

Research Article

Judicial Perspective Special Dispute Resolution Management of Damage, Pollution, Climate Change, and Conservation of Sustainable Environmental Preservation in Indonesia

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Abstract

Ecological systems are formed from reciprocal relationships between living things and their environment. The relationship between humans and their environment is an ecosystem in the concept of sustainable development in the Environmental Law system, but if there is a change in interaction between components resulting in a disturbance that exceeds the capacity of the ecosystem (Environmental Carrying Capacity and Resilience), then environmental problems will arise. Pollution and destruction of the environment are caused by human actions in fulfilling their needs without regard to the preservation of natural resources. At the implementation level, it seems that there are still various obstacles. Therefore, the main problem in this research is: to what extent can government policies in the field of environmental management prevent economic activities that lead to environmental destruction and pollution? This study uses a normative juridical method based on literature studies to obtain secondary data sourced from primary, secondary and tertiary legal materials. Specifications of analytical descriptive research. The data analysis method used is qualitative juridical. The results of the study show that overall government policies on environmentally friendly management have not been able to overcome the conflicts that often arise between the goals of environmental preservation and the goals of economic development. Pollution and destruction is still going on today, due to many obstacles in enforcing administrative law: the absence of environmentally friendly community behavior; weak environmental law enforcement; not effective in dealing with various cases of pollution and environmental destruction. As a solution to overcome these obstacles, it is necessary to enforce criminal law, in addition to imposing material punishments (requiring proof) for crimes which are genetic crimes, it is also necessary to apply formal offenses (no need for proof) for crimes which are specific crimes. The process of enforcing environmental law from the aspect of criminal law will be more successful if it is handled by agencies that technically and institutionally deal with environmental issues. In addition, the concept of sustainable development must be implemented in the legal system for environmental management. In the future, it is necessary to develop coordination between law enforcement officials who are assembled.

Keywords

Environment, Judicial Special Dispute, Damage, Climate Change, Indonesia

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1. Introduction

The development of (modern) science and technology often has a double meaning, namely, on the one hand it will be useful as a means for carrying out development, while on the other hand it can give rise to negative impacts on the continuation of human life and the environment, such as environmental pollution and destruction, chemical pollution, microbial contamination and so on. "...*Eco-technology is a new innovative strategy to support sustainable development. This is an approach perspective that explains the interdependence of environmental management with biogeophysic systems. This approach focuses on the role of environmental technology in minimizing waste and maximizing the recycling of materials and energy. As far as possible the production system approaches the loss prevention system of useful materials and energy. Systematic, future-oriented, and cyclical efficiency through the utilization of natural resources, energy and discarded waste forms the basis for the integration model of biogenic systems into e-technology systems or vice versa.....*" [1]. Nigel Calder, an environmental expert, explored the occurrence of "technological horrors" which included, among others: the thalidomide disaster, pesticide abuse, water and air pollution and so on. In third world countries that are undergoing modernization, the process of change involves a transition from traditional society to industrial society with all its cultural impacts. This change is realized as a form of transformation in the process of resource management through the use of modern technology which as a whole works as a system that influences various aspects of people's lives, including the development of a new dimension of environmentally friendly sustainable development. "... *The development of offenses in modern society can also be found in the 5th Congress of the United Nations on preventing crime and fostering lawbreakers....*" both in industrial (developed) countries. as well as in countries that are or are not yet developed (are experiencing modernization)"...."*The form of crime that is called "crime as a business" is far more detrimental than the offense of violence and offenses against traditional objects. This crime is aimed at obtaining material benefits through activities in the field of business or industry, which are carried out in an organized manner and by those who have a respectable position (white collar crime). The behavior of business people in developed countries has been prohibited by criminal sanctions, such as in the field of technology (pollution of the air and water environment), but is not/has not been prohibited in developing countries....*" [2]. The stability of the balance and harmony of interactions between environmental components depends on human effort, because humans are the most dominant component of the environment in influencing the environment. Humans have a tendency to ignore the balance and harmony of the environment in carrying out their activities (exploitation of natural resources). Negative impacts on the exploitation of natural resources are not only experienced by

developing countries, but developed countries are also experiencing them, such as acid rain, air pollution and others.

One thing that needs to be internalized in environmental management is that: "The environment is the legacy of our children and grandchildren." Thus environmental sustainability must be maintained. The essence of environmental problems is the relationship between living things, especially humans and their environment. According to Otto Sumarwoto, the science that studies the interrelationships between living things and their environment is called ecology. In the concept of ecology it is believed that the components or elements of the environment are related in a reciprocal relationship that influences each other (interaction). This relationship is permanent and regular in the form of a system, namely an ecosystem. Otto Sumarwoto provides a definition of ecosystem, namely: An ecological system formed by the reciprocal relationship between living things and their environment. If there is a change in the interaction between components, resulting in a disturbance that is only temporary, it means that the disturbance can be overcome, so that the balance in the pattern of interaction can be restored. However, environmental problems will arise if the function in the ecosystem chain is disrupted and the disturbance exceeds the ability of the ecosystem to recover itself naturally. ..."*The idea of justice for future generations received greater attention after the recognition that climate change is one of the threats to human civilization in the 21st century. Intergenerational issues as the most important dimension of ethical issues in climate change issues.*"Climate change regulations, have they recognized future generations as one of the subjects in fulfilling human rights. Do existing climate change laws cover the right of future generations to appear as plaintiffs in court....." [3].

The ability of the carrying capacity of the environment to sustain development is of great concern, in fact it has begun to be felt by the global community so that the United Nations Environment Program (UNEP), a World Agency that deals with environmental safety, in 1982 when commemorating the 10th anniversary of the environmental movement, agreed to form a World Commission. for Environment and Development (World Commission on Environment and Development-WCED), whose task is to study environmental and development challenges ahead of the year 2000 and ways to overcome them. (Development, 188) WCED is the organization that introduced the term sustainable development used in the report in his book *Our Common Future* and defines it as follows: "development that meets the needs of the present without compromising the ability of future generations to meet their own needs". This wise definition contains a message, that carrying out development in a way that damages the environment can threaten the sustainability of development itself. For this reason, it is necessary to maintain environmental sustainability in utilizing natural resources and the environment, for the

sake of future processes. The concept of sustainable development is followed by participating countries, as well as Indonesia which has formulated the norms referred to in the Environmental Law system, it remains only to implement it which seems to still have many obstacles and obstacles.

In Environmental Management, preservation of environmental capacity is the principle underlying environmental management. Preservation of this ability is tracking up the preservation of the carrying capacity of the environment, which reflects the ability of the environment to support life and the lives of humans and other living creatures in a reasonable and sustainable manner, and the carrying capacity of the environment which reflects a level of environmental quality that guarantees the level of quality of human life. The preservation of the carrying capacity and capacity of the environment is the foundation for continued development. To support such sustainable development efforts, several tools or instruments for enforcing environmental law are needed, such as an Environmental Impact Analysis (AMDAL) which is the first filter before an activity that has a significant impact on the environment is permitted to be carried out. Law No. 23 of 1997 in conjunction with Law No. 32 of 2009 concerning Environmental Management which was ratified by the House of Representatives in an open plenary session on August 22, 1997 and officially came into effect on September 19, 1997 in conjunction with Law No. 32 of 2009 Articles 97 to 120. (Ginting, 2019) The application of environmental criminal law in several regions in Indonesia has not been implemented optimally and optimally, because environmental criminal law still plays a role as *Ultimum Remidium* (Enforcement of environmental law through penal (criminal law) and non-penal (outside of criminal law) measures, while the use of criminal sanctions is as a subside sanction or as a last remedy (*ultimum remedium*), has been regulated in the Environmental Law number 32 of 2009), in law enforcement against cases of environmental pollution and damage. The development of modes of environmental crimes in Indonesia that can harm and damage the environment today is a challenge for the government to create a healthy and clean environment. Weak enforcement of environmental criminal law against perpetrators of environmental pollution and destruction is because the government does not yet have a grand design for synchronizing regulations related to the environment in Indonesia. The application of environmental criminal law in North Sumatra Province, Indonesia, has not been maximally and optimally implemented, because environmental criminal law is still the *ultimum remedium* in law enforcement against environmental pollution cases. One of the obstacles is: Court judges are still not strong/convinced in convicting perpetrators of environmental pollution and destruction. In practice, it turns out that there are still various cases of pollution and environmental damage that cannot be resolved. Therefore, the main problem in this research is: to what extent government policies in the field of environmental management can prevent economic activities that lead to environmental destruction and pollution?

2. Research Methodology

The method used in the writing of this scientific paper is statute approach method, namely juridical-normative, which uses legal materials...."*Normative legal research is based on literature research, which includes legal principles, legal systematics, levels of vertical and horizontal synchronization, comparison of law and legal history, primary, secondary and tertiary.....*"*legal research materials legislation, literature, documents and encyclopedias...*" [4], related to legal developments in society according to the subject matter; The nature of this research is juridical-normative..."*dogmatic juridical, known as pure legal teachings (die reine rechtslehre) or known as the Vienna school, the legal concept that law is for law, not for society...*" [5]. The research specification, analytical descriptive. This research is categorized as normative legal research....." *The approach used in this research is a normative juridical-empirical approach, which is a scientific research procedure to find the truth based on scientific logic from a normative side. Meanwhile, research with a systematic style of law is carried out on primary and secondary legal materials. Terms of reference used is the basic understanding contained in the legal system...*" [6], examining the principles and rules of law, using a statute approach....."*research is an activity that uses empirical and/or non-empirical reasoning and meets the methodological requirements of the relevant scientific discipline.*" [7]. Scientific research procedures to find the truth based on the logic of legal science from the normative side...."*The science of law as a shared science (rechts is mede wetenschap), can be examined by various methods, both normative and empirical, sociological. However, in practice, the science of law as a normative science is very rarely found, this is not profitable in the science of law. Alone...*" [8]. The technique of collecting legal materials for this research was carried out utilizing a literature study of primary and secondary legal materials, as well as searching for legal materials through the internet....."*Primary data collection techniques in normative legal research can be done in three ways: interviews, questionnaires and observation, each of which has strengths and weaknesses...*" [9]. The Data analysis method is descriptive- qualitative, processing legal materials by analyzing, then concluding by deductive means....."*There are three paths of qualitative data analysis, namely data reduction, data presentation and drawing conclusions. This process will take place continuously throughout the research...*" [10].

This research uses the Integrative Legal Theory from Romli Atmasasmit...."*as an analytical knife (tool) to find answers to the problems identified and also as a basis for providing solutions and recommendations to find understanding between the parties involved in the application of the legal aspects of the judiciary for the settlement of legal disputes on online buying and selling agreements involving the banking business industry in the digital era. According to Romli Atmasasmita, the law cannot be separated from human life, so discussing the*

law cannot be separated from human life. Good law is the law that is in accordance with the law that lives in society." [14].

This theory wants to reconstruct the thoughts of Mochtar Kusumaatmadja and Satjipto Rahardjo by producing a new theory, namely the reconstruction of Development Legal Theory by Mochtar Kusumaatmadja and Progressive Legal Theory by Satjipto Rahardjo so that the Integrative Legal Theory was born. Integrative Legal Theory provides enlightenment regarding the relevance and importance of law in Indonesian human life and reflects that law as a system that regulates people's lives cannot be separated from the culture and character of its people, the geographical location of the environment, and people's views of life. Belief in Integrative Legal Theory is the function and role of law as a means of unifying and strengthening society and the bureaucracy in dealing with developments and dynamics of life, both within the scope of the Unitary State of the Republic of Indonesia and within the scope of international developments. According to Romli Atmasasmita [11], the Integrative Legal Theory can be used to analyze, anticipate, and recommend legal solutions, which not only consider normative aspects, but also social, economic, political, and security aspects.

3. Discussion and Analysis

3.1. Pollution and Environmental Destruction

In 2022, Indonesia's Environmental Quality Index increased by 0.97 points compared to 2021. From 2018 to 2022 the values continued to increase in a row: 65.14; 66.55; 70.27; 71.45; and this year it was 72.42 points.....*"This increase in value was due to an increase in the value of the Water, Air and Seawater Quality Index, even though the Soil Quality Index was the same as in 2021, it did not significantly affect the value of the Environmental Quality Index in aggregate. Calculations for the 2022 Environmental Quality Index values were obtained from 7,331 water quality monitoring locations, 3,076 air quality monitoring locations, and 970 seawater quality monitoring locations throughout Indonesia. Meanwhile, 514 data for monitoring the quality of land cover were obtained from all districts/cities in Indonesia. Within the framework of driving factors, pressure, state, impact and response, state variables have been measured through environmental quality indexes. Another variable that is no less important is the response that describes the ability of the region to mitigate push factors, pressures and their impacts..."* [12]. In order to further explore what exactly this destruction and pollution is, it is better to review the definitions and criteria for these two things. The definition of environmental destruction and pollution according to the Environmental Management Act (UUPLH), can be stated, that: "Environmental pollution is the entry or inclusion of living things, substances, energy, and or other components into the environment by human activities, so that the quality of the environment decreases to

a certain level which causes the environment to be unable to functioning in accordance with its designation."

Pollution is fundamentally different from contamination or contamination, because in contamination the level of concentration of these pollutant substances is such that their existence in the environment does not disrupt the function or designation/use of that environment. In other words, in polluting or contamination the concentration level of pollutant substances does not exceed the threshold value and does not cause the environment to become deficient or no longer function. The criteria used to determine whether the environment has been polluted or damaged, the benchmark used is the Environmental Quality Standard. Disturbance to the environment and ecology, the size of the deviation is measured from the set limits in accordance with the carrying capacity of the environmental ecosystem. The limits of carrying capacity or environmental capability are called threshold values (NAV). NAV is the highest (maximum) limit of the content of substances, living things or other components that are allowed in any interactions with the environment, especially those that have the potential to affect the quality of environmental or ecological arrangements. According to N. H. T. Siahaan, from this understanding it can be concluded that an ecosystem has been polluted, if it turns out that the environmental conditions have exceeded the NAV determined based on the determination of Environmental Quality Standards (BML).....*"Ecosystem is a reciprocal relationship between living things and their environment in a unit that is arranged regularly. The part of science that studies the interrelationships between organisms and their environment is called ecology, which was first used by a German biologist, Ernst Haeckel in 1869, at which time ecology was made a branch of biology..."* [13].

Even though in the formulation it appears that there is a difference between the notions of pollution and destruction, in fact the two meanings do not contain any difference in juridical terms, because the essential elements of both are the same. The essential elements of the similarity of the two definitions include: Both environmental pollution and environmental damage are actions that cause changes, either directly or indirectly; Both pollution and environmental damage are two actions that together cause the environment to be less or unable to function. again; In relation to civil and criminal liability, the two are not differentiated according to juridical consequences as stipulated in Article 34.35 of Law Number 32 of 2009 concerning Environmental Preservation; Both are either intentional or negligent, subject to the same criminal threat.....*"The difference between pollution and environmental destruction lies only in the manifestation of its consequences. In pollution, the result is in the form of a lack or non-functioning of the environment, because the decrease in environmental quality is not immediately visible. The result can only be known based on laboratory tests. Concretization of the new physical consequences will appear after a long period of time (more than 10 years). Meanwhile, the consequences of the destruction will appear immediately, and can even be understood by ordinary*

people. For example forest destruction, death of animals or plants....." [14]. The difference between pollution and environmental destruction lies only in the manifestation of the consequences. In pollution, the result is in the form of a lack or non-functioning of the environment, because the decrease in environmental quality is not immediately visible. The result can only be known based on laboratory tests. Concretization of the new physical consequences will appear after a long period of time (more than 10 years). Meanwhile, the consequences of the destruction will appear immediately, and can even be understood by ordinary people. For example forest destruction, death of animals or plants.

3.2. Causes of Environmental Pollution and Destruction

After knowing the meaning of pollution and environmental damage, then it is deemed necessary to know more about the factors (problems) that cause this to happen. From the results of a review of several literature materials, it was concluded that environmental problems such as pollution and destruction are caused by weak enforcement of environmental law itself. Enforcement of environmental law is a link that forms the process, which has its own style that is different from the law enforcement process in general...*"The criminal sanction against the perpetrators of environmental pollution is in the form of ultimum remedium or the last resort, only as a last resort when other efforts have failed, by punishing the perpetrators with imprisonment or fines. While the inhibiting factors in enforcing environmental law, one of which is caused by the not yet optimal understanding of law enforcement officials, such as: Special investigators for civil servants, police, prosecutors and judges, regarding the substance of environmental legislation, so that various many cases are not resolved in accordance with the will of environmental law. The lack of environmental law enforcement officers in environmental agencies in the regions; as well as the minimum budget accommodated by environmental agencies in the regions, making various environmental management and preservation programs unable to be implemented properly....."* [15]. According to Bambang Prabowo:.....*"Environmental problems arise because environmental enforcement is not solely because of the orderly laws and regulations that govern it, but more than that because of the understanding, awareness and compliance of all parties to it which is supported by the institutionalization, regulations that have not been satisfactory..."* [16].

When the World Environment Conference was held in Stockholm in 1972, it was successful various ideas to overcome the problem of pollution and environmental destruction. The conference succeeded in forming UNEP (United Nations of Environmental Program). The agency is also known as the United Nations Environment Programme. However, after the conference, it turned out that the condition of the environment in various parts of the world was not getting better, and even

tended to decrease in quality and environmental damage became a global problem..*"The fishing industry is an industry that consumes significant amounts of water, so it is certain that the amount of effluent released will also be large. Cleaner production offers the best solution in reducing environmental impact and efficiency in economic terms (reduction of raw materials, energy and utilities). In its clean production application, it can be run in parallel with the GMP, HACCP and non-waste production programs..."* [17]. As previously described, this world body has also formed the WCED which examines issues of economic and environmental development, which eventually gave birth to the concept of sustainable development (Sustainable Development).

According to Otto Soemarwoto, the occurrence of environmental pollution can be caused by 4 (four) factors, namely: The existence of pollution due to the greater speed of production of a substance than the speed of its use or degradation chemically and physically. Is a biological process that forms or concentrates certain pollutant substances; For example fish concentrate pollutant substances; based on non-biological physico-chemical processes. This process can occur without (direct) human influence, such as pollution from volcanoes; Accidents occur, such as accidents or leaks in offshore tankers that pollute the environment.

Based on the Draft Academic Paper prepared by Environmental impact Control Agency, regarding Environmental Protection and Management Act Amendments, several factors can be put forward for the ineffectiveness of Environmental Protection and Management Act in anticipating environmental management problems, including:..." *The territorial space of the Unitary State of the Republic of Indonesia, both as a unit which includes land, sea and air space, including space inside the earth and its resources, is a gift from God Almighty which must be grateful for, protected and managed in an efficient manner. sustainable for the greatest prosperity of the people as mandated in article 33 of the 1945 Constitution. Spatial planning policy is an important effort in orderly spatial planning in Indonesia. Spatial use control is carried out systematically through the establishment of zoning laws and regulations, permits, provision of incentives and disincentives, as well as sanctions...."* [18]. The development of development activities in the last 10 years in various sectors such as industry, mining and energy, trade, housing, settlements and so on, have given birth to various new problems that are increasingly complex as well as increasing pressure on the environment.

3.3. Government Policy in Environmental Management

Developments in international aspirations regarding global environmental management are increasingly influencing environmental management efforts, including Indonesia. In this regard, Indonesia has refined Law No. 4 / 1982 through Law

No. 23 of 1997 in conjunction with Law No. 32 of 2009 concerning Environmental Management (UUPLH) which was ratified by the House of Representatives in an open plenary meeting on August 22 1997 and officially entered into force on September 19, 1997. It seems that the focus of the approach used by the Environmental Protection and Management Act in environmental management is compliance with legal environmental norms, while sanctioning is the final measure. Law enforcement based on this compliance is the beginning of the implementation of sustainable development. The formulation of environmental management policies based on sustainable development has also been mandated in the preparation of the 2000-2004 National Development Program (Propenas).....*"The consequences of Indonesia as a country that is committed to recognizing the right to a clean, healthy and sustainable environment as a universal human right, are contained in UN Resolution Number A/76/L75. This commitment cannot stop at the political will of the State to implement it, as in other international environmental law documents...."* [19]. In the appendix, it provides directions in Chapter X concerning the Development of Natural Resources and the Environment as follows: *".....in the context of supporting the implementation of the third national development priority, namely accelerating economic recovery and accelerating the basis for sustainable and just economic development based on an economic system. the people. The development of natural resources and the environment in this chapter serves as a reference for the activities of various development sectors in order to create balance and sustainability of the functions of natural resources and the environment so that the sustainability of development is guaranteed"....* *The concept of restoration of environmental pollution that occurred in various cases that have been decided by courts, shows the need to demand compensation due to environmental pollution in the form of recovery costs in accordance with the principle of strict liability and the polluter pays, which is reinforced by environmental law expert witnesses, based on the regulation of the minister of environment. This is in line with the principle of State responsibility contained in principle 7 and the precautionary principle contained in principle 15 of the Rio Declaration on Environment and Development: An Assessment...."* [20].

Thus the development of the economic sector will still be prioritized in the framework of economic recovery, which means that there will be an increase in the utilization of natural resources and the environment. This means it will be a threat to environmental sustainability. In accordance with the provisions of article 11 Environmental Protection and Management Act, Preparation of AMDAL documents, is a tool that can be used to carry out monitoring and supervision in the context of environmental management, especially in the preparation of AMDAL, RKL and RPL documents, in these documents, especially in RKL and RPL, contains efforts measures to be taken to prevent environmental damage and pollution. The en-

vironment is everything that exists around humans and is interconnected. Environmental Law is the built environment that is influenced by humans. Factors causing environmental pollution due to industrial waste of hazardous and toxic materials (B3). Declining environmental quality has threatened human survival and increasing global warming has resulted in climate change. So that before the environment is damaged and can no longer be renewed, it is important for humans to keep the environment alive and not just disappear due to human activities themselves. To further streamline the implementation of the AMDAL, the government has made several changes to the provisions of the AMDAL to implement Article 11 of the Environmental Protection and Management Act, namely Government regulations (PP) No. 29 of 1986, PP. No. 51 of 93 and finally Government regulations (PP) 27 of 1999. However, despite the refinement of Government regulations. The Environmental Impact Analysis (AMDAL) has been carried out, it turns out that it has not succeeded in reducing the number of polluting business activities, because it seems that the preparation of an AMDAL which takes a lot of time and costs tends to be avoided or shortcuts are sought. Prof. Dr. Siti Sundari Rangkti, stated that: Environmental law concerns the determination of values that are currently in effect and are expected to apply in the future and can be called laws that govern environmental governance. Regulates reciprocal relations between humans and other living things which if violated can be subject to sanctions.

Tools or instruments that are also important for preventing or overcoming environmental pollution or damage are standard setting. The minimum standard as a benchmark for determining the level of environmental pollution/damage is the Environmental Quality Standard which includes the ambient environmental quality standard (za limit t that are permitted to be present in the air) and waste quality standards (limits of pollutant substances that are permitted to be discharged into the environment without exceeding the quality standards) in accordance with the Decree of the Minister of Population and Environment number: Kep-02/MENKLH/1/88 concerning Determination of Environmental Quality Standards (BML). Environmental Quality Standards are basically limits on how far pollution elements can be accepted into the environment and BML violations, will be juridical evidence in determining whether pollution has occurred or not. If the waste generated and disposed of into the environment exceeds a predetermined limit, that will be a measure of whether or not there is environmental pollution.....*"The environment is everything that exists around humans and is reciprocally related. Law of the environment is the built environment, which is influenced by humans. Factors causing environmental pollution due to industrial hazardous and toxic waste (B3). The declining quality of the environment has threatened human survival and increasing global warming has resulted in climate change. So before the environment gets damaged and can't be renewed anymore, it's important for humans to keep the environment alive and not just disappear due to human activities..."* [21].

Basically, the environmental management system set forth in the Environmental Protection and Management Act is a prohibition against disposing of waste without a permit and a prohibition on carrying out activities or businesses that have important impacts without a permit (article 14 of the Environmental Protection and Management Act). Sectoral agencies authorized to issue business licenses are basically responsible for supervision in preventing pollution as stipulated in Article 21 of Law no. 5 of 1984. Article 11 of the Environmental Protection and Management Act stipulates a provision which states that: every activity plan that is estimated to have a significant impact on the environment must be accompanied by an Environmental Impact Analysis. In line with these provisions in article 14 of the Environmental Protection and Management Act it is stated that: every business activity that has a significant impact on the environment, must have a permit to carry out activities or business. With the enactment of these provisions, it can be said that the obligation to prepare an AMDAL is manifested in licensing requirements that must be complied with by permit holders to prevent negative impacts on the environment. When associated with Government regulations No. 51 of 1993 concerning Environmental Impact Analysis, the licensing requirements are spelled out in the Environmental Management Plan which is a guideline for activity initiators....." *Environmental law concerns the determination of values that are currently in effect and are expected to be enforced in the future and can be called the law that regulates the environmental order. Regulates reciprocal relations between humans and other living things which if violated can be subject to sanctions.....* [22].

Furthermore, this obligation is implicitly expected to be accommodated in every regulation regarding activities that have environmental impacts and require permits for their implementation. An example is article 21 of Law No. 5 of 1984 concerning Industry as follows: "Industrial companies are obliged to carry out efforts to balance and preserve natural resources and prevent damage and pollution to the environment due to industrial activities carried out." The provisions mentioned above indicate that the requirements for environmental quality must be set forth in an Industrial Business Permit issued by the competent authority. Environmental interests are also reflected in the provisions regarding efforts to prevent pollution that are stipulated through the Environmental Impact Analysis procedure as part of the licensing procedure. This effort is clearly stipulated in article 5 Government regulations (PP) Environmental Impact Analysis, which links the Environmental Impact Analysis procedure with the licensing procedure: "The granting of a permanent business license by an agency in charge of the type of business or activity as referred to in Article 2, can only be granted after the implementation of the Environmental Management Plan and Monitoring Plan. Environment that has been approved by the responsible agency".

From these provisions it shows that with regard to licensing as described above, it can be concluded that every permit for a business sector, both at the planning/operational stage, must

always be linked to the Environmental Impact Analysis. Thus the initiator/person in charge of the company will always be bound by the obligations in accordance with what has been stated in the Environmental Impact Analysis document. In order to overcome environmental problems in Indonesia, in addition to having formulated a law that regulates Environmental Management, namely the Environmental Protection and Management Act, replacing the Environmental Protection and Management Act as well as lower regulations that are implementing these provisions both at the central and regional levels, in the institutional field have also been formed Minister of State for the Environment.

In the beginning, namely in 1978 the Minister of State for Environmental Protection and Management, the task of the Minister of Environment was to make policies and coordinate matters regarding environmental management. To assist the Minister of Environment, Environmental impact Control Agency was formed in 1990 which was tasked with carrying out environmental impact control, including efforts to prevent damage, mitigate impacts and restore environmental quality. Even though it has been supported by statutory material that regulates environmental management and the establishment of an Institution that has the authority to regulate it, environmental problems in Indonesia have emerged along with increased development. For example: cases of water, air and soil pollution by industrial waste, forest fires, difficulties in overcoming natural resource management that are not based on the concept of sustainable development.

3.4. Law Enforcement

From the results of a review of several literature materials, it was concluded that perma Environmental wrongs such as pollution and destruction are caused by weak enforcement of environmental law itself. Enforcement of environmental law is a link that forms the process, which has its own style that is different from the law enforcement process in general. Jaro Madya in his book: "The Penal Protection of the Environment", states that: "criminal sanctions in environmental protection are used as ultimum remedium" ... "Environmental law, unlike other areas of law, is a very young branch of legal science, whose development has only taken place in the last decade. As a result, until now the treasury of environmental law books is still very limited, making it difficult for scientists and practitioners to obtain a clear and complete picture of environmental law. Several basic ecological concepts, ecosystem concepts and environmental concepts are very important in the application of Indonesian environmental law, especially regarding their characteristics and institutions, it is also necessary to state them to facilitate the application of Indonesian environmental law..." [23]. Environmental law expert, Sundari Rangkuti also agrees that criminal sanctions are not the main solution in tackling environmental pollution problems, but are only an ultimum remedium. It was further stated that environ-

mental law is mostly state administrative law, so that administrative sanctions are very important for the success of environmental management..”*Enforcement of environmental law through penal (criminal law) and non-penal (outside of criminal law) measures, while the use of criminal sanctions is as a subsidence sanction or as a last resort (ultimum remedium), has been regulated in the Law Environment number 32 of 2009. In enforcing environmental law through non-penal legal remedies, there are several weaknesses, including: in general, the process of civil cases takes a relatively long time, because it is likely that the polluter will extend the trial time or execution time by filing an appeal. or cassation, while the pollution continues with all kinds of consequences, the recovery period is difficult to do quickly because it takes quite a long time by not applying criminal sanctions, not ruling out the possibility that the perpetrators of pollution and other potential pollution do not take precautions and apply administrative sanctions, which can result in the closure industrial companies that have an impact on workers, unemployment will increase, can cause crime and socio-economic vulnerability in society....” [24].*

In the United States, criminal prosecution is the last link in the chain, with the aim of eliminating or reducing adverse effects on the environment. This chain, among others, includes: Determination of policies, designs and planning, environmental impact statements; Regulations regarding standards or minimum guidelines for licensing procedures; Administrative decisions on violations, determining deadlines and final days for regulations to be complied with; Civil lawsuits to prevent or inhibit violations, research on fines or compensation; Community lawsuits to force or urge the government to take action, lawsuits for compensation; and Criminal Charges.

What has been put forward by Jaro Madya, namely the description of the chain of environmental law enforcement in America, actually several things have also been done by the Indonesian government. According to Bambang Prabowo, several environmental law enforcement issues that must be discussed include: Legislation; Licensing Issues; Problems with testimony and evidence; Problems with institutional coordination of related agencies/departments; Other problems which include-not understanding existing regulations, not being aware of the importance of the environment, not complying with existing regulations, incomplete regulations and responsible institutions.

In order to be able to find out the root causes of environmental law enforcement which have resulted in not being successful in overcoming problems of environmental pollution and destruction, it is successively studied based on the problem of enforcing environmental law, as described above, by Bambang Prabowo, as follows:

3.4.1. Legislation

Conceptual environmental management policies have been outlined in the Tap. MPR/II/2000 concerning outlines of state

policy (GBHN), particularly in the environmental sector policies, which are then translated into Repelita. Furthermore, in this reformation era, it was further elaborated in the 2000-2004 Propenas. Legally, environmental management matters are regulated in Law No. 23 of 1997 in conjunction with Law No. 32 of 2009 concerning Environmental Management (UUPLH), replacing Law no. 4 of 1982 concerning Principles of Environmental Management (UULH). Environmental Protection and Management Act functions as an umbrella act for existing and future environmental provisions. In order to implement these provisions, the following has been issued:

- a. Several government regulations such as Government regulations no. 27 of 1999 concerning Environmental Impact Analysis (AMDAL), Government regulations No. 20 concerning Water Pollution Control, Law no. 5 of 1990 concerning Conservation of Natural Resources and Ecosystems, Presidential Decree No. 10 of 2000 concerning the Environmental Impact Management Agency (BAPEDAL) replacing Presidential Decree No. 196 of 1998 concerning Environmental impact Control Agency, Law no. 5 of 1992 concerning the Protection of Cultural Heritage Objects, Law no. 10 of 1992 concerning Population Development and Prosperous Family Development, Law no. 24 of 1992 concerning Spatial Planning, Government regulations no. 12 of 1995 concerning Changes, PP No. 19 of 1994 concerning Management of B-3 Waste.
- b. Several Decrees from the Minister of Environment, as technical guidelines, include: Decree of the Minister of Population and Environment No. 49/87 Concerning Guidelines for Determining Environmental Impacts, Decree of the Minister of Population and Environment No. 2/88 Concerning Guidelines for Setting Environmental Quality Standards, Decree of the Minister of Population and Environment No. 51/95 concerning Quality Standards for Liquid Waste for Industrial Activities, Decree of the Minister of Population and Environment No. 13 / 95 concerning Quality Standards for Emissions from Immovable Sources, Decree of the Minister of Population and Environment No. 42/94 regarding Environmental Audit, etc.
- c. Various decrees from sectoral ministers as the implementation of Government regulations (PP) No. 27 of 1999 concerning Amdal (replacing PP No. 51 of 1993 concerning Environmental Impact Analysis, as well as regulations at the regional level relating to the implementation of Government regulations (PP) AMDAL, including: Minister of Health Decree No. 286/93 concerning Activities in the Health Sector that are Required to Make an Environmental Impact Analysis, Kepmenteri PU No. 45/90 concerning Water Quality Control at Water Sources and others.

If we examine more deeply the various statutory provisions mentioned above, it turns out that a review of the necessary

statutory regulations still needs to be carried out. not in carrying out the enforcement of the Environmental Protection and Management Act, because: There are still many urgent regulations that must be regulated such as air/marine environment pollution control, procedures for filing Class Action lawsuits and others; It is still necessary to review the laws and regulations produced in the pre-independence era, such as the Nuisance Ordinance (HO); There is still a need to adjust sectoral laws and regulations to the Environmental Protection and Management Act which will describe a regulatory system in the field of environmental management, both at the Central Government level and at the Regional Government level.

3.4.2. Licensing

In the environmental management system, permits are the most effective environmental control instrument, because permits must be accompanied by requirements and environmental considerations as an effort to prevent pollution. Licensing in the industrial sector includes industrial business permits, location permits, HO permits and waste disposal permits. Liquid. Licensing is an administrative instrument to realize government policies, especially those related to industrial development and growth on the one hand, and maintenance of the carrying capacity of the environment on the other. The minimum standard as a benchmark used to determine the level of pollution and environmental damage has been regulated in Decree of the Minister of Environment Number 2, 1988 About Concerning Environmental Quality Standards. Licensing procedures have been regulated in several regulations, including: Decree of Minister of Industry Number 134, 1986 Concerning the Prevention and Management of Pollution as a Result of Industrial Activities, Decree of Minister of Industry Number 291, 1989 concerning Licensing Procedures for Industrial Estate Technical standards. This type of permit for activities that have a significant impact on the environment is known as an environmental license [25]. In relation to the PP Environmental Impact Analysis, in article 5, it is stated, among other things, that: "The granting of permits by the competent authority will only be granted after approval of the RKL and RPL which are the results of the preparation of the AMDAL documents. Thus it can be said that matters relating to Environmental Impact Analysis must be integrated into every permit issued by the competent authority.

Licensing is handled by various agencies, according to the business sector concerned, such as: the Ministry of Industry issues business licenses, the Ministry of Forestry issues permits for forest control. At the regional government level, the regional government grants HO permits, which grant permits based on the fulfillment of the requirements set by the agencies related to the field of activity. In this way the initiator/person in charge of the activity will always be bound by their obligations as stated in the EIA approval decision. With the issuance of Permendagri No. 12 of 1984, HO permits issued by the Regional Government, for companies using facilities

based on the Foreign Investment Law and Domestic Investment Law, were declared null and void and the granting of HO permits was delegated to Regional Investment Coordinating Board. For companies based on Foreign Investment Law and Domestic Investment Law facilities, the granting of industrial business permits was delegated from the Minister of Industry to the Chairman of Investment Coordinating Board.

In this regard, the problems that arise in connection with licensing issues include: A sufficient number of permits are needed to carry out an industrial activity that involves many sectors or agencies, so that it is not uncommon to create the possibility of overlapping authorities. This will make it difficult both for supervision and for enforcement, in the event of pollution and environmental damage; According to the results of the EMDI-BAPEDAL (Environmental impact Control Agency) research regarding the study of Pollution Control Permits, it was concluded that permits have not been utilized as a means of controlling environmental impacts. Even for an activity that must be completed with an Environmental Impact Analysis, a permit has been granted if the AMDAL has not yet been approved by the responsible agency.. "Environmental issues are very complex issues, and one way to resolve the complexity of environmental issues is environmental law as part of functional law which provides a legal framework for environmental management and aspects of legislation, institutions, instruments, and environmental law enforcement in the context of successful environmental management in Indonesia. From the aspect of environmental law instrumentation, it provides environmental law instruments, environmental impact analysis, environmental permits, economic instruments and environmental audits. The application of this instrument is the main key to successful environmental management....." [26].

3.4.3. Institutional Coordination Between Related Agencies/Departments

The problem of institutional coordination of related agencies/departments in environmental management is very important to do. This is due to the fact that environmental management is not only the duty of the Office of the Minister of Environment, but it is the duty of all mankind to protect and preserve the environment. Thus law enforcement on environmental pollution and destruction, Meneg. The Environment needs to coordinate with related agencies/departments, among others, such as: Indonesian republic police Headquarters; Attorney General's Office; Supreme Court; Ministry of Law and Human Rights; Ministry of Industry and Trade; Ministry of Fisheries and Maritime Affairs; Ministry of Forestry; Ministry of Transmigration and Manpower; Ministry of Defense; Ministry of Housing; National Development Planning Agency (BAPPENAS); Ministry of Finance Bank Indonesia; Non-Governmental Organizations (NGOs); Community leaders/leaders; and other related agencies.

With the same perception between instant related parties/institutions, law enforcement on environmental pollution and damage will be easier to do. The Environmental Management

Institution was formed with the birth of the Office of the State Minister for Development and Environment Supervision (PPLH) in 1978. The duties and authorities of the Minister of Environmental Protection and Management, which was later changed to the Minister of the Environment (LH), are to coordinate the activities of the management of the Environment. The Minister of Population and Environment, has fostered a national environmental management system, starting from the planning, institutional, supporting facilities (among other things the legal products that gave birth to the UULH, to things that are operationally coordinative in nature). In addition to the success that has been achieved, Minister of Population and Environment has also encountered structural obstacles, in which Minister of Population and Environment cannot impose on other Ministries/Sectors or regions regarding environmental management, because the nature of the authority it has is coordinative. For its implementation depends on each sector in charge of their respective authorities. The result is that Minister of Population and Environment approach is always ecosystemic regarding management, contrary to the sectoral and regional approaches which are exploitative.

With the issuance of Presidential Decree No. 23 of 1990 concerning the Environmental Impact Management Agency, it is hoped that it can overcome the difficulties of controlling and overcoming environmental pollution. The Presidential Decree was declared no longer valid with the issuance of Presidential Decree No. 77 of 1994 concerning Environmental impact Control Agency which provides the legal basis for the establishment of Central, Regional and Regional Bapedals. Finally, it also underwent a change with the issuance of Presidential Decree No. 10 of 2000 concerning Environmental impact Control Agency. The problem that arises is: so far Bapedal is still considered not to have carried out its role as an environmental impact control institution optimally, because this role is legally attached to sectoral agencies (at the Central and Regional levels). Therefore, the Environmental Protection and Management Act seeks to ensure that the Minister of Environment has the authority to issue environmental permits, supervise and order environmental audits if an activity or attempt is suspected of deviating from environmental management. Likewise with the realization of the formation of Civil Servant Investigators (PPNS) within the Central and Regional Bapedal, it is hoped that the initial stages of the process of enforcing criminal sanctions will be more successful if handled by agencies that technically and institutionally carry out environmental protection efforts.

3.4.4. Testimony and Evidence Issues

Any development aimed at increasing the prosperity and welfare of the nation should also be accompanied by efforts to protect environmental sustainability. The terms environment and the living environment or the human environment as translations from the English language environment and human environment are often used interchangeably in the same sense. Even though the meaning of the environment and the

human environment can be given different limits based on the perceptions and scientific disciplines of each author, several authors provide the meaning, among other things, the environment or the human environment is the sum of all the objects and conditions that exist in the space we occupy which affect our lives (Otto Sumarwoto, 1976). The environment can be defined as the sum of all external influences and forces acting upon an object, usually assumed to be living being (Sewell, 1971)....”*Environmental law problems and new perceptions about how the legal system should be able to respond effectively to problems arising from conflicts of interest due to recent use of the environment. The approach to environmental issues is not solely from a legal perspective, but also must provide basic knowledge of environmental science and ecological principles...*” [27]. Meanwhile, based on Law no. 23 of 1997 juncto Law Number 32 of 2009 concerning Environmental Management defines the environment as a spatial unit with all objects, forces, conditions, and living things, including humans and their behavior, which affect the continuity of life and the welfare of humans and living things. In environmental management, humans have a very important role. Because the management of the environment itself is ultimately aimed at the continuity of human life on earth.

The definition of the environment based on its contents for practical purposes or analytical needs needs to be limited to the environment in the sense of the biosphere, namely the earth's surface, water and atmosphere where living organisms live. The boundaries of the environment in this sense are all objects, power and life, including humans and their behavior contained in a space, which affect the continuity and welfare of humans and other living organisms. The environment provides the necessities of human life. Vice versa, human life is very dependent on the availability of adequate natural resources in the environment. Environmental issues began to become a world topic when humans began to gasp that the earth was no longer friendly and began to feel its increasingly widespread impacts due to various human activities themselves.

Population growth and scientific development Science and technology are increasingly increasing the exploitation of nature by humans so that nature is no longer able to provide optimal benefits, meeting the needs of the current generation without having to reduce its ability to meet the needs of future generations. putting pressure on environmental conditions such as the use of modern technology in various industrial activities, the application of various development policies that ignore environmental sustainability, as well as activities in the economic field that do not take into account the carrying capacity of the environment need to be anticipated so as not to cause environmental damage, for example, the destruction of coastal and marine areas has occurs with evidence of the increasing extinction of various types of coral reefs or for example the large amount of illegal encroachment on forests where these people cut down forests without permits, as a result of their actions the forests become denuded and the state and society are harmed, illegal extraction of sand by the community,

mining and others that will eventually cause damage. As a country that has ratified the Paris agreement, Indonesia is required to submit climate change commitments in the form of Nationally Determined Contributions (NDC). More than that, actually Indonesia also has an obligation to fulfill the commitments it has made by manifesting public participation in the doctrine of public trust. Even though public participation has a significant role in fulfilling the NDC, it seems that in practice it is still very far from ideal.

In terms of various activities carried out either by the government or by businessmen or the public who carry out for example forest encroachment or illegal excavation or mining often cause damage to the environment, but these activities must be seen from the utilization, profit and loss both from an economic and social perspective. Environmental damage that often occurs often causes disputes in society, especially the parties who are harmed, causing conflict. Environmental damage is not only seen as having occurred a criminal act committed by a detrimental party, but it must be seen whether the environmental damage not only results in losses but also must be seen from the benefits obtained as a result of the environmental damage, as well as regarding the settlement not only by submitting the adverse party has committed a crime but the settlement can be done by restoring or rehabilitating the damaged environment...."law enforcement against corporations as perpetrators of tax crimes, cannot be implemented optimally, because it is faced with the legal system that determines the success or failure of good law enforcement, namely the content/material of the law; legal structure; and legal culture. The regulation of aspects of criminal law enforcement against corporations as perpetrators of tax crimes has not been explicitly regulated in statutory regulations, but only regulated in special criminal offense regulations. This aspect of law enforcement is faced with juridical constraints; the principle of *lex specialis* tax laws and regulations, often conflicting with tax court decisions. To overcome these obstacles, it is suggested, among other things: it is necessary to strengthen the function and role of corruption investigators, regulate the mechanism of the whistle blowing system and justice collaborators in the criminal justice system; application of confiscation mechanism and reverse verification of corruptor's assets; application of regulations in the field of anti-money laundering....." [28].

Prof. Koesnadi Hardjasoemantri in his book: *Environmental Management Law*, "legal requirements for environmental disputes and legal requirements for environmental disputes and their relation to, for example, the issue of compensation. Regarding the scope of what is called environmental dispute resolution, it really depends on the legal provisions that underlie it. This is because the settlement of environmental disputes is principally based on the principle of civil law, namely seeking peace between the disputing parties. However, in the context of Indonesian people's lives, dispute resolution is generally based on deliberations to reach an agreement between

the parties. Settlement of environmental disputes that are carried out in a civil manner is by carrying out a lawsuit by the aggrieved party through the court....." [29], contains: legal aspects of environmental disputes, environmental dispute law, as stated in his various lectures, is a translation of milieu conflicten recht. In the issue of the seventh/fifteenth edition of his book, the term environmental dispute law and the term environmental dispute law and in relation to it, for example, the issue of compensation. Regarding the scope of the so-called environmental dispute resolution, it really depends on the legal provisions that underlie it. This is because the settlement of environmental disputes is primarily based on civil law principles, namely seeking peace between the disputing parties. However, in the context of Indonesian social life, dispute resolution is generally based on deliberations to reach an agreement between the parties. Settlement of environmental disputes that are carried out in a civil manner is by carrying out a lawsuit by the aggrieved parties through the courts. In practice in the community, environmental dispute resolution is often carried out not only through the court but also outside the court, dispute resolution outside the court can be carried out using the services of a third party. In resolving environmental disputes using the services of third parties, this is carried out by means of Alternative Dispute Resolution (ADR) developed abroad, which is increasingly gaining a place in legal life in Indonesia.

In general, the reference for resolving environmental disputes refers to Law no. 23 of 1997 juncto Law Number 32 of 2009 entitled "Environmental Dispute Settlement" Articles 30-39. Specifically, arrangements regarding environmental dispute resolution must be seen from sectoral arrangements that fall within the environmental sector such as mining and forestry. The regulation of forestry issues is found in Law no. 41 of 1999 namely Articles 74-76. These provisions will later be used as a reference in discussing environmental dispute settlement issues and these provisions can be referred to as environmental dispute legal provisions. In the Environmental Law regarding the settlement of environmental disputes it has been standardized through a definite legal formulation. The formulation of what is meant by environmental disputes is disputes between two or more parties from legal subjects, either individuals or groups of people. The cause of this dispute is because there is (actually there is) or it is suspected (only as an allegation) of environmental pollution and or damage. With this pollution or environmental damage men cause losses to various parties, these losses cover various aspects both moral and material, can be categorized as an unlawful act, as meant in the provisions of article 1365 of the Civil Code (KUHPerdata)...."the act of environmental pollution as an unlawful act in accordance with the provisions of article 1365 of the Civil Code (Burgerlijk Wetboek), is very relevant to be used to hold the perpetrators of environmental pollution accountable in a civil manner. Reciprocal relationship between losses arising from acts of environmental pollution as an unlawful act and its relation to civil responsibility..... [30].

The difficulty of enforcing Administrative Law in the context of environmental management, when faced with an administrative decision in the form of revocation of a business license which will have an economic sociological impact, has led to pressure from the public/NGOs to submit cases of pollution and destruction to court hearings, such as: cases of environmental pollution committed factory. As a country that has ratified the Paris agreement, Indonesia is required to submit climate change commitments in the form of Nationally Determined Contributions (NDC). More than that, actually Indonesia also has an obligation to fulfill the commitments it has made by manifesting public participation in the public trust doctrine. Even though public participation has a significant role in fulfilling the NDC, it seems that in practice it is still very far from ideal. Limited liability company (PT). Pertamina Hulu Energi (PHE) in Karawang, West Java, Indonesia, which resulted in polluted water in the environment around the factory and the application of sanctions was only in the form of administrative and civil sanctions....” *Environmental pollution by the Pertamina Hulu Energi Limited Liability Company (PT) factory, based on law number 32 of 2009 concerning environmental protection and management and the application of appropriate sanctions, that waste disposal is carried out by companies in Krawang, Answerarat, Indonesia, has resulted in water pollution in the environment around the factory and the application of administrative and civil sanctions.....*” [31]. Then the case of Limited liability company (PT). Inti Indorayon Utama (IIU)/Toba Pulp Lestari (TPL), Limited liability company (PT). Freeport, and other cases.....” *In recent years, the increase in extreme weather, natural disasters, and damage to ecosystems due to climate change has brought threats to human survival. One of the parties that contributes to this is corporate activity which triggers a reaction from certain parties to demand corporate responsibility for climate change in court. Prospects and challenges of climate change litigation against corporations in Indonesia, that the use of lawsuits against corporations for climate change, there is a chance of successful climate change litigation against corporations in Indonesia.....*” [32]. This suggests that environmental law enforcement through criminal law must still be carried out. The most difficult thing to bring environmental cases to court is the problem of proof and testimony. Proof is intended to legally prove that an environmental crime has occurred, as stipulated in articles 183 to 189 of the Criminal Procedure Code. In proving environmental crimes, a comprehensive approach to environmental problems is used, for this reason the ability to translate facts according to science (science evidence) is required into legal facts (legal evidence). Because of this, the evidence for environmental crimes is dominated by expert testimony and the results of laboratory analysis, which must also be supported by other evidence.....” *The use of scientific evidence in the decisions of environmental criminal cases in Indonesia and the suitability of the use of scientific evidence with the precautionary principle in judges' considerations in deciding environmental criminal cases, is very important. The*

existence of scientific evidence and its influence on the application of the precautionary principle in examining cases, especially with regard to the strength of scientific evidence presented at trial. The facts show that the weakness of scientific evidence is greatly influenced by the legitimacy or legitimacy of each content and form of scientific evidence itself. The use of scientific evidence in consideration of judges in deciding cases is also closely related to the application of the precautionary principle as one of the substantive legal principles in handling environmental criminal cases.....” [33].

Problems will arise if the judge doubts the results of the laboratory analysis of samples from polluted environmental elements, thus the judge will order a re-examination which is likely to result in a different outcome. This difference can occur, among others, due to: Natural factors, a polluted river is then hit by rainwater which can cause an increase in the water discharge to neutralize pollutant substances, at least reduce the level of intensity, so that the result is that the river is no longer polluted but only contaminated and still within tolerable limits (not exceeding BML); Differences in facilities such as laboratories, can also produce different results. In this regard, it is necessary to make a policy regarding standardization or standards that have juridical value in determining sampling procedures or techniques, designating laboratories and others...” *Prof. Koesnadi Hardjasoemantri in his book Environmental Management Law contains legal aspects of environmental disputes, environmental dispute law as stated in various lectures is a translation of milieu conflicten recht. In issue VIII, Eighth Edition, 22nd (twenty-second) printing, it is stated that: the legal terms of environmental disputes and with the legal terms of environmental disputes and in connection with for example the law on compensation issues. Regarding the scope of what is called environmental dispute resolution, it really depends on the legal provisions that underlie it. This is because the settlement of environmental disputes is principally based on the principle of civil law, namely seeking peace between the disputing parties. However, in the context of Indonesian people's lives, dispute resolution is generally based on deliberations to reach an agreement between the parties. Settlement of environmental disputes that are carried out in a civil manner is by carrying out a lawsuit by the aggrieved party through the court..*” [34].

In practice in the community, environmental dispute resolution is often carried out not only through the courts but also outside the court, dispute resolution outside the court can be done using the services of a third party. In the settlement of environmental disputes by using the services of third parties, it is best done by means of Alternative Dispute Resolution (ADR) which are developing abroad which are increasingly getting a place in legal life in Indonesia. In general, the reference for resolving environmental disputes refers to Law no. 23 of 1997 juncto Law Number 32 of 2009 concerning "Environmental Dispute Settlement" Articles 30-39. The legal protection of environmental preservation and/or management must be supported by administrative, criminal and civil law

enforcement. Chapter XIII Law Number 32 of 2009 regulates the settlement of environmental disputes which can be reached through court (in court/litigation) or out of court (out court/settlement) which is commonly called Alternative Disputes Resolution (ADR), is optional (voluntary).. and does not apply to environmental crimes. For example, compensation and/or certain actions to ensure that negative impacts on the environment are not repeated. Corporate responsibility for causing environmental damage can be carried out with criminal, civil and administrative sanctions. Environmental law enforcement is very beneficial for maintaining environmental sustainability. For this reason, it is very urgent to immediately form a special court to try cases of crimes against the environment, bearing in mind that environmental issues are increasingly specific and increasingly complex due to industrial development and infrastructure development.

4. Closing

4.1. Conclusion

Based on the description above, at the end of writing this scientific paper, several conclusions and suggestions can be put forward, as follows: Ecological systems are formed from reciprocal relationships between living things and their environment. If there is a change in the interaction between components that results in a disturbance that exceeds the ability of the ecosystem (Environmental Carrying Capacity and Environmental Accommodation Capacity to recover itself naturally), environmental problems will arise. There seems to be a difference between the definitions of pollution and destruction, but in fact juridically the two meanings do not contain any difference, because the essential elements of both are the same. The difference between pollution and environmental destruction lies only in the manifestation of the consequences. In pollution, the result is in the form of a lack of or non-functioning of the environment, due to a decrease in the quality of the environment indirectly visible. The consequences can only be known based on laboratory tests. Meanwhile, the effects of tampering will appear immediately, and can even be understood by ordinary people.

Law Number 4 of 1982 juncto Law number 32 of 2009, concerning Principles of Environmental Management (UULH), has entered the age of more than a decade, however, various weaknesses are still felt, including the following: Environmentally friendly behavior has not been realized; Weak enforcement of environmental laws; Environmental Protection and Management Act is not effective in dealing with cases of pollution and environmental destruction. As a first step which is very important and determines the success of efforts to prevent pollution and environmental damage based on Law Number 23 of 1997 in conjunction with Law Number 32 of 2009 (Improvement of Law Number 4 of 1982) concerning Environmental Management, implementation of law enforce-

ment based on environmental compliance requirements determined by compliance with legal environmental management norms and imposition of sanctions as a last resort.

Overall, government policies in the context of environmentally friendly management have not been able to answer the conflicts that often arise between the goals of environmental preservation and the goals of economic development. Pollution and destruction is still ongoing to this day, because deep Administrative law enforcement encounters many obstacles, including: Problems that are sociological in nature; Problems with the coordination of authority that make it difficult to carry out supervision; Legislation; Licensing Issues; Testimony and Evidence Issues; Related Agencies/Departments Institutional Coordination Issues; Other problems include-not understanding existing regulations, not being aware of the importance of the environment, non-compliance with existing regulations, incomplete regulations and responsible institutions.

4.2. Suggestions / Recommendations

To overcome these obstacles, it is necessary to enforce criminal law, because in addition to material offenses (requiring proof) for crimes that are genetic in nature, formal offenses (no need for proof) are also imposed for crimes that are specific crimes. With the formation of Civil Servant Investigators within the Central and Regional Bapedal, it is hoped that in the early stages of the process of enforcing environmental law from the aspect of criminal law it will be more successful, if it is handled by agencies that technically and institutionally deal with environmental issues. To overcome environmental pollution and destruction which are environmental problems caused by human actions in meeting their needs without regard to the preservation of natural resources. The concept of sustainable development must be implemented in a system of laws regarding environmental management. To overcome the problems of pollution and environmental destruction, in the future it is necessary to establish/establish coordination among the assembled institutions/agencies/departments, including: Minister of Environment/Head of Environmental impact Control Agency; Attorney General's Office; National Police Headquarters, Supreme Court, Ministry of Justice; NGOs and other related agencies.

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