



# Policy of the Cirebon Regency Regional Government in Land Procurement for Landfill

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## ARTICLE INFO

Published online:  
01 November 2021

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## ABSTRACT

The policy of the Cirebon Regency Government in land procurement with the designation of landfill is a very dilemmatic problem, this is caused by many factors that influence it, for that the formulation of public policies that are built must have an integral-comprehensive-holistic approach because waste management problems can have an impact on the existence of the environment. The solutions offered through local government policies must be balanced with community participation through efforts to build awareness and legal compliance. The importance of environmentally friendly waste management must be able to be pursued by all stakeholders in the region, considering that the waste problem must be resolved not only by normalizing the legal order but also formulating public policies that favor the interests and concerns of the community. The land procurement policy for the landfill is an example of a tug of war.

**KEYWORDS:** Public Policy, Integral-Comprehensive-Holistic Approach, Land Procurement for Landfill.

## I. INTRODUCTION

Humans naturally interact with their environment. For humans, the environment is everything that is around it, both in the form of living things, inanimate objects, and the atmosphere that is formed due to the interaction between the elements in nature. Humans are given the responsibility to manage their environment, one of which is managing waste. Garbage is the residue of human daily activities and/or natural processes in solid form. One form of waste management is carried out by reducing and handling waste. This brings legal consequences for the Government together with the community to manage waste. The role of the community in environmental management must be based on the responsibility of the community itself in an effort to preserve environmental functions[1]. The development and growth of a city gave a big impact to the capacity and endurance of the city from the effects of growth. Population settlement pressure, community activity, and social interaction of the population has given the problems to the city[2].

Article 28 H paragraph (1) of the 1945 Constitution provides the consequence that Regency/City Governments have the authority and responsibility in managing waste. This is manifested by Article 9 of Act Number 18 of 2008 concerning Waste Management, that Regency/City Governments have duties and responsibilities in waste

management so that there is no accumulation of waste. In Act Number 18 of 2008 concerning waste management, Article 1 number 12 and Act Number 32 of 2009 concerning Environmental Protection and Management, Article 1 number 37, what is referred to as Regional Government is the Governor, Regent, or Mayor, and regional apparatus as elements of regional government administration.

Waste management is the responsibility of the region to regulate and manage it, the distribution of authority is directly carried out by the regional government both in terms of financing and the process of providing the necessary regional infrastructure, the aim is to achieve effectiveness by issuing regional policies in the form of regional regulations, and the level of seriousness of the government in carrying out urban structuring. We are fully aware that in most areas of public life, human behavior has now been standardized so that the law covers all fields. The penetration of law into society is so thick, resulting in demands for changes and developments from the law itself and its relation to other social problems will also become increasingly intensive[3], For this reason, social problems must be handled extraordinarily by law and must work extraordinarily too[4].

The current waste problem is the large volume of waste that exceeds the capacity of the landfills. Landfills are getting narrower, the distance factor makes transporting waste less

effective, and waste processing technology is not optimal[5]. One of the problems in waste management in Cirebon Regency currently is an increase in waste up to 4,022.56 m<sup>3</sup>/day along with the responsibility of the local government. Judging from the amount of waste that cannot be managed properly because of the difficulty of getting land for landfills. The calculation of the volume of waste in Cirebon Regency can be presented in the table 1.

**Table 1.** Cirebon Regency Waste Generation Projection

Year	Potential Waste Generation	
	M <sup>3</sup> / day	Ton/day
2017	4.022,56	979,77
2018	4.141,89	1.008,84
2019	4.261,22	1.037,91
2020	4.407,45	1.073,52

Based on the data above, the Cirebon Regency Government must look for other alternative of landfill locations. This is because the current condition of the Ciledug landfill is already overcapacity. One of the requirements for structuring the environment is how to strictly implement one of the environmental structuring instruments, namely licensing. In issuing a permit to conduct a business and/or activity, several matters relating to environmental management must be considered, namely[6]:

- a. Spatial planning.
- b. Community opinion
- c. Considerations and recommendations of authorized officials related to the said business and/or activity.

The existing condition has given rise to the main question regarding the issue of how the construction of the Cirebon Regency Government's policy which was built for the procurement of land for the landfill.

**II. LITERATURE REVIEWS**

Based on the background of the research that has been stated above, the main theoretical basis (grand theory) used in this study is the theory of the purpose of law, to support this theory, according to Gustav Radbruch, the existence of law means justice, certainty and utility. The three values are always in conflict. Therefore, to realize true law, they must complement each other and not exclude each other. Prioritizing one another and the basic legal values will result in the emergence of tension (spanning) between each of these legal values[3].

Rawls[7] conceptualizes justice as fairness, which contains the principles that free and rational people who wish to develop their interests should obtain an equal position at the time of starting it and that is a fundamental condition for them to enter the association they want to join. Sectors of life governed by the rule of law must be able to reach the point of order and a sense of justice, including economic

management, human resources, and natural resources in order to achieve happiness together[8].

This is fully realized considering that so far the development of law in this country tends to move in an artificial space and without direction[9]. Indonesia today is faced with a very "unique" problem of law performance regarding the formal truth treated as the most dominant consideration of legal decision embracing *reine Rechtslehre* Kelsenian's way of thinking. An approach that is still in further discussion through a more holistic alternative paradigm[10].

A formal study of Act Number 18 of 2008 concerning Waste Management was conducted on the formation background of act and other acts related to this act. Act Number 18 of 2008 is vertically related to the right of the community to obtain a good and healthy living environment, in accordance with the provisions of Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

The government has an obligation to create a good and healthy environment by implementing services in waste management in the community. Horizontally, Act Number 18 of 2008 is related to other acts in its implementation, namely Act Number 32 of 2009 concerning Environmental Protection and Management, Act Number 26 of 2007 concerning Spatial Planning and Act Number 32 of 2004 concerning Regional Government.

Efforts to prevent the environment from pollution or damage have been carried out by the Indonesian people since the Stockholm Conference in 1972. This conference is at least known as a movement for environmental protection and improvement internationally, it also inspires countries in various regions to strengthen their political commitment, that is to build without causing damage to the environment[11].

The theory of environmental law development based on the value theory of public policy explains that the exchange of views or consensus deliberation among various stakeholders can be the basis for rational decision making. The exchange of views is based on the nature of open-mindedness, honesty, willingness to hear criticism, and appreciation for the views of different parties as the basis for joint decision making[12]. Waste management as a form of implementing environmental law because environmental law is part of the law concerned with the physical environment and can be applied to overcome pollution, destruction, and environmental damage. One of the efforts to solve the problem of solid waste is to build a landfill.

The flow of the study that must be examined is the obstacles faced in land procurement for development, especially land procurement for the public interest, as well as the procedures for land procurement for the implementation of development in the public interest that can respect the holders of land rights from the concept in the Basic Agrarian

Law and the concept of the social function of land rights. Article 6 of the Basic Agrarian Law states that all land rights have a social function. From these provisions, the use of land rights does not only concern the interests of individuals or groups of holders of land rights but must pay attention to the interests of the wider community (public interest). The interpretation of the principle of the social function of land rights, besides containing the meaning that the right to it must be used according to the nature and purpose of the right, so that it is beneficial for the right holder and for the community, also means that there must be a balance between individual interests and public interests based on humanitarian principles, justice, expediency, certainty, openness, agreement, participation, welfare, sustainability and the principle of harmony.

### III. METHODS RESEARCH

This study uses a normative juridical approach. This is done by reviewing and interpreting theoretical matters concerning principles, conceptions, theories, doctrines, and legal norms relating to the formulation of the Cirebon Regency spatial policy, to examine the overall regulations in the region in the context of fulfilling the need for an inventory of applicable legal rules which ultimately can avoid overlapping the design of regulations and the implementation of regulations in the regions.

### IV. RESULTS AND DISCUSSION

Waste management as a form of implementing environmental law because environmental law is part of the law concerned with the physical environment and can be applied to overcome pollution, destruction, and environmental damage. One of the efforts to solve the waste problem is to make a landfill[13]. Waste management by the Cirebon Regency Government is carried out by the Cirebon Regency Regional Environmental Service. The Cirebon Regency Environmental Office is responsible for the waste in the landfill. However, in the case of land procurement for landfill, the policy is within the authority and responsibility of the Cirebon Regency Government, this is because the procurement process involves several agencies and must also form a Land Procurement Committee Team. The policy to form the team is considering that the waste problem in urban communities has become a very important problem regarding the life and environmental management to be built, the approach in Environmental Law focuses on an integral-comprehensive-holistic approach.

The policy of the Regional Environmental Service of Cirebon Regency has the authority to determine a suitable place for landfill accompanied by a feasibility test of the place, after that for land acquisition carried out by the Regional Research and Development Planning Agency with Department of Human Settlements and Spatial Planning

Cirebon Regency. Public policy products that are built through the role of the Government in Regional Regulation Number 7 of 2012 concerning Waste Management are listed in the fifth part of the role of waste management Article 21 paragraph (1), namely the role of Regional Governments is as a facilitator and service provider that is not owned by the community.

The decentralization policy which is the spirit of the understanding of Regional Autonomy is expected to provide more opportunities for changes in the life of a democratic Regional Government to bring the government closer to its people. The essence of democracy is the involvement of the people (participatory) both in the administration of government, development, and public services as well as in exercising control over what is being and will be done by the government. Regional development as an integral part of national development cannot be forced from the principle of Regional Autonomy, as an autonomous region has the authority and responsibility to carry out the interests of the community based on the principles of openness, community participation and accountability to the community[14].

Based on Article 1 point 6 of Act Number 23 of 2014 concerning Regional Government that Regional Autonomy is the right, authority, and obligation of autonomous regions to regulate and manage their own Government Affairs and interests of local communities in the system of the Unitary State of the Republic of Indonesia. In this regard, even in Act Number 23 of 2014 concerning Regional Government (State Gazette of the Republic of Indonesia of 2014 Number 244), Article 236 stipulates in paragraph (1) to carry out Regional Autonomy and Co-Administration, Regions form a Regional Regulation. Whereas Paragraph (2) Regional Regulation as referred to in paragraph (1) is established by the Regional People's Representative Assembly with the joint approval of the Regional Head. And Paragraph (3) The Regional Regulation as referred to in paragraph (1) contains the following materials: a. implementation of Regional Autonomy and Co-Administration; and b. further elaboration of higher statutory provisions. And paragraph (4) In addition to the content as referred to in paragraph (3), the Regional Regulation may contain local content in accordance with the provisions of the legislation.

Based on the provisions of Act Number 12 of 2011 concerning the Establishment of Legislations, Article 1 point 7 that Provincial Regulations are Legislations established by the Provincial Regional People's Representative Council with the mutual consent of the Governor. Furthermore, in number 8 Regency/City Regional Regulations are Legislations established by the Regency/City Regional People's Representative Council with the mutual consent of the Regent/Mayor.

In the content of the Elucidation of Article 21 Paragraph (1) of Regional Regulation Number 7 of 2012 concerning

Waste Management, it is the responsibility of the Regional Government to provide land for landfill and manage waste in the landfill, because the Regional Government acting as a facilitator and service provider that is not owned by the community, because it is fully realized that the waste problem is not only the responsibility of the Government but at least from the responsibility of the Regional Government, there must first be good faith to prepare the infrastructure. This is followed by community participation and participation to build awareness and legal compliance of the community through the construction of local government policies that are built even though in the end public policy for land acquisition for landfills is not an easy problem to apply, in various cases there are often rejections when policies the land that has been determined will be used as the location of the landfill.

The community hardens the issue of rejection due to pragmatic reasons that the determination of policies by the Regional Government will cause the area where they live to be passed by garbage trucks with large capacities, causing traffic in the area to be dense and uncomfortable with the smell of garbage, as well as damage to road infrastructure. This condition results in a very dilemmatic position for the Regional Government in formulating the right policy formulation in overcoming the waste problem in urban areas. This fact emphasizes the most basic problem to translate legal norms through the process of building pro-people public policies, it is not easy, it must go through an integral-comprehensive-holistic approach as in the Environmental Law approach.

On another dimension, so far the Regional Government of Cirebon Regency in carrying out its responsibility for waste management has not been firm. In addition, the actions of the Regional Government to manage waste have not been maximized because the landfill that have been owned by the Regional Government of Cirebon Regency are all leased, and with the expiration of the land lease contract limit for the landfill caused by protests from local residents who reject the existence of a landfill. The community's refusal was due to the waste management policy carried out by the Regional Environment Agency so far only doing open dumping or just piling it up. Meanwhile, ideally the waste management in each landfill is a sanitary landfill system.

The implementation of the sanitary landfill system in waste management was only carried out at the Gunung Santri landfill in 2016, however, that landfill for waste has been closed since 2017 due to protests from local residents. The policy of the Cirebon Regency Government is as a form of legal responsibility for land procurement for the current landfill by renting land in the West Palimanan Village of 4.3 ha, after the landfill in Ciledug.

Waste management carried out by the Regional Government of Cirebon Regency in the procurement of land for final

disposal sites has not been carried out optimally due to several obstacles. These constraints affect the waste management process in Cirebon Regency and affect the performance and responsibilities of the Cirebon Regency Government. These constraints concerning the capacity of Human Resources (HR). Limited costs as well as the mainstay of the collection-transport-disposal pattern that has existed so far, have had an impact on the burden of being too heavy in the landfill in terms of land requirements and environmental pollution loads.

The aspect of community participation is very minimal because public understanding of the waste problem is solely the responsibility of the Government. This is caused by the lack of public awareness to be responsible for understanding the waste problem so that no real action is found to sort and separate household waste as a result waste disposal will continue to end up in the landfill. As well as the limited availability of land owned by the Regional Government, considering that the available land of the Cirebon Regency Government is no longer sufficient in number, to support various interests in land procurement such as landfills, the object of which is private land, whether owned by individuals, legal entities, as well as Indigenous Peoples, so that there will be a conflict of interest when on the one hand development really needs land as its main means. While on the other hand most of the community members also need land as a place of settlement and a place of livelihood.

Regarding the procurement of land for the landfill, many people refuse because people don't want the environment to be polluted, smelly and dirty. On the other hand, there is also a collision with the revision of the Regional Regulation Policy on Regional Spatial Planning because all forms of development activities must comply with the Regional Regulation on Regional Spatial Planning, while the Regional Regulation on the Regional Spatial Planning of Cirebon Regency is in the stage of change so that the Regional Government Cirebon Regency has not yet formulated a policy for the procurement of land for the landfill.

## V. CONCLUSION

The public policy of land procurement for the landfill as a form of public accountability for the Cirebon Regency Government based on the legal provisions of Regional Regulation Number 7 of 2012 concerning Waste Management as stated in Article 21 Paragraph (1) that the role of the Regional Government is as a facilitator and provider services that are not owned by the community. Waste management carried out by the Regional Government of Cirebon Regency in the procurement of land for final disposal sites cannot be implemented optimally due to several obstacles. These constraints affect the waste management process in Cirebon Regency and affect the

performance and responsibilities of the Cirebon Regency Government.

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