

Law Enforcement Against Environmental Pollution in the Mangrove Forest Area

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ABSTRACT

Environmental pollution occurs when the cycle of matter in the environment changes. This contamination can come from human activities or natural processes, which causes the quality of the environment to not function as it should. The type of research that the authors use in this research is legal science research with empirical aspects. The legal basis for regulating environmental pollution regarding mangrove forests is regulated in Law Number 32 of 2009 concerning Environmental Protection and Management in Chapter XV, namely starting from Article 97 to Article 120 UUPPLH. Law Enforcement Against Environmental Pollution in the Mangrove Forest Area, Against Environmental Pollution in the Badung Bali Mangrove Forest area regarding Law Number 32 of 2009 concerning Environmental Protection and Management contained in Article 3 UUPPLH 2009 besides that Related to the Ecosystem of Environmental Pollution in the Badung. Bali Mangrove Forest Area so that the principle of certainty, the principle of openness, the principle of decentralization and the role of the regional government can be observed to regulate and maintain so that pollution and environmental damage does not occur either through pollution or protecting the environment destruction of the Badung mangrove forest from the results of violating Article 98 paragraph 1 of Law no. 32 of 2009 concerning Environmental Protection and Management. threatened with imprisonment for a minimum of 3 years and a maximum of 10 years and a fine of at least Rp. 3 billion and a maximum of Rp. 10 billion.

Keywords: Environmental Pollution, Law Enforcement, Mangrove Forest

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1. INTRODUCTION

The environment is usually defined as something that surrounds life or organisms. The environment is a collection of everything that forms conditions and will affect directly or indirectly both to life in the form of individuals and communities in a particular place. The problem of pollution is a problem that really needs to be handled seriously by all parties to be able to overcome the bad effects that occur due to pollution, even as much as possible to be able to prevent environmental pollution from happening. Environmental

pollution occurs when the cycle of matter in the environment changes, so that the balance in terms of structure and function is disrupted. This contamination can come from human activities or natural processes, which causes the quality of the environment to not function as it should. Meanwhile, Law Number 32 of 2009 concerning the Protection and Management of the Environment provides an explanation that environmental pollution is the entry or inclusion of living things, substances, energy, and/or other components into the environment by

human activities so that they exceed the established environmental quality standards. Impacts and Mitigation Efforts according to Khoirul Huda, pollution is defined as the entry or inclusion of living things, energy substances, and or other components into the environment. Everything that can cause pollution is called a pollutant (pollutant). A substance can be said to be a pollutant if the amount has exceeded normal limits, which is at the wrong time and place. Pollutants are also known as waste (garbage). Waste is waste material resulting from a production process, such as household activities whose presence can have a negative impact on the environment. Based on its nature, waste can be classified into liquid waste, solid waste, recycled waste, organic waste, and toxic hazardous waste (B3). . Types of Environmental Pollution Water Pollution Water pollution is a change in the decrease in water quality in a water area such as seas, rivers, lakes and ground water. Causes of water pollution: (Barlin: 1994). which impede or encourage the development and development of the environment in Indonesia. This collaboration is also needed to discuss problems and provide influence towards environmental management in a harmonious and integrated manner, in accordance with their abilities and knowledge for the success of sustainable development. (Wibowo's sister: 2014)

Before determining the location, various feasibility studies must be carried out, for avoid things that actually do not cause benefits but instead cause losses and even new problems for the surrounding community. Very detailed arrangements related to implementation requirements must indeed be made, but as a note it is more appropriate if not by formulating

them in laws, but only in technical regulations which are more operational (Wayan Budiayasa Suyasa: 2015). Along with the development of modern society's life in the face of globalization and the process of industrialization and modernization will foster changes in social processes in the governance of people's lives. The process of industrialization and modernization and especially forestry industrialization has had a major impact on the continuity of forests as a support for life and the lives of creatures in the world. Forests are natural resources that are very important not only as wood resources, but more as a component of the environment (Siswanto Sunarso: 2005). The demand for water use is increasing, water is needed for irrigation, industry, drinking water, recreation, and so on. -other. Demand is increasing while water supply is decreasing. Other natural resources such as plants, trees, aquatic sources and mineral sources are very dependent on their management. The problem that arises is that poverty and underdevelopment of environmental appreciation urgently need to manage natural resources appropriately and effectively, so that they pay little attention to environmental factors (Koesnadi Hardjosoemantri: 2005). Mangrove forests are being cleared for the sake of ambitions to build luxury housing, industrial centers and economic centers, as a result the habitat that should be reserved for marine species is getting narrower. Species that live in the air and on land are very dependent on the existence of mangrove forests (Rahmad K Dwi Susilo: 2008)

Environmental law stipulates provisions and norms to regulate human actions to protect against damage and deterioration in environmental quality in

order to ensure sustainability so that it can be continuously used by present and future generations. The nature and character of environmental law has a lot to learn from ecology, so it is oriented towards the environment. This shows that environmental law has the nature of being intact or integral, always in dynamics with its flexible nature and character. From the point of view of environmental law, the possibilities for regulating environmental problems with the help of criminal law are very limited, but in any sufficiently developed society, criminal law fulfills two functions, namely, enforcement of ethical norms as well as other regulatory norms that are nonethical as needed. for the regulation of social order. This shows that in enforcing environmental law, criminal law still plays a role.

Formally, the criminal law code is a positive criminal law in Indonesia, so that the knowledge that studies it can be called Indonesian positive criminal science, but substantially it actually does not deserve to be called Indonesian criminal law because (KUHP) does not originate, originates from views/ the concept of basic values (grundnorm) and the reality that lives in Indonesian society. According to Muladi,

2. METHODS

1. Type of Research

The type of research that the authors use in this research is legal science research with empirical aspects. Given that in Law Enforcement Against Environmental Pollution in the Mangrove Forest area, it is necessary to get attention from the existing problems.

2. Data and Data Sources

There are two types of data examined in this study, namely primary data and secondary data. Primary data from

the operational characteristics of material criminal law in the future are national criminal law:

a. It was formed not only for sociological, political and practical reasons, but consciously must be organized within the framework of the Pancasila national ideological concept.

b. Not ignoring aspects related to the human condition, nature and Indonesian traditions. Must be able to adapt to universal trends that grow in civilized human association

c. You have to think about the preventive aspects.

d. All responses to the development of science and technology in order to increase the effectiveness of its functions in society.

Starting from the background of the problems above, regarding the problems to be discussed, the researchers formulated the problem:

1. What is the legal basis for environmental pollution regarding mangrove forests?

2. How is Law Enforcement Against Environmental Pollution in the Mangrove Forest Area?

this study came from field research obtained directly through interviews/interviews and observations by respondents and informants. Meanwhile, secondary data was obtained from library research, literature and laws and regulations.

3. Data Collection Techniques

a. Document Study Techniques

Document study is the initial technique used in any legal research, which always departs from normative premises. The initial document used in this research is Law Enforcement

Against Environmental Pollution in the Mangrove Forest area.

b. Interview Techniques

The interview technique in this study was carried out by compiling questions that were relevant and related to Law Enforcement Against Environmental Pollution in the Mangrove Forest area, respondents and informants who had capacity and were related to the research being conducted.

c. Observation / Observation Techniques

Observation techniques are needed in this study with the aim of collecting data by making direct observations of legal events involving Law Enforcement Against Environmental Pollution in the Mangrove Forest area.

3. RESULT AND DISCUSSION

3.1. Legal Basis Governing Environmental Pollution Regarding Mangrove Forests

Environmental pollution is currently regulated in Law Number 32 of 2009 concerning Environmental Protection and Management in Chapter XV, namely starting from Article 97 to Article 120 UUPPLH. Article 97 of the UUPPLH states that criminal acts regulated in the Criminal provisions of the UUPPLH are crimes (*rechtdelicten*), so that the meaning is that the level of disgraceful acts is above violations. In general, acts that are prohibited with the threat of criminal sanctions for those who violate them in the UUPPLH are acts of environmental pollution and destruction of the environment, but the formulation of criminal acts in the UUPPLH is regulated not in general but more specifically: Environmental Pollution Environmental pollution is entering or creature inclusion life, substances, energy, and/or other components into the environment by human activities so that they exceed the established environmental quality standards. (Article 1 point 14 UUPPLH) based on the provisions of Article 20 paragraph (1) UUPPLH states that:

Determination of the occurrence of environmental pollution is measured through environmental quality standards. What is meant by environmental quality standard? pursuant to the provisions of Article 1 point 13 UUPPLH states that: Environmental quality standard is a measure of the limits or levels of living things, substances, energy, or components that exist or must exist and/or pollutant elements whose existence is tolerated in a certain resource as elements of the environment . Environmental Damage Environmental destruction is: "the actions of persons causing direct or indirect changes to the physical, chemical and/or biological properties of the environment so that they exceed the standard criteria for environmental damage." (Article 1 point 16 UUPPLH) How can you find out that environmental damage has occurred? Article 21 paragraph (1) UUPPLH states that: "To determine the occurrence of environmental damage, standard criteria for environmental damage are determined." , Law No. 23 of 1997 concerning Environmental Management (UUPPLH 1997) and Law No. 32 of 2009 concerning Environmental Protection and Management (UUPPLH 2009). If the 1982 UUKKPLH only recognized material

offenses, then in the 1997 UUPPLH and the 2009 UUPPLH the formulation of offenses was material offenses and formal offenses, even in the 2009 UUPPLH there were more formal offenses than the 1997 UULH.

The difference between material offenses and formal offenses is: Material offenses are: "Delict 'providing criminal threats against actions that have resulted in actions (There is a causal relationship between actions and the consequences of actions)". Formal delict (Formeel Delict) is: "Delict whose formulation provides a criminal threat against a prohibited act, regardless of the consequences of the act". Material offenses in the provisions of Law Number 32 of 2009 concerning Environmental Protection and Management are contained in Articles 98 and Article 99, namely any person who intentionally or negligently commits:

i. Actions that result in exceeding ambient air quality standards, water quality standards, seawater quality standards, or environmental damage standard criteria

ii. Actions that result in exceeding the ambient air quality standard, water quality standard, seawater quality standard, or environmental damage standard criteria and result in injury to people and/or human health hazard

iii. Acts that result in exceeding the ambient air quality standard, water quality standard, seawater quality standard, or environmental damage standard criteria and result in a person being seriously injured or dead

Material offenses are also contained in Article 112 UUPPLH 2009, namely Every authorized official who deliberately does not supervise the compliance of those in charge of business and/or activities with laws and regulations

and environmental permits as referred to in Articles 71 and Article 72, resulting in pollution and / or environmental damage resulting in loss of human life. Meanwhile, prohibited acts that fall into the category of formal offenses in Law No. 32 of 2009 concerning the Protection and Management of the Environment can be in Article 100 to Article 111 and Article 113 to Article 115

Actions and criminal sanctions, especially in the environmental sector, are regulated in the provisions of the Law of the Republic of Indonesia Number 32 of 2009 concerning the Protection and Management of the Environment, including material offenses against environmental crimes:

1. Article 98 paragraph (1) UUPPLH Year 2009: Any person who intentionally commits an act which results in exceeding the ambient air quality standards, water quality standards, seawater quality standards, or environmental damage standard criteria, shall be punished with a minimum imprisonment of 3 (three) years and a maximum of 10 (ten) years and a fine of at least IDR 3,000,000,000.00 (three billion rupiahs) and a maximum of IDR 10,000,000,000.00 (ten billion rupiahs).

2. Article 98 paragraph (2): If the act as referred to in paragraph (1) causes a person to be injured and/or endangers human health, the penalty is imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years and a fine a minimum of IDR 4,000,000,000.00 (four billion rupiahs) and a maximum of IDR 12,000,000,000.00 (twelve billion rupiahs).

3. Article 98 paragraph (3) : If the act as referred to in paragraph (1) results in a person being seriously injured or dead, the penalty is imprisonment for a minimum

of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least IDR 5,000,000,000.00 (five billion rupiah) and a maximum of Rp. 15,000,000,000.00 (fifteen billion rupiah).

4. Article 99 paragraph (1) : Every person who because of his negligence causes the ambient air quality standards, water quality standards, seawater quality standards, or environmental damage standard criteria to be exceeded, shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 3 (three) years and a fine of at least IDR 1,000,000,000.00 (one billion rupiah) and a maximum of IDR 3,000,000,000.00 (three billion rupiah).

5. Article 99 paragraph (2) : If the act as referred to in paragraph (1) causes a person to be injured and/or endangers human health, the criminal shall be punished with imprisonment for a minimum of 2 (two) years and a maximum of 6 (six) years and a fine of a maximum a minimum of IDR 2,000,000,000.00 (two billion rupiahs) and a maximum of IDR 6,000,000,000.00 (six billion rupiahs).

6. Article 99 paragraph (2) : If the act referred to in paragraph (1) causes a person to be seriously injured or dies, the penalty is imprisonment for a minimum of 3 (three) years and a maximum of 9 (nine) years and a fine of at least Rp. 3,000,000,000.00 (three billion rupiah) and a maximum of Rp. 9,000,000,000.00 (nine billion rupiah).

7. Article 112 UUPPLH: Every authorized official who deliberately does not supervise the compliance of those in charge of business and/or activity with laws and regulations and environmental permits as referred to in Article 71 and Article 72, resulting in environmental pollution and/or damage which results in

loss of human life, shall be punished with imprisonment for a maximum of 1 (one) year or a fine of a maximum of Rp. 500,000,000.00 (five hundred million rupiahs).

Formal offenses against the environment Article 100 paragraph (1) UUPPLH: Everyone who violates the waste water quality standards, emissions quality standards, or nuisance quality standards is subject to punishment, with a maximum imprisonment of 3 (three) years and a maximum fine of Rp. 3,000,000,000.00 (three billion rupiah). Criminal acts as referred to in Article 100 paragraph (1) can only be imposed if the administrative sanctions that have been imposed are not complied with. Legal certainty is needed to ensure legal certainty governing the management of coastal resources, especially mangrove forests, clearly and can be understood and obeyed by all stakeholders;

From the results of research conducted on Legal Protection Against Environmental Pollution in the Mangrove Forest area of Badung Bali related to Law Number 32 of 2009 concerning Protection and Management of the Environment contained in Article 3 UUPPLH 2009 in addition to Related Ecosystems from Environmental Pollution in the Mangrove Forest area so that it can attention to the principle of certainty, the principle of openness, the principle of decentralization and the role of the regional government to regulate and maintain so that no pollution and environmental damage occurs either through pollution or protecting the environmental destruction of the Badung mangrove forest from the results of violating Article 98 paragraph 1 of Law No. 32 of 2009 concerning Environmental Protection and Management. threatened

with imprisonment for a minimum of 3 years and a maximum of 10 years and a fine of at least Rp. 3 billion and a maximum of Rp. 10 billion.

3.2. Law Enforcement Against Environmental Pollution in Mangrove Forest Areas

Public participation in obtaining environmental information, everyone has the right to play a role and is obliged in the framework of environmental management in accordance with Article 67 of Law Number 32 of 2009 concerning Environmental Management which states that everyone is obliged to maintain the preservation of environmental functions and control pollution. and/or damage to the environment (Supriadi; 2010) The environment is one of the natural resources that has a very strategic role in the existence of God's creatures, including humans. Therefore, humans as environmental subjects also have an important role in environmental sustainability. The environmental management law has given humans a role to play in environmental management. This is in accordance with the provisions of Article 5 paragraph 1 of Law Number 23 of 1997 concerning Environmental Management. The legal politics of environmental management is more concretely reflected in the goals to be achieved from the issuance of the 2009 UUPPLH.

The environment is a place for humans to live, do activities and have an important role to achieve and increase their prosperity. The environment in Indonesia is often also called the living environment. In Law no. 32 of 2009 concerning environmental management, the definition

of the environment is a spatial unit with all objects, forces, conditions and living things, including humans, and their behavior. Which affect the continuity of life and welfare of humans and other living things and can affect their lives. The interdependence relationship between all elements in this system is very important to know, especially by humans as the main manager in this system so that the continuity of this relationship can be maintained for the sustainability of the system. Life on earth. (Bimber.B: 2003) Caring for the environment is a category of environmental pollution that includes living things, substances, energy and or other components into the environment by human activities so that they exceed the established environmental quality standards (Law of the Republic of Indonesia Number 32 of 2009) concerning Environmental Protection and Management, Chapter I Article I Paragraph 14). The environment as a spatial unit with all objects, forces, conditions of living things including humans and their behavior influences nature itself. nature can be seen as a fabric of living systems that are interrelated or interrelated with one another. Article 28H of the 1945 Constitution of the Republic of Indonesia has stipulated that a good and healthy environment is a fundamental right of every Indonesian citizen. In fact, the declining quality of the environment has threatened the survival of human life and other living things, so it is necessary to protect and manage the environment seriously and consistently by all stakeholders. Especially dealing with global warming which is increasingly causing climate change to exacerbate the decline in environmental quality, therefore it is necessary to protect and manage the

environment. The essence of environmental issues is to find ways that must be implemented to guarantee and make the earth and the surrounding nature a livable space for a peaceful, peaceful and prosperous life. Actions that pollute the environment are tantamount to killing life itself (Niniek Suparni: 1994). The ecosystem of an environment can be disrupted due to environmental pollution and destruction. The terms pollution and environmental damage are often confused, even though the two have their own realities as follows:

1) Pollution is a condition in which a substance or energy is introduced into an environment by human activities or by natural processes themselves in such a concentration, as to cause a change in the said state which results in the environment not functioning as before in the sense of health, welfare, and biosafety.

2) Destruction of the environment is the action of people causing direct and indirect changes to the physical, chemical, biological characteristics of the environment so that they exceed the standard criteria for environmental damage.

4. CONCLUSIONS

1. The legal basis for regulating environmental pollution regarding mangrove forests is regulated in Law Number 32 of 2009 concerning the Protection and Management of the Environment in Chapter XV, namely starting from Article 97 to Article 120 UUPPLH.
2. Law Enforcement Against Environmental Pollution in the Mangrove Forest Area, Against Environmental Pollution in the Badung Bali Mangrove Forest area regarding Law Number 32 of 2009 concerning

From the results of research on Law Enforcement Against Environmental Pollution in the region Mangrove Forest, Regarding Environmental Pollution in the Badung Bali Mangrove Forest area related to Law Number 32 of 2009 concerning the Protection and Management of the Environment contained in Article 3 of the 2009 UUPPLH besides Related to the Ecosystem of Environmental Pollution in the Badung Mangrove Forest area of Bali so that the principle of certainty can be considered, the principle Transparency, the Principle of Decentralization and the role of the Regional Government to regulate and maintain so that pollution and environmental damage does not occur either through pollution or protecting the environmental destruction of the Badung mangrove forest from the results of violating Article 98 paragraph 1 of Law no. 32 of 2009 concerning Environmental Protection and Management. threatened with imprisonment for a minimum of 3 years and a maximum of 10 years and a fine of at least Rp. 3 billion and a maximum of Rp. 10 billion.

Environmental Protection and Management contained in Article 3 UUPPLH 2009 in addition to Related Ecosystems from Environmental Pollution in the Badung Bali Mangrove Forest area so that the principles of certainty, transparency, decentralization and the role of the regional government can be observed in order to regulate and maintain so that pollution and environmental damage does not occur either through pollution or protecting the environmental destruction of the Badung mangrove forest from the results of violating Article 98 paragraph 1 of Law no. 32 of 2009 concerning

Environmental Protection and Management. threatened with imprisonment for a minimum of 3 years and a maximum of 10 years and a fine of at least Rp. 3 billion and a maximum of Rp. 10 billion.

SUGGESTION

It is recommended to the government and related parties to protect mangrove forests from environmental pollution and legal protection.

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