



Environmental Protection and Management From A Legal Perspective

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Abstract

This writing aims to look at the legal perspective and understand the role of law in providing good environmental protection and management so that the environment can be enjoyed by the next generation in the future. The writing method used in this paper is the literature review method (library research). From the discussion it can be concluded that to realize the objectives of environmental management through preventing and controlling pollution, an appropriate legal approach strategy is needed in resolving environmental cases by making optimal use of the existence of Law Number 32 of 2009 concerning the Environment. As support for the implementation of these regulations it is necessary to involve government officials who properly understand the implementation and enforcement of environmental law as a functional law. The existence of environmental law has an important role in overcoming various environmental damages that have occurred so far. Legal regulations are not enough, environmental law enforcement is also an inseparable part of providing environmental protection and management

Keywords:

*Law, Protection, Management
And Environment*

Kata Kunci:

*Hukum, Perlindungan,
Pengelolaan Dan Lingkungan
Hidup*

Penulisan ini bertujuan untuk melihat dari sudut pandang hukum dan memahami peran hukum dalam memberikan perlindungan dan pengelolaan lingkungan hidup yang baik agar lingkungan hidup dapat dinikmati oleh generasi penerus di masa yang akan datang. Metode penulisan yang digunakan dalam tulisan ini adalah metode tinjauan pustaka (library study). Dari pembahasan dapat disimpulkan bahwa untuk mewujudkan tujuan pengelolaan lingkungan hidup melalui pencegahan dan pengendalian

pencemaran, diperlukan strategi pendekatan hukum yang tepat dalam menyelesaikan kasus-kasus lingkungan hidup dengan memanfaatkan secara optimal keberadaan Undang-Undang Nomor 32 Tahun 2009 tentang Lingkungan Hidup. Sebagai dukungan terhadap implementasi peraturan tersebut, perlu melibatkan aparatur pemerintah yang memahami betul pelaksanaan dan penegakan hukum lingkungan hidup sebagai hukum fungsional. Keberadaan hukum lingkungan hidup mempunyai peranan penting dalam mengatasi berbagai kerusakan lingkungan hidup yang terjadi selama ini. Regulasi hukum saja tidak cukup, penegakan hukum lingkungan hidup juga merupakan bagian yang tidak terpisahkan dalam upaya perlindungan dan pengelolaan lingkungan hidup.

INTRODUCTION

Humans in their lives need a healthy and conducive living environment. A healthy, pollution-free environment is every human's dream. Environmental changes are largely determined by humans' attitudes and protection of their environment. The utilization of natural resources, both biological and non-biological, greatly influences environmental conditions and can even change the living system which is already in balance between life itself and its environment. Humans in utilizing these natural resources must pay attention to their purpose and the effects caused by their use.

Environmental damage occurs everywhere which ultimately leads to natural disasters. Damaged forest structures will cause flooding, erosion, landslides and drought in the dry season. Forest destruction will also lead to a reduction in water springs, where water is a source of life for all living creatures on this earth. Without water, humans cannot live well, in fact human life on this earth will become extinct if it is not supported by sufficient water availability.

Environmental pollution and damage, as a side effect (negative impact) from the use of technology in industrial activities, as well as from the low quality of behavior (of some citizens) in society, will undoubtedly cause problems in life and become an obstacle to the realization of sustainable development to improve human welfare, which is the goal of environmental management, therefore it needs to be prevented and addressed (Alvi Syahrin, 2009).

Forms of exploitation of sand mining, pumice mining, gold mining will cause ecological danger. The destruction of the natural balance system has a major impact on the survival of creatures on this earth. Disposing of waste into the sea will also affect the existing marine ecosystem. Not only the disposal of large waste but the disposal of

waste by small and medium companies will also have little impact on the existing ecosystem. If we look at the rivers in the city, in terms of color they have changed, not to mention the addition of indiscriminate dumping of rubbish and disposal of used vehicle washes, making the rivers even dirtier.

The decreasing quality of the environment has threatened the survival of humans and other living creatures, as well as increasing global warming which has resulted in climate change and this will worsen the decline in the quality of the environment. For this reason, it is necessary to carry out serious and consistent environmental protection and management by all stakeholders.

Environmental damage that continues to be allowed will have an impact on future generations. To anticipate that the environmental impact will not be too severe and will not endanger the next generation, it is necessary to have regulations that regulate this and enforce them against everyone who violates the laws and regulations. To anticipate this, in Indonesia there are many legal provisions that regulate environmental protection, namely Law Number 18 of 2008 concerning Waste Management, Law Number 19 of 2009 concerning Ratification of the Stockholm Convention On Persistent Organic Pollutants (Stockholm Convention Concerning Persistent Organic Pollutants), UU no. 32 of 2009 concerning Environmental Protection and Management.

Environmental protection and management based on Article 1 number (2) of Law Number 32 of 2009 concerning Environmental Protection and Management (UUPPLH) is a systematic and integrated effort carried out to preserve environmental functions and prevent environmental pollution and/or damage. which includes planning, utilization, control, maintenance, supervision and law enforcement.

Environmental impact control is an effort to carry out supervisory actions on activities carried out by everyone, especially companies that have a large impact on the environment. In this case, environmental impact is defined as the effect of changes in the environment caused by a business and/or activity.

Therefore, efforts to protect and manage the environment are an obligation for the state, government and all stakeholders in implementing sustainable development so that Indonesia's environment can remain a source and support for life for the Indonesian people and other living creatures. The provisions of Article 1 point (3) of Law Number 32 of 2009 concerning Environmental Protection and Management, stipulate that sustainable development is a conscious and planned effort that combines

environmental, social and economic aspects into development strategies to ensure the integrity of environment as well as the safety, capabilities, welfare and quality of life of present and future generations.

Environmental management provides economic, social and environmental benefits culture and needs to be carried out based on the principles of precaution, environmental democracy, decentralization, as well as recognition and respect for local wisdom and environmental wisdom, so that Indonesia's environment must be protected and managed well based on the principles of state responsibility, the principle of sustainability and the principle of justice.

Based on the problems mentioned above, considering the many environmental damages that occur which are carried out by irresponsible people, it is necessary to write about the role of law in order to reduce the rate of destruction of the environment. For this reason, the author entitled this article as "The Role of Law in Environmental Protection and Management".

WRITING PURPOSE

This writing aims to determine the role of law in providing good environmental protection and management so that the environment can be enjoyed by the next generation in the future.

RESEARCH METHODS

The writing method used in this paper is the literature review method (library research).

THEORETICAL STUDY AND DISCUSSION

Functions of Environmental Law

Environmental protection and management will not run optimally without adequate legal instruments that specifically regulate environmental protection. The environment will experience destruction which is extraordinary without any efforts to prevent it and provide laws against parties who violate it. Law has an important role to provide a deterrent effect to people who violate environmental laws. If there are no laws that regulate the environment, it will cause extraordinary damage to the environment. People carelessly use protected forests for personal gain without caring about other people. with environmental laws that are strictly enforced against violators,

environmental damage will be minimized. This is because the penalties given by the law to violators are very severe.

In enforcing environmental law, all forms of violations and crimes are regulated, for perpetrators, whether committed by individuals or bodies, with preventive and repressive efforts. For this repressive action, there are several types of instruments that can be applied and their application.

depending on the needs, considerations include looking at the impact it causes. The types of instruments in question include (Subagyo, 2002):

1. Administrative Action
2. Civil Actions (Civil Proceedings)
3. Criminal Actions (Criminal Proceedings)

Of the three instruments, there is no priority scale or is the first and last order, so that if there is an assumption that criminal action is the final punishment in its application and if other actions do not solve the problem. This is not entirely true, in fact this criminal act is only resolved unilaterally and has not reached the sufferers, namely the group of people affected by it, in the form of restoration to their original state.

According to Takdir Rahmadi, environmental law is a field or branch of law which has its own characteristics which Drupsteen calls a functional legal field (*functioneel rechtsgebeid*), namely that it contains elements of administrative law, criminal law and civil law. Therefore, environmental law enforcement can be interpreted as the use or application of instruments and sanctions in the fields of administrative law, criminal law and civil law. A State administrative lawsuit is a legal means of State administration that can be used by citizens or civil legal entities against government agencies or officials who issue State administrative decisions that formally or materially conflict with environmental laws and regulations. The use of criminal law sanctions can only be carried out by government agencies. The use of civil legal instruments, namely civil lawsuits, can be carried out by citizens, civil legal entities and also government agencies. However, when compared between the three legal fields, most environmental legal norms fall within the area of State administrative law (Rahmadi, 2011).

It can be noted that environmental criminal law contained in the 1997 UUPH has experienced very significant progress. It is much more developed than the scope of the Criminal Code, as well as the 1982 UUPH. The 1997 UUPH is the basis for

benchmarking the criminal law system for sectoral regulations, which contains criminal law instruments, such as land, mining, forestry, fisheries, electricity, marine resources and so on. . Determining criminal law in certain sectors that is not in line with developments can use UUPH provisions as an alternative to overcome this lack of conformity.

UUPH contains a relatively sophisticated criminal enforcement system, namely combining it with the common law system. In certain cases, there is, for example, strict liability, namely criminal liability without basing it on the aspect of 'fault'. Likewise, the criminal system is not only based on the nature of causality, namely by first proving whether there is a causal relationship between the event, which is called a material offense, but also by basing it on formal acts that violate the specified articles (Aristeus, 2012).

Environmental Law Enforcement System

Environmental law enforcement is closely related to compliance for users and implementers of statutory regulations, in this case both the public and state administrators, namely law enforcers. The existence of a signal that the law is obeyed by the community is a sign of the purpose of its creation.

Regulations are achieved. Law enforcement, which contains compliance, does not arise suddenly but through a process that is formed from the awareness of every human being to carry out and not carry out according to existing regulations.

Environmental law enforcement is related to various quite complex aspects, with the aim of maintaining and creating an environment that can be enjoyed by every human being in a broad sense without disturbing the environment itself. In capturing the attitudes of irresponsible parties, legislation has been created in the form of laws and various implementing regulations (Siahaan, 2008).

To realize the objectives of environmental management through preventing and controlling pollution, an appropriate legal approach strategy is needed in resolving environmental cases by making optimal use of the existence of Law Number 32 of 2009 concerning the Environment. To support the implementation of these regulations, government officials must be involved who properly understand the implementation and enforcement of environmental law as a functional law.

Environmental administrative law enforcement has several strategic benefits when compared to civil and criminal law enforcement. And these strategic benefits,

namely:

1. Administrative law enforcement in the environmental sector can be optimized as a preventive tool.
2. Administrative law enforcement (which is preventive in nature) can be more efficient from a funding perspective than criminal and civil law enforcement. Funding for administrative law enforcement includes the costs of routine field supervision and laboratory testing which is cheaper than efforts to collect evidence, field investigations, employ expert witnesses to prove aspects of causality (cause and effect) in criminal and civil cases.
3. Administrative law enforcement has more ability to invite public participation. Community participation is carried out starting from the licensing process, monitoring structuring/supervision, and participation in filing objections and asking state administration officials to impose administrative sanctions.

For an act regulated in environmental criminal law to be declared a criminal act, it is always linked to further regulations in administrative law, because in the formulation of environmental criminal acts, an act is declared a criminal act if it is carried out contrary to administrative requirements.

The intertwining of criminal law with administrative law in criminal environmental law, *delege lata*, is a fact that must be accepted and will make environmental law enforcement better if it works in synergy, or become an obstacle if it does not work together.

According to Alvi Syahrin (2009), the criminal provisions as regulated in the UUPLH are intended to protect the environment by providing the threat of criminal sanctions. The process of handling criminal acts refers to criminal procedural law, namely Law no. 8 of 1981 concerning the Criminal Procedure Code (hereinafter abbreviated as KUHAP). The criminal law enforcement process based on the Criminal Procedure Code consists of:

1. Reporting
2. Investigation
3. Investigation
4. Prosecution
5. The judge

6. Decision

7. Implementation and supervision of decisions

Based on the provisions in the Environmental Management Law, it can be said that the environmental law enforcement system in Indonesia consists of a compliance stage and an enforcement stage and includes aspects of administrative law, civil law and aspects of criminal law, including aspects of international law. So the resolution of environmental cases tends to provide an opportunity to question aspects of these four branches of law.

Environmental law enforcement at the compliance monitoring stage provides a very large role for local governments which have officers from various sectors. In order for the role of regional officials to be effective, of course the capacity of regional staff is needed through training, developing adequate data networks, and establishing environmental funds.

CONCLUSION

Based on the discussion outlined above, it can be concluded that to realize the objectives of environmental management through preventing and controlling pollution, an appropriate legal approach strategy is needed in resolving environmental cases by making optimal use of the existence of Law Number 32 of 2009 concerning the Environment. To support the implementation of these regulations, government officials must be involved who properly understand the implementation and enforcement of environmental law as a functional law. The existence of environmental law has an important role in overcoming various environmental damages that have occurred so far. Legal regulations are not enough, environmental law enforcement is also an inseparable part of providing environmental protection and management.

SUGGESTION

It is recommended to all levels of society not to make mistakes in using protected forests. Because it will cause more disasterdevastating and can invite various natural disasters such as landslides, flash floods and so on. Remember our children and grandchildren who will enjoy this nature when we no longer inhabit this earth. Law enforcement officials must be proactive in following up on forms of violations that occur today in order to maintain sustainable natural life.

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