



THE IMPLEMENTATION OF ENVIRONMENTAL CRIMINAL LAW ENFORCEMENT TO PREVENT THE GROUND WATER POLLUTION (THE CASE STUDY OF USED BATTERY SMELTING IN TEGAL DISTRICT, INDONESIA)

Sekhroni, Sekhroni

Faculty of Law, Universitas Sebelas Maret, 57126, Surakarta, Indonesia.

Faculty of Sharia, IAI Bakti Negara, 52400, Tegal, Indonesia.

Hartiwiningsih, Hartiwiningsih

Faculty of Law, Universitas Sebelas Maret, 57126, Surakarta, Indonesia.

I Gusti Ayu Ketut Rachmi Handayani

Faculty of Law, Universitas Sebelas Maret, 57126, Surakarta, Indonesia.

ABSTRACT

This research aims to examine the Criminal Law Enforcement of mercury accumulation disposal by industrial used batteries around residential areas so as to cause underground water pollution, in order to implement environmental criminal law enforcement for mercury which is currently still weak in handling cases of environmental pollution and/or damage in Indonesia. The approach used in the research is Socio-legal Research, because it does not only use an approach in one legal discipline but uses several other disciplines such as medicine, chemistry, social sciences, environmental sciences and so on. Based on the results of research in the field illustrating that the environmental criminal law enforcement against underground water pollution due to the disposal of mercury by the used battery smelting industry is open dumping into the environmental field, waste is thrown away in residential areas so that the contaminated soil is dangerous well water is not suitable for consumption, the fruit from the tree is not suitable for consumption and not a few people are attacked by the disease until the baby is born with disabilities (paralysis and mental retardation). One of the factors is the weak criminal law enforcement, especially in the environmental sector, so that in the implementation of many cases environmental pollution and/or destruction is not resolved completely. Therefore, it is necessary to take appropriate steps to optimize the enforcement of environmental criminal law by implementing environmental criminal law enforcement, especially in handling cases of open dumping of mercury to realize sustainable development.

Key words: Implementation, Environmental Criminal Law Enforcement, Prevention, Ground Water Pollution.

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1. INTRODUCTION

Environmental conservation functions as a joint task of government and society so that there will be harmonization in implementation in the field and the goal of environmental sustainability is achieved. Based on data from the Environmental Agency of Tegal District, the pile of waste has reached 10,000 tons. Meanwhile, based on data obtained by the Agency for the Assessment and Application of Technology (BPPT), there are five children in the area of the tin casting and smelting industry which was born with disabilities (paralysis and mental retardation). In terms of the physical environment, many plants die from being exposed to waste, as the pollution of waste in the area of Tegal District is included in the severe category. Based on the results of a blood sample test conducted by the Central Java Provincial Government in 2011 on 50 residents of Pesarean Village, 46 people were polluted by lead, of which 12 were in danger. The above business activities are very threatening to public health and environmental damage, but based on data in the Slawi District Court there are no cases of environmental pollution entering to be examined and tried, there are only excavation cases C. Therefore, it needs to be realized in efforts to enforce criminal law environment in resolving underground water pollution problems in Tegal District.

The basis of this research uses law enforcement theory from Lawrence. M. Friedman, who stated that there are 3 (three) components embedded in the legal system consisting of legal structure, legal substance, and legal culture (Friedman, 1977) As a law enforcement system, criminal justice cannot be separated from the three components, they are legal norms determined in the laws and regulations that regulate punishment (substance component), criminal law enforcement officers (component structure) and legal cultural values, especially criminal law (component of culture). Based on the results of the research, that environmental criminal law enforcement is not optimal, even though cases of environmental pollution and/or destruction have caused widespread and widespread adverse effects of human activities on the environment so that they cannot realize equitable sustainable development. One of the factors that has led to the criminal law enforcement has not been optimum is the weak implementation of environmental criminal law enforcement on cases of open dumping of waste from the battery smelting industry, so that the implementation of criminal law enforcement is disappointing and less touching the feelings of victims of environmental pollution and/or damage.

2. RESEARCH QUESTIONS

Based on the background that has been described, the researcher can draw the formulation of the problem as follows: Why is it necessary to apply environmental criminal law enforcement to prevent underground water pollution?

3. RESEARCH METHODS

The research used is a qualitative and quantitative method. Collecting data with secondary data is taken library study that is primary law material, secondary law material, and tertiary law material, primary data through field study that is observation, interview, and questioner. The research location is taken in Tegal area based on the consideration of Tegal local government which has policies related to environmental and water resources. Data analysis is through evaluative analysis

4. RESULTS AND DISCUSSION

Pollution can be interpreted as a form of environment impairment, interference, change, or destruction. Even the presence of foreign objects in them causes environmental elements not to function properly (reasonable function) (Silalahi, 2014). Scientifically, the definition of pollution also requires scientific standards, and that can provide a benchmark for the occurrence or absence of environmental threatening pollution. Thus, it is very difficult to provide a comprehensive definition so that definitions are given based on general consensus on various types of pollution (Silalahi, 2014).

Environmental pollution sometimes seems clear to us such as rubbish dumps in markets, river basins that are full of dirt, or shortness of breath due to exhaust fumes, or factory chimneys. But there is also a less visible example of the release of hydrogen sulfide gas from oil sources. Likewise deafening music that comes out of modern electronic equipment, phosphate ions in factory waste are pollutants, but are good fertilizers for trees. So what is meant by pollutants is if they have an adverse effect on the environment (Sastrawijaya, 1991).

According to Article 1 paragraph 14 of Law Number 32 of 2009 concerning Environmental Protection and Management determines that environmental pollution is the entry or inclusion of living things, substances, energy, and/or other components into the environment by human activities so as to exceed quality standards prescribed. Based on data from the Environmental Agency of Tegal District, the pile of waste has reached 10,000 tons. Meanwhile, based on data obtained by the Agency for the Assessment and Application of Technology (BPPT), there are 5 (five) children in the area of the tin casting and smelting industry which were born with disabilities (paralysis and mental retardation). In terms of the physical environment, many plants die from being exposed to waste.

Waste pollution in the area is included in the severe category. Based on the results of a blood sample test conducted by the Central Java Provincial Government in 2011 on 50 residents of Pesarean Village, 46 people were polluted with lead. Of these, 12 people are in danger. Based on the results of the tests conducted by the Center for Environmental Health Engineering and Control of Yogyakarta Disease in 2015, it was shown that the people of Tegal, especially in the area of Pesarean Village, TalangSub-District, Tegal District, contained blood (Pb). Seeing the indications above, shows that the activities of used battery smelting industry have made a negative impact on the surrounding community, where many people in their blood are polluted with lead.

As is known that pollution is usually related to a certain substance (chemical) pollutant which is not a problem that can be determined juridically, which can be processed by law enforcers especially investigators. This really requires an individual skill or by asking for help from experts. Because environmental crime is a case involving multi-disciplinary and multi-complex, meaning that in an environmental crime not only requires legal disciplines but also requires other disciplines such as biology, chemistry, physics, planology, and so on . Therefore, this issue must get serious attention because the impact of the used battery smelting industry by removing the mercury from the battery into the land freely, causing problems in the health sector.

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The impact of the used battery smelting activities causes water pollution, this can be seen from the results of taking water samples around the production of the smelting and tin casting smelting, which shows that the levels are high so it is very influential in decreasing human health. It is very worrying that pollution of Hazardous and Toxic Materials (B3) has occurred due to the industry of used battery smelting and tin casting, based on the results of research from Pure Earth Blacksmith Institute that states (Blacksmith, 2016): Lead Exposure Health Effects

a. Health effects of excessive lead exposure

- Neurological impact on memory, coordination, speech
- Intelligence/cognitive function loss in children
- Stomach pain, numbness, fatigue, weight loss
- Disabled, death at high doses

b. Children are most sensitive

- Smaller bodies result in proportionally greater impact
- Children tend to ingest more dirt
- Neurological development still in progress

c. Effects start to be seen at 10 ug/dl blood lead levels

- Get worse as levels increase
- >60 % of adults in Pesarean have blood lead levels >25 ug/dl.

Data on Testing Results of Chemical Water Physics Laboratory by the Ministry of Health of the Directorate General of Disease Control and Environmental Health of the Center for Environmental Health Engineering and Yogyakarta Disease Control, dated 7 July 2015, showed that well water was yellow and not much to consume. The results of testing the quality of paddy fields around used battery smelters in Tegal District show a majority below the critical limit of Pb heavy metal elements in the soil, (according to the Standard/critical limits of heavy metal elements in the soil are (Cd=0.5 mg/Kg ; Cr=60-125 mg/Kg; Pb=100 mg/Kg based on the Ministry of State for Population and Environment of Indonesia and Dalhousie University Canada, 1992. However, there are two sampling locations which show that the heavy metal content of Pb is above the critical limit permitted (BPLHD, 2016).

In particular, the impact of the casting process of used batteries resulted in defects in workers and their offspring (5 idiot children, decreased intelligence for the workers concerned) and residents' well water was yellowish. Utilization of well water from surrounding residents cannot be used for bathing and drinking. Protection of water resources is needed to meet water needs both in terms of quality and quantity (Akhmaddhian, 2017). According to Adiwerna Health Center data from 2008 to 2009 the number of people affected by diseases such as asthma: 137 people, gastric ulcers: 97 people, allergic skin diseases: 74 people, other acute infections in the upper respiratory tract: 363 people, conjunctivitis: 140 people. Such water pollution causes a decrease in intelligence in children, as data from 2 (two) special schools in Tegal district.

Even this was shown by many children who went to school in 2 (two) Extraordinary Schools (SLB) in Tegal Regency, they are SLB ManunggalSlawi and SLB NegeriSlawi with the following results:

List of Slawi State SLB Students from Pesarean Village, Adiwerna Sub-District, Tegal District

Name	Place/Date of Birth	Parents	Occupation	Address
Ainun Rofiqoh	Tegal, 29 September 2004	M. Iskandar/ NurAmalah	Private Sector	Pesarean RT.14 RW.4 Adiwerna Sub- DistrictTegal District
Sri Hartanti	Tegal, 4 April 2005	Parto/ Latifah	Private Sector	Paseran RT.19 RW.06 Adiwerna Sub- DistrictTegal District
Ahmad Fahmi	Tegal, 15 August 2005	Lusri/ Pian	Private Sector	Pesarean RT.34 RW.08 Adiwerna Sub- DistrictTegal District
Ahmad Tohir	Tegal, 24 January2001	Bawon/Khotimah	Private Sector	Pesarean RT.32 RW/07 Adiwerna Sub- DistrictTegal District
M. Khafidol Alfadt	Tegal, 14 Pebruary 2003	Zamroni/Atik Katurihmah	Private Sector	Pesarean RT 19 Rw.20 Adiwerna Sub- DistrictTegal District
Nia Fitrianasari	Tegal, 24 April 2002	Ujang Prayitno/ nawang Hartingsih	Private Sector	Pesarean RT08 RW.03 Adiwerna Sub- DistrictTegal District
Muh Irfan Adabi	Tegal, 12 November 1998	Sumardi/ Sri Herti	Labor	PesareanRT.08 RW.03 Adiwerna Sub- DistrictTegal District
Nurul Fitriyani	Tegal, 20 September 1988	Robejo/ Syafira	Private Sector	PesareanRT.08 RW.03 Adiwerna Sub- DistrictTegal District

Source: EriMulyani, M.M.Pd, Head of the Slawi State SLB, November 15, 2017

List of Slawi Manunggal SLB Students from Pesarean Village, Adiwerna Sub-District, Tegal District

Name	Place/Date of Birth	Parent s	Occupation	Address	Name
M. Afgiansyah	Tegal, 29 September 2004	I	M. Iskandar/ NurAmalah	Private Sector	Pesarean
Atiyatul Maola	Tegal, 3 July 1998	VIII	H. Suwarno	Private Sector	Jl. Amangkurat I RT.01/36 Pesarean
Ahmad Zia UIHaqie	Tegal, 12 March 2002	II	H. Kholidin / Hj. Rokhimah	Seller	Jl. Situnggul Pesarean RT. 09 RW. 03 Adiwerna-Tegal
M. Afgiansyah	Tegal, 29 September 2004	I	M. Iskandar/ NurAmalah	Private Sector	Pesarean
Lina Fatimi	Tegal, 27 May 2001	IV	Ahmad Faozan	Private Sector	Jl. Lembah Manah No. 40 RT.04/RW.2 Pesarean, Adiwerna. HP 081326997639
Reza Ikhwan	Tegal, 23 September 2003	II	A. Mukhsori/EfaK holifah	Housewife	Jl. Situnggul RT. 12 RW. 03, Pesarean – Adiwerna Kab. Tegal
Rifki Ikhsan Saputra	Tegal, 14 August 2003	I	Sunaryo / Santi	Private Sector	Pesarean – Adiwerna
Ananda Alfa Deka Saputra N. R	Bekasi, 19 June 2005	TKLB	Nurkholis/Roml ah	Private Sector	Pesarean – Adiwerna Tlp. 0878 3025 2181
Abdurrohman	Tegal, 22 August 2003	I	Aminudin/Nury ati	Seller	Pesarean HP. 085776543735
Risma Bhaeti Hidayah	Tegal, 21 June 2003	I	Efendi/Siti Alfiana	Seller	Pesarean RT. 02 RW. 01 Adiwerna-Tegal
Ridho Tri Nugroho	Tegal, 14 April 2009	I	Teguh EkoNugroho/ Chamimah	Private Sector /seller	Pesarean RT 021/05 Kec. Adiwerna - Tegal
Nayla Aulia Khusnaidi	Brebes, 28 June 2009	I	Junaidi/ Khusnul Khotimah	officer/House wife	Pesarean RT. 04 RW. 02 Adiwerna-Tegal Hp. 085642568677

Source: Ardana Edy Karsanta, S.Pd, Headmaster of Slawi Manunggal SLB, November 10, 2017

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The data above shows that environmental pollution in Tegal District, Central Java Province, has been very concerned about human health. The number of people around the metal industry in the form of casting tin (tin and lead) and smelting of used batteries which are affected by pollution of hazardous and toxic substances (B3) in their blood contains lead which is certainly very threatening to human life, and also many children are born mental disability but the lack of enforcement of criminal law. Optimization of the application of criminal sanctions needs to be done to prevent contamination of underground water because water is a natural resource to fulfill the livelihoods of many people, so that its quality needs to be maintained so that it remains beneficial for the lives and lives of humans and other living creatures by continuing to prevent the water pollution (Subagyo, 2002). Water resources are also an important part of food security so that if water resources are polluted, people's food security will be disrupted (Akhmaddhian, 2018). The handling of environmental actions must be firm and carried out comprehensively so that the interests of the community in terms of a healthy environment are guaranteed and the state must also guarantee.

5. CONCLUSIONS

Based on the description of the discussion, the following conclusions can be drawn: Seeing the enforcement of environmental criminal law is not optimal, it is necessary to implement environmental criminal law enforcement, so that cases of underground water pollution by used battery smelting industries can be resolved appropriately, correctly and fairly. While this environmental case has fulfilled the elements of punishment, it has not been resolved properly.

6. SUGGESTION

Based on the conclusions of the above research results, the authors provide the following suggestions: Enforcement of environmental criminal law uses the Remedium Premise principle which requires the application of criminal sanctions as the main effort in the case of pollution of Hazardous and Toxic Materials (B3).

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