

THE ROLE OF LOCAL GOVERNMENT IN THE PROVISION OF BUDGET ASSOCIATED WITH THE DEVELOPMENT OF INTEGRATED WASTE FACILITY

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Abstract

This research entitled “The Role of Local Government in The Provision of Budget Associated with The Development of Integrated Waste Treatment Facility”. This study used empirical research. Data of this study was collected through various techniques including interviews and requested data from the area under investigation. One of the permit requirements in the field of environmental law was that the activities of the business should have AMDAL ensures that the business activity would not cause major and significant impact on the environment. Environmental management and environmental law enforcement, should be implemented firmly and wisely. One of the policies implemented was to enter one of the documents in the environmental feasibility of the licensing of development are estimated to have an impact. Local government was not given to the indigenous village Ships fully, delays in awarding these funds, making the development of the Integrated Waste Management was still unrealized. As mandated in the law, and the money should be given as soon as the efforts to enforce the environmental oriented environmental sustainability itself

Key Word: Licensing in Environmental Law, Budgets Function of Local Government

I. Introduction

1.1 Background of Study

Living environment as an assembly of space to the whole things, energy, situation and living creatures, including human being and their behaviour, it affects the sustainability of lives and prosperity of human and other creatures. It needs to be sustained and preserved well. In other words, the protection and well integrated management are unavoidable in maintaining sustainable development. It reminds that a good and healthy

living environment is a right of every Indonesian citizens as according to Article 28 H Law of Indonesian Republic in 1945, it is not only the responsibility of the government, hence citizen also have essential contribution in actualizing good and healthy living environment for supporting the lives sustainability of current and future generation.

The Environmental Law is the juridical instrument accomodate theorems of living environment management. It aims at preventing contruction and decline of environment quality. Furthermore, statement by Munadjat, The Environmental Law is a concept study of living enviroment particularly in law with using object of awareness and society understanding toward protection aspect as the living necessary¹.

Thus far, Indonesia still has problem in environmental pollution and devastation. In industrialization era, these problems are essential which need to be a serious concern of government and society. By the developing of industry, its impact is inevitable, mainly for the living environment. Its quality is currently decreased and becoming a thread for the sustabinability of human and other creatures, as of it needs to be consistently protected and managed seriously. In this case, environmental law is fundamental in studying these problems, including numbers of legal provision related to the efforts of preventing and solving the problem of living environment. Related to the budget provided by regional government, in living environment, this research entitled "The Role of Local Government In The Provision of Budget Associated With The Development of Integrated Waste Facility"

1.2 Problem of Study

According to background of problem, there are several problems examined in this research, i.e:

1. How is the licensing process of Integrated Waste Management Site (TPST) constraction?
2. The Role of Local Government in Budgeting Integrated Waste Management Site Construction

1.3 Purpose of Study

1. General purpose:
To obtain the information of local government role related to living environment.
2. Specific purpose:

- a. To obtain the information of Licensing process related to Integrated Waste Management Sites Construction.
- b. To obtain the information of local government role in budgeting Integrated Waste Management Sites Construction.

1.4 Advantage of Study

1. Theoretical advantage

Theoretically, this study was expected to explain theoretically about the role of local government related to budgeting in Integrated Waste Management Sites Construction

2. Practical Advantage

- a. Practically, this study was expected in budgeting of region for Integrated Waste Management Sites Construction.
- b. Practically, this study was expected to give explanation of licensing of Integrated Waste Management Sites Construction

II. Research Method

This type of research was socio-legal (empiric) that focus on law implementation in society. It was conducted in Kapal Village. Data was collected in socio-legal (empirical) research or literature review then analysed in descriptive qualitative, the obtained data from empirical study and literature review was organized systematically, then it was analysed in descriptive qualitative by concerning on factors used in practice, it compared to the obtained data from literature review, as of the answer was obtained from conclusion of formulated problem.

III. Finding and Discussion

2.1 Licensing in Integrated Waste Management Sites Construction

The problems of environment would not be solved by implementing the Law and fund. Moreover, related to littering, it needs the proper waste management. It can be done by making garbage dump and temporary landfill. In order to actualize good waste management, so it is the responsibility to organize licensing requirement, such as HO, this instrument is the righteous to prevent the big risk and damage from toxic substances.

The definition of vergunning is delivered by Utrecht as follow:

“When regulators do not generally forbid an act, yet they still allow as long as it was held accordingly to the concrete right, and it is allowed by the public apparatus, it is *vergunning*”¹.

Vergunning is an agreement from the authority according to Law or government regulations in certain circumstances deviates from the provisions, prohibitions, law and regulations. Likewise, it can be defined as dispensation or releasing from a prohibition. Therefore, this *vergunning* is one of implementation of regulatory under government control toward the citizen activities.

This licensing can be in form, admission, recommendation, certification, quota determination and licensing of an enterprise which usually has to be owned or obtained from an organization or personal before conducting activities.

One of licensing requirements in environmental law is that the business activities need to have AMDAL to ensure the business activity would not give big and important impact to the living environment. The management of environment and law enforcement have to be firm and wise. In overcoming the environmental problems, the enforcement of environmental law is crucial, besides its repressive, it is also preventive and very important in overcoming the problems. As one of preventive law enforcement acts to prevent the pollution and/or damage of living environment, in Law No. 32 in 2009 about Protection and Management Living Environment has regulated instruments to prevent pollution and damage, i.e. as it is regulated in Article 14 Law No. 32 in 2009 about Protection and Management Living Environment, one of it is Environmental Impact Assessment (AMDAL).

Indonesia begun to introduce AMDAL instrument in 1982 by regulating in UUKPPLH about basic provisions of living environment management, then it was explained in detail in Government Regulation No. 29 in 1986 about Environmental Impact Assessment. This regulation has been changed twice with Government Regulation no. 51 in 1993 and No. 27 in 1999.

To minimize the negative impact toward living environment, government begin to analyze environmental impact in development regulations in Indonesia. One of applied regulations is submitting relevant document of feasible environment in managing construction

license that can impact the environment. A document is claimed as AMDAL if the document is suitable to the environment based construction principle. In article 1 section 1 in Government Regulation No 27 in 1999 about the analysis of Environmental Impact. Article 1 section 2 No 27 in 2012 about Environmental Permits stated that "Analysis of living environmental impact (AMDAL) is a study about great and essential impact of a business and/or activity that planned on living environment is needed in decision making of business or activity operation".

The application of AMDAL is as a premitive action from the government. It means how AMDAL can be effective by the initiator, as an effort to manage the good environment. Unfortunately, the initiators itself frequently ignore the rules, it gives negative impacts on environment while holding the activities. Therefore, AMDAL is related to the licensing system. It means that a plan or activity in categorial requiring the AMDAL document to aquire the license, it needs to fulfill this document first. Without AMDAL document, the license of business or activity would not be given by the regulator¹. Although, AMDAL is already legitimated as one of requirements that should be fulfilled by an entreprise, however there is still rule violation. It can be said that the industrial area still operated without AMDAL certified. Moreover, the controlling efforts of living environment impact seems yet effectively applied, since the low of awareness by the business doer in following the rule to report routinely once in every 6(six) month.

2.2. Role of Local Government in Giving Budget related to Integrated Waste Management Sites Construction as Law Enforcement Effort on Environment

2.1.1. Regional Finance

The implementation of Local Government Function will be optimal if the implementation of government affairs accordance with giving the sufficient enrollment sources to the region and refers to Law No 33 in 2004 about the Financial Balancing between Center Government and Regional Government, where the amount is adjusted and accordance to the distribution between government and region.

In managing the finance, region have their right to receive their financial source, such as; the certain availability of funding from government based on the government affairs submitted, the authority to levy and utilize the tax and regional retribution and have right to get the sharing profits from national resouces in the region and other balances, the right to manage the regional wealth and obtain the other legitimated revenue and funding sources.

According to article 5 section (2) Law No. 33 in 2004, the source of regional revenue, in order to do the decentralization consists of regional income and funding from Own-Source Revenue (OSR), financial balancing and other legitimated income. For regional funding, it sourced from remaining funding of regional budgeting calculation, receipt regional loans, regional reserved funds and the separated proceeds of Regional Wealth Sales (Article 5 Section (3) Law No. 33 in 2004).

In managing regional finance, the district head has responsibility to manage it as how the regulation in Law No 33 in 2004. It stated that the affirmation on Financial Management, i.e. the authority of state affair supervision is as a part of government authority, and the sovereignty of states financial management from President is partially bestowed to governor, mayor as the head of government in owning regional assets.

2.1.2. Role of Local Government in Giving Budget Related to Management and Enforcement of Living Environment

Actually, the regulation of Waste management and environmental awareness has inherited by the villagers through Traditional Rules called Awig-Awig of the village, it is clearly regulating waste management system, but the change of lifestyle and cultural conflicts that currently occured. It seems to make the rule which become culture slowly forgotten. According to the result of this study, until now, the fund from regional government have not yet been totally distributed to the Kapal Village Government, the delayment of this funding interfering the realization of Integrated Waste Management Sites Construction.

Accordance with the mandate in Law, the fund should be given immediately as an effort of enforcing Living environment which oriented on its preservation. Relating to environmental law enforcement, it strongly related to the ability of aparatus and society obedience toward the

applicable regulations, including three areas of law, i.e. administration, penal code and civil law. The environmental law enforcement is an effort to get the obedience toward regulation and requirement in applicable rule of law in general and individual through controlling and applying administrative sanction, criminal and civil justice.

Regarding to Local Government Role in Giving Budget related to Integrated Waste Management Sites Construction as an effort to Law enforcement on Living Environment in Kapal Village, one of the enforcements which can be done is licensing the sites itself. It means, all of the activities by the local government in Kapal Village related to Integrated Waste Management Sites Construction should be through licensing and various applicable law procedures according to Law No. 32 in 2009 about Protection and Management Living Environment, Therefore, the local government can manage the waste management, it could give good impact for enforcing environmental law. For the result of researcher, if the funding that supposed to be given to the village government in Kapal to make the integrated waste management sites is misused by the irresponsible parties can be categorized or suspected as corruption, related to Regional Budgeting for constructing Integrated Waste Management Sites is already embezzled.

I. Conclusion

1.1. Conclusion

1. One of requirements for lizensing in environmental law is the business activities should have AMDAL for ensuring the activities itself would not give big and essential impact toward the living environment. Its management and environmental law enforcement should be carried decisively and wisely. One of applicable regulations is attaching environmental feasibility document in applying construction licensing which can be impactable.
2. The local government has not yet provided the full fund for Kapal traditional village government, its delayment makes the construction of Integrated Waste Management Sites yet realized. According to the mandate in Law, it should be provided immediately as an effort to enforce living environment that oriented on its preservation

1.2. Suggestions

1. In operating Integrated Waste Management Sites (TPST), Kapal traditional village government should have licensing, both HO and AMDAL to construct TPST itself. It makes its every activity is legal.
2. Kapal traditional village government apparatus have to insist the regional government to provide the budgeting to construct Integrated Waste Management Sites.

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Journal

Journal of Environmental Law of Indonesia published by Indonesian Center for Environmental Law (ICEL) Dempo St. II No. 21, Kebayoran Baru South Jakarta 12120 e-mail: jurnal@icel.or.id

Regulation

Law of Indonesian Republic in 1945

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