

An Assessment of the Influence of the Right to a Healthy Environment on the Design of Smart Green Cities

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Abstract - The right to a good and healthy environment in practice is often overlooked by some countries. The world's actions for environmental destruction due to development and pursuing business must be taken seriously. The repercussions will be severe as this condition continues to be an abandonment of the right to a healthy environment. It impacts the adverse environmental aspects, low health levels and high mortality rates due to environmental degradation and requires steps to conduct Smart Green-based development to fulfill and realize the right for a good and healthy environment. From this basis, our research focuses on how the design of smart green development can fulfill the right to good and healthy environment. We adopt in this research normative juridical method and sociological jurisdiction. The findings show that Smart Green Design can be a positive element such that the rights to a good and healthy environment can be fulfilled.

Keywords - design development, smart green, environment good, healthy.

I. INTRODUCTION

The rights of a good and healthy environment is a human right and therefore the action of a state must be to fulfill its obligations as a protector of its citizens and able to create a good and healthy environment [11].

Health is a fundamental of human right. According to the World Health Organization (WHO), health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, WHO [14]. In this time of strenuous energy conservation and carbon reduction efforts, how to optimize the control and management of residential equipment in order to preserve residential users' health and comfort, while maintaining the sustainability of the ecological environment, has become an important contemporary issue.

Human ability to align themselves with the environment also required a certain activity by altering and proceed nature wisely. One change of nature means that change is able to bring one function on all parties, with the meaning of the word change not only felt in certain groups but have an impact on the misery the other (weak). It can not be denied that the reason for this development often puts human beings in a position that enables managers and environmentalists to fulfill and sustain their lives when only business interests. The development demands not only affect the destruction of nature but also many neglect of the right to a good environment and healthy.

On that basis it is necessary to design how to do one concept of development of course, through the policy of regulation in the field of environment that is able to protect the environment from damage and create a good and healthy living environment. Development with Smart Green concept is expected to realize the right to the environment

which is good and healthy, but in practice is not easy to realize the weakness of the regulation and commitment is still low, in this research the researcher tries to focus how the regulation and the concept of smart green development is able to realize the right to good and healthy environment for the society.

II. RESEARCH METHOD

The data collection method used is library research. The references from this paper are reviewed from various texts and other scientific works related to environmental law. Analysis of deduction, which is a review of data based on the rules of a general nature and then taken a special conclusion. While the comparison method, which is a system of data analysis by comparing between one data with another then draw conclusions to strengthen one of them.

III. LITERATURE REVIEW

A. The Right to the Environmental Good and Healthy

The phenomenon of the right to a good and healthy environment as a human right, associated with the reality of environmental management in Indonesia has not materialized. The right to a good and healthy environment is seen from the point of view of its form and content, the formulation of this right is a classical human right, which requires the ruler to avoid interfering with the individual's freedom to enjoy his or her environment. Judging from its work, it contains social rights demands, as well as being compensated for by the government to outline policies and take actions that encourage enhanced environmental

conservation efforts [12]. Democratic governance can improve the quality of the environment through the realization of good environmental governance [1].

The right to the environment is the subjective right of every human being to be retained to be protected against any interference from the outside. As for subjective rights is the most extensive form of protection of a person. The right grants to those who have a legitimate demand to have their interest in a healthy and healthy environment be respected, a demand which can be supported by legal procedures, with legal protection by courts and other instruments [8]. Arief Hidayat [2] stated that the Universality of Human Rights in its general sense and form is of course undeniable, all the countries of this world have agreed to recognize and guarantee the existence and significance of human rights.

Good and healthy environmental rights criteria are the right to a healthy environment, the right to a healthy life, the right to property protection, the right to protection of the people. In addition to human rights and environmental issues, the implementation of governance at the regional level is reformed, so that local governments are given the widest possible authority, the extent to which autonomous regional government management is now known as regional autonomy. According to Ryaas Rasyid, "the implementation of regional autonomy is expected to provide great benefits in the life of society, nation and state, especially to develop democratic life, encourage efforts to empower communities in development, strengthen the ability and position of local government, improve public services and welfare community through regional development [9].

B. Design Smart Green City

Green City is one of the concepts of a sustainable urban planning approach. Green City is also known as an Ecological City or a healthy city. This means that there is a balance between urban development and development and environmental sustainability. With a healthy city can realize a city condition that is safe, comfortable, clean, and healthy to inhabit its population by optimizing the socio-economic potential of the community through the empowerment of community forums, facilitated by relevant sectors and in sync with city planning. To be able to make it happen, it takes effort from each individual member of the community and all related parties (stakeholders). It can also be said that Green City is a city that is ecologically healthy.

Six dimensions in smart city concept is the opinion of smart city expert, Boyd Cohen:

B1. Smart people have a role to play in the aspects of creativity and social capital. It is hoped that a city has human capital that formally and non-formally has good education and is manifested in creative individuals or communities. So to realize the smart people is needed creativity-creativity of the community in every joint of social life as a social capital.

B2. Smart economy has a role in innovation and persuasion. Cities with the label 'smart city' are expected to have economic and financial well-being levels with good economic growth and high per capita income. So in this aspect, it needs innovation to boost business opportunity and it is possible to increase business/capital market opportunity.

B3. Smart mobility has a role in transportation and infrastructure aspect. It is expected that the city has a system that allows the fulfillment of needs with the movement as minimal as possible and as quickly as possible. In this aspect, it is necessary to develop integrated and coordinated infrastructure management to ensure the public interest.

B4. Smart governance has a role to play in the aspect of empowerment and participation. The city is expected to have a government that has policies that pay attention to the principles of rule of law, humanity, justice, democracy, participation, transparency, professionalism, and accountability as well as the effectiveness and efficiency of policies.

B5. Smart environment has aspects of the environment. The city of dreams with smart city labels is a city that provides convenience, resource sustainability, physical beauty and non-physical, visual or otherwise, for the present and future to the people. Implementation of this smart governance for example in a clean and orderly environment.

B6. Smart living has an aspect of quality of life. It is expected that a city has a good quality of life, including the availability of needs, the security, safety, convenience and security of life. The quality of life itself is dynamic is always changing because it always tries to improve itself. Smart Living seemed to be the last thing that must be met before the realization of smart city. This achievement is not separated from the role of education.



Fig. 1. Design of Smart Green City

The role of the Government in realizing the cities in Indonesia to be smart city must be great. Because the

projects to build a smart city commercially require a long investment. Long investment, he said, should be managed properly so as not to get out of the initial concept in building smart city in Indonesia. This smart city will provide tremendous efficiency for the community. The role of government must be large because most of the projects, to build a smart city in the long commercial investment.



Fig. 2. Implementation of Smart City

The advantages of the Green City concept is to meet the needs of Green Open Space in an area, thus reducing and even solving environmental problems, natural disasters, low air pollution, flood-free, low noise and other environmental problems. But in addition to the advantages, this concept has a weakness as well. Its application in each region can not be generalized because each region needs its own study. At least it should be known about local characteristics, macro climate, and so on. Green Open Space functioned to resist landslides and erosion, on the beach to avoid tidal waves, tsunamis, in big cities to suppress air pollution, as well as in housing, functioned to reduce noise. So in each city has different ecological functions. In addition, the current application of most of its reforestation is not conceptualized, giving rise to a green image of origin so regardless of who can benefit positively from afforestation.

IV. ANALYSIS

A. Legal Basis

The 1945 Constitution of the State of the Republic of Indonesia as a written constitution and the highest norm provides for the provision of human rights to a good and healthy living environment, as set forth in Article 28H paragraph (1). The provision of the right to a good and healthy environment is then reinforced in Law No. 39 of 1999 on Human Rights and Law No. 32 of 2009 on the Protection and Management of the Environment. This provision is a reformation mandate to improve the condition of the nation and the country in a better direction:

[Http://www.page.staff.ugm.ac.id/atur/sda/](http://www.page.staff.ugm.ac.id/atur/sda/)

The regulation of the right to environment in Indonesian positive law is contained in the constitution and several other rules, namely: The fourth paragraph of the Preamble of the 1945 Constitution which states "to establish a government of the State of Indonesia protecting the whole of the Indonesian nation," and linked to the Right of Control to the state over the earth, and the wealth contained therein for the greatest prosperity of the people, as stipulated in Article 33 (3) of the 1945 Constitution.

The Amendment of the 1945 Constitution Article 28H (1) stated that: "Every person shall have the right to live in physical and spiritual prosperity, to live and to obtain a healthy and healthy living environment and to be entitled to health services." Article 33 Paragraph (4): "The national economy is organized on the basis of economic democracy with the principles of togetherness, fair efficiency, sustainability, environmental insight, independence, and by maintaining a balance of progress and national economic unity."

In the preamble "in letter a" Law no. 32 of 2009 on Environmental Protection and Management (UUPPLH) stated that: "A good and healthy environment is a human right of every Indonesian citizen as mandated in Article 28H of the 1945 Constitution of the Republic of Indonesia." In Article 3 UUPPLH mentioned that environmental protection and management aims: a. protect the territory of the Unitary State of the Republic of Indonesia from pollution and / or environmental damage; b. ensure safety, health, and human life; c. ensure the survival of living beings and the preservation of ecosystems; d. preserving environmental functions; e. achieve harmony, and environmental balance; f. ensuring the fulfillment of justice of present and future generations; g. guarantee the fulfillment and protection of the right to the environment as a part of human rights; h. controlling the wise use of natural resources; i. realizing sustainable development; and j. anticipating global environmental issues.

Then in the Consideration of Law no. 39 of 1999 on Human Rights, it is mentioned that human beings as creatures of God Almighty who carry out the task of managing and maintaining the universe with full of devotion and full responsibility for the welfare of mankind, by his creator was awarded the right to guarantee the existence of the dignity and the dignity of his own glory and the harmony of his environment. With regard to the right to the environment explained clearly in Article 9 paragraph (3) stated that: "Everyone is entitled to a good and healthy environment." Thus it is clear that the right to the environment is a human right, not only to be recognized and respected, but also to be upheld.

Through this regional autonomy, "development activities are basically an effort to improve human life by using natural resources that exist around the environment. Therefore, since the history of the journey of human life, we

have recorded various efforts or efforts that have been done by human beings to utilize various natural resources, so that various results can be enjoyed and felt," [6]. Through regional autonomy, it is expected that local governments can manage their natural resources as well as possible, so as to contribute to the prosperity and prosperity of the people. The local government seeks to include the participation of other parties, namely the private sector to manage natural resources [10].

B. World Recommendation

The Great Environment which also affects human health. This is actually regulated also in the International Covenant on Civil and Practical Right (ICCPR), especially Article 6 paragraph (1) stating that every human being has inherent rights to life, no one shall be arbitrarily deprived of his life. The Article specifies that everyone has the right to live and no one can not arbitrarily stop the life of a person.

In the 1948 Universal Declaration of Human Rights, here in after referred to as the 1948 Declaration, in particular Article 25 regulates everyone has the right to a standard of living for health and well-being of himself and of his family ... The purpose of the right to a healthy life (healthy environment), so to get an adequate life for the health shows that everyone is entitled to a healthy life. To get a healthy life of course must by keeping the environment from damage and pollution.

C. Discussion

The constitutionalism of the environment in the Indonesian constitution itself has been done in the 1945 amendment, but not many people take this matter seriously. Article 28 H paragraph (1) and Article 33 paragraph (4) of the 1945 Constitution is evidence that the Indonesian Constitution is the Green Constitution (Green Constitution). Article 28 H paragraph (1) of the 1945 Constitution reads: "Every person shall have the right to live a prosperous and spiritual life, to live and to get a good and healthy living environment and the right to obtain health services. While Article 33 Paragraph (4) of the 1945 Constitution reads: "The national economy is organized based on the principle of economic democracy with the principles of togetherness, fair efficiency, sustainability, environmental insight, independence, and by maintaining the balance of progress and national economic unity [7].

Optimizing the role of government and legislative in order to produce green legislation is absolutely necessary in order to accelerate the implementation of good local governance especially in making policy to anticipate impact of global warming (climate change). Esty and Porter in their paper in the Journal of Environment and Development Economics argue that the empirical evidence hence suggests that a country can benefit not only from

economic growth, but equally from developing the rule of law and strengthening its governance structure [13].

Research conducted by Gunningham and Grabosky "there is not one optimal instrument to reach environmental goals at the lowest cost. The Article 28H Paragraph (1) and Article 33 Paragraph (4) of the 1945 Constitution are said to have the right to obtain a good living environment and the right to have a good living environment. healthy and good health services, is a human right. Therefore, the 1945 Constitution is clearly very pro-environment, so it can be referred to as the green constitution (green constitution) [5].

Thus, all policies and actions of government and development shall be subject to the provisions concerning human rights to the good and healthy environment. No further policy shall be laid down in the form of laws or regulations under a law that is contrary to this pro-environment constitutional provision. Local regulations must have green/green values as mandated in the 1945 Constitution and Article 14 of Law no. 32 of 2009 on Environmental Protection and Management so that each law will be responsive to the environment. The concept of unsustainable and environmentally insecure development will not only exacerbate existing environmental and social issues but will also trigger new environmental problems.

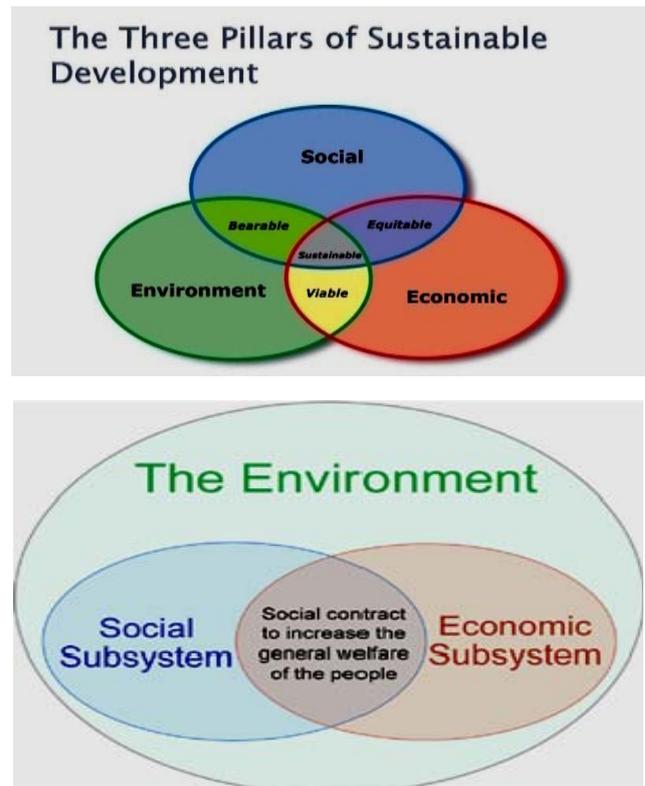


Fig. 3. Three pillars of Sustainable development

The three pillars of sustainability are a powerful tool for defining the complete sustainability problem. This consists of at least the economic, social, and environmental pillars. If

any one pillar is weak then the system as a whole is unsustainable. Two popular ways to visualize the three pillars are shown [16].

Tree pillar of sustainability with environment largest. The standard diagrams for visualizing the three pillars are simplistic. To see the more correct relationship requires a diagram like the one shown.

The largest system of them all is the biosphere we live in. It contains the human system, which has two main systems: social and economic. When groups of people, from a tribe to a nation, agree to form a government they form a social contract to increase their general welfare. This contract binds the social and economic systems of the group of individuals together. The people (the social subsystem) are working together under a central government to maximize their economic system's output.

Seeing the overall system this way makes it clear that environmental sustainability must have the highest priority, because the lower the carrying capacity of the environment, the lower the common good delivered by the social system and the less output the economic system can produce.

The concept of unsustainable and insensitive development of the environment will not only exacerbate the existing environmental and social issues but will also trigger new environmental problems. In terms of environmental management in Indonesia, there is actually legislation at both the central and regional levels. At the central government level, various law products have been published starting from Ministerial Decree, Ministerial Regulation, Presidential Decree, Government Regulation up to Law. Nevertheless there is a gap that is quite striking in Law no. 32 Th. 2009, namely the absence of clauses and clauses that pertain to the commitment of stakeholders to slow, stop and reverse the direction of the rate of environmental destruction [3].

V. CONCLUSION

Weak implementation of legislation: legislations related to the environment are many, but in their implementation is still weak. There are some who do not implement the law well, even looking for weaknesses of the legislation are taken advantage of in order to achieve its goals.

Weak enforcement of environmental law especially in supervision: in connection with the implementation of legislation is the side of supervision of the implementation of legislation. Many of the violations committed (environmental pollution, environmental destruction), but very weak in the provision of legal sanctions.

Society's understanding of the environment: understanding and awareness of the environmental importance of some communities is still weak and this needs to be improved. Not only the lower class society, but also the upper middle class society, even the highly educated still lack awareness about the environment.

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- [15] It is known in the UK as Magna Charta 1215 Habeas Corpus Act 1679, and Bill of Rights 1689, which raises the view that man has equal equality before the law and also gives birth to the principle of equality. In America there is Virginia Bill of Rights 1776 and Declaration of Independent 1776. In Africa known as African Charter on Human and People's Rights.
- [16] The colorful three pillar image is from Wikipedia. The architectural style image was prepared by Thwink.org. It's based on numerous similar diagrams.