The Role of Environmental Legal Instruments and Government Policies in Realizing Sustainable Development in Indonesia

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Abstract

The increasing human needs have encouraged massive development in various countries, both developing and developed countries. In its progress, a development that is often carried out intersects with the environment. Also, various cases of pollution and environmental destruction due to development have been rampant. Therefore, a new paradigm in development is needed, which is contained in the concept of sustainable development. However, this requires the role of environmental law and government policies so that the goals of sustainable development can be realized. Sustainable development has the aim of balancing economic interests and environmental conservation so that the current development does not have a negative impact on future generations of humans. In general, the government has three types of policies in the environmental sector, namely, policies that are preemptive, preventive, and proactive. The writing of this law refers to a qualitative approach with a qualitative descriptive type of research. Through this research method, it is hoped that this legal writing will explain the role of law and government policy in realizing sustainable development in Indonesia. Research results show...
The goal of sustainable development is to realize the development and utilization of natural resources to improve the quality of human life, without compromising the welfare of future human generations.

A. Introduction

Sustainable development is defined as development that maintains the sustainability of the social life of the community, development that maintains an increase in the economic welfare of the community and development that maintains the quality of the community's environment supported by governance that maintains the implementation of development that will improve the quality of life from one generation to the next. One of the goals 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 in the Environmental Quality Index (IKLH).

Sustainable development is a development process that optimizes the benefits of natural resources and human resources, by harmonizing natural resources and human resources in development. But in practice it is still not well understood and therefore still shows a lot of confusion at the policy and regulatory level and has many symptoms in the order of its implementation or implementation.1 As a concept, sustainable development implies development that pays attention to and takes into account the environmental dimension, in its implementation it has become a topic of discussion at the 1972 Stockholm conference which proposed that development be carried out with due regard to environmental factors.2

The living environment is all the objects and conditions that exist in the space we occupy and affect our lives. According to the limitations theoretically, the space in question is not limited in number. As for practically the space in question, it is always limited according to the needs that can be determined.3

Humans and the environment are aspects of life that cannot be separated from one another. Both have essential essence in which there is interdependence and destruction. Human life on earth cannot be separated from its environment, as well as human life and other living things like animals and plants. Humans need other living things to meet their needs. So humans and others living things have a relationship with each other. Human life on earth cannot be separated from its environment, such as well as human life from other living things such as animals and plants. Humans need other living things to meet the needs meet. So that humans and other living things have a relationship with each other.4

This is the government’s responsibility, together with related parties, to always maintain the quality of human life in the future. The cause of environmental problems in Indonesia is the exploitation of natural resources compromising meeting the needs of future generations (United Nations, “Brundtland Report”, 1987). In addition, sustainable development can also be interpreted as a need to reconcile economic development, improving the quality of life, and the environment within a diverse political framework interconnected at the national and

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international levels. The definition of sustainable development is also emphasized in Law Number 32 of 2009 concerning the Protection and Management of the Environment, which states,

"Sustainable (environmentally-oriented) development is a conscious and planned effort that integrates environmental, social, and economic aspects into a development strategy to ensure the integrity of the environment as well as the safety, capability, welfare, and quality of life of present and future generations."

With the status of a developing country and geographical location in the tropics, Indonesia has a responsibility to balance development carried out for economic interests and efforts to protect and manage the environment. It is intended that the benefits of development can be felt by all generations of human life.

Sustainable development is expected to become a comprehensive development concept and present wisdom in utilizing natural resources in Indonesia. Therefore, sustainable development must be accompanied by the government's commitment to implementing the concept. The novelty of this research will make a significant contribution of enhancing the role of environmental legal tools and government policies in realizing sustainable development in Indonesia.

Environmental law is the main instrument in realizing commitment to the implementation of sustainable development. Enforcement of environmental law is carried out so that various human activities that intersect with the environment can comply with the provisions of the applicable law, both in the form of prevention and enforcement. Good environmental law enforcement can be a tool in efforts to preserve the environment. In practice, one of the legal instruments in carrying out sustainable development is Law Number 32 of 2009 concerning Environmental Protection and Management. The novelty of this research will contribute a new paradigm to the concept of sustainable development related to the environment as stipulated in Law Number 32 of 2009 concerning Environmental Protection and Management. The environment is very important for human life, but sometimes the consequences of human actions or deeds themselves can be detrimental to the preservation of the environment, especially for development that is oriented only towards economic interests. So that sustainable development as a new paradigm with the aim of realizing the development and utilization of natural resources in improving the quality of human life, without sacrificing the welfare of future generations of people who are also supported by comprehensive environmental law enforcement. Therefore, this article is expected to contribute in providing a paradigm for sustainable development towards environmental sustainability and provide input in determining policies towards environmental law enforcement.

B. Discussion

1. Sustainable Draft Development in Balancing Between Economic Interests and Environmental Preservation Efforts

In essence, the implementation of development and the environment has a mutually influencing relationship. Development aims to improve the quality of life and meet various human needs that are always increasing. In an effort to improve the quality of human life, as the goal of development, the ability of the environment to bring human life to a better level should be protected from damage. Environmental preservation seeks to avoid damage to natural

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ecosystems. In other words, if there is environmental damage, humans will face many difficulties in the future, meaning sustainable development will not materialize.

There are several aspects that need to be considered in implementing sustainable development, especially by utilizing renewable natural resources, namely:

1) Generations of people to come must continue to experience nature which is full of sources of well-being, so that it can give life to them;
2) Presenting a dynamic balance between the elements that exist in nature;
3) Utilization of natural resources must guarantee the preservation of the environment, which means that such utilization does not damage the occurrence of auto-regeneration of these natural resources;
4) Human life planning must be in harmony with environmental preservation and continue to realize physical, economic, social, and spiritual satisfaction.

In its implementation, there are 6 (six) targets to be realized in the concept of sustainable development based on Sutamihardja, namely:
1) Equity results development, utilization source Power natural for development life man must pay attention to reasonable limits in continuity ecosystem or system environment. Besides that, utilization should too source oriented _ Power natural replaced and minimized exploitation source Power natural No replaced.
2) Using sustainable environment life to ensure the quality of life stays Good for future generations, safeguards, and prevention of disturbance to the ecosystem is a must aspect held for realize matter the.
3) Wisdom in utilization source Power nature, activities economy must involve elements of sustainability.
4) Well-being community development must maintain-oriented well-being, fine for generations now and future generations.
5) Benefit development and management environment good life _ can benefit the present and future generations. _
6) Quality life, development sustainable own orientation for guard quality or quality life man between generation.

In the context of protection and management environment life, sustainable development can be called a draft base policy trying development for a harm balanced ecosystem. because it, through development sustainability, management source Power must be aligned with protection and development to give broad benefits _ for life humans. There are 3 (three) dimensions important to be a consideration in carrying out development sustainable, namely:
1) Economic dimension bridges macro and micro economic influences on the environment and how resources are treated in economic analysis.
2) The political dimension includes the political process in determining development schemes, population growth, and environmental degradation. This dimension also embodies the role of social structure and its influence on the environment.
3) The socio-cultural dimension that connects tradition to history with knowledge and patterns of thinking.

With the existence of a new model of economic development policy which is in line with the spirit to protect the environment to create a new measure of the direction of the movement of economic development which is continuously dynamic without regard to the important role

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of the environment itself. So that the policies made by the governments of various countries have become a positive trend. However, of course we must continue to pay attention to these policies and continue to pay attention to how far the success of the policies made so that the environment we live in today can continue to exist for our children and grandchildren. Maybe in the process, we can forget important indicators that can be key factors in efforts to protect the environment because we focus too much on the policy issues issued by the government itself. Environmental damage is the resulting impact on exploitative development on the environment in order to get as much profit as possible, apart from that the economic crisis is also another major factor in causing environmental damage caused by development that respects the environment as an important factor in the economic wheel. This economic crisis is felt by the community. So that psychologically people will certainly try their best to get out of the crisis, and tend to be recovered only on how to solve the problem without caring about the impact that will occur in the future. This is the challenge of how to change the paradigm of development which aims to prosper the entire community, without compromising the environment in which we all live. So that in the future people can enjoy natural wealth and prosperity, without having to rethink the problems they created when trying to get out of the economic crisis.\(^8\)

2. The Role Of Environmental Law And Government Policies In The Implementation Of Sustainable Development In Indonesia

Environmental law concerns the determination of the values that are currently in force and the values that it is expected to enact in the future and can be called "laws governing the environmental order". Environmental law is a law that regulates the reciprocal relationship between humans and other living beings which if violated can be subject to sanctions.\(^9\)

Environmental law is a whole regulation that regulates people's behavior about what should or should not be done to the "environment" whose implementation of the regulation can be imposed with a sanction by the competent authority.\(^10\)

Article 33, paragraph (1) of the 1945 Constitution states that "Earth, water and the natural resources contained therein are controlled by the state and used as much as possible for the prosperity of the people". The constitutional mandate obliges the government to manage and utilize natural resources to realize people's welfare. So it is natural for the government to carry out various developments and developments in various sectors of life. The development aims to improve the quality of human life so that a peaceful, secure, and prosperous life can be realized. However, in its development, various developments ignored regulations and impacted environmental conditions.\(^11\) If this continues, the environment in the future will no longer be able to withstand the various impacts resulting from pollution and destruction. The Indonesian government has issued Law Number 32 of 2009 concerning Environmental Protection and Management as the main environmental legal instrument to preserve the environment and realize sustainable development.

Law enforcement in dealing with environmental problems is synonymous with environmental law, which regulates an environmental order, covering all objects and conditions and the spaces in which humans interact with each other in their lives. Environmental law can also be referred to as a juridical instrument for every protection and management of the


environment. Therefore, environmental law always includes the General Principles of Good Governance (AAUPB). AAUPB has a goal that every implementation of applicable policies and regulations does not deviate from the provisions of environmental protection and management.

Broadly speaking, environmental law has a role in directing development so as not to ignore environmental sustainability, and to maintain the harmonization of natural elements and natural resources so that development can benefit present and future generations. In other words, the development in question is the management of natural resources to improve the quality of human life without reducing the ability of future generations to manage natural resources to improve their welfare.

In implementing sustainable development through Law Number 32 of 2009, instruments and tools to control environmental damage are needed. The instruments and tools to control environmental damage are:

1) Actions that are pre-emptive in nature, such as preparing spatial plans, preparing AMDAL (Environmental Impact Analysis) documents, preparing UKL-UPL (Environmental Management Efforts and Environmental Monitoring Efforts);
2) Preventive actions, such as monitoring environmental quality standards and implementing a corporate rating assessment program;
3) Proactive actions, such as ISO 14001 certification and self-initiated environmental audits.

Enforcement of the environmental law provisions above must be carried out strictly and comprehensively. This is because Environmental Law is the last process in setting environmental policy planning after laws and regulations, setting standards, granting permits, and implementing them. Sudharto P. Hadi (1995) said that environmental law enforcement must also be accompanied by strict sanctions for development implementers who are proven to have violated provisions in environmental preservation.

However, in the Law Number 11 of 2020 participation is significantly reduced. Law Number 11 of 2020 limits public participation by:

1) Limiting participating communities to only affected communities (Article 25 (c) and Article 26 paragraph 2)
2) Limiting the role of the community by only involving them in preparing the EIA (Article 26 paragraph 2)
3) Removing Article 38 of Law Number 32 of 2009 which provides for the possibility of canceling environmental permits through PTUN

The drastic reduction of public participation in the preparation of EIA is a threat to the integrity of EIA and environmental management. While the principles following by Rio declaration “environmental issues are best handled with the participation of all concerned citizens, at the relevant level”.

in practice, various government policies put economic growth above all else. Other sectors such as security, social, technology, education, culture and the environment are directed and must support this economic growth.

There are 9 (nine) important things related to natural resources and the environment, namely:

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1) Development of the environment is directed so that the environment can continue to function as a supporter and buffer for living ecosystems and the realization of dynamic balance, harmony and harmony between ecological, socio-economic and socio-cultural systems so as to guarantee sustainable national development;

2) Environmental development emphasizes increasing participation, social responsibility, and social organization;

3) Natural resources on land, sea and air must be managed and utilized for the greatest possible prosperity of the people in a sustainable manner by developing adequate environmental carrying capacity and capacity;

4) Emphasizes the role of government functional institutions and community participation;

5) The condition of land, sea and air ecosystems continues to be improved;

6) Utilization for the community in and around the ecosystem area;

7) Rehabilitation of natural resources and the environment whose functions are damaged and disrupted by increasing community participation;

8) Environmentally sustainable development aims at spatial planning that is in harmony with population development, spatial use patterns, land use, use of water, marine and coastal resources and other natural resources which are supported by other socio-cultural aspects as a management unit for natural resources and the environment harmonious and dynamic; and

9) Development of mutually beneficial bilateral, regional and international cooperation regarding the maintenance and protection of the environment, transfer of technology and so on.

Development that solely places economic systems and functions as a priority and leaves or ignores ecological, social and cultural functions will raise complex problems. These problems include ecosystem damage, environmental pollution and social conflicts. These three problems are no longer just threats in the future, but have occurred and are moving in a bigger direction, therefore the awareness to develop a balance of the four (4) functions (economic, ecological, social and cultural) must unite. with various more operational policy tools such as laws, government regulations, other implementing regulations and institutional and program development.

The extent to which the commitment built by the government is carried out by the government is still dynamic, because in order to achieve this harmony, genuine decentralization and community participation in the management of conservation areas must be developed, even though the development of decentralized management of conservation areas has not yet been seen explicitly.

The aspect of failure in formulating policies, especially policies (policy failure) for environmental management, can be indicated by the fact that there are still many non-holistic development policies, including the 1945 Constitution which do not touch on aspects of protecting the carrying capacity of ecosystems and environmental functions; policies on tenure and property rights that do not guarantee rights to indigenous peoples; centralized and uniform policies; and policies that do not support “open government”.

The Indonesian Center for Environmental Law (ICEL) in limited policy studies (policies produced by the transitional government in 1998-1999) in terms of natural resource management uses 8 (eight) benchmarks, including:

1) Empowerment, community involvement, and access public to information;
2) Transparency;
3) Democratic decentralization;
4) Recognition of the limited carrying capacity of ecosystems and sustainability;
5) Recognition of the rights of indigenous peoples and local communities;
6) Consistency and harmonization;
7) Clarity (clarity);
8) Implementability and enforceability.

Steps to prioritize environmentally sound development and sustainable development for all sectors are taken in every development policy in order to ensure balance and sustainability of the functions of natural resources and the environment in the future. Realizing conditions for sustainable management of natural resources and the environment is not an easy thing, partly because efforts to prevent over-exploitation which results in environmental damage are hampered by weak implementation of law enforcement. It cannot be denied that until now there have been no cases of environmental destruction that have received legal treatment in accordance with the people's sense of justice. Another obstacle that is felt is that there is still overlapping authority over natural resource management in interrelated sectors, and there is still a tug-of-war of authority between the central government and regional governments. Humanity's concern for the environment at this time has become a global concern in the context of the interests of the people's lives themselves. That is why the "United Nations Conference on the Human Environment" which was held in Stockholm from 5 - 16 June 1972 has emphasized that environmental management for the sake of preserving environmental capabilities is the obligation of all human beings and every government throughout the world. This Environment Conference encourages the Government of Indonesia to commit to directing development to achieve sustainable welfare improvements.

Sustainable development has become a big task for countries that are trying to improve the quality of life of their people. Sustainable development is a big concept, so in its implementation, it needs comprehensive support and supervision so that the goal of balancing economic and environmental interests can be realized. because _ that is, development sustainability No only becomes a task of government but also a necessary exists involvement society in it.

In addition to the several descriptions above, what is equally important is the government's focus on encouraging environmental law. Environmental law enforcement is the final process in the environmental regulatory cycle post-statutory policy planning, standard setting, licensing, and application.13

C. Conclusion

Humans and the environment are two natural elements that cannot be separated, and influence one another. Sometimes human behavior or activities have a detrimental impact on environmental sustainability, such as development that is only oriented towards economic interests. Even though the environment has a big role in environmental sustainability. Therefore, the existence of the concept of sustainable development is important as a solution to this problem. Sustainable development is a new paradigm in the development process of a country so that it pays attention to and takes into account the elements of environmental preservation. The goal of sustainable development is to realize the development and utilization of natural resources to improve the quality of human life, without compromising the welfare of future human generations.

In practice, sustainable development has a strong relationship with environmental law. Environmental law is the main means of providing provisions for environmental protection and management. In Indonesia, the main environmental legal means is contained in Law Number 32 of 2009 concerning Environmental Protection and Management. This law is the basis for the government to implement policies in the environmental sector, which include actions that are pre-emptive, preventive and proactive.

D. Suggestion

The future of the nation and state will be largely determined by the various policy choices made by the current government. For this reason, the government must take the following steps: prioritizing sustainable development of natural resources and the environment for the sake of long-term interests (the interests of our children and grandchildren); There is a paradigm shift in the management of natural resources so that any decisions taken will use a long-term perspective, prioritizing sustainable development; develop an integrated sustainable development program by taking into account technical, legal, fiscal, administrative, political, ethical and cultural aspects easy to implement.

References

A. Book


B. Journal


Hamid, MA. Enforcement of Environmental Criminal Law in Overcoming State Losses. Legal Pluralism, 6 ; 89. (2016).


**C. Regulation**

The 1945 Constitution of the Republic of Indonesia
Law Number 32 of 2009 concerning Environmental Protection and Management
Law Number 11 of 2020 concerning Job Creation

**D. Internet**