

Tantangan Penegakan Hukum Lingkungan oleh Pemerintah Daerah dalam Era Otonomi

Annisa Udzakiah,¹ Asep Syaifullah,² M. Fatih Azki A.,³ Riki Aprianto⁴

¹universitas islam negeri fatmawai sukarno Bengkulu, Indonesia. E-mail: Audzakiah@gmail.com

²universitas islam negeri fatmawai sukarno Bengkulu, Indonesia. E-mail: asepsyaifullah1122@gmail.com

³universitas islam negeri fatmawai sukarno Bengkulu, Indonesia. E-mail: fatihazki531@gmail.com

⁴universitas islam negeri fatmawai sukarno Bengkulu, Indonesia. E-mail: rikiapriantosl@gmail.com

Abstrak

Penerapan otonomi daerah di Indonesia memberikan kewenangan yang lebih besar kepada pemerintah daerah dalam mengelola sumber daya alam dan lingkungan hidup. Namun, dalam praktiknya, penegakan hukum lingkungan oleh pemerintah daerah menghadapi berbagai tantangan. Beberapa kendala utama meliputi tumpang tindih regulasi antara pemerintah pusat dan daerah, keterbatasan sumber daya manusia dan anggaran, serta rendahnya kesadaran hukum masyarakat terhadap lingkungan. Kasus di Sumatera Selatan dan Riau menunjukkan bahwa proses perizinan perhutanan sosial yang birokratis menghambat partisipasi masyarakat dalam pengelolaan hutan secara legal, sehingga meningkatkan risiko konflik dan eksploitasi sumber daya alam yang tidak berkelanjutan. Selain itu, lemahnya koordinasi antarinstansi dan minimnya kapasitas kelembagaan di tingkat daerah turut memperparah situasi ini. Untuk mengatasi permasalahan tersebut, diperlukan peningkatan kapasitas kelembagaan, harmonisasi regulasi antara pusat dan daerah, serta penguatan peran serta masyarakat dalam pengawasan dan penegakan hukum lingkungan

Kata Kunci: Penegakan hukum lingkungan, otonomi daerah, pemerintah daerah, perhutanan sosial, regulasi lingkungan, kapasitas kelembagaan

Abstract

The implementation of regional autonomy in Indonesia grants greater authority to local governments in managing natural resources and the environment. However, in practice, environmental law enforcement by local governments faces numerous challenges. Key obstacles include overlapping regulations between central and local governments, limited human and financial resources, and low public legal awareness regarding environmental issues. Cases in South Sumatra and Riau reveal that bureaucratic procedures in social forestry permits hinder community participation in the legal management of forests, thereby increasing the risk of conflict and unsustainable exploitation of natural resources. Additionally, weak inter-agency coordination and limited institutional capacity at the regional level further exacerbate the situation. To address these issues, it is necessary to enhance institutional capacity, harmonize

regulations between central and local governments, and strengthen community involvement in environmental monitoring and law enforcement.

Keywords: *Environmental law enforcement, regional autonomy, local government, social forestry, environmental regulation, institutional capacity*

INTRODUCTION

Regional autonomy is one of the important pillars in Indonesia's post-reform government system. With the enactment of Law Number 23 of 2014 concerning Regional Government, the central government gives broader authority to local governments to regulate and manage government affairs themselves, including in the field of environmental management.¹ This decentralization is expected to increase the efficiency, accountability, and responsiveness of local governments in responding to the needs and problems of local communities, including in maintaining environmental sustainability.² However, in practice, the implementation of regional autonomy in the context of environmental law enforcement did not go as smoothly as expected. Many local governments still face various structural, administrative, and political obstacles that hinder the effectiveness of law enforcement efforts against environmental violations.³ Some regions even show weak political commitment in dealing with environmental crimes, especially when dealing with economic interests or pressure from industry players.⁴

Limited human resource capacity, lack of budget, and weak supporting infrastructure are real obstacles faced by many environmental agencies in the region⁵. In addition, there is still an overlap of authority between the central and regional governments in the field of licensing and supervision, which leads to unclear responsibilities and weak coordination between institutions⁶.

One concrete example of this complexity can be seen in the implementation of social forestry programs in South Sumatra and Riau. Although the program aims to provide communities with legal access to sustainable forest management, the reality is that complex and bureaucratic licensing processes often hinder community participation. As a result, many communities continue to manage their land informally and are at risk of being criminalized⁷.

In the midst of these challenges, the role of local governments is very crucial in ensuring that environmental law enforcement is not only a discourse, but is actually implemented in the field. Serious efforts are needed to strengthen institutions, clarify regulations, and build stronger

¹ Republic of Indonesia, *Law Number 23 of 2014 concerning Regional Government*, Statute Book of the Republic of Indonesia Number 244 of 2014

² Ni'matul Huda, *Local Government Law* (Yogyakarta: Nusa Media, 2015), pp.27–30.

³ Indonesian Center for Environmental Law (ICEL), *Challenges of Environmental Law Enforcement in the Era of Regional Autonomy* (Jakarta: ICEL, 2023), H.6.

⁴ Dwi Sawung, "When Politics Defeats the Environment," *Walhi.or.id*, accessed May 1, 2025, <https://www.walhi.or.id>.

⁵ Ministry of Environment and Forestry (MoEF), *Performance Report of the Directorate General of Environmental and Forestry Law Enforcement 2023* (Jakarta: KLHK, 2023), H.18–21.

⁶ R. Herlambang P. Wiratraman, "Decentralization and Problematic Environmental Law Enforcement," *Journal of Rechtsvinding* 10, no. 1 (2021): p.77–88

⁷ Cakaplah.com, "Indigenous Peoples Threatened with Criminalization due to Slow Social Forestry Permits," accessed April 25, 2025, <https://www.cakaplah.com>.

partnerships between governments, communities, and the private sector to realize fair and sustainable environmental governance in the era of regional autonomy⁸.

METHOD

This research uses a descriptive qualitative approach with the aim of describing and analyzing in depth the challenges faced by local governments in enforcing environmental laws in the era of autonomy. This approach was chosen because it allows researchers to explore complex social and institutional phenomena in a region-specific context⁹.

The data in this study was collected through two main sources, namely primary data and secondary data. Primary data was obtained through a documentation study of actual news, official government reports, and the results of relevant non-governmental organizations (NGOs) studies. One of the data sources analyzed was a news article from the Cakaplah.com portal that discussed the implementation of social forestry in South Sumatra and Riau as well as the bureaucratic and authority constraints faced.¹⁰ Secondary data includes a review of academic literature, laws and regulations related to regional autonomy and environmental law, as well as policy evaluation reports from relevant ministries and institutions, such as the Ministry of Environment and Forestry (KLHK) and the Ministry of Home Affairs (Kemendagri).¹¹

The analysis technique used is content *analysis* of relevant documents and news, especially to identify key themes such as institutional constraints, overlapping authority, licensing bureaucracy, and community participation in environmental monitoring. In addition, a spelling and language analysis was carried out on one of the news examples to assess the accuracy of the use of Indonesian in accordance with the Enhanced Spelling (EYD) rules, as part of a reflection on the quality of legal communication and public information¹². This research does not involve field surveys or in-depth interviews, but still prioritizes the principle of validity and triangulation of data by comparing several sources of information that corroborate each other¹³.

The analysis method used in this study is qualitative *content analysis*. The analysis was carried out by systematically examining the content of news, policy documents, and literature related to environmental law enforcement by local governments. This research focuses on identifying key themes such as overlapping authority between central and regional governments, licensing bureaucratic constraints, weak institutional capacity, and low community participation. In addition, an analysis of spelling and language use in news was also carried out as a case study, to assess the suitability of the Enhanced Spelling (EYD) rules as a form of evaluation of the quality of legal information delivery to the public. The analysis process was carried out by comparing several news sources and documents to find patterns, contradictions, and gaps in the

⁸ Fitriani, "Institutional Strengthening in Environmental Law Enforcement," *Journal of Regional Autonomy* 12, no. 2 (2022): H.155–168.

⁹ Norman K. Denzin dan Yvonna S. Lincoln, *The Sage Handbook of Qualitative Research*, 5th ed. (Thousand Oaks: Sage Publications, 2018), H.10–12

¹⁰ Cakaplah.com, "Indigenous Peoples Threatened with Criminalization due to Slow Social Forestry Permits," accessed May 2025, <https://www.cakaplah.com>.

¹¹ Ministry of Environment and Forestry (MoEF), *2023 Environmental Law Enforcement Achievement Report*; Ministry of Home Affairs, *Evaluation of Local Government Performance in 2023*.

¹² Language Center, *General Guidelines for Improved Indonesian Spelling (EYD)*, Fourth Edition (Jakarta: Language Development and Development Agency, 2016).

¹³ Uwe Flick, *An Introduction to Qualitative Research*, 6th ed. (London: SAGE Publications Ltd., 2018), H. 145–147

environmental law enforcement system implemented by local governments in the era of autonomy¹⁴

RESEARCH RESULTS

This study found that the enforcement of environmental laws by local governments in the era of autonomy faces various structural, juridical, and political challenges.

1. Limited Capacity of Human Resources and Institutions

One of the main findings is the low institutional capacity of local governments in carrying out the function of supervision and enforcement of environmental laws. Many environmental agencies in the regions do not have sufficient Civil Servant Investigators (PPNS) or have adequate technical expertise in handling environmental violations.¹⁵ This condition is exacerbated by the lack of technical training and budget support from the central government.

2. Regulatory Dualism and Policy Inconsistency

In the context of regional autonomy, there is an overlap of authority between the central and regional governments in the regulation and implementation of environmental policies. Since the enactment of Law Number 23 of 2014 concerning Regional Government, some environmental authority has been withdrawn to the provinces, which has caused confusion at the district/city level in dealing with environmental violations¹⁶. On the other hand, inconsistencies between local regulations and central regulations often hinder the execution of sanctions against perpetrators of pollution or environmental destruction.¹⁷

3. Political Intervention and Economic Interests

The study also found that the environmental law enforcement process is often disrupted by local political interests and pressure from capital owners. Many cases of environmental violations by mining companies or large plantations are not strictly acted upon because of the economic-political relationship between entrepreneurs and local officials.¹⁸ This causes the principles of ecological justice and environmental protection to often be defeated by considerations of investment and regional income.¹⁹

4. Weak Public Participation and Awareness

Community participation in environmental monitoring is still low, especially in rural areas and areas that are economically dependent on natural resources. This weakness is caused by the lack of socialization of environmental regulations and limited access to public information. In some areas, people are not aware of their right to report violations or follow the law enforcement process.²⁰

DISCUSSION

¹⁴ Indonesian Center for Environmental Law (ICEL), *Challenges of Environmental Law Enforcement in the Era of Regional Autonomy*, 2023.

¹⁵ Wicaksono, R. A., "Implementation of Environmental Law Enforcement in Regions in the Era of Autonomy", *Journal of Law and Environment*, Vol. 8 No. 1 (2021), p. 17.

¹⁶ Law Number 23 of 2014 concerning Regional Government, Articles 14-15.

¹⁷ Nuraini, D., "Synchronization of Environmental Regulations between the Central and Regional Governments", *Indonesian Legislation Journal*, Vol. 19 No. 2 (2022), p. 45

¹⁸ Yuliana, M., "Politics and Environmental Law Enforcement in Indonesia", *Journal of Social and Political Sciences*, Vol. 10 No. 3 (2020), p. 104.

¹⁹ Ibid., p. 106.

²⁰ Suryadi, H., "The Role of the Community in Environmental Law Enforcement in the Regions", *Journal of Democracy and the Environment*, Vol. 6 No. 2 (2021), p. 59.

The implementation of regional autonomy in Indonesia, which began since the 1998 reform, has brought fundamental changes in governance, including in the field of environmental management. This autonomy is expected to encourage the effectiveness of public services and the sustainability of natural resource management by local governments. However, in practice, this decentralization actually gives birth to various serious challenges in environmental law enforcement. The gap between regional authority and institutional capacity is a major weak point in ensuring optimal environmental protection at the local level.

1. The Context of Regional Autonomy and the Dynamics of Environmental Law Enforcement

Regional autonomy is expressly regulated in Law Number 23 of 2014 concerning Regional Government, which gives broad authority to local governments in managing government affairs, including the environment as a matter of mandatory basic services.²¹ However, the implementation of this authority is often not proportional to the technical and institutional capacity possessed by many regions.

Environmental problems such as water pollution, forest destruction, and illegal mining require high legal, administrative, and technical capacity. In the legal context, Law Number 32 of 2009 concerning Environmental Protection and Management (PPLH Law) mandates local governments to issue environmental permits, prepare EIA documents, and enforce administrative, civil, and criminal laws.²² However, many regions have not been able to fulfill this mandate adequately.

2. Theoretical Framework in Environmental Governance and Law

This framework of analysis is based on two main approaches: *governance theory* and *environmental law theory*. *Governance theory*, as put forward by Pierre and Peters, emphasizes the principles of transparency, accountability, effectiveness, participation, and the rule of law in governance.²³ In this context, local governments should build an environmental legal system that encourages community participation, information disclosure, and accountability of public officials.

Meanwhile, environmental law theory, according to Philippe Sands, emphasizes the principles of *precautionary principle*, *intergenerational equity*, and public participation as basic principles in every environmental policy.²⁴ In the framework of decentralization, these principles should serve as guidelines in the formulation of regional policies, regional regulations, as well as the governance of licensing and environmental monitoring.

3. Overlapping Authority and Absence of Legal Certainty

One of the main structural problems in environmental law enforcement is the overlapping authority between the central government, provinces, and districts/cities. After the enactment of Law No. 23 of 2014, the authority for mining and forestry management was largely transferred to the provinces. However, the environmental impact of these activities is actually felt more at the district/city level which no longer has direct authority.²⁵ According to the 2023 *Indonesian Center for Environmental Law* (ICEL) report, as many as 60% of regency/city governments admit that it is difficult to take action against environmental violations due to

²¹ Republic of Indonesia, *Law Number 23 of 2014 concerning Regional Government*, Statute Book of the Republic of Indonesia Number 244 of 2014

²² Republic of Indonesia, *Law No. 32 of 2009 concerning Environmental Protection and Management*, Statute Book of the Republic of Indonesia No. 140 of 2009.

²³ Jon Pierre dan B. Guy Peters, *Governance, Politics and the State* (New York: Palgrave Macmillan, 2000), 13.

²⁴ Philippe Sands dan Jacqueline Peel, *Principles of International Environmental Law*, 4th ed. (Cambridge: Cambridge University Press, 2018), H.205–210.

²⁵ State Administration Institution (LAN), *Evaluation of Environmental Authority in the Era of Decentralization*, 2021.

confusion of authority.²⁶ As a result, law enforcement processes are often hampered or even stalled, while environmental damage continues.

4. Limited Resources and Institutions

Many regions do not have adequate human and institutional resources to effectively enforce environmental laws. According to data from the Ministry of Environment and Forestry (KLHK), only about 38% of districts/cities in Indonesia have an active environmental Civil Servant Investigator (PPNS).²⁷ The absence of PPNS has an impact on the low number of enforcement against environmental violations that should be dealt with through criminal and administrative channels.

In addition, the allocation of environmental budgets in the regions is very limited. Data from the Directorate General of Regional Financial Development of the Ministry of Home Affairs shows that the budget allocation for environmental agencies in many regions is only 0.5–1% of the total APBD, and the majority is allocated for routine expenditure, not for monitoring or enforcement activities.²⁸

5. Social Forestry Case: Bureaucracy and Community Criminalization

The social forestry program aims to provide legal access to the community for forest management to face bureaucratic constraints. Many indigenous communities and forest farmers are being criminalized for waiting for permits that have not yet been issued. The Cakaplah.com report (2023) states that farmers in South Sumatra and Riau experience obstacles in land legalization and are often considered unlawful when carrying out traditional activities.²⁹ The Ministry of Environment and Forestry noted that of the target of 12.7 million hectares of social forestry, only 43.3% have been granted legal access rights until the end of 2023.³⁰ This reflects the weak synergy between the central and regional governments and the lack of optimal licensing bureaucratic services.

6. Low Public Participation and Legal Literacy

Community participation in environmental stewardship is essential. However, the legal literacy of the community is still low. A WALHI survey in 2022 found that 74% of respondents in environmentally affected areas were unaware of official complaint procedures or the authorized institutions that handle them.³¹ In addition, local government legal communication tends to be technocratic and non-communicative. Many legal documents contain language and spelling errors, such as "inside" or "news", which indicate a lack of attention to the quality of public communication. This ineffectiveness of communication weakens community involvement in environmental law enforcement.

7. Law Enforcement Pathways: Administrative, Civil, and Criminal

The PPLH Law regulates three lines of law enforcement: administrative, civil, and criminal. Administrative enforcement such as reprimands or revocations of permits is often the preferred option because it is considered easier. However, this pathway often fails to have a

²⁶ Indonesian Center for Environmental Law (ICEL), *Regional Environmental Law Enforcement Monitoring Report*, 2023.

²⁷ Ministry of Environment and Forestry (KLHK), *Environmental PPNS Performance Report*, 2022.

²⁸ Directorate General of Regional Financial Development, *Regency/City Environment Office Budget Recapitulation for 2021–2023*, Ministry of Home Affairs.

²⁹ Cakaplah.com, "Indigenous Peoples Threatened with Criminalization due to Slow Social Forestry Permits," 2023.

³⁰ Ministry of Environment and Forestry, *Realization of Social Forestry Achievements 2023*, Jakarta: Directorate of Social Forestry, 2023.

³¹ WALHI, *Community Legal Literacy Survey in Areas Prone to Environmental Conflicts*, 2022.

deterrent effect. Civil and criminal enforcement is still rarely carried out because it requires experts and complex processes.³²

The Ministry of Environment and Forestry noted that of the 813 environmental violations in 2022, only 32 cases were criminal and 14 cases were civil lawsuits. The rest are settled administratively or through mediation without legal certainty.³³

8. Policy Implications and Strategic Recommendations

Based on the problems that have been described, the following recommendations are considered strategic:

1. **Regulatory Reform and Harmonization of Authority**

The central and local governments need to draft derivative regulations that are more detailed and not contradictory to clarify the boundaries of authority.

2. **Institutional and Human Resources Strengthening**

Increasing recruitment and training for environmental PPNS as well as increasing the environmental budget in the APBD is a must.

3. **Simplifying Social Forestry Licensing and Governance**

Digital one-stop services based on OSS (*Online Single Submission*) must be integrated to the district level.

4. **Improving Environmental Literacy and Paralegals**

Community-based legal training programs, university engagement, and NGOs need to be expanded to support community empowerment.

5. **Improvement of Public Legal Communication**

The preparation of legal documents and public announcements needs to use simple, precise, and community-friendly language.

CONCLUSION

Environmental law enforcement by local governments in the era of autonomy faces various structural, administrative, and social challenges. Although decentralization gives greater authority to the regions, in practice there is still overlap regulations and weak coordination between the central and regional governments. Limited human resources, budgets, and institutional capacity exacerbate this condition, so many environmental violations are not handled optimally. Bureaucratic licensing procedures also hinder public access to legal environmental management, as seen in the implementation of social forestry in South Sumatra and Riau. Lack of community participation and weak social supervision are also factors that hinder the effectiveness of law enforcement.

To overcome these challenges, it is necessary to harmonize regulations between the central and regional governments, strengthen institutional capacity, and increase legal literacy and community participation in environmental monitoring. In addition, the quality of legal communication through appropriate language that is easy for the public to understand is also important to clarify rights, obligations, and procedures in the environmental legal system. With integrated and sustainable efforts, it is hoped that environmental law enforcement in the era of autonomy can run more effectively, fairly, and sustainably.

³² ICEL, *Environmental Litigation Challenges in the Regions*, 2023.

³³ Ministry of Environment and Forestry, 2022 Environmental Violation Data, Directorate of Complaints and Administrative Law Enforcement.

Bibliography

- Cakaplah.com. 2023. "Masyarakat Adat Terancam Kriminalisasi karena Lambannya Izin Perhutanan Sosial." Diakses 25 April 2025. <https://www.cakaplah.com>.
- Fitriani. 2022. "Penguatan Kelembagaan dalam Penegakan Hukum Lingkungan." *Jurnal Otonomi Daerah* 12, no. 2 (Desember):
- Huda, N. 2015. *Hukum Pemerintahan Daerah*. Yogyakarta: Nusa Media.
- Indonesian Center for Environmental Law (ICEL). 2023. *Tantangan Penegakan Hukum Lingkungan di Era Otonomi Daerah*. Jakarta: ICEL.
- Kementerian Dalam Negeri Republik Indonesia. 2023. *Data Alokasi Anggaran Dinas Lingkungan Hidup Kabupaten/Kota Tahun 2023*. Jakarta: Direktorat Jenderal Bina Keuangan Daerah.
- Kementerian Lingkungan Hidup dan Kehutanan (KLHK). 2023. *Laporan Kinerja Direktorat Jenderal Penegakan Hukum Lingkungan Hidup dan Kehutanan 2023*. Jakarta: KLHK.
- Republik Indonesia. 2009. *Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup*. Lembaran Negara Republik Indonesia Tahun 2009 Nomor 140.
- Republik Indonesia. 2014. *Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah*. Lembaran Negara Republik Indonesia Tahun 2014 Nomor 244.
- Sawung, D. 2022. "Ketika Politik Mengalahkan Lingkungan." Diakses 1 Mei 2025. <https://www.walhi.or.id>.
- Wiratraman, R. H. P. 2021. "Desentralisasi dan Problematik Penegakan Hukum Lingkungan." *Jurnal Rechtsvinding* 10, no. 1 (April):