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The Effectiveness of Regional Regulation No. 6/2012 on Waste Management and Retribution for Disposal or Sanitation Services

Linda Ariska Ambarsari^{1*}, Vera Rimbawani Sushanty²
¹lindaariskaambarsari@gmail.com, ²rimbawani@ubhara.ac.id
Universitas Bhayangkara Surabaya

*Corresponding Author: Linda Ariska Ambarsari
Email: lindaariskaambarsari@gmail.com

ABSTRACT

The issue of waste management in Indonesia is a persistent environmental issue. Waste is any unwanted material from human activities. Waste management means planned, comprehensive, and sustainable activities that include waste reduction and management. This research aims to examine the effectiveness of implementing Sidoarjo Regional Regulation No. 6/2012 on Waste Management. The research method used is the empirical method, which analyzes the law based on community behavior using field data, interviews, and observations. The results indicated that the implementation of Sidoarjo Regional Regulation No. 6/2012 on Waste Management has not been effective because some elements in the theory of legal effectiveness have not been complied with, such as minimal public understanding of the regulations, suboptimal law enforcement, inadequate facilities and infrastructure, relatively low public awareness, and cultural factors.

Keywords: *Legal Effectiveness, Regional Regulation, Waste Management*

INTRODUCTION

The population in Indonesia is growing fast, especially in urban areas. Due to the increase in population and their activities, the demand of people also continues to increase. These needs include basic, secondary, and tertiary needs. The rapid growth of needs makes people's lifestyles more consumptive. This lifestyle change creates many types of waste. According to Law No. 18/2008 on Waste Management, waste is the residue of daily human activities or natural processes in solid form.¹

The Indonesian Minister of Environment and Forestry, Siti Nurbaya, has stated that Indonesia still has a massive waste problem in 2020. She stated that the amount of waste produced in a year is around 67.8 million tons and it will keep increasing along with the population growth.² The amount of waste produced by Indonesian people causes serious problems, both directly and indirectly. If waste is not managed properly, it can cause negative impacts such as health problems; environmental pollution; air and water pollution; and damage the environmental scenery. Health problems from mismanaged waste include diarrhea, itching, and respiratory problems.

Waste is a major problem in Sidoarjo, East Java. In late 2021, the Griyo Mulyo landfill in Jabon sub-district was overloaded and temporarily closed. According to Surya news, the waste sent to Jabon landfill reaches 400-500 tons per day.³ The massive volume of waste has complicated the environment in the residential areas of Sidoarjo. Government and community must work together to overcome the waste problem to avoid negative impacts. Waste management must be systematically and structured. According to Law No. 18/2008 on Waste Management Article 1 point 5, waste management is a systematic, comprehensive and sustainable activity that includes waste reduction and handling. According to Article 9 of the Waste Management Law, district/city governments are authorized to establish waste management policies and strategies in accordance with national and provincial policies.⁴ Sidoarjo District has issued Regional Regulation No. 6/2012 that regulates waste management and fees for cleaning services. This regulation aims to improve public health, improve environmental quality, and use waste as a resource. However, there are still many people who do not dispose of waste properly, do not manage waste and do not comply with the regulation.

¹ Pemerintah Pusat Indonesia, *Undang-Undang (UU) Nomor 18 Tahun 2008 Tentang Pengelolaan Sampah* (Jakarta, 2008).

² Nunu Anugrah Kepala Biro Hubungan Masyarakat KLHK, *KLHK: Indonesia Memasuki Era Baru Pengelolaan Sampah*, 2020.

³ M Taufik, "TPA Jabon Sidoarjo Resmi Ditutup, Tapi Sanitary Landfill Belum Siap Dioperasikan," *Surya*, 2021, <https://surabaya.tribunnews.com/2021/11/03/tpa-jabon-sidoarjo-resmi-ditutup-tapi-sanitary-landfill-belum-siap-dioperasikan>.

⁴ Kementerian Hukum dan Hak Asasi Manusia, *Undang-Undang Republik Indonesia Nomor 18 Tahun 2008 Tentang Pengelolaan Sampah* (Jakarta, 2008), [https://peraturan.bpk.go.id/Home/Download/28462/UU Nomor 18 Tahun 2008.pdf](https://peraturan.bpk.go.id/Home/Download/28462/UU%20Nomor%2018%20Tahun%202008.pdf).

Many community activities violate Regional Regulation No. 6/2012, such as littering, dumping waste in prohibited areas, burning garbage on the roadside, not paying fees, poor waste management, and so on. The act of littering indicates that public awareness of the proper way to dispose of waste in their area is still low. As a result, open land often becomes a dumping ground, causing the environment to become dirty and unhealthy. This clearly violates Regional Regulation No. 6/2012 concerning waste management and sanitation service fees, especially Article 25 (E). According to Kristiyan in his research on the implementation of local regulation No. 6/2012 on Waste Management in Semarang City, it is known that the local government's intention for local regulation No. 6/2012 is to change the paradigm of waste management, which initially relied on the final approach, to a new paradigm of waste management that perceived waste as a resource that has economic value and can be used. The dynamics of the formulation of local regulation No. 6/2012 can be categorized as low dynamics or practically no dynamics. Because in determining the local regulation, there were no public opinions from the participants of the plenary meeting. After it was approved, the Draft Local Regulation (Raperda) on waste management was stipulated through Local Council Decree No. 27/2012 on June 28, 2012.⁵ While in Muhammad Andi Wahyudi's research on the Implementation of Waste Retribution Policy in Sidoarjo Regency against regional regulation No. 6/2012, it is known that the implementation of waste retribution policy in Sidoarjo Regency which is observed from 6 variables of Van Matter and Van Horn's analysis model, which are the size and objectives of the policy; human resources, finance and time; characteristics of implementing agents; attitudes of implementers; inter-organizational communication and activities; and the influence of the economic, social and political environment, there are still obstacles such as the non-achievement of waste retribution revenue targets, lack of public awareness and lack of retribution collection officers.⁶ This research aims to examine the effectiveness of implementing Sidoarjo Regional Regulation No. 6/2012 on Waste Management.

LITERATURE REVIEW

An Overview of Legal Effectiveness

Legal effectiveness is a concept that examines its effectiveness as a method of controlling the law in society. Legal effectiveness refers to the ability of a legal regulation to achieve its intended purpose, which is to create order, justice and legal certainty in society. In order to better understand this concept, let us further review the factors that affect it under Soerjono Soekanto's theory. According to

⁵ Kristiyan, "Implementasi PERDA Nomor 6 Tahun 2012 Tentang Pengelolaan Sampah Di Kota Semarang" (Universitas Wahid Hasyim Semarang, 2020).

⁶ Muhammad Andi Wahyudi, "Implementasi Kebijakan Retribusi Sampah Di Kabupaten Sidoarjo (Studi Pada Pelaksanaan Peraturan Daerah Nomor 6 Tahun 2012 Tentang Pengelolaan Sampah Dan Retribusi Pelayanan Persampahan/Kebersihan)," *Publika* 2, no. 3 (2014).

Soerjono Soekanto, legal effectiveness theory is the validity or invalidity of the law is determined based on 5 (five) factors, such following below:

1. Legal factor (legislation).
The clarity, comprehensiveness and relevance of laws to the needs of society are very important. Laws that are both ambiguous and irrelevant to real conditions will be difficult to implement and obey.
2. Law enforcement factors, that is, the parties who compose and apply the law.
It includes all parties involved in the formation, application and enforcement of the law such as police, prosecutors, judges and lawyers. The quality, integrity and professionalism of law enforcers are crucial in determining its effective and fair application.
3. Facilities that support law enforcement.
Adequate infrastructure and facilities are needed to support the law enforcement process. This includes court buildings, technological equipment, as and sufficient human resources. However, if the facilities are inadequate, the law enforcement process may be obstructed.
4. Community factors, which is the environment where the law applies or is applied.
Community awareness and participation levels in complying with the law are very important. If the community does not understand or support existing laws, then law enforcement will be difficult. Legal education and socialization of regulations to the community is an important factor.
5. Cultural factors, that is, the result of work, creation and taste based on human nature in the life association.⁷
Cultural values and social norms of society also affect legal effectiveness. Laws that contradict cultural values or norms that are already entrenched in society may be difficult to implement. On the other hand, laws that are in accordance with culture and norms will be more easily accepted and implemented.

These five factors interact and affect each other. Therefore, each factor must be considered and strengthened simultaneously to achieve optimal legal effectiveness. Some experts, such as Bronislav Malinowski, Clerence J. Dias, and Allot, have suggested theories of legal effectiveness. Bronislav Malinowski divided society into two types, such as modern and primitive societies. Modern societies rely on large markets, industrial specialization, and advanced technology.⁸ In modern societies, laws are created and controlled by competent

⁷ Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum* (Jakarta: PT Raja Grafindo Persada, 2019).

⁸ Soerjono Soekanto, *Efektivitas Hukum Dan Peranan Sanksi* (Bandung: Remadja Karya, 1985).

authorities, and laws are effective if they are able to prevent undesirable actions and address problems. The effectiveness of the law depends on the extent to these laws are understood and obeyed by society. Legal awareness and legal compliance are important factors that determine the effectiveness of the implementation of legal regulations in society. These two factors are interconnected, but not equal.⁹

Legal effectiveness concerns refer to various constraints and problems that may obstruct the efficient and fair implementation of the law in society. These obstacles can come from many sources, including the legal system itself, the behavior of law enforcers, societal conditions, and other external factors. These are some of the principal challenges to achieving legal effectiveness, such following below:

1. **Corruption and the Arrogance of Authority**
Corruption among law enforcers can undermine public trust and obstruct equitable and effective law enforcement.
2. **Insufficient Resources**
Limited resources, both human and financial, can constrain the operation and maintenance of law enforcement facilities and infrastructure.
3. **Social and Economic Inequality**
Social and economic inequality can affect access to access of justice and lead to discrimination in the application of the law.
4. **Rapid Social Change**
Rapid social changes, such as technological development and globalization, require quick and appropriate legal adjustments to remain relevant and effective.¹⁰

Strategies to improve legal effectiveness are the various efforts and procedures to ensure that the law can be applied consistently, equitably and efficiently in society. The aim of this strategy is to overcome existing obstacles and strengthen the legal system so that the law can function optimally in achieving its main objectives of justice, order and legal certainty. These are some of the main strategies to improve legal effectiveness, such following below:

1. **Legal Reformation**
2. **Legal Enforcement Capacity Enhancement**
3. **Technology and Infrastructure Strengthening**
4. **Public Education and Participation**
5. **Cultural Integration in Law**
6. **Equitable and Consistent Law Enforcement**
7. **Improved Access to Justice**

⁹ Galih Orlando, "Efektivitas Hukum Dan Fungsi Hukum Di Indonesia," *Tarbiyah bil Qalam: Jurnal Pendidikan, Agama dan Sains* 6, no. 1 (2022).

¹⁰ Ibid.

8. Monitoring and Evaluation.¹¹

Legal Awareness and Obedience

Awareness means a state of sincerity that comes from the conscience to recognize and implement something in accordance with its requirements. Legal awareness is defined as actions and feelings that come from the deepest human conscience and soul, both as individuals and as communities, to implement the legal principles.¹² The issue of legal awareness is one of the important aspects for the effectiveness of a law. The law is often referred to as corresponding to the legal consciousness of the community, which means that the law must follow the community's desire. In addition, a good law is a law that is in accordance with human legal sense.

In general, high legal awareness in society makes citizens more compliant with applicable regulations. On the other hand, if people's legal awareness is low, then the level of compliance with the law is also low. Basically, public legal awareness relates to whether a legal provision is known, understood, obeyed and respected. If people only know the existence of a legal provision, the level of legal awareness is lower than those who understand it and so on. Legal awareness in society can easily fade if there are behaviors or situations that provide greater benefits, both material and immaterial, by not complying with the law. In this case, personal interests are better accommodated by breaking the law, even though it harms the interests of many people. Legal obedience is also strongly influenced by whether the interests of the community in certain areas can be accommodated by the provisions of the law. In addition, obedience is highly dependent on persuasive efforts to institutionalize legal provisions in society.

An Overview of Law Enforcement

The law enforcer, or the person assigned to apply the law, has implemented their duties and obligations in accordance with the applicable law. The government as a state apparatus has established laws relating to waste.¹³ The main purpose of law enforcement is the realization of the objectives of the law itself, that is, justice. Law enforcement aims to improve order and legal certainty in society. This is conducted by regulating the functions, duties, and authorities of law enforcement agencies in accordance with their respective scopes, and based

¹¹ Tsania Rif'atul Munna and Arditya Prayogi, "Strategi Peningkatan Kesadaran Hukum Masyarakat Kelurahan Bligo Kecamatan Buaran Kabupaten Pekalongan," *JURPIKAT (Jurnal Pengabdian Kepada Masyarakat)* 2, no. 3 (October 22, 2021): 404–422, <https://jurnal.politeknik-kebumen.ac.id/jurpikat/article/view/645>.

¹² Naufal Akbar Kusuma Hadi, "Penegakan Hukum Di Indonesia Dilihat Dari Perspektif Sosiologi Hukum," *Jurnal Hukum dan Pembangunan Ekonomi* 10, no. 2 (December 29, 2022): 227, <https://jurnal.uns.ac.id/hpe/article/view/62834>.

¹³ Laila Afni Rambe and Muhammad Alwi Dalimunthe, "Efektivitas Peraturan Daerah Kota Padang Nomor 21 Tahun 2012 Tentang Pengelolaan Sampah Di Kelurahan Gurun Laweh Nan XX Kecamatan Lubuk Bagaluang," *POPULIKA* 9, no. 1 (2021).

on a good cooperation system that supports the goals to be achieved. Law enforcement is a process to enforce legal norms in reality as a guide to behavior in legal relations in the life of society and the state.¹⁴ Law enforcement is a process to realize the desires in law so that they become obligations and are obeyed by the community. According to Soerjono Soekanto, law enforcement is a process of realizing the desires in the law so that it becomes an obligation and is obeyed by the community. Law enforcement cannot be separated from human rights, but with the existence of special coercive tools (*bijzondere dwangmiddelen*) which are not meant to be physical coercion, but legal coercive tools regulated by statutory provisions such as arrest, detention, and confiscation.¹⁵

RESEARCH METHODOLOGY

This research used empirical research, which is an approach that depends on field data as the main source of information. The type of data collected consists of direct interviews with respondents and observations of existing situations in the field. This empirical research was chosen because it is suitable for analyzing community behavior related to the implementation of law in the context of social life in Kalitengah Village and Candi Village, Sidoarjo. The research focused on these two villages to obtain an in-depth understanding of the local context in the implementation of regulations on waste management and cleaning retribution. This research aims to analyze the implementation and effectiveness of Sidoarjo Regional Regulation No. 6/2012 on Waste Management and Retribution for Waste or Sanitation Services. This research will provide an overview of that regulation's success in achieving its objectives, such as improving environmental quality and village cleanliness. This empirical research approach is expected to make a significant contribution to the understanding of legal effectiveness in specific local contexts, and provide a solid basis for better policy recommendations.

RESULT AND DISCUSSION

Managing Waste in Sidoarjo

Sidoarjo Regency, located in East Java Province, is one of the main pillars of East Java's fast-growing capital city. Popular as a shrimp-producing city, Sidoarjo has 18 sub-districts, 31 urban villages and 322 villages, with an area of 714.27 km² and a population of 2,082,801 in September 2020. Population growth has led to an increase in waste volume, leading to overcapacity at Griyo Mulyo landfill in Kupang village, Jabon sub-district.

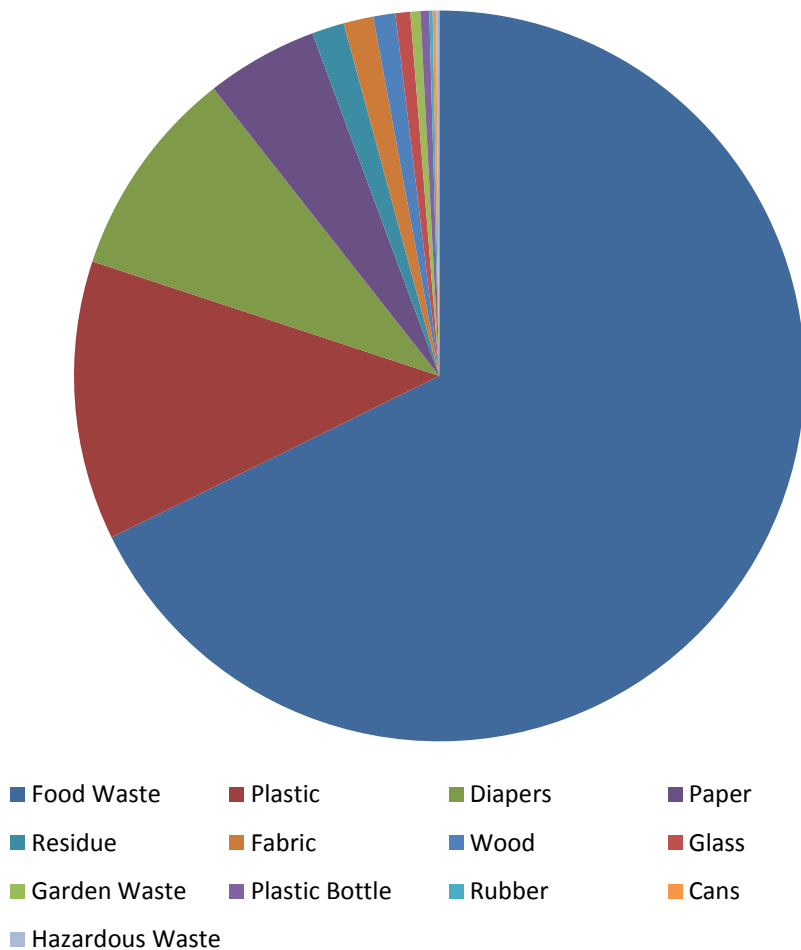
¹⁴ Martika Dini Syaputri, Nany Suryawati, and Kharisma Rafi'ani, "Legal Awareness of Food Delivery Restaurants Regarding Regulations on Reducing the Use of Plastic Bags," *JCH Jurnal Cendekia Hukum* 8, no. 2 (2023).

¹⁵ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: Rajawali Pers, 2015).

Table1. Classification of Waste in Sidoarjo

Types of Waste	Percentage (%)
Food Waste	67.73 %
Plastic	12.36 %
Diapers	9.33 %
Paper	4.95 %
Residue	1.43 %
Fabric	1.32 %
Wood	0.97 %
Glass	0.66 %
Garden Waste	0.44 %
Plastic Bottle	0.39 %
Rubber	0.15 %
Cans	0.15 %
Hazardous waste	0.14 %

Source: Processed Data by Sidoarjo Government (2021)



The most common percentage of waste generated is food waste. In this case, most wet waste is wasted. The subject, in an effort to reduce the volume of waste, does not understand and solve the problem of waste that has been generated. Many people in Sidoarjo are still littering, such as on roadsides, rivers or vacant lots. In rural areas, residents often collect waste in one place and burn it, which produces smoke that is not environmentally friendly and damages the soil. The development of Integrated Waste Management Sites (TPST) in each village has not been evenly distributed, so villages have not been able to effectively deal with waste. Despite various efforts to manage and reduce waste, the amount of waste in Sidoarjo Regency is still increasing every year.

Kalitengah is a village in Tanggulangin Subdistrict, Sidoarjo, consisting of 11 neighborhood groups (RW) and 63 residential communities (RT), with residents living in both villages and residences. Many migrants have affected people's perspectives, livelihoods and ways of socializing. Although the community is educated and receptive, waste management in Kalitengah Village still needs to be improved. This village is one of the villages used as the object of research by researchers. Therefore, the researcher conducted an interview with the Head of Kalitengah Village, Mrs. Iftatussolichah, on Monday, 26 September 2022 at 12.30 pm. Based on the interviews, it was found that waste management in Kalitengah Village is not optimal. The main problem is that residents dispose of waste in rivers, vacant land, or burn it. Waste management infrastructure is also inadequate because the village does not yet have an Integrated Waste Management Site (TPST), which is planned to be built in RW 3, far from residential areas. Since 2019 until August 2021, waste from Kalitengah Village has been managed at the Ngaban Village TPST. Kalitengah Village already has a non-organic waste bank in each RW, but segregation and other waste management are not yet running well. Socialization and education on waste management have been conducted by the Village Government in collaboration with various parties, but there is no follow-up or monitoring so that the community is reluctant to practice it. Regarding the rule of law, Kalitengah Village does not have a Village Regulation (PERDES) regarding waste, so violations are only sanctioned in the form of verbal and written warnings. The author also interviewed Mr. Jarot Santoso, Head of RT 3 RW 1, on Friday, February 3, 2023 at 19.30 pm. Residents in this area dispose of garbage on vacant land in a former factory and burn it once a week. They do not pay garbage fees because there is no garbage collector. Although each house already has a trash can, residents' awareness about waste management is still low, so waste often ends up being burned, damaging the soil and disturbing the respiratory health of local residents.



Figure 1. Interviews with Kalitengah Village Government and Local Residents
Source: Photos Documentary by Researcher



Figure 2. Environmental Conditions of Kalitengah Village
Source: Photos Documentary by Researcher

Candi is a village in Candi Sub-district, Sidoarjo, East Java, with some 6 neighborhoods and 20 neighborhood associations. The village is an economic hub with many large factories, which has led to urbanization and an increase in waste volume. On February 23, 2023, the researcher interviewed the village official, Mr. Abd Ghofur. Currently, Candi village only has one garbage truck from DLHK that is placed next to the PJKA railroad and transported twice a week, which disturbs environmental sustainability.

The Candi Village Government routinely provides waste management education with various parties, but public awareness is still lacking due to minimal facilities. Candi village only has one waste bank in RW 3. If there are residents who litter, a verbal warning is given. According to Ms. Nurul, a resident of Candi Village, this lack of awareness is due to the lack of TPST facilities, follow-up training, and village regulations on waste.



Figure 3. Interviews with Candi Village Government and Local Residents
Source: Photos Documentary by Researcher



Figure 4. Environmental Conditions of Candi Village
Source: Photos Documentary by Researcher

The Regency/City Office is led by a Head of Office who is accountable to the Regent/Mayor through the Regional Secretary. They implement regional autonomy and decentralization tasks. The office can establish branches and technical implementing units in sub-districts, which are led by branch heads accountable to the Head of Office and the sub-district head. The offices are classified into 3 type, such following below:

1. Type A: Government affairs with a heavy workload.
2. Type B: Government affairs with a moderate workload.
3. Type C: Government affairs with a light workload.

The Environmental and Sanitation Office (DLHK) of Sidoarjo Regency is a Type A office with a heavy workload based on Regional Regulation Number 11 of 2016. DLHK is responsible for handling environmental affairs with the vision “Towards an Environmentally Friendly Sidoarjo” and various missions, including preventing and controlling environmental pollution and damage, and empowering the community in environmental preservation.

DLHK’s duties include assisting the Regent in environmental affairs and assigned tasks. Its functions include policy formulation, implementation, evaluation, administration, and other tasks assigned by the Regent. DLHK’s

structure consists of four divisions: Environmental Planning and Pollution Control, Environmental Capacity Building, Parks and Street Lighting, and Waste Management.

DLHK Sidoarjo has various operational vehicles to support waste management services. On Monday, August 8, 2022, the author interviewed the Head of the Waste Management Division of DLHK, Ir Anas Budi Utama Nazir, S.P. The implementation of Regional Regulation Number 6 of 2012 on Waste Management requires implementation guidelines for villages/sub-districts and environmental enforcement assisted by the Environmental Task Force (POLSAM) consisting of 90 members. Due to a lack of human resources, village regulations (PERDES) are needed for waste management at the village level.



Figure 5. Interview with the Head of Waste Management Division of DLHK Sidoarjo

Source: Photos Documentary by Researcher

The obstacles faced in the implementation of Regional Regulation No.6/2012 on Waste Management and Retribution for Waste or Sanitation Services

Based on the researcher's interview with the research subjects, there are several obstacles in the implementation of Regional Regulation No. 6/2012 on Waste Management in Kalitengah Village and Candi Village, such following below:

1. Lack of Public Awareness: The awareness of the Sidoarjo community is low, so it needs to be increased with concrete actions to create a healthy environment.
2. Lack of Facilities and Infrastructure: Waste management requires adequate facilities from the local government, such as the construction of 3R TPS (Temporary Waste Storage) or TPST (Integrated Waste Management Site).
3. Lack of Law Enforcement: The importance of law enforcement for waste violations through the cooperation of the environmental task force (POLSAM) and Satpol PP, including strict sanctions to create a deterrent effect.
4. Lack of Waste Management Education: Waste management education for the community needs to be enhanced to understand the impact of waste and to initiate waste management.

5. No Benchmarks for Program Success: Education and socialization of waste management need to be followed by monitoring or program oversight to evaluate the program's success.

CONCLUSION

The implementation of Regional Regulation No. 6/2012 on Waste Management and Retribution for Waste or Sanitation Services has not been well implemented. Based on effectiveness theory and on actual conditions in the field, legal clarity is still lacking. The communities of Kalitengah and Candi villages do not understand and implement waste management regulations. In addition, village-level regulations have not been made to regulate and manage waste at the lower level. The Sidoarjo Environment and Hygiene Agency (DLHK) needs to improve law enforcement if there are violations. They should increase the number of Environmental Task Force (POLSAM) to monitor all areas of Sidoarjo and work together with the local police to impose sanctions. Due to inadequate facilities and infrastructure, Candi Village does not yet have an Integrated Waste Management Site (TPST), so it needs education and socialization with appropriate and useful end results. The education provided must always be monitored so that the community can manage waste independently. Another problem is the lack of public awareness to dispose of and manage waste properly.

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