

How does Environmental Law View Sustainable Ecological Development in Indonesia?

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Abstract

The problem of natural resources and the environment has developed into a crisis experienced by various countries in the world, including Indonesia. The damage to the global environment that has a serious impact on the sustainability of human life and development must be addressed as early as possible, so that the effect does not spread to the growth cycle of future generations. One of the efforts that can be taken as a reaction to the current environmental management crisis is to start developing an environmental movement based on an ecological approach or sustainable development. This study uses a normative juridical approach, which is an approach that is based on legislation, by examining all laws and regulations related to the legal issue that the researcher is looking for, while the results of this study explain that the enactment of Law no. 32 of 2009 concerning Environmental Protection and Management (UU-PPLH) in Indonesia is a tangible manifestation of the government's and community's concern in realizing the welfare of the people, which began through the establishment of environmental law and is an instrument of state administration in the efficient management of natural resources. The concept of ecology which is based on the existence of legal order and values that requires policy changes in overcoming environmental crises or emergencies due to exploitation of environmental resources that ignores aspects of sustainability and environmental carrying capacity does require encouragement from all parties so that all management processes and the application of sanctions can be implemented. The sanctions can be realized in various concrete actions and actions, the environment as a forum for management policies various natural resources that exist, contain legal rules that are in accordance with the principles of Humanity is intended to optimize the benefits of natural resources (SDA) and human resources to be further harmonized in an ecological concept that is beneficial for human survival.

Keywords: *Environmental law, ecology, sustainable development*

A. Introduction

Environmental issues have become an important pillar in the discourse of development even since the early 1970s, even entering the late 2000s this issue is growing and very influential on the flow of various development policies both at the global and national levels. One of the important moments that puts the environment as a goal as well as a sustainable development framework can be found in the annual report of the United Nations where the concept of development is directed as a global political agenda by placing the role of the environment in a unified whole, because basically the main function of a development is prioritized to encourage sustainable



ecological programs and global justice. In this report, ³⁵ sustainable development is defined as development that will meet the needs of future generations of young people (Absori, 2019).

The management and protection of the environment is closely related to the welfare of the people, because in this concept there are good values that can be obtained by all groups and are able to make the best use of the wealth of natural resources. For this reason, in order to realize some of the instruments for the welfare of the people, environmental law is a mandatory administration that must be owned by a country because, in essence, environmental law is a guideline and norm for the protection and administration of environmental permits.

The Indonesian state itself has long experienced serious problems regarding pollution and environmental damage where the tragedy is increasing day by day. Environmental problems are still a challenge for all Indonesian people because they will involve the quality of life ³⁹ or future generations. Exploitation of natural resources and the environment has led to a worsening of the quality of the environment, especially natural resources that are owned, such as rampant natural damage, damage to ocean ecosystems, forest fires in several areas, floods that still occur everywhere and of course many more. natural phenomena caused by irresponsible human activities (Daties et al., 2021).

Environmental management demands the development of a system with integration as its main characteristic. So the process needs to involve a national policy that is directly supported by the government, especially in the comprehensive use of natural resources. For this reason, through legislation No. 23 of 1997 and later updated in the form of Law No. 32 of 2009 the Indonesian government officially has a legal entity that is specifically authorized to regulate environmental management and prioritizes aspects of environmental protection equally. The government directive is essentially to instruct all Indonesian people to use natural resources as much as possible for prosperity and welfare. In addition, aspects of modern development must be based on environmental management and the maintenance of a good and healthy ecosystem.

There are several characteristics of sustainable development as stated in Law no. 32 of 2009 above has the objectives of (1) Providing the possibility for survival and being able to preserve the functions and capabilities of the ecosystem that supports it, either directly or indirectly (2) Providing opportunities for all development sectors and other activities involved in it to develop in a sustainable manner. together (3) Increasing and preserving the ability of ecosystem functions to supply natural resources continuously 5. Using procedures and procedures that take into account the preservation of the functions and capabilities of natural resources to be further applied in a better life (Hakim, 2020).

Meanwhile, the 1945 Constitution mandates the government and all elements of society to protect and manage the environment, especially in the implementation of sustainable development, so that the Indonesian environment remains a resource and life ⁹ support for all Indonesian people. The 1945 Constitution includes (1) The economy is structured as a joint effort based on the principle of kinship (2) Production branches which are important to the state and which affect the livelihood of the people ³⁰ are controlled by the state (3) Earth and water and the natural resources contained therein

controlled by the state and used for the greatest benefit of the people's prosperity (4) The national economy is organized based on economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental insight, independence, and by maintaining a balance of progress and national economic unity (Jazuli, 2015).

Along with population growth, economic growth and the development of industrialization are increasing, the pressure on the utilization of natural resources is also getting bigger, in addition to the level of need and interest in natural resources is also getting higher. This can be seen from the various realities that we often face, such as land and forest clearing, mining activities, and exploitation of natural resources which continue to increase from year to year. Thus, some of these activities can actually threaten the existence of cultivated areas and protected areas to become extinct, while recovery and renewal will take quite a long time.

Sustainable development is a development process that optimizes the benefits of natural resources (SDA) and human resources as the main factor, to be further harmonized in an ecological concept that is beneficial for human survival. As explained at the beginning, sustainable development also has a goal not to damage and disrupt the environmental ecosystem inhabited by humans, and several other living creatures, then implemented with integrated and comprehensive policies and taking into account the needs of future generations. On the one hand, sustainable development also has a function as a development that maintains the sustainability of the social life of the community, development that maintains the improvement of economic welfare and development that maintains the quality of the community's living environment supported by governance that maintains the implementation of development that will improve the quality of life from one generation to the next to the next generation. One of the targets of sustainable development is to increase the application of care for nature and the environment in development, so as to improve the quality of the environment, which is reflected in the improvement of the Environmental Quality Index. So based on the description and explanation of the background above, researchers are interested in further researching environmental law in viewing sustainable ecological development in Indonesia.

B. Method

This study uses a normative juridical approach, which is an approach that is based on a piece of legislation, by examining all laws and regulations related to the legal issue that the researcher is looking for. The collection of legal materials is carried out through a literature study, where researchers classify all legal materials systematically and then relate them to the focus of the problem being sought. The next stage is the researcher analyzes the data that has been collected and then identifies it using theories, concepts and legal rules as contained in the framework of thought in order to provide answers to the identification of problems that will be concluded in a concept of sustainable development in Indonesia. The data analysis technique itself is divided into two parts, namely data analysis at the time of data collection and secondly after

data collection, while the data analysis used in this case is in the form of data reduction, data display and also data description until the conclusion stage (Junef, 2021).

C. Results and Discussion

1. Principles of environmental law in Indonesia

Environmental laws in Indonesia have been officially introduced since the early 1980s. These ideas are contained in Article 3 of Law no. 4 of 1982 concerning the basic provisions of environmental management (UULH), where part of its contents explain sustainable development for the improvement of human welfare, but the statement is reaffirmed through the contents of Article 4 of Law no. 4 of 1982 which states that one of the goals of environmental management is to implement insightful and sustainable development for the sake of future generations. So we can conclude that the descriptions of articles 3 and 4 state that the terms for environmentally sound development and sustainable development are in line with the ideals of the Indonesian people who want their people to live in prosperity together with sustainable environmental management (Kumurur & Nangoy, 2012; Achmad, 2021).

The emergence of several environmental laws is based on environmental damage in Indonesia, which is getting more serious day by day, even approaching the stage of endangering the survival of the ecosystem that lives in it. In fact, in essence the environment is a container that covers the order and values of life that will bring humans to the highest level of welfare. In addition, the environment must also be viewed and treated as a subject that is managed for a sustainable life, not merely for the growth of development which brings many disasters to humans and other living creatures. Environmental problems in Indonesia today are a big question mark, because this nation has always been known for its cultural diversity which highly values and upholds its customs and ancestral heritage, where in this cultured society, respect for nature and the environment is placed at the highest level.

As one of the most respected state principles by the Indonesian people, the 1945 Constitution is the legal basis that already exists and is in effect today. The law also obliges citizens to utilize natural resources and use them according to their needs, as mandated in Article 3 paragraph (3) which states that the earth, water, and the wealth contained therein are controlled by the State and can be used as much as possible for the prosperity and welfare of the Indonesian people. With the enforcement of environmental law that has been issued by the government, it is hoped that it can be used as a link in the cycle of environmental management and protection with the sequence covering legislation, setting standards, granting permits, implementing, and enforcing laws which will later be used as a way to arrangement of values that will provide protection and management of the environment. Therefore, in the enforcement of environmental law, of course, it must also be accompanied by instruments of certainty, benefit, and justice where the relationship between the three must bind each other (Pramono, 2011).

Environmental law also has links with state administrative/administrative law, civil law, and criminal law, of which the three are indeed the most commonly used law enforcement by the government in overcoming various environmental problems in Indonesia, but on the other hand the use of administrative law remains the most

dominant and has a stronger power. Administrative law enforcement here is indeed more binding on environmental damage and pollution, where each perpetrator will be given the appropriate punishment. The application of environmental law must of course be carried out optimally and thoroughly, in order to create a good, sustainable, beautiful environment and bring prosperity to all Indonesian people.

In addition, environmental law is also often considered as a juridical instrument for any environmental management and protection. Therefore, in every implementation of environmental law, the general principles of good governance will always be taken into account. The existence of these principles will provide a goal so that in every implementation of applicable policies and regulations it will not deviate from the objectives of environmental management and protection that have been set for the common good. Various environmental law enforcement processes involving applicable regulations are expected to bring about a major impact on human survival. Law enforcement is very necessary to realize sustainable development, especially in overcoming several cases of environmental damage that often occur in Indonesia such as forest fires, illegal land clearing, floods, landslides so that the environment can be managed properly and benefit future generations. For this reason, all aspects involved must be able to carry it out properly, especially for law enforcement officers so that the purpose of law enforcement can be achieved properly, namely realizing a sustainable environment and bringing prosperity to life (Purwendah, 2019; Prawira et al., 2021).

How important is law enforcement in environmental issues to realize sustainable development, it is necessary to have a balance that exists in the management and protection of the environment, which will be able to form a very harmonious component. Stability efforts towards balance, welfare, and harmony will greatly depend on humans. This happens because humans are part of the environment that is very dominant in influencing the environment. Where between humans and the environment will mutually influence each other. One of the most important and most influential ways is with strong law enforcement so that sustainable development goals related to environmental problems can be overcome in real terms.

Environmental law is oriented to solving environmental pollution problems, while the settlement of environmental pollution cases can be carried out by government officials or more concretely carried out by officials authorized to issue permits, such as government institutions or officials authorized to supervise, in this case the task is given to State Ministry of Environment (KLNH), Governor or Regent/Mayor. Supervision carried out by KLNH institutions, governors, regents/mayors includes supervision of compliance with the implementation of licensing requirements as well as aspects of administrative sanctions. If based on supervision by the agency or official giving the permit, it is found that there is a violation of the terms of the permit, the agency or official granting the permit can impose administrative sanctions to end the violation (Putri, 2020; Sidiq & Maulida, 2021).

Meanwhile, the legal basis for the application of administrative sanctions as a means of dealing with environmental pollution is regulated in the provisions of Articles 76 to 83 of the PPLH Law with the heaviest sanction being the revocation of a business license to operate. So with the administrative sanction, it will automatically stop or close a business or activity. Meanwhile, in the provisions of Article 78 of the PPLH Law,

administrative sanctions can be imposed together with criminal and civil law sanctions. If two types of administrative sanctions are imposed simultaneously, the process is called internal accumulation, then if administrative sanctions are imposed together with criminal sanctions or civil sanctions, external accumulation occurs.

2. Environmental pollution due to weak laws

The 1945 Constitution of the Republic of Indonesia states that a good and healthy environment is a human right and a constitutional right for every Indonesian citizen. Therefore, the state, government and all stakeholders are obliged to protect and manage the environment in the implementation of sustainable development so that the Indonesian environment can remain a source and support for life for the Indonesian people and other living creatures that live in it. Preventive efforts in the context of controlling environmental impacts need to be implemented by making maximum use of monitoring and licensing instruments. In terms of overcoming pollution and environmental damage, it is necessary to carry out repressive efforts in the form of effective, consistent, and consistent law enforcement against environmental pollution and damage that has occurred (Said & Nurhayati, 2020).

Explanation of Law no. 32 of 2009 concerning the protection and management of the environment, generally does explain the utilization of various legal provisions, both administrative law, civil law, and criminal law. Some of these legal provisions include the settlement of environmental disputes outside the court and inside the court. The explanation of the law above reads, the environment is a unitary space with all objects, power, conditions and living things, including humans and their behavior, the continuity of their lives, the welfare of humans and other living creatures. If referring to the United Nations Environment Program, environmental law itself is a set of rules that contain elements to control human impacts on the environment, environmental law is a functional law that contains aspects of public law and aspects of private law.

Article 90 paragraph (1) of the Law on environmental protection and management explains that government agencies and regional governments that are responsible for the environmental sector are authorized to file claims for compensation and certain actions against businesses or activities that can cause environmental pollution and damage. These losses arise due to environmental pollution or damage which are not private property rights, while certain actions are measures to prevent and overcome pollution or damage as well as restoration of environmental functions to ensure that negative impacts on the environment will not be repeated (Satmaidi, 2015).

Meanwhile, if referring to Article 1 number 4) in the protection and management of the environment (UU PPLH), the act of environmental pollution is the inclusion of living things, substances, energy, or other components into the environment by human activities so that they exceed environmental quality standards. life set by the government. Every act that violates the law in the form of pollution or environmental destruction that causes harm to other people or the environment, requires the person in charge of the business or in the form of other activities to be obliged to pay compensation or take certain actions. In addition to the imposition of carrying out certain actions in question, the judge may determine the payment of forced money for every day of delay in the completion of certain actions, the

determination of this provision is a realization of the principle contained in environmental law, namely the principle of pollution.

³⁸ The person in charge of the company or business activity and several other activities that have a major impact on the environment by using hazardous and toxic materials, must be absolutely responsible for the losses incurred by paying compensation directly and immediately at the time of pollution or environmental destruction. The person in charge of the business or activity may be released from the obligation to pay compensation, if the person concerned can prove that environmental pollution or destruction is caused by other activities such as natural disasters or wars, forced circumstances beyond human capacity, or third party actions that cause the occurrence of environmental pollution or destruction, then in this case the third party is obliged to be responsible and pay compensation (Siahaan, 2004).

In addition to being required to pay compensation, a judge or a judge may also be burdened by environmental polluters to take certain legal actions, for example an order to (1) Install or repair a waste treatment unit so that the waste complies with the specified environmental quality standards (2) Restore functions environment (3) Eliminate or destroy the causes of environmental pollution or destruction. Environmental protection and management is a systematic and integrated effort carried out to preserve environmental functions and prevent environmental pollution or damage which includes pollution, utilization, control, maintenance, supervision, and law enforcement.

The objectives of environmental management include achieving harmony and balance between humans and the environment, then the realization of the Indonesian people as environmental people who have the attitude to foster and protect the environment, ensure the interests of present and future generations, and achieve sustainability. ³¹ Environmental functions, controlled use of resources wisely and finally the protection of the Unitary State of the Republic of Indonesia against the impact of businesses and/or activities outside the territory of the country that cause environmental pollution and/or destruction. The environmental crisis occurs because human behavior is too exploitative and destructive and then does not care about nature and its surroundings, while one element of environmental pollution that is rife in Indonesia is caused by excessive use of natural resources (Sonjaya et al., 2020).

Exploitation or usually referred to as the use of natural resources that is carried out unwisely will cause various environmental problems. Such as coal, gold, and oil mining activities, where exploitation can cause natural changes, landslides and disrupt the life of other ecosystems that live there, and wildlife can also pollute the surrounding land, air and water. The lack of responsiveness of the government apparatus in dealing with environmental issues makes the utilization of administrative law very weak in its role. Therefore, through various measures and laws that have been created by efficient and effective institutions from the central to regional levels, it is hoped that professional will be able to immediately restore environmental functions to be more effective and efficient.

Monitoring or supervision of a business or corporation that intentionally acts on environmental pollution can of course be immediately punished according to the applicable laws and regulations, through a mechanism that is carried out systematically or planned by reporting the results to the relevant agencies and is open

to the wider community. From this description, it can be understood that the central government and regional governments responsible for the environment are authorized to file claims for compensation and certain actions against businesses or activities that cause environmental pollution or damage, especially those that result in environmental losses (Syaprih, 2013).

The application of administrative, civil and criminal sanctions in Law Number 32 of 2009 concerning Environmental Protection and Management, is intended to maintain environmental preservation, especially regarding compensation and environmental restoration as regulated in Article 87 of the UUPPLH. In accordance with Article 1365 of the Civil Code that acts against the law will incur responsibility for the person in charge of the business if they carry out elements of action such as an act of an element of error, a loss suffered, a causal relationship between error and loss, especially those that are contrary to the problem of environmental pollution. life.

3. Ecological development from a legal point of view

The purpose of the modern state is essentially to realize the welfare of the people and to give up some of their rights to be regulated by applicable legal provisions. The process of prospering the people themselves can be done with many things and activities, one of which is through sustainable development. Sustainable national development itself is interpreted as a joint effort between the people and the state to jointly improve themselves in a better direction. Therefore, the concept of sustainable national development must be based on a conscious effort from the community to achieve prosperity. However, the reality that is currently being faced is that national development cannot be realized in real life in daily life, besides requiring encouragement and aspirations from all parties, the process also takes quite a long time. The concept of sustainable development has become a popular concept and the focus of the international community since this approach was emphasized on the agenda of the Earth Summit in Rio de Janeiro in 1992. Almost all countries then use sustainable development as a benchmark for their development (Yusa & Hermanto, 2018).

Sustainable development is agreed upon as development that meets the needs of the present without compromising the right to meet the needs of future generations. It contains two important ideas, namely the essential need for the needs of human life, and the idea of limitations stemming from technological conditions and social organization on the ability of the environment to meet current and future needs. The concept of sustainable development itself is supported by three main pillars namely economic, social, and environmental, these three conceptions are absolutely necessary to achieve a sustainable development, for that in the process of establishing sustainable development, it must first be based on economic development, social development, and ecological development. The three sectors must synergize with each other and build a sustainable development. However, these three aspects will be more focused if accompanied by legal development to create a holistic development (Aufa, 2021).

In the concept of sustainable development above, it is formulated or interpreted as a development paradigm that protects the environment to meet needs. The environment as a resource, becomes a means to achieve sustainable development and is a guarantee for the welfare and quality of life of present and future generations. Sustainable development that places the environment as an integral part of the

dynamics of national development is the reality of the life of the nation and state. The Indonesian state has actually made sustainable development a national legal framework, this is proven by including the basic principles of sustainable development as the basis for making decisions in court, because the values contained in it are very much needed in the context of determining the formation of law. also in the formation of environmental law.

In Indonesia, the term sustainable development is officially contained in Law no. 4 of 1982 concerning Principles of Environmental Management. Even though at that time the term sustainable development was still used, the essence of the message of the Act was to prioritize sustainable, harmonious and balanced environmental management to support sustainable development for the improvement of human welfare. In addition to Law no. 23 of 1997 concerning Environmental Management, also regulates sustainable development as contained in Article point 3, namely sustainable development with an environmental perspective is a conscious and planned effort, integrating the environment into the development process to ensure capability, welfare, and quality of life. present and future generations (Mina, 2016).

There are five complete dimensions that must serve as guidelines and foundations for the concept of sustainable development, including integrating development issues with environmental issues which previously tended to be largely ignored, then development is not enough to be interpreted as merely economic growth, but also includes development in a broad sense and in-depth, among others concerning human development, the environment and the entire ecosystem that lives in it. Third, realize the limitations of technology and the environment to support the development process. Then emphasize the importance of social aspects, justice and democracy which are inseparable aspects of the environment, and finally realize the inequality of the situation that affects the differences in development goals and priorities developed between developing and developed countries.

Sustainable development adopted by the Indonesian nation itself is development that can meet the aspirations and needs of the wider community, without reducing the potential for fulfilling the aspirations and needs of the community and future generations. The government seeks to realize the concepts of sustainable development in various forms and implementations of environmental law, as contained in the UU-PPLH which has been officially ratified by the Indonesian government, in which there are several principles of sustainable development as an instrument of environmental protection and management. as a whole, includes (1) the principle of intergenerational justice is based on the natural resources that exist on earth to be used for their benefit as well as the beneficiary of the previous generation (2) The principle of justice in one generation which refers to the idea that society and the demands of life in one generation, has the right to take advantage of natural resources and enjoy a beautiful, clean and well-managed environment (Sagama, 2016).

In the context of the rule of law for the implementation of welfare in the environmental field, the government is required to be actively involved, because it involves a very broad public interest, so it cannot be denied that environmental law plays an important role in national environmental management. Environmental law has developed rapidly, not only regulating its relationship with legal functions as protection, control and certainty for the wider community but has evolved as a means

of sustainable development in a country. Environmental law also concerns the determination of the values that govern the environmental order and the laws that govern the reciprocal relationship between humans and other living things.

Sustainable development is not a fixed level of harmony, but in the form of a process of utilizing natural resources, investment directions, technological development orientation, and institutional changes that are consistent with the need for continuous renewal so that the sustainable development process will also rely on political will. national. However, apart from the above factors, the sustainable development process also relies heavily on three factors as its supporting facilities, including the condition of natural resources that can support the sustainable development process. For renewable resources, the processing process certainly requires a long time limit so that the development process that relies on non-renewable natural resources needs to be utilized efficiently and requires a development process that prioritizes the technological aspects in it (Sunaryo, 2013).

Then between the environment and natural resources there is a very close reciprocal relationship, because the higher the quality of the available environment, the higher the quality of natural resources that are able to support quality development, and the population factor is an element that can be capital or vice versa. become an element that gives rise to dynamics in the process of sustainable development. Therefore, the initial objective of development factors needs to be changed from factors that add to the burden of development to factors that constitute development capital. In realizing a sustainable environmental development program, one of the most important means and vehicles to be involved is environmental law, because in the process environmental law is indeed part of the conventional legal family in Indonesia. concerning the simultaneous and comprehensive implementation of national ecological development.

D. Conclusion

As we know that environmental law does have many links with several supporting aspects such as in the sectoral, administrative, criminal and civil law fields, then in interpreting it a multidisciplinary attitude is needed, the law can also be interpreted as a regulator in sustainable development, where the law can become a means to coordinate all existing interests, so that they do not conflict with each other. As stated in Article 13 Chapter 1V that everything related to the environment will be regulated through legislation, this has also been followed by the birth of Law Number 23 of 1999 concerning environmental impact analysis, then in Article 1 paragraph 3 The Environmental Law also emphasizes that sustainable development with an environmental perspective is a conscious and planned effort that integrates the environment including natural resources into a planned development process to ensure the capabilities, welfare and interests of future generations.

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