



Study of Criminal Sanctions for Environmental Pollution and/or Damage

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Abstract

Environmental pollution and damage due to forest fires in Indonesia is a quite serious problem. Therefore, there is a need for law enforcement efforts which have an important role. Law enforcement can be used as a rule to overcome environmental problems guided by Law Number 32 of 2009 concerning Environmental Management and Protection. The development of environmental crime modes that can endanger and damage the environment is a challenge for the government to create a healthy and clean environment. There is still weak enforcement of environmental criminal law against perpetrators of environmental pollution and destruction. This research aims to examine/analyze criminal sanctions against perpetrators of environmental pollution and/or damage. The research method used is a normative legal research method that uses a library approach. The data sources used are secondary data sources consisting of primary legal materials, secondary legal materials, and tertiary legal materials. The research results show that Criminal law regulations for environmental crimes aim to prevent environmental damage and/or pollution. Law enforcement in environmental matters is regulated in environmental law. Environmental law is a juridical rule for every environmental management and protection. The existence of law enforcement efforts that can be carried out to prepare for the challenge of environmental degradation which is getting worse every day is very important. Law Number 32 of 2009 concerning Environmental Protection and Management, aims as an effort to overcome it or as a guideline for human behavior towards the environment. Crimes against the environment must be implemented from the aspect of criminalization policy, the aspect of criminal responsibility and the aspect of punishment. Aspects of punishment in environmental criminal law include the formulation of minimum and maximum sanctions in the provisions of the articles. Law enforcement officers to be able to understand the meaning contained therein.

Keywords: *Criminal Sanctions; Environmental Pollution and Damage*

Introduction

Humans are living creatures created by Allah SWT who have advantages over other creatures because they are endowed with reason and conscience. With these advantages, humans can utilize the natural surroundings for happiness but must not do so arbitrarily which results in damage and/or pollution to the environment.

The Indonesian environment which was bestowed by God Almighty on the Indonesian people and nation is His gift and mercy which must be protected, preserved, and developed so that it can remain a source of life and support for the Indonesian people and nation as well as other living creatures for the sake of continuity and improvement of the quality of life. itself. Environmental management must require the attention of all development actors (stakeholders). Abundant natural resources need to be protected and managed in an integrated and integrated protection and management system between sea, land, and air.

Indonesia's natural wealth is very abundant, its utilization and management have been regulated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that 'the earth, water and natural resources contained therein are controlled by the State and used as much as possible for prosperity of the people'. The natural resources owned by the Indonesian people are the basic capital for development to improve the welfare of society.

Indonesia is a country where the level of development of human life and needs are increasingly numerous and diverse, so this brings access to environmental problems which is an unavoidable consequence because development which aims to achieve the greatest prosperity of society still relies on exploitation. on natural resources as the main focus. Environmental problems cannot be avoided, with various levels of need, especially the need for exploitation of natural resources as the main focus.

A declining quality of life will threaten the continuity of human life and other living creatures, so it is necessary to carry out serious and consistent environmental protection and management by all stakeholders. Good protection and management of natural resources will have a positive impact on human welfare, but if the protection and management are not good it will hurt human life and other living creatures. So the main problem is how to protect and manage natural resources so that there is a balance between producing the maximum benefits without sacrificing the sustainability of natural resources. The presence of Law Number 32 of 2009 concerning Environmental Protection and Management can be understood as an effort to reduce or avoid the risk of environmental pollution and/or destruction. This law is the basis for implementing development that is environmentally friendly and is classified as responsive and makes it the main consideration in implementing development spurs the implementation of sustainable development and expresses critical views that are useful for decision-makers and government policy makers. It is time for the Indonesian people not only to exploit their natural wealth but also to seriously restore and maintain the continuity of their natural environment by integrating environmental, social, and economic aspects into development strategies to ensure the integrity of the environment as well as safety, capability, prosperity for the interests of the State and quality of life. present and future generations.

Environmental protection and management requires the development of an integrated system in the form of a national policy for environmental protection and management which must be implemented in a principled and consistent manner from the center to the regions. Preventive efforts in the context of controlling environmental impacts need to be implemented by making maximum use of monitoring and licensing instruments. If environmental pollution and damage has occurred, it is necessary to carry out repressive efforts in the form of effective, consistent, and consistent law enforcement against environmental pollution and damage that has occurred.

To guarantee legal certainty as a basis for environmental protection and management and other development activities, it is necessary to develop a legal system that is clear, firm, and comprehensive. Criminal law enforcement in Law Number 32 of 2009 introduces the threat of a minimum sentence and also a maximum sentence. Expansion of criminal evidence for violations of environmental quality standards. Criminal law enforcement only applies to certain formal criminal acts, namely punishment for violations of wastewater quality standards, emissions, and disturbances, and as a last resort after the implementation of administrative law enforcement is deemed unsuccessful. Perpetrators of environmental crimes can also be individual or collective. The form can constitute corporate crimes [1].

The study of crime victims is increasingly important to determine criminal politics (criminal policy) and the most appropriate approach to crime prevention. In environmental crimes, the most basic thing is the qualification as an economic crime. Victims of environmental crimes can also be categorized as economic crimes, namely the interests of the state and the interests of society because economic crimes are always related to a nation's economic system. For the Indonesian people, this is written and implied in Article 33 of the 1945 Constitution of the Republic of Indonesia. Thus, economic crimes are often also referred to as crimes against the Constitution.

The concept of victims in environmental crimes is closely related to the concepts of actual harm and threat of harm because it must be understood that losses or damage in environmental crimes often do not occur immediately or can be easily quantified [1]. This is where the discussion often intersects with formal crimes and material crimes, specific crimes, and generic crimes. The problem is that a person's actions not only cause impairment of the quality of the natural environment (causing a decline in the quality of the natural environment) but also are likely to cause impairment of the quality of the natural environment (potentially causing a decline in the quality of the natural environment).

The research aims to examine and analyze criminal law in providing criminal sanctions due to environmental pollution and/or damage.

Basic Theoretical Framework

1. Environment

1.1. Understanding the Environment

In its development, human needs are no longer just necessities for life or fulfilling the basic life needs, for example eating, and drinking, but human needs are now largely influenced by secondary needs, namely the need for clothing, vehicles, and education. Apart from that, humans also have tertiary needs, namely the freedom to make choices. Of all these human needs, they will influence human life patterns. Meanwhile, limited resources are compounded by an ever-increasing population and changing patterns of needs and behavior. Therefore, humans are required to be able to control their lifestyle and control excessive consumption patterns where there is a limit that is not excessive but sufficient.

The environment is a living system where there is human intervention in the order of the ecosystem. The use of natural resources must be in harmony and balance with environmental functions. As a consequence, development policies or programs must be imbued with the obligation to preserve the environment and realize sustainable development goals. Law Number 32 of 2009 concerning Environmental Protection and Management in Article 1 number 1 states that the environment is a spatial unity with all objects, condition data, and living creatures including humans and their behavior which affects nature itself, the continuity of life human welfare, and other living creatures.

1.2. Understanding Environmental Law

The term environmental law is a translation of several terms, namely 'Environmental Law' in English, 'Milieurecht' in Dutch, 'L, environment' in French, and 'Umweltrecht' in German.

The definition of the environment according to Law Number 32 of 2009 concerning Environmental Protection and Management is that the environment is a unity of space with all objects, power, conditions, and living creatures including humans and their behavior which affects nature itself, the continuity of life and welfare of humans and creatures. another life. Environmental law is the basis for statutory regulations in the implementation of development development must be carried out by existing regulations and must be environmentally friendly, namely sustainable development that optimizes the benefits of natural resources and human resources by harmonizing human activities with the ability of natural resources to support them. This approach considers the sustainable use of natural resources and improving the quality of the environment, as well as paying attention to economic and social sustainability. Efforts to approach development that pay attention to the environmental impacts of human activities and ensure that these actions do not damage the environment. It is hoped that government officials will explain this law in technical policies in each sector for environmentally sound development.

Science and technology have improved the quality of human life and also changed human lifestyles. The use of chemical-based products in industry has increased the production of waste that is harmful to living things. This requires the development of a system with minimal risk impact on the environment, health, and survival of humans and other living creatures.

Preventive efforts in the context of controlling environmental impacts need to be implemented by making maximum use of instruments for supervision and licensing of development planned for the environment. If environmental pollution and damage has occurred, it is necessary to carry out repressive efforts in the form of effective, consistent, and consistent enforcement of environmental law against environmental pollution and damage that has occurred. As a legal discipline that is currently developing, environmental law utilizes various legal provisions from both administrative law aspects, civil law aspects, and criminal law aspects.

The definition of environmental law in general is that law is the entire collection of regulations or rules in a common life. From the description of the meaning of law, environmental law is a whole set of regulations that regulate people's behavior regarding what they should do to the environment, the implementation of these regulations can be enforced with sanctions by the authorities. According to St. Munadjat Danusaputro quoted in [2] defines environmental law as the law that underlies the implementation of protection and management as well as increasing environmental (living) resilience. The aim of environmental law lies in the rational management of the (living) environment and the preservation of its resources in such a way as to prevent depletion and deterioration of its quality.

The substance of environmental law, if viewed from its function, environmental law contains rules regarding community behavior and its impact on the surrounding environment, either directly or indirectly. Environmental law regulates what is prohibited and what is permitted by society [3].

Environmental law, seen from the environmental problems that cover it, can be divided into four areas: Environmental planning law, Environmental pollution control law, Environmental dispute resolution law and Natural resource conservation law [4].

Environmental law is divided into classical environmental law and modern environmental law. Classical environmental law establishes provisions and norms to guarantee the use and exploitation of environmental resources using various human minds and intelligence to achieve the maximum possible

results in the shortest period. Modern environmental law establishes provisions and norms to regulate human actions to protect the environment from damage and deterioration in its quality to ensure its sustainability so that it can be continuously used by current and future generations.

Environmental Law and environmental science cannot be separated but can be distinguished. Environmental science cannot be separated from the concept of ecology and the concept of ecosystem. 'Etymologically, the concept of ecology is a science about living things or the science of living things in the household'. The term ecology was first used by Ernest Haeckel, a German biologist. With natural ecology, it is seen as a network of living systems that are interconnected with each other. From the concept of ecology, humans have captured knowledge of living things and inanimate objects. Then further development transformed into the concept of an ecosystem, which is an ecological system formed by reciprocal relationships between living things and their environment. Ecosystems are formed by living (biotic) and non-living (abiotic) components. An approach with many sciences because in environmental science if an environmental dispute occurs then resolving it using approaches from other sciences or what is called interdisciplinary and multidisciplinary is very necessary in explaining and understanding environmental law. This means that an interdisciplinary approach is an intensive interaction between one or more scientific disciplines, both directly and indirectly related, through research programs to integrate concepts, methods, and analysis. Multidisciplinarity (multidisciplinary) is a combination of several scientific disciplines to jointly address certain problems.

1.3. A Brief History of the Development of Environmental Law

History can be interpreted as a continuous event. "In the century before Christ, in the Code of Hammurabi, there was a clause which stated that criminal sanctions were imposed on a person if he built a house rashly so that it collapsed and caused the surrounding environment to be disturbed" [1]. In the 6th century AD, the apostolate of the Prophet Muhammad SAW, followed by the revelation of verses from the Qur'an, shows that the Islamic religion contains environmental ethical principles which are a concrete manifestation of moral strength for preserving the carrying capacity of the environment, as in Surah al-A'raaf Verse 56: '...And do not destroy the earth after God has built it.

When the conquest of Asian-African countries was carried out, the Dutch State also took part in conquering the archipelago and to regulate the environment, nuisance ordinances were implemented, namely the HO (Hinder Ordonantie), Staatblad 1926:26 jo Stbl 1940:450 and the Law on Environmental Protection namely Natuur Bescherming Stbl 1941:167

Along with the renewed development of environmental law, it cannot be separated from the international movement to pay greater attention to the environment. This is because the environment has become a problem that needs to be addressed together for the sake of survival in the world. "At the United Nations, attention to environmental issues began within the Economic and Social Council better known as the UN ECOSOC." [1].

The discussion on environmental issues was proposed by the Swedish delegation on May 28, 1968, accompanied by suggestions to explore the possibility of holding an international conference. At the UN general assembly, it accepted the Swedish government's offer to hold a UN conference on the human environment in Stockholm which was held on: 5 – 16 June 1972 and was attended by 113 countries and resulted in the Stockholm Declaration of 24 environmental principles and 109 recommendations for human environmental action plans and declared June 5 as world environment day.

In preparation for facing the UN environmental conference, Indonesia must prepare a national report as a first step. For this reason, the first environmental seminar was held with the theme 'Human Environmental Management and National Development' at Padjadjaran University, Bandung. At the

seminar, a paper was presented on the Legal Regulation of Human Environmental Problems. Based on several thoughts and suggestions by Mochtar Kusumaatmadja, this paper is the first briefing on the development of environmental law in Indonesia. In forming the apparatus in the environmental sector, based on Presidential Decree No. 28 of 1978 which was later refined by Presidential Decree No. 35 of 1978, the Ministry of State for Supervision of Development and the Environment (PPLH) was formed and Emil Salim was appointed as Minister of State for PPLH. Then the first environmental legislation in Indonesia was issued, namely Law No. 4 of 1982 concerning Basic Provisions for Environmental Management.

2. General Overview of Criminal Offenses

2.1. Definition of Criminal Acts

People, people, or legal entities who commit crimes or violations in the criminal field are called criminal offenders. Criminal acts in English are called criminal acts or criminal offenses, in Dutch they are called strafbaar feit, meaning actions related to crime. The word act can be interpreted as an action or step, while criminal can be interpreted as a crime or crime.

The definition of crime according to the Big Indonesian Dictionary is conceptualized as a crime. Crime is behavior that is contrary to applicable values and norms. "Applicable norms are rules that have been ratified and determined by authorized officials. The official with the authority to enact laws is the President with the agreement of the DPR RI.[5]

Expert's view on the meaning of a criminal act, [6] defines a criminal act as an act for which the perpetrator must be punished. [7] defines a criminal act as an act that is prohibited by law and is punishable by criminal law, where the definition of the act here is apart from active acts (doing something that is prohibited by law) as well as passive acts (not doing what is required by law).

Several elements are included in the definition of a criminal act, namely the existence of an act, the existence of a legal object, the existence of legal rules, and the nature of the act. Based on the nature of the action, whether the action is active or passive.

2.2 Enforcement of Environmental Criminal Law

Environmental law enforcement is not only to provide punishment or criminal sanctions as regulated in article 10 of the Criminal Code (KUHP) to perpetrators who destroy the environment but also aims to prevent acts that cause damage and/or pollution to the environment, therefore criminal environmental law enforcement is not only repressive but also preventive. Repressive enforcement of criminal law on the environment aims to overcome environmental damage and/or pollution by imposing criminal sanctions on perpetrators which can be in the form of basic criminal sanctions that have been regulated in criminal law. Meanwhile, preventive environmental law enforcement aims to prevent environmental damage and/or pollution. In this case, preventive environmental law uses Environmental Impact Analysis and licensing to be used as instruments in environmental law

Environmental crimes are regulated in Law Number 32 of 2009 concerning Environmental Protection and Management in the Chapter in criminal provisions it is a crime (Recht delicten). In general, acts that are prohibited by the threat of criminal sanctions for those who violate them in Law Number 32 of 2009 are acts of environmental pollution and destruction of the environment, however in the formulation of criminal acts it is regulated not in general but more specifically. Criminal provisions in the Environmental Protection and Management Law which constitute the *lex specialis* for environmental

problems are the basis for enforcing criminal law against environmental pollution and destruction. Criminal provisions on the environment are regulated in Chapter XV Articles 97 to Article 120.

The development of industrial technology and extraordinary population growth have led to a harmonious relationship between humans and the environment in which they live. Disasters that threaten human life occur because of disharmonious interactions between humans and their environment. Humans tend to exploit their environment to meet their needs without paying attention to sustainability.

To overcome environmental problems, the role of the government is needed because if environmental damage cannot be controlled it will cause disasters which will certainly be detrimental to the country and its residents/citizens. In this case, a policy from the government is needed to prevent disasters due to environmental damage, such as disaster mitigation, which is a form of state responsibility to preserve nature or the environment.

Government policy other than mitigation is through laws and regulations created to protect the environment in Indonesia, including all existing natural resources. Mistakes regarding environmental problems can be caused, among other things, by a weak system of applicable laws and regulations and a weak monitoring system for various environmental management and protection. Therefore, strict law enforcement is needed to protect the environment because basically, Indonesia is a rule of law country. Law is a reflection of a system of values that society believes in and trusts as an institution in a good life including personal, social, and state life which of course must be enforced in the right way. Law enforcement from the aspect of criminal law is very important in the context of preserving the environment in Indonesia, namely through environmental law in criminal sanctions.

Enforcement of criminal environmental law is carried out using judicial juridical procedures. Environmental law enforcement in the civil sector is carried out through litigation and non-litigation. So environmental law focuses a lot on how humans should behave and act in managing their environment.

2.3. General Principles in Environmental Crime

Sustainable development is not a constant level of harmony but a process of resource utilization, investment direction, technology development orientation, and institutional changes that are consistent with future and present needs.

Sustainable development is developing harmony between humans and between humans and nature. All factors including the number, quality, and location of the population, the technology used, and lifestyle patterns that consume natural resources must be taken into account if we want to be successful in implementing environmentally sound development. Apart from these factors, there are general principles in environmental crimes which are to prevent environmental pollution and damage. The elements of a criminal offense include acts that are deliberate, intentional with possibility, and negligence. "In formulating environmental crimes, we should always remember that environmental loss and damage is not only real (actual harm) but also the threat of potential damage to both the environment and public health [1]

The general principles in environmental crimes to prevent environmental damage are [8] :

- a. The principle of legality means that punishment must be based on statutory provisions. This means that in the formulation of criminal law regulations, there must be clarity relating to what is said to be criminal acts in the environmental sector (environmental offenses) regarding criminal justice and the sanctions that need to be imposed so that there is legal certainty to protect the environment and natural resources. so that it can be enjoyed by future generations.

- b. The Principle of Sustainable Development, which was accepted by the UN General Assembly in 1992, emphasizes that economic development should not sacrifice the rights of future generations to enjoy a healthy environment. Sustainable development also requires the existence of a system that guarantees compliance with the law. What is important in this case is laying the foundation for the development of effective and credible compliance. To ensure compliance and enforcement of the law, the responsibility to protect environmental sustainability must be formulated and understood. Every officer must understand and be aware of his duties according to the law. Once their duties have been determined by law, every officer is obliged to carry out their duties, namely carrying out their duties according to the law and carrying them out.
- c. The precautionary principle (The precautionary principle), which is contained in principle 15 of the Rio de Janeiro Declaration. This principle emphasizes that action taken against violations of formal offenses in the Environmental Protection and Management Law should not be taken immediately with serious action but must be carried out gradually and comprehensively, starting from the lightest, medium, and finally the heaviest.

The principle of restraint, which is also one of the conditions for criminalization, states that criminal sanctions should only be used for environmental crimes if there is ineffectiveness of sanctions in administrative law, civil law, and alternative resolution of environmental disputes outside the court. In criminal law, this is known as the principle of subsidiarity ultima ratio principle, or the principle of ultimum remedium or last resort or a last resort.

2.4. The Concept of Victims in Environmental Crimes

The concept of victims in environmental crimes is closely related to the concepts of actual harm and threat of harm because loss or damage in environmental crimes often does not occur immediately. There are categories of concrete victims and abstract victims. This is where the discussion often intersects with formal criminal acts and material criminal acts.

The concept of victim in criminal cases in the environmental sector must not be studied as to the meaning of victim as formulated in the Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power, which was adopted by the UN General Assembly in 1985. In this case what is called a victim (victim) is "a person who individually or collectively has suffered harm including physical or mental injury emotional suffering economic loss or substantial impairment of the fundamental right, through acts or omissions that violate criminal laws operative within Member states, including those laws proscribing criminal abuse of power.

Perpetrators of environmental crimes can be individuals or collectives, the form of which can constitute corporate crimes. Most of the legislation that applies sanctions against legal entities only takes the form of a fine as a single-action sanction so there is no other alternative for the panel of judges in imposing penalties for these actions. So it is imperative.

In environmental crimes, several objectives to be achieved in punishment are firstly to educate the public regarding moral errors related to prohibited behavior. Second, prevent or deter potential perpetrators from carrying out irresponsible behavior towards the environment.

3. Theory of Responsibility in Environmental Crimes

A person will have criminal liability if something or an act they do is against the law. Criminal responsibility is a form of determining whether a suspect or defendant is responsible for a criminal act that has been committed. The actions carried out by a person are prohibited actions, namely actions that are contrary to or prohibited by law, both formal law and material law.

The burden of responsibility for perpetrators of criminal acts is borne by the perpetrators of criminal offenses in connection with the basis for imposing criminal sanctions. Criminal accountability does not only concern legal matters but also concerns moral values or general decency adhered to by a society or groups in society so that criminal liability is achieved by fulfilling justice.

Criminal liability in the command law system is always associated with mens rea and punishment. Criminal accountability has a relationship with society, namely a relationship of accountability with society as a function, namely, accountability has the power to impose a crime so accountability is a function of social control so that in society no criminal acts occur.

In environmental crimes, there are several objectives to be achieved in punishment, namely to educate the public regarding moral errors related to prohibited behavior and to prevent or hinder potential perpetrators from carrying out irresponsible behavior toward the environment. The law governing the environment has adopted corporate responsibility. If a criminal act against the environment, namely environmental pollution and/or damage is committed by a legal entity and its management, sanctions will be given according to those regulated in the Criminal Code (KUHP) and the Law on the Environment. Perpetrators of environmental criminal acts may also be subject to disciplinary action or administrative action.

4. Environmental Pollution and/or Damage

Environmental problems are also related to social phenomena such as population growth, migration, and social behavior in producing, consuming, and so on. So the problem does not only concern natural science but also social phenomena. As a result of increasingly rapid economic and technological development, it can influence changes in environmental conditions that exceed the threshold limit of ecosystem tolerance, thereby increasing the amount of pollutants in the environment which ultimately causes environmental damage and/or pollution. The declining quality of the environment has threatened the continuity of human life and other living creatures, so it is necessary to protect and manage the environment seriously and consistently by all stakeholders. This requires the development of a safe development system with minimal risk to the environment, health, and survival of humans and other living creatures.

According to Law Number 32 of 2009 concerning Environmental Protection and Management, the definition of environmental pollution is the entry or introduction of living creatures, energy substances, and/or other components into the environment by human activities so that it exceeds the established environmental quality standards. Meanwhile, environmental damage is a direct and/or indirect change in the physical, chemical, and/or biological characteristics of the environment so that it exceeds the standard criteria for environmental damage. Factors that cause environmental pollution and/or damage, such as increasing population and uncontrolled natural exploitation activities, as well as industrialization that is not managed properly. Apart from that, environmental pollution can also be caused by natural processes themselves, as changes in abiotic factors result from activities that exceed the tolerance threshold of the biotic ecosystem.

In implementing environmental law, legal instruments must be firm in providing sanctions against perpetrators of environmental pollution and/or damage. Environmental law contains rules regarding people's behavior towards their environment directly and indirectly. Environmental law states directly to the community what is prohibited and what is permitted. Indirectly to the community, it provides a basis for those in authority to provide rules to the community.

Research Methods

The research approach used in this legal research is analytical descriptive. This research uses secondary data sources obtained from library research, both in the form of primary legal materials, secondary legal materials, and tertiary legal materials.

Analysis of legal materials is carried out by collecting all the necessary legal materials, which are not numbers, and then connecting them to existing problems.

Result and Discussion

1. Study of Environmental Crimes

The punishment aspect of environmental crimes is essentially a reward for deviant behavior carried out by the community towards the environment to provide a deterrent effect so that acts of deviating from existing regulations will not happen again. That punishment can be said to be retaliation. However, on the other hand, punishment is also intended to improve the behavior of the convict by preventing other people from committing similar criminal acts.

The environment has become an issue that continues to be discussed in the world. Motivated by environmental pollution and damage caused by human behavior. A damaged environmental condition will threaten human existence in the future. In Indonesia, environmental damage has become a criminal offense for individuals or legal entities that cause environmental damage. The general regulations have been mentioned in the 1945 Constitution of the Republic of Indonesia and then continued with other regulations that are still correlated with environmental crimes.

Law Number 32 of 2009 concerning Environmental Protection and Management was created to realize sustainable development with an environmental perspective in the context of developing Indonesian people as a whole and in the context of developing the entire Indonesian society who believe and are devoted to God Almighty. To achieve the objectives of making laws regulating the environment, these laws are equipped with criminal provisions for perpetrators of environmental damage or pollution. All criminal acts against the environment are a crime, and the threat of criminal sanctions for the perpetrators is quite severe because they are cumulative, that is, they can be sentenced to prison and fines simultaneously. And if the perpetrator is a corporation, the threat of a fine is increased by one-third. Ironically, even though some laws and regulations have been implemented to protect environmental sustainability by providing the threat of quite severe criminal sanctions, the reality on the ground shows that from time to time, from one region to another, Environmental conditions in this country are still worrying. How big a loss we have to suffer if we neglect to preserve the environment.

Enforcement of environmental criminal law in law introduces the threat of a minimum sentence and also the threat of a maximum sentence, expansion of evidence in the proof process, punishment for violations of quality standards, and regulation of corporate crimes as well as integration in criminal law enforcement.

Environmental cases in the application of environmental criminal law still pay attention to the principle of **ultimum remedium** which requires the determination of criminal law enforcement as a last resort after the determination of administrative law enforcement is deemed unsuccessful. The determination of the ultimum remedium principle only applies to certain formal criminal acts, namely punishment for violations of wastewater quality standards, emissions, and disturbances. According to Law Number 32 of 2009 concerning Environmental Protection and Management, what is meant by

environmental quality standards is the limit or level of living creatures, substances, energy, or components that exist or must exist and/or pollutant elements that are allowed to exist in a source. certain forces as elements of the living environment.

The criminal elements in environmental law are the criminal provisions contained in environmental laws and regulations. In Law Number 32 of 2009, the prison sentence is accumulated with a fine. For example, Article 98 (3) states that if the act referred to in paragraph (1) results in a person being seriously injured or dead, he/she 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 (five billion rupiah) and a maximum of IDR 15,000,000,000 (fifteen billion rupiah).

Based on a criminal law perspective, efforts to overcome environmental crimes can be seen from three aspects, namely the criminalization policy aspect, the criminal responsibility aspect, and the punishment aspect.

The Criminalization Policy Aspect which is meant by criminalization policy aspect is a policy to determine whether an act that was not initially a criminal act becomes a criminal act, the Criminal Liability aspect is two important things in criminal law, namely criminal acts relating to the perpetrator of the criminal act and errors relating to criminal liability. In terms of the subject of criminal acts, in general, only people are recognized as legal subjects, but as time goes by, corporations are recognized as legal subjects. Criminal sanctions imposed on environmental crimes committed by legal entities are subject to sanctions imposed on the giver of the order or leader, increased by one-third. This means that crimes committed by corporations have a heavier and more severe impact than environmental crimes committed by individuals. Article 116 paragraph 1 of Law Number 32 of 2009 states that if an environmental crime is committed by, for, or on behalf of a business entity, criminal charges and criminal sanctions are imposed on: (a) the business entity; and/or (b) the person who gave the order to carry out the criminal act or the person who acted as the leader of the activity in the criminal act.

Meanwhile, Article 116 Paragraph 2 of Law Number 32 of 2009 states that: If an environmental criminal act as intended in paragraph (1) is committed by a person, based on an employment relationship or based on another relationship acting within the scope of work of a business entity, criminal sanctions are imposed against the giver of the order or leader in the criminal act without regard to whether the criminal act was committed individually or jointly.

2. The Nature of Environmental Protection Regulations in Indonesia

The living environment is the unity of space with all the objects and living creatures in it, including humans and their behavior, which can influence the continuity of life between humans and the environment around them. The damage and/or pollution occurring to the environment, especially in Indonesia, is increasingly worrying, which if left unchecked will gradually threaten human life itself. Apart from being caused by natural conditions, environmental damage is also generally caused by damage that occurs from human activities that excessively exploit nature, such as forest destruction, illegal felling of trees, and pollution of land, water, and air.

Environmental criminal provisions can also apply the principle of premium remedium, namely in the management of B3 waste (hazardous and toxic materials) and waste dumping. The application of the premium remedium principle is deemed appropriate because violations of B3 waste and waste dumping do not constitute a material offense or an offense that does not require material proof to determine the prohibited impact of an act that occurred. The increasing number of development activities has an impact on the environment, pollution, and environmental damage[9].

If you look at the impacts caused by irresponsible human activities that result in environmental pollution and/or environmental damage to the sustainability of a clean and healthy environment, it is necessary to control environmental impacts so that the risk of environmental pollution can be minimized. The impact of pollution caused by increasing development activities includes water pollution caused by waste produced from industrial activities which is then dumped into rivers or watercourses, causing the water to be polluted [10].

In the form of policies regarding environmental damage, one form of overcoming environmental impacts is Law Number 32 of 2009 concerning Environmental Protection and Management which can be used as a basis for the field of environmental management in Indonesia. This law regulates the principles regarding environmental protection and management and is a legal instrument so that it is in line with the positive legal system in Indonesia.

The application of environmental criminal sanctions must be implemented as a firm way of dealing with environmental problems. It is felt that the application of criminal sanctions as an ultimate reminder is not optimal in following up on criminal cases of environmental pollution. So, to tackle environmental damage and/or pollution firmly and to have a deterrent effect on perpetrators of environmental crimes, criminal sanctions are a premium remedium. Criminal acts of pollution and environmental damage need to be addressed firmly through the application of criminal sanctions.

In criminal law, criminal acts relate to the perpetrator of the criminal act and errors relate to criminal liability. In terms of the subject of criminal acts, in general, only people are recognized as legal subjects, but as time goes by, corporations are recognized as legal subjects. The mechanism for criminalizing corporations is that they are subject to criminal penalties for crimes committed, called the principle of strict liability, criminal penalties are imposed where the actions of certain members of the corporation are recognized, or what is called the principle of identification, for example, the director's decision is also a corporate decision. As for punishment, what is meant is punishment which is essentially a reward for deviant behavior, so it can be seen that punishment is only a form of retaliation. However, on the other hand, punishment is intended to improve the behavior of the convict so that it has a deterrent effect and can prevent other people from committing similar criminal acts.

Conclusions and Recommendations

1. Conclusion

Criminal law regulations for environmental crimes aim to prevent environmental damage and/or pollution. Law enforcement in environmental matters is regulated in environmental law. Environmental law is a juridical rule for every environmental management and protection. The existence of law enforcement efforts that can be carried out to prepare for the challenge of environmental degradation which is getting worse every day is very important.

Law Number 32 of 2009 concerning Environmental Protection and Management, aims as an effort to overcome it or as a guideline for human behavior towards the environment. Crimes against the environment must be implemented from the aspect of criminalization policy, the aspect of criminal responsibility and the aspect of punishment. Aspects of punishment in environmental criminal law include the formulation of minimum and maximum sanctions in the provisions of the articles. Law enforcement officers to be able to understand the meaning contained therein.

2. Suggestions

Law enforcers should apply the principle of environmental crime, namely premium remedium, to create a deterrent effect against environmental destruction which is increasingly worrying about the existence of humans and living creatures. Apart from that, it is also necessary to immediately revise other laws and regulations related to the environment regarding corporate criminal liability. Apart from this, it is also necessary to immediately formulate legislative regulations that regulate the use of national law and customary law in the management, utilization, and protection of customary forests.

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