

THE POLITICAL INFLUENCE OF ENVIRONMENTAL LAW IN INDONESIA

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Abstract

Man is only dependent on nature, because it is nature that is powerful. Nature will do as man does to him. Therefore, man himself is the one who makes regulations about nature in the hope that it will be a limit to human behavior against nature. But the greed of man who can fight anything that prevents him from making this regulation is only limited to writing and sanctions only limited to formalities. Time and time again our eyes have proven that humans are indeed truly greedy. Allah should have created man as a caliph, not as a destroyer. God created this earth to meet human needs, not greed. This study will review a little about the increasingly narrow role of environmental law in Indonesia by providing juridical-normative exposure by looking directly at the data in the field.

Keywords: Environment, Violations, Sanctions, Penalties

INTRODUCTION

Indonesia is a country with one of the largest forest populations in the world, has a variety of very rare fauna and flora, and has a very beautiful ecosystem. So it is not surprising that Indonesia has received various nicknames ranging from the lungs of the world to the Emerald of the Equator. (Sunaryo, 2019)

In fact, this actually adds to the burden and responsibility of the Indonesian people themselves in managing and maintaining the nature that has been given to the Indonesian people. Protect against exploitation from external parties or within the country itself. And the formation of the oldest laws originating from custom in each different place began. These customs were very much maintained by the Indonesian people at that time. Starting from customs that can be penetrated by reason, to customs that are closely related to spiritual matters that cannot be accepted by reason or reason. However, basically these laws or regulations are made to preserve nature itself and protect it from dirty hands who want to destroy it. (Colonial, 2018)

The government as state regulator also plays a role in this matter. Starting from making regulations regarding small things such as the layout of the city environment to the national assets of natural resources in Indonesia, both mineral and non-mineral. And basically it is the same, namely maintaining the environmental ecosystem in Indonesia

so that it is not easily contaminated by irresponsible hands. (Sood, 2021) Environmental regulations have developed rapidly, not only in relation to using legal functions as protection, control and certainty for citizens with the role of agent of stability, but more prominently as a means of development with the role of being an agent of

development or agent of change. Environmental problems are getting bigger, more widespread and more serious. Like a rolling snowball, getting bigger and bigger. The issue is not only local or translocal, however regional, national, transnational and global. The impacts that occur on the environment are not only related to one or two aspects, but are linked in accordance with the nature of the environment which has multiple chains of partners that influence each other in subsystems. If one aspect of the environment is affected by problems, then various other aspects will experience impacts or effects as well. (Sukananda, 2011)

What is part of the scope of the Indonesian state is everything that is within the territorial territory of the Indonesian state, including space, land, oceans and everything within it which is protected under the authority of the Indonesian state. Then, if interpreted more deeply, as a legitimate and sovereign government, the obligation to safeguard everything that is sheltered under the auspices of its authority extends from general knowledge to achieving certainty of personal welfare within the country. And this is the main function of the government in forming all laws and regulations that function to carry out every mandate that leads to prosperity within the state sphere. The government is also obliged to provide prohibitions, orders and inform the public about the importance of regulations in environmental matters (Siombo, 2011)

One concrete proof that a country is responsible is that the country makes laws which are then present in the chaos of these regulations and enforce the state's function for the environment which includes planning, utilization, control, maintenance, supervision and law enforcement in the environment. (Sabardi, 2014)

This matter must be immediately addressed by the government related to the management of biological natural resources because it has been found that various natural resources which are the main ingredients or main sources of human life are used arbitrarily. The most obvious example is related to how irresponsible people use forests. as a means or main goal of personal satisfaction without prioritizing the viability and benefits of the forest's sustainability. Forests are a very important resource, not only as a wood resource, but more as a component of the biological environment, so that Indonesian forests are one of the centers of global biodiversity, where Indonesia is ranked third out of seven natural resources. country called Megadiversity Country.(Erwin, 2022) The environmental dilemma is basically finding ways that must be implemented to guarantee and make the earth and the natural surroundings a habitable space for a peaceful, calm and prosperous life. Therefore, actions that pollute the environment are the same as killing life itself.(Yanuarsi, 2022) The development of

residential, industrial or plantation areas often ignores environmental sustainability and only considers economic profit aspects alone. Furthermore, errors in environmental management can at least be caused by various factors such as level of education, economic problems, lifestyle, weaknesses in the legal and regulatory system and weak supervision of environmental management, causing pollution and destruction of the environment. However, there is still no real sense of regulatory action being taken against perpetrators of environmental pollution.(Wahid, 2018)

RESEARCH METHODOLOGY

The method in this study uses doctrinal normative legal research or law with a philosophical and historical approach as well as a concept approach. This research is in a juridical and historical approach to study and analyze history regarding the role of politics in the field of environmental law. This type of research is a descriptive research with and at the same time explains the phenomenon of events that occur at this time. This research uses secondary data derived from literature studies in the form of data derived from books, journals, literacy, and Legal Expert Opinions as well as several other sources that can support the success of this research.

RESULTS AND DISCUSSION

The Relationship of Politics with Environmental Law and Analysis of Its Enforcement

Regarding politics in environmental law, we are talking about a system that will determine how a policy will be enforced for the future and in the future, both in the small and world scope. And you need to know that the politics of environmental law greatly influences the regular dynamics in Environmental Law regulations themselves which will determine whether a regulation is centralized or decentralized. And very often these changes are followed by the personal will of the regulator. This results in environmental enforcement often being felt to be very weak because each region has limited law enforcement due to the division regarding the provision of policies in each region between districts and provinces, for example..(Akib, 2012)

According to David Kairsy, legal politics is the state's discretion to implement the law. Teuku Muhammad Radhie conceptualized legal politics as a statement of the will of state authorities regarding the rules that apply in the territory of a country and about the direction of development of these rules..(Kasiyanto, 2018) E. Utrecht explained that legal

politics is a normative science, namely the science that determines things that should exist. Something that should exist in a normative form is legislation, both material and formal. Legal politics then plays a role in choosing the ways and objectives to be achieved in making or implementing a legal product. (Mahfud, 2009) In line with using this, Satijpto Rahardjo argues, in legal politics, legal development must have a double meaning. First, as an effort to renew one's own positive rules, so that in sync with the need to serve the people at the latest level of development. Second, it becomes a struggle to functionalize the law during the development period, namely using the means of contributing to social changes as needed by the people who are forming (Raharjo, 2010)

Many changes have occurred in the concentration related to environmental regulation, starting with the Law on Basic Provisions for Environmental Management, then changing to the Law on Environmental Management. Environmental Management, and what is currently in effect is the Environmental Protection and Management Law. Life.(Wilsa, 2020)

The historical journey began with the enactment of Law No. 4/1982 which marked the beginning of the development of legal instruments as a basis for efforts to manage Indonesia's environment as an integral part of sustainable development efforts with an environmental perspective.(Wibisana, 2019)

Environmental law is a regulation that covers many things, both related to matters of land, water, space, settlements and anything that has the potential to have a direct impact on the environment, even including settlement matters. The government must also be able to take advantage of the existing areas of criminal, civil, administrative law and other areas The aim is to maximize the potential that exists in the law to provide maximum services and be able to resolve various existing disputes regarding the environment both inside and outside the courts..(Please, 1996).

The law in force now will serve as a reference or basis for other laws because it has a very broad impact and scope, namely legislation on water, mining and energy, forestry, nature protection and preservation, industry, housing, spatial. planning, land use, etc..(Risfalman, 2019)

Furthermore, Law No. 23/1997 was replaced by Law No. 32/2009 on Environmental Protection and Management which was born during the reform period which regulated: a) the integrity of environmental management elements; b) clarity of authority between the central and regional governments; c) strengthening environmental control efforts; d) strengthening of instruments to prevent pollution and/or environmental damage, which include strategic

environmental assessment instruments, spatial planning, environmental quality standards, standard criteria for environmental damage, Amdal, environmental management efforts and environmental monitoring efforts, permits, environmental economic instruments, environment-based laws and regulations, environment-based budgets, environmental risk analysis, and other instruments in accordance with the development of science and technology; e) utilization of licensing as an instrument of control; f) utilization of ecosystem approach; g) certainty in responding to and anticipating developments in the global environment; h) strengthening environmental democracy through access to information, access to participation, and access to justice as well as strengthening community rights in environmental protection and management; i) more clear enforcement of civil, administrative, and criminal laws; j) strengthening institutions of environmental protection and management that are more effective and responsive; k) strengthening the authority of environmental supervisory officials and environmental civil servant investigators.

Authoritarian political configuration is a political configuration that places the government in a very dominant position with an interventionist nature in determining and implementing state policies, so that people's potentials and aspirations are not aggregated and articulated proportionally. Through this law, the Government also gives very broad authority to local governments in carrying out environmental protection and management in their respective areas that are not regulated in Law Number 23 of 1997 concerning Environmental Management. (Indonesia, 1997)

Therefore, it is not enough for an institution that has a workload based on this law to just be an organization that determines and coordinates the implementation of policies, but requires an organization with the portfolio of determining, implementing and supervising environmental protection and management policies.

Environmental Law Enforcement in Indonesia

Drupsteen said that environmental law is an example of functional law. And this is true, environmental law can cover criminal law, civil law and administrative law and can be used throughout, but if you compare it to several areas of law, environmental law will fall into administrative law. And in the cabinet commanded by Mr. Susilo Bambang Yudhoyono in the second episode, law enforcement on the environment was still felt to be lacking in providing a clear and even impact and seemed to be still gray. And in the era of Mr. Joko Widodo, bad things finally happened, there were many violations of environmental law that

occurred frequently and repeatedly and did not receive special handling from the government..(Siombo, 2013).

Thus, in this law, acts that cause environmental pollution and / or environmental destruction carried out intentionally or unintentionally or negligence are directed to be criminal acts which in this law are crimes. In accordance with Article 71 paragraph (1) the Minister, governor, or regent/mayor in accordance with their authority must supervise the compliance of the person in charge of the business and/or activity with the provisions stipulated in the laws and regulations in the field of environmental protection and management; Paragraph (2) The Minister, Governor, or Regent/Mayor may delegate his authority in conducting supervision to officials/technical agencies responsible for environmental protection and management; Paragraph (3) In carrying out supervision, the Minister, Governor, Regent/Mayor shall determine the Environmental Supervisory Officer who is a functional official.(Edotita, 2014).

The imposition of government coercion may be imposed without preceded by a reprimand if the violation committed arises; a) a very serious threat to people and the environment; b) greater and wider impact if not immediately stopped pollution and/or destruction; c) greater losses to the environment if pollution or damage is not immediately stopped subsection (2). In addition to police investigators, certain civil servant officials within government agencies whose scope of duties and responsibilities are in the field of environmental protection and management are authorized as investigators as referred to in the criminal procedure law to investigate environmental crimes.

Civil servant investigators are authorized to, among others: 1) check the truth of reports or information regarding criminal acts in the field of environmental protection and management; 2) conduct an examination of any person suspected of committing a criminal offence in the field of environmental protection and management; 3) request information and evidence from everyone regarding the occurrence of criminal acts in the field of the environment; 4) inspect books, records, and other documents related to criminal acts in the environmental sector; 5) confiscate materials and goods resulting from violations that can be used as evidence in cases of environmental crimes; 6) request expert assistance in the framework of the investigation task; 7) stop the investigation; and 8) conduct a search of the body, clothing, room or other place suspected to be the place where the crime was committed or arrest and detain the perpetrator of the crime.

CONCLUSION

Talking about regulatory policies, of course the 1945 Constitution as a basic norm is the first reference, including in the management of the biological environment and natural resources. History also records that the name of environmental laws has changed, starting from the Law on Basic Provisions for Environmental Management. Life, then changed to the Law on Environmental Management, and what is in effect now is the Law on Environmental Protection and Management.

Increasing the utilization of various legal provisions, both administrative law, civil law and criminal law, and efforts to make dispute resolution more effective alternative environment, namely resolving environmental disputes outside of court to reach an agreement between the disputing parties. Furthermore, Law No. 23/1997 was replaced with Law No. 32/2009 concerning Environmental Protection and Management which was issued during the reform period which regulates: a) the integrity of environmental management elements; b) clarity of authority between the center and regions; c) strengthening environmental control efforts; d) strengthening instruments for preventing pollution and/or environmental damage, which include strategic environmental assessment instruments, spatial planning, environmental quality standards, standard criteria for environmental damage, Amdal, environmental management efforts and environmental monitoring efforts, permits, instruments environmental economics, environmental-based laws and regulations, environmental-based budgets, environmental risk analysis, and other instruments in accordance with developments in science and technology; e) utilization of licensing as a control instrument; f) utilization of the ecosystem approach; g) certainty in responding to and anticipating developments in the global environment; h) strengthening environmental democracy through access to information, access to participation and access to justice as well as strengthening community rights in environmental protection and management; i) clearer enforcement of civil, administrative and criminal laws; j) strengthening institutions for environmental protection and management that are more effective and responsive; k) strengthening the authority of environmental supervisory officials and environmental civil servant investigators.

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