

The Role Of The Community In Enforcement Of Environmental Law

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Abstract.

The community has an important role in enforcing environmental law; therefore, the community needs to be invited to continue to monitor and report various forms of violations of the environment and existing natural resources. The community has rights and obligations in the enforcement and management of the domain. This is because a party is affected in the development process, which often involves environmental sustainability. Related to this, problems arise, what is the role of the community in enforcing environmental law, as well as the obstacles faced in enforcing environmental law. It is necessary to have consistency from various parties related to environmental law enforcement, starting from laws and regulations, implementing officials, and community participation to answer these problems. The normative juridical research approach, descriptive-analytical research specifications, data collection through secondary data in the form of library research and documentation studies, and qualitative analysis methods. One of the emphases made by the community in enforcing environmental law is through environmental organizations, namely through lawsuits in court and with the right to sue, that in the context of implementing ecological management responsibilities by the pattern of partnerships, environmental organizations, the filing of the lawsuit is in the interest of function and preservation. Environment. It should be realized that enforcing the environmental law is not easy, so there are often obstacles, for example, rules that have not been maximally implemented, law enforcement officers who have not been able to have good insight and understanding to solve environmental problems, as well as from public awareness that is still lacking to care about the environment itself and is indifferent, when violations occur.

Keywords: Society, Environmental Organization, Environmental Law, Environment

1. INTRODUCTION

Lately, environmental cases often occur whose resolution is far from expectations and the impact is very detrimental to the community, it is proven that many entrepreneurs do not obey the laws and regulations in the environmental field [1]. Therefore, serious efforts are needed in law enforcement that can really provide protection for the community, especially people who are affected by environmental damage [2].

In environmental law, law enforcement is an effort to achieve legal certainty and compliance with applicable regulations and requirements both in general and individually, this is of course through supervision and the application of administrative, civil and criminal sanctions [3].

In relation to environmental law enforcement, there is a misunderstanding in people's lives [4], that law enforcement is only through a court process, this should not be the case. Law enforcement can be done through various channels with various sanctions, such as administrative sanctions, civil sanctions and criminal sanctions. Likewise, the opinion that law enforcement is the responsibility of law enforcement officers is not the same. Law enforcement is the responsibility of all of us throughout society[5]. So the community is not only a spectator of how the law is enforced and enforced, but the community can also be active and play a role in enforcing the law [6].

The role of the community in environmental law enforcement and environmental management is also an important matter [5], as explicitly regulated in Law Number 32 of 2009, especially in Article 70 it is stated that by optimizing community participation in environmental protection and management. This article also outlines several public roles that can be carried out in environmental law enforcement, including conducting social supervision, providing suggestions and opinions, submitting objections, complaints and submitting information or reports.

In enforcing environmental law, of course, the community continues to be invited to monitor and report various violations committed by irresponsible entrepreneurs or individuals, and this can be done by the community at the lower or local level who are the lowest and most affected communities in the event of a violation [7].

Then in the law on environmental protection and management, it is stated that everyone has the right to participate in environmental management in accordance with the applicable laws and regulations. The obligation to the environment is also regulated in Law no. 32 of 2009 namely Article 67 which applies to every citizen and Article 68 which applies to business actors or activities [8].

Based on this, everyone is obliged to maintain the preservation of environmental functions and prevent and overcome environmental pollution and destruction [9]. A broader elaboration of community participation in environmental law enforcement is the recognition of environmental rights to be protected and conserved, but the environment as a person with rights cannot defend his rights without the help and participation of the community, for that it is necessary to have real community participation to carry out this activity. and do so that the environment is maintained and protected [10].

The existence of environmental pollution and destruction means that there has been a violation of human rights and the environment for their sustainable carrying capacity, so that community participation is needed to defend the rights of the community, namely to protect and preserve the existing environment.

The Indonesian Forum for the Environment (WALHI) as a community organization that cares about environmental sustainability is required to develop a defense strategy for communities affected by the environment, one of the strategies developed is by enforcing environmental law policy changes by making various

efforts, for example, seeking breakthroughs so that environmental law can still be enforced and implemented properly.

As can be seen that the enforcement of environmental law in Indonesia is still very weak, sometimes the law is still in favor of the strong or entrepreneurs and pays little attention to human survival and environmental sustainability. This is proven by the number of environmental cases that go to court, but the resolutions are not satisfactory for various reasons, such as insufficient evidence, cannot be proven and other reasons, while violations of law such as pollution and environmental destruction continue without a clear resolution.

From the side of law enforcement officers, human resources who handle environmental problems at the court level cannot be relied on to the maximum, moreover environmental problems require multidisciplinary science, and truly professional experts are not only done by only demanding new approaches and ideas in the field. only in the field of law, but also requires various approaches outside the law that must be mastered in order to resolve environmental disputes.

Thus, it is necessary to make efforts to enforce environmental law, but without the participation of the community who cares and is able to fight for support so that the environment is preserved and can function to give everyone the right to a good and healthy environment.

II. METHODS

The research method used is normative juridical research with an environmental law approach. The normative juridical research method studies legal principles and secondary data through a positive legal inventory. The normative legal research in this study only consists of library materials or secondary data in primary, secondary, and tertiary legal sources. Primary legal sources are legal sources that come from statutory regulations and international legal instruments. Secondary legal sources are legal sources that come from the literature and journals that have been about the doctrines of legal science in the environment.

III. RESULT AND DISCUSSION

1. The Role of Society in Enforcement of Environmental Law.

According to Article 1 paragraph (2) of the Law on Environmental Protection and Management (UUPPLH) is an effort that is carried out in a systematic and integrated manner to preserve environmental functions and prevent pollution, quality degradation and environmental damage which includes planning, utilization, control, maintenance , supervision and law enforcement. This definition has a broader meaning than the previous law. The scope of the regulation does not only emphasize the aspect of environmental control, but according to Article 4 UUPPLH (Law No. 32 of 2009)

includes several aspects; planning, utilization, control, supervision and law enforcement.

The concept of such regulation is in line with the notion of the environment, as regulated in Article 1 point (1) UUPPLH (Law No. 32–2009), namely; the unity of space with all objects, forces, conditions, and living things, including humans and their behavior that affect nature itself, the survival of life and the welfare of humans and other living creatures. Based on this understanding, it is clear that the definition of the environment includes a spatial unit consisting of all natural resources, both biological and non-biological, artificial resources and human resources that influence and influence each other.

This understanding means that the approach used has shifted from the perspective of anthropocentrism or biocentrism towards a more holistic biological perspective, philosophically there are six basic concepts, so that this Law on environmental control and management is enacted, namely [11]:

- a. Affirmation and elaboration of the principle of sustainable development in every national economic activity.
- b. Affirmation and elaboration of human rights principles on a good and healthy environment.
- c. Strengthening decentralization and regional autonomy in environmental management.
- d. The basis for environmental protection and management is seriously and consistently by all stakeholders.
- e. Responding to and anticipating developments in the global environment.
- f. Provide legal certainty and protection of everyone's right to a good and healthy environment.

From this basis it appears that, One of the objectives of environmental protection and management, as outlined in Article 3 of Law Number 32 of 2009 concerning Environmental Protection and Management is to guarantee the fulfillment and protection of the right to the environment as part of human rights. man. Then in the Law on Environmental Protection and Management (UUPPLH) there are eight rights that are recognized as the existence of the law, namely;

- a. The right to a good and healthy environment as part of human rights.
- b. The right to environmental education.
- c. Information access rights.
- d. Participation access rights.
- e. The right to submit proposals or objections to planned activities that are expected to have an impact on the environment.
- f. The right to play a role in environmental protection and management.
- g. The right to file complaints due to allegations of environmental pollution or destruction.

- h. The right not to be prosecuted criminally and civilly in the fight for a good and healthy environment.

With the provision of legal guarantees, every person or community can defend their rights to a good environment and at the same time provide obligations to the state to realize these rights. This dual function by Heinhard Stieger (in Muhammad Akib, p. 108) is called the function of defense and the function of performance of environmental rights as subjective rights.

Related to these rights in environmental protection and management, it is clear that it requires the participation of the community to enforce the law through supervision and control which is part of the community's authority, to convey information, make proposals and even file lawsuits, when persuasive steps are not heeded. , in order to reduce the risk of environmental damage that will occur [12].

The existence of a community or community organization is one of the efforts in enforcing environmental law, WALHI as one of the environmental organizations is a very important and strategic factor for the public awareness movement for environmental protection and management from damage, because WALHI can carry out environmental monitoring and management actions. and have access to environmental enforcement, so that their actions can be carried out effectively, their legality and existence must also be recognized, so that their right to sue to represent the environment in the litigation process in court can be carried out properly, therefore they also need an understanding of all the provisions contained in the Civil Procedure Code and are required to know the legal principles and have knowledge of disputed natural objects.

So broad is the understanding and understanding of community participation in environmental enforcement and management, so that it creates a variety of interpretations that are often conveyed and reduces meaningful participation. Many view that the participation of the community is solely as the delivery of information (public information) and this is a wrong opinion, that the role of the community is more important, because the community is the center of information when environmental violations occur.

It is also acknowledged that environmental activists, for example, Non-Governmental Organizations (NGOs), especially those engaged in the environment, guaranteeing the rights of environmental organizations can also help advocacy efforts on environmental and community disputes that are members of the organization, through the organization's stage to conduct legal battles. However, the recognition of standing is only limited as a ticket to enter the arena of the fight itself, the effectiveness of which is also determined by the guarantee of freedom or independence of the court, the pro-activeness of judges and the principles of proof and accountability that provide a sense of justice for the people who still feel weak and the environment and the ecosystem itself.

The Indonesian Forum for the Environment (WALHI) is an environmental organization that is independent, non-profit and spread throughout Indonesia. WALHI is present in the midst of society in several areas in Indonesia, is a forum for civil society groups consisting of non-governmental organizations, groups of nature lovers (environmental) and non-governmental organizations, as a reaction and a sense of concern over injustice and errors in resource management. nature, as a result of an impartial development paradigm and process for a sustainable environment.

Based on the existing reality that, in order to increase community participation in enforcing environmental law, the efforts that have been made by WALHI, as well as other non-governmental organizations are to take action in the form of advocacy and awareness of community rights to the environment which is the need of all communities. Other efforts include providing training, campaigns through bulletins, coaching, legal counseling, creating monitoring networks, so that environmental damage can be avoided .

Enforcement of environmental law in Indonesia has received the attention of the wider community[13], especially with the declaration of the Year of Enforcement of Environmental Law, namely 1990, by Mr. President Soeharto and Mr. Minister at the time Emil Salim. Then to encourage the enactment of a national policy of environmental law enforcement and compliance that does not always rely on approaches and supervision (commons and control), but in a balanced way, develops efforts to organize voluntary self-regulation with the personality of the community (voluntary compliance). This self-regulating approach means being responsible for maintaining compliance and law enforcement more by the community towards environmentally friendly entrepreneurs.

2. Obstacles in Enforcement of Environmental Law.

In the settlement of environmental disputes [14], if the polluter and the sufferer are negotiating the resolution of problems that arise using the mediation process or Alternative Dispute Resolution (ADR), the community or community organizations should wait for the results of the negotiations and agreements that have been made, usually in the results of negotiations. an agreement is found, that the polluter makes compensation with the polluted party or the community who is harmed and is willing to receive compensation, then the dispute is considered resolved.

This sometimes creates a sense of injustice for environmental law enforcement, because the environmental pollution process continues without time, so there needs to be monitoring steps. Environmental law is a whole set of rules governing the behavior of people, what to do with the environment and enforced with a sanction by the authorities. Legal actions taken against companies that pollute or destroy the environment consist of administrative aspects, civil aspects and criminal aspects.

In Article 76 paragraph (2) of Law Number 32 of 2009 concerning Environmental Protection and Management, it is stated that administrative sanctions

can be written warnings, government coercion, freezing of environmental permits and revocation of environmental permits.

Seeing these things, there are several obstacles in environmental law enforcement that can result in ineffective implementation of environmental law enforcement, the reality that there have been many regulations made by the government, but their implementation is still experiencing many obstacles, namely:

a. Legal Means.

This legal means is an obstacle or obstacle factor in enforcing environmental law. Various policies that have been made, it seems that they have not been very effective in implementing, because there is often a lack of consistency in the application of environmental law enforcement, with the principles of protection and management of environmental law (Law No. 32 of 2009), as well as its implementing regulations.

b. Law Enforcement Officials.

Based on the analysis in the field, many environmental cases are not resolved optimally, due to the lack of adequate law enforcement officers, lack of professionalism in handling environmental cases. In addition, there are still many law enforcement officers who have not mastered the contents of environmental materials and their problems, because the environment covers various very broad and complex aspects. Therefore, the limited knowledge of law enforcement officers will create obstacles in the resolution of environmental disputes.

c. Permissions.

Licensing issues have indeed become one of the problems that provide more opportunities for environmental problems to arise, due to the weakness of existing regulations, for example, as in Article 36 of Law Number 32 of 2009, that in terms of licensing, entrepreneurs get priority, especially permits granted. by the Ministry of Industry, namely the existence of special policies.

d. Facilities and Infrastructure.

Facilities and infrastructure in environmental law enforcement are important, because of the various cases of unsuccessful enforcement of existing environmental laws, one of the factors is the lack of tools or facilities and infrastructure in terms of proof, including facilities and infrastructure from the legal aspect itself, because of the complexity of environmental problems.

e. Environmental Impact Analysis

Environmental Impact Analysis (AMDAL) is an important part of a project. In practice, AMDAL only functions as a fulfillment of administrative requirements rather than the substance and material of the AMDAL itself. AMDAL should be a mandatory requirement and must be carried out correctly, because fulfilling the requirements and materials for AMDAL is part of the aspect of environmental law enforcement.

f. Public Awareness of the Environment.

Obedience and compliance to implement environmental law enforcement is a very decisive indicator, therefore it requires public awareness to continue to implement environmental law enforcement provisions. The public's legal awareness of environmental law enforcement needs to be increased and this needs to be supported by the existence of the apparatus and law enforcers to always and obediently carry out what is stipulated in the law.

The problem of law enforcement in Indonesia towards responsive law based on Pancasila values, the slump in law enforcement is due to several indicators as the authors have stated above, therefore the obstacles in enforcing environmental law need serious efforts by all parties, so that the environment can be protected. and utilized in a sustainable manner, so that environmental law enforcement can be carried out properly.

IV. CONCLUSION

The role of the community in enforcing environmental laws is very important, because the environment is a part of people's lives, with a good and healthy living environment, then the community's life system is good and healthy. In this regard, the enforcement of environmental law is not only the duty of the government, it is not the duty of law enforcement officers, but it is the duty and obligation of all levels of Indonesian society.

There are many ways and variations of the community to participate in enforcing environmental law, both independent communities or individuals as well as through community organizations, community groups and environmental activists. Environmental activists, non-governmental organizations who are members of the environmental sector can assist in advocating environmental disputes, through the stage of community organizations, legal battle issues can be carried out, so that law enforcement can be applied properly and professionally. Community participation in environmental law enforcement has been confirmed in the Environmental Protection and Management Law (UUPPLH) Law no. 32 of 2009 which is in Articles 90 to 92, it is stated that the community has the right to file a lawsuit, when there is a violation of environmental law, the participation of the community is highly expected to supervise and control the protection and management of the environment.

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