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# Sustainable Development Goals: Polemic Study of Analysis of Environmental Impacts After Job Creation Law

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**Abstract** The process of preparing an AMDAL that involves community participation is important to ensure that the environmental impacts of development projects are seriously considered and produce better decisions in order to achieve the SDGs as stipulated in Article 27 paragraph (1) letter a Government Regulation Number 22 of 2021 concerning Implementation of Environmental Protection and Management. However, since the promulgation of Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation to become a Law it has had a negative impact on

community participation in the AMDAL process by narrowing the space for movement and injustice for the community in the drafting process AMDAL. The research method used in this study is a normative juridical method, with a statute approach and a conceptual approach. The results of the research show that there is a relationship between community participation and the SDGs which can later help ensure that sustainable development policies and programs reflect the needs, desires and aspirations of the community which are in line with the SDGs principle "No One Left Behind".

**Keywords** *Sustainable Development Goals, Community Participation, Environmental Impact Assessment, Job Creation Law*

**Abstrak** Proses Penyusunan AMDAL yang melibatkan partisipasi masyarakat penting untuk memastikan dampak lingkungan dari proyek-proyek pembangunan dipertimbangkan dengan serius dan menghasilkan keputusan yang lebih baik dalam rangka mencapai tujuan SDGs sebagaimana yang diatur dalam Pasal 27 ayat (1) huruf a Peraturan Pemerintah Nomor 22 Tahun 2021 tentang Penyelenggaraan Perlindungan dan Pengelolaan Lingkungan Hidup. Namun, sejak diundangkannya Undang-undang Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja menjadi Undang-Undang memberikan dampak negatif pada partisipasi masyarakat dalam proses AMDAL dengan mempersempit ruang gerak serta ketidakadilan bagi masyarakat dalam proses penyusunan AMDAL. Adapun metode penelitian yang digunakan dalam penelitian ini adalah metode yuridis normatif, dengan pendekatan *statute approach* dan *conceptual approach*. Hasil penelitian menunjukkan terdapat hubungan partisipasi masyarakat dan SDGs yang nantinya dapat membantu memastikan bahwa kebijakan dan program-program pembangunan berkelanjutan mencerminkan kebutuhan, keinginan, dan aspirasi masyarakat yang sejalan dengan prinsip SDGs "No One Left Behind".

**Kata kunci** *Sustainable Development Goals, Partisipasi Masyarakat, Analisis Dampak Lingkungan, Cipta Kerja*

## **A. Introducing**

Management of natural resources is one way to achieve the welfare and prosperity of society. This has been regulated in the Formulation of Article 33 paragraph (3) of the Constitution of the Republic of Indonesia (1945 Constitution) which reads "Earth, water and natural resources contained therein are controlled by the State and used for the greatest prosperity of the people". The formulation of Article 33 of the 1945 Constitution does not merely provide guidance regarding the composition of the economy and the authority of the state to regulate economic activities and the natural resources contained therein, but reflects the ideals and a

belief that are firmly held and consistently fought for by the nation's leaders.<sup>1</sup> The use of natural resources should also be based on the three pillars of sustainable development, namely economically profitable, socially acceptable, and environmentally friendly.<sup>2</sup>

Article 33 of the 1945 Constitution as a constitutional basis requires that natural resources be used for the greatest possible prosperity of the people, as stated by Abrar Saleng "The right to control the state is an instrument (instrumental in nature), while being used for the greatest prosperity of the people is the goal (*objectives*). The main element of the right to control by the state is to organize and manage (*regulate and control*)".<sup>3</sup> Within the framework of this understanding, in that control, the state only does the management act and does not the property act. When there is a shift from *management act* become *property act* then there will be no guarantee for the purpose of being used as much as possible for the welfare of the people.

The prosperity of the people must be enjoyed by the present and future generations in a sustainable manner. However, many developments that are not environmentally sound have had negative impacts on the environment such as air pollution, water pollution, soil degradation, and reduced biodiversity which can threaten current and future generations. From this problem, the concept of "Sustainable Development". This concept is believed to be able to answer various problems and challenges in development and environmental development. Thus, current development must be carried out optimally, namely by making the most of natural resources for the present generation but not damaging the environment, so that future generations can utilize natural resources as well as the current generation. This also implies the ultimate goal of natural resource management.

The principle of sustainable development requires implementation in the form of laws and government policies. As stated by Siti Sundari Rangkuti:<sup>4</sup> "Sustainable development is the political will to build without destroying that is outlined in environmental policies and requires legal instruments in the form of environmental legislation". The principle of sustainable development has been accommodated in Indonesia through laws and regulations, namely Law Number 32 of 2009 concerning Environmental Protection and Management (UUPPLH). In Article 1 point 3 it is explained that "Sustainable development is a conscious and planned

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<sup>1</sup> Bagir Manan, *The Growth and Development of a Country's Constitution*, (Bandung, Mandar Maju, 1995), p.45.

<sup>2</sup> IQ. Nusa (2018). Corporate Crime Against the Environment in Toll Road Construction. *Journal of Constitutional Law*, 1(4), 1-26.

<sup>3</sup> Abrar Saleng, Capita Selecta of Natural Resources Law, *Journal of Legal Dynamics*, Faculty of Law, Hasanuddin University, Makassar, Volume 12 Number 4 July, 2013, p.149.

<sup>4</sup> Siti Sundari Rangkuti, *Environmental Law and National Environmental Policy Third Edition* (Surabaya: Airlangga University Press, 2005). p. 384.

effort that integrates environmental, social and economic aspects into a development strategy to ensure the integrity of the environment as well as the safety, capability, welfare and quality of life of the present and future generations. front".

Then, based on these regulations, efforts are made in a program and strategy for environmental management since Sustainable Development/Sustainable Development Goals (SDGs) in Indonesia have been pursued in the UN general program, which is the 2030 Global Agenda.<sup>5</sup> The priority for sustainable development, which is a crucial point, is seen in meeting basic human needs and ensuring the continuity of economic development.<sup>6</sup> In line with the formulation of the SDGs at the global level, Indonesia is also preparing the 2015-2019 and 2020-2024 National Medium-Term Development Plans (RPJMN) so that the substance contained in the TPB/SDGs is aligned with the RPJMN. Sustainable Development Goals/Sustainable Development Goals as a global and national commitment to maintain the welfare of the community and the quality of the environment as well as development that ensures justice in the implementation of governance that can maintain an increase in the quality of life from one generation to the following covers 17 destinations.<sup>7</sup> This goal not only emphasises the ultimate goal of increasing welfare but also the goals of justice and inclusivity in achieving these goals. The SDGs aim to fulfil human rights, non-discrimination, attention to minorities and people with disabilities, and the crucial involvement and cooperation between all stakeholders in development.<sup>8</sup>

Everyone is part of society, and society has the same rights, obligations and roles in environmental management, without exception for rural and urban communities, because the scope of the environment is not only in certain places but the entire territory of the Unitary State of the Republic of Indonesia.<sup>9</sup> In addition, the

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<sup>5</sup> Indonesia, *Presidential Regulation on Implementation of Achieving Sustainable Development Goals*, Presidential Decree No. 59 of 2017, Ps. 2 paragraph (2).

<sup>6</sup> Yulinda Ardharani, "Organization and Enforcement of Environmental Laws in Infrastructure Development in Realizing Sustainable Development", *Journal of Law Science*, Volume 4, Number 1, 2017, p. 65.

<sup>7</sup> The 17 goals are: (1) Zero Poverty; (2) No Hunger; (3) Healthy and Prosperous Life; (4) Quality Education; (5) Gender Equality; (6) Clean Water and Adequate Sanitation; (7) Clean and Affordable Energy; (8) Decent Work and Economic Growth; (9) Industry, Innovation and Infrastructure; (10) Reduced Gaps; (11) Sustainable Cities and Settlements; (12) Responsible Consumption and Production; (13) Climate Change Handling; (14) Marine Ecosystems; (15) Mainland Ecosystems; (16) Peace, Justice and Strong Institutions; and (17) Partnership to Achieve Goals. *Technical Guidelines for Preparation of Action Plans, Sustainable Development Goals (SDGs)*. 2020, Second Edition.

<sup>8</sup> National Development Planning Agency, *Technical Guidelines for Formulating Action Plans for Sustainable Development Goals* (Jakarta: National Development Planning Agency, 2020), pp. 19-20.

<sup>9</sup> Sabardi, L. (2014). *Peran serta masyarakat dalam pengelolaan lingkungan hidup menurut Undang-undang Nomor 32 Tahun 2009 tentang Perlindungan dan pengelolaan lingkungan hidup*. *Journal Yustisia*, 88, pp. 68.

constitutional basis also provides guarantees in Article 28 H Paragraph (1) of the 1945 Constitution "Everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to get a good and healthy environment and has the right to obtain health services". The community's existence will be very effective if it controls the existing environmental management. The community rights emphasised here are that everyone has the right to access information, access to participation, and access to justice in fulfilling the right to a good and healthy environment and has the right to submit suggestions and objections to planned activities that are expected to cause environmental damage.

Community involvement and participation are very important in the protection and management of the environment because the community is part of the direct impact of environmental conditions. They must be actively involved in environmental management so that the results match their needs and expectations. In addition, community participation is an important resource in environmental management. Community suggestions, input, and contributions help to increase the effectiveness and sustainability of environmental safeguards. Furthermore, regarding the involvement and participation of the community, its position has been strengthened in the UUPPLH, which expressly recognises the role of the community in protecting and managing the environment. As stated in Article 70, paragraph (2) UUPPLH, namely:

Community roles can be;

- a. social surveillance,
- b. giving suggestions, opinions, suggestions, objections, complaints, and
- c. delivery of information and reports.

As with community participation, in order to provide protection and management of the environment following the principles of sustainable development aimed at preserving a good and healthy environment, an Environmental Impact Analysis (AMDAL) is required. AMDAL is here to ensure that planned business activities or development will not have a significant negative impact on the environment and is expected to help identify potential negative impacts of activity and design adequate mitigation measures to minimize the impact.

AMDAL is a study of the significant impact of a planned business and activity on the environment, which is necessary for the decision-making process regarding implementing a business and activity".<sup>10</sup> The role of the community in the AMDAL preparation process, both in providing input to the initiator for preparation, is crucial. This role is then explained in the Regulation of the Minister of Environment Number 17 of 2012 concerning Community Involvement in the Process of Environmental Impact Analysis and Environmental Permits. Necessary for the

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<sup>10</sup> Indonesia, *Environmental Protection and Management Act*, UU no. 32 of 2009, Ps 1 point 11.

environment; (2) the public can submit suggestions, opinions and responses on business and activity plans that have a significant impact on the environment; (3) the community can be involved in the decision-making process related to recommendations for the feasibility or infeasibility of business plans and activities that have a significant impact on the environment; and (4) the community can submit suggestions, opinions and responses to the environmental permit process.<sup>11</sup>

The initiator and the Amdal Assessment Commission must consider the community's responses, suggestions and input so that the objectives of community involvement following Permen No. 17 of 2012 can be realized.<sup>12</sup> The benefits of preparing an AMDAL include identifying, estimating and evaluating the impacts on the environment caused by planned activities and increasing the positive impacts and handling to the minor extent the negative impacts that occur by implementing the RKL-RPL so that sustainable development can be achieved.<sup>13</sup>

The community's involvement in preparing the AMDAL shows that the role of the community is one of the most important in sound environmental management. The role of the community itself is to prevent environmental damage; this effort involves the community in preparing the AMDAL document. AMDAL is a determinant of environmental damage done by humans. The existence of UU Cipta Kerja is considered to have limited space for public participation in the preparation of the AMDAL. Even though the community should be present continuously during the AMDAL preparation process to ensure that the negative impacts of these activities have been identified and handled properly. On that basis, efforts to involve the community in preparing the AMDAL document are an important step in maintaining a good and healthy environment in accordance with the principles of the Sustainable Development Goals.

## B. Methods

This research method is legal research. According to F. Sugeng Istanto, legal research is research that is applied or specifically applied to the science of law.<sup>14</sup> According to the type, nature and purpose of legal research, it is distinguished from normative legal research and empirical legal research.<sup>15</sup> The type to be used in this research is normative legal research. This research was conducted by examining

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<sup>11</sup> Indonesia, *Regulation of the Minister of Community Involvement in the Analysis Process Regarding Environmental Impacts and Environmental Permits*, Candy No. 17 of 2012.

<sup>12</sup> B. Sesa (2018). EIA Implementation in Supporting Sustainable Development. *Journal of Socio Science*, 4(1), 1-13.

<sup>13</sup> M. D. Syaputri (2017). Community Participation in Compilation of Environmental Impact Analysis Based on Law No. 32 of 2009. *Varies Justice*, 13(2), 123-131. <https://doi.org/10.31603/variajusticia.v13i2.1886>.

<sup>14</sup> F. Sugeng Istanto, *Penelitian Hukum*, (Yogyakarta: CV. Ganda, 2007), p.29.

<sup>15</sup> Bambang Waluyo, *Penelitian Hukum dalam Praktik*, (Jakarta: Sinar Grafika, 2002), p.13

library materials or secondary data.<sup>16</sup> In terms of its nature, this research is descriptive research. Descriptive research is a study to describe something in a certain time and space.<sup>17</sup> In essence, a descriptive study is an attempt to describe the variables studied independently without associating them with other variables that are comparative or connected.<sup>18</sup>

In legal research, this descriptive research is very important to accurately present the existing legal materials, where the prescription is arranged according to the materials. While from the point of view of form, this type of research is prescriptive research. Research that aims to provide an overview or formulate a problem according to the existing conditions/facts.<sup>19</sup> The nature of this research is in line with the prescriptive characteristics of legal science. As a prescriptive science, jurisprudence studies the purpose of law, the values of justice, the validity of legal rules, legal concepts and legal norms.<sup>20</sup> This prescriptive nature will be used to analyze and examine the values contained in the law, but not only limited to values in the positive jurisdiction. But also, the values that underlie and encourage the birth of the law.

## **C. Results and Discussion**

### **1. Mechanisms and forms of community participation in the process of preparing Environmental Impact Analysis: a review of Legislation Analysis**

The environment is the most crucial issue in human life that must be maintained, cared for, and developed in such a way as to support the success of human life. In accordance with the constitution and manifested through Article 9 Paragraph (3) Law no. 39 of 1999 concerning Human Rights states that; "everyone has the right to a good and healthy environment".<sup>21</sup> Human rights to the environment are fundamental human rights. As for the right to a clean environment, according to Christian Tomuschat, it belongs to the third-generation category. The types of rights in this category include the right to development, the right to peace, and the right to a clean environment. This third generation of human rights is usually known as the right of solidarity.<sup>22</sup>

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<sup>16</sup> Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, (Jakarta: Rajagrafindo Persada, 2006), p. 13

<sup>17</sup> Bambang Waluyo, *op.cit.*, hlm. 8-9

<sup>18</sup> Jujun S. Suriasumantri, *Ilmu dalam Perspektif Moral, Sosial dan Politik: Sebuah Dialog tentang Dunia Keilmuan Dewasa ini*, (Jakarta: Gramedia, 1986), p. 61-62.

<sup>19</sup> Bambang Waluyo, *Op. cit.*, hlm. 8-9

<sup>20</sup> Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Kencana, 2006), p. 22

<sup>21</sup> Article 9 paragraph (3), Law No. 39 of 1999 concerning Human Rights

<sup>22</sup> Christian Tomuschat, *Human Rights Between Idealism and Realism*, Oxford University Press, Oxford, 2003, p. 48.

Affirming the right to the environment began when the Stockholm Declaration was born on June 5, 1972. The first principle of the declaration stated: "man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being."<sup>23</sup> This declaration strengthens the respect and protection of the integrity of the global environment and development system. Here it is emphasized that "human beings are the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature. Majda El Muhtaj stated that the policy to enforce the law on environmental crimes is a valuable contribution to the preservation of Indonesia's nature.<sup>24</sup> Environmental crimes violate human rights, as Article 28 H of the 1945 Constitution mandates.<sup>25</sup> Article 28 H paragraph (1) of the 1945 Constitution has accommodated the right to a good and healthy environment as part of human rights...." everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy environment and to receive health services...".<sup>26</sup>

In addition to Article 28H paragraph (1) of the 1945 Constitution, Article 33 paragraph (1) of the 1945 Constitution also confirms: "The economy is structured as a joint effort based on the principle of kinship."<sup>27</sup> Then the provisions of Article 33 paragraph (4) of the 1945 Constitution state that the national economy is organized based on economic democracy with the principles of togetherness, fair efficiency, sustainability, environmental insight, independence, and maintaining a balance of progress and national economic unity.<sup>28</sup> There are two concepts related to ecosystems, namely that the national economy based on the economic democracy in question must contain the principle of sustainability and environmentally minded principles. According to Jimly Asshiddiqie, the entire ecosystem, as referred to in Article 33 paragraph (3) of the 1945 Constitution as interpreted extensively and creatively by various laws in the environmental field, must be managed for the benefit of development based on the principle of sustainable development. and environmental insight (pro-environment) as determined by Article 33, paragraph (4) of the 1945 Constitution.

The constitutionality of human rights to the environment is further emphasized by the promulgation of UUPPLH, as it has become a new chapter for recognizing and guaranteeing human rights protection. This means that environmental norms have experienced constitutionality as material content of the constitution as the highest

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<sup>23</sup> Principle 1 Stockholm Declaration.  
<https://wedocs.unep.org/bitstream/handle/20.500.11822/29567/ELGP1StockD.pdf>

<sup>24</sup> Majda El Muhtaj, *Human Rights Dimensions: Unraveling Economic, Social and Cultural Rights*, (PT. RajaGrafindo Persada, Jakarta, 2009).

<sup>25</sup> Ibid.

<sup>26</sup> Article 28 H paragraph 1 of the Constitution of the Republic of Indonesia

<sup>27</sup> Article 33 paragraph (1) of the Constitution of the Republic of Indonesia

<sup>28</sup> Article 33 paragraph (4) of the Constitution of the Republic of Indonesia

law (green constitution). This means that there should be no more policies contained in the form of laws or regulations under laws that conflict with these pro-environmental constitutional provisions. (Green legislation) Alternatively, in other words, policies that have environmental or green nuances must be reflected in every law and regulation (green legislation) as mandated in Article 44 UUPPLH, which reads: "Every preparation of laws and regulations at the national and regional levels must pay attention to the protection of environmental functions and the principles of environmental protection and management by the provisions regulated in this Law."<sup>29</sup>

UUPPLH has also provided protection guarantees for citizens, namely the right to the environment, as emphasized in Article 65 UUPPLH, which mandates that everyone has the right to a good and healthy environment, the right to environmental education, access to information, access to participation, and access to justice in fulfilling the right to a good and healthy environment, have the right to submit suggestions and objections to business plans and activities that are expected to have an impact on the environment, play a role in environmental protection and management by laws and regulations, and have the right to carry out complaints due to allegations of environmental pollution and damage.<sup>30</sup>

Based on these provisions, the community has the right to participate in protecting and managing the environment to realize the right to a good and healthy environment. In ICEL's records, based on the Environmental Law, communities are placed as equal parties legally to be able to participate in making decisions that affect their lives.<sup>31</sup> Community participation is an ongoing two-way communication process to increase the complete understanding of the community on an activity process in which environmental problems and needs are analyzed.<sup>32</sup> Community participation aims to generate valuable input and perceptions from interested citizens and communities to improve the quality of environmental decision-making. This is important because by involving the community potentially affected by the activity and interest groups, decision-makers can capture the views, needs and expectations of the community and these groups, which will be contained in the implementation concept later.<sup>33</sup> Juridically, community participation is also essential and strategic as an instrument for controlling environmental impacts. Integrating community involvement or participation in the form of aspirations is

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<sup>29</sup> Article 44 Law Number 32 of 2009 concerning Environmental Protection and Management

<sup>30</sup> Article 65 Law Number 32 of 2009 concerning Environmental Protection and Management

<sup>31</sup> D. Syaputra (2017). Community Participation and Institutional Authority for Management of the Legal Environment. *Journal of Research and Scientific Studies*, 9(2), 44-50

<sup>32</sup> Lalu Sabardi, "Community Participation in Environmental Management According to Law Number 32 of 2009 Concerning Environmental Protection and Management", *Yustisia Journal*, Vol. 3 No. 1 April 2014, hlm. 7.

<sup>33</sup> Arimbi HP, "Community Participation in Environmental Law Enforcement" *Journal of Environmental Law*, Vol. I No. 1, 1994, hlm. 79.

necessary to avoid weak law enforcement due to a lack of oversight from the community.<sup>34</sup> When discussing community participation, we must also pay attention to the role of the community in preparing the AMDAL document. Some of the problems regarding the formulation of the AMDAL are as they were issued.

There are three reasons for the importance of community participation, as follows.<sup>35</sup>

- a. Community participation is a tool to obtain information regarding the conditions, needs and attitudes of the community because without their presence, development programs will fail;
- b. Communities will trust a development project or program or program more if they feel involved, starting from the preparation, planning and implementation process. This will create a feeling of ownership of the projects or developments;
- c. Encouraging public participation in many countries because there is an assumption that it is a democratic right when people are involved in the development of society itself.

Absori stated that community participation relates to the local community (cultural) traditions, understanding of norms/rules and socio-political conditions.<sup>36</sup> Community participation can be carried out through decision-making, implementation of programs, and environmental defence or advocacy either through court or out of court. Furthermore, Lothar Gundling stated the basis for community participation:<sup>37</sup>

1. Providing information to the government; Community participation will significantly increase specific knowledge regarding a problem, both obtained from the unique knowledge of the community itself and experts consulted by the community. Community participation is essential and cannot be ignored in order to provide information to the government regarding government problems. Thus, the government can know that this action can affect various interests and need attention.
2. Increasing the willingness of the community to accept decisions; A citizen who has had the opportunity to participate in the decision-making process and is not faced with a *fait accompli* will tend to show a greater willingness to accept and adapt to the decision. Another more critical thing, community participation in the decision-making process can significantly reduce the possibility of conflict arising as long as community participation is carried out at the right time and is effective. However, it should be understood that decisions will only satisfy the

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<sup>34</sup> M. Rosana (2018). Environmentally Friendly Sustainable Development Policy in Indonesia. *MANAGE Journal of Social Sciences*, 1(1), 148–163.

<sup>35</sup> Diana Conyers in Ricky Wirawan, Mardiyono and Ratih Nurpratiwi, 'Community Participation in Regional Development Planning' (2015) 4 (2) *JISIP: Journal of Social and Political Sciences* 301, 302.

<sup>36</sup> Absori, 'Public Participation in Making EIA' (2004) 1 (2) *Jurisprudence Faculty of Law, University of Muhammadiyah Surakarta* 194.

<sup>37</sup> Lothar Gundling in Supriadi, *Indonesian Environmental Law* (Jakarta: Sinar Grafika).

interests of some groups or all members of society to accept government decisions.

3. Help legal protection; If a final decision is taken by considering the objections raised by the community during the ongoing decision-making process, then in many cases, there will be no need to file a court case.
4. Democratizing decision-making; In connection with this community participation, there is an opinion stating that in a government with a representative system, the right to exercise power rests with the representatives of the people whom the people elect; thus, there is no necessity for forms and participation of the community because representatives act in the interests of the people.
5. Authority for environmental management In a welfare state, the government intervenes in all community activities, including in the regulation of environmental issues. The environment is a natural resource that is very important to support development.

Based on the opinion above, community involvement and participation are needed in decision-making. Various information can be obtained from the community related to the activities to be carried out because the decision will have an impact not only on the community but also on the government. The involvement and participation of the community are not only at the time the decision will be issued but also up to the monitoring process. However, of course, the community must also be given information regarding the existence of an activity plan.

Various parties are involved in the EIA document preparation mechanism, including the following:<sup>38</sup>

1. Government

The government must provide environmental feasibility decisions intended to protect the people's interests and conform with sustainable development policies.

2. Initiator

An initiator is a person or legal entity responsible for a business plan and/or activity to be implemented. It is this case that is obligated to carry out an Amdal study. However, the initiator may appoint another party, such as an environmental consultant.

3. Stakeholder community

Interested people are affected by all forms of decisions in the EIA process. Impact communities, environmental observers, and communities affected by decisions must be included in the decision-making process on matters relating to the EIA.

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<sup>38</sup> Indonesia, Decree of the Head of Bapedal Number 9 of 2000 concerning Guidelines for Compiling an Analysis of Environmental Impacts.

Various problems regarding the formulation of the AMDAL are following the issuance of the Work Creation Perpu. Therefore, we must know the mechanism for preparing the AMDAL document as part of community participation in carrying out their participation. Community participation in the preparation of the AMDAL is a manifestation of providing environmental protection and management based on the principles of sustainable development in order to maintain a good and healthy environment. The position and role of the community in preparing the AMDAL are contained in Article 26 UUPPLH, namely as follows.<sup>39</sup>

- (1) The Amdal document, referred to in Article 22, is prepared by the initiator by involving the community.
- (2) Community involvement must be carried out by providing transparent and complete information and being notified before the activity.
- (3) The community, as referred to in paragraph (1), includes:
  - a. affected;
  - b. environmental observers; and
  - c. affected by all forms of decisions in the EIA process.
- (4) As referred to in paragraph (1), the public can submit objections to the EIA document.

The Elucidation of Article 26 Paragraph (1) concerning Community involvement is carried out in the announcement process and public consultation to solicit suggestions and responses. Further details later in Chapter VI PP Amdal on Information Disclosure and Community Role. Article 33 states that:

- (1) Every business and activity referred to in Article 3 paragraph (2) must be announced to the public before the initiator prepares an analysis of environmental impacts.
- (2) The announcement, as referred to in paragraph (1), is carried out by the responsible agency and the initiator.
- (3) Within a period of 30 (thirty) working days from the announcement of the business and activity plan, as referred to in paragraph (1), interested members of the public have the right to submit suggestions, opinions and responses regarding the implementation of the business and activity plan.
- (4) Suggestions, opinions, and responses referred to in paragraph (3) are submitted in writing to the responsible agency.
- (5) Suggestions, opinions, and responses, as referred to in paragraph (3), must be considered and studied to analyse environmental impacts.
- (6) The procedure and form of the announcement, as referred to in paragraph (1), as well as the procedure for submitting suggestions, opinions, and responses, as referred to in paragraph (3), are determined by the Head of the agency assigned to control environmental impacts.

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<sup>39</sup> Article 26 Law Number 32 of 2009 concerning Environmental Protection and Management

Then Article 34 also states that interested members of the public must be involved in preparing the terms of reference, assessment of the terms of reference, analysis of environmental impacts, plans for environmental management, and plans for environmental monitoring. The forms and procedures for community involvement are determined by the Head of the agency assigned to control environmental impacts. This matter is continued with article 35 also stipulates that all environmental impact analysis documents, suggestions, opinions, and responses from interested community members, conclusions of the commission of assessment, and decisions on the environmental feasibility of businesses and activities are open to the public. The responsible agency must submit documents to documentation and archival institution.

In detail, community involvement is also regulated in the Decree of the Head of the Environmental Impact Management Agency Number 8 of 2000 concerning Community Involvement and Information Disclosure in the Process of Analysis of Environmental Impacts. One of the provisions is that the Governor can further regulate the following matters without prejudice to the provisions in this Decree.

1. Determination of representatives of affected communities who sit in the Commission for Assessment of Environmental Impact Analysis;
2. Procedure details:
  - a) community involvement in the Environmental Impact Analysis process;
  - b) announcement; And
  - c) delivery of suggestions, opinions, and comments from the community

The purpose and objectives of the implementation of community involvement and disclosure of information in the Environmental Impact Analysis (AMDAL) process are to:

- 1) Protecting the interests of society;
- 2) Empowering the community in making decisions on business plans and development activities that have the potential to cause major and significant impacts on the environment;
- 3) Ensuring there is transparency in the entire AMDAL process of business and activity plans; And
- 4) Creating an atmosphere of equal partnership between all interested parties, namely by respecting the rights of all parties to obtain information and requiring all parties to convey information that must be known to other affected parties.

The Basic Principles of Implementation are as follows:

- 1) Equality of position among the parties involved;
- 2) Transparency in decision-making;
- 3) Solving problems that are fair and wise; and
- 4) Coordination, communication, and cooperation among related parties.

Related Interested communities are communities that are affected by all forms of decisions in the AMDAL process based on the following reasons: proximity of residence to planned businesses and activities, economic influence factors, sociocultural influence factors, concern for the environment, and factors influencing the values or norms that are believed.

Communities interested in the AMDAL process can be divided into affected and observer communities. Affected Communities are the people who will feel the impact of the planned business and activity, consisting of the people who will benefit (beneficiary group) and the people who will suffer losses (at-risk group). While the Observer Community is a community that is not affected by a planned business and activity but has concern for the planned business and activity, as well as the environmental impacts it will generate.<sup>40</sup>

Community involvement in the AMDAL process is community participation in the decision-making process regarding the AMDAL. In this process, the community conveys the aspirations, needs and values of the community, as well as suggestions for solving problems from the community with interest in obtaining the best decision. Community representatives in the AMDAL Assessment Commission are representatives of affected communities who have met the established criteria to be able to sit as members of the AMDAL Assessment Commission.

After the enactment of Law No. 11 of 2020 Concerning Job Creation (UUCK), there are restrictions on affected communities from participating in decision-making. One of the substances being criticized is the regulation of the environmental sector in the Job Creation Law which is considered to be no better than the UUPPLH. The Job Creation Law changed Article 26 UUPPLH, which was considered to severely limit or narrow community participation or involvement in the context of optimal environmental protection. This is because the definition of a community is only limited to the affected community. Meanwhile, the role of environmental observers and those influencing decisions in the EIA process is omitted.

The various roles of the community in preparing the AMDAL have changed with the arrival of the Job Creation Law. The provisions for establishing an AMDAL in the UUPPLH Article 26 omitted the provisions in the Copyright Law. The reason for changing Article 26 of the PPLH Law through the Job Creation Law is to accelerate the acquisition of EIA issuance documents, which environmental monitoring agencies have often rejected.<sup>41</sup> In addition, the role of the community is limited to being involved in preparing the EIA. Even then, only the people directly affected by

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<sup>40</sup> Dana A. Kartakusuma, AMDAL Q&A: Answering Various General Questions About AMDAL, Deputy Assistant for Environmental Impact Studies of the Ministry of Environment 2004.\

<sup>41</sup> Hukumonline.com. 2020 "Professor of FHUI: The Job Creation Law in the Environmental Sector Is Not Better Than the UUPPLH", accessed via <https://www.hukumonline.com/berita/a/guru-besar-fhui--uu-cipta-kerja-sektor-lingkungan-tidak-lebih-baik-dibanding-uu-pplh-1t5f981318c8f7d?page=2>.

any planned business or activity requested by the Amdal. In addition, there is no longer any objection or legal remedy against the EIA document to be challenged and annulled through the State Administrative Court because the existence of Article 38 UUPPLH was deleted through the Job Creation Law.

Community participation underwent changes that substantially changed Article 26 of the PPLH Law. Arrangements for community participation in the Job Creation Law were narrowed. Community participation was only limited to the people who were directly affected, so the Job Creation Law provided the right to submit suggestions, input, and responses regarding AMDAL documents for people who were directly affected with conditions that must be relevant. In contrast to the UUPPLH, which concerns the provision of suggestions, input, and responses regarding AMDAL documents, it is not limited to the people who are directly affected, so environmentalists, environmental organizations, and people who know AMDAL and the environment have the right to take a role.

The changes to the Job Creation Law are considered detrimental to society. Some NGOs, including the Aceh Natural Forest and Environment Foundation (HAKA Foundation), challenged the article in the Constitutional Court. This is due to reasoning, on the contrary, concluded that 'communities that are not directly affected by the planned business and activity are not involved in the preparation of the EIA document'. In other words, communities not affected by the project plan are excluded from involvement in the EIA preparation stage, such as environmental groups and NGOs engaged in the environmental sector, even though these communities have rights and interests.<sup>42</sup>

The MK did not accept the lawsuit because the Job Creation Law had been frozen. Where the DPR and the government were asked to fix it. President Jokowi Dodo issued the Job Creation Perppu. The contents are still the same regarding AMDAL. Communities that are not affected cannot provide input regarding the EIA. The AMDAL requirements in the Job Creation Perppu have not changed from the Law. Again, this raises contentious debate because the article needs to accommodate the community's interests.

## **2. Public Participation in the Preparation of Principle-Based Environmental Impact Analysis Sustainable Development Goals**

The SDGs are a continuation, expansion, and improvisation of the MDGs agenda, which is scheduled for global development in the world and will be implemented in the 2015-2030 period based on the agreement of UN members.<sup>43</sup> The 17 SDGs, which cover several goals, are a complex system consisting of 169 targets currently

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<sup>42</sup> Detik.com "Perpu Cipta Kerja Defends the "Amdal Requirements" that were sued at the MK, accessed via <https://news.detik.com/berita/d-6493143/perppu-cipta-kerja-pertahankan-syarat-amdal-yang-sempat-digugat-ke-mk>

<sup>43</sup> Ahmas Qisa'I, "Sustainable Development Goals (SDGs) and Challenges of Policy Reform on Asset Recovery in Indonesia", Indonesian Journal of International Law Vol. 17 No. 2 (2020) p. 235.

containing as many as 230 indicators. The UN agenda emphasizes that the natural linkages and unity of the SDGs are crucial in order to ensure sustainable development is achieved. Each SDG can be identified as the essence of economic, environmental or social goals. Thus, collectively the SDGs targets can be used as a representation of a sustainable economic development approach.<sup>44</sup>

The goals in the SDGs do not only emphasize the ultimate goal of increasing welfare but also emphasize the goals of justice and inclusivity in achieving these goals. The SDGs aim to fulfil human rights, non-discrimination, attention to minorities and people with disabilities, and the crucial involvement and cooperation between all stakeholders in development.<sup>45</sup> The Indonesian state has also committed itself to the agenda of sustainable development goals through Presidential Regulation 59 of 2017 concerning the Implementation of the Achievement of Sustainable Development Goals. Based on these regulations, sustainable development goals are known as Sustainable Development Goals (SDGs).

TPB aims to increase sustainable economic welfare, protect the sustainability of the community's social life, protect the environment's quality and implement governance that can improve the quality of life for future generations.<sup>46</sup> Regarding this matter, you have to think about the implementation of these SDGs. The implementation of SDGs cannot only be carried out by the government. Every socio-economic change requires the awareness and support of the wider community. This can be seen from China's implementation of the SDGs, and they are doing it cooperatively with the government, business entities and academics.

The SDGs' main principles are oriented towards citizens' involvement, as beneficiaries of some SDGs and as agents responsible for achieving these goals. The implementation of SDGs must be institutionalized in the community so that improvisation occurs in its implementation. This was explicitly done by considering the opinions of various groups, especially the public, because each party has different interests and needs.

In addition, the involvement of non-government groups in the SDGs will increase their trust and commitment to contribute to the SDGs.<sup>47</sup> The main principles as a guide in the SDGs agenda, among them:<sup>48</sup>

1. Human rights-based approach
2. Leaving no one behind

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<sup>44</sup> Edward B. Barbier and Joanne C. Burgess, "The Sustainable Development Goals and the systems approach to sustainability", *Economics: The Open Access, Open-Assessment E-Journal* (2017), p. 2.

<sup>45</sup> National Development Planning Agency, *Technical Guidelines for Formulating Action Plans for Sustainable Development Goals*, p.19-20.

<sup>46</sup> Indonesia, *Presidential Regulation on the Implementation of Achieving the Sustainable Development Goals*, Presidential Decree No. 59 of 2017, Ps. 2 paragraph (2).

<sup>47</sup> *Ibid.*, p.3.

<sup>48</sup> ONE-CS, "Engaging Citizens for Sustainable Development: A Data Perspective", (October 2018), p. 9.

3. Preserving the planet and intergenerational responsibility
4. Integrated nature and the equal importance of economic, social, and environmental pillars
5. Inclusivity, solidarity, and participation
6. Transparency and accountability

TPB/SDGs consist of 17 Goals and 169 Targets, a continuation of the Millennium Development Goals (MDGs), which ended in 2015. The achievement of Indonesia's TPB/SDG Sustainable Development Goals is based on the Presidential Regulation of the Republic of Indonesia Number 59 of 2017 concerning the Implementation of Achieving Sustainable Development Goals. Furthermore, sustainable development is a development concept organized to meet the needs of the current generation without compromising the right to meet the needs of future generations.<sup>49</sup>

The existence of sustainable development can drive a network of stakeholders. Community leaders, politicians, ministries, academics, leading non-governmental organizations, religious groups, international organizations and foundations are encouraged to join forces for a common cause. This multi-stakeholder synergy is essential to overcome complexity sustainable development challenges. Departing from this, environmental management and protection ensure sustainable development to meet the needs of future generations. The responsibility for protecting and managing the environment today is not solely the responsibility of the government or the state. Community involvement or participation is necessary for maintaining and supervising the environment to be better and healthier.

As a manifestation of a green economy, EIA is an essential component of the SDGs.<sup>50</sup> The green economy in the SDGs is a profit-based use of natural resources that seeks to encourage business actors to carry out environmentally friendly business activities. Thus, the AMDAL is the initial preparation stage towards a green economy. To realize a green economy as a component of the SDGs through the preparation of an AMDAL, cooperation and support from various parties are needed, namely the government, the community, and non-governmental organizations (in this case environmentalists). The role of non-governmental organizations in development is often as implementors, catalysts, and partners.<sup>51</sup> The understanding and meaning of community participation in the protection and management of the environment are comprehensive, giving rise to different interpretations or often diminishing the notion of community participation. public information) Alternatively, only limited to counselling so that an activity related to the environment runs without a hitch. This concept views community participation only

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<sup>49</sup> I Made Arya Utama, *Environmental Law Licensing Legal System with an Environmental Perspective for Sustainable Regional Development*, (Bandung: Sutra Library, 2007), p. 26.

<sup>50</sup> Armida Salsiah Alisjahbana, Endah Murniningtyas, *Sustainable Development Goals in Indonesia: Concepts, Targets and Implementation Strategies*, (Bandung: Unpad Press, 2018), p. 136

<sup>51</sup> *Ibid.*, p. 139.

as a means or tool to achieve goals. In fact, community involvement in environmental protection and management activities is not only a legitimate means to achieve goals, but is also used as an objective.

In this case, environmental observers often act as a bridge for various opinions and complaints from the public while preparing the AMDAL, who need to gain knowledge about the AMDAL itself. Thus, the community's participation in preparing the AMDAL is a step towards achieving sustainable development goals. Through community participation, the community also provides opinions and expresses their concerns in the AMDAL preparation process.

#### **D. Conclusion**

The implication after the birth of the CK Law against the PPLH Law is that there are restrictions on community participation in the preparation of the EIA document with too short a period to convey suggestions, opinions and responses. In addition, PP PPLH also should have mentioned a statement about what happens if the community refuses because there is no mechanism for rejection. This provision gives the impression that the community must accept a business and activity plan. The importance of returning environmentalists and communities affected by the decision to prepare an AMDAL document has an impact because environmentalists protect and defend the interests of the public who lack knowledge in preparing an AMDAL document.

The preparation of EIA as one of the components of the green economy to achieve the SDGs requires the participation of the community in order to achieve sustainable development goals. Community involvement in preparing the AMDAL provides efficiency and effectiveness in achieving the SDGs. Community involvement in preparing the AMDAL increases local community trust in the development plan and provides opportunities for the Nagari community to participate in the SDGs. This amendment to the Perppu Cipta Kerja reduces problems with environmental democracy, which in fact, must be in line with the 10 SDGs principles which demand the implementation of environmental democracy, namely the obligation to make policies by considering the community's needs.

#### **E. Reference**

- Saleng, Abrar. Capita Selecta of Natural Resources Law. *Journal of Legal Dynamics, Faculty of Law*. Hasanuddin University Makassar. Vol 12 Number 4 July, 2013.
- Absori. "Public Participation in Making EIA" (2004) 1 (2) *Jurisprudence Faculty of Law, University of Muhammadiyah Surakarta*.
- Ahmas Qisa'I, Sustainable Development Goals (SDGs) and Challenges of Policy Reform on Asset Recovery in Indonesia. *Indonesian Journal of International Law* Vol. 17 No. 2 (2020).
- Arimbi HP. Community Participation in Environmental Law Enforcement. *Journal of*

- Environmental Law* Vol. I No. 1 (1994).
- Alisjahbana, Armida Salsiah, Endah Murniningtyas. Sustainable Development Goals in Indonesia: Concepts, Targets and Implementation Strategies, (Bandung: Unpad Press, 2018).
- B. Sesa. EIA Implementation in Supporting Sustainable Development. *Journal of Socio Science* Vol. 4 No.1 (2018).
- Manan, Bagir. The Growth and Development of a Country's Constitution. (Bandung, Mandar Maju, 1995).
- Waluyo, Bambang. Penelitian Hukum dalam Praktik, (Jakarta: Sinar Grafika, 2002).
- Tomuschat, Christian. Human Rights Between Idealism and Realism. Oxford University Press, Oxford, 2003.
- D. Syaputra. Community Participation and Institutional Authority for Management of the Legal Environment. *Journal of Research and Scientific Studies* Vol. 9 No. 2 (2017).
- Dana A. Kartakusuma. AMDAL Q&A: Answering Various General Questions About AMDAL, Deputy Assistant for Environmental Impact Studies of the Ministry of Environment 2004.
- Detik.com "Perpu Cipta Kerja Defends the "Amdal Requirements" that were sued at the MK, accessed via <https://news.detik.com/berita/d-6493143/perppu-cipta-kerja-pertahankan-syarat-amdal-yang-sempat-digugat-ke-mk>
- Wirawan, Ricky. Mardiyono and Ratih Nurpratiwi, Community Participation in Regional Development Planning. *Journal of Social and Political Sciences* Vol. 4 No. 2 (2015).
- Edward B. Barbier and Joanne C. Burgess, "The Sustainable Development Goals and the systems approach to sustainability", *Economics: The Open Access, Open-Assessment E-Journal* (2017).
- F. Sugeng Istanto, Penelitian Hukum, (Yogyakarta: CV. Ganda, 2007).
- Hukumonline.com. 2020 "Professor of FHUI: The Job Creation Law in the Environmental Sector Is Not Better Than the UUPPLH", accessed via <https://www.hukumonline.com/berita/a/guru-besar-fhui--uu-cipta-kerja-sektor-lingkungan-tidak-lebih-baik-dibanding-uu-pplh-1t5f981318c8f7d?page=2>
- I Made Arya Utama, Environmental Law Licensing Legal System with an Environmental Perspective for Sustainable Regional Development, (Bandung: Sutra Library, 2007).
- Indonesia, Decree of the Head of Bapedal Number 9 of 2000 concerning Guidelines for Compiling an Analysis of Environmental Impacts.
- Indonesia, Environmental Protection and Management Act, UU no. 32 of 2009.
- Indonesia, Presidential Regulation on Implementation of Achieving Sustainable Development Goals, Presidential Decree No. 59 of 2017.
- Indonesia, Presidential Regulation on the Implementation of Achieving the Sustainable Development Goals, Presidential Decree No. 59 of 2017.
- Indonesia, Regulation of the Minister of Community Involvement in the Analysis Process Regarding Environmental Impacts and Environmental Permits, Candy No. 17 of 2012.
- IQ. Nusa. Corporate Crime Against the Environment in Toll Road Construction. *Journal of Constitutional Law* Vol. 1 No. 4 (2018).

- Jujun S. Suriasumantri. Ilmu dalam Perspektif Moral, Sosial dan Politik: Sebuah Dialog tentang Dunia Keilmuan Dewasa ini (Jakarta: Gramedia, 1986).
- Lalu Sabardi. Community Participation in Environmental Management According to Law Number 32 of 2009 Concerning Environmental Protection and Management. *Yustisia Journal* Vol. 3 No. 1 (2014).
- Lothar Gundling in Supriadi, Indonesian Environmental Law (Jakarta: Sinar Grafika).
- M. D. Syaputri. Community Participation in Compilation of Environmental Impact Analysis Based on Law No. 32 of 2009. *Varies Justice* Vol. 13 No. 2 (2017). <https://doi.org/10.31603/variajusticia.v13i2.1886>
- M. Rosana. Environmentally Friendly Sustainable Development Policy in Indonesia. *MANAGE Journal of Social Sciences* Vol. 1 No. 1 (2018).
- Majda El Muhtaj, Human Rights Dimensions: Unraveling Economic, Social and Cultural Rights, (PT. RajaGrafindo Persada, Jakarta, 2009).
- National Development Planning Agency. Technical Guidelines for Formulating Action Plans for Sustainable Development Goals (Jakarta: National Development Planning Agency, 2020).
- National Development Planning Agency. Technical Guidelines for Formulating Action Plans for Sustainable Development Goals.
- ONE-CS, "Engaging Citizens for Sustainable Development: A Data Perspective", (October, 2018).
- Peter Mahmud Marzuki, Penelitian Hukum, (Jakarta: Kencana, 2006), p. 22
- Principle 1 Stockholm Declaration. <https://wedocs.unep.org/bitstream/handle/20.500.11822/29567/ELGP1StockD.pdf>
- Sabardi, L. Peran serta masyarakat dalam pengelolaan lingkungan hidup menurut Undang-undang Nomor 32 Tahun 2009 tentang Perlindungan dan pengelolaan lingkungan hidup. *Journal Yustisia* Vol. 8 No. 8 (2014).
- Siti Sundari Rangkuti, Environmental Law and National Environmental Policy Third Edition (Surabaya: Airlangga University Press, 2005).
- Soerjono Soekanto dan Sri Mamudji, Penelitian Hukum Normatif Suatu Tinjauan Singkat, (Jakarta: Rajagrafindo Persada, 2006).
- Technical Guidelines for Preparation of Action Plans, Sustainable Development Goals (SDGs). 2020, Second Edition.
- Ardharani, Yulinda. Organization and Enforcement of Environmental Laws in Infrastructure Development in Realizing Sustainable Development. *Journal of Law Science* Vol. 4 No. 1 (2017).