

Criminal Liability for Environmental Pollution in Indonesian Law

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ABSTRACT

This research aims to delve into criminal liability in the context of environmental pollution offenses within the criminal law domain in Indonesia. Through a normative legal research approach with an analysis of legislation regulating environmental pollution, this study identifies and specifically examines the juridical regulations related to environmental pollution offenses. The research findings affirm that the legal foundation for environmental pollution offenses in Indonesia is governed by Law No. 32 of 2009 concerning Environmental Protection and Management. Additionally, this study highlights criminal liability that can be imposed on various parties, including individuals, businesses, and officials with relevant authority. Furthermore, the research suggests that the application of law regarding environmental pollution offenses is generally found in various legal regulations governing aspects of environmental protection and management. In addition to individuals, businesses, or corporations can also be held accountable for environmental pollution offenses, as stipulated in Articles 116-118 of Law No. 32 of 2009. Taking these aspects into consideration, this research makes a significant contribution to understanding and solidifying the legal framework governing criminal liability related to environmental pollution offenses in Indonesia. This provides a strong foundation to promote awareness and compliance with environmental laws, as well as to protect the sustainability of the environment for the well-being of society and future generations

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Introduction

The environment is a vital element for human life and all forms of life on this Earth. Along with population growth and technological developments, pressure on the environment is increasing. The environment is defined as a place to live and a container for storing waste products from human activities. Healthy and sustainable environmental conditions have an important role in maintaining human welfare and maintaining the

sustainability of the ecosystem (Fadli & Lutfi, 2016). The environment has the natural ability to cope with most of the waste produced by human activities under certain circumstances. However, if the waste exceeds its natural capacity, the environment will experience pressure and potentially suffer damage. At this point, environmental pollution can occur and have a serious impact on human life and the surrounding ecosystem (Sumampouw & Risjani, 2018)

At the constitutional level, the 1945 Constitution Article 28 H paragraph (1) states that every person has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy living environment and the right to receive health services. This confirms that having a clean, healthy and comfortable environment is the human right of every individual. The state is required to provide certainty, protection and confidence that a healthy living environment will be properly maintained and supervised (Ansari, 2014). Environmental pollution can be defined as the deliberate entry or introduction of living creatures, energy, substances and other compositions into an environment from human activities which causes the predetermined quality standards to be exceeded. This often occurs due to a lack of awareness and appropriate action in managing waste. Humans often think that throwing away small waste does not have a significant impact, but if this happens in a lot of times, it will become the main cause of environmental pollution (Carney et al., 2008).

The impact of environmental pollution is not only felt by nature, but also directly affects the welfare of society. For example, the increasingly deteriorating quality of river water is a serious problem in Indonesia. River water is a natural resource that is important for everyday life, used for consumption, agriculture and industrial purposes. However, most rivers in Indonesia experience alarming levels of pollution, affecting the availability of clean and safe water for the community (Roselin et al., 2019). As clear evidence of the negative impact of pollution, in 2018 in the Wakatobi area, a sperm whale died due to plastic waste that failed to digest in its body. This fact shows that environmental pollution can threaten the survival of marine species and their ecosystems (Paulus et al., 2020). This provides a clear picture of the need for concrete steps to protect the environment from the threat of pollution.

Based on Law Number 32 of 2009 concerning environmental protection and management, environmental quality can be measured through chemical, biological and physical parameters. This adapts to developments in science and technology. Industry is an important sector in the economic growth of a region, but its development must be in line with environmental conservation. Industrial sustainability needs to be accompanied by efforts to minimize negative impacts on the environment (Machdar, 2018). Considering the importance of a healthy living environment, environmental protection become a crucial issue. The attempt to protect the environment include utilization, maintenance, control, arrangement, supervision, restoration and development of the environment (Murniati, 2018). Criminal liability for criminal acts of environmental pollution has also been regulated in Law Number 32 of 2009 (Dayani & Pujiyono, 2016).

The aim of this research is to examine in depth the criminal liability for environmental pollution in Indonesian law. By understanding the existing legal mechanisms, it is hoped that we can make a positive contribution in efforts to protect the environment from the threat of pollution. Apart from that, this research also aims to increase public awareness of the importance of preserving the environment for the sake of shared prosperity. Through this research, it is expected that it can provide a strong legal basis for enforcing criminal liability for environmental pollution and invite the public to

play an active role in preserving the environment for the welfare of future generations (Jaya, 2017).

Research Methods

This paper will apply normative legal research methods with a statutory regulation approach to analyze criminal liability for environmental pollution in the context of Indonesian law. This method was chosen because it is relevant to the aim of this paper, which focuses on the legal aspects of efforts to protect the environment from the negative impacts of pollution. The use of normative legal methods will make it possible to carry out in-depth analysis of various legal products that regulate environmental pollution in Indonesia. This includes the Constitution of the Republic of Indonesia of 1945, Law of the Republic of Indonesia Number 32 of 2009 concerning Environmental Protection and Management, Regulation of the Minister of Environment of the Republic of Indonesia No. 17 of 2012 concerning Guidelines for Community Involvement in the Environmental Impact Analysis Process and Environmental Permits, as well as Government Regulation no. 27 of 2012 concerning Environmental Permits.

Apart from primary legal sources, this research will also explore secondary legal materials through literature review. Secondary legal materials include various books related to environmental law, scientific articles, research results of legal experts, and publications in leading legal journals. By integrating these sources, it is expected that this paper can provide a holistic and in-depth analysis of the issue of criminal liability for environmental pollution. Normative legal research methods also provide a strong basis for assessing the effectiveness and suitability of existing laws and regulations in the context of tackling environmental pollution. In addition, this method makes it possible to identify potential improvements or improvements in the existing legal framework.

Literature study as an integral part of this method allows researchers to access and analyze various views and points of view from leading legal experts and researchers in the field of environmental law. This will enrich understanding of the issue and help in gaining a more comprehensive perspective. In addition, normative legal methods also make it possible to compare the Indonesian legal framework with environmental legal practices in other countries. This will help in evaluating the extent to which the Indonesian legal system can effectively address environmental pollution challenges. By using this comprehensive normative legal research method, it is expected that this paper can make a significant contribution in understanding and overcoming environmental pollution issues from a legal perspective in Indonesia.

Results and Discussions

Results

Legal regulation of criminal acts of environmental pollution in Indonesia has a crucial role in ensuring the sustainability and survival of the environment. The phenomenon of human behavior which often excessively utilizes natural resources for personal and group interests, without considering the negative impacts on current and future generations, encourages the need for an effective criminal system to control this behavior. Law No. 32 of 2009 concerning Environmental Protection and Management (UUPPLH) is the main legal protection that regulates the punishment of environmental crimes in Indonesia. UUPPLH emphasizes that these regulations apply to individuals, corporations and authorized officials. Article 98 of the UUPPLH, for example, stipulates

that environmental crimes occur if there are consequences from the actions committed. In the next paragraph, namely Article 99, although have the similar formulation to Article 98, but have a lighter criminal threat. Meanwhile, Article 100 states that there is no need for consequences of the action, only need a proof that the action has been carried out resulting in a violation of environmental quality (Sariowan, 2023).

Apart from that, Article 101 UUPPLH also has a special role. This article states that if someone releases a genetically engineered product into the environment, then an environmental crime has occurred, without considering the impact. Likewise, Article 104 prohibits anyone from throwing waste and hazardous materials into the environment without a valid permit. Meanwhile, Article 105 regulates that waste from abroad is not permitted into the Indonesian environment. This is intended to protect Indonesia's territory from the dangers of waste from abroad, considering that Indonesia has a large territory and uninhabited islands, and there is a lack of supervision over this activity (Sjahdeini, 2020).

Supervision has an important role in efforts to protect the environment. Officials who are given the authority to carry out supervision must ensure that business actors and activities comply with laws and regulations related to environmental protection and management as well as environmental permits. Article 112 UUPPLH emphasizes the importance of supervision in protecting the environment. The monitoring factor has an important objective in realizing the preservation of environmental functions. Therefore, officials who are given the authority to carry out supervision are obliged to monitor the compliance of business actors and/or activities in complying with laws and regulations relating to environmental protection and management as well as environmental permits (Sjawie & SH, 2017).

Criminal liability for criminal acts of environmental pollution in Indonesia is clearly regulated in Law No. 32 of 2009 concerning Environmental Protection and Management (UUPPLH). Apart from police investigators, there are also civil servant investigators (PPNS) who have the authority to carry out investigations into environmental crimes (Priyatno, 2004). Valid evidence in prosecution for environmental crimes includes witness statements, expert statements, certain letters, certain instructions, defendant statements, and other evidence as regulated in statutory regulations. In enforcing criminal law, the public prosecutor has the obligation to prove the defendant's guilt. By enforcing criminal law, the aim is to provide a deterrent effect to perpetrators to prevent actions that damage the environment in the future. Law No. 32 of 2009 concerning Environmental Protection and Management (UUPPLH) is the main instrument in enforcing criminal liability for criminal acts of environmental pollution in Indonesia. It is important to understand and comply with the provisions in UUPPLH in order to protect the environment for present and future generations. Thus, it is expected through effective implementation of these regulations, Indonesia's living environment can continue to be protected and sustainable for a better future (De Maglie, 2005).

Discussion

Law Enforcement Against Criminal Acts of Environmental Pollution in Indonesia

In this modern era, environmental issues have become one of the most important issues faced by global society. Environmental pollution, as a form of serious threat to ecosystems, human health and environmental sustainability, requires strong legal protection. In Indonesia, law enforcement against criminal acts of environmental pollution is regulated by various laws which aim to ensure environmental sustainability and health. One of the main laws that regulates criminal acts of environmental pollution

in Indonesia is Law no. 32 of 2009 concerning Environmental Protection and Management. In this law, criminal provisions are regulated starting from Article 97 to Article 120. These provisions cover various aspects, from violating air and water quality standards, to the criminal act of managing hazardous and toxic waste without a permit. In Article 119, additional criminal sanctions are also regulated in the form of confiscation of profits, closure of business premises, reparations for the consequences of criminal acts, and other sanctions.

Apart from Law no. 32 of 2009, there are also government regulations and ministerial decisions that regulate specific aspects related to environmental management. An example is Government Regulation no. 18 of 1999 concerning Management of Hazardous and Toxic Waste, as well as Decree of the State Minister for the Environment No. 128 of 2003 concerning Procedures and Technical Requirements for the Biological Processing of Petroleum Waste and Soil Contaminated by Petroleum. Supervision of compliance with these provisions is carried out by the local Regional Environmental Impact Control Agency (BAPEDALDA). BAPEDALDA has an important role in monitoring and taking action against criminal acts of environmental pollution, including granting environmental permits to businesses and activities that meet legal requirements.

Apart from government institutions, the community also has a role in enforcing the law against criminal acts of environmental pollution. The public can report activities or businesses that has been suspected of violating environmental regulations to the authorities, so that further investigations can be carried out. However, even though a legal framework to protect the environment in Indonesia exists, there are still challenges in effectively enforcing the law. Some of these challenges include a lack of resources and capacity for environmental monitoring institutions, as well as a lack of public awareness and participation in protecting the environment.

Efforts to increase the effectiveness of law enforcement against criminal acts of environmental pollution require collaboration between the government, supervisory institutions and the community. The government must also continue to be committed to strengthening the environmental legal system, providing adequate resources for monitoring institutions, and increasing public awareness about the importance of protecting the environment. With joint efforts and strong law enforcement, it is expected that Indonesia can protect its environment more effectively, ensure the sustainability of natural resources, and create prosperity for the entire community.

In reality, most cases of environmental pollution do not only involve a single actor, but often involve various parties, including large companies or industries, local governments and local communities. Therefore, in handling cases like this, law enforcement must be carried out with a comprehensive and sustainable approach. Collaboration between various parties is the key to tackling criminal acts of environmental pollution. The government needs to ensure that supervisory institutions have sufficient capacity and resources to carry out their duties well. Apart from that, transparency and accountability in law enforcement are also very important to ensure that decisions taken are based on strong facts and evidence.

In this case, the role of society must not be ignored. The public has the right to know information regarding potential risks of environmental pollution around where they live. They also have an important role in reporting potential pollution cases and ensuring that law enforcement is carried out fairly and transparently. Apart from that, there is a need for education and outreach regarding the importance of protecting the environment at the community level. By increasing awareness of the negative impact of pollution on the

environment, it is expected that the public will be more proactive in supporting law enforcement efforts.

In cases that involving large companies or industries, it is necessary to apply adequate sanctions to ensure that they comply with environmental regulations. These sanctions can take the form of significant fines or even revocation of business permits if they are proven to have committed serious acts of pollution. It is also important to consider the restoration aspect in law enforcement against criminal acts of environmental pollution. After the damage occurs, environmental repair and rehabilitation measures must be taken to return the ecosystem to its original condition or at least close to its original condition.

Apart from that, protection of witnesses and parties involved in environmental pollution cases is also important. They must be protected from pressure or threats they may receive as a result of their involvement in the legal case. Overall, law enforcement against criminal acts of environmental pollution in Indonesia is a complex effort and requires the involvement of all parties. With strong collaboration between the government, regulatory agencies, society and the private sector, it is expected that Indonesia can protect its environment more effectively and realize sustainable development. In this case, the role of law as the main instrument in ensuring accountability for criminal acts of environmental pollution is very crucial, and must continue to be strengthened and improved.

Legal Action against Environmental Violations in Indonesia

In Indonesia, the commitment to protecting environmental integrity is reflected in a number of laws and regulations designed with the concrete aim of preventing, controlling and overcoming potential negative impacts on the ecosystem. One of the main legal foundations which is a pillar in efforts to protect the environment in Indonesia is Law Number 32 of 2009 concerning Environmental Protection and Management. This legal document provides a strong foundation for the implementation of a legal system that focuses on preventing and controlling environmental pollution in Indonesia.

Law Number 32 of 2009 includes provisions detailing the responsibilities of individuals, business entities and other parties related to environmental protection. In this context, this research specifically highlights Articles 116-118 which strictly regulate criminal acts of environmental pollution. These articles not only outline the types of actions that can be considered environmental pollution, but also stipulate criminal sanctions that can be applied to both individuals and business entities. In addition, this research identifies that not only individuals can be held responsible for criminal acts of environmental pollution, but also business entities or corporations. This is in line with the spirit of ensuring that criminal responsibility is applied fairly and evenly, without discrimination regarding the type of entity that commits environmental crimes.

Through analysis of Government Regulations and other implementing regulations that refer to Law Number 32 of 2009, this research explains that the legal framework that supports criminal liability related to criminal acts of environmental pollution in Indonesia is not only general, but also comprehensive. The implementation of this law includes various stages, starting from identifying potential pollution, prevention, handling, to monitoring perpetrators who violate environmental protection norms. Thus, this research not only provides an in-depth understanding of the basis of criminal law related to criminal acts of environmental pollution in Indonesia, but also provides a more detailed picture of how this legal system is implemented in order to maintain environmental sustainability. Awareness of criminal liability and a better understanding of these legal

mechanisms are expected to increase compliance with environmental regulations, encourage sustainable behavior, and make a positive contribution to the ecosystem and overall societal well-being.

Within the scope of criminal law, the approach to environmental violations in Indonesia can be analyzed along several interrelated dimensions, including but not limited to:

1. Environmental Crime Regulation

Law Number 32 of 2009 is a comprehensive legal basis for dealing with various forms of environmental crime in Indonesia. Under the protection of this law, there are a series of provisions that strictly regulate criminal acts related to environmental pollution, including air, water and land pollution. Articles 69 to 86 of the law provide comprehensive details regarding various types of environmental crimes, covering various aspects and forms of pollution that may occur. For example, Article 69 specifically describes criminal acts related to air pollution, while Article 70 clearly regulates criminal acts related to water pollution. Through this regulation, the Indonesian government confirms its commitment to deal seriously with threats to the environment, and provides a strong legal basis for law enforcement against environmental violations.

2. Criminal sanctions

Law Number 32 of 2009 provides a strong basis for the application of criminal sanctions for environmental violations in Indonesia. In this case, the sanctions that can be imposed include various forms, ranging from imprisonment to fines, even a combination of both, which are determined based on the level of the violation and the negative impact it has on the environment. For example, Article 76 of the law explicitly states that perpetrators who are proven to have committed air pollution can be subject to imprisonment for a maximum term of three years or a fine of a maximum of three billion rupiah. With these clear and firm provisions, Law Number 32 of 2009 provides a strong message to perpetrators of environmental violations that their actions will not be ignored and will face serious consequences according to their severity. This is also an important instrument in efforts to build a culture of environmental awareness and ensure environmental sustainability in Indonesia.

3. Law enforcement

Law enforcement against environmental violations in Indonesia is an integral part of the justice system which aims to ensure the sustainability and balance of the ecosystem. Law enforcement officials, including the police and prosecutors, have a crucial role in enforcing regulations governing environmental protection. They are equipped with the authority to carry out a series of actions, including in-depth investigations of alleged violations, prosecuting perpetrators, and processing legal cases related to environmental pollution or damage. Thus, they have a function as the front guard in ensuring that individuals or legal entities involved in activities that are detrimental to the environment will be dealt with in accordance with applicable legal provisions. Through these efforts, law enforcement officials play an important role in providing a deterrent effect to potential perpetrators of environmental violations and supporting the implementation of sustainability principles in the context of everyday life.

4. Corporate Responsibility

Apart from individuals, Law Number 32 of 2009 also regulates the responsibilities of companies related to environmental violations. Article 88 of the law provides a clear legal basis regarding sanctions that can be imposed on legal entities involved in environmental violations. These sanctions include various forms, ranging from

administrative sanctions, civil sanctions, to criminal sanctions. Apart from that, this law also gives the relevant authorities the authority to revoke business permits from companies that are proven to have carried out actions that are detrimental to the environment. This reflects the commitment of Indonesian legislators in upholding sustainability principles and ensuring that business entities are legally responsible for the environmental impacts resulting from their operations. With this provision, companies are expected to be more careful and consider environmental impacts in every aspect of their business activities, encouraging more sustainable and responsible practices in order to achieve a balance between economic growth and environmental preservation.

5. Restitution and Rehabilitation Efforts

Apart from criminal acts, this effort is an integral component of the environmental legal system in Indonesia which emphasizes the importance of restoring and improving the environment after violations. In addition to providing criminal sanctions, Law Number 32 of 2009 mandates that perpetrators of environmental violations can be required to carry out restitution measures, which require them to return the environment to its original condition before damage or pollution occurred. Apart from that, environmental rehabilitation is also mandatory, which means the perpetrator must take constructive action to restore or improve the environment that has been negatively impacted. This includes various activities such as replanting vegetation, cleaning up sources of pollution, and other environmental engineering measures. Through this restitution and rehabilitation mechanism, the Law provides a strong legal basis to ensure that not only sanctions are imposed, but also concrete steps are taken to restore environmental sustainability for the sake of shared prosperity.

It is important to remember that implementing the law against environmental violations is not only the responsibility of law enforcement officials, but also involves active participation from the community and other related parties. Public involvement in monitoring and reporting environmental violations plays an important role in ensuring the success of environmental protection efforts in Indonesia. Apart from Law Number 32 of 2009, there are also other regulations related to environmental protection, such as Government Regulation Number 27 of 2012 concerning Environmental Permits, which regulates environmental permit requirements for projects that have the potential to have a large impact on the environment.

Overall, efforts to protect the environment in Indonesia through legal action are a positive step towards environmental sustainability. However, it is important to continue the strengthening of law enforcement, increase public awareness, and improve regulations so that environmental protection goals can be achieved effectively and sustainably.

Conclusion

Based on an analysis of legal provisions related to criminal acts of environmental pollution in Indonesia, it can be concluded that the application of law to cases of environmental pollution is based on Law no. 32 of 2009 concerning Environmental Protection and Management (UUPPLH). Criminal provisions regarding environmental pollution are clearly stated in chapter XV, articles 97 to article 120 of the UUPPLH. With this regulation, it can be ensured that both individuals and business entities can be subject to legal sanctions for their actions that cause environmental pollution. It is important to note that criminal liability does not only apply to individuals, but also to business entities or corporations. This is confirmed in articles 116-118 UUPPLH. If the perpetrator of the crime is a manager or person giving orders in corporate activities, then they can be

sentenced to prison and a fine as a form of legal responsibility. For business entities, additional sanctions such as confiscation of profits, closure of business premises, reparation for the consequences of criminal acts, the obligation to do what was neglected without the right, and placing the company under guardianship can also be applied.

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