

# PENEGAKAN HUKUM DAERAH ALIRAN SUNGAI CITARUM, SOLUSI PRAKTIS MENUJU KELESTARIAN LINGKUNGAN

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## *Abstract*

*In 358 - 382 AD, a Maharesi or Pastor from Salankayana, India named Jayashingawarman built a small hamlet on the banks of a river around which many Tarum (Indigofera) trees grow, which is a type of blue-producing plants. Gradually the hamlet developed into a large kingdom, namely the Tarumanegara Kingdom. The river is the Citarum river. The Citarum River is the longest river in West Java which flows approximately 297 kilometers, sourced from the Mount Wayang springs (south of Bandung City), then flows north through the Bandung Basin and empties into the Java Sea, Karawang district. Citarum is one of the most important watersheds in West Java Province, which makes a major contribution to the lives of the surrounding communities, both for clean water needs, water supply for agricultural, industrial, and other purposes. The surrounding population uses fishery resources in this river, either traditionally by fishing or fishing. However, in the last 30 years, environmental deforestation, pollution of household waste, factory waste to sedimentation and erosion have become problems that have undermined water quality and flow coverage. Environmental preservation is very necessary for all of us, so that our future generations can still enjoy sustainable living resources.*

**Keywords:** *Citarum, pollution, sense of awareness*

## I. INTRODUCTION

The source of life for all living things, both humans, animals, plants is water. Without water, surely there will be no life on this earth, so water is one of the most important components in life. All human civilization began to be built following the water source, namely the river area. We can see how the beginning of the civilization that was between the Tigris and Euphrates rivers known as Mesopotamia developed. Then Ancient Egypt which depended on the Nile. Tarumanegara was built near the Citarum river.

After the Tarumanegara era, then entered the Galuh kingdom and the Sunda kingdom. The Citarum River remains the boundary between the two kingdoms. The Galuh Kingdom is to the east, while the Sunda kingdom is to the west of Citarum. Even until around the 17th century, namely during the Dutch colonial era, the VOC

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still used the Citarum river as a means of connecting to occupy the fort in Tanjungpura which was located on the edge of Citarum, northwest of Karawang.<sup>2</sup>

The Citarum River has been proven to have breathed life along its stream. At that time, its water potential, which reached 13 billion cubic meters per year, had not been fully utilized. Then in 1957, the French contractor *Compagnie française d'entreprise* began to build the Jatiluhur Dam, which at that time was the first multipurpose reservoir in Indonesia. It is installed in 6 (six) turbine units with a power of 187 MegaWatt (MW), which produces an average electricity production of 1,000 million kwh per year. In addition, the Jatiluhur reservoir has the function of providing irrigation water for 242,000 hectares of rice fields, raw water for drinking water, fisheries cultivation and flood control.<sup>3</sup> Then in 1985 the Saguling reservoir was built again and in 1988 the Cirata reservoir. The three reservoirs stem the flow of the Citarum River.

However, since the flourishing of the textile industry in West Java and operating on the edge of the Citarum watershed, environmental pollution of the Citarum watershed began to occur. This is because on average these industries do not have adequate WWTPs, and most of them do not even have WWTPs. So that the industry freely disposes of liquid waste directly into the Citarum river. As a result, the environment is polluted by industrial waste, so that the rice fields in Bandung Regency are polluted. In addition, groundwater around the Citarum watershed has also become cloudy and smelly. Data in 2011 states that there are around 174 industries operating in Majalaya District which at that time was dubbed the "Dollar" city because of its rapid development since the 1980s.<sup>4</sup>

Another problem that arises is that with the increasing number of residents, household waste also begins to increase, even livestock manure is dumped into the Citarum river. The community treats the Citarum river like a giant septic tank that is always ready to accommodate anything. According to the Secretary of the West Java Environment Agency, Prima Mayaningtias, the average waste found in the Citarum river comes from household laundry (washing clothes, used baths, etc.), human waste, and solid waste such as used food wrappers, furniture, etc. broken household, very worrying.<sup>5</sup>

The lack of public awareness of their environment will disrupt the sustainability of their own lives. Without the awareness of the community and

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<sup>2</sup> Agus Prijono, *Mastaka Citarum*, (Balai Besar Konservasi Sumber Daya Alam Jawa Barat Kementerian Lingkungan Hidup dan Kehutanan, Nopember 2015), p 20.

<sup>3</sup> [Waduk Jatiluhur - Wikipedia bahasa Indonesia, ensiklopedia bebas](#), diunduh 15 Desember 2020, jam 23:44.

<sup>4</sup> *Aliran Kehidupan di Sungai Citarum*, Roadmap Coordination and Management Unit (RCMU) Direktorat Pengairan dan Irigasi Badan Perencanaan dan Pembangunan Nasional, p 25.

<sup>5</sup> <https://ayobandung.com/read/2019/02/18/45276/mayoritas-pencemaran-citarum-berasal-dari-limbah-domestik>, diunduh 15 Nov 2020.

various parties to deal with the waste problem in the Citarum watershed (DAS), of course it will not work. Continuous education is needed from the central and local governments on the importance of protecting the environment, so that sustainable sources of life can still be enjoyed by the next generation. According to 2018 data from the KLHK (Ministry of Environment and Forestry), the condition of the Citarum River Basin (DAS) landfill reaches approximately 500 thousand tons/year, or around 1,300 tons/day.<sup>6</sup>

Emil Salim<sup>7</sup>, an environmental expert said the damage to the Citarum watershed was an indication of poor community empowerment in an area. Although the people of West Java are very dependent on the Citarum River, the condition of its existence is completely ignored by the surrounding community. As a result, the environment only brings disaster rather than prosperity. The lack of attention to the condition of the Citarum watershed will easily paralyze community activities in West Java. If the Citarum water source in Mount Wayang is damaged due to deforestation around it, then West Java will be dry and the people will live in misery.<sup>8</sup>

The rapid development in both urban and rural areas has also contributed to environmental problems. Everything or everything in this world must be related to one another. Likewise, development will inevitably result in changes to the physical area, economic structure, consumption patterns, technology, value system, the most worrying thing is the change in natural resources and the environment.<sup>9</sup> These changes will always be interconnected and have different results and reactions. So began to develop science that studies the relationship between one organism with another organism, as well as between the organism and its environment (Ecology). Introduced for the first time by a German biologist named Ernest Haeckel in 1869.

It has been briefly explained above, how frightening the environmental conditions around the Citarum watershed are, the damage that has been caused in the last 30 years due to environmental deforestation, pollution of household waste, factory waste to sedimentation and erosion are problems that undermine the quality of water and the scope of its flow. And has caused a disaster that is detrimental to the community itself. Along with population growth, development

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<sup>6</sup> [http://ppid.menlhk.go.id/siaran\\_pers/browse/2523](http://ppid.menlhk.go.id/siaran_pers/browse/2523), diunduh 18 Desember 2020, jam 16:11.

<sup>7</sup> [https://id.wikipedia.org/wiki/Emil\\_Salim](https://id.wikipedia.org/wiki/Emil_Salim), Prof. Dr. Drs. Emil Salim, M.A., Menteri Negara Urusan Kependudukan dan Lingkungan Hidup (Kabinet Pembangunan III 1978-1983) dan Menteri Negara Pengawasan Pembangunan dan Lingkungan Hidup (Kabinet Pembangunan IV dan Kabinet Pembangunan V 1983-1993).

<sup>8</sup> <https://nasional.kompas.com/read/2009/03/24/2104192/kerusakan.das.citarum.ancam.8.kota.dan.kabupaten.di.jabar>, diunduh 31 Oktober 2020, jam 20:45.

<sup>9</sup> Koesnadi Hardjosoemantri, *Hukum Tata Lingkungan*, (Yogyakarta: Gadjah Mada University Press, 2005), p 52.

development, technology and industrialization that have an impact on the environment, there is one problem formulation that becomes a question, namely:

What is an efficient and practical way of law enforcement for the community and industry players around the Citarum watershed, in order to create a sustainable environment?

Environmental law is a young field of science. Prof. Papers Dr. Mochtar Kusumaatmadja, S.H., L.L.M on "Legal Regulation on Human Environmental Issues: Some Thoughts and Suggestions" which was held in Bandung from 15 to 18 May 1972 was the beginning of the development of environmental law in Indonesia. "An integrated or complete approach system must be applied by law to be able to regulate the human environment properly and well," he stated in his seminar.<sup>10</sup>

Academics argue that environmental law is a field of law that belongs to the field of functional law, namely a field of law that contains provisions of state administrative, criminal and civil law. As a law that regulates the order of the environment, it includes all objects and conditions, including humans and all their actions that affect the survival and welfare of humans and other living organisms. Environmental law is more environment-oriented or Environment-Oriented Law when viewed in a modern sense, whereas classically it places more emphasis on environmental use orientation or Use-Oriented Law.<sup>11</sup>

In Law No. 32 of 2009 concerning Protection and Management of the Environment (UUPPLH), Article 1 which is referred to as "The environment is a unitary space with all objects, power, circumstances, and living things, including humans and their behavior, which affect nature itself, continuity of life, and the welfare of humans and other living creatures. Article 2 Environmental protection and management is a systematic and integrated effort carried out to preserve environmental functions and prevent environmental pollution and/or damage which includes planning, utilization, control, maintenance, supervision, and law enforcement.

Law No. 17 of 2019 concerning Water Resources, Article 1 states that water resources are water, water sources, and the water resources contained in them. Article 11 states that a River Area is a unitary area of Water Resources Management in one or more watersheds and/or small islands with an area of less than or equal to 2,000 (two thousand) square kilometers. Article 12 states that a watershed is an area of land which is an integral part of a river and its tributaries, which functions to accommodate, store and drain water from rainfall to the sea naturally, whose land boundary is a topographical separator and a natural boundary. in the sea to water areas that are still affected by land activities.

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<sup>10</sup> *Ibid*, Koesnadi Hardjasoemantri, p 40 & 41.

<sup>11</sup> [https://id.wikipedia.org/wiki/Hukum\\_lingkungan](https://id.wikipedia.org/wiki/Hukum_lingkungan), diunduh 26 Desember 2020, jam 21:09.

Government Regulation No. 38 of 2011 concerning Rivers, Article 1 Paragraph (1) states that a river is a natural and/or artificial water channel or container in the form of a water drainage network and the water in it, from upstream to estuary, limited to the right and left by border lines.

*Moenadjat Danusaputro is of the opinion that pollution is a condition in which a substance or energy is introduced into an environment by human activities or by natural processes themselves in such a concentration as to cause a change in the said condition resulting in the environment not functioning as before in the sense of health, well-being and biosafety.*<sup>12</sup>

## II. DISCUSSION

Before discussing further about the environment, first discuss a little about the relationship between one organism and another, and between the organism and its environment, which is then called Ecology, which is often referred to as the basic science of the environment. According to Otto Soemarwoto, the definition of ecology is the study of the reciprocal relationship between living things and their environment. Many benefits can be given to humans and their environment by studying ecology.

For example, dolphins whose natural habitat is in the ocean and most of the time they are in the depths of the ocean which is quite dark. And the way they (dolphins) communicate is by emitting high-frequency (ultrasonic) sound waves to each other called SONAR (Sound Navigation and Ranging), which allows them to detect where they are moving. Using this system, dolphins can sense objects in the ocean, find food, and communicate.<sup>13</sup> So then humans adapted it as a sonar system in submarines.

In Wikipedia it is stated that the so-called "ecosystem" is an ecological system formed by the inseparable reciprocal relationship between living things and their environment. Earth as a large part of the ecosystem is a human life support system (life support system). The sun as the center of the energy source and the motion of the system is surrounded by the earth which is part of the planetary system of the universe.

Humans as part of the ecosystem are the main cause of environmental damage. It can be seen how illegal logging/forest logging occurs, water pollution from industrial and mining waste, air pollution in urban areas due to exhaust fumes from motor vehicles, smoke and haze from forest fires due to new land clearing, encroachment on nature reserves/wildlife reserves, capture and trade of protected

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<sup>12</sup> Abdurrahman, *Pengantar Hukum Lingkungan Indonesia* (Citra Aditya Bakti: Bandung, 1990) p 99.

<sup>13</sup> <https://izzudinzaiki.wordpress.com/2015/05/04/sistem-sonar-pada-kelelawar-dan-lumba-lumba/>, diunduh 20 Desember 2020, jam 01:31.

wild animals, destruction of coral reefs, disposal of B3/radioactive waste from developed countries, disposal of waste without separation/processing, and so on.

It takes human awareness of the importance of protecting the environment, namely awareness that arises from understanding the relationship or interrelationship between humans and their environment. That humans and their environment are inseparable parts, is the "key" to the success of environmental management. And one of the instruments is to instill an understanding of environmental law.<sup>14</sup>

## **Environment**

In the free encyclopedia, it is stated that the environment is everything that surrounds humans and relates to each other. The definition of the environment according to the UUPPLH above is quite complicated for ordinary people to understand. The environment should be defined in terms that are easily understood and felt by all groups of people. For example, "the environment is a reciprocal relationship between humans, animals, plants, water, soil and air that influence each other, so a balance must be maintained."

The existence of uncontrolled population growth and industrial development, especially in developing countries, has created new problems related to environmental damage that do not only occur in Indonesia, but this environmental problem has become a global problem. On a national scale, environmental problems in the form of pollution and environmental destruction are becoming more and more common. Some environmental cases have even reached the courts, such as the case of the bird of paradise, Irian Jaya (1984), the case of tofu waste and pig waste in Sidoarjo, East Java (1989), the Lapindo hot mud case in Sidoarjo, East Java (since 2006), and other cases. Of the cases that have been on the "green table", many of the solutions have not met expectations. Then environmental cases that hit the world such as drought in Africa, India, and Latin America. Pesticide factory leak in Bhopal, India that killed more than 2,000 people and blinded another 200,000. The explosion of a liquefied gas tank in Mexico City killed 1,000 people and left thousands homeless.<sup>15</sup>

*Richard Stewart and James E Krier in the Bulletin of Environmental Law and Policy (1978) grouped environmental problems into 3 (three), namely:*

- a) Environmental pollution (pollution);
- b) Wrong use or use of land (land misuse);

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<sup>14</sup> Muhammad Akib, *Hukum Lingkungan Perspektif Global dan Nasional* (kaya sambutan Prof. Dr. Arief Hidayat, S.H., M.S. Rajawali Pers: Jakarta, 2014), p vii.

<sup>15</sup> *Ibid*, Muhammad Akib, p 6-7.

- c) Excessive dredging of natural resources which causes the depletion of these natural resources (natural resource depletion).<sup>16</sup>

Pollution, of course, does not occur immediately, but through a gradual process of decreasing environmental quality. Initially, it is a mixture of certain materials or substances and then settles for a long time. It can be seen with the natural disasters that hit Indonesia, due to human pollution such as:

- a) Landslides, as a direct impact of forest destruction.
- b) Pollution of air, water, soil, and sound as a result of the existence of an industrial area.
- c) Floods, as a result of poor drainage or water disposal systems and errors in maintaining watersheds and the impact of deforestation in upstream watersheds.

### **Watershed Pollution**

Almost all major rivers in Indonesia, especially those in Java, have been polluted and have exceeded the water quality standards set by the government. For example, the Ciliwung river, Prof. Ety Riani, who is a professor at the Faculty of Fisheries and Marine Sciences, Bogor Agricultural University (IPB) said that almost all rivers in DKI Jakarta are highly polluted. Research conducted by the Cleansing Unit of the Water Agency of the East Jakarta Environmental Service, stated that household waste in the form of detergent is a source of pollution. In addition, a lot of nitrate and nitrite contamination was found in the rivers of the Greater Jakarta area. One of them is found in a river in Bekasi which is a tributary of the Citarum. The same thing happened with the Bengawan Solo river. Watershed Pollution occurs because these rivers become the final disposal site of:

- a) Household waste.
- b) Wastes from agriculture, such as pesticides, insecticides, urea fertilizer.
- c) Waste from industry (solid and liquid), especially industrial liquid waste usually contains toxic substances.

In 2019, in the coverage of SCTV 6 entitled "Wild Waste Contaminating the Citarum River Overflows into the Road". It is said that the Environmental Service of Bandung Regency, West Java checks the quality of wastewater produced by a number of factories in the Dayeuhkolot area. The check was carried out because the factory waste overflowed after the illegal waste channel was closed by the Citarum Harum Task Force.

This happens because there are many industries that dispose of their waste into rivers without going through a proper and adequate waste management

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<sup>16</sup> Laode M. Syarif, Andri G Wibisana, *Hukum Lingkungan Teori Legislasi dan Studi Kasus*, (USAID, the United States Government, or The Asia Foundation or Kemitraan), p 2.

installation (WWTP). Sometimes the industry turns off their WWTP machines to save operational costs. Which will later cause environmental pollution or destruction so that it develops into an environmental dispute, if there is one party who feels aggrieved and becomes a victim. Of course, the source of the environmental dispute is the incident of environmental pollution and destruction involving the public interest (public interest litigation), or the general public as the affected party.<sup>17</sup>

### **Role of Central Government**

We realize that the rapidly increasing population, rapid advances in science and technology will change the pattern of human life. Of course, these changes also have an impact on the environment which should be maintained and improved so that it can be used as a resource for sustainable development. So this is where the role of the state is obliged to regulate natural resources so that they are used to maximize the prosperity of the people, so that the people become prosperous, in accordance with Article 33 of the 1945 Constitution of the Republic of Indonesia..

When talking about the welfare of the people, the elements are security, necessities of life, economy, and so on. That is what is called a welfare state, where the function of the state is to guarantee, create, and maintain the welfare of its people. So the task of the state is to protect its people so that they can get a good and healthy living environment by regulating the implementation of sustainable development with an environmental perspective.

In order to realize the protection of the natural resource environment, the government makes legal policies that are deemed necessary in order to protect the sustainability of the environment and natural resources. As listed below:

- 1) Law Number 5 of 1990 concerning Conservation of Biological Natural Resources and Their Ecosystems.
- 2) Law Number 41 of 1999 concerning Forestry.
- 3) Law Number 22 of 2001 concerning Oil and Gas.
- 4) Law Number 28 of 2002 concerning Buildings.
- 5) Law Number 31 of 2004 concerning Fisheries.
- 6) Law Number 26 of 2007 concerning Spatial Planning.
- 7) Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands.
- 8) Law Number 4 Year 2009 concerning Mineral and Coal Mining.
- 9) Law Number 32 of 2009 concerning Environmental Protection and Management.

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<sup>17</sup> Suparto Wijoyo, *Perlindungan Kepada Masyarakat Dalam Sengketa Lingkungan Hidup*, (Jakarta: BPHN, 2015), p 4.



- 10) Law Number 36 of 2009 concerning Health.
- 11) Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004.
- 12) Law Number 18 of 2012 concerning Food.
- 13) Law Number 18 of 2013 concerning Prevention and Eradication and Destruction of Forests.
- 14) Law Number 36 of 2016, concerning Plantations.
- 15) Law Number 17 of 2019 concerning Water Resources.

Then in Law no. 32 of 2009, a complete description of the formulation of environmental crimes, as stated in Article 69 paragraph (1) which states that Everyone is prohibited from:

- a) Perform actions that result in environmental pollution and/or destruction;
- b) Importing B3 which is prohibited according to laws and regulations into the territory of the Unitary State of the Republic of Indonesia;
- c) Importing waste originating from outside the territory of the Unitary State of the Republic of Indonesia into the environmental media of the Unitary State of the Republic of Indonesia;
- d) Importing B3 waste into the territory of the Unitary State of the Republic of Indonesia;
- e) Dispose of waste into environmental media;
- f) Dispose of B3 and B3 waste into environmental media;
- g) Releasing genetically engineered products into environmental media that is contrary to the laws and regulations or environmental permits;
- h) Clearing land by burning;
- i) Prepare an Amdal without having a certificate of competence in preparing an AMDAL; and/or
- j) Providing false information, misleading, omitting information, destroying information, or providing false information.

In addition to outlining the formulation of criminal acts in UUPPLH, it is also explained in Article 97 of UUPPLH that criminal acts in this law constitute crimes along with their sanctions. With the Law no. 32 of 2009 concerning Environmental Protection and Management (UUPPLH), a number of river pollution cases have been processed through legal channels, both administratively, civilly, and even criminally. The norms in UUPPLH are closer to State Administrative Law, because they contain orders, prohibitions, permits and dispensations that bind the government in carrying out its authority in managing and protecting the environment.

Law No. 32 of 2009 also regulates an Environmental Impact Analysis commonly referred to as Amdal as a study of the impact of a planned business

and/or activity on the environment, which is required for the decision-making process regarding the implementation of a business and/or activity.

### **The Role of Local Government**

In environmental issues, the Regional Government also carries out its role with the realization of the Regional Regulation of the Province of West Java Number 1 of 2012, concerning Environmental Management and Environmental Law Arrangement. Regarding the pollution of the Citarum watershed, the local government then issued Regional Regulation Number 7 of 2014 concerning Management of Water Resources (which was later cancelled) and Regional Regulation Number 20 of 2014 concerning Management of Watersheds. Within the scope of its management, the local government pays attention to how significant the watershed area is for environmental sustainability in West Java. Which is realized by regulating all activities of planning, implementation, monitoring and evaluation, institutional development, empowerment, to prohibitions and sanctions for law enforcement.<sup>18</sup> So that community members and/or business actors also know that in carrying out their business activities they do not cause damage to the environment.

The West Java Provincial Government has also issued other regulations related to water resources, such as:

- 1) Regional Regulation Number 4 of 2008 concerning Irrigation (cancelled by the cancellation of Law 7 of 2004 concerning Natural Resources)
- 2) Regional Regulation Number 14 of 2013 concerning Policies for Management of Water Resources West Java province
- 3) Regional Regulation Number 7 of 2014 concerning Water Resources Management (cancelled)
- 4) Regional Regulation Number 40 of 2014 concerning Water Resources Management Patterns for WS. Cisadea-Cibareno
- 5) Regional Regulation Number 41 of 2014 concerning Water Resources Management Patterns for WS. Ciwulan-Cilaki
- 6) West Java Governor Regulation No. 98 of 2015, concerning the Policy for the Management of Hydrological, Hydrometeorological, and Hydrogeological Information Systems for the Province of West Java
- 7) West Java Governor Regulation No. 20 of 2017 concerning the Water Resources Management Plan for the Ciwulan River Basin, Cilaki
- 8) West Java Governor Regulation No. 21 of 2017 concerning the Water Resources Management Plan for the Cisadea-Cibareno River Basin.

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<sup>18</sup> Pasal 5, Perda Jabar No. 20 Tahun 2014 tentang Pengelolaan Daerah Aliran Sungai.

In its efforts to restore river ecosystems, the West Java Provincial government has also implemented at least two initial and newest programs, namely:

- a) Citarum Vibrating which focuses on pollution control in 2000-2003.
- b) Citarum Bestari who hopes that the Citarum river water is drinkable in 5 years, which ultimately failed to meet the target in 2013.
- c) The latest program called “Citarum Harum”, was directly encouraged by President Joko Widodo who issued Presidential Regulation No. 15/2018 concerning the Acceleration of Pollution Control and Damage to the Citarum Watershed, then the West Java Regional Government issued West Java Governor Regulation No. 28 of 2019 concerning Pollution Control Action Plans and Damage to Citarum River Water Areas in 2019-2025.

### **Community Role**

The community must be aware of the adverse effects of environmental pollution for their future survival. What awareness? Of course, awareness is born from understanding the relationship between humans and their environment. Without that awareness, people will continue to exploit the environment arbitrarily without thinking about the consequences. Examples that we can find everyday, which shows how low the level of public awareness is, compliance with traffic rules. There are still many drivers of two-wheeled motorized vehicles when driving on the highway without wearing a helmet, going against the flow, the rear number plate is not installed, and so on.

The public must be educated about Environmental Law, building legal awareness for the sake of creating conservation, because the community's role is actually very important for the environment, it is the community that is directly related to the environment. Such as cutting down trees, building houses, taking out trash, and so on. According to Soerjono Soekanto, legal awareness is an assessment of what is considered good law and/or bad law. Furthermore, Soerjono argues that the assessment of the law for the community is more based on its purpose, whether the law is fair or not, because society expects justice. Every human being has a sense of justice in himself, so between the sense of justice of the government as a law maker and the sense of community justice regulated by law, must be adjusted. So the point is that one must understand the law, before he has legal awareness.<sup>19</sup>

The community's legal awareness factor is expected to be able to protect and manage its environment, if the legal system is formed on the basis of the principle of community legal awareness, namely a sense of justice. In educating the public's legal awareness (especially the lower middle class), it is impossible to cram legal theories,

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<sup>19</sup> Soerjono Soekanto & Mustafa Abdullah, *Sosiologi Hukum dalam Masyarakat*, (Jakarta: Rajawali, 1982), p 211.

asking the public to read article by article the rules in the law. A more appropriate way is to provide guidance on environmental law, ecosystems, and others, as happened during the era of the 2nd President of the Republic of Indonesia called Kelompencapir.

The community has the same rights and opportunities in playing an active role in protecting and managing the environment, in the form of supervision, providing suggestions and opinions (even objections and complaints).<sup>20</sup> So the community must be given the opportunity to be independent and empowered in order to grow their awareness to become actors in managing the environment. Only by increasing the ability and skills of the community to become pioneers, it is hoped that the effectiveness of the community's role in environmental management will increase.

No less important is the local wisdom of an indigenous people. This local wisdom is manifested in the form of rituals and traditional ceremonies which are meaningful as a means of thanking or supplication to God. Which contains the meaning of instilling the values of love for the universe as God's creation. Indigenous peoples understand this very well, they realize that nature is the place and source of life and life for all human beings in the world. The way indigenous peoples preserve their nature and culture will certainly be the attraction of the tourism sector.

This is what should be used as a benchmark for public awareness in preserving the environment. An example is the island of Bali, the number of foreign and local tourists who come, is not only attracted by the beach with white sand and blue sea. But also because of the unique culture, customs, religious rituals, arts, lifestyle and friendliness of the people. The attraction of the Yogyakarta area with its Keraton, Prambanan Temple, Borobudur Temple and various cultures. Then Tanah Toraja with its unique house shape and procedures and burial places for Toraja families.

Indigenous peoples understand very well that humans were created as part of the universe. They are aware of how to interact with the surrounding nature, so that their existence does not interfere with nature, besides being able to live a peaceful and prosperous life. Humans and the natural surroundings cannot be separated. The fact is that human interaction is very dependent on the surrounding natural environment in order to maintain its existence, and improve the quality of life, by developing a system of knowledge and technology. That is awareness of environmental law, which is born from understanding the relationship between humans and their environment.

The existence of the environmental organization Citarum Watershed Management and Biodiversity Conservation (CWMBC) which is one of the programs of the Asian Development Bank through the Ministry of Environment and Forestry, which aims to support efforts to restore the Citarum watershed. CWMBC carries out

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<sup>20</sup> Pasal 70 ayat (1) & (2), UUPPLH.

several activities, namely management of biodiversity in conservation areas, restoration and rehabilitation, utilization of environmental services.

With the CWMBC program, communities around the upper Citarum, especially farmers, have begun to be involved in ecosystem restoration, through holding discussion forums from village to village which were later formed into Conservation Village Models. Training and capacity building for communities to rehabilitate areas around conservation areas are important things that must be continued. Involvement in restoration and rehabilitation of land in conservation areas is welcomed by local residents. The restoration work started from land clearing, making stakes (a piece of wood/bamboo plugged into the ground to propagate plants), nursery and planting, and training in seedlings and composting.

In other words, the community is ready, and hopes to be involved in restoration, of course while hoping to open up business opportunities to meet the needs of life. According to Dadan Hermawan, a former West Java WALHI administrator, residents have also contributed to restoring the river. According to him, in 162 villages, there are eco-village community groups or village development with an environmental culture, there are those called Saber, Zero Waste, and there are also community groups who do not have groups but they have works..<sup>21</sup>

People are starting to realize that they will not directly benefit from the restoration that has been done. There are no immediate results that can be enjoyed or obtained from the environmental restoration efforts that they are currently involved in. Because the purpose of ecosystem restoration is only to restore wildlife habitat and improve water system functions. While the main goal is to maintain the biological wealth and function of the watershed..<sup>22</sup>

### **Environmental Criminal Law Enforcement**

It has been seen that damage on land and at sea is caused by the actions of human hands, so that Allah may feel for them some of the (results of) their actions, so that they return (to the right path) according to the meaning of QS Ar-Rum verse 41. Interpretation of the holy verse Al The Qur'an is clearly proven by the damage on land in the form of landslides due to deforestation, waste pollution, factory waste to sedimentation and erosion in rivers, and so on. Damage in the sea in the form of damage to coral reefs due to dredging around coral reefs, dredging sea sand, and so on that cause damage to marine ecosystems. Everything happens because of the actions of human hands, so humans themselves feel the consequences. So that they return (to the right path) more or less interpreted is if humans have felt the

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<sup>21</sup> [https://www.voaindonesia.com/a/upaya-indonesia-bersihkan-sungai-terkotor-di-dunia-\(1\)/4745640.html](https://www.voaindonesia.com/a/upaya-indonesia-bersihkan-sungai-terkotor-di-dunia-(1)/4745640.html), diunduh 29 Desember 2020, jam 22:30.

<sup>22</sup> *Ibid*, Agus Prijono, p 63.

consequences of their actions damaging the environment, it is hoped that they will then take care of all the damage on earth, be preserved.

However, not everyone can understand this interpretation. For this reason, the government makes a regulation on environmental law. In Black's Law Dictionary the word Environment Law is written as "*Collective body of rules and regulations, orders and statutes, constraints and allowances that are all concerned with the maintenance and protection of the natural environment of a country. Legal basis for measuring active accountability and liability of environmental crime or failure to comply with legal provisions. Legal constraints on economic activities in an environment.*" (A collection of rules and regulations, orders and laws, limits and allowances all relating to the maintenance and protection of a country's natural environment. Legal basis for measuring active accountability and liability for environmental crimes or failure to comply with legal provisions. Legal constraints on economic activity in the country. environment.)

According to Syahrul Machmud in his book *Enforcement of Indonesian Environmental Law* according to Law no. 32 of 2009, that law enforcement in a simple sense, namely at the applicative level is an effort to enforce material laws in order to create a prosperous community life, which is carried out by law enforcement officers, POLRI investigators and PPNS, prosecutors, judges, correctional institutions, and advocates advocating for defendants,<sup>23</sup>

In carrying out this environmental law enforcement, there are several difficulties encountered. One of them is in terms of proofs, whether nature has been polluted and/or damaged, requires special expertise and scientific evidence from the results of sophisticated laboratory tests. Weak evidence from expert witnesses, can result in the failure of law enforcement efforts.

In the process of law enforcement, the application of the rule of law (*geltung desrecht*) properly, must meet 3 (three) elements, namely:

- 1) Juridically, if the determination is based on a higher-level method, or is shaped according to a predetermined way, and if it shows a mandatory relationship between a condition and its consequences. And most likely the method is a dead rule (*regel dode*).
- 2) Sociologically, if the method is effective. If the ruler can enforce the rule (the theory of power) or the community voluntarily accepts and recognizes it (the theory of recognition).
- 3) Philosophically, it means that the method applies in accordance with the ideals of the law as the highest positive value.<sup>24</sup>

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<sup>23</sup> Syahrul Machmud, *Penegakan Hukum Lingkungan Indonesia*, (Yogyakarta: Graha Ilmu, 2012), p 80.

<sup>24</sup> *Ibid*, Soerjono Soekanto & Mustafa Abdullah, p 13.

However, it must also be noted that the concept of the operation of law in this society can be influenced by other forces outside the law, namely:<sup>25</sup>

- 1) Political intervention or power in the environmental law enforcement and judicial process.
- 2) The declining performance of the judiciary in dealing with environmental problems.
- 3) Dominance of power in the environmental criminal law enforcement process.
- 4) Judicial mafia in the process of enforcing environmental criminal law.
- 5) Conflicts of interest between the government, businessmen and the community in the process of enforcing environmental criminal law.

In UUPPLH, a criminal law enforcement system is used and it also regulates the threat of minimum and maximum penalties, violations of quality standards, regulation of corporate crimes, expansion of evidence, integration of criminal law enforcement. If administrative law enforcement is deemed unsuccessful, then as a last resort, environmental criminal law enforcement actions will be taken, or what is commonly referred to as the *ultimum remedium* principle. However, this application only applies to penalties for violations of wastewater quality standards, emissions, and disturbances. Which of these principles will cause problems in its implementation. Which agency has the authority to declare administrative law to be a failure, which types of administrative sanctions are applied to business actors, said Syahrul Machmud.<sup>26</sup>

Law enforcement in environmental issues is not solely the responsibility of law enforcement officers, but in fact, law enforcement is the obligation of all members of the community, so that understanding of rights and obligations is an absolute requirement. According to Nottie Handhaving Milieurecht, environmental law enforcement means monitoring and applying threats by using administrative, criminal or civil legal instruments in order to achieve the arrangement of legal provisions and regulations that are generally and individually applicable. Meanwhile, supervision is carried out by the government to comply with the provision of regulations that are parallel to criminal law investigations.<sup>27</sup>

The government has issued many regulations, but in reality there are still many obstacles that occur in the field, including:

a) Facilities

The facility factor that becomes an obstacle and obstacle in the enforcement of environmental law is the law itself. This is due to various policies that are

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<sup>25</sup> *Ibid*, Syahrul Machmud, p 81.

<sup>26</sup> *Ibid*, Syahrul Machmud, p 83.

<sup>27</sup> R.M. Gatot P. Soemartono. *Hukum Lingkungan Indonesia*, (Jakarta: Sinar Grafika, 1996), p 31.

inconsistent with the principles in UUPPLH and other similar laws. Coupled with the human factor as the implementer which will determine the success of law enforcement.

b) Law Enforcement

The limited number of existing professional law enforcement officers who are able to handle environmental cases is an obstacle, because the very broad and complex aspect of the scope of environmental science is also related to various disciplines. So that in an effort to create a common perception of handling environmental cases, it becomes an obstacle for law enforcers. This is due to the lack of knowledge and understanding of environmental aspects.

c) Facilities

In the reality that has happened so far, environmental cases must involve laboratory equipment that has advanced technology. Of course, in operating it requires special experts and also high operational costs. That's why facilities and costs are needed as a means of supporting to achieve the goal, namely the success of environmental law enforcement.

d) Licensing

As is well known, Article 36 of Law Number 32 of 2009 contains regulations on licensing. In practice, from the aspect of licensing, this is one of the contributors to many problems that occur in environmental problems. Many entrepreneurs can still pass the rules easily in this license.

e) Environmental Impact Analysis System (AMDAL)

One of the requirements for obtaining a permit is the existence of an AMDAL document. Before issuing a business license or an activity permit to entrepreneurs, the government must consider the results of the AMDAL study. In practice in the field, this certificate of environmental impact analysis is more about fulfilling administrative requirements than substantive ones. This means that the process of making the AMDAL document permit is not transparent or there is no openness to the public.

f) Community Legal Awareness of the Environment

The reference or measure of community legal awareness can be easily seen in terms of compliance with the provisions of environmental law. In UUPPLH it is stated that the role of the community is the main component in addition to the existence of law enforcement, in order to achieve environmental law enforcement. One of the reasons for the lack of legal awareness of the community towards the environment is their ignorance of the environment so that they do not know the consequences that will arise when polluting and destroying the environment. There needs to be community involvement



through counseling, guidance, role models in dealing with environmental problems.

### III. CONCLUSION

Environmental pollution of the Citarum River Basin started from the deforestation around the Citarum upstream to be used as agricultural land by the surrounding community. Then as the number of people living around the riverbanks increases, household waste is thrown away, even livestock manure is thrown into the Citarum river. Problems are piling up with the rapid development in urban and rural areas, also contributing to environmental problems. The textile industry, which thrives and operates on the edge of the Citarum watershed, adds to the environmental pollution of the Citarum watershed, where the average wastewater treatment plant (WWTP) is inadequate, and some even have no WWTP at all.

Lack of public awareness, especially urban communities towards their environment, will disrupt their own lives. Without public awareness and various parties to deal with environmental problems in the Citarum watershed, of course, pollution will continue and cause harm to the community itself (as mentioned in QS Ar-Rum verse 41). Continuous education is needed from the central and local governments on the importance of protecting the environment, so that sustainable sources of life can still be enjoyed by the next generation.

Because the community is in direct contact with the environment, efficient and practical law enforcement is by way of guidance and counseling on environmental law, involving the community directly to participate. As has been done by the private sector (Citarum Watershed Management and Biodiversity Conservation) in collaboration with the West Java local government, by providing counseling to the community around the Citarum watershed. Then it seems that the community's sense of care and awareness of the environment is starting to grow as evidenced by the many so-called EcoVillages or Environmentally Cultured Villages which have the motto "We Take Care of Nature, Nature Takes Care of Us". Environmentally Cultured Village is where the village community has awareness in environmental management to support the sustainability of life. Factors Facilities, law enforcement, facilities, permits, EIA system and public awareness of the law on the environment are obstacles in carrying out environmental law enforcement. As long as the above factors have not been addressed, the environment will not be able to provide welfare for the people of Indonesia.

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