

Legal Politics of Indonesian Environmental Management: Discourse between Maintaining Environmental Sustainability and Economic Interests

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ABSTRACT: Environmental management in Indonesia has undergone various policy changes, in addition to overlapping interrelated legal regulations. Environmental management in addition to dealing with aspects of nature conservation, is also related to economic aspects, investment, and sustainable development. On the one hand there is an interest in preserving nature and protecting nature as it should be, but on the other hand there is a shift in interests, especially about investment and economic interests. This study aims to analyze the political direction of environmental management law in Indonesia.

KEYWORDS: Environmental Sustainability, Environmental Protection, Legal Discourse, Politics of Law



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I. INTRODUCTION

Since the 1980s, the environmental political agenda has begun to focus on the paradigm of sustainable development. At first, this term appeared in the World Conservation Strategy of the International Union for the conservation of Nature (1980), then used by Lester R. Brown in the book *Building a Sustainable Society* (1981). The term later became very popular through Brundtland, *Our Common Future* (1987).¹ Prior to the amendment to the 1945 Constitution, Article 33 paragraph (3) was the only constitutional provision relating to the management of the environment and natural resources. Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (*UUPA*) stipulates that state power on the basis of Article 33 paragraph (3) of the 1945 Constitution includes the authority given to the Government to regulate the designation, use, supply, maintenance and legal relations between legal subjects and legal actions with natural resources.² The above provisions have been the

¹ Lester R. Brown, *Building a sustainable society*. WW Norton & Company, Inc., 500 Fifth Avenue, New York, NY 10110, 1981; Lester R. Brown, *Eco-economy: Building an Economy for the Earth*. Routledge, 2013. See also Lester R. Brown, "We can build a sustainable economy." *The Futurist* 30, No. 4 (1996), p. 8; Lester R. Brown, Gary Gardner, and Brian Halweil. *Beyond Malthus: The Nineteen Dimensions of the Population Challenge*. (London: Routledge, 2014).

² Rofi Wahanisa, "Tinjauan Pengaturan Hukum Konservasi Sumber Daya Alam Hayati dalam Berbagai Putusan Mahkamah Konstitusi." *Jurnal Konstitusi* 18, No. 2 (2021): 391-412; Orian Reizal de Rooy, Hendrik Salmon, and Reny Heronia Nendissa. "Hak Atas Tanah Pada Kawasan Konservasi." *PAMALI: Pattimura Magister Law Review* 1, No. 1 (2021): 40-54; Nikmah

basis for the legitimacy of the government in implementing the development and utilization of natural resources in Indonesia.

Indonesia's development which conceptually began in the First Five-Year Development Plan (1969-1974) cannot be separated from Indonesia's new economic policy in the field of investment, both foreign investment and domestic investment. This policy in the field of capital has initiated the conception of Indonesia's development. Development related to the exploitation of natural resources, especially in the mining and forestry sectors and industrial activities in general, is a priority for the Government. To support the investment policy and the Government's priorities, various sectoral laws relating to the management (exploitation) of natural resources have been issued.³ However, at that time the environmental aspect had not yet been included in the conception of development.

The concept of development that considers this environmental aspect which is legally formally stated in the legal policy of the

Fitriah, "Legal Principles of The Utilization of Natural Resources." *DE JURE: Critical Laws Journal* 1, No. 1 (2020): 79-98.

³ Overexploitation of natural resources in Indonesia has the potential to cause wider environmental damage. This condition is increasingly complicated, considering that violations of spatial planning in various regions in Indonesia are increasingly massive. In fact, even though Indonesia is a country with the 8th largest forest area in the world with a forest area of 120.6 million hectares, or about 63 percent of the total land area of Indonesia, Indonesia's forest deforestation has been ranked the third highest in the world in 2018. Since 2015 about 30 percent of conservation forest is damaged due to forest encroachment by the community. For further discussion concerning this issue, *please also see* Nurul Listiyani, Muzahid Akbar Hayat, and Subianta Mandala. "Penormaan pengawasan izin lingkungan dalam pencegahan pencemaran dan kerusakan lingkungan hidup dalam eksploitasi sumber daya alam." *Jurnal Media Hukum* 25, No. 2 (2018): 217-227; Tonny Pariella, "Dampak Eksploitasi Sumberdaya Alam Kelautan dan Perikanan Terhadap (Kondisi) Sosial Ekonomi Masyarakat." *Prosiding Seminar Nasional Kelautan dan Perikanan UNPATTI* 1 (2019); Rahmat Ramadhani, "Peran Politik Terhadap Pembangunan Hukum Agraria Nasional." *SOSEK: Jurnal Sosial dan Ekonomi* 1, No. 1 (2020): 1-6; Adi Arta Kelana Putra, "Hipotesis Kutukan Sumber Daya Alam dan Otonomi Daerah", *Dissertation* (Yogyakarta: Universitas Gadjah Mada, 2013).

environmental management law and the legal instruments contained in it become less effective in achieving the objectives of the environmental management law when dealing with sectoral laws which also refers to itself as the main law/umbrella in the regulation and management of certain natural resources. The management of the environment and natural resources is a fundamental problem in the sustainability of development and the national economy. The environmental crisis and the destruction of natural resources are common development phenomena. The average rate of deforestation (forest destruction and forest shrinkage) in Indonesia recorded in the 2000-2005 period is still high, namely $\pm$ 1 million ha. The critical land that has been determined by the Ministry of Forestry to be rehabilitated is 59 million ha inside the forest area and 41 million ha outside the forest area. Damage to forests and land spreads to other environmental crises such as floods, landslides, droughts, smog, to global warming and climate change.

Aspects of the preservation of environmental functions that play an important role in the sustainability of development itself are still neglected in the development process. Such as Government Regulation Number 2 of 2008 concerning Types and Tariffs on Types of Non-Tax State Revenues Derived from the Use of Forest Areas for Development Purposes Outside Forestry Activities. This Government Regulation which is based on Law Number 41 of 1999 concerning Forestry is considered a policy that does not support forest conservation efforts, and even causes the loss of forest ecological functions due to the use of forests for purposes other than forestry.

Through the tariff mechanism, forest areas become very open. used for activities outside the forestry sector.⁴

Although there have been provisions in Article 28H paragraph (1) stipulated in the second amendment to the 1945 Constitution and Article 33 paragraph (4) which was stipulated in the fourth amendment to the 1945 Constitution, the paradigm and activities of environmental management remain oriented towards the utilization or use (exploitation) of natural resources by making Article 33 paragraph (3) of the 1945 Constitution the justification and basis for its constitutionality. The presence of Article 28H paragraph (1) which emphasizes the close relationship between the management of the environment and natural resources with the fulfillment of the human rights of every citizen to a good and healthy environment, and Article 33 paragraph (4) which emphasizes that the implementation of development within the framework of the national economy must be based on the principles of sustainability and environmental insight, has not yet become a policy framework together with Article 33 paragraph (3) of the 1945 Constitution in environmental management and sustainable development in Indonesia. In fact, based on the provisions of the amendment, basically the constitutional basis for environmental management and utilization of natural resources is no longer a single one based solely on Article 33 paragraph (3) of the 1945 Constitution, but is bound by the provisions of Article 28H paragraph (1). and Article 33 paragraph (4) of the 1945 Constitution.

⁴ Wahyu Nugroho, and Mas Subagyo Eko Prasetyo. "Forest Management and Environmental Law Enforcement Policy against Illegal Logging in Indonesia." *International Journal of Management* 10, No. 6 (2019); Christopher Barr, et al. "Decentralization and recentralization in Indonesia's forestry sector: summary and recommendations." *Decentralization of forest administration in Indonesia. Implications for Forest Sustainability, Economic Development and Community Livelihoods*. Center for International Forestry Research, Bogor, Indonesia (2006): 121-133.

For more than a decade, problems related to pollution of the human environment have received very serious attention from the international community. Problems such as population explosion, increasing number of poor people, rapid urbanization, abandonment of rural lands, and industrial development that does not take into account the resilience of natural resources have concerned many groups such as politicians, intellectuals, community leaders, and others. development critics. On various occasions at international meetings, this well-founded concern was expressed in important political declarations which could be viewed as criticisms of development styles that ignore the demands of ecological balance. Even in its development to this day, the sustainable development paradigm declared by politicians, intellectuals, and environmentalists⁵ in the world is not implemented according to what has been mutually agreed upon, it can be said to have failed. it can be seen from the environmental damage caused by greenhouse gases, the earth is getting hotter, and climate change is happening all over the world, including in Indonesia.

The legal politics of environmental management shows the direction of legal policies on environmental management that will be formed and implemented by the government to achieve certain goals and objectives. Apart from being determined by national interests, these goals and objectives are also influenced by international (global) policies. Therefore, the politics of environmental law has dynamics, in accordance with the development of national interests and related global policies. Along with the change in the government system from centralized to decentralized, environmental policies began to be

⁵ Bryan G Norton, *Toward unity among environmentalists*. (Oxford University Press, 1994); Stewart Barr, "Are we all environmentalists now? Rhetoric and reality in environmental action." *Geoforum* 35, No. 2 (2004): 231-249.

regulated in various legal products of regional autonomy. It's just that substantially apart from disharmony with environmental law politics, there are also inconsistencies in the formulation of provisions with one another. As a result, Regional environmental authority and institutional arrangements are weak and interregional cooperation in the environmental field has not been well developed. In the end, environmental conditions in the era of regional autonomy did not get better than before.

According to A Sonny Keraf, the causes of the failure to implement the paradigm are, (a) the paradigm is poorly understood as containing the working principles that determine and animate the entire development process. (b) why the paradigm does not work, especially why the ecological crisis still occurs, because the paradigm reaffirms the ideology of developmentalism. The ideology of developmentalism prioritizes the interests of development that is oriented to economic growth, as a result of development that focuses more on economic growth is the occurrence of robbery of natural resources on a large scale that no longer cares about environmental sustainability, and everywhere environmental damage and pollution occur. environment caused by development that only pursues economic growth.⁶

The ideals and main agenda of sustainable development are none other than efforts to synchronize, integrate, and give equal weight to three main aspects of development, namely economic aspects, socio-cultural aspects, and environmental aspects. The idea behind it is, economic, socio-cultural, and environmental development should be viewed as interrelated, so that the elements of this interrelated entity

⁶ A. Sonny Keraf, *Etika Lingkungan Hidup*. (Jakarta: Penerbit Buku Kompas, 2010).

should not be separated or contradicted one another. Development that only pursues economic growth must also be coupled with a socio-cultural development approach and environmental development.⁷

Furtermore, in Indonesia, there has been a misguided understanding of sustainable development, the understanding here is an understanding that only focuses on economic development as the only one in national development. It has been mentioned above that development that relies on economic growth will only bring the Indonesian nation into ruin, poverty, ignorance, not to mention contracting diseases caused by environmental pollution by the company, and the declining quality of natural resources that affect socio-cultural life. surrounding communities whose lives depend on natural resources. Article 1 Number 3 of Law Number 32 of 2009 concerning Environmental Protection and Management, sustainable development, namely a conscious and planned effort that integrates environmental, social, economic aspects into a development strategy to ensure the integrity of the environment as well as the safety, capabilities, welfare, and quality of life of present and future generations.⁸

⁷ Ljiljana Stošić Mihajlović, and Svetlana Trajković. "The Importance of Energy for The Economy, Sustainable Development and Environmental Protection: An Economic Aspect." *Journal of process management and new technologies* 6, No. 1 (2018); Olena Dovgal, et al. "Sustainable ecological development of the global economic system. The institutional aspect." *Journal of Environmental Management and Tourism* 11, No. 3 (2020): 728-740; Piotr F. Borowski, and Iaroslav Patuk. "Environmental, social and economic factors in sustainable development with food, energy and eco-space aspect security." *Present Environment & Sustainable Development* 15, No. 1 (2021); Regina Butarbutar, and Soemarno Soemarno. "Environmental effects of ecotourism in Indonesia." *Journal of Indonesian Tourism and Development Studies* 1, No. 3 (2013): 97-107.

⁸ Hania Rahma, et al. "Development of a composite measure of regional sustainable development in Indonesia." *Sustainability* 11, No. 20 (2019): 58-61; I. Made Jiwa Astika, Avando Bastari, and Okol Sri Suharyo. "The Policy of Environmental and Sustainable Development in Indonesia." *International Journal of Progressive Sciences and Technologies* 27, No. 1 (2021): 267-276;

Sustainable development has the following characteristics: *first*, providing the possibility for survival by preserving the functions and capabilities of the ecosystem that supports it, either directly or indirectly, *second*, utilizing natural resources as much as nature or management technology is able to produce them sustainably, *third* providing opportunities for other sectors and activities to develop together both in the same area and time period as well as in different regions and periods of time continuously, *forth*, increase and preserve the ability and function of ecosystems to supply natural resources and protect and support livelihoods in a sustainable manner continuously, *fifth*, using procedures and procedures that take into account the sustainability of ecosystem functions and capabilities to support livelihoods, both now and in the future.

Here it can be seen that increasing economic growth is also good for improving per capita income and can improve the welfare of people who have so many natural resources by exploiting natural resources as much as possible, but it is not realized that the consequences of overexploiting natural resources can cause damage. The environment is very large, not to mention social conflicts at the community level caused by overexploitation of natural resources. ManagementThe environment is very closely related to realizing the welfare of the people, with good and correct environmental management it can realize the welfare of the people in a country. And the state administrators here must work even better in order to fulfill the welfare of the people by utilizing or controlling these natural resources properly.⁹

Pearce, David, Edward Barbier, and Anil Markandya. *Sustainable development: economics and environment in the Third World*. (London: Routledge, 2013).

⁹ Thorvaldur Gylfason, and Gylfi Zoega. "Natural resources and economic growth: The role of investment." *World Economy* 29, No. 8 (2006): 1091-1115; Thorvaldur Gylfason, Tryggvi Thor

Protection and management of natural resources and maintain their carrying capacity so that they are beneficial for improving people's welfare from generation to generation. Alenia IV of the Preamble to the 1945 Constitution of the Republic of Indonesia, one of the goals of the State is to promote general welfare, to realize general welfare. The 1945 Constitution of the Republic of Indonesia mandates the State to control all natural resources, which is clearly stated in Article Article 33 paragraph 3 of the 1945 Constitution which states that "*Earth, water and natural resources contained therein are controlled by the State and used as much as possible for the prosperity of the people*". That in fact the control and/or authority that the State has in managing natural resources must fulfill the wishes of all Indonesian people. As stated above, to realize the ideals and main agenda of sustainable development is none other than efforts to synchronize, integrate, and give equal weight to three main aspects of development, namely economic aspects, socio-cultural aspects, and environmental aspects.¹⁰ This does not mean that the economic aspect is not important, but how can these three aspects be related to each other.

Herbertsson, and Gylfi Zoega. "A mixed blessing: natural resources and economic growth." *Macroeconomic dynamics* 3, No. 2 (1999): 204-225; Thorvaldur Gylfason, "Natural resources and economic growth: From dependence to diversification." *Economic liberalization and integration policy* (2006): 201-231. See also Fitri Nurfatriani, "Konsep nilai ekonomi total dan metode penilaian sumberdaya hutan." *Jurnal Penelitian Sosial dan Ekonomi Kehutanan* 3, No. 1 (2006): 1-16; Rose Fitria Lutfiana, "Globalisasi Ekonomi, UU Neoliberal Dan Masa Depan Kekayaan SDA Indonesia." *Jurnal Pendidikan Ilmu Sosial* 23, No. 2 (2014): 68-81.

¹⁰ Rachman, Irfan Nur. "Politik Hukum Pengelolaan Sumber Daya Alam Menurut Pasal 33 UUD 1945." *Jurnal Konstitusi* 13.1 (2016): 195-212; Redi, Ahmad. "Dinamika Konsepsi Penguasaan Negara Atas Sumber Daya Alam." *Jurnal Konstitusi* 12.2 (2016): 401-421; Hamzah, Herdiansyah. "Politik Hukum Sumber Daya Alam." *Jurisprudentie: Jurusan Ilmu Hukum Fakultas Syariah dan Hukum* 6.2 (2019): 276-290; Risnain, Muh. "Refleksi Cita Hukum Pancasila Dalam Pengaturan Pengelolaan Sumberdaya Alam." *Jurnal IUS Kajian Hukum dan Keadilan* 8.2 (2020): 312-325.

II. METHODS

The method used in this study is library research and comparative approach. That is a method that is carried out by studying and collecting data from libraries related to themes and titles, both in the form of books and articles and journals. Information obtained from various literatures and compiled based on the results of the study of the information obtained. Writing strives to be interrelated with each other and in accordance with the topics discussed. The data collected is selected and sorted according to the topic of study. Then the preparation of the paper based on the data that has been prepared logically and systematically is carried out. Conclusions are obtained after referring to the formulation of the problem, as well as discussion. The conclusions drawn represent the subject matter of the paper and are supported by practical suggestions as further recommendations.

II. ENVIRONMENTAL MANAGEMENT LEGAL POLITICS IN INDONESIA

Based on the political meanings and assumptions above, the study of legal politics covers at least three levels, *first* legal politics in the sense of legal policy: the official state line regarding laws that will be enforced and will not be enforced (making new ones, replacing old ones), *second* legal politics in the sense of political struggles and debates which then give birth to law based on the assumption that law is a political product, and *third*, legal politics in the sense of implementing legal policies in the field. Legal politics, in simple terms, can be formulated as: "*The legal policy that will be and or has been implemented nationally by the government includes an understanding of how legal politics affects the law by looking at the configuration of power*

behind the formation and enforcement of the law". The definition of law cannot only be seen as imperative articles or *das sollen* imperatives but must be seen as a subsystem which in reality (*das sein*) is not impossible to be very much determined by politics, both in the formulation of the content material and the articles as well as in its implementation and enforcement.¹¹

According to Abdul Hakim Garuda Nusantara, the definition of legal politics is a legal policy that will be or has been implemented nationally by the Indonesian government, which includes: first, legal development with the core of making and updating legal materials so that they are in accordance with needs; second, the implementation of existing legal provisions, including the affirmation of the function of the institution and the guidance of law enforcers.¹²

Political legal reform, according to the Indonesian Center for Environmental Law (ICEL), should be carried out in a comprehensive and integrated manner and lead to improvements in 6 (six) things, namely:

1. Representative institutions capable of carrying out effective control functions (effective representative system)
2. A judiciary that is free from executive interference, clean (not corrupt), and professional

¹¹ Hum, M., H. Abdul Manan, and S. IP. *Dinamika politik hukum di Indonesia*. Kencana, 2020; Anggoro, Syahriza Alkohir. "Politik Hukum: Mencari Sejumlah Penjelasan." *Jurnal Cakrawala Hukum* 10.1 (2019): 77-86; Sihombing, Eka NAM. *Politik Hukum*. Penerbit EnamMedia, 2020. See also Kairys, David. *The politics of law: A progressive critique*. Basic Books, 1998; King, Michael, and Christopher J. Thornhill. *Niklas Luhmann's theory of politics and law*. Basingstoke: Palgrave Macmillan, 2003; Rosenbloom, David H., Robert S. Kravchuk, and Richard M. Clerkin. *Public administration: Understanding management, politics, and law in the public sector*. Routledge, 2009.

¹² Nusantara, Abdul Hakim Garuda, and Abdul Hakim. "Politik Hukum Nasional." *Makalah pada karya latihan Bantuan Hukum, diselenggarakan Yayasan LBH Indonesia dan LBH Surabaya* (1985).

3. Government apparatus (bureaucracy) who are professional and have strong integrity
4. A strong civil society so that it is able to carry out the functions of public control (public watchdog) and pressure (pressure).
5. Decentralization and strong regional representative institutions supported by strong local civil society (democratic decentralization);
6. There is a conflict resolution mechanism.¹³

Article 20, Article 21, Article 28H paragraph (1), as well as Article 33 paragraph (3) and paragraph (4) of the 1945 Constitution of the Republic of Indonesia, are considerations in view of Law Number 32 of 2009. That law is a political product can be understood when it is understood the provisions of Article 20 of the 1945 Constitution of the Republic of Indonesia which stipulates:

1. The House of Representatives holds the power to make laws
2. Each draft law is discussed by the House of Representatives and the President for mutual approval
3. If the draft law does not get mutual consent, the bill cannot be submitted again in the session of the House of Representatives at that time
4. The President ratifies a draft law that has been mutually agreed upon to become law

¹³ See and also Hakim, Dani Amran. "Politik Hukum Lingkungan Hidup di Indonesia Berdasarkan Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup." *Fiat Justisia: Jurnal Ilmu Hukum* 9.2 (2015); Wibawa, I. Putu Sastra. "Politik Hukum Perlindungan dan Pengelolaan Lingkungan Menuju Ekokrasi Indonesia." *Kanun Jurnal Ilmu Hukum* 18.1 (2016): 51-68; Said, M. Yasir, and Yati Nurhayati. "Paradigma Filsafat Etika Lingkungan dalam Menentukan Arah Politik Hukum Lingkungan." *Al-Adl: Jurnal Hukum* 12.1 (2020): 39-60.

5. In the event that the jointly approved draft law is not ratified by the President within 30 days of the approval of the draft law, the draft law becomes law and must be promulgated.

From several descriptions of the definition of legal politics, it can be seen that legal politics includes the process of making and implementing laws that can indicate the nature and direction in which the law will be built. The 1945 Constitution of the Republic of Indonesia is the basis of the legal policy of environmental protection and management in Indonesia.

Article 28 H paragraph 1 states: *"Everyone 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 have the right to obtain health services."*

Article 33 paragraph (3) states: *"Earth and water and the natural resources contained therein are controlled by the State and used for the greatest prosperity of the people."* Article 33 paragraph (4) states: *"The national economy is organized based on economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental insight, independence, and by maintaining a balance of progress and national economic unity."*

From the provisions of Article 28H paragraph (1), Article 33 paragraph (3), (4) and (5) of the 1945 Constitution, there are 5 important things that become state legal policies in environmental management and utilization of natural resources¹⁴:

1. Environmental management and utilization of natural resources must be placed within the framework of recognizing, protecting

¹⁴ Widiyantoro, Bambang, and Evi Rumata Parapat. "Das Sein dan Das Sollen Dalam Sistem Undang-Undang Pokok Agraria (UUPA) di Indonesia." *Majalah Ilmiah SOLUSI* 10.20 (2011). See also Herdiansyah, Herdis. "Pengelolaan konflik sumber daya alam terbarukan di perbatasan dalam pendekatan ekologi politik." *Jurnal Hubungan Internasional* 7.2 (2019): 144-

and fulfilling the human rights of every citizen to a good and healthy environment. In other words, the human right to a good and healthy environment cannot be sacrificed due to the implementation of development and utilization of natural resources.

2. Environmental management and utilization of natural resources are the responsibility of the state, where through the state's right to control, the state makes rules and policies for the use of the environment and natural resources.
3. The welfare of the people becomes the philosophical and sociological basis for all activities and activities of environmental management and the utilization of natural resources for the welfare of the people.
4. Environmental management and utilization of natural resources is a means to achieve sustainable development with an environmental perspective, in the sense that the objectives of environmental management and utilization of natural resources include not only the welfare of the people, but also aspects of environmental sustainability and national economic progress.
5. There is a delegation of further regulations regarding environmental management by law.

III. MAIN ISSUE ON INDONESIAN ENVIROMENTAL LAW: TO PROTECT OR TO EXPLORE?

Prior to the enactment of Law Number 32 of 2009 concerning Protection and Management and Protection of the Environment, was born before the existence of regional autonomy, because as we all know before the birth of regional autonomy all authority was in the central government, including the authority to regulate the

environment and natural resources. With the implementation of regional autonomy in 2001, the authority of the central government was decentralized to local governments, including to regulate the environment and natural resources. From these matters, a new Environmental Law which is more comprehensive, consistent, and substantive is needed.

Article 33 paragraph (4) of the 1945 Constitution explicitly states that the national economy is based on sustainable principles and is environmentally sound. Associated with the provisions of Article 33 paragraph (3) of the 1945 Constitution, the management of the environment and natural resources, which basically has an important role in driving the national economy, is of course also bound to the principles of sustainability and environmental insight. Management of the environment and natural resources based on the principles of sustainability and environmental insight in the legal conception of development is known as sustainable development.¹⁵

According to Daud Silalahi, in sustainable development, the use of natural resources in the context of development must be used rationally, which means that it can provide the greatest possible benefit, without harming the interests of future generations. This means, in development, the principle of sustainability is applied to natural resources and then utilizes these natural resources without damaging the human environment. To avoid the irrational use of

¹⁵ Dewi, Dahlia Kusuma, et al. "Izin Lingkungan dalam Kaitannya dengan Penegakan Administrasi Lingkungan dan Pidana Lingkungan Berdasarkan Undang-undang No. 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup (Uupplh)." *USU Law Journal* 2.1 (2014): 124-138; Silalahi, Daud. "Peranan dan Kedudukan Hukum Lingkungan Internasional Dewasa Ini." *Indonesian Journal of International Law* 2.2 (2005): 2; Silalahi, Daud. "Analisis Mengenai Dampak Lingkungan dalam Sistem Hukum Lingkungan Indonesia." *Mandar Maju, Bandung* (1995).

natural resources, government intervention is required in the management of these natural resources. The provisions of Article 33 paragraph (3) of the 1945 Constitution place the responsibility of the government in regulating the management of the environment and natural resources in it.

Thus, Law Number 32 of 2009 concerning Environmental Protection and Management was born. Philosophically, Law Number 32 of 2009 concerning the Protection and Management and Protection of Life, views and appreciates the importance of human rights in the form of the right to a good and healthy environment for citizens.¹⁶ The 1945 Constitution of the Republic of Indonesia states that a good and healthy environment is a human right and a constitutional right for every Indonesian citizen. Therefore, the state, government and all stakeholders are obliged to protect and manage the environment in the implementation of sustainable development so that the Indonesian environment can remain a source and life support for the Indonesian people and other living creatures. Article 1 Number 2 of Law Number 32 of 2009 concerning Protection and Management and Protection of Life, reads: "*Environmental protection and management is a systematic and integrated effort carried out to preserve environmental functions and prevent environmental pollution and/or damage which includes planning, utilization, control, maintenance, supervision, and law enforcement.*"

In this new legal policy on environmental management and protection, it is clear that the construction and flow of legal political

¹⁶ Kotijah, Siti. "Gugatan Perwakilan Kelompok (Class Action) dalam Penegakan Hukum Lingkungan di Kalimantan Timur." *Risalah Hukum* (2006): 125-132; Kotijah, Siti. "Implementasi Prinsip-Prinsip Kehutanan dalam Rangka Konservasi Kehutanan." *Jurnal Magister Hukum* 1.2 (2010).

thought as a legal policy has contained the ideals of the nation, the goals of the state, and the ideals of the law. The legal policies for environmental management and protection in Indonesia have the following objectives:

1. Protect the territory of the Unitary State of the Republic of Indonesia from pollution and/or environmental damage.
2. Ensure safety, health, and human life.
3. Ensuring the survival of living things and the sustainability of the ecosystem.
4. Maintaining the preservation of environmental functions.
5. Achieving harmony, harmony, and environmental balance.
6. Ensuring the fulfillment of justice for present and future generations.
7. Ensuring the fulfillment and protection of the right to the environment as part of human rights.
8. Controlling the wise use of natural resources.
9. Realizing sustainable development.
10. Anticipating global environmental issues.¹⁷

To realize the objectives stated above, Law Number 32 of 2009 concerning Environmental Management and Protection, the contents of which are first shortened to 6Ps, namely planning, utilization, control, maintenance, supervision, and law enforcement, to preserve environmental functions. life and prevent pollution and/or environmental damage.¹⁸ As the basis for the protection and management of the environment is planning. With good and correct planning, environmental protection and management will be able to

¹⁷ Article 3 of Law Number 32 of 2009 concerning Environmental Protection and Management (Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup, LN. 2009/ No. 140, TLN No. 5059). (Jakarta: Sekretariat Negara, 2009).

¹⁸ Article 4 of Law Number 32 of 2009 concerning Environmental Protection and Management.

run well as well. Likewise, the use, control, supervision, and law enforcement can be good and correct if the planning is also good beforehand environmental support and capacity in the utilization of natural resources. So that the utilization of natural resources is not damaged, the sustainability of the processes, functions and capacity of the environment is to maintain the preservation of environmental functions.

IV. IMPLEMENTATION OF LEGAL POLICIES (LAW NUMBER 32 OF 2009 CONCERNING ENVIRONMENTAL MANAGEMENT AND PROTECTION)

What has been discussed above is the main content of Law Number 32 of 2009 concerning Environmental Management and Protection, there are a few things that need to be criticized from the Law, namely, Article 46, which reads: *"In addition to the provisions as referred to in Article 45, in the context of restoring environmental conditions whose quality has been polluted and/or damaged at the time this law is enacted, the Government and regional governments are required to allocate a budget for environmental restoration"*.

From this provision, it is very detrimental to the people and the government itself in terms of environmental management. What we all know is that in 2000-2008 there was a lot of damage done by irresponsible individuals in terms of preserving the environment, such as illegal logging, coal mining activities for which the mining entrepreneur had no intention of not reclaiming land that had already been cleared in the scraping of its natural resources, so everywhere in the mining area there are gaping holes like a pool of water.¹⁹

¹⁹ Smith, Joyotee, et al. "Illegal logging, collusive corruption and fragmented governments in Kalimantan, Indonesia." *International Forestry Review* 5.3 (2003): 293-302; Linkie, Matthew, et

The discussion regarding the components of the legal application system includes three main components, namely the legal components that will be applied, the institutions that will implement them, and personnel from these implementing institutions which generally include administrative institutions and judicial institutions, such as the police, prosecutors, judges, and various other institutions. an institution that functions to administer the law administratively at the executive level.²⁰

No matter how good a legal product is made by the Central Government or the House of Representatives (DPR), everything only depends on the relevant agencies or interested parties. The legal product must have expertise in the environmental field, as well as environmental law enforcement which must be clear and not overlapping. with the existing regulations under it and the awareness of the community itself is very much needed in terms of environmental management and protection. Furthermore, A Sonny Keraf provided several important notes in the implementation of the new environmental law, *first*, the law should not only be seen as a legal instrument to protect the interests of the environment. Moreover, it should not be seen as a stumbling block for development and economic interests in various sectors. *Second*, in order to carry out all the duties and authorities regulated in this law, it is realized that a Ministry of Environment and Forestry of the Republic of Indonesia is needed, which has more power, and vnd very large budget support

al. "Breaking the vicious circle of illegal logging in Indonesia." *Conservation Biology* 28.4 (2014): 1023-1033; Dudley, Richard G. "Dynamics of illegal logging in Indonesia." *Which Way Forward? People, Forests, and Policymaking in Indonesia* (2002): 358-382.

²⁰ Lili Rasjidi and I B Wyasa Putra, *Hukum Sebagai Sistem*, (Bandung: Publisher CV. Mandar Maju, 2003), p.165

for the Ministry in carrying out the responsibilities, duties, functions, and authorities mandated by this law.

Third, all stakeholders (DPR, mass media, experts, and environmental activists as well as non-governmental organizations in the environmental field) are expected to be invited to be involved in one form or another according to their respective roles to jointly succeed in the implementation of the Law. this as a dream and a common answer to various global environmental crises and disasters, and the Ministry must be willing to open up and embrace various stakeholders to play an active role in supporting the implementation of this Law. And no less important is the effort to convince other sectors that, *firstly*, the environment is a common problem that it is time to place it as a major part of the mainstream of national development, *secondly*, a law is needed to control all of us in the context of development activities in such a way as not to ignore environmental problems, *third*, productive economic activities are still given a place and guaranteed not to be contested as long as they comply with the provisions of laws and regulations in the environmental field, *fourth* there is no need to worry that this law will hinder and slow down the pace of national economic development in order to realize common prosperity for all Indonesian people. In the further context, this law needs to be supported by all sectors for the common interest of all Indonesian people, both current and future generations.²¹

²¹ Keraf, A. Sonny, *Etika Lingkungan Hidup*. (Jakarta: PT Kompas Media Nusantara, 2010).

V. CONCLUSION

This study highlighted and concluded that the need for a change in the development paradigm that focuses on economic development alone must be changed/or added to a development that looks at socio-cultural and environmental aspects. Changes in the culture of society must be directed more towards love for their own environment, as long as our society's culture is anthropocentrism or which destroys the environment, it is difficult to preserve the environment. Based on what has been described above, that the legal politics of environmental management and protection is almost perfect because its formation is better than before. Law Number 32 of 2009 concerning Environmental Management and Protection, as an umbrella for the regulations under it, does not yet have a Government Regulation on Strategic Environmental Studies. In terms of making environmental permits, it is time to carry out a better study so that good data can be obtained before construction is carried out. In making laws and regulations, it must refer to environmental-based laws and regulations. The need for clear law enforcement for environmental perpetrators/destroyer in order to create a deterrent effect and between the three sanctions (criminal, civil and administrative) there is no overlap. A sizeable budget is required in terms of environmental management and protection.

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COMPETING INTERESTS

The Authors declared that they have no competing interests.

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