

**Central Government Authority in Environmental Management
In the Province**

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Abstract

The authority of the Central Government and Regional Governments in environmental management is very large, so there needs to be clear restrictions on environmental management. With the authority possessed by the Regional Government, it is necessary to have a good form of supervision carried out by the Central Government so that various policies that damage the environment do not occur in the province. The Central Government must be active in conducting supervision so that environmentally sound development can be carried out properly by the Central Government and Regional Governments. If there are various problems that arise, the central government must handle them properly because the central government still has the authority to conduct various policy evaluations carried out by local governments so that local governments can exercise their authority proportionally in the field of environmental management. The Regional Government has the authority to manage the environment in the province. In carrying out government affairs under its authority, the regional government has the right to make policies in order to increase community participation in regional development. Law No. 9 of 2015 in conjunction with Law No. 23 of 2014 concerning Regional Government, there is a division of government affairs between the central government and local governments. The authority of the regional government is the authority that comes from the delegation of authority by the government to the autonomous region. The authority delegated to local governments, especially in environmental management, must be clearly regulated in a statutory regulation. Sustainable environmental management is a continuous environmental management. In this way, the impact of environmental management that is implemented will be felt in the long term. So that it can be felt by our next generation continuously.

Keywords : Authority, Act, Management, Environment

1. Background

The environment is a space for life in all aspects that must be preserved and its capabilities developed so that it becomes a source and support for life for the community. Environmental management is carried out to preserve and develop a harmonious, harmonious and balanced environmental capability in accordance with environmental functions. Environmental management is a human effort to interact with the environment to achieve a more prosperous life. Integrated efforts to preserve environmental functions which include policy, arrangement, utilization, development, maintenance, restoration, supervision and control of the environment. Environmental management is used to increase the prosperity of the community that can be enjoyed by current and future generations in a sustainable manner.

The sustainability of environmental functions is in the interest of the community that demands responsibility, openness and participation from the community which can be channeled through individuals, environmental organizations, such as non-governmental organizations, indigenous peoples groups and others to maintain and increase the carrying capacity and capacity. environment that is the foundation of sustainable development. the environment is managed with the principle of preserving the function of preserving the function of the environment in a harmonious, harmonious and balanced manner to support sustainable development with an environmental perspective. Environmental management is carried out obediently and consistently from the center to the regions, so that a national policy in environmental management is needed.

The increasing development activities have the risk of pollution and damage to the environment. Environmental pollution and damage is a social burden that ultimately the community and the government must bear the cost of recovery. The increasing number of development efforts leads to an increasing impact on the environment. This situation encourages the treatment of environmental management policies with a clear, firm and comprehensive legal basis in order to ensure legal certainty in environmental management. Environmental law problems that grow and develop in society require regulation in the form of law to ensure legal certainty. Environmental management must be carried out because the environment greatly affects human life. Human life on this earth cannot be separated from the role of the environment. Humans must use natural resources appropriately, so that the environment remains sustainable. Environmental management is an integrated management in the utilization, arrangement, maintenance, supervision, control, breeding, and development of the environment. Environmental management is a conscious effort to maintain and preserve and improve the quality of the environment where it is carried out in order to meet human needs as well as possible.

The purpose of environmental protection and management as described above, is to mandate the importance of environmental protection and management whose functions are important both for the welfare and survival of all living things now and in the future, especially now that global environmental damage looks alarming. In environmental management there is a relationship between the environment and several other fields such as industry, forestry, mining and others. Environmental management is a shared responsibility and obligation between the community, the government and the business world. Thus, environmental management is a right or role which includes a role in the decision-making

process either by filing an objection or by giving an opinion or by other means determined in the process of assessing the analysis of environmental impacts or the formulation of environmental policies.

State administrative officials involved in environmental management, both at the central and regional levels, need to think about ways to solve environmental problems. The development and progress of regulation in the field of environmental management takes place in the context of legal uncertainty. Natural resources are controlled by the state and used for the maximum benefit of the people's prosperity, and the regulation is determined by the government. To implement this provision, the government:

1. Regulate and develop policies in the context of environmental management.
2. Regulate the provision, designation, use, environmental management and reuse of natural resources, including genetic resources.
3. Regulate the making of laws and legal relations between people or other legal subjects as well as legal actions against natural resources and artificial resources, including genetic resources.
4. Controlling the activities have a social impact
5. Develop funding for efforts to preserve environmental functions in accordance with applicable laws and regulations. Matters concerning regulation, development, and industrial development are the authority of the government. In terms of government intervention authority in the socio-economic relationship of the community, there is a known public policy (Public Policy).

Research efforts and administrative facilities, tools for implementing environmental policies, both government and non-governmental organizations, at the center and in the regions continue to improve their effectiveness and efficiency. Cooperation and integration between all interested parties, especially the government apparatus as environmental managers, will further facilitate the achievement of the final objectives of environmental management policies.

Environmental legislation has the function of realizing the community as environmental coaches who have the awareness to protect the environment. Environmental laws and regulations as implementing and supporting UUPPLH which need to be immediately formed are clearly part of the national legal development program. Therefore, the results of the study can be used for the development of Environmental Law which does not yet exist in Indonesia as part of the development of National Law in order to meet the

community's need for legal certainty so that it can be summarized in one Indonesian Environmental Law. The authority of the Central and Regional Governments in environmental management is very large, so there needs to be clear restrictions on environmental management. The Central Government must be active in conducting supervision so that environmentally sound development can be carried out properly by the Government of Indonesia, both by the Central Government and Regional Governments.

2. Problem Formulation

What is the form of regulation regarding the authority for environmental management by local governments?

3. Research Method

The research used in this research is normative legal research related to normative legal substances, reviewing and analyzing legal materials based on statutory regulations.

The approach method used in this study uses several techniques as follows:

- a. The Statute Approach is the approach applied to obtain the legal provisions that underlie the authority.
- b. The conceptual approach (Conceptual Approach) is the approach used to find the understanding of the types and authorities of the central government in setting environmental management policies in the provinces.

4. Theoretical Foundation

a. Rule of Law theory

The State of Indonesia is a state of law, as stated in the 1945 Constitution of the Republic of Indonesia in Article 1 paragraph (3). Law can be formulated as a set of written and unwritten rules of conduct and is distinguished as public law and private law. While the definition of the state is more complex than law because the state is a phenomenon in terms of juridical, historical, economic, political and so on and by setting aside this definition that in a legal state there are restrictions on state power over individuals. The state is not omnipotent and the state cannot act arbitrarily. The meaning is that all authorities and actions of state equipment or authorities are required to be based on valid, written legislation and are subject to applicable law. The rule of law is a state based on law and guarantees justice for its citizens. All powers and actions of state equipment or

authorities are solely based on law or in other words regulated by law. This will reflect justice for the social life of its citizens.

The concept of the rule of law put forward by Frederick Julius Stahl from the Continental European Law community, states that the characteristics of the rule of law are as follows:

- a. There is recognition and protection of human rights
- b. There is a separation of powers
- c. Government by law
- d. The existence of a state administrative court

The concept of a constitutional state based on Pancasila democracy means that it does not only want the protection of human rights, but also provides protection for the public interest.

b. The theory of authority

The theory of authority put forward by Indroharto which states that authority is divided into three views from the source, namely:

- 1) Attribution is the granting of a new authority by a provision in the legislation.
- 2) Delegation is the delegation of an existing authority to a state administrative agency or official who has obtained authority by attribution to another state administrative agency or official.
- 3) Mandate is an assignment from a state administrative agency or official to his subordinates to carry out an action on behalf of the state administrative agency or official and take and issue certain decisions.

The definition of authority from a juridical point of view is the ability given by laws and regulations to cause legal consequences. Authority in a broad sense that is general in nature, namely the authority to do something.

The opinion of Philipus M. Hadjon, which states that authority is divided into two, namely attribution and delegation. Attribution is the authority attached to a position, while delegation is the transfer or transfer of an existing authority.

In connection with this research, the theory of authority is used to determine the type of authority possessed by the competent agency in environmental management in the region.

5. Results and Discussion

Law Number 9 of 2015 in conjunction with Law Number 23 of 2014 concerning Regional Government explicitly states that there is a division of government affairs between the central government and regional governments. So there is a balance of power between the central government and local government. Government affairs are government functions which are the rights and obligations of every level or structure of government to regulate and manage these functions which are their authority in the context of protecting, serving, empowering and prospering the community.

Environmental management is a human effort to interact with the environment to achieve life and prosperity. Environmentally sound development is stated in Article 33 paragraph (3) and paragraph (4) of the 1945 Amendment, namely:

(3) The earth and water and the natural resources contained therein shall be controlled by the state and used for the greatest prosperity of the people.

(4) The national economy is organized based on economic democracy with the principles of togetherness, efficiency with justice, sustainability, environmental insight, independence and by maintaining a balance of progress and national economic unity.

The above provisions indicate that the state's control over the earth, water and natural resources contained therein is used for the prosperity of the community, both present and future generations. In Article 33 paragraphs (3) and (4) of the 1945 Constitution of the Republic of Indonesia, the attribution of the authority to manage natural resources and the environment is the authority of the state, in this case the central government. Through the concept of the state's right to control the earth and water and the natural resources contained therein, the state has the authority to regulate the utilization and management of them for the benefit of the greatest prosperity of the people. All economic activities of the country must be based on the principles of sustainability and environmental insight. The government's authority that comes from this attribution is then delegated to local governments. The legal basis is the provisions of Articles 18 and 18 A of the 1945 Constitution of the Republic of Indonesia, which is further regulated by Law Number 32 of 2004 concerning Regional Government. Based on Article 1 point 7 of Law Number 32 of 2004 it is emphasized that: "decentralization is the transfer of government authority by the Government to autonomous

regions to regulate and manage government affairs in the system of the Unitary State of the Republic of Indonesia". This explains that the authority of the regional government is the authority that comes from the transfer of authority by the government to the autonomous region. Thus, the regional authority in implementing various regional government affairs is the authority of the delegation, including in the field of environmental management. The authority delegated to local governments, especially in environmental management, must be clearly regulated in laws and regulations. This clarity of authority is important to prevent local government actions that are not based on legitimate authority and at the same time make it easier to carry out supervision and hold accountability. Local governments have the right and obligation to regulate and administer authority based on applicable regulations. The administration of local government must not conflict with the state government system (at the central level).

Local governments exercise the authority to regulate through the stipulation of various legal products. According to Sjachran Basah, there are several requirements that need to be considered, namely:

- a. Fulfill the legality principle (*wetmatige*) and juridical principle (*rechtmatig*).
- b. Does not violate or save from the hierarchical hierarchy of laws and regulations (based on principles)
- c. Does not violate the human rights of citizens.
- d. Implemented in order to support (smooth) efforts to realize or realize general welfare.

Regional governments exercise the widest possible autonomy, except for government affairs which are determined by law to be the affairs of the central government. The regional government has the right to place regional regulations and other regulations to carry out autonomy and assistance tasks. Regional governments in the context of implementing regional autonomy have the authority and independence in regulating regional government affairs. In carrying out government affairs under their authority, each region has the right to make policies both in the context of improving services and increasing community participation in regional development. One important element in implementing the process is through the establishment of local regulations.

The form of environmental management regulation by the regional government can be in the form of regional regulations, regional head regulations or regional head decisions. Regional regulations or regional head regulations are stipulated to tackle environmental problems and environmental development in the regions.

Regional regulations are legal rules issued by decentralized organs formed by the DPRD with the joint approval of the regional head. The content of the regional regulations includes the implementation of regional autonomy and assistance tasks and further elaboration of the provisions of higher laws and regulations. Regional regulations are statutory regulations established by the Regional People's Representative Council with the mutual consent of the regional head (governor or regent/mayor).

Regional regulations must not conflict with the provisions of higher laws and regulations, public interest and morality. Regional regulations that are contrary to the provisions of higher laws and regulations, public interest and morality are canceled by the Minister. Regional regulations have a very strategic position because they are given a clear constitutional basis as stipulated in Article 18 paragraph (6) of the 1945 Constitution of the Republic of Indonesia.

The functions of regional regulations according to DEPHUKHAM and UNDP include:

- a. As a policy instrument for implementing regional autonomy and co-administration tasks;
- b. As implementing regulations of higher laws and regulations;
- c. As a reservoir of regional power and diversity as well as a channel for the aspirations of the people in the regions, but in its arrangement it remains within the corridors of the Unitary State of the Republic of Indonesia; and
- d. As a development tool in improving regional welfare.

In Law No. 9 of 2015 jo. Law Number 23 of 2014 concerning regional government, regional regulations have various functions as follows:

- a. As a policy instrument to implement regional autonomy and assistance tasks as mandated in the 1945 Constitution of the Republic of Indonesia and the Law on Regional Government.

b. It is an implementing regulation of a higher statutory regulation. In this function, regional regulations are subject to the provisions of the hierarchy of laws and regulations. Thus, regional regulations must not conflict with higher laws and regulations.

c. As a container for the specificity and diversity of the region as well as channeling the aspirations of the people in the region, but in the arrangement it remains within the corridors of the Unitary State of the Republic of Indonesia which is based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

d. As a development tool in improving regional welfare.

Based on Law Number 9 of 2015 jo. Law Number 23 of 2014 concerning Regional Government, regional regulations have the following material contents:

a. Implementation of regional autonomy and co-administration tasks.

b. Further elaboration of higher statutory provisions.

c. Loading local content in accordance with the provisions of the legislation.

Management of natural resources and the environment in the regions includes the task of regulating, planning and implementing the utilization of natural resources for the prosperity and welfare of the community.

1. Conclusion

From the description above, it can be concluded that the 1945 Constitution of the Republic of Indonesia is the legal basis for the central government and provincial governments in environmental management as reflected in Article 33 paragraph (3). Local governments have the authority that comes from the transfer of authority by the central government to local governments. The regional authority in the implementation of various regional government affairs is the authority of the delegation, including in the field of environmental management. The form of environmental management regulation by the regional government can be in the form of regional regulations, regional head regulations or regional head decisions. Regional regulations must not conflict with the provisions of higher laws and regulations, public interest and morality.

7. Recommendations

The local government needs to form a regional regulation on the authority for environmental management which includes the authority of the local government, the duties

and functions of the government in environmental management, planning, implementation, monitoring, evaluation, supervision and law enforcement.

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