Sustainable Development Principles: Legal Aspect Disaster Management Policies

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Abstract

The earthquake, tsunami and liquefaction disaster resulted in casualties, environmental damage, property losses and psychological impacts. According to satellite image data obtained from the International Disaster Charter, the structural damage in Palu City due to the earthquake and tsunami reached 2,403 buildings. This caused the paralysis of Palu City from various aspects with a record of around 70,000 people were displaced. Palu city is one of the Central Sulawesi cities with a very high earthquake potential. Sustainable development is one of the most fundamental principles of international law relating to environmental preservation and development. The concept of sustainable development policy was first introduced in 1987 by the World Commission on Environment and Development (WCED) through its report entitled Our Common Future. In Our Common Future, sustainable development is emphasized as a development which can meet the needs of the present without compromising the ability of future generations to meet their needs. Thus, the concept of sustainable development is essentially fair in utilizing natural resources while still paying attention to the resource needs of future generations. After the disaster in Palu City, the Regional Government attempted to make policies to immediately restore the situation, both physical development in the form of facilities and infrastructure as well as non-physical or social restoration. For this reason, this study aims to determine whether government policies after the earthquake, tsunami and liquefaction are following the principles of Sustainable Development. This research is descriptive-analytical, meaning that this research is not only limited to an activity to collect...
and compile or explain primary, secondary and tertiary legal materials, but also to analyze them concerning legal theories and the practice of implementing positive law which concerns the problem (research object). The approach used in this legal research is an approach to various international legal instruments related to the object of research as well as to take a historical approach to these international legal instruments, to understand changes and developments in the philosophy that underlies the rule of law to facilitate the analysis of the object of research and the case approach, related to legal issues that will be examined in this study.

A. Introduction

The United Nation Conference on Sustainable Development is also known as the 2012 Rio Convention "The Future We Want" which calls for reducing disaster risks and building disaster resilience that must be addressed in the context of sustainable development and poverty alleviation which is integrated at all levels. During the last 20 years, major disasters have continued to occur when thousands of people lost their lives, millions of people were injured, homeless, met economic losses, lost families and thousands of people were displaced due to disasters, while women, children and vulnerable groups were disproportionately affected (BNPB 2019). Disasters which are mostly caused by climate change and, an increase in frequency and intensity, have allowed for significant progress in achieving sustainable development.

The principles of post-disaster Sustainable Development include: maintaining and improving the quality of life of inhabitants; increasing the vitality of the local economy; ensuring social and intergenerational equality; maintaining and improving environmental quality including disaster resilience and mitigation; and, minimizing the risk of a new generation of disasters resulting in significant losses to the economy, social, health, culture and environment in the short, medium and long term. A disaster is an event, or series of events, caused by both natural and non-natural factors as well as by human factors, that threatens and disrupts the life and livelihood of the community resulting in human casualties, environmental damage, property loss and psychological impacts. This definition states that disasters are caused by natural, non-natural, and human factors.

1 Sendai Framework for Disaster Risk Reduction, 2015-2030, National Agency for Disaster Management. P. 11
2 Vulnerability is defined in the Hyogo Framework for Action: "Conditions defined by physical, social, economic and environmental factors or processes that increase the susceptibility of a community to the impact of a disaster"
Seeing the current reality, various disasters based on geographical, geological, hydrological and demographic conditions have encouraged Indonesia to build a vision towards national resilience in the face of disasters. Indonesian territory is the largest archipelago in the world. The region, located between the continents of Asia and Australia and the Indian and Pacific Oceans, has 17,508 islands.

Despite the natural wealth and extraordinary beauty of the islands, the Indonesian people need to realize that this archipelago has 129 active volcanoes, also known as the ring of fire. The location is the meeting point of Indo-Australian, Eurasian and Pacific Plate, the world's three active tectonic plates. Being at the ring of fire and the confluence of three tectonic plates places this island nation at an ongoing potential threat by natural disasters. On the other hand, Indonesia's position in the tropics and hydrological conditions have triggered other natural disasters, such as tornadoes, extreme rain, floods, landslides and drought. Not only are natural disasters a threat, but also non-natural disasters often hit the country such as forest and land fires, social conflicts, and technological failures.

Geographically, Central Sulawesi is a province on the island of Sulawesi, which consists of 1 city and 12 regencies. The city of Palu is the center of government and the economic heart of Central Sulawesi province which was also affected by the earthquake that caused the Tsunami on 28 September 2018. 1,636 people died as a result of the incident, and according to satellite imagery data obtained from the International Disaster Charter, the damage to buildings in Palu city due to the earthquake and tsunami reached 2,403 buildings. This has resulted in the paralysis of Palu City from various aspects, with around 70,000 people being accommodated in the evacuation camps. According to the 2010 earthquake map of Indonesia, Palu is one of the cities with a very high earthquake potential. Disasters in Indonesia, whether caused by natural factors, non-natural factors or human factors, will cause human casualties, environmental damage, property losses and other psychological impacts.

Disaster management is an integral part of national development, namely a series of disaster management activities before, during and after a disaster. Disasters are typically only partially responded to by the national government, often with an emergency response approach. The central government, especially a regional government, is fully responsible for the implementation of disaster management, including a focus on post-disaster reconstruction and rehabilitation. Therefore, the law is required to be actively present to provide justice, benefit and certainty for the community.

The formulation of the problem in this research is in the form of the following question: Is the government policy after the earthquake, tsunami and liquefaction disaster following the required principles of Sustainable Development? This study aims to determine if the Government Policy after the earthquake, tsunami and liquefaction disaster is following the principles
of sustainable development. The Novelty of this research is the study creates a source of factual input for the government, particularly in building regulations in reference to disaster management and post-disaster development.

This research is normative juridical research. The research was conducted by analyzing library materials or secondary data, which includes:

a. Primary Legal Materials, namely legal materials that are authoritative in nature, including international conventions, declarations of the United Nations Economic and Social Council (ECOSOC), customary international law, principles of general law, especially those applicable to human rights, decisions of the International Court of Justice as well as the prevailing doctrine of human rights.

b. Secondary legal materials, namely materials that provide guidance and explanation in regard to primary legal materials, such as research results, scientific papers in the form of books, journals, papers or other literature whose content/substance is relevant to this research.

c. Tertiary legal materials, namely materials that provide instructions and explanations for primary and secondary legal materials, such as Black's law dictionary, encyclopedias and internet sites.

This research is descriptive-analytical, meaning that this research is not only limited to an activity to collect and compile or explain primary, secondary and tertiary legal materials, but also to analyze their legal theories and the practice of implementing positive law to legally treat the issue of research focus.

The approach used in this legal research is an approach to various international legal instruments related to the object of research. A historical approach to these international legal instruments, is added to understand the changes and developments in the philosophy that underlies the rule of law to facilitate the analysis of the object of research and the case approach related to the problem. The regulation that will be examined in this research. All collected secondary data will be analyzed qualitatively by using proven legal

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3 Soerjono Soekanto and Sri Mamuji, Normative Legal Research, A Brief Overview, Radja Grafindo Persada, Jakarta, 2006, p. 13. (translated by author)
4 Research in the field of international law refers to legal sources contained in the provisions of Article 38 of the Statute of the International Court of Justice as primary legal material, Peter Mahmud Marzuki, Legal Research, Kencana Prenada Media Group, Jakarta, 2005, p. 167.
5 The author assumes that what Peter Mahmud wrote as a statute approach can be interpreted, including the approach to international legal instruments, such as international conventions, considering this research is research in the field of international law, more clearly, see Peter Mahmud Marzuki, op. Cit., P. 95.
research methods to study and find answers to legal problems, then conveyed in the form of descriptive research results.\textsuperscript{6}

\section*{B. Discussion}

\subsection*{1. Sustainable Development Principle}

The concept of sustainable development is a development concept in the field of environmental management that arises and originates from the concerns by the world's countries for natural resource consumption and emerging environmental damage and pollution threatening the ongoing function of natural systems and their carrying capacity to support the interests of present and future generations. On modern concept, United Nations Conference on the Human Environment held in 1972 in Sweden. “Modern political” is possibly suggested because a United Nations scientific Conference on the Conservation and Utilization of Resources (UNSCCUR) was held in 1949 under the authority of the Economic and Social Council. It was scientific rather than policy-making and examined the shortages of mineral resource, fuel and energy and food and forest products. Yet, sustainability of environment was an issue as statements were made like: ‘the quantity of mineral products consumed between 1900 and 1949 far exceeds that of the whole preceding period of man’s existence on earth’.\textsuperscript{7} The proclamation produced by this Conference became known as the \textit{Stockholm 1972 Declaration}, which was the first world conference to make the environment a major issue. Since the 1980s, the political agenda for the environment began to focus on the sustainable development paradigm. The journey of the concept that sustainable development requires the conservation of living resources, rather than curing the damages of development, appeared in the \textit{World Conservation Strategy of the International Union for the Conservation of Nature} (1980). The United Nations General Assembly formed the World Commission for Environment and Development (WCED)\textsuperscript{8} in December 1983. The widely accepted definition of ‘sustainable development’ was developed

\begin{itemize}
\item[6] Soerjono Soekanto, Introduction to Legal Research, University of Indonesia (UI-Press), Jakarta, 1986, p. 69. (translated by author)
\item[8] The main tasks of WCED are as follows: 1). Propose a long-term strategy on environmental development towards sustainable development in 2000 and beyond; 2). Proposing ways for environmental concerns to be expressed in cooperation between countries to achieve harmony between population, natural resources, the environment and development; 3). Proposes ways that the international community can respond more effectively to environmentally sound development patterns, and 4). Propose ways that long-term environmental problems can be addressed in action agendas for the development decade.
\end{itemize}
for the first time in the WCED Brundtland report (named after the Commission's chairwoman, Gro Harlem Brundtland), *Our Common Future* (1987).\(^9\)

The limitations of sustainable development according to WCED are as follows: "sustainable development is a development that meets the needs of the present without compromising the abilities of future generations to meet own needs". Based on the boundaries of sustainable development given by WCED, in essence, the meaning of sustainable development defines, namely:

1) *The concept of needs, in particular the essential needs of the world’s poor, to which overriding priority should be given;*

2) *The idea of the limitation imposed by the state of technology and social organization on the environment is the ability to meet present and future needs;*

Then, in 1992 was a culmination of a political process at the Earth Summit in Rio de Janeiro, Brazil, when the sustainable development paradigm was accepted as a development political agenda for most countries in the world, among 178 nations. The constitutional basis related to the meaning of sustainable development can be found implicitly in the provisions of Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia which states the basic principles used as a basis for environmental policy: "The national economy is organized based on economic democracy with the principle of togetherness, efficient, equitable, environmentally sustainable, self-reliance, and with maintaining the balance of progress and national economic unity". Further, a good and healthy environment is the main consideration of Law No. 32 Year 2009 (UUPPLH).

In Indonesia, sustainable development is referred to as: "Sustainable Development that is Environmentally Friendly", formulated through a juridical definition. The definition of sustainable development is formulated as a conscious and planned effort that integrates environmental, social and economic aspects into a development strategy to ensure environmental integrity and safety, capability, welfare and quality of life for present and future generations.\(^10\) When these differences variables in the boundaries of sustainable development are combined with the concept of WCED, the concept of sustainable development can be given as a limitation to "development that rationally and wisely manages Natural Resources to meet

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the needs of the present generation without neglecting the needs of future generations”.

With this limitation, both the process and objectives of development remain measurable, so that development that justifies any means to meet the needs of the present and future generations, and rational and wise development takes place. In this case, environmental sustainability to support human life and other living things is one of the basic elements in the concept of sustainable development. Meanwhile, environmental sustainability will only be realized through eco-development. The concept of eco-development refers to regional and local consistency to integrate the potentials of the area involved with respect to natural resources use, technological ability and organizational forms that respect the ecosystems as well as social and cultural patterns.

The understanding of the concept of sustainable development contains very broad, integrative and comprehensive dimensions, not only containing physical-ecological dimensions, but also social, cultural, political and legal dimensions. The social, cultural, political and legal dimensions are very important and fundamental in the context of environmental management based on sustainable development for developing countries because the imbalance of these components is quite large. Thus, the concept of sustainable development is not static and deterministic (it cannot be changed) but is a dynamic and open concept that needs to be continuously studied and developed. The concept of sustainable development as a legal perspective is part of modern environmental law. It is interesting to observe some of the criteria for sustainable development produced by the Bali Sustainable Development Project (BSDP) Commission, which include aspects of culture and harmony or balance.11 Thus, from various descriptions related to the definition or limitation of sustainable development in the context of environmental management, it can be concluded the formulation of sustainable development contains two concepts, namely: first, the concept of needs, especially as the needs of the world's poor require priority handling; and, second, there are limitations on the ability of the environment to meet human needs now as well as to fulfil future needs.12 Besides, sustainable development is the concept of advancing integration between the protected economic, social and environmental components or aspects of sustainable

11 I Made Arya Utama, 2007, Op-Cit, Pg, 67-68. See also Bakti Setiawan, Basic Concepts and Principles of Environmental Management, Paper, (Semarang: Center for Environmental Research, Diponegoro University, 1999), pp, 11-12 (translated by author)
development, as pillars that support one another, depend on and strengthen one another.

2. Principles of Sustainable Development in Perspective Law No. 32 of 2009

Regarding Environmental Protection and Management, the inclusion of sustainable development principles in the management of Natural Resources and the environment in the Rio de Janeiro Earth Summit provisions, such as the principle of justice in one generation, the principle of early prevention, the principle of protecting biodiversity and the principle of internalizing environmental costs, has become an important reference for countries to protect natural resources and their environment from the threat of damage or pollution. According to Daud Silalahi, the principles of sustainable development will influence traditional legal principles which must adapt to the development of science and technology which brings new dimensions to the legal aspects of the development process. Developments bring new conditions and values that will affect existing values, both economically and socially, so that an adjustment process to new needs is needed. After the 1972 Stockholm Conference, the development of national development in the context of efforts to protect the environment through the formation of national legal instruments in the environmental sector showed significant progress.

3. The Principles of Sustainable Development with an Environmental Viewpoint

The principle of environmentally sustainable development, in essence, reflects a meaning laden with the hope of integrating the environment into the development process to ensure the capacity, welfare and quality of life of present and future generations. This principle becomes the philosophical foundation of national development, even though reality shows the intensity of environmental pollution and destruction still occurs and threatens people's lives and the environment itself. In line with these provisions, Emil Salim describes the development and the environment as follows: "Those environmental elements dissolve in development. The environmental element is not seen as separate from development as sugar is separated from tea water, but the environment is dissolved in sustainable development just as the sugar dissolves in sweet tea ".

Thus, this philosophy of the environment and development is related to

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the application of the principles of environmentally sustainable development in addition to prioritizing aspects of welfare and quality of life for the present and future generations. It also pays attention to the levels of the environmental carrying capacity in supporting human life and other living creatures.

Law No. 24 of 2007 concerning Disaster Management states in Article 9 (a) and (b) that the authority of local governments in implementing disaster management include: the establishment of disaster management policies in their regions which are in line with regional development policies; and, the preparation of development plans that incorporate disaster management policy elements. These provisions become the legal basis for the Palu City Government in formulating and making disaster management policies in regional development planning, especially post-earthquake, tsunami, and liquefaction disaster management policies.

Palu City regional development planning includes the Palu City Long-Term Regional Development Plan (RPJPD) for 2005 - 2025, the Palu City Medium-Term Development Plan (RPJMD) 2016-2021 and the Palu City Regional Development Work Plan (RKPD) for a period of time 1 year. Post-earthquake, tsunami and liquefaction disaster management policies were found to be contained/stipulated in the Palu City Medium-Term Development Plan (RPJMD) for 2016 - 2021 which has undergone amendments (P-RMJID) which were stipulated by the Palu City Regional Regulation Number 5 of 2018, Regarding the Amendment to the Palu City Regional Regulation Number 5 of 2016 concerning the 2016-2021 Medium-Term Regional Development Plan, (Palu City Regional Gazette of 2018 Number 5, Supplement to the Palu City Regional Gazette Number 5). This policy has also been outlined in the development strategy and policy in the Palu City Regional Development Work Plan (RKPD) 2020, which contains the strategy of accelerating rehabilitation and reconstruction after the Palu City disaster and this policy has become a priority for the development of Palu City in 2020.

The 2020 Palu City Regional Development Work Plan (RKPD) has integrated into the strategy the Palu City post-disaster rehabilitation and reconstruction plan, following the Decree of the Mayor of Palu Number 360/294.a/BPBD/2019 concerning Post-Earthquake, Tsunami Rehabilitation and Reconstruction Plans and Liquidity in Palu City 2019-2020, to accelerate the implementation of post-disaster rehabilitation and reconstruction in Palu City.

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15 Based on Article 3 Paragraph 3 of Law No. 25 of 2004 on the National Development Planning System
16 Regulation of the Mayor of Palu Number 13 of 2019 concerning the 2020 Regional Development Work Plan.
The policies of the Palu City Government regarding post-earthquake, tsunami, and liquefaction disaster management which are contained in the Palu City Medium-Term Development Plan (P-RMJD) 2016 - 2021 and the Palu City Regional Development Work Plan (RKPD) 2020, through this research, are studied with the principles of sustainable development. The principles of sustainable development are very basic principles related to environmental preservation and development.

According to Law No. 32 of 2009 concerning Environmental Protection and Management, the principles of sustainable development must be the basis and integrated into the Regional Medium Term Development Plan (RMJD). Therefore, in preparing the RMJD, the regional government is obliged to carry out a strategic environmental assessment (KLHS).

Strategic environmental assessment (KLHS) is an instrument containing a series of systematic, comprehensive and participatory analyses to ensure that the principles of sustainable development have become the basis and are integrated into the development of an area and/or policies, plans, and/or programs.\(^\text{17}\)

The results of a strategic environmental study have been carried out by the Palu City Government and integrated into the Palu City RMJD 2016 - 2020 and must re-implement the KLHS for the second time after the earthquake, tsunami, liquefaction disaster with the consideration that the earthquake, tsunami, and liquefaction had an impact for the environment\(^\text{18}\) and is influencing the economic, social, education, health, tourism, culture and public service sectors. This strategic environmental study will then become the basis and be integrated into the P-RMJD Palu City 2016 - 2020.

Thus, the policies of the Palu City Government regarding post-earthquake, tsunami and liquefaction disaster management are contained in the P-RMJD for Palu City 2016 - 2021 and are elaborated through plans to accelerate the implementation of post-earthquake rehabilitation and reconstruction of the earthquake, tsunami and liquefaction in each sector which is a priority for the development of Palu City in the 2020 RKPD of Palu City can be ascertained following the principles of sustainable development.

C. Conclusion

Strategic environmental assessment (KLHS) is an instrument containing a series of systematic, comprehensive and participatory analyzes to ensure that the principles of sustainable development have become the basis and are integrated into the development of an area and/or policies, plans, and/or programs. The results of a strategic environmental study have been carried out

\(^{17}\) Article 1 item 10 of Law No. 32 of 2009 on Environmental Protection and Management

\(^{18}\) Interview with Mrs Silvana, ST, Head of Section for Inventory, Planning and Studies, Environmental Service Hidup Kota Palu.
by the Palu City Government and integrated into the Palu City RMJD 2016 - 2021 and the KLHS must be implemented for the second time, after the earthquake, tsunami, liquefaction disaster, with the consideration that the earthquake, tsunami, and liquefaction had a significant impact on the environment affecting the economic, social, education, health, tourism, culture and public service sectors. This strategic environmental study will then become the basis for, and be integrated into, the P-RMJD Palu City 2016 - 2021.

Policies of the Palu City Government regarding post-earthquake, tsunami and liquefaction disaster management which are contained in the P-RMJD for Palu City 2016 - 2021 and are elaborated through plans to accelerate the implementation of post-earthquake rehabilitation and reconstruction after earthquakes, tsunamis and liquefaction in each sector, which is a priority for the development of Palu City in the 2020 RKPD of Palu City, can be ascertained following the principles of sustainable development.

D. Suggestion

Recommendations from the Results of Strategic Environmental Assessment (KLHS) should be used as the basis for the Palu City Government in making post-earthquake, tsunami and liquefaction disaster management policies and integrating them in the Amendment of the P-RPJMD Regional Medium Term Development Plan of Palu City.

The Government of Palu City in making policies for earthquake, tsunami and liquefaction management, especially regarding the post-disaster rehabilitation and reconstruction of Palu City, needs to include spatial data (geographic information system containing location information) to facilitate a comprehensive and valid KLHS.
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