

Criminal Law Enforcement Against Environmental Pollution Caused By Electronic Waste

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ABSTRACT

The purpose of this research is to find out the elements of environmental crime due to electronic waste pollution based on legislation No. 32 of 2009 concerning the Protection and Management of the Environment and the application of environmental criminal law sanctions against perpetrators of environmental pollution due to electronic waste. This research method uses research normative, based on literature and case studies in the field related to environmental criminal law enforcement related to environmental pollution due to electronic waste. The results of research on the formulation of elements of environmental crimes due to environmental pollution of electronic waste, until now have not been specifically regulated in regulations even though the impact of electronic waste is very dangerous for the environment. Electronic waste, according to law and regulations No. 32 of 2009 concerning Environmental Protection and Management, is classified as Toxic and Hazardous Materials (B3), for the handling of electronic waste must require specific e-waste management policies and regulations.

Keywords: Electronics, Law, Environment, Garbage, UUD

1. INTRODUCTION

The term "Environmental Pollution" is certainly no stranger to today's modern society, especially in developing countries, where there has been a lot of pollution and environmental damage which has become a global problem. In general, the cause of environmental pollution is the result of community activities, although environmental pollution may occur due to natural events or occur naturally, the damage can occur quickly if there is interference from human activities that do not protect the environment.

Currently, environmental problems are not only a problem for one or two countries, but have become a global problem involving almost all countries, including Indonesia. Environmental damage or pollution and the impact it causes in a country, will not only be felt by the country where the pollution or environmental damage occurs, but will also be felt by other countries (Jamal & Erlina, 2020).

A serious treatment is needed to deal with the problem of environmental pollution, namely the existence of regulations regarding the environment. According to M. Fauzan and Baharuddin Siagian, environmental law is a provision that regulates human actions with the aim of protecting the environment from damage and deterioration in quality in order to ensure its sustainability so that it can continue to be used by present and future generations.



To find out if an environment is affected by pollution or damage, a scientific approach is needed, namely by conducting environmental research with appropriate procedures or steps. In everyday life there are many events that are considered as environmental pollution, for example irrigation water that suddenly changes color, rivers that have a brownish color, or well water that has a different odor. Actually these things are not environmental pollution, we people often perceive pollution subjectively without looking at the criteria or elements of environmental pollution.

Substantively, environmental law has actually grown and developed since centuries ago. The substance of this law is heavily influenced by the way of thinking, geographical conditions, and the main sources of livelihood for the members of the community concerned.

The birth of awareness of the environment is inseparable from the role of the world globally. In 1972 a UN conference was held, namely the Stockholm Declaration on the environment, this conference was the forerunner to the development of environmental management for the benefit of legal development. According to Gatot P. Soemartono, the existence of the Stockholm Declaration has provided clear directions on handling environmental problems, including the regulation through legislation (Nahor, 2019).

Like the Stockholm Declaration, the Rio Declaration also contains principles that are seen as sources for the development of national and international environmental law. One of those principles is the principle of sovereignty and responsibility.

If you look closely, there are so many regulations that regulate or discuss environmental issues that are applied in Indonesia. According to Abdurrahman, actually in Indonesia the issue of regulations governing environmental issues is not something new because there are quite a number of applicable legal regulations that can be grouped into so-called environmental laws which are scattered in various regulations, some of these regulations It has been around since the Dutch era and is more than half a century old.

Basically, national environmental laws and regulations are classified into two groups. First, certain sectoral laws and regulations that are closely related to environmental management. Such as the forestry, mining, irrigation and other sectors. Second, laws and regulations that specifically regulate environmental management and protection. 8 Regulations that specifically regulate environmental management and protection, namely the Environmental Protection and Management Law No. 32 of 2009 (Djafar et al., 2023).

There are so many aspects related to Environmental Law, for example, namely criminal law. As we know, criminal law is a set of rules that regulate two types of acts, namely violations and crimes. Until now, the term environmental criminal law has not provided a formal understanding.



Legal experts have not made an agreement on what environmental criminal law is, experts have their own style and perspective in providing explanations regarding environmental criminal law. The difference is that some experts use the term "environmental criminal law" and other legal experts use the term "criminal environmental law".

The term criminal environmental law was used by Muhammad Akib in writing his book. He explained that environmental law contains criminal aspects (*strafrechelijk milieurecht*), not speaking in the context of criminal law science in general. This is because environmental law is a new branch of law that stands alone and has many aspects, one of which is the criminal aspect.

In the Law on the Protection and Management of the Environment No. 32 of 2009, criminal provisions are regulated from Article 97 to Article 120. From these provisions, in general, the formulation of environmental offenses is divided into formal offenses and material offenses. The formulation of a formal offense is contained in articles 100-111, 113-115. The regulations governing environmental management issues have been updated several times, this is due to the times that are starting to develop, in which the cause of environmental pollution is not only due to natural natural events or excessive exploitation of natural resources by the community but can be caused by several other factors (Astuti, 2013).

Along with the development of technology so many problems that arise including in terms of environmental pollution. One of the causes of environmental pollution is electronic waste (E-Waste). Many people take the issue of electronic waste lightly, when people no longer use electronic goods because they are obsolete, they just throw them away, without thinking that their actions will cause environmental damage. Data sourced from The Global E-Waste Monitor, Indonesia in 2016 was ranked the ninth country with electronic waste (E-Waste) after France.

Most electronic waste is categorized as hazardous and toxic (B3) waste because it contains parts made from hazardous components (such as lead, mercury, cadmium and others). B3 is a substance, energy and/or other components which because of their nature, concentration and/or amount, either directly or indirectly, can pollute and/or damage the environment, and/or endanger the human environment, health, human survival as well as other living things. However, electronic waste also contains various hazardous substances such as precious metals and rare earth elements, so many efforts are made to recover or reprocess it. Unfortunately, efforts to recover valuable components often do not pay attention to environmental management, resulting in uncontrolled pollution.

Electronic waste can be classified as B3, in Articles 100-115 it regulates the qualifications and elements of environmental offenses, one of the paragraphs of which contains a criminal act that can be punished by a criminal act, namely managing B3 waste without a permit in Article 102. So if a



person or corporation commits management of electronic waste without a permit and causing environmental damage can be subject to criminal threats and fines. Environmental criminal law enforcement is needed to follow up on cases related to environmental pollution or environmental damage, especially as a result of electronic waste, because without us knowing it, electronic waste is so harmful to the environment and living things.

2. RESEARCH METHOD

This research method uses normative research, based on literature and case studies in the field related to environmental criminal law enforcement related to environmental pollution due to electronic waste, a statutory approach, namely, Law Number 32 of 2009 concerning Environmental Protection and Management, where these regulations are used to examine how environmental criminal law enforcement is related to environmental pollution due to electronic waste.

3. RESULTS AND DISCUSSION

Implementation of Environmental Criminal Law Sanctions Against Environmental Pollution Actors Due to Electronic Waste.

In Article 1 Paragraph (14) of Law Number 32 of 2009 concerning Environmental Management and Protection, the definition of environmental pollution is explained, namely: "entry or inclusion of living things, energy substances or components that exist or must exist and/or live by human activities so that it exceeds the established environmental quality standards" (Hakim, 2015).

The term environmental pollution is used to translate the English term "pollution" which is used to describe natural conditions that are heavier than mere soiling, such as your dirty clothes, which can be washed immediately and can then be used again. It is different with clothes that have been contaminated by ink or even more so by fungi, then these clothes will decline in their use and value, and even suffer damage, this is an illustration of how serious the problem of environmental pollution is (Felia & Kartika, 2020). The definition of environmental pollution according to Danusaputro quoted by Muhammad Erwin is 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 that causes changes in conditions including those that result in the environment not functioning as before in the sense of health, welfare, and biosafety".

The meaning of environmental protection and management is explained in Article 1 paragraph (2) of Law Number 32 of 2009 that: "Environmental protection and management are systematic and integrated efforts made to preserve environmental functions and prevent

environmental pollution and/or damage which includes pollution, utilization, control, maintenance, supervision, and law enforcement."

The objectives of environmental management are:

- a. Achieving harmony, harmony and balance between humans and the environment.
- b. The realization of the Indonesian people as environmental people who have the attitude to foster and protect the environment.
- c. Ensuring the interests of present and future generations
- d. Achievement of environmental function sustainability
- e. Controlled use of resources wisely.
- f. Protecting the Unitary State of the Republic of Indonesia against the impacts of businesses and/or activities outside the territory of the state that cause environmental pollution and/or damage.

Causes and Elements of Environmental Pollution

The environmental crisis occurs because human behavior is influenced by an anthropocentric perspective. Human behavior that is exploitative and destructive and does not care about nature, is rooted in a perspective that is only concerned with human interests. Each pollutant comes from a certain source. This source is important because it is the first choice for eliminating the pollutant. After the pollutant is released by the source, it reaches the recipient. It is this recipient who is affected by the pollutant. Humans as recipients of gaseous pollutants released by factories and fish become recipients of detergents or poisons that enter the waters (Habibaturrahmi & Bakrie, 2020).

Issues related to the environment such as environmental pollution can occur due to several causes, namely:

a. Natural Events

Natural events occur naturally, such as landslides, earthquakes, storms, lightning, forest fires, floods, volcanic eruptions, etc. These natural events can cause environmental damage, floods are disasters that often occur in Indonesia which cause a lot of loss of life and property, damage to community settlements, damage to agricultural land, all of which cause people's suffering.

b. Rapid population growth

The emergence of environmental problems can be caused by very high population growth in an area or country. Uncontrolled population growth causes problems related to the provision of residential areas. So that the emergence of several impacts on environmental destruction such as, land use is not in accordance with land capability classes. Very high population growth is usually related to

poverty, poor people usually have slum settlements, causing various environmental problems, such as garbage, clean water, sanitation and so on.

c. Excessive use of natural resources

Exploitation, or usually referred to as the use of natural resources, is carried out unwisely and causes various environmental problems. Natural resources that are usually over-exploited are mining activities for coal, gold, petroleum, etc., in which exploitation can result in changes in nature, landslides, unwanted stagnant water, and disturbing wildlife. The transportation of these mining materials causes road damage which in turn will pollute the soil, air and water.

d. Industrialization

Various industrial activities such as cement, fertilizer, paper, oil, etc. can potentially have a negative impact on the environment. In the production process, it will produce by-products which are commonly referred to as waste, this waste will pollute the environment, both soil, air and water.

c. Transportation

Transportation will not be separated from everyday human activities, both land, air and water transportation. Each transport requires fuel and workshops to fix the broken ones. However, this can cause environmental problems. Air transportation can cause noise, sea transportation causes polluted waters due to liquid waste that is used for transportation fuel. Land transportation causes air pollution due to carbon monoxide gas, thereby disrupting human health, and the occurrence of acid rain which can cause water and soil pollution.

To say that the environment occurs, environmental pollution must have the following elements:

- a. Introducing or introducing living things, energy substances, and/or other components into the environment, which causes changes in the composition of the environment. The meaning of this element is in the form of entering or entering pollutant substances, which means either intentionally or not including pollutant elements or other components that may be very dangerous for the ecosystem or the environment, which causes the environmental order to change.
- b. The existence of human actions or natural processes. This element by looking at the causative factors, namely environmental pollution can be distinguished between environmental pollution caused by humans, and environmental pollution due to natural processes.
- c. The decline in environmental quality. Environmental pollution in itself always means a decrease in environmental quality, this decline is essential, so it needs to be addressed and does not have an impact on people's lives.

- d. Causing a reduction or the inability of the environment to function according to its purpose.

That environmental pollution is always associated with environmental use.

Principles of Environmental Protection and Management

The principles of environmental protection and management are as follows:

a. State responsibility

The principle of state responsibility is that the state guarantees that the use of natural resources will benefit the welfare and quality of life of the community, both present and future generations. The state guarantees the rights of citizens to a healthy and safe environment and the state prevents activities from exploiting natural resources that result in environmental pollution and/or damage. The essence of the principle of state responsibility is to prevent the exploitation of natural resources which harms the state and the jurisdictions of other countries.

b. Sustainability and sustainability

What is meant by the principle of sustainability and sustainability is that everyone has obligations and responsibilities towards future generations and towards each other in one generation by preserving the carrying capacity of the ecosystem and improving the quality of the environment.

c. Harmony and balance

What is meant by the principle of harmony and balance is that the use of the environment must pay attention to various aspects such as social, economic, cultural interests and the protection and preservation of ecosystems.

d. integration

What is meant by the principle of integration is that environmental protection and management is carried out by combining various elements or synergizing various related components.

e. Benefit

What is meant by the principle of benefit is that all development efforts and/or actions carried out are adjusted to the potential of natural resources and the environment for the improvement of people's welfare and human dignity in harmony with the environment.

f. Precautions

What is meant by precautionary principle is that uncertainty regarding the impact of a business and/or action due to limited understanding of science and technology is not a reason to postpone actions to minimize or avoid threats to environmental pollution and/or damage.



g. Justice

What is meant by the principle of justice is that the protection and management of the environment is disproportionately proportional to every citizen, both across regions, across genders, and across generations.

h. ecoregion

What is meant by the principle of ecoregion is that the protection and management of the environment must pay attention to the characteristics of natural resources, conditions, ecosystems, geography, culture of the local community, and the local wisdom of the population.

i. Biodiversity

What is meant by the principle of biodiversity is that the protection and management of the environment must pay attention to appropriate efforts to maintain the diversity, existence and sustainability of living natural resources consisting of animal natural resources and vegetable natural resources together with the surrounding non-biological elements. as a whole make up the ecosystem.

j. The polluter pays

What is meant by the polluter pays principle is that every actor or person in charge whose business and/or activity results in environmental pollution and/or damage is obliged to bear the cost of environmental restoration.

k. participatory

What is meant by participative principle is that every member of the community is encouraged to play an active role in the process of making decisions and implementing environmental protection and management, both directly and indirectly.

l. Local wisdom

What is meant by the principle of local wisdom is that in the protection and management of the environment, it must reflect the noble values that are in the governance of community life.

m. Good governance

What is meant by the principles of good governance are the protection and management of the environment imbued with the principles of participation, efficiency, accountability, transparency and fairness.

n. Regional autonomy

What is meant by the principle of regional autonomy is that the government and regional governments manage and regulate government affairs in the field of environmental protection and

management by taking into account the principles and regional security within the scope of the unitary state of the Republic of Indonesia.

Perpetrators of Environmental Pollution Crimes

Criminal acts can be divided into four, namely:

a. The one who did

In this case, a person who personally commits all the elements of a crime. Besides that, in everyday reality there are people who do not dare to directly commit criminal acts themselves but involve other people to do it, either by paying other people, or by influencing them or in other ways so that other people do what they want. he wanted.

If it is connected with a criminal act of river pollution, this can happen, for example, an employee of a company orders another person who is not an employee of the company to do something (for example opening a faucet that closes a waste disposal stream) that can pollute the river environment. So in this case both company employees and other people who are ordered can be considered as perpetrators of acts of environmental pollution of the river.

b. The one who ordered to do

In this case there are at least two people, namely the person who ordered to do it and the person who was ordered to do it. The person who ordered the crime to be committed did not carry out the elements of a crime, but the person who was ordered to commit the elements of the crime. People who are ordered in this case are people who are exempt from punishment, they are only considered as mere tools (eg crazy people). Thus even though the person who ordered this did not commit the crime himself, he was the one who was considered as the perpetrator and who could be held responsible for the actions of the person he ordered.

If it is connected with a criminal act of river pollution, something like this can happen, for example, a company employee orders someone who is not of good mind to do something (for example opening a faucet that shuts off waste water) which can pollute the river environment.

c. People who also (also) do

In this case, at least two people must jointly commit a crime. They knowingly committed a crime together. Thus they can also jointly be held accountable for the crime committed.

If it is connected with the crime of river pollution, something like this can happen, for example an employee who cannot do something, for example to open a sewage drain valve, invites other employees to do it. So in this case they consciously and together opened the cover for the waste disposal channel which could pollute the river environment.

d. The one who coaxes does

In this case there must also be at least two people, namely the person who persuaded, who moved other people to commit a crime and the person who was persuaded or who was moved to commit a crime; and both are accountable.

If it is connected with the criminal act of river pollution, something like this can happen, for example a company director or someone else who has influence in the company persuades or mobilizes his employees by promising to provide wages or a salary increase, so that the employee can do something (for example flowing company waste into the river) which can pollute the river environment. Thus, both those who persuade and those who are persuaded are considered as perpetrators of environmental pollution of the river.

Implementation of Environmental Criminal Law Sanctions Against Environmental Pollution Actors Due to Electronic Waste

Criminal law sanctions are synonymous with giving grief and are legal sanctions that are considered the most severe of other legal sanctions. For this reason, criminal law is an ultimum remedium or last resort that is imposed when other legal sanctions are deemed ineffective. 13 Within the spectrum of enforcing environmental criminal law for efforts to control pollution and environmental destruction, the substance of punishment (granting/imposing/imposing criminal sanctions) is a reaction to environmental crime which contains an ideal objective at a philosophical level to provide legal protection for environmental quality as part of the nature of 'environmental protection' for the community (Subyakto, 2015).

According to (Barda Nawawi Arief, 2018), that the main objectives to be achieved in sentencing or imposing criminal sanctions on environmental crimes are; first, to educate the public regarding the moral wrongs related to prohibited behavior. Second, preventing or hindering potential actors from carrying out irresponsible behavior towards the environment.

Environmental criminal sanctions need to be developed in the interpretation of criminal sanctions for perpetrators of criminal acts and also for those who are responsible for the consequences of criminal acts. The perpetrators of environmental crimes can be broken down as follows:

1. Individual person

Criminal responsibility for environmental crimes cannot be separated from the policies contained in laws and regulations. The most recent legislation relating to the environment is UUPPLH, this sentence indicates the subject who can be accounted for as Article 1 number (32) is

"everyone". The definition of every person is an individual or business entity, whether incorporated or not.

2. Corporate criminal liability.

In order to apply criminal liability for legal entities in environmental crimes, according to Muladi, the following matters need to be considered:

- a. Corporations include both legal entities and non-legal entities such as organizations and so on.
- b. Corporations can be private (private juridical entity) and can also be public (public entity).
- c. If it is identified that an environmental crime is committed in the form of an organization, natural persons (managers, agents, employees) and corporations can be punished, either individually or jointly (bipunishment provision).
- d. There is a management error in the corporation and what is called a breach of a statutory or regulatory provision occurs.
- e. Liability of legal entities is carried out regardless of whether the people who are responsible in the legal entity have been identified, prosecuted and convicted.
- f. Basically, all criminal sanctions and actions can be imposed on corporations, except death penalty and imprisonment. In this regard, it should be noted that in the United States, what is known as the "corporate death penalty" or "corporate imprisonment" is becoming known, which implies the prohibition of a corporation from engaging in certain business fields and other restrictions on corporate steps in try.
- g. The application of criminal sanctions against corporations does not eliminate individual guilt.
- h. Criminalization of corporations should take into account the position of the corporation to control the company, through the policies of the management or corporate executive officers who have the power of decision and the decision has been accepted by the corporation.

Those who can represent the corporation in court are:

1. Manager
2. One of the managers, if there is more than one manager
3. Judges can appoint certain administrators

In UUPPLH-2009, corporate criminal responsibility is regulated in Articles 116,117,118 and Article 119.

Article 116



1) If an environmental crime is committed by, for or on behalf of a business entity, criminal charges and criminal sanctions are imposed on (a) the business entity and/or (b) the person giving the order to commit the crime or the person acting as the activity leader in the crime;

2) If the environmental crime as referred to in paragraph (1) is committed by a person based on a work relationship or based on another relationship acting within the scope of the business entity's work, criminal sanctions are imposed on the giver of the order or the leader in the said crime regardless of whether the crime was committed individually or together.

The criminal provisions in Article 116 emphasize that in environmental crimes there is known criminal responsibility for corporations and/or parties who are leaders of businesses and/or activities that have given orders resulting in environmental crimes. Therefore, in the event of an environmental crime committed by a corporation, criminal sanctions will be imposed on the corporation as well as on the leadership or person in charge of the business and/or activity (Sembiring, 2019).

Article 117

If criminal charges are imposed on the giver of the order or the leader of the crime as referred to in Article 116 paragraph (1) letter b, the penalty imposed is in the form of imprisonment and a fine of one third.

Article 118

Against criminal acts as referred to in Article 116 paragraph (1) letter a, criminal sanctions are imposed on business entities represented by management authorized to represent inside and outside the court in accordance with laws and regulations as functional actors

Article 119

In addition to the crimes referred to in this law, business entities are subject to additional penalties or disciplinary measures in the form of:

- a) Deprivation of profits derived from criminal acts;
- b) Closure of all or part of the place of business and/or activity;
- c) Improvements due to criminal acts;
- d) Obligation to do what is neglected without rights and/or;
- e) Placement of the company under guardianship for a maximum of 3 (three) years.

The imposition of additional punishment on business entities as referred to in Article 119 is intended to deter the perpetrators of environmental pollution and/or destruction. Of course, this additional punishment cannot be used alone, but must follow the imposition of the main sentence. Thus, the judge cannot impose only additional punishment because this additional sentence is following the principal punishment (Akhmaddhian, 2016).



After an explanation regarding the legal subject or perpetrators of environmental crime is explained. Thus, the threat of criminal sanctions for perpetrators of environmental crimes due to electronic waste is formulated as follows:

1. Material Offenses

a. Intentional (Article 98 paragraph (1))

- Prison: minimum 3 (three) years and maximum 10 (ten) years.
- Fine : minimum Rp. 3,000,000,000.00 (three billion rupiah) and a maximum of Rp. 10,000,000,000.00 (ten billion rupiah)

b. Intentional and cause injury and/or human health hazard. (Article 98 paragraph (2))

- Prison: minimum 4 (four) years and maximum 12 (twelve) years.
- Fine : minimum Rp. 4,000,000,000.00 (four billion rupiah) and a maximum of Rp. 12,000,000,000.00 (twelve billion rupiah).

c. Intentional and resulting in serious injury and/or death (Article 98 paragraph (3))

- Prison: minimum 5 (five) years and maximum 15 (fifteen) years.
- Fine : minimum Rp. 5,000,000,000.00 (five billion rupiah) and a maximum of IDR 15,000,000,000.00 (fifteen billion rupiah)

d. Forgetfulness (Article 99 paragraph (1))

- Prison: minimum 1 (one) year and maximum 3 (three) years.
- Fine: maximum Rp. 1,000,000,000.00 (one billion rupiah) and a maximum of Rp. 3,000,000,000.00 (three billion rupiah)

It is. Negligence and resulting in injury and/or human health hazard (Article 99 paragraph (2))

- Prison: minimum 2 (two) years and maximum 6 (six) years.
- Fine : minimum Rp. 2,000,000,000.00 (two billion rupiah) and a maximum of Rp. 6,000,000,000.00 (six billion rupiah).

f. Forgetfulness and resulting in serious injury and/or death (Article 99 paragraph (3))

- Prison: minimum 3 (three) years and maximum 6 (six) years.
- Fine : minimum Rp. 3,000,000,000.00 (three billion rupiah) and a maximum of Rp. 9,000,000,000.00 (nine billion rupiah)

2. Formal offence

a. Intentional (Article 100 paragraph (3))

- Prison: maximum 3 (three) years.
- Fine : maximum Rp. 3,000,000,000.00 (three billion rupiah)

b. Without a permit to carry out B3 waste management (Article 102)

- Prison: minimum 1 (one) year and maximum 3 (three years)
- Fine : minimum Rp. 1,000,000,000.00 (one billion rupiah) and a maximum of Rp. 3,000,000,000.00 (three billion rupiah).
- c. Producing B3 waste and not doing it according to procedure (Article 103)
 - Prison: minimum 1 (one) year and maximum 3 (three) years
 - Fine : minimum Rp. 1,000,000,000.00 (one billion rupiah) and a maximum of Rp. 3,000,000,000.00 (three billion rupiah).
- d. Dumping (disposal) of waste to environmental media (Article 104)
 - Prison: maximum 3 (three) years
 - Fine : maximum Rp. 3,000,000,000.00 (three billion rupiah).
- e. Importing B3 waste into Indonesian territory (Article 106)
 - Prison: minimum 5 (five) years and maximum 15 (fifteen) years.
 - Fine : minimum Rp. 5,000,000,000.00 (five billion rupiah) and a maximum of Rp. 15,000,000,000.00 (fifteen billion rupiah)
- f. Importing B3 waste that is prohibited according to law into Indonesian territory (Article 107)
 - Prison: minimum 5 (five) years and maximum 15 (fifteen) years
 - Fine : minimum Rp. 5,000,000,000.00 (five billion rupiah) and a maximum of Rp. 15,000,000,000.00 (fifteen billion rupiah)

The application of sanctions (threats) of imprisonment and fines is cumulative in nature, not alternative in nature, so the sanctions are applied to both, namely imprisonment and fines, not one of them. In fact, according to Article 117 UUPPLH-2009, the criminal threat against the giver of the order or the leader of the crime as referred to in Article 116 paragraph (1) letter b, the criminal threat imposed in the form of imprisonment and fines is increased by one third.

Obstacles to Enforcement of Environmental Criminal Law

Every law enforcement process is inseparable from the obstacles faced by law enforcers. This problem can be caused by several factors as follows:

- a. The legal factor itself, which in this paper will be limited to the law.
- b. Law enforcement factors, namely the parties that form and apply the law.
- c. Facility factors or facilities that support law enforcement.
- d. Community factors, namely the environment in which the law applies or is applied.

According to (Silalahi, 2017) there are very basic legal issues relating to ius Standi issues or commonly called legal standing, issues of proof, environmental restoration, compensation principles, environmental crimes, testimonies, experts, the role of labs and pollutant analysis methods to



determine the occurrence of pollution in a legal sense, according to him, these issues are not only the subject of debate by environmental law experts, but have also fundamentally affected the concept of the law:

There are obstacles experienced by law enforcement officials in implementing environmental law, namely the lack of equipment or advice to support the evidentiary process in investigating environmental pollution cases, the lack of coordination between environmental law enforcement agencies, the difficulty in taking samples or samples of waste pollution to be used as evidence, from The obstacles in the criminal act of pollution that greatly affect this are the lack of laboratory facilities/equipment owned by investigators to examine pollution samples. so that the examinations in the investigations carried out are often doubted or denied by the criminal perpetrators of environmental pollution (Herlina, 2017).

4. CONCLUSION

The formulation of elements of environmental crimes due to environmental pollution of electronic waste, until now has not been specifically regulated in regulations even though the impact of electronic waste is very dangerous for the environment. Electronic Waste, in the legislation Number 32 of 2009 concerning Environmental Protection and Management, is classified under Toxic and Hazardous Materials (B3), for handling electronic waste it must require specific e-waste management policies and regulations and Threats of criminal sanctions for perpetrators Environmental crimes due to electronic waste are still classified as criminal sanctions for perpetrators of environmental crimes due to toxic and hazardous materials (B3), including imprisonment, fines and disciplinary action. Imprisonment and fines vary greatly depending on the nature of the act and the consequences it causes.

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