

The Impact Of Implementing Legislation For Individuals Who Commit Crimes In The Marine Environment Is Currently Being Assessed

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Abstrak: This research is entitled *Legal Sanctions for Perpetrators of Marine Ecosystem Crime* because they want to emphasize that everyone, both individuals and corporations, who commit environmental damage, especially marine ecosystems, must be responsible for their actions and be ready to face criminal sanctions in accordance with statutory regulations. This research uses normative juridical legal research methods, using three approaches: statute approach, conceptual approach, and case approach. The research materials used in this research are primary and secondary legal materials. In writing this article, deductive analysis was used to organize data and research. This method of investigation is based on general principles to explain specific events or general theories based on concrete facts. The aim of this research is to find and analyze law enforcement against individuals who commit violations of destroying marine ecosystems. The research findings indicate that countries are responsible for preserving marine ecosystems through effective regulation and law enforcement. However, the implementation of these regulations still faces challenges, such as limited resources and coordination among agencies. The study provides recommendations to strengthen the role of countries in preserving marine ecosystems, including enhancing institutional capacity, strengthening law enforcement, and forming partnerships with the private sector and communities.

Keywords : *Enforcement, Environmental destruction, Marine Ecosystem.*

INTRODUCTION

In a geographical context The Unitary State of the Republic of Indonesia, Indonesian people look at Indonesia as a residence as well as a means or a tool that unites the islands in one unified ideology, politics, financial, social and community for preservation and security. Possible Indonesia is a blessed country with wealth and natural resources what society considers to be a gift from God Almighty.¹

From Sabang to Merauke, Indonesia is an extensive archipelagic nation. The abundant variety of plant and animal life in Indonesia, found both on land and in the ocean, is the country's most valuable resource that should be conserved. Along with its large expanse of land, Indonesia also has many shorelines. As stated in Article 25A of the State Constitution Republic of Indonesia in 1945 (1945 Constitution of the Republic of Indonesia) that Indonesia is a country archipelago, this provision confirms that Indonesia has maritime territory

¹ Afifah Kusumadara, "Pemeliharaan Dan Pelestarian Pengetahuan Tradisional Dan Ekspresi Budaya Tradisional Indonesia: Perlindungan Hak Kekayaan Intelektual Dan Non-Hak Kekayaan Intelektual," Jurnal Hukum Ius Quia Iustum 18, no. 1 (2011): 20– 41

vast and divided into islands.² The Indonesian Sea consists of 2.7 km² of zone area Exclusive Economic Zone or EEZ and 3.2 million km² of territorial sea area, so according to UNCLOS 1982, Indonesia's total sea area is 5.9 million km.³ These coastal regions act as buffer zones between land and sea ecosystems, and are impacted by changes in both environments.⁴ The marine environment is a crucial natural resource on our planet, providing a diverse range of resources that humans can extract, gather, and exploit, such as seafood, different minerals, and petroleum products from various origins.

Indonesia's coastal regions harbor valuable natural resources and provide crucial environmental benefits for the developed coastal ecosystem. An estimated 150 million, or 60% of Indonesia's population, resides in coastal and surrounding areas. Additionally, 80% of Indonesia's industrial sites are situated in these coastal areas due to their convenient access to trade centers. However, the exploitation of natural resources in these regions poses a significant threat to ecosystem sustainability. Conversely, there are several areas where the potential resources are not being optimally utilized.

The environment has been affected by the growing amount of human activities, a consequence of development that neglects environmental sustainability. Global environmental issues are closely linked to inadequate environmental management.. The resources found in coastal areas and small islands encompass biological, non-biological, and environmental components. Biological resources encompass fish, coral reefs, seagrass beds, mangroves, and other marine life. Non-living resources consist of sand, sea water, and minerals found on the seabed. Artificial resources refer to infrastructure related to fisheries and maritime activities, while environmental services include the natural beauty and the surface of the seabed where installations are situated.

Marine ecosystems play a crucial role in maintaining the natural balance and supporting human life. The sea, as a plentiful natural resource, offers a range of benefits, including food, energy, and recreational activities. Nevertheless, human activities like pollution, overexploitation, and climate change pose significant threats to the sustainability of marine ecosystems.⁵ The destruction of marine ecosystems can have significant impacts, including the reduction of biodiversity, depletion of fish populations, and heightened vulnerability to natural disasters.⁶

The large number of activities under the sea, whether intentional or not, have affected the marine ecosystem, moreover these activities are exploitative activities with the aim of gaining profit. Which in the end can damage the marine ecosystem. Activities occurring at sea contribute to environmental harm, including sea transportation, oil vessel transportation, and offshore mining, leading to the degradation of the aquatic environment and beach aesthetics.⁷

Several factors causing damage to marine ecosystems include:

1. Tourists who dive touch or even take home coral reefs;
2. Throwing rubbish into the sea or on the beach;
3. Uncontrolled use of artificial fertilizers which results in chemical residues being carried into the sea;

²Indra, Mexsasai, Urgensi Pengelolaan Wilayah Perbatasan Dalam Kaitannya dengan Kedaulatan Negara Kesatuan Republik Indonesia. Jurnal Selat, 1 (1), 13-18, hlm 13.

³Lasabuda, Ridwan. (2013). Tinjauan Teoritis pembangunan Wilayah Pesisir Dan Lautan Dalam Perspektif Negarakepulauanrepublik Indonesia. Jurnal Ilmiah Platax, 1 (2), 92-101, <https://doi.org/10.35800/jip.1.2.2013.1251>, h. 92.

⁴ Pasal 1 ayat (2) Undang-Undang No.27 Tahun 2007 Tentang Pengelolaan Wilayah Pesisir Dan Pulau-Pulau Kecil

⁵ Halpern, B. S., Walbridge, S., Selkoe, K. A., Kappel, C. V., Micheli, F., D'Agrosa, C., & Watson, R. (2008). A global map of human impact on marine ecosystems. Science, 319(5865), 948-952

⁶ Barbier, E. B., Hacker, S. D., Kennedy, C., Koch, E. W., Stier, A. C., & Silliman, B. R. (2011). The value of estuarine and coastal ecosystem services. Ecological Monographs, 81(2), 169-193

⁷Ridwan Lasabuda, "Pembangunan Wilayah Pesisir dan Lautan dalam Perspektif Negara Kepulauan Republik Indonesia", Jurnal Ilmiah Platax, Vol.1-2 Januari 2013, hlm. 96-97.

4. There is still a lot of fishing in the sea using bombs and cyanide poisoning;
5. Deforestation in the sea and destruction of mangroves.⁸

When dealing with difficulties, the involvement of the state is crucial, especially in the preservation of marine ecosystems. The government has the power to create and implement regulations related to the management and conservation of natural resources, including marine ecosystems. Legal frameworks, at both national and international levels, serve as the foundation for the country to take essential measures in safeguarding marine ecosystems.⁹

To prevent damage to marine ecosystems, the government has issued other laws besides the Environmental Management Law. To regulate the management of coastal areas and small islands. The issuance of Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands, for example, this Law also stipulates criminal sanctions for anyone who damages marine ecosystems

The issues concerning maritime law are on the rise, despite numerous government policies being in place. These policies have not effectively addressed the existing problems, particularly in safeguarding the marine environment. The escalating harm to Indonesia's marine ecosystem is evidence of this. It is not a recent development, as media reports have consistently highlighted the damage occurring in Indonesian territorial waters. It appears that the government has failed in its duty to uphold and protect Indonesia's maritime areas from harm.

In order to address the challenges facing marine ecosystems, a range of legal measures have been created, at both the domestic and global scales. Domestically, multiple nations have established legislation and rules regarding the preservation and sustainable use of marine resources. For instance, in Indonesia, there exists Law Number 32 of 2014 on Maritime Affairs, which governs the sustainable management of marine resources.¹⁰

Has the enforcement of environmental law in Indonesia been effective, or is it rather ineffective and only serves as a topic for discussion in environmental seminars? What role does the law play in establishing justice in society? Why do these cases fail to result in the imprisonment of those responsible for environmental destruction? Is it due to the limitations of our laws or the lack of will among law enforcement officers, or does it indicate a deficiency in human resources? This encompasses the implementation of criminal law by law enforcement officers, with the broader goal of ensuring fair, consistent, and proportionate enforcement of the law.

METHOD

Based on the problems studied, the method used in this research is a descriptive method with a quantitative approach, which explains that descriptive research is research that provides as accurate a picture as possible about an individual, situation, symptom or particular group.¹¹ The approach method used is a normative juridical approach, namely legal research which prioritizes researching library materials or so-called secondary data materials in the form of positive law. The legal materials that are obtained, collected and compiled systematically are then analyzed and examined in relation to each other.¹² The normative juridical approach is intended as an analysis at a conceptual level of the meaning and intent of various national legal regulations relating to marine pollution as regulated in Law Number 32 of 2009 concerning the Environment, Law Number 32 of 2014 concerning

⁸ Meisha Poetri P,dkk, “ Penegakan Hukum Terhadap Pelaku Tindak Pidana Perusakan Ekosistem Laut”, Jurnal Ilmiah Galuh Justisi, Vol.10,No.2,2022,Hlm.256

⁹ Castree, N., Demeritt, D., Liverman, D., & Rhoads, B, A companion to environmental geography. John Wiley & Sons,2014

¹⁰ Djalal, H, Indonesia's Maritime Challenges and Priorities. The Jakarta Pos, 2015

¹¹ Masyhuri dan M. Zainuddin. Metodologi Penelitian Sosial dan Ekonomi, Teori dan Aplikasi. Penerbit Alfabeta. Bandung.2008, Hlm.8gg

¹² Soekanto, Soerjono. Penelitian Hukum Normatif. Jakarta: PT. Raja Grafindo Interparatama,2015,hlm.13

Maritime Affairs and Government Regulation Number 19 of 2009. 1999 concerning Control of Marine Pollution and/or Damage.

RESULTS AND DISCUSSION

Law Enforcement Efforts in Marine Ecosystem Crimes

Coastal regions and small islands have their own distinctiveness but are susceptible to conflicts of interest, economic and social challenges, as well as various environmental issues due to non-ecological resource management, which is essential for sustainability.¹³ We need to realize that the food we consume is one of the factors that causes damage to marine ecosystems, including food packaging, drink bottles, cigarettes and materials related to cigarettes. The most common forms and sources of waste are what we use for mobilization when crossing the sea and what we harvest from the sea. In the same way, trash and street debris flows into rivers through gutters and drains, then is transported from beach parking lots and dumped on the beach by beachgoers. Destruction and pollution of marine ecosystems can endanger the sustainability of the sea and coastal areas. As explained in article 5 paragraph (1) UUPLH. "Everyone has the same right to a good and healthy biological environment,"¹⁴ Controlling pollution and preserving marine ecosystems is crucial as pollution in the sea can limit its usability. It's important to understand that marine pollution doesn't just stay within the sea; the interconnected ecosystem of land and ocean means they affect each other. Our activities on land, whether intentional or not, have direct or indirect consequences on ocean ecosystems. Collaboration from the community, government, and stakeholders is essential for reducing, managing, and utilizing materials that could become marine pollutants in daily life. This is important because there are abundant marine natural resources that need to be sustainably managed.

Individuals who harm marine ecosystems within Indonesia's jurisdiction are targeted by law enforcement, and they consistently work together with relevant agencies, such as the Natural Resources Conservation Agency (BKSDA). Up to now, there has been no cooperation to address individuals who harm or destroy marine ecosystems in Indonesian waters. According to Law Number 7 of 2007 on the Management of Coastal Areas and Small Islands and Law Number 32 of 2009 on Environmental Management, Polair will initiate legal proceedings against those responsible for damaging marine ecosystems. Legal action will be taken by Polair if there are reports from the appropriate authorities or the general public.

Several efforts have been made to reduce the number of perpetrators destroying marine ecosystems, as follows:

1. Systematic Improvement of Law Enforcement Human Resources.
That the resources of law enforcement or water police in Indonesian territory must be increased in the event of criminal acts of destruction of marine ecosystems. This can be achieved by increasing understanding or knowledge through outreach to improve law enforcement performance, as well as by increasing the number of law enforcement personnel to speed up investigations.
2. Regular Counseling to the Community.
One way that can be done is to provide education to deal with criminal acts of theft and damage to protected marine ecosystems in natural resource conservation areas. The aim of the outreach is also to increase awareness of actors and the public about the importance of preserving the marine environment and sea coasts as a whole. Supervising and monitoring the condition of marine ecosystems and potentially damaging activities is a responsibility of the state. This can be accomplished through consistent research, monitoring, and an efficient reporting system.

¹³ Ambo Tuwo, Pendekatan Ekologi dalam Pengelolaan Sumber Daya Pesisir dan Laut, dalam buku Membangun Sumber Daya Kelautan Indonesia, IPB Press, Jakarta, 2013, hlm. 147.

¹⁴ Pasal 5 Ayat (1) Undang-Undang Republik Indonesia Nomor 23 Tahun 1997 Tentang Pengelolaan Lingkungan Hidup

The impact of implementing the law on individuals who commit crimes in the marine environment

Implementation of national legal instruments in preserving marine ecosystems still faces several challenges. One of them is the overlapping and unclear authority between government agencies involved in managing marine resources.¹⁵

The laws concerning environmental offenses involve rules and restrictions imposed on legal entities. If these are breached, individuals are at risk of facing criminal penalties, which can include fines and imprisonment. The primary objective is to safeguard the environment and its components such as forests, animals, land, air, water, and human beings. Therefore, environmental offenses encompass not only criminal regulations outlined in the UUPPLH but also those articulated in other statutes and regulations, provided that the provisions are designed to safeguard the environment in its entirety or its various parts.¹⁶

The comprehension of Marine Pollution Regulation Offenses. Indonesia, the world's largest archipelagic country, is abundant in coastal resources and is situated in the equatorial region with a tropical climate. Indonesia's extensive tropical marine environment possesses rich biological and mineral resources, providing a natural advantage crucial for the nation's future prosperity.¹⁷ However, coastal ecosystems in tropical climates are highly susceptible to pollution, and the majority of Indonesia's population resides in coastal areas, relying on the productivity of various coastal ecosystems for their livelihoods. Pollution in the marine environment largely occurs as a result of its introduction by humans, directly or indirectly, into the marine environment which results in adverse impacts such as damage to the sustainability of marine life so that these impacts are dangerous for human health, as well as disruption to marine activities including fishing. Marine pollution occurs due to human activities which have an impact on the continuity of the ecosystem of other living creatures. The regulation of marine pollution is regulated in article 1 point 11 of Law Number 32 of 2014 concerning Maritime Affairs, which states "Environmental pollution is the entry or entry of living creatures, substances, energy and/or other components into the environment by human activities so that they exceed standards environmental quality that has been determined."¹⁸

Environmental pollution according to Article 1 number 14 of Law Number 32 of 2009 concerning Environmental Protection and Management ("UU PPLH") is the entry or entry of living creatures, substances, energy and/or other components into the environment by human activities. so that it exceeds established environmental quality standards.

The Law number 32 of 2009 regarding Environmental Protection and Management details criminal regulations for different scenarios of environmental pollution. Although not explicitly stated, this law includes criminal provisions for marine pollution. The criminal provisions outlined in the Environmental Protection and Management Law are designed to address environmental pollution in any location. Regulations for violations of criminal acts of marine pollution are regulated in article 99 paragraph (1) of Law Number 32 of 2009 concerning Environmental Protection and Management, which states "Every person who, due to his negligence, causes sea water quality standards or standard criteria for environmental damage to be exceeded, shall be punished." with imprisonment for a minimum of 1 (one) year and a maximum of 3 (three) years and a fine of at least Rp. 1,000,000,000,- (one billion rupiah) or a maximum fine of Rp. 3,000,000,000,- (three billion rupiah) ."

There are several types of marine pollution, including:

- Oil spills
- Marine debris (marine debris)
- Dumping
- Industrial waste pollution

¹⁵ Satria, A. (2015). Politik Kelautan dan Perikanan: Perspektif Pemikiran Masyarakat Kecil Nelayan. Yayasan Pustaka Obor Indonesia.

¹⁶ Takdir Rahmadi, Hukum Lingkungan di Indonesia, PT. Raja Grafindo Persada, Jakarta, 2011, hlm. 221.

¹⁷ Siti Sundari Rangkuti, "Hukum Lingkungan dan Kebijakan Lingkungan Nasional," Airlangga University Press, Surabaya, 1996.

¹⁸ Menkumham, 2014, Undang-Undang Nomor 32 tahun 2014 tentang Kelautan

- Accidents of ships containing non-oil mines at sea.

Basically, every person who pollutes and/or damages the environment is obliged to counteract the pollution and/or damage and carry out environmental restoration.

Mitigating pollution and/or environmental damage is carried out by:

- a. providing warning information about pollution and/or environmental damage to the public;
- b. isolating pollution and/or environmental damage;
- c. stopping sources of pollution and/or environmental damage; and/or
- d. other ways that are in line with developments in science and technology.

Meanwhile, restoration of environmental functions is carried out in stages:

- a. stopping sources of pollution and cleaning up polluting elements;
- b. remediation (efforts to restore environmental pollution to improve environmental quality);
- c. rehabilitation (restoration efforts to restore the value, function and benefits of the environment including efforts to prevent land damage, provide protection and improve the ecosystem);
- d. restoration (restoration efforts to make the environment or its parts function again as before); and/or
- e. other ways that are in line with developments in science and technology.¹⁹

Challenges in Enforcing Laws for Criminal Activities in Marine Ecosystems

Enforcement of sanctions for those who harm marine ecosystems is often hindered by the limited assertiveness of law enforcement, stemming from their inadequate understanding. As a result, the implementation of laws against those causing harm to marine ecosystems is significantly undermined. Additionally, there is a compassionate aspect to the way law enforcement deals with individuals responsible for damaging the marine ecosystem. Insufficient public awareness about the importance of preserving the environment, especially in waste management and the preservation of marine ecosystems in coastal areas, poses challenges for the Biological Environmental Protection Law.²⁰

Even when law enforcement officials have a good grasp of the laws, specifically the Law on Management of Coastal Areas and Small Islands, they still rely on existing laws and their respective articles. Law enforcement officials are aware that damaging marine ecosystems is a violation within the realm of conserving biological natural resources and ecosystems. Nevertheless, law enforcement officials, particularly those within the Water Police, lack a comprehensive understanding of the law. Consequently, perpetrators who destroy marine ecosystems are not held accountable under Law Number 7 of 2007 concerning Management of Coastal Areas and Small Islands. Law enforcement officials in the Indonesian Maritime Police area need to be vigilant when applying legal provisions to address criminal cases related to the damage of marine ecosystems. Conversely, the coordination among law enforcement personnel is also not operating at its best. Essentially, effective law enforcement involves coordination among law enforcement agencies and the backing of other relevant entities, such as the BKSDA.

The strict observation and enforcement of law enforcement by the police must be emphasized once again. This is particularly important as law enforcement remains inadequate in a specific area of the Indonesian Air Police. Every legal regulation published in the State Gazette assumes that all citizens are aware of it and can face punishment for breaking the law. The challenge lies in determining the extent to which citizens are informed about these regulations, and whether all law enforcement officials are also knowledgeable about them. To ensure that both the public and law enforcers are aware of legal rules, it is crucial to disseminate them effectively.

The obstacles faced in enforcing Law Number 27 of 2007 concerning the Management of Coastal Areas and Small Islands are as follows:

¹⁹ Citarumharum, jabarprov.go.id, mengenal sanksi bagi pelaku pencemaran lingkungan, hlm 01.

²⁰ Maman Rachman, *Konservasi Dan Warisan Budaya Indonesia Journal Of Corsevasion* Vol.2, Nomor 1 Juni 2012 Hlm.31.

1. Police lack firmness.

The police's insufficient expertise in enforcing the law leads to their lack of assertiveness in addressing the destruction of marine ecosystems. They often shift responsibility to other agencies, even when both have interconnected duties and functions.

The primary responsibilities of enforcing the law as outlined in Law Number 2 of 2002 regarding the National Police of the Republic of Indonesia fall on the Police and BKSDA. Article 13 of the law explicitly states the main tasks of the Indonesian National Police;

- a. Ensuring security and maintaining public order
- b. Carrying out law enforcement
- c. Offering protection and services to the community²¹

In addition, BKSDA is assigned specific duties and responsibilities as outlined in Ministerial Regulation Number P.2/MENHUT-II/2007 issued on 1 February 2007 regarding the Establishment of Technical Implementation Units for Natural Resources Conservation. According to one of the duties of the Natural Resources Conservation Center, it involves "Supervising nature reserves, wildlife reserves, natural tourism parks, and new lands, as well as protecting wild plants and animals both inside and outside conservation areas."²²

1. Public awareness about the significance of marine ecosystems is lacking.

There is a lack of public awareness about the importance of environmental preservation, particularly in managing waste and appreciating the beauty of marine ecosystems in coastal and marine regions. An effective regulation or law is influenced by the level of public awareness and adherence to it. The compliance of the community with the law is a key indicator of its effectiveness.

Society's detrimental actions on coastal and marine resources are caused by three factors;

1. The sustainability of coastal and marine resources is threatened due to lack of awareness about the impact of activities. Society's ignorance about the destructive nature of these activities poses a threat to existing resources and may lead to various forms of environmental damage, including harm to coral reefs and mangrove forests.
2. The absence of other sources of income is a common issue. Several coastal and marine communities are already well-informed and conscious about the detrimental effects of destructive activities on their environment and livelihoods. Nevertheless, due to the lack of alternative means of survival, these communities continue engaging in activities that harm the environment.
3. Opportunities exist for conducting activities that may be destructive. Institutions or agencies still need to optimize their ability to organize and oversee regional resource management. The coast presents an opportunity for engaging in destructive activities.

CONCLUSIONS

In Indonesia, numerous laws and regulations govern the sustainable management of coastal and marine resources. Despite their existence, many of these regulations are not effectively enforced. This lack of implementation is attributed to ineffective law enforcement, sectoral egoism, and inadequate coordination between sectors. Supervision, guidance, and law enforcement continue to be in progress. The emergence of various environmental problems has been caused by a lack of strength. Environmental issues are exacerbated by the absence of supervision and enforcement of laws at both community and government levels. This lack of law enforcement tendency leads to more critical environmental damage. Pollution levels in different coastal regions are rising, which is unacceptable. One contributing factor is the inadequate monitoring of waste disposal practices. Moreover, in cases of law violations, the penalties given are often comparatively lenient in contrast to the extensive impact

²¹ Pasal 13 Undang Nomor 2 Tahun 2002 tentang Kepolisian Negara Republik Indonesia

²² Peraturan Menteri Nomor P.2/MENHUT-II/2007 tanggal 1 Februari 2007 tentang Organisasi Tata Unit Pelaksana Teknis Konservasi Sumber Daya Alam

caused, leading to an increased tendency to repeat the violations. The enforcement of Law number 27 of 2007, which deals with the Management of Coastal Areas and Small Islands in Indonesia's territorial waters, has not effectively dealt with those who damage marine ecosystems within Indonesian waters.

In addition to establishing regulations, the government has a duty to uphold laws concerning the protection of marine ecosystems. Enforcing these laws involves monitoring, conducting investigations, and responding to violations that occur.²³ This inefficiency is due to a lack of comprehensive understanding of the law, especially among law enforcement officers such as the Marine Police. In addition, there is insufficient coordination between law enforcers and related agencies, such as BKSDA, leading to less than optimal law enforcement. Furthermore, there is a shortage of law enforcement personnel during the supervision of marine ecosystem destruction in Indonesian territory. Law enforcers' understanding of legal regulations, particularly the Law on Management of Coastal Areas and Small Islands, primarily centers on the existing written laws and their contained articles. Even though law enforcers are aware that those who damage marine ecosystems are breaking the law in the field of Conservation of Biological Natural Resources and Ecosystems, there is a general perception that law enforcement officers, particularly in the Marine Police, have an insufficient understanding of this law. Consequently, the effective implementation of Law Number 7 of 2007 regarding the Management of Coastal Areas and Small Islands against perpetrators who harm marine ecosystems has not been achieved. In the enforcement of Law Number 27 of 2007 on the Management of Coastal Areas and Small Islands, the Indonesian maritime police faces challenges in dealing with those who cause harm to marine ecosystems due to insufficient personnel and lack of public awareness about the criminal nature of such actions.

To protect marine ecosystems, the state can collaborate with the private sector and the community. This collaboration can include engaging the industrial sector, non-governmental organizations, and local communities in conservation and educational initiatives.

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²³ Boer, B., Hangebruck, C., Neumann, T., & Sasmito, A. (2016). Promoting environmental sustainability through marine governance in Indonesia. *Journal of Environmental Science & Policy*, 15(2), 49-67.

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