

Environmental Crime Law Enforcement with Expansion of Evidence for Evidence

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Abstract. This study aims to determine the position of "other evidence" in Article 96 letter f of the Law of the Republic of Indonesia No. 32 of 2009 concerning the Protection and Management of the Environment and the value of "other evidence" as an extension of the evidence in the law of evidence. The research was conducted using a normative juridical research method. The results of the study indicate that electronic information and/or electronic documents as well as printouts from the results of electronic information and/or electronic documents have been recognized as valid legal evidence in the law as an extension of legal evidence by the applicable procedural law in Indonesia. Indonesia, which has the same position as Article 184 of the Criminal Procedure Code and will be perfect evidence if it is supported by other evidence such as expert evidence and if it is not supported by expert testimony, the other evidence is only appropriate as a guide.

Keywords : environmental crime, evidence

1. Introduction

The idea of a state of the law is the implementation of power that is closely related to the rule of law or the principle of law as the highest power. A.V. Dicey relates the rule of law to the rule of law, and not and Man. That is, the law becomes a guide, controller, and controller, as well as a regulator of all activities of the nation and state. An important feature of the rule of law is the Supremacy of Law; Equality Before The Law; Due Process of Law; The principle of power sharing; Free judiciary is impartial; State Administrative Court; Constitutional Court; Protection of Human Rights; Democracy; Welfare State (welfare state); Transparency and Social Control. The principle of the rule of law means that in administering the state, the actions of the rulers must be based on law, not based on mere power or will to control to limit the power of the ruler and aim to protect the interests of the community, namely the protection of the human rights of community members. from arbitrary action.

In the context of the struggle for the rule of law, this is reflected in several fair, transparent, and non-power-based criminal justice processes. Therefore, evidence is an important issue in the criminal justice process in Indonesia. Through evidence, which means as the central point of examination in court, it is possible to determine the position of the accused, and whether he has fulfilled the elements specified in the criminal procedural law. It is at this stage that the fate of the accused, or suspect, will be assessed by the judge, with great care to consider the facts and all of them

Evidence is specified in article 184 of the Criminal Procedure Code (KUHAP). From the perspective of the criminal justice system, evidence plays an important role in declaring the guilt of the accused.

When viewed from the vision of its location within a juridical framework, the evidentiary aspect is unique because it can be classified in the group of criminal procedural law, and when studied in depth it is also influenced by the approach of civil law. The evidentiary aspect has begun at the investigation stage, until the verdict is handed down by the judge, and dominantly occurs at the trial in court, for the judge to find the material truth. In addition, the evidentiary aspect is also useful in everyday life and the interests of research institutions.

The Criminal Procedure Code is a general provision that regulates the process/procedure in criminal trials, the Criminal Procedure Code was born in 1981 and is still in effect today so the provisions contained in it are not by the conditions of an increasingly modern era that is more Prioritizing technology systems, almost all aspects are currently controlled by technology.

With the rapid development of technology, in the formulation of laws, it is necessary to develop legal theory. The environment is very important for human survival, so it is necessary to make regulations that can protect the environment from the threat of increasingly massive environmental destruction. Law of the Republic of Indonesia No. 32 of 2009 concerning the Protection and Management of the Environment is a law that includes many classic legal provisions, such as administrative law, civil law, customary law, law, and criminal law.

In criminal law proof, evidence is needed, as referred to in Article 96 of Law no. 32 of 2009 concerning Environmental Protection and Management (UUPPLH):

- a. Witness testimony;
- b. b. Expert Statement;
- c. c. Letter;
- d. d. Instruction;
- e. e. Defendant's Statement.
- f. Other evidence, including other evidence regulated in laws and regulations.

The meaning of other evidence in question is in the form of information evidence spoken, sent or received, as well as information stored electronically, magnetically and electronically or similarly. Evidence of information in the form of data either in the form of recordings or also information that can be read, then information that can be heard issued with the help of facilities or not with the help of facilities, can also be information that is written on paper either with the help of facilities or not with the help of facilities, it can also be information recorded electronically in the form of sound, writing and/or pictures, information which can be in the form of maps, plans, photographs, can also be understood symbols, signs, letters or numbers.

Expansion of the evidence as mentioned above is very useful for law enforcement officials, by including it in Article 96 letter F in Law Number 35 of 2009 concerning the Protection and Management of the Environment can help law enforcement officials in Indonesia to ensnare perpetrators of environmental crimes life. With the expansion of this evidence, it narrows the space for the perpetrators of environmental crimes, because most of the perpetrators of environmental crimes are not people who do not understand the law.

In practice, evidence that is informational and electronic cannot stand alone/independently and will become a perfect piece of evidence if it is supported by other evidence such as expert testimony, and will only serve as evidence if it is not supported by expert testimony. For this reason, there is a need for a study related to how the position of "other evidence" is needed

2. Methods

This research uses a conceptual approach in the form of a case approach and a statutory approach which is normative legal research. By means of document studies or literature studies from books, both from primary legal materials and from secondary legal materials, then the legal materials are analyzed using the deductive method or syllogistic deduction.

3. Result and Discussion

3.1 Proof

All provisions and regulations that contain procedures that limit trial trials that are used to seek the truth and also defend the truth are carried out by Judges, Public Prosecutors, Defendants and the Defendant's Legal Counsel. Proof is closely related to evidence, proof is limited to evidence that has been determined by law so that this evidence can provide an assessment of the actions of the Defendant, thus preventing the arbitrariness of law enforcement officials against the Defendant. Therefore, judges must be careful, aware in assessing and considering the strength of evidence, which is found during the examination of the trial, and based on evidence which is limitedly determined according Criminal Procedure Code.

A set of legal rules governing evidence, that is, all processes that use valid evidence, based on special procedural actions and are used to find out facts at trial is the definition of evidentiary law. In that case, actually the law does not provide an official understanding regarding the meaning of criminal procedural law. Because of that Moeljatno stated that: "Criminal Procedure Code is part of the overall law in force in a country, which provides the basics and rules that determine in what way and what kind of procedure, the criminal threat that exists in a criminal act can be carried out , if there is suspicion that someone has committed the offense."

Meanwhile, Bambang Poernomo provides an understanding of criminal procedural law on three levels, namely: First; Narrow definition, namely legal regulations regarding investigations, investigations, prosecutions, trial examinations to court decisions, and execution of judges' decisions. Second; In a broad sense, it means that in addition to containing legal regulations regarding investigations, investigations, prosecutions, trial examinations to court decisions, and execution of judges' decisions, it also includes legal regulations concerning the composition of the judiciary, court authority, and other judicial regulations. criminal case. Third; An increasingly broadened definition, namely regulating alternative types of punishment, measures to reduce or aggravate the crime, and how to carry out a crime from the beginning to the end of serving a sentence as a guideline for the implementation of the crime.

The Indonesian Criminal Procedure Code (KUHAP) regulates the evidence used to evaluate the criminal acts of the Defendant. In the Criminal Procedure Code it has been determined in a limitative manner in Criminal Procedure Code, namely, statements of witnesses, statements from experts, letters made by authorized officials, instructions obtained from statements between witnesses connected with statements of the accused and letters, then The final piece of evidence is the testimony of the Defendant who was not sworn in.

In its development, the evidence as stipulated in Article 184 is considered to have to be adapted to the times so that legislators in legal politics begin to think about ways to take advantage of technological advances to close legal loopholes that can be used by criminals from legal bondage, namely by making regulations. -new regulations that can take advantage of technological developments as a tool used to strengthen the evidence, especially to prove criminal acts in certain laws. The many weaknesses in the Criminal Procedure Code make

legislators think it is necessary to complete legislation by adjusting to the times and increasingly rapid technological developments. In criminal laws that are special in nature, lawmakers try to expand evidence, namely by including electronic evidence as legal evidence, where evidence, as stipulated in Article 184 of the Criminal Code, is considered not by the times, and it is feared that it cannot be used to enforce the law in the digital era, so it is considered necessary to expand the evidence as a commitment by the state in law enforcement.

The increasing number of social networking media such as Twitter, Instagram, WhatsApp, Facebook, e-mail, and Google allows people in various corners of the world to communicate with each other without having to meet face to face, only via electronic media. This kind of thing is called information technology (information technology) which plays an important role. Information technology is developing rapidly which brings all-digital or all-electronic so that the world is without borders. This has an impact on social change and the way people socialize. The development of this technology has both positive and negative impacts. The positive impact of humans is no longer limited to space and time to communicate between countries and make things easier, but the negative impact is monitoring of criminal acts based on electronic media or electronic information. People commit criminal acts by using electronic media or electronic information. This makes it necessary to expand the evidence. The expansion of evidence regulated in the Criminal Procedure Code has actually been regulated in various laws such as the Law on Terrorism, the Law on the Elimination of Corruption, the Law on Narcotics, the Law on Information and Electronic Transactions.

With the expansion of this evidence, the enforcement of environmental criminal law is getting better because this other evidence is very effective evidence for law enforcement at this time. And this other evidence also has the same position as other evidence which is valid evidence to prove a crime, but with this evidence there are also weaknesses, namely that such evidence cannot be independent and will be perfect evidence if supported by other evidence such as expert testimony.

3.2 Evidence

Generating a judge's conviction is very important and to be able to generate a judge's conviction requires evidence. With the existence of evidence can give confidence to the judge to convict the accused guilty. So that the role of evidence is very important, in other words, evidence is everything that can support the guilt of the Defendant.

The panel of judges has an obligation or provision in imposing a person to commit a crime not arbitrarily, it must be based on a minimum of 2 pieces of evidence and from these 2 pieces of evidence the judge believes that the defendant committed a crime. So that the Defendant was not sentenced arbitrarily. This is not only binding on the panel of judges, but all those involved in the trial in particular and society in general. With this knowledge, all parties have benchmarks regarding the guilt of the Defendant. This also makes the Public Prosecutor have the obligation to provide a minimum of 2 pieces of evidence to bring the defendant to trial where later the evidence submitted will be assessed for the strength of the evidence. The minimum provision of 2 pieces of evidence provides space for the Defendant to refute the evidence submitted by the Public Prosecutor, gives the right to the Defendant and the Defendant's Legal Counsel to defend himself against the Prosecutor's demands so that the Defendant can be free from legal bondage.

Witness testimony is one of the common forms of evidence and is mandatory to be brought to trial. Witness testimony is used to explain a criminal act according to what the witness heard, the witness experienced it and the witness saw it with his own eyes and head. This is a characteristic of witness testimony which has strong evidentiary value. In order to be

able to provide witness testimony that has strong evidentiary value, witness statements that are interrelated and complementary, or in other words, witness statements that do not conflict with one another, are required.

The second piece of evidence is the expert's testimony. The criterion for a person to be said to be an expert can be proven by his certificate of expertise or the education he has studied or studied specifically in accordance with the field he is interested in and his expertise has been proven true, this is a characteristic of expert testimony that has strong evidentiary power. It is unavoidable, law enforcement officials are someone who focuses on studying the field of law only, while knowledge in other fields is not mastered, therefore it requires information from experts in their field. The criterion for an expert can also be someone who has a position in an institution where the position is studying or mastering a specific field of expertise held.

The third piece of evidence is in the form of clues. The clues were obtained from the statements of witnesses who were in accordance in this case not contradicting each other. Then it was also obtained from the Defendant's statement which was in accordance with the testimony of the witness or in accordance with the documentary evidence. So from these instructions it is known that there was a criminal act committed by the Defendant.

The fourth piece of evidence is a letter, namely writing issued and made by an authorized official explaining a matter relating to a crime. Letters are issued by officials who have special expertise so that the letter has strong evidentiary power. so that the letter in question is not just any letter whose contents cannot be accounted for.

The fifth piece of evidence is the testimony of the accused. The statement of the Defendant was given not under oath, so that his statement was freely given. However, if the Defendant's statement is in accordance with other evidence in which the Defendant admits his criminal act, this can lighten the Defendant's criminal act. The statement of the Defendant must be stated in court about the actions he committed or which he himself knew or experienced.

The evidence as contained in Article 96 of the environmental law has similarities to that in the Criminal Procedure Code as explained above, but the evidence in the environmental law is added to other evidence, including other evidence stipulated in statutory regulations in this is also contained in the electronic information law

That the testimony of witnesses, expert statements, letters, instructions and statements of the accused constitute evidence as referred to in Article 184 of the Criminal Procedure Code, while other evidence, including other evidence stipulated in statutory regulations, is an extension of the evidence as stipulated in Article 184 of the Criminal Procedure Code. . Other evidence in the Elucidation of Law no. 32 of 2009 concerning the Protection and Management of the Environment, namely other evidence referred to includes information stored electronically, spoken information, as well as evidence in the form of digital data both printed and non-printed, electronic recordings or electronic information which information can be read with the help of the means or not with the help of the means, the information is heard and seen and sent neither with the help of the means nor with the help of the means. Electronic information can be contained on paper or not contained on paper. Electronic information can be obtained from pictures or maps, letters, it can also be in the form of numbers, or symbols that have meaning so that they can be understood and read properly.

The rapid development and advancement of information technology have led to changes in the activities of human life in various fields which directly affect the birth of new forms of legal action. Where technological developments can be used for law enforcement, especially in terms of evidence in court, the expansion of evidence in Law no. 32 of 2009 concerning Environmental Protection and Management is very useful and greatly affects law enforcement in Indonesia, especially in terms of evidence in court where this other evidence can make it

easier for law enforcement officers to prove criminal acts, especially environmental crimes. However, the weakness of the expansion of evidence as stipulated in Article 96 letter f of Law no. 32 of 2009 concerning Environmental Protection and Management which states that evidence includes "other evidence, including other evidence regulated in laws and regulations" which has a very broad meaning as if without limits so that it has the potential to violate human rights. And the evidence as stipulated in Article 96 letter f of the UUPPLH also has weaknesses because evidence that is informational and electronic cannot be independent and will be perfect evidence if it is supported by other evidence such as evidence of expert testimony.

4. Conclusion

Evidence has a very important function in proving a criminal case. This is used to prove the actions of the defendant and to add to the judge's conviction so that the judge has no doubts in deciding a case during an examination at trial regarding the crime committed by the defendant. With the expansion of evidence as stipulated in Article 96 letter f of Law no. 32 of 2009 concerning Protection and Management of the Environment can make it easier for law enforcement officials to prove the actions of the accused. Other evidence as stipulated in Article 96 letter f UUPPLH is valid evidence and has the same status as evidence as stipulated in the Criminal Procedure Code regarding evidence. Whereas in its application, evidence of an informational and electronic nature cannot stand alone/independently and will become perfect evidence if it is supported by other evidence such as evidence as stipulated in Article 184 of the Criminal Procedure Code but has a different evidentiary value.

So that the evidence in handling cases of environmental crimes is increasingly expanded by always following the times and technological developments so that there are no legal loopholes used by perpetrators of environmental crimes to escape from legal bondage.

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