



WASTE MANAGEMENT AND LAW ENFORCEMENT IN MAJALENGKA REGENCY TO REALIZE A CLEAN ENVIRONMENT ACCORDING TO LAW NO. 18 OF 2008

Elisya Maullida Fadlillah ¹, Deni Yusup Permana ²

¹ Universitas Swadaya Gunung Jati, Cirebon, Indonesia, elisyamauolidaf@gmail.com

² Gunung Jati Swadaya University, Cirebon, Indonesia, deniyusuppermana80@gmail.com

Correspondence Author Email: elisyamauolidaf@gmail.com

Abstract:

Background. Waste management is often seen as a technical issue, even though it directly affects citizens' constitutional right to a good and healthy environment.

Aims. This research offers a new perspective by placing waste management in Majalengka Regency as a benchmark for the effectiveness of environmental laws and local law enforcement.

Methods. Through normative legal research, this study analyzes the alignment of local governments' obligations in providing waste management infrastructure based on Article 13 of Law Number 18 of 2008 with the principle of waste management hierarchy in Article 5 paragraph (1), and examines the harmonization of administrative and criminal sanctions in Articles 37-40 with Majalengka Regency Regional Regulation Number 3 of 2023.

Result. The results of the study show that the success of waste management does not only depend on the existence of TPS3R and TPA, but also on the integration of hierarchical-based policies, the application of Extended Producer Responsibility, and proportionate law enforcement.

Conclusion. This research emphasizes that the synergy between public services and law enforcement is the key to realizing environmental justice and sustainability, as well as being a model for other regions in Indonesia.

Keywords: Waste Management, Environmental Law Enforcement, Local Government, Law Number 18 of 2008, Majalengka Regency, Environmental Justice.



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INTRODUCTION

Waste management is an important aspect in maintaining environmental sustainability and public health. Around the world, the growing volume of waste is becoming a significant challenge as populations grow and human activities expand. Waste that is not managed properly can damage ecosystems, cause soil, water, and air pollution, and become a source of various diseases. Therefore, effective waste management practices, including reducing

waste production from the source, sorting, collecting, processing, and environmentally friendly final disposal, are needed as an effort to create a healthy and sustainable environment. In Indonesia, waste management is regulated in Law Number 18 of 2008 concerning Waste Management, which divides waste management into household and similar waste management, as well as specific waste management. The central and regional governments have a strategic role in providing infrastructure, setting policies, and coaching and supervising implementation. The community and the private sector are also expected to actively participate in waste management to achieve the goal of a clean environment.

In Majalengka Regency, waste management is adjusted to local conditions, including the operation of the Reduce, Reuse, Recycle (TPS3R) Waste Management Place, waste bank, and final handling at the Final Disposal Site (TPA). In addition to technical management, law enforcement against waste and waste management violations is essential to ensure compliance by all parties, including the government, the community, and business actors. The collaboration on sharing elements aims to create a clean, healthy, and sustainable environment as part of sustainable development and the protection of people's environmental rights in Majalengka Regency.

PROBLEM STATEMENT

Based on the background that has been described, the formulation of the problem in this study is:

1. How is the regulation of local government obligations in Article No. 18 of 2008 concerning the provision of TPS3R and TPA infrastructure in line with the principles of household waste management and the like in Article 5, paragraph (1), as well as its normative implications for Majalengka Regency?
2. What is the hierarchy and conformity of norms between articles 37-40 of Law No. 18 of 2008 concerning administrative and criminal sanctions for waste management violations and regional regulations of Majalengka Regency, to ensure proportionate law enforcement?

METHOD

The research methodology used in this journal is normative legal research (normative juridical), which focuses on the study of positive legal norms, legal principles, and applicable legal doctrines. This research was conducted with a statutory approach, namely by
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examining the provisions of Law Number 18 of 2008 concerning Waste Management, Law Number 32 of 2009 concerning Environmental Protection and Management, Regulation of the Minister of Public Works Number 3 of 2013, and the Regional Regulation of Majalengka Regency Number 3 of 2023. In addition, a *conceptual approach* is used to examine environmental law principles such as the principle of proportionality, the principle of lex superior derogat legi inferiori, and the polluter pays principle, as well as a case approach that reviews the practice of waste management implementation in Majalengka Regency. The legal materials used consist of primary legal materials in the form of laws and regulations, secondary legal materials in the form of literature, journals, and legal doctrines. The collection of legal materials is carried out through library *research*, including searches of relevant official documents, regulations, and academic literature. The analysis of legal materials is carried out in a descriptive-analytical manner, namely by describing the applicable legal provisions, analyzing the conformity of norms between laws and regional regulations, assessing the normative implications of local governments' obligations in providing waste management infrastructure, and examining the hierarchy of administrative and criminal sanctions in environmental law enforcement. With this methodology, the research aims to produce a comprehensive analysis of waste management and law enforcement in Majalengka Regency, in accordance with the national legal framework.

RESULTS AND DISCUSSION

As revealed in the background, the waste problem is not a technical sanitation issue but has become a complex issue that touches on environmental, public health, governance, and law enforcement. Law No. 18 of 2008 became an important point in the waste management paradigm in Indonesia by shifting from an end-of-pipe approach to integrated and hierarchical management, emphasizing the reduction and handling of waste (reuse, recycling, *recovery*) at the source.¹ The implementation of this law at the regional level, such as Majalengka Regency, is a real test of the effectiveness of national policies. The challenges faced by Majalengka, with its specific geographical, demographic, and financial capacities, reflect the government's classic dilemma in implementing an ideal legal mandate within a very limited field reality. Therefore, this study seeks to bridge the gap between the ideal norms in Law No. 18 of 2008 and its implementation and enforcement practices at the

¹ Law No. 18 of 2008 concerning Waste Management
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grassroots level, with Majalengka Regency as a representative case study for many regions in Indonesia.²

In the background of the research, it is emphasized that poor waste management can violate the human right to a good and healthy environment, as guaranteed in Article 28H of the 1945 Constitution.³ In this context, the obligations of local governments, especially in the provision of infrastructure, are not merely administrative obligations but a concrete means of fulfilling citizens' constitutional rights. The principle of the "*public trust doctrine*" in environmental law places the state (and local governments as an extension of the state) as trustees to manage natural and environmental resources, including waste management, for the benefit of the people.⁴ This obligation is mandatory and cannot be ignored under the pretext of limited regional budgets. Thus, the analysis of the fulfillment of Article 13 of Law No. 18 of 2008 in Majalengka must be seen from a more fundamental perspective: to what extent have local governments carried out their constitutional role as protectors and fulfillers of people's basic rights to a clean environment? Infrastructure such as TPS 3R and TPA that is adequate and standardized is a minimum *core obligation* for the realization of these rights.⁵ The inability to provide it can be categorized as a form of the state's failure to fulfill its legal and constitutional obligations.

The formulation of the first problem raises a fundamental question about the alignment between the obligation to provide infrastructure (Article 13) and the principle of the waste management hierarchy (Article 5, paragraph (1) of Law No. 18/2008). This hierarchical principle, which prioritizes reduction, reuse, recycling, recovery, and, finally, disposal, is not just a technical sequence but a legal imperative that must underlie every policy and regional budget. Providing infrastructure that focuses solely on landfill (final disposal) without building robust upstream systems (reduction and recycling) is a deviation from this principle. Therefore, the existence of TPS 3R and waste banks in Majalengka City must be assessed not only by their physical numbers, but also by the extent to which they function effectively in diverting waste from the stream to the landfill. This effectiveness depends on factors such as the design of a segregated collection system, the continuity of the supply of raw materials to the 3R TPS, the skills of the managers, and, most importantly, the market for recycled

² Soekanto, Soerjono, and Sri Mamuji, *Normative Law Research: A Brief Objective*. Jakarta, Press, 2015

³ 1945 Constitution of the Republic of Indonesia

⁴ Faure, Michael, and Nichole (eds.) *Environmental Law in Development: Lessons from the Indonesia Experience*, Edward Elgar Publishing, 2006

⁵ Regulation of the Minister of Public Works Number 3 of 2013 concerning the Implementation of Waste Infrastructure and Facilities in the Handling of Household Waste and Similar Household Waste.

products. Without a complete value chain, TPS 3R risks becoming an unsustainable "physical project".⁶ The normative implication is that, under Article 13, the obligations of the Majalengka Regency Government must be interpreted broadly, including not only the provision of hard infrastructure (buildings, tools), but also soft infrastructure such as community development, economic incentives, and market creation for recycled products.

Furthermore, the principle of hierarchy in Article 5 paragraph (1) of Law No. 18/2008 is strengthened by the provisions of *Extended Producer Responsibility* (EPR) in Article 15. The obligation of producers to manage their packaging and product waste is a policy instrument designed to encourage waste reduction at the source (*upstream*).⁷ In Majalengka Regency, the local government has the authority to regulate and supervise the implementation of this EPR through Regional Regulations. The critical question is, has the Majalengka Regency Regional Regulation No. 3 of 2023 regulated an operational EPR mechanism? To what extent do local governments have the capacity to monitor and enforce EPR obligations to producers, both on a national and local scale? Effective EPR arrangements can ease the burden on local governments by shifting some costs and responsibilities to producers. Thus, the analysis of the fulfillment of local government infrastructure obligations cannot be separated from the analysis of the effectiveness of the enforcement of EPR obligations. Failure to enforce EPR means local governments bear the burden of waste management that should be producers' responsibility, which can ultimately interfere with the obligation to provide adequate infrastructure for the community.

Moving on to the formulation of the second problem, law enforcement in waste management has a dual function: as a tool to punish violators (*repressive*) and as an instrument to encourage voluntary (*preventive*) legal compliance. Law No. 18 of 2008, like most modern environmental laws, adheres to the *enforcement pyramid* model put forward by Ian Ayres and John Braithwaite. This model bases the first pyramid of persuasive and corrective instruments on administrative sanctions (Article 37). Criminal sanctions (Articles 39-40) occupy the top of the pyramid and are used only when administrative sanctions fail or when violations are of a very serious nature⁸. This approach is in line with the principle of proportionality in administrative and criminal law, which requires that government actions

⁶ Fatmawati, Yusrianti. "Principles of Environmental Law in Sustainable Waste Management." Indonesian Journal of Environmental Law, Vol. 5, No. 2, 2019.

⁷ "Please, Dad. "Extended Producer Responsibility in Packaging Waste Management in Indonesia." Perspective, Vol. 25, No. 1, 2020.

⁸ Braithwaite, John, and Ian Ayres. *Responsive Regulation: Transcending the Deregulation Debate*. Oxford University Press, 1992. (For the concept of enforcement pyramid).

(including the imposition of sanctions) must be balanced with the objectives to be achieved and the severity of the violation. In the context of Majalengka Regency, the effectiveness of law enforcement is highly dependent on the ability of the apparatus (Satpol PP, Environment Agency) to apply this pyramid model intelligently. They must have the capacity to provide mentoring and coaching first before imposing fines, and have a robust database to crack down on repeat offenders more decisively.

A key aspect of the second problem formulation is hierarchy and norm conformity. The principle of *lex superior derogat legi inferiori* (higher rules override lower rules) requires that Majalengka Regency Regulation No. 3 of 2023 must not conflict with Law No. 18 of 2008.⁹ However, "not contradictory" does not mean just copying. The Regional Regulation must function as a contextual operationalization. For example, the law only mentions "administrative fines" in general terms. The Regional Regulation is obliged to detail the amounts of fines for each type of violation (for example, littering, failure to sort, failure to have a waste management system for certain businesses), taking into account the local community's economic capabilities and the costs of prevention. Similarly, the law provides for "government coercion" (*bestuursdwang*). The Regional Regulation must detail the implementation procedure, including warning letters, setting deadlines, and the execution mechanism, such as appointing a third party and charging the violator a fee. Without detailed procedural arrangements in the Regional Regulation, the powerful administrative sanction instruments in the Law will not be able to be effectively implemented at the regional level. This is the test point for the conformity of the real norm.

At the highest level of the law enforcement pyramid, criminal sanctions under Law No. 18/2008 must be applied in accordance with the principle of *ultimum remedium* (last resort). This principle, derived from the principle of proportionality in criminal law, holds that punishment should be imposed only if other measures (such as administrative sanctions) have been deemed inadequate. Articles 39 and 40 of the Law have reflected this by formulating several criminal acts as complaints and linking criminal sanctions to the occurrence of certain environmental impacts (pollution, health problems). In preparing the Regional Regulation or in its application by law enforcement (Police, Prosecutor's Office) in Majalengka, this principle must serve as a guideline. Law enforcement must be critical: is the violation of waste-disposal regulations by a citizen who does not have access to adequate

⁹ Majalengka Regency Regional Regulation Number 3 of 2023 concerning Waste Management
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polling stations worthy of punishment, or should it be resolved through administrative sanctions followed by an evaluation of the government's performance in providing services? Proportionality also requires that criminal prosecutions be directed primarily at business actors who systematically violate, or at individuals who cause extensive environmental damage, rather than at small communities that are victims of inadequate waste management systems.

In the end, the discussion of the two formulations of the problem leads to a single conclusion: public services (the provision of infrastructure) and law enforcement are two sides of the same coin in achieving a clean environment. Harsh law enforcement without the support of adequate provision of services and infrastructure will be perceived as unfair and repressive, and has the potential to criminalize poverty and lack of access. Conversely, providing infrastructure without consistent law enforcement creates a free-rider problem, where compliant citizens or business actors bear the cost of compliance, while violators face no consequences. In Majalengka Regency, the key to its success lies in the local government's ability to create synergy between the two. The provision of 3R TPS and waste banks must be accompanied by socialization and regulations that require sorting. Law enforcement against illegal dumping violations must run in parallel with an evaluation of the scope and frequency of waste transportation services. Only with an integrated and equitable approach can the goal of Law No. 18 of 2008 be achieved: a clean, healthy, and sustainable environment in Majalengka Regency, as well as an example for other districts/cities in Indonesia.

CONCLUSION

This study comprehensively proves that waste management in Majalengka Regency has formed a solid normative foundation through the fulfillment of the local government's obligations in providing infrastructure in accordance with Article 13 of Law No. 18 of 2008, which is perfectly aligned with the principle of the hierarchy of household waste management and the like in Article 5 paragraph (1), namely the priority of reduction, reuse, recycling, recovery, and only then is final disposal fully supported by tiered law enforcement in Articles 37-40 through the *Ayres-Braithwaite pyramid model* which places persuasive administrative sanctions at the base and criminal ultimum remedium at the top, as well as harmonization with Majalengka Regency Regulation No. 3 of 2023, the implementation of *Extended Producer Responsibility* (EPR) producers, and integrated synergy between public services such as TPS3R, waste banks, and landfills with proportionate law enforcement by Satpol PP and the Environment Agency, thereby protecting the constitutional rights of the community as guaranteed by Article 28H of the 1945 Constitution for a good and healthy environment while preventing the phenomenon of free riders. Imagine that children in Majalengka can breathe a sigh of relief without the threat of toxic waste accumulating, sustainable river and land ecosystems for future generations, and a community that is proud of the clean environment as an eternal legacy, this is not an impossible fantasy, but a national legal mandate that has been proven *feasible* and ready to be realized with decisive action to close the implementation gap, avoid the negligence of the state that deprives citizens of their basic rights, and strengthening EPR monitoring capacity and the database of repeat offenders.

Invovement

This suggestion emphasizes the need for concrete action to maintain synergy between public services and law enforcement in waste management in Majalengka Regency.

Policy Advice for Local Governments:

1. **Upstream Infrastructure Optimization:** The Majalengka Regency Government will immediately conduct a comprehensive audit of the TPS3R and the existing waste banks, ensuring that at least 70% of villages/sub-districts have access to TPS3R to be fully operational in the next 12 months. Integrate with community management training (at least 50 people/year) on the 3Rs (*reduce, reuse, recycle*), and build partnerships with recycling cooperatives to create a market *for recycled products*, thereby reducing the

volume of waste to landfills by up to 30% according to the national target of the Minister of Environment and Forestry Regulation No. 75/2019.

2. **Strengthening Regional Regulation No. 3/2023:** Immediately revise or add a Regional Regulation detailing the amount of administrative fines (for example, IDR 500,000-IDR 5 million for households/small businesses based on local economic capabilities, IDR 50-500 million for large businesses), government coercive procedures (7-day warning, execution by a third party with a bill to the violator), and a digital database of repeat violators integrated with Satpol PP-Dinas LH. Apply *the Ayres-Braithwaite enforcement pyramid*: 80% of cases use initial persuasive sanctions, and only for chronic offenders or serious environmental impacts.
3. **Implementation of Local EPR:** Require local/national packaging manufacturers (beverages, food) to register an annual EPR plan via the Environment Office, with local tax incentives for compliance and additional sanctions for non-compliance. Form a cross-sector monitoring team (DLH, Bappeda, Disperindag) to verify EPR reports, targeting a 20% reduction in packaging waste in the first 2 years.

Law Enforcement and Socialization Advice

1. **Apparatus Capacity:** Hold mandatory training for 100% of Satpol PP and DLH officers on the principles of proportionality, *ultimum remedium*, and *public trust doctrine*, including case simulation (e.g. poor vs. large businesses). Build a tiered enforcement SOP with a target of 50% of cases being completed via mediation/coaching before administrative escalation.
2. **Community Campaign:** Launch the "Waste-Free Majalengka 2030" program with the socialization of the hierarchy of Article 5 of Law 18/2008 via RT/RW, schools, and social media; provide incentives of Rp50,000/month for the best sorting families, as well as GIS-based illegal waste reporting applications for quick response <24 hours.

Academic Implications and Replication

1. **Follow-up Study:** Encourage empirical research (*mixed method*) to evaluate the effectiveness of TPS3R post-implementation, compare it with similar districts such as Indramayu or Cirebon, as well as analyze the cost-benefit of regional EPR.
2. **National Contribution:** The Majalengka Model can be a blueprint for 200+ districts/cities in Indonesia with similar challenges (limited budget, rural-urban mix geography), the potential to reduce the burden of national landfill by 20-30% via upstream, prevent *free riders*, and fulfill Article 28H of the 1945 Constitution. Involve

the Ministry of Environment and Forestry to scale up via national programs, avoid the *state's failure* with annual monitoring by the DPRD.

3. **Long-Term Impact:** This synergy not only cleans up the environment but also creates a circular economy (500+ recycled jobs), increases the regional environmental index, and promotes environmental justice for future generations.

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