

## **Kriminal Law Policy in Efforts to Tackle Environmental Crimes Based on Religious Justice Values**

**Inna Istiqomah**

Faculty of Law, Sultan Agung Islamic University, Semarang, Indonesia, E-mail:  
[bumikupertiwi@gmail.com](mailto:bumikupertiwi@gmail.com)

**Abstract.** *This paper aims to discuss and understand the criminal law policy in an effort to overcome environmental crimes based on religious justice values. This study uses a normative legal research approach, which uses a descriptive analysis method. By presenting problems that are reinforced with existing data and analyzing them through literature studies. Based on the research, it is concluded that the criminal law policy in an effort to overcome environmental crimes in the provisions of legislation in Indonesia today is Law Number 32 of 2009 concerning Environmental Protection and Management. A number of articles in Law No. 32 of 2009 regulate the legal provisions and framework for environmental protection and management. Law enforcement for perpetrators of environmental pollution and damage has been regulated in the form of sanctions as stated therein. Sanctions for perpetrators, both individuals and corporations, must be implemented through a careful and precise study in accordance with the characteristics, objectives and benefits of the implementation of the sanctions. the imposition of criminal penalties on perpetrators of environmental crimes must pay attention to the value of justice based on God Almighty. The sanctions that are considered most effective to be applied to perpetrators of environmental crimes and in the context of enforcing environmental law are not only criminal sanctions, but also administrative legal sanctions in the form of sanctions to freeze and/or revoke the business license of every corporation that commits environmental crimes.*

**Keywords:** *Environmental; Policy; Religious.*

### **1. Introduction**

Humans are one of the components of the ecosystem in the environment that have an ecological functional role. On the one hand, humans have the potential to damage and pollute and even destroy the environment. On the other hand, humans have the potential to be environmental conservationists. Depending on the level of environmental awareness and wisdom that they have and

develop.<sup>1</sup> Many factors influence environmental damage. Among them are excessive exploitation and consumption, non-renewable resources, processing and transportation, and the biggest contributor to environmental damage is construction.

Explicitly, the Qur'an states that all types of damage that occur on the surface of the earth are the result of human actions in interacting with its environment, QS. Ar-Rum: 41: "Corruption has appeared on land and in the sea because of what the hands of men have earned; Allah desires that they may taste a part of (the consequences of) their deeds, that they may return (to the right path)."

Some examples of the damaging potential that causes environmental problems include the thinning of the ozone layer, global warming, oil spills in the sea, deforestation, critical land, dead fish in tributaries due to chemicals, and the extinction of certain species. In the literature, environmental problems can be grouped into three forms, namely environmental pollution, land misuse, and natural resource depletion. However, based on the laws in force in Indonesia, environmental problems are only grouped into two forms, namely environmental pollution and environmental destruction.<sup>2</sup>

Several environmental cases that have reached the court include the Bird of Paradise case, Irian Jaya (1984), the Tofu and Pig Waste case, Sidoarjo, East Java (1989), the PT Inti Indorayon Utama case, North Sumatra (1989), the Way Seputi pollution case, Central Lampung (2002), the Wildlife Trade case in South Sumatra and Lampung (2003), the Buyat Bay pollution case by PT Newmont Minahasa Raya (2004). However, with various weaknesses in the existing legal structure and substance, many of these cases have not met expectations in their resolution.<sup>3</sup>

The problem of overcoming crime in society, of course, cannot be separated from the context of discussions about penal policy. Penal policy can be interpreted as a rational effort to overcome crime by using criminal law means. In every policy, there are also value considerations. Therefore, criminal law reform must also be oriented towards a value approach.<sup>4</sup>

The values contained in the Principle of Belief in the Almighty God are basic thoughts in efforts to develop national criminal law, thus it is necessary to explore religious legal values to be integrated into the development of the

---

<sup>1</sup>Mujiyono Abdillah, 2005, *Environmental Jurisprudence: A Spiritual Guide to Living with Environmental Awareness*, UPP AMP YKN, Yogyakarta, p. 5

<sup>2</sup>Takdir Rahmadi, 2013, *Environmental Law in Indonesia*, Rajawali Pers, Jakarta, p. 1

<sup>3</sup>Muhammad Akib, 2014, *Environmental Law: Global and National Perspectives*, Rajawali Press, Jakarta, p. 7

<sup>4</sup>Barda Nawawi Arief, 2016, *Anthology of Criminal Law Policy: Developments in the Drafting of the New Criminal Code*, Kencana, Jakarta, p. 29.

national legal system, including in efforts to renew Indonesia's substantive criminal law.<sup>5</sup>

Seeing the characteristics of Indonesian society which are more monodualistic and pluralistic, and various conclusions of national seminars, national legal sources are expected to be oriented towards legal values that exist in society, namely those originating from customary law values and religious law.<sup>6</sup>The problem today is that formal justice alone is not enough, because it does not fully support and encourage the creation of a well-ordered society. Given that the concept of justice is considered effective if it can be generally accepted. Formal justice also tends to favor the rulers, and is forced.

Environmental issues are complex issues. Environmental crimes are regulated in Law Number 32 of 2009 concerning Environmental Protection and Management. This study aims to determine the criminal law policy in efforts to overcome environmental crimes based on religious justice values.

## **2. Research methods**

This research uses a normative legal approach method, namely by studying/analyzing secondary data in the form of legal materials, especially primary legal materials and secondary legal materials.<sup>7</sup>The specification in this study is descriptive analysis research. The type and technique of data collection in legal research are obtained through literature study. The data analysis method used in this study is qualitative analysis.

## **3. Results and Discussion**

### **3.1. Criminal Law Policy in Efforts to Tackle Environmental Crimes in Current Legislative Provisions**

Efforts to combat crime through the creation of criminal laws are essentially also an integral part of efforts to protect society (social welfare). Therefore, it is only natural that criminal law policies or politics are also an integral part of social policy.

Social policy can be interpreted as all rational efforts to achieve public welfare and at the same time include public protection. So in the definition of "social policy", it also includes "social welfare policy" and "social defense policy". Viewed from a broad meaning, criminal law policy can include the scope of policy in the field of material criminal law, in the field of formal criminal law and in the field of criminal enforcement law.<sup>8</sup>

---

<sup>5</sup>Sri Endah Wahyuningsih, 2014, The Urgency of Reforming Indonesia's Material Criminal Law Based on the Values of Belief in the Almighty God, Journal of Legal Reform, Vol.1 No. 1, p. 22-23.

<sup>6</sup>Barda Nawawi Arief, 2003, Selected Chapters on Criminal Law, Citra Aditya Bakti, Bandung, p. 44.

<sup>7</sup>Soemitro, RH, 1983, Legal Research Methodology, Ghalia Indonesia, Jakarta p. 24.

<sup>8</sup>Barda Nawawi Arief, 2016, Anthology of Criminal Law Policies: Developments in the Drafting of the New Criminal Code, Kencana, Jakarta, p.17-18

Criminal law policy according to Prof. Sudarto is an effort to realize good regulations in accordance with the circumstances and situations at a certain time. The policy of the state through authorized bodies to implement the desired regulations that are estimated to be used to express what is contained in society and to achieve what is aspired to.<sup>9</sup>

Next Prof. Sudarto<sup>10</sup> stated that implementing criminal law policy means holding elections to achieve the best criminal legislation results in the sense of fulfilling the requirements of justice and utility. On another occasion, it also stated that implementing criminal law policy means an effort to realize criminal legislation that is in accordance with the circumstances and situations at a certain time and for the future.

In the Big Indonesian Dictionary, the meaning of a crime is an act that can be punished because it is a violation of criminal law.<sup>11</sup> Criminal acts in German are called delit. In Latin it is delictum, and in Dutch it is called strafbaar feit or delict.<sup>12</sup>

Prof. Moeljatno, defines "criminal acts" as acts that are prohibited and are subject to criminal penalties for anyone who violates the prohibition.<sup>13</sup>

The easiest definition to understand is the definition put forward by Prof. Simons, that a crime or criminal act is an unlawful act that has been carried out intentionally or unintentionally by a person whose actions can be accounted for and which has been declared by law as an act that can be punished.<sup>14</sup>

According to Prof. Moeljatno, for a criminal act to exist there must be the following elements:

- 1) Human actions
- 2) Which meets the requirements in the law (this is a formal requirement)
- 3) Unlawful (this is a material requirement)

The formal requirements must be present, because there is a principle of legality contained in Article 1 of the Criminal Code. The material requirements must also be present, because the act must also be truly felt by the community as an act that should not or should not be done; because it is contrary to or hinders the achievement of the order in social interaction that is aspired to by the community. Furthermore, Moeljatno argues that the fault and ability to be

---

<sup>9</sup>Ibid,, p. 26.

<sup>10</sup>Ibid, p. 26.

<sup>11</sup>Department of Education and Culture, 2001, Big Indonesian Dictionary, Balai Pustaka.

<sup>12</sup>Leden Marpaung, 2008, Principles-Theory-Practice of Criminal Law, Fifth Edition, Sinar Grafika, Jakarta, p. 7.

<sup>13</sup>Sudarto, 2009, Criminal Law I, Sudarto Foundation and Faculty of Law, UNDIP, Semarang, p. 70

<sup>14</sup>Leden Marpaung, 2008, Principles-Theory-Practice of Criminal Law, Fifth Edition, Sinar Grafika, Jakarta, p. 8.

responsible of the perpetrator are not included as elements of a criminal act, because these things are inherent in the person who does it.

Various types of criminal sanctions, according to positive law, the provisions are stated in Article 10 of the Criminal Code (KUHP)<sup>15</sup>, namely a distinction is made between principal and additional penalties, namely:

a. Principal Penalty

This is a punishment that is imposed together with additional penalties, and can also be imposed alone.

Types of principal punishment:

- 1) Death penalty
- 2) Prison Sentence
- 3) Imprisonment
- 4) Penalty Fine

Fines are the oldest form of punishment. They are punishments that are directed at a person's property.

b. Additional Penalties

Additional criminal penalties are referred to in Article 10 of the Criminal Code in part b, which consist of:

- 1) Revocation of certain rights
- 2) Confiscation of certain goods
- 3) Announcement of the judge's decision

Efforts and policies to create good criminal law regulations are essentially inseparable from the goal of combating crime. So criminal law policy is also part of criminal politics. So it is identical to the understanding of crime prevention policy with criminal law.

Rational efforts to control or combat crime (criminal policy) certainly do not only use "penal" means (criminal law), but can also use "non-penal" means.<sup>16</sup>

To combat crime with criminal law is essentially also part of law enforcement efforts (especially criminal law enforcement). Therefore it is often said that criminal law policy is also part of law enforcement policy.<sup>17</sup>

Law enforcement is an effort to realize the ideas of justice, legal certainty and social benefits into reality. So law enforcement is essentially a process of realizing ideas. Law enforcement is the process of making efforts to uphold or function legal norms in real terms as guidelines for actors in traffic or legal relations in

---

<sup>15</sup>KUHP Criminal Code & KUHP Criminal Procedure Code, Permata Press, p. 13.

<sup>16</sup>Muladi and Barda Nawawi Arief, 2010, Criminal Theories and Policies, Alumni, Bandung, p. 158.

<sup>17</sup>Barda Nawawi Arief, 2017, Anthology of Criminal Law Policies: Developments in the Drafting of the New Criminal Code, Kencana, Jakarta, p. 28.

social and state life. Law enforcement is an effort to realize the ideas and legal concepts that the people hope for into reality. Law enforcement is a process that involves many.<sup>18</sup>

Environmental crimes are acts of environmental pollution, environmental destruction, and other acts that violate applicable laws and regulations.

Based on Article 1 paragraph (1) of Law Number 32 of 2009 concerning Protection and Management of the Environment (hereinafter referred to as Law No. 32 of 2009), the definition of the Environment is the unity of space with all objects, power, conditions and living creatures, including humans and their behavior, which influence nature itself, the continuity of life and the welfare of humans and other living creatures.

Article 2 paragraph (2) further stipulates that environmental protection and management are systematic and integrated efforts undertaken to preserve environmental functions and prevent environmental pollution and/or damage, which include planning, utilization, control, maintenance, supervision and law enforcement.

In addition to its normative meaning, the environment has also been put forward by several experts, one of whom is Emil Salim, according to him the environment is all objects, conditions, circumstances, and influences that exist in the space we occupy and influence living things, including human life.<sup>19</sup>

The nature of the environment is determined by various factors, including:<sup>20</sup>

- a. Types and quantities of each type of environmental element
- b. The relationship or interaction between elements in the living environment
- c. Behavior or condition of environmental elements
- d. Non-material factors include conditions, temperature, light, energy and noise.

Criminal acts in the environmental sector in Indonesia are regulated in Law Number 32 of 2009 concerning Environmental Protection and Management (hereinafter referred to as Law No. 32 of 2009). A number of articles in Law No. 32 of 2009 regulate the legal provisions and framework for environmental protection and management.

The provisions of Article 25 of Law No. 32 of 2009, for example, regulate the obligation for every business and/or activity that has a significant impact to equip itself with an Environmental Impact Analysis (Amdal) document.

---

<sup>18</sup>Dellyana Shant, 1988, *The Concept of Law Enforcement*, Liberty, Jakarta, p. 32.

<sup>19</sup>Emil Salim, n.d., *Environment and Development*, 5th ed., Mutiara Sumber Widya, Jakarta, p. 16. See Mahrus Ali and Ayu Izza Elvany, 2014, *Environmental Criminal Law: Environmental Conservation-Based Criminalization System*, UII Press, Yogyakarta, p. 2.

<sup>20</sup>RM Gatot P. Soemartono, n.d., *Indonesian Environmental Law*, First Edition, Sina Grafika, Jakarta, p. 17-18. See Mahrus Ali and Ayu Izza Elvany, 2014, *Environmental Criminal Law: Environmental Conservation-Based Criminalization System*, UII Press, Yogyakarta, p. 2.

Article 47 paragraph (1) and (2) of Law No. 32 of 2009 regulates Environmental Risk Analysis, which emphasizes:

- (1) Every business and/or activity that has the potential to cause significant impacts on the environment, threats to ecosystems and life, and/or human health and safety must conduct an environmental risk analysis.
- (2) The environmental risk analysis as referred to in paragraph (1) includes:
  - a. Risk assessment;
  - b. Risk management; and/or
  - c. Risk communication.

In the context of "countermeasures", the provisions of Article 53 paragraph (1) and (2) of Law No. 32 of 2009 state:

- (1) Every person who pollutes and/or damages the environment is obliged to take measures to control the pollution and/or damage to the environment.
- (2) Prevention of environmental pollution and/or damage as referred to in paragraph (1) is carried out by:
  - a. Providing information warnings about environmental pollution and/or damage to the public;
  - b. Isolation of environmental pollution and/or damage;
  - c. Termination of sources of pollution and/or environmental damage; and/or
  - d. Another way that is in line with developments in science and technology.

In terms of "restoration" paragraphs (1) and (2) of Law No. 32 of 2009 state:

- (1) Every person who pollutes and/or damages the environment is obliged to restore the environmental function.
- (2) Restoration of environmental functions as referred to in paragraph (1) is carried out in stages:
  - a. Termination of sources of pollution and cleaning of polluting elements;
  - b. Remediation;
  - c. Rehabilitation;
  - d. Restoration; and/or
  - e. Another way that is in line with developments in science and technology.

Provisions regarding "Management of Hazardous and Toxic Materials (B3)" are regulated in Article 58 paragraph (1) of Law No. 32 of 2009 which reads:

"Anyone who imports, produces, transports, distributes, stores, utilizes, disposes of, manages, and/or hoards B3 into the territory of the Republic of Indonesia is required to manage B3."

Provisions regarding "B3 Waste Management" are regulated in Article 59 paragraph (1), (2), (3), and (4) of Law No. 32 of 2009 which reads:

- (1) Every person who produces B3 waste is obliged to manage the B3 waste they produce.
- (2) In the case of B3 as referred to in Article 58 paragraph (1) having expired, its management shall follow the provisions for B3 waste management.
- (3) If an individual is unable to manage B3 waste themselves, the management is handed over to another party.

Management of B3 waste must obtain a permit from the minister, governor, or regent/mayor according to their authority.

Categorized as elements of criminal acts in the environmental sector related to the provisions of Law No. 32 of 2009<sup>21</sup>is: (1) Any person, individual or body who (2) unlawfully in the environmental field:

- a. Intentionally committing acts that result in environmental pollution and/or destruction;
- b. Due to negligence in carrying out acts that result in environmental pollution and/or destruction;
- c. Violating the provisions of applicable laws, intentionally releasing or disposing of substances, energy and/or other components that are dangerous or toxic into the soil, into the air or into surface water, exporting, importing, trading, transporting, storing such materials, operating dangerous installations, while knowing or having good reason to suspect that such actions may cause pollution and/or damage to the environment or endanger public health or the lives of others.

According to Muladi, perpetrators of environmental crimes can also be individuals or collectives. Even the form can be corporate crimes. In modern criminal law, attention to victims of crime is not only emphasized in the criminalization process but is also closely related to guidelines for sentencing, criminal liability and efforts to include restitution as a criminal sanction.<sup>22</sup>

### **3.1. Criminal Sanctions for Individual Offenders**

Judging from the provisions of Law No. 32 of 2009, the crime of environmental pollution, individual perpetrators of criminal acts are regulated in Articles 98 to 104 of Law No. 32 of 2009. So that perpetrators of criminal acts of water pollution can be subject to criminal sanctions based on the provisions of the law.

Article 98 No. 32 of 2009 reads:

- 1) Any person who intentionally commits an act that results in exceeding the sea water quality standards, or environmental damage criteria, shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 10

---

<sup>21</sup>Law of the Republic of Indonesia Number 32 of 2009, Concerning Environmental Protection and Management, see Syamsuddin Aziz, 2014, Special Criminal Acts, Sinar Grafika, Jakarta, p. 46-47.

<sup>22</sup>Dian Ekawati Ismail, 2009, Prevention of Environmental Crimes, Jurnal Legalitas, Vol. 2 No. 1, February, p.93



(ten) years, and a fine of at least 3,000,000,000.00 (three billion rupiah) and a maximum of 10,000,000,000.00 (ten billion rupiah)”

- 2) If the act as referred to in paragraph (1) results in injury and/or harm to human health, the perpetrator shall be punished by imprisonment for a minimum of 4 (four) years and a maximum of 12 years and a fine of at least 4,000,000,000.00 (four billion rupiah) and a maximum of 12,000,000,000.00 (twelve billion rupiah).
- 3) If the act as referred to in paragraph (1) results in serious injury or death, the perpetrator shall be punished by imprisonment for a minimum of 5 years and a maximum of 15 years, and a fine of at least 5,000,000,000.00 (five billion rupiah) and a maximum of 15,000,000,000.00 (fifteen billion rupiah).

Article 99 of Law No.32 of 2009, reads as follows:

- 1) Any person who due to his negligence causes the ambient air quality standard, water quality standard, sea water quality standard, or environmental damage criteria to be exceeded shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 3 (three) years, and a fine of at least 1,000,000,000.00 (one billion rupiah) and a maximum of 3,000,000,000.00. (three billion rupiah)”
- 2) If the act as referred to in paragraph (1) results in injury and/or harm to human health, the punishment shall be imprisonment for a minimum of 2 (two) years and a maximum of 6 (six) years and a fine of at least 2,000,000,000.00 (two billion rupiah) and a maximum of 6,000,000,000.00 (six billion rupiah).
- 3) If the act as referred to in paragraph (1) results in serious injury or death, the perpetrator shall be punished by imprisonment for a minimum of 3 years and a maximum of 9 years, and a fine of at least 3,000,000,000.00 (three billion rupiah) and a maximum of 9,000,000,000.00 (nine billion rupiah).

Article 100 of Law No.32 of 2009 reads as follows:

- 1) Any person who violates wastewater quality standards, emission quality standards, disturbance quality standards shall be punished with imprisonment for a maximum of 3 (three) years and a maximum fine of 3,000,000,000.00 (three billion rupiah).
- 2) The criminal acts referred to in paragraph (1) may only be imposed if the administrative sanctions that have been imposed are not complied with or the violation is committed more than once.

Article 101 of Law No. 32 of 2009 states that "any person who releases and/or distributes genetically engineered products into the environmental media in conflict with environmental laws and regulations or permits as referred to in Article 69 paragraph (1) letter g, shall be punished with imprisonment for a minimum of 1 year and a maximum of 3 years, and a fine of at least

1,000,000,000.00 (one billion rupiah) and a maximum of 3,000,000,000.00 (three billion rupiah)."

The provisions of Article 102 of Law No. 32 of 2009 state: "Any person who manages B3 waste without a permit as referred to in Article 59 paragraph (4) shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 3 (three) years and a fine of at least IDR 1,000,000,000.00 (one billion rupiah) and a maximum of IDR 3,000,000,000.00 (three billion rupiah)."

Article 103 of Law No. 32 of 2009 states: "Any person who produces B3 waste and does not manage it as referred to in Article 59, shall be punished with imprisonment of at least 1 (one) year and a maximum of 3 (three) years and a fine of at least IDR 1,000,000,000.00 (one billion rupiah) and a maximum of IDR 3,000,000,000.00 (three billion rupiah)".

The provisions of Article 104 of Law No. 32 of 2009 include: "Any person who dumps waste and/or materials into the environmental media without a permit as referred to in Article 60, shall be punished with imprisonment for a maximum of 3 (three) years and a maximum fine of IDR 3,000,000,000.00 (three billion rupiah)".

### **3.2. Criminal sanctions for perpetrators (business entities/corporations)**

Environmental pollution committed by business entities/corporations is regulated in the following Article:

The provisions of Article 116 of Law No. 32 of 2009 read:

- (1) If an environmental crime is committed by, for, or on behalf of a business entity, criminal charges and criminal sanctions will be imposed on:
  - a. business entity; and/or
  - b. the person who gives the order to commit the crime or the person who acts as the leader of the activities in the crime.
- (2) If an environmental crime as referred to in paragraph (1) is committed by a person who, based on an employment relationship or other relationship, acts within the scope of the business entity's work, criminal sanctions shall be imposed on the person giving the order or the leader of the crime without taking into account whether the crime was committed alone or together.

The provisions of Article 117 of Law No. 32 of 2009 state: If criminal charges are brought against the person who gave the order or the leader of the criminal act as referred to in Article 116 paragraph (1) letter b, the criminal threat imposed in the form of imprisonment and a fine is increased by one third.

The provisions of Article 118 of Law No. 32 of 2009 state: For criminal acts as referred to in Article 116 paragraph (1) letter a, criminal sanctions are imposed on the business entity represented by the management who has the authority to represent it in and outside the court in accordance with statutory regulations as the functional actor.

The provisions of Article 119 of Law No. 32 of 2009 state: In addition to the criminal penalties as referred to in this Law, business entities may be subject to additional criminal penalties or disciplinary measures in the form of:

- a. confiscation of profits obtained from criminal acts;
- b. closure of all or part of a business premises and/or activities;
- c. corrections due to criminal acts;
- d. obligation to do what is neglected without right; and/or
- e. placement of the company under guardianship for a maximum of 3 (three) years.

### **3.3. Criminal Law Policy in Efforts to Tackle Environmental Crimes Based on Religious Justice Values**

The criminal law policy in an effort to overcome environmental crimes in the provisions of the new Criminal Code that will apply in the future is Law No. 1 of 2023.<sup>23</sup>Criminal Code. In this new Criminal Code, the environment is indirectly mentioned, among others, in the following articles:

Article 254:

- (1) Any person who knows of someone who intends to do:
  - a. one of the Criminal Acts as referred to in Articles 191 to 198, Article 200, Article 202, Article 205, Article 206, Article 208, Article 211 to Article 217;
  - b. desertion in Time of War or treason; or
  - c. The crime of premeditated murder, kidnapping, rape, or any other crime that endangers public security, people, health, goods, and the environment that results in endangering people's lives, not notifying the authorized official or the person who is threatened even though there is still time to prevent the crime from being committed, if the crime occurs, shall be punished with a maximum imprisonment of 1 (one) year or a maximum fine of category II.<sup>24</sup>
- (2) The criminal provisions as referred to in paragraph (1) also apply to a person who knows that one of the Criminal Acts as referred to in paragraph (1) has been committed and has endangered the life of a person at a time when the consequences can still be prevented, and does not inform the authorized Official or the person who is threatened.

---

<sup>23</sup>Law of the Republic of Indonesia Number 1 of 2023 Criminal Code, Copy, PDF.

<sup>24</sup>a. category I, Rp1,000,000.00 (one million rupiah); b. category II, Rp10,000,000.00 (ten million rupiah); c. category III, Rp50,000,000.00 (fifty million rupiah); d. category IV, Rp200,000,000.00 (two hundred million rupiah); e. category V, Rp500,000,000.00 (five hundred million rupiah); f. category VI, Rp2,000,000,000.00 (two billion rupiah); g. category VII, Rp5,000,000,000.00 (five billion rupiah); and h. category VIII, Rp50,000,000,000.00 (fifty billion rupiah)

Article 265 Anyone who disturbs the peace of the neighborhood by: a. making noise or noisy neighbors at night shall be punished with a maximum fine of category II; or b. making false warning calls or signs.

Article 338

- (1) Punishable by imprisonment for a maximum of 1 (one) year or a maximum fine of category II, Any Person who: a. uses and exploits animals beyond their natural ability which can damage the health, threaten the safety, or cause the death of animals; b. provides materials or drugs that can harm the health of animals; or c. utilizes body parts or organs of animals for improper purposes.
- (2) Any person who applies modern biotechnology to produce transgenic animals or animal products that endanger the sustainability of animal resources, public health and safety, and the sustainability of environmental functions, shall be punished with a maximum imprisonment of 2 (two) years or a maximum fine of category IV.

Article 600: Any person who uses violence or the threat of violence that creates an atmosphere of terror or fear in people on a widespread basis, causes mass casualties by depriving others of their freedom or the loss of life and property, or causes damage or destruction to strategic vital objects, the environment, public facilities, or international facilities, shall be punished with imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years, life imprisonment, or the death penalty.

Article 601: Any person who uses violence or the threat of violence with the intention of creating an atmosphere of terror or fear in people on a widespread basis or causing mass casualties by depriving the freedom or loss of life or property of other people, or to cause damage or destruction to vital strategic objects, the environment, public facilities, or international facilities, shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 20 (twenty) years or life imprisonment.

The development of criminal law is an inevitability that must be carried out within the framework of national legal development. This is because there are still many criminal laws in Indonesia that use colonial law. Since this country was proclaimed, the criminal law of the Indonesian nation is based on the Criminal Code, hereinafter referred to as the Criminal Code, which is a legacy of the Dutch colonialists. The Criminal Code is a product of the Dutch colonial government, based on the individualistic and liberal perspective of the Dutch nation, so that the legal principles contained in the Criminal Code are also a manifestation of the Dutch nation's outlook on life, which is very different from the soul and values of the Indonesian nation. Therefore, the development of Indonesian criminal law

must be carried out based on values that are alive and believed to be true by the Indonesian nation.<sup>25</sup>

Barda Nawawi Arief explained the importance of customary law and religious law as a basis for reforming criminal law. He stated that criminal law reform must be carried out using a policy-oriented approach and also using a value-oriented approach. The values here include humanitarian values (humanist approach), cultural identity values (cultural approach), and religious moral values (religious approach). This means that in addition to cultural values, customs, and religious morals as the basis and soul of national legal development, government policies that are an integration of these values that have been stated in a regulation as a legal basis for implementing national legal development must not be abandoned. According to Barda Nawawi Arief, this approach is taken because it is closer to the characteristics of Indonesian society which is monodualistic and pluralistic.<sup>26</sup>

The environment in Islam is the universe and everything in it as a creation of Allah SWT for His creatures on Earth, especially for humans. As He said in QS Ibrahim (14) verses 32-34.

*"It is Allah who created the heavens and the earth and sent down rainwater from the sky, then He brought out with that rainwater various fruits as sustenance for you; and He has subjected the ark to you so that it sails on the seas according to His will, and He has subjected (also) to you the rivers. And He has subjected (also) to you the sun and the moon which continually circulate (in their orbit); and has subjected to you the night and the day. And He has given you (your needs) and everything you ask of Him. and if you count Allah's blessings, you cannot estimate them. Indeed, humans are very unjust and very denying (Allah's blessings)."*

Explicitly, the Qur'an states that all kinds of damage that occurs on the surface of the earth are the result of human actions in interacting with the environment, QS. Ar-Rum: 41:

*"Corruption has appeared on land and sea because of what the hands of men have earned, so that Allah may make them taste a part of that which they have done, in order that they may return (to the right path)."*

Eko Soponyono<sup>27</sup> in the inaugural speech, the value of religious justice is interpreted as "Justice Based on the Almighty God" this concept is interpreted as justice based on the "Word of Allah SWT". Strongly interwoven with the quality

---

<sup>25</sup>Ira Alia Maerani, Implementation of the Idea of Balance in the Development of Indonesian Criminal Law Based on Pancasila Values. Journal of Legal Reform, Vol. II No. 2, (2015), p. 329–338.

<sup>26</sup>Any Ismayawati, Legal Approaches and Politics in the Development of Criminal Law in Indonesia, Journal of Islamic Legal Thought and Law, Vol. 12 No. 1 (2021), p. 122.

<sup>27</sup>Eko Soponyono, 2017, The Wisdom of the Qur'an in Reforming Criminal Law to Realize Religious Justice, Inaugural Speech, at the acceptance ceremony for the position of professor at Diponegoro University, Semarang, 9 September (2017), p.48-49

of the judge's faith. The quality of the judge's faith is based on the religion that is his belief. The word of Allah in the holy book that has been revealed for the life and life of mankind.

Barda Nawawi Arief stated that it is very ironic, in a country that believes in the One Almighty God, but its law enforcement officers only know about justice based on the guidance of the Law but do not know about justice based on the guidance of God. In fact, the guidance of justice from God is clearly a guidance of quality assurance, because God is the Most Just and All-Knowing about justice. The guidance of justice based on the One Almighty God is certainly not limited to knowledge ability alone, but is expected to inspire belief and attitude that if justice based on divine guidance is not followed and implemented, then society will be damaged/destroyed.

Religious justice/Justice Based on the Almighty God/Pancasila Justice/Quranic Justice can also be interpreted as "Justice in Islamic Teachings" as a guide to acting justly/being just.

In Islamic criminal law (jurisprudence), the form of punishment that is not mentioned by the shari'a and the determination of the punishment is the authority of the judge is ta'zir. Some scholars interpret ta'zir as a punishment related to violations of the rights of Allah and the rights of servants that are not specified in the Qur'an and Hadith. This case is included in the Jarimah ta'zir which is the authority of ulil amri, namely Jarimah for the sake of public interest. Efforts to overcome environmental crimes can be done through preventive and repressive methods as well as compensation for perpetrators of environmental crimes.

#### **4. Conclusion**

Environmental crimes in Indonesia are currently regulated in Law Number 32 of 2009 concerning Environmental Protection and Management. Several articles in Law No. 32 of 2009 regulate the legal provisions and framework for environmental protection and management. Criminal law policies in efforts to overcome environmental crimes in the provisions of the new Criminal Code or Law No. 1 of 2023 Criminal Code, indirectly the environment is referred to in Articles 254, 265, 338, 600, and 601. This policy must of course fulfill humanitarian values (humanist approach), cultural identity values (cultural approach), and religious moral values (religious approach). Sanctions for perpetrators, both individuals and corporations, must be implemented through a careful and precise study in accordance with the characteristics, objectives and benefits of the application of these sanctions. The imposition of criminal penalties on perpetrators of environmental crimes must pay attention to the values of justice based on God Almighty. The sanctions considered most effective to be applied to perpetrators of environmental crimes and in the framework of environmental law enforcement are not only criminal sanctions, but also administrative legal sanctions in the form of sanctions to freeze and/or revoke

the business license of every corporation that commits environmental crimes. In Islamic criminal law (fiqh jinayah), environmental crimes are ta'zir crimes whose punishment is not mentioned by sharia and the determination of the punishment is the authority of the judge or ulil amri.

## **5. References**

### **Journals:**

- Ekawati Dian Ismail, 2009, Prevention of Environmental Crimes, *Jurnal Legalitas*, Vol. 2 No.1, February.
- Eko Sopyono, 2017, The Wisdom of the Qur'an in Reforming Criminal Law to Realize Religious Justice, Inaugural Speech, at the acceptance ceremony for the position of professor at Diponegoro University, Semarang, 9 September 2017.
- Endah Sri Wahyuningsih, 2014, The Urgency of Reforming Indonesian Material Criminal Law Based on the Values of Belief in the Almighty God, *Journal of Legal Reform*, Vol.1 No. 1
- Ira Alia Maerani, 2015, Implementation of the Idea of Balance in the Development of Indonesian Criminal Law Based on Pancasila Values. *Journal of Legal Reform*, Vol. II No. 2.
- Ismayawati Any, 2021, Legal Approaches and Politics in the Development of Criminal Law in Indonesia, *Journal of Islamic Legal Thought and Law*, Vol. 12 No. 1.

### **Books:**

- Abdillah Mujiyono, 2005, *Environmental Jurisprudence: A Spiritual Guide to Living with Environmental Awareness*, UPP AMP YKN, Yogyakarta.
- Akib Muhammad, 2014, *Environmental Law: Global and National Perspectives*, Rajawali Press, Jakarta.
- Ali Mahrus and Ayu Izza Elvany, 2014, *Environmental Criminal Law: Environmental Conservation-Based Criminalization System*, UII Press, Yogyakarta.
- Arief Barda Nawawi, 2003, *Selected Chapters on Criminal Law*, Citra Aditya Bakti, Bandung.
- Arief Barda Nawawi, 2016, *Anthology of Criminal Law Policy: Developments in the Drafting of the New Criminal Code*, Kencana, Jakarta.
- Dellyana Shant, 1988, *The Concept of Law Enforcement*, Liberty, Jakarta.
- Department of Education and Culture, 2001, *Big Indonesian Dictionary*, Balai Pustaka.
- Marpaung Leden, 2008, *Principles-Theory-Practice of Criminal Law*, Fifth Edition, Sinar Grafika, Jakarta.

Muladi and Barda Nawawi Arief, 2010, *Criminal Theories and Policies*, Alumni, Bandung.

Rahmadi Takdir, 2013, *Environmental Law in Indonesia*, Rajawali Press, Jakarta.

Soemitro, RH, 1983, *Legal Research Methodology*, Ghalia Indonesia, Jakarta.

Sudarto, 2009, *Criminal Law I*, Sudarto Foundation and Faculty of Law, UNDIP, Semarang.

Syamsuddin Aziz, 2014, *Special Crimes*, Sinar Grafika, Jakarta.

**Regulation:**

Law of the Republic of Indonesia Number 32 of 2009, Concerning Environmental Protection and Management, pdf.

Republic of Indonesia Law Number 1 of 2023 Criminal Code, Copy, Pdf.