

**AKUNTABILITAS PEMERINTAH DAERAH DALAM PENGENDALIAN
PENCEMARAN LINGKUNGAN HIDUP TERHADAP PENANGKARAN
SARANG BURUNG WALET DI KABUPATEN PINRANG**

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Abstract

Accountability in the implementation of local government to the environment in this study emphasizes the control of environmental pollution due to bird nest breeding. The results of this study are expected to provide a positive contribution in the development of legal science in the environmental sector and can also be a suggestion for structuring regulations in protecting the environment in Pinrang Regency. The form of accountability for the Pinrang Regional Government related to environmental pollution control, explicitly, the regulations regarding the use of swallow nests carried out by the people of Pinrang Regency do not have separate rules. This is because there has not been any discussion regarding the proposed special arrangements relating to the utilization of the swallow's nest in Pinrang Regency in the form of the Pinrang Regency Regional Regulation. So that the form of controlling the swallow business follows the form of licensing in terms of trading business licensing. The accountability of local governments is hampered, in that it is not implemented in the form of an explicit arrangement regarding the use of swallow's nests, and the entrepreneurs of swallow birds follow the designation in the area of Pinrang Regency. Thus, the implementation of the swallow bird business must comply with the existing regulations regarding the spatial plan for the Pinrang Regency area.

Keywords: *Accountability, Control, Walet*

A. PRELIMINARY

The Republic of Indonesia is a country which in its constitution affirms the protection of the environment so that in all forms of action or actions that are taken within the jurisdiction of the Republic of Indonesia, environmental aspects must be considered. In addition to being burdened with obligations and responsibilities to ensure a good and healthy environment, it also has the right to demand that everyone respect the rights of others and if necessary can force everyone not to damage and

pollute the environment for the common interest.¹ This is based on the provisions in the 1945 Constitution of the Republic of Indonesia, namely Article 28H paragraph (1) of the 1945 NRI Constitution and Article 33 paragraph (4) of the 1945 Constitution.²

The legal instrument in this case Law Number 32 Year 2009 concerning Environmental Protection and Management (hereinafter referred to as UUPPLH) has been enforced as a preventive and repressive effort towards environmental sustainability from threats and disturbances by the public or business actors in carrying out their economic activities. The environment is all external factors that affect an organism; these factors can be living organisms (biotic factor) or non-living variables (abiotic factor). From this then there are two main components of the environment, namely: a) Biotic: living things; and b) Abiotic: Energy, chemicals, and others.³

Accountability in the running of local government, including in terms of the environment. What is the relationship between the role of local government and the environment in this study is emphasized on controlling environmental pollution due to bird nest captivity.

As for the problem issues in this study are the authority in controlling environmental pollution of bird nest breeding in Pinrang Regency and the form of environmental pollution control of bird nest captivity in Pinrang Regency based on the principle of accountability. The urgency of this research is that the results of this study are expected to be useful as a source of literature in the framework of developing legal science, especially for those who are interested in researching and further examining the accountability of local governments in controlling environmental pollution against swallow's nest captivity in Pinrang Regency. The

¹ Jimly Asshiddiqie, 2010, *Green Constitution: Nuansa Hijau Undang-Undang dasar Negara Republik Indonesia Tahun 1945*, Rajawali Pers, Jakarta. h. 179.

² Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia stipulates that "Every person has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy living environment and the right to obtain health services" and Article 33 paragraph (4) of the 1945 Constitution, "National economy, held on the basis of economic democracy with the principles of togetherness, efficiency-justice, sustainability, environmental insight, independence, and by maintaining a balance between progress and national economic unity".

³ Agoes Soegianto, 2010, *Ilmu Lingkungan, Sarana Menuju Masyarakat Berkelanjutan*. Airlangga University Press, Surabaya. h. 1.

results of this research are also expected to provide input and contribution to related parties, especially law enforcers or legal practitioners.

B. METHODS

The research location that the researcher chose, namely in this research will be carried out in several Regional Government Agencies of Pinrang Regency which are related to the use of walet's nests, namely at the Office of the Environmental Service of Pinrang Regency, The data sources in this study are Field Research Sources (Field Research and Sources) Library Research, namely the source of data obtained from the review of several literature and other reading sources that can support the writing of this research. The data interview techniques in this study are as follows, namely the Interview Technique and the Literature Technique. Analysis, namely the data obtained from the research results that are compiled and analyzed qualitatively, then the data is further described descriptively in order to obtain a description. Furthermore, the data from the research results are developed based on the theories relevant to the research.

C. RESEARCH RESULTS AND DISCUSSION

The form of accountability for the Pinrang Regional Government related to environmental pollution control, explicitly, the regulations regarding the use of swallow nests carried out by the people of Pinrang Regency do not have separate rules. This is because there has not been any discussion regarding the proposed special arrangements relating to the utilization of the swallow's nest in Pinrang Regency in the form of the Pinrang Regency Regional Regulation. In fact, the regulation regarding the exploitation of swallow's nest was previously discussed in the form of a regulatory proposal as outlined in a Regent Regulation, but the regulation has not yet been realized. The proposed regulatory plan is in the form of a Regent Regulation which will also be enhanced in the form of a Regional Regulation.

In general, regarding every business, including the business of using the swallow itself, if in that business there is a disturbance to the environment, then it still refers to Law Number 32 of 2009 concerning Environmental Protection and Management. Every business and activity in Pinrang Regency that has an impact on

the environment continues to carry out licensing in business activities related to environmental management, even though the implementation of environmental management in Pinrang Regency does not have regulations related to the use of swallow nests. In addition, if there is a complaint in the community regarding the swallow business that has an environmental impact, there will still be a follow-up in the complaint in the community regarding the swallow business activities related to environmental impacts and related to the related technical office that issued the business license itself.

Specifically regarding the wallet bird exploitation efforts carried out by the people of Pinrang Regency, in fact, they do not have a regulation that is explicitly included in the Pinrang Regency Regional Regulation regarding the business of using the swallow's nest. He added that the exploitation of the swallow bird business should be included in the submission of a regional regulation that is specifically linked to the exploitation of swallow birds in Pinrang Regency.

The implementation of regional policies in Pinrang Regency states that the utilization of swallow bird nests does not yet have specific regulations in the form of Regional Regulations or in the form of Regent Regulations so that the form of controlling implementation in the utilization of swallow birds has not been implemented. The implementation of the swallow business in this case even though it is indeed a type of business, but in its implementation still follows the form of a license in terms of trading business licensing. As for people who in fact own a walet bird business, the aim of the initial business licensing is not a swallow business, but a building material business or other business that is not intended for the swallow business itself.

Given that swallow birds are one of the wild animals that can be used sustainably for the maximum welfare of the community, especially in Pinrang Regency, while still ensuring the existence of their population in nature and in accordance with the Decree of the Minister of Forestry Number 100 / KPTS-II / 2003 concerning Guidelines for Utilizing walet Bird's Nests (*Collocalia spp*) stated that the purpose of using walet bird's nest is to protect or conserve walet birds in their natural habitat from extinction, both locally and globally. In addition, to optimize walet bird's nests in efforts to use them sustainably.

Meanwhile, regarding the procedures for using walet bird's nests based on the Decree of the Minister of Forestry Number 100 / KPTS-II / 2003 concerning Guidelines for the Utilization of walet bird's Nests (*Collocalia spp*) which states that:

- (1) Utilization of walet bird's nest can only be done by those who have the right after obtaining permission.
- (2) Permit to use walet bird's nest as referred to in paragraph (1) can be granted to cooperatives, regionally-owned enterprises, private companies, owners of walet bird nest caves/places or customary law communities recognized by the Regional Government.
- (3) Permit to use walet bird's nest is given for a minimum of 3 (three) years and a maximum of 5 (years).

Furthermore, it is added to the provisions of Article 11 Decree of the Minister of Forestry Number 100 / KPTS-II / 2003 concerning Guidelines for Utilization walet bird's Nests (*Collocalia spp*) which states that:

- (1) Application for obtaining a permit to utilize walet bird's nest for Business Entities and for individuals as intended in Article 8 paragraph (1) shall be addressed to the local Regent / Mayor, with the procedures and requirements for granting the permit in accordance with the local Regional Regulation.
- (2) A copy of the utilization permit issued by the Regent / Mayor is submitted to the Director General of Forest Protection and Nature Conservation, the Head of the KSDA Office or the Head of the local National Park Office.

Based on these provisions, licensing provisions in the use of walet birds in Pinrang Regency are required and subsequently become legality that must be obtained by entrepreneurs who utilize walet bird nests because licensing problems for walet bird use have been regulated in the Minister of Forestry Decree Number 100 / KPTS-II / 2003 regarding Guidelines for the Utilization of walet bird's Nests (*Collocalia spp*).

In addition to this, the existence of licensing provisions in the utilization of walet bird's nests can also increase Regional Original Income which in essence is deemed necessary regarding provisions regarding the exploitation of the walet bird's nest, where walet bird's nest is a natural potential that is utilized by humans as a

useful food ingredient. for health that has been cultivated by the community for a long time.

Withdrawal of economic resources through regional taxes must be carried out with clear rules, namely that it is not only regulated by law, but must be lowered to lower regulations, namely through Regional Regulations and / or Regent Regulations so that one source of regional revenue can be applied. This is done to provide legal certainty to the community who will become a source of regional taxes.

With the enactment of Law Number 28 of 2009 concerning Regional Taxes and Regional Retributions, regions will have the opportunity to fully explore the sources of funds available in their regions, while still paying attention to regional economic and social conditions and legal elements. In this law, the Regional Government is allowed to collect several types of new taxes, especially in the Pinrang Regency area, including taxes on walet bird's nest.

In addition, the purpose of the business permit for walet bird utilization by the Pinrang Regency Government is to control walet bird entrepreneurs in order to create an orderly administration and orderliness of business owners against the regulations set by the Pinrang Regency Government and to pay fees for the permits granted as one of the original income. Obtained area.

Based on the results of the author's research, currently the regulation regarding the exploitation of walet birds is still being discussed by the Pinrang Regency regional government in the form of a Regent Regulation draft concerning Guidelines for Issuance of Permits and Recommendations in the Environmental Sector. In the attachment to the Draft Regulation of the Regent, it is stated that walet bird cultivation with an area of $\geq 1,000 \text{ m}^2$ must have an Environmental Management Effort and Environmental Monitoring Effort (UKL-UPL)⁴ and walet bird cultivation with an area $<1,000 \text{ m}^2$ must have a Statement of Capability for Environmental Management and Monitoring. Life (SPPL).⁵ So it can be said that the walet bird nest

⁴ UKL-UPL, is the management and monitoring of businesses and activities that do not have a significant impact on the environment which is required for the decision-making process regarding the operation of a business and activity.

⁵ SPPL is a Statement of Environmental Management carried out by the initiator who is not obliged to have AMDAL and UKL-UPL.

control instrument in Pinrang district is carried out through the ownership of environmental documents, namely UKL-UPL and SPPL.⁶

Based on the provisions concerning the walet bird business in Pinrang Regency, the implementation is not included in the form of regulation regarding the place of business determined by the Regional Government of Pinrang Regency. In fact, the implementation of the walet bird business is not included in the spatial plan for the Pinrang Regency area. This indicates that there is an implementation of a business space that is not mandated by the walet bird business form but in practice the business is still held in an area that is the spatial plan for the area of Pinrang Regency.

The provisions governing the spatial plan for the Pinrang Regency area are regulated in the Pinrang Regency Regional Regulation Number 14 of 2012 concerning the 2012-2032 Pinrang Regency Spatial Planning. This provision emphasizes that the role and function of the spatial plan for the Pinrang Regency area, namely as a tool to realize a balance of development between regions and the continuity of spatial use in Pinrang Regency.

Based on the General Provisions for the Spatial Structure Zoning Regulation, in Article 5 of the Pinrang Regency Regional Regulation Number 14 of 2012 concerning the 2012-2032 Pinrang Tahin District Spatial Plan states that the general provisions of the zoning regulations for the system of activity centers in Pinrang Regency for spatial structures include:

- a. The activities that are allowed according to the designation include activities of district and or sub-district government, trade and service centers at the regency and or district scale, education services, health services, large, medium, and household industrial activities, regional public transportation system services, activities settlements, state defense and security activities, tourism activities, agricultural activities, activities to provide locations and routes for disaster evacuation, and construction of buildings for the purpose of monitoring disaster threats;

⁶ The provisions of Article 36 paragraph (1) and Article 40 paragraph (1) of Law Number 32 of 2009 concerning Environmental Protection and Management, stipulate that every business and activity that is required to have AMDAL or UKL-UPL must have an environmental permit, and a permit, environment is a requirement for obtaining a business license and activity.

- b. Activities that are allowed on condition that include activities other than those referred to in number 1 which meet the technical requirements and do not interfere with the function of the area;
- c. Activities that are not permitted include mining activities, industrial activities that generate pollutants, and activities that block and / or close the location and route of disaster evacuation, as well as other activities that are not in accordance with the designation of the area;
- d. The application of space utilization intensity includes:
 - 1. Application of provisions on building and environmental planning which includes provisions for KDB, KLB, KDH, KTB, as well as building height and GSB to roads⁷;
 - 2. Implementing disaster mitigation-based building and environmental regulations; and
 - 3. Development of residential centers towards high intensity with a maximum KWT⁸ rate of 80% (eighty percent).
- e. Provision of RTH at least 30% (thirty percent) of the total urban area;
- f. Provision of minimum infrastructure and facilities includes:
 - 1. Facilities and infrastructure to support trade and service activities at the regency and or district scale;
 - 2. Pedestrian infrastructure and facilities, public transportation, informal sector activities, as well as disaster evacuation locations and routes;
 - 3. Rainwater retention ponds evenly in every area prone to flooding; and
 - 4. Parking space for the development of a zone with the functions of trade and services, tourism, health, education, and offices.

⁷ KDB is the Basic Building Coefficient, that this rule regulates how in building a building, the building owner is required to leave his land for a water catchment area. KDB is usually expressed as a percentage. KLB is the Building Floor Coefficient, which is the ratio between the total building area compared to the land area. The building area calculated by the KLB is the entire area of the existing building, starting from the ground floor to the floor above. Outbreaks are usually expressed in numbers such as 1.5: 2 and so on. KDH is the Green Area Coefficient, which is the percentage figure of the ratio between the total area of open space outside the building designated for gardening/greening of the land area controlled. KTB is the Coefficient of Land Use, that is, the percentage figure of the ratio between the land area of the land and the area of mapped land/planning area controlled. GSB is a Building Boundary Line, which is a rule by the local government that regulates the boundaries of land that can and cannot be built. Buildings erected must not exceed the boundaries of this line.

⁸ KWT is the Coefficient of Built Area, which is the ratio between the area of the built-up area and the area of the entire area.

Regarding the designation related to the utilization of the walet bird business which if categorized as a business in livestock is regulated within the agricultural designation area in Article 38 paragraph (1) of the Pinrang Regency Regional Regulation Number 14 of 2012 concerning the 2012-2032 Pinrang Regency Spatial Plan states that the agricultural allotment area in Pinrang Regency as meant in Article 35 letter c, consists of:

- a. Food crop agricultural areas;
- b. Horticultural agricultural areas;
- c. Plantation designated area;
- d. Livestock designated areas.

Whereas regarding the area designated for livestock as stated in the provisions above stated in Article 38 paragraph (5) Pinrang Regency Regional Regulation Number 14 of 2012 concerning the 2012-2032 Pinrang Regency Spatial Plan, namely that the area designated for livestock as referred to in paragraph (1) letter d, consists of:

- a. Areas for large livestock development are designated in parts of Suppa District, parts of Mattiro Sompe District, parts of Lanrisang District, parts of Mattiro Bulu District, parts of Patampanua District, parts of Cempa District, parts of Duampanua District, parts of Batulappa District, and parts of the Lembang District; and
- b. Areas for poultry development are designated in parts of Suppa District, parts of Mattiro Sompe District, parts of Lanrisang District, parts of Mattiro Bulu District, parts of Watang Sawitto District, parts of Paleteang District, parts of Tiroang District, parts of Patampanua District, part of Cempa Subdistrict, part Duampanua District, part Batulappa Subdistrict, and part Lembang Subdistrict.

Based on the provisions governing the Pinrang Regency Spatial Layout which states that the scope of the Pinrang Regency Spatial Zoning, does not provide a form of regulation intended for the Walet Bird business. The walet birds business in this case is a new phenomenon in the spatial layout of Pinrang Regency which is an ongoing business form carried out by the people of Pinrang Regency and is within the scope of unplanned zoning. This has a legal impact on the operation of walet

birds in Pinrang Regency. Furthermore, regarding the implementation, the community in this case who runs the walet birds business must comply with the implementation of the provisions of the Pinrang Regency Spatial Planning. Provisions regarding community obligations are described in Article 85 of the Pinrang Regency Regional Regulation Number 14 of 2012 concerning the 2012-2032 Pinrang Regency Spatial Planning which states that the community's obligations in spatial planning consist of:

Obey the established spatial plan;

1. To utilize space in accordance with the given space utilization permit;
2. Comply with the provisions stipulated in the space utilization permit requirements; and
3. Provide access to areas that are declared public property by statutory provisions.

Based on these provisions, the obligations of the community in spatial planning for the Pinrang Regency area are understood as a form of participation in maintaining spatial quality and obligations by complying with the spatial plan for the Pinrang Regency area that has been determined.

Meanwhile, if there is a violation of the obligation to spatial planning, in this case it becomes a place for walet bird nest business which in practice does not have a form of regulation intended for walet bird nest business which results in a violation of the stipulated regional spatial plan.

Sanctions for violations, which are stated in Article 86 of the Pinrang Regency Regional Regulation Number 14 of 2012 concerning the 2012-2032 Pinrang Regency District Spatial Planning that everyone who violates the provisions referred to in Article 85, will be subject to administrative sanctions.

Regarding administrative sanctions in its implementation, it is regulated in Article 87 of the Pinrang Regency Regional Regulation Number 14 of 2012 concerning the 2012-2032 Pinrang Regency Spatial Planning, in the form of:

- a. Written warning;
- b. Temporary suspension of activities;
- c. Temporary suspension of public services;
- d. Location closure;

- e. Revocation of license;
- f. Cancellation of license;
- g. Demolition of buildings;
- h. Restoration of space functions; and
- i. Administrative fines.

In addition, the form of implementation of administrative sanctions in these provisions is stated in Article 88, Article 89, Article 90, and Article 91 of Pinrang Regency Regional Regulation Number 14 of 2012 concerning 2012-2032 Pinrang Regency Spatial Planning, namely:

Article 88

Violation of the provisions as referred to in Article 85 letter a in the form of spatial use inconsistent with the stipulated spatial planning includes:

- a. Utilizing space with a space utilization permit in a location that is not in accordance with its designation;
- b. Utilizing space without a space utilization permit in a location according to its designation; and / or
- c. Utilizing space without a space utilization permit in a location that is not according to its designation.

Article 89

Violation of the provisions as referred to in Article 85 letter b in the form of space utilization that is not in accordance with the space utilization permit issued by the authorized official includes:

- a. Not following up on space utilization permits that have been issued; and / or
- b. Utilizing space is not in accordance with the space function stated in the space utilization permit.

Article 90

Violation of the provisions as referred to in Article 85 letter c in the form of spatial use that does not comply with the requirements for a permit issued by the competent official includes:

- a. Breaking the predetermined boundaries;
- b. Violating the provisions of the predetermined building floor coefficient;
- c. Violating the basic building coefficient and green base coefficient;

- d. Changing part or all of the function of the building;
- e. Change part or all of land functions; and / or
- f. Does not provide social facilities or public facilities in accordance with the requirements in the space utilization permit.

Article 91

Violation of the provisions referred to in Article 85 letter d in the form of blocking access to areas declared by statutory regulations as public property include:

- a. Close access to coasts, rivers, and natural resources and public infrastructure;
- b. Close access to water sources;
- c. Close access to parks and green open spaces;
- d. Close off access to pedestrian facilities;
- e. Close access to disaster evacuation locations and routes; and / or
- f. Closing access to public roads without the permission of the authorized official.

D. CLOSING

1. Conclusion

The accountability of local governments is hampered, in the absence of an explicit form of regulation regarding the use of walet bird nests, and and walet bird entrepreneurs following allotments including regarding the designation of the Pinrang Regency area. Thus, the implementation of the walet bird business must comply with the existing regulations regarding the spatial plan for the Pinrang Regency area. Legal impact on the form of walet birds nest business, in this case related to the place of business, it must follow the form of legislation in force in Pinrang Regency. The place of business for the walet bird can also be subject to sanctions if the business of the walet bird is not in accordance with the designation of the spatial plan for the area of Pinrang Regency as mentioned in the discussion above.

2. Suggestion

It takes serious and special attention from the Regional Government of Pinrang Regency regarding the walet bird business which has become a phenomenon that needs to be controlled against the bird business by establishing a legal form of

regional regulations regarding the use of the walet bird business in a package of policies containing clear rules, prohibitions and sanctions for walet bird nest entrepreneurs so that supervision and control can run effectively.

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