

Environmental Law Enforcement in The Perspective of Law No. 32 of 2009

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Abstract. Indonesia bears a great responsibility to safeguard and conserve its environment. Indonesians rely heavily on natural resources and environmental sustainability for their economic and cultural well-being. To this end, Indonesia has enacted Law No. 32 of 2009 on Environmental Protection and Management, which establishes a comprehensive framework for sustainable environmental management, including measures to prevent, handle, and enforce the law against various environmental damages. Despite the challenges of weak justice systems, societal awareness, and rampant corruption, the Indonesian government has strengthened the legal basis for enforcing environmental regulations through this law. Qualitative and descriptive data analysis was employed, using a deductive method to conclude, particularly on the topic of Environmental Law Enforcement from the Perspective of Law No. 32 of 2009. The study found that Law No. 32 of 2009 provides a robust legal foundation for enforcing environmental regulations, prohibiting actions that cause environmental harm, such as air, water, and land pollution, deforestation, and the use of dangerous chemicals without permission. Furthermore, the Criminal Code serves as an essential instrument in dealing with environmental violations, with articles relating to environmental damage, such as pollution (Article 98), destruction of goods (Article 406), and abuse of power (Article 221) being used to prosecute environmental offenders.

Keywords: Law Enforcement, Environmental Domain, Perspective of Law no. 32 of 2009

1 Introduction

Globally, increasing attention to environmental issues has become the main focus in various international forums, such as the UN Conference on Environment and Development in Rio de Janeiro in 1992. At the national level, Indonesia has abundant natural wealth, but exploitation is not control has caused significant environmental damage. In 2009, Indonesia responded to this challenge by issuing Law No. 32 of 2009 concerning Environmental Protection and Management. The law is an important milestone in efforts to protect the environment in Indonesia. Among its main objectives are to regulate and supervise environmental management, ensure the sustainability of natural resources, and protect people's rights to live in a clean and healthy environment.[1]

However, despite the existence of a comprehensive legal framework, the primary obstacle lies in the effective execution and enforcement of these laws. Numerous instances of environmental infractions persist due to inadequate law enforcement, insufficient public awareness, and corrupt practices prevalent across various governmental tiers. Addressing these hurdles necessitates bolstering the capabilities of law enforcement bodies, including the Ministry of Environment and Forestry and regional Environmental Agencies, to undertake thorough investigations, prosecutions, and penalties for environmental transgressions. Additionally, the engagement of civil society, non-governmental organizations (NGOs), and the media assumes paramount importance in surveilling and exposing environmental violations, thereby prompting decisive governmental action. Within this paradigm, the enforcement of environmental laws under the purview of Law No. 32 of 2009 emerges as pivotal in ensuring enduring environmental safeguarding for present and forthcoming generations.

Law No. 32 of 2009 furnishes a robust legal foundation for addressing environmental breaches. Among its provisions are directives prescribing a range of activities detrimental to the environment, encompassing pollution of air, water, and land, deforestation, and the unauthorized usage of hazardous chemicals. [2] However, when environmental violations occur, the Criminal Code also becomes an important instrument in dealing with these violations. For example, articles in the Criminal Code relating to environmental damage, such as articles concerning pollution (Article 98), destruction of goods (Article 406), and abuse of power (Article 221), can be used to prosecute perpetrators of environmental violations.

In addition, coordination between Law No. 32 of 2009 and the Criminal Code is crucial in ensuring the effectiveness of law enforcement. Environmental law enforcement often involves various institutions, such as the police, prosecutors, and courts. Therefore, coordination and collaboration between these institutions, as well as consistent application of the law, is necessary to ensure that perpetrators of environmental violations can be tried fairly and firmly by applicable legal provisions. In this case, the articles in the Law No. 32 of 2009 and the Criminal Code work together to provide a comprehensive legal basis for environmental law enforcement, so that it can encourage compliance with environmental regulations and reduce the level of violations that are detrimental to the environment and society.

In Law No. 32 of 2009:

1. Article 69: Establishes administrative sanctions for violations of environmental provisions. The article provides a basis for government institutions to impose administrative sanctions on perpetrators of environmental violations without having to go through a judicial process.
2. Article 70: Establishes the obligation for perpetrators of environmental violations to provide compensation and environmental rehabilitation. It stipulates the responsibility of perpetrators of violations to repair the damage they have caused to the environment.
3. Article 71: Establishes criminal sanctions in the form of imprisonment and/or fines for environmental violations. This article provides the legal basis for enforcing criminal law against serious environmental violations.

In the Criminal Code:

1. Article 98: Regulates environmental pollution which can be subject to criminal sanctions, gives a legal basis for law enforcement against acts of environmental pollution, such as dumping hazardous waste into rivers or the air.
2. Article 406: Regulates damage to other people's property. The article can be applied in cases of environmental damage, such as illegal looting of forests or destruction of natural habitats.
3. Article 221: Regulates abuse of power which can be subject to criminal sanctions. This article is relevant in the context of law enforcement against corruption that harms the environment, such as bribery to allow illegal activities that damage the environment.

With the existence of these articles, environmental law enforcement in Indonesia has a strong foundation, both from an administrative and criminal perspective, to handle environmental violations firmly and fairly.

Law enforcement in the environment is very important to maintain the sustainability and balance of the ecosystem and protect people's rights to live in a healthy and clean environment. In Indonesia, environmental law enforcement is based on Law No. 32 of 2009 concerning Environmental Protection and Management. [3] One of the articles that is the main basis for enforcing environmental law is Article 69 of the Law. This article authorizes relevant government agencies to impose administrative sanctions on perpetrators of environmental violations. These sanctions include warnings, freezing permits, or administrative fines as an effort to encourage perpetrators of violations to comply with environmental regulations.

Apart from that, Article 70 of Law No. 32 of 2009 stipulates the obligation for perpetrators of environmental violations to provide compensation and carry out rehabilitation for the environment that has been damaged. This compensation can be in the form of financial compensation or concrete action to repair the damage that has occurred. It aims to ensure that perpetrators of violations are held accountable for the negative impacts they cause. However, in cases of serious and damaging violations, law enforcement also relies on criminal sanctions. Article 71 Law no. 32 of 2009 regulates criminal sanctions in the form of imprisonment and/or fines for perpetrators of environmental violations who carry out serious actions that damage the environment. The criminal sanction aims to provide a deterrent effect to perpetrators of violations and as a preventive measure so that people do not carelessly violate environmental provisions. Apart from the Law on the Environment, the Criminal Code also has several articles that are relevant for enforcing environmental law. For example, Article 98 which regulates environmental pollution, and Article 406 which regulates damage to other people's property, which can be applied in cases of environmental damage.[4] By implementing these articles, it is hoped that environmental law enforcement can be carried out firmly and fairly so that the environment can be well maintained for the welfare of society and the sustainability of the ecosystem.

Indonesia, as a country with abundant natural wealth and extraordinary biodiversity, has a great responsibility in maintaining and protecting its environment. The lives of Indonesian people are very dependent on natural resources and environmental sustainability for various aspects of life, from economics to cultural sustainability. In a legal context, efforts to protect the environment in Indonesia have been regulated in Law No. 32 of 2009 concerning

Environmental Protection and Management. The law establishes a comprehensive framework for sustainable environmental management, regulating efforts to prevent, handle, and enforce the law against various forms of environmental damage. Environmental law enforcement in Indonesia faces various challenges, including weaknesses in the justice system, lack of awareness in society, and rampant corrupt practices. However, in the Law No. 32 of 2009, the Indonesian government has strengthened the legal basis for enforcing environmental regulations.

In the legal realm, environmental law enforcement relies on various articles that regulate environmental violations, both in Law No. 32 of 2009 and the Criminal Code. These articles provide an assertive legal basis for law enforcement agencies to take firm action against environmental violations, either through administrative or criminal sanctions. However, environmental law enforcement is not only the responsibility of the government and law enforcement agencies. Civil society, NGOs, and the media also have an important role in monitoring, reporting, and encouraging effective law enforcement against environmental violations. Thus, environmental law enforcement in Indonesia is a joint effort between the government, law enforcement agencies, and the community to ensure environmental sustainability for current and future generations. [5]

Conservation of the environment's functions involves a set of efforts aimed at sustaining its carrying capacity and overall sustainability. The carrying capacity refers to its ability to support all living organisms, including humans. Conserving the environment's carrying capacity requires a series of measures to safeguard its resilience against negative impacts resulting from human activities. Resources, including natural, artificial, and human elements, are integral components of the environment. Environmental quality standards serve as benchmarks for the allowable levels of living organisms, substances, energy, or components in specific environmental elements. Environmental pollution occurs when human activities introduce living creatures, substances, energy, and other components into the environment, causing its quality to deteriorate to a certain level, ultimately hampering its intended purpose. Standard criteria for environmental damage serve as limits on the degree of changes in the environment's physical and biological characteristics that can be tolerated.[6] Environmental destruction is an action that causes direct or indirect changes to its physical and/or biological characteristics which result in the environment no longer functioning in supporting sustainable development. Natural Resource Conservation is the management of non-renewable natural resources to ensure their wise use, and renewable natural resources to ensure their continued availability while maintaining and improving their quality.

Environmental Impact Analysis is a study of the large and critical impact of a planned business and/or activity on the environment which is necessary for the decision-making process regarding the implementation of the business and activity. Environmental Organizations are groups of people formed by their own will and desires in a society whose goals and activities are in the environmental sector. An Environmental Audit is an evaluation process carried out by the person responsible for the business and activity to assess the compliance level with relevant legal requirements and the policies and standards set by the person responsible for the business and/or activity concerned. A person is an individual, and/or group of people, and/or a legal entity. The Minister is the Minister tasked with managing the environment.

The role of Environmental Impact Analysis (Amdal) is an important process mandated by Law Number 32 of 2009 concerning Environmental Protection and Management in Indonesia. By these provisions, every project or activity that has the potential to have a significant impact on the environment is required to carry out an Amdal process before being able to obtain an environmental permit. According to Article 7 of the Law, it is imperative that conducting an Amdal is executed with utmost diligence and precision. The entity tasked with preparing Amdal documents must adhere to the necessary criteria and receive accreditation from the government, as outlined in Article 8. The Amdal process involves identifying the potential impacts of a project or activity (Article 9), in-depth analysis of these impacts, as well as determining appropriate mitigation measures.[7] The results of this Amdal process, in accordance with Article 11 of the Law, are used as a basis for the government in making decisions related to granting environmental permits.

2 Method

The type of research is Descriptive research. The approach used is a qualitative approach and a conceptual approach. The data source used is secondary data. Data analysis is conducted qualitatively descriptive.[8] Conclusion drawing is conducted using the deductive method, which involves concluding from general to specific, particularly related to the research topic, namely Law Enforcement in the Environmental Realm from the Perspective of Law No. 32 of 2009. Qualitative data analysis is employed when empirical data obtained consists of a collection of verbal expressions rather than numerical sequences and cannot be organized into categories. Data may be gathered through various means such as observation, interviews, document analysis, and tape recordings,[9] and it is usually processed first before being used in qualitative research, including the results of interview transcripts, data reduction, analysis, data interpretation, and triangulation.

3 Result and Discussion

3.1 Implications of Environmental Law Enforcement in the Perspective of Law No. 32 of 2009

The implications of law enforcement in the environmental realm from the perspective of Law No. 32 of 2009 is the importance of monitoring and evaluating the implementation of mitigation plans contained in the Environmental Impact Analysis (Amdal) document. It is Article 15 of the law that emphasizes the obligation to carry out monitoring and evaluation of mitigation plans that have been determined. With Article 15, the government, related institutions, as well as parties involved in a project or activity have the responsibility to ensure that the mitigation measures planned in the Amdal are implemented effectively. It includes monitoring implementation progress, evaluating the results achieved, and adjusting mitigation plans if necessary.

Article 15 has a positive effect as it establishes a mechanism to ensure that environmentally impactful projects or activities are managed responsibly. Through consistent monitoring and evaluation, potential environmental risks can be minimized, thus preventing or reducing negative impacts as much as possible. Furthermore, Article 15 promotes transparency and accountability in the implementation of Amdal.[10] With monitoring and evaluation that is open to the public, the public has access to monitor how the project or activity affects the environment, as well as whether the mitigation steps that have been planned are implemented well. perspective of Law No. 32 of 2009, especially through the implementation of Article 15, has an important role in ensuring that sustainable development can be realized, by paying attention to and maintaining a balance between economic development and environmental protection.

The implications of law enforcement in the environmental realm from the perspective of Law No. 32 of 2009 is the importance of monitoring and evaluating the implementation of mitigation plans contained in the Environmental Impact Analysis (Amdal) document. It is following the Article 15 of the Law, which expressly states:

"The government and/or regional government is obliged to carry out monitoring and evaluation of the implementation of mitigation plans that have been determined." With the existence of Article 15, the government, related institutions, and parties involved in a project or activity have the responsibility to ensure that the planned Mitigation steps in the Amdal are implemented effectively. It includes monitoring implementation progress, evaluating the results that have been achieved, and adjusting mitigation plans if necessary.[11]

Article 15 is the creation of a mechanism that can ensure that projects or activities that have a significant impact on the environment can be managed responsibly. With routine monitoring and evaluation, potential risks to the environment can be minimized, so that negative impacts can be prevented or reduced as far as possible. Apart from that, Article 15 also creates transparency and accountability in the implementation of Amdal. With monitoring and evaluation that is open to the public, the public has access to monitor how the project or activity affects the environment, as well as whether the mitigation measures that have been planned are implemented well. In the broader context of law enforcement, Article 184 of The Criminal Procedure Code can also be a guideline for enforcing legal regulations related to environmental violations. The article stipulates that every person who is aware of a criminal act is required to report it to law enforcement officials so that perpetrators of violations can be prosecuted as soon as possible to maintain environmental sustainability.[10]

With the support of various articles in the Criminal Code, law enforcers have a solid legal foundation for enforcing the law against criminal acts of corruption. Law enforcement as law enforcers is becoming increasingly important in maintaining justice and ensuring that environmental crimes do not escape appropriate punishment.

3.2 The Urgency of Environmental Law Enforcement in the Perspective of Law No. 32 of 2009

Law enforcement in the environmental realm has enormous urgency in the context of ecosystem sustainability and human welfare. Law No. 32 of 2009 concerning Environmental Protection and Management is a major milestone in regulating environmental protection efforts in Indonesia. From the perspective of this law, enforcement aims to ensure compliance with environmental provisions that have been stipulated.

One important aspect of enforcing environmental law is providing reports or complaints regarding environmental violations. Article 184 of the Criminal Procedure Code is the guideline in this matter, which reads as follows:

"Every person who becomes aware of a criminal act is obliged to report it to the authorized official. The official who is reported as intended in paragraph (1) is obliged to immediately investigate or order an investigation to be carried out and notify the results of the investigation to the person who gave the report."

With the existence of Article 184 of the Criminal Procedure Code, the public must participate in preserving the environment by reporting any actions that are detrimental to the environment to law enforcement officials. It is important because the environment is a common property that must be protected by all elements of society.[4] The urgency of environmental law enforcement is also evident from the impacts caused by violations of environmental provisions. Environmental damage can lead to various serious problems such as air pollution, water contamination, loss of wildlife habitat, and global climate change. Therefore, effective law enforcement can prevent uncontrolled damage and protect the environment for future generations. Thus, law enforcement in the environmental realm is not only the responsibility of the government or law enforcement agencies alone but also a collective obligation of the entire society to uphold environmental sustainability. Stosberg, "Risk in the Theory of Investment. In J. Stosberg, *Political Risk and the Institutional Environment for Foreign Direct Investment in Latin America: An Empirical Analysis with a Case Study on Mexico*," *Frankfurt an Main Peter Lang AG*, vol. 09, pp. 112–121, 2005.

With Article 184 of the Criminal Procedure Code (KUHAP), the community must participate in preserving the environment by reporting any actions that harm the environment to law enforcement authorities. It is important because the environment is a shared asset that must be protected by all elements of society. Additionally, Article 15 of Law No. 32 of 2009 also serves as a crucial foundation for environmental law enforcement. This article emphasizes the obligation of the government and/or regional governments to monitor and evaluate the implementation of mitigation plans that have been established.[2] This helps ensure that the mitigation measures planned in the Amdal are implemented effectively so that negative impacts on the environment can be minimized. Thus, law enforcement in the environmental realm is not only the responsibility of the government or law enforcement agencies, but it is also a shared obligation of the entire community. Through cooperation and mutual awareness, it is hoped that the environment can be well maintained for the survival of us and future generations.

Apart from that, the Law on the Prevention and Control of Environmental Pollution in the Industrial Sector. It can be seen in Law No. 1 of 1970 concerning Work Safety. Then, the Decree of the Minister of Industry No. 12/M/SK/I/78 concerning Prevention and Management of Environmental Pollution as a Result of Industrial Business, dated 26 January 1978, the SK was later revoked by the Decree of the Minister of Industry No. I.134/M/SK/3/1988 concerning Prevention and Management of Pollution as a Result of Industrial Business Activities on the Environment, dated 28 April 1988. Another decision relating to environmental pollution law in the industrial sector is Government Regulation (PP) No. 13 of 1987 concerning Industrial Business Licenses. Presidential Decree (Kepres) No. 16 of 1987 concerning Simplification of the Granting of Industrial Business Licenses, then, Minister of Home Affairs Regulation No. 1 of 1985 concerning Procedures for Controlling Pollution for Companies Making Capital Investments according to Law No. 1 of 1967 and Law No. 6 of 1968, which was stipulated on July 27, 1985.[10]

In Civil Law, environmental issues do not preclude the possibility of filing a civil lawsuit. For example, the Civil Code, Article 1365, states: Every act that violates the law, which causes harm to another person, requires the person whose fault it was to cause the loss, to compensate for the loss. Article 84 of Law Number 32 of 2009 concerning Environmental Protection and Management, specifically regulates the resolution of environmental disputes, which in full is Article 84: (1) Settlement of environmental disputes can be achieved through court or outside court. (2) Environmental dispute resolution options are made voluntarily by the parties to the dispute. (3) A lawsuit through the court can only be pursued if the chosen effort to resolve the dispute outside the court is declared unsuccessful by one of the parties to the dispute.

This law also addresses corporate responsibility by foreseeing the potential rise in criminal activities perpetrated by corporations. Criminal sanctions are also found in various laws and regulations relating to environmental law, including a. Environmental Crime Witness in the Criminal Code (KUHP) The criminal sanction is contained in the Criminal Code, specifically Articles 187, 188, 202, 203, 502, and 503. Article 187 of the Criminal Code, states: Whoever intentionally sets fire, causes an eruption, or causes flooding, shall be punished by: 1) imprisonment for a maximum of twelve years if the act can cause public danger to goods; 2) imprisonment for a maximum of fifteen years if the act causes death to other people.[6]

4 Conclusion

1. Law no. 32 of 2009 provides a strong legal basis for law enforcement related to environmental violations. In it, some articles stipulate prohibitions against various actions that damage the environment, such as air, water, and land pollution, deforestation, and the use of dangerous chemicals without permission. However, when environmental violations occur, the Criminal Code also becomes an instrument important in dealing with these violations. For example, articles in the Criminal Code relating to environmental damage, such as articles concerning pollution (Article 98), destruction of goods (Article 406), and abuse of power (Article 221), can be used to prosecute perpetrators of environmental violations.

2. Implications of law enforcement in the environmental realm from the perspective of Law No. 32 of 2009 is the importance of monitoring and evaluating the implementation of mitigation plans contained in the Environmental Impact Analysis (Amdal) document. It is Article 15 of the law that emphasizes the obligation to carry out monitoring and evaluation of mitigation plans that have been determined. With Article 15, the government, related institutions, as well as parties involved in a project or activity have the responsibility to ensure that the mitigation measures planned in the Amdal are implemented effectively.
3. In the legal realm, environmental law enforcement relies on various articles that regulate environmental violations, both in Law No. 32 of 2009 and the Criminal Code. These articles provide a strong legal basis for law enforcement agencies to take firm action against environmental violations, either through administrative or criminal sanctions. However, environmental law enforcement is not only the responsibility of the government and law enforcement agencies. Civil society, NGOs, and the media also have an important role in monitoring, reporting, and encouraging effective law enforcement against environmental violations. Thus, environmental law enforcement in Indonesia.

5 Suggestions

1. Amid increasingly complex challenges related to environmental damage, law enforcement in the environmental realm is becoming increasingly urgent. One important step that can be taken is to increase public awareness of the importance of preserving the environment and their role in protecting it. Through inclusive and integrated environmental education in the education curriculum, people can better understand the impact of their actions on the environment and the importance of maintaining natural sustainability for a better future.
2. It is hoped that the government needs to strengthen law enforcement agencies that specifically handle environmental cases. Investment in the necessary training and equipment for law enforcement officials will strengthen their ability to effectively handle cases of environmental violations. Apart from that, increasing cooperation between government agencies, non-governmental organizations, and the private sector is also needed to optimize law enforcement efforts and provide a deterrent effect for perpetrators of environmental violations.
3. Transparency and accountability in environmental law enforcement need to be improved. Better social control will be established and the community can become a more active agent of change in efforts to protect the environment by providing greater access to the community to monitor and supervise the law enforcement process. The government needs to ensure that information related to environmental cases and the law enforcement process is easily accessible to the public so that the law enforcement process can run more transparently and accountable.

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