

Responsibility for Management of COVID-19 Medical Waste in North Sumatra Province in Civil Law Perspective

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ABSTRACT

Article 88 of Law Number 32 of 2009 concerning Environmental Protection and Management which states that "Everyone whose actions, business, and/or activities use toxic waste, generates and/or manages toxic waste, and/or poses a serious threat to the environment. Life is absolutely responsible for the losses that occur without the need to prove the element of guilt. This type of research is normative legal research. Normative legal research is research that places law as a norm-building system. The system of norms in question is about principles, norms, laws and regulations, court decisions, agreements, and doctrines. Therefore, normative legal research in this study serves to answer the legal aspects in the management of medical waste for COVID-19 hospitals in North Sumatra. Based on data from the North Sumatra Province Environmental Service, there are 237 hospitals in North Sumatra Province with a total amount of toxic waste generated per year 2021 as much as 1,725,782.63 (Tons), therefore if there is environmental pollution of toxic waste it can be a civil lawsuit is filed based on the provisions of Article 88 of Law Number 32 of 2009 concerning Environmental Protection and Management.

Keywords: [Responsibility, Medical Waste, Hospital, North Sumatra]

INTRODUCTION

Article 88 of Law Number 32 of 2009 concerning Environmental Protection and Management which states that "Everyone whose actions, business, and/or activities use toxic waste, generates and/or manages

toxic waste, and/or poses a serious threat to the environment. Life is absolutely responsible for the losses that occur without the need for proof of the element of guilt."

Hazardous and Toxic Waste, hereinafter referred to as toxic Waste, is the residue of a business and/or activity that contains toxic waste. Article 1 number 69 Government Regulation Number 22 of 2021 concerning the Implementation of Environmental Protection and Management. Hazardous and Toxic Materials hereinafter abbreviated as toxic waste are substances, energy, and other components which due to their nature, concentration and/or amount, either directly or indirectly, can pollute and/or damage the Environment, and/or endanger the Environment. health and survival of humans and other living things. Article 1 number 69 Government Regulation Number 22 of 2021 concerning the Implementation of Environmental Protection and Management. Hazardous Waste Management is an activity that includes reduction, storage, collection, transportation, utilization, processing, and/or landfill. Article 1 number 78 of Government Regulation Number 22 of 2021 concerning the Implementation of Environmental Protection and Management. Medical waste handling Covid-19 consists of Used Hazmat Shirts, Used Gloves, Used Hair Protectors, Used Medical Makers, Rapid Devices and Used Antigen Test Swabs, until used syringes are included in the toxic Waste category as stipulated in Lamp. IX Table 3 List of General Specific

toxic waste Government Regulation Number 22 of 2021 concerning Implementation of Environmental Protection and Management.

METHODS

This type of research is normative legal research. Normative legal research is research that places law as a norm-building system. Peter Mahmud Marzuki (2016: 5) explains that the system of norms in question is about principles, norms, laws and regulations, court decisions, agreements, and doctrines. Therefore, normative legal research in this study serves to answer the legal aspects in the management of medical waste for COVID-19 hospitals in North Sumatra.

By taking into account the main problems and objectives of this research, the research method used to answer the main problem is the statutory approach. Legal material for normative legal research is secondary data which is generally known as legal material consisting of primary legal materials, secondary legal materials and tertiary legal materials.

RESULT AND DISCUSSION

Responsibilities for Covid-19 Medical Waste Management in North Sumatra Province in the Perspective of Civil Law

M. Yunus Wahid (2014: 187) explained that the explanation of Article 2 of Law Number 32 of 2009 concerning Environmental Protection and Management obtained the understanding of these principles, namely:

1. Responsibility of the State

The purpose of this principle is that the State guarantees that the use of resources will provide the greatest benefit to the welfare and quality of life of the people, both present and future generations. During this period, the State also guarantees the rights of citizens to a good and healthy environment. The principle of State responsibility as the basis for implementing environmental protection and management is carried out through environmental law

enforcement, namely administrative, civil and criminal law enforcement. Among the three forms of law enforcement available, administrative law enforcement is considered the most important law enforcement effort. This is because administrative law enforcement is more focused on efforts to prevent pollution from destroying the environment. In addition, administrative law enforcement also aims to punish perpetrators of pollution and environmental destroyers.

2. Sustainability and sustainability.

The purpose of the principle of sustainability and sustainability is that everyone bears obligations and responsibilities to future generations and to each other in one generation by making efforts to preserve the carrying capacity of the ecosystem and improve the quality of the environment.

3. Harmony and balance

The purpose of this principle of harmony and balance is that the use of the environment must pay attention to various aspects such as economic, social, cultural interests and the protection and preservation of ecosystems.

4. Integration

The purpose of the principle of integration is that environmental protection and management is carried out by integrating various related components.

5. Benefit

The purpose of the benefit principle is that all development efforts and/or activities are carried out in accordance with the potential of natural resources and the environment to improve the welfare of the community and human dignity in harmony with the environment.

6. Prudence

The purpose of this precautionary principle is that uncertainty regarding the impact of a business and/or activity due to limited mastery of science and technology is not a reason to delay steps to avoid threats to pollution or environmental damage.

7. Justice

The purpose of the principle of justice is that the protection and management of the environment must reflect justice as a whole for every citizen. Environmental protection and management must reflect proportional justice for every citizen, both across regions, across generations and across genders.

8. Ecorigen

The purpose of this principle is that the protection and management of the environment must take into account the characteristics of natural resources, ecosystems and the culture of the local community.

9. Biodiversity

The purpose of this principle is that the protection and management of the environment must pay attention to integrated efforts to maintain the existence, diversity, and sustainability of living natural resources.

10. Polluters Pay

The purpose of this principle is that every person in charge whose business or activity causes environmental pollution or damage is obligated to bear the costs of environmental restoration.

11. Participatory

The purpose of the participatory principle is that every member of the community is encouraged to play an active role in the decision-making process and the implementation of environmental protection and management.

12. Local Wisdom

13. The principle of local wisdom means that in protecting and managing the environment one must maintain the prevailing noble values.

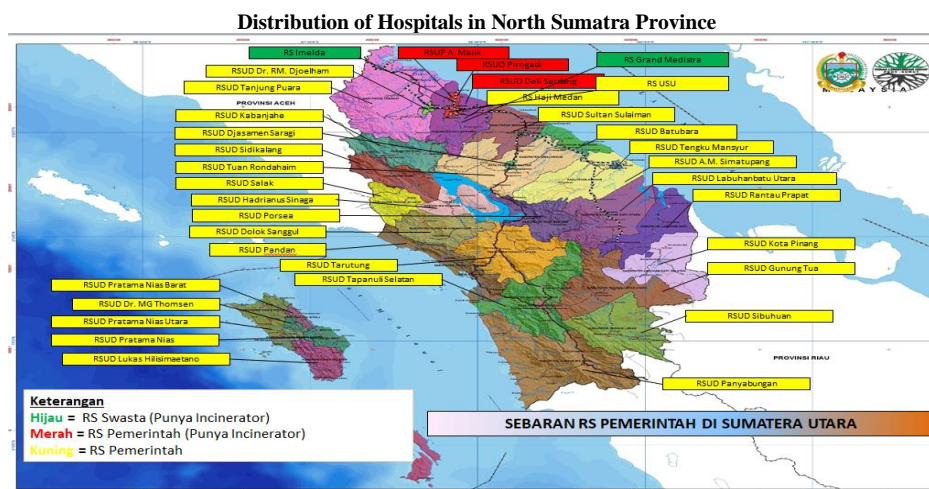
14. Good governance

This principle states that the protection and management of the environment begins with the principles of participation, transparency, efficiency and justice.

15. Regional Autonomy

The principle of regional autonomy means that the government and regional governments regulate and manage their own government affairs in the field of environmental protection and management by taking into account the diversity of regions in the Unitary State of the Republic of Indonesia.

In the context of North Sumatra Province, the legal aspects of hospital medical waste management based on the Circular Letter of the Governor of North Sumatra No. 660/3070/2020 on April 1, 2020 addressed to the Regent/Mayor to immediately handle infectious waste specifically for Covid-19 waste, in their respective areas, both from patients and household infectious waste originating from patients who are isolating at home later to all hospitals that have licensed incinerators in North Sumatra, so they can help destroy Covid-19 waste in their respective incinerators. Based on data from the Environment Agency of North Sumatra Province, there are 237 hospitals in North Sumatra Province, with the following distribution:



Source: North Sumatra Province Environmental Service

Toxic waste generation volume in North Sumatra Data for the Year 2021 to June 28, 2021

NO	WASTE CODE	WASTE NAME	WASTE GENERATED (TONS)					
			2016	2017	2018	2019	2020	2021*
1	A337-1	Clinical waste has infectious characteristics	3,17	902,31	1.863,75	4.580,67	67.521,74	3.155,83
2	A337-2	Expired pharmaceutical product		0,03	0,49	4,14	2,04	1,72
3	A337-3	Expired chemicals	0,04	10,47	45,78	38,44	15,05	9,57
4	A337-4	Toxic waste contaminated laboratory equipment			0,13	0,12	0,13	
5	A337-5	Medical equipment contains heavy metals including mercury (Hg) cadmium (Cd) and the like	17,07	0,00	0,34	0,00	0,60	
6	B337-1	Pharmaceutical product packaging	0,47		0,00	0,30	0,18	1,89
7	B337-2	Sludge IPAL			3,60		0,09	1,01
Total Medical Toxic waste Waste (Tons)			20,74	912,82	1.914,10	4.623,67	67.539,83	3.170,02
Total Toxic Waste generated per Year (Tons)			694,74	210.392,13	4.493.641,08	7.907.353,82	8.984.908,84	1.725.782,63
Percentage			2,99%	0,43%	0,04%	0,06%	0,75%	0,18%

Source: North Sumatra Province Environmental Service

Based on the Decree of the Minister of Health No. HK.01.07 of 2020, the role of the Regional Government in the management of medical waste is to coordinate across sectors/programs such as the Health Office, DLH, the Covid-19 Handling Task Force, Villages/ Ward, and other stakeholders. Build a collection facility (drop box or depot) for medical waste from residents and a transportation system to a toxic waste processor. Determine a licensed toxic waste processing company and/or health facilities that are capable and willing to process medical waste from hotels/residents. Delivering information on procedures for managing medical waste to residents. Provide guidance and supervision so that the hotel can organize medical waste management in accordance with regulations. Ensure that all specialized cleaners use full PPE when handling medical waste. Ensure medical waste is weighed and recorded before being transported to a toxic waste processor. Then in the management of medical waste in accordance with the Decree of the Minister of Health No. HK.01.07 of 2020 the community plays a role in assisting village/ ward officials and community health service center officers in collecting family data that has the potential to produce medical waste. Organize residents to collect medical waste bags from homes of residents who treat cases/close contacts and place them in drop box or at depots. If there is no

special cleaning staff in the area, the family and the community contact the sub district head /Village Head to request that the medical waste bag be taken by the Environment Agency.

Related to the concept of absolute responsibility of hospitals in the management of medical waste, namely based on the provisions of Article 88 of Law Number 32 of 2009. Harjasoemantri (1998: 1) explains that the concept of absolute responsibility as referred to in Article 88 is the principle of legal responsibility (liability) which has developed for a long time, stemming from a case in England (Rylands v. Fletcher). Salim H.S. (2008: 45) in the context of civil law, strict liability is one type of civil liability. Absolute liability (strict liability) in Article 88 of the Law Number 32 of 2009 concerning Environmental Protection and Management Law states that every person whose actions, business, and/or activities use toxic waste and/or which poses a serious threat to the environment is absolutely responsible for the losses that occur without the need for proof. error element. Based on these provisions, the management of toxic waste by business actors is an obligation.

Violation of absolute responsibility (strict liability) in the management of hazardous and toxic waste is very detrimental to all groups, both the community and the government. People's lives and health will be greatly disrupted by the pollution that

occurs. Development programs by the government will also be constrained by the presence of toxic waste pollution. Looking at the embryo of such problems, the Law Number 32 of 2009 concerning Environmental Protection and Management Law accommodates dispute resolution by giving the government, local governments, communities and environmental organizations the right to sue.

The right to sue the government and local governments is regulated in Article 90, government agencies and local governments responsible for the environment are authorized to file claims for compensation and certain actions against businesses and/or activities that cause environmental pollution and/or damage resulting in environmental losses. life. The community's right to sue is regulated in Article 91 wherein the community has the right to file a group action lawsuit for their own interests and/or for the benefit of the community if they suffer losses due to pollution and/or environmental damage. A lawsuit can be filed if there are similarities in facts or events, legal basis, and types of claims between group representatives and group members.

The right to sue environmental organizations is regulated in Article 92, the right to sue is in the interest of preserving environmental functions. The right to file a lawsuit is limited to the demand to take certain actions without any claim for compensation, except for real costs or expenses. An environmental organization can file a lawsuit if it fulfils the following requirements: in the form of a legal entity, confirms in its articles of association that the organization was established for the purpose of preserving environmental functions; and has carried out real activities in accordance with its articles of association for a minimum of 2 (two) years. As a follow-up step to the right of litigation granted to the government, local government, communities and environmental organizations, the settlement of environmental disputes can be carried out

through courts and out of court. Article 84 of the Law Number 32 of 2009 concerning Environmental Protection and Management Law states that in essence:

1. Settlement of environmental disputes can be reached through the courts or out of court.
2. The choice of settlement of environmental disputes is carried out voluntarily by the disputing parties.
3. A lawsuit through the court can only be taken if the efforts to settle the dispute outside the chosen court are declared unsuccessful by one or the parties to the dispute.

Compensation and restoration of the environment is regulated in Article 87 with the following provisions:

1. Every person in charge of a business and/or activity who commits an unlawful act in the form of environmental pollution and/or destruction that causes harm to other people or the environment is obligated to pay compensation and/or take certain actions.
2. Any person who transfers, changes the nature and form of business, and/or activities of a business entity that violates the law does not release the legal responsibility and/or obligations of the business entity.
3. Income may determine the payment of forced money for every day of delay in the implementation of court decisions.
4. The amount of forced money is decided based on the laws and regulations.

Settlement of environmental disputes through out-of-court channels according to Article 85 paragraph (3) can only be carried out by using the services of a mediator and/or arbitrator to assist in resolving disputes. Active community participation can be carried out by referring to Article 86 of the Law Number 32 of 2009 concerning Environmental Protection and Management by establishing an environmental dispute resolution institution that is free and

impartial, facilitated by the government and local governments.

So that environmental disputes can be resolved properly and business actors are also willing to carry out absolute responsibilities as stipulated in Article 88 of the Law Number 32 of 2009 concerning Environmental Protection and Management, the central government, regional governments, community organizations and all levels of society must work together to supervise the implementation of environmental responsibilities. by business actors. Synergy and concern for the implementation of environmental responsibility and good cooperation with business actors to remind that increased awareness of the environment will minimize the occurrence of Toxic waste pollution in the environment.

CONCLUSION

Based on data from the North Sumatra Province Environmental Service, there are 237 hospitals in North Sumatra Province with a total amount of toxic waste generated per year 2021 as much as 1,725,782.63 (Tons), therefore if there is environmental pollution of toxic waste it can be a civil lawsuit is filed based on the provisions of

Article 88 of Law Number 32 of 2009 concerning Environmental Protection and Management.

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