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Reorientation of Law Enforcement Policy in Combating Environmental Pollution by Corporations

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Abstract: This study discusses environmental law regulations in Indonesia as regulated in Law Number 32 of 2009 concerning Environmental Protection and Management (UUPPLH) and Law Number 6 of 2023 concerning Job Creation, which regulate administrative, civil, and criminal sanctions for perpetrators of environmental pollution. Although it has strict legal provisions, its implementation and enforcement still face various challenges, such as weak supervision, the dominance of administrative sanctions over criminal sanctions, and difficulties in the process of proving environmental crimes. Compared to regulations in other countries, Indonesia still needs to strengthen the law enforcement mechanism to be more effective in providing a deterrent effect on perpetrators of pollution. This study highlights the role of law enforcement officers, the weakness of inter-agency coordination, and the importance of synergy between the government, law enforcement agencies, non-governmental organizations, and the community in increasing the effectiveness of environmental law enforcement. With a more transparent and accountable approach, it is hoped that environmental law regulations in Indonesia can run more optimally in protecting and managing the environment sustainably.

Keywords: Environmental Law, Environmental Damage, Multinational Companies

INTRODUCTION

Corporations have been an integral part of the business world for centuries. Initially, corporations were simply a form of cooperation between individuals who had capital to achieve mutual benefit (Kusnanto, 2024). As the global economy developed, corporations developed into more complex entities with various legal forms, such as limited liability companies and multinational companies. Multinational companies have a wide reach, with business activities spread across various countries, allowing them to exploit natural resources massively and carry out production activities on a large scale (Fonna, 2019). However,

behind the economic benefits they generate, the existence of multinational companies also often has a negative impact on the environment, especially when their business practices do not pay attention to the principles of sustainability.

With a large operational scale, multinational companies have great potential to exploit natural resources excessively (Marnelly, 2012). Industrial expansion in various sectors, such as mining, energy, and manufacturing, often contributes to environmental pollution through industrial waste, greenhouse gas emissions, and ecosystem degradation. In addition, many multinational companies operating in developing countries tend to ignore environmental standards due to weak regulations and supervision from local governments. As a result, water, air, and land pollution are increasing, damaging local ecosystems and threatening the health of surrounding communities (Husni, 2024). The absence of an effective accountability mechanism allows multinational companies to avoid legal responsibility for the environmental impacts they cause.

Several cases of environmental pollution by multinational companies have become a global concern. In addition, cases of air pollution caused by palm oil companies carrying out illegal forest burning have caused toxic haze that has an impact on public health in Indonesia and neighboring countries such as Malaysia and Singapore (Bilqis, 2020). These examples show that the activities of multinational companies that are not strictly monitored can have broad and long-term environmental impacts, so stricter law enforcement is needed to ensure their accountability (Novaradila, 2022).

Globalization has had a significant impact on various aspects of life, including the economy, technology, and the environment. On the one hand, globalization enables rapid economic growth through industrial expansion and international trade (Widianti, 2022). However, it also encourages massive growth in the exploitation of natural resources to meet global production needs. Multinational companies operating in various countries often take advantage of weaknesses in environmental regulations in developing countries to reduce production costs, so that resource exploitation practices become uncontrolled (Widyastuti, 2023). As a result, environmental degradation is increasing, causing various ecological problems such as water and air pollution, loss of biodiversity, and increasingly uncontrolled climate change.

One of the main impacts of globalization on the environment is massive industrialization, which is often not accompanied by strict sustainability policies. Uncontrolled industrialization causes increased greenhouse gas emissions, massive deforestation for the expansion of industrial and plantation land, and excessive exploitation of natural resources without adequate rehabilitation efforts (Utomo, 2022). Environmental pollution caused by industrial activities, such as the discharge of toxic waste into rivers and seas, has damaged ecosystems and endangered public health. In addition, illegal mining and logging practices carried out by multinational companies often cause landslides, floods, and loss of habitat for flora and fauna, thus threatening the balance of the ecosystem globally (Suyono, 2017).

Environmental protection is not only an ecological issue but is also closely related to human rights and sustainable development. The right to a clean and healthy environment is part of human rights because environmental degradation has a direct impact on the quality of human life, including health, availability of clean water, and access to natural resources that are essential for survival (Wattimena, 2021). Therefore, strong environmental policies and strict law enforcement against companies that pollute the environment are important to ensure the sustainability of future generations. Countries and international organizations need to work together to formulate stricter regulations and strengthen accountability mechanisms for multinational companies so that they no longer damage the environment for economic interests alone (Susanto, 2018).

Enforcement of environmental criminal law against multinational companies faces various challenges, one of which is weaknesses in regulation and implementation. Although Indonesia has Law Number 32 of 2009 concerning Environmental Protection and Management (hereinafter UUPPLH), as well as its derivative regulations in Law Number 6 of 2023 concerning the Stipulation of Government Regulation instead of Law Number 2 of 2022 concerning Job Creation into Law, the application of sanctions against violators still often experiences obstacles. Multinational companies often take advantage of legal loopholes, such as loose licensing policies or less strict administrative sanction mechanisms. In addition, there is inconsistency in the application of the law, where cases of environmental pollution carried out by large corporations often do not result in maximum criminal penalties but are only subject to administrative sanctions or fines that are relatively small compared to their business profits.

Another major challenge is the difficulty in proving cases of environmental pollution. In environmental criminal law, the principle of strict liability stipulated in Article 88 of the UUPPLH should facilitate the proof process, because it does not require proof of the element of fault (mens rea) (Arbani, 2022). However, in practice, the proof process remains difficult because companies often operate with complex business structures, use third parties in waste management, or practice legal engineering to avoid responsibility. In addition, many cases of environmental pollution have impacts that are only visible in the long term, making it difficult to prove the causal relationship between company activities and the environmental damage that occurs.

Another challenge in enforcing environmental criminal law is the lack of coordination between law enforcement agencies and environmental supervisory bodies. Supervision of multinational companies is often divided across various institutions, such as the Ministry of Environment and Forestry (KLHK), the police, and the prosecutor's office, each of which has different mechanisms and authorities. As a result, investigations into environmental pollution cases are often slow, even leading to impunity for polluting companies. In addition, the implementation of criminal sanctions against corporations that pollute the environment still faces obstacles, especially in the execution of court decisions. Although Article 87 of the UUPPLH regulates the obligation of companies to pay compensation and carry out environmental improvement measures, in many cases, companies avoid responsibility in various ways, such as liquidating assets or transferring business ownership. Therefore, legal reform and stricter enforcement of regulations are needed to ensure that multinational companies cannot avoid responsibility for the environmental pollution they cause.

Optimizing law enforcement against multinational companies that pollute the environment is necessary to prevent wider negative impacts on the ecosystem and society. If these companies are not prosecuted, pollution will continue, causing environmental degradation, loss of biodiversity, and threats to human health and the sustainability of natural resources. Weak law enforcement also opens up opportunities for corporations to avoid responsibility and repeat the same violations in various regions. Therefore, stricter legal reform is needed, including strengthening criminal and civil sanctions, as well as increasing the capacity of law enforcement officers to deal with environmental crimes effectively. In addition, synergy between strong regulations, professional law enforcement officers, and active community participation in environmental monitoring are the main keys to ensuring multinational companies' compliance with strict environmental protection standards.

METHOD

This study uses a normative legal method with a statute approach and a conceptual approach to analyze regulations and legal concepts related to law enforcement against multinational companies that pollute the environment. The data sources used consist of

primary legal materials, such as the Environmental Protection and Management Law and other regulations governing corporate responsibility in cases of environmental pollution. In addition, this study also refers to secondary legal materials, including academic journals, books, and previous research that discuss environmental law and its enforcement. The data analysis technique used is qualitative analysis, by examining applicable legal regulations and evaluating the implementation of environmental law enforcement to find weaknesses and optimal solutions in prosecuting multinational companies that pollute the environment.

RESULT AND DISCUSSION

Effectiveness of Regulations and Apparatus in Handling Environmental Crimes by Corporations

Environmental legal regulations in Indonesia have been comprehensively regulated in the UUPPLH and Law Number 6 of 2023 concerning Job Creation, which updates several provisions related to the environment. This law regulates various administrative, civil, and criminal sanctions for corporations or individuals who pollute the environment. One important aspect of the UUPPLH is the legal responsibility for perpetrators of environmental pollution, as regulated in Article 87, which states that every business entity that pollutes or damages the environment is obliged to pay compensation and remains responsible even if there is a change in business ownership (Margareta, 2023). It seeks to prevent manipulative practices in which companies try to avoid responsibility by changing ownership structures or disbanding themselves. In addition, Article 88 of the UUPPLH which was updated in Law Number 6 of 2023 introduces the concept of strict liability or absolute responsibility for any party that poses a serious threat to the environment, without the need to prove the element of fault (Haryadi, 2017).

In the criminal aspect, the UUPPLH stipulates severe penalties for perpetrators of environmental pollution. Article 98 threatens any party that causes air, water, or land pollution exceeding the quality standards with imprisonment of between 3 and 10 years and a fine of up to IDR 10 billion. Meanwhile, Articles 100 and 104 provide criminal threats for violations of waste quality standards and dumping waste without a permit, with a maximum prison sentence of 3 years and a fine of up to IDR 3 billion. For more serious violations, such as importing hazardous and toxic waste (B3), Articles 105 and 106 regulate heavier penalties, with a maximum prison sentence of 15 years and a fine of up to IDR 15 billion (Kadaryanto, 2024).

Although this regulation has regulated quite severe sanctions, there are still several weaknesses in implementation and supervision. One of the main weaknesses is the lack of effective supervision and law enforcement so that many companies can continue to operate even though they have been proven to pollute the environment (Mubarok, 2019). In addition, the practice of administrative sanctions which are used more often than criminal sanctions makes the deterrent effect less than optimal. Another legal loophole is in proving environmental crimes, where a long process is often required to prove the causal relationship between the company's actions and the pollution that occurs.

Law enforcement officers have the duty and authority to prosecute environmental crimes by applicable regulations (Nasrullah, 2022). The Ministry of Environment and Forestry (KLHK) is tasked with supervising and enforcing administrative sanctions, the Police are authorized to conduct investigations and inquiries into alleged environmental crimes, the Prosecutor's Office is responsible for the prosecution process, and the Court has the authority to decide environmental cases (Laloan, 2020). However, in practice, environmental law enforcement often experiences obstacles, especially in the process of proving large-scale pollution cases which often do not have a single perpetrator or are difficult to trace. The lack of human resource capacity with special expertise in

environmental investigations, limited budget for in-depth investigations, and political intervention and economic interests from large companies are also inhibiting factors in legal action against environmental violations. Less than optimal coordination between law enforcement agencies further complicates the process of enforcing environmental law and many pollution cases are not handled effectively or end without firm sanctions.

Effective environmental law enforcement requires collaboration between various parties, including government agencies, law enforcement, non-governmental organizations (NGOs), and the community. The Ministry of Environment and Forestry, the National Police Criminal Investigation Unit, and the Corruption Eradication Commission (KPK) have important roles in investigating and prosecuting environmental violations committed by corporations, especially those related to organized crime and corruption in environmental licensing. On the other hand, NGOs such as the Indonesian Environmental Forum (WALHI) and Greenpeace contribute through policy advocacy, independent research on the impacts of pollution, and encouraging transparency in environmental law enforcement. The community also has a role in environmental monitoring through a mechanism for reporting alleged violations to the authorities, as well as supporting environmental rescue movements through various social campaigns (Epakartika, 2019). To increase the effectiveness of environmental law enforcement, a synergistic strategy is needed between the government, law enforcement, NGOs, and the community by strengthening the monitoring system, clarifying reporting mechanisms, and increasing transparency and accountability in the legal process against multinational companies that pollute the environment.

Challenges in Law Enforcement Against Multinational Companies that Commit Environmental Damage

The problem of proof in environmental pollution cases is a major challenge in enforcing the law against corporations that commit environmental damage (Isabella, 2024). One of the biggest obstacles is the difficulty in identifying the perpetrators, especially when pollution is carried out by large companies with complex operational processes. The impact of pollution often does not appear immediately, but rather over a long period, making it difficult to trace the responsible party. In addition, in many cases, pollution involves more than one company or occurs over a large area, complicating the investigation process and determining the main suspect.

Another challenge faced is proving the causality between company activities and the environmental damage that occurs. Corporations often deny their involvement on the grounds that pollution is caused by external factors, such as natural conditions or the activities of the surrounding community. So an in-depth analysis is needed to ensure that the environmental impacts that occur are truly caused by the company's actions and not by other factors. Unfortunately, the scientific evidence needed, such as laboratory analysis of contaminated soil, water, or air samples, is expensive and the process is not instant, making it an obstacle for law enforcement officers to prove a company's guilt.

Corporate crimes often impact the evidence process because companies have greater resources to hide or manipulate evidence. Some companies involved in environmental pollution are even suspected of pressuring witnesses, environmental experts, or affected communities not to provide testimony that is detrimental to them. It is also not uncommon for fraudulent practices, such as falsifying environmental reports or manipulating laboratory test data to appear to comply with regulatory standards. With these challenges, it is necessary to strengthen stricter evidence mechanisms, including more independent supervision and increased transparency in investigating environmental pollution cases.

Procedural obstacles in the environmental court process are factors that slow down and weaken law enforcement efforts in environmental pollution cases. One of the main obstacles

is the complexity of environmental law in Indonesia, where regulations governing pollution are spread across various regulations, ranging from Environmental Law to Regional Regulations. Overlapping and multiple interpretations of these regulations often lead to debate in the legal process, both at the investigation and trial levels. In addition, the environmental case trial process tends to be protracted because it involves many stages of examination, including the presentation of technical and scientific evidence which takes a long time. This causes many environmental pollution cases to end without a firm decision or even stall in the judicial system.

The absence of a special environmental court in Indonesia is also a serious challenge in handling environmental pollution cases. Currently, environmental cases are still handled by general courts, where not all judges have a deep understanding of environmental issues and the principles of ecological justice. As a result, the decisions taken often do not reflect the urgency of environmental protection and tend to benefit business actors. In addition, political and economic intervention in environmental cases is also a significant obstacle. Large corporations or certain interested parties often use their financial power and political networks to influence the legal process, either through bribery practices or lobbying that weakens law enforcement. With these various obstacles, reforms are needed in the environmental justice system, including the establishment of a special environmental court and strengthening the independence of law enforcement officers in handling environmental pollution cases.

Limited resources in supervision and law enforcement are the main obstacles in handling environmental pollution cases in Indonesia. One of the problems often faced is the lack of human resources who have expertise in ecological investigations and pollution impact analysis. Law enforcement officers, such as the Ministry of Environment and Forestry (KLHK) and the police, often do not have enough experts to conduct complex technical investigations. In addition, budget and infrastructure limitations further exacerbate this condition. Supervision of companies operating in remote areas requires large costs and sophisticated monitoring equipment, such as environmental laboratories to analyze pollution levels. Unfortunately, these facilities are still minimal in various regions, so ascertaining pollution cases becomes increasingly difficult and time-consuming.

The problem of coordination between agencies is also an obstacle to enforcing environmental law. The Ministry of Environment and Forestry, the police, the prosecutor's office, and local governments have their respective roles in handling environmental violations, but coordination between them is often ineffective. As a result, there is overlapping authority or even slowness in handling cases. On the other hand, community participation in environmental monitoring is still relatively low. Many communities affected by pollution do not have access to sufficient information regarding their rights or reporting mechanisms. In fact, in some cases, they are afraid to report violations because of pressure or intimidation from the company. Therefore, there needs to be an increase in the capacity of law enforcement, a larger budget allocation, and community empowerment so that environmental law enforcement can be more effective and transparent.

Strategy for Optimizing Law Enforcement Against Multinational Companies Polluting the Environment

Training for law enforcement officers, such as the Ministry of Environment and Forestry (KLHK), police, and prosecutors, is very important in increasing the effectiveness of environmental law enforcement. A deep understanding of environmental regulations, pollution investigation techniques, and environmental forensic methods are key in handling complex pollution cases. This technical training can include identification of pollution sources, environmental quality monitoring, and ecological impact analysis. In addition,

training in legal aspects is needed so that law enforcement officers can understand legal loopholes frequently exploited by corporations to avoid responsibility.

Increasing capacity in the use of scientific evidence is very important. Environmental monitoring technology, such as satellite imagery, pollution monitoring drones, and laboratory analysis of polluted water and air, must be utilized optimally. The use of forensic environmental investigation methods, which have been implemented in several developed countries, can be a solution to proving the causal relationship between industrial activities and environmental pollution. With ongoing training, law enforcement officers will be better prepared to face corporate strategies that often try to avoid legal accountability.

Current environmental regulations still have various weaknesses, both in terms of substance and implementation. Therefore, a comprehensive evaluation of the laws and regulations governing environmental pollution needs to be carried out. One step that can be taken is to expand the scope of corporate criminal liability to be more effective in prosecuting multinational companies that pollute the environment. For example, the law must be stricter in placing responsibility on company owners and directors, not just on corporate legal entities. In addition, the harmonization of regulations between the national and regional levels also needs to be strengthened so that there are no legal loopholes that can be exploited by rogue companies.

Sanctions for environmental violations must be stricter and have a deterrent effect. Higher fines need to be applied, with an amount that is proportional to the impact of the pollution caused. In addition to financial sanctions, freezing of business licenses or even revocation of licenses for companies that repeatedly pollute must also be considered. Enforcement of these administrative sanctions must be accompanied by strict supervision so that there are no compromise practices or informal settlements that are detrimental to the environment. With stricter legal reform, companies will be more careful in carrying out their activities so as not to violate environmental regulations.

Transparent access to information on environmental conditions and company business permits is essential to improve public oversight of industrial activities. The public must know whether a company has a history of environmental pollution or is in legal proceedings related to environmental violations. Therefore, a data transparency system is needed that allows the public to access information on environmental monitoring in real-time. This step can be realized through an online portal or technology-based application that makes it easy for the public to report suspected pollution and access environmental quality data around them.

Strengthening the complaint mechanism and protection for whistleblowers must be a priority. Many cases of environmental pollution go unreported because the public is afraid of threats or intimidation from the company. Therefore, a strong legal protection system must be provided to individuals or groups who report environmental violations. Environmental law education campaigns also need to be encouraged so that the public understands their rights and can actively participate in environmental monitoring. By increasing access to information and protection for whistleblowers, the public can become a strategic partner in pressuring companies to be more responsible towards the environment.

Strengthening the synergy between the government, law enforcement officers, and the public in environmental monitoring and law enforcement is essential to creating a more effective and transparent system. Coordination between the Ministry of Environment and Forestry (KLHK), the police, the prosecutor's office, and local governments must be improved so that the law enforcement process for environmental pollution cases can be carried out in an integrated manner and not hampered by overlapping authorities. In addition, the role of non-governmental organizations (NGOs) and academics is also crucial in providing independent studies, policy advocacy, and supporting law enforcement with research-based data. The community also needs to be encouraged to be involved in

monitoring the community-based environment by utilizing technologies such as citizen science, where citizens can contribute to detecting pollution using data-based applications or simple environmental sensors. With strong synergy between various parties, supervision of companies can be more effective, and environmental violations can be prevented or prosecuted more quickly.

CONCLUSION

Environmental law regulations in Indonesia have regulated various administrative, civil, and criminal sanctions for perpetrators of environmental pollution, especially through the UUPPLH and the Job Creation Law, but their implementation and enforcement still face various obstacles. Legal loopholes in the evidentiary process, weak supervision, and the dominance of administrative sanctions compared to criminal sanctions make the deterrent effect on perpetrators of pollution less than optimal. Compared to regulations in other countries such as the United States and the European Union which are stricter in enforcing the polluter pay and precautionary principles, Indonesia still needs to strengthen law enforcement mechanisms. The role of law enforcement officers such as the Ministry of Environment and Forestry, the Police, the Prosecutor's Office, and the Courts must be improved through more effective coordination, adequate resource support, and synergy with NGOs and the community in monitoring and advocating for environmental policies. With a more synergistic, transparent, and accountable strategy, it is expected that environmental law enforcement can be more effective in preventing and firmly prosecuting environmental violations.

The problem of proof in environmental pollution cases is a major challenge in enforcing the law against corporations, especially because of the difficulty in identifying perpetrators, proving causality, and facing various attempts to manipulate evidence by companies. Procedural barriers, such as regulatory complexity and slow judicial processes, further exacerbate environmental law enforcement, coupled with the absence of special environmental courts and the potential for political and economic intervention. In addition, limited resources for supervision and weak coordination between agencies hinder the effectiveness of investigations and enforcement. Therefore, environmental legal system reform is needed, including strengthening evidentiary mechanisms, establishing special environmental courts, increasing the capacity of law enforcement, and empowering communities so that law enforcement against environmental pollution can be carried out more effectively, transparently, and fairly.

Increasing the effectiveness of environmental law enforcement requires comprehensive training for law enforcement officers, the use of environmental monitoring technology, and stricter regulatory reforms to close legal loopholes that are often exploited by corporations. Stricter and more transparent sanctions, including high fines and revocation of business licenses for repeat violators, are needed to provide a deterrent effect. Open access to information and protection for whistleblowers must also be strengthened so that the community can play an active role in environmental supervision. The synergy between the government, law enforcement officers, academics, NGOs, and the community is key to creating a more effective, transparent, and fair environmental law enforcement system.

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