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### **Regional Head's Commitment to Fulfillment of Fair Green Open Space**

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#### **Abstract**

Green open space is a policy that must be implemented in the development of urban areas. The regional head, the person in charge of regional development, has the authority to protect the environment by establishing a green open space policy as a place to live for all living things. The method used by the author is the normative juridical method using secondary data as research material. The absence of administrative, legal sanctions on local governments that violate results in a lack of commitment to environmental sustainability.

#### **Keywords**

Green open space, Regional Head, Policy

#### **Introduction**

Sustainable development by bringing the concept of green building, where every development carried out by humans must adhere to the principles of environmentally friendly, emission reduction, reforestation, and air management to reduce the impact of flooding during the rainy season and the availability of air during the dry season. Humans live to know each other, interact between humans, humans, and groups, groups with groups—the environment is a place to interact with sustainability to activate all living things

on earth.<sup>1</sup>

Sustainable development is a form of development that meets the needs of the present without sacrificing the necessities of life to create the future by adhering to the carrying capacity of the environment, social justice, and economic and environmental sustainability. This sustainable development aims to maintain the encroachment of the area due to the need for urban area development while still being guided by the concept of environmental carrying capacity. Sustainable development has three main pillars that compete including:<sup>2</sup>

1. Economic growth, namely maintaining stable economic growth by restructuring the productive system to save resources and energy.
2. Social sustainability, namely ensuring social justice in the distribution of wealth and social services.
3. Environmental sustainability, namely by keeping the living environment comfortable and safe through zero-emission.'
4. Policy, namely through regulations to support maintaining environmental balance.

The four main components serve as the basis for realizing an economically successful urban area, paying attention to justice for the whole community, and making a comfortable place to live with the government's support and commitment to making it happen. The rulers' policies make the foundation of success in sustainable development.

Legal certainty in maintaining environmental quality in Indonesia is a necessity. As a legal state based on Pancasila and the 1945 Constitution, Indonesia takes a prismatic or integrative concept from two conceptions so that the principle of legal certainty in the rechtsstaat blend is juxtaposed with justice in the rule of law. Indonesia does not choose between one but combines the two into a good thing. The country must enforce legal certainty, especially in providing good public services.<sup>3</sup>

Regions in Indonesia, starting from provinces, regencies, and cities, are given the authority to regulate their regions, which are called autonomous regions. Regional autonomy is part of decentralization. Regional autonomy comes from the Greek language, which consists of two words: autos, which has its meaning, and nomos, which means law, so autonomy has the purpose of its legislation (zelfwetgeving). The development of the intention of regional autonomy in Indonesia has expanded so that it also includes self-government (zelfbestuur).

Autonomy is the arrangement of ways of dividing the duties and authorities and the responsibility for regulating and administering the

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<sup>1</sup> Syahrul Ramdhoni, Siti Badriyah Rushayati, and Lilik Budi Prasetyo, 'Open Green Space Development Priority Based on Distribution of Air Temperature Change in Capital City of Indonesia, Jakarta', *Procedia Environmental Sciences*, 33 (2016), 204–13 <<https://doi.org/10.1016/J.PROENV.2016.03.071>>.

<sup>2</sup> Dian Afriyane and others, 'Re-Framing Urban Green Spaces Planning for Flood Protection through Socio-Ecological Resilience in Bandung City, Indonesia', *Cities*, 101 (2020), 102710 <<https://doi.org/10.1016/J.CITIES.2020.102710>>.

<sup>3</sup> Aji Kusumaning Asri and others, 'Is Green Space Exposure Beneficial in a Developing Country?', *Landscape and Urban Planning*, 215 (2021), 104226 <<https://doi.org/10.1016/J.LANDURBPLAN.2021.104226>>.

government between the central and regional governments. Each region will have various government affairs, both based on a submission, recognition from the central government, and affairs that are indeed regional household affairs. Regional heads are running the government work based on the vision and mission outlined in the Regional Medium-Term Development Plan (RPJMD), which is then revealed in the Regional Government Work Plan (RKPD). Regional heads work in developing their regions adhering to spatial planning regulations as a form of environmental control.<sup>4</sup>

Regional heads have the task of running the government following the mandate of Law number 23 of 2014 concerning Regional Government, among others: 1. Lead the implementation of Government Affairs, which are the authority of the Regions following the provisions of laws and regulations, and policies established with the DPRD; 2. Maintain public peace and order; 3. Draw up and submit a draft Perda on the RPJPD and a draft Perda on the RPJMD to the DPRD for discussion with the DPRD, as well as compile and stipulate the RKPD; 4. Represent the region inside and outside the court and may appoint a legal representative to represent it following the provisions of the legislation; 5. Propose the appointment of deputy regional heads; and 6. Carry out other duties following the provisions of the legislation.

Following the duties of regional heads in number 3 of the law, regional heads are asked to prepare and submit a draft regional regulation on the RPJMD and discuss it with the DPRD, in which the regulation also contains mandatory basic service affairs, mandatory non-basic service affairs and supporting affairs.<sup>5</sup>

Concerning the responsibilities of the state/government/local government, Friedmann suggests four functions of the state, namely: 1. As a provider, the state has the responsibility and guarantees a minimum standard of living as a whole and provides other social security; 2. As a regulator, the state makes rules in the life of the state; 3. As an entrepreneur, the state runs the economic sector through state/regional-owned enterprises and creates a conducive atmosphere for the development of business fields; and 4. As an umpire, the state sets fair standards for parties operating in the economic sector, especially between state sectors.

The state's responsibility as a provider ensures that the implementation of mandatory essential services can serve the entire community without any differences between urban and rural areas. They provide social security for good survival, a comfortable environment, guaranteed safety, and basic needs. The state, as a regulator, namely the state, makes a legal system (policy) to regulate the life of the nation and state, especially the sustainability of life today and for future generations.

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<sup>4</sup> Tigor Wilfritz Soaduan Panjaitan, Dorina Pojani, and Sébastien Darchen, 'The Transformation of Public Space Production and Consumption in Post-Reformation Indonesian Cities', *City, Culture and Society*, 29 (2022), 100444 <<https://doi.org/10.1016/J.CCS.2022.100444>>.

<sup>5</sup> Alinda F.M. Zain and others, 'The Detection of Urban Open Space at Jakarta, Bogor, Depok, and Tangerang - Indonesia by Using Remote Sensing Technique for Urban Ecology Analysis', *Procedia Environmental Sciences*, 24 (2015), 87-94 <<https://doi.org/10.1016/J.PROENV.2015.03.012>>.

## **Method**

The author uses the normative juridical method using secondary data as research material, where the researcher examines the administrative implementation of laws and regulations by the government (executive) regarding the form of law enforcement in local governments in Indonesia. The approach used is to solve the problems that arise with the statute approach. The data collection includes taking inventory, analyzing, understanding, and studying legal materials related to the issues that arise in research using literature study literacy and scientific document studies. The analysis used is descriptive in a coherent way to identify the problems that occur in this study.

## **Result and Discussion**

The environment is the foundation of the life of the creatures in it. Utilization of the environment must be managed with the principle of justice by considering legal, economic, social, and cultural aspects with the principle of prudence. The meaning of prudence is that the environment is the human right of every living creature, so between individuals and individuals, between individuals and groups, and between groups and groups must maintain a good environment.<sup>6</sup>

The Constitutional (Verfassungsnorm) management of natural resources and their contents in Indonesia is contained in Article 33 paragraph (3) of the 1945 Constitution, which affirms that "Earth, water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people" and in Indonesia is currently drafting environmental law (Environmental Law) with the enactment of Law Number 23 of 1997 which was amended by Law Number 23 of 2009. When viewed from the nature of legal norms, it can be said that the legal norms in a basic law (UUD 1945) are still become a single legal norm, so that it still regulates problems of a general nature, and it can be understood that each is in the form of basic norms that have not specifically regulated an action to regulate in general.<sup>7</sup>

Based on Article 1 paragraph (14) of Law 23 of 1997 as amended by Law Number 23 of 2009, an environmental destruction is an act that causes direct or indirect changes to its physical and/or biological properties, resulting in the environment not functioning. In supporting sustainable development. Meanwhile, based on Article 1 paragraph (16) of this Law, environmental destruction is the act of a person causing direct or indirect changes to the physical, chemical, and/or biological characteristics of the environment so that it exceeds the standard criteria for environmental damage. According to Munadjat Danusaputro, environmental pollution and destruction cause a lot of losses and adverse impacts, these losses, and negative effects occur in the form of economic and social losses (economic and

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<sup>6</sup> Margot A. Hurlbert and Ranjan Datta, 'When the Environment Is Destroyed, You're Destroyed: Achieving Indigenous Led Pipeline Justice', *Energy Research & Social Science*, 91 (2022), 102711 <<https://doi.org/10.1016/J.ERSS.2022.102711>>.

<sup>7</sup> Panjaitan, Pojani, and Darchen.

social in the jury); and sanitary hazard (sanitary hazard).<sup>8</sup>

Meanwhile, Abdurrahman explained that environmental pollution could be divided into a. Chronic, where the damage occurs progressively but slowly; b. Shock or acute, sudden, and severe damage usually results from an accident; c. Dangerous, with heavy biological loss in the event of a radioactive genetic defect; and d. Catastrophic, here is the death of many living organisms, and perhaps the living organisms become extinct.

### **Regional Head Policy**

Regional head policies are directions, guidelines, and provisions for regional head development during his leadership period during his power. This policy will usually be stated in regional regulations, which are discussed and decided together with the Regional People's Representative Council (DPRD) and regional head regulations, which will become technical guidelines for implementing the policies. According to his authority, the regional head is fully responsible for the management and regional development, following the applicable laws and regulations. Regional heads are likened to "little kings" who lead autonomous regions, where budget management is entirely under the authority of regional heads. Regional heads work based on the principle of legal certainty (*rechtszekerheid*), normative on statutory provisions, fairness in implementing government policies and upholding the law and laying down all targets, priority programs for regional development based on the law to achieve prosperity based on Pancasila (*Staatsfundamentalnorm*) and the 1945 Constitution (*Verfassungsnorm*).

Permit (*vergunning*) based on the concept in the Law of the Republic of Indonesia Number 30 of 2014 concerning Government Administration is a decision of an authorized government official as a form of approval of the request of citizens by the provisions of the legislation. Permission is meant by the desire of the legislator to achieve a particular order or to prevent bad conditions. The aim is to regulate actions that are not entirely deemed reprehensible by legislators but wish to be able to carry out minimal supervision. In a narrow sense, the concept of licensing is that actions are prohibited unless permitted, with the aim that in the provisions involved with approval, certain limits can be given for each case.<sup>9</sup>

The growth and development of development in all fields so far are felt to have shown results, especially in the period before and before the reform era, but also, on the other hand, gave birth to new problems that are increasingly complicated, resulting in the consequences of significant changes in society. The development complexities include the growth and development of regional facilities

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8 Heni Susiati and others, 'Site Suitability-Based Spatial-Weighted Multicriteria Analysis for Nuclear Power Plants in Indonesia', *Heliyon*, 8.3 (2022), e09088 <<https://doi.org/10.1016/j.heliyon.2022.e09088>>.

9 Abidah B. Setyowati and Jaco Quist, 'Contested Transition? Exploring the Politics and Process of Regional Energy Planning in Indonesia', *Energy Policy*, 165 (2022), 112980 <<https://doi.org/10.1016/J.ENPOL.2022.112980>>.

and infrastructure, especially since the concept of regional autonomy was introduced. The needs for these facilities and infrastructure have housing, offices, trade, industry, services, tourism, and others.

The rapid development, as well as the diversity of developments that have taken place. Been faced with problems such as those relating to land use: a. Limited land available with various designation functions; b. Land use and management, as well as spatial planning patterns that have not been fully implemented in an integrated and comprehensive manner; c. Land use often deviates from its designation; d. Competition for land locations that have been supported or adjacent to various urban facilities as a result of the growth and development of the city; e. The public's legal awareness is still low on the propriety of obligations as citizens.

In today's urban development, especially in big cities, the construction of crowd centers, entertainment, and shopping is still a lot that has not used the concept of green building. Excessive use of air conditioning, and the use of lights in the building during the day, because the building does not have an open concept will cause global warming. The regional head, as complete controller, can make standard rules for building ideas, both buildings for privacy and buildings for commercial, in the form of creating concepts that can increase air circulation to reduce the use of air conditioning and are open to save lighting during the day.<sup>10</sup>

### **Commitment to Spatial Planning in Green Open Space**

The local government has the authority in spatial planning, which includes spatial planning, space utilization, and control of spatial development. The green open space consists of public green open space and private green open space. The proportion of green open space in urban areas is at least 30% of the city area, with the understanding that the proportion of public green open space is at least 20% of the urban area and 10% for private green open spaces (Article 29 paragraphs (1), (2), and (3) Spatial Planning Law).<sup>11</sup> The importance of the meaning of the legality of the permit, giving sanctions does not mean only imposed on the use of space that is not following the provisions of the permit, but also to the stakeholders who hold power (regional officials) who are authorized to give permits that are not suitable for the use of space in the spatial plan.<sup>12</sup>

Geographically, the Unitary State of the Republic of Indonesia is located in a disaster-prone area, so spatial planning based on disaster mitigation is needed to improve the safety and comfort of life and livelihood. Local governments can direct land use as a space for disaster mitigation, flood prevention, and water

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10 Agung Indrajit and others, 'Implementation of the Spatial Plan Information Package for Improving Ease of Doing Business in Indonesian Cities', *Land Use Policy*, 105 (2021), 105338 <<https://doi.org/10.1016/J.LANDUSEPOL.2021.105338>>.

11 Nida Humaida, Lilik Budi Prasetyo, and Siti Badriyah Rushayati, 'Priority Assessment Method of Green Open Space (Case Study: Banjarbaru City)', *Procedia Environmental Sciences*, 33 (2016), 354-64 <<https://doi.org/10.1016/J.PROENV.2016.03.086>>.

12 Pane Erina and Adam Muhammad Yanis, 'Reconstruction of Mining Policies on Justice in Lampung Province', *Bestuur*, 8.2 (2020), 139 <<https://doi.org/10.20961/bestuur.v8i2.42830>>.

absorption when it rains.<sup>13</sup>

The regional head policy is a legal product made based on political considerations. The law protects a person's interests by allocating power to act in the context of that interest. Such power is called a right, so the power possessed by the regional government in regulating the pattern of environmental protection and commitment to carrying it out is very much needed consistency.<sup>14</sup>

Commitments, such as political promises that must be obeyed, are stated in a rule. Rules are laws that must be observed to achieve order. Violating the rule of law is an act that does not comply with one of these laws in the form of a violation. Then there will be a legal dispute between the violator and the party who feels violated so that both parties will prove the violation, where one will prove whether they have certain rights and the violator will prove certain violated rights following the commitment to environmental law enforcement in creating green open space and sustainable development.<sup>15</sup>

The development of law regulation of order and preservation of the environment is part of a form of public administration law. The formulation of state administration (public administration) is defined as follows: 1. Public administration: the art and science of management as applied to affairs of state (public administration is an art and management as applied to state affairs) where the art of leading and managing the state is a form of public administration. 2. Public administration: the organization and management of men and materials to achieve the purpose of government creates prosperity.

## **Conclusion**

Violations of public and private green open spaces, for both individuals and companies, still often occur for economic reasons or political pressure. In authority to grant power over-allotment permits, there are still many violations of regional spatial planning, especially in large urban areas with high heterogeneity. The problem is the weak commitment to the law governing the determination of green open space by the regional head in providing recommendations or permits for the use of an area is not following its designation. In addition, there is a lack of administrative and legal sanctions related to local governments that are not committed to implementing green open spaces. The revocation or reduction of regional incentive funds and special allocation funds given by the central government to regions and the withholding of the salaries of regional heads and DPRD members will have a significant effect as a form of central government supervision.

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13 Achmad Delianur Nasution and Wahyuni Zahrah, 'The Space Is Not Ours, the Life of Public Open Space in Gated Community in Medan, Indonesia', *Procedia - Social and Behavioral Sciences*, 202 (2015), 144-51 <<https://doi.org/10.1016/J.SBSPRO.2015.08.217>>.

14 Indah Dwi Qurbani, Raphael J. Heffron, and Arrial Thoriq Setyo Rifano, 'Justice and Critical Mineral Development in Indonesia and across ASEAN', *The Extractive Industries and Society*, 8.1 (2021), 355-62 <<https://doi.org/10.1016/J.EXIS.2020.11.017>>.

15 Kusumaning Asri and others.

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