



THE AUTHORITY OF REGIONAL GOVERNMENTS IN PROVIDING ENVIRONMENTAL PROTECTION, MANAGEMENT, AND LAW ENFORCEMENT

KEWENANGAN PEMERINTAH DAERAH DALAM PENYELENGGARAAN PERLINDUNGAN, PENGELOLAAN, DAN PENINDAKAN HUKUM LINGKUNGAN

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Abstract

The authority of local governments in environmental protection, management, and law enforcement is exercised within the framework of regional autonomy in Indonesia. Under Law Number 23 of 2014 and Law Number 32 of 2009, environmental affairs have been decentralized as mandatory governmental functions under the authority of provincial and regency/municipal governments. This study employs a normative juridical research method, utilizing secondary data in the form of statutory regulations and legal literature. The findings indicate that regional autonomy provides local governments with greater capacity to understand and respond to the objective environmental conditions of their respective regions. Environmental law enforcement is implemented through administrative sanctions, criminal sanctions, and civil liability based on the principle of strict liability. The role of local governments is therefore crucial in ensuring the sustainability of environmental functions and in safeguarding community welfare through effective environmental governance.

Keywords : Regional Autonomy, Environmental Protection, Environmental Management, Law Enforcement, Administrative Sanctions.

Abstrak

Kewenangan pemerintah daerah dalam perlindungan, pengelolaan, serta penegakan hukum lingkungan hidup dalam kerangka otonomi daerah di Indonesia. Dalam Undang-Undang Nomor 23 Tahun 2014 dan Undang-Undang 32 Tahun 2009, berkaitan dengan lingkungan hidup telah didesentralisasikan menjadi urusan wajib menjadi kewenangan Pemerintah Provinsi dan Kabupaten/Kota. Metode penelitian digunakan adalah yuridis normatif dengan menggunakan data sekunder yaitu peraturan perundang-undangan dan literasi hukum. Hasil dari penelitian ini menunjukkan bahwa otonomi daerah dapat diberikan ruang bagi pemerintah daerah lebih memahami kondisi objektif di wilayahnya. Penegakan hukum lingkungan dilaksanakan melalui sanksi administrasi, pidana, dan



pertanggungjawaban perdata melalui prinsip strict liability. Peran pemerintah daerah sangat krusial dalam menjamin berkelanjutan fungsi lingkungan hidup dan perlindungan kesejahteraan masyarakat.

Kata Kunci : Otonomi Daerah, Perlindungan Lingkungan, Pengelolaan Lingkungan, Penegakan Hukum, Sanksi Administratif.

1. INTRODUCTION

The concept of regional autonomy in Indonesia is regulated under Law Number 23 of 2014 on Regional Government. Article 1 point (5) defines regional autonomy as the right, authority, and obligation of autonomous regions to regulate and manage their own governmental affairs and the interests of local communities within the framework of the Unitary State of the Republic of Indonesia. This definition emphasizes the delegation of authority from the central government to regional governments in order to enhance effectiveness, efficiency, and responsiveness in public governance.

Furthermore, the General Elucidation point 1 letter (b) of Law Number 32 of 2004 on Regional Government affirms that the principle of regional autonomy is implemented based on the broadest possible autonomy. This principle grants regions the authority to regulate and manage all governmental affairs except those explicitly retained by the central government under statutory provisions. Regional governments are empowered to formulate local policies aimed at improving public services, increasing community participation, encouraging initiatives, and fostering community empowerment, all of which are ultimately directed toward enhancing public welfare.

The scope of governmental affairs decentralized to provincial and regency/municipal governments is comprehensively stipulated in Law Number 32 of 2004, particularly in Articles 13 and 14. Article 13 outlines mandatory governmental affairs under the authority of provincial governments, including development planning and control, spatial planning and supervision, maintenance of public order and security, provision of public facilities and infrastructure, health services, education and human resource development, cross-regional social problem management, labor services, cooperative and small-medium enterprise development facilitation, environmental control, land services, population administration, general governmental administration, investment administration, and other mandatory affairs as regulated by law. In addition to mandatory affairs, provincial governments may also administer optional affairs that have the potential to enhance community welfare based on regional characteristics and comparative advantages.

Similarly, Article 14 regulates the authority of regency and municipal governments, which includes mandatory governmental affairs such as development planning, spatial management, public order maintenance, provision of public infrastructure, health and education services, social problem mitigation, labor services, facilitation of cooperative and small-medium enterprise development, environmental control, land administration, population and civil registration services, general governmental administration, investment services, and other mandatory affairs as stipulated by law. Regency and municipal governments may also



manage optional affairs that are genuinely present and have the potential to improve local community welfare in accordance with regional conditions and distinctive characteristics.

Based on the provisions of Articles 13 and 14, environmental protection and management constitute mandatory governmental affairs whose implementation authority has been decentralized to regional governments. However, despite this decentralization, Law Number 32 of 2009 on Environmental Protection and Management still reflects a relatively centralized approach, particularly by positioning the Minister as the primary policymaking authority. This is evident in Article 12 paragraph (3), which stipulates that the determination of environmental carrying capacity and environmental capacity is assigned to different levels of government: the Minister for national and inter-island environmental capacity, the Governor for provincial and inter-regency/municipal eco-regions, and the Regent/Mayor for regency/municipal environmental capacity and local eco-regions.

Law Number 32 of 2009 further defines the environment in Article 1 as a unified spatial system comprising all objects, forces, conditions, and living beings, including humans and their behavior, which influence nature itself, the continuity of life, and the welfare of humans and other living organisms. The scope of environmental protection and management includes planning, utilization, control, maintenance, supervision, and law enforcement. The achievement of environmental protection objectives requires coordination and cooperation between the central government, regional governments, and the public, based on the principle of state responsibility.

This framework aligns with the objectives of the Indonesian state as articulated in the fourth paragraph of the Preamble to the 1945 Constitution, namely to protect the entire Indonesian nation and all its territory, promote general welfare, educate the nation, and contribute to the establishment of a world order based on freedom, lasting peace, and social justice. Environmental issues in both developed and developing countries fundamentally stem from imbalances in environmental sustainability, which pose significant threats to human life. Along with rapid industrial development, threats to environmental sustainability and ecological balance have become increasingly serious. The current ecological crisis is no longer a distant future risk but a contemporary reality that exceeds environmental tolerance limits and adaptive capacity. Consequently, the role of regional governments in environmental protection, management, and law enforcement becomes increasingly vital in ensuring sustainable development and the protection of public welfare.

2. RESEARCH METHOD

The research approach employed in this study is normative juridical research. According to Joni Ibrahim, the juridical approach is a scientific procedure aimed at discovering legal truth based on legal logic and normative analysis. Normative legal research is built upon scientific discipline and methodology, focusing on law as a normative system where legal norms constitute the primary object of analysis.



In normative legal research, secondary data serve as the primary source of information. These data are derived from statutory regulations, legal literature, scholarly books, and official documents relevant to the research subject. As explained by Soerjono Soekanto and Sri Mamudji, secondary legal materials consist of primary legal materials (such as laws and regulations), secondary legal materials (including legal doctrines and scholarly writings), and tertiary legal materials (such as legal dictionaries and encyclopedias). These materials are systematically analyzed to examine the authority of regional governments in environmental protection, management, and law enforcement within the framework of regional autonomy in Indonesia.

3. RESULT AND DISCUSSION

a. Research Findings

1) Environmental Protection and Management under Law Number 32 of 2009 within the Framework of Regional Autonomy

In principle, the policy of regional autonomy is aimed at decentralizing authorities that were previously centralized under the central government. Through decentralization, governmental power is transferred from the central government to regional governments, resulting in a shift of authority from the center to provincial, regency, and municipal levels throughout Indonesia. Whereas previously the flow of governmental power moved from regions toward the central government, the implementation of regional autonomy ideally reverses this dynamic, enabling authority to flow from the center to the regions.

Since the enactment of Law Number 4 of 1982 on the Basic Principles of Environmental Management, regional governments have been granted delegated authority to manage and control environmental affairs autonomously. This delegation is explicitly stated in Article 18 paragraph (3), which provides that environmental management, in the context of integrated implementation of national environmental policies, shall be carried out by regional governments in accordance with prevailing laws and regulations.

Empowering regional governments with autonomous authority to manage and control environmental affairs represents an appropriate political strategy. As institutions closest to the public and the physical environment, regional governments possess a more accurate understanding of objective environmental conditions within their territories. Consequently, environmental policies formulated at the regional level tend to be more efficient and responsive than those designed and implemented exclusively by the central government.

The objectives of environmental management as stipulated in Article 3 of Law Number 32 of 2009 on Environmental Protection and Management include protecting the territory of the Republic of Indonesia from pollution and environmental degradation; ensuring human safety, health, and survival; safeguarding the continuity of living organisms and ecosystem sustainability; maintaining environmental functions; achieving harmony and balance in the environment; ensuring intergenerational justice; guaranteeing the right to a healthy



environment as a human right; controlling the utilization of natural resources wisely; realizing sustainable development; and anticipating global environmental issues.

These objectives are closely aligned with the decentralization policy in environmental governance. Effective control over natural resource utilization can only be achieved when environmental management is conducted by governmental authorities that have direct knowledge of on-the-ground environmental conditions. Therefore, decentralization enhances the effectiveness of environmental governance.

The scope of responsibility borne by regional environmental institutions is reflected in the extensive authority granted by law. Pursuant to Article 63 paragraphs (2) and (3) of Law Number 32 of 2009, provincial governments are vested with authority to formulate environmental policies at the provincial level, implement Strategic Environmental Assessments (KLHS), regulate environmental protection and management plans (RPPLH), oversee AMDAL and UKL-UPL processes, conduct environmental inventories, coordinate cross-regional pollution control, supervise regency/municipal compliance, issue environmental permits, and enforce environmental law.

Similarly, regency and municipal governments are authorized to establish local environmental policies, implement KLHS and RPPLH, regulate AMDAL and UKL-UPL, manage environmental information systems, issue environmental permits, and carry out environmental law enforcement within their jurisdictions. This framework demonstrates that environmental governance has become a mandatory governmental function decentralized to regional authorities.

Following the enactment of Law Number 9 of 2015, which amended Law Number 23 of 2014 on Regional Government, regions were granted broader autonomy to manage their internal affairs. This includes environmental governance related to coastal reclamation, which must comply with spatial planning regulations such as Regional Regulation of Bandar Lampung City Number 10 of 2011 on Spatial Planning and Mayor Regulation Number 31A of 2010 on Coastal and Small Island Zoning Plans.

The provincial government plays a strategic role as a mediator between the central government and regency/municipal governments. Provinces are responsible for coordinating coastal and marine spatial planning in an integrated and multi-sectoral manner, ensuring balance between utilization and conservation, protecting community rights, and preventing conflicts between development and environmental sustainability.

Law Number 32 of 2009 further clarifies regional authority in environmental governance, particularly regarding AMDAL assessment (Article 31), assistance in AMDAL preparation for economically disadvantaged groups (Article 32), determination of activities requiring UKL-UPL (Article 34), issuance of environmental permits (Article 36), and public disclosure of environmental permits (Article 39). These provisions collectively demonstrate that regional governments possess substantial authority in environmental management.

However, despite this broad mandate, institutional weaknesses persist. Sectoral fragmentation and limited capacity at the regency/municipal level often hinder effective



environmental control, particularly in addressing localized pollution issues such as air and waste pollution.

2) Environmental Law Enforcement within Regional Autonomy

Regional autonomy has fundamentally transformed environmental regulation and enforcement. Authority that was previously centralized has been partially devolved to regional governments, including responsibility for environmental law enforcement. The division of authority among central, provincial, and regency/municipal governments is stipulated in Law Number 23 of 2014, particularly in relation to the supervision and enforcement of environmental permits.

Law Number 32 of 2009 defines environmental protection and management as a systematic and integrated effort encompassing planning, utilization, control, maintenance, supervision, and law enforcement. This definition confirms that environmental law enforcement is an integral component of environmental governance at the regional level.

Article 44 of Law Number 32 of 2009 mandates that all legislation, both national and regional, must incorporate principles of environmental protection. In the context of regional autonomy, this provision underscores the obligation of local governments to integrate environmental considerations into all regional legal products.

Sanctions play a crucial role in environmental law enforcement. As emphasized by Philipus M. Hadjon, legal norms containing obligations and prohibitions lose their effectiveness without sanctions as coercive instruments. Law Number 32 of 2009 provides for administrative sanctions, including written warnings, government coercion, suspension of environmental permits, and permit revocation. Administrative sanctions are particularly effective because they can be imposed directly by government authorities without judicial proceedings, enabling swift intervention to prevent environmental damage.

Administrative enforcement serves preventive purposes, constitutes a governmental obligation, supports supervisory functions, and operates as a secondary oversight mechanism by higher authorities. Article 76 authorizes governors, regents, and mayors to impose administrative sanctions when violations of environmental permits are identified.

In addition to administrative sanctions, Law Number 32 of 2009 regulates criminal and civil liability. Criminal liability includes imprisonment and fines imposed on individuals and corporations. The recognition of corporations as subjects of criminal liability represents a significant legal development, closing loopholes that previously allowed corporate actors to evade responsibility for environmental harm.

Civil liability under the law includes compensation, environmental restoration, and strict liability. Strict liability eliminates the requirement to prove fault (*mens rea*), requiring only proof of damage and causation. This mechanism reflects the precautionary principle and shifts the burden of proof to defendants, providing stronger protection for communities and ecosystems.



b. Discussion

1) Transformation of Authority: From Centralization to Environmental Decentralization

The decentralization of environmental governance reflects the premise that local governments are better positioned—geographically and sociologically—to manage environmental resources. As affirmed by Law Number 4 of 1982 and reinforced by Law Number 32 of 2009, regional governments are autonomous authorities rather than mere executors of central policies. This transformation enhances efficiency and contextual relevance in environmental decision-making.

2) Regulatory and Licensing Instruments at the Regional Level

The research reveals that Law Number 32 of 2009 equips regional governments with comprehensive regulatory instruments, particularly in AMDAL, UKL-UPL, and environmental permitting. These mechanisms serve as primary preventive tools against environmental degradation. Nevertheless, limited institutional capacity and weak inter-sectoral coordination remain significant challenges.

3) Administrative Enforcement as a Preventive Mechanism

Administrative sanctions function as the primary enforcement tool in regional environmental governance. Unlike criminal sanctions, which serve as ultimum remedium, administrative sanctions enable rapid response to environmental violations, thereby preventing further damage.

4) Corporate Criminal Liability and Strict Liability

The inclusion of corporations as criminal law subjects strengthens environmental protection by holding business entities accountable. The application of strict liability in civil law further reinforces environmental justice by prioritizing ecosystem protection and community welfare over fault-based litigation.

5) Synergy between Provincial and Regency/Municipal Governments

Provincial governments play a vital coordinating role in managing cross-regional environmental impacts. This coordination prevents regional egoism and ensures that economic development does not undermine environmental sustainability in neighboring regions. Such synergy is essential for realizing sustainable development across Indonesia.

4. CONCLUSION

The policy of regional autonomy is fundamentally aimed at decentralizing governmental authorities that were previously centralized under the control of the central government. Through this decentralization process, governmental power is transferred from the central government to regional governments, enabling regions to manage their own governmental affairs more independently. Empowering regional governments with autonomous authority to carry out environmental protection and management constitutes an appropriate and strategic political approach, as regional governments function as public service institutions that are geographically and socially closest to the community. Consequently, they possess a more



comprehensive understanding of the objective environmental conditions within their respective regions.

Law Number 32 of 2009 on Environmental Protection and Management provides a sufficiently broad legal framework granting authority to regional governments in the management and control of environmental resources. This decentralization of authority strengthens the role of regional governments in formulating environmental policies, supervising environmental compliance, and ensuring sustainable environmental governance at the local level.

Environmental law enforcement under this framework is supported by a comprehensive system of legal liability. Administrative sanctions function as instruments to enforce compliance with public law and administrative norms, serving as an effective preventive mechanism against environmental violations. Furthermore, legal responsibility for environmental violations is clearly regulated in Law Number 32 of 2009, encompassing administrative, criminal, and civil liability. Criminal liability includes imprisonment and fines imposed on individuals and corporations, while civil liability consists of compensation, environmental restoration, and the application of strict liability.

Compensation represents the embodiment of the “polluter pays” principle and may be accompanied by additional legal measures in the form of environmental recovery aimed at restoring environmental conditions to their original state prior to the occurrence of damage. The application of strict liability further strengthens environmental protection by eliminating the requirement to prove fault, thereby ensuring greater legal certainty and reinforcing the commitment to sustainable environmental management within the framework of regional autonomy.

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