

## THE URGENCY OF COMMISSION ESTABLISHMENT FOR ERADICATION OF ENVIRONMENTAL CRIME AND ENVIRONMENTAL CRIME COURT TO OPTIMIZE ENVIRONMENTAL LAW ENFORCEMENT IN INDONESIA

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### ABSTRACT

*This study aims to examine the urgency of establishing the Commission for the Eradication of Environmental crime and the Environmental Crime Court in Indonesia. The approach method which used in this research was Juridical Sociology (Sociolegal Research). Based on the results of research, it showed that the enforcement of environmental criminal law in Indonesia is not optimal yet. One of the factors was the weakness of human resources of law enforcers especially investigators, and public prosecutors, resulting in unprofessional implementation of criminal law enforcement. Therefore, there should be appropriate steps to optimize the enforcement of environmental criminal law. Considering that the enforcement of environmental criminal law is not optimal yet, it is necessary to establish law enforcement agencies to handle cases of environmental pollution or damage. The establishment of the Commission for the eradication of environmental crime and the environmental crime court, it is expected to be very useful for the criminal justice system in promoting sustainable development with justice.*

Keywords: Urgency, Environmental Eradication Commission and Environmental Crime Court, Criminal Law Enforcement, Environment

### A. Background

Based on data from the environment agency of Tegal Regency, the waste pile has reached 10,000 tons. Meanwhile, based on data obtained by the Agency for the Assessment and Application of Technology (BPPT), there are five children in the tin casting and smelting industries who are born in a disabled condition (paralyzed and mentally retarded). In terms of physical environment, many plants die from exposure to waste.

The waste pollution in the area of Tegal Regency already included in the severe category. Based on the result of blood sample test conducted by Provincial Government of Central Java in 2011 to 50 villagers of Pesarean Village, there were 46 people polluted by lead, from that number, 12 people were in danger condition.

Such business activities above greatly threaten public health and environmental damage, but based on data in the Slawi District Court, no single environmental pollution case goes to review and trial, there was only a case of C. In this case, it needs to be realized in term of enforcement of environmental criminal law in an effort to solve the problem of environmental pollution in Tegal regency.

Similarly in Riau Islands Province there has been a lot of environmental pollution which is quite disturbing the public in the form of pollution and in the form of hazardous and toxic industrial waste (B3) by industrial activities of PT Chevron so that the land is contaminated, as the data of the public complaint to the Riau provincial environmental and forestry office, one of the alleged pollution / land is dominated by PT.Chevron Pacific Indonesia (CPI) activity. However, the settlement does not use criminal law enforcement

The basis of this study, the researcher here used a theory of Lawrence's law enforcement. M. Freidmann stated that there are 3 (three) components embedded in the legal system consisting of legal structure, legal substantiation, and *legal culture*<sup>1</sup>. As a law enforcement system, criminal justice can not be separated from the three components namely the legal norms specified in legislation regulating the punishment (component substantiation), criminal law enforcement officers (structure) and cultural values of law, especially criminal law (culture).

Based on the results of this research, namely the enforcement of environmental criminal law is not not optimal yet, whereas the case of pollution or environmental destruction has caused widespread and negative impacts of human activities on the environment so that it does not realize the sustainable development.

One of factors causing the enforcement of the criminal law is not optimal yet is the weakness of human resources of law enforcers either at the level of investigators, prosecutors and courts, resulting in unprofessional implementation of criminal law

<sup>1</sup> Lawrence M. Friedman, *The Legal System: A Social Science Perspective*, Russel Sage Foundation, New York, 1977, hlm. 77

enforcement. Therefore, there should be appropriate steps to optimize criminal law enforcement, especially for some environmental cases.

#### B. Formulation of Problems

Based on description above about the background of study, then the problem can be formulated:  
- Why is it urgency of establishing a commission to eradicate environmental crime and environmental crime courts in order to optimize enforcement of environmental criminal law in Indonesia?

#### C. Discussion

The urgency of establishing 2 (two) environmental criminal law enforcement agencies as the answer to problems above using analysis knife from Lawrence theory. M. Freidmann stated that there are 3 (three) components embedded in the legal system consisting of legal structure, legal substantiation, and *legal culture*<sup>2</sup>. As a system of law enforcement, criminal court can not be separated from the three components namely the legal norms specified in the regulation legislation governing the crime (substantiation component), criminal law enforcement officers (structure) and cultural values of law, especially the law of the penal (culture).

1. The Establishment of Commission for the Eradication of Environmental Crime  
Based on the results of this research, that the spearhead of law enforcement is the investigator then if the investigator is weak in the sense of being unable to enforce the criminal law so that the solution can not be realized yet. Therefore, there needs to be a renewal of criminal law system, especially in handling destruction cases.

Considering the case of pollution and / or environmental destruction in Indonesia is quite severe and also involves smart actors who have high intellectual intelligence and complicated proof, it is not wrong if the enforcement of environmental criminal law refers to the establishment of corruption eradication commission (Komisi Pemberantasan Korupsi / KPK) in handling corruption cases involving smart and clever corruptors.

Through the establishment of the Corruption Eradication Commission (KPK) and it is effective in enforcing criminal law toward corrupt /perpetrators, it may be a legal reference (analogical) in the context of enforcing environmental criminal law in order to preserve the environment especially in Indonesia and generally in other countries from people who do not care about environment.

The enforcement of environmental criminal law can not be done optimally, therefore it needs to be a change of law enforcement policy in handling environmental crime cases, using effective criminal law enforcement model, the law itself really has expected legal function.

The legal function is essentially to solve legal problems as Niklas Lukman's opinion which cited by Sampford says<sup>3</sup> :

*"Law's fiction is managing the problem of the complexity and contingency of experience. it does this via the stabilization and congruence of expectations of its members and the consequent reduction of disappointed expectations about the behavior of other. the more complex a society is, the greater is this functional need and hence the greater part law has to pay. the more rapid society changes, the more rapid the changes in law must be, and the more conscious of the alternatives we become, thus leading to increasing 'positivization' law".*

The change of law in essence begins from the existence of social inequality,<sup>4</sup> therefore, the function of social order is to manifest human behavior, so that the function of law is to renew community behavior, meaning that law must be instrumental in directing society toward the desired goal, even if necessary, removing the negative societal habits. Thus, the scope of the law covers all aspects of community life which organized by law. As Roscoe Pound says, "that law can serve as a tool for social engineering".<sup>5</sup>

The purpose of law is basically to provide prosperity for the community, as Bentham explains "the great happiness for the greatest number".<sup>6</sup> According to the utilitarian theory that the goal of law is merely to obtain the benefit, the greatest happiness to man in the greatest number. Laws is categorized as good if it gives much benefit to public. This theory does not explain who has been given as much benefit as possible. Though, law can be said to work effectively,

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<sup>2</sup> Lawrence M. Friedman, *The Legal System: A Social Science Perspective*, Russel Sage Foundation, New York, 1977, hlm. 77

<sup>3</sup> Charles Sampford, *The Disorder of Law. A Critique of Legal Theory*, Basil Blackwell Ltd, New York, 1989, hlm.128

<sup>4</sup> Satjipto Rahardjo, *Hukum Dan Perubahan Sosial Suatu Tinjauan Teoritis Serta Pengalaman-Pengalaman Di Indonesia*, ctk.Pertama, Genta Publishing, Yogyakarta, 2009, hlm.51

<sup>5</sup> Roscoe Pound, *An Introduction to the Philosophy of Law*, New Haven, Yale University Press, 1961, hlm.223

<sup>6</sup> Otje Salman, Anthon F. Susanto, *Teori Hukum Mengingat, Mengumpulkan, Dan Membuka Kembali*, ctk.Keempat, Refika Aditama, Bandung, 2008, hlm.156

if it brings justice. The followers agree that the purpose of law is benefit and legal certainty. In fact, there is often a conflict between one value and another.<sup>7</sup>

Looking at the theory of function and objectives of the law above, it would be necessary to change the policy on enforcement of environmental criminal law, the environment is now polluted and damaged but its law enforcement action is not optimal yet, some environmental cases are very worried, if the current criminal justice system is still used, then the environment in the future will be much worried, it could be children descendants / future generation can not enjoy sustainability due to actors who prioritize certain advantages than to preserve the environment.

It is known that the effect of the global economy on the massive national economy of Indonesia development affecting the level of development of IEC (Energy Consumption of Indonesia) and other impacts is the increase level of air pollution.<sup>8</sup> Considering the increasingly widespread damage and environmental pollution, criminal sanctions in enforcement law has changed from the principle of *ultimum remedium* to *primum remedium*. The essence of *primum remedium* in environmental criminal enforcement is that enforcement of environmental law places, criminal sanctions as the primary choice with the aim of providing more protection to the environment.<sup>9</sup> The use of criminal sanctions increases the emphasis in enforcing environmental laws.<sup>10</sup>

Criminal sanctions can be a powerful vehicle to bring positive social change.<sup>11</sup> However, in case of environmental pollution in Indonesia, which brings a very bad impact on the ecosystem and community, life has not been optimally and professionally enforced. If enforcement of the criminal law toward the environment is optimized, it will undoubtedly achieve environmental sustainability which can be enjoyed by present and future generation.

The existence of contamination of Hazardous and Toxic Materials (B3) as in Tegal regency is in Pesarean Village, Adiwerna Subdistrict, the society in his body is poisoned by lead (Pb). In 2011, samples of Pb elements in the blood of craftsmen, workers and communities who lived around metal smelting / smelting centers by BLH Prov. Central Java with a result of 50 people who were taken blood samples: 4 (four) people below normal limits, there were 46 above the normal limit.<sup>12</sup> And the existence of environmental damage, The results of testing the quality of farm oil around second hand melting accu in Tegal District showed that the majority below the critical limit of heavy metal elements of Pb in soil, (according to Standard / critical limits of heavy metal elements in soil (Cd = 0, 5 mg / Kg; Cr = 60-125 mg / Kg; Pb = 100 mg / Kg) based on the Ministry of State for Population and Environment of Indonesia and Dalhousie University Canada, 1992. However there were two sampling sites showing the heavy metal content of Pb had reached above the allowed critical limit.<sup>13</sup>

The existence of environmental destruction caused by forest burning in Riau archipelago as the case:<sup>14</sup> that the investigation activities conducted in the area of PT. LIH. Pangkalan Gondai Village, Langgam Sub-district, Pelalawan Regency, Riau Province on August 14, 2015, it had been taken soil samples in the fire area on the land area of PT. LIH., Which was analyzed at the Forest Influence Laboratory, Forest Ecology Section, Silviculture Department of Faculty of Forestry IPB, and brought conclusion:

a. The results of the analysis of soil samples in the laboratory showed that it was true that the location of the research had indeed been damaged by peat soil, and the environment in PT.LIH. Pangkalan Gondai Village, Langgam District, Pelalawan Regency, Riau Province, due to forest fire and 533 Ha of land.

<sup>7</sup> Sidharta, *Moralitas Profesi Hukum, Suatu Tawaran Kerangka Berpikir*, Refika Aditama, Bandung, 2006, hlm.86

<sup>8</sup> I. Gusti Ayu Ketut Rachmi Handayani, Edi As'Adi, Guntur Hamzah, Tommy Leonard, and Gunarto Gunarto, *Relationship between Energy Consumption in International Market and Indonesia Prices Regulation*, International Journal of Energy Economics and Policy | Vol 7 • Issue 5 • 2017, hlm.10

<sup>9</sup> Rahmida Erliyani, *The Essence Of Primum Remedium Principle In The Enforcement Of Environmental Criminal Law*, Journal of Law, Policy and Globalization [www.iiste.org](http://www.iiste.org) ISSN 2224-3240 (Paper) ISSN 2224-3259 (Online), Vol.64, 2017, hlm.77

<sup>10</sup> Robert I.McMurr y & Stephen D.Ramsey, *Environmental Crime: The Use of Criminal Sanctions in Enforcing Environmental Laws*, Loyola Marymount University and Loyola Law School Digital Commons at Loyola Marymount University and Loyola Law School, Loyola of Los Angeles Law Review, 6-1-1986, hlm.1169

<sup>11</sup> Mark A. Cohen, *Environmental Crime and Punishment: Legal/Economic Theory and Empirical Evidence on Enforcement of Federal Environmental Statutes*, Journal of Criminal Law and Criminology, Issue 4 Winter Article 14, Volume 82, 1992, hlm.1102

<sup>12</sup> Kepala Badan Lingkungan Hidup Kabupaten Tegal, Slad paparan tentang "Lahan Terkontaminasi Limbah B3 Pengrajin Logam Desa Pesarean Kecamatan Adiwerna Di Kabupaten Tegal"

<sup>13</sup> Laporan Tahunan Kegiatan Pengujian dan Pemantauan Kualitas Udara di Jawa Tengah TA 2016

<sup>14</sup> Dakwaan Penuntut Umum, tanggal 19 Januari 2016 Nomor Reg.Perk: PDM-04/PKLCI/01/2016 dalam perkara pidana Nomor 19/Pid.Sus.LH/2016/PN.Plw.

b. The result of soil analysis indicated that the soil which was burned had environmental damage to soil chemical properties because it had entered the standard of damage (PP Number: 4 year 2001) for soil pH parameters, and C organic.

c. The result of soil analysis indicated that indeed the soil which was burned, had environmental damage to the biological properties of the soil because it had entered the standard criteria of damage (PP Number: 4 year 2001) for total microorganism, total function and soil respiration.

d. The result of soil analysis showed that indeed the land burned had made environmental damage on physical properties of the land, because it had reached the standard criteria of damage (PP Number: 4 year 2001) for porosity, weight of soil content and subsidence.

e. The result of field observation, vegetation and soil faunal analysis indicated that indeed the land which was burnt, it damaged the aspect of flora and fauna because had reached the standard of damage criterion (PP Number: 4 year 2001) for diversity of species and population.

f. The result of soil analysis indicated that indeed the land which burned, it showed the increase of Ca, and Mg level of soil. Analyzing small sample of cases above, of course immediately encourage to form a body of the Commission on the Eradication of Environmental Crime, based on the establishment of the Corruption Eradication Commission which until now effective and professional in dealing with corruption cases in Indonesia.

There are some similarities of reasons established by the Commission of environmental crime with the Corruption Eradication Commission, namely:

a. The subject of the law is "everyone" The subject of law or perpetrator of a criminal offense, ie a person or a group of persons committing a crime. mean "every person" means an individual or a corporation as Article 1 paragraph (3) of Law Number 31 of 1999 concerning the Eradication of Corruption in jo Article 1 paragraph 9 of Law Number 8 Year 2010 concerning the Prevention and Eradication of Money Laundering Crime determines that each person is an individual or a corporation. A similar matter is stated in Law No. 32 of 2009 on Management and Environmental Management, Article 1 paragraph (32) explained that Everyone is an individual or business entity, whether incorporated or unlawful (corporation) . A corporation is an organized collection of people and / or assets, both legal entities and non-legal entities<sup>15</sup>

The qualification of legal subjects in both corruption and environmental crime is "everyone," meaning that the offender can be committed by a person, or can be done by a corporation. Both are responsible for their mistakes and can be punished.

b. Bringing disadvantages for society or country.

Corruption means any person who unlawfully commits an act of enrichment of himself or another person or a corporation that may harm the state's finances or the economy of the country. Medium pollution or destruction can destroy nature of both humans, animals, plants and other ecosystems this is certainly very detrimental to society and country.

Some perpetrators of pollution and / or environmental damage are who think only of economic benefits without regard to the environmental sustainability. Some industrial activities also bring negative impacts on the environment so it is contrary to sustainable development, now it is polluted and damaged how the environment will be in the future. Are the next generation still able to enjoy environmental sustainability?

If in the implementation of development only consider the positive aspects, for example only consider aspects of growth and economic progress, regardless of the negative aspects which arise as a side effect of development, then the development will lead to progress in the field of economy, while it will be damage to the environment and natural resources. In quantity side, environment and resources will be depleted, the quality of the environment and natural resources will degenerate the ability of its capacity. Ultimately, the environment and natural resources are no longer able to support the implementation of development,<sup>16</sup> of course, the community and the state will get many disadvantages.

### C. Extra Ordinary Crime

The word "Extra Ordinary Crime" can be broken into two sentences: Extra Ordinary which means extraordinary<sup>17</sup> and Crime

<sup>15</sup> Pasal 1 ayat (1) Undang-Undang Nomor 31 tahun 1999 tentang Pemberantasan tindak Pidana Korupsi dan Pasal 1 ayat (10) Undang-Undang Nomor 8 tahun 2010 tentang Pencegahan dan Pemeberantasan Tindak Pidana Pencucian Uang

<sup>16</sup> Agus Pramono, *Catatan Kecil Persoalan Hukum Dalam Masyarakat*, Universitas Diponegoro, Semarang, 2006, hlm.44

<sup>17</sup> I.P.M. Ranuhandoko, *Terminologi Hukum Inggris-Indonesia*, ctk.kedua, Sinar Grafika, Jakarta, 2000, hlm.274

which means crime so it means extraordinary crime<sup>18</sup> What is meant by extraordinary crimes is an act committed with the intent of eliminating other human rights<sup>19</sup> such as human rights on a good and healthy environment, constitutionally stated in Article 28H paragraph 1 (one) which reads "every living person is physically and mentally prosperous, residing and obtaining a good and healthy living environment and obtaining health services "and Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which written" The earth, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. "

Environmental crime is categorized as a crime,<sup>20</sup> seeing the widespread impact of environmental crime, polluting and damaging the environment can result in the death of a group of people, it can be classified with Extra Ordinary Crime as a crime toward Human Rights, Terrorism crime, Drug Crime and also corruption crime.

The criminal act of corruption is an extraordinary crime (extra ordinary crime), so that in solving it, it also required extraordinary institutions (extra ordinary institution). As stated in the consideration of Law Number 20 of 2001 concerning Amendment to Law Number 31 of 1999 concerning the Eradication of Corruption, namely: "The widespread criminal act of corruption is not only detrimental to the state's finances but also has been a violation of the broad social and economic rights of society, so that corruption should be classified as a crime which its eradication must be carried out remarkably. "

d. Enriching Oneself or the corporation.

Pollution and / or destruction of the environment are mostly industrial activities / companies which aim to seek profits / economic gain as much as possible. Some perpetrators are economist, who holds the theory of "economic principle" meaning with little capital, it is possible to gain much profit. Without considering the environmental sustainability, then the environment can be polluted and damaged.

Similar to the Corruptor, the perpetrators who commit a criminal act of corruption aims to gain profit in the form of state finance or state economy. Corruptors do not care the prosperity of the state, will obstruct national development, as stated in the consideration of Law No. 31 of 1999 on Eradication of Corruption, namely: "That the criminal act of corruption is very hampers the state's finances or the state's economy and hampers national development, so it must be aborted in order to bring about a just and prosperous society based on Pancasila and the 1945 Constitution."

e. Criminal law enforcement is not optimal and professional.

The KPK was established based on the Law of the Republic of Indonesia Number 30 of 2002 on the Corruption Eradication Commission with the consideration that the law enforcement process for corruption cases in Indonesia is not conducted optimally and professionally. Likewise, the criminal law enforcement process on the case of pollution and / or environmental destruction is also not optimal and professional.

f. Special Crime

Environmental crime is a special criminal act which similar to a criminal act of corruption in which the law regulating both crimes is specifically regulated (regulated outside the Criminal Code / Criminal Code). The environmental criminal code is regulated in Law Number 32 of 2009 on Environmental Protection and Management, while Corruption is regulated in Law No. 202001 on Amendment to Law Number 31 of 1999 concerning the Eradication of Corruption.

With the establishment of agent of investigators, prosecution in a special agent, namely the Environmental Crime Commission which is expected to enforce environmental criminal law at the prosecution level so that it will be optimal and the environmental criminal cases can be delegated to court level.

## 2. The Establishment of Environmental Criminal Court

Some cases of pollution and environmental destruction in Indonesia have been classified as severe and masiv as cases of forest burning in riau islands and environmental criminal cases in other regions, but criminal law enforcement has not been implemented optimally and professionally. Therefore, it is needed reconstruction of the judiciary, with the establishment of the environmental crime court.

The idea of establishing an environmental crime court also refers to the establishment of a special court which examines and handles special crimes, such as the Corruption Court (Tipikor), the Fisheries Court, and the Human Rights Court.

a. Court of Corruption

<sup>18</sup> John M. Echols dan Hassan Shadily, *Kamus Inggris Indonesia*, ctk.Keduapuluhtujuh, Gramedia Pustaka Utama, Jakarta, 2014., hlm.195

<sup>19</sup> [http://www.academia.edu/5484392/PEMBAHASAN\\_EXTRAORDINARY\\_CRIMES](http://www.academia.edu/5484392/PEMBAHASAN_EXTRAORDINARY_CRIMES)

<sup>20</sup> Pasal 97 Undang-Undang Nomor 32 tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup.

Corruption in Indonesia is already an epidemic of disease that is not easy to be prevented, let alone eradicated, so it is appropriate if it is stated that prevention is more effective than eradication. The perspective of the establishment of the Corruption Court in Indonesia, due to corruption is an extraordinary crime so that the demands of the willingness of a very powerful and sophisticated legal instruments and institutions which handle corruption should be realized. Indonesian people may agree that corruption should be prevented and eradicated from the homeland because corruption has proven to be very make people suffer even already a violation of people's economic and social rights.<sup>21</sup> As well as a serious threat to the development of life of nations and countries in general, and in particular Indonesia.<sup>22</sup> so that the corruption court is created as an extraordinary institution.

#### b. Human Rights Court

The human rights court was established under Law Number 26 of 2000 on Human Rights Courts, abbreviated by the Human Rights Court Law, with the consideration to participate in the maintenance of world peace and to ensure the implementation of human rights and to provide protection, certainty, justice and feeling of security to individual or the community, it is imperative that a Human Rights Court is established to resolve violation of human rights. The human rights violation here are genocide and crimes toward humanity (vide Article 7 of Human Rights Law).

#### c. Fishery Court

The Fishery court is established based on Law Number 31 Year 2004 regarding to Fisheries, which is abbreviated as the Fisheries Court Law, which is authorized to examine and adjudicate cases of fishery crime (vide Article 71). From those three Special Courts listed above, all of them authorized to examine and prosecute criminal acts of corruption, Ham, and fisheries and would be sufficient to form the special court of competence and prosecute environmental criminal cases, since cases of environmental pollution or destruction are already adversely affected and masiv. So it is very endanger the health (life), not only human beings, but also animals, plants and ecosystem of other environment, of course, is needed a quick handling in order to stop pollution or environmental destruction so it will not widespread and caused the destruction of this earth, for the current generation and the next generation.

Through the establishment of Environmental Criminal Court, it can certainly strengthen to determine the qualifications of judges who are appointed people who have the will and the ability (expert) and integrity in the field of pollution and environmental destruction. In the spirit and determination of the Judge in the environmental criminal court will form the character of a judge who prioritizes environmental sustainability so that the content of consideration in his / her decision is oriented toward sustainable development.

John Rawls refined his principles of justice as follows:<sup>23</sup>

- a. Everyone has the same claim to fulfill their basic rights and basic freedoms which are compatible and equal to all persons, and the same political freedom is guaranteed with fair values;
- b. Social and economic inequalities can be met on the basis of two condition: a) attached to position and position opened to all under the condition of equality of equal opportunity, b) usefulness for members of society at least benefit.

The judicial jurisdiction of courts which must be exercised in the power of state of the judicial field is to uphold justice on the basis of the truth of the law. The practice of applying the law by the court must be accountable to the public, so the court decision are required to be appropriate with common sense. Institutionally a first court level decision must be able to be held accountable if one of the parties makes a legal form to the court of appeal. Similarly, the appeal decision should be justified if one of the parties makes a cassation to the Supreme Court. Moreover, a case involving the environment and forestry. In deciding cases involving the environment and forestry, the court's decision must be an authoritative solution. And also must contain efficiency, because it must be remembered that the principle of justice delayed is justice denied (delayed justice will be an injustice). Moreover, the court's decision must be in accordance with the purpose of the law on which the decision is based. If a verdict 11 has been issued, it will in fact be enlightenment to the dispute, so it must bring a peace mission to the community, especially the seeker of justice. Moreover, the court's decision must have the principle of fairness, meaning that it must provide equal opportunities for the litigants. One of the indicators of the quality of court decisions is the right and proper legal consideration. Consideration in court decision concerning the facts or facts of law, rule of law, and jurisprudence or previous court decisions that have had a permanent legal force and followed the truth. It also requires the professionalism of judges to multiply the values of justice living in society. Moreover, environmental and forestry cases that have stakeholders both local, national and international. Therefore, the court's decision is required to observe local law, national law and international convention as matters which are legally relevant to be considered in environmental and forestry affairs. In

<sup>21</sup> Romli Atmasasmita, *Sekitar Korupsi Aspek Nasional Dan Aspek Internasional*, Madar maju, Bandung, 2004, hlm.48

<sup>22</sup> Romli Atmasasmita, *Reformasi Hukum, Hak Asasi Manusia & Penegakan Hukum*, Madar Maju, Bandung, 2001, hlm.89

<sup>23</sup> Pan Muhamad Faiz, *Teori Keadilan John Rawls*, dalam Jurnal Konstitusi, Vol.6 nomor 1, April 2009, hlm.143

this global era the entity of righteousness and justice is universal, for wherever civilized countries and nations in the world recognize existence and need truth and justice as the basic necessities of every human being. Moreover, the impacts of environmental and forest crimes are detrimental to the public stakeholders and the natural environment, which involves total justice and cosmic justice. And including those demanding a legal protective function for Wildlife and Forest Crime.<sup>24</sup>

The same with the existence of environmental crime court can make the implementation of Environmental Protection and Management Act, and Law Forestry become effective and can also encourage to immediately make environmental law. The time needed to resolve cases of pollution and environmental damage in the environmental crime court will be relatively faster and more precise, as the court only handles environmental criminal cases which have been resolved in the district court for a long time. This is in the courts of the country, many cases that must be resolved, both criminal and civil cases, environmental cases or other cases.

It takes an environmental law-certified judge to handle environmental issues.<sup>25</sup> It is because environmental cases are one of the most complicated cases, the perpetrator has intellectual intelligence and the proof is also difficult as stated in the manual handling of environmental case<sup>26</sup>, "In handling environmental cases the judges are expected to be progressive because environmental issues are complex and there are many scientific evidences, therefore environmental judges should dare to apply the principles of environmental protection and management, precautionary principles and judicial activism. "

It is time to think about a special judiciary in the field of environment, with or at least a team of judges specializing to handle environmental cases.<sup>27</sup> Therefore, with the establishment of the Environmental Criminal Court, the special court in the Indonesian state as a judicial system focused merely on environmental issues, especially in the enforcement of environmental criminal law, as established by the Corruption Crime Court, the Human Rights Court, and the Fisheries Court.

### C. Closing

#### 1. Conclusion

Based on the formulation of the problem and discussion above, it can be concluded as follows: Considering the enforcement of environmental criminal law is not optimal yet, it is necessary to establish law enforcement agencies to handle cases of environmental pollution or damage. namely: 1). Establishment of "Environmental Eradication Commission"; and 2). Establishment of "Court of Action Criminal Environment ". The model of criminal law enforcement is very useful for the criminal justice system in promoting fair sustainable development.

#### 2. Recommendation

Based on the conclusion of the research results above, the authors provide suggestion which are as follows:

1. Immediate establishment of special investigation agent and prosecution of environmental crime case "Environmental Eradication Commission". The Commission is expected to be able to meet criminal lawsuits in proving cases of environmental pollution or destruction so that criminal law enforcement will be optimal and professional.
2. Immediately set up a special court which handles environmental criminal cases in the form of "Environmental Crime Court". The court is expected to examine and adjudicate cases of environmental pollution or damage so that enforcement of environmental criminal law will be optimal and professional.

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<sup>24</sup> Artidjo Alkostar, *Peran Hakim Dalam Penegakan Hukum Lingkungan Hidup Dan Sda*, Makalah Diklat Sertifikasi Hakim Lingkungan, Jakarta, 2016, hlm.10-11

<sup>25</sup> Absori, *Hukum Penyelesaian Sengketa Lingkungan Hidup Studi Manifestasi Kekuatan Otonomi Masyarakat Dalam Melakukan Pilihan Model Penyelesaian Sengketa Lingkungan Hidup*, Muhammadiyah University Press, Surakarta, 2006, hlm., 223

<sup>26</sup> Keputusan ketua Mahkamah Agung RI Nomor 36/KMA/SK/II/2013 tentang Pemberlakuan Pedoman Penanganan Perkara Lingkungan Hidup.

<sup>27</sup> Eggi Sudjana, Latief Burhan, *Upaya Penyamaan Persepsi Kesadaran Dan Pentaatan Terhadap Pemecahan Masalah Lingkungan Hidup*, Cides, Jawa Timur, 1996, hlm.72

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