

ABSTRAK

Isu lingkungan seringkali menjadi pembicaraan hangat ketika terjadi suatu musibah, namun ketika semuanya aman-aman saja, kesadaran lingkungan akan segera tenggelam di balik hingar-bingarnya pembangunan. Tujuan yang hendak dicapai melalui penulisan dan penelitian hukum ini adalah untuk mengetahui dan mengkaji penerapan asas *strict liability* terhadap korporasi yang melakukan tindak pidana berdasarkan Undang-Undang No. 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup serta kendala-kendala yang dihadapi pemerintah dalam hal penerapan asas *strict liability* terhadap korporasi yang melakukan tindak pidana berdasarkan Undang-Undang No. 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup. Penelitian ini adalah penelitian yuridis normatif, dengan menggunakan pendekatan deskriptif analitis. Diperoleh kesimpulan bahwa Penegakan hukum pidana dalam Undang-Undang Perlindungan dan Pengelolaan Lingkungan Hidup memperkenalkan ancaman hukuman minimum di samping maksimum, perluasan alat bukti, pidanaan bagi pelanggaran baku mutu, keterpaduan penegakan hukum pidana, dan pengaturan tindak pidana korporasi. Penegakan hukum pidana lingkungan tetap memperhatikan asas *ultimum remedium* yang mewajibkan penerapan penegakan hukum pidana sebagai upaya terakhir setelah penerapan penegakan hukum administrasi dianggap tidak berhasil. Penerapan asas *ultimum remedium* ini hanya berlaku bagi tindak pidana formil tertentu, yaitu pidanaan terhadap pelanggaran baku mutu (ukuran batas atau kadar polutan yang ditenggang untuk dimasukkan ke media) air limbah, emisi, dan gangguan. Banyak kendala-kendala yang dihadapi pemerintah dalam hal penerapan asas *strict liability* yang berhubungan dengan penegakan hukum diantaranya kendala Sumber Daya Manusia (SDM) penegak hukum adalah faktor tidak efektifnya penegakan hukum pidana lingkungan, Khususnya di daerah-daerah, belum dapat dikatakan para penegak hukum sudah menguasai seluk beluk hukum lingkungan, bahkan pengenalan hukum lingkungan pun masih kurang. Selain Pidana lingkungan hidup belum menjadi prioritas dibandingkan kasus-kasus lain, misalnya pencurian, pembunuhan, korupsi dan lain-lain. Sebabnya ialah pembuktian, penentuan hubungan kausalitas antara perbuatan pencemaran dan korban tindak pidana lingkungan hidup terjadi pencemaran memerlukan ahli dan laboratorium khusus.

Kata Kunci: Pidana, Lingkungan Hidup, Korporasi, Tanggung Jawab

Abstract

Environmental issues are often a hot topic of conversation when a disaster occurs, but when everything is safe, environmental awareness will immediately sink behind the frenzy of development. The objective to be achieved through writing and legal research is to identify and study the application of the principle of strict liability to corporations that commit criminal acts based on Law No. 32 of 2009 concerning Protection and Management of the Environment as well as the obstacles faced by the government in terms of implementing the principle of strict liability for corporations that commit criminal acts based on Law No. 32 of 2009 concerning Protection and Management of the Environment. This research is a normative juridical study, using a descriptive analytical approach. It is concluded that the enforcement of criminal law in the Law on Environmental Protection and Management introduces the threat of minimum and maximum punishment, expansion of evidence, penalties for violations of quality standards, integrated criminal law enforcement, and regulation of corporate crime. Enforcement of environmental criminal law still observes the principle of ultimum remedium which obliges the application of criminal law enforcement as a last resort after the application of administrative law enforcement is deemed unsuccessful. The application of the ultimum remedium principle only applies to certain formal crimes, namely the punishment for violations of quality standards (limit measures or tolerable levels of pollutants for inclusion in the media) wastewater, emissions, and disturbances. There are many obstacles faced by the government in terms of implementing the principle of strict liability related to law enforcement, including human resource constraints (HR) law enforcers, which are the ineffective factor of environmental criminal law enforcement, especially in regions, it cannot be said that law enforcers have mastering the ins and outs of environmental law, even the introduction of environmental law is still lacking. Apart from criminal action, the environment has not become a priority compared to other cases, such as theft, murder, corruption and others. The reason for this is proof, determining the causal relationship between an act of pollution and a victim of environmental crime when pollution occurs requires specialists and laboratories.

Keywords: *Criminal, Environmental, Corporate, Responsibility*