

Environmental Criminal Law Enforcement in Environmental Crimes Cases for The Sake Of Forest Conservation

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Abstract

The aspect of environmental punishment is a key that must be considered in the enforcement of environmental laws in Indonesia. Based on the definition, environmental crime is polluting and damaging the environment, as regulated in the Law on Environmental Protection and Management (UUPPLH). In this life, there are many violations that occur in the environmental sector that will have an impact on the life to come. To minimize the violations that occur, the government has enacted Law no. 32 of 2009 concerning Protection and Management of the Environment. By enacting this law, it is hoped that it can run in accordance with the problems that occur today. For research in this writing, using normative research methods, which are based on written regulations, literature study that examines aspects of theory, and legal explanations. In Indonesia, the main factor that causes the stipulated regulations to not work well is the lack of awareness of related parties about the importance of preserving nature and the environment. And the results of this study indicate that environmental law enforcement in Indonesia is based on a criminal law perspective study.

Keywords:

Environmental Criminal Aspects, UUPPLH, and Application of Environmental Criminal Law

1. INTRODUCTION

The environment is a beautiful work of God Almighty, which should be preserved and developed for the survival of humans now and in the future.¹ The environment is a space or place inhabited by humans and other living things. Life that takes place can be seen from the interaction and interrelationship between humans and other living things. With this interaction, a chain of life will occur that will be interdependent on each other. For example, the country of Indonesia, where

¹ Sonjaya, T., Heryanto, B., Mulyana, A., & Aridhayandi, M. R. (2020). Kebijakan Hukum Pidana dalam Upaya Penegakan Hukum Lingkungan berdasarkan Prinsip Pembangunan. *Lambung Mangkurat Law Journal*, 5(2), 203-214., hlm. 204

the majority of Indonesian people tend to socialize in order to meet their living needs.² In addition to being famous for its people who like to socialize, Indonesia is also a country with thousands of islands and beautiful natural resources. However, the problem here is the problem of the environment which is getting bigger and more serious every day, where the problems that occur are not only national in nature, but there are also global ones. So, the impacts that arise are not only tied to one or two aspects, but the impacts will continue in future life.³ Because, human actions that damage the environment are the same as killing life itself. In practice, we often find human activities that do not care about good environmental principles, so that the consequences of these actions have implications for the emergence of various disasters that hit Indonesia, such as landslides, declining biodiversity, floods, air, water, and soil pollution, and others. We can see this in various regions in Indonesia, which even claim lives, houses, public and social facilities are destroyed, and many animals and plants die.⁴

Awareness of the importance of preserving the environment in Indonesia is still very lacking, where the Indonesian people have not been able to fully comply with existing regulations.⁵ So, in this case, what needs to be improved by the community itself is the awareness to continue to preserve and develop the potential of natural resources in Indonesia. This can be seen from the many legal products or laws that are considered weak, especially in their law enforcement in dealing with various problems such as forest destruction and environmental pollution. This is due to the lack of education processes in the community. Empowering the community by providing a clear and easy understanding of the importance of preserving nature for the sustainability of life together is much more useful than involving the community as a workforce in the reforestation process.⁶

Forest conservation, or increasing laws that turn out to not function much. In environmental management itself, the government creates laws that regulate the environment.⁸ So that, for every human being who violates will be subject to punishment according to what was done to the environment itself.⁹ Thus, the grouping of laws will cause the division of fields in the form of administrative environmental law, civil environmental law, and criminal environmental law. In this study, we will discuss more deeply about environmental law seen from its criminal aspect, which has been regulated in "Law No. 32 of 2009 concerning Environmental Protection and Management". Based on the explanation or description above, the problems raised in this study are to question what are the principles contained in environmental crimes, to question what are the inhibiting factors for enforcing environmental law in Indonesia, and to question how environmental law enforcement in Indonesia is seen from the criminal aspect.

² So, W. K. (2009). *Kebijakan Hukum Pidana dalam Upaya Penegakan Hukum Lingkungan Hidup*. Semarang: Universitas Diponegoro, hlm. 1

³ Subyakto, K. (2015). *Azas Ultimum Remedium Ataupun Azas Primum Remedium Yang Dianut Dalam Penegakan Hukum Pidana Pada Tindak Pidana Lingkungan Hidup Pada Uu Nomor 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup*. *Jurnal Pembaharuan Hukum*, 2(2), 209-213., hlm. 211

⁴ Disemadi, H. S., & Lasmadi, S. (2019). *Utilizing Production Sharing Contracts (PSCs) as a Means for the Protection of Indonesia's Natural Resources*. *Lentera Hukum*, 6(3), 393-408., hlm. 399.

⁵ Havinanda, F. (2020). *Politik Hukum Dalam Pembaharuan Sistem Hukum Pidana Lingkungan Dan Dampaknya Terhadap Penegakan Hukum Tindak Pidana Lingkungan Hidup*. *Jurnal Hukum Al-Hikmah: Media Komunikasi dan Informasi Hukum dan Masyarakat*, 1(1), 106-121., hlm. 109

⁶ Chairil, N. S. (2007). *Ketidakeimbangan Sistem Sosial Penyebab Bencana Alam*. *Jurnal Sosioteknologi*, 10(6), 183-189, hlm. 186

2. LITERATURE REVIEW

A. Criminal Law Enforcement

The law occurs because of actions and interactions in community life. Regarding the system of norms that exist in society to make a point of view to think and act according to existing rules in order to maintain order in community life. Law enforcement is needed in order to create a complete rule and the meaning of law enforcement is an effort to overcome crime rationally, fulfill a sense of justice and be effective. In order to overcome crime against various means as a reaction that can be given to perpetrators of crime, in the form of criminal and non-criminal law means, which can be integrated with one another.⁷

If criminal means are called to overcome crime, it means that criminal law policy will be implemented, namely holding elections to achieve criminal legislation results that are in accordance with the circumstances and situations at a certain time and for the future. Criminal law is a means to impose punishment on someone who breaks the law and has fulfilled the elements to be said to be a perpetrator related to the case in question. According to Satjipto Rahardjo, law enforcement is an activity that gives rise to or realizes legal desires that become real.⁸ There is also a definition of law enforcement in the book that states that law enforcement is the center of all legal life activities starting from legal planning, legal formation, legal enforcement and legal evaluation.

The existence of law enforcement cannot be considered merely as a process of implementing the law as the legalists argue. Law enforcement is an effort carried out by law enforcement officers, as a goal to enforce legal rules or norms in Indonesia as a guideline, which influences the principles of law enforcement and legal principles that apply in the environment of civilized nations. Criminal law enforcement does not function to improve the polluted environment, but this criminal law enforcement can create a very effective deterrent factor. Especially in Indonesia which is known as a country of law.

Based on the legal factors themselves in law enforcement, it can be said that the substance of legislation is one of the factors that influences law enforcement. A criminal law reform (renewal of the substance of legislation) is an important need in the framework of law enforcement against corporate crimes in the environmental sector so far. For example, in the case of forest fires that occurred in Indonesia, it has proven that law enforcement in Indonesia is still weak. There are special regulations governing forestry, namely Law Number 41 of 1999 concerning Forestry which can provide a deterrent effect for perpetrators of forest fires.

This means that the regulation is made for the benefit of the community, so that it should not happen that because of the implementation of the regulation, the community becomes restless because it cannot be implemented properly but can actually protect the forest from human activities, including forest burning which tends to be destructive. But there are still detrimental and destructive actions that are still carried out by a group of people for certain interests. Furthermore, there needs to be transparency in how the perpetrators who carry out forest burning are punished, namely by reading the minutes so that the community knows and can prevent the actions that have been carried out by the perpetrators. The community who are not familiar with the law do not realize that the issuance of

⁷ Roeslan Saleh, *Hukum Pidana Sebagai Konfrontasi Manusia Dan Manusia*, (Jakarta: Ghalia Indonesia, 1983),



the Forestry Law discusses the existence of law enforcement efforts against perpetrators of burning cases.

B. Environmental Law

The 1945 Constitution of the Republic of Indonesia is the legal basis that already exists and is currently in effect. The Law also requires citizens to utilize natural resources and use them according to their needs, as mandated in Article 3 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that the earth, water, and the wealth contained therein are controlled by the State and can be used as much as possible for the prosperity and welfare of the Indonesian people. Development actually aims to improve the quality of human life for the better, but over time, development that is carried out by ignoring various regulations will have an impact on the environment which is bad.⁹ The increase in human needs makes them forget that the time will come when the environment which is rich in biodiversity is no longer able to withstand various impacts that cause very large environmental damage and pollution such as the case of forest fires in Indonesia.

Pollution and environmental damage, forest fire cases in Indonesia that occur actually require regulations that can have a deterrent effect. For this reason, the government has issued a regulation to be able to provide protection for the environment, especially forest fire cases by issuing Law Number 32 of 2009 concerning Environmental Management and Protection. The enactment of the Law, the role of law seems to have a very large influence on the changes that occur, where the Law will later strengthen the aspects of planning and law enforcement in Dutch known as *rechtshandhaving*, where in the understanding of law enforcement in Indonesia it is often referred to as criminal law.⁸ While law enforcement in environmental problems is usually referred to as environmental law which is a law that regulates an environmental order that includes all objects and conditions, including in the space where humans will influence each other's welfare and survival.

Environmental law is said to be effective if it has achieved a goal in which there are various aspects that are interrelated and run well in its law enforcement. Environmental law enforcement is a very important part of environmental law itself, where with clear law enforcement, it can make the community obey the law. The existence of environmental law enforcement can be used as a link in the cycle of environmental management and protection with the sequence of legislation, determination of standards, granting of permits, implementation, and law enforcement which will later be used as a way to organize values that will provide protection and management of the environment. Therefore, in environmental law enforcement there must be several instruments consisting of certainty, benefit, and justice which must have a relationship between one and another.

3. RESEARCH METHODS

The method used in this scientific research is the normative legal research method, based on written regulations and other literature that examines aspects of theory, structure, and legal explanations related to this research. The study approach in this research is the legislative approach. The data collection method used is literature study. The data used is secondary data whose sources are obtained indirectly.

⁸ Sodikin, "Penegakan Hukum Lingkungan Menurut Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan", KANUN, No. 52 Edisi, 2009, hlm. 545

4. DISCUSSION AND RESEARCH RESULTS

1. Principles in Criminal Environmental Law

Enforcement of criminal environmental law is basically based on a principle, namely the principle of legality. Both materially and formally. In terms of substance, the enforcement of criminal environmental law is only valid if it is based on environmental criminal articles that are spread outside the Criminal Code and its enforcement is guided by the Criminal Procedure Code. Therefore, in its enforcement it is necessary to adjust to the principle of environmental management which is a legal principle.⁹

The nature contained in the legal principle, namely as a rule that is assessed and must be applied in the legal principle from the perspective of a positive legal system, but to realize the measurement of value properly in a positive legal system is not easy.¹⁰ Because the legal principle can indirectly become a direction or guideline because there are values contained, and are not always expressed in the form of legal rules. So that the situation will be difficult to know when a principle loses its legal meaning.

According to Paul Scholten, the principle of law is an idea that lives in and underlies the legal system. All of that is included in the laws and regulations and judges' decisions, which are in accordance with the decisions and provisions that are seen as their elaboration.¹¹ In every development that exists in society, the principle of criminal law must fulfill two functions, namely, the enforcement of ethical norms and the enforcement of other non-ethical regulatory norms that are needed for the continuity of social order. So here it shows that environmental law and criminal law have the same power.

In addition to having to fulfill its function, criminal law in its development must fulfill the general principles contained in environmental crimes. The general principles contained in environmental crimes, namely:¹²

1) The Principle of Legality, where in every formulation of criminal law regulations there must be an implication of clarity relating to what is said as contained in criminal regulations in the environmental field, regarding criminal justice and regarding sanctions that must be imposed so that there is legal certainty to protect the environment and natural resources so that they can be enjoyed by future generations;

2) The Principle of Sustainable Development which explains that economic-scale development should not sacrifice the rights of future generations to enjoy a good environment. Sustainable development requires a system that can guarantee the arrangement of the law, which in this case must lay the foundation for the development of arrangements that have credibility; 3) The precautionary principle for this principle explains that the handling of violations of formal crimes in the Environmental Protection and Management Law (UUPH) is attempted not to immediately impose severe punishments, but must be carried out gradually and comprehensively from the lightest,

⁹ Muhammad, A. H. (2016). Penegakan Hukum Pidana Lingkungan Hidup dalam Menanggulangi Kerugian Negara. *Jurnal Legal Pluralism*, 6(1), hlm. 96

¹⁰ Suherman, A. (2020). Esensi Asas Legalitas Dalam Penegakan Hukum Pidana Lingkungan. *Bina Hukum Lingkungan*, 5(1), 133-152., hlm. 145

¹¹ Dewa, G. A. (2018). Asas-asas Hukum dalam Sistem Hukum. *Kertha Wicaksana*, 12 (2), 145-155, hlm. 149.

¹²

medium and finally the most severe punishments; 4) The principle of restraint (Principle of restraint) this principle explains that one of the requirements for criminalization, which states that criminal sanctions should be used against environmental crimes if there is ineffectiveness of administrative legal sanctions, civil law, and alternative environmental dispute resolution outside the courts. In criminal law, this is known as the principle of subsidiarity or ultima ratio principle or the principle of ultimum remedium or last resort or is the last resort.

If the concept of the legal principle in environmental crimes can be applied properly, as in accordance with its meaning and function, then the power of its validity will increase. In addition to the existing legal principles, it must be balanced with other forms of legal rules, then applied in the form of judges' decisions. And it should be noted that every existing legal regulation must be rooted in the legal principle, because the legal principle is a value that can be accepted by society to realize an order based on justice.

2. Inhibiting Factors of Environmental Law Enforcement in Indonesia

Environmental law enforcement means an implementation that is expected to be able to make individuals obey the regulations and requirements in the applicable legal provisions comprehensively and individually, through supervision and implementation and threats or sanctions, administrative, civil, and criminal means. In this case, there are concrete efforts to create environmental harmony in order to achieve environmental law enforcement:

- a. Efforts as a basis for building interaction with the environment;
- b. In environmental interaction activities, there must be a means of supervision;
- c. Become a means of interaction between one individual and another, in relation to the environment;
- d. To realize things that have been aspired to for environmental renewal.

In relation to maintaining the sustainability of the environment, the role of the community and government is needed. Good governance is a government that is able to guide the community in implementing the regulations that have been set. Although the government has issued regulations regarding the enforcement of Environmental Law, in the implementation of the regulations that have been set, it was found that the types of sanctions and laws chosen and imposed on perpetrators of environmental pollution were inappropriate. If seen from Hartiwiningsih's perspective, the conditions of the implementation of environmental crimes until now are considered still unable to be implemented in accordance with what the community aspires to. The causes of problems in the implementation stem from various things.¹³

- a. All policies that have been set by the government have not fully sided with environmental interests;
- b. Lack of legal awareness from business people about the urgency of environmental conservation;
- c. The regulations contained in criminal law have not been applied optimally;
- d. Synchronization, harmony, and simultaneity have not been fulfilled in the criminal justice system.

¹³ Nafi', M. (2019). Penegakan Hukum Pidana Lingkungan di Indonesia. *Al-Jinayah: Jurnal Hukum Pidana Islam*, 5(1), 1-29, hlm. 17

Challenges and obstacles in enforcing environmental law in Indonesia cause supporting factors in its enforcement to be less effective. There are regulations that have been set by the government, but in practice in the field there are still many obstacles and barriers encountered.¹⁴ The following are inhibiting factors in enforcing environmental law, namely: Legal Media. This is a hindering factor in enforcing environmental law, where the operational provisions that are set are often not in line with the rules of environmental protection and management in the UUPPLH or other laws and regulations relating to environmental management. The limitations of legal media in Indonesia mean that not all levels of society know that in fact there are legal articles that regulate the environment. Because in efforts to enforce environmental law, humans will have a very large influence in the implementation of building successful law enforcement rather than the legal factor itself.¹⁵

Law Enforcement Agencies. The weak commitment to environmental law enforcement in Indonesia can be seen from the rampant crimes in the environmental sector. This is reinforced by the opinion of former KPK Commissioner Laode Muhammad Syarif who said that the weak commitment is at the forefront of government apparatus, such as the Ministry of Environment and Forestry (KLHK), the Police, and the Prosecutor's Office. Then he also emphasized that our legal system in Indonesia is one of the best in the world, including in the environmental sector. So, don't hide behind legal instruments, because the problem is whether we have a commitment or not. In line with this, the Director General of Law Enforcement of the KLHK, Rasio Ridho Sani, said that many environmental crime issues do not go to court, due to the imbalanced readiness of KLHK human resources.

Supporting Facilities. Is a tool that aims to fulfill environmental law enforcement. The facilities provided are very limited and limited funds as supporting facilities will greatly affect the success of environmental law enforcement. Based on the reality, it shows that in resolving environmental cases, it will involve more sophisticated technological tools, such as laboratory equipment, and for the sake of its operationalization requires experts and a lot of money.¹⁶

Environmental Impact Analysis System (AMDAL). When viewed in its implementation, AMDAL will refer to the fulfillment of administrative provisions rather than its substance. Which means that the chain of obligations in the licensing business, due to the high demand for AMDAL as a performance to obtain a credit agreement or investment permit. The implementation of an open mechanism in the AMDAL document for the community has not achieved results that are in accordance with expectations, even the community that feels the impact does not know for sure that there is an activity.

Population Density. The increasing birth rate causes the population in Indonesia to increase. Uncontrolled population density causes new problems that may be difficult for the government to overcome. With the increasing population, the housing needed by the community will also increase. This will have a negative impact on the environment, because usually the development of residential land does not match the capabilities of the community. In general, population density is closely related to the number of poor people, where for people who are less able to have decent housing, they will

¹⁴ Sembilan Bintang. (2020). Beberapa Tantangan Penegakan Hukum Lingkungan Hidup. Diakses pada Maret 2, 2021, dari <https://www.sembilanbintang.co.id/beberapa-tantangan-penegakan-hukum-lingkunganhidup>

¹⁵ Ria, K. J. (2020). Penegakan Hukum Pidana Lingkungan Terhadap Pelaku Pencemaran Lingkungan. Makassar: Universitas Islam Negeri Alauddin Makassar, hlm. 20

¹⁶ Nina, H. (2015). Permasalahan Lingkungan Hidup dan Penegakan Hukum Lingkungan di Indonesia, Jurnal Ilmiah Galuh Justisi, 3(2), 1-15, hlm. 12

find ways for them to survive. These less able people will build housing in slums, so this will affect environmental conditions. Usually environmental problems that will arise are in the form of garbage, clean water quality, uneven development, sanitation, and others.

Legal Awareness in Society Regarding the Environment. Compliance and obedience to the established legal regulations, namely environmental law, is an indicator of legal awareness that must be possessed by the community. Community participation, according to UUPPLH is a component or main part, in addition to the existence of law enforcers, to achieve a legal goal through law enforcement means, by enforcing environmental law. As seen in the current conditions, the low level of environmental awareness in society. Awareness of the importance of maintaining environmental cleanliness will emerge, especially if the community has a regular lifestyle and has positive habits. Communities that are in a negative environmental pattern, such as: in a housing complex always hold mutual cooperation every week, and the enthusiasm of the community is very high, then the cleanliness of the environment in the housing complex will be guaranteed. This is different from if in a housing complex the community does not care about the condition of the environment they live in, they will assume that environmental cleanliness is the responsibility of the government, if this continues the condition of the housing complex environment will be polluted, because the community itself no longer has a sense of taste for the environment. Many people still think that the law contained in the UUPPLH is a legal system that was created without any implementation, in fact there are still many people who do not know about the existence of the UUPPLH due to the lack of government socialization and the lack of government assertiveness in enforcing the UUPPLH.

Excessive Use of Natural Resources. Natural resources (SDA) are natural assets that support the sustainability of our environment on this earth. Their management is very necessary to maintain the sustainability of natural cycles so that they are not interrupted and destroyed. Various efforts must be made to realize good management and in accordance with the natural conditions of the place where we live (environmental typology). However, humans often use the available natural resources excessively. The condition of the natural resources that we currently have is increasingly degraded over time along with the rapid economic development activities, which directly affect the sustainability of development that is currently taking place. Various activities of destruction of natural resources and the environment have taken place in several regions in Indonesia such as North Sulawesi, West Java and North Sumatra which generally represent the condition of natural resources and the environment in Indonesia, now increasingly threatening the existence of humans inhabiting this Indonesian earth. Natural resource management is very much needed and very urgent in an effort to preserve the natural resources that we have together.

3. Environmental Law Enforcement in the Study of Criminal Law Perspective in Indonesia

Basically, enforcement that is directed at legal interests and individual interests without considering development conditions will actually have a negative impact on the environment, and will also hinder a country in achieving sustainable development projects. Each individual has an obligation to maintain the sustainability of nature that has been provided by the Creator and to prevent and reduce activities that can damage the environment. For this reason, the government in terms of minimizing environmental pollution has established a criminal provision in the Environmental Management Law. Based on the criminal provisions as regulated in the Environmental Management Law, there is a purpose in it, namely to protect the environment, by including the threat of criminal sanctions for every human being who violates it. This regulation emerged because crimes against the

environment can be categorized as economic crimes that have a broad meaning, because the benchmark for criminality and violations of the environment is broader in scope when compared to other crimes.

In addition, according to Marjono Reksodiputro's view, criminal justice provisions are made for the following purposes:

- 1) Helping the community not to become victims and avoid perpetrators of crimes;
- 2) Overcoming criminal cases currently being experienced by the community, so that the community gets satisfaction and justice for the law that is enforced;
- 3) Minimizing so that perpetrators of crimes who have committed crimes before do not repeat their crimes again;
- 4) So that every law enforcement officer can act fairly by giving strict punishment to every perpetrator of environmental crimes.

Criminal provisions have the following meaning, each stage of the process of efforts to overcome crime in terms of providing welfare for the community. Efforts to regulate society by using criminal law are closely related to the form of policy that leads to a broad goal. Criminal provisions also contain the following characteristics and elements:

- 1) Basically, criminal law is something that is imposed on individuals, which will later cause suffering and other unpleasant things;
- 2) Usually criminal law is given by the authorities or a legal entity that has power;
- 3) The imposition of criminal law on an individual occurs because they have committed a criminal act according to applicable laws.

In the implementation of environmental criminal provisions, there is an Environmental Crime, where the definition of the crime is an order and prohibition of the Law to the legal subject where if the legal subject violates the established regulations, criminal sanctions will be imposed, such as fines or imprisonment. The purpose of implementing these sanctions is so that every legal subject who violates gets a deterrent effect, and protects the life of living things as a whole. There are two types of crimes in environmental crimes, namely Material Crimes and Formal Crimes, where Material Crimes and Formal Crimes have differences, for Material Crimes are every crime that in its formulation provides criminal penalties for actions that have caused the impact of the actions carried out. While for Formal Crimes, it is a formulation that provides a criminal threat for every prohibited act, without looking at the consequences of the act. In this case there is an article that regulates Material Crimes of environmental crimes contained in Law No. 32 of 2009 concerning Environmental Protection and Management, as follows:

1. Article 98 paragraph (1): "Any person who intentionally commits an act that results in exceeding ambient air quality standards, water quality standards, sea water quality standards, or environmental damage criteria, shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 10 (ten) years and a fine of at least IDR 3,000,000,000.00 (three billion rupiah) and a maximum of IDR 10,000,000,000.00 (ten billion rupiah)"; 2. Article 98 Paragraph (2): "If the act as referred to in paragraph (1) results in injury and/or harm to human health, the perpetrator shall be punished with imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years and a fine of at least Rp. 4,000,000,000.00 (four billion rupiah) and a maximum of Rp. 12,000,000,000.00 (twelve billion rupiah)";

3. Article 98 Paragraph (3): “If the act as referred to in paragraph (1) results in serious injury or death, the perpetrator shall be punished with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp. 5,000,000,000.00 (five billion rupiah) and a maximum of Rp. 15,000,000,000.00 (fifteen billion rupiah)”;

4. Article 99 Paragraph (1): “Any person who due to his/her negligence causes the ambient air quality standards, water quality standards, sea water quality standards, or environmental damage criteria to be exceeded, shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 3 (three) years and a fine of at least Rp1,000,000,000.00 (one billion rupiah) and a maximum of Rp3,000,000,000.00 (three billion rupiah)”;

5. Article 99 Paragraph (2): “If the act as referred to in paragraph (1) results in injury and/or harm to human health, shall be punished with imprisonment for a minimum of 2 (two) years and a maximum of 6 (six) years and a fine of at least Rp2,000,000,000.00 (two billion rupiah) and a maximum of Rp6,000,000,000.00 (six billion rupiah)”;

6. Article 99 Paragraph (3): “If the act as referred to in paragraph (1) results in serious injury or death, the perpetrator shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 9 (nine) years and a fine of at least Rp. 3,000,000,000.00 (three billion rupiah) and a maximum of Rp. 9,000,000,000.00 (nine billion rupiah)”;

7. Article 112: “Any authorized official who intentionally fails to supervise the compliance of the person in charge of a business and/or activity with environmental laws and permits as referred to in Article 71 and Article 72, which results in environmental pollution and/or damage resulting in the loss of human life, shall be punished with imprisonment for a maximum of 1 (one) year or a fine of at most Rp. 500,000,000.00 (five hundred million rupiah)”;

Then, for the Formal Crime, there are also articles that regulate environmental crimes, namely as follows:

1. Article 100 Paragraph (1) and Paragraph (2): (1) "Any person who violates wastewater quality standards, emission quality standards, or disturbance quality standards shall be punished with a maximum imprisonment of 3 (three) years and a maximum fine of IDR 3,000,000,000.00 (three billion rupiah); (2) The criminal offense as referred to in Article 100 paragraph (1) may only be imposed if the administrative sanctions that have been imposed are not complied with or the violation is committed more than once;

2. Article 102: “Any person who manages B3 waste without a permit as referred to in Article 59 paragraph (4) shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 3 (three) years and a fine of at least Rp1,000,000,000.00 (one billion rupiah) and a maximum of Rp3,000,000,000.00 (three billion rupiah)”;

3. Article 103: “Any person who produces B3 waste and does not manage it as referred to in Article 59 shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 3 (three) years and a fine of at least Rp1,000,000,000.00 (one billion rupiah) and a maximum of Rp3,000,000,000.00 (three billion rupiah)”;

4. Article 104: “Any person who dumps waste and/or materials into the environmental media without a permit as referred to in Article 60, shall be punished with imprisonment for a maximum of 3 (three) years and a maximum fine of Rp3,000,000,000.00 (three billion rupiah)”;

5. Article 105: “Any person who imports waste into the territory of the Unitary State of the Republic of Indonesia as referred to in Article 69 paragraph (1) letter c shall be punished with imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years and a fine of a minimum of Rp4,000,000,000.00 (four billion rupiah) and a maximum of Rp12,000,000,000.00 (twelve billion rupiah)”;

6. Article 106: "Any person who imports B3 waste into the territory of the Unitary State of the Republic of Indonesia as referred to in Article 69 paragraph (1) letter d, shall be punished with imprisonment of at least 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least IDR 5,000,000,000.00 (five billion rupiah) and a maximum of IDR 15,000,000,000.00 (fifteen billion rupiah)"; 7. Article 107: “Any person who imports B3 which is prohibited according to laws and regulations into the territory of the Unitary State of the Republic of Indonesia as referred to in Article 69 paragraph (1) letter b, shall be punished with imprisonment of at least 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp. 5,000,000,000.00 (five billion rupiah) and a maximum of Rp. 15,000,000,000.00 (fifteen billion rupiah)”;

8. Article 108: “Any person who burns land as referred to in Article 69 paragraph (1) letter h, shall be punished with imprisonment of at least 3 (three) years and a maximum of 10 (ten) years and a fine of at least Rp. 3,000,000,000.00 (three billion rupiah) and a maximum of Rp. 10,000,000,000.00 (ten billion rupiah)”;

9. Article 109: “Any person who carries out a business and/or activity without having an environmental permit as referred to in Article 36 paragraph (1), shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 3 (three) years and a fine of at least Rp1,000,000,000.00 (one billion rupiah) and a maximum of Rp3,000,000,000.00 (three billion rupiah)”;

10. Article 101: “Any person who releases and/or distributes genetically engineered products to the environmental media that are contrary to laws and regulations or environmental permits as referred to in Article 69 paragraph (1) letter g, shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 3 (three) years and a fine of at least Rp1,000,000,000.00 (one billion rupiah) and a maximum of Rp3,000,000,000.00 (three billion rupiah)”;

11. Article 110: “Any person who prepares an environmental impact analysis without having an environmental impact analysis drafting competency certificate as referred to in Article 69 paragraph (1) letter i, shall be punished with imprisonment for a maximum of 3 (three) years and a maximum fine of Rp. 3,000,000,000.00 (three billion rupiah)”;

12. Article 111 Paragraph (1): “An environmental permit issuing official who issues an environmental permit without being equipped with an environmental impact analysis or UKL-UPL as referred to in Article 37 paragraph (1) shall be punished with imprisonment for a maximum of 3 (three) years and a maximum fine of Rp. 3,000,000,000.00 (three billion rupiah)”;

13. Article 111 Paragraph (2): “Any official who issues a business and/or activity permit who issues a business and/or activity permit without being accompanied by an environmental permit as referred to in Article 40 paragraph (1) shall be punished with imprisonment for a maximum of 3 (three) years and a maximum fine of Rp. 3,000,000,000.00 (three billion rupiah)”;

14. Article 113: “Any person who provides false or misleading information, removes information, damages information, or provides incorrect information that is required.

Based on the application of criminal sanctions applied to the above crimes, it is based on the cumulative nature and is not an alternative for each criminal sanction of imprisonment and fines. So that in its application both sanctions are imposed, namely imprisonment and fines, not one of the sanctions that have been determined. The basis for imposing sanctions can occur because of an interest originating from the community for crimes and violations arising from the actions of the community that violate the rules. Sanctions are needed to create security, peace, and order in society. Until now, sanctions have been considered the most appropriate to make people afraid and will think again about committing an act that violates the rules. The provisions of sanctions contained in a criminal regulation are not just technical, but are an inseparable part of the main material of the legislation which means that in determining the imposition of sanctions for an individual, the elements of legal objectives must be considered, namely legal certainty, justice, and benefit.

5. CONCLUSION

Basically, the current environment is a gift from God Almighty. Where the environment that has been given must be maintained and preserved properly. Environmental sustainability will be a legacy for future generations. However, the problem in maintaining this sustainability is human behavior that likes to pollute the environment. The consequences of human actions that like to pollute the environment bring disaster to Indonesia, where floods, landslides, air pollution caused by irresponsible forest burning, and so on often occur. Therefore, due to the negative impact on the environment, the government issued legal regulations to prevent environmental crime behavior.

Legal regulations issued by the government in the form of UUPPLH, where in the Law there are provisions on criminal elements that are expected to create a deterrent effect and minimize criminal behavior. In enforcing UUPPLH there are many challenges and obstacles, due to the lack of firmness of law enforcement, then the law is not implemented properly, and the lack of public awareness of the environment. In fact, if seen in UUPPLH, there are environmental criminal offenses where if the community violates the regulations they will be subject to sanctions in the form of fines to imprisonment. Enforcement of environmental criminal law in Indonesia is considered to have not been able to achieve its goals, because there are many failures in its implementation, and law enforcement officers in resolving violations committed by the community do not use criminal law means as well as possible, law enforcement officers prefer to use other legal means that make work easier or more effective.

The recommendation from the results of this study is that the government as a law enforcement officer should be able to enforce the sanctions contained in the UUPPLH properly, because if the government can be more assertive and pay more attention to environmental conditions in Indonesia, the environment in Indonesia will be more sustainable. Apart from the government, the community should also work together and help the government to maintain environmental cleanliness. Legal awareness from the community is also very necessary to realize a clean Indonesia, and a legally orderly community is expected to be able to minimize environmental crime behavior that has existed from the past until now, environmental crime behavior is usually carried out by irresponsible individuals who aim to damage the environment.



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