

ENVIRONMENTAL PROTECTION PATTERN BASED ON REGIONAL AUTONOMY AS THE EFFORTS TO REALIZE SUSTAINABLE DEVELOPMENT GOALS

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ABSTRACT

The study objective was determined the environmental protection pattern based on regional autonomy that was carried out by regional governments. The study was intended to review the relation between environmental protection and efforts to realize sustainable development goals. This is a normative legal research used legal and conceptual approach. The study results were shown that the regional government has the authority to protect the environment in relation to the implementation of regional autonomy. While the pattern of environmental protection carried out by regional governments can play a role in efforts to realize sustainable development goals.

Keywords: Protection, Environment, Regional Autonomy, Sustainable Development Goals

I. Background

The environment is the most important thing for humans as part of the ecosystem that exists in the surrounding environment, in order to provide space to carry out activities in all fields of life, at the same time to ensure survival in the future. In carrying out activities, especially economic activities, certainly requires a good environment balance, healthy and conducive. Due to the environmental imbalances, such as pollution or environmental damage, then human life will be disturbed and even threatened.¹

Non-conducive environmental conditions were experienced by Indonesia. In the last two decades of destruction of natural resources and environmental pollution in Indonesia may be said to have taken place in the pace has exceeded the ability to prevent and control the degradation of natural resources and the environment. Official reports from various government agencies at the central and regional levels, the results of research and studies published by universities, consultants and non-governmental organizations both at national and international levels, explained this occurrences.²

One solution that was considered effective to overcome the problem is the need for a strategic action that can guide, direct and guarantee the birth of policies, plans and programs that inherently consider the negative effects on the environment and ensure sustainability. The strategic plans were aimed to realize an inclusive and sustainable development program, with more attention to environmental aspects, known as Sustainable Development Goals (SDGs). SDGs are a new development deal as a replacement of Millennium Development Goals (MDGs) agreed by over 190 countries with 17 goals and 169 containing development targets. These SDGs were expected to address the underdevelopment of countries around the world, inequality among countries, as well as environmental conservation.³

Development strategies in SDGs will depend on 4 track development strategies. The four strategies are: (a) increasing the high and quality economic growth rate (pro-growth); (b) creating and expanding employment (pro-job); (c) improve people's welfare through social safety net programs (pro-poor); and (d) improve the quality of environmental management (pro-environment). These four strategies were carried out by all relevant stakeholders by involving the full participation of the community. Direct commitment from each party will influence the success of development in these SDGs.

The success of SDGs also cannot be separated from the important role of regional government. Because the city and district governments (a) are closer to their citizens; (b) have authority and funds; (c) can carry out various innovations; and (d) spearheading providers of public services and various government policies and programs. Therefore, in the SDGs document was stated that UN member states that adopt the SDGs document "will work closely with regional and local

¹ Edith Brown Weiss, 2002, "Common but Differentiated Responsibilities in Perspective", Proceedings of the Annual Meeting. *American Society of International Law*, Vol. 96, p. 366-367

² Badan Pusat Statistik, 2017, *Statistik Lingkungan Hidup Indonesia (SLHI) 2017*, Badan Pusat Statistik Indonesia, Jakarta

³ Mickael B. Hoelmandkk, 2015, *Panduan SDGs Untuk Pemerintah Daerah (Kota dan Kabupaten)*, *International NGO Forum on Indonesian Development (INFID)*, Jakarta, p. 8.

authorities". This is a very clear sign of the important role of city and district governments in realizing SDGs throughout the world.⁴

The involvement of regional governments in realizing this SDGs program can be done by carrying out management and protection of the environment. Regional governments that are given autonomy authority to manage their own households are deemed necessary to be a benchmark for development based on the environment. The development that is being carried out by each region should pay attention to environmental aspects. This is needed to ensure the sustainability of the construction. But the question is related to what kind of pattern the regional government can do in protecting the environment. This question is important to measure the level of possibility that governments can take to realize these SDGs.

II. Theoretical Review

A. Living environment

It is generally understood that the environment is all objects, power, and conditions contained in a place or space where humans and living things were located and can affect their lives. In ecological science the environmental component is ecosystem component that are interdependent. One of them was damaged and ecological processes will be disrupted which will affect the condition of other components. This condition was realized by human after many environmental problems that have caused harm to humans lately. In the perspective of law in Indonesia, environmental problems are divided into two forms, environmental pollution and environmental destruction.

There are several definitions related to this environment. Munadjat Danusaputrawas defined "The environment is all things and conditions including human beings and their actions and behavior contained in the space in which humans are located and affect the survival and welfare of humans and other living bodies".⁵

According to the Indonesian environmental law expert, Otto Soemarwoto, stated that: The environment is the number of all things, the conditions that exist in the space that affect our lives. Theoretically the space is not limited in number, because for example the sun and stars are included in it. But practically we always give limits to the environmental space. Natural factors are gorge, river or sea, economic factors, political factors or other factors.⁶

Environment as a resource is an asset that can be needed for the welfare of society. This is in accordance with the order of Article 33 paragraph (3) of the 1945 Constitution which stated that the earth, water and natural resources contained in it are used for the greatest prosperity of the people. Thus, environmental resources have limited regeneration and assimilation power. As long as the exploitation or demand for services is below the limits of regeneration or assimilation power, the renewable resources can be used sustainably.⁷

Furthermore, Otto Soemarwoto as cited by Supriadi was stated that public property resources can often be used for various purposes to reduce the benefits that can be obtained from other uses of the same resource. For example, river water can be used at the same time to conduct production processes in factories, transport waste, river service, fish production, and household needs.

Humans live in nature and adapt to other living things. The environment was formed through a complex and long process that eventually forms the nature that exists today. The environment produces resources that are used by humans. Therefore it should be a form of reciprocity for what is given by the environment. Humans should strive for the environment to be healthy and harmonious and to be maintained. If damage occurs, it should be repaired before it becomes worse.⁸ Nature actually has a very complex system, as well as its very diverse features and characteristics.

However, there are some identifiable characteristics such as⁹:

1. Dynamic
The environment as an ecosystem develops from time to time and its symptoms can be seen from the phenomena that occur, such as physical, biological, and social phenomena.
2. Interact with each other
In an environment usually in the sub system or lower will interact continuously to achieve balance. If there is outside influence there will also be interaction to achieve a new balance
3. interdependence
In a system, each part of the system will depend on the other part. So each part of the system will not only hook together and relate to one another but there is also interdependence.

⁴ UN (United States), 2015, *Transforming our World: the 2030 Agenda for Sustainable Development*, 21 October, UNS Doc. A/RES/70/1.

⁵ Danusaputra, Munadjat. 1986. *Hukum Lingkungan Suatu Pengantar*. Jakarta: Gramedia, p. 2

⁶ Soemarwoto, O. 2004. *Ekologi Lingkungan Hidup dan Pembangunan*. Penerbit Djambatan, p. 32

⁷ Supriadi. 2010. *Hukum Lingkungan di Indonesia*. Jakarta: Sinar Grafika, p. 4

⁸ Hamzah, Andi. 2005. *Penegakan hukum lingkungan*. Jakarta: Sinar Grafika, p. 2

⁹ Fandelo, Chafid. 2007. *Analisis Mengenai Dampak Lingkungan Prinsip Dasar Dalam Pembangunan*. Yogyakarta : Liberty, p. 50-53

4. Integration
The appearance of the system as an integrated unity concept has more importance. This integration is one of the systems approach concepts. With this concept of integration, each part of the development system was designed in an integrated way to achieve certain goals.
5. System Objectives
A system is created with a specific purpose. The purpose of a system is an expected form (desired output). Measurement of the purpose of a system that was designed should be as clear as possible and as far as possible expressed in a qualitative measure.
6. System Organization
Organizations in a system structure involve functions, structures, and hierarchies. In organizing the system it must be possible that each sub-system can achieve its objectives which are aligned with the overall objectives of the system.
7. Multi Discipline
The system approach was intended to solve complex problems. For this reason, an approach from various disciplines was needed. The system approach was taken to make decisions in system planning and design.

Law Number 32 of 2009 on Protection and Environmental Management in General Provisions Article 1 number 1 the definition of the environment is: "The unity of space with all things, power, circumstances and living things, including human beings and their actions, which affect nature itself, the survival of life, and the welfare of human beings and other living beings".

The environment in principle is a system that was interconnected with one another so that the understanding of the environment almost includes all elements of the creation of God Almighty on this earth. That is because the environment, including humans and their behavior, is a crucial element of the environment.¹⁰In other words, human in their life both personally and community groups always interact with the environment in which they live in the meaning of humans with various activities will affect the environment and environmental changes will affect human life.

B. Regional autonomy

Autonomy comes from the Greek language, *auto* which means self and *nomous* which means law or regulation¹¹. In Black's Laws Dictionary, autonomy was defined as "the right of self-government; a self-governing state"¹². Whereas in the Indonesian Dictionary, autonomy was defined as standing alone; with self-government; the social groups that have rights and power determine the direction of their own actions¹³.

Article 1 of Law Number 23 of 2014 on Regional Government, defined regional autonomy as the right, authority, and obligations of autonomous regions to regulate and managed their own governmental affairs and interests of local communities in the system of the Unitary State of the Republic of Indonesia. The implementation of regional autonomy was implemented according to the principles implementation of decentralization, deconcentration, and assistance task.

Autonomy becomes the principle and basis of the implementation of regional government in Indonesia, as the main thoughts of Article 18 of the Constitution of the Republic of Indonesia are: 1) The Indonesian territory shall be divided on the basis of large and small to be regulated by law; 2) The arrangement shall consider and remember the basis of deliberations in the system of state governance as well as the rights of origin in a special area.¹⁴There are several principles for granting regional autonomy which were used as guidelines in the establishment and implementation of autonomous regions, including of:

1. Implementation of aspects of democracy, justice, equity and potential and regional diversity;
2. The implementation of regional autonomy was based on broad autonomy, real and responsible;
3. Implementation of broad and intact regional autonomy was placed on City and Regency, while Provincial Region is limited autonomy;
4. The implementation of regional autonomy must be in accordance with the state constitution to ensure a harmonious relationship between the Central and Regional and between Regions;
5. The implementation of regional autonomy must further increase the autonomy of the Autonomous Region.

C. Sustainable Development Goals

¹⁰ Supriadi, 2006, *HukumLingkungan di Indonesia*, Jakarta: SinarGrafika

¹¹ .H. Sarundajang, 2012, *ArusBalikKekuasaanPusatKe Daerah*, cet.VI, Jakarta: PustakaSinarHarapan, p. 33

¹² Brian A. Garner, Ed., 2004, *Black's Laws Dictionary*, cet.XI, United States of America: Thomson Bussiness, p.145

¹³ Tim Redaksi KBBI PusatBahasa, 2008, *KamusBesarBahasa Indonesia PusatBahasa*, EdisiKeempat, cet. I, Jakarta: PT. GramediaPustakaUtama, p. 992

¹⁴ BagirManan. 2002. *Pemerintahan Daerah Bagian I, Penataran Administrative and Organization Planning*. Gajah Mada, Yogyakarta. Hal 2-3

The World Commission on Environment and Development (WCED) was defined sustainable development as a development that can meet current needs without sacrificing the fulfillment of the needs of future generations.¹⁵ In the World Summit Report 2005, sustainable development must be established on three main pillars including economic, social and environmental. All three are formed to mutually support each other. Thus it can be formulated that sustainable development not only focuses on the aspects of economic and social development alone, but also must be based on the protection of the environment.

Sustainable development has goals that have been developed as a program known as the Sustainable Development Goals (SDGs). SDGs have been agreed upon by more than 190 countries, and contain 17 goals with the general aim of regulating procedures and procedures, namely peaceful communities without violence, non-discrimination, participation, open governance and multi-party partnership cooperation. SDGs were expected to respond to the lagging of development around the world, both in developed countries (excessive consumption and production, and inequality) and developing countries (poverty, health, education, protection of marine and forest ecosystems, urban, sanitation and water availability drink).

III. Problems

The problems description was related to how the pattern of environmental protection based regional autonomy and connection with efforts to realize the Sustainable Development Goals (SDGs)?

IV. Research Methods

The research type was used prescriptive normative legal research. The data type was used secondary data, i.e. data or information review of similar research documents that have been done previously, namely library materials such as books, literature, newspapers, magazines, journals or archives that fit with the research to be discussed. Collecting data technique was used library research which then analyzed deductively. While the study approaches were used legislation and conceptual approach.

V. Discussion

A. The authority of the Regional Government to Protect the Environment

The development process in the spurred areas has an impact and burden on the surrounding environment. The development ongoing in various sectors today was highly multi-complex and indicated the increasing impact of development on the environment. Along with the increasing of development, the environment becomes global issues because it involves various aspects of human life and their future because the shifting of the principle of balance in the development tends to less consider the responsibility aspect to the environment and sustainability.

During this time, the problems related to excessive management, exploitation, and the absence of a clear regulation related to the implementation and sanctions for the offenders, have caused the development that utilized the environment to be not proportional to the results obtained. Even the patterns of settlement that are carried out simultaneously and equally actually cause inequality to widen, because they are not in accordance with the real conditions that exist in each region. This has spurred significant changes related to environmental management which is clarified in the context of Law Number 32 of 2009 on Environmental Protection and Management.

Basically, parties who have an interest in environmental management are the government, society and other businesses. In accordance with Article 63 of the Environmental Law, it refers to the duties of both central and regional governments, such as setting national environmental policy, and that this policy should be carried out in an integrated manner by all agencies. This article was explained that environmental management is not only limited to jointly integrated responsibilities. Thus the main problem lies precisely in coordination and division of responsibilities. However, in reality the weakness of the coordination mechanism is actually more of a constraint to the implementation of environmental management as expected target.

The autonomous giving of authority to the regional government to carry out environmental management and control is a very appropriate policy strategy, because in addition to being a public service organ that deals directly with the community, they also better understand the environmental objective conditions in the area, so that the policy strategy what they are going to do is far more effective when compared to the policy strategy formulated and implemented by the central government in a centralized manner. In other words, the pattern of environmental protection began to shift decentralized to regional governments.

Normatively, decentralization in terms of environmental management authority is regulated in the Regional Government Law and Environmental Protection and Management Law. Meanwhile, fiscal decentralization in the environmental field is only regulated in the Environmental Protection and Management Law. In terms of decentralization of the authority of environmental management, through the Regional Government Law there is a division of authority between the central government and regional government, both at the provincial, district and municipal levels in the environmental field, divided into eleven sub-fields. This shown that environmental

¹⁵ World Commission on Environment and Development (WCED), 1987, *Our Common Future*, Oxford: Oxford University Press, p. 43

management used various approaches to authority both at national and regional levels. Thus, aspects of the environmental insight are relatively faster to materialize.

The decentralization of environmental management authority in the Environment Law is seen in Part Three of Article 9 of the Environment Law which gives the regional authorities the authority to draft the Environmental Protection and Management Plan in the regions. Environmental Protection and Management Plans in the regions function as references and written guidelines for regional government planning that contain potential, environmental problems, and their protection and management efforts within a certain period of time in the region.

Some of the authority of regional governments related to the environment contained in Chapter XI Article 63 of the Environmental Protection and Management Law stated that:

- (2) In the environment protection and management, the provincial government has the duty and authority as follow:
- a) set provincial level policies;
 - b) determine and implement KLHS at provincial level;
 - c) establish and implement policies regarding RPPLH provincial level;
 - d) determine and implement policies concerning EIA/AMDAL and UKLUPL;
 - e) conduct an inventory of natural resources and greenhouse gas emissions at the provincial level;
 - f) develop and implement cooperation and partnerships;
 - g) coordinate and implement pollution control and / or environmental damage across districts/cities;
 - h) conduct guidance and supervision on the implementation of policies, regional regulations and regent/major regulations;
 - i) conducting guidance and supervision of the compliance of the party responsible for the business and/or activity on the provision of environmental licensing and legislation in the field of environmental protection and management;
 - j) develop and implement environmental instruments;
 - k) coordinate and facilitate cooperation and settlement of disputes between districts/cities and dispute settlement;
 - l) undertake technical guidance, supervision, and supervision to districts/city in the field of programs and activities;
 - m) implement minimum service standards;
 - n) establishing policies on how to recognize the existence of indigenous and tribal peoples, local wisdom, and the rights of indigenous and tribal peoples related to the protection of environmental management at the provincial level;
 - o) managing provincial level environmental information;
 - p) develop and socialize the use of environmentally friendly technology;
 - q) providing education, training, coaching, and awards;
 - r) issuing environmental permits at the provincial level; and
 - s) carry out environmental law enforcement at the provincial level.
- (3) In the protection and management of the environment, the district / city government was assigned and authorized as follow:
- a) determine district / city level policy;
 - b) determine and implement KLHS at the district / city level;
 - c) determine and implement the district / city RPPLH policy;
 - d) determine and implement policies regarding EIA/AMDAL and UKLUPL;
 - e) carrying out inventories of natural resources and greenhouse gas emissions at the district / city level;
 - f) develop and implement cooperation and partnerships;
 - g) develop and implement environmental instruments;
 - h) facilitate dispute resolution;
 - i) conduct guidance and oversight of compliance with the person in charge of the business and/or activity to the provisions of environmental licensing and legislation;
 - j) implementing minimum service standards;
 - k) implement policies concerning the ways of recognizing the existence of customary law communities, local wisdom, and customary community rights related to environmental protection and management at the district/city level;
 - l) managing environmental information at the district/city level;
 - m) develop and implement environmental information system policies at the district/city level;
 - n) provide education, training, coaching, and awards;
 - o) issuing environmental permits at the district / city level; and
 - p) carry out environmental law enforcement at the district / city level.

Then, Article 11 of the Regional Government Law explains that the Regional Government has the authority to take care of the concurrent governmental affairs comprising the mandatory government affairs and the choice governmental affairs. The mandatory governmental affairs were related to basic services and government affairs that are not related to basic services. Whereas under Article 12 of Law Regional Government, said that the local authorities in the environmental fields are mandatory government affairs unrelated to basic services. Clearly, regional governments have the authority to protect the environment within the framework of their regional autonomy.

B. Pattern of Environmental Protection by Regional governments to Realize the Sustainable Development Goals

The implication of decentralization of management authority in the environmental field is to prepare fair financing for the environmental sector fairly in the Regional Government Budget. This is in accordance with the mandate of the Regional Government Law and the Environmental Protection and Management Law to accommodate the environmental vision in the process and results of the formation of the Regional Government Budget. Policy directives related to fiscal decentralization in the environmental field are regulated in the Environmental Protection and Management Law. This is because environmental funding is one of the environmental economic instruments that must be used by the regional government in order to preserve the function of the environment¹⁶.

Article 45 paragraph (1) of the Environmental Protection and Management Law stated that: The Government and the House of Representative of the Republic of Indonesia (DPR RI) and the regional government and the Regional House of Representative (DPRD) must allocate an adequate budget to finance: (a) environmental protection and management activities; and (b) development programs with environmental concept. Also added in Article 46 of the Environmental Protection and Management Law, it is said that in addition to the provisions referred to in Article 45, in the context of restoring environmental conditions whose quality has been subjected to pollution and/or damage at the time this law is stipulated, the Government and regional governments must allocate a budget for environmental recovery.

In the context of fiscal decentralization, instruments of regional government budget (APBD) are strategic components. This is because, the quality of various regional development sector plans can be seen in the APBD, as well as the environmental sector. In the APBD, it will be seen whether the environmental sector, for example, is increasingly concerned.

Reconstruction of regional fiscal policy in the environmental sector as an effort to implement SDGs was intended to improve environmental governance in a decentralized situation. Budget allocation in a very limited area in the field of the environment is one of the problems that need to be given way out considering that environmental funding is one of the environmental economic instruments that must be used by the regional government in order to preserve environmental functions.

Major changes in policies relating to regional and financial authority are needed to improve environmental governance in the region. This can be done through the reconstruction of regional fiscal policies for the environment preservation and protection. SDGs have inspired the legal framework in various countries, both developed and developing countries, including Indonesia. Some countries have even taken the principles of sustainable development as a basis for decision making in court. This means that the values of sustainable development can play a role in the regulation of environmental management. The implication is that the principles of sustainable development need to be encouraged so that policy makers play a role in realizing it.¹⁷

There is a general statement, the higher the fiscal capacity of a region, the higher the financial commitment to environmental protection and management affairs. This is because the environmental protection and management is one sector of fiscal decentralization from the APBD in addition to education and health. Meanwhile, it must also be recognized that the availability of regional supporting elements of Environmental Protection and Management is not only nationally uneven, but also has a variety of different environmental programs between one region and another. Equally important is the availability of rules at the regional level and the leadership commitment of the regional head. As a strategic government affair, Environmental Protection and Management affairs were required the integration of various policy elements to produce an ideal policy in the field of environment.

The results of the Indonesian Center for Environmental Law (ICEL) study, put an environment-based budget from both the central and regional governments as one of the frameworks and principles of SDGs. The results of this study was required the central government and regional governments allocate environment-based budgets to ensure that the principle of sustainable development has become the basis and integrated in the development of a region and/or local policies, plans and/or programs.

In the context of decentralization, the policy of regional governments to allocate environmental budgets as an effort to implement regional SDGs was influenced by various factors, including of economic, political (power) and culture. The success or failure of the regional government, including the city/regency, in allocating the environmental budget in the APBD and sustainable development as a regulatory framework, depends on economic, political (power) and cultural factors.

Subsequently, budget transparency and budgetary participation are key to ensuring that governments effectively plan and use budgets to meet the SDGs and that all stakeholders have the means to influence, monitor, and learn from the

¹⁶ Carunia Mulya Firdausy (editor), 2017, *Kebijakan dan Strategi Peningkatan Pendapatan Asli Daerah dalam Pembangunan Nasional*, Pustaka Obor, Jakarta, p. 18.

¹⁷ Otto Soemarwoto, 1992, *Indonesia dalam Kancah Isu Lingkungan Global*, Gramedia Pustaka Utama, Jakarta, p. 7

process. Evidence shows that budget allocation, budget transparency, budget monitoring, and budget accountability in implementing SDGs can play a major role in better development outcomes¹⁸.

According to William N. Dunn, good policy recommendations include elements of (1) action focus;(2) future oriented;(3) interdependence factors and (4) value duality. Thus, in reconstructing the regional fiscal policy for conservation and environmental protection it will seek to idealize the 4 (four) main points that must be set according to William Dunn's theory in analyzing public policy¹⁹.

Then, to choose an appropriate policy alternative, it is necessary to consider the accuracy of the policy through the feasibility dimensions as quoted from Abidin. There are several criteria commonly used in measuring the accuracy of a public policy formulation, including of(1) political feasibility; (2) economic feasibility (3) financial/costfeasibility; (4) administrative feasibility; (5) technological feasibility; (6) socio-cultural feasibility, and (7) other feasibility in accordance with specifically made criteria.²⁰ On the basis of the feasibility assessment, the best practices can be selected from the existing alternatives to be formulated into a reconstruction recommendation of the regional fiscal policy for the preservation and protection of the environment in support of the implementation of SDGs in the region.

VI. Conclusions

Regional autonomy has encouraged regional governments to have responsibility in providing protection for the environment. The authority of the regional government was intended as an effort to realize the sustainable development goal. The patterns were used by the regional government is through the use and budgeting that puts the environment as one of the priorities of funding objects in the region.

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¹⁸ Pheni Chalid, 2005, *Keuangan Daerah, Investasi, dan Desentralisasi: Tantangan dan Harapan*. Kemitraan, Jakarta, p. 41

¹⁹ William N Dunn, 2003, *Pengantar Analisis Kebijakan Publik*, Yogyakarta: Gajahmada University Press, p. 45.

²⁰ Zainal Abidin, 2004, *Kebijakan Publik*, Yayasan Pancur Siwah, Jakarta, p. 56

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