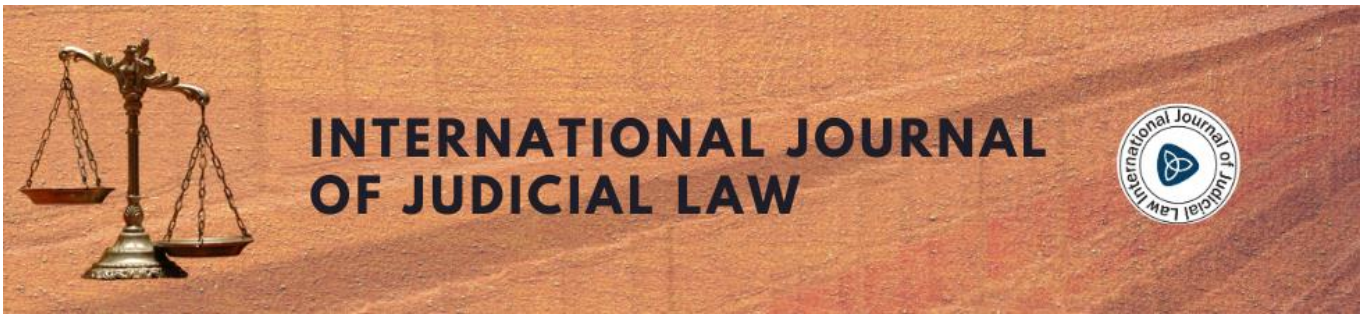




Natural Resource Governance Arrangement Based on the Principle of Social Justice

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Abstract

The regulation of natural resource governance has so far been less able to fulfill the principle of social justice. The principle of justice is not only in natural resources but also occurs in the principle of social justice by ignoring the rights of the community. The regulation of natural resource governance is carried out with the aim of improving and increasing the capacity of natural resource management and environmental functions based on the principle of social justice. In addition, in implementing natural resource governance, it is also based on the principles of transparency, participation and accountability.

Keywords: Regulation, natural resources, justice

1. Introduction

The linkage of natural resources to economic development is very significant where the economic sector can support the implementation of people's welfare development. The 2020-2024 RPJMN has stated that commodities, especially processed crude palm oil, have been exported to almost 50%.

This can be seen from BPS data in 2020 that the natural resource sector, which includes the forestry, mining, plantation sectors, especially palm oil and fisheries, is the largest contributor to gross domestic product. In addition, the natural resource sector can also absorb labor.

Constitutionally, natural resources are regulated in the 1945 Constitution of the Republic of Indonesia, which provides regulations on natural resources, namely the earth, water and natural resources are used for the greatest prosperity of the people. It is also regulated that the regulation of control of natural resources is in the hands of the government.

The principle of justice has been reflected in the 1945 Constitution of the Republic of Indonesia that the natural resources sector supports national development including in realizing people's welfare. However, in reality it has caused negative impacts, namely damage and pollution, including causing conflict in society which results in a decrease in the economic added value of natural resources.

Environmentally sustainable development can be achieved in the long term to achieve a just and prosperous society based on Pancasila.

Meanwhile, managing natural resources is directed towards achieving short-term goals.

The management of natural resources that is directed to the short term is intended to meet financial needs. Therefore, in managing natural resources, it is done rationally so as not to damage the ecosystem and the environment.

As regulated in Article 1 number 3 of Law No. 32 of 2009 concerning UUPPLH, it is emphasized that "sustainable development is a conscious and planned effort by integrating environmental, social, and economic aspects into development strategies to ensure the integrity of the environment and the safety, ability, welfare, and quality of life of the present and future generations". The Indonesian government is committed to implementing a sustainable development pattern in the implementation of national development.

The importance of natural resources for improving social welfare, then policy makers must always create a condition that prioritizes social interests. So in designing a policy do not create conditions for the benefit of their group only.

Group interests alone can result in industrial interests that can benefit from the policy. Because regulations that only favor the interests of industrial groups will result in regulations that will not favor sustainability and society.

For this, a natural resource management arrangement is needed based on the principle of justice. This will realize social welfare.

2. Study Method

The discussion of natural resource governance arrangements based on the principle of justice uses a normative legal research type, with analytical descriptive research specifications that attempt to describe how natural resource governance arrangements are based on the principle of justice. The main data collection is secondary data, namely by collecting materials in the form of books and laws and regulations related to natural resource governance arrangements and the principle of justice.

The purpose of this discussion is to explain a regulation of natural resource management based on the principle of justice. So that natural resource management regulations are able to provide the rights of social groups and are also able to support environmentally aware development.

3. Discussion

The territory of Indonesia is an area that has a very productive natural resource ecosystem. Natural resources can be grouped into renewable natural resources and non-renewable natural resources.

Renewable natural resources are natural resources whose utilization can affect or not affect the availability of natural resources in the future. While non-renewable natural resources whose utilization will deplete natural resource reserves where these natural resource reserves cannot be renewed.

Legally, the definition of natural resources is contained in Article 1 number 9, which states that natural resources are elements of the environment that include biological and non-biological resources that form a unified ecosystem. While in number 5 it is stated that an ecosystem is an arrangement of environmental elements as a whole and mutually influencing unity to form balance, stability and productivity of the environment.

The regulation of natural resource management has been set out in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which in essence states that natural resources including land, water and natural resources are controlled by the state and used for the greatest possible prosperity of the people. The use and utilization of natural resources is to guarantee the welfare of the people and realize justice for all people.

Natural resources that have a role on one side as a supporter of the life system and on the other side as economic growth. For that reason, the regulation of natural resource governance is carried out in a balanced manner to ensure environmentally aware and sustainable development.

Development is a series of efforts to realize growth and change in a planned and conscious manner undertaken by a

nation-state towards modernity in the context of nation-building.¹ Modernity is defined as a new and better way of life than before, a rational way of thinking and a strong but flexible cultural system.²

According to HM Hadin Muhjad, it is said that development here is a conscious effort by the Indonesian people to improve their standard of living by utilizing all the resources they have.⁷ Sustainable development requires the environment as its main element, while environmental insight requires sustainable development.

Thus, sustainable development must be implemented in environmentally aware development policies. Policies are fixed decisions characterized by consistency and repetitiveness of their behavior.

Who makes and from those who obey the decision.³ Law as stated by E Utrecht is a collection of regulations (commandments and prohibitions) which regulate the order of a society and therefore must be obeyed by that society.⁴

The law that embodies the natural resource management policy is Law No. 5 of 1990 concerning Conservation of Biological Natural Resources and their Ecosystems (UUKH). In article 1 number 18, it is stated that natural resource conservation is the management of natural resources to ensure their wise use and sustainable availability while maintaining and improving the quality of their value and diversity. Then in Law No. 5 of 1983 concerning the Exclusive Economic Zone, which in Article 1 letter d formulates that natural resource conservation is intended to be all efforts to protect and preserve natural resources.

Environmentally sustainable development is a conscious and planned effort that integrates the environment, including its resources, into the development process that ensures the capabilities, welfare and quality of the present and future generations.

Legally according to Article 1 number 3 of the UUPPLH, it is stated that sustainable development is a conscious and planned effort that combines environmental, social, and economic aspects into a development strategy to ensure the integrity of the environment and the safety, ability, welfare, and quality of life of the present and future generations. Environmentally aware and sustainable development is internalized into a policy and legislation.

These policies and laws and regulations can synergize and complement each other with the development of good natural resource governance arrangements based on participation, transparency, and accountability in order to improve and develop natural resources and preserve environmental functions.

The principle of law is used in the same sense as the legal principle and legal basis as stated by Munadjat Danusaputro⁵ that even in a principle there is a principle that is more principled than the principle itself. Principles have a certain hierarchy. Natural resources are elements of the environment, environmental management policies are stated in Law of the Republic of Indonesia No. 32 of 2009 concerning Environmental Protection and Management.

According to Article 1 number 1, the environment is defined as a unity of space with all objects, power, conditions, and living creatures, including humans and their behavior, which affect nature itself, the continuity of life, and the welfare of humans and other living creatures. Based on the environmental management policy, the use of

Natural resources must be in harmony, compatible and balanced with environmental functions.

Therefore, as a consequence, development policies, plans, and/or programs must be inspired by the obligation to preserve the environment and realize sustainable development goals. The law is the basis for implementing government policies.

In this connection, there is a connection and importance of law for policy. Law is also a series of tools available to the government to realize policy. The policy of natural resource conservation is to protect and preserve natural resources, while natural resource conservation itself is only formulated in the words "all efforts", as long as it targets "protection and preservation". Meanwhile, protection and preservation which are the goals of natural resource conservation are interpreted as all efforts aimed at maintaining and preserving natural resources, as stated in Article 1 letter e of the EEZ Law.

UUKH is a legal basis that guarantees legal certainty for the conservation of natural resources and their ecosystems, which in Article 1 number 2 of UUKH states that the management of natural resources whose utilization is carried out wisely to ensure the continuity of their supply while maintaining and improving the quality of their diversity and value. This formulation is in line with UUPPLH, where the conservation of natural resources is oriented towards "management and utilization of natural resources". Management of natural resources connotes harvesting natural resources with the responsibility to maintain their sustainability, while utilization connotes exploitation without thinking about their sustainability.

The legal policy of natural resource utilization is based on the preservation of the quality of natural resources, because it must be done "wisely". The word wise means that the utilization of natural resources must be positive with a direction on "natural resource management".

Thus, both UUPPLH and UUKH state that natural resource conservation is "the management of natural resources which includes efforts to utilize, organize, maintain, supervise, control, restore and develop natural resources as stated in Article 1 number 2 and 11 UUPPLH in conjunction with Article 1 number 2 UUKH. The policy of conservation of biological natural resources according to Article 5 UUKH is carried out through activities to protect the life support system, preserve the diversity of plant and animal species along with their ecosystems, biological natural resources and their ecosystems, sustainable use of biological natural resources and their ecosystems.

The usefulness of natural resource conservation is realized by: 6 maintaining the condition of nature and its environment, preventing rare and non-rare living creatures from extinction, being able to create a balance in the micro and macro environment, being able to contribute to scientific knowledge, being able to contribute to tourism which means conservation areas with their characteristics and objects whose characteristics are areas that are interesting as a means of recreation or nature tourism. Natural resource policies for sustainable environmentally aware development must be carried out by the government and fully implemented by all stakeholders in order to maintain national unity and integrity in the context of national stability.

The target of natural resource policies for environmentally sustainable development is the subject of development as an actor of development in the substructure, infrastructure, and

substructure in order to realize environmentally sustainable development through the exploitation of natural resources and the environment while still paying attention to conservation principles and paying attention to environmental carrying capacity. The targets of natural resource and environmental policies have been outlined in the 2005-2025 Long-Term Development Plan (RPJP), which include renewable natural resources must be optimized and utilized rationally, efficiently, and responsibly by using all functions and benefits in a balanced manner, non-renewable natural resources are managed and directed not to be consumed directly but rather treated as input that can produce optimal added value domestically, the availability of energy is maintained and its use is directed for a measurable time between the level of availability of energy sources and the level of community needs, water resources are preserved and directed to ensure the sustainability of their carrying capacity in maintaining the sustainability of the function of water catchment areas and the existence of groundwater, marine resources are developed through an integrative and comprehensive multi-sector approach to minimize conflict and maintain their sustainability, natural resources are increased as added value and utilize unique and special tropical natural resources for product diversification and innovation by managing natural resources to be developed so that they are able to produce goods and services that have high added value, the diversity of types of natural resources is considered and managed in each region in order to increase local community welfare and developing strategic areas.

The regulation of natural resource governance in its management is carried out in order to improve welfare and realize a sense of justice in society. Realizing justice is of course related to making improvements in the legal field which includes the substance, structure and culture of law.

Improvements to law and justice refer to the understanding and implementation of Pancasila, namely by rejuvenating the values of Pancasila that are recognized in community life. Thus, Pancasila becomes the main foundation in community life that contains objective values that are undoubtedly the basis for the moral commitment of the Indonesian nation.

Pancasila which is wisdom/genius contains three pillars, namely Divinity, Humanity, and Society. Divinity shows as a religious pillar, Humanity shows a humanistic pillar, Society shows a pillar of democracy, people and social justice. A correct understanding of the values of Pancasila is the capital in realizing environmentally aware, sustainable and equitable development.

Efforts to improve the law in working for justice concern substance, structure and culture. Thus, in making changes, it is not only based on substance, namely by issuing many laws and regulations in overcoming problems in society, but must also look at the needs of society for laws and regulations.

Success in enforcing the law to achieve justice, as stated by Soerjono Soekanto⁷, there are several factors that influence each other, namely:

- a. The law;
- b. Law enforcer;
- c. Supporting facilities;
- d. Public;
- e. Culture.

Meanwhile, Satjipto Rahardjo⁸, said that a legal regulation must have a limited reach because it is only a general rule for

broad rules, resulting in creative sharpening when applied to real events in society through law with common sense, so progressive law is needed.

Progressive law will place law as an institution that has the goal of being able to deliver humans to a just, prosperous life that will make humans live happily or is called a law that is pro-people and pro-justice. For that, in the framework of building law, there must be a new paradigm that is based on social justice.

Likewise, natural resource management arrangements are made to realize social justice and community welfare. Social justice will be realized if law makers side with the values of social justice.

The implementer who carries out the regulation in managing natural resources is independent in order to provide certainty and legal protection. The legal basis itself carried out by the makers and implementers of the law also has a nature that is based on principles of social justice.

Moreover, it is known that the natural resources of the products produced are raw materials that will not be consumed directly, of course in the effectiveness of its management depends on the marketing of the users of the raw materials. Natural resources that cannot be renewed of course in their management also pay attention to the interests of future generations, the use of very appropriate technology must be a calculation so that the impact of environmental damage caused is as small as possible.

Other natural resources that experience changes in the development process are land and forests, which are renewable natural resources. For example, natural resources in the form of forests can function as life support for living creatures which have many functions such as storing and managing water, as a source of germplasm for plants, animals, land reserves, energy sources, sources of production materials and human needs.

The function of the forest as a source of germplasm is the most important, because germplasm can only survive in a natural environment that will not be disturbed by human hands. Thus, the forest is very important for the development of germplasm.

Natural resources such as protected forests are also included in natural resources that are very important to preserve because protected forests are rain absorbers, water rescue, air purifiers, weather regulators, maintenance of topsoil humus and so on. Practically protected forests cannot be processed, so in the short term the direct benefits are not felt to be enjoyed, because they can be enjoyed in the long term.

This protected forest is always under pressure from the population when the population increases. For that, a buffer zone is needed around the protected forest so that the needs of the community can be met, besides that the community is also directly involved in preserving the protected forest.

Production forests are also natural resources that experience changes in the development process. Production forests are managed in order to meet the needs of the community in order to increase income and community welfare. These production forests can be categorized as unconverted forests, namely forests that are maintained because their management is based on sustainability principles.

With the selective logging pattern is a way of managing selectively so that it can maintain the integrity of the forest. While production forests that can be converted, usually will become plantations, agriculture, livestock gardens or

fisheries areas. For that it is important to pay attention to the environmental impact of the conversion of the production forest.

Because by converting it will cause changes in the ecosystem and habitat of the environment. This is seen only for short-term interests while long-term benefits will be ignored.

The most drastic thing is if the production forest is totally converted into a residential area, as a place for transmigration, and also a place for infrastructure development. So that it changes the ecosystem and the function of the forest is lost and turns into a human settlement environment.

The elements of technology are very dominant because they can be directly replaced by making water channels or drinking water pipes, thus urging the natural elements of the forest. Improving the quality of the environment is a long-term goal, but long-term goals are always pushed aside by short-term goals.

Short-term goals can be immediately utilized and enjoyed for the current generation, but for future generations will enjoy more. For that, the quality of life with the environment is a decent place and is a guarantee that welfare will be maintained sustainably for future generations.

Thus, sustainable development policies are directed at managing natural resources rationally and wisely, so that development is developed by developing the environment, taking into account its benefits and managing natural resources so that they remain useful for the current and future generations.

4. Closing

The natural resource management policy is carried out with an approach to developing rational development patterns based on the use of natural resources in the mining sector, forestry sector in accordance with the natural protection forest zone, protected forest, converted and unconverted production forest, land areas, river basin development areas, and spatial use as a means of settlement, industrial transmigration, infrastructure and man-made environment.

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