

INVISIBLE VICTIMS IN INDONESIA: A CONCISE REPORT ON ENVIRONMENTAL POLLUTION*

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Even after death, we will remember what you have done to us.
W. Eugene Smith and Aillen M. Smith, in Minamata

*The cats that are lazy don't realise
the dirty rats.
They come to terrorise.
Being smart and false
The rats behave disgustingly.
Probably because the cats pretend not
to see.*
Iwan Fals (Indonesian Folk Singer)

'Invisible Criminals'

THE EXPRESSION 'INVISIBLE CRIMINAL' IS NOT FOUND IN CRIMINOLOGY. However, I propose to use this expression in connection with the changes resulting from the advancement of science and technology, and also with what the Germans call 'Umwertung aller Werte' or the collapse of values in social, moral and even in religious spheres.

From a criminological perspective, criminals do not want to be left behind by the changes and challenges of the age; they jealously join the race with the law. This race becomes worse if the criminals cooperate with the authorities, with resultant abuse of power in our community. In this context, the authorities are controlled or even steered by the

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'invisible criminal'. This 'invisible criminal', if seen through everyday spectacles, is an honourable citizen who rides in stylish cars and uses expensive perfume. And on his study table stands in an expensive frame a photograph of him together with authority figures, as confirmation of his special status, which would discourage tax officers.

The justice authorities seem to be hypnotised in this race. They claim that there has been only one real case of pollution—the Sidoarjo case—because this one was brought to court. However, the court dismissed the case. Meanwhile the situation regarding the Surabaya river, which may be approaching the severity of the terrible Minamata affair in Japan (*see* separate section in this paper), is almost disregarded.

Likewise, the case of the Indorayon Utama factory in North Sumatra, where the stench of pollution can be smelt 40 km from the factory, is belittled and the local people's concern is not given proper attention. The Association for Studying and Developing the Community (KSPPM) in Siborong-borong, North Sumatra, which has been officially established, is not allowed to operate any more by the local military district head.

It has also been said that the Bengawan Solo river has been so heavily polluted that it needs to be rinsed with the water from the Gajah Mungkur reservoir (*Surabaya Post Daily*, 3 September 1990). Evidently 'pollution is continuously threatening us' and 'poisonous elements are increasing' (*Jawa Pos Daily*, 31 August 1990). In *Jawa Pos* it is further stated that 'at least 62 industrial enterprises in and around Surakarta have been throwing their waste water into the Bengawan Solo river and polluting the water'. In Jakarta, the Governor has twice expressed his annoyance because factories are throwing their waste water into the Krukut river (*Merdeka Daily*, 8 September 1990). The *Suara Pembaruan Daily* (10 September 1990) reported: 'The pollution in the Mahakam river and Karang Mumus river is becoming more and more alarming'. The list of pollution incidents will not stop as long as the press is given the freedom to report about it.

It seems that law enforcement officials have forgotten the statement in Statute No. 14/1970 that besides upholding the law, we must also honour justice. Therefore, the classical idea that the law must be just needs to be questioned. In the case of Sidoarjo and Indorayon Utama, for example, it can be seen clearly that the law seems to be upheld but justice is disregarded.

It is no wonder then if people ask: 'Have the police and the public prosecutors carried out their duties well?' We observe from the cases mentioned that:

- the criminal law has been dominated by the administrative law with many undesirable consequences;
- it is essential for the definition of a criminal act in the law of environment management to be reformulated in a more exact and accurate way so that a meaningful law can be proposed;
- if this cannot be done soon, the police and the public prosecutors ought to use the law for economic crimes in facing environmental pollution problems.

'Invisible criminals' seem to be a specific phenomenon of the end of the twentieth century, and if the problems they cause are not handled strictly and immediately, they are likely to become worse.

Some may think that these 'invisible criminals' look like what Sutherland (1983) labelled 'white-collar criminals', and from a certain point of view, the opinion is not totally wrong. If we consider, however, their influences and their practices, and if we place them in the context of the new phase of accelerating economic development in which people expect to enjoy justice and prosperity, these 'invisible criminals' take on a new dimension.

In listing some of the more egregious examples of environmental pollution, I would like to refer to the report of the Communion of Churches in Indonesia (1989). This report specifically mentions the following instances:

- pollution in Porsea resulting from the establishment of a pulp and rayon factory, and forest-stripping;
- increasingly infertile soil and other environmental consequences resulting from forest-stripping in Kalimantan—funds designated for replanting of trees have disappeared;
- disturbance of the ecosystem in Maluku resulting from forest-stripping carried out to provide raw materials for plywood factories;
- lack of environment awareness everywhere, accompanied by the high use of plastic and tin wrappings which cannot rot, thus increasing environmental pollution;
- the desire to accelerate the production of agriculture has stimulated the excessive use of pesticides, which threatens the lives of other creatures, including human beings, through the pollution of ground water;
- social problems have resulted from the policy of some companies in employing underaged children as cheap labour;
- products rejected overseas as having undesirable qualities are freely sold in Indonesia;
- factory labourers in industrial cities are squeezed by their employers, who are trying to reduce production costs to the lowest rate;
- women labourers receive unjust treatment—no equal pay and very little work care and protection;
- rights are being ignored in the process of land release, especially in the government's providing land for the needs of communities;
- lack of capital among small-scale businessmen and the complexities involved in getting loans with low interests from banks or loan-giving cooperatives encourage money-lenders who charge very high interest;
- the need for foreign exchange has caused communities in tourist regions to disregard the rights of the local citizens to enjoy development and education;
- the need for skilled foreign personnel in many projects, often necessitates the foreigners' presence without their families, which can be socially disruptive;
- the policy of transmigration is often mishandled, so that many of the people resettled in underpopulated regions return to their original settlement. Similar problems flow from inadequate care of Indonesian guest workers sent to other countries;

- most projects, with complete infrastructures, are concentrated in Java, which causes urbanisation to increase and causes the construction attempts in regions outside Java to be neglected, especially because the best experts are gathered in Java;
- there is an unwillingness in communities to question the consequences of government policies, such as the selection of project locations and procedures for land-compensation;
- the rapid rate of economic development has led to social disruption in families and whole communities;
- the imbalance between population growth and the creation of jobs causes high competition for jobs and increases urbanisation.

'Invisible Victims'

We will not find the expression 'invisible victim' in the terms of victimology either and it is important not to confuse this phenomenon with victimless crime. In prostitution for example, there is an opportunity for the prostitute to choose to enter a business arrangement with the client: the woman is willing to render a service and the man is willing to pay the fee. In the context mentioned above, we can say that there is an agreement between both parties—between the criminal and the victim, if we insist on using the term 'victim' for this case.

In the case of the 'invisible victims', by contrast, there is no agreement at all. The 'invisible criminals' pretend not to know that there will be victims at all. In the case of Minamata, the Chisso company did not want to know or pretended not to know anything about 'victims', although the first clear case of what became known as 'Minamata disease' was reported in 1953. The Minamata affair is taken up here as an example and warning about how dangerous such negligence can be if a government does not take drastic action.

It should also be mentioned here that in the United States, Congress and the individual state legislatures have created thousands of new laws concerning the environment. And in handling dangerous environmental pollution, the twenty thousand attorneys who specialise in environmental law have become some of the most sought-after professionals in the United States. Furthermore, *Time* magazine of 12 March 1990 reported that 'the Justice Department now has twenty full-time lawyers working on such prosecutions, backed up by US attorneys and FBI agents across the nation, plus fifty criminal investigators at the Environmental Protection Agency'. It is indeed an example which should be given proper consideration.

We need to be aware that people's health is a precious asset of any country. What will happen to Indonesian people who cannot afford to have mineral water, which is in fact more expensive than gasoline? It is a fact that ordinary people drink water processed from the water of the Surabaya river, which may have been polluted by industrial and domestic wastes. Even though the authorities say that they continuously monitor the pollution, the people are still anxious. In Surabaya one can see, on certain days of the week, great amounts of foam in the river. The evidence of pollution speaks for itself, although there have been inspections carried out.

It is vital that we should be very cautious and should learn from the Minamata case (*see* later section in this paper). From this affair we learn that even experts and scientists can be silenced. The Government of Japan in fact warned the fishermen that they might get nothing

if they did not accept Chisso's offer promptly. It seems that even the Government of Japan could be steered by the 'invisible criminals'.

Invisible Crime

Two expressions are called to mind when considering the phenomenon of 'invisible crime'—'water never flows upward except when it is forced by a pump' and 'big dogs won't bite one another'. Together, these sayings go some way to explaining why most prison inmates come from the lower class of society. Those few from the upper class of the society have either committed such heinous crimes that they are intolerable to their friends, or alternatively they have been sacrificed by their friends because of the need for a scapegoat.

About 18 years ago, in a scientific lecture in the Faculty of Law in Airlangga University, I tried to describe a profile of a white-collar criminal. I wrote that:

many criminals of this time wear expensive suits and ties, seem to be obedient to the law, eager in giving to charities, and if necessary, become members of well known social committees, riding in luxurious cars, carrying out hidden crimes behind beautifully arranged speeches and politeness. They don't come from the poor and unrefined class of the society, they don't have large muscles like common gangsters according to Lombroso's picture of criminals. They often have handsome faces, their wives are generally beautiful, but they are 'saloon robbers' who are as wicked as robbers and murderers, but use other methods.

While for white-collar criminals I use the term 'saloon robbers', for 'invisible criminals' I use the term 'mass murderers'. If we seriously study the Minamata affair, for example, we will find how horrible and terrifying the consequences of their actions can be.

The Minamata Affair

The Minamata affair was not only horrible and terrifying, but also very poignant. The people of Minamata were fishermen who lived peacefully and tranquilly. Their lives were transformed with the establishment of the Chisso Corporation, which had begun as a carbide and fertiliser company (in Japanese, 'chisso' means nitrogen), but by this time was a petrochemical company and a maker of plastics.

The people of Minamata began to suffer from a strange disease which caused brain-damage. Eugene and Aileen Smith explain the phenomena of the Chisso-Minamata disease as follows:

The nervous system begins to degenerate, to atrophy. First, a tingling and growing numbness of limbs and lips. Motor functions may become severely disturbed, the speech slurred, the field of vision constricted. In extreme cases, the victims lapse into unconsciousness, involuntary movements, and often uncontrolled shouting. Autopsies show that the brain becomes spongelike as cells are eaten away (Smith & Smith 1975).

At first, this strange disease was thought to be infectious but even cats died after eating the polluted fish. It was in early 1956 that the disease took on the proportions of an epidemic, and finally became known as 'Minamata Disease'.

In July of 1959, a group from Kumamoto University reported that organic mercury was the cause of the disease. Many independent committees were formed. One met only four times, then mysteriously disappeared—it had been sponsored by the Japanese Chemical Association, of which Chisso was a member. Another committee reported bluntly that the cause definitely was mercury poisoning, and was disbanded the next day. Chisso used

many cunning methods to show that it really would clean industrial wastes, even though in fact it did not hesitate to bribe, buy, or silence experts and scientists. However, the truth could not be hidden indefinitely and finally the Japanese Government has to admit the bitter reality.

Tackling Pollution in Indonesia

In April 1988 in Jakarta, the Minister for Population and the Living Environment stated, among others things, that: 'the community needs to be involved actively in questioning pollution cases to bring forward suits to court'.

Can this good suggestion function in the 'sobural' (an Indonesian acronym for social values, civilisation aspects, and structural factors) existing in the Indonesian community? Last year, Minister Emil Salim from the Department of Population and the Living Environment named three large industries which had been polluting the environment and had been violating the Government's regulation. One of them had also been logging forests arbitrarily. People silently wonder if the Government cannot take proper actions against such violations, then who can? As I mentioned earlier, the Association for Studying and Developing the Community (KKSPPM) in North Sumatra, which had been unyieldingly fighting for the people's rights, was silenced and its activities were stopped by the local military district. This fact is surprising, ironic, and frightening.

Development of this country, especially the process of modernisation, will sooner or later bring with it unknown and unexpected consequences. Especially in a Third World country like Indonesia, which is working hard to establish a just and prosperous nation, development should always emphasise improving the welfare of the people without causing the people to suffer. Development should not bring prosperity to only a part of the nation, but rather should enrich all the people.

Our government has been working hard to improve the people's welfare, but all this work will not mean much if the people then suffer because their health is damaged by environmental pollution; especially at present, when there is not yet any law which can strongly support a 'class action'. We cannot even be sure if we can claim financial compensation for the people who have been injured by the consequences of environmental pollution. It seems that the people's welfare in connection with environmental issues is not regarded seriously.

Does environmental pollution disturb the Surabaya, Wonokromo, Awung, Jagir, and Brantas rivers only? The *Suara Pembaruan Daily* of 29 October 1988 reported, among others things, that 'the attempt to overcome pollution in the Bekasi river hasn't succeeded so far. The water of the river is still dark and bad-smelling, so it was said by the people who live along the river-side . . .'. It was further stated that '. . . they not only suffer because the water can't be used for washing and bathing, but also because there are no fish anymore . . .'. The regional Government of Bekasi has been asked to sue the owner of the industrial company which causes the pollution, but that has not yet happened. The *Kompas Daily* of 25 February 1989 spoke along the same lines: 'If not regulated, the tin mine in Bangka can pollute its environment'. I cannot list here all the reports about acts which, recognised or not, will ruin the country's future for the sake of the prosperity and greed of a few immoral people.

Can action be taken to save these rivers? Environmental pollution does not only happen in Java. The case of the Cavenagh river in Singapore is a very pertinent one for our purposes. This was an extremely polluted waterway running through the centre of Singapore. In the mid-seventies, the level of pollution was such that the Government of Singapore decided to take dramatic action to clean up this mess. Within ten years the stinking water, junk and garbage had all gone. The clean river is now a national asset, which

has become a recreation facility, and moreover it has a social and cultural function for the present and future generations.

Appeals to the people during political campaigns become empty slogans. Beautiful promises are just lip-service. So, it is not surprising that the newspapers only supply news about 'days of empty speeches'. The social gap, about which President Suharto has given many warnings, is answered by sharing only one per cent of the profit for the people's cooperation. It will do no good, if one hand gives honey while the other hand gives poison in the shape of environmental pollution.

Conclusion

This paper cannot of course cover all cases of environmental pollution in Indonesia. Through the cases which have been discussed, however, it is hoped that those who have the responsibility to take care of the people's welfare will be moved to take the measures needed to prevent the continuance of environmental pollution.

The present situation in Indonesia can be summarised as follows:

- the Indonesian government has been working very hard to improve the welfare of the nation and the country. However, it must be recognised that careless development may become the cause of environmental pollution;
- 'invisible victims' exist in Indonesia, as a result of careless development and resultant environmental pollution and damage, even though the number has not yet reached a dramatic level;
- to prevent the increase in the numbers of 'invisible criminals' we need a set of laws which are firm, clear, and which can be enforced honestly and with responsibility;
- in the near future the government needs to make a law for 'class action' and a firm, clear and practical law about compensation for the victims of environmental pollution;
- industrial methods and machinery which have been abandoned in Western countries because they cause environmental pollution should not be used in Indonesia;
- the courts should be oriented, for the sake of justice, towards the welfare of the people.

The writer hopes that this description of 'invisible criminals' and 'invisible victims' may give a sufficiently clear picture to motivate us to develop our talents and to fulfil our responsibility not only to our children, grandchildren and to our country, but especially as people who have faith in God, to the Creator of the universe who has shown His mercy and love to our fertile and prosperous country.

References

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