

The urgency of implementing the polluter pays principle in sustainable waste management in Indonesia

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Abstract

Waste management in Indonesia remains predominantly governed by an administrative and public service: oriented legal framework, resulting in the absence of a clear causal relationship between waste-generating activities and legal responsibility for environmental pollution. Law Number 18 of 2008 on Waste Management positions the state and local governments as the primary actors responsible for waste management, while limiting the obligations of waste generators (both individuals and business entities) to administrative compliance and flat-rate service charges. This legal construction shifts the burden of pollution costs into collective public financing and fails to account for the volume, type, and environmental impact of waste generated by different actors.

This study aims to analyze the normative construction of waste management law in Indonesia and to examine the urgency of firmly implementing the polluter pays principle as a corrective mechanism to restore environmental justice and legal accountability. The research employs a normative legal method using statutory and conceptual approaches, focusing on environmental responsibility and pollution control principles. The findings indicate that the current waste management regime inadequately internalizes the polluter pays principle, thereby weakening both corrective and preventive functions of environmental law. The study argues that waste management law from passive administrative management toward active legal accountability and sustainable environmental governance.

Keywords: Waste management, polluter pays principle, environmental justice, legal accountability, environmental pollution

Introduction

Background of the Study

The legal construction of waste management in Indonesia demonstrates a strong tendency to separate pollution from the concepts of fault and responsibility. Law Number 18 of 2008 on Waste Management (hereinafter referred to as the Waste Management Law) predominantly positions waste as an object of public service that must be managed by the state and local governments, rather than as a consequence of actions by legal subjects that cause pollution. Conceptually, this approach shifts the legal orientation from a liability regime to a service-oriented regime, thereby reducing the causal relationship between waste-generating activities and the obligation to bear their resulting impacts^[1].

Normatively, the Waste Management Law does impose obligations on the public and producers to reduce and handle waste. However, these obligations are not accompanied by firm and proportional sanctions for each waste generator. As a result, the law fails to distinguish between compliant actors and those who systematically pollute. This absence of differentiation indicates that Indonesia's waste management law emphasizes administrative compliance rather than substantive accountability for environmental pollution^[2].

Article 21 of the Waste Management Law stipulates that "the Government and Local Governments are obliged to ensure the implementation of waste management," while Article 28 letter f provides that "the public has the right to receive waste management services." These provisions are further reinforced by Article 15 paragraph (1) of Law Number 1 of 2022 on Financial Relations between the

Central Government and Local Governments, which explicitly recognizes waste management or cleanliness service fees as an object of local retribution. Such services may be implemented through inter-regional cooperation mechanisms or integrated with other public services, such as water supply services. On the other hand, village governments also collect community-based cleanliness contributions with more tangible reciprocal benefits. This situation has generated various controversies concerning authority, double charges, the accountability of local governments for collected fees, and the urgency of waste management that cannot be postponed.

Moreover, waste management retribution mechanisms recognized in local legal practice tend to be flat-rate and not based on the volume, type, or environmental impact of the waste generated. From the perspective of legal philosophy, this construction contradicts the principle of corrective justice, as the burden of pollution is distributed evenly without considering the degree of harm caused by each actor. In other words, the law consciously creates a system in which major polluters and minor polluters are treated equally, while the costs of environmental damage are collectively borne by society^[3].

These constructive weaknesses become more evident when the Waste Management Law is compared with Law Number 32 of 2009 on Environmental Protection and Management (Environmental Protection Law). The Environmental Protection Law recognizes the polluter pays principle and provides room for the application of environmental economic instruments. However, this principle is not consistently translated into the waste management legal

regime. Consequently, normative fragmentation arises: environmental law recognizes pollution as a violation of justice, while waste management law treats it as an administrative issue that can be resolved through technical management^[4].

The absence of explicit recognition of collective wrongdoing in the construction of the Waste Management Law further exacerbates the problem. Waste is generated through the accumulation of individual and institutional actions that may appear trivial when viewed separately, yet collectively result in serious environmental damage. Indonesian waste management law has not responded to this cumulative character through norms that link responsibility to patterns of mass behavior. Normatively tolerating minor acts implicitly acknowledges collective pollution as an acceptable practice.

In this context, the polluter pays principle should be positioned as a corrective principle addressing the flawed design of waste management law. This principle does not merely require polluters to pay the costs of waste management, but also demands a paradigm shift from passive management to active accountability. However, as long as the principle is not operationalized through sanction and incentive norms that apply to all waste generators, waste management law will continue to reproduce environmental injustice^[5].

Thus, the main problem of waste management in Indonesia lies not in the absence of regulation, but in a normative construction that systematically avoids affirming fault and responsibility. A legal system that is reluctant to penalize pollution ultimately loses its ethical and corrective functions and risks becoming an instrument for normalizing environmental degradation. Reformulating waste management norms based on the polluter pays principle is therefore an absolute prerequisite for restoring environmental justice and the moral legitimacy of the law itself. In this regard, several previous studies related to the polluter pays principle are referenced, including:

1. "The Application of the Polluter Pays Principle in Liability for Hazardous and Toxic Waste Pollution by PT. Pria Mojokerto" by Adinda Hilda *et al.* (2021), focusing on corporate liability for environmental pollution^[6].
2. "Formulation of the Polluter Pays Principle to Reduce Plastic Waste Problems in the Special Region of Yogyakarta" by Rama Hendra Triadmaja and M. David Hanief (2024), emphasizing corporate social and environmental responsibility^[7].
3. "Analysis of Carbon Tax Regulation in Indonesia from the Perspective of the Polluter Pays Principle: A Comparative Study with Singapore" by Alif Pratama (2025), examining comparative implementation of carbon taxation^[8].

Research Questions

1. How does the normative construction of waste management law in Indonesia affect the allocation of responsibility for pollution caused by waste?
2. Why the firm implementation of the polluter is pays principle necessary to restore justice and accountability in sustainable waste management?

Objectives of the Study

This scientific article aims to:

1. Examine the normative construction of waste management law in Indonesia and its influence on the allocation of responsibility for pollution caused by waste.
2. Why the firm implementation of the polluter is pays principle necessary to restore justice and accountability in sustainable waste management?

Research Method

This research is a normative legal study developed through a legal reasoning approach. It does not examine empirical law enforcement in practice, but rather analyzes the construction of waste management legal norms and the underlying values of justice and responsibility^[9]. The approaches used include:

- a. Statutory approach, examining laws and regulations governing environmental protection and waste management, particularly those related to responsibility allocation and waste management financing.
- b. Conceptual approach, analyzing concepts and principles in environmental law, especially the polluter pays principle, environmental justice, and legal responsibility for pollution^[10].

The legal materials consist of primary legal materials (statutory regulations), secondary legal materials (legal textbooks, scientific journals, research findings, and expert opinions), and tertiary legal materials (legal dictionaries and supporting sources). These materials are analyzed to identify normative weaknesses in waste management regulation, particularly regarding responsibility allocation to waste generators.

Result and Discussion

1. Normative Construction of Waste Management Law and Allocation of Responsibility

Indonesian positive law has comprehensively regulated waste management from institutional and technical perspectives. The Waste Management Law places the state and local governments as the primary actors responsible for waste management, from reduction to handling.

However, this normative construction emphasizes waste management as a public service rather than as accountability for environmental pollution. Waste is treated as an object to be managed to prevent health and environmental disturbances, rather than as a direct consequence of pollution-causing actions. As a result, the causal relationship between waste generation and the obligation to bear its impacts is not explicitly formulated.

In practice, individuals are generally burdened with behavioral obligations and waste retribution payments, while business actors are subject to administrative obligations related to waste reduction and management. Nevertheless, these obligations are not accompanied by proportional sanctions based on the volume, type, and impact of waste generated^[11]. Flat-rate waste retribution potentially creates the perception that environmental obligations are fulfilled merely by paying fees.

This condition indicates that Indonesian waste management law has not fully reflected environmental justice ^[12]. Pollution burdens are shifted into collective responsibility through public financing, while waste generators—both individuals and corporations—do not experience legal consequences proportional to their contributions to pollution.

2. The Urgency of Implementing the Polluter Pays Principle in Sustainable Waste Management

The absence of proportional responsibility allocation underscores the importance of implementing the polluter pays principle. This principle requires polluters to bear the costs of pollution impacts, either through sanctions or remediation obligations ^[13]. In waste management, this principle is highly relevant due to the cumulative environmental impacts of waste generated by all legal subjects.

Without firm implementation, waste management will continue to rely on public funding and moral awareness alone, perpetuating uncontrolled waste production and consumption patterns. In the long term, this hampers the realization of sustainable waste management.

The polluter pays principle serves both corrective and preventive functions. Correctively, it reallocates pollution costs to waste generators according to their contributions. Preventively, it encourages behavioral change through concrete sanctions and incentives ^[14]. Thus, law functions not merely as an administrative tool, but as an instrument of pollution control and social engineering.

Therefore, implementing the polluter pays principle in sustainable waste management is a normative urgency to correct weaknesses in existing legal constructions and to realize environmental justice through proportional responsibility allocation.

Conclusion

The legal construction of waste management in Indonesia continues to prioritize administrative management and public service over accountability for environmental pollution. Waste is treated as an object managed by the state and local governments, while the relationship between waste-generating actions and responsibility for their impacts is not explicitly regulated. Consequently, waste management burdens are shifted into collective responsibility through public financing.

Limiting waste generators' responsibilities—both individuals and businesses—to behavioral obligations and administrative retribution payments risks creating the misconception that environmental duties are fulfilled merely through payment. This weakens the law's function as a pollution control instrument and fails to encourage meaningful behavioral change. Moreover, the law has not fully responded to the cumulative nature of waste pollution. In this context, the polluter pays principle becomes essential and urgent. Its firm implementation is required to correct deficiencies in waste management law, restore environmental justice, and ensure that waste management law functions not only administratively but also as an effective pollution control and social engineering instrument toward sustainable waste management.

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