



Research Paper

## Legal Study of Environmental Protection and Enforcing Environmental Law

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### Abstract

The role of law in environmental protection and management is essential to ensure the enjoyment of the environment by both present and future generations. Legal certainty in environmental protection and management is the state's responsibility in utilizing natural resources to maximize the welfare and well-being of the people, both present and future generations. This ensures citizens' rights to a good and healthy environment and prevents environmental damage from natural resource utilization activities. This research uses a normative juridical method, namely a literature review (library research). The study's findings indicate that to achieve sound environmental protection, as stipulated in Article 28-H of the 1945 Constitution of the Republic of Indonesia, namely achieving a good and healthy environment, an appropriate legal approach is required to resolve environmental issues based on environmental law and optimally utilizing Law Number 32 of 2009 concerning Environmental Protection and Management. To support the implementation of environmental provisions, it is mandatory to involve government officials who understand the environment, particularly in enforcing environmental law as a functional law in resolving environmental issues. Therefore, the existence of environmental law to provide environmental protection plays a crucial role in addressing the various environmental damage and pollution that have occurred to date.

**Keywords:** Environmental Protection, Law Enforcement.

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### I. INTRODUCTION

The environment is crucial for life, as it provides vital resources, maintains physical and mental health, and supports the survival of all living things, making it the foundation for the well-being and investment for future generations. A good and healthy environment is a constitutional right for every Indonesian citizen, as stipulated in Article 28H paragraph (1) of the 1945 Constitution. This right also constitutes the state's obligation to protect, manage, and preserve the environment so that it becomes a source of sustainable livelihoods. A clean and healthy environment prevents disease, improves quality of life, and maintains ecosystem balance, creating comfort and well-being, while minimizing the risk of disease and natural disasters.

Current environmental problems include pollution, climate change and global warming, deforestation and forest destruction, loss of flora and fauna diversity, poor waste management, depletion of natural resources, and human-induced natural disasters such as floods and landslides. All are rooted in human activities such as industrial pollution, excessive use of fossil fuels, and land and forest clearing, which threaten health, the economy, and the sustainability of the global ecosystem.

Environmental problems are inseparable from human behavior, as humans are bound to the environment; they possess rights to the environment. There are two aspects to determining environmental rights: the procedural aspect, derived from procedural rights to the environment, also known as supporting elements in realizing the fulfillment of substantive environmental rights; and the substantive aspect, namely the right to a decent standard of living and the right to intra- and intergenerational justice (Arazid, 2024).

The environment is very much determined by human behavior as stated in Article 1 number 1 of Law Number 32 of 2009 concerning Environmental Protection and Management, namely the environment is a unity of space with all objects, power, conditions and living creatures including humans and their behavior that affect

nature itself, the continuity of life and the welfare of humans and other living creatures. Human behavior through its activities has a very big influence on the environment, both positively and negatively. Human activities that have a negative impact are due to the large-scale use of natural resources without regard for or thought about environmental protection and sustainability, which can result in things like climate change, ecosystem damage, and loss of biodiversity. While the positive behavior of humans carries out developments that are useful for the livelihood of many people, it carries out effective and efficient waste management, namely by implementing recycling by using waste materials to produce new products, so that recycling money can be used to reduce waste and help reduce pollution resulting from waste, especially rotting waste. Living creatures in the environment are not only humans, but there are other living creatures, namely animals and plants, that must be maintained and protected, such as carrying out conservation, sustainable development, and can carry out protection and preservation of the environment.

Environmental management is very necessary to be carried out for the sake of preserving the ability of the environment to be harmonious and balanced to support sustainable development, it is necessary to increase the utilization of natural resources and environmental potential by carrying out conversion, rehabilitation and saving use by applying environmentally friendly technology, as well as utilizing natural resources for the greatest prosperity of the people by paying attention to the preservation of environmental functions and balance, sustainable development, the economic and cultural interests of local communities and, spatial planning, the management of which is regulated by law. In Law Number 32 of 2009 concerning Environmental Protection and Management, it is explained that environmental management and protection refer to planned and integrated efforts to maintain environmental functions and prevent pollution and/or environmental damage (Judijanto et al., 2023). Furthermore, Triwanto et al (2025) stated that in order to maintain environmental sustainability from damage, the participation of various parties is required, including through the implementation of environmental law. Environmental law plays a crucial role in regulating and controlling human activities that have the potential to damage the environment through preventive and repressive efforts.

The study aims to conduct a study on environmental law enforcement and environmental protection, so that a good and healthy environment can be created that can be enjoyed by the present generation and future generations.

## **II. THEORETICAL STUDY**

### **2.1. Environmental Law**

According to Th. G. Drupsteen in Hardjasoemantri (2009), environmental law is a type of law that is broadly related to the natural environment. This is important to understand because environmental law is crucial for maintaining ecosystems. Broadly speaking, environmental law is a field of law that specifically addresses environmental regulations. Environmental law, as modern environmental law, establishes provisions and norms to regulate human actions to protect the environment from damage and degradation, in order to ensure its sustainability for use by current and future generations.

According to Rahmadi (2011), environmental law is a field or branch of law with unique characteristics that Drupsteen calls functional law (functioneel rechtsgebeid), which includes elements of administrative law, criminal law, and civil law. Therefore, environmental law enforcement can be interpreted as the use or application of instruments and sanctions in the fields of administrative law, criminal law, and civil law.

Environmental law is defined as the rules governing the relationship between humans and the environment to protect and preserve nature and ensure well-being, thereby creating sustainable development. Environmental law has several functions, including the following:

- a. Environmental protection, namely establishing emission standards, regulating the use of natural resources, and preventing environmental damage and/or pollution, thereby maintaining and protecting ecosystems.
- b. Creating a safe and healthy environment, namely ensuring human health and safety for the survival of humans and other living things.
- c. Implementing sustainable development that ensures economic and social needs by protecting a healthy and good environment for present and future generations.
- d. Accountability for environmental pollution and/or damage, namely that law enforcement can impose strict legal sanctions on violators.
- e. Public awareness, namely providing education to the public to increase public awareness of the importance of preserving and protecting the environment to create a healthy and good environment, as mandated by the 1945 Constitution of the Republic of Indonesia.
- f. Prevention of environmental pollution and/or damage, namely that the public can organize steps to prevent environmental damage and carry out protection, preservation, and restoration of the environment.
- g. Global Issues, namely anticipating global issues and helping to address global environmental issues such as climate change by regulating greenhouse gas emissions.

## 2.2. Ecosystems and the Environment

An ecosystem is an ecological system formed by the inseparable reciprocal relationship between living things and other living things and their environment. An ecosystem can also be defined as an environmental system that mutually influences another. Within an ecosystem, there is a reciprocal relationship between an organism and its environment, thus ensuring that an ecosystem is a combination of interacting biosystem units (Kumparan, 2021).

According to Siombo (2012), an ecosystem is characterized by the complete exchange of matter and energy transformation that occurs between various components within the system itself and with other systems outside it. Thus, an ecosystem is a broad component, a series of components that form functional units.

The environment is everything that surrounds humans and is interconnected. It is a system that constitutes a spatial unity between living things and other abiotic components (Yulianto and Susanto, 2020). The interaction between the natural environment and its surroundings forms an ecological system (ecosystem). The environment plays a role as a habitat for life on Earth (Hartono, 2027).

Article 1, number 5 of Law Number 32 of 2009 concerning Environmental Protection and Management, defines an ecosystem as a system of environmental elements that constitute a comprehensive, unified whole that mutually influences each other in shaping environmental balance, stability, and productivity. Therefore, no organism can survive without its environment.

## 2.3. Environmental Law Enforcement

Environmental protection can be maximized with adequate legal instruments specifically regulating environmental protection. Therefore, with legal efforts to prevent violations and impose strict sanctions on those who violate the provisions stipulated in the legislation, the environment will be protected. If law enforcement is weak, the environment will undoubtedly suffer extraordinary damage, which will harm many humans and other living creatures. The law plays a crucial role in imposing strict sanctions on perpetrators of environmental law violations, thus providing a deterrent effect. The existence of laws governing environmental protection and management can at least minimize environmental damage and pollution. Therefore, those who violate environmental law must be subject to strict and impartial sanctions. This is as stipulated in Article 28-D of the 1945 Constitution of the Republic of Indonesia, which states that Everyone has the right to recognition, guarantees, protection, and certainty of a just law, as well as equal treatment before the law.

In environmental law enforcement, all forms of violations and crimes are regulated, for perpetrators, whether committed by individuals or bodies, through preventive and repressive measures. For these repressive measures, several types of instruments can be applied, and their application depends on the need, as considerations include looking at the impacts they cause. The types of instruments in question include (Subagyo, 2002): administrative actions, civil actions/processes, and criminal actions/processes.

According to Rahmadi (2011), environmental law enforcement can be defined as the use or application of instruments and sanctions in the fields of administrative law, criminal law, and civil law. State administrative lawsuits are a means of state administrative law that can be used by citizens or civil legal entities against government agencies or officials who issue state administrative decisions that formally or materially conflict with environmental laws and regulations. The use of criminal legal sanctions can only be carried out by government agencies. The use of civil legal instruments, namely civil lawsuits, can be carried out by citizens, civil legal entities, and government agencies. However, when comparing the three legal fields, most environmental legal norms fall within the realm of state administrative law.

Syprianus (2012) stated that environmental criminal law contained in the 1997 Environmental Management Law (UUPLH) can be noted as having experienced significant progress. The 1997 UUPLH serves as a benchmark for the criminal law system for sectoral regulations, containing criminal law instruments, such as land, mining, forestry, fisheries, electricity, marine resources, and so on. Determination of criminal law in certain sectors that are less in line with developments can use the provisions of the UUPLH as an alternative to address these inconsistencies.

The 1997 Environmental Protection Law (UUPLH) contains a relatively sophisticated criminal enforcement system, combining it with the common law system. In certain cases, for example, there is strict liability, which is criminal responsibility without being based on the aspect of 'fault'. Likewise, the criminal system is not solely based on causality, namely by first proving the existence or absence of a causal relationship between the event, which is called a material crime, but also based on formal actions that violate the specified articles.

Environmental law enforcement has been regulated in all forms, both violations and crimes against perpetrators, both individuals and corporations (legal entities), in law enforcement efforts, namely those that are preventive (preventive) and those that are repressive (action). The application of environmental law depends on the need, which is a consideration in environmental law enforcement by looking at the impact of environmental damage or pollution that it causes. There are several types of environmental law instruments, namely legal

actions from the administrative law aspect, civil law aspects, and criminal law aspects. These three legal aspects do not have a priority scale; however, there is a view that legal action from the criminal law aspect is the last punishment or is called *ultimum remedium* in the application of law to environmental violations, where other legal actions cannot resolve the environmental problem.

#### **2.4. Environmental Protection**

In its development, human needs are no longer merely biological survival needs or simply meeting basic necessities such as food, drink, and health, but also follow cultural preferences. Meanwhile, limited resources are compounded by a growing population and constantly changing and increasing demand patterns. Therefore, humans are required to be able to control themselves, control their lifestyles, and control consumption patterns within limits that are not excessive but sufficient to meet needs, not desires. The environmental crisis occurs because human behavior is influenced by an anthropocentric perspective. Human behavior that is exploitative and destructive and indifferent to nature is rooted in a perspective that only prioritizes human interests, taking everything from nature without considering its sustainability (Siombo, 2012).

The declining quality of the environment has threatened the survival of humans and other living creatures, necessitating serious and consistent environmental protection by all stakeholders. Environmental protection is a systematic, integrated effort to preserve environmental functions and prevent environmental damage and pollution, to ensure the safety and survival of humans and other living creatures.

Environmental protection is an integrated effort to preserve ecosystem functions and prevent pollution/damage, regulated in Law No. 32 of 2009 concerning Environmental Protection and Management (PPLH), including planning, utilization, control, maintenance, supervision, and law enforcement, to maintain the balance of nature and human health through actions such as energy saving, recycling, reforestation, use of public transportation, and enforcement of environmental law.

#### **2.5. Environmental Ethics**

Anthropocentric evolution is characterized by a growing population and the increasingly rapid development of science and technology. Anthropocentrism is an environmental ethics theory that views humans as the center of the natural system. Humans are considered the most decisive factor in the ecosystem and in policies related to nature. Humans are given the highest value compared to other creatures. The anthropocentric view prioritizes humans, ignoring other living creatures as moral considerations. Therefore, this theory is seen as a cause of the environmental crisis.

Environmental Ethics or broad ecological sustainability is an alternative discourse to save the environment, natural resources, and ecosystems (Marfai, 2019). Environmental ethics is a critical reflection on norms and values or moral principles that are closely related to the environment. In addition, it is also closely related to critical reflection on human perspectives on humans, nature, and the relationship between humans and nature, as well as behavior that stems from this perspective. Environmental ethics in a particular society greatly influences the personality of that society (Marfai, 2005).

Environmental ethics is how humans behave towards all living things (biotic) and abiotic, or how humans behave towards the entire universe (Siombo, 2012). Environmental ethics is a moral guideline on how humans think and act to be able to provide protection and preserve the environment. This includes understanding the relationship between humans and the environment, where humans have a moral obligation to protect it, and the application of moral values to be able to respect nature, be responsible, and have concern for preserving and providing protection for the environment. Environmental ethics aims to ensure that human needs can be met without damaging the sustainability of nature. Therefore, it can be stated that environmental ethics is the moral wisdom of humans in interacting with their environment. Environmental ethics is necessary so that every activity concerning the environment is carefully considered, so that environmental balance is maintained.

### **III. METHODOLOGY OF THE STUDY**

This study uses a normative research method or literature review (library research), specifically examining legal principles, legal systematics, legal synchronization, comparative law, and legislation. The approaches used in this paper are the analytical and conceptual approaches, and the statute approach. The statute approach is conducted by examining legislation related to the research object.

### **IV. RESULTS AND DISCUSSION**

Indonesia is a state based on law, as stipulated in Article 1, paragraph (3) of the Constitution of the Republic of Indonesia, which states that Indonesia is a state based on law. Therefore, the Indonesian state is based on law (Rechtsstaat), not mere power (Machsstaat). That is, the Indonesian state upholds the supremacy of law to uphold justice, truth, and the law's highest position and place above all else, to protect and regulate all citizens regardless of status and position. "Legal certainty in environmental protection and management is the

state's responsibility in utilizing natural resources to provide the greatest possible benefit for the welfare and well-being of the people, both present and future generations, by guaranteeing citizens' rights to a good and healthy environment and preventing environmental damage from natural resource utilization activities" (Sadi Is, 2025).

The 1945 Constitution of the Republic of Indonesia states that a good and healthy environment is a basic and constitutional right for every Indonesian citizen. Therefore, the State, government, and all stakeholders are obliged to protect and manage the environment properly so that the Indonesian environment can remain a source and support for the lives of the Indonesian people and other living creatures. Therefore, the Indonesian environment must be protected and managed properly based on the principles of state responsibility, sustainability, and justice, and must be able to provide economic, social, and cultural benefits based on the principles of prudence, environmental democracy, decentralization, and recognition and respect for local wisdom and environmental wisdom. The use of natural resources must be in harmony, compatible, and balanced with the proper function of the environment. As a consequence, development policies, plans, and/or programs must be imbued with the obligation to provide environmental protection and preservation to achieve their sustainability.

Disasters that threaten human life occur due to disharmony between humans and their environment. Humans tend to exploit their environment to meet their needs without regard for sustainability. Therefore, the interaction between humans and their environment needs to be addressed within a scientific discipline. Because of this need, environmental law has developed as a branch of science whose core principles are rooted in law and ecology. Because of its roots in law, environmental law focuses heavily on how humans should behave and act in managing their environment. The human environment is correlated with the basic principles of ecology, so ecology accompanies it, particularly regarding how humans should behave toward their environment.

Environmental law applies provisions and norms to regulate human actions so that humans behave wisely and prudently with the aim of protecting the environment from damage, pollution, and deterioration of its quality, and to ensure its sustainability so that it can be directly and continuously used by current and future generations. Discussions on environmental protection and environmental law enforcement are two complementary concepts to guarantee the rights of citizens to have a good and clean environment and to create justice. Environmental law enforcement includes efforts to prevent damage and/or pollution of the environment through fair regulations and firm law enforcement by law enforcers to prosecute perpetrators of environmental law violations. Environmental law enforcement is a formal process to enforce applicable regulations, in which law enforcement agencies, through police institutions, prosecutors, and courts, have an important role in enforcing environmental law, which can also be supported by other institutions such as the national human rights commission.

Environmental legislation as a functional law (functioneel rechtsgebeid), namely the environmental management law, provides three types of environmental law enforcement: administrative law enforcement, civil law enforcement, and criminal law enforcement. "Administrative law enforcement is more aimed at preventing environmental pollution and destruction. Administrative law enforcement also aims to punish perpetrators of environmental damage and pollution." "Civil law enforcement is a law enforcement effort that focuses on efforts to request compensation from victims to polluters or destroyers of the environment." Meanwhile, "criminal law enforcement is the ultimum remedium or last resort, because law enforcement here is aimed at imposing imprisonment or fines on perpetrators of pollution and/or destruction of the environment (Husin, 2014). Criminal law enforcement can create a very effective deterrent factor. Therefore, in practice, criminal law enforcement is always applied selectively. In connection with these matters, it is necessary to improve the development of a clear, firm, and comprehensive legal system for environmental protection and management to ensure legal certainty as a basis for the protection and management of natural resources.

## **V. CONCLUSION AND RECOMMENDATION**

### **5.1. Conclusion**

Legal environmental protection can be achieved through the prevention and mitigation of environmental damage and pollution. Therefore, a firm legal approach is needed to resolve environmental issues through the optimal implementation of environmental law, specifically Law Number 32 of 2009. In addition to legal provisions, government officials who properly understand the implementation and enforcement of environmental law as functional law must be involved to support the implementation of regulations. Environmental law plays a crucial role in mitigating various environmental damage and pollution, thus ensuring effective environmental protection.

### **5.2. Recommendations**

1. Public cooperation and awareness are needed with the government to achieve a clean and healthy environment.

2. Law enforcement officials must be responsive and proactive in following up on any forms of environmental violations to ensure sustainable natural life.

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