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Jail for illegal land-clearing, hill-cutting under study

KUALA LUMPUR, Fri. - Those who carry out illegal land-clearing and hill-cutting can face a jail term if the act becomes a criminal matter, Minister in the Prime Minister's Department Datuk Seri Dr Rais Yatim said.

Rais, who is minister in charge of legal affairs, said unlawful land or hill-clearing could be "criminalised" in line with the Penal Code.

"It would be the act itself that is unlawful, and if deemed to have gone against public interest, it becomes a criminal matter and thus punishable under Federal law," he told the New Straits Times today.

He said he would liaise with the Science, Technology and Environment Ministry and the Attorney-General's Chambers.

He would also raise the matter in the next Cabinet meeting.

Rais was asked on the recent proposal by Prime Minister Datuk Seri Dr Mahathir Mohamad to jail those who illegally cleared land or cut hillslopes.

"I'll raise this matter in the next Cabinet meeting and also liaise with the ministry concerned and the Attorney-General. We will look into the need to criminalise the act.

"I agree with the Prime Minister, that short of making it a criminal act, such violations will be repeated," Rais said.

He said that while the Federal Constitution protected State Governments' rights over their land, actions that affected public interest need not be bound by this guarantee.

"For example, alienation of land is under the State's authority, but if you burn a forest and the smoke causes pollution which disrupts public life, that would be considered an offence, even though the trees were growing on State land."

Another option would be to criminalise illegal hill-cutting under the Land Conservation Act 1960, which currently leaves violations on hillslope clearing to be defined by the local authorities in permits issued to developers.

Unlawful hill-cutting could also be criminalised under laws promulgated by the Department of Environment with a provision introduced under the Penal Code.

Rais said he felt it was better to place the offence under the Penal Code.

"It is a tricky question because land is a State matter, but if you create a criminality for the act, then it falls under the Federal law."

He also said the Penal Code, drafted in 1875, should be made relevant with the times, taking into account modern technology and environmental concerns.

On other penalties besides jail, Rais said land-clearing offenders could have their permits cancelled or their machinery confiscated.

The current uproar over land-clearing in Cameron Highlands began with a group of companies using heavy machinery to clear land for a farm, in violation of two stop-work orders issued by the District Office there.

The Pahang Government has now frozen all development projects there until laws are amended to allow for stiffer penalties.