

Structural gaps result in toothless law

Poor infrastructure and human resources have hampered the enactment of the 2009 Environment Protection and Management, law a minister says. Environment Minister Gusti Muhammad Hatta said it is easier to punish environmental criminals with the new law since it has more rigid procedures and mechanisms. The necessary systems to support it, however, are still absent.

“The last two years have been a transitional period for us. We have no environmental legal enforcement officials and only a limited number of judges in the country who possess environment-related knowledge,” Gusti said at a meeting to evaluate the law’s effectiveness. Before the law was enacted, the ministry recorded 33 violations against the environment, 21 of which were dropped. Violators in four of the cases were sentenced to prison terms, while another eight were put on probation.

After the law’s enactment, the ministry received 171 reports of environmental crimes, 42 of which have been, or are being, legally pursued, while the remainder have been returned to their regions of origin for follow up.

Most of the cases relate to mining and industrial activities. While one case involving a mining company is scheduled for trial soon, no one has as yet been convicted under the new law. Gusti said that building working partnerships with the National Police and the Attorney General’s Office is one of the ways in which his ministry is attempting to effectively apply the 2009 law.

Gusti, along with National Police chief Gen. Timur Pradopo and Attorney General Basrief Arief signed a memorandum of understanding (MoU) earlier this year on environmental law enforcement. In September 2009, the ministry signed an MoU with the Supreme Court, which stipulated that the Court would certify several judges in order to improve their understanding and knowledge of environment law, leading to all violation cases being handled solely by these certified judges.

Attempting to ensure the successful implementation of the law, the ministry also plans to involve the public by opening report centers in each of Indonesia’s 33 provinces.

“Alternately, people can report alleged environmental crimes by telephoning 0811932932, which will then be reported directly to the central government,” said the minister.

Muladi, the former governor of the Resilience Institute, said that political goodwill is highly important in order to ensure the law’s successful implementation.

He therefore suggested the Indonesian Chamber of Commerce and Industry (Kadin) should be involved in the law enforcement agencies’ partnership, which is charged with implementing the law.

“Kadin should be engaged as a directive body, free from any influences, in the partnership between the ministry, the National Police and the Attorney General’s Office, because environmental crimes also involve industrialists,” he told The Jakarta Post.

In addition to political goodwill, Muladi noted other important factors to effectively implement the law, such as strong regulations, supporting infrastructure and raising public awareness.

“The judges, too, must dare to take the side of the truth. Most judges are passive and reluctant to lay precedents. Environmental law will never be effectively implemented unless judges bravely pursue breakthroughs and do not take the side of violators for any reason,” he said. (msa)