

Environmental Damage as a Loss to the State Economy in the Perspective of State Control Rights

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Abstract. Environmental damage can be considered a loss to the state economy. In terms of analyzing the state economy, the author takes the perspective of state control rights. The Constitution of the Republic of Indonesia in Article 33 paragraph (3), which states that the earth, water and natural resources are controlled by the state and properly managed for the greatest prosperity of the people. This should be referred to as a philosophical guideline because the management and administration of the state economy must and must have aspects of concern for the prosperity of the people. Observed from the sustainability of the state's operational activities in building a climate of public services recorded in 2018, the state issued a balance of Rp. 112 trillion, with an increase from the previous year, namely in 2014 to 2017 with a total of only Rp. 115 trillion. This in a year beats the expenditure that is consumable and the tendency to do repeated procurement from the total of the past three years. The view of wasting costs for a kind of environmental rehabilitation must be used with the prefix of mitigation, contextually the state is obliged with its role to maximize the right to state control to prevent negative extreme damage to the environment. This research is studied and made with normative legal research methods, explicitly using a statutory approach (statute approach), and a conceptual approach (conceptual approach). The statutory approach is chosen by the author to analyze the problem with relevant regulations and regulations, so that this research has an analytical technique that is based on positive law in Indonesia.

Keywords: State control rights; state losses environmental damage

INTRODUCTION

Environmental damage can be considered a loss to the country's economy as it directly impacts natural resources, which are important economic assets. From the perspective of state control rights, this loss can be seen from two main aspects: the loss of long-term economic potential and the additional burden of restoring the environment. The country's economy is highly dependent on aspects of sustainability, which will make the country's economic turnaround more structured and guided by the value of environmental governance (Tampubolon & Purba, 2022). One of the problems that the government is often faced with is the issue of development, from one of the problems the government is often faced with problems related to land acquisition and clearing and including land acquisition (Suryaningsih et al., 2023). This is based on creating a cycle of rotation of the country's economy and maintaining the effectiveness of national economic sustainability. The government organizers take the aspect that the only way is to free land owned by citizens, both those on which are controlled by customary law and other rights that have been attached to them.

Indonesia in its role, to maintain a sustainable economy through environmental care, with every policy must be guided by the principle of public welfare. The obstacles to this process include the lack of optimal public infrastructure development and sectoral stability of the community's economic power

cycle. This makes the government have limited choices, including promoting welfare through infrastructure and this activity is very close to creating negative externalities to the environment. Observed from the sustainability of state operational activities in building a climate of public services recorded in 2018, the state issued a balance of Rp. 112 trillion, with an increase from the previous year, namely in 2014 to 2017 with a total of only Rp. 115 trillion. This in a year beats the expenditure that is consumable and the tendency to do repeated procurement from the total of the past three years. The view of wasting costs for a kind of environmental rehabilitation must be used with a mitigation prefix, contextually the state is obliged with its role to maximize the right to state control to prevent negative extremities of damage to the environment.

In the context of state control rights, environmental damage signifies a failure to manage natural resources wisely and responsibly. The state has a constitutional obligation to ensure that natural resources are used sustainably and for the benefit of the people. When environmental damage occurs, the state not only loses economic potential, but is also deemed to have failed in fulfilling the management mandate given by the constitution. Seeing the extent of environmental damage arising from underdevelopment, aspects of morality and the involvement of the use of basic values of norms in supporting economic growth, the state must be able to maintain the principle of utilitarianism in every administration including to support economic growth (Karsa et al., 2024). In terms of making efforts to protect the environment and take legal action against environmental destruction, the state in terms of science and awareness has not yet reached the natural stage that is considered prevalent by the constitution, because law enforcement must be in accordance with the principles of behavior of mutual relations between individuals and nature (Laily & Najicha, 2022).

METHODS

This research is studied and made with normative legal research methods, explicitly using a statutory approach (statute approach), and a conceptual approach (conceptual approach). The author chose the statutory approach to analyze the problem with relevant regulations and regulations, so that this research has an analytical technique that is based on positive law in Indonesia. The author also chooses a conceptual approach to add aspects of legal science doctrine and adjacent theories to the value of aspects of state control and environmental law.

DISCUSSION

Perspectives on the Right of State Control to Regulate Natural Resource Management

Indonesia as a state of law with the mandate of the constitution through article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, hereinafter referred to as UUD 45. Which in its norms says that the earth, water and natural resources are controlled by the state and properly managed for the greatest prosperity of the people (Hayati, 2019). This should be called a philosophical guideline because the management and administration of the state economy must and must have aspects of concern for the prosperity of the people. (Yanto & Hikmah, 2023). National legal institutions teach that some of the provisions of the norms contained in the regulatory order are a value that is not separate from one unit. Moreover, Indonesia adheres to the civil law system that it cannot be denied that the state makes written norms the basis of legal life based on certainty (Anggraeni, 2019). The 1945 Constitution is a conceptualization of the written values of state philosophy. With the aim of becoming a major component of running the law in Indonesia, a major component that makes the prefix for the legislation below. It is also undeniable that the law was born in article 33 of the 1945 Constitution, which philosophically regulates the country's economy. Examining what is listed under article 33 is the phrase "Social Welfare". So, it can be interpreted that the perspective of the state's control rights in managing its natural resources is to maximize the welfare of the Indonesian people (Hayati, p. 769).

The country's management of abundant natural resources such as tropical forests, mines and oceans poses great challenges in ensuring their sustainable use. The government has implemented several strategic policies to maintain a balance between economic exploitation and environmental conservation.

In forest management, policies such as the moratorium on new permits for primary forest and peatland clearing, the Community Based Forest Management (CBFM) program, and forest ecosystem restoration are the main steps. These efforts aim to reduce deforestation and empower local communities. In the mining sector, the Mining Business License (IUP) system ensures that mining activities are carried out in accordance with environmental impact assessments (AMDAL) (Center for HR Career Improvement and Cooperation, 2024). In addition, business entities are required to carry out post-mining reclamation and encourage the use of environmentally friendly technology. To manage marine resources, the government regulates fishing quotas, develops mariculture, and increases supervision of illegal practices. In general, the Environmental Protection Law and the national afforestation program provide the foundation for ecosystem protection. Although various policies have been implemented, challenges such as weak supervision and law enforcement still require attention. Community participation is key to the successful management of natural resources in a sustainable manner for future generations.

That the right of state control in managing its resources can be seen from the Constitutional Court Decision Number 002/PUU-I/2003, defines the meaning of control by the state in a broad sense sourced and derived from the conception of the sovereignty of the Indonesian people over all sources of wealth "earth, water and natural resource s contained therein", including the notion of public ownership by the collectivity of the people over the sources of wealth referred to. The people collectively are constructed by the 45 Constitution to give a mandate to the state to make policies (beleid) and actions of management (bestuursdaad), regulation (regelendaad), management (beheersdaad), and supervision (toezichthoudensdaad) for the purpose of the greatest prosperity of the people. The management function (bestuursdaad) by the state is carried out by the Government with its authority to issue and revoke licensing facilities (vergunning), licenses (licentie), and concessions (concessie). The regulatory function by the state (regelendaad) is carried out through the authority of legislation by the DPR together with the Government, and regulation by the Government (Interpretation of Case Decision No 001-021-002/PUU-I/2003).

Based on the theory of state control rights in managing natural resources, Marthen, quoting from R. Wiranto and launching J.J. Rousseau's theory, states that state power is based on organizational principles. This power does not belong to a private person or a group of people, this is stated in his workbook, namely social contract. In essence, state power is a component that carries out several constitutional mandates with principles and ideals for the welfare of the people. These guidelines are derived through the 45th Constitution and that based on these studies it can be interpreted that the state's power to manage is not a form of unilateral power (Salinding, 2022). Good and sustainable management of natural resources is recognized as part of the human rights of Indonesian citizens, as guaranteed in Article 28H of the 1945 Constitution. Within the framework of national economic development, natural resource management must be based on the principle of sustainable development that prioritizes sustainability and ecosystem balance. The spirit of regional autonomy has changed the relationship of authority between the central and regional governments, including in the management of natural resources. The declining quality of natural resource management and its impact on the sustainability of human life and other living things demand more serious and consistent treatment (Nugroho, 2022). In addition, the increasingly severe threat of climate change and global warming requires natural resource management policies that can prevent further damage. To ensure legal certainty in the environmentally sound utilization of natural resources, an update of the previous policy, Law Number 23 of 1997, is required. Therefore, UUPPLH is present as a comprehensive legal basis in managing natural resources in a fair, sustainable and environmentally sound manner for the benefit of present and future generations.

In terms of the state managing its natural resources, we can see in the explanation of the general provisions of Article 1 number 3 of Law Number 32 of 2009 concerning Environmental Protection and Management hereinafter referred to as UUPPLH. Which states that the use of natural resources must be managed in harmony, harmony and balance with environmental functions, that in the explanation also the state through its government requires that to make policies must ensure the principle of development through strategic environmental studies or abbreviated as KLHS. In its management, SEA must be used as a foundation for government policy before carrying out development in an area. If the KLHS parameters are not sufficient to continue development then, everything that causes negative extranalities

to the environment must be stopped (Supplement to the State Gazette of the Republic of Indonesia Number 5059). Various assumptions that make the object of exploitation of natural resources, hereinafter referred to as SDA. The challenge of this country in managing its natural resources is still not thinking that this sector also plays an active role in safeguarding the country's economy. Seeing in 1999 the results of the TGHK-RTRWP paduserasi map, which allegedly initially the forest area was around 120,353,104 ha and estimated with the results of the degradation of the forest area up to 50 million hectares (Butar et al., 2020) In this case it can mention that the state in its suitability has not been able to optimize the level of natural resource management, so this can be considered an obstacle to the country's economy.

The interpretation of article 2 letter a, UUPPLH explains that there is a principle that aims to make the state responsible for its natural resources. In ensuring the utilization of natural resources, the state will provide maximum benefits for the welfare and quality of life of citizens. In terms of control based on rights is a concept based on the organization with the aim of people's welfare, seeing that the right to control the state in addition to relating to the authority to regulate and supervise the course of sustainable development and environmental sustainability. It is basic that the state's perspective to manage natural resources is not merely based on licensing or formal policies, but with several principles that prevent the management of resources with an unaccountable term (Zulkifli, 2019).

Forming a state perspective that is based on behavior in accordance with the norms given by the constitution, that the state in managing natural resources described above provides an understanding that every implementation and every policy making related to and adjacent to natural resources, and the implementation of these principles faces challenges, including imbalances in authority between the center and the regions, as well as global pressures such as climate change and global warming. Therefore, natural resource management policies need to be formulated more firmly, based on strategic studies such as the Strategic Environmental Assessment (KLHS) to ensure a balance between economic exploitation and environmental preservation. The state should not only act as a regulator, but also as a facilitator that encourages the active participation of communities and the private sector in implementing fair and sustainable management. In this perspective, natural resources are not merely economic assets, but also a legacy that must be preserved for future generations, so the state's responsibility is to ensure that their utilization is truly for the overall prosperity of the people.

Environmental Damage Affecting key economic sectors in the country

The environment plays a strategic role as a key driver of economic activity, which can be classified into three main functions: provider of raw materials, provider of supporting infrastructure, and recipient of waste from production and consumption. Without a healthy and functional environment, the economic system will not be able to operate optimally. This confirms that the environment is a fundamental element in the structure of the Indonesian economy. However, the management of economic resources, especially in the context of natural resource utilization, is still one of the significant challenges in the implementation of development both at the national and regional levels. This problem is further exacerbated by data showing fluctuations and declines in the quality of the environment in 34 Indonesian provinces every year. Economic development itself cannot be interpreted narrowly only as an effort to increase Gross National Product (GNP) per year. More than that, economic development must be seen as a process to improve people's living standards in a sustainable manner, considering the negative impacts on the environment. This approach emphasizes the importance of integration between economic growth and environmental protection to create a balance that is essential for the sustainability of life and the economy in the future (Hardimanto, 2023).

In 2023, (Arif & Hardimanto, 2023) conducted a study on economic performance and its impact on environmental degradation in Indonesia using the *Fixed Effect Model* analysis method in his research. That this study explains the change of forest land into non-forest land and is referred to as deforestation. This determination became very significant in 2015 to 2020. Through observations in two variables, it can be seen from the strong value of the causal relationship of 0.0443. Based on the description of the study, Arif argues that it is consistent with the *Environmental Kuznet Curve* hypothesis variable, which in conclusion is that if a country has a low income, then one of the main components in the welfare of society is to build without regard to the environment. Based on the words of the coordinating minister for Economic

Affairs of the Republic of Indonesia as reported in the state press release on February 8, 2022. Mentioning that some of the main sectors of the country's economy include the processing industry, trade, agriculture, construction and mining sectors. This is becoming increasingly interesting because in terms of optimizing some of the production provisions of one of the sectors above, is how to reduce production figures or exceed production figures by not paying attention to the environment (Limanseto, 2022).

Looking further into the economic aspects of the country, the basic application of the balance sheet of natural resources which is the recording of various natural resources controlled by the state. This is the main guideline for local governments whose natural resources are managed by permission through regional autonomy and the central government to be the central coordinating body for all reports on the form of reserves, period, reduction of reserves, and management guidelines (Salinding, p. 42). Indonesia is still in the stage when development is still by exploiting natural resources. The process of preparing a natural resource balance begins with the identification of ecosystems in an area. From each identified ecosystem, the next step is to determine the types of natural resources that can be utilized from each ecosystem. Furthermore, each type of natural resource and environmental function needs to be quantified to obtain data on the amount or volume available, including initial reserves and those lost due to exploitation or natural disasters. The final step is to conduct an assessment or valuation in units of economic value, such as rupiah, to reflect the potential and impact of these resources in the context of development. Natural resource balance sheets can be compiled for specific periods, at regional, island or area levels that have not previously been comprehensively mapped. In addition, these balance sheets can also be used to record changes in the presence of natural resources because of development activities. By analyzing the impact of a particular activity, natural resource accounts allow for a more accurate calculation of the costs and benefits of that activity, making them an important tool in feasibility studies.

One of the main sectors that support the country's economy with a high level of environmental sustainability is the Energy and Mineral Resources (ESDM) sector, which is a strategic pillar in supporting national development, making a significant contribution to state revenue and supporting economic growth from various aspects, including fiscal, monetary, and real sectors. In 2022, Non-Tax State Revenue (PNBP) from the ESDM sector reached Rp351 trillion, exceeding the set target of Rp254 trillion, which means a realization of 138% of the target. Investment in the ESDM sector also shows a positive trend. In 2022, investment realization reached USD26.8 billion, although this figure only reached 86% of the target set at USD31 billion (Ministry of Energy and Natural Resources, 2023). However, in 2023, investment in the ESDM sector increased to USD30.3 billion, an increase of 11% compared to the achievement in 2022. The budget allocation for the Ministry of Energy and Mineral Resources in 2022 is determined through the Budget Implementation List (DIPA), with budget allocations covering various organizational units under the ministry. This achievement confirms the strategic role of the ESDM sector in supporting fiscal stability and driving national economic growth. However, the characteristics of investment in this sector remain complex, characterized by capital-intensive requirements, high operational risk, and uncertainty of outcomes that require a well-thought-out risk mitigation strategy. Therefore, the government continues to encourage the participation of State-Owned Enterprises (SOEs) and private investors to create a conducive investment climate, to strengthen the ESDM sector as the main driver of national economic growth.

The sector's significant contribution to state revenue and investment is often offset by adverse environmental impacts, which in turn affect other key economic sectors. Activities in the EMR sector, such as oil, gas and mining exploitation, have caused substantial environmental damage, including deforestation, water and soil pollution, and increased greenhouse gas emissions. According to recent data, deforestation caused by large-scale mining activities accounts for more than 50% of the decline in forest cover in some parts of Indonesia. In addition to threatening biodiversity, this damage also has a direct impact on the agricultural sector through soil degradation and changes in rainfall patterns that disrupt land productivity (Sakti, 2024). Environmental damage caused by the EMR sector also has a serious impact on the fisheries sector. Water pollution caused by energy industry waste and degradation of coastal ecosystems reduce fish populations, impacting fishermen's livelihoods and national food supply. At the same time, damage to marine ecosystems also threatens the tourism sector, especially in areas that depend on nature-based tourism attractions. A decline in the attractiveness of tourist destinations due to

environmental pollution and natural degradation leads to a decrease in tourist visits, which has a direct impact on regional income and the local economy. Furthermore, the public health sector also feels the impact of environmental damage caused by EMR activities. Air and water pollution resulting from energy exploration and exploitation activities increases the incidence of disease, burdens the health system, and reduces labor productivity. These impacts create a double burden for the economy, both in terms of health expenditure and decreased labor capacity (Sunarjanto et al, 2017)

The agriculture sector is projected to show moderate growth in 2021, with an estimated figure ranging from 3.30% to 4.27% as revealed in the Agricultural Economic Outlook 2021. The recovery of the livestock subsector, which previously contracted in 2020, is expected to record growth of 3.72% to 4.68%. To realize this projection, an increase in production needs to be accompanied by a strengthening of domestic demand, one of which can be driven by an improvement in the price of plantation crop commodities and increased consumption of animal products. At the global level, the agricultural sector faces significant dynamics of opportunities and challenges. Changes in consumption behavior, the transition from restaurants to household consumption, technological disruption, and changes in international trade policies are important variables that affect the agricultural landscape. Fiscal and monetary stimulus, food system transformation. At the national level, the agricultural sector faces challenges such as climate anomalies, the need for adoption of technology, and increasing urgent food diversification. Demographic bonuses, regeneration of agricultural human resources, and limited R&D budget are critical issues that require attention. In addition, land conversion, handling food insecurity, and logistical complexity emphasize the need for integrated solutions. Other structural challenges include increasing the real wages of farm laborers and accessibility of adequate data for evidence-based decision making (Coordinating Ministry for Economic Affairs of the Republic of Indonesia, 2021).

Based on the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia Number 36/KMA/SK/II/2013, we can examine that the calculation of compensation arising from environmental pollution and or damage includes:

Losses due to the inability to manage wastewater, emissions, and/or toxic waste management.

Losses for reimbursement of the costs of overcoming environmental pollution and/or damage and restoring the environment.

Countermeasures and recovery.

Ecosystem losses or losses due to loss of biodiversity and decreased environmental functions; and/or

Public losses due to environmental pollution and/or damage.

Losses incurred by the state against environmental damage by means of funding issued by the state are sourced from three consequences 1). losses incurred and with the state revenue budget, 2). regional revenue and expenditure budgets; and / or, 3). other legal and non-binding sources of funds in accordance with regulations. Other legal and non-binding sources of funds in accordance with regulations. This may concentrate on the provisions of the procedures for implementing Forest and Land Rehabilitation, based on the Regulation of the Minister of Environment and Forestry Number 23 of 2021 concerning the Implementation of Forest and Land Rehabilitation (JDIH MARVES, 2022).

In 2021, through a joint working meeting of Commission IV of the House of Representatives with the Minister of Environment and Forestry, it was agreed to issue a budget ceiling in forest rehabilitation and environmental damage of IDR 7.9 trillion with two divisions to the directorates collected. In the theoretical state of Indonesia in maintaining the genetic system of conservation areas around 27 million ha, and protected forests around 29 million ha. The implementation and budgeting of it aims to maintain the sustainability of the availability of food security and for the welfare of the people (Virna, 2020). Based on this, the use of the state budget to rehabilitate the environment in certain sectors is a concern that must be considered, because the state issues a budget to rehabilitate and prevent damage to the state, in other words, the state issues its budget both central and regional expenditures to create a cycle mandated by the constitution. Environmental damage that occurs is not just a natural disaster or social problem, more than that environmental damage can also disrupt the country's economic system,

the various sectors that have been described above and some economic studies literature which states that negative externalization of the environment is a form of waste and elaboration on the prevention of wasted state finances. The state with its government must be able to think about how the procession of safeguards for the sustainability of national development is built on a healthy economic basis

In observing the environmental damage and already described above, the concept of development envisioned by the constitution for the welfare of the people. The state must be oriented towards economic sustainability. With the aim that development is not based on mere economic interests, but development must be aimed at social benefits. The concept of sustainable development can be defined in two main approaches, namely strong sustainability and weak sustainability. Strong sustainability demands that all forms of development capital including human capital, natural capital and human-made capital are maintained in constant quantity. In this approach, the value of ecosystems as part of natural capital is seen as irreplaceable, so their preservation becomes an absolute requirement to maintain the continuity of development. In contrast, sustainable development in the soft sense provides flexibility to the relationship between the three types of capital. This approach allows for substitution between these capitals, where a decrease in the value of natural capital can be compensated by an increase in the value of human or man-made capital. In other words, this approach assumes that the loss of natural resources can be offset by increased human capacity or technological development resulting from man-made capital. These two approaches reflect different perspectives on the balance between environmental sustainability and economic development needs (Fitria, 2022). By looking at the extent of environmental damage to the economy, we can annul it with the science of circular economy. It is the science of how development must also reflect environmental concerns, borrowing theory from Kircherker and Rieke, circular economy with the aim of improving economic welfare with the impact of social success (Holman Fasa, 2021).

CONCLUSION

The right of state control over natural resources, as stipulated in Article 33 paragraph (3) of the 1945 Constitution, and its derivative laws is a manifestation of people's sovereignty that requires the state to manage these resources in a fair, sustainable and prosperity-oriented manner. As regulator, manager, and supervisor, the state has an obligation to ensure that the utilization of natural resources not only supports economic growth but also guarantees the preservation of ecosystems for future generations. This management must be based on precautionary principles, based on scientific data, and integrated with sustainable development strategies, such as SEA, to create a balance between economic exploitation and ecological sustainability.

The conclusion of this discussion emphasizes that environmental damage is not only an ecological threat but also has direct implications for economic stability and the sustainability of national development. Indonesia as a legal state that prioritizes the welfare of the people, as mandated by Article 33 of the 1945 Constitution, has a constitutional responsibility to ensure that the utilization of natural resources is carried out in a sustainable manner. The EMR sector, while contributing greatly to state revenue, creates negative externalizations such as deforestation, land degradation, water pollution, and increased greenhouse gas emissions, all of which burden other economic sectors such as agriculture, fisheries, tourism, and public health. To face these challenges, countries must integrate a sustainable development approach that not only focuses on economic growth but also considers environmental sustainability as a natural capital that cannot be replaced. The application of the circular economy concept, which aims to improve welfare without harming the environment, can be a strategic solution. This requires harmonization between strong regulation-based policies and innovative environment-based investments. In addition, the preparation of natural resource balance sheets and the strengthening of environmental recovery mechanisms should be prioritized to ensure that the negative impacts of development are minimized. Only through these measures can Indonesia build an economic system that is not only productive but also socially and ecologically just, as mandated by the constitution.

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