation, and distribution of duties to create a criminal act both by the informer (the main perpetrator) and by the participants who also carry out the acts of the informer. **Second**, there must be a physical agreement and cooperation to commit a criminal act or acts.. According to Simon in Kornelia Melansari D. Lewokeda (2019), if someone is used to commit a criminal act, then that person is the same as an "object," while those who order others or who use others to carry

out their will and desire in creating a criminal act is known as a material actor (Lewokeda, 2019).

CONCLUSION

From the results and discussion above, the researcher concludes that in the case of transporting timber by the defendant (the truck driver), there was a coercive order made by the owner (business actor) against the defendant (the truck driver), thus making the defendant load and transport the product; even the process of arrest and detention carried out by police are considered illegal according to the applicable laws and regulations.

The basis for the judges' considerations in imposing a criminal sentence on the defendant (the truck driver) is that the judges decide that there is no *personal error in the defendant and the fulfillment of all elements*, both the elements of each person and the elements of purpose to transport timber and participating in a criminal act as referred to in Article 55, paragraph (1) Criminal Code. However, in the teaching of inclusion and participation, the judges do not carefully evaluate and examine the elements of participation or participation in committing a crime, thus the judges' decision against the defendant (the truck driver) is deemed theoretically and conceptually baseless.

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