



Law Enforcement and Protection of Victims of Environmental Crimes: A Green Victimology Perspective

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Abstract. The development of the times that continues to run followed by the rampant environmental issues in the life of the nation and state, cannot be separated. Environmental crimes both from administrative, civil and criminal sides occur a lot in Indonesia. Law enforcement and protection that occurs in cases of environmental crimes in Indonesia still do not overshadow the problems that will arise both now and in the future. Therefore, this paper will discuss related to how law enforcement and protection of victims of environmental crimes are viewed from the perspective of green victimology. This research is normative juridical research with a conceptual approach. Victims of environmental crimes tend to be under-noticed by the government. The concept of green victimology can be applied in Indonesia with the importance of cooperation between related parties such as the government and the community. Efforts that can be made such as harmony between related laws and regulations so that there is no overlap.

Keywords: environmental crimes, green victimology, law enforcement, protection of crimes.

1. Introduction

Indonesia is one of the countries that has become the lungs of the world because of the many rain forests that are scattered so that it becomes one of the world's largest sink of carbon emissions. The importance of awareness in implementing a lifestyle that does not result in environmental damage, is something that cannot be avoided in the life of the nation and state.[1]

The possibility of environmental problems that could significantly affect both natural preservation and human well-being underscores the importance of addressing these issues through legal frameworks.[2] Environmental law serves as a legal instrument encompassing principles for the management of the environment, with the primary objective of preventing the degradation and deterioration of environmental quality. Danusaputro said that environmental law is a concept of environmental studies that specializes in the science of law, with the object of law being the level of protection as a necessity of life.[3]

Environmental law basically includes structuring and enforcement or compliance and enforcement. In Black's Law Dictionary, environmental law is interpreted as "the field of law dealing with the maintenance and protection of the environment,

including preventive measures such as the requirement of environmental-impact statements, as well as measures to assign liability and provide cleanup for incidents that harm the environment. Because most environmental litigation involves disputes with governmental agencies, environmental law is heavily intertwined with administrative law.”

Crimes can not only be committed between humans, but crimes can also be committed by humans to their environment, which can not only affect humans, but also the environment and other living things. In fact, humans and the environment have a very close relationship and need each other, therefore nowadays the environment also humans must have their own arrangements to be able to take care of each other's needs. When talking about the environment, the environment can be interpreted as a unitary space, where the intended space includes land, sea, and air space.[4] non-human victims have the right to get the same justice as human victims, for the sake of the preservation and sustainability of the existing ecosystem. [5]

So far, protection for non-human victims has not been comprehensively accommodated either for crimes committed by humans (naturlijk person) or legal entity (recht person). This should be of concern to policy makers, namely the government, because indonesia is one of the countries that has been the most highlighted in recent years regarding environmental damage. Indonesian laws and regulations related to the environment, namely law number 32 of 2009 concerning the protection and management of the environment, have not been sufficient to protect victims of environmental damage in indonesia, so this study is important as input for philosophical values in revising or even replacing statutory regulations for law enforcement against environmental crimes and protection of victims in the future.[6]

The emergence of the concept of green victimology offers hope by acknowledging that victims of environmental crimes extend beyond humans to encompass non-human entities. This concept can enlighten legislators about the potential perils that may arise if non-human victims are disregarded. An intriguing facet of green victimology pertains to its philosophical underpinnings when defining victims, which incorporates both ecocentric and anthropocentric values. This dichotomy lies at the heart of environmental ethics and philosophy, as it often serves as the foundation for addressing issues arising from human interactions with the environment.[7]

2. Problems

Based on the introduction that has been described, the issues raised in this study are how is law enforcement and the protection of victims of environmental crimes in indonesia, and how are environmental crimes viewed from the perspective of green victimology and its implementation.

3. Method

Research in this article journal uses normative legal research methods, which in this way is legal research based on relevant laws and regulations. In addition to the legislative approach, it also uses a conceptual approach by searching for other secondary legal sources, such as law, articles, journals, or legal encyclopedias. With the use of this method, it is expected to produce a writing that provides an objective view.

4. Discussion

4.1. Law enforcement and protection of victims of environmental crimes

Article 1 of law number 32 of 2009 defines the environment as "a unitary space with all objects, power, circumstances, and living things, including humans and their behavior". [3] law enforcement according to soejono is the whole process of criminal handling starting from investigation, investigation, prosecution (including pre-prosecution), examination in court, legal action, and execution. According to soerjono soekanto, in order for law enforcement efforts to run properly and perfectly, there must be at least 4 factors that must be met: (1) the rule of law or regulation itself, (2) the officer who implements or enforces it, (3) the facilities that are expected to be able to support the implementation legal rules, and (4) community members who are affected by the scope of the regulation. Environmental criminal law enforcement is a series of activities in an effort to maintain the environment in a sustainable state that provides benefits for the present generation and also for future generations. According to byezeveld, the definition of environmental law enforcement can be summarized as follows: "environmental law enforcement encompasses the application of governmental legal authority to ensure adherence to environmental regulations through various means, including: (1) administrative oversight of compliance with environmental rules (primarily a preventative measure), (2) administrative actions or penalties for non-compliance (corrective action), (3) criminal investigations for suspected violations (repressive action), (4) criminal penalties for offenses (repressive action), and (5) civil litigation in cases of (potential) non-compliance (prevention or corrective action).

The concept of criminal law enforcement in the form of material criminal acts, formal criminal acts, corporate crimes, regulatory actions, and environmental crimes are crimes. The main objective of enforcing environmental law is essentially compliance with the values of protecting the carrying capacity of ecosystems and environmental functions. To achieve this arrangement, law enforcement is not the only way. Because various methods or approaches can be carried out, including through economic instruments, education, technical assistance, and public pressure. [3]

Seeing many cases of environmental damage due to rampant environmental crimes, almost all of them are influenced by several factors [8]:

- a. There is an indirect effect that occurs in environmental crimes, because the effects of environmental crimes do not seem to have occurred at the start but will become a snowball effect (snowball effect) that are slowly but surely growing in the background, for example like floods and landslides, these events may not happen right away, but the effects of environmental damage due to environmental crimes, will slowly but surely make humans, the environment and ecosystems affected and suffer a lot of losses ;
- b. The traditional positivist notion of crime does not consider the characteristics of environmental violations such as “white collar crimes” and “abuse of power”. The criminal justice system has progressively supported the idea of corporate criminal responsibility, but the reality is that corporations are in a position of power and are linked to politics and the economy. This makes it very difficult to honestly defend ideas equality before the law before the court ; and
- c. Victims of crime and environmental damage are very diverse (human and non-human). Moreover, environmental crimes on a large scale have a transnational character which is very difficult to criminalize despite the existence of national and international legal norms and controls.

Environmental crimes are classified as crimes in the economic field in a broad sense because the scope of environmental crimes and violations is wider than other conventions and results in the loss of a very good country's economy, as well as impacts on the environment. [9]

Environmental crime has gained recognition as one of the most prolific and swiftly expanding realms of international criminal activity, with an escalating engagement of organized criminal networks. The substantial environmental harm inflicted by corporations driven by financial incentives is progressively drawing the focus of both media and the public. During the 12th united nations crime congress in 2010, the global community acknowledged the hurdles presented by emerging types of crimes that wield a considerable influence on the environment. Member states were urged to scrutinize the matter and exchange best practices. [10]

Environmental crimes do not invariably yield instant repercussions; their harm may disseminate or remain concealed over extended durations. Furthermore, a substantial portion of environmental damage arises from activities that are legally sanctioned and endorsed by the community. Determining the criteria for categorizing environmental crimes necessitates navigating the intricate equilibrium between the public's vested interests in employment and income versus the imperative of safeguarding ecosystems, biodiversity, and sustainability.[11]

4.2. Green victimology in environmental crimes

Legal protection for victims of crime as part of protection for the community can be realized in various forms, such as through the provision of restitution and compensation, medical services, and legal assistance. [12]

In handling criminal cases, it is time for the interests of the victim to be given special attention, apart from being a witness who knows about the occurrence of a crime as well because of the position of the victim as a legal subject who has an equal position before the law (equality before the law). Attention to victims in handling criminal cases should be done based on compassion and respect for the dignity of the victim (compassion and respect for their dignity).[3]

Victimology, which was initially narrow-minded as proposed by von Hintigh and Mendelsohn, was later developed by Mendelsohn. Furthermore, victimology that includes insights into human rights (also called the new victimology) developed by Elias, then expanded again to include human suffering (humanity) by Separovic. [3] Within the victimology literature, one argument emphasizes "procedural justice" suggesting that recognition by the justice system is a key variable affecting victims. In other words, victims of crime are more concerned about how the justice system treats them, including sensitivity to their concerns and needs and how the system recognizes the harm they have suffered.[13]

The emergence of green victimology is intricately linked to the evolution of 21st-century "green" ideals and the prevalence of environmental degradation. As per Rob White's perspective, the scope of environmental victimization in green victimology extends beyond human beings to encompass non-human entities, including animals, trees, and rivers, all of which are intricately interconnected within ecosystems. [14] This aligns with the concept of eco-justice, which encompasses environmental justice concerning human victims, ecological justice involving non-human victims such as the environment, plants, and animals, as well as species justice focusing on animals and plants as the affected entities.[15]

It is important to study further because the problems of environmental crimes and justice for victims have not been fully implemented in Indonesia, especially regarding non-human victims whose rights are often marginalized. When examined from theories relating to justice for the environment in the future, we can use the opinion of Rob White who identified three approaches based on justice to be used in protecting the environment [16]:

- a. Environmental justice (environmental justice), the victim is human; environmental justice emerged as a concept in the United States in the 1980s and is a term that refers to social movements dedicated to the fair distribution of the environment. The right to the environment is an extension of the right to life as well as social rights related to quality of life. There is a responsibility to ensure that the quality of the environment can always be maintained and passed on properly to the next generation;
- b. Species justice (species justice), the victim is a certain environment; species justice refers to the idea that animals, plants etc, also deserve the right not to be killed or destroyed for the sake of human interests, for example: in a monkey mask show, monkeys are forced to entertain humans, here there is a violation of species justice, where monkeys should live in the forest and be able to freely live their lives without being ordered by humans; and

- c. Ecological justice (ecological justice), the victims are animals and plants ecological justice refers to human relations in general with all of nature. The concern here is with the health of the biosphere (and the plants and all the animals that inhabit it). Ecological justice views the environment as having its own intrinsic value and other species being deemed to have the right to live free from abuse, abuse, and destruction of their habitat.

From the three justice-based approaches above, author agrees with the three approaches applied to seek the justice and protection for victims of environmental crimes in the future, because victims of these crimes are not only human but also non-human. By using these three approaches to justice in protecting victims of environmental crimes, it will provide new inputs that are in accordance with the needs of the times. The justice that must be fulfilled in addition to justice to humans, also justice to the environment, the justice of species in the environment and ecological justice which all have their own intrinsic value and are in accordance with the concept of green victimology. In addition to the 3 justice approaches above, for future environmental development, it is also necessary to look at the principles of sustainable development that are adjusted to the protection of the environment.

These three approaches complement one another and are suitable for implementation as an effort to uphold and protect victims of environmental crimes in the future. This is because in practice, those who become victims in environmental crimes are not only humans or corporations, but non-humans can also become victims, in this case the environment itself and the animals that live in that environment. Justice in the realm of environmental crimes is not only limited to justice for humans, but also for other living things such as justice for the environment and ecology. This is in accordance with the existing concept green victimology. Sustainable development with attention to environmental protection can become a new color.

the perspective embraced by green victimology, which regards the environment as a victim, is rooted in an ecocentric standpoint. According to preston, ecocentrism entails viewing the environment as possessing inherent value independent of its instrumental or utilitarian worth to humans. Schosber's perspective on ecocentrism underscores the intrinsic value held by animals, plants, and rivers, emphasizing the importance of their proper reverence and respects [6].

Green victimology can be applied in indonesia with the importance of cooperation between related parties such as the government and society. Efforts that can be made such as alignment between related laws and regulations so that there is no overlap, do reduce reuse and recycling everyday life, providing conservation that supports the preservation of nature, controlling waste both liquid waste and air, and what is no less important is the need to raise public awareness of the importance of preserving the environment as early as possible.

5. Conclusion

The development of the era followed by the rise of environmental issues in the life of the nation and state cannot be separated. Environmental crimes, both from an administrative, civil and criminal perspective, are common in Indonesia, considering that Indonesia is a country that has abundant natural resources. Law enforcement and protection that occurs in cases of environmental crimes in Indonesia are still lacking in overshadowing the problems that will arise either now or in the future. Victims of environmental crimes tend to receive less attention from the government. Green victimology can be applied in Indonesia with the importance of cooperation between related parties such as the government and society.

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