

THE ROLE OF ENVIRONMENTAL LAW IN SUSTAINABLE DEVELOPMENT TO REALIZE COMMUNITY WELFARE AND ENVIRONMENTAL JUSTICE

¹Mas Subagyo Eko Prasetyo, ²Alan Musyafaan

^{1,2}Universitas Nasional (UNAS), Jakarta Selatan

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Abstract. For life in all its aspects and dimensions in accordance with the insight of the archipelago. In order to utilize natural resources to promote public welfare as mandated in the 1945 Constitution of the Republic of Indonesia and to achieve a happy life, sustainable development with an environmental perspective, based on an integrated and comprehensive national policy taking into account the needs of the present generation and future generations. For this reason, it is necessary to consider implementing a harmonious, harmonious, and balanced environmental management in order to support the implementation of sustainable development with an environmental perspective. In implementing the protection and management of the environment in the context of sustainable development with an environmental perspective, it is necessary to pay attention to the level of public awareness and the development of the global environment as well as international legal instruments related to the environment. Public awareness and life in relation to environmental protection and management has developed in such a way that it needs to be perfected to achieve sustainable development goals with an environmental perspective. The regulations stipulated in Law no. 32 of 2009 concerning Environmental Protection and Management, especially in Chapter VII that the management of hazardous and toxic materials as well as hazardous and toxic waste materials must be carried out, in order to minimize the waste disposal system with very little risk for the environment, human survival and other living things. By realizing this, hazardous and toxic materials and their waste need to be protected and managed properly. his research was conducted through the juridical-normative method, where the study of the approach used a conceptual approach. The purpose of this study is to find out how far the influence of the Sustainable Development Goals (SDGs) applied to the environment is, whether it is as expected or vice versa, and to see the influence of environmental law which is the legal basis for this research in solving problems related to this. . And of course with the SDGs, many things must be available, namely the existence of pillars that must exist accompanied by institutions that become the necessary background, in terms of economics, politics, culture, and related bureaucracies.


email : Massubagyo@gmail.com,
alfi.lailikusuma@gmail.com

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1. INTRODUCTION

Environmental law is a set of regulations governing the protection and management of the environment. Environmental protection and management is a systematic and integrated effort carried out to preserve environmental functions and prevent environmental pollution and/or damage through structuring, utilization, control, maintenance, supervision and law enforcement actions. Environmental management is an integrated, comprehensive and integral effort and effort, in the context of preserving environmental functions through structuring, utilization, development, maintenance, restoration, supervision and control of the environment. In this case, these various regulations not only regulate the relationship between humans and humans, but also regulate the relationship between humans and their environment. For example, how to or efforts to keep the available natural resources are used and utilized properly and wisely.

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General provisions of Article 1 number 2 of Law no. 32 of 2009 concerning Environmental Protection and Management (UU-PPLH), environmental protection and management is a systematic and integrated effort carried out to preserve environmental functions and prevent environmental pollution and/or damage which includes planning, utilization, control, maintenance, supervision, and law enforcement.

Various legal regulations including environmental law contain legal rules that aim to regulate human behavior and actions to protect the environment from damage and deterioration of its quality in order to ensure its sustainability in the future. Environmental law can be used to predict future environmental conditions or conditions. In addition, environmental law can also function as a means that can be used to anticipate.

Various future environmental conditions and as a means to predict future conditions, this causes various environmental law regulations that are created and needed to be able to also reach far-reaching conditions and arrangements in determining various rules or norms concerning the determination of values, namely values that are currently in effect and the values that are expected to apply in the future. Modern environmental law stipulates provisions and norms to regulate human actions or actions with the aim of protecting the environment from damage, pollution and deterioration of its quality to ensure its sustainability and carrying capacity so that it can be used sustainably by current and future generations. On the other hand, classical environmental law stipulates provisions and norms with the main aim of ensuring the use and exploitation of environmental resources with various human minds and intelligence in order to achieve the maximum possible results and as much as possible in the shortest possible time.

2. METHOD

- a. Understand the meaning of the Sustainable Development Goals (SDGs).
- b. Knowing the relationship or relevance between environmental law in the Sustainable Development Goals (SDGs)
- c. Apply the concept of justice in the Sustainable Development Goals (SDGs) by following the available norms.

3. RESULT AND DISCUSSION

Sustainable Development Goals (SDGs).

Sustainable Development Goals (SDGs) are development that maintains the continuous improvement of the economic welfare of the community, development that maintains the sustainability of community social life, development that maintains the quality of the environment and development that ensures justice and the implementation of governance that is able to maintain the improvement of the quality of life from one generation to the next. next generation.

The Sustainable Development Goals (SDGs) have been inaugurated as a replacement for the Millennium Development Goals (MDGs) at the end of last September, and will be applied as a guide for global development from January 1, 2016 to December 31, 2030. These goals began to be developed ahead of the 2012 Rio+20 Conference, and finally reached its mature form as it is today. This short article will describe what is important for development stakeholders in Indonesia to be aware of in relation to the implementation of the SDGs.

First, the SDGs adhere to the latest sustainability model, no longer a pillar (which looks at the economic, social and environmental separately) or the triple bottom line (which sees the intersection between the three), but a nested model (which looks at the relationship of the three comprehensively: the economy is part of the economy). social, and social part of the environment). This means that the SDGs see that there are no separate or even contradictory goals between the three. Strictly speaking, this also means that only economic forms that are subject to social interests and environmental sustainability are allowed to be built in the 2016-2030 period.

Specifically related to the environment, the economy that may be developed is a restorative economy, which is one that repairs damaged environmental conditions, and a conservative economy, which maintains a good environmental condition that is allowed to exist. This is what is often labeled

as a green economy. Beyond that, it must be considered a sunset or transformation economic sector. Second, in its formal conceptual form, the environment is stated as one of the 6 essential elements of the SDGs, namely: planet, people, dignity, prosperity, justice, and partnership. If you pay attention, the elements of people and dignity are included in what is called social, while prosperity and justice are included in the economy. This confirms that the carrying capacity of the environment is used to build a dignified community condition, as well as a just form of economy. This can be read as a form of criticism of the logic of development which has so far not only damaged the environment, but also resulted in social exclusion, as well as economic injustice. The SDGs want to improve this through their logic, coupled with the emphasis that this is to be achieved through inter-country and inter-sectoral partnerships.

Third, the conceptual form is further elaborated into 17 Goals and 169 Targets. The environment is primarily described in Goal 12 (production and consumption), Goal 13 (climate change), Goal 14 (oceans) and Goal 15 (land). But it is also very clearly related to Goal 6 (water and sanitation, especially the water resources management section), Goal 7 (energy), Goal 9 (infrastructure, industrialization and innovation) and Goal 11 (cities and settlements). , actually all of these goals are related to the (carrying capacity) of the environment. Take for example Goal 1 (poverty) and Goal 2 (hunger) which are very clearly related to the environment.

The poor environmental conditions of course make it very difficult for people to get out of poverty and hunger, especially if they depend on the agricultural sector. Healthy environmental conditions are a prerequisite for productive agriculture. When the environment deteriorates, no productive agriculture can be made on it. It also confirms the logic that the form of agricultural economy that must be developed is sustainable agriculture, which is environmentally (and socially) friendly.

Fourth, each of the Goals and Targets has been reviewed by a group of scientists from the International Council for Science (ICSU) and the International Social Science Council (ISSC), and the results are incorporated into the Review of Targets for the Sustainable Goals: The Science Perspective document that can be downloaded via www.icsu.org. The results of the study reveal that only 49 Targets or 29% can be clearly measured (the indicators are strong), 91 Targets or 54% need to be made more specific, and 29 Targets or 17% require hard work to improve.

The Relevance of the Relationship between Environmental Criminal Law in Indonesia and the SDGs

Regarding issues with the environment, this cannot be separated from the public interest in development affairs. In the case of the public interest, the role of the state as a state administrator in providing protection and law enforcement must be fair, especially in terms of development goals. Do not let the development ignore the protection of the environment. Because essentially the state in making policies must be based on the principle of human rights-based development based on the Sustainable Development Goals (SDGs). And the role of law here is located as part of providing protection for the public interest, lest there are parties who are harmed and neglected due to environmental damage.

Talking about sustainable development goals in the SDGs, SDGs are development goals in 2030 to implement environmentally sound development, which explicitly aims to implement development that meets environmental sustainability based on human rights, where this goal is adapted based on the principles contained in the Stockholm Declaration. 1972. The nature of sustainable development is basically an understanding of the interaction between nature and society, which is carried out in a sustainable manner related to basic human needs. This means that there must be a full commitment from the community and government in maintaining environmental compliance and keeping away from pollution and environmental damage

The SDGs are holistically integrated into 17 goals that are not independent but are interrelated and integrated. Its relevance to this research is contained in the SDGs component related to the sustainable management and use of natural resources, biodiversity in which ecosystem protection is an inseparable part. The SDGs in this case have four pillars in the development goals, namely the Social Development Pillar, the Economic Development Pillar, the Environmental Development Pillar,

and the Legal Development Pillar and Governance. Based on the SDGs, objectives that are related to environmental protection are contained in Goal 6 on clean water and proper sanitation; Goal 11 on cities and sustainable settlements; Goal 12 on Sustainable consumption and production; Goal 13 on tackling climate change; Goal 14 on marine ecosystems; and Goal 15 on terrestrial ecosystems. As a goal in the environmental pillar, this pillar is very important as a transformative foundation and sustainable development, where the environment, nature and everything in it is a barrier, so that all social and economic goals must not interfere with the preservation of the environmental function in supporting current and future life.

The relevance of the relationship between environmental criminal law in Indonesia and the SDGs is needed as law enforcement in supporting the achievement of the goals in the SDGs. In Goal 13 of the SDGs related to climate change it reads, "Integrating anticipatory actions on climate change into national policies, strategies and planning," which in this case is also related to legal policies in providing protection and management of the environment. This is also based on the existence of policies and plans for sustainable development. In this case, development must be based on a plan for environmental protection and management, which is based on Article 1 paragraph (4) of Law No. 32 of 2009 which reads, "The plan for environmental protection and management, hereinafter abbreviated as RPPLH, is a written plan that contains potential environmental problems. , as well as protection and management efforts within a certain period of time."

Based on Article 4 it is also stated that the protection and management of the environment includes planning, utilization, control, maintenance, supervision, and law enforcement. The element of law enforcement is also a point of Goal 14.5 regarding marine ecosystems, where there must be consistency of national law in conserving marine coastal areas; and in Goal 15.3 and Goal 15.7 on terrestrial ecosystems which must take steps to combat desertification and land degradation, and stop the illegal trade in flora and fauna species. Because efforts to achieve this goal must have preventive and repressive efforts in controlling environmental impacts, thus requiring effective, consistent, and consistent law enforcement to reduce the impact of environmental damage, both those that have occurred and those that will occur in the future.

Based on Article 1 paragraph (6) of Law No. 32 of 2009, "Criminal Law Enforcement in this law introduces the threat of a minimum sentence in addition to the maximum, expansion of evidence, punishment for violations of quality standards, integration of criminal law enforcement, and regulation of criminal acts. corporation.

Environmental criminal law enforcement continues to pay attention to the *ultimum remedium* principle which requires the application of criminal law enforcement as a last resort after the implementation of criminal law enforcement so that the last resort after the implementation of administrative law enforcement is considered unsuccessful. The application of the *ultimum remedium* principle only applies to certain formal criminal acts, namely punishment of violations of waste water quality standards, emissions, and disturbances". In its management, the role of institutions and good governance is needed. This institution as a public institution needs to be prioritized because it has a broad impact in regulating, this institution is in the form of political, legal, and bureaucratic institutions. The need for law enforcement institutions including judicial institutions to have an effect on increasing public confidence in the government's consistency in protecting and enforcing laws related to environmental protection. Its relevance to the goals in the SDGs is that the relationship between goals will not work well without the support of legal certainty and law enforcement. The availability of various kinds of laws and other regulations as well as the role of the community is very much needed in supporting the achievement of development goals, especially related to environmental protection. Law enforcement efforts should also be able to provide access to justice for all circles of society, because in essence the SDGs are here to overcome these gaps.

Criminal Law Policy in Enforcement of Environmental Law in Indonesia

Environmental law policies in Law No. 32 of 2009 concerning Environmental Protection and Management basically make fundamental changes in environmental management in Indonesia, where this law functions as an inherent umbrella provision. Law No. 32 of 2009 basically formulates

policies on criminal elements as a result of polluting and/or damaging the environment as regulated in Article 41 of this law. This law also regulates criminal acts with minimum and maximum penalties, as well as regulates punishment for those who violate the elements of violations that cause polluting or damaging the environment.

Basically law enforcement in the criminal justice system that causes environmental pollution and/or damage requires the responsibility of the perpetrators, both individuals and companies as a result of damaging the environmental ecosystem. The liability can be directed to individuals or business entities, both legal entities and non-legal entities, in accordance with the provisions in Article 1 point 32 of Law No. 32 of 2009. Based on this law there are two types of liability that can be requested, namely Liability Based on Fault (Article 87) and Strict Liability (Article 88). Liability Based on Fault is a liability based on the existence of an element of error such as the transfer of hands, changes in eel and the form of business, funds or activities of a business entity that violates the law.

While Strict Liability or Absolute Responsibility is responsibility based on the actions of everyone who takes actions using B3, produces and/or processes B3 waste so that it poses a serious threat to the environment, is absolutely responsible for the losses that occur without the need to prove an element of fault (fault). Even though there has been law enforcement and implementation in punishing the perpetrators, this does not seem to have a deterrent effect on the perpetrators, where every year in Indonesia there is always environmental damage such as air pollution which is even polluted to other countries. In the environmental criminal law policy in Indonesia, general principles apply to environmental crimes:

- 1) The principle of legality (principle of legality), namely "the principle of punishment must be based on statutory provisions which means that in the regulations for the formulation of criminal law there must be clarity relating to what is said to be a criminal act in the environment."
- 2) The Principle of Sustainable Development, namely "the principle that emphasizes that in carrying out development, do not sacrifice the rights of future generations to enjoy a healthy environment."
- 3) The Precautionary Principle, which is "the principle that affirms that the action taken for violations of formal offenses in Law No. 32 of 2009 is sought not to immediately impose severe actions, but must be carried out gradually and thoroughly from the lightest, moderate, and the most severe. heaviest."
- 4) Principle of Restraint, namely "the principle that requires criminalization which states that criminal sanctions should only be used against environmental crimes if there are ineffective administrative legal sanctions, civil law, and alternative settlements of environmental disputes outside the courts. In criminal law it is known as the Subsidiary Principle or the Ultima Ratio Principle or the Ultimum Remedium which is the last resort (Last Resort)" (Erwin, 2008).

Policies in enforcing environmental criminal law are based on environmental offenses in the law by containing elements of criminal law offenses containing the formulation of material offenses and formal offenses. A material offense is an act that is prohibited by law and is considered to be perfect or fulfilled, which is formulated in Article 98 (intentional), Article 99 (negligence), and Article 112 (intentional non-supervision).

While formal offenses are offenses or acts prohibited by law that are considered perfect or fulfilled once the act is carried out without requiring the consequences of the act, which is formulated in Articles 100 to Article 115. So far, in the implementation of environmental criminal law enforcement policies in Indonesia, at least several basic and additional criminal sanctions that can be imposed on perpetrators of environmental pollution and/or destruction. The criminal sanctions can be in the form of imprisonment, fines, revocation of rights or company permits.

The Concept of Justice in the Environment

Justice is a claim regarding something essential from every individual as his/her rights that should not be violated/obstructed and guaranteed through a legal formula that contains rights and obligations in social interaction. Justice can be transformed through various interests of physical and external life, economic, social, political, cultural, religious, and spiritual. Environmental law also aims to create justice in society. The trick is to always pay attention to and respect the rights of individuals

who are dealing with aspects of the interests of the environment within the framework of the common interest (public interest). For example, by providing equal compensation (compensation) for environmental rights or natural resources, inviting deliberation, avoiding coercive methods, preventing unfair approaches or fait accompaniments.

Regarding what rights are owned by the community to obtain environmental justice, it has previously been regulated in Article 5 of Law Number 23 of 1997 concerning Environmental Management. What rights are owned by the community as regulated in Article 5 of Law Number 23 of 1997:

1. The right to a good and healthy environment Article 5 paragraph 1 UUPH reads: "Everyone has the same right to a good and healthy environment" Article 5 paragraph (1) UUPH states "the right to a good and healthy environment", while Article 5 paragraph (1) of the UUPH is emphasized as "equal rights to a good and healthy environment".
2. The right to environmental information Article 5 paragraph (2) of the UUPH which reads: "Everyone has the right to environmental information related to the role in environmental management".
3. The right to environmental information is a logical consequence of the right to play a role in environmental management based on the principle of openness. The rights and obligations to participate in Article 5 paragraph (3) of the UUPH states "Everyone has the right to play a role in the context of environmental management in accordance with applicable laws and regulations".

4. CONCLUSION

Basically, the enforcement of environmental criminal law in Indonesia is clearly regulated appropriately based on Law No. 32 of 2009. It is added that law enforcement is supported by the efforts of the institutions involved in realizing protection and law enforcement to avoid environmental damage. The SDGs are present as part of Indonesia's development goals that are aligned with environment-based development that always pays attention to aspects of environmental rights. Even though in reality, there are still many violations that incidentally the perpetrators are not deterred from committing acts of environmental destruction, but from the perspective of law enforcement, based on the principles of environmental criminal law, at least it can reduce the impact of environmental damage that occurs. Development must continue to be carried out in order to be competitive with other countries. But on the other hand, development must pay attention to environmental aspects so that the existing environment will still exist in the future without reducing the country's goals in developing. The role of the SDGs as a development goal and the enforcement of criminal law as a juridical basis is a harmonious combination so that Indonesia continues to develop without neglecting the beauty of the environment.

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