



Criminal Space In Household Waste Management

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Keywords :

*environmental crime, ,
criminal sanctions,
household waste;*

Abstract

The study of environmental crime is an effort to create a clean and healthy environment. The integration of environmental crime with household waste management shows that law enforcement and sustainable development have an impact on the balance of the ability to advance life by maintaining the rights and obligations between humans and nature. The application of criminal sanctions aims to provide a deterrent effect and encourage the community to be more responsible in waste management. Increasing public awareness of the importance of good waste management, as well as strengthening adequate infrastructure, facilities and laws, are steps that need to be taken to create a cleaner and healthier environment. The results of the study are the answer to the problem of household waste management policy which shows the existence of criminal space so that attention is needed so that the legal system that has been created can run effectively and correctly by prioritizing the principles of justice and equality of law without disturbing the existing environmental ecosystem. The method used is the normative juridical method, namely research that uses laws and regulations as the basis for solving the problems presented. The data collection method used in this study is library research. Meanwhile, the data analysis used is qualitative, namely by describing data in a quality manner in the form of sentences that are orderly, coherent, logical, non-overlapping and effective so that it is easy to interpret and analyze the data.

1. Introduction

The continuity and improvement of the quality of human life is ultimately determined by the quality of the health of the environment in which it lives. Understanding that the environment is a great gift from God to humans that must be maintained and preserved is the main task of every human being. This role should be directly attached to every individual human being since he feels the benefits of nature or the environment in which he lives. This is emphasized in Article 28H Paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states "A good and healthy environment is a basic right of every Indonesian citizen"¹ so that there is a legal obligation between moral and social obligations to protect and manage the environment so that the environment remains a source and supporter of life for the Indonesian people and other living things.

It has become a common concern that the world is currently facing a global crisis related to the environment. The increasing population does not only raise the issue of the need to provide clothing, food and shelter to be able to continue life. However, with a high population, it will also result in a high volume of waste/garbage produced by households. One of the factors that influences changes in the environment into an unhealthy environment is the problem of waste disposal and management. Garbage is waste material as a result of human activities which is material that can no longer be used.

Of the many activities produced by humans, it turns out that the most dangerous is household waste. Not meaning to ignore the dangers of unprocessed industrial waste, but seeing the large number of Indonesians with unprocessed household waste and produced every day, it can be said that the damage due to household waste has a greater impact than industrial waste.

Based on Article 1 number 20 of Law Number 32 of 2009 concerning Environmental Protection and Management, waste is the remainder of a business and/or activity. While household waste is waste generated from one or more houses. Furthermore, based on Government Regulation number 81 of 2012, household waste is waste originating from daily activities in a household that does not include feces and specific waste.

The impact of household waste on the environment needs attention from the government. Improper management of household waste can have negative impacts on the environment, health, and quality of life of the community. According to data from the Ministry of Environment and Forestry (KLHK) and the Central Statistics Agency (BPS) in 2023, Indonesia produces around 64 million tons of waste per year. Of that amount, around 60% to 70% comes from household waste.² Therefore, legal regulations and law enforcement regarding household waste in Indonesia are very important to maintain environmental sustainability and create public awareness in being responsible for the waste produced.

The problem of household waste is not only local or translocal, but has become a serious national problem because it

¹ The explanation of the 1945 Constitution of the Republic of Indonesia.

² <https://www.bps.go.id/id>

concerns the future of the next generation to have the opportunity to enjoy a decent life in a clean and healthy environment. Therefore, household waste management requires seriousness in organizing an integrated legal system and the courage to firmly take legal action, both administratively and criminally, against violators or perpetrators of environmental crimes, especially in the matter of household waste management. Efforts to achieve the ideal of living in a clean and healthy environment should be in line with efforts to realize the implementation of a legal state that upholds human rights through the formation of legislation and law enforcement. Based on the background above, the author is interested in researching environmental law, especially in the aspect of criminal space in household waste management.

Literature Review

Literature review is a systematic, explicit and reproducible method for identifying, evaluating and synthesizing research works and ideas produced by researchers and practitioners. Literature review aims to analyze and synthesize existing knowledge related to the topic to be studied in order to find empty space for the research to be conducted.³

Research on criminal topics related to household waste management is very rare, so that the literature sources that can be reviewed from previous research are few in number. However, concern for environmental issues is very high. This can

be seen from the many studies related to environmental management, efficient use of the environment, to meeting life's needs from waste utilization. Previous research is a blessing in this study, because this study is one of many other studies that will add to the scientific wealth in viewing issues regarding household waste management, especially from a criminal perspective.

The orientation of this study is to show that the application of criminal principles in environmental law enforcement, especially related to household waste management, is an interesting problem to be raised as an effort to overcome environmental problems in Indonesia. Previous studies that are directly related to environmental crimes related to household waste management and other studies that are still relevant to this study serve as scientific references that build analysis and arguments in completing this study.

Research Methods

The type of research used is normative legal research⁴, namely research that examines laws and regulations that are related to the object of research study, especially regarding the principles and legal norms contained in the laws and regulations. In this study, the approaches used are the Statute Approach and the Conceptual Approach.

Statutory Approach is an approach by reviewing and analyzing laws and regulations that are related to the main

³ Okoli, C. and Schabram, K., *A Guide to Conducting Literature Review of Information System Research, Communications of the Association for Information System*, 37 (43), 2011, H. 879-910.

⁴ Peter Mahmud Marzuki, *Penelitian Hukum*, 12th ed. Jakarta: Kencana Prenada Media Group, 2016, H. 21.

problem of the research being studied.⁵ This approach is a characteristic of legal research and is used as the main point of view in this research.

Conceptual Approach is an approach by reviewing views and doctrines in legal science, concepts and legal principles that are relevant to the main problem of the research.

2. Results and Discussion

A. Legal Regulations for Household Waste Management

The problem of household waste in Indonesia generally includes issues regarding the total waste produced each year, the composition of waste types, and challenges and solutions related to waste management. BPS data in 2023 shows that there are around 16 million tons of waste produced from the household sector in Indonesia each year. So that household waste management is a serious problem which if not managed properly can have a negative impact on the environment, health, and quality of life of the community.

Article 1 number (20) of Law Number 32 of 2009 concerning Environmental Protection and Management, states that Waste is the remainder of a business and/or activity. While household waste is waste produced from one or more houses.

Further legal regulations explain that household waste is waste that comes from daily activities in a household that does not include feces and specific waste. This has been clearly regulated in Government

Regulation number 81 of 2012 concerning the Management of Household Waste and Waste Similar to Household Waste Article 1 number 1.

The problem of household waste management in Indonesia is dominated by organic waste, waste that can decompose naturally such as food scraps, leaves, and other organic materials which reaches 60% to 70%. The rest is inorganic waste, waste created from materials that are difficult to decompose by microorganisms so that they cannot decompose naturally such as plastic, paper, glass and metal which reaches 30%–40%.

Electronic waste is a new problem in household waste. Although not as large as organic or plastic waste, electronic waste (e-waste) is increasing in number along with the increasing use and dependence on electronic devices in society. Electronic waste is one of the fastest growing waste streams in the world both in terms of quantity and toxicity and is growing at a rate of 3-5 percent per year or about three times faster than normal household waste generation.⁶

Control of environmental damage in environmental management efforts, especially regarding waste, requires clear and firm rules against violations. The existence of clear and firm rules provides legal certainty and protection for everyone to enjoy a good and healthy environment. The Constitution of the Republic of Indonesia as stated in Article 28H (1) of the 1945 Constitution of the Republic of Indonesia has mandated that the government is obliged to provide a healthy

⁵ Syarif Hidayatulloh, *Strengthening Environmental Criminal Law In Regional Development Policy*, Dalam Jurnal *Justiciabelen*, Volume 6 (2), Gresik: 2023, H. 13.

⁶ Schwarzer dkk, 'E-waste, the hidden side of IT equipments manufacturing and use. Policy Brief. United Nations Environment Programme, 2005.

and clean environment to the community. So that the role of the government is an important factor in maintaining the quality of the environment in addition to the behavioral factors of the community.

In the laws and regulations in Indonesia, there are several regulations that have regulated waste. However, the regulations related to this waste are mostly only about waste produced by industry, even though waste is not only produced by industry but also waste from households. If we look at the impact of pollution, the consequences of household waste pollution are also quite dangerous, such as plastic, used washing water that is dumped into rivers and others if we look at the intensity and amount if we look at BPS data.

The laws and regulations in Indonesia on environmental protection and management have included criminal sanctions for environmental violations, but it is still possible to settle cases outside the courts and also enforce administrative law. The application of several sanctions makes it easier for environmental polluters to trivialize violations because before being prosecuted criminally, the process almost always starts with administrative sanctions for settling cases against the environment or even conducting disputes outside the courts and only providing compensation and environmental restoration.

In Indonesia, household waste management is regulated through various laws and regulations, especially those related to the environment, including the following:

1. Law Number 32 of 2009 concerning Environmental Protection and Management;

2. Law Number 18 of 2008 concerning Waste Management;
3. Government Regulation Number 81 of 2012 concerning Management of Household Waste and Waste Similar to Household Waste;
4. Government Regulation Number 101 of 2014 concerning Management of Hazardous and Toxic Waste;
5. Regulation of the Minister of State for the Environment Number 13 of 2012 concerning Guidelines for the Implementation of Reduce, Reuse, and Recycle Through Waste Banks;
6. Regulation of the Minister of Environment and Forestry (KLHK) No. P.75/MENLHK/2019 concerning the Roadmap for Waste Reduction by Producers.

Law Number 18 of 2008 concerning Waste Management is the main legal basis for waste management in Indonesia. This law clearly regulates the principles of waste management which include; 1. Waste Reduction with the aim of improving consumption habits, 2. Waste Sorting including sorting from hazardous and toxic waste (B3), 3. Waste Recycling and Processing with the aim of encouraging the reuse of waste to be recycled or processed into new useful products.

Government Regulation No. 81 of 2012 concerning Household Waste Management and Waste Similar to Household Waste. This regulation regulates in more detail the obligations of the government and the community in managing household waste. Some important points in this regulation include; 1. Provision of Trash Bins, meaning that the government is required to provide adequate waste disposal sites and facilitate the community in sorting waste, 2. Integrated

Waste Management System, namely the Government must implement an integrated waste management system, starting from collection, transportation, sorting, recycling, to final disposal, 3. Community Involvement with the intention of emphasizing the importance of active community involvement in waste management programs through education, training, and incentives to recycle waste.

Regulation of the Minister of Environment and Forestry (KLHK) No. P.75 / MENLHK / 2019 concerning the Roadmap for Waste Reduction by Producers. This Ministerial Regulation further regulates waste management at the household and industrial levels, with a focus on efforts to reduce waste at the source. Several points in this regulation include regulating the Reduction of Single-Use Plastic Waste at the household level through policies such as imposing fees for plastic bags and reducing the use of plastic in packaging. Education and Socialization Campaigns to foster and increase awareness of the importance of sorting and recycling waste.

B. Parties Responsible For Managing Household Waste

Household waste management is one of the main challenges faced by modern society in environmental issues. Along with the increasing population, it has an impact on the increasing volume of household waste, creating negative impacts on the environment and human health. Therefore, household waste management requires cooperation between various parties who have the responsibility to regulate, reduce, process, and recycle waste. The parties responsible for household waste management include the following;

1. Government

The government, both at the central and regional levels, plays an important role in household waste management. Apart from the responsibility and duty to create Regulations and Policies related to household waste management, as well as providing facilities and infrastructure related to waste management to create a clean and healthy environment, the government is also responsible for conducting Education and Campaigns to build collective awareness in reducing waste.

The government also plays a role in providing funds or budgets to support waste management programs in the community, such as subsidies for organic waste processing or financing for the development of recycling infrastructure.

Coordinating and implementing control of environmental pollution and/or environmental damage is the duty and authority of the government as stated in Article 63 paragraph (1) letter h and Article 63 (2) letter g of Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law. Furthermore, in Article 63 paragraph (1) letter aa, Article 63 paragraph (2) letter s and also Article 63 paragraph (3) letter p, the government is given the task and authority to enforce environmental law.

2. Society

The community as the main producer of household waste also has a very large contribution and responsibility in waste management. Responsibilities in the form of Waste

Sorting and Reducing Plastic Use are expected to reduce the volume of waste that will go to the final disposal site because waste recycling can be carried out independently in the community. Replacing plastic items with more environmentally friendly alternatives (for example, cloth bags and reusable bottles), the community can help reduce plastic waste.

The community also plays a role in disseminating information about the importance of waste management to family members, neighbors, and the surrounding environment. This helps create a culture of better waste management in the community. Another responsibility is that Community Participation in Waste Management Programs organized by the government or other parties, such as waste bank programs, recycling, or composting of organic waste has a very large impact on efforts to create a healthy and good environment.

3. Companies and Industries

The private sector, including waste management companies and industries, also has a major responsibility in managing household waste. Some contributions that can be made include reducing and recycling waste. Companies are responsible for reducing the amount of waste produced in the production process, as well as implementing a recycling system or using environmentally friendly materials in their products. Companies can play a role in minimizing the impact of packaging by developing recyclable packaging or using more environmentally friendly materials. This activity is called Packaging Waste Control or Management.

Companies or the private sector have a role in educating consumers. This can be done by utilizing their platforms to educate consumers about the right ways to manage household waste, including how to sort waste and recycle purchased products. Some companies can participate in waste management projects or corporate social responsibility (CSR) activities related to environmental cleanliness, such as cleaning up trash in rivers or beaches.

4. Non-Governmental Organization (NGO)

Non-governmental organizations or NGOs are also central actors in efforts to create a clean and healthy environment. Often, Non-Governmental Organizations act as agents of change in waste management issues. Providing Education and Advocacy on waste management, either through seminars, workshops, or media campaigns conducted by NGOs or NGOs aims to encourage the government and private sector to be more proactive in waste management.

The next contribution is in the form of Community Assistance which is often carried out by NGOs or NGOs, many NGOs work directly with communities to help them manage waste independently, for example by establishing waste banks or teaching residents how to make compost from organic waste. NGOs and NGOs are also often involved in developing innovative solutions related to waste management, such as developing technology to recycle plastic waste or using organic waste as a source of renewable energy.

C. Criminal Perspective in Household Waste Management.

Issues related to household waste management are one of the important issues that are closely related to the environment and public health. However, although the impact of waste on the environment is increasingly felt, there are still many individuals who are less concerned about how to deal with and manage waste. From a legal perspective, household waste management can also be viewed from a criminal perspective, where individuals or parties who intentionally or negligently cause environmental damage due to household waste or waste can be subject to legal sanctions.

The law in Indonesia has clearly and transparently regulated environmental crimes, acts of environmental damage caused by household waste and failure to control and manage household waste can be subject to criminal sanctions. Therefore, in the matter of environmental damage, it does not always stop at the administrative sanction stage or the administration of environmental case resolution or even disputes are carried out outside the court and only provide compensation and environmental restoration.

Absolute theory or also called retributive theory (*vergeldings theorien*) emerged in the 17th century.⁷ Absolute theory views punishment solely to provide retribution for the actions committed by the perpetrator. as stated by Hugo Grotius who stated that *malum passionis* (*quod*

inglitor) *propter malum actionis*, meaning that evil suffering befalls due to evil actions.⁸ The same view was also put forward by Johannes Andenaes, that punishment is a means to satisfy justice and will be fair to the victim if the perpetrator is also given an appropriate punishment. The imposition of criminal punishment is not only to repay the perpetrator's actions but also to provide a goal for the perpetrator so that he does not repeat his actions.

In addition to the absolute theory or also called the theory of retribution, there is also a relative theory in understanding criminal law. The relative theory views criminal law to protect the interests of society. The main actor who initiated this theory is Karl O. Christiansen. The relative theory views criminal law not only to take revenge on criminals, but also has certain useful goals. This theory is also called the utilitarian theory. According to the relative theory, the main purpose of punishment is to maintain public order, repair losses suffered by society as a result of crime and improve the criminal.⁹

In its development related to criminal theory and punishment, it always tries to create a pattern of orderly and safe life in society, one of which is related to the idea of preventing someone from unlawful behavior. The idea of prevention theory is a theory in the form of imposing criminal sanctions on someone who has committed a crime and aims to instill fear in others not to commit crimes as well.

⁷ Syarif Saddam Rivanie, dkk, *Perkembangan Teori-teori Tujuan Pemidanaan*, Dalam *Jurnal Halo Oleo Law Review*, Volume 6 (2), Makasar: 2022, H. 179.

⁸ Bambang Poernomo, *Asas-Asas Hukum Pidana*, Jakarta: Ghalia Indonesia, 1985, H. 27.

⁹ Hermien Hadiati Koeswadji, *Perkembangan Macam-Macam Pidana Dalam Rangka Pembangunan Hukum Pidana*, Bandung: Citra Aditya Bakti, 1995, H. 8.

The basis for imposing criminal penalties in household waste management can be found in several laws and regulations. Based on Article 98 paragraph (1) and Article 99 of Law No. 32 of 2009, anyone who carries out activities that cause environmental pollution that can endanger public health and safety, such as disposing of hazardous waste, can be subject to criminal sanctions. This pollution does not only apply to the disposal of household waste, but also industrial waste or other activities that damage environmental quality.

Environmental destruction is explicitly explained in Article 22 number 1 of the amendment to Article 1 number 16 of Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law which states that Environmental Destruction is an act of a person that causes direct or indirect changes to the physical, chemical, and/or biological properties of the Environment so that it exceeds the Standard Criteria for Environmental Damage.

In relation to household waste management, criminal law has also regulated acts that are considered to have a minor impact on environmental damage, including littering. Article 29 of Law No. 18 of 2008 states that everyone is prohibited from littering outside the place that has been provided for that purpose and also wasteful behavior or disorder in disposing of waste so that it can pollute the environment can be subject to administrative sanctions in the form of fines or criminal sanctions in the form of imprisonment with varying threats, depending on the severity of the violation.

Household waste containing hazardous materials, such as chemicals or drug residues, if disposed of carelessly, can have harmful effects on human health and the ecosystem. Violations of environmental damage can be subject to criminal sanctions based on the provisions in Law No. 32 of 2009 concerning Environmental Protection and Management. Articles 31-41 of Law No. 18 of 2008 concerning Waste Management regulate criminal provisions for violations of management from the lightest criminal threat of 3 years to the heaviest 15 years in prison and a fine of at least IDR 100,000,000.00 to IDR 5,000,000,000.00 depending on the severity of the criminal violation.

From a criminal perspective, the existence of laws governing waste management has an important role in increasing public awareness of the importance of maintaining environmental cleanliness and sustainability. Criminal law is not only a tool for punishing, but also a preventive tool that encourages people to be more responsible in waste management.

Strict law enforcement is an important aspect in creating a deterrent effect on waste management violations. Therefore, supervision of waste disposal and household waste must be more intensive, both by the government, law enforcement officers, and the community itself. The Law on the Environment as amended by Law Number 6 of 2023 concerning Job Creation mandates that the government has the duty and authority to enforce environmental law as explained in Article 63 paragraph (1) letter aa, Article 63 paragraph (2) letter s and also Article 63 paragraph (3) letter p.

In an effort to carry out its duties and authority to enforce environmental law, the government is also given the authority to conduct investigations as regulated in laws and regulations. Article 38 (1) of Law No. 18 of 2008 concerning Waste Management stipulates that in addition to the Investigator of the Republic of Indonesia National Police, certain civil servant officials within government agencies whose scope of duties and responsibilities are in the field of waste management are given special authority as investigators as referred to in the Criminal Procedure Law.

The existence of criminal regulations on waste management has shown the seriousness in managing household waste. The legal system related to waste management is one of the important factors in efforts to realize a healthy and clean environment. Therefore, the government needs to strengthen waste management infrastructure in terms of facilities and infrastructure as well as legal infrastructure, especially in law enforcement. Intensive and massive law enforcement efforts built on the principle of fair law enforcement without discrimination are the choices that must be implemented.

If the negligence of a public official in carrying out his duties causes state losses, then the official can be subject to criminal acts in accordance with the provisions of the Criminal Code (KUHP) and other laws governing state financial management. Article 52 of Law Number 1 of 2004 concerning State Treasury regulates criminal liability for officials

who intentionally or due to their negligence cause state losses.

Practices carried out in law enforcement must be directed at everyone without exception so that there is legal certainty that all parties involved in household waste management so that no one cannot be reached into the criminal space or in other words no party is immune to the law in environmental management matters, especially household waste management. The law must strive to make each member of society useful, protective, and educational.¹⁰

The responsibility of public officials is very important in ensuring the smooth running of government and the welfare of the community. Non-compliance or negligence in carrying out duties can have detrimental impacts on the state and society. Therefore, laws that regulate criminal sanctions for officials who do not carry out their responsibilities are very important to prevent abuse of power and ensure accountability in government. With strict law enforcement, it is hoped that public officials can be more responsible and committed to serving the community well.

3. Conclusion

Household waste management from a criminal perspective shows that littering can damage the environment and endanger public health, so there needs to be strict supervision and law enforcement. The application of criminal sanctions in this case aims to provide a deterrent effect and encourage the community to be more

¹⁰ M. Ali Zaidan, *Kebijakan Kriminal*, Jakarta: Sinar Grafika, 2016, H. 201.

responsible in waste management. With the right regulations, high awareness among the community, and support from the private sector and community organizations, we can reduce the negative impacts of waste on the environment and health, and create a cleaner and greener environment for future generations.

Law enforcement alone is not enough, cooperation is needed between the government, the community, and the private sector in creating an efficient and sustainable waste management system. Increasing public awareness of the importance of good waste management, as well as strengthening adequate infrastructure and legal facilities, are steps that need to be taken to create a cleaner and healthier environment.

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