

## **LEGAL ARRANGEMENTS FOR CRIMINAL ACTS OF ENVIRONMENTAL POLLUTION IN INDONESIA**

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### **Abstract**

Environmental law or it can also be called the law of environmental protection and management is a law that is oriented towards the environment or the environment-oriented law. The existence of this environmental law as a means that aims to restore a balanced and harmonious relationship between all subsystems in the entire ecosystem or environment, especially the human environment. The research method is included in the form of normative juridical research with secondary data used. The results of the study indicate that the legal arrangements for perpetrators of criminal acts of environmental pollution are contained in Law Number 32 of 2009 concerning Environmental Protection and Management which is regulated in Articles 96 to 120. The Law on Environmental Protection and Management introduces the threat of minimum punishment. in addition to the maximum, expansion of evidence, punishment for violations of quality standards, integration of criminal law enforcement, and regulation taking into account the *ultimum remedium* principle which requires the application of criminal law enforcement as a last resort after the implementation of administrative law enforcement is deemed unsuccessful. The implementation of law enforcement contained in Law Number 32 of 2009 includes the principles of environmental protection and management that are based on good governance because in every process of formulating and implementing law enforcement and prevention instruments, it is mandatory to integrate aspects of transparency, participation, accountability, and justice. The elements of a criminal act of environmental pollution include: Whoever/Every person or corporation; Intentionally or due to negligence; Doing acts that are prohibited by law; Acts that cause pollution, damage to the environment, or society; Regulated in Law Number 32 of 2009 and Regulated in other laws.

**Keywords:** Legal Regulation, Crime, Environmental Pollution

**INTRODUCTION**

The State of Indonesia has pledged itself as a democratic legal state, as stipulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia that: "Indonesia is a state of law." This means that Indonesia upholds the rule of law to enforce and position the law in the highest place of everything, make the law a commander or commander in chief, protect and regulate all citizens regardless of their status and position.<sup>1</sup>

In the concept of the rule of law, making law a tool that prevents or hinders rulers and humans from acting arbitrarily. The law provides boundaries for individuals and authorities in every social interaction, which provides protection for public peace and justice in the context of realizing public welfare. So that without the enactment of the law and true and fair law enforcement in society, it will lead to chaos and arbitrariness, whether it is carried out by the state or carried out by individual human beings.<sup>2</sup> Of the several kinds of laws that exist in Indonesia, one of which is environmental law.

Environmental problems are not only a concern of a country but have become the center of attention of the international world. Three decades ago the first United Nations (UN) Conference on the environment took place in *Stockholm*. The conference has made the world aware of the dangers of the environment. This is due to various factors, including the problems that arise in the management and utilization of natural resources which have disrupted the function of life preservation and have even caused environmental pollution and/or environmental damage.<sup>3</sup>

Such conditions and circumstances, of course, result in the quality of the environment decreasing and has threatened the survival of human life and other living creatures, so it is necessary to carry out serious and consistent environmental protection and management by all stakeholders. In order to overcome the threats and dangers that have arisen and prevent the emergence of new threats and greater dangers, humans begin to learn the secrets of natural ecosystems and their regulatory systems, so that humans can justify all their mistakes and wrong attitudes and prevent further mistakes. Now slowly developing environmental awareness in modern society, thus growing Environmental Sciences (*Environmental sciences*). Based on the findings and fairness of environmental science,

<sup>1</sup> Abdul Manan, *Comparative Politics of Islamic and Western Law*, Jakarta, Kencana, 2018, p. 249-250.

<sup>2</sup> Abdul Manan, *Political Dynamics of Law in Indonesia*, Jakarta, Kencana, 2018, p. 317

<sup>3</sup> Baerudin, General Guidelines for Environmental Management Techniques, <http://cbaeruddin.com/pedomanum-dik.lat-teknis-pengelolaan-lingkungan-live-di-Daerah/>, accessed on 12/04/2022, at 10 o'clock :31 WIB.

humans began to determine ways and procedures for environmental management that could be accounted for, this was manifested in the legal regulations.<sup>4</sup>

The 1945 Constitution as the constitutional basis for the administration of state government in accordance with Article 33 paragraph (3) stipulates that: "Earth, water and natural resources contained therein are controlled by the State and used for the greatest prosperity of the people".

Environmental law or also known as environmental protection and management law is an *environment-oriented law*. The existence of this environmental law as a means that aims to restore a balanced and harmonious relationship between all subsystems in the entire ecosystem or environment, especially the human environment.<sup>5</sup>

In order to regulate the protection and management of the environment based on an integrated and comprehensive national policy, the Government of the Republic of Indonesia first issued Law Number 4 of 1982 concerning Basic Provisions for Environmental Management which came into force on March 11, 1982, which contained the principles and principles -basic principles for environmental management, so that it functions as a legal umbrella for the preparation of other laws and regulations relating to the environment. Then the government revoked Law Number 4 of 1982 and issued Law Number 23 of 1997 concerning Environmental Management which took effect on September 19, 1997. Furthermore, on October 3, 2009, the government issued Law Number 32 of 2009 concerning Environmental Protection and Management. Life, in which the declining quality of the environment has threatened the survival of humans and other living creatures, so it is necessary to carry out serious and consistent environmental protection and management by all stakeholders.<sup>6</sup>

The decline in environmental quality coupled with the depletion of natural resource supplies and the emergence of various environmental problems have made people aware of the importance of environmental support and the role of natural resources in human life in the universe. Environmental law has developed rapidly, not only in relation to the function of law as protection and certainty for the community (*social control*) with the role of "*agent of stability*", but more importantly as a means of development (*a tool of social engineering*) with a role as "*agent of development*" or "*agent of Change*".<sup>7</sup>

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<sup>4</sup> Andi Hamzah, *Enforcement of Environmental Law*, Jakarta, Sinar Graphic, 2005, p. 65

<sup>5</sup> *Ibid*

<sup>6</sup> *Ibid*

<sup>7</sup> Rahmadi, *Environmental Law in Indonesia*. Jakarta, Rajawali Press, 2011, p. 33

Law enforcement is one way or strategy in encouraging compliance with environmental standards, quality standards and legislation. Through consistent and regular supervision, various forms of violation of permits and laws and regulations that have the potential to pollute and damage the environment can be prevented as early as possible. Legal instruments through their functions will serve as guidelines for principles that can be applied in the form of environmentally sound development. The law can play its function primarily as a control and a certainty for the community in creating harmony between development actions that are continued and improved in order to achieve a level of welfare and prosperity on the one hand, and the use of limited natural resources on the other. According to its function as a means of renewal and development (*a tool of social engineering*), law can be directed to achieve environmentally sustainable development.<sup>8</sup>

Based on the problems described above, the title of this research is "Law Enforcement for Environmental Pollutants in Indonesia".

## **RESEARCH METHODS**

This research is included in the form of normative juridical research, namely research that emphasizes the use of written legal norms.<sup>9</sup> The data used is secondary data. The legal materials used are primary legal materials which include the 1945 Constitution of the Republic of Indonesia, Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP) and Law Number 32 of 2009 concerning Environmental Protection and Management. As well as secondary legal materials that include text books from legal experts, law lecture materials, research results and other scientific works related to research problems. According to Peter M. Marzuki, secondary legal materials are legal materials in the form of legal publications which are not official documents. Publications on law include textbooks, legal dictionaries, legal journals or commentaries on legal decisions.<sup>10</sup>

## **RESULTS AND DISCUSSION**

Some environmental science terms that need to be understood such as the notion of ecology and ecosystems. Ecology is the study of the relationship between one organism to another, and between these organisms and their environment. With ecology, nature is seen as

<sup>8</sup> Andi Hamzah, *Op.Cit.*,

<sup>9</sup> Dian Puji Simatupang, *Research Methods Lecture Module*, Jakarta, Master of Law Study Program Unkris, 2010, p. 2.

<sup>10</sup> Peter Mahmud Marzuki, *Legal Research*, Jakarta, Kencana Prenada Media Group, 2005, p. 181

a network of living systems that are interrelated with one another. Every living thing is in a process of adjustment (adaptation) in living systems that are influenced by climate, region (geography), and a complex biota *environment*. This system ensures the continuity of life on earth (*survive*).

The most important thing from this ecology is the concept of ecosystem. Ecosystem is an ecological system formed by the reciprocal relationship between living things and their environment. In this system, all components work regularly as a unit. Ecosystems are formed by living (*biotic*) and non-living (*abiotic*) *components* in a place that interact to form an orderly unit.

In general, the environment is defined as all objects, conditions, conditions and influences contained in the room we occupy and affect living things, including human life. The boundaries of environmental space according to this understanding can be very broad, but in practice we are limited by environmental space with factors that can be reached by humans such as natural factors, political factors, economic factors, social factors and others. According to Article 1 point 1 of Law Number 32 of 2009 concerning Protection and Management of the Environment it is stated that: "The environment is a unitary space with all objects, forces, conditions, and living things, including humans and their behavior, which affect nature itself, continuity of life, and the welfare of humans and other living creatures.<sup>11</sup>

At the national level environmental awareness has been manifested in various laws and regulations and policies in the environmental sector such as Law Number 4 of 1982 concerning Basic Provisions of the Environment which was later updated by Law Number 23 of 1997 concerning Environmental Management. which has now been revised with the enactment of Law Number 32 of 2009 concerning Environmental Protection and Management.<sup>12</sup>

The Law on Environmental Protection and Management is a legal step from the Government of Indonesia to protect the Indonesian environment from damage, pollution and major hazards that can damage ecosystems and the preservation and sustainability of the environment in Indonesia. The Law on Environmental Protection and Management is an *umbrella act* for other laws and regulations relating to the environment, such as industrial laws, and laws on spatial and regional planning and others.<sup>13</sup>

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<sup>11</sup> Law Number 32 Year 2009 concerning Environmental Protection and Management, Article 1 point 1.

<sup>12</sup> Zainal Asikin, *Introduction to Indonesian Legal System*, Jakarta, Rajawali Press, 2012, p. 51

<sup>13</sup> *Ibid*

The problem that arises then is that the existing policies and laws and regulations cannot solve various problems, especially crimes in the environmental field. Over time, it shows that Law Number 23 of 1997 concerning Environmental Management has not been able to become an effective instrument to protect the environment. Meanwhile, technological developments are followed by developments in the quality and quantity of crime in the environmental field which are increasingly sophisticated and often have international impacts, such as *illegal mining*, *illegal fishing*, and *illegal logging*, which are still ongoing.<sup>14</sup>

Furthermore, companies or legal entities operating in the industrial sector, both large-scale using modern technology and small and medium-sized industries including the handicraft industry and home industry, have in fact led to crimes in the environmental sector, such as air pollution as a result of increased levels *dioxide* from factory chimneys and burning of oil by motor vehicles, pollution of river and sea water as a result of industrial waste disposal, as well as damage to the natural environment by industrial products in the form of chemical goods such as pesticides which are very dangerous for humans. humans and the natural environment around them.<sup>15</sup>

The crime in the form of pollution and environmental destruction has brought a huge impact on human life, such as global warming, flash floods, forest fires, landslides that cause casualties both human and community economic resources, social facilities and public facilities, besides that The decline in the quality of the carrying capacity of the environment has resulted in various endemic diseases that afflict almost all parts of Indonesia, such as outbreaks of dengue fever, vomiting, lung and diarrhea and others.<sup>16</sup>

The current condition of environmental criminal law enforcement is not in line with community expectations. Various cases of water pollution due to illegal disposal of toxic waste, destruction of forest areas, destruction of coral reefs, coastal abrasion due to sand mining and burning of forest areas which can be categorized as environmental crimes are increasingly rampant and even lead to organized transnational crimes. The causes of the cases mentioned above stem in part from policies set by the government that are not in favor of environmental interests, legal mafia, criminal law facilities have not been applied optimally, the type of sanctions chosen and determined at the application stage is not exactly, there is no common perception among law enforcement officers regarding environmental crimes, the

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<sup>14</sup> Hidayat and Samekto, *A Critical Study of Environmental Law Enforcement in the Era of Regional Autonomy*. Semarang, Undip Press, 2009, p. 44

<sup>15</sup> *Ibid*

<sup>16</sup> Sukanda Husin, *Enforcement of Indonesian Environmental Law*, Jakarta, Sinar Graphic, 2009, p. 1

low legal awareness of entrepreneurs on the importance of environmental conservation, the non-neutrality of the judiciary, the absence of vertical and horizontal synchronization in *general environmental law* and *sectoral environmental law*, and the absence of synchronization and alignment in the criminal justice system.<sup>17</sup>

Furthermore, when viewed from criminal politics, the increase in criminal acts in the environmental sector is due to, among other things, development projects and programs that are planned and implemented at the local, regional and national levels ignoring environmental factors, not based on accurate research and estimates of developments or developments. criminal tendencies both now and in the future. In addition, due to the absence of research on the effects and consequences of social and policy decisions and investments, feasibility studies covering social factors and the possible consequences of criminogens and alternative strategies to avoid them have never been carried out, therefore it is not surprising that environmental cases on a national scale cannot be completely resolved.<sup>18</sup>

With the provisions contained in environmental laws and regulations, and environmental law enforcement aims to comply with *compliance* ecosystem protection values. and environmental functions. Meanwhile, environmental administration law enforcement is preventive (supervision) and repressive (administrative sanctions). Enforcement of administrative environmental law can be applied to activities that violate licensing requirements and statutory regulations.<sup>19</sup>

In the development of legal studies, it can be understood about the growing function of law for people's lives, along with these developments. We feel that the law which originally acted as a guide to life, which was in the form of a series of rules for realizing order and justice (*Order and Justice*) has increasingly developed its role as a means of driving, driving and controlling social development. So its function is not only to regulate but also to accommodate dynamic social aspirations.<sup>20</sup>

The use of criminal law or "strafrecht" in terms of criminal law science can be interpreted in several ways, namely:<sup>21</sup>

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<sup>17</sup> *Ibid*

<sup>18</sup> Syamsul Arifin, *Legal Aspects of Environmental Protection and Management*, Medan, Medan Area University Press, 2014, p. 30

<sup>19</sup> Andi Hamzah, *Op.Cit.*, p. 33

<sup>20</sup> Dirdjosisworo Soedjono, *Technology Efforts and Law Enforcement against Environmental Pollution Due to Industry*, Bandung, Citra aditya Bakti, 1991, p. 11.

<sup>21</sup> Koeswadji Hermien Hadiati, *Environmental Criminal Law*, Bandung, Citra Aditya Bakti, 1993, p. 126

1. Criminal law in an objective sense is all prohibitions (*verboden*) and obligations (*geboden*) for which violations are threatened with criminal / punishment / sanctions by law -law. Objective criminal law also regulates the conditions when/when the sanction can be imposed, namely in Roman language it is called "*ius poenali*".
2. Subjective criminal law is the right/authority of the state to punish if the prohibitions and rules are violated in Romance referred to as "*ius poeniendi*".

There is a close relationship between objective criminal law and subjective criminal law, namely that subjective criminal law can only occur/arise if it is determined by regulations concerning prohibitions and imperatives, or objective criminal law. In other words, the State's right to punish is limited/determined/regulated by objective law. Objective criminal law can then be distinguished again in formal criminal law and material criminal law. Material criminal law consists of formulations regarding actions/deeds that are punishable by punishment while formal criminal law includes part of the overall legal regulations in force in a country that provide the basics and provisions to determine how the crime can be carried out, thus Formal criminal law regulates the procedures for how material criminal law can be implemented or also called the Criminal Procedure Code (HAP).<sup>22</sup>

The enforcement of criminal sanctions is *an ultimatum remedium* or last resort because the aim is to punish the perpetrators with imprisonment or fines. So the enforcement of criminal sanctions does not function to improve the polluted environment, but the enforcement of these criminal sanctions can create *factor* a very effectiveTherefore, in practice the enforcement of criminal sanctions is always applied selectively.

The imposition of criminal sanctions on polluters and environmental destroyers in terms of relations between the state and society is very necessary because the aim is to save society (*socio/defense*) and the environment from prohibited *speech* (*verboden*) and required actions or obligations (*geboden*) that carried out by development actors. In particular, the punishment is intended to prevent the occurrence of crimes or unwanted or wrong actions and to impose suffering or appropriate retribution on the violator.<sup>23</sup>

In criminal law, there are several types of criminal acts, including:<sup>24</sup>

1. Materieel Delict which are considered to have been completed by causing prohibited consequences and threatened with punishment by law.

<sup>22</sup> So Woong Kim, Criminal Law Policy in Enforcement of Environmental Law, *Journal of Legal Dynamics*, Vol. 13 No. September 3, 2013, p. 416

<sup>23</sup> Muhammad Erwin, Environmental Law: In the Policy System of Environmental Development, Bandung, Refika Aditama, 2008, p. 45

<sup>24</sup> Satjipto Rahardjo, *Legal Studies*, Bandung, PT. Image of Aditya Bakti, 1991, p. 90

2. Formeel delict, are offenses that are deemed to have been completed by carrying out prohibited acts and threatened with punishment by law.
3. Commissionis Delict are offenses in the form of violations of the prohibitions in the law.
4. Omissionis Delict are offenses in the form of violations of statutory requirements.
5. Dolus and Culpa (*Opzettelijke delicten and culpooze delicten*). Dolus is a crime committed intentionally while culva is a crime committed by negligence or omission.
6. Complaint Delict (*klacht delicten*) is a crime that can only be prosecuted if there is a complaint from the person who has been harmed.

Law No. 32 of 2009 introduces the threat of minimum punishment in addition to the maximum, expansion of evidence, punishment for violations of quality standards, integration of criminal law enforcement, and regulations that pay attention to the *ultimum remedium* which requires the application of criminal law enforcement as a last resort after the implementation of administrative law enforcement. considered unsuccessful. The application of *ultimum remedium* only applies to certain formal criminal acts, namely taking action against violations of waste water quality standards, emissions, and disturbances.<sup>25</sup>

Legal arrangements and provisions for criminal sanctions for perpetrators of environmental pollution are regulated in the provisions of Law Number 32 of 2009 concerning Environmental Protection and Management Articles 97 to 120. The environmental offenses in this law contain the formulation of material offenses as well as formal offenses.

The implementation of law enforcement contained in Law Number 32 of 2009 includes the principles of environmental protection and management that are based on good governance because in every process of formulating and implementing law enforcement and prevention instruments, it is mandatory to integrate aspects of transparency, participation, accountability, and justice. Through these laws and regulations, the Government gives very broad authority to regional governments in protecting and managing the environment in their respective regions which is not regulated in Law Number 23 of 1997 concerning Environmental Management.<sup>26</sup>

Environmental crimes are regulated through Law Number 32 of 2009 concerning Environmental Protection and Management (PPLH). Regarding crimes in the field of

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<sup>25</sup> Achamad Faisal, *Environmental Law: Waste Management and the Green Industry Paradigm*, Yogyakarta, Yustisia Library, 2016, p. 116

<sup>26</sup> *Ibid*

environmental management regulated by Law Number 32 of 2009 it can be seen from the formulation of Article 69 which states that:

- (1) Everyone is prohibited from: a. commit acts that result in pollution and/or damage to the environment. b. import B3 which is prohibited according to laws and regulations into the territory of the Unitary State of the Republic of Indonesia. c. include waste originating from outside the territory of the Unitary State of the Republic of Indonesia into the environmental media of the Unitary State of the Republic of Indonesia. d. importing B3 waste into the territory of the Unitary State of the Republic of Indonesia. e. dispose of waste into environmental media. f. dispose of B3 and B3 waste into environmental media. g. releasing genetically engineered products into environmental media that are in contravention of statutory regulations or environmental permits. h. clearing land by burning. i. compiling an amdal without having a certificate of competence for compiling an amdal, and/or j. provide false, misleading, omitted information, tamper with information, or provide false information.
- (2) The provisions as referred to in paragraph (1) letter h pay serious attention to local wisdom in their respective regions.<sup>27</sup>

In addition to the provisions contained in Article 69 of Law Number 32 of 2009 concerning Environmental Protection and Management (PPLH) above, related crimes in the field of environmental protection and management are also regulated in Articles 98 to 115. Some of the descriptions of the provisions referred to are as follows:"

Article 98 states that:

- (1) Everyone who intentionally commits an act that results in exceeding the ambient air quality standard, water quality standard, sea water quality standard, or environmental damage standard criteria, shall be punished with imprisonment for a minimum of 3 (three) years. and a maximum of 10 (ten) years and a fine of a minimum of Rp.3,000,000,000.00 (three billion rupiah) and a maximum of Rp.10,000,000,000.00 (ten billion rupiah)".
- (2) If the act as referred to in paragraph (1) results in injury and/or harm to human health, the person shall be punished with a minimum imprisonment of 4 (four) years and a maximum of 12 (twelve) years and a minimum fine of Rp. 4,000,000,000. 00 (four billion rupiah) and a maximum of Rp. 12,000,000,000.00 (twelve billion rupiah)".
- (3) If the act as referred to in paragraph (1) results in serious injury or death, the person shall be punished with a minimum imprisonment of 5 (five) years and a maximum of 15 (fifteen) years and a minimum fine of Rp. 5,000,000,000.00 (five billion rupiah) and a maximum of Rp. 15,000,000,000.00 (fifteen billion rupiah)".<sup>28</sup>

Article 99 that:

- (1) "Everyone who because of his negligence results in exceeding the ambient air quality standard, water quality standard, sea water quality standard, or environmental damage standard criteria, shall be punished with imprisonment

<sup>27</sup> Law Number 32 Year 2009 concerning Environmental Protection and Management, Article 69.

<sup>28</sup> *Ibid*, Article 98

for a minimum of 1 (one) year and a maximum of 3 (three) years. ) years and a minimum fine of Rp. 1,000,000,000.00 (one billion rupiah) and a maximum of Rp. 3,000,000.00 (three billion rupiah)".

- (2) "If the act as referred to in paragraph (1) results in injury and/or harm to human health, the person shall be punished with imprisonment for a minimum of 2 (two) years and a maximum of 6 (six) years and a minimum fine of Rp. 2,000,000,000.00 (two billion rupiah) and a maximum of Rp. 6,000,000,000.00 (six billion rupiah)".
- (3) "If the act as referred to in paragraph (1) results in serious injury or death, the person shall be punished with a minimum imprisonment of 3 (three) years and a maximum of 9 (nine) years and a minimum fine of Rp. 3,000,000,000.00 (three billion rupiah) and a maximum of IDR 9,000,000,000.00 (nine billion rupiah)".<sup>29</sup>

Article 100 states that:

- (1) "Everyone who violates the quality standard of waste water, emission quality standard, or quality standard of disturbance shall be punished with imprisonment for a maximum of 3 (three) years and a fine of a maximum of Rp. 3,000,000,000.00 (three billion rupiahs).)".
- (2) The criminal act as referred to in paragraph (1) can only be imposed if the administrative sanctions that have been imposed are not complied with or the violation is committed more than once.<sup>30</sup>

Further provisions contained in Articles 101-115 can be seen in the content of Law Number 32 of 2009 concerning Environmental Protection and Management. The regulation on corporations that are perpetrators of criminal acts of environmental pollution is regulated in Articles 116 to 120.<sup>31</sup>

Based on the criminal provisions contained in Articles 98 to 120 in Law Number 32 of 2009 concerning Environmental Protection and Management, it can be said that environmental offenses or environmental crimes have the following<sup>32</sup>

1. elements: Whoever/Every person or corporation

Based on the provisions in Chapter 1 General Provisions Article 1 paragraph (32) of the Law on Environmental Protection and Management, it is stated that what is meant by each person is an individual or a business entity, both legal and non-legal entities. So it can be concluded that the legal subject can be a corporation. The element fulfills "anyone" as contained in Article 69, Article 98 to 115 of Law no. 32 of 2009 states that what is meant by person is every person, group of people, or legal entity.

<sup>29</sup> *Ibid*, Article 99

<sup>30</sup> *Ibid*, Article 100.

<sup>31</sup> Haluanto Ginting, *Juridical Analysis of Criminal Law Enforcement for Environmental Pollutants*, Medan, University of Medan Area Press, 2019, p. 47

<sup>32</sup> *Ibid*, p. 57

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**2. Deliberately or due to negligence**

Every good deed is done with a crime, or a violation that causes damage or pollution to the environment, then such an act has been categorized as a criminal act (delict). The act is as long as it has fulfilled the element of intention (*opzet*) or negligence (*culpa*). Criminal acts caused by negligence are regulated in Article 99 paragraph (1) of Law no. 32 of 2009. Article 99 emphasizes negligence which can result in exceeding the water quality standard, sea water quality standard, or standard criteria for environmental damage. The threat of negligence by the perpetrator is a minimum of 1 year in prison and a maximum of 3 years in prison and the threat of a fine.

**3. Doing an act that is prohibited by law**

The existence of an act or committing an act is an element of the occurrence of an environmental offense. This can be seen based on the provisions in Article 98 to Article 115 of Law no. 32 of 2009. Each article on criminal provisions (Article 98-Article 115) regulates acts that fall into the category of environmental crimes, whether committed intentionally or due to negligence.

**4. Acts that cause pollution, damage to the environment, or society**

The provisions of Articles 98 to 108 are actions that have consequences, namely pollution and damage to the environment with certain levels and certain causes. Therefore, any activity or act that damages and pollutes the environment is an act that is prohibited by law as contained in Law no. 32 of 2009 can be an environmental offense if it has fulfilled the elements as stipulated in Article 98 to Article 115

**5. Regulated in Law Number 32 of 2009**

Environmental offenses are specifically regulated in Law no. 32 of 2009 as the umbrella act for environmental law in Indonesia. The provisions of UUPPLH are regulations established by the Government of Indonesia to protect the environment from management that uses the environment carelessly and protect the environment from damage and pollution. Environmental offenses based on Law no. 32 of 2009 is included in the category of crime. Environmental crimes are orders and prohibitions of law on legal subjects which if violated are threatened with criminal sanctions, including imprisonment and fines with the aim of protecting the environment as a whole as well as elements in the environment such as forests, animals, land, air and water and people.

**6. Regulated in other laws**

Pollution and damage to the environment apart from being regulated in Law Number 32 of 2009 there are also several other laws and regulations such as; Law Number 5 of 1984 concerning Industry; Law Number 9 of 1985 concerning Fisheries; Law Number 5 of 1990 concerning Conservation of Natural Resources and Their Ecosystems and Law Number 18 of 2008 concerning Waste Management.

## **CONCLUSION**

Based on the discussion that has been described above, it can be concluded that the legal arrangements for perpetrators of criminal acts of environmental pollution are contained in Law Number 32 of 2009 concerning Protection and Management of the Environment which is regulated in Articles 96 to 120. The Environmental Protection and Management introduces the threat of minimum punishment in addition to the maximum, expansion of evidence, punishment for violations of quality standards, integration of criminal law enforcement, and regulation taking into account the *ultimum remedium* which requires the application of criminal law enforcement as a last resort after the implementation of administrative law enforcement is considered not successful. The implementation of law enforcement contained in Law Number 32 of 2009 includes the principles of environmental protection and management that are based on good governance because in every process of formulating and implementing law enforcement and prevention instruments, it is mandatory to integrate aspects of transparency, participation, accountability, and justice. The elements of a criminal act of environmental pollution include: Whoever/Every person or corporation; Intentionally or due to negligence; Doing acts that are prohibited by law; Acts that cause pollution, damage to the environment, or society; Regulated in Law Number 32 of 2009 and Regulated in other laws.

## **REFERENCES**

Abdul Manan, *The Dynamics of Legal Politics in Indonesia*, Jakarta, Kencana, 2018.

Abdul Manan, *Comparison of Islamic and Western Legal Politics*, Jakarta, Kencana, 2018.

Achamad Faisal, *Environmental Law: Waste Management and the Green Industry Paradigm*, Yogyakarta, Yustisia Library, 2016.

Andi Hamzah, *Enforcement of Environmental Law*, Jakarta, Sinar Graphic, 2005.

Baerudin, General Guidelines for Environmental Management Techniques, [http://cbaeruddin.com/ped\\_oman-umum-dik.lat-teknis-pengelolaan-lingungan-live -in the area/](http://cbaeruddin.com/ped_oman-umum-dik.lat-teknis-pengelolaan-lingungan-live -in the area/), accessed on 12/04/2022, at 10:31 WIB.

Dian Puji Simatupang, *Research Methods Lecture Module*, Jakarta, Unkris Law Masters Study Program, 2010.

Dirdjosisworo Soedjono, *Technology Efforts and Law Enforcement against Environmental Pollution Due to Industry*, Bandung, Citra Aditya Bakti, 1991.

Haluanto Ginting, *Juridical Analysis of Criminal Law Enforcement For Environmental*, Medan, University of Medan Area Press, 2019.

Hidayat and Samekto, *A Critical Study of Enforcement of Environmental Law in the Era of Regional Autonomy*, Semarang, Undip Press, 2009.

Muhammad Erwin, *Environmental Law: In Environmental Development Policy Systems*, Bandung, Refika Aditama, 2008.

Peter Mahmud Marzuki, *Legal Research*, Jakarta, Kencana Prenada Media Group, 2005.

Rahmadi, *Environmental Law in Indonesia*. Jakarta, Rajawali Press, 2011.

Rukmono, *The Nature of the Implementation of the Death Penalty From a Human Rights Perspective*. Jakarta, RajaGrafindo Persada, 2018.

Satjipto Rahardjo, *Legal Studies*, Bandung, PT. Citra Aditya Bakti, 1991.

So Woong Kim, *Criminal Law Policy in Enforcement of Environmental Law*, *Journal of Legal Dynamics*, Vol. 13 No. 3 September 2013.

Sukanda Husin, *Enforcement of Indonesian Environmental Law*, Jakarta, Sinar Graphic, 2009.

Law Number 32 Year 2009 concerning Environmental Protection and Management.

Zainal Asikin, *Introduction to Indonesian Legal Order*, Jakarta, Rajawali Press, 2012.