

Environmental Law Enforcement In Indonesia In Terms Of The Concept Of Sustainable Development

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ABSTRAK

Luasnya kehidupan Indonesia meliputi ruang angkasa, letak suatu negara Transparansi berlangsungnya kedaulatan Republik Indonesia Nusantara, hak berdaulat dan dibawah yurisdiksi. Artinya pemerintah berkewajiban mengatur kehidupan termasuk kebijakan pengaturan, penggunaan, pemeliharaan, pembaharuan, pengawasan dan pengendalian cakupan lingkungan hidup Indonesia. Faktor: Jadi, pemerintah bertindak sebagai penghalang untuk memeriksa pengelolaan lingkungan operasi. Pemerintah adalah mekanisme yang menetapkan pedoman untuk desain institusi dan perawatan jangka panjang. Rumusan masalah dalam penelitian ini adalah bagaimana penerapan hukum lingkungan Indonesia dalam kerangka gagasan pembangunan berkelanjutan. Penelitian deskriptif adalah apa yang telah dilakukan. Jenis kajian yang digunakan dalam artikel ini meliputi penelitian hukum doktrinal dan normatif. Kesimpulannya, penegakan hukum lingkungan secara efektif sangat penting untuk memenuhi tujuan pembangunan berkelanjutan Indonesia. Perlu perbaikan dan penyempurnaan peraturan perundang-undangan yang ada, koordinasi yang lebih baik antar lembaga, dan peningkatan kesadaran masyarakat akan pentingnya lingkungan hidup. Pemerintah dan masyarakat harus bekerja sama untuk mencapai tujuan tersebut dan memastikan bahwa Indonesia dapat mencapai pembangunan berkelanjutan.

ABSTRACT

The breadth of Indonesian life includes space, the location of a country The ongoing transparency of the Republic of Indonesia Archipelago sovereignty, sovereign rights and under jurisdiction. That means the government is obliged to manage life including regulatory policies, use, maintenance, renewal, supervision and control of Indonesia's environmental coverage. Factor: So, the government acts as a barrier to check the operation environmental management. Government is a mechanism that establishes the guidelines for the institution's design and long-term care. The formulation of the problem in this study is how to implement Indonesian environmental law in light of the idea of sustainable development. Descriptive research is what has been done. The kind of study used in this article includes doctrinal and normative legal research. In conclusion, enforcing environmental laws effectively is essential to fulfilling Indonesia's sustainable development objectives.

It is necessary to improve and improve existing laws, better coordination between institutions, and increase public awareness about the importance of the environment. The government and society must work together to achieve this goal and ensure that Indonesia can achieve sustainable development.

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1. INTRODUCTION

The living environment given by God Almighty is His gift and grace that must be maintained and developed in such a way that it remains a source of life and supports the survival and healing of humans and other citizens and animals. Quality of life itself Environmental change is largely determined by attitudes, behavior and environmental protection. Nature and the physical environment can be used to guide humans towards a better and healthier life. On the other hand, it is also possible that nature and the environment are not good and healthy, because their utilization exceeds the limit. Ecosystems can be damaged by high levels of pollution/pollution and living systems become unbalanced due to waste, industrial waste, illegal logging, forest fires, illegal oil and gas drilling and the resulting air, water and soil pollution.

The breadth of Indonesian life includes space, the location of a country The ongoing transparency of the Republic of Indonesia Archipelago sovereignty, sovereign rights and under jurisdiction. That means the government is obliged to manage life including regulatory policies, use, maintenance, renewal, supervision and control of Indonesia's environmental coverage. Factor: So, the government acts as a barrier to check the operation environmental management. Government is a tool draws the rules of the form of the institution on which it is focused ongoing care.

The establishment of several policies, programs, and initiatives, as well as actions supported by other environmental management support systems, has been necessary for environmental management, which includes prevention, control of harm and pollution, and restoration of environmental quality. The system includes institutional stability, human resources and environmental partnerships, in addition to legal and statutory instruments, availability of information and funding. Due to the interdependence and holistic character of the environment's essence, environmental management, including its support system, cannot stand alone but must be integrated with all forms of development at both the national and local levels.

Natural resource usage must be in harmony, harmony, and balance with environmental functions, according to Law Number 32 of 2009 concerning Environmental Protection and Management. As a result, environmental preservation and the pursuit of sustainable development goals must be ingrained in development policies, plans, and/or programs. Natural problems, or incidents that take place as a result of natural processes, include environmental difficulties. This natural process takes place without having a large impact on the environment as a whole and can be regained later on by nature (homeostasis). Yet, since humans today represent a very important variable causation component for environmental occurrences, environmental problems cannot be considered to be solely natural concerns. It is evident that environmental issues caused by humans are significantly more significant and complex than issues caused by the natural world. Humans,

with their many dimensions, particularly with the mobility factor of growth, the mind with all of its cultural advances, as well as the process factors of the period or age that affect human character and viewpoints, are factors that are more adequately tied to environmental problems. And one of the biggest contributors to Indonesia's natural disasters can be attributed to problems with environmental management. Development that is carried out without consideration for environmental balance considerations, which would result in environmental damage and pollution, is the source of all environmental issues. Environmental harm is connected to the idea of sustainable development.¹

One of the obstacles to Indonesia's efforts to uphold environmental law is the concept of sustainable development, which sees the environment as an integral part of the dynamics of national development and the realities of living as a nation. An emphasis on sustainable development has been incorporated into Indonesia's national legal framework. Some people have based their judicial decisions on the fundamental principles of sustainable development. This suggests that environmental aspects may be influenced by sustainable development principles in a number of different ways. The principles of sustainable development have a significant influence on how environmental legislation was developed as well as the legal framework. The term "sustainable development" is included in the official definition of Indonesia's Law No. 4 of 1982, which governs environmental management principles. Article 3 states that "Environmental management based on the maintenance of harmonious and balanced environmental capacities to promote sustainable development for the advancement of human welfare," while still employing the term "sustainable development." Article 1 number 3 of UU No. 23 of 1997, which deals with environmental management, refers to sustainable development as "a conscious and planned effort, incorporating the environment into the development process to assure the capacity, welfare, and quality of life of present and future generations."² In light of this, the purpose of this research is to ascertain how the notion of sustainable development influences the implementation of environmental law in Indonesia.

2. LITERATURE REVIEW

2.1 *Definition of Environmental Law Enforcement*

When it comes to environmental policy, enforcement is the final link in the regulatory chain.³ Public interest in environmental law enforcement is reflected in events like the "Fifth International Conference on Environmental Compliance and Enforcement," held from November 16-20, 1998 in Monterey, California, USA. The goal of this conference is to improve international collaboration, particularly in the area of "transboundary compliance difficulties," and to provide a foundational understanding of environmental law enforcement. GA Definitions by Biezeveld The term "environmental law enforcement" refers to the legitimate use of government authority to enforce environmental restrictions:

- a. administrative supervision of the compliance with environmental regulations (inspection) (mainly preventive activity);
- b. administrative measures or sanctions in case of non-compliance (corrective activity);
- c. criminal investigation in the case of presumed offenses (repressive activity);
- d. criminal measures or sanctions in case of offenses (repressive activity);

¹ Nina Herlina, "Permasalahan Lingkungan Hidup Dan Penegakan Hukum Lingkungan Di Indonesia," *Jurnal Ilmiah Galuh Justisi* 3, no. 2 (2017): 162–176.

² Helmi Helmi, "Hukum Lingkungan Dalam Negara Hukum Kesejahteraan Untuk Mewujudkan Pembangunan Berkelanjutan (Environmental Law in The Welfare State Law Making for Sustainable Development)," *INOVATIF/ Jurnal Ilmu Hukum* 4, no. 5 (2011).

³ Soerjono Soekanto, "Soerjono Soekanto Dan Sri Mamudji, Penelitian Hukum Normatif Suatu Tinjauan Singkat" (Cet, 1985).

- e. civil action (law suit) in case of (threatening) non-compliance (preventive or corrective activity).⁴

Environmental law enforcement can be defined as the application of governmental legal powers to ensure compliance with environmental regulations by:

- a. An administrative supervision of compliance with environmental regulations (inspections) (especially prevention activities);
- b. administrative action or sanctions in case of non-compliance (corrective activity);
- c. criminal investigations in cases of alleged violations (repressive activity);
- d. criminal action or sanction in case of violation (repressive activity);
- e. civil action (law suits) in terms of (threatened) non-compliance (preventive or corrective activities)

You can tell the difference between (i) the enforcement of administrative environmental law by government officials, (ii) the enforcement of criminal environmental law through judicial procedures, and (iii) the enforcement of civil environmental law and "environmental disputes resolution" that was pursued litigation or non-litigation in the context of controlling environmental pollution. As a practical area of law, environmental regulation naturally falls under the purview of three distinct legal specializations ("functionele rechtsvakken"). Legal protection is carried out in the areas of administrative, criminal, and civil environmental law enforcement (environmental dispute resolution) to ensure the quality of a sustainable clean and healthy environment through the enforcement of environmental law in the context of controlling environmental pollution.⁵

The success of efforts to enforce environmental law depends on both the effectiveness of enforcement mechanisms and the degree to which citizens comply with such mechanisms. It has been said that advancements in the abilities of environmental law enforcement officials have been slow, and there are even parties that do not grasp "who is meant by environmental law enforcement officers." Officials/agencies authorized to grant permits are included in the scope of environmental law enforcement together with judges, police, prosecutors, and lawyers. The principle that "officials authorized to issue (environmental) permits are accountable for enforcing administrative environmental law" even suggests that the government agency authorized to issue permits is the primary machinery for enforcing environmental law.⁶

Environmental dispute resolution refers to "the litigation process and other methods for resolving environmental disputes," which intersects with the enforcement of environmental law in the control constellation of environmental pollution (and/or destruction). Environmental conflicts are rarely settled in court, despite the importance placed on the prevention and resolution of environmental contamination. Environmental law in the context of sustainable development in Indonesia.

A reality of state existence is sustainable development, which makes environmental considerations central to the process of national development.⁷ Sustainable development is the driving force behind Indonesia's national legal system. Some judges have relied on sustainable development ideas in their rulings. This suggests that sustainable development principles may contribute to ecological concerns in a number of contexts. Both the overall legal framework and

⁴ G A Biezeveld, "Course on Environmental Law Enforcement," *Surabaya, January* (1995): 9–14.

⁵ Muhammad Fahrudin, "Penegakan Hukum Lingkungan Di Indonesia Dalam Perspektif Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup," *Veritas* 5, no. 2 (2019): 81–98.

⁶ Siti Sundari Rangkuti, "Penegakan Hukum Lingkungan Administratif Di Indonesia," *Pro Justitia Tahun ke XVII Nomor 1* (1999).

⁷ Emil Salim, "Pembangunan Berkelanjutan: Strategi Alternatif Dalam Pembangunan Dekade Sembilan Puluhan," *Majalah prisma, XX (1)* (1991).

environmental legislation can benefit from considering sustainable development's core values. Law no. 4 of 1982, governing the Principles of Environmental Management, formally incorporates the concept of sustainable development into Indonesian law. Article 3 still uses the term "sustainable development," but it specifies "Environmental management based on the preservation of harmonious and balanced environmental capacities to promote sustainable development for the benefit of human welfare." It is defined as "a conscious and planned effort, integrating the environment into the development process to assure the ability, welfare, and quality of life present and future generations" (Article 1 number 3 of UU no. 23 of 1997), which is concerned with Environmental Management. And finally, Article 1 point 3 UU-PPLH: Sustainable development is a conscious and planned effort that integrates environmental, social, and economic aspects into a development strategy to ensure environmental integrity as well as the safety, capability, welfare, and quality of life for present and future generations. future. Development, according to Otto Soemarwoto, needs to be sustainable on all fronts (sustainable development must be ecologically, socially, and economically sustainable).

Emil Salim,⁸ noted, "Sustainable development necessitates that we rationally manage natural resources." This means that, with caution and good judgment, natural resources can be utilized. This calls for an eco-development strategy that prioritizes protecting the environment. Sustainable development is defined as a development paradigm that guides the environment to provide for human needs, as described above. The environment, formerly seen as a burden, is now seen as a way to achieve sustainable development and a guarantee for the welfare and quality of life of present and future generations. The concept of sustainable development encompasses five facets: first, reconciling development and environmental concerns that have traditionally been at odds with one another. Second, development encompasses growth in a broad and profound meaning, not just economic growth. This means that it is concerned with the growth of the full person. Third, understanding the constraints posed by existing resources and infrastructure to growth. The fourth point is the inseparability of the environment from the relevance of social, justice, and democratic factors. Fifth, understanding the disparity between developing and developed nations and how that affects their respective development priorities and goals.

Indonesia supports sustainable development, which is development that can satisfy the needs and ambitions of the current generation of society without compromising the possibility of satisfying the needs and aspirations of subsequent generations of society. When creating and enforcing environmental law, the government aims to incorporate the principles of sustainable development.⁹

3. METHODOLOGY

The research is descriptive in nature. The kind of doctrinal/normative legal study is one of the research types used in this article. According to its form, this research is diagnostic research, that is, research that seeks to learn the causes of a symptom or a group of symptoms. But, if considered from the perspective of its nature, it is descriptive research. The type of data used in this study is secondary data, which is data or information gleaned from an analysis of previous research papers on a related topic, as well as library resources like books, literature, newspapers, magazines, journals, or archives that are relevant to the research being discussed.

4. DISCUSSION

The idea of sustainable development is crucial in the current global situation. Sustainable development is defined as the growth of the economy, society, and environment while maintaining

⁸ Emil Salim, "Pembangunan Berwawasan Lingkungan" (1986).

⁹ Tjuk Kuswatojo, "Penerapan Agenda 21 Di Indonesia," *Pusat Penelitian Lingkungan Hidup ITB, Bandung* (1996).

the ability of future generations to meet their own requirements. Enforcing environmental regulation is crucial in the Indonesian context for ensuring that sustainable development is accomplished. Enforcement of environmental laws continues to provide significant difficulties in Indonesia. Although Indonesia has a number of environmental laws and regulations, their enforcement is still ineffective. This is brought on by a number of issues, such as a lack of funding, poor agency cooperation, and a lack of public understanding of the value of the environment.

Good environmental management is one of the most important components of sustainable development. This covers conservation of the environment, management of pollutants, and preservation of the forest and wildlife. To ensure that these goals are met, environmental regulations must be effectively enforced. Indonesia must improve environmental law enforcement and make sure that responsible agencies have the funding to carry out their duties if it is to meet its goals for sustainable development. Also, there has to be improved communication between relevant organizations and a greater understanding of the value of the environment among the general population. Also, the legal foundation for sustainable development needs to be strengthened by the government. This can be accomplished by amending and improving current legislation as well as by enacting new legislation with a stronger environmental and sustainable development focus.

Also, there must be initiatives to boost community involvement in sustainable development. Communities should have more access to pertinent information and be given the chance to participate in environmental decision-making. Indonesia supports sustainable development, which is development that can satisfy the needs and ambitions of the current generation of society without compromising the possibility of satisfying the needs and aspirations of subsequent generations of society. The creation and execution of environmental legislation by the government aim to actualize the principles of sustainable development. The 2009-passed UU-PPLH encompasses the principles of sustainable development as a tool for managing and safeguarding Indonesia's environment. The following ideas are mentioned:¹⁰

1. The Principle of Intergenerational Equity The principle of intergenerational equity is based on the basis that the natural resources on this earth are held in trust to be used by future generations. Each generation is the caretaker of this planet for the benefit of the next generation and at the same time as the beneficiary of the previous generation.
2. The Principle of Justice Within One Generation This principle is also called intragenerational justice. This principle, according to Prof. Ben Boer, refers to the idea that society and the demands of life in one generation have the right to benefit from natural resources and enjoy a clean and healthy environment.
3. Theoretically or practically, the precautionary principle implies that if there is a threat or there is a threat of irreversible environmental damage, in the absence of conclusive and definite scientific evidence, this cannot be used as a reason for postponing efforts to prevent damage to the environment.
4. Principles of Protection of Biodiversity (Biodiversity Conservation). The principle of biodiversity conservation is a prerequisite for the success or failure of the implementation of the intergenerational equity principle. Protection of biodiversity is also related to the issue of prevention, because preventing the extinction of species from biodiversity requires early prevention. Efforts to protect biodiversity are carried out to prove commitment and awareness of the importance of preventing early extinction of biodiversity while at the same time implementing the principle of justice both between generations and within one generation to realize characteristics of sustainable development.

Principle of Internalization of Environmental Costs This principle departs from a situation, the use of environmental resources, is a trend of market forces. As a result, interests that have not

¹⁰ Helmi, "Hukum Lingkungan Dalam Negara Hukum Kesejahteraan Untuk Mewujudkan Pembangunan Berkelanjutan (Environmental Law in The Welfare State Law Making for Sustainable Development)."

been represented in the decision-making component in determining market prices are ignored and cause losses for them. Communities who are victims of environmental damage, do not have a mechanism to force groups to pay for damages except for the courts.

5. CONCLUSION

In conclusion, the achievement of Indonesia's sustainable development objectives depends on the efficient execution of environmental regulations. Existing laws must be strengthened, institutions must work together more effectively, and environmental issues must be brought to the public's attention. To do this and ensure that Indonesia can achieve sustainable development, the government and society must collaborate. The basis of nations, including Indonesia, that are dedicated to and cognizant of the need to develop without harming their environment is based on the concepts of sustainable development. Considering a sense of justice in the use of natural resources and the environment, the five principles of sustainable development can really be considered as having positive nuances for creating an Indonesia that respects the lives of present and future generations more.

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