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**LAW ENFORCEMENT ON ENVIRONMENTAL POLLUTION
ACTIVITIES IN KENDARI-SOUTHEAST SULAWESI**

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Abstract

This study aims to find out how the law enforcement against the perpetrators of environmental pollution and the accountability of environmental pollution actors in Kendari Bay in Southeast Sulawesi. In finding solutions to the problems above, the authors use normative legal research methods, by collecting data derived from the literature, legislation, articles, information from the internet, and books related to environmental pollution. The results showed that law enforcement against environmental pollution perpetrators in Kendari Bay had not been effective. The government has indeed given administrative and criminal sanctions for the perpetrators of environmental pollution but these has not caused a deterrent effect. There are still many businesses and entrepreneurs who continue to run their businesses without having a Waste Water Management Plant (WWTP). The government is expected to be more assertive in taking action on the perpetrators of environmental pollution. The perpetrators' responsibility toward environmental pollution they cause can also be ensured in the form of countermeasures against pollution, one of which is providing information on pollution warnings to the public. In addition, if a criminal complaint is filed with the order giver or the perpetrator of a crime, the criminal threat imposed should be in the form of imprisonment and a fine increased by one third. If a criminal claim and criminal sanction are imposed on a business entity, then the management will represent the business entity inside and outside the court in accordance with the law.

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Keywords: Environment, law enforcement, WWTP.



1. Introduction

The environment is the most important aspect of everyday life, for example the water, air, or soil are all components that support the survival of living things. It is a vital resource for the sustenance of life.

Seeing how important environmental influences are to human life, it is extremely important to protect and preserve the environment for human survival itself. But, the fact is, the reality is very different as can be seen from the condition in Kendari, Southeast Sulawesi. A large number of businesses in Kendari do not have a Waste Water Management Plant (WWTP) to manage dangerous and toxic wastes. The impact is that all Hazardous and Toxic Materials (HTM) waste enter the Watershed (DAS) in Kendari Bay. This creates pollution in Kendari Bay causing mangroves to die and mercury can be traced on marine biota such as fish, shrimp, and sea shells which eventually, is harmful to health if it is continuously consumed.

Law enforcement is a key point that correlates with the implementation of the prevailing laws and regulations regarding pollution. Besides that, environmental law enforcement is an instrument to create a good and healthy environment. This is in accordance with article 33 paragraph (3) of the 1945 Constitution, which states, "Earth, water, and the natural resources contained therein are used to the greatest extent possible for the prosperity of the people".

2. Problem Statement

The lack of attention and also supervision of environmental pollution activities in Kendari, Southeast Sulawesi become an issue of concern. This paper will address the law enforcement that correlates with the implementation of the prevailing laws and regulations on the perpetrators of pollution with regard to their environmental responsibility in Kendari Bay.

3. Research Question

The formulation of the research questions are as follows;

3.1. What encompasses the law enforcement against the perpetrators of environmental pollution in Kendari Bay?

3.2. What is the responsibility of the perpetrators of environmental pollution in Kendari Bay?

4. Purpose of Study

This paper aims to find solutions to the problem of pollution, especially in the bay area which is also an area of tourism, settlements and the livelihoods of the surrounding communities. Legal protection contained in regulations at the national level and then derived in several sectoral regulations should be able to answer questions regarding environmental protection. The occurrence of environmental violations is a serious problem that must be identified from a legal perspective in both the provincial, national and international contexts.

5. Methodology

In finding solutions to the problems above, the authors used normative legal research methods, by collecting data derived from the literature, legislation, articles, information from the internet, and books related to environmental pollution.

6. Findings

6.1. Legal Enforcement related to Environmental Pollution Activities in Kendari Bay

Law enforcement according to Satjipto Rahardjo (1983) is a process to realize legal desires into reality. The legal desires intended refer to the thoughts of the legislators formulated in the legal regulations. The formulation of the law-making mind as outlined in the law, also determines how law enforcement is carried out. So it can be said that the success or failure of law enforcers in carrying out their duties actually begins since the formulation of the legal regulation to be carried out.

The increase and role of industry in absorbing labor and improving the country's economy often collide with the impact of the existence of several types of industries that produce residues in the form of hazardous and toxic waste materials (WTM waste). The textiles, leather, furniture, paper, printing, publishing, reproduction of recording media, chemicals, goods from chemicals, base metals, metal-based goods, recycled metal-based goods, machinery and processing industries are some types of businesses that produce HTM.

The WWTP pond must be created by every company that produces WTM waste, because although waste can be disposed of in the landfill, liquid waste cannot be discharged into the water channel. These industries must fulfill the complete eligibility document requirements to be able to dispose of waste into a water channel. Some regulations starting from the Constitution, Ministerial Regulations, Regional Regulations also regulate governance so that people and corporations in running their business do not pollute the surrounding environment.

In Law Number 32 on Environmental Protection and Management, 2009, three types of environmental law enforcement have been provided, namely the enforcement of administrative, civil and criminal law. But among the three available forms of law enforcement, administrative law enforcement is considered the most important. This is because administrative law enforcement is aimed more at preventing environmental pollution and damage. In addition, administrative law enforcement also aims to punish perpetrators of environmental pollution and destruction.

But, in fact, there are still many violations against the environment. One such violation occurred in Kendari City where there are a large number of businesses, especially those that produce Dangerous and Toxic Wastes, which do not have a Waste Water Management Plant (WWTP), for example, Same Hotel and Zenit Hotel. All other Hazardous and Toxic Materials (WTM) waste enter the Watershed (DAS) to Kendari Bay.

The government has indeed given sanctions for the perpetrators of environmental pollution both administratively and criminally, but not maximally to cause a deterrent effect. There are still many businesses and entrepreneurs who continue to run their businesses without having a WWTP. Concurrent to

his issue, law enforcement can be interpreted as an effort by certain law enforcement officers to guarantee and ensure the enforcement of the law, and law enforcement officials can use force to enforce the law.

6.2. Forms of Liability for Environmental Pollutors in Kendari Bay

In Law Number 32 of the Environmental Protection and Management, 2009 hereinafter referred to as PPLH Law, hazardous and toxic substances, hereinafter referred to as WTM, “are substances, energy, and/or other components which due to their nature, concentration and/or amount, either directly, or indirectly, can pollute and / or damage the environment, and/or endanger the environment, health, and the survival of humans and other living creatures”. Given this understanding, the proper management of WTM waste is of utmost importance considering that in the event of WTM waste pollution environmental sustainability which is the source of life and the continuity of the entire ecosystem will be threatened. WTM waste that is not managed responsibly is will cause environmental damage resulting in depletion of the availability of clean water because business operators do not have an adequate Waste Water Management Plant (WWTP).

Environmental pollution according to Article 1 number 14 of Law Number 32 of the PPLH Law 2009 encompasses living things, substances, energy, and/or other components into the environment by human activities thus exceeding the established environmental quality standards. Basically, everyone who is guilty of environmental pollution and / or damage is obliged to deal with the pollution and/or damage and restore the environment. Companies that have caused environmental pollution should be responsible for pollution prevention, one of which is providing information on pollution warnings to the public. The existence of warning information can prevent the public from drinking polluted river water. In addition, the company is also obliged to mitigate the pollution that occurs in the river. If the company intentionally disposes of waste into the river, it will be sanctioned by Article 60 jo. Article 104 of the PPLH Law as follows:

6.2.1 Article 60 of the PPLH Law:

Everyone is prohibited from dumping waste and / or materials into environmental media without permission.

6.2.2. Article 104 of the PPLH Law:

Every person who dumps waste and / or materials into the environmental media without permission as referred to in Article 60, shall be sentenced to a maximum of 3 (three) years of imprisonment and a maximum fine of Rp. 3,000,000,000.00 (three billion rupiahs).

Business actors as parties who directly conduct production activities and produce WTM waste, should be sanctioned with the obligation to carry out the WTM waste management. Article 88 of the PPLH Law basically regulates, "Every person whose actions, business and/or activities use WTM, produce and/or manage WTM waste, and/or which pose a serious threat to the environment is absolutely responsible for losses that occur without need to prove the element of error".

The concept of absolute responsibility in Article 88 of the PPLH Law becomes interesting regarding the clarity of the intent of the concept of absolute responsibility which is a Corporate Social Responsibility

that is voluntary or is an obligation as implied in its mention as absolute responsibility. Absolute responsibility, also called strict liability, is closely related to the term in criminal law, but in its elaboration there is an element of loss that is networked with absolute responsibility. Civil law perspective is very interesting to examine the relationship between absolute responsibility and loss as referred to in Article 88 of the PPLH Law.

Increased development and industrial activities in certain regions lead to an increase in the amount of hazardous and toxic waste materials which can endanger the environment and human health so that regulation is needed regarding its management

6.2.3. In the Regional Regulation No.3 of 2016:

The planning of domestic wastewater management is carried out thoroughly including:

1. Non-physical aspects planning relates to the development of the community, business / private world, institutions and human resources managing domestic wastewater infrastructure and facilities, as well as financing plans
2. Physical aspect planning relates to the planning of domestic wastewater treatment facilities and infrastructure.

6.2.4. In the Regional Regulation No.4 of 2016 on Hazardous and Toxic Wastes Management, Article 2, WTM waste management aims to:

1. Prevent and overcome environmental pollution and / or damage caused by WTM waste and restore the quality of the environment so that it functions;
2. Maintain and guarantee the quality of the environment and the lives of humans and other living things in a sustainable manner to meet the welfare of the people in the region.

WTM Waste Collection Permit, Article 9, also discusses the licensing of each person who has compulsory WTM waste collection. It is required to have WTM waste management permits for WTM waste collection activities from the Governor. They must participate in the utilization of WTM waste and / or WTM waste treatment of some or all of the WTM waste collected and where prior to WTM waste management permits for WTM waste collection activities, WTM waste collectors must have an environmental permit.

6.2.5. Administrative Sanctions Explained in Article 33:

1. The Governor has the authority to impose administrative sanctions on WTM cross-district / city waste collectors who do not fulfill or violate the provisions of article 9 paragraph (1) and paragraph (2), article 14 paragraph (1)
2. Administrative sanctions as referred to in paragraph (1) can be in the form of:
 - a. Written warning
 - b. Government coercion
 - c. Forced money
 - d. Proposing revocation or cancellation of business and / or activity licenses.

1. The procedure for granting administrative sanctions as referred to in paragraph (2) is further stipulated in the governor's regulation.

6.3. Also regulated in the Criminal Provisions in Article 37:

Every person or business entity that violates the provisions of article 9 paragraph (1) and paragraph (3) and article 17 is threatened with criminal sanctions in accordance with the provisions of the legislation in the environmental field.

7. Conclusion

- 7.1. Law enforcement against the perpetrators of environmental pollution in Kendari Bay has not been effective. The government has indeed imposed administrative and criminal sanctions on the perpetrators of environmental pollution but this has not caused a deterrent effect. There are still many businesses and entrepreneurs who continue to run their businesses without having a Waste Water Management Plant (WWTP). Hence, the government is expected to be more assertive in taking action on the perpetrators of environmental pollution.
- 7.2. Accountability of the perpetrators of environmental pollution can also be carried out in the form of countermeasures for pollution, one of which is providing information on pollution warnings to the public. In addition, if a criminal complaint is filed with the order giver or the leading perpetrator of the pollution activity, the criminal threat imposed should be in the form of imprisonment and fine increased by one third. If a criminal claim and criminal sanction are imposed on a business entity, then the management will represent the business entity inside and outside the court in accordance with the law.

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