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## LAW ENFORCEMENT AGAINST ENVIRONMENTAL POLLUTION BY THE WAY KANAN DISTRICT ENVIRONMENTAL SERVICE

Ati Yuniati, Upik Hamidah, Marlia Eka Putri, Eka Deviani, Sepriyadi Adhan S, Rodhi Agung Saputra

### ABSTRACT

Environmental management and protection is currently a fundamental problem in Indonesia. The form of environmental protection regulation is Law Number 32 of 2009 concerning Environmental Protection and Management. One form of environmental pollution found in Way Kanan Regency is environmental pollution caused by the manufacture of liquid rubber waste. The research method used is a normative

# Law Enforcement Against Environmental Pollution by the Way Kanan District Environmental Service

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## ABSTRACT

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Environmental pollution can cause damage to ecosystems and have a negative impact on the environment. One of the causes of environmental pollution is rubber waste. To prevent this from happening, it is necessary to have supervision from the government, namely the Environmental Service and the community due to the existence of rubber waste disposal activities. The problem in this research is how to enforce the law on the disposal of rubber waste by the Environmental Service and what are the inhibiting factors in supervising the disposal of rubber waste in Way Kanan Regency. The method used in this research is normative and empirical, using a statute approach and in-depth interviews. The results of the study and the conclusion from these problems are that law enforcement carried out by the Environmental Service in carrying out monitoring instruments related to the disposal of rubber waste by business actors is still less than optimal and less firm because it is only waiting for reports from the public. Inhibiting factors in supervising the disposal of rubber waste in Way Kanan Regency are Lack of Human Resources, Insufficient Facilities and Infrastructure, Distances that are difficult to reach, and Lack of commitment from the person in charge of the business to protect the environment.

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## Introduction

Environmental pollution can cause damage to environmental ecosystems. Environmental pollution is a change in the environmental order by human activities or natural processes so that the quality of the environment decreases. The environment as a resource is an asset that can prosper the community. Therefore, the problem of environmental pollution must be quickly resolved by the government. In accordance with Article 63 paragraph (1) of Law no. 32 of 2009 concerning Environmental Protection and Management related to the authority of the government and local governments in managing the environment.<sup>1</sup>

Based on Article 12 paragraph (2) of Law no. 23 of 2014 concerning Regional Government, in this case the Environmental Service which is part of the regional apparatus organization that has the duties and functions to carry out government affairs in the environmental sector, one of which is supervising the disposal of rubber waste. Thus, the role of supervising environmental management in the region is the responsibility of the regional government, in this case the Environmental Agency.<sup>2</sup> Enforcement of environmental law can be carried out by applying instruments and sanctions with the aim of forcing legal subjects who are the targets to comply with environmental laws and regulations. In addition, the participation of the community is also needed in protecting the environment in accordance with Article 70 paragraph (1) of Law No. 32 of 2009 concerning PPLH, for example by

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<sup>1</sup> Bambang Dwi Baskoro, *Perseteraan KPK dengan Polri Dalam Upaya Pemberantasan Korupsi*, Jilid 42 NO.3, Juli 2013, Semarang FH Undip, p. 336

<sup>2</sup> M Akib, *Wewenang Kelembagaan Pengelolaan Lingkungan Hidup di Era Otonomi Daerah*, Jurnal .Media Hukum , 2012 p. 242

conducting social supervision, giving opinions and submitting information or reports related to environmental protection and management.

Disposal of rubber waste in the form of liquid and foul-smelling that flows into rivers and lakes and does not have a standard holding pond by rubber business actors, if not monitored it can damage the environmental ecosystem.<sup>3</sup> Environmental management and protection is a fundamental issue.<sup>4</sup> Such as the disposal of rubber waste into rivers and lakes carelessly and without permission. This causes the community to feel disadvantaged, such as not being able to use well water for bathing and drinking, due to rubber waste. It is intended that the environmental damage caused by this rubber waste in Way Kanan Regency is not getting worse. Therefore, it is necessary for the government's role to regulate its territory according to the authority given by Law 23 of 2014 concerning Regional Government.<sup>5</sup> Based on the description above, the problem in this research is how is the law enforcement of rubber waste disposal by the Environment Service of Way Kanan Regency and what are the inhibiting factors in supervising the disposal of rubber waste in Way Kanan Regency?

### **Research Methods**

The research method used is a normative-empirical research method. This study uses a statute approach and an in-depth interview approach related to the disposal of rubber waste to those who are responsible for the environment in Way Kanan Regency. The statute approach is to examine matters relating to legal principles, legal views and doctrines, and laws and regulations related to the environment.<sup>6</sup> An in-depth interview approach was conducted to the Planning and Environmental Impact Assessment Division and the Pollution and Environmental Damage Control Division at the Department of Environment, Way Kanan Regency. The next step is to conduct an in-depth examination of the legal facts to then solve the problems that arise in the symptoms in question.

### **Results and Discussion**

#### **1. Law Enforcement Against Rubber Waste Disposal by the Environment Service of Way Kanan Regency**

In general, the authority to protect and manage the environment comes from Law Number 32 of 2009 concerning Environmental Protection and Management (UU PPLH) Article 1 paragraph (2), what is meant by environmental protection and management is a systematic and integrated effort that carried out to preserve environmental functions and prevent pollution and environmental damage which includes planning, utilization, control, maintenance, supervision, and law enforcement. In this case, the disposal of rubber waste that occurs in Way Kanan Regency is included in the problem that must be resolved because if the disposal of rubber waste is not monitored then the contents of Article 1 paragraph (2) will not be achieved related to preserving the environment. Through the PPLH Law, the government gives very broad authority to regional governments in protecting and managing

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<sup>3</sup> Rasyid W, *Penegakan Hukum Lingkungan Dalam Bidang Pengelolaan Sampah Sebagai Perwujudan Prinsip Good Environmental Governance di Kota Parepare*, Jurnal Madani Legal Review, Vol 3, NO. 2 Desember 2019, p. 136

<sup>4</sup> Efendi, *Penerapan Prinsip Pengelolaan Lingkungan Hidup dalam Peraturan Perundang-Undangan Bidang Sumber Daya Alam*, Jurnal Ilmu Hukum, NO. 58, Desember 2012, p. 346

<sup>5</sup> MR Siombo, *Tanggung jawab Pemda Terhadap Kerusakan Lingkungan Hidup*, Jurnal Dinamika Hukum Vol 14-2014 p, 396

<sup>6</sup> Sekar Anggun GP, *Pelaksanaan Tugas dan Wewenang Badan Lingkungan Hidup Kota Semarang Dalam Penegakan Hukum Di Bidang Lingkungan*, Jurnal Notarius, Edisi 08 No. 2, September 2015, p.238

the environment in their respective regions because good governance will influence and determine good environmental management.<sup>7</sup>

Environmental management institutions (Department of the Environment) are a key factor in the success of environmental and natural resource management in order to provide optimal benefits, both for current and future generations. Environmental institutions have the authority and affairs of the local government to supervise and at the same time enforce the law in the environmental sector, one of which is the problem of rubber waste disposal in Way Kanan Regency in accordance with Article 12 paragraph (2) of Law no. 23 of 2014 concerning Regional Government and Article 63 paragraph (1) and Law no. 32 of 2009 concerning Environmental Protection and Management (UU PPLH) related to the authority of the government and local governments in managing the environment. Therefore, the existence of environmental management institutions both at the central and regional levels has an important role in carrying out environmental management.<sup>8</sup>

Based on Article 71 paragraph (2) of the PPLH Law, the Minister, governor, or regent/mayor can delegate their authority in supervising the official/technical agency responsible for environmental protection and management. The environmental supervisory officer (Department of the Environment) is authorized to monitor, request information, make copies of documents and make necessary notes, enter certain places, take pictures, make audio-visual recordings, take samples, inspect equipment, inspect installations and means of transportation, and stop certain offences. Based on this regulation, the Way Kanan Environmental Service has the authority to monitor or supervise the disposal of rubber waste by rubber entrepreneurs.

The supervisory role is an effort that includes monitoring compliance with requirements, technical and administrative provisions by the local government, (Environmental Service) to companies and entrepreneurs who carry out rubber latex business activities in Way Kanan Regency. The presence of companies in the community and rubber entrepreneurs in fact not only provides benefits, but also has positive and negative impacts. The positive impact for business actors and the community is to provide benefits for these business actors, make it easier for rubber farmers to sell their products from their rubber plantations and provide jobs for workers. The negative impact felt by the community is that the community can no longer use river water for daily needs due to rubber waste. The pollution of the environment by the waste of companies and rubber entrepreneurs will result in the aesthetic value of the environment will decrease, the polluted environment will look shabby and cannot be used for daily purposes. Polluted environment will also disrupt the natural system of the environment and damage the ecosystem and components contained in the environment.

According to Feriose Rizal, the Planning and Environmental Impact Assessment Section is supervised by the Environmental Service<sup>9</sup> regarding supervision of rubber companies and entrepreneurs, that the supervision of rubber companies and entrepreneurs can be carried out by holding a permit instrument for rubber entrepreneurs, for example a business establishment permit and for rubber companies an Amdal or UKL-UPL must be required regarding their rubber waste.

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<sup>7</sup> Nopyandri, *Penerapan Prinsip Good Environmental Governance dalam Perda Kabupaten Sleman Provinsi Daerah Istimewa Yogyakarta*. Jurnal Ilmu Hukum, Vol. 2, No.1 (Tahun 2011). p 35

<sup>8</sup> M Akib, *Wewenang Kelembagaan Pengelolaan Lingkungan Hidup di Era Otonomi Daerah*, Jurnal .Media Hukum ,2012 p. 242

<sup>9</sup> Field study interview data Perencanaan and Kajian dampak Lingkungan, Feriose Rizal

This is in accordance with Article 14 of Law No. 32 of 2009 concerning PPLH related to instruments for preventing pollution and environmental damage including AMDAL, UKL-UPL and permits. Therefore, with a permit to establish a rubber stall business, the Environmental Service can carry out integrated supervision of places that are used as rubber businesses as well as large-scale rubber companies related to rubber production and produce quite a lot of rubber waste, so AMDAL and UKL-UPL are required. Regarding the action against perpetrators of environmental pollution due to rubber waste in Way Kanan Regency by the Environmental Service, it was explained by Sutriyono for the Control of Environmental Pollution and Damage that the action against perpetrators of environmental pollution due to rubber waste cannot be carried out directly, but must go through several stages unless there are complaints from the public. related to environmental pollution caused by the waste of rubber stall business activities. The vast area of Way Kanan Regency and the lack of human resources owned and the majority of these rubber stall entrepreneurs are located in the interior of the village which causes the monitoring instruments provided to not be implemented.

Based on article 74 of the PPLH Law, the Environmental Service as the supervisory official is authorized to take action against perpetrators of environmental pollution. These include being authorized to carry out monitoring, requesting information, making copies of documents and making necessary notes, entering certain places, taking photographs, making audio-visual recordings, taking samples, inspecting equipment, inspecting installations and means of transportation, and stopping certain violations. However, the facts and practice at the research site, environmental law enforcement by the environmental service related to environmental pollution and damage will be carried out after complaints from the public are carried out instead of carrying out integrated supervision related to rubber waste according to the authority they have.

The implementation of supervision by the Environmental Service of Way Kanan Regency on rubber waste must be implemented immediately. This is a concrete effort that must be made, because there have been many changes that have occurred in the environment due to rubber waste. As for the form of supervision efforts on rubber waste disposal related to rubber rubber companies and entrepreneurs in Way Kanan Regency, the environmental service provides monitoring instruments both preventively and repressively. However, this supervision cannot be carried out optimally due to the large area and the large number of rubber business actors. To follow up on this, the Environment Agency provides a licensing instrument for people who have rubber businesses so that integrated supervision can be carried out.<sup>10</sup>

Preventive supervision is surveillance that is preventive in nature, meaning that the rubber stall business activities carried out do not lead to errors or do not comply with the established benchmarks and rules regarding waste disposal. Preventive supervision carried out by the Environmental Service for rubber entrepreneurs is by holding licensing instruments (business establishment permits and environmental permits), conducting socialization and direction to the entire community, especially people who carry out rubber stall business activities and rubber farmers, providing guidance on the importance of protecting the environment. to the public, informing the procedures for processing rubber waste. In addition, preventive supervision carried out on rubber companies is the mandatory

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<sup>10</sup> Field study interview data Bidang Pengendalian Pencemaran and Kerusakan Lingkungan, Sutriyono



AMDAL or UKL-UPL, environmental permits and waste disposal permits that must be owned by rubber companies. It is intended that the Department of the Environment can carry out integrated supervision of rubber companies and entrepreneurs related to the disposal of rubber waste.

Repressive supervision is an effort made by the Environmental Service to discipline people who pollute and damage the environment due to not paying attention or violating the rules that have been determined in disposing of waste, especially rubber waste and taking action by giving administrative warnings.<sup>11</sup> Violators of environmental pollution, if proven to have committed a violation, will be subject to sanctions, namely issuing government coercion, freezing of environmental permits, revocation of environmental permits and closing of business premises.<sup>12</sup> Until now, preventive and repressive supervision of rubber entrepreneurs has not been carried out optimally and comprehensively.

The role of supervision and enforcement of environmental law on the protection and management of the environment must pay attention to legal principles such as the principles of expediency, certainty and justice which aim to protect the rights of the community.<sup>13</sup> According to Mertokusumo, if in law enforcement the only concern is legal certainty, then other elements are sacrificed. Likewise, if what is considered is only benefit, then legal certainty and justice are sacrificed. Therefore, in enforcing environmental law, the three elements, namely certainty, expediency, and justice, must become one. This means that all three must receive proportionally balanced attention, although in practice it is not always easy to do so.

Supervision of the environment is not only the right of the local government (Environmental Service) but the community also has the same and broadest roles and rights to play an active role in environmental protection and management in accordance with Article 70 of the PPLH Law. Community participation in supervising the disposal of rubber waste by rubber entrepreneurs can take the form of social supervision, such as giving suggestions, opinions, suggestions, objections and complaints (submission of information or reports) related to environmental pollution due to rubber waste. This aims to increase awareness in environmental protection and management, develop community capabilities and pioneers, develop community responsiveness to carry out social supervision and develop and maintain local culture and wisdom in the context of preserving environmental functions. However, the role of supervision by the Way Tuba sub-district community towards rubber entrepreneurs has not been carried out due to lack of knowledge, lack of care for the environment and lack of courage to make reports related to environmental pollution.

## **2. Inhibiting Factors for the Environmental Service of Way Kanan Regency in Supervising the Disposal of Rubber Waste**

In carrying out the duties of supervision and law enforcement related to rubber waste by rubber companies and entrepreneurs which can cause pollution and damage to the environment. The Environmental Service of Way Kanan Regency has various obstacles, as stated by Sutriyono in the Field of Control of Pollution and Environmental Damage, namely

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<sup>11</sup> Syahrul Machmud, *Penegakan Hukum Lingkungan Indonesia (Penegakan Hukum Administrasi, Hukum Perdata dan Hukum Pidana Menurut Undang-Undang No. 32 Tahun 2009)*, Bandung, Graha Ilmu, 2011 p 182

<sup>12</sup> Bachrul Amiq, *Penerapan Sanksi Administrasi dalam Hukum Lingkungan*, Yogyakarta, Laksbang Mediatama, 2013, p. 27.

<sup>13</sup> Sagama Suwardi, *Analisis Konsep Keadilan, Kepastian Hukum Dan Kemanfaatan Dalam Pengelolaan Lingkungan*, MUZHALIB Jurnal Pemikiran Hukum, Juni 2016, Vol 15. p 23

the lack of optimal supervision of rubber waste disposal by entrepreneurs and rubber companies, including the lack of human resources that have expertise in controlling pollution and environmental damage, Inadequate facilities and infrastructure, inadequate access/distance, and lack of commitment to business responsibility, as well as lack of community participation.

If it is related to access/distance, the lack of human resources and the lack of facilities and infrastructure greatly affect the implementation of supervision by the Environmental Service of Way Kanan Regency on rubber waste, this is in accordance with the geographical conditions in Way Kanan Regency. Geographically, Way Kanan Regency is located at 104.1700 to 105.0400 East Longitude, 4.1200 to 4.5800 South Latitude.<sup>14</sup> By having an area of 3,921.63 km<sup>2</sup>. The Department of Environment requires qualified human resources and adequate facilities and infrastructure, in proportion to the area<sup>15</sup>. The obstacles faced by the Department of Environment in carrying out supervision of waste disposal in Way Kanan Regency and other areas are the lack of community participation and business responsibility for the importance of the environment.<sup>16</sup> This was conveyed by the Environmental Service because at the time of socialization about waste management, not all those who were invited were also present in the socialization. This indicates that public awareness is still lacking in preserving the environment. Basically, community participation in carrying out supervision is regulated in Law No. 32 of 2009 concerning PPLH. Thus, the role of the government must be optimized in supervising the disposal of rubber waste by entrepreneurs or rubber companies.<sup>17</sup>

Therefore, it is hoped that the government will pay more attention to and seek advice and infrastructure for smooth supervision so that problems like this do not become an inhibiting factor for officers to carry out supervision. external factors, namely the lack of awareness, understanding and concern from both rubber entrepreneurs and the surrounding community regarding the importance of protecting the environment, access or distance factors are the main and main things so that it hinders the implementation of the supervision and factors inhibiting the success or failure of the supervision carried out by the District Environmental Service Way Kanan is from the person in charge of the business of the owner of the rubber stall. The majority of rubber stall business owners do not follow every set of regulations. Such as guidelines for Environmental Management Efforts and Environmental Monitoring Efforts.

## Conclusion

Based on the results of research related to Law Enforcement of Rubber Waste Disposal by the Environment Service of Way Kanan Regency, the following conclusions can be drawn: The role of the Environment Service of Way Kanan Regency in supervising the disposal of rubber waste in Way Tuba District, Way Kanan Regency is considered less than optimal. The inhibiting factors for the Environmental Service in supervising the disposal of rubber waste in Way Tuba District, Way Kanan Regency are: Lack of Human Resources (HR); Inadequate

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<sup>14</sup>Pemerintah Kabupaten Way Kanan, Selayang Pandang Kabupaten Way Kanan, dalam <http://www.waykanankab.go.id/> diakses pada tanggal 20 mei 2020

<sup>15</sup>Agnes Fitria Widiyanto, Siti Nurhayati, Eri Wahyuningsih, *Evaluasi Pengelolaan Limbah Klinis Tajam Di Rsud Kabupaten Cilacap*, Jurnal Kesmasindo, Januari 2014, Vol 6, No 3, p 188

<sup>16</sup> Unggul Sugiharto, *Upaya Pemerinta Daerah dan Masyarakat dalam Mengatasi Pencemaran Limbah Industri Batik di Kota Pekalongan*, Indonesian Governance Journal (Kajian Politik Pemerintahan), Oktober 2018, Vol. 1 (2), p 55

<sup>17</sup> Ima Maghfiro, M. Saleh Soeaidy, M.Rozikin, *Jurnal Administrasi Publik (JAP)*, 2013, Vol.1, No.3 p 96

Facilities and Infrastructure; Access / Distance that is difficult to reach; Lack of commitment from the person in charge of the business; Lack of community participation to provide reports and information related to environmental pollution.

### **Suggestion**

Based on the conclusions, the following suggestions can be made: The role of supervision of rubber shanties waste carried out by the Department of Environment of Way Kanan Regency should be carried out firmly and maximally to all areas in Way Kanan Regency, both preventive and repressive supervision. This can be started by increasing the number of human resources and providing inadequate facilities and infrastructure; Local governments should pay attention to any shortcomings such as transportation facilities, sufficient budget, and pay attention to the number of human resources who have expertise in their fields. So that the supervisory process can be maximized and conduct training to improve abilities in their respective fields. So that problems like this are no longer found in conducting supervision. For the community, especially rubber stall business actors, they should participate in protecting the environment by not disposing of waste that can pollute the environment and must fulfill permit instruments including environmental permits and waste disposal permits in carrying out rubber stall business activities which are instruments of supervision from Environmental services.

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