

## GOVERNMENT AUTHORITY IN ERADICATING AND PREVENTING ENVIRONMENTAL CRIMES IN INDONESIA

**Raditya Feda Rifandhana<sup>1</sup>**

<sup>1</sup>University Of Merdeka Malang, Malang, Indonesia

[raditya.feda@unmer.ac.id](mailto:raditya.feda@unmer.ac.id) or [adietz\\_008@yahoo.com](mailto:adietz_008@yahoo.com)

### ABSTRACT

*The environment is a natural that is useful for humans to be used positively, but the use in the current environment exceeds reasonable limits, resulting in an unfavorable environment, an environment that can cause disruption of the surrounding ecosystem, disruption of the ecosystem caused by environmental criminals in environmental destruction. Therefore, the government needs to have responsive authority in the prevention and eradication of environmental crimes, so as to provide severe punishment to the perpetrators. in this study using a legal approach or normative legal approach, thus helping to complete the writing of this research*

**KEYWORDS:** *authority, government, environmental crimes*

### 1 INTRODUCTION

Indonesia is a country that has very abundant natural wealth, good for managing natural resources, natural resource management can come from state or foreign parties in this case the private sector, and there are entrepreneurs who are competing to manage natural resources in Indonesia. Natural resource management can certainly be in the form of taking natural resource products in the form of petroleum, other mining products, as well as forest products, management and retrieval of natural resources not separated from the destruction of the surrounding environment, damage to the surrounding environment in the mining area, in this case it can be in the form of massive management without paying attention to the permits granted by the government, or the management of natural resources in mining areas that do not have permits or permits from the government, in state administrative law, that is, the government has authority, where the authority or authority is the legal relationship that occurs, between the ruler as the governing subject, and the citizen as the subject ruled by the ruler, in this case the government, carrying out the *betuurzorg*, carrying out the public interest carried out by the administrative ruler state, where the ruler must have authority. In general, authority is the power to carry out all public legal acts, so that it can be explained the authority of the government, consisting of : a. The right to carry out a government affair , b. the right to be able to visibly influence the decisions to be taken by other government agencies. Authority, which consists of several authorities, is the power of a certain group of people

or power over a field of the government based on laws and regulations, (Safri Nugraha, 2007). In this case, authority in another sense that has a legal basis, so as not to cause arbitrariness. The government in terms of handling and having authority which is a control institution in natural resource management, the existence of control from the government can prevent and eradicate environmental crimes, the government as a control institution in natural resource management which is a facilitator, facilitator who can review and supervise the management of natural resources that do not damage the environment and ecosystem, The government as a facilitator can form regulations where regulations that are classified as prevention so that environmental management can be managed with boundaries that have been regulated by the state, in this case regulations related to the management and retrieval of mining products, regulated depth limits when taking mining products, or taking and managing natural resources, therefore environmental laws can be present in prevention and eradication. Law is a rule, so that regulations play a role for justice, order, tranquility, and order, but also to ensure the existence of legal certainty, the law is also directed to the means of progress and welfare of society. The law is necessary for the desire and consciousness of each individual in society, with the intention that the purpose of the law is realized as aspired to. As for the opinion of legal experts, namely J. Van Aperia regarding law, is a regulation to regulate the association of peaceful living, from the expert opinion of the scholar, law is a regulation of human behavior or behavior in society, regulations, especially laws have a coercive nature, meaning the location of the law itself, where the law can force aimed at human behavior or behavior so that the human being obeys the law, (Nur Yanto, 2018) Regulations are held by official authorities, regulations that apply in the unitary state of the republic of Indonesia, usually made and formed by the House of Representatives. In writing this study, then first, understanding the meaning of the environment according to Soedjono's opinion, namely, the physical or physical environment contained in nature, meaning explaining that humans, animals and plants are seen and considered as physical manifestations, in addition to the environment, has a definition in Law 32 of 2009, concerning environmental protection and management. In the law in article 1 number 1, the environment is the unity of space with all objects, potentials, and living things, including humans, and their behavior, which affects nature itself, the continuity of life, and the welfare of humans and other living beings. In the environment there are humans and their behavior, meaning that the behavior of these humans can have an impact on pollution and destruction of the environment, in article 1 number 14 of Law Number 32 of 2009 concerning environmental protection and management, discussing environmental pollution, the entry or inclusion of living things, substances, energy, and/or other components into the environment by human activities so as to exceed the established environmental quality standards.

Environmental pollution is very dangerous for the surrounding environment, humans, plants and animals. Environmental pollution has influencing factors, including human actions or human behavior. If environmental pollution occurs in the presence of human behavior, then the government has the authority to form regulations for the prevention and eradication of environmental crimes, environmental crimes in this case

are acts of human behavior utilizing nature by exceeding the limit of reasonableness, or taking and managing natural resources in a way that is not in accordance with applicable law in this case illegal. Therefore, the formulation of the problems that will be discussed in writing this study, namely: a. How the Government's Authority in the prevention and eradication of environmental crimes, b. How is the government's efforts in enforcing environmental laws in the prevention and eradication of environmental crimes.

## **2 MATERIALS AND METHODS**

In this writing, it uses materials that can support or help the completion of this writing, including, a library consisting of books, journals, and laws and regulations, for the method used is a normative legal research method, assessing problems assisted by laws and regulations and legal theories, therefore it can help complete the writing of this research.

## **3 RESULTS**

Indonesia is a country of law where there are regulations made by the rulers in this case the House of Representatives and the Joint President, so it is stated in the 1945 Constitution, Article 1 paragraph 3, so that legal regulations can provide order to human life and the state. Regulations in a country, consisting of civil law regulations, criminal law, state administrative law, which in writing this research is related to environmental crimes, meaning that an environmental crime is someone who manages natural resources without permission from the government, natural resource management is managed with tools related to mining management, such as oil mines, as well as the management of other natural resource products, in the management of natural resources without permission from the government, resulting in environmental pollution, environmental pollution is an activity of entering / or the inclusion of living things, substances, energy, and / or other components into the environment by human activities so that it exceeds the established environmental quality standards, and has been explained above previously, environmental pollution consists of environmental pollution, soil pollution, air pollution. Water pollution is damage that occurs to water caused by changes in the content in water, be it in lakes, rivers or seas.

Water conditions that occur due to changes that affect the level of water substances that become water conditions pass through the limit of water that is suitable for use. Water pollution has many contributing factors: a. industrial waste, b. household waste as well as, c. agricultural activities. Environmental law also discusses environmental quality standards, which means the size of the limit or level related to substances, energy, which must be present in the polluting element, so that environmental pollution can be known from the environmental pollution limit that has been set by laws and regulations, but the limit on the size of substances is violated by someone who manages the environment illegally. Resource management using harmful substances often causes the environment

to be polluted, meaning that the pollution results in health for the environment in which humans, animals and plants live, can be said to cause damage to environmental health. Environmental pollution is also defined as pollution originating from industrial waste where the management and disposal are only an estimate from the industrial manager, so it can be said to be an environmental crime. Environmental crimes can be emphasized by criminal law, criminal law is an order or prohibition that there is a violation or neglect and the existence of sanctions formed by authorized bodies, so that the regulation must be obeyed by everyone, (Ruslan Renggong, 2018). So that in this case criminal law is a functionalization tool in overcoming problems in environmental law, and criminal law is one of the laws that can provide sanctions to actors who manage the environment unlawfully, ( Indah Dwiprigitaningtias, 2019). The correlation between Criminal Law and Environmental Law runs in harmony with the development of the times, so that environmental management can be managed with direction, and maintain environmental sustainability and respect environmental health.

In environmental law which is stated related to the analysis of environmental impacts, reviewing related to an activity that leads to important provisions in order to create, realize sustainable development, free the environment from destruction and pollution, it can be said that amdal is a government instrument to issue and give permits to businesses in managing natural resources, the impact on natural resource management in this case occurs activities is natural, both chemical and biological, so that the existence of these activities results in environmental pollution in the management of natural resources, it can be understood in terms of disposal of waste in any place. When reviewing in terms of Law Number 32 of 2009 concerning environmental protection and management, in this case it does not meet the development of the times, because it is less effective for the government in preventing and eradicating environmental crimes, in Indonesia environmental crimes often occur in various regions, management of natural resources that exceed the limits of reasonableness, establishment of unregistered companies. In this case a subject or a person managing natural resources who does not get permission from the government can be said to be a subject against the law. If you understand the legal theory used to connect with an environmental law problem related to environmental crimes, then legal theory is divided into, responsive legal theory and effectiveness law, firstly, namely the Law of Effectiveness or Legal Effectiveness can be used as an understanding of a regulation of procrastination or legal effectiveness, where the effectiveness of the law is influenced by an observance, meaning the extent to which the rule of law is obeyed by most of the targets became the object of his obedience. As for the opinion of C.G. Howard&R.S Munnerners, namely the law: a. The relevance of the rule of law in general, to the legal needs of the people who are the targets of the rule of law in general, therefore, the rule of law in question is in the form of a law, then the lawmaker is required to understand the legal needs of the target of enactment of the law, b. clarity of the formulation of the substance of the rule of law, so that it is easily understood by the target of the enactment of the rule of law, the formulation in this case the rule of law, must be well designed, if the rules are written, it must be written clearly and able to be understood with certainty, ( Achmad Ali, 2009). In Law Number 32 of 2009 concerning

environmental protection and management, the substance is not understood by the community, and there are still subjects who commit violations of environmental pollution. In this case, the government as the party who has the authority to form laws and regulations, should the law on environmental protection and management be formed separately, meaning that the law can be said to be a directing instrument for humans or business actors, on environmental protection in this case the environment and its surroundings can be formed laws and regulations, meaning that the regulation specializes as a form of participation the community and the government in maintaining the environment, environmental protection can be positioned as a maintained environment, the environment that is maintained authenticity, both water, air and soil so as not to be polluted by hazardous waste, in this case the form of these laws and regulations, the government can also form implementing regulations from the form of attention to environmental protection, the existence of environmental protection laws can prevent the occurrence of environmental crimes. In environmental management, it is the same as environmental protection, meaning that a separate law is needed, so that the meaning contained in the substance of the environmental management law can be understood, the regulation in the environmental management law needs to be regulated related to environmental pollution limits, natural resource management limits, environmental criminal sanctions, and environmental criminal sanctions here can be in the form of imprisonment, fines and even penalties die if the subject or person cannot restore the environmental conditions as before, or even the need for implementing regulations related to implementing penalties for business actors who manage the environment illegally, and can pollute the environment, in this case it can eradicate environmental crimes. Environmental crimes are one of the extraordinary crimes that can disrupt the balance of nature, so in this case law enforcement needs to be tightened to environmental criminals, as for law enforcement efforts for the government in preventing environmental crimes, the government can form a prevention and response team, meaning that the team coordinates with relevant agencies, especially environmental agencies, in terms of establishing someone's intentionality in damaging the environment. life, can be interpreted to be able to provide sanctions in the form of fines that provide a deterrent effect to the perpetrator, then for law enforcement in the eradication of environmental crimes, in the second legal theory, namely responsive law, responsive law which makes the law more responsive to social needs, (Phillipe Nonet et al., 2003) in this case the government needs responsive steps, namely the government's efforts in this case to provide severe penalties against perpetrators, severe penalties in the form of closing industrial premises, not being given permission to open new industries, and the death penalty for actors who cannot restore natural conditions that have been polluted with toxic waste. Responsive steps in law enforcement are the same as maintaining a balance of environmental management or natural resources, it is necessary to have the role of the government, both central and local, because the government is the protector of the people in a country.

## 4 CONCLUSION

Environmental crime is an extraordinary crime, because it can cause extraordinary impacts, namely environmental damage, environmental damage causes nature to be unfriendly to humans, meaning that environmental crimes fall into extraordinary crimes, because these crimes can damage the balance of the environment or the balance of nature, then these crimes require special handling from the government so that people who live in a country in Indonesia, feeling a decent life, as well as punishment for the perpetrators of these environmental crimes, needs to get severe punishment for their behavior, so that they are no longer human beings, but rather people who are evil and ambitious in managing natural products with their own wishes, regardless of other human life factors, what they think in this case environmental evildoers are mere advantages. The government in this case needs to form a legal product which consists of laws, government regulations, to regional regulations where the regulations can carry out the mandate of the environment, namely environmental protection, in this case preventing the environment from being damaged and providing a deterrent effect on punishment for environmental criminals.

## 5 ACKNOWLEDGEMENTS

1. God Almighty, who gives the favors of health, and the favors of useful knowledge to all of us
2. Both Parents And Beloved Wives, praying, give encouragement in smooth running at the International Conference
3. The Entire Big Family of Lamongan Islamic University for the holding of this international conference event, Lamongan Islamic University is Getting More Successful
4. Mr. Dean of the Faculty of Law, University of Merdeka Malang, provides an opportunity to participate in this international conference until it is over, always healthy for the Mr. dean.

## REFERENCES

- Achmad Ali. *Menguak Teori Hukum dan Teori Peradilan*, Kencana Prenada Media Group, (2009), pp. 375-376
- Nur Yanto. *Pengantar Hukum Lingkungan Indonesia*, Mitra Wacana Media, (2018), pp. 7-10
- Philippe Nonet, and Philip Selznick, *Hukum Responsif*, Perkumpulan untuk Pembaharuan Hukum Berbasis Masyarakat dan Ekologi (HuMa), (2003), pp. 59-60
- Ruslan Renggong, *Hukum Pidana Lingkungan*, Prenada Media Group, (2018), pp. 23-25

Safri Nugraha, Hukum Administrasi Negara, Center For Law And Good Governance, Fakultas Hukum Universitas Indonesia, (1999), pp. 142  
Indah Dwiprigitaningtias. (2019). Fungsionalisasi Hukum Pidana Dalam Menjaga Pelestarian Lingkungan Hidup. Jurnal Dialektika, 1, 199-223.