

Law Enforcement against Illegal Dumping By PT Biuteknika Bina Prima from the Perspective of the Theory of Legal Certainty

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Abstract:

Environmental pollution has become a very common problem in recent times. It has attracted the government's attention due to its far-reaching impact on humans, plants and animals. This article is of interest for research as law enforcement in the resolution of environmental disputes is crucial to preventing environmental pollution. Environmental violations frequently occur in the illegal management of Hazardous and Toxic Materials (B3) waste within the environment, often referred to as waste dumping. Effective law enforcement in the environmental sector places legal certainty in a strategic position. Legal certainty in the context of environmental law enforcement ensures that the law is implemented as written. The objective of this study is to examine the aspect of legal certainty in the judgment of Case No. 991/Pid.B/LH/2021/PN Tj concerning environmental pollution by PT Biuteknika Bina Prima. This study employs a normative legal approach, utilising secondary sources such as legal texts and relevant literature as the primary research material. The analysis in this article indicates that the decision of the Panel of Judges at the Tanjung Karang District Court is deemed not to reflect legal certainty. The judges' ruling against PT Biuteknika Bina Prima consisted solely of a fine of Rp25,000,000.00 (twenty-five million rupiah) without the imposition of a custodial sentence as provided for in Article 104 of the Law on Environmental Protection and Management.

Keywords: Illegal; Certainty Law; Waste; Environment; Law enforcement

INTRODUCTION

The environment is a gift from God Almighty to the people and nation of Indonesia; therefore, it must be preserved and developed to serve as a source and support for the community's livelihood (Yulia et al., 2020). The environment must be properly managed and maintained for the survival of all living creatures. Environmental management must also provide economic, social and cultural benefits, carried out in accordance with the principles of precaution, environmental democracy, decentralisation, and the recognition and appreciation of local wisdom and environmental wisdom. However, the deteriorating quality of the environment has threatened the survival of human life and other living creatures; therefore, serious and consistent environmental protection and management must be undertaken by all stakeholders. (Is, 2020)

Regulations concerning environmental protection and management are set out in the provisions of Law No. 32 of 2009 on Environmental Protection and Management. This environmental protection and management is carried out and aimed at safeguarding the environment from criminal acts

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committed by individuals or groups who deliberately damage the environment, which will have implications or impacts on the sustainability of community life, whether through ecosystem damage or climate disruption. The central role in protecting and managing the environment lies with the government to guarantee its people's rights to a good and healthy environment. (Pebrian & Yulianingrum, 2023) The right to a good and healthy environment is one of the people's rights that must be fulfilled by the state, as stipulated in Article 28H (1) of the 1945 Constitution of the Republic of Indonesia (Tambunan, 2020).

Fulfilling the public's right to a good and healthy environment remains a serious challenge for the Indonesian government. Although this right is guaranteed by law, in reality it remains difficult to realise, particularly amidst the rapid expansion of industrial activities that often disregard environmental sustainability. The impact of these ever-increasing industrial activities in Indonesia leaves the environment highly vulnerable to pollution, which frequently.

This is often caused by inadequate management of industrial waste. Production waste whether liquid, solid or gaseous often contains hazardous substances which, if not properly managed, can pollute water, soil and air, ultimately endangering public health and the balance of ecosystems. Failure to strictly monitor and ensure the proper management of industrial waste exacerbates this situation; therefore, more rigorous measures and regulations are required to ensure that the right to a healthy environment is fully realized (Ridwan, 2007).

The government can take steps to prevent environmental pollution that adversely affects the survival of humans and other living creatures by establishing a legal framework governing waste management. Waste from production residues must be managed properly and effectively to prevent environmental pollution. One type of waste that requires proper management is Hazardous and Toxic Waste (B3), which originates from the use of chemical substances. Waste is classified as B3 waste if it contains hazardous or toxic substances whose nature and concentration, whether directly or indirectly, can damage or pollute the environment or endanger human health. Substances classified as B3 waste are those possessing one or more of the following characteristics: explosive, flammable, reactive, toxic, infectious, corrosive, and others; when tested using a toxicity test, they can be identified as B3 waste (Faishal, 2016).

The management of such B3 waste is carried out through waste dumping. Waste dumping, or waste disposal, is a waste management practice involving the disposal or burial of waste at a designated site. This process must meet several requirements regarding waste concentration, volume, and duration of disposal, and must be carried out at specific locations approved by the government. This process may only be carried out after obtaining an environmental permit in accordance with applicable regulations. These permit policies are established to ensure that waste disposal does not pollute the environment, endanger human health, or threaten the sustainability of the surrounding ecosystem. Environmental permits and requirements related to the B3 waste dumping process are frequently face obstacles because the government must carefully review and consider many aspects, including the location to be selected for waste dumping. The high cost of the waste dumping process is also a constraint for some hazardous waste-producing companies. Consequently, violations frequently occur in hazardous waste dumping activities.

Violations in the management of hazardous and toxic waste (B3) often take the form of illegal waste disposal or dumping without a valid environmental permit from the government. Such dumping practices involve the direct disposal of B3 waste, such as heavy metals and other toxic chemicals, into the environment for example, into rivers, soil or the air—without following proper treatment procedures. Penalties for the illegal dumping of B3 waste are set out in Article 104 of the Environmental Protection and Management Law (UUPPLH), which imposes a maximum prison sentence of 3 (three) years and a maximum fine of Rp3,000,000,000.00 (three billion rupiah). Such a violation occurred in South Lampung, involving PT. Biuteknika Bina Prima, which managed hazardous waste carelessly; consequently, in the ruling of the Panel of Judges at Tanjung Karang District Court, Case No. 991/Pid.B/LH/2021/PN Tjk, the company was sentenced to a fine without any imprisonment. Law enforcement in Indonesia, particularly in the environmental sector, is still often perceived as uncertain. Legal certainty is the guarantee that the law truly functions as a set of

rules to be obeyed. Legal certainty is closely linked to justice, yet the law is not synonymous with justice. The law is tasked with creating legal certainty because its purpose is to establish order in society. Legal certainty is an inseparable characteristic of the law, particularly for written legal norms (Arif, 2021). The theory of legal certainty emphasises that the law must be clear, precise, and predictable. Every individual and legal entity must know and fully understand the consequences of their actions, and be confident that the rules will be enforced without discrimination.

Research relating to legal certainty in law enforcement in the field of environmental protection and management was also conducted by Muhamad Sadi Is under the title “Legal Certainty Regarding Environmental Management in Indonesia”, and the results of this research indicate that the Environmental Protection and Management Law (UUPPLH) has not yet been able to provide legal certainty thereby often giving rise to conflicts between the government and business owners (Rahmadi, 2011). Edi Sutikno, in a study titled “Analysis of the Muara Bungo District Court Judge’s Ruling on Environmental Crimes”, found that the judge’s ruling was not yet oriented towards good law enforcement because the sanctions imposed by the judge were not firm (Sukananda & Nugraha, 2020). Sri Wahyuni, with the title “Consistency of Judges’ Rulings on Environmental Damage Cases in Indonesia”. The results of this research indicate that the rulings of judges regarding three companies that caused environmental damage varied, and this demonstrates a lack of consistency among the judges (Nasution & Triadi, 2025).

Based on the above description, this research aims to discuss the law enforcement against environmental pollution crimes committed by PT. Biuteknika Bina Prima. However, this research focuses on the analysis of Court Decision No. 991/Pid.B/LH/2021/PN Tj with the aim of understanding and analysing the judge's considerations in imposing a sentence on PT Biuteknika Bina Prima as a form of legal certainty.

METHODS

The research method used in this legal study is the normative legal research method. Normative legal research is a research method that examines and analyses law as norms, rules, legal principles, legal doctrines, legal theories and other types of literature to address legal issues using legal sources such as legislation, court decisions, agreements, legal theories, legal principles and the opinions of legal experts (Negara, 2023). This research is also referred to as library research or a documentary study because the data used consists of secondary data found in libraries, such as books and official government documents (Soekanto, 1981).

The approach used in this research is the case approach, which involves studying the application of legal norms or rules in legal practice. Insofar as this research relates to the Decision of the Tanjung Karang District Court No. 991/Pid.B/LH/2021/PN Tjk, the legal materials used consist of primary legal materials, namely the 1945 Constitution, Law No. 32 of 2009 on the Environment Life, as well as the Decision of the Tanjung Karang District Court No. 991/Pid.B/LH/2021/PN Tjk, and secondary legal materials, comprising legal books and journals, and the opinions of legal experts relating to the theory of legal certainty and the environment. Subsequently, a review and analysis were conducted using the theory of legal certainty and relevant legislation to arrive at research findings regarding legal certainty in the Judgment of the Tanjung Karang District Court No. 991/Pid.B/LH/2021/PN Tjk.

RESULTS

Environmental Pollution

Environmental pollution is a condition in which living organisms, substances, energy and/or other components enter or are introduced into the environment. The entry of living organisms, substances, energy and/or other components into the environment is caused by human activity (Natsir & Rachmad, 2019). The environment will be affected by these activities, causing it to undergo a process of change, namely a decline in environmental quality. An environment experiencing a decline in environmental quality may result in the environment failing to function as intended, should the environmental quality deteriorate to a certain level (Karuniani, 2022).

Environmental pollution is characterised by a decline in the quality or standard of the environment. Changes in the environment relating to quality can be identified by using a benchmark known as the Environmental Quality Standard (EQS). Environmental Quality Standards are defined in Article 1(11) of the Law on Environmental Protection and Management as the limit values or concentrations of living organisms, substances, energy or components that exist or must exist, and/or pollutants whose presence is tolerated within a specific natural resource as an element of the environment. Environmental pollution that leads to a decline in environmental quality requires the government to work harder to enforce the law so that those responsible for environmental pollution receive appropriate sanctions for their actions. Environmental pollution requires swift action to resolve it, so that the resulting impacts do not endanger living organisms. Technological developments in the modern era, utilised by industrial plants that generate waste, have led to an increasing volume and variety of waste today (Moniaga, 2002).

Environmental pollution is currently a frequent occurrence in various regions of Indonesia, and its impacts affect the health of the public, plants and animals. Waste produced by industrial factories and the use of chemical substances are among the causes of environmental pollution. Waste produced by industrial factories is often mixed with chemical substances, making it highly detrimental to human health. Pollution does not only occur in the air but also affects water and soil. Pollution of water, air and soil can occur as a result of waste dumping into the environment. Furthermore, industrial plants also discharge treated waste into rivers, causing water pollution. This has a significant impact on living organisms that rely heavily on clean water (Nasution & Triadi, 2025). Water pollution can also result from the use of chemicals in pest control activities on agricultural land.

Air pollution can also occur when hazardous substances such as carbon monoxide (CO), sulphur dioxide (SO₂), nitrogen dioxide (NO₂), and various other hazardous chemicals are released directly into the air. These hazardous chemicals are usually produced as a result of the combustion of fossil fuels in industrial processes. The impacts of environmental pollution, which are frequently experienced today, are keenly felt by people, ranging from children who often suffer from colds, coughs, and red eyes, to the most dangerous consequence: brain damage caused by polluted air (Widarto et al., 2022). Environmental pollution can also affect ecosystems and contribute to climate change; for example, air pollution resulting from greenhouse gases can increase global temperatures, thereby influencing climate change. Prevention of environmental pollution must be addressed immediately to maintain the stability of the environment. Environmental pollution can be prevented through various measures, such as reducing emissions, proper waste management, and raising public awareness of the importance of protecting the environment. However, more effective efforts effective enforcement of the law is necessary, in accordance with existing legal regulations.

Environmental Law Enforcement

Effective law enforcement is one of the key elements in ensuring order and legal certainty within society. Public order and legal certainty must also be upheld in the context of law enforcement in the resolution of environmental disputes (Aali & Aminah, 2021). Environmental law enforcement aims to ensure compliance with the values and carrying capacity of ecosystem protection and environmental functions, as prescribed in the applicable laws and regulations. Environmental law enforcement in the context of resolving environmental disputes has two (2) avenues for dispute resolution, as regulated in the provisions of Law No. 32 of 2009 on Environmental Protection and Management (UUPPLH), namely Litigation and NonLitigation (Marbun & MD, 2000).

Resolution through litigation or non-litigation is a matter of free choice for the disputing parties. The legal provisions governing the enforcement of environmental law encompass administrative law, civil law and criminal law. The resolution of environmental disputes through non-litigation falls within the scope of civil law, whilst the resolution of disputes through litigation falls within the scope of criminal law. The resolution of environmental disputes through administrative law instruments falls within the remit of administrative officials who have the authority to impose administrative sanctions on offenders (Sodikin, 2010). The resolution of environmental disputes using criminal law instruments is a last resort, often referred to as the application of the principle of *Ultimum remedium*. In practice,

criminal law is frequently applied to those responsible for environmental pollution resulting from breaches of wastewater quality standards, emissions and disturbances.

Environmental law enforcement can be carried out by law enforcement officials through both preventive and corrective measures. Preventive law enforcement involves monitoring activities suspected of being sources of environmental pollution. Corrective enforcement is carried out by rectifying the situation through the provision of appropriate compensation or penalties for the offences committed that have resulted in environmental pollution. Although there are various types of dispute resolution and enforcement mechanisms in the field of environmental law, sound environmental management should be based on every individual's awareness of the need for prevention rather than remediation.

In practice, law enforcement to resolve environmental disputes frequently encounters obstacles. Law enforcement is often influenced by several factors, namely (Najicha, 2022):

1. Legal factors, namely differing views on justice and legal certainty in the practice of law enforcement. Legal justice is an abstract concept for every individual and lacks a fixed definition regarding the principles of justice, whereas legal certainty refers to the implementation of the law in accordance with its written provisions.
2. Law enforcement factors, namely the parties involved in the formulation and application of the law in the field. A law can be deemed successful if law enforcement is carried out effectively.
3. The factor of resources and facilities supporting law enforcement, namely human resources with good potential in terms of educational background and skilled in their respective roles. Furthermore, adequate equipment and good organisation also influence law enforcement.
4. Societal factors, namely those related to the social environment that influence public perceptions of the law and law enforcement. A society with a positive view of the law will be evident in the public's compliance with existing legal rules.
5. Cultural factors, which relate to the process of human interaction based on a sense of humanity.

Law enforcement is not an easy task to carry out, as law enforcement officers face difficult challenges when in the field. Justice and legal certainty are two elements that law enforcement officers cannot overlook when resolving environmental disputes. The enforcement of the law by law enforcement officers must ensure several key aspects of environmental law enforcement, namely (Wicaksono & Najicah, 2021):

1. The legal framework, namely the regulations or legal basis that serve as guidelines for law enforcement officers in their actions. The regulation concerning environmental law in Indonesia is Law No. 32 of 2009 on the Protection and Management of the Environment. This Law sets out various regulations covering pollution prevention, natural resource management, and environmental rehabilitation.
2. Supervision and control, namely the government and relevant agencies responsible for supervision and control duties, which carry out regular inspections to assess public compliance with the law.
3. Investigation and dispute resolution: authorities must act promptly upon discovering or receiving reports of environmental law violations. Environmental disputes may be resolved through litigation or non-litigation channels, utilising civil, administrative, and criminal legal instruments.
4. Sanctions and enforcement: the imposition of sanctions as stipulated in legislation in the event of legal violations. In addition to the sanctions stipulated in the Environmental Law, sanctions may also be imposed in accordance with the legal instruments used in the resolution of environmental disputes; for example, administrative sanctions such as warnings, fines, and the revocation of permits, whilst criminal sanctions may take the form of imprisonment for offenders proven to have committed environmental crimes.

DISCUSSION

Judgment of the Panel of Judges of the Tanjung Karang District Court Regarding PT. Biuteknika Bina Prima

The environmental dispute in the case of PT Biuteknika Bina Prima was resolved through litigation, namely by means of a judicial review of the case by a judge in a court hearing, culminating in a ruling. In conducting the examination of the case before the court, the judge should have considered the important aspects that could influence the judge's decision at the end of the trial, namely (Hidayatulloh, 2016):

1. The legal basis used by the judge. The PT Biuteknika Bina Prima case concerns environmental pollution; therefore, the legal basis applied by the judge is legislation relevant to the environment, namely the Law on Environmental Protection and Management (UUPPLH). In addition to referring to the UUPPLH, the judge may also refer to regulations on licensing to ascertain the company's permits held by PT Biuteknika Bina Prima.
2. Elements of a legal offence. The judge presiding over the case against PT Biuteknika Bina Prima may impose a penalty if the elements of the offence committed by PT Biuteknika Bina Prima are satisfied, for example, the presence of intent or negligence on the part of PT Biuteknika Bina Prima in the management of hazardous waste.
3. Ecological damage caused. Environmental damage resulting from the improper management of hazardous waste by PT Biuteknika Bina Prima may be one of the factors leading the judge to impose a severe penalty. Furthermore, the harm suffered by the affected community due to environmental pollution may also be a factor in the imposition of compensation or environmental restoration costs.
4. Justice for the victims. Environmental pollution resulting from the improper management of hazardous waste (B3) has an impact on both the environment and human beings. Therefore, the judge must take the victims' rights into account.
5. Imposition of sanctions. The sanctions imposed on PT Biuteknika Bina Prima are in accordance with the relevant legislation, namely the Environmental Protection and Management Act (UUPPLH), which regulates the imposition of criminal sanctions of imprisonment and fines for a person who commits a violation of hazardous waste management.
6. Deterrence and prevention of environmental crimes. In addition to imposing sanctions on PT Biuteknika Bina Prima, the judge's ruling must also take into account the effectiveness of such penalties as a deterrent to the perpetrator or to those wishing to illegally dump hazardous waste. A judicial ruling capable of serving as a deterrent and preventing crime will encourage every individual and company to be more cautious and responsible regarding the processing of the waste they generate.

PT Biuteknika Bina Prima is a provider of transport services for hazardous and toxic waste (B3). In addition to providing B3 waste transport services, PT Biuteknika Bina Prima also assists with research studies, consultancy services or the redesign of wastewater treatment systems in accordance with the type of waste. The case involving PT Biuteknika Bina Prima concerns allegations that the company managed B3 waste irresponsibly. The case originated from a complaint by residents of Buring Hamlet, Sukabaru Village, Penengahan Sub-district, South Lampung Regency.

The hazardous waste managed carelessly by PT. Biuteknika Bina Prima consisted of used infusion bottles, syringes, used glass blood sample bottles, and jerrycans from chemical liquid packaging residues. The investigation conducted by officials through various processes indicated that PT. Biuteknika Bina Prima had committed a violation; consequently, the case against PT. Biuteknika Bina Prima was pursued through the filing of a case on 13 September 2021 at the Tanjung Karang District Court. The Panel of Judges at the Tanjung Karang District Court, having conducted the examination

process and following a deliberation among the judges, delivered the following verdict through the Presiding Judge, Safruddin:

1. Declares the Defendant PT. Biuteknika Bina Prima, represented by its director, Ir. Amran, M.M., son of Burhan Arsyad, to be proven legally and convincingly guilty of the criminal offence of dumping waste and/or materials into the environment without a permit, as carried out by a business entity as set out in the single charge;
2. Imposing a penalty on the Defendant in the form of a fine of Rp25,000,000.00 (twenty-five million Rupiah);
3. Declaring the following items as evidence: 6 (six) sacks of hazardous waste or medical waste and 1 (one) small plastic bag of ash or soil residue from the incineration of hazardous waste or medical waste; 1 (one) yellow Mitsubishi box truck, model Colt Dis FE71L 4X2 MT, type: goods vehicle, model: Blind/Del.Van, registration number B 9059 PXS, registered to the owner PT. Biuteknika Bina, chassis number/VIN: MHMFE71PCEK002507, engine number: 4D34TK11519.1 (one) copy of the Vehicle Registration Certificate for a Mitsubishi yellow box truck, Type Colt Dis FE71L 4X2 MT, Category: Goods Vehicle, Model: Blind/Del.Van Registration Number B 9059 PXS in the name of the Owner PT. Biuteknika Bina, Chassis/VIN Number MHMFE71PCEK002507, Engine Number 4D34TK11519; to be returned to PT. Biuteknika Bina Prima; Order the Defendant to pay court costs of Rp2,000.00 (two thousand rupiah).

The Judge's ruling reviewed from the perspective of legal certainty

The illegal dumping of hazardous waste constitutes an environmental offence, and the legal provisions regarding sanctions against such offenders are set out in Article 104 of the Environmental Protection and Management Law (UUPPLH), which stipulates that any person who dumps waste into the environment without a government permit shall be subject to a maximum prison sentence of 6 (six) years and a fine of up to 3,000,000,000.00 (three billion rupiah).

The criminal sanctions set out in Article 104 indicate that the primary sanction against perpetrators of illegal waste dumping is imprisonment. However, the legal fact established in the judgment of the Panel of Judges at the Tanjung Karang District Court is that PT. Biuteknika Bina Prima was only sentenced to a fine of Rp25,000,000.00 (twentyfive million rupiah). The judges' ruling imposed only a fine without imposing a custodial sentence on PT. Biuteknika Bina, which had been proven beyond reasonable doubt to be guilty of the criminal offence of dumping waste into the environment without a permit (illegally) by a business entity as set out in the single charge.

Gustav Radbruch argued that legal Certainty refers to the guarantee that the law truly functions as a rule to be obeyed (Rahardjo, 2010). Based on this view, the judge's decision regarding the imposition of criminal sanctions on PT. Biuteknika Bina Prima, when examined from the perspective of legal certainty, does not reflect legal certainty. The judge's ruling indicates that the law regarding perpetrators of hazardous waste dumping does not function as a rule that must be obeyed, as the imposition of criminal sanctions differs from the provisions set out in Article 104 of the Environmental Protection and Management Law. Gustav Radbruch also argued that legal certainty and justice are inseparable. Legal certainty will, of course, have an impact on justice and vice versa; to achieve justice, legal certainty must be upheld in every instance of its application. A judicial decision that contradicts legal certainty also undermines the sense of justice for the community suffering adverse effects from the actions of PT. Biuteknika Bina Prima, which has polluted the environment.

Humberto Avilla also offers a perspective on legal certainty, namely (Mahfuz, 2020):

1. Legal certainty as a defining element, namely that the legal order should be certain; for if the legal order lacks certainty, then the legal system cannot be regarded as law.
2. Legal certainty as a fact, meaning that legal certainty is regarded as a factual state or, in other words, as a legal reality whose truth can be tested.

3. Legal certainty as a value, meaning that legal certainty can be assessed from an axiological perspective, constituting a substantive and objective value.
4. Legal certainty as a normative principle (legal certainty as a principle norm), namely that the principle of legal certainty is regarded as a prescriptive norm indicating what is permitted, prohibited, or mandated.
5. Legal certainty is regarded as the result of the idea of law and also as a product of positive law. Avila argues that legal certainty as the idea of law, or what is often associated with the concept of law, is the legal ideal (*Rechtsidee*). Avila also Quoting Radbruch, legal certainty as a legal ideal must reflect justice and utility. Legal certainty as a product of positive law, according to Avila, is regarded as a 'norm'. Avila considers that there is a close relationship between positive legal norms and the legal ideal or *rechtsidee* to ensure the achievement of legal certainty.

Avila takes the view that legal certainty, when regarded as a norm, has a clearer definition because the legal order serves to answer questions relating to the progressive reduction of uncertainty. Legal certainty as a norm is also capable of explaining the underlying ideals, objectives, protected subjects, and the advantages of a norm compared to other norms.

CONCLUSION

The conclusion drawn from the issues and discussion outlined above indicates that the decision of the District Court of Tanjung Karang regarding PT. Biuteknika Bina Prima does not reflect legal certainty. The Court's decision regarding the imposition of criminal penalties on PT. Biuteknika Bina Prima is inconsistent with the provisions of Article 104 of the Environmental Protection and Management Law (UUPPLH) and also fails to align with the concept of legal certainty as articulated by Gustav Radbruch. The imposition of custodial and monetary penalties under Article 104 constitutes cumulative punishment rather than an alternative; therefore, when rendering a judgment, the judge must impose both custodial and monetary penalties simultaneously and absolutely, without separating them.

Conflict of Interest

All the authors declare that there are no conflicts of interest.

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