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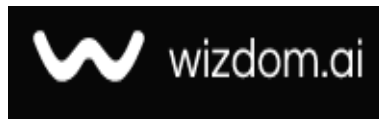
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Legal Analysis of Unauthorized Waste Dumping by Companies

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Abstract

General Background: Environmental degradation due to human activities has led to significant ecological issues, necessitating robust legal frameworks for environmental preservation and management. **Specific Background:** In Indonesia, Law Number 32 of 2009 addresses these concerns, highlighting the need for legal regulations to mitigate environmental harm. **Knowledge Gap:** Despite the existence of such laws, there is a lack of comprehensive understanding regarding the effectiveness and implementation of regulations specifically related to the criminal act of dumping waste by companies. **Aims:** This research aims to analyze the legal regulations governing the criminal act of waste dumping in environmental media without permission, with a focus on normative legal research methodology. **Results:** The study reveals that, according to Law No. 32 of 2009 and provincial regulations on waste management, several regencies or cities have established legal frameworks to address this environmental crime, while at least five provinces still lack sufficient regulations. **Novelty:** This research provides a detailed examination of the regulatory landscape, identifying gaps and inconsistencies in the enforcement of environmental laws across different regions in Indonesia. **Implications:** The findings underscore the necessity for a more harmonized and stringent regulatory approach at both the provincial and national levels to ensure effective environmental protection and compliance by companies. This study contributes to the existing body of knowledge by offering insights into the legislative and enforcement challenges in environmental law, particularly in the context of criminal activities related to waste management.

Highlights:

- Legal Framework: Examines the effectiveness of Law No. 32 of 2009 and provincial regulations on waste dumping.
- Regional Disparities: Identifies gaps in regulatory enforcement across different provinces.
- Normative Research: Emphasizes the use of laws and regulations as primary sources for analysis.

Keywords: Legal Arrangements, Waste Dumping, Criminal Acts

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Introduction

Because the environment is very important for human life, it must be preserved, maintained, and managed properly for the good of everyone [1]. Therefore, the environment is very important for the whole community to strive for the management and protection of the environment itself to maintain the balance and sustainability of the environment [2].

To prevent threats to the environment and/or hazards to human health posed by waste dumping, the government must take various measures to address the problem. To maintain cleanliness, order, and tidiness and prevent various human health problems, the government strives for environmental progress and sustainability in combating the effects of environmental pollution [3].

To combat environmental degradation, environmental law is essential. Environmental legal arrangements play an important role in ensuring proper environmental management and protection, in addition to the rule of law [4]. This research is important to conduct because the law in Indonesia must be enforced fairly in order to form a just, peaceful and prosperous society with no other criminal offenses. Therefore, the Government must take steps to increase public knowledge so that waste disposal can be done in an organized manner. People tend to make assumptions about the environmental management practices of public companies when the government seeks to increase transparency, create trash cans, and ensure environmental management rules are not too permissive [5].

To address environmental issues, sanctions must also be applied and enforced. However, it is believed that using criminal penalties as a final reminder is less than ideal in addressing the problem of illegal environmental pollution. In general, the settlement of civil disputes is lengthy; on the contrary, the imposition of administrative fines leads to the closure of companies, which impacts workers who are without jobs and may increase crime rates and criminal activities [6]. Therefore, it is imperative to have criminal penalties as the first line of defense in the fight against environmental crimes; acts of environmental pollution and damage must be dealt with firmly through the use of appropriate criminal sanctions. Hence, the actions of law enforcement officials, whether the police, prosecutors, courts, or penitentiaries. If legal arrangements are not strictly enforced, it will not be in accordance with what is expected and aspired by the community.

A case in Bekasi related to environmental pollution for which criminal liability related to waste dumping was sought was the CEO of PT. NTS, one of the companies involved in the criminal act of environmental pollution, including in the illegal dumping of hazardous and toxic waste such as oil sludge, dirty oil, bottom ash, into the ground without a permit, resulting in soil pollution by heavy metals such as arsenic, nickel, lead, copper, barium, mercury, and zinc. In addition, PT NTS also manages hazardous and toxic waste (B3) in the form of used lubricating oil without a license. The President Director of PT NTS faces a maximum sentence of 10 years in prison as well as a fine of 10 billion in accordance with Law No. 32/2009 Article 104.

Criminal Liability Against Perpetrators of Unauthorized Waste Disposal (B3), research conducted by Laura Antoinette Medd, shows that criminal liability against those who dispose of waste (B3) without a permit is closely related to the element of guilt because a person cannot be found guilty if there is no fault factor, either intentional or unintentional [7]. Research conducted by Nyimas Arfa entitled "Criminal Law Enforcement Against Perpetrators of Criminal Acts of Dumping Waste into Environmental Media without a Permit in the Legal Area of the Muara Bulian District Court" concluded that to overcome the obstacles faced by perpetrators of criminal acts that violate the law, improvements in legal regulations and stricter law enforcement are needed against individuals or entities that commit criminal acts of dumping waste and / or materials into the environment without a permit. This aims to ensure that violations of the law are subject to penalties appropriate to the level of culpability in accordance with applicable legal provisions, and to cooperate with the police, prosecutors, and courts to enforce and enforce sanctions in accordance with applicable legal procedures in the judicial process [8].

Therefore, this research has a different focus from previous studies because it emphasizes the legal regulations related to the criminal act of dumping waste into the environment in accordance with the provisions of Law Number 32 of 2009 concerning environmental protection and management. The main objective is to maintain the territorial integrity of the Republic of Indonesia from the impact of environmental pollution and damage.

This research is conducted with the aim of knowing and examining the legal arrangements for the criminal act of dumping waste in the environment without a permit carried out by the company. The results of this study are expected to provide input and as reference material for the government in seeking confirmation of environmental management regulations, especially regarding waste dumping licensing. This research is also expected to provide input and as a reference material for law enforcement officials in seeking solutions and effective legal arrangements related to the problem of illegal dumping of waste by corporations. Therefore, research on the legal regulation of the criminal act of dumping waste in the environmental media without a license carried out by companies is important to protect the environment and human health, as well as increase public awareness and the quality of human life. legal regulation of waste can also encourage companies to be responsible for the waste produced and improve business practices in companies that have been running.

Methods

This research uses normative legal research methods. In this research, there are two types of information sources used, namely primary legal sources and secondary legal sources. One of the primary sources is Law No. 32/2009 and Provincial Regulations related to waste management. In addition, supporting legal materials include scientific publications, articles in journals, law books, and websites relevant to this research. The stages in finding regulations are as follows:

- 1.Retrieval of data regarding the regulation or management of waste is carried out on the bpk.go.id regulations web
- 2.The keyword used in searching for regulations on the web is waste management.
- 3.Then the search results are in the form of regulatory data regarding waste management in each province.
- 4.The results of the search for regulatory data on waste management in each province are then filtered to find the regulation or management of waste in each region.

Deductive analysis, or a method of studying legal materials by compiling facts and compiling them into hypotheses, is the method of analysis used in this research. In analyzing legal arrangements, namely sourced from bpk.go.id regulations, by searching for keywords of waste or waste management from the province then filtered in the search for each region, so that data on the legal arrangements of waste dumping crimes can be obtained in each respective region. From this line of thinking, a conclusion can be drawn, so that in this case the general proposition is in the form of legislation regarding waste regulation with a special part, namely based on Law No. 32 of 2009.

Results and Discussion

According to Law 32 of 2009 that regulates dumping, Article 1 of the law describes environmental protection and management, which defines dumping as the activity of disposing, placing, and/or putting waste and/or materials into certain environmental media in certain amounts, concentrations, times, and places in accordance with certain requirements.

A company is a place where production activities take place and where all factors of production of goods and services are gathered. Although it already contains the characteristics of corporate law in this definition, especially in the form of contracts with third parties. The Indonesian state manages nature using it for the benefit of the people [9].

However, while development is necessary to promote prosperity and solve many problems, history makes it clear that development can also have a number of unfavorable effects [10]. In addition to exacerbating existing environmental and social problems, unsustainable and environmentally sound development concepts will also lead to the emergence of new environmental problems, such as problems of forest and land degradation, coastal and marine degradation, water, soil, and air pollution, as well as urban and social environmental problems [11].

Given the urgency of waste management matters as above, local governments should ideally move quickly to form local regulations to implement the mandate of PP No. 22 of 2021. But in reality, many regions in Indonesia are regulating in the form of issuing provincial regulations on waste management. If all provinces have issued regulations regarding waste management. The following is a table of waste management regulations from each province: [12]

No.	Province	No/Year	About
1.	Nanggroe Aceh Darussalam	No. 138 tahun 2018	Policy and strategy of Aceh province in the management of household waste and similar household waste
2.	North Sumatra	No. 3 tahun 2020	Management of household waste and waste similar to household waste
3.	South Sumatra	No. 20 tahun 2014	Management of waste
4.	West Sumatra	No. 8 tahun 2018	Regional waste management
5.	Bengkulu	No. 19 tahun 2019	Management of household waste and waste similar to household waste

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6.	Riau	No. 64 tahun 2018	Management of household waste and waste similar to household waste
7.	Riau Islands	No. 71 tahun 2018	Policy and regional strategy for the management of household waste and household waste
8.	Jambi	No. 7 tahun 2017	Management and control of hazardous and toxic waste
9.	Lampung	No. 9 tahun 2021	Management of waste
10.	Bangka Belitung	No. 48 tahun 2019	Policy and strategy in the management of household waste and waste similar to household waste in Bangka Belitung Islands province
11.	West Kalimantan	No. 45 tahun 2019	Policy and regional strategy in the management of household waste and waste similar to household waste
12.	East Kalimantan	No. 75 tahun 2020	Policy and regional strategy for the management of household waste and waste similar to household waste
13.	South Kalimantan	No. 8 tahun 2018	Implementation of waste management
14.	Central Kalimantan	No. 17 tahun 2020	Policy and strategy in the management of household waste and waste similar to household waste
15.	North Kalimantan	No. 18 tahun 2019	Policy and regional strategy in the management of household waste and waste similar to household waste
16.	Banten	No. 8 tahun 2011	Management of waste
17.	Dki Jakarta	No. 102 tahun 2021	Obligation of waste management in areas and companies
18.	West Java	No. 91 tahun 2018	Policy and regional strategy of West Java province in the management of household waste and waste similar to household waste
19.	Central Java	No. 3 tahun 2014	Management of waste in Central Java
20.	Special Region of Yogyakarta	No. 2 tahun 2012	Management of hazardous and toxic waste
21.	East Java	No. 9 tahun 2022	Regional waste management
22.	Bali	No. 5 tahun 2011	Management of waste
23.	East Nusa Tenggara	No. 2 tahun 2019	Management of waste
24.	West Nusa Tenggara	No. 14 tahun 2020	Policy and regional strategy in the management of waste
25.	Gorontalo	No. 3 tahun 2013	Management of waste
26.	West Sulawesi	No. 20 tahun 2022	Amendment to the regulation of the governor of West Sulawesi No. 30 tahun 2021 concerning community empowerment in supporting waste management through the Marasa program

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27.	Central Sulawesi	No.39 tahun 2019	Policy and provincial strategy in the management of waste
28.	North Sulawesi	No. 25 tahun 2017	Management of household waste
29.	Southeast Sulawesi	No. 4 tahun 2016	Management of hazardous and toxic waste for the activities of collecting hazardous and toxic waste across regencies/cities
30.	South Sulawesi	No. 6 tahun 2022	Regional waste management
31.	North Maluku	No. 5 tahun 2016	Management of waste and cleanliness in Central Halmahera regency
32.	Maluku	No.15 tahun 2014	Protection and management of waste
33.	West Papua	No. 38 tahun 2014	Guidelines for the management of household waste and waste similar to household waste
34.	Papua	-	-
35.	Central Papua	-	-
36.	Papua Mountains	-	-
37.	South Papua	-	-
38.	Southwest Papua	-	-

Table 1. Legal Regulation of Criminal Acts of Dumping Waste in Environmental Media without Permit by Companies from Every Province in Indonesia

No	Province	Regional Regulations (Perda)	Category
1.	Nanggroe Aceh Darussalam	23	High
2.	North Sumatra	33	High
3.	South Sumatra	16	High
4.	West Sumatra	19	High
5.	Bengkulu	15	High
6.	Riau	14	High
7.	Riau Islands	27	High
8.	Jambi	35	High
9.	Lampung	38	High
10.	Bangka Belitung	22	High
11.	West Kalimantan	15	High
12.	East Kalimantan	17	High
13.	South Kalimantan	24	High
14.	Central Kalimantan	11	Medium
15.	North Kalimantan	12	Medium
16.	Banten	11	Medium
17.	Dki Jakarta	13	Medium
18.	West Java	14	Medium
19.	Central Java	10	Medium
20.	Special Region of Yogyakarta	13	Medium
21.	East Java	10	Medium
22.	Bali	11	Medium
23.	East Nusa Tenggara	6	Low
24.	West Nusa Tenggara	7	Low
25.	Gorontalo	7	Low

26.	West Sulawesi	7	Low
27.	Central Sulawesi	5	Low
28.	North Sulawesi	8	Low
29.	Southeast Sulawesi	6	Low
30.	South Sulawesi	5	Low
31.	North Maluku	9	Low
32.	Maluku	6	Low
33.	West Papua	7	Low
34.	Papua	-	-
35.	Central Papua	-	-
36.	Papua Mountains	-	-
37.	South Papua	-	-
38.	Southwest Papua	-	-

Table 2. Classification of Legal Regulations of Criminal Acts of Dumping Waste in Environmental Media without a License Committed by Companies from Each Region in the Province of Indonesia



Figure 1. Percentage of Local Regulations on Waste Management in Each Province in Indonesia

The table above shows that the majority of provinces in Indonesia already have local regulations on waste management [13]. As each region has the authority to establish Regulations in each province on waste management according to local needs and conditions. Such regulations may cover various aspects of waste management, including collection, transportation, treatment, recycling, disposal, and regulations related to waste management in general. The waste management regulations are designed to regulate waste management procedures, encourage environmentally-friendly waste management practices, establish obligations for businesses, and provide guidelines for the public in properly disposing of waste. The main objective of waste management regulations is to maintain environmental cleanliness, public health, and sustainability of natural resources [14].

Based on table 1, it can be analyzed with the percentage of provinces that have regulated specifically or generally on legislation on waste management [15]. The parameters of the percentage are if the legislation has fulfilled two of the three specific aspects, namely background, purpose and substance. Thus, the percentage of regulations that have been stipulated in each province that have regulated specifically or generally on the legislation can be seen in Figure 1.1, namely if the substance of the regulation in the 38 regulations above has been examined in relation to aspects of norm harmony with PP No. 22 of 2021 concerning hazardous and toxic waste management.

Conclusion

Based on the description of the problem formulation up to the discussion above, each province has issued waste management regulations in each region. Various regulations have set sanctions for businesses that dispose of waste without a permit. Since the consequences of dumping waste without a permit can have a negative impact on the environment, the concept of justice and the necessity of such punishment are not in accordance with the protection of human rights required by Law No. 32 of 2009. The results of the analysis explain that according to Law No. 32 of 2009 and provincial regulations on waste management, the majority of districts or cities that have legal arrangements for criminal acts of dumping waste in the environmental media without a license committed by companies and the minority that do not have arrangements are 5 provinces.

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