

The Application of The Sustainable Development Concept In Indonesia's Environmental Law

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ABSTRACT

The reality of state life places the environment in sustainable development as an integral part of the national dynamics development. Moreover, Indonesia itself has issued various policies and instruments in the development of environmental law. Therefore, the development of environmental law cannot be separated from efforts to develop environmental law in accordance with international and national concepts or principles, one of which is the concept of sustainable development. However, environmental problems in Indonesia often occur, for example, forest fires, river pollution, air pollution, garbage, etc. This can raise doubts for the Indonesian people regarding the concept of sustainable development has really been applied in environmental law regulations in Indonesia so that it is necessary to examine the application of the sustainable development concept in Indonesia's environmental law. Based on this background, the problem discussed in this paper is how the concept and application of sustainable development are in Indonesia's environmental law? The method used in this article is normative legal research with a library law approach. The results of the study indicate that environmental law regulations in Indonesia such as: Law Number 4 of 1982 concerning Basic Provisions for Environmental Management, Law Number 23 of 1997 concerning Environmental Management, Law no. 32 of 2009 concerning Environmental Protection and Management, and Law no. 11 of 2020 concerning Job Creation, has been in accordance with the concept of sustainable development as stated in the articles in each of these laws.

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1. INTRODUCTION

The concept of sustainable development became popular after the Brundtland Commission introduced it under the leadership of Norwegian Prime Minister Gro Harlem Brundtland, who worked from October 1984 to March 1987 and created the

book “Our Common Future” published by the World Commission on Environment and Development (WECD) in 1987.¹ The pillars of sustainable development are economic sustainability, social sustainability and environmental sustainability, all three of which must develop balanced. Otherwise, the development will be trapped in conventional development models that emphasize economic growth and leave social and environmental development behind.²

There are several things that should be considered in the implementation of renewable natural resources development and utilization, namely: Future generations must continue to inherit a nature that is still full of prosperity sources to give life to them; there is a dynamic balance between the elements found in nature; In extracting natural resources, it must still be guaranteed that nature conservation is carried out; The planning of human life should be consistent with the environment and create satisfaction for both physical, economic, social, and spiritual needs.³

Sustainable development adopted by Indonesia is the development that can fulfil the aspirations and needs of the current generation of society without reducing the potential for fulfilling the aspirations and needs of future generations.⁴ The government seeks to realize the concepts of sustainable development in the formation and implementation of environmental laws. Law Number 4 of 1982 concerning Basic Provisions for Environmental Management contains the principles of sustainable development as an instrument of environmental protection and management in Indonesia.⁵ These principles are:⁶

- a. Intergenerational Equity Principles. The principle of intergenerational justice is based on the natural resources that exist on this earth as a deposit (in trust) to be used by future generations.
- b. One Generation Justice Principles. This principle is also called intragenerational justice. This principle refers to the idea that society and the demands of life in one generation have the right to use natural resources and enjoy a clean and healthy environment.⁷
- c. Precautionary Principle. This principle theoretically or practically implies that if there is a threat of irreversible environmental damage, the absence of

¹ Muhammad Suparmoko. (2020). “Konsep Pembangunan Berkelanjutan dalam Perencanaan Pembangunan Nasional Dan Regional”, *Jurnal Ekonomika dan Manajemen*, 9 (1): 39-50.

² Greece Maria Lawalata. (2013). “Prinsip-Prinsip Pembangunan Jalan Berkelanjutan”, *Jurnal Transportasi*, 13 (2): 115-124, 116, DOI: <https://doi.org/10.26593/jtrans.v13i2.531.%25p>.

³ Mira Rosana. (2018). “Kebijakan Pembangunan Berkelanjutan yang Berwawasan Lingkungan di Indonesia”. *Jurnal Kelola : Jurnal Ilmu Sosial*, 1 (1): DOI: <https://doi.org/10.15575/jk.v1i1.4128>

⁴ Helmi. (2011). “Hukum Lingkungan Dalam Negara Hukum Kesejahteraan Untuk Mewujudkan Pembangunan Berkelanjutan”, *INOVATIF: Jurnal Ilmu Hukum*, 4 (5): 93-103.

⁵ Sutrisno. (2011). “Politik Hukum Perlindungan dan Pengelolaan Lingkungan Hidup”, *Jurnal Hukum*, 18 (3): 444-464.

⁶ Karel Wowor. (2017). “Penerapan Prinsip Berkelanjutan Sebagai Upaya Pencegahan Kerusakan Lingkungan Hidup Dibidang Pertambangan Ditinjau Dari UU Nomor 4 Tahun 2009”. *Agri-Sosio Ekonomi Unsrat*, 13 (2): 343-354, DOI: <https://doi.org/10.35791/agrsossek.13.2A.2017.17219>.

⁷ N.H.T. Siahaan. (2009). *Hukum Lingkungan*. Jakarta: Pancuran Alam, p. 6.

- conclusive and definite scientific evidence cannot be used as an excuse to delay efforts in the prevention of environmental damage.⁸
- d. Biodiversity Protection Principles (Biodiversity Conservation). This principle is a prerequisite for the success or failure of implementing the intergenerational equity principle. Furthermore, the protection of biodiversity is also related to the problem of prevention because preventing the extinction of species from biodiversity requires early prevention.⁹ Therefore, the efforts to protect biodiversity are to prove commitment and awareness of the importance of early prevention biodiversity extinction while at the same time implementing the principle of justice both between generations and within one generation to realize the characteristics of sustainable development.
 - e. Internalization of Environmental Costs Principles. This principle departs from a state utilization of environmental resources, which is a tendency of market incentives. As a result, the interests that have not been represented in the decision-making component in determining market prices are ignored and cause losses for them.¹⁰

Sustainable development places the environment as an integral part of the national development dynamics as the reality of state life.¹¹ Indonesia itself has issued various policies and instruments in the development of environmental law. The development of environmental law cannot be separated from efforts to develop environmental law in accordance with international and national concepts or principles, one of which is the concept of sustainable development.

Based on the description of the background above, the author will discuss “The Application of The Sustainable Development Concept in Indonesia’s Environmental Law”. The concept of sustainable development is contained in Law Number 4 of 1982 concerning Basic Provisions for Environmental Management, Law Number 23 of 1997 concerning Environmental Management, Law Number 32 of 2009 concerning Protection and Environmental Management, Law Number 11 of 2020 (Omnibus Law). The problem that will be discussed in this research is how to apply the concept of sustainable development in environmental law in Indonesia?

2. METHOD

The method used in this article is normative legal research with a library law approach. Then it is analyzed descriptively which provides an overview of the problems and legal phenomena that exist in the community. In addition, this article also uses library research with book and journal sources related to environmental law.

⁸ Syamsuhardi Bethan. (2008). *Penerapan Prinsip-Prinsip Hukum Pelestarian Fungsi Lingkungan Hidup Dalam Aktivitas Industri Nasional: Sebuah Upaya Penyelamatan Lingkungan Hidup dan Kehidupan Antar Generasi*. Bandung: Alumni, p. 32.

⁹ F.X. Aji Samekto. (2004). “Keterkaitan Kapitalisme dengan Konsep Pembangunan Berkelanjutan dan Implementasi Konvensi Keanekaragaman Hayati Dalam Studi Hukum Kritis”, *Disertasi PPS Undip*, Semarang.

¹⁰ Mas Ahmad Santosa. (1996). *Aktualisasi Prinsip-prinsip Pembangunan Berkelanjutan Dalam Sistem dan Praktik Hukum Nasional*. Jakarta: ICEL.

¹¹ Ishartono, Santoso Tri Raharjo. (2016). “Sustainable Development Goals (SDGs) dan Pengentasan Kemiskinan”, *Share: Social Work Jurnal*, 6 (2): 154-272, 164, DOI : <https://doi.org/10.24198/share.v6i2.13198>.

3. RESULTS AND DISCUSSION

3.1. Environmental Aspects in Sustainable Development

The Sustainable Development Goals (SDGs) or known as sustainable development with environmental sense are a framework of action promoted by the United Nations (UN) as an important step in achieving global development. The SDGs were agreed in 2015 by world leaders under the United Nations control, including Indonesia, to achieve three main goals, namely ending poverty, fighting inequality, and halting global climate change. The SDGs contain 17 goals and 169 targets that are expected to be achieved by 2030. The 17 (seventeen) Global Goals of the SDGs are:¹²

- a. No Poverty. There is no poverty in any form in all around side of the world.
- b. No Hunger. No more hunger, achieve food security, improve nutrition, and encourage sustainable agricultural cultivation.
- c. Good Health and Welfare. Ensuring a healthy life and encouraging the welfare of life for all people at all ages.
- d. Quality Education. Ensure equal distribution of quality education and increase learning opportunities for all, ensure inclusive and equitable education and promote lifelong learning opportunities for all.
- e. Gender Equality. Achieving gender equality and empowering mothers and women.
- f. Clean Water and Sanitation. Ensure the availability of clean water and sustainable sanitation for everyone.
- g. Clean and Affordable Energy. Ensure access to affordable, reliable, sustainable and modern energy sources for everyone.
- h. Economic Growth and Decent Work. Support sustainable and inclusive economic development, full and productive employment and decent work for all.
- i. Industry, Innovation and Infrastructure. Build quality infrastructure, encourage inclusive and sustainable industry improvement and encourage innovation.
- j. Reducing Gaps. Reducing inequality both within a country and between countries around the world.
- k. City and Community Sustainability. Build cities and settlements that are inclusive, quality, safe, resilient and sustainable.
- l. Responsible Consumption and Production. Ensure continuity of consumption and production patterns.
- m. Action on Climate. Act quickly to combat climate change and its effects.
- n. Underwater Life. Preserve and maintain the sustainability of the sea and the life of marine resources for the development of sustainable development.
- o. Life on Land. Protect, restore and promote sustainable use of terrestrial ecosystems, manage forests sustainably, reduce barren land and land swaps, combat desertification, halt and reverse land degradation, and stop biodiversity loss.
- p. Strong and Peace Judicial Institutions. Promote peace, including society for sustainable development, provide access to justice for all, build up an effective institutions and accountable and inclusive institutions at all levels.
- q. Partnership to Achieve Goals. Strengthen implementation and revive global partnerships for sustainable development.

¹² M. Zainal Abidin. (2014). "Civil Society Dalam Wajah Keislaman Dan Keindonesiaan," *Khazanah: Jurnal Studi Islam Dan Humaniora*, 12 (2): 1-18, 3, <https://doi.org/10.18592/khazanah.v12i2.1607>.

The efforts to achieve these seventeen goals cannot be separated from the participation of various parties, including the government, the private sector, civil society organizations (Civil Society), academics, and the community.¹³ Environmental aspects and sustainable development have a close relationship, this is because the use of natural resources for the implementation of development is closely related to the environment and spatial planning.¹⁴ Spatial planning and environmental management must use the principles of sustainable development. Sustainable development aims to improve the quality and function of the environment including natural resources in it.¹⁵

Sustainable Development Goals (SDGs) are development that maintains sustainable improvement in the economic welfare of the community, development that maintains the sustainability of community social life, development that maintains environmental quality, 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. The SDGs are a unity between the comprehensive and interrelated dimensions of social, economic and environmental development.¹⁶ Sustainable development integrates, understands, and acts in the complex interrelationships that exist among the environment, economy and society. If it is concluded that the goals and targets of the SDGs or post-2015 development which will apply until 2030, the main dimensions lie in social, economic, and environmental issues that intersect with each other. The connection between these dimensions requires a serious process of monitoring so that there is no overlap between the various dimensions managed by various fields of government.¹⁷

Environmental management is required with the principle of sustainable development. Sustainable development is needed to minimize the negative impacts of development that have an impact on the environment. The concept is closely related to how to achieve justice for one generation and between generations.¹⁸ In the sustainable development scheme, an important dimension that needs to be considered is environmental issues. The development that has been carried out so far still does not pay attention to its impact on the environment. The environmental dimension is very important as the foundation of sustainable development, where the environment, nature and everything in it is a barrier, so that all goals in social and economic

¹³ Widiatmaka, et.al. (2015). "Daya Dukung Lingkungan Berbasis Kemampuan Lahan Di Tuban, Jawa Timur", *Jurnal Manusia dan Lingkungan* 22, no. 2 247-259, 248.

¹⁴ Dian Marlina, et.al "Kebijakan Pengelolaan Wilayah Pesisir Berbasis Sustainable Development Dikabupaten Sampang (Studi Pada BAPPEDA Kabupaten Sampang)", *Jurnal Administrasi Publik* 1, no. 3 (2013): 88-86, 80.

¹⁵ Markus Patiung. (2019). "Analisis Permasalahan, Isu Strategis dan Kebijakan pembangunan SDGs Kabupaten Mojokerto", *Jurnal Ilmiah Sosio Agribis*, 19 (1): 33-52, 35, DOI: <http://dx.doi.org/10.30742/jisa.v19i1.686>.

¹⁶ Muhammad Fardan Ngoyo. (2015). "Mengawal Sustainable Development Goals (Sdgs); Meluruskan Orientasi Pembangunan Yang Berkeadilan", *Sosio religius*, 1 (1): 77-88, 83.

¹⁷ Ferina Ardhi Cahyani. (2020). "Upaya Peningkatan Daya Dukung Lingkungan Melalui Penerapan Prinsip *Sustainable Development* Berdasarkan Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup", *Indonesian State Law Review*, 2 (2): 168-179, 174.

¹⁸ Retno Setianingtias, M. Baiquni, Andri Kurniawan. (2019). "Pemodelan Indikator Tujuan Pembangunan Berkelanjutan Di Indonesia", *Jurnal Ekonomi dan Pembangunan*, 27 (2): 61-74, 66, <https://doi.org/10.14203/JEP.27.2.2019.61-74>.

development should not interfere with the preservation of environmental functions to support current and future life.¹⁹

In essence, the implementation of development affects and is influenced by the environment. Like a system, the two cannot be separated from each other. In general, development aims to improve the quality of life of the people and better meet the basic human needs of the people. In an effort to improve the quality of people life, as the goal of development, so the ability of the environment to support life at a higher level should be protected from damage. Environmental care is sought in order to avoid the occurrence of the life extinction. In other words, if there is damage, a severe decline in the ecosystem in which humans live, then in the future human life will gets many difficulties. Thus, it can be said that sustainable development does not occur.²⁰ Sustainable development is also influenced by the industrial sector which is the biggest contributor to the formation of national income, because it absorbs a lot of labor. By 2030, as the deadline for achieving the SDGs, Indonesia is expected to increase industrial and infrastructure retrofits. Increasing resources and adopting environmentally friendly technology is very good to be implemented in every country, especially developing countries such as Indonesia²¹.

Broadly speaking, sustainable development with environmental sense is development that does not ignore environmental sustainability, maintains the harmony of the environment and resources so that sustainable development for present and future generations can be supported by the existence of a sustainable environment and resources. In this case, sustainable development with environmental sense means managing resources to improve the welfare of the present generation without compromising the ability of future generations to manage resources to improve their welfare. Some things that must be included in planning and implementing development projects and extracting natural resources for life are as follows:²²

- a. The development strategy is aware of environmental problems, with the smallest ecological impact.
- b. The environmental policy throughout Indonesia that aims to realize the requirements of a better life for the Indonesian people for decades to come (if possible forever).
- c. Exploitation of biological resources is based on the purpose of environmental sustainability or conservation with the principle that harvesting the produce will not destroy its auto regenerating power.
- d. Development planning in order to meet the needs of livelihoods, should be with the aim of achieving a dynamic balance with the environment so as to provide physical, economic, and social spiritual benefits.

¹⁹ Mira Rosana. (2018). "Kebijakan Pembangunan Berkelanjutan yang Berwawasan Lingkungan Di Indonesia", *Jurnal KELOLA: Jurnal Ilmu Sosial*, 1 (1): 148-163, 152, DOI: <https://doi.org/10.15575/jk.v1i1.4128>.

²⁰ Nida Humaida, Miftahul Aula Sa'adah, Huriyah, Najminnur Hasanatun Nida. (2020). "Pembangunan Berkelanjutan Berwawasanlingkungan Dalam Perspektif Islam", *Khazanah: Jurnal Studi Islam dan Humaniora*, 18 (1): 131-154, 142, DOI: 10.18592/khazanah.v18i1.3483.

²¹ Emil Salim. (1991). *Pembangunan Berkelanjutan (Strategi Alternatif dalam Pembangunan Dekade Sembilan Puluhan)*. Jakarta: LP3ES.

²² Poerwanti Hadi Pratiwi. (2008). "Kebijakan Nasional terhadap Pembangunan Berwawasan Lingkungan", *Dimensia*, 2 (1): 101-111.

- e. Make sure that some of the development results can be used to repair the environmental damage caused by the development project, in order to maintain environmental sustainability.
- f. The use of non-replaceable natural resources must be as economical and efficient as possible.

3.2. The Application of the Sustainable Development Concept in Indonesia's Environmental Law

3.2.1 Law Number 4 of 1982 on Basic Provisions for Environmental Management

In Indonesia, the term sustainable development is officially contained in written laws and regulations related to the environment, namely in Law Number 4 of 1982 concerning Basic Provisions for Environmental Management. The term used in this law is "sustainable development", where article 3 stipulates that "Environmental management is based on the preservation of a harmonious and balanced environmental capability to support sustainable development for the improvement of human welfare".

Article 4 letter d of this law stipulates that one of the environmental management goals is the implementation of development with environmental sense to present and future generations benefit. Development with environmental sense here is defined as environmental development in which the management of resources is used to improve the present welfare, without compromising the ability of future generations to improve resources process to their welfare. Then Article 5 paragraph (2) of this law stipulates that "Everyone is obliged to maintain, prevent and overcome the environment from damage and pollution". Article 5 paragraph (2) indicates that in 1982 Indonesia had implemented environmental management based on preservation and sustainable development by requiring everyone (as a legal subject) to maintain, prevent, and overcome environmental damage and pollution. These actions are taken to protect and preserve the environment to still be enjoyed and felt by future generations. Furthermore, Article 8 paragraph (a) regulates how the government encourages the efforts to preserve the environment's ability in sustainable development support. The word "sustainable development" here becomes an emphasis on sustainable development and becomes a form of State responsibility in managing its environment, both for current and future generations.

3.2.2 Law Number 23 of 1997 on Environmental Management

Law Number 23 of 1997 concerning Environmental Management, clearly mentions the term sustainable development in Article 1 point 3, which reads, "sustainable development with an environmental perspective is a conscious and planned effort, integrating the environment into the development process to ensure the ability, welfare, and quality of life of present and future generations.

Article 3 of this law regulates "Environmental management which is carried out with the principle of state responsibility, sustainability principle, and benefit principle aims to realize sustainable development with an environmental perspective in the context of developing Indonesian people as a whole and the development of the Indonesian people as a whole who are faithful and devoted to The One Almighty God." Thus, this

article directly states that environmental management is carried out by applying the principle of sustainability and the principle of benefit to realise sustainable development so that the environment managed and utilized for Indonesia's current development can still be enjoyed, managed, and utilized by future generations.

Article 4 letters c, d, and e of this law stipulate that the environmental management goals in Indonesia, among others, are ensuring the interests of present and future generations, achieving the preservation of environmental functions, and controlling the wise use of resources. These three points are the targets of environmentally sustainable development. Therefore, environmental management guarantees the interests of the present generation and future generations, with efforts to preserve the preservation of environmental functions and control the use of resources carried out by the present generation effectively wise.

Article 6 of this law states that "Everyone is obliged to maintain the preservation of environmental functions as well as to prevent and overcome environmental pollution and destruction." Article 6 is one of the government's efforts to implement the concept of sustainable development in this law. Therefore, everyone as a legal subject is obliged to maintain and preserve the environment, this effort is carried out in order to preserve the environment so that future generations can feel the benefits.

3.2.3 Law Number 32 of 2009 on Environmental Protection and Management

This law contains the term sustainable development in article 1 paragraph (3), which reads "Sustainable development is a conscious and planned effort that integrates environmental, social and economic aspects into a development strategy to ensure the integrity of the environment as well as the safety, capabilities, welfare, and quality of life of present and future generations. This understanding is almost the same as that contained in Law Number 23 of 1997 concerning Environmental Management which directly mentions the term and meaning of sustainable development.

Article 2 letter b of this law regulates that environmental protection and management are carried out based on sustainability principles. The principle of sustainability is carried out so that environmental management remains concerned with the preservation of biodiversity and the preservation of natural resources and its sustainability in the future so that environmental management carried out in the current generation can still be utilized by future generations.

Article 3 letters c, d, f, h, i, which stipulates that environmental protection and management aims to ensure the survival of living things and the preservation of ecosystems, preserve environmental functions, ensure the fulfilment of justice for present and future generations, control the use of natural resources wisely, realizing sustainable development. The clause in this article explains that the protection and management of the environment must be to ensure the continuity of the ecosystem, the preservation of the environment, the use of the environment by present and future generations, the control of the use of natural resources, in order to realize sustainable development.

3.2.4 Law Number 11 of 2020 (Omnibus Law)

Article 21 of this law reads that in order to provide convenience for everyone in obtaining environmental approval, this Law amends, deletes, or stipulates new arrangements for several provisions related to Business Licensing as regulated in Law Number 32 of 2009 concerning Protection and Management Environmental.

Article 1 paragraph (3) Sustainable development is a conscious and planned effort that integrates environmental, social and economic aspects into a development strategy to ensure the integrity of the environment as well as the safety, capability, welfare, and quality of life oin the present and future generations. Therefore, this law also clearly mentions the term sustainable development.

Article 69 paragraph (1) letter reads that everyone is prohibited from committing acts that result in pollution and/or destruction of the environment. Therefore, everyone here is defined as a capable legal subject according to the law, who is not allowed to take actions that consequently can damage and pollute the environment. This effort is carried out as a preventive measure to protect the environment and biodiversity, so the protection needs to be done to keep current natural resources from damaged and depleted due to people's negligence

4. CONCLUSION

Based on the discussion that has been described in the previous chapter, it can be concluded that Law Number 4 of 1982 concerning Basic Provisions for Environmental Management, Law Number 23 of 1997 concerning Environmental Management, Law no. 32 of 2009 concerning Environmental Protection and Management, and Law no. 11 of 2020 (Omnibus Law), in its development it has been in accordance with the concept of Sustainable Development as stated in the articles in each of these laws.

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