Systematic and integrated handling pattern for environmental recovery

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Submission date: 28-Sep-2022 11:27AM (UTC+0700)
Submission ID: 1911015169
File name: Daud_2021_IOP_Conf._Ser.__Earth_Environ._Sci._870_012001.pdf (375.64K)
Word count: 2824
Character count: 15818

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To cite this article: Aidir Amin Daud *et al* 2021 *IOP Conf. Ser.: Earth Environ. Sci.* **870** 012001

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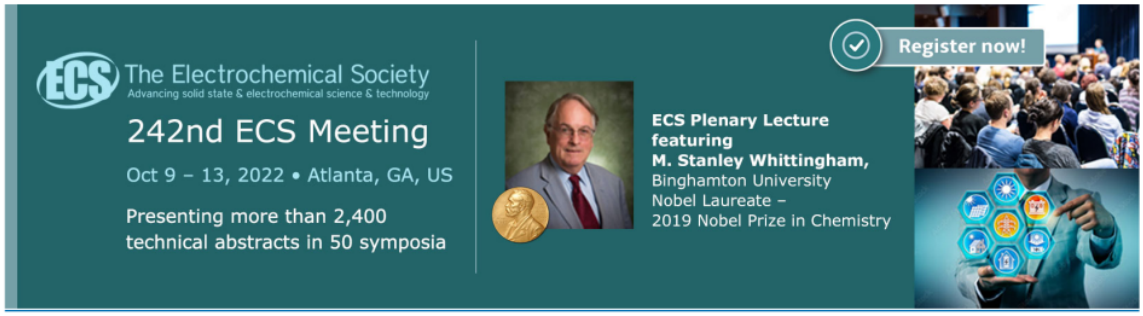

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Systematic and integrated handling pattern for environmental recovery

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Abstract. The Government of Indonesia, both at the central and regional levels, needs to fully understand the completeness of legal instruments in regulating and managing natural resource management. Also, this is a big responsibility for the State and local government to manage nature to realize people's welfare. Looking at the potential wealth of natural resources possessed, the quality of human resources has become one of the important and decisive actors in natural resource management. This research is normative-legal research using a statute, case, and conceptual approaches. The results show that there is no other choice for the government's natural resources management, both central or regional, besides the implementation of the concept of sustainable development. Environmental priorities are prioritized as priorities that must be prioritized if want to conduct development itself. Indeed, implementing the concept of sustainable development leads to the realization of a balance between prosperity and the environment are reasonable and sustainable.

1. Introduction

The affirmation of Indonesia as a country with abundant natural resource wealth is based on the potential of natural resources, both biological and non-biological. In utilizing these natural resources, the State's role as a regulator must be the main actor in maintaining the sustainability of ecosystems and sustainable development remains in line with the mandate outlined by the constitution. To respond to the necessity to address environmental alteration, is important to note that a solution does not rest in a simple, isolated, and evident manner; thus, efforts highlighting some progress in the field of environmental conservation are highly valued and critical to be extended in a wider scope [1].

Conceptually, the role and control of natural resource management lie in the State as the head of the organization of State power. Based on Article 33 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, branches of production that are important for the State and which control the livelihoods of the public are objects of public interest [2]. Thus, there are no ownership rights other than the State, because the object is a public goods that must be accessible and utilized for the prosperity of the people.

Looking at the potential wealth of natural resources possessed, the quality of human resources has become one of the important and decisive actors in natural resource management (interdependence). Human resources are development agents who can actively empower the potential of natural resources towards a more productive direction [3]. Nevertheless, on the contrary, humans can also exploit natural resources in excess without negating their negative impacts.

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The Government of Indonesia, both at the central and regional levels, needs to fully understand the completeness of legal instruments in regulating and managing natural resource management. Also, this is a big responsibility for the State and local government to manage nature to realize the State's goal as a welfare state. The welfare state's ideology becomes the basis for the position and function of the government (*bestuur functie*) in supporting government administration [4].

Considering Indonesia as an agrarian country, most of its population sees that nature is also a source of livelihood for the people to continue their lives and fulfill their daily needs. Therefore, at least 3 (three) main aspects of natural resource management are needed: the first, controlling and utilizing socio-economic resources for the public benefit; the second, ensuring the distribution of wealth fairly and equally; and the third, providing social protection for every citizen.

The principle of sustainable development has strengthened the importance of environmental factors in the implementation of development. Any policies towards development where the State, government and society can no longer ignore environmental factors for the future [5]. If seen from the concepts developed both institutional and strategy and substance, then clearly and definitively, environmental priorities are prioritized as priorities that must be prioritized if want to make development. A progress towards the mindset of the previous development concept and strategy which emphasizes the aspect of development by ignoring the environment itself. Sustainable development leads to realizing a balance between prosperity and an environment that is good and sustainable. Consequently, both development policies, plans and/or programs must be spirited by the obligation to preserve environmental functions and realize sustainable development goals.

2. Method

This research is a normative-legal research using a statute, case, and conceptual approaches [6]. Data were analyzed with descriptive qualitative analysis with content analysis. In this study, the authors used the qualitative research method, which (in general) generates words rather than numbers as data for analysis. The approach used is observation and interpretation, which makes these phenomena observable. This paper provides information on the latest trend in research [7].

3. Strategy for environmental recovery: Problems and actual challenges

The environmental recovery from pollution and damage to environmental functions is closely related to investment and mining activities. Development as part of State policy for the welfare of the people is performed by continuously utilizing natural resources. Meanwhile, the available natural resources are minimal and uneven in quantity and quality, while the demand for natural resources is increasing due to increased development to meet the increasing needs of the population. Such development activities carry the risk of pollution and damage to environmental functions.

At the practical level, the ideality is expected to be far from expectations. It is evidenced by the implementation of mining, which contradicts the use of various types of chemicals, radioactive substances, and damaging natural resources. Based on the investigation by Tempo in the period of 2017-2019, environmental damage due to tailings management for mining has been included in the calculation through an Environmental Impact Assessment or EIA. One of them is the potential for environmental damage due to mining waste or tailings. Under the findings of the Supreme Audit Agency released in 2017, the number of environmental losses reached Rp. 185 trillion. In addition, based on the Ministry of Environment and Forestry records per January, it showed that only 6.808 hectares of land had been reclaimed as of last year. At the same time, the ex-mining land in Indonesia reached 557 thousand hectares. This shows that improving mining governance is still far from adequate [8].

The environmental damage that comes from natural resource activities that are done excessively and unenvironmentally-sound impacts the loss of access to livelihoods. In addition, this condition also leads to the occurrence and even increasing trends of natural disasters. Still warm in memory of the flash floods that hit North Sulawesi, almost all areas of North Sulawesi, including Manado, Minahasa, Tomohon, South Minahasa, North Minahasa, Bolaang Mongondow, and Sangihe, were hit by flash

floods and landslides. The height of floods on the river banks even reached six meters due to the water from Minahasa [9].

According to Walhi (2018), flash floods are caused by a combination of natural and anthropogenic factors or pollution caused by human activity [10]. As well mining activities, transportation, and burning waste. This combination triggers massive floods and landslides. The potential for local government oversight can also be seen from the large number of regional heads who stumble with legal problems due to natural resource management activities. The commitment of the government to overcome the problem of inequality and environmental crises due to mining activities has not been accompanied by efforts to restore the environment, social and cultural rights of the people that the development model has destroyed in the name of economic growth.

Nowadays, the pragmatical mining patterns in excessive and approaches and goals dominated by momentary profits become a scourge as well as the main of the damage and the inherent impact of the environment. Indeed, a systematic and integrated handling pattern is needed and supported by consistent supervision in ensuring that all mining businesses remain in the corridor determined by statutory provisions. Considering the essence of the environment is a life that encompasses the order and values of life in it.

Various issues of mining activities that are less environmentally sound and the deterioration of the quality of the mining environment need to be considered to ensure a balance between meeting human needs and environmental sustainability and ensuring a conducive investment climate for large-scale mining investors. Mining waste management that mining companies have performed has not been able to overcome the degradation of the quality of the bio-physical environment and social problems, even though some mining activities have been oriented towards clean industries that are environmentally sound. Changes in the environment around the mine can occur at any time; hence, effective waste management is an indicator of mining sustainability.

The interests of mining and environmental preservation are like two sides of a coin. On the one side, mining is needed for development. However, on the other side, the environment is damaged by mining activities that do not apply technology together with good environmental management. There are 2 (two) terms that refer to accountability in the legal dictionary, namely *liability* and *responsibility*. *Liability* is a broad legal term that designates almost all the characteristics of risk or responsibility, to be certain, it depends or may include all actual or potential characters of rights and obligations such as losses, threats, crime, costs or conditions that create the duty to do the law. *Responsibility* means something that can be accounted for by an obligation and includes decisions, skills and abilities, including liabilities responsible for the law implemented. In the meaning and practical use, the term *liability* refers to legal accountability, that is, accountability due to mistakes made by legal subjects. In contrast, the term *responsibility* refers to political accountability [11].

A traditional law sees the relationship between conduct and its effect. It does not have the psychological qualifications of individual actions that have been anticipated or performed to cause an effect [12]. The modern law techniques require a distinction between cases when an individual action has been planned and intended for certain effects of the act and cases when an individual action have adverse effects that are not anticipated or desired by the perpetrators. An idea of individuality fairness that a sanction must be imposed on individual action, only if the actor has anticipated the adverse effects of the act and if his/her desire harm the other individual with the act. An effect that is considered detrimental by lawmakers may be caused intentionally by an individual but not to harm others.

The principle of giving sanctions to individual actions is simply because the action has been planned, and with evil intent by individuals is not entirely accepted by modern law [13]. According to the positive law, individuals are not only held responsible if an effect objectively harmful has been inflicted with evil intent by their actions, but also if the consequences of the act have been intended, even without wrong intentions, or if the effect occurred without the intention or planned by the individual offender. However, the sanctions may differ in different cases.

The sanction is marked by the fact that actions as offenses with psychological qualifications. According to Asshiddiqie and Safa'at (2006), a particular mental state of the criminal that he anticipates or desires a harmful effect (called *mens rea*) is an offense element [14]. This element is referred to as a fault (in a broader sense called *dolus* or *culpa*). When sanctions are imposed only on offenses with psychological qualifications, this is called responsibility based on fault or culpability. In modern law, other forms of wrongdoing are also known without intent or planning, namely negligence. Negligence or omission is an offense of omission, and accountability for negligence is more than absolute accountability than culpability.

In this context, Corporate Social Responsibility (CSR) is not a relatively new thing in the business world, the literature reveals that the evolution of the concept itself has been going on for decades. On the other hand, the term CSR also changes in line with the development of the business world, political and social development and human rights. In addition, the term of CSR is also influenced by the impact of globalization and the development of information technology, all of which will reflect an understanding of CSR in the local context [15].

CSR as an idea, the companies are no longer faced with responsibilities based on a *single bottom line*, namely corporate value, which is reflected in its financial condition only. However, corporate responsibility must be based on *triple bottom lines*. Here, the other bottom lines besides financial are social and environmental. Because financial condition alone is not enough to guarantee the company's value to grow sustainably. The company's sustainability will only be guaranteed if the company pays attention to the social and environmental dimensions [16]. It has become a fact of how the resistance of the surrounding community, in various places and times emerge on the surface against companies that were considered not to pay attention to social, economic and environmental aspects of their lives.

4. Conclusion

There is no other choice for the government's natural resources management, both central or regional, besides the implementation of the concept of sustainable development. Environmental priorities are prioritized as priorities that must be prioritized if want to conduct development itself. Indeed, implementing the concept of sustainable development leads to the realization of a balance between prosperity and the environment are reasonable and sustainable. As a result, both policies, plans and/or programs must be spirited by the obligation to preserve environmental functions and realize sustainable development goals.

References

[1] San Miguel P 2014 Payment for environmental services: Concept versus practice in Indonesia's Citarum Basin *Int. J. Sci. Basic Appl. Res.* **17** 60–73
[2] Hayati T 2015 *Era Baru Hukum Pertambangan: Di Bawah Rezim UU No. 4 Tahun 2009* (Jakarta: Yayasan Pustaka Obor Indonesia)
[3] Guan L, Sun G and Cao S 2011 China's Bureaucracy Hinders Environmental Recovery *Ambio* **40** 96–9
[4] Marilang M 2012 Ideologi Welfare State Konstitusi: Hak Menguasai Negara Atas Barang Tambang *J. Konstitusi* **9** 259–86
[5] Phothiruk D 2021 Legal Problems of Environmental Impact Assessment in Thailand Calling for Law Revision *Hasanuddin Law Rev.* **7** 12–20
[6] Marzuki P M 2009 *Penelitian Hukum* (Jakarta: Kencana)
[7] Keng S-H 2017 Handout Research Topic Development *Collage Manag. Natl. Univ. Kaohsiung, Taiwan*
[8] Majalah Tempo 2019 Menanggung Dampak Limbah Freeport *Maj. Tempo*
[9] Rinaldo 2019 Banjir Bandang Itu Hanyutkan Ribuan Rumah Warga di Manado *Liputan 6* 4
[10] Wahana Lingkungan Hidup Indonesia (WALHI) 2018 *Tinjauan Lingkungan Hidup: Bagaimana Masa Depan Keadilan Ekologis 2018?* (Jakarta)
[11] Ridwan H R 2006 *Hukum Administrasi Negara* (Jakarta: Raja Grafindo Persada)

[12] Haris O K, Syahbudin S and Yunus A 2019 Legal Existence of Local Wisdom for Bajo Fishery Tribe on Indonesian Maritime Border *Hasanuddin Law Rev*. **5** 41–54
[13] Raik D B, Wilson A L and Decker D J 2008 Power in Natural Resources Management: an application of theory *Soc. Nat. Resour*. **21** 729–39
[14] Asshiddiqie J and Safa'at M A 2006 *Teori Hans Kelsen Tentang Hukum* (Jakarta: Mahkamah Konstitusi RI, Sekretariat Jenderal dan Kenpaniteraan)
[15] Untung H B and SH CN M M 2019 *Corporate Social Responsibility* (Jakarta: Sinar Grafika)
[16] Aspan Z and Yunus A 2019 The Right to A Good and Healthy Environment: Revitalizing Green Constitution *IOP Conference Series: Earth and Environmental Science* vol 343 (IOP Publishing) p 12067

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