

Environmental Management Law Policy in Indonesia Towards People's Prosperity

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ABSTRACT

The President of the Republic of Indonesia issued Presidential Decree No. 86 of 2020 of the Government Work Plan (RKP) in 2021 which is an annual development planning document prepared as a description of the second year of implementation of the National Medium-Term Development Plan (RPJMN) 2020-2024. In RPJMN 2020-2024 prioritize environmental development, increase resilience, disasters, and climate change. And it is set as one of the national priorities in the RPJMN 2020-2024. Therefore, a legal policy on environmental management in Indonesia was changed with the issuance of Law No. 32 of 2009 on Environmental Protection and Management that can provide good environmental management as well as environmental protection. The problem is environmental law policy which is how in environmental management after being implemented as an instrument of environmentally sound development. The research method used is normative legal research. The conclusion of this study is that the implementation of environmental law policies in Indonesia which has been applied as an instrument of environmentally sound and sustainable development since 1973 until now has not prioritized the creation of environmental quality and its implementation is still not real, this is because environmental quality considerations are often inferior to environmental considerations. existing economy.

Keywords: *Legal Policy, Environmentally Sound Development Instruments*

1. INTRODUCTION

Economic growth in support of improved human well-being directed at development policies. In this case there is often a race of economic growth that often results in the unexpected against the natural environment and the sausage environment [1]. The implementation of economic development often causes damage to the natural environment due to the exploitation of natural resources without regard to environmental conditions, so that the environmental situation is getting worse and various development problems in many areas are not principled in sustainable development policies. Damage to the environmental condition of the ecosystem caused by the business development of an area, a legal policy is needed that can improve the natural environmental conditions to the original. The definition of legal policy is an instrument that can serve as a rule or guideline in running the wheels of development in a country, so that it can be distinguished from each other. However, the public often see, but basically both have a function as instruments, which can be observed facing the implementation of environmentally friendly

development (Environmental/Eco Development) and Sustainable Development in the field of the Indonesian state environment. The WCED (World Commission on Environment and Development) definition of sustainable development is development that meets the needs of future generations without compromising current rights [2]. In development policy that is in contact with the environment requires a standard on Environmental Quality Standards contained in Article 15 UUPPLH. The aim is as a systematic and integrated effort to preserve environmental functions and prevent environmental pollution and/or damage which includes planning, utilization, control, maintenance, supervision, and enforcement of law enforcement [3]. Environmental law explains the need to involve the participation of the community in the management and protection of the environment both passively and actively. However, there is a very important problem that must be studied, namely how to implement environmental law policy as a tool for environmental and sustainable development [4]. And how the Indonesian government's policy on environmental law in the era of regional autonomy or decentralization, the relationship between regional

autonomy policy and law enforcement and violations of the environment and strategic policies of the Indonesian government against environmental law in the era of regional autonomy therefore, it is necessary to integrate environmental management plans and activities as a benchmark for evaluating the success of a development process. Indicators of the implementation of environmentally friendly and sustainable development can be observed from the realization of environmental policies, policies and laws that have been pursued and implemented in Indonesia [5].

2. METHODS

This research is a normative legal research based on literature and field studies in environmental law policy for the prosperity of the people [6]. The type of data in this study is qualitative data using field research data and literature, then analyzed by describing or conducting in-depth interviews with research subjects [7] to obtain research results and answer the formulation of the problem in this study by taking specific data using logical sentences and systematic so that the data obtained will be verified and calculated scientifically [8].

3. RESULT AND DISCUSSION

3.1. Environmental Law Policy

UUPPLH is expected to accommodate new developments in the field of environmental law and has the necessary flexibility to legal needs. The PPLH Law contains all aspects and basic provisions of environmental "management" which are used as the basis for further arrangements in dealing with increasing environmental pollution in the future and solving environmental problems through juridical channels which can then provide legal solutions in accordance with applicable regulations. Indonesian legal system. The nature of UUPPLH is a legal umbrella that contains many aspects. Some provisions of UUPPLH contain the principles of national and international environmental law that have implications for the development of national environmental law, namely [9]: First, the insight of the archipelago; Second, the right to a good and healthy environment; Third, the principle of pay polluters, Fourth, licensing system and administrative sanctions; Fifth, community participation; Sixth, Alignment; Seventh, Indemnification; Eighth, Criminal Sanctions [10]. The principles of environmental law are to raise environmental concerns in the UUPPLH and want a further review of the study in environmental legislation after the course of the UUPPLH order [11]. Material about the environment is very broad, the area of human resources, non hayati natural resources and biological natural resources. A field that is broad and may be broadly enticed in one law but up to the rule of law with a generalized direction and characteristics [12]. Thus,

there is a distance that the UUPPLH has the provisions of the main provisions only on the management and protection of the environment only. Some sectoral aspects are so important, so it is necessary to be based in the most critical national legislation on the management and protection of the environment for the prosperity of the people [13]. The nature of the environment which is broadly causing UUPPLH body of basic principles of environmental protection and management, so that the law is the legal umbrella for the regulations and provisions of other environmental legislation in order to be operational [14]. How difficult it is to develop a policy that has such a wide range of arrangements, ranging from the pouring of the subject matter, material systematics to the formal phase of enactment, reflected in the process of the formation of the UUPPLH. A problem arising from UUPPLH is about the understanding of the social environment. The concept of social environment as a sub-system of a comprehensive ecosystem needs to be described immediately, because in the management and protection of the environment operationally has legal implications that must also be synchronized with other concepts such as pollution, environmental impact analysis [15]. In addition, the social environment is necessary so as not to overlap with the authority between the Minister of State for Environment and various other government agencies. Although Indonesia already has a national UUPPLH, the government needs to be fully aware that various supporting facilities need to be prepared. The enactment of UUPPLH is very important, but formalities alone are not enough. A law provides an opportunity and still requires assurance of embodiment and success of a good environmentally sound development. Therefore, in facing the challenges and shared responsibilities for the prosperity of the people as stated in Article 33 of the 1945 Constitution, the Government is preparing environmental legislation in various fields related to the PPLH Law, which aims to realize various drafts of environmental legislation related to the prosperity of the people [16].

3.2. Realization of Environmental Policy

Environmental policy is a policy carried out by the government in the environmental field, which involves questions about what is to be achieved in environmental management, how the implementation of environmental management is carried out [17]. To answer all of this, a policy is needed, namely the Environmental Law because the Environmental Law has binding legal force. The formulation of environmental policy formulated and set forth in the 1945 Constitution will be a reference to the formulation of environmental policies set forth in the State Direction Outline /GBHN. The formulation of environmental policy formulated and stipulated in the GBHN contained in the MPRTAP will be a reference to the formulation of environmental policy stipulated in the law of environmental policy formulation of the linguist

policy stipulated in the Law will be reference to the formulation of environmental policy stipulated in the regulation of the government so on following the prevailing laws and regulations in Indonesia. In terms of regional environment, there are national environmental policies, about national and regional [18]. The formulation of environmental policy stipulated in GBHN, Law, Government Regulation, Presidential Decree and Ministerial Instruction is an environmental policy within the national territory, while the meeting in the Regional Government Regulation (PERDA) regional decisions, Instructions of governors, regents, mayors, is a policy within the scope of the region. International environmental policy is a policy formulated and established in the declarations and conventions of international environmental conventions. Environmental policy in the 1945 Constitution can be found in the opening of the 1945 Constitution Paragraph to IV which reads "then rather than to form an Indonesian government that protects the entire nation of Indonesia and all Indonesian blood ..." [19].

The above affirms the "Obligation of the State" and the Duty of the Government to protect all environmental resources for the happiness of all Indonesian people and all mankind. In other words, the country or government of Indonesia must organize the protection of the Indonesian environment with all elements of the "the person". The rationale is formulated more concretely that "Earth and water and the natural resources contained therein are controlled by the state which are used for the greatest prosperity of the people" (Article 33 paragraph 3 of the 1945 Constitution) [20]. The provision of "Treasury Rights" to the state, means giving the state the authority to regulate the patterns and procedures for the utilization of all elements of Indonesia's natural wealth aimed at the greatest prosperity of the people. The environmental policies contained in the 1945 Constitution are the constitutional basis, while those contained in The GBHN since 1973 until now is the operational basis that applies in Indonesia with the inclusion of environmental policies. Environmental policy in GBHN 1999-2004 is contained in Chapter IV Direction and Policy, letter Natural Resources and Living Environment. However, in GBHN 1999-2004, the matter of life's environment has been affirmed as one of GBHN's vision and mission; and in letter B. Economics has been included in the role of the environment. This vision and mission is the foundation, guidance and direction of GBHN to all high institutions of the country and the people of Indonesia [21].

The vision and mission of GBHN 1999-2004 related to the environment are as follows: GBHN vision: "the realization of a peaceful, democratic Indonesian society of justice competitive love of the homeland, legal existence and the environment mastering science and technology, ...". The main mission of the GBHN is to empower the community and all national economic

forces by developing a people's economic system that is based on a fair and equitable market mechanism based on natural resources and human resources that are productive, independent, advanced, competitive, environmentally sound and sustainable with natural resources. Natural Resources and Environment, especially for small entrepreneurs and cooperatives [22].

1. Managing natural resources and maintaining their carrying capacity for the welfare of the people of future generations;
2. Improving natural resources and environmental potential by conserving, rehabilitating and saving use, by applying environmental technology for the purpose of utilization;
3. In maintaining the quality of the economy as regulated by law, gradually the authority of the central government to regional governments can be delegated selectively in the field of natural resources and environmental management;
4. Empowerment of natural resources with the aim of the prosperity of the people as much as possible must pay attention to the preservation of the function and balance of the environment, development and sustainability, the economic and cultural interests of the local community, as well as spatial planning where the entrepreneur is tempted by law; and
5. Implement indicators that enable the preservation of renewable capabilities in the management of renewable natural resources to prevent irreversible damage [23].

Chapter V of the implementation method of GBHN, GBHN in 1999-2004 set by the MPR in the general session of MPR 1999, should be the direction of state governance both state institutions and all Indonesian people [24]. Therefore, it is necessary to set the method of implementation as follows:

1. The president as the head of state government, carrying out the task of organizing the government of the state, the obligation to exert all the potential and power of government in the implementation and ludicrous national development;
2. The House of Representatives, the Supreme Court, the Financial Supervisory Board, and the Supreme Advisory Council, are obliged to carry out this GBHN in accordance with its functions, duties and authorities under the 1945 Constitution;
3. All state high institutions are obliged to submit a report on the implementation of GBHN in the annual session of MPR in accordance with its duties, functions and authorities in accordance with the 1945 Constitution;
4. In the implementation of the Outline of the Direction of the State has been outlined The Five-Year National Development Program (Propenas)

which has contained all detailed and measurable policy descriptions that have been determined by the President as executive together with the House of Representatives; and

5. All of PROPENAS' five-yearly National Development Program is detailed in repeta's year-long plan that contains the State Budget and State Budget and has been determined by the Presiden and the House of Representatives [25].

Judging from the contents of the Outline of the Direction of the State can be known the policy of the Indonesian people through its deputy representative in the People's Consultative Assembly on Development that is insightful and sustainable. Regarding the environmental policy listed in the Outline of the Direction of the State has been a political will that urgently needs to be established, not only by the Government but also by the Institution of State Higher Institutions *laiya*. This is one of the most important changes from GBHN 1999-2004. The intended change is the use of the term *Repelita*. The contents of GBHN 1999-2004 have anticipated the enactment of Law No. 22 of 1999 on Regional Government that stipulates the environment as part of regional autonomy, as stated in Article 10 and Article 11 (2) which reads [26]:

1. The region is authorized to manage national resources available in the region and is responsible for maintaining environmental sustainability in accordance with the laws and regulations.
2. Regional Authority in the Sea region, as intended in Article 3, includes:
 1. Exploration, exploitation, conservation and management of marine wealth within the region;
 2. Administrative security arrangements;
 3. Spatial arrangements;
 4. Law enforcement to regulation issued by the region or bestowed authority by the government; and
 5. Assistance in the enforcement of the security and sovereignty of the country.
3. The authority of the District and the city area in the sea area, as intended paragraph (2) is as far as one-third of the sea boundary of the Province;
4. Further regulation of the provisions as referred to in paragraph (2) shall be stipulated by a Government Regulation [27].

Furthermore, Article 11 reads:

1. The Authority of the District and The City region includes all government authorities other than the authority excluded in Article 7 and which is stipulated in Article 9.
2. Government areas that must be implemented by districts and districts of the City include public works health, education and agricultural culture,

transportation, industry and trade, investment, environment, land, cooperatives and labor [28].

The environment as part of regional autonomy will give a change to the environmental management policy of which all environmental policies that tend with a top down approach will be able to switch to environmental policies that bottom up from the bottom people. Regional environmental openness is expected to be able to properly accommodate the aspirations of the community (people) and the urgent environmental interests of the region to be addressed, so that the bottom up approach becomes a reality, not just rhetoric [29]. Law No. 22 of 1999 has provided a legal basis for the implementation of a battom up approach in environmental management through environmental management through the empowerment of community participation as contained in Article 110 which reads:

"The District Government and/or third parties planning the development of the Village area into a *pemukinan* area, industry and services must include the Village Government and the Village Representative Agency in the Planning, implementation and Supervision."

The impact of other important changes, with the enactment of Law No. 22 of 1999 is possible that the exploitation of natural resources in the region to obtain a regional native income (PAD) of magnitude. In addition, there will also be a conflict of interest between districts in the management of the environment across districts. Based on the description above, treated the readiness of human resources (HR) that is able to do environmental management appropriately and correctly, and has moral, ethical and legal and environmental awareness, so as to be able to manage the environment properly and stick to the principles of environmental policy right. Only human resources with such qualifications will get a good environmental policy starting from the policy formulation phase to the implementation/implementation and evaluation of its success that is environmentally sound and sustainable. This is to avoid the side effects of the enactment of law No. 22 Year 1999 that the local government is able to explore its natural resources only to pursue the highest native income area regardless of the environmental support capacity [30]. Some of the principles of environmental policy known and applicable in the Netherlands can also be used as a reference for environmental management policies in Indonesia, which include:

- a. The principle of indnation at the source
- b. The best practical means
- c. The principle of polluters paying
- d. The principle of preventing
- e. Principles of regional differences

- f. The burden of proof is reversed.

3.3. Implementation of Environmental Policy and Law.

Environmental policy in Indonesia since 1973 can be used as an indicator of a country that has implemented and has implemented environmentally sound and sustainable development, as well as in environmental law, environmentally sound and sustainable development has been implemented and implemented in Indonesia since the promulgation of the Law. Law No. 4/1982 concerning the Basic Provisions for the Management of Environmental Life. The principles, objectives, and basics of environmental management according to Law Number 23 of 1997 are regulated in Article 3 which reads [31]:

“Environmental management organized on the basis of state responsibility, sustainable principles, and benefit principles aims to realize sustainable development and environmentally sound in the framework of sustainable sustainability that is environmentally sound in the framework of the development of the whole Indonesian people and the development of the entire Indonesian community who have faith and believe to God Almighty”.

If we see that in article 3 and article 4 is essentially the substance of environmental management policy and at the same time as part of the substance of environmental law basically aims to create a healthy quality of the environment, beautifully clean and safe. Thus, the quality of the environment should appear as a parameter of development success in Indonesia. In environmentally sound and sustainable development, the economic size in the form of high per capita income, is not only the only benchmark or parameter of development success, but still must be added to other measures, such as health, education, and environmental quality. Development that only attaches importance to economic benefits will generally result in exploitation or covert extortion of natural resources and human resources. Therefore, the connotation of development is no longer solely seen as a matter of improvement especially to the economic structure of a society, such as the creation of prosperity, but also the question of how prosperity is thought, for the benefit of who and why. Thus, if assessing the success of development that has not set parameters for the quality of the human environment, then the implementation of environmental policies and laws as an environmentally sound and sustainable development instrument must still be in the formulation and socialization phase, because it has not yet reached the actual implementation phase for growth. which must be measured based on improving the quality of life of the community.

It appears that from the various implementations of development, the most in contact with environmental interests, especially the economic and industrial fields, which only prioritize the success of physical development, such as increasing the number of factories, buildings and bridges built, while the negative impact of development on the environment is often indifferent. Until now there are still frequent cases of environmental pollution caused by industrial activities even often some industries are filed to the court because it is accused of being a party that pollutes the environment. But what is the government's policy in resolving environmental pollution cases in the context of environmental law [32].

In the context of environmental law if there has been a case, the settlement of environment case as one form of environmental law enforcement can be done through the court and outside the court. Settlement of cases hammers out the process and follows the ordinances or legal procedures as stipulated in the intermediate law, while the settlement of cases outside the court based on the agreement of the two parties in dispute with the model of conciliation, mediation, and arbitration. The practice of solving environmental cases that often occur during this time, always prioritize economic considerations rather than environmental quality consideration (ecological); and always give rise to considerations that use industrial activities for reasons of which kinds, including industry is a national policy to provide employment, the addition of state foreign exchange and so on. Although in practice it is not uncommon to forgive the polluting industry because the owner of the industry happens to be a person close to the owner of the power of this country or the capitalists who benefited in the development strategy. For example, in the case of tainted Surabaya River due to spilled residue of PT Mekabox Gresik, East Java in 1995, due to the negligence of one of its employees, the examination of the employee went very smoothly, until the Court's Decision, so as to give the impression that law enforcement (environment) in Indonesia is only effective against small people, while the money and people who are near the center of power, environmental law enforcement is still barren. Therefore, all impact and the negative consequences resulting from policies that put the economy first, including industry during the existing in Indonesia, are not included in the parameters to evaluate the success of development. In the context of environmentally sound and sustainable development it is time to apply above, abandoned, so that environmental policies and laws at the level of the company to the level of implementation and implementation is consistent, because otherwise, the quality of the Indonesia environment will continue to deteriorate after environmental law materially does not have to be abandoned or wait for the occurrence of a case that causes catastrophe to the community or harms the lives of the people [33].

4. CONCLUSION

As for the conclusion is Towards the prosperity of the people, economic development related to the environment is often problematic with the environment, namely problems due to the development process that does not pay attention to environmental aspects. There are many things that cause environmental aspects that are less noticed in the development process. Therefore, an environmental law policy is needed as an environmentally friendly development instrument. However, the legal policy is that laws and regulations related to environmental management are not enough in terms of their implementation and implementation, including in the supervision of its implementation there is still fraud, so it must be given serious attention because this is closely related to the goodwill of the government including local governments, communities and related parties to manage the environment as well as possible, but often defeated by economic considerations. The principles of environmental sustainable development can be implemented properly. Because development is basically for the welfare of a just and prosperous society

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