LEGAL ANALYSIS OF ENVIRONMENTAL EDUCATION IN ACCORDANCE WITH INDONESIA LEGISLATION

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Abstract
Increased awareness of environmental issues was leading to environment education introduction. This research discussed some Indonesian legislations accompanied to environmental education introduction and development. The study found that environmental education had been mandatory in various Indonesian legislations which had been observed with vertical and horizontal synchronization, in accordance with environmental protection and management purpose and scope in Article 3 and Article 4 of Act Number 32 of 2009.

Keyword: Legal Analysis, Environmental Education, Indonesian Legislation

INTRODUCTION

Man as an Almighty God creature had obligations on managing and maintaining the universe with full devotion and full responsibility for mankind welfare. Allah said in the Qur'an Surah Al-Baqarah (2), verse 11-12: "And when it was said to them: "You should not make damage on the Earth." They said: "we were the ones who peacemakers. Remember, that's they were real people that makes the damage, but they are not aware of." God The Almighty has awarded humans rights to guarantee the existence of the dignity and the dignity of the glory of himself as well as the harmony of his surroundings.

Every planet keep its natural forces in balance, but Earth was the only planet we knew of whose balancing of natural forces had produced life. Ecosystems were so completely integrated within the larger biosphere that was impossible to define exactly where one ecosystem end and another began.

Each species reproduced and formed their own populations. Populations were limited in size and geographic area by such life-supporting factors as the availability of light, food, oxygen, shelter, water and space. They were also limited by life-taking factors, such as the presence of natural enemies, disease and adverse weather conditions.

Unfortunately, no amount of knowledge about the biosphere, ecosystem and other natural system would produce an unarguable answer to these questions. It was because of the great differences in point of view, not only from culture to culture but also from group to group within each culture. These differences in viewpoint cannot be simply categorized with reference to human systems alone. However, referred to the balance of lifekind, every answer to the above questions tends to reflect either ecological values or technological values.

Environmental education was a human right, as everyone's participation in environment protection and management.
Human rights was set of rights which was inherent in the nature of and the existence of man as a creature of God and His grace was obliged to uphold respected, high and protected by the State, laws, Government, and any person for the sake of honor and dignity and the protection of human dignity was a right base which attached to the human itself was not supernatural, universal and timeless. Therefore it must be protected, respected, maintained, and not be ignored, downplayed, or taken away by anyone. Human beings do not only have rights, but people also have the basic obligations between man, that one against the other and towards society as a overall in the life of society, nation, and State.

The laws that regulate the current environmental education is Act Number 32 Year 2009 regarding on The Protection and Environmental Management (State Gazette 2009 Number 140), effective date 03 October 2009.

Legislation in grammatical described in Act Number 12 of 2011 regarding on The Establishment of Regulations Article 1 point 2, namely the “Legislations are written regulations that contain legal norms that tied generally and established or designated by the institution the State or the competent authority via specified procedured in the Legislation. In conducting the inventory of law and regulation related to environmental education for sustainable development, this research based in juridical of type and hierarchy of legislation of Republic of Indonesia which set out in Act Number 12 of 2011 on article 7 verse (1) consists of: (a) the Indonesian Constitution of the Republic of Indonesia of 1945, (b) the ordinance of the people's consultative assembly, (c) act/government regulations of replacement legislation, (d) government regulation, (e) presidential regulation, (f) regulations of the provinces; and (g) applicable local county/city.

However, Article 8 Act Number 12 of 2011 concerning The Formation of the Regulations stated that: “This type of Legislation other than as intended in article 7 verse (1) covered the regulations set forth by the Assembly People's Consultative, House of Representatives, The House of District Representatives, Supreme Court, Constitutional Court, Financial Inspector Agency, Judicial Commissions, Bank Indonesia, Ministers, agencies, institutions, or Commission level established by law or The Government at the behest of the Act, the House of Representatives The Area of The Province, The Governor, The House Of Representatives Area Country/City, Regent/Mayor, head of a village or a-level. Legislation referred to in verse (1) acknowledged its existence and have binding legal force all were ordered by the Legislation more high or formed based on authority”.

Based on the results of the inventory of legislations that currently, related to environmental education including: (a) The Indonesian Constitution of 1945, (b) Article 28 H (Amendment 2000), (c) Article 31 verse (1), (3) and verse (5) Indonesian Constitution of 1945.

Based on Hans Kelsen theories then position the Preamble verse IV of Indonesian Constitution 1945 which called grundnorm as the basic norm of the State’s responsibility to protect all the people of Indonesia and the entire Indonesia's sovereignty region included preventing the occurrence of environmental pollution and/or damage within Indonesia territory also State has
obligation to improve intellectual life of
the nation to be implemented.

In accordance with Article 28 H, Article 33, and Article 31 of The
Indonesian Constitution 1945 which based on Hans Kelsen theory was
called staatsgrundgesetzes. It meant that
the basic norms of the fourth verse in
The Preamble would be obligation for
the State in protection of Indonesian
citizen as well as the territories of
Indonesia also education, spelled out in
the basic regulation in Article 28 H, and
Article 31 of Indonesian Constitution
1945.

The State had responsibility for
protecting the people and region of
Indonesia including protect it from
pollution and/or environmental damage
so that every Indonesia citizen were
entitled to the good and healthy
environment, as defined in article 28H
Indonesian Constitution 1945. And
Indonesia also use the Earth, water and
natural resources in the region of
Indonesia to greatest of Indonesian
people's prosperity. In addition the
country also served the intellectual life
of the nation, as mandated by the fourth
Preamble of the Indonesian Constitution
1945, namely with implementing a
national education system as defined in
Article 31 of the Indonesian
Constitution 1945.

RESULT AND DISCUSSION

Global environmental issues, such
as the greenhouse effect, the decimation
of biological diversity and the
consumption of finite resources can
only be solved on the basis of more
intensive international cooperation.
People with an understanding of the
ecological, economic and social
correlations at global level are needed to
overcome these challenges.

The principle of sustainability is
based on three equal important
dimensions: social equality, ecological
compatibility and economic efficiency
(sustainability triangle). Any
consideration of one of the three
dimensions in isolation jeopardises
sustainable development.

Basic research is Act Number 32
Year 2009 regarding on Protection and
Management of Environment (State
Gazette of 2009 Number 140) and Act
Number 20 of 2003 regarding on
National Education System (State
Gazette of Republik Indonesia of 2003
Number 78; An Additional Sheet of The
Republic of Indonesia Number 4301).
Regulation about environmental
education for sustainable development
in addition to set of rules in Act 32 of
2009 regarding on Protection and
Management of Environment and Act
Number 20 of 2003 regarding on The
National Education System, as well as
scattered in numerous regulations in
various levels of legislation. The use of
the term environmental education is
only used by Act Number 32 year 2009
regarding on Protection and
Management of Environment. The term
environmental education according to
UNESCO Convention of 1997 in Tbilisi
defines as process that aims to create
global society that has concerns for the
environment and problems associated in
it as well as having the knowledge,
motivation, commitment, and skills to work, either individually or collectively in looking for alternatives or giving solutions to present the environmental problems and to avoid the onset of environmental issues recently.

In expressing the fact of synchronization legislation about environmental education both horizontal synchronization or synchronization vertically, the research done focused only to the legislation that is still valid.

For simple synchronization of legislation with regard to integrating environmental education then in advance setting the synchronization legislation horizontally and vertically. Terms of the topic reference of synchronization bound to the provisions contained in Act Number 32 of 2009 concerning Protection and Management of Environment, Act Number 32 of 2009 contains the basis and principles for environmental management, so that it serves as an umbrella act for the preparation of legislation (including education) with regard to the environment and for the adjustment of the legislation that has been already.

Synchronization Vertically about Environmental Education

After the world summit in Johannesburg in autumn 2002, the United Nations designated the period 2005 to 2014 as the decade of “Education for Sustainable Development”. To achieve sustainable development, it is necessary to change people’s ecological, economic and social perceptions. The challenge that countries around the world therefore face is to integrate the concept of sustainable development in their education processes.

Vertical synchronization is done using the concept of Stufenbau (layers of rules according to nature of law), Hans Kelsen construct thoughts about the juridical code of conduct. In this construction, describes the hierarchy of legislation. The entire system of legislation has a pyramidal structure (ranging from the abstract i.e. grundnorm) to concrete such as laws, the Government regulations, and so on. Therefore, according to Hans Kelsen, the way knowing of regulations whether legal or not legal that is checked it out through the logic of stufenbau, and grundnorm became the main test stone.

Article 65 verse (2) of Act Number 32 year 2009 regarding on Protection and Management of The Environment has confirmed the right of everyone to get an environmental education. This is the consequences of the right of every person to get a good and healthy environment as part of human rights, as defined in article 65 verse(1) of the Act Number 32 Year 2009 regarding on Protection and Management of The Environment. So that environmental education needs to be further regulated in the legislation as the implementation of Article 65 verse(2) of Act Number 32 year 2009. Legal protection over the rights of everyone to get an environmental education was accommodated by the provisions of article 44 of the Act Number 32 Year 2009 that confirms every legislation drafting at the national level and district, its compulsory to pay attention to the protection of the environment and the principles of function of protection and environmental management in accordance with the provisions of subject to this Act. Therefore, the Minister of State of Environment with the Minister of National Education on October 01st February 2010 signed a mutual agreement Number
number 01/II/KB/2010 about environmental education, based on the consideration that the knowledge, values, the attitude, behavior and insights into the environment needs to be given at early age to whole community and all students from whole unit, path, level and type of education.

Based on provisions in Article 65 verse (2), Article 65 verse (1), and article 44 Act Number 32 Year 2009, as well as mutual agreement between the State Minister of The Environment with the Ministry of National Education Number 03/MENLH/02/2010 and Number 01/II/KB/2010 about Environmental Education, then the implementation of environmental education to whole community and all students from whole unit, path, level and type of education is obliged to be carried out in an effort to increase human resources as implementing sustainable development and preservation of environmental functions.

The environmental education implementation is accordance with Article 67 Act Number 32 of 2009 provision that “everyone” has obligation to maintain the sustainability of environmental functions and controlling pollution and/or damage of the environment. Article 1 figures (32) Act Number 32 Year 2009 providing the definition that is “everyone” is the individual or business entity, whether legal entity or illegal entity.

Stufenbau theory stated by Hans Kelsen can used as analytical theory to find top grundnorm rules Act Article 65 verse(1) and article 65 verse (2) of Act Number 32 Year 2009, namely Article 28 H (Amendment of the year 2000) Indonesian Constitution 1945 i.e. everyone has the right to have happy and prosper life, to live, and to get a good living and healthy environment. Terms of environmental education based on the on article 31 of the Indonesian Constitution of 1945. Therefore, the implementation of environmental education which includes the provisions of the Act Number 32 Year 2009 regarding on The Protection And Management Of Environment and Act Number 20 Year 2003 regarding on The National Education System boils down to verse IV of Preamble of the Indonesian Constitution of 1945 confirms the national goal of the state of law of Indonesia which is improving the intellectual life of the nation and protect the all the Nations and all the spilled blood of Indonesia.

**Horizontal Synchronization about Environmental Education**

Environmental problems such as climate change jeopardise our prosperity and our economic development. We all contribute to environmental problems and as a result we can only solve them on the basis of cooperative action. Environmental education, like education for sustainable development, is based on building awareness and identification with personal living environments. It is therefore not merely the conveyance of knowledge, but a process of learning about the concept of political action.

Waste avoidance, resource conservation, energy efficiency and the protection of land, water, air and biodiversity-environmental education and communication will play a key role in shaping a sustainable society in the 21st century.

Research conducted based on the principle of legislation including: (1) The legislation does not apply retroactively, (2) The laws that created by higher ruler, has a higher position, (3) Legislation which regulates specific
matter ruled out legislation which regulates general matter, if its legal drafter is similar, (4) The applicable legislation later on, cancel the previous regulation, (5) Legislation can not be contested, (6) Legislation as a means to to achieve the greatest extent possible well-being of the spiritual and material benefit for the community as well as individuals through development and/or preservation.

An understanding of the fundamental "The laws that created by higher ruler, has a higher position" (lex superior derogaat legi inferiori) is if there is conflict between regulations which are hierarchically subordinate to the more high, the legislation of the lower hierarchy must be ruled out. Hierarchy of legislation based on article 7 verse (1) juncto article 8 Act Number 12 year 2011 regarding on The Formation of Legislation.

In addition to the principle of lex superior derogaat legi inferiori, the research also based on the principle lex specialists derogaat legi generali. This principle refers to the two regulations that have similar hierarchical position. However, the scope of the substance charge between both legislations are not identical, that is, one legislation regulates more specific than the other legislations.

Whereas the principle of lex posterior derogaat legi priori means the upcoming regulations set aside the previous legislation. This principle relates to the two legislations regulate similar problem. Synchronization horizontally against the provisions governing about the right of every person getting environmental education closely related to The Act Number 32 Year 2009 regarding on The Protection and Management of The Environment, Act Number 39 Year 1999 regarding on Human Rights, and Act Number 20 year 2003 regarding on The National Education System.

Article 67 Act Number 32 Year 2009 regarding on The Protection and Management of The Environment requires that every people has obligation to maintain the sustainability of environmental functions and controlling pollution and/or damage of the environment. This is because everyone is entitled to good and healthy environment as part of human rights (article 65 verse (1) Act Number 32 Year 2009). So that Article 65 verse (2) ensures the right every person to get access to information, environmental education access, participation access and access to justice in fulfilling the right to the good and healthy environment. Article 9 verse (3) of the Act Number 39 year 1999 regading on Human Rights affirmed that everyone is entitled to good and healthy environment.

In accordance with article 65 verse (2) juncto Aticle 4 juncto Article 3 Act Number 32 Year 2009 on The Protection And Management of The Environment so that environmental education. Environmental education as part of the protection and environmental management is implemented based on “the integrated principle”. The provisions of article 2 subverse (d) Act Number 32 year 2009 in accordance with “the integrated principle” i.e. explanation of article 2 subverse (d) of Act Number 32 year 2009 is horizontally in line with article 4 verse (6) Act Number 20 year 2003 that is education as an attempt held by empowering all components of society through participation in organizing the educational services and quality control.

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Therefore, environmental education as an attempt for protection and environmental management involves all components of the community. In article 1 Act number 32 year 2009 regarding \textit{The Protection and Management of The Environment} that is every person is an individual person or business entity, whether incorporated or not incorporated entity of the law. Therefore, in the education of the environment involved participation of many parties.

Roscoe Pound's theory about the law as a \textit{tool of social engineering} considered relevant for this horizontal synchronization. The law as a tool of social engineering means that the use of the law to knowingly achieving orderly circumstances or society as aspired to make changes.

The social mechanisms of change through legal engineering means a process which planned with advocating, invite, sent, or even force purpose members of community to follow the law or conduct of legal norms established as the new norm. Social life, according to the concept of social engineering can be easily influenced by the law as a controlled system.

It can be concluded that the legal issues as a tool of social change with regard to the functions of law in development, and in fact it is relevance between legal changes and the changes of community.

Implementing environmental education as efforts on protection and environmental management remains based on Act Number 20 of 2003 concerning \textit{The National Education System}. Environmental education as subsystem of national education is implemented based on Pancasila and \textit{The Constitution of The Republic of Indonesia} year 1945 and is responsive attitude to the demands of changing times, as defined in article 1 point (2) Act Number 20 of 2003 regarding \textit{The National Education System}.

This is in line with section Considerans letter (c) Act Number 20 of 2003 which defines that the national education system to face the challenges in accordance with the demands of change the life of the local, national, and global so that needs to be done improvement on education programmatically, directional, and continuously.

\textbf{CONCLUSION}

Protection and environmental management is a systematic effort and integrated to preserve environmental functions and prevent pollution and/or damage occurrence to environment includes planning, utilization, control, maintenance, supervision, and law enforcement. Based on "the principle of the responsibility of the State" in article
2 subverse (d) of Act Number 32 of 2009 that State guarantee citizens getting the good and healthy environment. It raises the consequences that everyone shall be obliged to maintain the continuity of environmental functions and to control environmental pollution and/or damage as defined in section 67 of the Act Number 32 of 2009. Article 65 verse (1) of Act Number 32 of 2009 is the provision of the lex specialists derogaat legi generalis on environmental education.

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