Journal of Social Research

P-ISSN: 2827-9832
E-ISSN: 2828-335x
http://ijsr.internationaljournallabs.com/index.php/ijsr

LEGAL PROTECTION FOR PERPETRATORS OF MINOR ENVIRONMENTAL CRIMES

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ABSTRACT

Supreme Court Regulation Number 02 of 2012 concerning Adjustment of the Limits of Light Criminal Acts and the Amount of Fines was created with the intention of facilitating law enforcement, especially judges, to administer justice in the cases they adjudicate. However, in practice, restorative justice with ADR methods has not been optimally applied to light criminal acts. One of the areas with the most disparities is the issue of light criminal acts in the field of the environment. Therefore, this research aims to determine what constitutes light criminal acts in the field of the environment and to understand the legal protection for perpetrators of light criminal acts in the field of the environment. The research method used is a normative juridical method using secondary legal sources. The results of the study indicate the scope of light criminal acts in the field of the environment. Criminal acts regulated in Law Number 32 of 2009 concerning Environmental Protection and Management are specified in Articles 41 to 44 of Law Number 32 of 2009. If there is minor theft for environmental results, the Criminal Code must also be considered as the legal framework specifically regulating theft (lex specialis derogat legi generali). Legal protection for perpetrators of light criminal acts in the field of the environment must align with the goals of criminalization, with sociological, ideological, and juridical-philosophical approaches, based on the fundamental assumption that criminal acts disrupt the balance, harmony, and coherence in community life.

Keywords: *light criminal acts, alternative dispute resolution, restorative justice*

INTRODUCTION

Indonesia is a country that has a heterogeneous society, both in terms of horizontal and vertical. Inequality in society can basically be one of the factors in the occurrence of crime, if there is no justice in law enforcement and conflicts that exist in society. In such a state of society, criminal law is present as one of the social controls for the community as a mediator to resolve conflicts that exist in society. Thus criminal law has an important role in controlling crime in society.

In essence, all these criminal acts are a violation of norms in other fields of law such as civil, constitutional and government administrative law. By law, all crimes must be processed including minor crimes.

Minor Crimes according to the Criminal Procedure Code are explained in Article 205 paragraph (1) of the Criminal Procedure Code, namely:

"What is examined pursuant to the examination of misdemeanors shall be matters punishable by imprisonment or imprisonment for not more than three months and/or a fine of not more

than seven thousand five hundred rupiah and minor contempt except as provided in Paragraph 2 of this Section."

So, what is meant by a minor crime itself is a case that is threatened with imprisonment or imprisonment for a maximum of 3 (three) months and or a maximum fine of IDR 7,500; (seven hundred and fifty thousand rupiah) and minor insults, except those specified in the examination of traffic violation cases, according to the Criminal Code.

In this regard, the Supreme Court issued a rule, namely Supreme Court Regulation Number 02 of 2012 concerning the Adjustment of the Limit of Minor Crimes and the Amount of Fines in the Criminal Code. In this PERMA, the crime of petty theft which originally had a loss value of no more than twenty-five rupiah and the maximum adjustment of the penalty of fine, which was previously two hundred and fifty rupiah, is now doubled to 10,000 (ten thousand) times. This PERMA was created with the intention of making it easier for law enforcers, especially judges, to provide justice for the cases they are trying for.

Supreme Court Regulation Number 2 of 2012 cannot be separated from the Memorandum of Understanding between the Chief Justice of the Supreme Court of the Republic of Indonesia, the Minister of Law and Human Rights, the Attorney General of the Republic of Indonesia, the Chief of the National Police of the Republic of Indonesia Number: 131/KMA/SKB/X/2012, Number: M. HH-07. HM.03.02 Year 2012, Number: KEP-06/E/EJP/10/2012, Number: B/39/X 2012 concerning the Implementation of the Application of Adjustment of the Limitation of Minor Crimes and the Number of Fines, Quick Examination Events, and the Application of Restorative Justice.

Currently in practice in minor crimes related to restorative justice with the ADR method has not been applied optimally. One of the most areas of inequality is the problem of minor crimes in the environmental field. Like the problems that led to the emergence of PERMA Number 02 of 2012, minor crimes in the environmental sector are interesting to watch because there is still inflexibility in the application of law in Indonesia.

Basically, the Environmental Management Law itself has its own out-of-court dispute resolution mechanism stipulated in Articles 84 and 85 of the Environmental Management Law allowing the settlement of environmental disputes outside the court. The regulation for resolving environmental disputes outside the court (non-litigation) itself uses mechanisms regulated in Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, State Gazette of the Republic of Indonesia of 1999 No. 138, and Supplement to the State Gazette of the Republic of Indonesia No. 3872.

However, in fact, the court has not applied PERMA Number 02 of 2012 optimally. This is especially a problem in environmental cases because there is still a difference in the amount of losses in environmental regulations with PERMA Number 02 of 2012. For example, Article 107 letter d of the Plantation Law which contains elements of "unlawfully harvesting and/or collecting plantation products" has not regulated the value of losses. In contrast to theft in the Criminal Code which has a category of minor crimes (lichte misdrijven) as stipulated in Article 364 of the Criminal Code and emphasized in Perma No. 02 of 2012 as long as the value of the crime is not more than Rp. 2.5 million.

Based on the description of the background, the author can formulate the problem as follows:

1. What are included in minor crimes in the environmental sector?

2. What is the legal protection for perpetrators of minor environmental crimes?

METHOD

The type of research used is normative juridical. This research is a legal research conducted by examining literature materials referred to as secondary data. This research data is sourced from secondary data where this secondary data consists of primary, secondary and tertiary legal materials. Primary legal material is the main material that will be used as a guideline in answering the formulation of problems in this study. The primary legal material is supported by secondary legal material which is a supporting legal material or provides an explanation of the primary legal material. Secondary legal materials in this case are journals, articles, research results and others relevant to the topic discussed. Primary and secondary legal materials will be clarified with tertiary legal materials such as magazines, data from the internet and others.

RESULTS AND DISCUSSION

Minor Crimes in the Environmental Sector

Categorically environmental crimes regulated in Law No. 32 of 2009 concerning Environmental Protection and Management consist of acts of environmental pollution; acts of environmental destruction; and other acts that violate applicable laws and regulations.

According to the provisions of Article 45 of Law No. 32 of 2009 concerning Environmental Protection and Management, if an environmental crime is committed by or on behalf of a legal entity, company, association, foundation or other organization, criminal sanctions may also be subject to disciplinary action. Sanctions in the form of disciplinary actions are regulated in Article 47, which include: deprivation of profits obtained from criminal acts; and/or the complete or partial closure of the company; and/or reparations due to criminal acts; and/or obligate to do what is done without rights; and/or negate what is neglected without rights; and/or placing the company under supervision for a maximum of 3 (three) years. The qualification of this environmental crime is included in the category of crime (Article 48 of Law No. 32 of 2009 concerning Environmental Protection and Management).

What is meant by environmental pollution, regulated in Article 1 number 12 of Law No. 32 of 2009 concerning Environmental Protection and Management which states environmental pollution is the entry or inclusion of living things, substances, energy, and/or other components into the environment by human activities so that the quality drops to a certain level that causes the environment to not function in accordance with its designation. Meanwhile, what is meant by the environment according to Article 1 number 1 of Law No. 32 of 2009 concerning Environmental Protection and Management is the unity of space with all objects, forces, conditions, and living things, including humans and their behavior, which affect the continuity of life and welfare of humans and other living things. Meant by environmental destruction according to Article 1 number 14 of Law No. 32 of 2009 concerning Environmental Protection and Management is an action that causes direct or indirect environmental changes to its physical and/or biological properties which results in the environment no longer functioning in supporting sustainable development.

Characteristics of loan law enforcement in Law No. 32 of 2009 concerning Environmental Protection and Management introduces the threat of minimum criminal penalties in addition to the maximum, expansion of evidence, punishment for violations of quality standards, integration of criminal law enforcement, and regulation of corporate crimes.

Environmental criminal law enforcement continues to pay attention to the principle of ultimum remedium which requires the application of criminal law enforcement as a last resort after the implementation of administrative law enforcement is considered unsuccessful. The application of the ultimum remedium principle only applies to certain formal crimes, namely punishment for violations of wastewater quality standards, emissions, and disturbances.

The following is a table of categories of environmental crimes regulated in Law No. 32 of 2009 concerning Environmental Protection and Management Articles 98 to Article 115:

Tabel 1 Jenis sanksi Tindak Pidana Lingkungan Hidup Menurut Undang-Undang Nomor 32 Tahun 2009

Material Delik Environmental Crime		
Article	Action	Penalty
98 paragraph 1	Any person who intentionally commits acts that result in exceeding ambient air quality standards, water quality standards, sea water quality standards, or standard criteria for environmental damage.	imprisonment for a minimum of 3 (three) years and a maximum of 10 (ten) years and a fine of at least Rp3,000,000,000.00 (three billion rupiah) and a maximum of Rp10,000,000,000.00 (ten billion rupiah).
98 paragraph 2	If the act as referred to in paragraph (1) results in injury and/or danger to human health.	imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years and a fine of at least Rp4,000,000,000.00 (four billion rupiah) and a maximum of Rp12,000,000,000.00 (twelve billion rupiah).
98 paragraph 3	When the act as referred to in verse (1) results in a person being severely injured or dead.	shall be sentenced to imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp5,000,000,000.00 (five billion rupiah) and a maximum of Rp15,000,000,000.00 (fifteen billion rupiah).
99 paragraph 1	Any person whose negligence results in exceeding ambient air quality standards, water quality standards, sea water quality standards, or standard criteria for environmental damage.	shall be sentenced to imprisonment for a minimum of 1 (one) year and a maximum of 3 (three) years and a fine of at least Rp1,000,000,000.00 (one billion rupiah) and a maximum of Rp3,000,000,000.00 (three billion rupiah).
99 paragraph 2	If the act as referred to in paragraph (1) results in injury and/or danger to human health.	shall be sentenced to imprisonment for a minimum of 2 (two) years and a maximum of 6 (six) years and a fine of at least Rp2,000,000,000.00 (two billion

		rupiah) and a maximum of Rp6,000,000,000.00 (six billion rupiah).
99 paragraph 3	When the act as referred to in verse (1) results in a person being severely injured or dead.	sentenced to imprisonment for a minimum of 3 (three) years and a maximum of 9 (nine) years and a fine of at least Rp3,000,000,000.00 (three billion rupiah) and a maximum of Rp9,000,000,000.00 (nine billion rupiah)
112	Any authorized official who deliberately does not supervise the compliance of the person in charge of the business and/or activity with the laws and regulations and environmental permits as referred to in Article 71 and Article 72, resulting in pollution and/or environmental damage resulting in the loss of human life.	Sentenced to a maximum imprisonment of 1 (one) year or a maximum fine of Rp500,000,000.00 (five hundred million rupiah).
	Formil Delik Environmental Crime	
100 paragraph 1	Any person who violates wastewater quality standards, emission quality standards, or nuisance quality standards shall be punished.	imprisonment for a maximum of 3 (three) years and a maximum fine of Rp3,000,000,000.00 (three billion rupiah).
101	Everyone who releases and/or distributes genetically engineered products to environmental media contrary to legal regulations or environmental permits as referred to in Article 69 verse (1) of the letter g.	shall be sentenced to imprisonment for a minimum of 1 (one) year and a maximum of 3 (three) years and a fine of at least Rp1,000,000,000.00 (one billion rupiah) and a maximum of Rp3,000,000,000.00 (three billion rupiah).
102	Any person who carries out B3 waste management without permission as referred to in Article 59 paragraph (4).	imprisonment for a minimum of 1 (one) year and a maximum of 3 (three) years and a fine of at least Rp1,000,000,000.00 (one billion rupiah) and a maximum of Rp3,000,000,000.00 (three billion rupiah).
103	Any person who produces B3 waste and does not carry out management as referred to in Article 59.	shall be sentenced to imprisonment for a minimum of 1 (one) year and a maximum of 3 (three) years and a fine of at least Rp1,000,000,000.00 (one billion rupiah) and a maximum of Rp3,000,000,000.00 (three billion rupiah).
104	Any person dumping waste and/or materials into environmental media without permission as referred to in Article 60.	punishable with a maximum imprisonment of 3 (three) years and a maximum fine of Rp3,000,000,000.00 (three billion rupiah).
105	Any person who enters waste into the territory of the Unitary State of the	shall be sentenced to imprisonment for a minimum of 4 (four) years and a

	Republic of Indonesia as referred to in Article 69 paragraph (1) point c.	maximum of 12 (twelve) years and a fine of at least Rp4,000,000,000.00 (four billion rupiah) and a maximum of Rp12,000,000,000.00 (twelve billion rupiah).
106	Any person who enters B3 waste into the territory of the Unitary State of the Republic of Indonesia as referred to in Article 69 paragraph (1) letter d.	shall be sentenced to imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp5,000,000,000.00 (five billion rupiah) and a maximum of Rp15,000,000,000.00 (fifteen billion rupiah).
107	Any person who inserts B3 which is prohibited according to laws and regulations into the territory of the Unitary State of the Republic of Indonesia as referred to in Article 69 paragraph (1) point b.	shall be sentenced to imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp5,000,000,000.00 (five billion rupiah) and a maximum of Rp15,000,000,000.00 (fifteen billion rupiah).
108	Any person who burns land as referred to in Article 69 paragraph (1) letter h.	shall be sentenced to imprisonment for a minimum of 3 (three) years and a maximum of 10 (ten) years and a fine of at least Rp3,000,000,000.00 (three billion rupiah) and a maximum of Rp10,000,000,000.00 (ten billion rupiah).
109	Any person who conducts business and/or activities without having an environmental permit as referred to in Article 36 paragraph (1).	shall be sentenced to imprisonment for a minimum of 1 (one) year and a maximum of 3 (three) years and a fine of at least Rp1,000,000,000.00 (one billion rupiah) and a maximum of Rp3,000,000,000.00 (three billion rupiah).
110	Any person who prepares an AMDAL without having a certificate of competence for the compiler of the AMDAL as referred to in Article 69 paragraph (1) letter i.	punishable with a maximum imprisonment of 3 (three) years and a maximum fine of Rp3,000,000,000.00 (three billion rupiah).
111 paragraph 1	Environmental permit officials who issue environmental permits without being equipped with an AMDAL or UKL-UPL as referred to in Article 37 paragraph (1).	punishable with a maximum imprisonment of 3 (three) years and a maximum fine of Rp3,000,000,000.00 (three billion rupiah).
112 paragraph 2	Business and/or activity licensing officials who issue business and/or activity licenses without being equipped with	punishable with a maximum imprisonment of 3 (three) years and a

	environmental permits as referred to in Article 40 paragraph (1).	maximum fine of Rp3,000,000,000.00 (three billion rupiah).
113	Any person who provides false, misleading information, omits information, damages information, or provides incorrect information needed in connection with supervision and law enforcement related to environmental protection and management as referred to in Article 69 paragraph (1) letter j.	punishable with a maximum imprisonment of 1 (one) year and a maximum fine of Rp1,000,000,000.00 (one billion rupiah).
114	Any person responsible for a business and/or activity that does not carry out government coercion.	punishable with a maximum imprisonment of 1 (one) year and a maximum fine of Rp1,000,000,000.00 (one billion rupiah).
115	Everyone who knowingly prevents, obstructs, or thwarts the performance of the duties of the office of the environmental superintendent and/or the investigator's office of a civil state official.	punishable with a maximum imprisonment of 1 (one) year and a maximum fine of Rp500,000,000.00 (five hundred million rupiah).

Theft as a misdemeanor

The criminal act of theft is included in the type of crime directed against property. The prohibition against theft is regulated in the Second Book of Chapter XXII concerning crimes against property from Article 362 of the Criminal Code to Article 367 of the Criminal Code which are grouped into several types, namely ordinary theft (Article 362 of the Criminal Code), theft with aggravation (Article 363 of the Criminal Code), petty theft (Article 364 of the Criminal Code), theft with violence (Article 365 of the Criminal Code), and theft among families (Article 367 of the Criminal Code). Each type of crime has a different criminal threat, judging from the ways, time and place where the crime was committed.

Likewise, the threat of punishment for perpetrators of theft varies. This threat of punishment will be given according to the level of theft of the perpetrator. There are several levels and punishments as follows:

a. Common Theft

   This ordinary theft is regulated in Article 362 of the Criminal Code which states: "Whoever takes an object that partly or wholly belongs to another person, with the intention to possess the object unlawfully, because he is guilty of theft, shall be punished with a maximum imprisonment of five years or a maximum fine of nine hundred rupiah"

b. Theft by Incrimination

   Theft with aggravation or culified theft is regulated in Articles 363 and 365 of the Criminal Code. This qualified theft refers to a theft committed in certain ways and in certain aggravating circumstances, so that it is punishable with a crime that is more severe than ordinary theft. Proof of the elements of the criminal act of theft with aggravation must begin with proving theft in its principal form.

   a) Theft with aggravation stipulated in Article 363 of the Criminal Code

1) Sentenced to a maximum prison term of seven years, consisting of:
   - Livestock theft.
   - Theft committed in times of disaster or emergency.
   - Theft at night.
   - Theft committed by two or more people together.
   - Theft where the perpetrator causes damage by dismantling, climbing, using forged keys, forged orders, or forged uniforms.
2) If theft as referred to in No. 3 is accompanied by matters as stipulated in Nos. 4 and 5, it is punishable by imprisonment of not more than nine years.

b) Theft with aggravation regulated in Article 365 of the Criminal Code The type of theft regulated in Article 365 of the Criminal Code is commonly referred to as "Theft with violence". The elements in Article 365 of this Criminal Code are:

1.) Shall be punished with imprisonment for not more than nine years of theft preceded, accompanied or followed by violence or threat of violence, against any person with intent to prepare or facilitate theft, or in the event of being caught, to enable escape by himself or any other participant, or to remain in possession of stolen property.

2.) Sentenced to a maximum of twelve years' imprisonment:
   - If the act is done at night in a dwelling or on an enclosed yard on which stands a dwelling, or is done on a public road, or is done on a moving train or tram.
   - When the act is performed by two or more people together.
   - If the guilty person has attempted access to the scene of the crime by demolition or climbing, by using false keys or false orders or by wearing false uniforms.
   - When the act has caused heavy wounds to a person's body.

3.) Shall be punished with imprisonment for not more than fifteen years if the act causes the death of a person.

4.) Shall be punished with the death penalty or imprisonment for life or for a specified period of not more than twenty years, if the act results in serious injury or death and is committed by two or more persons jointly and also accompanied by any of the matters as provided for in nos. 1 and 3.

c. Misdemeanor Theft

Petty theft is regulated under Article 364 of the Criminal Code. What is included in the definition of theft is theft in the family (Article 367 of the Criminal Code). This type of theft is regulated in Article 364 of the Criminal Code which states: "Acts as stipulated in Article 362 and Article 363 point 4, as well as those regulated in Article 365 point 5, if committed in a residence or on a closed yard on which stands a residence and if the value of the stolen property is not more than twenty-five rupiah, threatened with petty theft, with a maximum imprisonment of three months or with a maximum fine of two hundred and fifty rupiah".

As for petty theft, it must refer to Supreme Court Regulation (Perma) No. 2 of 2012 concerning the Settlement of the Limitation of Minor Crimes (Tipiring) and the Amount of Fines in the Criminal Code. It should also be considered to know which crimes are included in minor crimes in the field of Environment.

In Perma No. 2 of 2012, theft below 2.5 million cannot be arrested. In Perma Number 2 of 2012 Article 1, it is explained that the words "two hundred and fifty rupiah" in Articles 364, 373, 379, 384, 407 and 482 of the Criminal Code are read to Rp 2,500,000.00 or two million five hundred thousand rupiah.

Then, in Article 2 paragraph (2) and paragraph (3), it is explained, if the value of the goods or money is worth no more than Rp 2.5 million, the Chief Justice immediately appoints a Single Judge to examine, try and decide the case with a Quick Examination Event stipulated in Articles 205-210 of the Code of Criminal Procedure and the Chief Justice does not determine detention or extension of detention.

Legal Protection for Perpetrators of Minor Crimes in the Environmental Sector

In Probolinggo District Court Decision Number 179/PID. B/2014/PN. PBL shows that the verdict is applied with the flow of positivism, namely. This verdict is a verdict given to Karyo bin Mistiah alias Busrin who was sentenced for 2 years for cutting down ± 2 (two) M3 of mangrove trees used for firewood for 5 (five) days. Bursin's actions are said to have violated the provisions of Article 73 paragraph 1 letter b of Law number 27 of 2007 concerning Coastal Area Management. However, after Bursin carried out his sentence, the fact spread that he was a sand laborer, never carried out education, could not read, did not know the good and right Indonesian and did not know that any laws were broken because of his actions.

The article regulating Bursin's actions provides for imprisonment for a minimum of 2 (two) years and a maximum of 10 (ten) years and a fine of at least Rp2,000,000,000.00 (two billion rupiah) and a maximum of Rp10,000,000,000.00 (ten billion rupiah). With this provision, it can be seen that there is a waiver of moral values in order to carry out minimal criminal threats in accordance with existing positive laws.

In fact, Bursin has also confessed to his actions since the beginning of the investigation. That law enforcement is based on the sense of justice that a law enforcer must have, making the law has no benchmark. In the end, there was an event that made the law seem blunt upward and taper downward. By focusing the hope on a form of power to have a sense of justice, there will eventually be many differences about what is written and what actually happens. Therefore, even though the existing law has run at the end of the value of justice, a rule is needed that can be a reference or scale of calculation regarding the granting of judgments outside only with the judge's confidence.

Indeed, according to Article 73 Paragraph (1) of Law No. 27/2007, the threat of punishment for Busrin's actions is imprisonment for a minimum of two years and a maximum of ten years and a fine of at least two billion rupiah and a maximum of ten billion rupiah. It's just that, as light as the punishment was, for Busrin, of course, the punishment was very severe and certainly unfair when compared to his act of only cutting down three mangrove trees.

The judge in Busrin's ruling only considered that Busrin's actions had been proven to violate the law and Busrin should be punished according to the provisions of the law he violated. The judge did not consider the factors why Busrin committed his actions and how much the damage from those acts was the basis for the verdict.

The application of the judge's ruling in this first judgment then seemed to fall short of the purpose of the conviction and further magnified the damage of the individual, in this case

Busrin as the perpetrator. Referring to the nature of the crime committed by Busrin, which caused the loss of two cubic meters of mangrove wood, the crime should have been charged under Article 364 of the Criminal Code, which is a petty theft. Article 364 of the Criminal Code regulates the conditions for determining a crime of theft into a crime of petty theft, namely:

"The acts described in article 362 and article 363 point 4, as well as the acts described in article 363 point 5, if not committed in a house or closed yard in which there is a house, if the price of the stolen goods is not more than two hundred and fifty rupiah, shall be threatened with petty theft with a maximum imprisonment of three months or a fine of not more than two hundred and fifty rupiah."

The crime of petty theft here means the value of goods or losses in minor crimes, which were originally set to be no more than twenty-fifty rupiah now set to no more than two million five hundred thousand rupiah. Legal values and a sense of justice in public life should be the main basis for consideration for a judge in handing down a decision which is his authority and has been regulated in Article 8 paragraph (2) of Law Number 48 of 2009 concerning Judicial Power. In order for a court decision to provide a sense of justice in society, for victims and perpetrators, a judge should consider well every decision.

In Decision Number 590/Pid.B/2019/PN Sim, the judge's decision became unbalanced in the judge's decision guidelines, which the judge in this case did not see from the aspect of expediency. Even though the community there was very concerned about the fate experienced by a Samirin grandfather because at that age and the stolen results were very small, Grandpa Samirin was in prison, then the community moved by collecting coins worth Rp 17,480, - to pay compensation for 1.9 kg of rubber sap collected illegally by Samirin's grandfather. So, in his decision the judge did not look at the value order that was already in society (the expediency aspect).

Defendant Samirin should not be in prison and united by other inmates because he saw the condition of the Defendant who was so vulnerable to his physical illness due to old age. In the case of Defendant Samirin, there is no mitigating element in the charge, so the Defendant cannot be charged in Article 107 letter d concerning Plantations and the contents of Article 107 letter d have not regulated the value of the loss, in contrast to theft in the Criminal Code which has a category below Rp 2.5 million will be subject to Article 364 of the Criminal Code and affirmed by PERMA No. 2 of 2012 concerning the Adjustment of the Limit of Minor Crimes and the Amount of Fines in the Criminal Code.

Therefore, the right article to use in this case is Article 364 of the Criminal Code concerning Minor Theft because it is clear that the defendant committed the theft not in a house or closed yard and then the stolen item was quite small at Rp. 17,480,-. So, according to the author of the case, Defendant Samirin is classified as a Misdemeanor, not an Ordinary Crime.

That is, the stolen goods are under the provisions of PERMA No. 2 of 2012 concerning the Settlement of Limits for Minor Crimes and the Amount of Fines in the Criminal Code. Because PERMA No. 2 of 2012 not only provides relief to Supreme Court justices in working, but also makes theft under Rp. 2.5 million cannot be arrested. Then the chief justice immediately appoints a Single Judge to examine, try and decide the case by Expeditious Examination Procedure stipulated in Articles 205-210 of the Code of Criminal Procedure and the chief justice does not prescribe detention or extension of detention.

If related to Article 21 paragraph (4) of the Criminal Procedure Code above, the detention imposed by Defendant Samirin cannot be held because it looks at the threat of imprisonment which is in Article 107 letter d concerning the Plantation. Detention must be seen from the subjective element, namely Article 21 paragraph (1) and objective, namely Article 21 paragraph (4) contained in the Code of Criminal Procedure (KUHAP), The detention contained in the Prosecutor's Office should not be held in detention detention, enough with house arrest because at the investigation stage the Defendant was not detained for reasons of health factors, seeing from the condition of the elderly Defendant and also the investigator believes that the person concerned will be cooperative, did not run away but the legal process continued by ordering the defendant to report 1x a week.

According to the author, the prosecutor should also pay attention to what stage the investigator did to the elderly defendant and it should be used as a basis or benchmark for the public prosecutor not to detain the accused Samirin.

Although the Defendant's actions are appropriate in fulfilling the elements of Article 107 letter d concerning Plantations and are classified as ordinary criminal offenses, the Defendant's actions have mitigating elements and these elements must be maintained and used as the basis for evidence and verdict.

Looking at the things that have been stated previously above, Law Number 39 of 2014 concerning Plantations is not commensurate with the Criminal Code, because both steal, but the sanctions in the Plantation Law are too high to the fine of billions. So if every law whose crime is not commensurate with what is done and it is too high, and usually in society is not done, because it is not effective, then there must be a judicial review revision of this Plantation Law.

In principle, the person who stole on the Plantation was hungry and forced. Then the hungry and forced person must be a poor man, but why is the crime so severe, that the law is ineffective. There are 3 (three) inhibiting factors for law enforcement, namely:

1. The law itself, if the law itself is not good, then if it is difficult if it wants to be enforced.
2. Influenced by law enforcement, because no matter how good the law is, but if the law enforcement is not good, the law also cannot work well.
3. The legal culture of the community, because this also affects law enforcement.

So the applied law is correct because it has its own law, hence the generalist deregota specialist lex. However, between the existing law or the existing law, namely the Criminal Code, it is not commensurate with the specialist lex law because in the Criminal Code the theft committed by the defendants discussed in the previous section is included in Article 364 of the Criminal Code and is sentenced to the maximum number of years, Even in Article 364 it is a minor crime. If viewed in terms of the results, it is categorized as a minor crime.

In essence, the Criminal Code already regulates the problem of theft, and the Plantation Law also regulates but the criminal sanctions are very different between those in the Plantation Law and the Criminal Code. Countries that follow the civil law system only base on laws and do not base on jurisprudence, so what is carried out is law, not jurisprudence. Although civil law also uses jurisprudence, the order in which it is used takes precedence is the Law, because the root of the problem is the same, namely theft, different from embezzlement and corruption, a special law was made that threatened it using a special law but because this problem of the Plantation Law exists, it is actually appropriate to use the law but I only criticize why the

criminal sanctions applied in Article 107 letter d on Plantations are too high while there Indeed, there is no stipulation, stealing is the element of "taking someone else's property to be owned in part or in whole is a criminal threat".

The origin of the element already exists, so this person is charged but entangled with people who commit criminal acts with the results is only a kilo and Law 107 letter d on Plantations is applied, so it is actually considered inappropriate, the criminal sanctions given should not use the Plantation Law because it is too heavy.

CONCLUSION

Regarding the scope of light value crimes in the environmental sector, the criminal acts regulated in Law No. 32 of 2009 concerning Environmental Protection and Management are contained in the provisions of Articles 41 to 44 of Law No. 32 of 2009 concerning Environmental Protection and Management. Referring to Article 1 number 12 of Law No. 32 of 2009 concerning Environmental Protection and Management which states environmental pollution is the entry or inclusion of living things, substances, energy, and/or other components into the environment by human activities so that the quality drops to a certain level that causes the environment to be unable to function in accordance with its designation and Article 1 point 14 of Law No. 32 of 2009 concerning Protection and Environmental Management is an action that causes direct or indirect environmental changes to its physical and/or biological properties that result in the environment no longer functioning in supporting sustainable development, so the crime of theft for environmental results is not a crime in the environmental sector. Therefore, if there is theft of light value for environmental products, it must also be considered the Penal Code as a legal umbrella that specifically regulates the crime of theft (*lex specialis derogat legi generali principle*).

Legal protection for perpetrators of minor environmental crimes must be in line with the objectives of punishment, with sociological, ideological, and juridical philosophical approaches, which are based on the basic assumption that criminal acts are a disturbance to balance, harmony, and harmony in community life. Thus, the purpose of punishment is to repair individual and *social damages*, caused by criminal acts Legal values and a sense of justice in public life should be the main basis for consideration for a judge in handing down a decision which is his authority and has been regulated in Article 8 paragraph (2) of Law Number 48 of 2009 concerning Judicial Power. In order for a court decision to provide a sense of justice in society, for victims and perpetrators, a judge should consider well every decision.

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