

# The Study on Legal Issuance of the Statement of Environmental Management for Micro Industry of Lambak Cracker

(A case study in Plered subdistrict – Cirebon regency)

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**Abstract**—The Statement of Environmental Management (SPPL-*Surat Pernyataan Pengelolaan Lingkungan Hidup*) is capability statements by a firm official regarding managing and supervising capability about environment and industry effect towards the environment in accordance to AMDAL (*Analisis Mengenai Dampak Lingkungan-Environmental Impact Assessment*) or UKL (*Upaya Pengelolaan Lingkungan Hidup-Environmental Management Effort*) - UPL (*Upaya Pemantauan Lingkungan Hidup-Environmental Supervising Effort*). In this research, how legal stipulation controls the issuance of the statement of environmental management for micro industry in accordance to current law and how the legal effect towards illegal micro industry were the main focuses which being discussed, especially to Kerupuk Lambak Industries. The aims of the research were to determine and analyze legal aspect which control the issuance of the statement of environmental management for micro industries and legal enforcement by Cirebon Regency Environmental Department. Research methodology used in this research was normative legal method, which analyze Law No. 32 of 2009 Article 35 Section (1) on the statement of environmental management. According to the findings in Trusmi Village in Plered Subdistrict – Cirebon Regency, it found that there is a number of industry do not have the statement of environmental management. One of disobedience samples is found in micro industries of Lambak cracker. According to findings, it indicated that entrepreneurs are disobedience towards the Law No. 32 of 2009 Article 35 Section (1), and the law enforcement is poor. It was due to the main implementor, Environmental Department of Cirebon Regency, did not distinct in enforcing the law.

**Keywords**—*law enforcement; the statement of environmental management; micro industry*

## I. BACKGROUND OF STUDY

The current regulation about environment preserving and management decree, there are disobedience among micro industries in Cirebon Regency, one of them is Lambak cracker industry in Trusmi Village.

Lambak cracker is originally from Cirebon Regency. These micro industries have crucial roles for the society because it can give a better life in financial to support and decrease unemployed.

According to a survey in Trusmi Village, there are 5 micro industries which do not have the statement of environmental management. One of example of their disobedience is coming from the actor of Lambak cracker industry. This data indicates that the owners are disobedience towards Law No. 32 of 2009 Article 35 Section (1) on Environment Preserving and Management. The main question is how the laws controls the statement of environmental management for micro industries based on the law and what are the effects of this disobedience, especially to Micro Industries of Lambak cracker.

According to Indonesia Law No. 32 of 209 Article 1 Section (1) on Environment Preserving and Management, it defines that environment is the unity of space including all of things, energies, circumstances and living creatures, including human beings and its behaviour, which affect the space itself, lifetime and human and other creatures prosperity. This law is in line with good and healthy environment mandated by the Law Article 28 H. It stated “everyone has rights to live in a good life physically and spiritually, to have a home and live in a good and healthy environment and deserve to get a better health service”.

Law No. 32 of 2009 Article 35 Section (1) states that all kind of industries, especially micro industries, which do not require Environmental Impact Assessment must have *Surat Pernyataan Pengelolaan Lingkungan Hidup* (statement of environmental management). It is one of the required document that micro industries must have. This research is focused on investigating the implementation of (Statement of Environmental management) for small industries.

## II. LITERATURE REVIEW

Based on research background above, grand theory used in this study is the theory of law goal [1]. According to Gustav

Radbruce, law values are justice, certainty and purposiveness. Those values sometimes created dispute [2]. Therefore, to create a fair law, the law should be complementing each other and not having exception. Unjust implementation might lead to a dispute among laws' values.

Many laws definitions defined by legal experts. They are varying and do not have main acceptable and compromised definition due to various perspectives [3]. At least, there are 3 legal concepts which useable to use in legal study, namely:

- Law as ideas, moral value and justice
- Law as norms, principles, regulations, constitutions which is valid for term of time and spaces as a product of sovereign countries, and
- Law as a real and functional social institution in society which established by attitude pattern and organizational.

Legal perspective is giving implication in choosing legal research methods. If legal seemed as a shape of particular norms, the method that will be used is more idealistic. This method always tries to examine legal values to create particular values. If legal seemed as an abstract law regulation, the main concern will be on the autonomous institution which usually disclose as a certain subject yet out of the regulation itself. This perspective will use normative analytical method. If legal seemed as an instrument to control society, the method that will be used is sociologist. This method will correlate law to every effort to achieve the goal and to fulfill concrete needs of society [4]. The main concern is legal effectivity. To gain adequate legal comprehension, legal should be objected from 2 sides namely normative (law in book) and sociologist (law in action).

In exploring law in society, Max Weber conceived law is crucial to a mechanism which delivers the development of the society to modern life concept [5]. In the other sides, it showed feedback between society development and their legal situations. To the developing country, like Indonesia, legal changes will affect the other aspect of live, *vice versa*. Therefore, legal aims are being used, by one party, as an instruments to change society better and another party used legal to reinforce society pattern which has been existed and legitimate previous changes [6]. Legal, in establishment, has 4 purposes as follow [7]:

- Law as orderly and safety preserving tools
- Law as establishment tools
- Law as justice reinforcement tools
- Law as education tools for society

Legal as reconditional tools for society based on opinions that there must be an order in development process. Reconditional is a thing that wanted and necessary [5]. Beside those principles or regulations as the aims of controlling and building tools. Thus, regulation and policy usually does not run as the aims and purposes, which being made, to achieve the goals. In fact, it happens because law cannot stand by itself. There are aspects, excluded the law, such as politics, economics, social and culture contribute and affect the law and

effectivity among the society. Non legal aspects do not always contain legal things. Many interests, outside of legal component, are creating dispute which leads to social conflicts. For instance, economics situation is full of personal motivation to achieve benefits. If everyone and societies only pursue personal achievement, it will create dispute and social conflict. If it does not being eliminated eventually in a long term, the dispute will be worst, vertically and horizontally and structurally. In this case, legal is necessary to control, stabilize and integrate diverse interests. Legal roles usually being called as legal integrative, which means administer, preserve and control social relation [8].

In implementing micro industries empowerment, we need to understand the meaning of empowerment and micro industries thus misunderstanding on this research will be avoided.

Empowerment is an effort in giving authority, power and skills to develop a better business. Meanwhile, in Article 1 Section 3 Law No. 9 of 1995 on micro industry, empowerment, it defines as an effort which is conducted by the government, entrepreneur or society in trade climate form, supervising and developing micro industry so they can be independent. Independent means a highly competitive effort and having problem resolving skill by themselves.

As what it is explained above, there is a meaning that empowerment is a trade climate. Trade climate defines in article 1 section 4 Law No. 9 of 1995 on micro industries that it is a condition which is made by the government as a regulation or policy which encompasses economics activities so micro industry has an equal certainty and chance and support so it can develop independent business.

In Micro Industries regulation, the constitution and regulations are expected to support micro industry, Law No. 5 of 1984 on industries, Law No. 10 of 1998 on the change of Law No. 7 of 1992 on banking, Law No. 25 of 1992 on union, Government Policies No. 44 of 1997 on partnership, Government Policy No. 32 of 1998 on Micro Industries Supervisory.

Micro Industry definition by Article 1 Section 1 Law No. 9 of 1995 on Micro Industry stated:

“Micro Industries are small society economic activities and accomplishing Netto Wealthiness or annual benefits included ownership which regulated in this constitution.”

According to Article 1 Section 1 Law No.9 of 1995 on Micro Industries stated that micro industries is encompassed informal and traditional micro industries. Informal Industries are industries which is not registered yet such as farmers, home industries, vendors and begger. Traditional Micro Industries can be defined as an industry which uses in computerized and simple tools which is inherited, correlating to arts and cultures. Micro Industries means small industries which being society incomes.

According to Law No. 9 of 1995 Articles 2 and 3 of on Micro Industries, it explained that micro industries are small-scale people's economic activities, which include traditional small businesses that have inherited hereditary characteristics.

Empowering micro industries is based on kinship, and Pancasila and the 1945 Constitution, and it has a purpose such as:

- To grow and increase the ability of micro industries to be strong and independent industries and they can be medium industry;
- To increase the role of micro industries in the formation of national products, expand employment and business opportunities, increase export and increase to equalize income and to strengthen the structure of the national economy.

To classify one business to another, the government establishes the criteria for micro industry in Article 5 of Act No. 9 of 1995 on micro industry as follows:

- It has a net worth at most Rp. 200,000,000 (two hundred million) excluding land and buildings for business, or;
- It has annual sales at most Rp. 1,000,000,000 (one billion rupiah);
- It belongs to Indonesian citizens;
- It is self-supporting, not a subsidiary or company branch that is owned, controlled, or affiliated directly or indirectly with a medium industry or a large entrepreneur;
- It is in the form of individual industry, not legal person including cooperative. The nominal value of the above criteria can be changed in accordance with economic developments regulated by Regulation of Government.

### III. RESEARCH METHODOLOGY

The method of research approach used is normative juridical, namely Article 35 paragraph (1) of Law No. 32 of 2009 on Environmental Protection and Management on the Statement of Environmental Management (SEM). In this case, the research focuses on the aspects of environmental legal norms as a written provision that becomes the basic norm for the parties in determining the making of legal writing. By analyzing the legal provisions, it is expected to create a conducive environment without any pollution or environmental damage from activities carried out by the community.

### IV. DISCUSSION

The Statement of Environmental Management (SEM) is a statement of capability from the person in charge of the business and/or activity to carry out environmental management and monitoring of the environmental impacts of the business and/or activities that are required by EIA or UKL-UPL.

Based on Article 35 paragraph (1) of Law No. 32 of 2009 on Environmental Protection and Management which states that every activity and/or business that is not obligatory for EIA must have a complete environmental document in the form of the Statement of Environmental Management (SEM). The Statement of Environmental Management is one of the

environmental documents that must be completed by business actors with the criteria of a small scale business.

Based on Article 1 paragraph (2) of the Regulation of the Minister of Environment No. 13 of 2010 on Environmental Management Efforts and Environmental Monitoring Efforts and the Statement of Environmental Management, the Statement of Environmental Management is a statement of capability from the person in charge of the business and/or activity to carry out environmental management and monitoring of the environmental impacts of the business and/or activities that are required by EIA or UKL-UPL. the Statement of Environmental Management is prepared by the initiator in accordance with the format of the formulation listed in Appendix III of the Regulation of the Minister of Environment No. 13 of 2010. The annex as referred to in paragraph (2) of the Regulation of the Minister of Environment No. 13 of 2010 is part which is inseparable from this regulation of minister.

Based on the description above, the regulation governing the Statement of Environmental Management (SEM) requires that every business and/or activity outside EIA and UKL-UPL must have a complete environmental document in the form of Statement of Environmental Management (SEM). This Statement of Environmental Management (SEM) is intended in order to every activity and/or business carried out by the initiator does not cause environmental pollution. With the issuance of a policy on small industry obligations that do not need to have EIA, UKL-UPL to make environmental documents in the form of Statement of Environmental Management (SEM), it does not make some small industries, especially crackers, run the policy. This is caused by the lack of socialization carried out by regional government of Cirebon Regency to society, especially the small industry of Lambak crackers located in Trusmi Village, Plered sub district, Cirebon Regency, so that some small industries are not aware of the law.

Low or high legal awareness in society influences the implementation of the law [9]. Low legal awareness will be an obstacle in implementing the law, both in the form of high levels of violation to the law and less participation from society in law enforcement. This is related to the function of the law in the society or the effectiveness of legal provisions in its implementation. Someone who has legal awareness will have an assessment of the law viewed from their goals and duties. This kind of assessment happens in every citizen, therefore humans generally have a desire to live regularly.

However, in fact some small industries of Lambak Crackers located in the Trusmi Village, Plered sub district, Cirebon Regency do not know about what is the Statement of Environmental Management and how to obtain environmental documents in the form of the Statement of Environmental Management, so that small industries of Lambak Crackers located in in the Trusmi Village, Plered sub district, Cirebon Regency generally do not have the complete documents [10].

The procedures in issuing the Statement of Environmental Management based on Article 6 of the Regulation of the Minister of Environment No 13 of 2010 on Environmental Management Efforts and Environmental Monitoring Efforts

and Statement of Environmental Management and Monitoring are:

The initiator submits a Statement of Environmental Management to the head of the environmental department in City, Regency, and Province, or Deputy Minister in accordance with the authority referred to in article 5.

- The head of environmental department in City, Regency and Province or Deputy Minister provides proof of receipt of UKL - UPL or SPPL as referred to in paragraph (1) to the initiator who have fulfilled the format for preparing UKL - UPL or SPPL.
- After the head of environmental department in City, Regency and Province or Deputy Minister received UKL - UPL or SPPL that fulfills the format as it is referred to in paragraph (2). They check UKL - UPL or SPPL but it is done by the unit of work in handling to check UKL - UPL or SPPL.
- The head of environmental department in City, Regency and Province or Deputy Minister must check SPPL and give is obliged to inspect the SPPL and provide SPPL approval no later than 7 (seven) working days after it is received.
- The cost of compiling and checking UKL - UPL or SPPL is paid by person in charge of the business and/or activity.

Law is a written rule made by the government that must be carried out by every society and tends to force [1]. According to Gustav Radbruch, the existence of law is intended for the existence of justice, certainty and usefulness, therefore to realize the right law must be complementary and not exclude each other [2]. Prioritizing one of the others and the legal basis value will result in spanning between each of these legal values.

Based on the basis of its axiology, the theory of value as the value of science and law always refers to the values of justice and certainty because both are one of the most studied and debated legal objectives, as well as the main objectives to be achieved by humans through the implementation of law that increase the complexity. These values ultimately influence the process of legal development which has meaning in human activities in relation to the existence and enactment of law in society. These activities include activities to form, implement, apply, find, research, and study and teach applicable law systematically.

The principles of law in the form of certainty and legal justice are intended as basic values regarding what we want from the existence of law [11]. The law with its values aims to realize its presence and is intended to protect and promote values upheld by the society. The existence of these values is the basis for validating the presence and operation of the law.

The working of law is closely related to law enforcement. Law enforcement is a series of processes of interpretation of ideas and legal ideals that contain moral values such as justice and truth in concrete forms [12]. In the realization, it requires an organization such as the Police, Courts, Jail as a classical

law enforcement given by the State. In other words, law enforcement contains a supremacy of substantial value, namely justice.

Conceptually, the core of law enforcement is in the activities of harmonizing the relationships of values outlined in the solid principles that act as a series of final stages of value interpretation to create, maintain, and defend the peace of life [12]. Therefore, it can be said that law enforcement is not merely a means of implementing legislation.

The law enforcement in the environmental field, especially in the issuance of The Statement of Environmental Management for small industries of Lambak Crackers in Trusmi Village, Plered Subdistrict, Cirebon Regency is very weak. This is due to several factors. According to Soerjono Soekanto, that law enforcement is influenced by several factors, such as [12]:

#### A. *The Law Factors (Legal Substance)*

That the better the rule of law, the better it will enable enforcement. On the contrary, the less good a legal rule will be, the more difficult it is to enforce. In general, good legal regulations are legal regulations that apply juridically, sociologically, and philosophically [13]. Juridically the law applies if the law was formed through certain procedures and by certain bodies, for example according to the 1945 Indonesian Constitution, laws were made by the Government and the House of Representatives. Philosophically, a law applies if it is in accordance with the legal ideals of society, for example prosperous society. In a sociological meaning, the law applies if it is forced to apply (accepted or not) and if the law is accepted, acknowledged, and adhered to by those affected by the law. Furthermore, sometimes there are differences between written law which is considered as the ideal norm, with the law in reality and the patterns of treatment desired by society [13].

The implementation of Article 35 paragraph (1) of Law No. 32 of 2009 on the Protection and Management of the Environment, especially in the issuance of the Statement of Environmental Management does not work in accordance with what is expected from the regulation. This is evidenced by the absence of environmental documents that must be owned by the initiators of small industries of Lambak Crackers in Trusmi Village, Plered Subdistrict, Cirebon Regency. The Monitoring and Evaluation procedure carried out by the Environmental Department Cirebon Regency for small industries of Lambak Crackers did not run smoothly. So that the legal consequences arising from the disobedience of business man to their businesses in small industries of Lambak crackers are considered non-existent. The absence of legal consequences is caused by a number of disobedient business actors and they ignore the provisions of Article 35 paragraph (1) of Law No 32 of 2009 on Protection and management of the Environment especially in the Issuance of the Statement of Environmental Management. Therefore, Environmental Department must hold legal socialization especially in the field of environment in Trusmi Village, Plered Subdistrict, Cirebon Regency, so that the society becomes aware and obey the law.



### B. Law Enforcers Factors

Law Enforcers Factors determines the law enforcement process or the parties that created the law itself, namely Environmental Department in Cirebon Regency. The weakness of law enforcement carried out by the Environmental Department for small industries of Lambak crackers which do not have complete environmental documents in the form of the Statement of Environmental Management, will influence the failure of the Law at Article 35 paragraph (1) Law No. 32 of 2009 on the issuance of the Statement of Environmental Management.

### C. Infrastructure and Facilities Factors

Law enforcement in the field of Environment will be better if it is supported by good facilities and infrastructure. These facilities and infrastructure are used to achieve goals, the achievement of an orderly and law-abiding society.

### D. Society Factor

Society is the most important part to determine law enforcement and legal awareness. It is also as society view of what is law, while the legal awareness of the community allows law enforcement to be carried out, especially law enforcement in issuing the Statement of Environmental Management.

### E. Cultural Factor

It is the work, creativity and sense based on human intention in life. Culture or legal system basically includes the values that underlie the laws for the law enforcers and justice seekers. Values that are abstract conception of what is considered good should be followed and what is considered bad should be avoided.

These five factors have an influence on law enforcement, both positive and negative influences. In this case the law enforcement factor is central. This is due to the laws compiled by law enforcers and the implementation is carried out by law enforcers. The law enforcers are considered as a group of legal role models by the public.

## V. CONCLUSION

- The implementation of Article 35 paragraph (1) of Law No. 32 of 2009 on Environmental Protection and

Management regarding the Statement of Environmental Management does not work well.

- Lack of understanding of the initiator of Lambak Cracker Industry in Trusmi Village Plered Subdistrict, Cirebon Regency regarding environmental documents, the Statement of Environmental Management in accordance with what is mandated in Article 35 paragraph (1) of Law No 32 of 2009 on Protection and Management of the environment.
- Monitoring and evaluation carried out by the Regional Government of Cirebon Regency in this case Environmental Department that goes directly into the field is weak. This is caused by the passive action of Environmental Department so that the legal consequences of small industries that do not have SPPL are considered as non-existent.

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