

# **Law Enforcement Against Environmental Damage As a Result of Direct Disposal of Waste Incompatible with Environmental Management Efforts**

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## **Abstract**

Humans grow and develop with their environment. All human interactions, both between humans and with the environment have positive and negative impacts on the environment. Therefore, legal regulations must regulate the balance between humans and their environment. Environmental law and all its facilities and conditions with people who are in and affect the environment. Therefore, as an important subject in the process of developing the environment, we as humans must preserve and protect our environment as well as possible.

**Keywords:** Environment, Environmental Law, Legal Subject



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## **INTRODUCTION**

Before going further into the existence of environmental problems, it is better to first understand various things regarding the meanings and aspects of the environment. The environment is an absolute part of every human life. Naughton and Larry L. Wolf define the environment with all the external factors that are biological and physical in nature that directly affect the life, growth, development and reproduction of organisms. (Siahaan: 2009) There is a definition that relates it to humans and their behavior by Prof. Stepanus Munadjat Danusaputro by interpreting the environment as all objects and conditions including humans and their actions that are contained in the space where humans are and affect the well-being of humans and other living organisms (UU 23 of 1997).

The habitat of Indonesia includes the space where the unitary state of the Republic of Indonesia is narrow-minded in exercising its sovereignty, sovereign rights and jurisdiction. This means that the government is obliged to protect the environment, which includes policies regarding structuring, utilization, maintenance, restoration, monitoring and control of the environment within the framework of the Indonesian environment (Nwokeocha, 2023). Therefore, the state has a supervisory role in the environmental management function. The government is an instrument for making rules in the form of institutions that focus on sustainable and sustainable business (Sukmawati et al., 2022). Environmental Protection and Management Law No. 32 of 2009 states that environmental management and protection is a systematic and integrated effort to preserve environmental functions and prevent environmental pollution and/or damage which includes planning, operating, controlling, maintaining, monitoring, and controlling (Herlina: 2017).

Environmental management, including prevention of damage and pollution, control and restoration of environmental quality, requires the development of various policies and programs and activities that are supported by other environmental management support systems (Pribadi et al., 2022). Therefore environmental law is needed as a tool in environmental problems. Legal instruments are needed in order to protect the environment

and natural resources are used according to the carrying capacity or condition of the environment itself.

## **RESEARCH METHODS**

The research method that I used in the process of making this article is a quantitative research method.

## **RESEARCH RESULTS AND DISCUSSION**

The 1945 Constitution of the Republic of Indonesia and its amendments require as a constitutional basis that natural resources must be used for the greatest possible prosperity of the people, as stated in Article 33 Paragraph 3 of the 1945 Constitution. Land and water and the natural resources contained therein must be controlled by the state and used for the greatest prosperity of the people. However, this argument is inversely proportional to the case in this discussion. Press release Number: SP. 084 /HUMAS/PPIP/HMS.3/03/2023 on March 6, 2023 broadcast a case of environmental pollution that occurred in one of the rivers in the city of Riau. In this case the perpetrators were subject to administrative sanctions because they were negligent and did not pay attention to the sanctions that had been given (Hanevi et al., 2022).

Administrative law on environmental management itself has an important role, because it is through a good administrative system that environmental management can be controlled. Regarding the provisions for administrative management, it can be seen especially in Chapter VI Requirements for Environmental Management, which consists of articles 18 to 29 UUPLJ 1997 (Siahaan: 2009). After carrying out several data collection and investigations of material and data, it was determined that the company had an environmental impact in the form of landfilling through direct waste disposal (bypass) and processing of wastewater treatment plants (IPAL) which did not operate in accordance with environmental management efforts. and environmental monitoring efforts (UKL/UPL). It was also stated that the company did not have a B3 waste management and processing permit.

Previously, the PT Bengkali Regency Government imposed administrative sanctions on SIPPs that were not implemented. In addition, ARA PT. SIPP has been damaged twice. Based on the results of analysis of laboratory samples, it turned out that the river water was polluted, so the suspect was named for the pollution. For his criminal actions, the perpetrator is threatened with a violation of Article 98 and/or 104 in conjunction with Article 116(1)(b) of the Republic of Indonesia law. 32 of 2009 concerning the Environment and Environmental Protection, amended by Law no. 11 of 2020 concerning Job Creation based on Article 55 Paragraph 1 of the Criminal Code.

Pollution and environmental destruction is very dangerous for the welfare of mankind. In addition, companies operating in various industries, be it mining, forestry or others, carry out environmental pollution and damage. When that happened, it would not be one or two people who would be lost, but everyone on this earth. Therefore, legal aspects require maximum attention and empowerment, especially for companies that damage and pollute the environment. To ensure the preservation of environmental functions, every company engaged in a different industry must do the following things:

1. Companies are required to carry out an analysis of environmental impacts (Article 22 paragraphs (1) and (2), Article 23 paragraphs (1) and (2), Article 24, Article 25, Article 26 paragraphs (1), (2), (3) and (4), Article 27, Article 28 (1), (2), (3) and (4), Article 29 paragraph (1), (2) and (3), Article 30 paragraph (1), (2) and (3), Article 31, Article 32 (1),

(2) and (3) and Article 33 of Law Number 32 of 2009 concerning Environmental Protection and Management);

2. Every business and/or activity that is not included in the mandatory Amdal criteria, must have Environmental Management Efforts and Environmental Monitoring Efforts called UKL-UPL (Article 34 paragraph (1) and (2), Article 35 paragraph (1), (2) and (3) Law Number 32 of 2009 concerning Environmental Protection and Management);
3. Companies are required to manage hazardous and toxic materials. Management of hazardous and toxic materials includes:

Produce, Transport, Distribute, Store, Use and or Dispose of. Management of Hazardous and Toxic Materials and Hazardous and Toxic Waste (Article 58 paragraph (1) and (2), Article 59 paragraph (1), (2), (3), (4), (5), (6) and (7) Law Number 32 of 2009 concerning Environmental Protection and Management). Therefore, for companies that pollute and destroy the environment, legal action can be given, namely as follows:

1. Administrative Sanctions. In Article 76(2) of the Environmental Protection and Management Law No. 32 of 2009, administrative sanctions consist of: Written warning; Government coercion; Freezing of environmental permits; Revocation of environmental permits.
2. Civil Sanctions. Based on article 84 of Law Number 32 of 2009 it is explained that regarding the settlement of environmental disputes to sue for compensation and or environmental restoration costs, namely: Settlement of environmental disputes out of court; Settlement of environmental disputes through courts;
3. Criminal Sanctions. Article 98 Law on Environmental Protection and Management No. 32 of 2009 states:
  - a. Any person who deliberately commits an act which results in the exceedance of air quality standards, ambient quality standards, water quality standards, seawater quality standards, or environmental damage standard criteria, shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 10 (ten) ) years and a fine of at least Rp. 3,000,000,000.00 (three billion rupiah) and a maximum of Rp. 10,000,000,000.00 (ten billion rupiah);
  - b. If the act as referred to in paragraph (1) causes injury to a person and/or endangers human health, the penalty is imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years and a fine of at least Rp. 4,000,000,000.00 (four billion rupiah) and a maximum of Rp. 12,000,000,000.00 (twelve billion rupiah);
  - c. If the act as referred to in paragraph (1) results in a person being seriously injured or dead, the penalty is imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp. 5,000,000,000.00 (five billion rupiah) and a maximum of Rp. 15,000,000,000.00 (fifteen billion rupiah).

In the implementation of environmental laws and regulations, there are various obstacles that cause the ineffectiveness of the factors that support the implementation of environmental laws and regulations. The government issued many regulations, but this sector still faces obstacles in its implementation, namely as follows:

1. Legal Facilities. The various operational policies issued are often inconsistent with the principles of environmental protection and management in Law Number 32 of 2009 and other laws relating to environmental management;
2. Law Enforcement Officials. Limited knowledge and understanding of law enforcement officials regarding environmental issues is a very important obstacle in efforts to create a common understanding on how to handle environmental cases.

3. Facilities and Facilities. The absence or limitations of supporting facilities and infrastructure (including financial resources) have a significant impact on the success of environmental law.
4. Licensing. Article 36 of Law Number 32 of 2009 can still be bypassed by entrepreneurs, especially if the permit in question is a permit granted by the Ministry of Industry, after a company is ready to produce
5. Environmental Impact Analysis System (AMDAL). The transparency and mechanism for opening the AMDAL document for the community did not work as expected, even the (affected) community did not know for sure that the activity was taking place.
6. Community Legal Awareness of the Environment. Under environmental law, apart from police presence, community participation is an important part of achieving legal objectives through police oversight of environmental laws. The limited public awareness of environmental rights is due to the fact that environmental aspects are not known by the wider community and the consequences of pollution and environmental destruction are unknown. Therefore efforts are needed such as advice, guidance, exemplary and community participation to overcome environmental problems.

## **CONCLUSION**

Environmental management is very important to maintain and maintain our environmental functions and prevent environmental damage and pollution. In its implementation, the commitment or participation of our society, in this case the Riau polluter, is urgently needed to support the better preservation of our environmental functions and also the commitment of the competent authorities through applicable rules or regulations. As for the efforts that can be made to overcome the existing obstacles, among others by: giving legal action such as administrative sanctions, criminal sanctions, and civil sanctions.

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