



Promoting the urgency of restorative justice to environmental law enforcement officials through civic engagement education

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ABSTRACT

Although bringing cases of environmental damage to court means prioritizing the principle of *primum remedium* by way of retributive justice or criminal justice, it unfortunately creates various problems including the practice of corruption, collusion and nepotism. Therefore, it is necessary for law enforcement officials to understand and apply restorative justice in environmental crime, which means prioritizing the principle of *ultimum remedium*, through civic engagement education. This research method includes social research which also covers the field of law since it analyzes positive laws that are relevant to solving problems using literature and other sources as needed. This research uses a juridical-normative legal approach which is very dependent on the researcher's conception of positive law. The results of this study indicate that law enforcement officials should understand their position as part of the community members who have duties and authorities based on the law, so that justice and ecological goals can be achieved in efforts to preserve the environment.

Keywords: environment, restorative justice, civic engagement, law enforcement officials

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INTRODUCTION

The natural wealth found in various regions in Indonesia is a blessing from God Almighty. Therefore, the people of Indonesia are obliged to preserve the environment which becomes a source and support for life for humans and other creatures. However, today's environmental problems arise because of human carelessness in managing the environment (Jalam, 2009). The success of development and economic growth carried out by utilizing natural resources has left many negative impacts on the environment. In fact, the success of the development is not only measured by the amount of economic growth and equity but also the environmental sustainability. It cannot be denied that more environmental problems arise due to the negative impacts of development. According to Karsten in Murdiono (2014), one of the problems at the global level that every country needs to anticipate is environmental problems.

Environmental problems basically can be defined as direct or indirect changes in the environment that can cause negative consequences for human health and welfare. A polluted environment therefore will eventually result in environmental damage. Based on the events it occurs, environmental damage can be divided into two, namely, damage caused by nature and human actions and damage caused by the pollution from water, air, and soil (Todaro and Smith, 2006).

From a formal juridical perspective, environmental management policies in Indonesia are accommodated in Law Number 32 of 2009 concerning *Perlindungan dan Pengelolaan Lingkungan Hidup* (the Protection and Management of the Environment) or the PPLH Law. The

PPLH Law acts as an umbrella act for all forms of regulations regarding issues in the environmental field. The PPLH Law replaces Law Number 4 of 1982 concerning Basic Environmental Provisions and Law Number 23 of 1997 concerning Environmental Management. There are many principles contained in the PPLH Law, which aim to protect the environment and all its elements.

The PPLH Law describes the development of an environmental management system as part of sustainable and environmental development. These things really need to be given a clear, firm, and comprehensive legal basis in order to guarantee legal certainty for environmental management efforts. Given the legal instruments that have been formed, the next crucial step is the implementation of the law enforcement process for the environment itself (Badan Pengelola Lingkungan Hidup Daerah Provinsi Jawa Barat, 2015). The existing regulations and their implementation need to be followed up so that they can operate as expected.

In an effort to resolve environmental problems, especially against the perpetrators who have polluted the environment, there are legal ways in accordance with the applicable laws and regulations to take. This should be done to avoid any injustice for all parties, including those suspected of being the perpetrators of pollution or those who suffer. However, recent law enforcement on environmental cases tends to get worse. Weak law rules, the inability of law enforcers in doing their jobs, and *Korupsi, Kolusi, dan Nepotisme* (Corruption, Collusion, and Nepotism) or KKN are a number of major problems. Ironically, when the case is brought to court, there is no guarantee that the case will be resolved. Various studies reveal the fact that now there are more and more 'judicial mafias' and 'corruption' involving law officials (Akib, 2015).

The use of criminal sanctions against acts of environmental pollution and destruction in reality does not show deterrent power against individual or corporate actors. On the contrary, the trend of environmental crimes is actually increasing in various forms such as waste pollution, illegal logging, and air pollution (Akib, 2012). Enforcing the rules of environmental law does not necessarily mean aiming to punish. Enforcing environmental law however should be more directed at restoring environmental sustainability to its original state. That is why the PPLH Law prioritizes administrative and civil law enforcement rather than criminal law. Given the two legal instruments, it is possible to apply sanctions that lead to environmental restoration (Rangkuti, 1994).

Therefore, alternative efforts outside the court are needed in order to enforce the law in cases of environmental destruction and environmental restoration. In this case, it is necessary to apply law enforcement according to the *ultimum remedium* principle by implementing restorative justice. The implementation of restorative justice certainly depends on how law enforcement officials understand and apply it to environmental crimes. Thus, education on the understanding of restorative justice which is in accordance with the PPLH Law and the laws and regulations that apply in Indonesia is needed for environmental law enforcement officials.

In civics studies, education for law enforcement officials is closely related to citizen involvement, which is termed civic engagement or civic participation. In addition to the urgency of community involvement and especially for those affected, it is even stated that law enforcement officers are part of the community with law-based duties and authority. The actions of an official will affect others and will have an impact on society. Therefore, in taking on the role of law officials, they must not deviate from the goals of law enforcement itself in order to achieve justice and ecological goals which lead to environment preservation.

As far as the authors are aware, there is no research on environmental law enforcement which is combined with studies from the perspective of civic education. There are many studies discussing environmental law enforcement but they were only studied from a legal perspective, both normative and empirical. At the same time, the authors have not found any research from a citizenship perspective that discusses the position of law enforcement officials who are actually part of society who have law-based authority.

This research includes social research which also covers the field of law since its discussion analyzes positive laws that are relevant to solving problems using literature and other sources as needed. Regarding the approach used, this research uses a normative legal approach which is commonly called the normative juridical approach. Research that uses a normative juridical

approach is very dependent on the researcher's conception of positive law. Soetandyo in Wignjosuebrotto (2002) describes the concept of law not only as norms or legal rules in the form of written laws and regulations but also as principles and judge's decisions that are followed or obeyed by the community.

In this study, the author examined legal norms or laws based on Law Number 32 of 2009 concerning Environmental Protection and Management and other laws and regulations. In addition, the author also examined legal principles and court decisions related to the application of restorative justice to environmental crimes in the criminal justice system (Soekanto, 2008). There are also secondary legal materials that provide an explanation of primary legal materials such as books, journals, papers, and other scientific works.

METHOD

The data of the study were collected through a literature review by analyzing theoretical reading sources such as books, accredited scientific journals, and presented papers so that they could be used as a basis for research in analyzing the issues. This research employed the qualitative approach as a method of analysis since the research produced descriptive analytical data and did not use formulas and numbers using deductive thinking methods. The deductive method is a way of thinking that starts from a general proposition whose truth is already known and ends with specific new knowledge.

In connection with the issues being discussed, the problem found is that when there are allegations of environmental crimes, law officials immediately apply criminal law instruments so the *primum remedium* principle is applied instead of the *ultimum remedium* principle. Excessive use of criminal law ignores efforts to restore environmental sustainability because law enforcers focus more on punishment, not recovery. Likewise, secondary data shows the dominance of the use of criminal law in resolving environmental cases. The implementation of law enforcement in this way shows the fact that various environmental cases that arise cannot be resolved comprehensively based on ecological interests. Administrative officials who should be at the forefront of law enforcement have not been able to do their best for the benefit of the environment.

FINDING AND DISCUSSION

Findings

The current environmental pollution and damage to all types of natural resources such as forests, water, soil, mines, and air resources have reached a crisis stage. This is because these types of natural resources are damaged, while both preventive and repressive control efforts are not going well. Pollution of water and air, illegal logging, and wildlife trade continue. The law seems unable to become a controlling instrument (Soemarwoto, 1991). As an illustration, various kinds of industrial and technological activities today that are not supported by a good waste management program will cause direct or indirect water pollution (Sukandarrumidi, 2010). Thus, this problem will result in losses for the local community, as well as a negative impact on the Indonesian government.

Indonesia's environmental crisis is strong evidence that the law has not been able to become an instrument to control human greed in exploiting natural resources. Apart from that, it also happens because of the mechanistic-reductionistic perspective or paradigm of law enforcement in viewing the relationship between humans and nature. This paradigm views the relationship between humans and the environment as something separate and places humans above all else (Keraf, 2005). In other words, law enforcement is also experiencing a crisis along with other crises, such as economic, political and social crises which have not been resolved until now (Akib, 2015).

Table 1. Law enforcement of environmental issues in 2015-2022

No	Year	Number of Cases	Enforcement type	
			Litigation	Non-litigation
1	2015	185	160	25
2	2016	410	370	40
3	2017	299	260	39
4	2018	347	324	23
5	2019	1.026	1.006	20
6	2020	598	560	38
7	2021	736	705	31
8	2022	465	451	14
Total		4.066	3.836	460

Source: Director General of Law Enforcement KLHK, 27 December 2022.

Environmental law enforcement can be carried out through the courts (litigation) and outside the court (non-litigation). The former way can be carried out through means of criminal law, administrative law, and civil law (Sotiyoso, 2008). Table 1 shows that the law enforcement of environmental crimes is mostly carried out through the courts (litigation). This litigation method uses two legal instruments, namely criminal law (the majority of 95% use criminal instruments) and civil law. The Law enforcement held outside the court (non-litigation) uses administrative law instruments and mediation. However, if the two non-litigation methods fail, then law enforcement is carried out using criminal law.

According to Muladi (2022), law enforcement can be interpreted in three interconnected conceptual frameworks. First, the concept of total law enforcement which demands that all values behind these legal norms be upheld without exception. Second, the concept of full law enforcement which realizes that the total concept needs to be limited by procedural law and others for the protection of individual interests. Third, the concept of actual law enforcement emerged after it was believed that there is discretion in law enforcement due to limitations, both related to infrastructure, quality of human resources, and legislation.

Criminal law is part of the legal system in general and part of the criminal justice system in particular. In such a position, criminal law is an instrument for regulating and protecting various interests in a balanced manner, namely the interests of the government or the state, society, and individuals, including the interests of perpetrators of crimes and victims of crime (Muladi, 1995). Furthermore, Nawawi in Soedarto (1986) states that law enforcement policy is a series of processes consisting of three policy stages, namely the legislative/formulative policy stage, the judicial/applicative policy stage, and the executive/administrative policy stage.

Based on the three stages of the criminal law enforcement policy, there are three powers of authority, namely legislative (formulative) power which determines or formulates what acts can be punished and what sanctions can be imposed, judicial (applicative) power which applies criminal law, and executive (administrative) power.) which implements criminal law (Arief, 1998). So, the process of law enforcement has actually started at the time of the formulation of a law (legislation).

There are several elements that should be considered in the law enforcement process. Friedman in Rahardjo (1986) states that as a system, law consists of three subsystems that are interrelated in its enforcement. According to Masyhar (2009), they are legal substance, legal structure, and legal culture. In line with that, Soekanto (2012) states that there are five factors that influence the law enforcement process. First, the law (material) factor, namely written regulations that are generally accepted and binding, both at the central and regional levels. Second, law enforcement factors that are directly (police, prosecutors, advocates) and indirectly (legislators, the public) involved in law enforcement. Third, the facilities and infrastructure factors, including educated and skilled human resources, adequate equipment, adequate finances determine the success of law enforcement. Fourth, community factors that are considered to affect law enforcement, such as community adherence to written and unwritten legal norms that can affect the effectiveness of the implementation of laws and regulations. Fifth, cultural factors (legal

system) include the values that underlie applicable laws regarding abstract conceptions of what is believed to be good and bad.

On a macro level, the failure of criminal law enforcement can be seen in several major cases such as illegal logging cases. In 2014, the police processed 985 cases involving 1,229 suspects throughout Indonesia. Then, in 2015, the police arrested 500 people including high-profile barons. However, most of these cases were not processed in court due to insufficient evidence (Mochtar, 2015).

Apart from that, it is a concern that these obstacles also occur because of the legal mafia, as well as political intervention and power that cooperates with the suspects in large groups and connected inside and outside the country. This kind of people is often referred to as timber barons since they have great authority over some officials in government agencies. For instance, the Head of the Mandailing Forestry Service and the Regent of Mandailing Natal became suspects in illegal logging done by Adelin Lis in Mandailing, North Sumatra. There are many other cases such as illegal logging occurring in Kalimantan and Papua, the pollution of Buya Bay caused by Newmont Minahasa Raya, and many major cases in various regions in Indonesia that have not been properly resolved (Mochtar, 2015).

The failure to enforce environmental criminal law can be seen from the data of *Program Penilaian Peringkat Perusahaan* (Company Performance Rating Program) or PROPER in 2010 which was organized by the Ministry of Environment. The data shows that of the 516 companies participating in PROPER, only 1 was awarded a gold rating (0.19%). A black rating was awarded to 128 companies, consisting of 43 companies with a black rating (8.33%), 180 with a blue rating (34.88%), and 4 companies with a green rating (8.91%) (Mochtar, 2015). Unfortunately, there was no follow-up for this PROPER program.

In fact, the final result of the assessment can be used as an initial guide to determine which companies are compliant and deserve appreciation and which are disobedient and are classified as red and black companies that have committed environmental crimes. Such information is very helpful for law officials in carrying out their duties to immediately investigate and prosecute companies that receive red and black predicates due to the fact that the perpetrators have committed environmental pollution and damage (Rohim, 2008).

Furthermore, based on the recapitulation data on the law enforcement of environmental cases at the national and regional levels, environmental law enforcement using criminal law cannot be considered successful. Out of 177 cases in Indonesia, there were 33 criminal cases and only 6 cases were resolved. The small number of environmental criminal cases that have been successfully resolved and only one company received a gold rating as stated above shows that environmental criminal law enforcement through criminal justice system instruments has not been successfully carried out (Mochtar, 2015).

The emergence of the idea of restorative justice cannot be separated from the existence of a perspective that previously dominated the criminal justice system, namely retributive justice or retributivism. In retributive justice, there is no place for victims to deal with sentencing issues. Until now, retributive theory often comes to the fore in every conversation about crime and sentencing, especially when people try to provide an answer to the question of *why is criminal law (sanctions) needed in overcoming criminal acts*. According to Sholehuddin (2003), although the types of criminal sanctions originating from the retributive theory have weaknesses in terms of the principle of proportionality of the perpetrator's responsibilities, retributivism cannot be completely omitted. Gerber & Mc Anany (1970) state that although retributive theory is no longer popular, this theory cannot be completely eliminated. Even the community admits that when the accused will be punished only in the form of rehabilitation, there must still be punishment.

Restorative justice is basically a trigger to reconsider the victim's position in a settlement of a criminal case. As explained by Zulfa (2011), the status of victims in the criminal justice system often disappears due to several weaknesses in the justice system. First, criminal acts are interpreted more as attacks on government and state authorities than attacks on victims. Second, the victim is only part of the evidentiary system, not a party with an interest in the ongoing process. Third, the judicial process is only focused on efforts to punish the perpetrators without looking at efforts to repair the losses caused and restore balance in society. Fourth, in its

resolution, the focus is only directed on proving the perpetrator's guilt. Communication only takes place between the judge and the perpetrator and there is absolutely no dialogue between the perpetrator and the victim.

There is the possibility of implementing restorative justice to resolve environmental crimes legally if there are forms of action that can be applied after a mutual agreement has been reached. This is as stipulated in Article 119 of the PPLH Law that business entities may be subject to additional penalties or disciplinary measures, such as deprivation of profits derived from criminal acts, closing all or part of business premises and/or activities, repairs due to criminal acts, the obligation to do what who is negligent without right; and/or placing the company under guardianship for a maximum of 3 years.

Along with this, the opportunity to hold restorative meetings as a step towards realizing restorative justice is very possible, because it is also accommodated in Article 95 of the PPLH Law. The article stipulates that 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 Attorney General's Office under the coordination of the Minister. The article indicates that the restorative meeting model can be carried out with integrated law enforcement. However, the integrated law enforcement referred to in the PPLH Law has never existed. Therefore, implementing regulations regarding integrated law enforcement need to be issued immediately in order to gain legitimacy.

The use of criminal law in tackling environmental crimes, especially against corporate management, currently does not provide sufficient guarantees that the corporation will not repeat committing crimes (Ismelina, 2012). Considering that environmental crimes committed by corporations are committed by cunning people, it is not easy to reveal these crimes (Suartha, 2015). Moreover, this crime is considered a complex crime because it is related to lies, theft, technology, finance, organized crime, and the wide distribution of responsibility due to organizational complexity (Dirdjosisworo, 1989).

Optimization of environmental criminal law sanctions depends on the effectiveness of the utilization of sanctions in other legal fields. In other words, a person may be prosecuted based on administrative law or civil law and criminal law or based on three of them for violating the provisions of the PPLH Law (Hamzah, 2006). However, according to the General Elucidation of Law Number 32 of 2009 concerning Environmental Protection and Management, provisions of criminal law will only be utilized in certain cases, such as when administrative sanctions and civil sanctions are ineffective when the level of error by polluters and/or environmental damage is quite serious, and when the consequences of acts of pollution and/or damage to the environment by polluters and/or environmental destroyers are quite large. Based on this description, it can be concluded that the imposition of criminal sanctions so far aims to provide a deterrent effect and a deterrence for parties who will commit environmental crimes. However, the effectiveness of imposing criminal sanctions on perpetrators of environmental pollution and destruction is still questionable.

The effective implementation of criminal law functions will be related to criminal law policies or existing regulations. According to Marc Ancel in Arief (2008), a criminal policy is a rational effort from society in tackling crime. This criminal policy can be pursued in two ways, namely penal efforts which are directed to overcome crime that focus more on repressive efforts (suppression/eradication/destruction) by using penal law and non-penal efforts which are crime prevention efforts that focus more on preventive measures (such as prevention, deterrence, and control) before the crime occurs.

For this reason, one of the appropriate concepts to address various environmental law enforcement problems is the restorative justice system approach (Marshall, 1999). The restorative justice system approach in solving criminal cases is considered a new method even though the patterns used are mostly rooted in the local wisdom values of primitive society. Procedural and criminal justice mechanisms that focus on punishment are transformed into a process of dialogue and mediation to create an agreement on a more just and balanced settlement of criminal cases for victims and perpetrators (Nonet & Selznick, 1978). The restorative justice approach can be assumed to be the most recent shift from the various models and mechanisms that work in the

criminal justice system to deal with criminal cases at this time (Rahardjo, 2005). The restorative justice approach is a thought that responds to the development of the criminal justice system by focusing on the need to involve the community and/or victims who have been sidelined from the mechanisms that work in the existing criminal justice system. On the other hand, the restorative justice approach is also a new frame of reference as part of the functionalization of criminal law in responding to a crime (Ningsih, 2003).

Even though the principle of *ultimum remedium* is accommodated and prioritized by law and regulations, law officials tend to apply the principle of *primum remedium*. This fact can be seen from the practice of law enforcement officials who use criminal law instruments rather than other legal instruments. In fact, the use of criminal law in environmental cases should be avoided as far as possible unless administrative and civil law instruments cannot be implemented effectively (Absori, 2007).

Discussion

Previous research has shown the fact that much criminal law enforcement against environmental crime cases do not lead to the root of the problem and do not restore the function of a damaged and polluted environment. This fact shows that to deal with environmental crimes, a new law enforcement model is needed that is able to present the value of justice not only for perpetrators and communities who are constrained by impacts, but also justice for the environment as victims of environmental crimes. Furthermore, the Law does not see the environment only as an object, but also as a subject that needs to be preserved. So far, environmental law enforcement in the criminal justice system has demanded more accountability for both individuals and corporations but has often neglected the preservation of a damaged and polluted environment (Hadi & Samekto, 2007).

Regarding law enforcement, Muladi stated that law enforcement is indeed an attempt to uphold the norms and at the same time the values behind these norms. For this reason, law officials must fully understand the spirit of the law that underlies the legal regulations to be enforced (Muladi 1995). Law enforcement officials must realize that law enforcement as a subsystem of a wider system is vulnerable to external influences, such as political, economic, educational, and globalization influences. In line with this opinion, Manan (2005) emphasizes that law enforcement cannot be separated from the rule of law, legal actors, and the environment in which the law enforcement process occurs. Therefore, it is impossible to resolve the issue of a criminal act or legal case based solely on the law enforcement process or even limited to the administration of justice.

In particular, the environment in Indonesia as a system consisting of various subsystems has limited capacity and support capability. Therefore, in order to maintain its sustainability, it is necessary to implement various instruments such as monitoring, coaching, supervision, and law enforcement for various activities that have an impact on the environment (Sukandarrumidi, 2010). There are three main reasons why Indonesia feels the need to seriously address environmental issues. The first reason is the fact that it is difficult for Indonesia to respond to environmental problems. The next reason is the necessity to pass on environmental sustainability to future generations so that natural resources must be processed in a sustainable manner in the long-term development process. The last reason is an ideal reason to realize complete human development (Sukandarrumidi, 2010).

Considering the various complexities of law enforcement for environmental crimes as well as the special nature of the environment in Indonesia, it is not enough to study this problem and to find a solution only from a legal perspective. Moreover, there is a need to consider how law enforcement officials should understand and be able to implement environmental crime law enforcement in accordance with justice and the ecological goals of the environment itself. Therefore, it is necessary to have an approach and understanding of this issue from other disciplines that can cover and complement various related elements and aspects, in order to be able to answer these various issues as a whole.

In this case, the author wants to examine the problem from a civics or civic education point of view. In general, education has an important role in building an environmental understanding

for the community. According to Maghfur, human actions that exceed the limits cause various damage to nature and even environmental crises, thus posing a threat to human survival (Siswanto, et al., 2019). This understanding clearly means that efforts to deal with environmental damage must involve public awareness and therefore it shows the urgency of civic education.

According to the National Council of Social Studies (NCSS) of the United States, Citizenship Education is a process that includes all the positive influences intended to shape the views of a citizen in his role in society. Citizenship Education is more than just a field of study. It can be a means to understand the various rights of citizens' freedom guaranteed in the constitution and other regulations and the responsibility for what has been achieved (Cholisin, 2007). Therefore, it can be concluded that the main characteristics of Citizenship Education are as follows: (1) It is an educational program, a process that includes positive influence; (2) the focus of the material is national ideology, government processes, basic rights and obligations of citizens as guaranteed in the constitution supported with the positive influence of the family, school, and society; and (3) the goal is to form a citizen's orientation about his role in society (Cholisin, 2007).

Civics is closely related to citizens but it does not mean that this study cannot cover or is not important for law enforcement officials. In fact, law enforcement officials should already understand the issue of citizenship by studying civics because their actions in law enforcement have an impact on society. Rahardjo (1998) suggests that the elements involved in the law enforcement process are divided into two major groups. The first groups are the elements that have a rather distant level of involvement and those that are close. For example, elements that are closely involved in the law enforcement process are the legislature or legislators and law enforcement officials such as the police. The second groups are personal and social elements which have far-reaching involvement. Therefore, it is natural that the community as the party affected by regulations has further involvement with the law enforcement process. According to Rahardjo (1998), law enforcement is a process to make legal expectations come true. The success of the law enforcement process is highly dependent on the law enforcement officials themselves. Soekanto further held a more extreme view. He stated that law enforcers are citizens who have certain rights and obligations, namely upholding (in the sense of facilitating) the law. Thus, certain patterns of social interaction that are evident in everyday life will influence the behavior of law officials (Soekanto, 1983).

This opinion is in line with an argument stating that with the involvement of citizens, a goal can be realized. Jacoby & Associates stated that civic engagement encompasses actions wherein individuals participate in activities of personal and public concern that are both individually life-enriching and socially beneficial to the community (Jacoby & Associates, 2009). This opinion explains that citizen involvement includes actions in which individuals participate in private and public caring activities that individually enrich each other and are socially beneficial to society. Thus, it can also be understood that civic engagement is one of the main concepts of participating in public life. With this study from this point of view, it is hoped that the whole community can be fully involved according to their respective roles, especially for the people directly affected in order to achieve the goal of law enforcement, namely justice.

To overcome problems regarding environmental pollution and destruction, in relation to civic engagement, it is necessary to strengthen the efforts with environmental education and ecological citizenship which promotes an attitude of caring for the environment. Caring for the environment is an attitude and action made to prevent damage to the surrounding natural environment, and develop efforts to repair the damage to nature that has already occurred. Caring for the environment in citizenship education lies in the aspect of a character, namely the character of caring for the environment which prevents damage to the surrounding natural environment, and develops efforts to repair the natural damage that has occurred (Gunawati, 2012).

This underlies the reasons for the author to choose civic engagement education as an effort to provide a good and appropriate understanding for law enforcement officials, especially regarding the urgency of restorative justice according to the *ultimum remedium* principle in enforcing environmental crime laws, as accommodated by the PPLH Law. It is hoped that this approach and study will prevent law enforcement officials from acting in a very legalistic manner

by continuing to carry out prosecutions which are seen as a single solution that makes it possible for human rights violations to be experienced by citizens.

There are many theories involved in understanding the notion of justice. Huijbers stated that the first to put down the idea of justice was Thomas Aquinas who was famous for distributive justice which is related to the division of positions (Huijbers, 1982). Furthermore, according to Sidharta, justice is that everyone is obliged to act in accordance with what is required by law, whereas the notion of law does not always mean positive (Gultom, 2008). This means that law is not always positive law or written law.

Hampshire in Mertokusumo (1999) proposes a theory of justice by referring to the nature of the rule of law. Based on it, there are two types of justice, namely procedural justice and substantive justice. Meanwhile, Kusuma in Kusuma (1981) divides justice into procedural and substantive components or formal and material justice. The procedural component relates to the style of a legal system such as the rule of law and *rechtstaat*, while the substantive component or material justice relates to social justice, which marks the political and economic arrangement in society.

Prevention of crime by using criminal law is the oldest way, as old as human civilization itself. The process of dealing with crime in this way is carried out in the criminal justice system (Arief, 2006). The decrease in the crime rate is an indicator of the effectiveness of the performance of the criminal justice system and the increase in the intensity of crime indicates the ineffectiveness of the criminal justice system itself. Therefore, the criminal justice system from a criminological point of view is no longer seen as a crime prevention system. Instead, it is seen as a "social problem" that is the same as the crime itself.

When examined further from the perspective of justice, the concept of restorative justice is basically simple. Justice is no longer based on proper retaliation from the victim to the perpetrator, but on how the painful act is cured by providing support to the victim and requiring the perpetrator to be held accountable. In addition, it also provides a form of assistance for offenders to avoid future offenses. Restorative justice that encourages dialogue between victims and perpetrators shows the highest level of victim power and perpetrator accountability (Sunarso, 2012).

Restorative justice is an approach to justice that focuses on the needs of victims, perpetrators, and the communities involved, rather than satisfying abstract legal principles or punishing perpetrators. Victims take an active role in the process, while perpetrators are encouraged to take responsibility for their actions, to repair things that harm them, by way of apologizing, returning stolen money, or community service (Prayitno, 2012).

It is understandable that a new approach to restorative justice emerged as a response to a criminal justice system whose focus is only concerned with punishing and imprisoning someone who has committed a crime. Restorative justice aims to change the direction of criminal law by changing its focus on the needs of victims and improving public order rather than imposing a crime by imprisoning someone or giving a fine that does not necessarily benefit the victim.

This is in line with the holistic understanding of environmental management which views all components as a single entity that influences one another. According to Like (2017) in the philosophy of environmental management, there are several theoretical approaches that need to be considered in an effort to preserve the environment. The first point of view is Anthropocentrism. This is a theory of environmental ethics that views humans as the center of the universe system. Anthropocentrism is also a philosophical theory which states that moral values and principles only apply to humans and that human needs and interests have the highest and most important value.

The second ethical point of view is Biocentrism. It is an understanding that focuses on life as a whole and rejects the view that only humans are important in this life while other living things are not. According to Susilo (2008), biocentrism sees that it is not only humans who have moral values but also animals. According to Kenneth, a womb is not only for humans and animals but also plants. Biocentrism is an understanding that views not only humans who have a role in the environment whose interests must be prioritized, but also animals and plants. Thus, according to this understanding, humans have a moral connection with animals and plants (Rohim, 2008).

Biocentrism ethics is based on the unique relationship between humans and nature, as well as the values that exist in nature itself. According to Schweitzer in Keraf (2010), biocentrism ethics stems from the awareness that life is a sacred thing. This awareness encourages humans to preserve life and treat it with respect. It is said that a real moral person is one who is willing to make sacrifices to help all living things.

The third ethical point of view is Ecocentrism. This understanding covers a wider scope than the previous ones, namely humans, living things, and their environment. Ethics does not only apply to living things but also to the environment. Ecologically, living things and their environment are tied to one unit (Hardjasoemantri, 2006). Ecocentrism is an understanding that emphasizes the interrelationships between all biotic and abiotic components in an ecosystem. Every individual and ecosystem is believed to be mutually related to one another. According to Susilo, ecocentrism is a holistic understanding of the environment. Ecocentrism in the end put forward the concept of deep ecology. This concept gives equal rights to all species in the environment (Susilo, 2008).

As moral actors, humans have an obligation to respect the lives of other humans and other creatures in the entire ecological community. According to the theory of deep ecology, humans are required to appreciate and respect non-living objects because all objects in the universe have the same right to exist, live and develop. Nature has the right to be respected not only because human life depends on it but also because of the ontological reality that humans are an integral part of nature and members of an ecological community. Respect for nature arises from the contextual relationship between humans and nature in ecological communities (Keraf, 2005).

Restorative justice has actually been implemented in Indonesian society for a long time. For example, a person takes care of the victim or the victim's family after causing an accident by taking responsibility for the treatment, giving condolence money, apologizing, and so on. Those responsibilities are seen as a form of punishment for what he/she has done. This is as stated by Shelton in Keraf (2005):

"The essentials of compensatory justice are: (1) the parties are treated as equal; (2) there is damage inflicted by one party on another; (3) remedy seeks to restore the victim to the condition he or she was in before the unjust activity occurred. Remedies are designed to place an aggrieved party in the same position as he or she would have been had no injury occurred."

Restorative as a concept and idea of achieving justice in the form of restoring the victim to the condition he or she is before the unjust activity occurred has working principles and various forms of models which becomes options for law officials to resolve criminal cases, including environmental crime cases. These various models require the involvement of the parties to reach a mutual agreement to restore social fractures due to criminal acts.

In the development of theoretical and criminal law reforms in various countries, there is a strong tendency to use penal mediation as an alternative to solving problems in the field of criminal law. According to Frehsej in Arief (2008), the increasing use of restitution in criminal proceedings shows that there is only a slight difference between criminal and civil law. This insignificant difference, therefore, does not function.

In comparison, penal mediation at the international level has been recognized for a long time. The working principle of penal mediation is considered to be in line with the idea of diversion. It is a model of solving criminal cases outside the court which is often applied to cases involving children (Wahyudi, 2011). There are several models of penal mediation such as Victim-Offender Mediation, Family Group Conferencing, Restorative Conferencing, and Community Restorative Boards (Mugopal, 2012).

There are various options and models to be applied to prevent environmental crimes. For example, "Family and Community Group Conferences" model or "Family Group Conferencing" model which does not only involve victims and perpetrators of crimes but also families of perpetrators and other members of the community, certain officials (such as police and juvenile judges), and victims' supporters. The perpetrator and his/her family are expected to produce a comprehensive agreement that satisfies the victim and can help keep the perpetrator out of further trouble (Marlina, 2012).

In addition, there is another model called "Restorative Conferencing" which also involves a wider range of participants than just the perpetrator-victim in response to a crime. This technique is voluntary and consists of the perpetrator, the victim's family, the parties and friends to achieve restitution (compensation). This model is usually used at any stage of the criminal justice process but is commonly used in the early stage. Since its introduction in New Zealand, this model has been implemented in Australia, the United States, England, and Wales (Ribot, 2004). Regarding the settlement of criminal cases of pollution and environmental destruction, law officials can choose one or several of these restorative justice models as an effort to restore the sustainability of a damaged and polluted environment (Smith, 1980).

The various forms of models involved in the concept of a restorative justice approach have various advantages if implemented seriously. The application of a restorative justice approach is not only carried out by the Police or Penyidik Pegawai Negeri Sipil (Civil Servant Investigators) or PPNS in the environmental field but also by other law officials at the investigative level (public prosecutor). In addition, fundamental changes since the removal of the HIR by the Criminal Procedure Code in the criminal justice system have also affected the investigation system. Polisi Republik Indonesia (Indonesian National Police) or POLRI's position as an independent investigator cannot be separated from the prosecution function, as well as the main investigator who is obliged to coordinate the investigation of civil servants by providing supervision, guidance, and assistance (Samosir, 1986). This is because the use of the restorative justice approach model can not only be applied at the investigative level as the main gate of the formal justice process but also at the next stage of the justice sub-system as long as the environmental crime case has not been tried with a decision that has permanent legal force.

The restorative conferencing model can be a means of bringing together the interests of perpetrators, victims (community and environment), and related authorities such as the Ministry of Environment, environmental services, and law enforcement to form deliberative forums for consensus (restorative meetings) to find a way out of environmental damage caused the perpetrator's actions. By implementing this model, environmental law enforcement can be carried out without taking a long time to process. However, to avoid strong differences of opinion in this model and minimize failure in making an agreement, it is necessary to involve a mediator who is trained and able to calculate the ecological losses that are damaged and polluted as a result of environmental crimes in a professional, objective and transparent manner (Rangkuti, 1996).

The strength of the concept of restorative justice lies in the position of victims and society in the law which is different from the paradigm of existing criminal justice. Its application is an informal and non-adjudicative mechanism in dealing with conflicts or crime issues in which perpetrators, victims, and communities play an important role in decision-making. One of these mechanisms is penal mediation which provides a meeting between the perpetrator and the victim with the assistance of a mediator as a facilitator. Meanwhile, from a non-litigation mechanism, it can be done by holding a discussion or mediation to determine whether there is pollution, which is commonly called 'research' (Sotiyoso, 2008). However, certain challenges may arise.

Applying a restorative justice approach in environmental crime cases is factually possible since victims of environmental crimes are not only the community but also the environment itself. However, it is necessary to prepare academic support to answer questions as briefly explained before, so that the application does not cause new problems (Setiadi, 2016).

In the end, the concept of restorative justice is seen as a law enforcement model that gives hope of creating justice, even though empirically law officials still have difficulty implementing it in concrete environmental crime cases. This is because if the perpetrators, both individuals and companies, have been named as suspects based on sufficient evidence, the investigators and public prosecutors must be held accountable for resolving the case to court or it will be considered an overdue case. Meanwhile, as explained in previous discussions, the imposition of criminal sanctions does not provide substantive justice for the perpetrators, the community and the damaged and polluted environment.

CONCLUSION

Based on the discussion above, it can be concluded that the functionalization of criminal law through the idea of restorative justice becomes urgency as a model solution for environmental cases that is just and beneficial to all parties, especially for environmental restoration according to its ecological goals. Law enforcement in this way has clearly been accommodated in the PPLH Law. In point of fact, this approach is prioritized because it is in accordance with and as an embodiment of the *ultimum remedium* principle. Therefore, making this approach an alternative to the law enforcement process is in accordance with the noble values of Pancasila.

Applying restorative justice in law enforcement is also an effort to functionalize criminal law in tackling environmental crimes. This can be achieved in particular by implementing a restorative conferencing model which requires the participation of perpetrators (individuals and corporations), victims (community and environment), mediators, police investigators, and PPNS to voluntarily seek a peace agreement. The parties involved will be aware of the urgency of restorative justice law enforcement, especially restorative conferencing if they also understand civic engagement, both the community as victims and the environment itself. This is important in order to maintain environmental sustainability which is in accordance with ecological goals.

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REFERENCES

- Absori. (2007, November 24). *Hukum lingkungan dan pemberdayaan masyarakat* [Paper presentation]. Seminar Legal Hermeneutics Sebagai Alternatif Kajian Hukum, FH UNDIP.
- Akib, M. (2012). Wewenang kelembagaan pengelolaan lingkungan hidup di era otonomi daerah. *Jurnal Media Hukum UMY*, 19(2).
- Akib, M. (2015). *Penegakan hukum lingkungan dalam perspektif holistik-ekologis*. Graha Ilmu.
- Arief, B.N. (1998). *Beberapa aspek kebijakan penegakan dan pengembangan hukum Pidana*. Citra Aditya Bakti.
- Arief, B.N. (2006). *Kapita selekta hukum pidana tentang sistem peradilan pidana terpadu*. Badan Penerbit Universitas Diponegoro.
- Arief, B.N. (2008). *Bunga rampai kebijakan hukum pidana*. Ghalia Indonesia.
- Arief, B.N. (2008). *Mediasi penal penyelesaian perkara di luar pengadilan*. Pustaka Magister.
- BPLHD. (2015). *Panduan prosedur penanganan pencemaran lingkungan hidup*. BPLHD Jabar.
- Dirdjosisworo, S. (1989). *Anatomi kejahatan korporasi Indonesia* [Paper presentation]. Seminar Nasional Kejahatan Korporasi, FH UNDIP.
- Direktorat Jenderal Penegakan Hukum, Kementerian Lingkungan Hidup dan Kehutanan Republik Indonesia. (2022). *Dashboard kinerja Ditjen Gakkum*. <https://gakkum.menlhk.go.id/kinerja>.
- Effendi, M. (2005). *Kejaksaan RI posisi dan fungsinya dari perspektif hukum*. Gramedia Pustaka Utama.
- Gerber, R.J. & Mc Anany, P.D. (1970). The philosophy of punishment. In N.B. Johnston, L. Savitz, & M.E. Wolfgang (eds.), *The sociology of punishment* (pp. 337-361). John Wiley and Sons Inc.
- Gultom, M. (2008). *Perlindungan hukum terhadap anak dalam sistem peradilan pidana anak di Indonesia*. Refika Aditama.
- Gunawati, D. (2012). Meranap pembelajaran pendidikan lingkungan hidup dalam konfigurasi pendidikan kewarganegaraan. *Jurnal PKn Progresif*, 7(2).
- Hadi, P. & Samekto, A. (2007). *Dimensi lingkungan dalam bisnis kajian tanggung jawab sosial perusahaan pada lingkungan*. Badan Penerbit Undip Semarang.
- Hamzah, A. (2006). *Penegakan hukum lingkungan keperdataan*. KLUH.
- Hardjasoemantri, K. (2006). *Hukum tata lingkungan*. Gadjah Mada University Press.
- Huijbers, T. (1982). *Filsafat hukum dalam lintasan sejarah*. Penerbit Kanisius.
- Ismelina, M. (2012). Keadilan ekologis dalam gugatan class action tempat pembuangan akhir Leuwigajah. *Jurnal Yudisial*, 1(1).
- Jalam, Z. (2009). *Besarnya eksploitasi perempuan dan lingkungan di Indonesia: Siapa bisa menghentikan penyulutnya*. PT. Elex Media Komputindo.

- Keraf, A.S. (2010). *Etika lingkungan hidup*. Kompas Media Nusantara.
- Kusuma, M.W. (1981). *Hukum dan hak-hak asasi manusia, studi pemahaman kritis*. Alumni.
- Marlina. (2012). *Hukum perlindungan anak persepektif keadilan restoratif justice*. Citra Aditya Bakti.
- Marshall, T.F. (1999). *Restorative justice: An overview*. Home Office Research, Development and Statistics Directorate.
- Masyhar, A. (2009). *Gaya indonesia menghadang terorisme*. Cv Mandar Maju.
- Mertokusumo, S. (1999). *Mengenal hukum*. Liberty.
- Mochtar, M. (2015). *Perlindungan dan pengelolaan lingkungan hidup*. Prestasi Pustaka Publisher.
- Mugopal, U. (2012). *Penerapan restorative justice dalam proses peradilan pidana di Indonesia*. Pilar Utama Mandiri.
- Muladi. (1995). *Kapita Selekta Sistem Peradilan Pidana*. Universitas Diponegoro.
- Muladi. (2002). *Demokrasi, hak asasi manusia, dan reformasi hukum di Indonesia*. The Habibie Center.
- Murdiono, M. (2014). Pendidikan kewarganegaraan untuk membangun wawasan global warga negara muda. *Jurnal Cakrawala Pendidikan*, 33(3).
- Ningsih, A. (2003). Pemukiman kembali, alternatif ganti kerugian bagi masyarakat korban pengusuran, *Jurnal Hukum*, 31(3).
- Nonet, P. & Selznick, P. (1978). *Law and society transition*. Harper & Row.
- Prayitno, K.P. (2012). Restorative justice untuk peradilan di Indonesia. *Jurnal Dinamika Hukum*, 12(3).
- Rahardjo, S. (1986). *Ilmu hukum*. Alumni.
- Rahardjo, S. (2011). Hukum progresif: Hukum yang membebaskan. *Jurnal Hukum Progresif*, 1(1), 1-24.
- Rangkuti, S.S. (1994, October/September). Kesamaan persepsi terhadap penegakan hukum lingkungan. *Yuridika, Majalah FH Unair*, 9(5).
- Rangkuti, S.S. (1996). *Hukum lingkungan dan kebijaksanaan lingkungan nasional*. Airlangga Press.
- Ribot, R. (2004). *Waiting for democracy: The politics of choice in natural resource decentralization*. World Resources Institute.
- Rohim, A. (2008). *Tanggung jawab negara terhadap korban lingkungan hidup*. Alumni.
- Samosir, C.D. (1986). *Hukum acara pidana dalam perbandingan*. Bina Cipta.
- Setiadi, E. (2016). *Sistem peradilan pidana*. Unisba.
- Siswanto, Karimullah, Prasetyawati, R., & Nurhayati. (2019). Environmental cultured education and its implication on the student's competencies in an adiwiyata school. *Jurnal Cakrawala Pendidikan*, 33(3), 552-564. <https://doi.org/10.21831/cp.v38i3.23154>
- Sholehuddin. (2003). *Sistem sanksi dalam hukum pidana: Ide dasar double track system dan implementasinya*. PT. Raja Grafindo Persada.
- Smith. (1980). *Environmental impact assesment*. Erich Schmidt Verlag.
- Soedarto. (1986). *Kapita selekta hukum pidana*. Alumni.
- Soekanto, S. (2008). *Pengantar penelitian hukum*. UI Press.
- Soekanto, S. (2012). *Faktor-faktor yang mempengaruhi penegakan hukum*. PT. Rajawali.
- Soemarwoto, O. (1991). *Ekologi, lingkungan hidup dan pembangunan*. Djambatan.
- Sotiyoso, B. (2008). *Alternatif penyelesaian sengketa hukum bisnis*. UII Press.
- Suartha, I.D.M. (2015). *Hukum pidana korporasi*. Setara Press.
- Suka, I.G. (2017). *Teori etika lingkungan*. Udayana University Press.
- Sukandarrumidi. (2010). *Bencana alam dan anthropogene*. Penerbit Kanisius.
- Sunarso, S. (2012). *Viktimologi dalam sistem peradilan pidana*. Sinar Grafika.
- Susilo. (2008). *Sosiologi lingkungan*. PT Raja Grafindo Persada.
- Todaro, M.P. & Smith, S.C. (2006). *Pembangunan ekonomi* (9th ed.). Erlangga.
- Undang-Undang Nomor 32 Tahun 2009 *Perlindungan dan Pengelolaan Lingkungan Hidup*. 03 Oktober 2009. Lembaran Negara Tahun 2009 Nomor 140.
- United Nations Office for Drug Control and Crime Prevention. (1999). *Handbook on justice for victims*. Centre for International Crime Prevention.
- Wahyudi, S. (2011). *Implementasi ide diversi dalam pembaruan sistem peradilan anak di Indonesia*. Genta Publishing.
- Wignjosobroto, S. (2002). *Penelitian hukum doktriner*. BPHN.
- Zulfa, E.A. (2011). *Restorative justice dan peradilan pro korban, reparasi dan kompensasi korban dalam restorative justice*. Lembaga Perlindungan Saksi dan Korban.