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Indonesian development law's use of environmental tax tools to combat offenses involving environmental pollution

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ABSTRACT
Since rapid industrialization and economic expansion can result in severe environmental deterioration, environmental pollution continues to be a crucial concern in Indonesia's development process. Environmental offenders have not been deterred by the insufficiency of traditional legal enforcement systems, which mostly depend on administrative and criminal consequences. Within the context of Indonesian development legislation, this paper investigates the function of environmental tax instruments as alternative legal and economic weapons to prevent and battle environmental pollution offenses. This research examines pertinent laws, legal theories, and the conceptual underpinnings of tax and environmental law using a normative juridical (doctrinal) approach that is prescriptive and analytical in character. A statutory, conceptual, and case approach are among the techniques used; they are bolstered by qualitative analysis via grammatical, systematic, and historical interpretation. The results show that environmental taxes promote compliance and environmental responsibility among economic players by acting as both a fiscal tool and a preventative legal mechanism that incorporates the polluter pays concept. Achieving sustainable development objectives and guaranteeing environmental justice in Indonesia requires strengthening the legislative framework and policy implementation of environmental levies.

Keywords: Crimes, environmental pollution, and environmental taxes

INTRODUCTION
Planning, utilization, control, maintenance, monitoring, and law enforcement procedures are all part of the systematic and coordinated efforts made by communities or nations to maintain environmental functions and prevent pollution or environmental damage. To put it another way, environmental management and protection are human endeavors to engage with the environment in order to preserve life and environmental sustainability for the benefit of a country. The National Law Development Agency clarifies the following on environmental management protection:

Implementing sustainable development strategies is directly linked to environmental management and conservation. In general, development refers to deliberate human endeavors to consistently enhance wellbeing, which entails significant adjustments to economic, social, physical, regional structures, consumption patterns, natural resources and the environment, technology, and culture. In essence, development is a process of changing the environment by lowering risks and raising rewards.

By controlling activities that negatively affect the environment and merging environmental policies into environmental laws, environmental law plays a significant role in avoiding and combatting pollution and environmental harm.

Natural resource development initiatives and environmental harm have been adversely affected by poor economic circumstances, a lack of knowledge of environmental legislation, and sustainable resource management combined with law enforcement. Non-compliance with various natural resource rules leads to high levels of environmental contamination (Renggong, 2018).

Activities related to environmental conservation have not been fully effective in curbing the rate of destruction and pollution caused by both community members and business entities. This is evident from the large number of news reports in various media outlets covering environmental destruction and pollution in regions across

Indonesia (Sunarso, 2005).

The environmental legal policies implemented by the government to prevent environmental pollution have relied solely on traditional instruments, such as permits and requirements for the use of pollution technology. However, the key to tackling environmental issues is cost, which is why the Organization for Economic Cooperation and Development (OECD) has implemented the polluter-pays principle, which is considered an efficient and effective environmental policy.

Green Tax is the most effective pollution control instrument, as it is a permanent incentive to reduce pollution and lower the costs of tackling it. The Indonesian government has recently begun to make new breakthroughs that can reduce the rate of environmental destruction and pollution, namely, through plans to implement an environmental tax.

Legal policy instruments include the Strategic Environmental Assessment (SEA), Spatial Planning, Environmental Quality Standards, environmental damage quality criteria, Environmental Impact Assessment (EIA), UKL-UPL, licensing, environmental economic instruments, environmental-based legislation, environmental-based budgeting, environmental risk analysis, environmental auditing, and other environmental instruments as needed and/or in line with scientific developments.

The application of environmental taxes in Indonesia can be said to be in line with the provisions of Law No. 32 of 2009 concerning Environmental Protection and Management. Tax law is one of the instruments that can be used to control environmental destruction and pollution, in addition to other legal instruments such as administrative, civil, and criminal law (Rangkuti, 2020).

Economic instruments in Law No. 32 of 2009 concerning Environmental Protection and Management need to be implemented as an obligation of the government to adopt policies in the field of taxation as incentives and disincentives for environmental management. From an economic perspective, the application of environmental taxes is considered a permanent incentive levy aimed at reducing pollution and curbing the costs of addressing it (Erwin, 2008).

From a taxation perspective, the function of environmental taxes is not much different from that of general taxes. Taxes have two main functions: budgetary and regulatory. When viewed from the objectives and targets to be achieved from the implementation of environmental taxes, it can be said that the regulatory function is more prominent than the budgetary function. However, it is necessary to further examine whether the regulatory function is inherent in the concept of environmental tax to be implemented in Indonesia, or whether, on the contrary, the plan to implement environmental tax is motivated solely by fiscal policy that emphasizes maximizing revenue for the regional treasury. This has sparked pros and cons among the public, especially entrepreneurs, regarding the plan to implement environmental tax.

To combat environmental pollution through economic instruments, the government subsequently issued Government Regulation No. 46 of 2017 on Environmental Economic Instruments. Article 1, paragraph 1 of this Government Regulation states that Environmental Economic Instruments are a set of economic policies to encourage the Central Government, Local Governments, or Every Person to preserve environmental functions. Thus, it can be understood that economic instruments are policies aimed at preserving environmental functions.

Environmental pollution and/or damage occurs as a result of excessive exploitation, resulting in the need for remediation of environmental pollution and/or damage. Therefore, effective policies are needed to combat environmental pollution and damage for sustainable development. This is the basis for the author to further examine the issue of combating environmental pollution through environmental tax instruments (Ulum & Ngindana, 2017).

Environmental pollution and/or damage occurs as a result of excessive exploitation, resulting in the need for remediation of environmental pollution and/or damage. Therefore, effective policies are needed to combat environmental pollution and damage for sustainable development. In this context, environmental tax instruments have emerged as strategic alternatives to support more effective and equitable environmental law enforcement. Environmental taxes can function as both preventive and corrective instruments, encouraging businesses to implement the polluter pays principle while also providing incentives for environmentally friendly industrial practices (Munte et al., 2017). Through fiscal mechanisms, the state can internalize the external costs of polluting activities into the economic cost structure of businesses, thus creating a balance between development and environmental protection (Ibrahim et al., 2017).

The implementation of environmental taxes also aligns with the direction of development law in Indonesia, which emphasizes the integration of economic growth, social justice and environmental sustainability. This instrument has the potential to strengthen a legal system that is adaptive to global challenges such as climate change, natural resource degradation, and the need for a green economy (Rahmawati, 2013).

Therefore, discussing the application of environmental tax instruments to combat environmental pollution crimes is crucial, not only within the context of fiscal policy but also within the national development and legal framework. This effort is expected to strengthen the effectiveness of environmental law enforcement and achieve sustainable development in Indonesia.

METHOD

This research is normative or doctrinal legal research that is prescriptive and analytical in nature, focusing on the prevention of environmental pollution crimes through environmental tax instruments within the framework of development law in Indonesia (Zed, 2004). The approaches used include a legislative approach to examine legal regulations related to taxes and the environment, a conceptual approach to examine the doctrines and legal principles that underlie them, and a case approach to analyze the application of environmental taxes in handling pollution cases. Data were collected through a literature review of relevant primary, secondary, and tertiary legal materials. Data analysis was conducted qualitatively through grammatical, systematic, and historical interpretations to gain a comprehensive understanding and produce legal recommendations that support the effectiveness of environmental tax instruments in addressing pollution crimes.

RESULT AND DISCUSSION

Result

The Environmental Law Provisions on Preventing Environmental Pollution Through Environmental Tax Instruments

Environmental taxes have a number of significant purposes, such as changing ecological practices and supplying money to lessen pollution from waste disposal and industrial emissions. European nations including Denmark, Germany, Norway, and the United Kingdom have long implemented the idea of environmental levies. Green taxes, also known as environmental taxes, are described as "an expression in policy of the polluter-pays principle: whoever causes pollution should pay for it." In Indonesia, environmental fees were originally contemplated as a means of mitigating negative externalities in 2006. Given the ambiguous tax legislation, environmental taxes have not yet been applied to their full potential.

Environmental tax instruments serve as both an incentive and a deterrent for environmental management when it comes to offenses involving environmental damage. The implementation of environmental taxes is seen from an economic standpoint as a long-term incentive levy with the goal of lowering pollution and the associated costs. Due to the many rejections from enterprises and worries about the possibility of overlapping taxes for entrepreneurs, criminal law strategies to combat environmental pollution offenses using environmental tax instruments have not yet been put into place.

It is clear from the views of the aforementioned experts that the purpose of theory in a research is to categorize and evaluate the results, whether they are normative or empirical. Research results may be examined and explained using current theories to address different concerns or difficulties brought up in the study. The problems in this research were examined using criminal policy theory, legal system theory, and replacement law theory.

The goal of criminal policy is to deter crime. "Social policy," which includes "social welfare policy" and "social defense policy," is inextricably linked to criminal policy. The goals of social policy, specifically social welfare and social defense, must be considered and pursued by "criminal law policy," particularly at the judicial/applicative policy stage, as crime control policy (criminal policy) is implemented by penal methods (criminal law).

Law enforcement policy includes criminal policy. Legislative and social policies include law enforcement policy. A crucial component of social policy and initiatives to promote social welfare is criminal policy. The wide reach of a legal system must be taken into account in law enforcement policies. Friedman asserts that a legal system is more comprehensive than the law itself. A society's rules and regulations are sometimes the only things that are referred to as "law." In the meanwhile, the legal system makes a distinction between the organizations, structures, and procedures that carry out the rules and regulations and the laws and regulations themselves. The legal structure, legal content, and legal culture are the three factors that define it, according to Friedman.

Hoefnagels claims that the implementation of criminal law, prevention without punishment, and attempts to change public perceptions of crime and punishment via the media may all be used to establish a crime control program.

The theory proposed by G. Pieter Hoefnagels above suggests that crime prevention policies can be simplified in two ways: first, penal policy, commonly referred to as “criminal law application”; and

second, non-penal policy. Penal policy focuses on repressive measures after a crime has been committed, whereas non-penal policy focuses on preventive measures before a crime is committed.

Crime prevention and control efforts must support the goals of social welfare and defense. Thus, the discussion on preventing environmental pollution through environmental tax instruments can be analyzed based on the criminal policy theory.

In relation to combating environmental pollution crimes, there is a close link between the development of environmental law relating to the behavior or activities of subjects of environmental law and the protection of humans from the negative impacts arising from the exploitation of natural resources. Thus, environmental law is not always related to the regulation of environmental protection or the use of natural resources such as water, land, sea, and minerals. The substance of environmental law includes several legal provisions concerning and related to efforts to prevent and overcome environmental problems.

As a legal system, environmental law has distinctive characteristics, especially when considered in relation to its placement within the fields of public and private law commonly recognized in legal studies. The distinctive feature of environmental law lies in its substance and the interests it covers, which are so broad and diverse that environmental law cannot be placed within either of the two fields of law, namely, private and public law (Ulum & Ngindana, 2017).

Environmental issues are generally grouped into two categories: the first concerns environmental destruction and the second concerns environmental pollution. Land burning, deforestation, oil spills in rivers or the sea, and hunting of endangered species are issues that fall within the scope of environmental laws (Havinanda, 2020).

From a legal perspective, addressing environmental problems and enforcing environmental laws in society is important for maintaining and preserving a healthy environment. The development of legal aspects related to environmental issues covers criminal, civil, administrative, and international law and other related branches of law. Environmental issues must be addressed in an integrated manner, covering various interrelated fields in society, if we want environmental preservation policies and commitments to be implemented and realized as expected.

With regard to legal instruments for the prevention of environmental pollution crimes through environmental taxation instruments, in this case, it can be reviewed and analyzed based on policy developments in environmental law, where in the enforcement of environmental crimes, there are various legal instruments that can be used, such as criminal, civil, and administrative law.

The Criminal Law Policies on Combating Environmental Pollution Crimes Through Environmental Tax Instruments

Currently, many countries are considering imposing or expanding green taxes. Green taxes are generally levied on the production and consumption of goods and services deemed environmentally damaging. State revenue from green taxes is expected to contribute to environmental restoration and provide funding for more environmentally friendly activities (Shahzad, 2020).

The authority to collect environmental taxes in Indonesia is implied in several laws that are delegated to regional governments. Therefore, environmental taxes must be regulated in regional regulations to legitimize the actions of regional governments in exercising their authority. Currently, provisions regarding regional taxes are regulated by Law Number 28 of 2009 concerning Regional Taxes and Regional Levies. A closer look at the concept of environmental tax offers an effective solution for controlling environmental quality. This stems from the coercive nature of taxation, which is expected to compel companies to reduce their environmental impacts. However, the draft environmental tax seems unclear, particularly regarding the subject matter, tariffs, and budget allocation. Therefore, a comprehensive review is needed to ensure its applicability and avoid creating an excessive burden on Indonesian businesses.

From a tax perspective, it can be said that the criteria for determining environmental tax subjects are unclear. Similarly, in terms of environmental tax rates, there must be a clear measure of the percentage
of environmental taxes. The lack of clear measures and regulations regarding environmental tax subjects, objects, and rates raises concerns that companies will ultimately shift the burden of environmental tax obligations to consumers(Labeaga & Labandeira, 2020).

The concept of environmental taxation based on a turnover approach should be abandoned, as it gives the impression that its application is solely for fiscal purposes. Environmental taxation using an impact-based approach should be prioritized because it strengthens corporate accountability in managing environmental impacts. The current implementation of the green tax in Indonesia refers to Government Regulation No. 46 of 2017, concerning Environmental Economic Instruments. Three forms of environmental funding are the Environmental Recovery Guarantee Fund (DJPLH), Environmental Pollution and/or Damage Mitigation and Recovery Fund (DP2KPLH), and Conservation Trust/Assistance Fund (Bashir et al., 2021).

Environmental taxes (green taxes) are one of the government's concrete steps in responding to environmental harm. The concept of taxes, as widely understood, has four main functions: (1) Budgeting function (collecting funds from the public for state activities); (2) Regulatory function (a function for the government to achieve certain goals); (3) Stability function (related to the government's goal of stabilizing prices under certain conditions, for example, during inflation, etc.); (4) The function of income distribution (taxes are used as a means of increasing employment opportunities, which, in turn, can increase people's income).

There are two general discussions regarding the concept of environmental taxes: the implementation of environmental taxes and the provision of tax credits for green products. An environmental tax would mean that any company that worsens environmental conditions would be subject to mandatory levies (the polluter-pays principle). This concept has generated much controversy, especially among business circles. Furthermore, taxes are calculated based on total production costs. This would create a new expense item in addition to environmental costs, such as environmental impact analysis (EIA) audit fees that have been implemented previously. Consequently, production costs would increase, profits would decrease, and other multiplier effects would occur (Krass et al., 2013).

Due to persistent criticism from entrepreneurs and economic commentators, the Indonesian government has not yet approved the Green Tax's implementation. It is true that firms will be more burdened by the Green Tax upon closer inspection. Nevertheless, further research reveals that the Green Tax provides the government with a number of advantages. The following are some advantages of enacting the Green Tax: (1) Funding Indonesia's environmental conservation and development initiatives (natural resources). The administration has often argued that financing for environmental protection should be kept to a minimum. This policy would be a major source of funding if it were put into effect; (2) As a way to control and oversee how businesses or industries use natural resources in order to restrict their use within acceptable bounds and lessen the harm that industry does to the environment; (3) As a way to save national energy. The Green Tax can save as much energy as feasible if it is properly implemented. (4) Reducing pollution from industrial exhaust emissions (CO2), which have so far caused drastic climate change (global warming), can also reduce water and soil pollution; (5) Protecting from water resource scarcity due to excessive energy exploitation by industry; and (6) The implementation of this Green Tax indirectly requires the industry to innovate in the field of energy utilization (changing the use of non-renewable natural resources like fuel to use renewable natural resources like heat energy (solar or wind power).

Based on the above description, it can be understood that the implementation of environmental taxes will provide significant benefits for environmental preservation if the government can implement environmental taxes as envisioned objectively and fairly, both conceptually and in practice.

Discussion

Articles 42 and 43 of the Environmental Management and Management Law, which is a component of the implementation of Environmental Economic Instruments, control environmental legal rules for combating environmental contamination via environmental tax instruments. Additionally, the implementation of environmental economic instruments is governed by Government Regulation Number 16 of 2017 concerning Environmental Economic Instruments, Article 31 letter c, which states that environmental taxes, levies, and subsidies are used to implement environmental economic instruments. By acting as both incentives and disincentives for environmental management, environmental tax instruments have a dual function in combating environmental pollution offenses. Environmental taxes are seen from an economic standpoint as a long-term incentive charge intended to lower pollution and the expenses associated with mitigating it. Due to strong industry resistance and worries about tax over-leverage, criminal law measures to handle environmental pollution offenses with environmental tax instruments have not yet been put into place.

CONCLUSION

This research demonstrates that Indonesian environmental pollution has not been effectively deterred by relying only on traditional administrative and criminal consequences. Because they operationalize the polluter-pays concept as a long-term incentive to reduce environmental damage and incorporate pollution costs into company choices, environmental tax instruments, often known as green taxes, provide a more forward-looking option. Such taxes are more than just fiscal instruments in Indonesia's development-law framework; they are corrective and preventative legal procedures that may direct economic players toward responsibility and compliance.

Law No. 32/2009 and Government Regulation No. 46/2017, which allow for environmental taxes, levies, and subsidies as part of environmental governance, provide Indonesia with a normative foundation for environmental economic instruments. Because environmental taxes connect economic prosperity with environmental justice, they align with Indonesia's constitutional and legislative goal for sustainable development.

To put it briefly, environmental taxes are both conceptually and legally necessary to combat pollution crimes, but they won't be effective unless the government strengthens the legal design and implementation. This includes making clear the taxable impacts and rates, preventing double-charging with current environmental obligations, guaranteeing transparency in the use of revenues for restoration, and integrating green taxes with broader penal and non-penal enforcement. Environmental taxes may become the cornerstone of Indonesia's sustainable development legislation rather than a concept that has stagnated with this sort of reset.

REFERENCES

Bashir, M. F., Komal, B., Bilal, fnm, Ma, B., & Bashir, M. A. (2021). A bibliometric and comprehensive literature evaluation of articles on environmental taxation. 20700–20716 in Environmental Science and Pollution Research, 28(16). Erwin, https://doi.org/10.1007/s11356-020-12123-x M. (2008). Hukum Lingkungan: in the framework for establishing Lingkungan Hidup. Havinanda, F. (2020). Law Policy in the Development of the Law Pidana Lingkungan System and Its Impact on the Law Tindak Pidana Lingkungan Hidup. Jurnal Hukum Al-Hikmah: Media Communication and Information on Law and Society, 1(1), 106–121. https://doi.org/10.30743/jhah.v1i1.3013 Ibrahim, J., Octora, R., & Sirait, Y. H. (2017). Dialogia Iuridica: Jurnal Hukum Bisnis Dan Investasi, 7(2), 88. https://doi.org/10.28932/di.v7i2.718 Krass, D., Nedorezov, T., & Ovchinnikov, A. (2013) Bank Penerbit Bank Garansi as Penjamin Pelaksanaan Pekerjaan Konstruksi Pembangunan Rumah Susun in Increasing Consumer Protection. Green technology selection and environmental taxation. Management of Production and Operations, 22(5), 1035–1055. Lab: https://doi.org/10.1111/poms.12023Labandeira, X., and J. M. Eaga (2020). Economics of green tax changes and environmental taxes. Sustainability (Vol. 12, Issue 1, p. 350). MDPI. https://doi.org/10.3390/su12010350 Munte, H., Nasution, M., Tarigan, P., & Sikumbang, J. (2017). Penyelesaian Sengketa Administrasi Pemilihan Kepala Daerah Berdasarkan Undang-undang Nomor 8 Tahun 2015 Tentang Pemilihan Gubernur, bupati dan Walikota (Studi Putusan Sengketa Administrasi Pemilihan Walikota dan Wakil Walikota di Panwas Kota Pematangsi). Journal of USU Law, 5(1), 164984.

N. A. Rahmawati (2013). Indonesian Hukum Pidana: Primum or Ultimum Remedium. Recidive: Hukum Pidana Dan Penanggulangan Kejahatan Journal, 2(1). Hukum Lingkungan & Kebijaksanaan Ling Nasional Ed 4. Airlangga University Press. Ruslan Renggong, S. H. (2018). Hukum Pidana Lingkungan. https://doi.org/10.20961/recidive.v2i1.32002 Rangkuti, S. S. (2020). Kencana.

U. Shahzad (2020). A theoretical analysis of environmental taxation, energy use, and environmental quality with consequences for policy. Pollution Research and Environmental Science, 27(20), 24848–24862. Sun: https://doi.org/10.1007/s11356-020-08349-4Arso, S. (2005). Hikum pidana lingkungan dan sengketa penyelesaian strategies.

Ngindana, R., and Ulum, M. C. (2017). Environmental Governance: Isu Kebijakan dan Tata Kelola Lingkungan Hidup. Universitas Brawijaya Press. Zee, M. (2004). Peneletian kepustakaan method. Yayasan Obor, Indonesia.