EFFECTIVENESS OF ENVIRONMENTAL LAW ENFORCEMENT IN MANOKWARI REGENCY

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Abstract

The purpose of this study was to analyze the effectiveness of environmental law enforcement against law violations committed by PT. Medcopapua Hijau Selaras (PT. MPHS) in Manokwari Regency. The type of research that the author uses is empirical legal research, with a case approach that examines legal provisions related to the environment that regulate and establish an environmental law enforcement system for cases of environmental impacts resulting from the activities of the palm oil company PT. Medcopapua Hijau Selaras in Sidey District, Manokwari Regency, West Papua Province. The data used are primary data and secondary data obtained through interviews and literature. The data obtained both primary and secondary data were categorized according to the type of data, then the data were analyzed qualitatively. The results of this study indicate that environmental law enforcement against PT. MPHS is not effective, this can be shown through the behavior of law enforcers who are not reasonable in handling a case. PT. MPHS pollutes the environment through its operational waste, causing a decrease in the quality of water consumed by the community on a daily basis. Moreover, there are no civil lawsuits from the government, the public, and environmental organizations and there are no definite legal steps against the alleged waste pollution case from PT. MPHS. Even though PT. MPHS has been subject to administrative sanctions three times and deserves to be prosecuted or revoked.

Keywords: effectiveness; environmental; law enforcement; Manokwari

INTRODUCTION

Humans in fulfilling their life needs need natural resources, in the form of land, water and air and other natural resources which are included in both renewable and non-renewable natural resources. However, it must be realized that the natural resources needed have limitations in many respects, namely limitations regarding availability according to quantity and quality. Certain natural resources also have limitations according to space and time. Therefore, proper and wise management of natural resources is needed. Between the environment and humans have a close relationship. There are times when humans are very much determined by the circumstances of the environment around them, so that their activities are largely determined by the circumstances of the surrounding environment.

The existence of natural resources, water, land and other resources determines daily human activities. Humans cannot live without air and water. Conversely, there are also human activities that greatly affect the existence of resources and the surrounding environment. Much damage to natural resources is determined by human activities. There are many examples of cases of pollution and environmental damage caused by human activities such as air pollution, water pollution, soil pollution, and forest damage, all of which are inseparable from human activities, which in the end will harm humans themselves.

Development that has the aim of increasing people's welfare cannot be avoided from the use of natural resources; However, exploitation of natural resources that ignores the ability and carrying capacity of the environment results in a decline in environmental quality. Many factors influence this to happen and one of them is the problem of enforcing environmental law which can be seen as a means of controlling to ensure that the environment remains in good condition and is sustainable.

Based on the 1945 Constitution of the Republic of Indonesia, Article 28 letter h paragraph (1) reads “everyone lives in physical and spiritual prosperity, has a place to live and gets a good and healthy environment and obtains health services" and Article 33 paragraph (3) which reads “Earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people”, are 2 articles that provide guarantees for the environment. “In Article 28 it says that every citizen has the right to a good and healthy environment. Enforcement of environmental law is an instrument to create a good and healthy environment.” (Suwari Akhmaddhian, 2013:446-556).

As for the context of implementing environmental law enforcement, several laws and regulations related to the environment already exist and serve as guidelines in enforcing environmental law, such as Law Number 32 Year 2009 concerning Environmental Protection and Management, Law Number Year 1990 concerning the Conservation of Living Natural Resources and their Ecosystems, and RI Law Number 41 of 1999 concerning Forestry.

Law Number 32 Year 2009 concerning Environmental Protection and Management stipulates sanctions on parties who are proven to have violated, namely law enforcement in the environmental field which can be classified into 3 (three) categories, namely: 1). Environmental law enforcement in relation to State Administrative/Administrative Law, 2). Environmental Law Enforcement in relation to Civil Law, and 3). Environmental Law Enforcement in relation to Criminal Law.

In practice, the main problems identified in the environment are 5 (five), among others (Nana Sudiana and Hasmana Soewandita, 2007:44-51):

1) land damage due to deforestation, illegal logging, land conversion for plantations and industrial plants, oil mining, industry and settlements;
2) river bank abrasion due to the traffic of large and fast ships;
3) silting of rivers due to high erosion, abrasion and sedimentation;
4) disruption of surface water flow patterns due to land conversion, presence of ports, wharves and log ponds; and

5) decrease in water quality due to industrial liquid waste disposal, domestic ship ballast water disposal, and domestic solid waste disposal.

The environment is a necessity that is inseparable from life where there are complaints, calls, requests, friction, and conflict between the local community and the palm oil company PT. Medco Papua Hijau Selaras in Sidey District, Manokwari Regency, West Papua Province has been going on for so long now. The main cause of the problem is the decline in environmental quality which is so obvious due to the clearing of palm oil plantations to the disposal of factory waste which damages the condition of the surrounding environment and even damages the health of the people who live around the company's business area.

This is also indirectly related to the regional spatial planning system in Manokwari Regency. Spatial planning as a system implies that the planning, utilization, and control of spatial use in accordance with the designations stipulated in the national, provincial, and regency/city Regional Spatial Planning (Rencana Tata Ruang Wilayah/RTRW) must be understood as an inseparable unit (A. M. Yunus Wahid, 2014:6).

In the context of environmental law, Law Number 32 Year 2009 concerning Environmental Protection and Management (UUPPLH) regulates criminal provisions in Chapter XV concerning Criminal Provisions. In general, the qualifications for environmental criminal offenses contained in UUPPLH based on Article 97 UUPPLH are categorized as crimes. The formulation of the category of criminal offenses has several consequences in enforcement with the concept of trial and inclusion in each offense, the calculation of which expires longer than the violation and the threat of imprisonment in the form of deprivation of liberty.

Natural disasters related to changes in environmental conditions due to the presence of oil palm plantations in the Sidey and Masni Districts did not only occur in 2014 but also in the following years. The current problem faced by the community in Sidey District and its surroundings is the problem of waste that contaminates water and soil. In February 2019, several residents of Sidey complained about the condition of waste disposal at the palm oil factory owned by PT. Medcopapua Hijau Selaras which gives off an unpleasant odor, and turns the soil and water around it yellow. Various complaints related to environmental problems did not get a response. Residents around the palm oil processing company PT. Medcopapua Hijau Selaras appears to have a low bargaining position. However, PT. Medcopapua Hijau Selaras is a large national private plantation company engaged in oil palm plantations with a nucleus-plasma pattern. In accordance with the location permit from the Regent of Manokwari No. 592.2/1226 dated 8 August 2007 and the Plantation Business Permit (Surat Ijin Usaha Perkebunan/SIUP) of the Manokwari Regent No. 520/1225 dated 15 August 2007, the area of the planned plantations provided is 13,850 hectares spread over the Sidey District, Masni District and North Manokwari District (Teropong News).

In addition, PT. Medcopapua Hijau Selaras also holds a number of other permits related to forest and area management in the Digey District and its surroundings. For example, the Decree (Surat Keputusan/SK) for the Release of Forest Areas in Manokwari Regency covering an area of 6,791.24 ha from the Minister of Forestry of the Republic of Indonesia with Number SK.313/Menhut-II/2012 dated 26 June 2012. PT. Medcopapua Hijau Selaras also obtained a Timber Utilization Permit from the Head of the Manokwari District Forestry Service Number 522.2/158 dated 21 May 2015 for an area of 350 ha in Kampung Sarai, Masni District. Another permit that has been pocketed is the Environmental Permit (Analisis Dampak Lingkungan/AMDAL) Number 264 Year 2008 dated 2 December 2008 from the Governor of West Papua. The last one is the Investment Permit in Principle Number 1/91/IP/PMDN/2014 dated 6 March 2014 for the Sidey District area obtained from the Provincial Government of West Papua.

As seen in other large islands in Indonesia, such as Sumatra and Kalimantan, giant-scale oil palm plantations have so far proven to cause environmental problems and havoc for the people who own the land from a social perspective. The existence of oil palm plantations in large numbers has resulted in the destruction of thousands of hectares of primary forest in the two areas. As a result, local people as landowners who previously could live quietly only by depending on forest products, changed their way of life because they became low-paid oil palm plantation laborers.

This situation creates a big dilemma, where on the one hand the provinces of Papua and West Papua really need a development and investment plan that is expected to be able to improve the livelihoods of the Papuan people so that they can be further improved and prosper by working in oil palm plantations, both as laborers and as smallholders. plasma. On the other hand, there is a big concern that indigenous Papuans will only become spectators because they are unable to participate and be involved in this industrial sector (Agustinus Karlo Lumban Raja & Maryo Saputra Sanuddin, 2018).

The concern is mainly because this situation will trigger a very fast cultural leap, so that the indigenous Papuans will not be able to accelerate and will be left far behind. The main factor is the dependence of indigenous Papuans on nature and forests as their main source of livelihood. Various expressions of the Papuan people towards the forest can show the close pattern of this relationship, such as nature and forest are mother, nature and forest are warehouses or granaries, which are able to protect and meet the needs of the Papuan people.

The loss of forests and nature and all of their biodiversity due to changes in function or conversion to oil palm plantations is a threat and will trigger extraordinary vulnerabilities for indigenous Papuans. Loss of forests and swamps where Papuans used to get sago as the main source of food (carbohydrates), hunt for game as the main source of protein, various forest products such as rattan, wood, nibung, etc. for clothing and boards, as well as a source of medicine -natural medicines, will significantly undermine the welfare and quality of life of indigenous Papuans.

When looked at in more depth, there are several factors that trigger and are the main causal factors why oil palm plantations in Papua continue to occur. First, the lack of knowledge of indigenous Papuans about the impacts and consequences of developing oil palm plantations on their land, especially regarding the legal status of their customary land which will become state land after being burdened with usufructuary rights. Second, there is no consultation process and sufficient information provided either from investors (companies) as license applicants, or from the government as a regulator of indigenous peoples or indigenous Papuans as customary land owners. Third, the manipulation of the consultation and outreach process as well as the presence of security forces which is often followed by acts of intimidation against indigenous peoples or indigenous Papuans is a common situation (Agustinus Karlo Lumban Raja & Maryo Saputra Sanuddin, 2018).

The various conflicts that have occurred between indigenous Papuans and oil palm plantation companies operating on Papuan soil are portraits that confirm the above. This conflict has not only occurred recently, but has been involved since the beginning of oil palm plantations, namely since the 1982 period when PT. Perkebunan Nusantara II entered Manokwari and Arso in Papua in 1992 and was not resolved until the two companies were declared bankrupt and had to auction off their assets this year.

On 16 February 2014, indigenous peoples and transmigration settlers in SP 8, SP 9 and SP 10 Masni and Sidey, Manokwari District were shocked by an unexpected disaster (Jasoil Papua Blogspot, 2014). Heavy rain for the whole night finally brought flooding that hit the village of Mansaburi. Kali Wariori is a river that crosses the oil palm plantation owned by PT. Medcopapua Hijau Selaras (MPHS) overflowed due to flooding from the mountain.

At least 139 community houses in Mansaburi Village located in Masni District, Manokwari Regency, West Papua Province, were swept away by the flood currents overflowing the Wariori River. There were no casualties. However, material losses are estimated at billions of rupiah. It's all sadder because the plants in the community's gardens as well as the people's livestock were swept away by the raging flood in the middle of the oil palm plantation. For local residents, such floods only occur after the forests around them turn into oil palm plantations (Mongabay, 2014). A number of events and facts above reinforce the idea that it is necessary to immediately carry out a study that explains and encourages law enforcement related to the environment involving palm oil companies in Papua.

RESEARCH METHODS

The type of research that the authors use is empirical legal research (Kadarudin, 2021:193), with a case approach (Peter Mahmud Marzuki, 2010:35) which examines legal provisions related to the environment that regulate and establish an environmental law enforcement system for cases of environmental impacts due to the activities of the palm oil company PT. Medcopapua Hijau Harmonious in Sidey District, Manokwari Regency, West Papua Province. The data used are primary data and secondary data obtained through interviews and literature. The data obtained both primary and secondary data were categorized according to the type of data, then the data were analyzed qualitatively (Bachtiar, 2018:73).

RESULT AND DISCUSSION

Effectiveness of Administrative Law Enforcement

Article 76 to Article 82 of Law Number 32 Year 2009 concerning Environmental Protection and Management stipulates that Ministers, governors, or regents/mayors apply administrative sanctions to those in charge of businesses and/or activities if violations are found under supervision. environmental permits. Administrative sanctions consist of:

a. written warning;
b. government coercion;
c. suspension of environmental permits; or
d. revocation of environmental permits.

The Minister may apply administrative sanctions to those in charge of a business and/or activity if the Government deems that the regional government deliberately does not apply administrative sanctions to serious violations in the field of environmental protection and management. The administrative sanction referred to does not absolve those in charge of a business and/or activity from recovery and criminal responsibility.

Administrative sanctions are imposed in the form of freezing or revocation of environmental permits as intended and carried out if the person in charge of the business and/or activity does not carry out government coercion. Government coercion is referred to in the form of:

a. temporary suspension of production activities;
b. transfer of production facilities;
c. closure of sewers or emissions;
d. demolition;
e. confiscation of goods or tools that have the potential to cause violations;
f. temporary suspension of all activities; or
g. other actions aimed at stopping violations and actions to restore environmental functions.

The imposition of government coercion can be imposed without prior warning if the violations committed result in:

a. a very serious threat to humans and the environment;

b. a bigger and wider impact if the pollution and/or damage is not stopped immediately; and/or
c. greater loss to the environment if the pollution and/or damage is not stopped immediately.

Every person in charge of a business and/or activity who does not enforce government coercion may be subject to a fine for any delay in implementing government coercion sanctions. The minister, governor, or regent/mayor has the authority to compel those in charge of a business and/or activity to carry out environmental restoration as a result of the environmental pollution and/or damage they have committed. The minister, governor, or regent/mayor has the authority or may appoint a third party to carry out environmental restoration as a result of environmental pollution and/or damage which he/she has committed at the expense of the person in charge of the business and/or activity.

Furthermore, in the Regulation of the Minister of Environment of the Republic of Indonesia Number 02 Year 2013 concerning Guidelines for the Application of Administrative Sanctions in the Sector of Environmental Protection and Management, it is regulated that regulations for enforcing environmental law through administrative sanctions are caused:

a. administrative law enforcement has a function as an instrument for controlling, preventing, and overcoming acts prohibited by environmental provisions;
b. Through administrative sanctions, it is intended that the violations be stopped, so that administrative sanctions are preventive and repressive non-judicial juridical instruments to end or stop violations of the provisions contained in the requirements for environmental protection and management;
c. apart from being repressive, administrative sanctions also have a reparatory nature, meaning that they restore the original state, therefore the utilization of administrative sanctions in enforcing environmental law is important for efforts to recover damaged or polluted environmental media;
d. different from civil sanctions and criminal sanctions, the application of administrative sanctions by administrative officials is carried out without having to go through a court process (non-judicial), so that the application of administrative sanctions is relatively faster compared to other sanctions in an effort to enforce environmental law. Equally important from the application of administrative sanctions is the opening of space and opportunities for community participation.

Administrative law enforcement in the field of environmental protection and management is based on two important instruments, namely supervision and application of administrative sanctions. Supervision is carried out to determine the level of compliance of those in charge of a business and/or activity with:

a. Environmental Permit Violation of environmental permits is a violation committed by anyone because:

1) does not have an environmental permit;
2) do not have environmental documents;
3) does not comply with the conditions required in the environmental permit, including not submitting an application for a permit for environmental protection and management at the operational stage;
4) disobeying the obligations and/or orders as stated in the environmental permit;
5) not changing the environmental permit when there is a change according to Article 50 of Government Regulation Number 27 of 2012 concerning Environmental Permits;
6) not making and submitting implementation reports on the implementation of environmental requirements and obligations; and/or
7) does not provide a guarantee fund.

b. Environmental Protection and Management Permits Environmental protection and management permits include:

a. permit for hazardous and toxic waste management, which includes:
   a) B3 waste storage permit;
   b) B3 waste collection permit
   c) permit to utilize B3 waste;
   d) B3 waste treatment permit;
   e) permit for storing B3 waste;

b. Permit for dumping into the sea;

c. wastewater disposal permit;

d. permission to discharge wastewater into the sea.

e. permit for disposal of wastewater through injection;

f. air emission permit.

Violation of environmental protection and management permits is a violation committed by anyone because:

1) does not have a permit for environmental protection and management;
2) does not have an environmental permit;
3) do not have environmental documents;
4) does not comply with the requirements for environmental protection and management permits;
5) disobeying the obligations and/or orders as stated in the environmental protection and management permit; and/or
6) not making and submitting implementation reports on the implementation of environmental requirements and obligations.

c. Laws and regulations in the field of environmental protection and management. Legislation in the field of Environmental Protection and Management is Law Number 32 of 2009 concerning Environmental Protection and Management (UUPPLH) and its implementing regulations consisting of government regulations, presidential regulations, regional regulations, Ministerial regulations, regional head regulations and regulations regions to implement UUPPLH.

Types of Administrative Sanctions

1. Written warning

Administrative Sanctions written warning is a sanction that is applied to those in charge of a business and/or activity in the event that the person in charge of a business and/or activity has violated laws and regulations and the requirements specified in the environmental permit. However, these violations, both in terms of good environmental governance and technically, can still be corrected and have not yet caused a negative impact on the environment. The violation must be proven and ensured that it has not caused a negative impact on the environment in the form of pollution and/or damage, for example:

1) administrative in nature, among others:
   a) did not submit a report;
   b) does not have a log book and balance sheet for B3 waste;
   c) does not have a B3 waste label and symbol.

2) It is technical in nature but the repairs are light in nature, that is, repairs that can be carried out directly do not require a long time, do not require the use of high technology, do not require expert handling, and do not require high costs. These technical violations include among others:

a) the BOD5 parameter is less than 0.2 ppm which technically does not cause negative impacts or pollution to the environment;
b) has not shown a violation of the standard criteria for environmental damage;

c) there is damage or disruption to the wastewater treatment plant and the person in charge of the business and/or activity does not report it to the authorized official;
d) the occurrence of damage or disruption of production machines;
e) better technical handling to prevent environmental pollution and/or damage;
f) other violations that may lead to potential environmental pollution and/or damage.
g) have not reported the implementation of RKL-RPL or UKLUPL;
h) not recording daily debits;
i) does not carry out self-monitoring reports;
j) the testing laboratory used has not been accredited;
k) has not recorded and reported B3 waste storage activities;
l) has not yet collected data on the type and volume of B3 waste;
m) not installing B3 waste lamps, symbols, or labels;
n) does not have SOP for storage, collection, utilization, processing, and landfilling of B3 waste and does not have a B3 waste log book;
o) has not yet recorded and reported the utilization and collection of B3 waste;

2. Government coercion

Government coercion (Riki, 2013:7) is an administrative sanction in the form of concrete actions to stop the violation and/or restore it to its original state. The application of government coercive sanctions can be carried out against those in charge of a business and/or activity by first being given a written warning. The application of government coercive sanctions can also be imposed without being preceded by a written warning if the violations committed result in:

1) a very serious threat to humans and the environment;
2) the impact will be bigger and wider if the pollution and/or damage is not stopped immediately; and/or
3) greater losses for the environment if the pollution and/or damage is not stopped immediately.

Government coercion sanctions can be carried out in the form of:

1) temporary suspension of production activities;
2) transfer of production facilities;
3) closure of sewers or emissions;
4) disassembly;
5) confiscation of goods or tools that have the potential to cause violations;
6) temporary suspension of all activities; and/or
7) other actions aimed at stopping violations and actions to restore environmental functions.

The person in charge of a business and/or activity may be subject to administrative sanctions in the form of government coercion in terms of violating the requirements and obligations contained in the environmental permit and environmental and environmental related laws and regulations, for example:

1) not constructing a Wastewater Treatment Plant (Instalasi Pengolahan Air Limbah/IPAL);
2) do not have Temporary Storage Sites (Tempat Penyimpanan Sementara/TPS) for B3 waste;
3) do not have a flow meter;
4) not installing a safety ladder on the emission chimney;
5) not making a sampling hole in the emission stack;
6) disposing or releasing waste into environmental media that exceeds the quality standard for lime water;
7) do not meet the requirements as stated in the license;

8) does not optimize WWTP performance;
9) do not separate the waste water channel from rainwater runoff;
10) do not make watertight sewers;
11) does not optimize the performance of air pollution control facilities;
12) do not install a scrubber;
13) does not have air sampling facilities;
14) dispose of B3 waste outside the TPS for B3 waste;
15) does not have channels and tubs to accommodate B3 waste spills.

3. Freezing of Environmental Permits and/or Environmental Protection and Management Permits

Administrative sanctions for freezing environmental permits and/or protection and management permits are sanctions in the form of legal action to temporarily withhold environmental permits and/or protection and management permits resulting in the cessation of a business and/or activity. The suspension of this license can be done with or without a time limit.

The application of administrative sanctions in the form of suspension of environmental permits is applied to violations, for example:

1) do not carry out government coercion;
2) carry out activities other than those listed in the environmental permit and/or environmental protection and management permit;
3) holders of environmental permits and/or environmental protection and management permits have not technically completed what should be their obligations.

4. Revocation of Environmental Permit and/or Environmental Protection and Management Permit

Administrative sanctions in the form of revocation of environmental permits are applied to violations, for example:

1) does not carry out government coercive administrative sanctions;
2) transfer the business license to another party without written approval from the business license provider;
3) does not carry out most or all of the administrative sanctions that have been applied within a certain time;
4) the occurrence of a serious violation, namely an illegal act resulting in relatively large environmental pollution and/or damage and causing public unrest;
5) misuse of wastewater disposal permits for B3 waste disposal activities;
6) storing, collecting, utilizing, processing, and stockpiling inappropriate B3 waste as stipulated in the permit.

5. Administrative Fines

What is meant by fines administrative sanctions are the imposition of an obligation to make payments of a certain amount of money to those in charge of a business and/or activity because they are late to impose government coercion. The imposition of fines for delays in carrying out government coercion starts from the period when the government coercion is not carried out. The procedures or procedures for implementing sanctions must be ensured in accordance with the regulations on which they are based and the General Principles of Good Governance. Officials who apply administrative sanctions must be ensured that they have legal authority based on statutory regulations. This authority can come from attribution, delegation, or mandate. This source of authority will determine how administrative officials exercise their authority.

Accuracy of Application of Administrative Sanctions. The accuracy of the application of administrative sanctions used in the application of administrative sanctions includes:

a. accuracy of the legal form Administrative sanctions are aimed at acts of violation

of those in charge of a business and/or activity, so the instrument used to apply administrative sanctions must be ensured in the form of a State Administrative Decree (Keputusan Tata Usaha Negara/KTUN).

b. the accuracy of the substance in the application of administrative sanctions relates to clarity regarding:
   1) types and regulations violated;
   2) the type of sanction applied;
   3) orders that must be carried out;
   4) time period;
   5) consequences in the event that the administrative sanction is not implemented; and
   6) other relevant matters.

c. Ensure that there are no juridical defects in the application of sanctions In State Administrative Decisions avoid the safety clause which usually reads: If in the future it turns out that there is an error in this Decree, it will be corrected accordingly.

Principles of Sustainability and Sustainability In applying administrative sanctions, it is necessary to consider the principles of sustainability and sustainability. The principle of sustainability and sustainability is that everyone bears obligations and responsibilities toward future generations and towards each other in one generation by making efforts to preserve the carrying capacity of the ecosystem and improve the quality of the environment.

Administrative Sanctions Implementation Mechanisms Administrative sanctions implementation mechanisms include:

1. Gradual Application

Administrative sanctions are in stages, namely the application of sanctions preceded by mild administrative sanctions to the heaviest sanctions. If the written warning is not obeyed, then the application of the next, more severe administrative sanction will be increased, namely government coercion or freezing of permits. If government coercion sanctions or permit suspension are not complied with, even more, severe sanctions can be imposed, namely, license revocation sanctions.

2. Free (Not Gradual)

The application of administrative sanctions freely, namely the freedom for officials authorized to impose sanctions to determine the choice of type of sanction based on the level of violations committed by those in charge of a business and/or activity. If the violations committed by those in charge of a business and/or activity have caused environmental pollution and/or damage, they may be immediately subject to coercive sanctions from the government. Furthermore, if administrative sanctions coerced by the government are not carried out, they will be subject to sanctions such as revocation of permits without being preceded by written warning sanctions.

3. Cumulative

The cumulative application of administrative sanctions consists of cumulative internal and external cumulative. Internal cumulative is the application of sanctions that are carried out by combining several types of administrative sanctions for one violation. For example, government coercion sanctions combined with license suspension sanctions. External cumulative is the application of sanctions that are carried out by combining the application of one type of administrative sanction with the application of other sanctions, for example criminal sanctions.

The application of administrative sanctions is determined by using a state administrative decision which contains at least:

a. name, position, and address of the authorized administrative official;
b. name and address of the person in charge of business and/or activity;

c. company name and address;
d. type of violation;
e. the provisions that are violated, both the provisions stipulated in the laws and regulations as well as the requirements and obligations contained in the environmental permit;
f. scope of violation;
g. a description of the obligations or orders that must be carried out by the person in charge of the business and/or activity;
h. the period of compliance with the obligations of the person in charge of the business and/or activity;
i. the threat of more severe sanctions if they do not carry out the orders in written warning sanctions.

The sanction giver is obligated to:

a. convey the sanction decision properly (time, manner, and place) and immediately to the parties affected by the sanction.
b. provide explanations to the parties when necessary.
c. supervise the implementation of sanctions.
d. make a report on the results of the implementation of sanctions.

Administration of administrative sanction decisions is carried out through the following stages:

a. preparation of the text of the decision with substance and format in accordance with laws and regulations;
b. signed by the authorized official;
c. numbering and promulgation;
d. delivery to interested parties;
e. receipt.

In the case of PT. Medco Papua Hijau Selaras (PT. MPHS), based on the results of the author's research, PT. MPHS, this company was formerly owned by Medco Group. However, the shares were purchased by the Capitol Group. In December 2020, as reported by the media (Suara Mandiri, 2020), the Maluku Papua Legal Aid Institute for the Environment and Forestry gave written sanctions to companies operating in the plains of Warmare, Prafi, Masni, and Sidey. The sanctions were reportedly issued in December 2020. Based on information from the Head of the Pollution Control, Environmental Damage, and Biodiversity Control Division of the Manokwari Regency Land and Environment Service, Yohanes Ada Lebang, admitted that he regretted the sanctions imposed by the LHK Gakkum which were not coordinated by the DLHP of Manokwari Regency. Based on the statement of Yohanes Ade Lebang as quoted from suaramandiri.co stated They (the company's) level of compliance is the result of the findings of the Legal Aid to be resolved or followed up on. And actually, that's what we have in the regency. If they (Gakkum KLHK) today they can coordinate with us, actually if it's been like this three times, we can raise the status. Is it a crime or revocation of a license like that? But that's unfortunate, the case is that they walk alone without coordination. According to the author, the administration of sanctions becomes ineffective.

It is necessary to reform the legal structure through institutional strengthening by increasing the professionalism of judges and judicial staff as well as the quality of an open and transparent judicial system; simplifying the justice system; increase transparency so that justice can be accessed by the public and ensure that the law is applied fairly and in favor of the truth; strengthening local wisdom and customary law to enrich the legal and regulatory system through empowering jurisprudence as part of efforts to renew national legal materials (Azmi Fendri, 2018:5).

Effectiveness of Civil Law Enforcement

The legal substance is one of the components of the legal system according to Lawrence Milton Friedman (Achmad Ali, 2009: 204). Article 66 and Article 89 of Law Number 32 Year 2009 concerning the Protection and Management of the Environment stipulate that everyone who fights for the right to a good and healthy environment cannot be prosecuted criminally or be sued civilly.

The deadline for submitting a lawsuit to the court follows the time limit as stipulated in the provisions of the Civil Code and is calculated from the time environmental pollution and/or damage is known.

Provisions regarding expiration dates do not apply to environmental pollution and/or damage caused by businesses and/or activities that use and/or manage B3 and produce and/or manage B3 waste.

Furthermore, in Article 90 to Article 92 of Law Number 32 Year 2009 concerning the Protection and Management of the Environment it is stipulated that government agencies and local governments who are responsible in the environmental field have the authority to file claims for compensation and certain actions against businesses and/or activities that cause environmental pollution and/or damage resulting in environmental losses.

The community has the right to file a class action lawsuit for its own benefit and/or for the benefit of the community if it suffers losses due to environmental pollution and/or damage. Lawsuits can be filed if there are similarities in facts or events, legal basis, and types of claims between group representatives and group members. Provisions regarding the community's right to sue are carried out in accordance with statutory regulations.

The environment includes all objects and conditions, including where humans live and affect the survival and well-being of humans and other living things (R.M. Gatot Soemartono, 1991:23). In the context of carrying out the responsibility for protecting and managing the environment, environmental organizations have the right to file a lawsuit in the interest of preserving environmental functions. The right to file a lawsuit is limited to demands to take certain actions without any claims for compensation, except for real costs or expenses. An environmental organization can file a lawsuit if it meets the following requirements:

a. in the form of a legal entity;
b. confirms in its articles of association that the organization was established for the purpose of preserving environmental functions; And
c. has carried out real activities in accordance with the articles of association for a minimum of 2 (two) years".

In the case of PT. Medco Papua Hijau Selaras (PT. MPHS), based on the results of the author's research in the field, both through document studies and interviews with PT. MPHS, Not a single lawsuit has ever been filed, either by the central government, local government, the community, or environmental organizations during PT. Medco Papua Hijau Selaras (PT. MPHS) runs its business.

Settlement of environmental disputes can be reached through court or out of court (Suparto Wijoyo, 2013: 5). The role of law is to structure the whole concept so that certainty and order are guaranteed (Mochtar kusumaatmaja, 2002:32). Enforcing environmental law today is indeed faced with a number of obstacles. First, there are still differences in perception between law enforcement officials in understanding and interpreting existing laws and regulations. Second, the costs for handling environmental cases are limited. Third, proving that pollution or environmental damage has occurred is not an easy job. The reform era can be seen as a conducive opportunity to achieve success in enforcing environmental law. In the future, an exit strategy is needed as an important solution that must be taken by policy holders in saving environmental functions. First, intensifying the integration and coordination between related sectors in the management of natural resources and the environment. Second, the existence of

adequate sanctions (enforceability) for companies that always violate the rules in waste management in accordance with applicable regulations. PT. Medco Papua Hijau Selaras (PT. MPHS) is a company whose shares were purchased by the Capitol Group, which was only given a written sanction in December 2020, even though it was clear that the company was involved in a case of environmental violations and issues that intersect with the rights of indigenous peoples.

Third, public participation, transparency, and democratization in the management of natural resources and the environment should be increased. Environmental management will be related to three elements, namely the government, entrepreneurs, and the community. In turn, in managing the environment everyone has the same right to enjoy a good and healthy environment. However, when we see that not a single lawsuit has ever been filed, either by the central government, local government, the community, or environmental organizations during PT. Medco Papua Hijau Selaras (PT. MPHS) runs its business, this indicates that public participation is very weak for companies or corporations whose businesses are related to environmental aspects, so from the point of view of enforcing civil law, it is also ineffective.

Criminal Law Enforcement Effectiveness

The Capitol Group is a group or collection of corporations. Four of its subsidiaries are located in West Papua Province, namely PT. Medco Papua Hijau Selaras (PT. MPHS), PT. Mitra Silva Lestari (PT. MSL), PT. Papua Investindo Utama Award (PT. APIU) and PT. Henrison Inti Persada (PT. HIP). The total area of the four companies is around 92 thousand hectares (Panah Papua Online).

An indication of weak criminal law enforcement against PT. Medco Papua Hijau Selaras (PT. MPHS) regarding the absence of definite legal steps against the alleged case of waste contamination from PT. MPHS. Even though PT. MPHS has been subject to administrative sanctions three times and deserves to be prosecuted or revoked.

Based on this, it is necessary to reflect on how environmental law enforcement in Indonesia is, which according to Siti Sundari Rangkuti is closely related to the capabilities of the apparatus and the compliance of citizens with applicable regulations, which cover the fields of administrative law, criminal law and civil law (Siti Sundari Rangkuti, 2005:214). Based on this, and if connected with law enforcement theory as mentioned in the literature review chapter, law enforcement is not only understood in the sense of enforcing laws but is a process to realize the intentions of legislators. Law enforcement should be seen as an activity that attracts the environment into the social process and must accept limitations in its work caused by environmental factors.

So that in principle the law enforcement process still refers to the basic values contained in the law, such as justice (*gerechtigheit*), legal certainty (*rechtssicherheit*), and legal benefits (*zweckmassigkeit*). major law enforcement. The weaknesses contained in the instruments needed in enforcing environmental law in the case of PT. MPHS is a weakness in the legal structure component, namely a framework that provides a boundary for the whole, where the existence of an institution is a concrete manifestation of the legal structure component which also includes the integrity of law enforcement.

Apart from that, there are also weaknesses in the legal culture component of the social atmosphere which is the background for people's attitudes towards law, here it can be seen that PT. MPHS in running its business is used to violating the law, this can be seen from PT. MPHS has been subject to administrative sanctions three times and has deserved criminal proceedings or revocation of permits, but due to long law enforcement, finally environmental crimes (violating laws and regulations) committed by PT. MPHS continues and seems to have become entrenched. Technological developments and the increasing needs of human life have caused the quality of the environment to decrease which has threatened the survival of humans and

other living things, as well as increasing global warming which has resulted in climate change and this will exacerbate the decline in the quality of the environment. For this reason, it is necessary to carry out serious and consistent environmental protection and management by all stakeholders. Preventive environmental law enforcement efforts in the framework of controlling environmental impacts need to be carried out by making maximum use of monitoring instruments and law enforcers. The Indonesian Criminal Code only stipulates that those who are the subject of criminal law are individuals (natuurlijke person/legal person), in its development corporations are also used as legal subjects in criminal law, namely the existence of rights and obligations attached to them (Edi Kristianta Tarigan, 2019:28).

CONCLUSIONS

Environmental law enforcement against PT. Medcopapua Hijau Selaras (PT. MPHS) is not effective, this can be shown through the behavior of law enforcers who are not reasonable in handling a case. PT. MPHS pollutes the environment through its operational waste, causing a decrease in the quality of water consumed by the community on a daily basis. Moreover, there are no civil lawsuits from the government, the public, and environmental organizations and there are no definite legal steps against the alleged waste pollution case from PT. MPHS. Even though PT. MPHS has been subject to administrative sanctions three times and deserves to be prosecuted or revoked.

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