

Imposition of Sanction to Support Plastic Waste Restriction Policy

Fenty Puluhulawa^{1*}, Mohammad Rusdiyanto Puluhulawa²

^{1,2} Faculty of Law State. Universitas Negeri Gorontalo, Gorontalo, Indonesia

*Corresponding author. Email: fentypuluhulawa@ung.ac.id

ABSTRACT

The advancements in technology have brought major changes to daily activities of all people. Disposable plastic is becoming more popular for daily use due to its practicality and hygiene. Such a situation, in turn, raises an alarming concern on the environmental side effect, as now plastic waste begins to overfill nature. To cope with this, the government has enforced several regulations; these regulations, however, are not implemented holistically and yet to be impactful. The study, therefore, proposes that it is of urgency to impose sanctions as a means to support the restriction policy of disposable plastic use. The present article aims to analyze the implementation of sanction imposition on the efforts to restrict disposable plastic use. The juridical normative study employed descriptive-legal approaches to analyze the primary and secondary legal materials.

Keywords: *Sanction, plastic waste, policy.*

1. INTRODUCTION

The realization of the Kyoto protocol, as has been ratified by Indonesia, urges the state to contribute to reducing all forms of greenhouse gas emission, including landfill gas. Such a regulation establishes a legal justification to prioritize the waste management policy to national-level enforcement[1]. As one of the major global concerns, the issue of plastic waste has serious long-term impacts on the environment as well as the sustainability of life for humans and other biological resources. For this reason, it is of urgency to all parties to focus on the repercussions of plastic waste pollution. To tackle the problem, 187 states, including Indonesia, have agreed to sign a treaty to control plastic waste.

The amendment of annex of Basel convention, as has been commonly agreed by most states, is a valid legal justification for Indonesia in enforcing regulations regarding waste management.

The notion of sustainable development is supported by the Indonesian Constitution, as mentioned in Article 33 of the 1945 State Constitution of the Republic of Indonesia. One of the manifestations of the concept is to protect the environment against the impacts of uncontrolled use of disposable plastic that is dangerous to humankind and the whole ecosystem.

Plastic is an everywhere and everyday object; it is used by people of all status, gender, age, and educational level, either in urban or rural settings. Its low price, accessibility, and ease of use causes plastic to accumulate as waste in most households.

The ongoing COVID-19 pandemic that seems yet to end also causes a major shift towards the increasing use

of plastic bags that are cheaper, practical, and hygienic. The practicality and economic value of plastic make it a disposable object discarded after a single use[2]. In this regard, the practical function of a plastic bag yields a far more serious repercussion towards nature. The increasing use of plastic bags, as in today's situation, will only lead to plastic waste buildup[3]. According to a management consultant in Malaysia, the pandemic has increased plastic use up to

80 percent since many people apply in-house self-quarantine for more than 90 days[4]. It is also stated by SCMP that the use of disposable plastic has also raised concerns over the waste recycle and spike of waste pollution. On top of that, the current preference for instant consumer goods has led to the surge of plastic waste that does not decompose[5].

The volume of waste in Gorontalo city is continuously increasing. As based on the 2019 data, a total of 138 tons of accumulated waste per day was from plastic waste and household waste; as the number indicates, Gorontalo city is the largest waste producer in the whole province[6]. The municipal government has made an effort to anticipate the issue by enforcing the Regulation of Major of Gorontalo No. 21/2018 concerning Policies and Strategies of Gorontalo Municipality in Management of Household Waste and Other Waste. The regulation focuses on the management and reduction of household waste in the city. In addition, the same approach has been applied in other regions in Gorontalo province in the form of Regional Regulation or Regent's Decree. Moreover, the laws and regulations at national level stipulate the significance of protection of the nature and management of waste. These regulations indicate that the government has been formulating regulations regarding waste problem management. However, the implementation of

these regulations, including the imposition of sanctions on the offender, is seen as a complementary effort to restrict the use of disposable plastic. In this regard, the effectiveness of an implementation of a regulation is also indicated by the extent of imposition of sanctions on the offender. On that ground, the article aims to analyze the implementation of regulations to restrict the increase of plastic waste.

2. METHOD

The present study applied a juridical normative approach. It employed descriptive-legal approaches to analyze the primary and secondary legal materials.

3. DISCUSSION

a. Policy on Restriction of Plastic Waste and Sanction Imposition

The annual plastic production is rapidly increasing. Up to 2015, global plastic production has accumulated to 322 metric tons[7]. Indonesia has also seen a recent surge in plastic production, from 4.5 million tons in 2015 to 5.8 million tons in 2016 (or 5.2%)[8]. On top of that, in the month of Ramadan, the use of disposable plastic bags or food containers surges significantly, either at online or offline food merchant platforms.

Plastic is a key raw material for a wide variety of by-products, including utensils, containers, and other daily objects; due to its practicality, the demand for plastic-based materials is significantly surging. This condition causes the global concerns of waste management to intensify in order to formulate solutions to reduce the environmental burden caused by plastic waste.

The Indonesian government has enforced Law No. 18/2008 to justify the waste management policy. The law mentions that the types of waste that are included under the management policy comprise household waste, household-like waste, and specific waste. Household waste originates from daily household activities, excluding excreta and specific waste. Household-like waste involves the waste produced in a commercial region, industrial region, specific area, social facilities, or other public facilities. Moreover, specific waste is waste that, due to its nature, concentration, and/or volume, requires special processing. This type of waste includes waste containing hazardous and toxic materials, waste containing hazardous and toxic waste, waste arising from disasters, building demolition debris, waste that cannot be processed technologically, and waste that does not arise periodically.

Among the types of specific waste is plastic-based waste produced by household activities, generally in the form of disposable plastic materials. Most disposable household plastic waste comes from food containers or plastic bottles. The Government Regulation No. 27/2020 concerning Specific Waste classifies two methods of specific waste management, i.e., by reduction and

management. Reduction of specific waste involves a restriction of waste production, recycle, or reuse. Meanwhile, waste management comprises classification, collection, transporting, and processing.

The following are several regional regulations in Gorontalo that have been enforced regarding waste management:

1. Gorontalo Province Regional Regulation Number 3 of 2013 concerning Waste Management
2. Governmental Regulation Number 20 of 2019 concerning Policies and Strategies in Management of Household Waste and Household-like Waste
3. Regional Regulation of Bone Bolango Regency Number 1 of 2015 concerning Waste Management.
4. Regent Regulation of Bone Bolango Regency Number 13 of 2011 concerning Waste Management in Bone Bolango Regency.
5. Regional Regulation of North Gorontalo Regency Number 6 of 2019 concerning Waste Management.
6. Regent Regulation of North Gorontalo Number 19 of 2018 concerning Policies and Strategies in Management of Household Waste and Household-like Waste
7. Regional Regulation of Pohuwato Regency Number 3 of 2016 concerning Waste Management
8. Regent Regulation of Pohuwato Regency Number 77 of 2018 concerning Regional Policies and Strategies in Management of Household Waste and Household-like Waste
9. Regional Regulation of Gorontalo Municipality Number 12 of 2017 concerning Management
10. Major Regulation of Gorontalo Municipality Number 21 of 2018 concerning Policies and Strategies in Management of Household Waste and Household-like Waste
11. Regent Regulation of Gorontalo Regency Number 53 of 2018 concerning Regional Policies and Strategies in Management of Household Waste and Household-like Waste
12. Regent Regulation of Boalemo Regency Number 60 of 2018 Concerning Regional Policies and Strategies in Management of Waste
13. Regent Regulation of Boalemo Regency Number 59 of 2018 concerning Regional Policies and Strategies in Management of Household Waste and Household-like Waste

As indicated by the regulations above, the Gorontalo Province has established a legal basis of a justification that governs waste management. This is also seen as one indicator of the government's commitment and responsibility in handling waste problems and formulating solutions to suppress the accumulation rate of waste, including household waste. It is, however, crucial to implement these regulations effectively to achieve the set outcomes.

Plastic waste is one of the types of specific waste produced by household activities. This type of waste mainly consists of disposable plastic materials, such as

food containers, plastic bottles/glass, and plastic bags. The management and reduction of this type of waste require a legal justification basis. The existing legal products are yet to refer to the Governmental Regulation Number 27 of 2020 concerning Specific Waste Management. The regulations in Gorontalo that govern waste management has been enforced long before the enforcement of Government Regulation No. 27/2020 concerning Specific Waste Management. Therefore, an amendment is required for these regulations to comply with the national-level legal mechanism on specific waste management. This is to limit and restrict the production of plastic waste, given its impacts on the environment.

Moreover, the government should also regulate the restriction of disposable plastic use. The government should take an example from Bali Province that prohibits the use of disposable plastic, as mentioned in the Regional Regulation No. 5/2011 concerning Waste Management and Governor Regulation No. 97/2018 concerning Restriction of Disposable Plastic Waste Accumulation.

The management of plastic waste should start from the household scope by processes of education, awareness-raising, community participation, up to the imposition of sanction. The imposition of sanctions is expected to suppress the accumulation of plastic waste in Gorontalo. It goes by the notion that the waste management capability in the region is still limited, not to mention other factors such as lack of awareness and knowledge regarding waste category classification. These factors contribute to the drastic increase in plastic waste amount.

Household activities are believed to produce a large proportion of disposable plastic waste. In 2018, the Office of Environmental Services of Gorontalo Province recorded that the waste heap in the province accumulated up to 227,557.28 tons per annum or 623.55 tons per day. From the number, plastic waste composed up to 68.59 tons per day or 25,031.3 tons per year (11 percent) (Office of Environmental Services, 2019). This high proportion raises an alarming state on the waste condition, as some of the waste is not managed at the landfill and left scattered around the streets and in all parts of the region. This will, in turn, increase the environmental burden due to the non-degradable nature of plastic. Efforts to manage waste issues require a multi-sectoral approach that involves the government, the private sectors, and the community to limit the use of disposable plastic products. On top of that, a legal approach to restrict and impose sanctions on the enforcement of plastic waste management is of necessity.

The policy of “pay for plastic bags” applied in large retail stores is one of the alternatives of such approaches; it is acknowledged, however, that such a policy is ineffective in small-scale retail stores. The same also applies to plastic food containers. As a reference, Bogor Municipality has enforced Major Regulation No. 61/2018

that prohibits stores from providing plastic bags for the customers.

In 2019, the Indonesian Association of Olefin, Aromatic, and Plastic Industry (Inaplas) mentioned that the shipment of plastic to Bali decreased by 30-40% during January-June. The prohibition, as mentioned in Governor Regulation No 97/2018 concerning Limitation of Disposable Plastic Waste, applies to plastic bags, Styrofoam products, and plastic straws[9].

As based on these examples, a sanction is regarded as an effective alternative of legal instrument to enforce the regulation. However, the main concerns of the waste management policy should focus on the education process, and sanction is only viewed as a last resort.

In this regard, the imposition of sanctions in local and national-level regulations is regarded as a complementary strategy in order to ensure that the implementation of these regulations is effective. Changing the old habits by enforcing a new regulation/law requires maximum efforts to achieve the expected outcomes; therefore, imposition of sanction is of significance to engineer the social behavior and raise awareness to protect the environment. All in all, it is recommended to complement the established regulations by imposing sanctions.

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4. CONCLUSION

The Indonesian government has enforced Law No. 18/2008 to justify the waste management policy. The Gorontalo Province has established a legal basis of a justification that governs waste management. This is also seen as one indicator of the government’s commitment and responsibility in handling waste problems and formulating solutions to suppress the accumulation rate of waste, including household waste. It is, however, crucial to implement these regulations effectively to achieve the set outcomes. The government should also regulate the restriction of disposable plastic use. A sanction is regarded as an effective alternative of legal instrument to enforce the regulation.

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