

ENVIRONMENTAL PROTECTION AND MANAGEMENT IS THE LEGAL BASIS FOR ENVIRONMENTAL CRIMES IN INDONESIA**Wahyuni Idrus^{1*}, Zhulfiana Pratiwi Hafid², Ali Rahman³**^{1,2,3}Sawerigading University, Makassar, Indonesiadewaniidrus1@gmail.com^{1*}, zhulfianapратиwi48@gmail.com², alirahmann1990@gmail.com³**Abstract**

Environment life moment This is one of the most common problems debated in the world. Because of the impact bad caused man to environment life, condition environment life moment This become threat for existence humans in the future. In Indonesia, at the moment This anyone or any group that does action destruction environment is action illegal. Terms the in a way general referred to in the 1945 Constitution and related regulations with environment life. Implementation and enforcement law environment living in Indonesia, violation formal and material found in Constitution Number 32 of 2009, and influence law environment life to other things are just a number of problem environment life that will try under review in journal.

Keywords: Environment; crime environment; law criminal environment

INTRODUCTION

Environment life be one of topics discussed globally at the moment this. Because things are not also desired due to damage environment, then the surrounding environment We become the worse. What is meant by with "damage environment lives" in knowledge knowledge is entry creature life, substance energy, and/ or other components to in environment live, and changes caused by activity man or natural processes that degrade quality environment life to the point where the environment life broken. become not enough or no capable reach the purpose here damage environment life can shared become three categories based on place occurrence: pollution air, water, and land.

Based on description above, the problem This become the more complicated. This is No only nature practical, intellectual, and economic; this is also an ethics social and corporate. The future people human beings, which may be harmed by degradation environment, also protected by law criminal, besides nature, flora and fauna (approach ecology) (approach anthropocentric). The phrase "law" environment has sanctions criminal law that protects multimedia interests " later emerged. Scientists lately This emit warning about condition this is what has been worldwide. A number of experts who are members in the Intergovernmental Panel about Climate Change has emit code warning red for public.

The scientists who are members in IPCC estimates that incident weather extreme all over the world now caused by global warming. IPCC acronym which is abbreviation from The Intergovernmental Panel on Climate Change can summarized as following. Drought prolonged which results in fire forest, waves hot, even intensity rainfall too much rain tall until trigger flood bandang is example weather extreme.

Simply put, the state of environment living all over the world, including Indonesia, is not enough good. not in matter weather; some party Still Keep going exploit and destroy forest start from Papua to Kalimantan. Deforestation, for example, is diversion from industry extractive. Deforestation and other activities that reduce and destroy forest will give contribution significant to depreciation forest plays a role as absorber carbon dioxide, accelerate global warming and endangerment livelihood dozens million public customs. The influence that has discussed nature detrimental and threatening existence humans in the future. Therefore that, for overcome problem the need done effort after determine the impact.

There are many methods for do effort this, and protect environment is just one of them. The author will give paper in journal this is what we are discussing about means law protection environment alive. Remembering potential, the consequences, enforcement law environment life must be implemented with consider impacts said. For to uphold matter this is at the global level, the Environmental Program Union Nations (UNEP), sometimes known as an Environmental Program Union the United Nations, is an international body that coordinates projects environment life between countries. With help poor countries apply Constitution environment life, organization This in a way active participate in to coordinate initiative environment lives throughout the UN. This Nairobi, Kenya - based organization was founded in 1972 after Conference Union Nations about Environment Humans. The Purpose of the Environmental Program Union United Nations (UNEP) is For support leadership and coaching partnership in conservation environment through creation inspiration and empowering information individuals and countries to increase level life they without endanger future generation nation.

Indonesia has Constitution environment life separately related with its territory besides regulation international. Fourth paragraph the opening of the 1945 Constitution general discuss about protection environment alive. It says there that:

"Then than for to form a The Indonesian State Government which protects all the Indonesian nation and all spilled Indonesian blood, and for advance welfare general, intelligent life nation, and join carry out world order based on freedom, lasting peace, and justice social, then be arranged independence the Indonesian nation that was formed in a the structure of the Republic of Indonesia which is sovereign by the people based on to Belief in the Almighty God, humanity that dil and civilized, Indonesian unity, and a people led by wisdom wisdom in deliberation representatives, as well as with realize a justice for all Indonesian people."

Moreover, more precisely, the 1945 Constitution refers to the regulation's legislation in the field of environment live. More specifically, based on Article 33 Paragraph 3 Chapter XIV National Economy and Welfare Social states:

"Oil and Natural Gas as source Power natural strategic contained in land Mining Law Area Indonesia is riches national controlled by the state."

Then, Chapter XA Human Rights Humans, namely Article 28 H paragraph 1 which reads:

"everyone has the right life prosperous body and soul, located stay, and get environment good and healthy life as well as entitled to obtain service health."

With knowing the tone of the articles said, then in a way implicit environment life need managed in life nation and state and have realized through the 1945 Constitution. Here too the 1945 Constitution with clear state related issues with the country, one of for example is environment life.

Apart from the preamble to the 1945 Constitution and the articles specifically, derivatives of the 1945 Constitution such as the Criminal Code (KUHP) which contains provision action discipline and threats also include related regulations with protection environment life. Furthermore, the Law Number 32 of 2009 concerning Protection and Management Environment— next called Constitution Protection Environment (UUPLH)— explains more Details about restrictions environment live. About interpretation, planning, utilization, control, maintenance, supervision, and enforcement law is part from an organized and coordinated effort for prevent pollution and/ or damage environment alive, as listed in Article 1 Number 2 of the Law about Protection and Management Environment. Purpose and objectives main considerations started from the requirements contained in the UUPLH, namely management integrated in the field utilization, restoration and development environment life. In the end, crime environment life No only defined by the Criminal Code but also by regulations legislation others, provided that definition the still consistent and not contradictory with existing regulations previously.

Legal guidelines and restrictions to Topic law known with crime environment life or offense environment live. If the agreement This violated, punishment criminal, such as punishment imprisonment and fines, can applied. The purpose of undergo punishment prison and fine This is for protect No only man but also various component environment, including animals, land, air, and water. With Thus, throughout formulation provision the intended For protect environment life in a way overall or some, then offense environment life No only covers provision formulated criminal law in Constitution Number 32 of 2009

concerning Protection and Management Environment, but also provisions formulated criminal law become regulation legislation other.

RESEARCH METHODS

Methodology research used in this article is law legal normative. Author study law This use a number of methods, including approach law, for collect data. To collect secondary data for study this, research literature used for find books, journals, articles, findings research, and regulations relevant legislation.

RESULT AND DISCUSSION

Implementation of Criminal Law Environment in Indonesia

As has We known in the section previously, there was law criminal environment formal life in Indonesia which is stated in a number of regulation legislation. Therefore that, the author try give analysis short regarding one of the case crime environments living in Indonesia in article this. Based on page regional.kompas.com news, project housing in Darawolong Village, District Purwasari, Karawang Regency, found mud poison buried inside land. According to the Head of Criminal Investigation Unit of the Karawang Police, Bimantoro Kurniawan, the garbage the originate from three company Bandung textiles: PT FJ, PT BCP, and PT TB. Waste poisonous the precisely buried in the settlement citizens, not destroyed. Bimantoro suggest that the trash poisonous the brought to PT WI in Tangerang so that it can destroyed.

Analysis advanced from the issues raised above presented here. First, Articles 60, 61 and 104 of the Law Number 32 of 2009 comes into force Because third company the throw away rubbish carelessly deep matter This thrown away to environment public. (Samuel, 2016)

Article 60:

“Everyone is prohibited dumping waste and/or material to environmental media life without permission.”

Article 61:

“(1) Dumping as meant in Article 60 only can done with permission from the Minister, governor, or regent / mayor in accordance with his authority.

(2) Dumping as referred to in paragraph (1) only can carried out at a location that has been determined.

(3) Provisions more carry on regarding the procedures and requirements for waste dumping or material set up in Regulation Government.”

Fines accordingly with his actions charged on violation to second chapter said; This is poured out in Article 104 of the Law Number 32 of 2009 which states:

Without permission as meant in Article 60, everyone who throws away waste and/or material to in environmental media life convicted with criminal imprisonment for a maximum of three (three) years and a maximum fine of Rp. 3,000,000,000.00 (three billion rupiah).

Sanctions criminal to violation environment life carried out by a legal entity This including criminal heavy added one third punishment for giver order or leadership. This is show that crime corporation have more impact big and detrimental compared to crime environment life individual. First paragraph Article 116 of the Law Number 32 of 2009 states:

(1) If act criminal environment life done by, for, or on name of business entity, claim criminal and sanctions criminal dropped to:

1. business entity; and/ or
2. the person who gives order For do act criminal the or the person who acts as leader activity in act criminal.

Chapter the explain Who only one can asked for accountability on crime environment life carried out by the company or business entity. Apart from business entities That myself, administrator or business leaders can also asked for accountability.

Whereas Article 116 Paragraph 2 of the Law Number 32 of 2009 which reads :

“(2) If act criminal environment life as referred to in paragraph (1) is carried out by a person, who is based on connection Work or based on other relationships that act in scope corporate work, sanctions criminal dropped to giver order or leader in act criminal the without notice act criminal the done in a way Alone or together.”

Temporary that, Article 116 Paragraph 2 of the Law Number 32 of 2009 states: “(2) If act criminal environment life as referred to in paragraph (1) is carried out by a person, based on connection Work or based on other relationships that act in environment company. Space scope work a business entity, sanctions criminal dropped to order or leader act criminal it is good act criminal That done Alone or together.”

Criminal Law Enforcement Environment in Indonesia

In short, the steps beginning formation regulation legislation criminal environment life was carried out on February 2, 1982, when the Minister of State for PPLH gave a speech at a meeting general with members of the House of Representatives from all party. The Minister of State for PPLH gave response on February 15, 1982 to Name government. Committee specifically the DPR held discussion level third on February 17, 1982 (Committee) DPR only). All member special committee assigned For discuss in a way comprehensive RUUPPLH on 17-20 February 1982. For the first time in discussion of the bill has been included expert Indonesian . On February 25, 1982, the RUULH which had been formulated submitted back by the DPR SPECIAL PANSUS to the plenary session of the DPR, which with acclamation set Constitution about Terms and Conditions Main Point Management environment life (Samuel, 2016).

Ad hoc meetings of senior government officials who are experts in the field legislation environment life that took place in Montevideo on October 28, 1981, coinciding with with stage Last RUULH. In the meeting this, the experts law environment to argue thus:

“...environmental law is an essential instrument for proper environmental management and the improvement of the quality of life.”

Action-oriented and focused on harmonization issues development and environment live, program creation and review periodic Constitution environment life must covers approach integrated and coordinated in all aspect Constitution environment life and its implementation. Agreement round through the video conference it was very positive for atmosphere around success of the procedure ratification of UUPPLH.

Because the government in Indonesia is active make an effort increase knowledge law society, the term "enforcement "law" has definition area that covers action preventive and punitive.

Basically, because the amount corner conflicting views, law environment life becomes very complex. Apart from that, there are various type violations, from the smallest like throw away rubbish haphazard to the most serious like throw away waste

radioactive and materials dangerous. As a result, the reach enforcement law expands from punishment until prison.

Introduction in a way short to describe How regulation related legislation with environment life implemented, with mention existence a number of provisions in the 1945 Constitution and the rules that are derived from him.

Therefore that, enforcement the law under discussion in magazine This is enforcement law in understanding traditional. Concept enforcement law centered on balance connection between expressed values in the rules that have been set and attitude act as series description values stage end, for build, maintain and uphold tall peace live, then expressed with to examine inclusion article environment life.

Can it is said that objective enforcement law criminal law in the field of environment life that exists moment This Not yet achieved. Lack of synchronization, coordination, synchronicity, and alignment substantial, structural, and cultural in system justice criminal be one of reason failure.

Muladi identified three the elements that make it relevant with System Justice Criminal. Third integration element those — substance, structure, and culture — require synchronization, or synchronicity, and harmony that can differentiated in: (Zul, 2019).

1. Harmony and synchronization in context connection between institution enforcer law called with synchronization structural.
2. Parallelism and harmony of a nature vertical and horizontal to law positive called synchronization substantial, also called synchronization substantial.
3. Synchronization culture is coherence and harmony in embrace beliefs, practices, and ideologies that become runway system justice criminal in a way overall.

Practice enforcement law in essence is use discretion, which means taking decision based on assessment human and not based on applicable law. If there is opposition between “three values, rules, and patterns behavior”, then can happen mix hand to enforcement law. When it happens imbalance between mutually supportive values related, which appears as mutually exclusive rules associated with pattern activity without disturbing goal peace live, then arise chaos.

Therefore that, although matter This of course become the trend in Indonesia, however can it is said that enforcement law No only refers to the application law, that's it the reason definition enforcement law This accepted in a way wide. In addition, there are strong tendency for look at enforcement law as implementation decision court. Quite a view limited This have weakness If implementation Constitution or the judge's decision instead influence peace public.

CONCLUSIONS

One of topics discussed globally is environment life. Things that are not wanted to happen too consequence worsening environment around human caused by damage environment. Based on description above, the problem This become the more complicated. This is No only nature practical, intellectual, and economic; this is also a ethics social and corporate. Criminal law No only protect nature, including plants and animals (approach ecology), but also the future people human beings, which may be caught impact negative from damage environment (approach anthropocentric).

Simply put, the state of environment living all over the world, including Indonesia, is not enough good. not in matter weather; some party Still Keep going exploit and destroy forest start from Papua to Kalimantan. Deforestation, for example, is diversion from industry extractive. Deforestation and other activities that reduce and destroy forest will

give contribution significant to depreciation forest plays a role as absorber emission carbon dioxide, accelerate global warming and endangerment livelihood dozens million public custom.

Remember enforcement law have role preventive and repressive, then definition wide from matter This in accordance for implemented in Indonesia, where institution government certain in a way active make an effort increase awareness law its citizens. Can it is said that objective enforcement law criminal law in the field of environment life that exists moment This Not yet achieved. Lack of synchronization, coordination, synchronicity, and alignment substantial, structural, and cultural in system justice criminal be one of reason failure.

Discretion application concerning taking decision that is not set up in a way strictly by law, will but have element evaluation personal. Enforcement law as the process in which it is based. Therefore that, can it is said that implementation law No always firm, but refers to the implementation individual cases; however, this This No occurs in Indonesian law, because enforcement law Enough popular. A somewhat narrow opinion This marked with weaknesses, if implementation regulations or judge decisions have risk harm life daily.

ACKNOWLEDGEMENT

If any, authors wishing to acknowledge assistance or encouragement from colleagues, special work by technical staff or financial support from organizations should do so in an unnumbered Acknowledgments section immediately following the last numbered section of the paper.

REFERENCES

- Affila, A., et al. (2019). Administrative Law Enforcement by the Environmental Service in Prevention of Pollution and Environmental Destruction. *Journal of Environmental Law Development*, 3(2), April.
- Akib, M. (2014). *Environmental Law: Global and National Perspectives*. Jakarta: Rajawali Press.
- Ali, M., & Elvany, A. I. (2014). *Criminal Law Environment: System Criminalization Based on Environmental Conservation*. Yogyakarta: UII Press.
- Amyunus Wahid. (2020). *Introduction to Environmental Law* (1st ed.). Jakarta: Prenadamedia.
- Andi Hamzah. (2008). *Environmental Law Enforcement*. Jakarta: Sinar Grafika.
- Dewi, D. K., Syahrin, A., Arifin, S., & Tarigan, P. (2014). Permission Environment in Relation to Environmental Administration and Crime Enforcement Based on Law No. 32 of 2009 concerning Protection and Environmental Management (UUPPLH). *Journal of Law*, 2(1).
- Farhan, F. (2019). Poisonous Mud Buried in Project Land Housing in Karawang.
- Hadin Muhjad. (2015). *Environmental Law: An Introduction for the Indonesian Context*. Yogyakarta: Genta Publishing.
- Machmud, S. (2012). *Enforcement of Indonesian Environmental Law*. Yogyakarta: Graha Ilmu.
- Muhammad Askin. (2010). *The Ins and Outs of Environmental Law*. Jakarta: Nekamatra.
- Muhammad Sood. (2019). *Environmental Law in Indonesia*. Jakarta: Rays Graphics.
- Muladi, & Priyatno. (2010). *Accountability of Corporate Criminal Acts*. Jakarta: Golden Media Prenada.

Ninggar, A. (2021). BMKG Early Warning Tomorrow Monday, December 13, 2021: Be Alert for Extreme Weather in 34 Regions of Indonesia. *Tribunnews.Com*.
Republic of Indonesia. *The 1945 Constitution of the Republic of Indonesia*.
Republic of Indonesia. *Constitution Number 32 of 2009 Concerning Protection and Management of the Environment*.