

Changes in the Role of the Community in the Preparation of Environmental Impact Analysis Based on Law Number 11 of 2020 Concerning Job Creation



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ABSTRACT: The purpose of this study is to determine the changes that occur to the prerequisites for making decisions about the implementation of an environmental impact analysis business based on Law Number 11 of 2021 concerning Job Creation. To find out the ease of obtaining a business permit and the impact that will occur, be it positive / or negative for the environment. The Job Creation Law amends a number of articles related to amdal regulation. Such as the amendment of Article 24 of Law No. 32 of 2009, the amdal document becomes the basis for environmental feasibility tests or business and/or activity plans. This environmental feasibility test is carried out by an environmental feasibility test team formed by the central government. Community participation in providing suggestions and responses that must be involved in the preparation of the EIA is narrowed down to only communities that are directly affected whereas in the Law before it was amended mentions environmental observers and/or those affected by all forms of decisions in the amdal process. This research method is carried out by normative juridical research approach in this legal research by means of a statutory approach and legal research which is carried out by examining literature materials or secondary data. Amdal will be able to find out whether a business activity plan has a negative impact or positively serves to secure the environment from negative impacts thus it should be seen as a future security instrument for environmental management efforts and needs to be improved in its position in the development process, not weakening it.

KEYWORDS: Disputation, the Role of the Community in Preparation, AMDAL Permit

1. INTRODUCTION

1.1 Background

Indonesia is known as a country with a very large potential for natural resources, with the huge potential of natural resources it is a must for all of us to maintain and protect it, so that the development process and business activities of a company do not result in an environmental crisis. The environmental crisis is a future threat to mankind in which the increase in environmental damage has reached the regional, global dimension and continues to have a great impact. Increasing global warming has resulted in climate change, exacerbating the decline in the quality of the current environment. Development as a conscious effort in managing and utilizing natural resources to increase the prosperity of the people, both to achieve born prosperity and to achieve inner satisfaction. So that the use of natural resources must be in harmony, harmony and balance of environmental functions

One of the very rapid developments carried out by the community is the construction or project activities that utilize nature. Development activities in the event of a business or activity always cause negative impacts and positive impacts, so from an early age it is necessary to prepare steps to overcome negative impacts and develop positive impacts, so the government develops an effort to find out the impacts that can be caused by an activity, whether these impacts affect the environment significantly or not, namely by using amdal or analysis of environmental impacts

Related to environmental protection and management, the main factor that must be the focus of attention is related to licensing, because the licensing factor can be used as a handle for business actors who will manage the environment. Environmental licensing is associated with the necessity of obtaining an AMDAL (Ananalysis regarding Environmental Impacts) as an instrument for preventing environmental pollution where this principle has been stated in the form of legal products, so that it becomes an obligation that must be obeyed by everyone in Indonesia, meaning that for the issuance or approval of an environmental permit, an amdal should be obtained first

The analysis of environmental impacts (AMDAL) was first initiated based on the provisions contained in article 16 of Law No.4 of 1982 concerning the main provisions of Environmental Management. Based on the mandate of article 16, it was promulgated on June 5, 1986 and experienced changes in its journey to oversee national development activities which were last changed to Law No. 32 of 2009 concerning Environmental Protection and Management and the reduction of the AMDAL function was the birth of Government Regulation Number 24 of 2018 concerning Electronically Integrated Business Licensing Services

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Although regulations regarding environmental management and environmental permits regarding AMDAL already exist and there have been changes in its journey, in fact there are still weaknesses in Law No. 32 of 2009 concerning Environmental Protection and Management and the reduction of the AMDAL function is the birth of Government Regulation Number 24 of 2018 concerning Electronically Integrated Business Licensing Services are as follows; AMDAL has not been fully integrated in the permit process of one development activity plan, the community participation process has not been fully optimal, there are various weaknesses in the application of AMDAL studies, There are still weak methods of preparing AMDAL, especially "socio-cultural" aspects

However, what is happening now is that the weaknesses that have been described above have not been completely corrected and refined for the better, the Government of Indonesia made a sapujagat law or called omnibuslaw and was promulgated into Law No. 11 of 2020 concerning Job Creation which in the provisions of Law Number 32 of 2009 concerning Environmental Protection and Management was changed and deleted, one of which was to remove the role of the community in involvement in the delivery of EIA input and suggestions. Community participation in providing suggestions and responses that must be involved in the preparation of the EIA is narrowed down to only communities that are directly affected whereas in the Law before it was changed mentions environmentalists and/or those affected by all forms of decisions in the AMDAL process.

1.1 Problem Formulation

Based on the introduction that has been described above, this research is important for the author to know the position of the Role of Society and the focus of the problem is as follows;

1. How is the involvement of the community in the formulation of the Environmental Impact Analysis in Law No. 30 of 2009 on Environmental Protection?
2. How do we change the role of society that has been regulated in Law No. 11 of 2020 concerning Job Creation?

1.2 Research Objectives

The objectives of this study aim to be as follows;

1. To find out the involvement of the role of the community in the formulation of the Environmental Impact Analysis in Law No. 30 of 2009 on Environmental Protection
2. To find out the changes to the role of society that are initiated in Law No. 11 of 2020 concerning Job Creation

1.3 Research Methods

This research method is carried out by normative juridical research approach in this legal research by means of a statutory approach and legal research which is carried out by examining literature materials or secondary data. Amdal will be able to find out whether a business activity plan has a negative impact or positively serves to secure the environment from negative impacts thus it should be seen as a future security instrument for environmental management efforts and needs to be improved in its position in the development process, not weakening it.

2. DISCUSSION

2.1 Community involvement in the preparation of environmental impact analysis

Environmental Impact Assessment (AMDAL) is a study of the large and important impacts of a business and / or planned activity on the environment that is necessary for the decision-making process about the implementation of a business and / or activity. To conduct this study and assessment, Law No. 30 of 2009 concerning Environmental Protection article 14 states instruments for the prevention of pollution and/or environmental damage, one of which is the AMDAL. Every business and/or activity that has an important impact on the environment must have an AMDAL

The AMDAL document as is the basis for determining the environmental feasibility decision. The AMDAL document contains as follows:

- a. Assessment of the impact of business plans and / or activities;
- b. Evaluation of activities around the location of the business plan and/ or activity;
- c. Input and community responses to business plans and/or activities;
- d. Estimates of the magnitude of the impact and the important nature of the impact that occurs if the business plan and/or activity is implemented;
- e. Evaluation holistically to the impacts that occur to determine the feasibility or ineligibility of the environment; and
- f. Rencana environmental management and monitoring.

The AMDAL document is assessed by the AMDAL Assessment Commission formed by the Minister, governor, or regent/mayor in accordance with their authority and also requires cooperation between all Indonesian communities such as the central government, local governments and the role of the community to maintain balance between the environment and national development. The membership of the AMDAL Assessment Commission as referred to in Article 30 consists of representatives of the following elements:

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- a. Environmental nstansi;
- b. Irelated technical nstantions;
- c. Proots in the field of knowledge related to the type of business and / or activity being studied;
- d. Proots in the field of knowledge related to the impact arising from a business and / or activity being studied;
- e. Wakil from potentially affected communities;and
- f. Organization of the environment.

This means that in the provisions of the articles that have been described, the amdal document is prepared by the initiator by involving the community. Community involvement must be carried out or very important based on the principle of providing transparent information, the community can provide input and suggestions on amdal documents and be notified before the activity is carried out in order to create balance, order environmental protection. Furthermore, Article 26 paragraph 3 explains that the community as referred to includes:

- a. Yang affected;
- b. Environmental concerns; and/or
- c. Yang affected by all forms of decisions in the amdal process

The community has the same and widest rights and opportunities to play an active role in environmental protection and management. The role of society can be:

- a. social supervision;
- b. Providing advice, opinions, proposals, objections, complaints; and/or c. submission of information and/or reports.

The role of society is carried out to:

- a. increase awareness in environmental protection and management;
- b. increase independence, community empowerment, and partnerships;
- c. fostering the ability and pioneering of the community;
- d. fostering the responsiveness of the community to carry out social supervision; and
- e. Develop and maintain local culture and wisdom in the context of preserving environmental functions.

2.2 Changes in community awareness in the preparation of an Environmental Impact Analysis based on the Job Creation Law

The omnibus law of the Job Creation Law was officially promulgated as Law Number 11 of 2020 after being signed by President Joko Widodo on November 2, 2020. This law amends a number of provisions in Law Number 32 of 2009 concerning Environmental Protection and Management (PPLH Law), one of which is related to Analysis on Environmental Impact (Amdal) and the Role of the Community

That Law Number 11 of 2020 concerning Job Creation there are 11 (eleven) Clusters, one of which is Environmental Empowerment and Protection, there are changes and the provisions in Law 30 of 2009 concerning Environmental Protection are as follows;

1. Changes in the definition of Amdal Pthere is Article 1 number 11 Undang Law No. 30 of 2009 concerning Protection and Management Ptingkungan Hidup states that amdal is a study regarding the important impact of a planned business and/or activity on the environment that is necessary for the decision-making process about the implementation of the business and/or activity. The definition has changed slightly in the Job Creation Law , so that Article 1 number 11 becomes: "a study of the important impact on the environment of a business and/or planned activity, to be used as a prerequisite for decision making on the implementation of a business and/or activity and contained in the licensing or approval of the central government or local government"
2. The role of environmentalists another amended provision is the role of environmentalists in the preparation of the Amdal document. In Article 26 Paragraph (3) of the PPLH Law, it is regulated, "amdal documents are prepared by directly affected communities, environmentalists, and/or those affected by all forms of decisions in amdal process". Meanwhile, in the Job Creation Law, it is written that the changes in Article 26 Paragraph (2) of the PPLH become: "The preparation of the Amdal document is carried out by involving communities directly affected by the business plan. and/or activities
3. Objections and community involvement are deleted the Job Creation Law deletes the provisions of Article 26 Paragraph (2) of the PPLH Law which states that community involvement must be carried out based on the principle of providing transparent and complete information and notified prior to the activity being carried out. Article 26 Paragraph (4) which originally stipulated that the public could raise objections to the Amdal document was also abolished

That the changes stipulated in the Job Creation Law are what is worried about in the involvement of the community the rights of the community are narrowed and even threatened with their rights being deleted in other words only following government policy only in making amdal decisions and promoting the practice in the preparation of amdal

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This is very contrary to the understanding according to Abdul Gani, one of the adequate instruments is the law with various forms of legislation. In this case, the desired legal instrument is a law that is able to have social responsiveness, sensitivity to the wisdom (policy) of the state which is used for the fulfillment of basic human needs, is resilient in dealing with every effort to use power that is usually carried out by bureaucratic officials, and is ready to protect the rights and human rights of the Indonesian people. The openness of the government in question is openness in procedures that include 3 important aspects, namely:

- a. The government's obligation to provide information;
- b. possible community participation in making decisions and
- c. The government's decision.

The community has the same and widest rights and opportunities to play an active role in environmental protection and management. The community also has the right to file a class action lawsuit for its own benefit and/or for the benefit of the community if it suffers losses due to pollution and/or environmental damage (Article 91 of the PPLH Law).

Regarding the function of participation in the environmental sector, Koesnadi Hardjasoemantri stated: "The role of the community in environmental management has a wide reach. This participation not only includes the participation of individuals affected by various regulations or administrative decisions, but also includes the participation of groups and organizations in society. Effective participation can exceed the ability of a person, both from the point of financial ability and from the point of knowledge ability, so the participation of groups and organizations is very necessary, especially those engaged in the environment

Based on its nature, community participation in the decision-making process related to the environment is divided into two, namely consultative and partnership /participative;

1. Consultative: in this consultative approach although interested members of society have the right to be heard and the right to be informed, but the final decision remains in the hands of the decision-making group (initiator).
2. Participatory: a participatory approach that is a partnership that better respects local communities by providing the same position or position as decision-making groups. Thus the decision is no longer a monopoly on the part of governments and businessmen, but exists together with society. The role of the community in environmental protection and management includes the stages of planning, implementing, and evaluating. The true nature of the right to participate is in the decision-making procedure on environmental permits.

Community participation is felt to be important in administrative procedures for environmental management, such as permits, environmental impact analysis and so on. However, the birth of Law 11 of 2009 concerning Job Creation, kluster environmental protection, actually caused concern about the principle of openness and community participation in environmental management considering the provisions of the rights of the community and observers. The environment was removed besides that instead of the improvement of the previous PPLH Law, it was feared that it would cause new problems in the future.

3. CONCLUSION

That environmental problems are human obligations to be managed as they should be according to the mandate of God Almighty, so that every human being whether directly or indirectly directly responsible for the survival of the environment. Therefore, the role of the community in creating the environment is also closely related to the obligation to protect the environment itself. There is a mistake regarding the participation of the community in environmental issues, by looking at community participation solely as the delivery of information (public information), counseling, and even just a *public relations* tool so that these activities can run without obstacles. Therefore, community participation is not only used as a means to achieve goals, but also used as goals (*participation is an end itself*).

The purpose of community participation from the planning stage to evaluation in environmental management is to produce useful input and perceptions from citizens and communities of interest (*public interest*) in order to improve the quality of environmental decision making. Because by involving communities that are potentially affected by activities and interest groups, decision makers can capture the views, needs and expectations of the community and groups and pour them into concepts.

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