

ENFORCEMENT OF CRIMINAL LAW AGAINST PERPETRATORS OF ENVIRONMENTAL POLLUTION

Mahmud, Didit Darmawan, Rafadi Khan Khayru, Reny Nuraini, Fayola Issalillah

University of Sunan Giri Surabaya

correspondence: rafadi.khankhayru@gmail.com

Abstract - A healthy environment is a basic human right that must be guaranteed by the state. Environmental pollution in Indonesia continues to increase along with the development of industrialization and urbanization. Criminal law enforcement is one of the efforts to overcome this problem. This research examines the mechanism of criminal law enforcement against perpetrators of environmental pollution in Indonesia and identifies obstacles and solutions. Using the literature study method, this research finds that despite the existence of strict regulations such as the PPLH Law, law enforcement still faces obstacles such as limited resources, evidentiary complexity, corruption, intervention, and low public legal awareness. Proposed solutions include increasing the capacity of law enforcement officers, cooperation with experts, supervision and transparency, and increasing public legal awareness. Effective criminal law enforcement is expected to create a cleaner, healthier, and more sustainable environment.

Keywords: Environmental pollution, criminal law enforcement, Environmental Law, law enforcement constraints, law enforcement solutions.

INTRODUCTION

A healthy and clean environment is one of the basic human rights that must be guaranteed by the state. Environmental pollution is an action that damages environmental quality and has a negative impact on human health and ecosystems. In Indonesia, the problem of environmental pollution continues to increase along with the development of industrialization and urbanization. Various efforts have been made by the government to overcome this problem, one of which is through criminal law enforcement.

A damaged environment has a broad impact on society and is detrimental (Darmawan et al., 2021). The impact of environmental damage can threaten human life and increase the risk of natural disasters. For example, floods and landslides can occur due to the bad habits of some people in throwing garbage into the river, which results in the flow of the river being blocked by garbage and causing flooding. In addition, environmental damage can also cause volcanic eruptions, abrasion, forest fires, and landslides, which can disrupt breathing, damage the environment, and even kill the surrounding environment (Fuad, 1986). In addition, environmental degradation can also cause a decrease in the quality of the environment, such as the reduction of forest area due to rampant illegal logging, which can cause floods and landslides.

Environmental degradation can also have an impact on a community's economy, especially for those who depend on natural resources (Hunter et al., 1998). Structural poverty can occur because the social structure of the community is unable to utilize the sources of income that are actually available to them. In addition, environmental degradation can also result in a reduced ability to meet average living standards, such as public health and education standards. Environmental degradation has far-reaching impacts on society, including threats to life, risk of natural disasters, environmental degradation, and adverse economic impacts.

Although there are still challenges in environmental law enforcement, there have also been positive developments in some cases. Several court decisions have accommodated the right to sue citizens in environmental matters, known as citizen lawsuit (action popularis). This shows an effort to strengthen environmental protection through civil law enforcement.

Overall, law enforcement related to the environment still requires greater efforts to overcome the existing challenges (Nurani et al., 2022). Cooperation between the government, the community, and various related parties is needed to increase the effectiveness of environmental law enforcement and preserve the environment for the welfare of society (Bruce et al., 2000).

Criminal law enforcement against perpetrators of environmental pollution aims to provide a deterrent effect, protect the environment, and ensure justice for affected communities. Although there are various laws and regulations governing the environment, their implementation in the field still often faces various obstacles. Therefore, it is important to examine more deeply the enforcement of criminal law against perpetrators of environmental pollution in Indonesia. This research aims to examine the mechanism of criminal law enforcement against perpetrators of environmental pollution in Indonesia and identify obstacles faced in enforcing criminal law against perpetrators of environmental pollution and their solutions.

RESEARCH METHODS

This research uses the literature study method. The literature search was conducted through academic databases, scientific journals, books, and other sources of information relevant to the research topic. The literature found was then screened based on certain inclusion and exclusion criteria, such as relevance to the topic, methodological quality, and accuracy of information. The evaluated literature was then systematically analyzed to identify key findings, trends and patterns relevant to the research topic.

RESULTS AND DISCUSSIONS

Criminal Law Enforcement Mechanism Against Perpetrators of Environmental Pollution

Criminal law enforcement against perpetrators of environmental pollution in Indonesia is regulated in Law Number 32 of 2009 concerning Environmental Protection and Management (PPLH Law). The PPLH Law provides a legal basis to take action against perpetrators of environmental pollution with strict criminal sanctions.

a. Law Enforcement Procedure

Criminal law enforcement begins with a report or complaint from the public or findings from law enforcement officials regarding alleged environmental pollution. If there are allegations of environmental pollution, the public has the right to make a complaint. Complaints can be made directly by visiting and submitting complaints to the Complaints Secretariat or Complaints Post. In addition, the public can also file a representative lawsuit to the court or report to law enforcement against environmental damage that harms people's lives. In Article 81 paragraph (1) of Law 18/2013, the community as a reporter or informant has legal protection that must be provided by the authorized official. The procedure for complaints related to alleged environmental pollution has been regulated in the Regulation of the Minister of Environment and Forestry Number P.22/MENLHK/Setjen/Set.1/3/2017. In enforcing environmental criminal law, in addition to providing punishment to perpetrators of environmental damage or pollution, it also aims to prevent acts that can cause environmental damage or pollution.

After that, an investigation and investigation is carried out by environmental civil servant investigators (PPNS) in collaboration with the police and prosecutors. If sufficient evidence is found, the case is submitted to the court for trial. PPNS investigators have special duties and authority to investigate criminal cases under their authority. In the investigation process, PPNS investigators will carry out various activities such as examining witnesses, collecting evidence, and examining suspects. They work closely with the police and prosecutors to gather sufficient evidence to support the case. If sufficient evidence is found, the case will be submitted to the court for trial. The trial process will involve a public prosecutor (JPU) and a judge. The prosecutor will present the charges against the defendant based on evidence collected during the investigation. The judge will examine the evidence presented and listen to arguments from both sides. After going through the trial process, the judge will decide whether the defendant is guilty or not guilty. In the investigation and trial process, the evidence submitted must meet the minimum threshold of proof outlined by law. If the case file does not meet the requirements or the evidence submitted is insufficient, the trial process may have difficulty proving the defendant's guilt.

In terms of alleged environmental pollution, criminal law enforcement aims to uphold justice and protect the environment. With the process of investigation, investigation, and trial carried out by PPNS investigators, police, and prosecutors, it is expected that the perpetrators of environmental pollution can be tried and given sanctions in accordance with applicable law. In addition, during the investigation process, perpetrators of environmental pollution may be subject to administrative actions such as temporary suspension of activities, revocation of licenses, or administrative fines. This action aims to prevent more severe environmental damage before a court ruling.

b. Criminal Sanctions

The PPLH Law regulates several types of criminal sanctions for perpetrators of environmental pollution, including:

- a) Imprisonment: The perpetrator may be subject to imprisonment with varying penalties depending on the type and seriousness of the pollution committed.
- b) Fines: In addition to imprisonment, the perpetrator may also be subject to a fine, the amount of which is determined based on the impact of the pollution caused.
- c) Additional Penalties: In addition to the main punishment, the perpetrator may also be subject to additional punishment such as confiscation of profits obtained from the crime of environmental pollution, repair of environmental damage, and revocation of business license.

Criminal sanctions can increase legal compliance. Legal compliance is an awareness of the law that forms community loyalty to applicable legal values. In this case, criminal sanctions have an important role in creating a deterrent effect on perpetrators of law violations. When someone knows that breaking the law will result in severe criminal sanctions, they tend to think twice before committing an offense. With the existence of strict and real sanctions, it is

expected that the community will be more compliant with the law and avoid committing acts that violate the rules. This criminal law enforcement aims to provide a deterrent effect to the perpetrators and prevent environmental pollution in the future. Environmental criminal law enforcement has an important role in upholding justice and protecting the environment.

Obstacles in Criminal Law Enforcement Against Perpetrators of Environmental Pollution

Despite the existence of strict regulations, criminal law enforcement against perpetrators of environmental pollution still faces various obstacles.

a. Limited Resources

One of the main obstacles is the limited human resources and facilities owned by law enforcement officials. The limited number of environmental civil servant investigators (PPNS) is often overwhelmed in handling many cases of environmental pollution. In addition, laboratory facilities for testing polluted environmental samples are also often inadequate.

b. Complexity of Proof

Evidence in environmental pollution cases is often complex and requires special expertise. This is due to the nature of pollution that is not always visible to the naked eye and its impact that may only be felt in the long term. Therefore, environmental experts are needed who can provide expert testimony in court to support the evidence.

c. Corruption and Intervention

Corruption and intervention from interested parties often hamper the law enforcement process (Rojak & Issalillah, 2022). Some environmental pollution cases are not seriously followed up due to intervention from parties with economic or political interests.

d. Low Legal Awareness

Low public legal awareness is also an obstacle in criminal law enforcement against perpetrators of environmental pollution. Many people do not report acts of environmental pollution that they know or experience due to ignorance or fear of the impact of reporting (Silalahi, 2001).

Observing the constraints on criminal law enforcement against perpetrators of environmental pollution can provide benefits in several ways. First, a better understanding of these constraints can assist in formulating more effective solutions to improve the effectiveness of environmental law enforcement. By understanding the constraints faced, relevant parties can work to overcome these obstacles and improve efficiency in prosecuting environmental pollution offenders.

In addition, an understanding of the constraints in criminal law enforcement can help in designing better policies (Soekanto & Abdullah, 1980). By knowing the barriers that exist, authorities can develop more appropriate and effective policies in dealing with environmental pollution cases. Furthermore, an understanding of these constraints can also help in raising the awareness of the public and other concerned parties on the importance of environmental law enforcement. By highlighting the constraints faced, greater awareness can be generated about the need for support and cooperation in enforcing environmental laws. Thus, observing the constraints in criminal law enforcement against perpetrators of environmental pollution can provide valuable insights to improve the effectiveness of environmental law enforcement and awareness of the importance of environmental protection.

Solutions to overcome obstacles

To overcome these obstacles, several solutions can be taken, among others:

- a. Through continuous training and education, it is expected that the capacity of law enforcement officers in handling environmental pollution cases can be improved. In addition, it is also necessary to increase the number of environmental PPNS and improve laboratory facilities.
- b. Involving environmental experts in the investigation and trial process can help strengthen evidence in environmental pollution cases. Cooperation with universities or research institutions can be a solution to obtain the required expertise.
- c. Strengthening oversight of law enforcement officials and increasing transparency in the law enforcement process can help reduce corruption and interference. The use of information technology to monitor law enforcement processes can also be a solution.
- d. Through socialization and education to the public on the importance of a healthy environment and how to report pollution, it is hoped that public legal awareness can be increased.

After understanding the obstacles in criminal law enforcement against perpetrators of environmental pollution, the solution will be known. By studying and identifying existing obstacles, relevant parties can find the right solutions to overcome these obstacles. These solutions may include improvements in the law enforcement system, increased cooperation between law enforcement agencies, increased public awareness of the importance of the environment, and the application of stricter sanctions against perpetrators of environmental pollution.

For example, if the identified constraint is a lack of public awareness about the importance of the environment, the solution could be more intensive education and socialization campaigns to raise public awareness (Suwito et al., 2023). If the constraints faced are a lack of human resources or a lack of budget to conduct investigations and inquiries, the solution could be to increase the allocation of adequate resources and budgets.

With the enforcement of criminal law against perpetrators of environmental pollution, the great hope is the creation of a cleaner, healthier, and more sustainable environment (Hardjosoemantri, 1999). Through increasing the capacity of law enforcement officers, increasing the number of environmental PPNS, and improving laboratory facilities, it is expected that the handling of environmental pollution cases can be more effective. Cooperation with environmental experts is also expected to strengthen evidence in environmental pollution cases, so that justice can be better enforced.

Stricter supervision of law enforcement officers and increased transparency in the law enforcement process are expected to reduce corruption and intervention, so that law enforcement can be carried out more fairly and transparently (Hardyansah et al., 2022). In addition, increasing public legal awareness about the importance of a healthy environment is also expected to encourage active participation in reporting cases of environmental pollution.

With the implementation of these solutions, the great hope is the creation of a more protected and preserved environment. Criminal law enforcement against perpetrators of environmental pollution is expected to provide a strong deterrent effect, so as to prevent future acts of pollution. Thus, the hope is the realization of a safer, healthier, and more sustainable environment for future generations.

CONCLUSIONS

Criminal law enforcement against perpetrators of environmental pollution is an important step in maintaining environmental quality and protecting people's basic rights. Although there are various regulations governing this matter, its implementation in the field still faces various obstacles. Therefore, more serious and systematic efforts are needed to overcome these obstacles, so that criminal law enforcement can run more effectively.

This study identifies several main obstacles in criminal law enforcement against perpetrators of environmental pollution, such as limited resources, complexity of proof, corruption, and low public legal awareness. Therefore, comprehensive measures are needed to improve the effectiveness of environmental law enforcement.

The government needs to increase the capacity of law enforcement officers through training and continuing education. Increasing the number of environmental civil servant investigators (PPNS) and improving laboratory facilities are also necessary to ensure more effective case handling. Collaboration with environmental experts is essential to strengthen the evidentiary process in court. The government can collaborate with universities and research institutions to obtain the necessary expertise in handling environmental pollution cases. Oversight and transparency in the law enforcement process should be improved to reduce corruption and intervention. The use of information technology can help monitor the law enforcement process and ensure that every step is done fairly and transparently. Increasing public legal awareness through socialization and education on the importance of a healthy environment and how to report pollution. Active participation of the public in reporting pollution cases is very important to support more effective law enforcement.

With the implementation of these solutions, it is hoped that criminal law enforcement against perpetrators of environmental pollution can provide a strong deterrent effect, prevent future pollution, and realize a safer, healthier, and more sustainable environment for future generations.

REFERENCES

- Bruce, S. B., D.H. Rahmi. (2000). *Pengelolaan Lingkungan*. Gajah Mada University Press, Yogyakarta.
- Darmawan, D. et al. (2021). *Psychological Perspective in Society 5.0*, Zahir Publishing, Jogjakarta
- Darmawan, D et al. (2021). *Tanaman Perkebunan Prospektif Indonesia*, Penerbit Qiara Media, Pasuruan.
- Djaelani, M., Judiono, D. Darmawan, & M. W. Amri. (2022). Study of Concrete: Quality and Economic, *Bulletin of Science, Technology and Society*, 1(1), 1-3.
- Fuad, A. (1986). *Prinsi-prinsip Masalah Pencemaran Lingkungan*, Ghalia Indonesia, Jakarta
- Hardjosoemantri, K. (1999). *Hukum Tata Lingkungan*, Bumi Aksara, Jakarta.
- Hardyansah, M., M. Farid, A. Atmari, D. Darmawan, & M. Zakki. (2022). Eradicate Village Fund Corruption: Efforts to Strengthen Law Enforcement, *Bulletin of Science, Technology and Society*, 1(2), 22-26.
- Hunter, D. et al. (1998). *International Environmental Law and Policy*, Foundation Press, New York.
- Nuraini, R., D. Darmawan, R. Mardikaningsih, M. Hariani, & S. N. Halizah. (2022). Keberlanjutan Kelestarian Lingkungan: Peran Kunci Lokus Kendali Internal dan Wawasan Lingkungan Dalam Mendorong Perilaku Pro-Lingkungan. *TIN: Terapan Informatika Nusantara*, 3(3), 116-122.
- Rangkuti, S.S. (2000). *Hukum Lingkungan dan Kebijakan Lingkungan Nasional*, Universitas Airlangga Press, Surabaya.
- Rojak, J.A. & F. Issalillah. (2022). Transparency Triumphs: Unraveling the Impact of Village Fund Management Accountability and Policies on Rural Prosperity, *Bulletin of Science, Technology and Society*, 1(3), 20-24.
- Silalahi, M. D. (2001). *Hukum Lingkungan Dalam Sistem penegakan Hukum Lingkungan Indonesia*. Alumni, Bandung
- Soekanto, S. & M. Abdullah. (1980) *Sosiologi Hukum Dalam Masyarakat*, Rajawali, Jakarta.
- Suwito, S., T. Terubus, N. H. Pakpahan, D. Darmawan, & M. Bangsu. (2023). Vandalism and Law Enforcement: Preventive and Repressive Perspectives in Building Social Order, *Legalis et Socialis Studiis*, 1(3), 1-9.
- Undang-Undang nomor 32 tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup.