

## The Sustainable Development of Environment Protection and Management To The Framework of Regional Development

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### **ABSTRACT**

*This research aims to know the obligation and authority of regional government in integrated sustainable development in a region environment matter. This research is a normative research with statute approach and conceptual approach. The data gathered by library research and then analyzed with qualitative method. Result of this research showed that to meet the obligation to integrated sustainable development in regional affair the regional government must arranged Planning of Environment Protection and Management (PEPM/RPPLH) and Strategic Environment Analysis (SEA/KLHS). Authority of regional government to exploit natural resources shall through a planning phase by means of PEPM. Likewise with all the policy, planning and program that potentially caused impact or risk to environment shall have SEA first. PEPM and SEA must included in The Regional Middle Term Planning and The Regional Long Term Planning (RPJMD and RPJPD)*

**Keywords :** *autonomy; development; environment; sustainable; region.*

### **INTRODUCTION**

The essence of regional autonomy is independence.<sup>1</sup> Independence means not only the authority of a region to organize and to manage its own affairs but also the regional's potency to implement that authority. One of the fundamental elements which should be considered for

<sup>1</sup> Bagir Manan, (2002). *Menyongsong Otonomi Daerah*, Second Edition, Yogyakarta: UII press, p. 244.

an effective implementation of regional autonomy is the economic power that can be actuated as a source of PAD.<sup>2</sup> However, these demands of economic matter used to be a reason why the local government had not really cared for the other obligations, especially the environmental protection aspect. One criticism arose to the implementation of the ongoing regional autonomy. It was about the issue of the exploitation of natural resources management which done on behalf of Local Own Source Revenue (PAD) expansion. It was known as a massive case during the implementation of regional autonomy.<sup>3</sup>

The harsh criticism that the implementation of regional autonomy did not impact a better change becoming a debate between the central and regional governments.<sup>4</sup> Previously, the central government was accused of depleting natural resources and careless of the environmental protection<sup>5</sup> then, this time, local government has been accused of increasing environmental degradation. The environmental degradation, the high rates of deforestation and the excessive ecological destruction were continually accepted as a domino effect to the implementation of regional autonomy which was not insightful to the sustainable development. The center officials pointed to the environmental degradation as a bad side of regional autonomy. On the other hand, the local government argued pragmatically by stating that the central government was the one who depleting the region's natural resources and it is time for regional people to enjoy their natural resources.<sup>6</sup>

The government's failure in selecting a development model that prioritized economic growth with all the negative consequences for the environment and in the role as guardians of common interest including a good environment were the two mistakes that caused ecological crises.<sup>7</sup> Therefore, the implementation of regional autonomy must be balanced between development and environmental protection. One of the environmental protection principles in the development in a region is a sustainable development. This principle was first mentioned by the Bruntland Commission in its '*Our Common Future*' report.

In that report, the Bruntland Commission did not create the terms of sustainable

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<sup>2</sup>Mujibussalim, (2010). "Perlindungan Terhadap Hutan Dalam Pelaksanaan Otonomi Daerah", *Kanun, Jurnal Ilmu Hukum, Hukum Lingkungan*, Number 52 Year 12th, December, p.503; <http://www.jurnal.unsyiah.ac.id>, (accessed on March 21<sup>st</sup> 2016).

<sup>3</sup>*Ibid.*, p. 509.

<sup>4</sup> Suparto Wijoyo, (July-August 2013) "Hidup Politik...Hidup Otonomi...dan Bagaimana Ekologi?" *Majalah Suara Bumi*, Tahun. IX/Edisi 4, hlm. 2; available on line in [http://175.184.234.138/p3es/uploads/unduh/Majalah\\_Suara\\_Bumi\\_Ed\\_4\\_2013.pdf](http://175.184.234.138/p3es/uploads/unduh/Majalah_Suara_Bumi_Ed_4_2013.pdf), (accessed on May 25th 2016).

<sup>5</sup> Some article describe so. Among those said that centralization have failed and give negative effect to the society who live near the forest, Sudiyono,(2005) "Sengketa Pengelolaan Kawasan Taman Nasional Dalam Era Otonomi Daerah (Kasus Taman Nasional Kutai Kalimantan Timur)" *Jurnal Masyarakat dan Budaya*, Volume 7. No. 1,p. 131, available in daring version on [jmb-lipi.or.id/index.php/jmb/article/viewFile/221/201](http://jmb-lipi.or.id/index.php/jmb/article/viewFile/221/201), (accessed on March 21th 2016).

<sup>6</sup> Suparto Wijoyo, *Loc.Cit.*

<sup>7</sup> A Sony Keraf, (2000). *Etika Lingkungan*, Jakarta:Kompas, p. 190-191.

development, but they had popularized the term and formulated the definition, as: "development that meets the needs of the present without compromising the ability of future generations to meet their own needs".<sup>8</sup> The principle of sustainability and continuity are also contained in Indonesian law. This is confirmed in Article 2 of the Act Number 32 of 2009 on Environment Protection and Management. Moreover, it also stated that the objective of Environment Protection and Management in Indonesia is to realize the sustainable development as a direction in protecting and managing the environment.

The environment is one of the obligatory matters of regional government which is implemented on the basis of the regional autonomy principle. It is affirmed in Article 12 Section (2)(e) of the Act Number 23 of 2014. The definition of regional autonomy as defined in Article 1 of the Act Number 23 of 2014 is a right, authority and obligation of autonomous regions to regulate and manage the government affairs and the interests of local community in the system of the Unitary State of the Republic of Indonesia (Negara Kesatuan Republik Indonesia). Thus, the regulation and implementation of activities related to the environment is the right, authority and obligation of local government. The point that should be considered in the implementation of obligatory matters of local government in the field of environment is to be in harmony with the principle of sustainability and continuity as regulated in the Act Number 32 of 2009.

In order to actualize the sustainable development which is one of the objectives in the Protection and Management of the Environment in Indonesia, it needs a number of instruments. The Act Number 32 of 2009 has regulated a number of environmental instruments. Some of them became the authority of local governments.

How are the obligations and authorities of regional government in integrated the sustainable development to a region environment matter?

## RESEARCH METHODS

This study used normative juridical research method which discussed the doctrines or legal principles,<sup>9</sup> especially those related to the problem to be studied, and by using the literature materials or secondary data only.<sup>10</sup>

<sup>8</sup> Takdir Rahmadi, (2015) *Hukum Lingkungan Indonesia*, Jakarta :Rajawali Press,p. 9.

<sup>9</sup> Zainuddin Ali, (2009).*Metode Penelitian Hukum*, Jakarta :Sinar Grafika, p. 24.

<sup>10</sup> Soerjono Soekanto dan Sri Mamudji, (2010). *Penelitian Hukum Normatif, Suatu Tinjauan Singkat*, Jakarta: PT Raja Grafindo Persada, p. 13-14.

The approach methods used in this research are Statuta Approach and conceptual approach. The Statuta Approach was conducted by reviewing various legislation related to the Protection and Management of the Environment. The conceptual approach was used with views and doctrines that develop in law, especially in the field of constitutional law and environmental law.

Normative legal research is a literature legal research. This research uses only the literature materials as research data. Therefore, the data collection is done by investigating various library materials which are available in libraries, as well as by searching the electronic literature using internet media. The research materials that had been collected further analyzed by using qualitative analysis methods.

## DISCUSSION

### The Environment Protection and Management Authority in Regional Autonomy

According to Logemann, autonomy is the power to self-manage local households based on self-initiative (*vrije beweiging*) for self-governing state units on their own initiative, which can be used for general administration.<sup>11</sup> Bagir manan stated that autonomy is the independence to organize and manage the matter (household) of its own.<sup>12</sup> Managing means carrying out all the matters which set out in the rules. Local government is only allowed to manage independently its own household matters. Freedom and liberty in autonomy is not independence (*onafhankelijkheid, independency*).<sup>13</sup>

The principle of regional autonomy is the foundation in the implementation of local government in Indonesia. In the Act Number 23 of 2014 on Regional Government, the principle of autonomy is affirmed as a basic principle in the implementation of local government.<sup>14</sup> It further states that regional autonomy is the right, authority and obligation of autonomous regions to regulate and manage their own governmental affairs and interests of local people in the system of the Unitary State of the Republic of Indonesia.<sup>15</sup>

The government's authority in the Act Number 23 of 2014 on Regional Government is divided into absolute government affairs, concurrent government affairs, and general government affairs. Absolute governmental affairs are fully authorized by the central

<sup>11</sup> Cited in Utrecht E (1990), *Pengantar Hukum Administrasi Negara Indonesia*, Jakarta: Ichtiar Baru, p. 98.

<sup>12</sup> Bagir Manan, (1994). *Hubungan Antara Pusat dan Daerah Menurut UUD 1945*, Jakarta: Pustaka Sinar Harapan, p.21.

<sup>13</sup> *Ibid.*

<sup>14</sup> Article 1 (7) Act Number 23 of 2014 on Regional Government.

<sup>15</sup> Article 1 (6) Act Number 23 of 2014 on Regional Government.

government. Concurrent government affairs are shared between central and provincial and district/city governments. It is the basis of the implementation of regional autonomy. While the general government affairs are the matters that become the authority of the president as a head of government.<sup>16</sup>

The absolute government affairs include: a. foreign politics; b. defense; c. security; d. justice; e. monetary and national fiscal; f. religio.<sup>17</sup> The concurrent government affairs which are the regional authorities comprise mandatory government affairs and government affairs of choice. Government affairs must consist of government affairs relating to basic services and government affairs which not related to the basic services.<sup>18</sup>

Compulsory governmental affairs relating to basic services consist of: a. education; b. health; c. public works and spatial arrangement; d public housing and residential areas; e. peace, public order and protection of the people; f. social. Compulsory governmental affairs which are not related to basic services include: a. labor; b. women's empowerment and child protection; c. food; d. land; e. living environment; f. population administration and civil registration; g. community and village empowerment; h. population control and family planning; i. nexus.<sup>19</sup>

The authority of local government which related to the protection and management of the environment is regulated more detailed in Act No. 32 of 2009 on Environmental Protection and Management. Article 63 (2) and (3) of Act No. 32 of 2009 stipulates the obligations and authorities of provincial and district governments in implementing environmental protection and management as follows:

- (1) the authority of the provincial government in the protection and management of the environment:
  - a. stipulate the province level policy;
  - b. stipulate and implementing SEA at the province level;
  - c. stipulate and implementing the policies of the provincial PEPM;
  - d. stipulate and implementing the policies of AMDAL and UKL-UPL;
  - e. managing the inventory of natural resources and greenhouse gas emissions at the provincial level;
  - f. developing and implementing cooperation and partnership;
  - g. coordinating and implementing the control of pollutions and environmental damage

<sup>16</sup>Article 9 (1,2,3,4,5) The Act Number 23 of 2014 on Regional Government.

<sup>17</sup>Article 10 (1) The Act Number 23 of 2014 on Regional Government.

<sup>18</sup>Article 11 (1,2,3) The Act Number 23 of 2014 on Regional Government.

<sup>19</sup>Article 12 (2) The Act Number 23 of 2014 on Regional Government.

- across districts or cities;
- h. conducting guidance and supervision to the implementation of policies, regional regulations, and
  - i. Head of Province Regulation;
  - j. conducting guidance and supervision to the compliance of the party responsible for the business or activity on the provision of environmental licensing and legislation in the field of environmental protection and management;
  - k. developing and applying environmental instruments;
  - l. coordinating and facilitating a cooperation and dispute solutions in district and/or city area;
  - m. conducting guidance, technical assistance, and supervision to the district/city in the field of programs and activities
  - n. implementing minimum service standards;
  - o. establishing policies on the procedure of recognizing the existence of indigenous and tribal peoples, local wisdom and the rights of indigenous and tribal peoples concerned with the protection and management of the environment at the province level;
  - p. managing environmental information at the province level;
  - q. developing and socializing the use of friendly environmental technologies;
  - r. providing education, training, coaching and awards;
  - s. publishing environmental permits at the province level; and
  - t. enforcing environmental law at the province level.
- (2) the authority of the ditrict or city government in the environment protection and management:
- a. stipulate district level policy;
  - b. stipulate and implementing SEA at district or city level;
  - c. stipulate and implementing policies on PEPM at district or city level;
  - d. establishing and implementing policies on AMDAL and UKL-UPL;
  - e. managing an inventory of natural resources and greenhouse gas emissions at the district or city level;
  - f. developing and implementing cooperation and partnerships;
  - g. developing and applying environmental instruments;
  - h. facilitating dispute settlement;
  - i. conducting guidance and supervision of the responsibility of business or activity on the provision of environmental licensing and legislation regulation in the field of environmental protection and management;
  - j. implementing a minimum service standard;
  - k. implementing policies on the procedures for recognizing the existence of indigenous and tribal peoples, the wisdom and rights of the community in relation

- to the protection and management of the environment at the district/city level;
- l. managing environmental information at the district/city level;
  - m. developing and implementing environmental information system policies at the district or city level;
  - n. providing education, training, coaching and awards;
  - o. publishing environmental permits at the district or city level; and
  - p. enforcing environmental law at the district or city level.

## **The Sustainable Development Regulated In the Act Number 32 of 2009 on Environmental Protection and Management**

The concept of sustainable development has been a concern of experts since a long time ago. But the term of sustainability it self emerged only a few decades ago, although the concern of sustainability had begun since Malthus who feared the availability of land in the UK due to a rapid population explosion in 1798. One and a half centuries later, the concern of sustainability grew thicker after Meadow and his friends published a publication entitled *The Limit to Growth* in 1972. The conclusion was stated that economic growth would be greatly limited by the availability of natural resources. By limited availability of natural resources, the flow of goods and services which generated from natural resources cannot always be done on an (on-sustainable basis).<sup>20</sup>

The Brundtland report identifies some critical issues that need to be the basis of environmental policy for the concept of sustainable development:

- a) reviving growth and changing its quality;
- b) meeting essentially needs for jobs, food, energy, water, and sanitation;
- c) ensuring asustainable level of population;
- d) conserving and enhancing the resource base;
- e) reorienting technology and managing risks and;
- f) merging environment and economics in decision-making.<sup>21</sup>

The concept of sustainable development is generally have three interrelated aspects. These three aspects have close relation that cannot be separated in realizing sustainable development. Jonathan M Haris identified these three elements:

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<sup>20</sup> Askar Jaya, (2004). *Konsep Pembangunan Berkelanjutan*, makalah, p. 1, dari [file:upi.edu/Direktori/FIP/JUR.\\_PEND...ACE.../askar\\_jaya.pdf](file:upi.edu/Direktori/FIP/JUR._PEND...ACE.../askar_jaya.pdf), (accessed on September 8th 2016).

<sup>21</sup> Daud Silalahi, "Pembangunan Berkelanjutan Dalam Rangka Pengelolaan (Termasuk Perlindungan) Sumber Daya Alam Yang Berbasis Pembangunan Sosial dan Ekonomi", Makalah yang disampaikan dalam Seminar pembangunan Hukum Nasional VIII, Tema Penegakan Hukum dalam Era Pemangunan Berkelanjutan, diselenggarakan oleh Badan Pembinaan Hukum Nasional, Departemen Kehakiman dan HAM RI, p.15, available in daring version on [www.lfip.org/.../Pembangunan%20Berkelanjutan%20-%20Daud%...](http://www.lfip.org/.../Pembangunan%20Berkelanjutan%20-%20Daud%...), (accessed on March 21th 2016).

*Economic: an economically sustainable system must be able to produce goods and services on a continuing basis, to maintain manageable levels of government and external debt, and to avoid extreme sectoral imbalances which agricultural or industrial production.*

*Environmental: an environmentally sustainable system must maintain a stable resources base, avoiding over-exploitation of renewable resources systems or environmental sink functions, and depleting non-renewable resources only to the extent that investment is made in adequate substitutes. This includes maintenance of biodiversity, atmospheric stability, and other ecosystem functions not ordinarily classed as economic resources.*

*Social: A social sustainable system must achieve distributional equity, adequate provision of social services including health and education, gender equity, and political accountability and participation.*<sup>22</sup>

The relevancy between environment and development as confirmed in the "Our Common Future" report, is also influential in jurisprudence. Daud Silalahi stated it as follows: "legal discussions which based on the concept of sustainable development in natural resource management of social and economic development should be discussed as part of development concepts, especially in developing countries including Indonesia".<sup>23</sup>

Indonesian national law recognizes the principle of sustainable development as stipulated in the Act Number 32 of 2009 on PPLH. The definition of sustainable development as stipulated in the Act Number 32 of 2009 is:

"Sustainable development is a realized and planned effort that combines environmental, social and economic aspects in a development strategy to ensure the integrity of environment, the safety, abilities, welfare, and quality of life of present and future generations."<sup>24</sup>

In the Act Number 32 of 2009 on Environment Protection and Management, it is asserted a number of principles that contain the principle of sustainable development. Article 2 stipulates that one of the principles in the environment protection and management is the principle of sustainability and continuity. In the elucidation of Article 2, the definition of sustainability and continuity principle is defined as: "Every person assumes obligations and

<sup>22</sup> Jonathan M Harris, (2000). "Basic Principles of Sustainable Development" dalam *Global Development And Environment Institute Working Paper 00-04*, Tufts University, p. 5-6; <http://ase.tufts.edu/gdae> (accessed on March 21st 2016).

<sup>23</sup> *Ibid.*,

<sup>24</sup> Article 1(3) Act Number 32 of 2009 on Environment Protection and Management.



responsibilities to future generations and to the fellowmen in one generation by preserving the capacity of ecosystems and improving the quality of environment."

The principle of sustainability and continuity is in line with the principle of sustainable development, which said that the environmental management and protection must ensure the needs of present and future generations. In addition, it is also based on the principle of harmony and balance. In the elucidation of Article 2, the definition of the principle of harmony and balance are: "The exploitation of the environment should notice to various aspects, for instance, economic, social, cultural, and environmental protection and ecosystem preservation."

The basis of sustainability and continuity is in harmony with the principle of sustainable development that is that environmental management and protection must notice to economic, social and cultural aspects. The legal principle is an essential element of the rule of law. The legal principle is at the heart of the rule of law because:

1. The principle of law is the broadest foundation for the birth of a rule of law. This means that the rules of law are ultimately restored to the principles;
2. The principle is the reason for the birth of the rule of law or is the *legis ratio* of the rule of law. Law is a tool by which law grows and develops.<sup>25</sup>

As mentioned by Satjipto Rahardjo that the principle of law is at the heart of the law, the principle of sustainability and continuity as well as the principle of harmony and balance are at the heart of the Act Number 32 of 2009 on PPLH. As known as the "heart" or the basis for the Act Number 32 of 2009, the principle of sustainability and continuity and the principle of harmony and balance should be the basis for environmental management and protection.

### **Regional Authority to Integrate the Principles of Sustainable Development in the Environment Protection and Management in Region**

The Act Number 32 of 2009 mandates that the principle of sustainable development should be one of the principles in environmental management by the central government and local governments. In order to ensure that sustainable development which integrated in every matters under the government jurisdiction, there are number of obligations relating to the preparation of environmental instruments. The environmental instruments that can be used to ensure the integration of sustainable development are:

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<sup>25</sup> Satjipto Rahardjo, (1986). *Ilmu Hukum*, Bandung : Alumni, p. 85.

## ***Planning of Environment Protection and Management (PEPM/RPPLH)***

There are a number of step in the environment protection and management which include: planning, exploitation, control, preserve and law enforcement.<sup>26</sup> The planning stage is the first step in the effort of environmental protection and management. This stage is the basis for the implementation of the exploitation of natural resources. The exploitation of natural resources is one of the economic resources that can increase local revenue. To prevent the disproportionate exploitation of natural resources which are just concerned with the increase of PAD without regard to the preservation of environmental functions, the stage of planning that becomes the basis for the exploitation of natural resources becomes very important.

The stages of environmental protection and management planning are carried out through: (a) an inventory of the living environment; (b) the determination of the ecoregion territory; (c) the preparation of the Environmental Protection and Management Plan (RPPLH). Among the three stages, the preparation of the RPPLH is the obligation and authority of the government and the regional government. RPPLH is a written plan that contains the potential, environmental issues, as well as protection and management efforts within a certain period of time. RPPLH consists of national RPPLH, provincial RPPLH and districts or municipalities RPPLH.

Province, district or city government have an obligation to develop RPPLH. The provincial RPPLH is prepared based on: (a) the national RPPLH; (b) an inventory at archipelago level and (c) an inventory at the ecoregion level. The district or city RPPLH is prepared based on: (a) the province RPPLH; (b) an archipelago inventory; (c) an inventory of ecoregion levels. The province RPPLH is compiled by the governor and is regulated in the form of provincial regulations. The district or city RPPLH is prepared by the governor and is regulated in the form of regency or municipal regulations.

Article 10 (4) of the Act Number 32 of 2009 on Environmental Protection and Management states that RPPLH contains the plans on:

- a. utilization and preserve of natural resources;
- b. maintenance and protection of the environmental quality and functions;
- c. controlling, monitoring, and utilizing and conserving natural resources;
- d. adaptation and mitigation to climate change.

The compilations of the RPPLH as referred to paragraph (1) consider as :

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<sup>26</sup> Articel 4 The Act Number 32 of 2009 on Environment Management and Protection.

- a. the diversity of character and ecological functions;
- b. the distribution of population;
- c. the distribution of potential natural resources;
- d. the local wisdom;
- e. people's aspirations; and
- f. climate change.

The basic principle of sustainable development is the integration of environmental, social and economic issues in all aspects of making decision.<sup>27</sup> A number of rules which regulated in the RPPLH indicate the existence of economic as well as environmental aspects. The economic aspect is the exploitation of natural resources as a very important aspect in the implementation of regional autonomy. The demand which conditioned for local governments requires various sources of financing, including in the utilization of natural resources. In addition, RPPLH basically contains social aspects which is done by considering local wisdom and social aspirations.

As stipulated in the Act Number 32 of 2009 on PPLH, the district RPPLH should refer to province RPPLH as well as ecoregion inventory and archipelago inventory. While the provincial RPPLH should refer to the national RPPLH. Thus, the national RPPLH becomes the first reference in the preparation of regional RPPLH. However, until now, the central government has not yet issued a Government Regulation on the national RPPLH. In the Government's National Legislation Program of 2015-2019 [as an input to the Government of Indonesia's 2015-2019 preliminary draft], a number of Government Regulation are derived from the Act Number 32 of 2009 on PPLH. Among those Government Regulation, the National RPPLH is a priority of the Ministry of Environment and Forestry. The absence of Government Regulation on National RPPLH becomes a juridical obstacle to the establishment of regional level RPPLH.

### ***Strategic Environmental Assessment (SEA)***

There is no definition SEA which is universally embraced by all parties. Because of the increasing knowledge in the field of environmental studies, it has developed various SEA definitions that reflect the differences in interpreting the purpose of SEA.<sup>28</sup> Based on a number of definitions from the experts as well as the environmental agency, SEA's definition

<sup>27</sup> Rachel Emas, "The Concept of Sustainable Development: Definition and Defining Principles", <https://sustainabledevelopment.un.org/.../5839GS...>, (accessed on March 21st 2016), p.3.

<sup>28</sup> Deputi Bidang Tata Lingkungan KemenLH bekerjasama dengan ESP2 – DANIDA (2007), *Buku Pegangan Kajian Lingkungan Hidup Strategis*, hlm. 4, available on daring version at [tataruangpertanahan.com/pdf/pustaka/panduan/1.pdf](http://tataruangpertanahan.com/pdf/pustaka/panduan/1.pdf), (downloaded on September 14th 2016).

can be divided into two kinds:

- (1) SEA which uses the AMDAL framework to examine the implications or effects of the draft policy, plan or program on the environment. It also named EIA-based or AMDAL-based.<sup>29</sup>
- (2) SEA facilitates the birth of sustainable-oriented KRP (*sustainability*). In this definition there is a sense that the principles and objectives of sustainability can be integrated in the early of making decision. This approach can facilitate the formation of framework for sustainability as a guide for planning and reviewing the current programs. In other word, this approach can reflect what Therivel et al (1992) called "*sustainability-led*" SEA which is guided by sustainability.<sup>30</sup>

Dealing with the conditions of natural, environmental, social, economic and political resources, as well as future human and institutional capacity of human resources, the construction of the SEA definition which is appropriate for Indonesia is a systematic process of evaluating environmental influences and ensuring the integration of sustainability principles in making decision strategy.<sup>31</sup>

The above definition is consistent with the understanding of SEA in the Act Number 32 of 2009 which stated:

The strategic environmental assessment, abbreviated as SEA, is a systematic, comprehensive, and participatory series of analysis to ensure the principle of sustainable development which has become the basis and integrated in the development of a region and / or policies, plans and / or programs.

Furthermore in Article 15 paragraph (1) of the Act Number 32 of 2009 on PPLH is mentioned that the preparation of SEA is an obligation for the government and local government. Furthermore, in Article 15 paragraph (2) of Act Number 32 of 2009 on PPLH is mentioned that SEA will be implemented into the preparation or evaluation:

- (a) spatial plans (RTRW) along with their detailed plans, long-term development plans (RPJP), and national, provincial and distric /municipal midle-term development plans (RPJM); and
- (b) policies, plans and / or programs that have the potential to have environmental impacts and / or risks.

The Article 16 the Act Number 32 of 2009 on PPLH regulates the review which contained in the SEA:

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<sup>29</sup> Partidário, M.R. (1999) *Strategic Environmental Assessment – Principles and Potential*, In: Peñs, J. (editor) *Handbook of Environmental Impact Assessment: Volume 1, Environmental Impact Assessment: Process, Methods and Potential*. Blackwell Science, Oxford, p 60---73, on *Ibid*.

<sup>30</sup>*Ibid*.

<sup>31</sup>*Ibid.*, p. 6.

- (a) environmental and carrying capacity for development;
- (b) the estimates of environmental impacts and risks;
- (c) the performance of ecosystem merits/services;
- (d) the efficiency of natural resource utilization;
- (e) the degree of vulnerability and adaptation capacity to climate change;
- (f) the level of resilience and potential for biodiversity.

The implementation of SEA in the Preparation or Evaluation of Regional Development Plans is further stipulated in PERMENDAGRI Number 67 of 2012. Article 2 Permendagri No 67 of 2012 which states that: Governor and Regent / Mayor shall implement KLHS (SEA) in the preparation of RPJPD, RPJMD and Renstra SKPD that have potential to cause environmental impacts or risks. The objectives of SEA implementation as mentioned in Article 3 Permendagri No 67 of 2012 are:

- (a) To ensure the principles of sustainable development that have become the basis and have integrated in the preparation of the RPJPD, RPJMD and SKPD Renstra: and
- (b) To improve the quality of RPJPD, RPJMD and Renstra SKPD as an effort to protect and manage the environment.

Furthermore, Article 6 of the Minister of Home Affairs mentioned the SEA' mechanism. They are:

- (a) Review of policies influence, plans and / or programs on environmental conditions in a region;
- (b) Formulation of alternative improvements to policies, plans and / or programs; and
- (c) Recommendations for policy improvement, plan and / or program decision that integrate the principles of sustainable development.

The principle of sustainable development combines the protection with the economic and social issues. SEA should reflect environmental, economic and social considerations. Therefore, the involvement of stakeholders in the preparation of SEA is very important. However, organizing an open discussion about the negative effects of a project policy plan is a challenge in every regions, especially in countries with the levels of transparency and accountability of government's making decision is still low.<sup>32</sup>

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<sup>32</sup> Jiri Dusik, Jian Xie, "Strategic Environmental Assessment in East and South Asia, A Progress Review and Comparison of Country Systems and Cases, The World Bank p. 19, available in daring version on [di www.integracons.com/wp.../WB-Progress-Review-of-SEA-in-South-East-Asia.pdf](http://www.integracons.com/wp.../WB-Progress-Review-of-SEA-in-South-East-Asia.pdf) (accessed on September 14th 2016).

Based on World Bank research on SEA, the result showed that in some countries in Southeast Asia, China and Fiji can be summarized as important points regarding stakeholder engagement in SEA preparation as follows:

- (a) as noted in the OECD report, there is no *blue print* on the stakeholders in compiling the SEA so that it may involve the broad stakeholders while the others SEA limited themselves to the involvement of policy analysts.<sup>33</sup>
- (b) The existence of obstacles in the form of refusal which from the government employees to share the data and information.<sup>34</sup>

The Act Number 32 of 2009 on PPLH affirms the involvement community and stakeholders. In the elucidation of Article 18, it is mentioned that the involvement of the community is done through dialogue, discussion and public consultation. Further provisions are stipulated in Government Regulation No. 46 of 2016 on SEA. Article 32 (2) of Government Regulation Number 46 of 2016 on SEA explains the forms of community involvement and stakeholders include:

- a. giving opinions, suggestions, and ideas;
- b. expert mentoring;
- c. technical support; and
- d. giving information and / or reporting.

The qualifications of the community and stakeholders as regulated in Article 33 of Government Regulation Number 46 of 2016 on SEA are as follows:

- a. the communities and the stakeholders who are directly and indirectly affected by the Policy, Plans and / or Programs; and
- b. the communities and the stakeholders who have with information and / or expertise relevant to the substance of the Policy, Plan, and / or Program.

## CONCLUSION

In order to integrate the principle of sustainable development in local government affairs based on the principle of autonomy, there are a number of environmental instruments that must be enacted by the local government. Those instruments are the Planning of Environmental Protection and Management Plan (PEPM/RPPLH) and Strategic Environmental Assessment (SEA/KLHS). The authority of the local government in the

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<sup>33</sup>*Ibid.*

<sup>34</sup>*Ibid.*, p. 20.

exploitation of natural resources for the benefit of regional development must first be processed in a plan through the RPPLH which regulated in local regulations. Therefore, any policies, plans, or programs that have potential to impact and to risk the environment must process firstly the SEA stage. Both RPPLH and SEA must become a part of RPJPD and RPJMD.

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