



Journal Homepage: - www.journalijar.com

INTERNATIONAL JOURNAL OF ADVANCED RESEARCH (IJAR)

Article DOI: 10.21474/IJAR01/13077

DOI URL: <http://dx.doi.org/10.21474/IJAR01/13077>



RESEARCH ARTICLE

JURIDIC REVIEW ON INTEGRATED LAW ENFORCEMENT IN ENVIRONMENTAL CRIME

Agung Susanto and Prof. Dr. Agus Surono

Fakultas Hukum, Universitas Pembangunan Nasional "Veteran" Jakarta.

Manuscript Info

Manuscript History

Received: 25 April 2021

Final Accepted: 28 May 2021

Published: June 2021

Abstract

The potential for environmental problems that can have a major impact on the preservation of nature and human health raises awareness of the need to regulate environmental issues with legal instruments. The mechanism for enforcing environmental crimes in Indonesia is contained in Law Number 32 of 2009 concerning Environmental Protection and Management and the Decision of the Constitutional Court Number 18/PUU-XII/2014 dated January 21, 2015, which is carried out in an integrated manner. Nevertheless, there are problems in implementation, namely due to the unclear model of the application in terms of coordination between lembaga, resulting in law enforcement in an integrated manner less efficient and effective implementation of this research is library research using methods Juridical Empirical and manifold qualitative by examining various kinds of primary and secondary data and will describe how the implementation of integrated law enforcement in environmental crimes based on Law Number 32 of 2009 concerning Environmental Protection and Management and Constitutional Court Decision Number 18/PUU-XII/2014 Date January 21, 2015. Support for environmental criminal law enforcement contained in UUPPLH is the existence of environmental Civil Servant Investigators (PPNS) (Article 94) who have the authority to conduct investigations in cases of environmental pollution and or destruction. Therefore, to inhibit the rate of pollution and environmental destruction, in particular, it is necessary to enforce environmental laws in an integrated manner. Enforcement of environmental law is closely related to the ability of the apparatus and the compliance of citizens with laws and regulations. Seeing the court's decision in this study, it is suspected that environmental law enforcement officials have not made much progress and do not understand the environmental law enforcement system, which should be carried out in an integrated manner.

Copy Right, IJAR, 2021., All rights reserved.

Introduction:-

In the era of globalization, environmental problems are no longer an individual problem or just one or two countries, but are the shared responsibility of all mankind in the world. Environmental damage caused by human activities can be said to have almost reached a high culmination point. A series of environmental disasters that have occurred in almost all epicenter points of the world, Indonesia is no exception.

Corresponding Author:- Agung Susanto

Address:- Fakultas Hukum, Universitas Pembangunan Nasional "Veteran" Jakarta.

The potential for environmental problems that can have a major impact on the preservation of nature and human health raises awareness of the need to regulate environmental issues with legal instruments. The regulation of environmental problems in Indonesia began with Law no. 4 of 1982 concerning the Basic Provisions for Environmental Management (State Gazette of 1982 No. 12 Supplement to the State Gazette No. 3215) which in its development was refined by Law no. 23 of 1997 concerning Environmental Management and lastly replaced by Law no. 32 of 2009 concerning Environmental Protection and Management.

In this study, the authors focus on an integrated law enforcement mechanism in handling environmental crimes based on Law Number 32 of 2009 concerning Environmental Protection and Management and Constitutional Court Decision Number 18/PUU-XII/2014 dated 21 January 2015. The extent to which an integrated investigation can be carried out by looking at the case study of the Padang District Court Decision Number: 642/Pid.Sus-LH/2019/PN.Pdg and as an addition to the Central Jakarta District Court Pretrial Decision Number: 04/Pid.Pra/2018/PN.Jkt.Pst, namely in the case of the destruction of protected forests and the hoarding of mangroves without a permit carried out by Rusma Yul Anwar as Deputy Regent of Pessel at that time. Then examine and analyze how the validity of a court decision product carried out by the Integrated Law Enforcement Team, which is not in accordance with the existing mechanism based on the principles of expediency and legal certainty.

Statement of the Problem:

Based on the background described above, the main problems are as follows:

1. How is law enforcement in an integrated manner in handling environmental crimes according to the Criminal Procedure Code in Indonesia?
2. What are the legal consequences in the law enforcement process against environmental crimes that are not through the Integrated Law Enforcement Team?

Methodology:-

This research uses a normative juridical approach. The juridical approach is research on legal products. This approach to legal products is carried out to examine all laws and regulations related to the research to be researched. While normative is a study of legal principles, legal systematics, legal synchronization and legal or doctrinal comparisons in the dogmatic realm of law.

This study examines or analyzes secondary data in the form of secondary legal materials by understanding the law as a set of regulations or positive norms in the legal system that regulates human life. So this research is understood as library research.

The approach to the problem in this research is a statutory approach. This statutory approach is carried out to examine all laws and regulations related to the research to be researched. This legal approach will open up opportunities for researchers to study whether there is consistency and conformity between one law and another. In addition, this research also uses a case study approach, namely based on the Padang District Court Decision Number: 642/Pid.Sus-LH/2019/PN.Pdg.

Result and Discussion:-

Integrated law enforcement in handling environmental crimes according to the Indonesian Criminal Procedure Code. Law enforcement of environmental crimes after the Constitutional Court's decision.

Environmental Protection and Management Policy. Experiencing changes after the material test of Article 95 paragraph (1) of Law No. 32 of 2009 concerning Environmental Protection and Management. Whereas Article 95 paragraph (1) of Law 32/2009 states, "In the context of law enforcement against perpetrators of environmental crimes, integrated law enforcement can be carried out between civil servant investigators, the police, and the prosecutor's office under the coordination of the Minister". The petitioner for the judicial review argues that with the word "can" the coordination of law enforcement becomes a policy of choice, so that in practice it runs independently, thus ignoring the spirit of Law 32/2009 to carry out law enforcement in an integrated manner under the coordination of the Minister of the Environment. Thus, the article creates legal uncertainty and injustice as referred to in Article 28D paragraph (1) of the 1945 Constitution. Previously, a single or integrated investigation was only optional, not binding because of the word "can" in the editorial of Article 95 Paragraph (1) of the PPLH Law which reads: "In the context of law enforcement against perpetrators of environmental crimes, integrated law

enforcement can be carried out between civil servant investigators, the police, and the prosecutor's office under the coordination of the Minister."

After the issuance of the Constitutional Court Decision Number 18/PUU-XII/2014 dated January 21, 2015, Article 95 Paragraph (1) of the PPLH Law was amended to read: "In the context of law enforcement against perpetrators of environmental crimes, including other crimes originating from violations of the law, Under this law, integrated law enforcement is carried out between civil servant investigators, the police, and the prosecutor's office under the coordination of the Minister." (The word "can" has been removed). With it, an integrated investigation must be carried out. Based on the provisions in Article 94 paragraph (1), the action of investigation and investigation of cases concerning the destruction or pollution of the environment, the authorities to carry out investigations are the Police and PPNS so as not to cause a dispute of authority between the Police and PPNS.

An investigation into an environmental crime is carried out if there is sufficient preliminary evidence in accordance with the legislation. Investigations are carried out by POLRI Investigators and/or Civil Servant Investigating Officers who are members of the STPHL. Environmental Problems Settlement Task Force (STP2LH). If there are obstacles in carrying out an investigation in the field, the POLRI Investigator is obliged to provide assistance in the investigation and security of both evidence and security of officers who are carrying out investigation tasks in the field. In the event that POLRI investigators conduct investigations, STPHL is obliged to provide the necessary assistance in the context of accelerating the settlement of environmental crime cases. Police investigation and security assistance is given to: STPHL officers who will and are carrying out the investigation process. Crime scene investigation includes searching and confiscation of evidence as well as searching for suspects as well as collecting information from witnesses of STPHL officers who will and are carrying out the task of investigating environmental crimes.

STPHL officers who will and are carrying out the act of confiscation of goods and/or bringing evidence from the scene to the State Storage or Storage House for Confiscated Goods (RUPBASAN). In an effort to complete the investigation process, the STPHL Officer is obliged to coordinate with the POLRI Investigator in accordance with the applicable laws and regulations. Evaluation of Coordination between STPHL Officers with POLRI Investigators and the Prosecutor's Office (Prosecutor) is carried out periodically at least once every 3 (three) months. Before the case file of the First Stage is submitted to the Public Prosecutor. Investigators are obliged to carry out a case title. The prosecution of environmental crimes is carried out on cases resulting from investigations that have been declared to meet the formal and material requirements by the Public Prosecutor and have been followed by the submission of suspects and evidence to the Public Prosecutor. The prosecution is carried out by the Public Prosecutor, both those who are members of the STPHL and outside the STPHL in accordance with the laws and regulations. Prosecutors who are members of STPHL can coordinate prosecution of Public Prosecutors other than STPHL who handle cases.

Legal consequences in the law enforcement process against environmental crimes that are not through the Integrated Law Enforcement Team

Investigations in environmental crime cases are basically the same as other general crimes. Article 94: (1) Apart from investigators of the State Police of the Republic of Indonesia, certain civil servants within government agencies whose scope of duties and responsibilities are in the field of environmental protection and management are authorized as investigators as referred to in the Criminal Procedure Code to carry out investigations into criminal acts. environmental crime. In line with the provisions of the Criminal Procedure Code, Article 94 (1) UUPPLH 209 stipulates that investigators of criminal acts in the environmental field other than Investigators of Police Officers, are also Investigators of Civil Servants (PPNS) within government agencies whose duties and responsibilities are in the field of environmental protection and management.

Article 95: (1) In the framework of law enforcement against perpetrators of environmental crimes, integrated law enforcement can be carried out between civil servant investigators, the police, and the prosecutor's office under the coordination of the Minister. The decision of the Constitutional Court Number 18/PUU-XII/2014 has a very large influence on environmental law enforcement which requires the implementation of integrated law implementation, both civil investigators, police investigators, prosecutors under the coordination of the environment minister.

In the pretrial decision of the Central Jakarta District Court Number 04/Pid.Pra/2018/PN.Jkt.Pst with the suspect, Drs. RUSMA YUL ANWAR, M.Pd, the Padang District Court has the authority to adjudicate, has carried out a

business and/or activity without having an environmental permit as referred to in Article 36 paragraph (1). The suspect once questioned the determination of the suspect because he considered that investigators did not comply with the Constitutional Court's decision Number 18/PUU-XII/2014 which required coordination in the enforcement of environmental criminal law. However, the judge in his judgment stated that the single investigation and investigation conducted by the Ministry of the Environment was legally valid and did not contradict the Constitutional Court's Decision Number 18/PUU-XII/2014.

PPNS is only required to coordinate with Polri investigators at the time of arrest and detention, coordination is an act of consultation in order to obtain assistance from personnel, facilities and infrastructure needed in the investigation and also in the case of PPNS conducting investigations to notify the commencement of the investigation to Polri investigators as well as in the case of delegating cases to PU. Coordination is useful in minimizing differences in the understanding of law enforcement officers in the application of environmental criminal law. In addition, by coordinating the proof, it will become easier.

Because in the pretrial decision of the Central Jakarta District Court Number 04/Pid.Pra/2018/PN.Jkt.Pst the determination of the suspect by the PPNS is considered valid, then the process continues with the ordinary procedural law. The defendant at trial by the Public Prosecutor was charged with an indictment that was compiled cumulatively, namely the defendant committed a criminal act as stipulated in the First indictment: Article 98 paragraph (1) of the Law of the Republic of Indonesia Number 32 of 2009 concerning Protection and Management of the Environment, and Second: Article 109 of the Law - Law of the Republic of Indonesia Number 32 of 2009 concerning Environmental Protection and Management which was finally decided by the Padang District Court with a decision Number: 642/Pid.Sus-LH/2019/PN.Pdg. With due observance of the provisions of article 183 of the Criminal Procedure Code and article 193 of the Criminal Procedure Code, because the defendant has been proven guilty of committing a crime as referred to in Article 109 of the Law of the Republic of Indonesia Number 32 of 2009 concerning Protection and Management of the Environment, the defendant must be sentenced.

On the grounds that the panel of judges at the first instance did not consider Article 3 paragraph (4) letter c, the defendant then appealed. The defendant is of the view that if paragraph (4) letter c is considered by the Panel of Judges, of course the decision of the Panel of Judges at the first instance is an exception to the provisions of Article 3 paragraph (1) so that the Defendant's actions are not included in the Amdal requirement so that the Defendant must be acquitted of the second charge by the Public Prosecutor.

However, the appeal decision actually strengthens the Padang District Court Decision Number 642/Pid.Sus-LH/2019/PN Pdg with the consideration that there is no evidence and legal facts in this case stating that a review has been carried out by the competent authority on the case. the business and or activity of the Defendant, therefore it is not clear whether the business or activity of the Defendant meets the criteria for the mandatory EIA exemption as regulated in Article 3 paragraph (4) letter c of the Regulation of the State Minister of the Environment Number 05 of 2012 concerning Types of Business Plans and/or Activities that must have an Amdal. Enforcement of environmental law is closely related to the ability of the apparatus and the compliance of citizens with laws and regulations. Seeing the decision, environmental law enforcement officials allegedly have not made much progress and do not understand the environmental law enforcement system.

Conclusions:-

- A. The environmental law enforcement mechanism after the Constitutional Court's Decision Number: 18/PUU-XII/2014 requires that the implementation be carried out in an integrated manner by civil servants, police investigators, prosecutors under the coordination of the environment minister. Consequently, all relevant agencies in terms of environmental law enforcement should cooperate in an integrated and consistent manner in terms of realizing environmental law enforcement. Integrated law enforcement in the environment does not mean eliminating the authority of each relevant agency, the Police and the Prosecutor's Office. However, this integrated law enforcement is carried out together. For example, at the level of investigation, the Police and the Ministry of Environment and Forestry cooperate in taking action against suspected cases of environmental pollution.
- B. Enforcement of environmental law is closely related to the ability of the apparatus and the compliance of citizens with laws and regulations. Seeing the Pretrial Decision of the Central Jakarta District Court Number 04/Pid.Pra/2018/PN.Jkt.Pst, environmental law enforcement officials allegedly have not made much progress

and do not understand the environmental law enforcement system, which should be implemented in an integrated manner.

Recommendations:-

In carrying out law enforcement, environmental crimes should be carried out in an integrated manner. Because there are regulations that implicitly regulate this. So that there is no legal disability and guarantees a legal certainty.

References:-

1. JimlyAsshidiqie, *Gree Constitution*, Jakarta: RajawaliPers, 2009.
2. Constitutional Court Decision Number 18/PUU-XII/2014 Dated January 21, 2015.
3. Fathul Abdi, *Deputy Head of South Coast RusmaYul Anwar Sued for 4 Years in Case of Mangrove Destruction in Mandeh*, (<https://www.google.com/amp/s/sumbar.antaranews.com/amp/news/322451/wabup-coast-south-Rusma-yul-anwar-charged-4-year-cases-mangrove-destruction-di-mandeh>) accessed on November 25, 2020
4. Padang District Court Decision Number: 642/Pid.Sus-LH/2019/PN.Pdg.
5. Central Jakarta District Court Decision Number 04/Pid.Pra/2018/PN.Jkt.Pst.
6. M. Nurdin, "The Role of Investigators in Law Enforcement Against Environmental Crime Violations", *Journal of Samudra Justice Law*, Vol. 12, No. 2, July-December 2017.
7. Bahder Johan Nasution, *Legal Research Methods*, Bandung: MandarMaju, 2008.
8. SoerjonoSoekanto, *Introduction to Legal Research*, Jakarta: University of Indonesia, 2014.
9. Peter Mahmud Marzuki, *Legal Research. Ctk.6*, Jakarta: Kencana, 2010.
10. SoerjonoSoekanto and Sri Mamudji, *Normative Legal Research*, Jakarta: Rajawali, 1985).
11. Moeljatno, *Principles of Criminal Law*, RinekaCipta, Jakarta, 2002.
12. Eric Rahmanul Hakim, Enforcement of Indonesian Environmental Law in Criminal Aspects, *Media Justice: Journal of Legal Studies*, Volume 11 Number 1, April 2020.
13. Nafi' Mubarak, Enforcement of Environmental Criminal Law in Indonesia, *al-Jinâyah: Journal of Islamic Criminal Law*, Volume 5 Number 1 June 2019.