



## JURIDICAL REVIEW OF THE APPLICATION OF ENVIRONMENTAL LAW SANCTIONS FOR VIOLATIONS OF LITTERING ON LAND OWNED BY OTHERS

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### Abstract:

**Background.** Incomplete waste management, the habit of littering, and weak enforcement of environmental laws have caused pollution and damage to the ecosystem. Although Law Number 18 of 2008 and Law Number 32 of 2009 have regulated waste management and environmental sanctions, their implementation remains weak, so it often stops at the level of the law on the books.

**Aims.** This study aims to analyze the application of environmental law sanctions against perpetrators of littering on land owned by others, as well as to examine the forms of legal protection for aggrieved landowners.

**Methods.** The research method used is a normative juridical approach, with a literature review, drawing on laws and regulations, doctrines, and related publications.

**Result.** The results of the study show that environmental law sanctions are applied in layers through administrative, civil, and criminal sanctions based on Law No. 18 of 2008, Law No. 32 of 2009, and regional regulations, with administrative sanctions as the main instrument and criminal as the ultimate remedy. Unauthorized dumping of garbage on private land violates the constitutional rights to the protection of property and a healthy environment.

**Conclusion.** This study concludes that the effectiveness of environmental law enforcement is highly dependent on the consistency of sanctions implementation and on increasing public awareness to protect landowners and preserve the environment.

**Keywords:** Environmental Law, Waste Disposal, Legal Sanctions, Legal Protection, Land Owner Rights



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## INTRODUCTION

Waste results from human actions. The notion of waste refers to materials discarded or disposed of due to human or natural activity that lack economic value. Every human action must generate waste. Waste management is contingent upon human lifestyle choices. Garbage is an object that is disposed of due to its lack of economic value. The volume of

waste correlates with the extent of daily use and the nature of the materials utilized. Consequently, waste management necessitates altering individuals' behaviors. The regular enforcement of environmental regulations against indiscriminate trash disposal is essential to exhibit a commitment to safeguarding natural resources and enhancing public welfare. Waste has emerged as a significant issue, necessitating extensive management across the entire process. The objective is to generate economic value, enhance public health, ensure environmental security, and facilitate behavioral change. Humans are integral to an ecosystem; they self-regulate, yet frequently overlook this fact. Environmental degradation is a consequence of human ambition, whereas pollution results from negligent behaviors. We are not merely the sovereigns of nature, but also the custodians of the interactions among its components, which differ in form and essence. Environmental contamination arises from the uncertainty of human behavior. Littering indiscriminately harms the environment, ecosystems, and human health. Despite the existence of regional regulations imposing punishments including reprimands, fines, and permit revocation, its implementation has been suboptimal and fails to exert a deterrent impact.

Waste management issues, particularly environmental pollution, require more attention, as neglecting them can adversely affect health and the ecosystem. Inadequate garbage management will adversely affect the society and the environment. Environmental repercussions manifest as alterations and degradation of ecosystems, alongside a decline in biodiversity, whereas effects on communities will undermine health, economic stability, and social welfare. Littering is an action that detrimentally affects the environment, ecosystems, and human health. This practice frequently results in pollution, obstruction of streams, and flooding. Flooding not only compromises infrastructure but also heightens the potential of disease transmission. Furthermore, the amassed refuse serves as a breeding habitat for disease vectors, including mosquitoes and rats.

Littering contravenes regulations, necessitating law enforcement intervention to rectify this issue. Consequently, collaborative initiatives between the government and the community to establish waste management facilities and promote awareness of environmental cleanliness are essential for mitigating the detrimental impacts of trash. Humanity has integrated nature into its culture, however it has mostly overlooked that it is inherently a part of the natural world in which it exists. Consequently, humans function both as dominators of nature and as its stewards. Law Number 18 of 2008 on Waste Management defines waste as the byproduct of human

activities or natural processes, existing in solid or semi-solid form, comprising organic or inorganic substances that may be biodegradable or non-biodegradable, deemed no longer useful, and discarded into the environment. The waste kinds present in our environment are varied, including domestic garbage, industrial waste, market waste, hospital waste, agricultural waste, livestock waste, and institutional or educational waste, among others. Solid waste is categorized by its origin into three types: organic trash, inorganic waste, and B3 (Material, Toxic, and Hazardous) Waste. Waste processing aims to diminish the volume of waste or alter its form to enhance its utility.

The Government's ineffective legal enforcement against environmental offenders reduces the quality of life protection legislation to mere theoretical constructs. Ironically, this occurs as Indonesia is actively engaged in numerous international accords, particularly those pertaining to the environment, at both regional and global levels. Furthermore, the evidence indicates that numerous policies and programs have been instituted to address and mitigate the aforementioned issues, by both the government and various stakeholders. Transgressions of environmental legislation may manifest as pollution and/or ecological harm perpetrated by those responsible for the enterprise and/or its operations. Environmental pollution, as defined in Article 1, Number 14 of Law Number 32 of 2009 regarding environmental protection and management (PPLH Law), refers to the introduction of organisms, substances, energy, and/or other elements into the environment through human activities, resulting in levels that surpass established environmental quality standards. In combating environmental pollution, criminal sanctions are essential as a primary remedy, as their application as a last resort proves ineffectual due to many shortcomings. Consequently, environmental degradation must be addressed decisively through criminal penalties imposed on those who bear full responsibility.

The environment encompasses all entities surrounding us, both biotic and abiotic. The environment include air, water, soil, flora, fauna, and human activity. The environment is a natural system wherein interconnected elements influence each other. The environment serves numerous essential services for human existence and other organisms on Earth, including the provision of habitat, resources, and sustenance for life. Environmental stewardship is a human obligation that can be achieved through straightforward actions, such minimizing water consumption, collecting waste, and enhancing greenery.

### **Problem Statement**

1. How are environmental law sanctions applied to violators in the case of littering on other people's land?
2. What is the legal protection for landowners who are harmed by careless waste disposal in their ownership areas?

### **METHOD**

The employed methodology is a normative juridical research approach. A normative-legal methodology is employed to examine the relevant legal stipulations on environmental law sanctions, namely Law No. 32 of 2009 on Environmental Protection and Management and its associated regulations. Secondary data consist of literature reviews encompassing legal papers, books, statutes, regulations, and periodicals pertinent to the enforcement of environmental law punishments. This article employs a normative juridical method, which entails the analysis of theories, conceptions, legal principles, and pertinent laws and regulations related to the research issue.

### **RESULT AND DISCUSSION**

#### **How are environmental law sanctions applied to violators in the case of littering on other people's land?**

Environmental law enforcement refers to the implementation of instruments and consequences within administrative, civil, and criminal law to compel compliance with environmental statutes and regulations by the designated legal subject. Article 32 of Law Number 18 of 2008 delineates the administrative punishments applicable to offenders of waste-disposal infractions, specifically government coercion, mandatory payments, and/or the annulment of permits. Article 39, paragraphs (1) and (2) of Law

Number 18 of 2008 delineates the criminal penalties imposed on offenders of environmental contamination resulting from waste.

- (1) Any individual who unlawfully enters or imports household waste into the territory of the Republic of Indonesia faces a minimum imprisonment of three years and a maximum of nine years, along with a fine ranging from IDR 100,000,000.00 to IDR 3,000,000,000.00.
- (2) Any individual who unlawfully enters or imports designated waste into the territory of the Republic of Indonesia faces imprisonment for a minimum of four years and a maximum of twelve years, along with a fine ranging from at least Rp200,000,000.00 (two hundred million rupiah) to a maximum of Rp5,000,000,000.00 (five billion rupiah).

A perpetrator is anyone who engages in an offense, whether knowingly or inadvertently, as defined by law. The phrase encompasses anyone who does a criminal or unlawful conduct that incurs legal repercussions. Article 31, letter e, prohibits individuals from disposing of waste outside the permitted area. Article 50, paragraph 3, stipulates that any individual who contravenes the provisions outlined in Article 31, letter e, faces a penalty of imprisonment for up to three months or a maximum fine of 15,000,000 (fifteen million). Action is needed for offenders of environmental pollution; if unaddressed, this will pose a grave threat to the ecosystem and all living organisms. This discussion will delineate the components of criminal offenses related to environmental contamination and the penalties applicable to offenders.

Individuals responsible for environmental infractions are also subject to civil prosecution by affected parties. The court may issue a ruling in favor of the injured party. Significant and intentional breaches of the Law may incur criminal penalties. These criminal penalties may manifest as substantial fines or incarceration for offenders deemed culpable. If a firm or activity significantly harms the environment, the government is empowered to shut down the business as a penalty for the infraction. Siti Sundari Rangkuti asserts that environmental law enforcement may be executed either preventively or repressively, contingent upon the characteristics and efficacy of its implementation. Preventive law enforcement refers to proactive oversight aimed at ensuring adherence to regulations or laws, absent any specific instances or tangible occurrences that raise suspicions of legal infractions. Preventive law enforcement is executed by oversight and the application of supervisory and coaching authority. Repressive law enforcement is

executed to directly terminate violations of regulations, typically through the imposition of sanctions.

The penalties for residents who negligently discard waste differ by area. The law empowers local authorities to impose penalties on those who litter on public highways.

### **Administrative Sanctions**

Article 32 of Law Number 18 of 2008 delineates the administrative punishments applicable to offenders of waste-disposal infractions, specifically government coercion, mandatory payments, and/or the annulment of permits. Disposing of garbage within the jurisdiction of the Unitary State of the Republic of Indonesia

- a. Importation of waste
- b. Combining garbage with hazardous and toxic waste (B3 waste)
- c. Administering waste that induces pollution and/or ecological degradation
- d. Disposing of waste outside of designated areas
- e. Execute waste management by open dumping at the final processing location; and/or
- f. Incinerate trash that fails to meet the technical specifications of waste management.

In Cirebon, administrative penalties for littering differ by region (City or Regency) and local regulations, typically imposing fines up to IDR 500,000 (Cirebon Regency, Regional Regulation 5/2022) or greater fines/minor penalties (Cirebon City, Regional Regulation 4/2018), with enforcement conducted through hand capture operations (OTT) involving Satpol PP. Sanctions may consist of written reprimands, monetary fines, or incarceration, contingent upon the severity of the infraction. The Cirebon Regency Government, via the Environmental Service (DLH), enforces penalties on individuals who engage in littering. Fines of IDR 500,000 are imposed due to perceived public awareness of littering. The enforcement of these punishments complies with Regional Regulation (Perda) No. 5 of 2022 regarding the Management of Illicit Waste. Iwan stated that the enforcement of the monetary penalty garnered support from numerous stakeholders. The Regional Regulation imposes penalties on individuals or entities found to be disorderly in waste management to ensure effective oversight.

The implementation of administrative sanctions seeks to uphold the law, impose penalties for infractions, deter offenders, and serve as a preventive measure. Administrative sanctions are categorized into three types: mild, moderate, and harsh. State administrative law encompasses various forms of administrative sanctions, including government coercion

(bestursdwang), reversal of decisions, imposition of administrative fines, and the levying of forced monetary penalties by the government, serving as a substitute for government coercion that is difficult to enforce.

### **Criminal Sanctions**

Article 39, paragraphs (1) and (2) of Law Number 18 of 2008 delineates the criminal penalties for individuals responsible for environmental pollution due to waste. Specifically, it states that: (1) Any individual who unlawfully enters and/or imports household waste into the territory of the Republic of Indonesia faces a minimum imprisonment of three years and a maximum of nine years.

Any individual who unlawfully enters or imports designated waste into the territory of the Republic of Indonesia faces imprisonment for a minimum of four years and a maximum of twelve years, along with a fine of no less than Rp200,000,000.00 (two hundred million rupiah) and up to Rp5,000,000,000.00 (five billion rupiah).

Numerous criminal sanctions have been placed on individuals and legal companies that pollute or harm the environment. The inclination to employ criminal sanctions serves as a supplementary measure or as a "ultimum remedium" (final resort), emphasizing the precedence of administrative and civil sanctions.

### **What is the legal protection for landowners who are harmed by careless waste disposal in their ownership areas?**

Article 28G (1) Every individual is entitled to the safeguarding of personal integrity, familial bonds, honor, dignity, and property under their stewardship, as well as the right to a sense of security and protection against threats that instill fear about the exercise or abstention from actions that constitute human rights. Article 28H (1) Every individual is entitled to a prosperous existence in both body and mind, to survive, to enjoy a healthy living environment, and to access health services. Consequently, any act of unauthorized trash disposal on property owned by another individual may be a breach of the landowner's fundamental rights.

Legal safeguards pertaining to environmental law in Indonesia are primarily governed by Law No. 32 of 2009 on Environmental Protection and Management (PPLH), which affirms every citizen's entitlement to a healthy environment (Article 28H of the 1945 Constitution). This law employs various mechanisms, including administrative law enforcement, extrajudicial environmental dispute resolution, and provisions addressing

environmental crimes, underpinned by principles such as state accountability, sustainability, and precaution, along with specific protections for whistleblowers reporting environmental pollution (Article 66 of Law 32/2009).

Optimal environmental preservation and management necessitate a robust legislative framework that expressly governs environmental safeguarding. The environment would endure significant degradation without preventive measures and legal repercussions for violators. Legislation has a crucial function in deterring individuals from infringing upon environmental regulations. The absence of environmental regulation will result in significant harm to the ecosystem. The enforcement of stringent environmental legislation will reduce ecological harm.

The legal penalties imposed on offenders are exceedingly harsh. Article 65 of Law No. 32 of 2009 affirms the right to a sound and healthy environment; thus, the unlawful disposal of waste on private property is pollution that infringes on these rights. Alongside criminal reports, property owners are entitled to erect prohibition signs, request land rehabilitation, and engage Komnas HAM if the matter is extended; the community is also urged to establish independent oversight to deter unlawful trash disposal.

The legal safeguarding of land rights holders seeks to equilibrate state power and individual rights. This aligns with Hans Kelsen's perspective, which holds that in a Rechtsstaat, all governmental activities must adhere to existing law and not be executed arbitrarily.

In Indonesia, landowners are safeguarded by administrative law against the unlawful disposal of waste on private property through sanctions, fines, written reprimands, and permit revocation enforced by local governments in accordance with Law No. 18 of 2008 and relevant Regional Regulations on waste management. Cirebon Regency Regulation Number 5 of 2022 governs comprehensive waste management, including restrictions on garbage disposal on property without an official site, such as a TPS, TPS3R, or a recognized landfill.

## **CONCLUSION**

The enforcement of environmental law penalties against offenders of negligent waste disposal on private property is executed using administrative, civil, and criminal legal mechanisms in a systematic manner. Administrative sanctions, as outlined in Article 32 of Law Number 18 of 2008, constitute primary measures involving governmental coercion,

monetary penalties, administrative fines, and/or permission revocation, designed to establish a deterrent impact and avert the recurrence of infractions. This sanction is reinforced by regional legislation, specifically Cirebon Regency Regulation Number 5 of 2022, imposing fines of up to IDR 500,000 and enforced by regional authorities.

Moreover, offenders may be held civilly accountable through litigation for damages incurred by the offended party as a result of pollution. Criminal sanctions are imposed for major or willful infractions, as outlined in Article 39 of Law Number 18 of 2008, entailing the possibility of jail and substantial fines; however, in reality, it serves as the last resort. Consequently, the enforcement of environmental law is executed both preventively and punitively, calibrated to the severity of infringement, to provide environmental protection and legal certainty for landowners.

Landowners adversely affected by littering on their properties are afforded robust legal protection under constitutional and environmental law. Article 28G, paragraph (1), and Article 28H, paragraph (1), of the 1945 Constitution safeguard property and the right to a sound and healthy environment, thereby rendering the unauthorized disposal of garbage on private land a violation of landowners' constitutional rights. The protection is reinforced by Law Number 32 of 2009 on Environmental Protection and Management, which grants the public the right to report pollution, seek administrative, civil, and criminal law enforcement, and receive specific protection for reporting environmental pollution.

Furthermore, local governments are empowered to impose administrative punishments, including reprimands, fines, and revocation of permits, in accordance with Law Number 18 of 2008 and pertinent regional laws, such as Cirebon Regency Regulation Number 5 of 2022. Landowners have the right to seek compensation, request land restoration, and implement preventive measures, including the installation of prohibitory signage and self-regulation. Consequently, legal protection for landowners seeks to ensure legal clarity, prevent environmental degradation, and deliver justice for damages resulting from unlawful garbage disposal.

## **Involvement**

This study demonstrates that the efficacy of regulations relies not solely on the availability of statutes (law in book), but also on the uniformity of their enforcement in practice (law in action). Local governments must enhance the functions of the Satpol PP and the Environment Agency in conducting regular oversight and Operation Arrest Hands (OTT)

to deter offenders. The application of stringent, tiered fines reduces the risk of pollution, stream obstructions, and flooding that jeopardize public health. Uniformity in law enforcement is essential for sustaining ecological equilibrium and ensuring the long-term welfare of the populace.

### **Advice**

Local Governments (Satpol PP and Environment Agency) should increase the frequency of field surveillance and enhance the effectiveness of Hand Capture Operations (OTT) to ensure that administrative sanctions and fines are not merely theoretical but serve as a genuine deterrent to offenders. Regulatory Optimization: The government must guarantee that administrative sanctions, including coercive measures and permit revocation, serve as the primary tools, while criminal sanctions are upheld as a last resort (*ultimum remedium*) for intentional violations with significant environmental repercussions. Facilitation of trash Management: Local governments and communities must cooperate to establish sufficient trash management infrastructure at the local level to eliminate any justification for improper waste disposal on unintended property. Legal Awareness for Landowners: Landowners are encouraged to proactively safeguard their constitutional property rights by implementing preventive measures, including installing explicit prohibited signage and collaborating with local authorities on self-monitoring initiatives.

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