

Political Direction of Environmental Management Law in Indonesia

Muhammad Azhary Bayu Saputra ^{a✉}, Ega Rijal
Mahardika ^b, Siti Almiraa Kariim ^c

^a Indonesian Environmental Justice Forum, Bali,
Indonesia

^b Green Movement and Society, Jakarta, Indonesia

^c Malaysian Environmental Justice Movement, Kuala
Lumpur, Malaysia

✉ Corresponding email: azharybayu@gmail.com

Abstract

This paper examines the political trajectory shaping environmental management law in Indonesia. With its rich biodiversity and rapid industrialization, Indonesia faces complex challenges in balancing economic development with environmental conservation. The analysis begins with an overview of the historical context, tracing the evolution of environmental legislation from the colonial era to the present day. It explores how political dynamics, including shifts in governance structures, power relations, and socio-economic priorities, have influenced the development and enforcement of environmental regulations. The paper highlights key legislative milestones, such as the enactment of the Environmental Management Act in 1997 and subsequent revisions, as well



Copyrights © Author(s). This work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License. (CC BY-SA 4.0). All writings published in this journal are personal views of the author and do not represent the views of this journal and the author's affiliated institutions.

as the establishment of agencies like the Ministry of Environment and Forestry. It also discusses the role of international treaties and agreements in shaping Indonesia's environmental legal framework. Furthermore, the paper evaluates the effectiveness of environmental laws in practice, considering challenges related to enforcement, capacity-building, and coordination among various stakeholders. It examines the role of civil society, the media, and grassroots movements in advocating for stronger environmental protection measures. Drawing on current trends and future projections, the paper concludes with an analysis of potential directions for Indonesian environmental management law. It considers the implications of political, social, and environmental factors, including the need for greater transparency, public participation, and adaptive governance mechanisms in addressing emerging environmental issues such as climate change, deforestation, and marine pollution. By synthesizing historical trends, contemporary challenges, and prospective outlooks, this paper contributes to a deeper understanding of the political dynamics shaping environmental governance in Indonesia and offers insights for policymakers, scholars, and practitioners striving for sustainable development in the region.

KEYWORDS *Environmental Justice, Environmental Policy, Environmental Protection and Management, Indonesian Environmental Policy*

Introduction

In the archipelagic expanse of Indonesia, where lush rainforests mingle with vibrant coral reefs, the intricate dance between environmental preservation and economic progress unfolds against a backdrop of diverse political forces.¹ Within this dynamic milieu, the trajectory of

¹ Lewis, Peter. *Growing apart: Oil, politics, and economic change in Indonesia and Nigeria*. University of Michigan Press, 2009; McCarthy, John F. "Changing to gray: Decentralization and the emergence of volatile socio-legal configurations in Central Kalimantan, Indonesia." *World development* 32.7 (2004): 1199-1223; Najicha, F. Ulfatun, and Sapto Hermawan. "Law in the Globalization and its influence on economic development and environmental preservation based on Pancasila and the

environmental management law is not merely a legal narrative but a testament to the intricate interplay of political will, societal demands, and ecological imperatives.²

Indonesia stands as a paradoxical emblem of natural abundance and environmental vulnerability.³ Its vast biodiversity, encompassing iconic species like the orangutan and the Sumatran tiger, coexists with escalating threats of deforestation, habitat destruction, and pollution. Against this backdrop, the political direction of environmental management law emerges as a crucial determinant of the nation's ecological fate.

At the core of Indonesia's environmental governance lies a complex tapestry of political dynamics, intricately woven from historical legacies, economic imperatives, and shifting power structures. Spanning from the colonial era to the present day, successive regimes have grappled with the challenge of reconciling the exploitation of natural resources with the imperative of environmental stewardship.⁴ This enduring struggle has often resulted in a nuanced interplay between rhetoric and action, as

Indonesian Constitution of 1945." *3rd International Conference on Globalization of Law and Local Wisdom (ICGLOW 2019)*. Atlantis Press, 2019.

- ² Anisah, Bintan Rahayu. "Eksistensi Investasi Hijau dalam Poros Pembangunan Ekonomi sebagai Bentuk Manifestasi Perlindungan atas Lingkungan Hidup." *Padjadjaran Law Review* 8.1 (2020): 127-142; Cahyani, Ferina Ardhi. "Upaya peningkatan daya dukung lingkungan melalui penerapan prinsip sustainable development berdasarkan Undang-Undang nomor 32 tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup." *Indonesian State Law Review* 2.2 (2020): 168-179.
- ³ Kurniawan, Robert, et al. "Eco-environment vulnerability assessment using remote sensing approach in East Kalimantan, Indonesia." *Remote Sensing Applications: Society and Environment* 27 (2022): 100791; Wibowo, Adi, and Supriatna Supriatna. "Coastal Environmental Vulnerability on Coastal Cities in Indonesia." *Jurnal Ilmu dan Teknologi Kelautan Tropis* 3.2 (2011); Siagian, Tiodora Hadumaon, et al. "Social vulnerability to natural hazards in Indonesia: Driving factors and policy implications." *Natural Hazards* 70 (2014): 1603-1617.
- ⁴ Novita, Asti Amelia. "Environmental Governance and Climate Change Adaptation in Indonesia." *Jurnal Ilmiah Administrasi Publik* 7.1 (2021): 46-55; Anderson, Patrick, Asep Firdaus, and Avi Mahaningtyas. "Big commitments, small results: environmental governance and climate change mitigation under Yudhoyono." *The Yudhoyono Presidency: Indonesia's Decade of Stability and Stagnation, Institute of Southeast Asian Studies, Singapore* (2015): 258-273.

administrations navigate the tension between advancing economic progress and preserving the nation's ecological heritage.

The evolution of environmental legislation in Indonesia mirrors the country's political metamorphosis, marked by periods of authoritarian rule, democratic transition, and decentralization.⁵ The enactment of the Environmental Management Act in 1997 represented a pivotal moment, signaling a commitment to sustainable development and environmental protection. Yet, the efficacy of these laws hinges not only on their promulgation but on the political will to enforce them, a facet often mired in bureaucratic inertia, vested interests, and regulatory loopholes.

In addition, since the 1980s, the environmental political agenda has increasingly revolved around the concept of sustainable development. This paradigm shift was first articulated in the World Conservation Strategy by the International Union for the Conservation of Nature in 1980 and further popularized by Lester R. Brown in his book "*Building a Sustainable Society*" in 1981. However, it was the publication of the landmark report "*Our Common Future*" by the Brundtland Commission in 1987 that truly propelled the term into the global spotlight.⁶

In the Indonesian context, before the amendment of the 1945 Constitution, Article 33 paragraph (3) stood as the sole constitutional provision concerning environmental and natural resource management in Indonesia. Law Number 5 of 1960, known as the Basic Regulations on Agrarian Principles (UUPA), stipulated that state authority, as defined in Article 33 paragraph (3) of the 1945 Constitution, vested the government

⁵ Niessen, Nicole. "Decentralized environmental management." *Environmental Law in Development* (2006): 143; Holzhacker, Ronald L., Rafael Wittek, and Johan Woltjer. "Decentralization and governance for sustainable society in Indonesia." *Decentralization and governance in Indonesia*. Cham: Springer International Publishing, 2015. 3-29.

⁶ See Brown, Lester R. *Building a Sustainable Society*. WW Norton & Company, Inc., New York, 1981; Brundtland, Gro Harlem. "Our common future—Call for action." *Environmental Conservation* 14.4 (1987): 291-294. See also Brundtland, Gro Harlem, and Mansour Khalid. *Our common future*. Oxford University Press, Oxford, GB, 1987.

with the power to regulate the allocation, utilization, conservation, and legal relationships pertaining to natural resources.⁷

Indonesia's developmental trajectory, which commenced with the inception of the First Five-Year Development Plan (1969-1974), is intricately intertwined with the nation's revamped economic policies, particularly in the realm of both Foreign and Domestic Investment. These capital-focused policies laid the groundwork for Indonesia's developmental aspirations, with a pronounced emphasis on the exploitation of natural resources, notably in the mining and forestry sectors, as well as broader industrial endeavors, emerging as governmental priorities.⁸

During this period, numerous sector-specific laws pertaining to the management and exploitation of natural resources were promulgated to bolster investment initiatives and align with governmental objectives. However, environmental considerations remained conspicuously absent from the developmental discourse. It was not until the advent of the Second Five-Year Development Plan (Repelita II) spanning from 1974 to 1979 that a paradigm shift occurred, heralding the formulation of a more environmentally sustainable framework for Indonesia's development.

The integration of environmental considerations into the concept of development, as formally stipulated within the legal framework of environmental management law, alongside its accompanying legal instruments, encounters challenges in effectively achieving the overarching objectives of environmental management. This is particularly evident when juxtaposed with sectoral laws that self-referentially position

⁷ Hidayanti, Sugina, Indra Koswara, and Yopie Gunawan. "The land legal system in Indonesia and land rights according to the basic agrarian law (UUPA)." *Legal Brief* 11.1 (2021): 366-378.

⁸ See Wati, Evi Purnama. "Perlindungan dan Pengelolaan Lingkungan Hidup dalam Pembangunan yang Berkelanjutan." *Bina Hukum Lingkungan* 3.1 (2018): 119-126; Kahpi, Ashabul. "Jaminan konstitusional terhadap hak atas lingkungan hidup di Indonesia." *Al Daulah: Jurnal Hukum Pidana dan Ketatanegaraan* 2.2 (2016): 143-159.

themselves as the primary legal instruments governing the regulation and management of specific natural resources.⁹

Effective environmental and natural resource management is pivotal for ensuring the sustainability of national development and the economy. However, environmental crises and degradation of natural resources have become prevalent phenomena amidst the trajectory of development. Notably, Indonesia grapples with a persistent challenge of deforestation, with an average annual rate recorded at approximately 1 million hectares between 2000 and 2005.¹⁰

The Ministry of Forestry has identified critical land areas requiring rehabilitation, totaling 59 million hectares within forested regions and 41 million hectares outside these areas. The repercussions of deforestation extend beyond ecological concerns, exacerbating a spectrum of environmental crises such as floods, droughts, haze, and contributing to global warming and climate change. Addressing these challenges necessitates comprehensive strategies and concerted efforts to mitigate environmental degradation and safeguard natural resources for future generations.

The critical aspect of ensuring the sustainability of environmental functions, which inherently underpins the sustainability of the development process itself, continues to be overlooked. A pertinent example is Government Regulation Number 2 of 2008, which pertains to the Types and Rates of Non-Tax State Revenues derived from the Use of Forest Areas for Development Purposes outside Forestry Activities. This regulation, grounded in Law Number 41 of 1999 concerning Forestry, is deemed a policy that undermines forest conservation efforts. Instead, it

⁹ Riggs, Rebecca Anne, et al. "Governing the landscape: potential and challenges of integrated approaches to landscape sustainability in Indonesia." *Landscape Ecology* 36 (2021): 2409-2426.

¹⁰ Nikolakis, William, and John L. Innes, eds. *The wicked problem of forest policy: a multidisciplinary approach to sustainability in forest landscapes*. Cambridge University Press, 2020; Austin, Kemen G., et al. "What causes deforestation in Indonesia?." *Environmental Research Letters* 14.2 (2019): 024007; Tacconi, Luca, Rafael J. Rodrigues, and Ahmad Maryudi. "Law enforcement and deforestation: Lessons for Indonesia from Brazil." *Forest Policy and Economics* 108 (2019): 101943.

facilitates the loss of forest ecological functions by permitting the utilization of forests for non-forestry purposes.¹¹

Through its tariff mechanism, this regulation significantly increases the accessibility of forest areas for activities outside the forestry sector. Consequently, it poses a substantial risk to the integrity of forest ecosystems and undermines broader conservation objectives. Addressing such policy shortcomings is imperative to foster a more harmonious balance between developmental imperatives and environmental preservation.¹²

Despite the incorporation of Article 28H paragraph (1) in the second amendment and Article 33 paragraph (4) in the fourth amendment of the 1945 Constitution, the overarching paradigm and operational focus of environmental management in Indonesia remain predominantly oriented towards the exploitation of natural resources. This orientation is often justified and substantiated by referencing Article 33 paragraph (3) of the 1945 Constitution.¹³

Article 28H paragraph (1) underscores the intrinsic link between environmental and natural resource management and the fundamental human rights of citizens to a clean and healthy environment. Similarly, Article 33 paragraph (4) emphasizes the imperative of conducting

¹¹ Santoso, Wahyu Yun, and Adrianto Dwi Nugroho. "Pemanfaatan penerimaan negara bukan pajak di bidang kehutanan dalam melestarikan fungsi lingkungan." *Mimbar Hukum* 21.3 (2009): 554-574; Muhdar, Muhamad, Mohamad Nasir, and Rosdiana Rosdiana. "Implikasi Hukum Terhadap Praktik Pinjam Pakai Kawasan Hutan untuk Kegiatan Pertambangan Batubara." *Hasanuddin Law Review* 1.3 (2015): 430-451; Aminah, Aminah. "Implikasi Konsep Utilitarianisme dalam Pengelolaan Sumberdaya Hutan Terhadap Masyarakat Adat." *Masalah-Masalah Hukum* 43.2 (2014): 172-178.

¹² Rahmat, Mamat. "Alokasi Pendapatan Dari Jasa Pengurangan Emisi Melalui Pencegahan Deforestasi: Sebuah Tinjauan Alokasi Benefit Dan Kerangka Hukum Fiskal (Allocation of Benefit From Emission Reduction Service Through Deforestation Avoided: an Overview of Benefit)." *Jurnal Manusia dan Lingkungan* 17.2 (2010): 98-102; Soedarso, Bambang Prabowo. "Perspektif keadilan lingkungan dalam penyelenggaraan tata kelola hutan dan moratorium kehutanan." *Jurnal Hukum dan Bisnis (Selisik)* 1.1 (2015): 55-75.

¹³ Rachman, Irfan Nur. "Politik Hukum Pengelolaan Sumber Daya Alam Menurut Pasal 33 UUD 1945." *Jurnal Konstitusi* 13.1 (2016): 195-212.

development within the framework of the national economy based on sustainable and environmentally sound principles.

However, despite the presence of these constitutional provisions, they have not been effectively integrated into a comprehensive policy framework alongside Article 33 paragraph (3) of the 1945 Constitution for environmental management and sustainable development in Indonesia. In essence, the constitutional basis for environmental management and natural resource utilization is no longer singularly based on Article 33 paragraph (3), but is rather bound by the provisions of Article 28H paragraph (1) and Article 33 paragraph (4). Yet, this integration has yet to materialize into a cohesive and concerted approach in practice.¹⁴

For over a decade, issues surrounding environmental pollution have garnered significant attention from the international community. Concerns such as population growth, rising poverty levels, rapid urbanization, displacement of rural communities, and unchecked industrial expansion have drawn widespread alarm among politicians, intellectuals, community leaders, and development critics. Across various international forums and meetings, this shared apprehension has been articulated through pivotal political declarations, serving as poignant critiques of development practices that disregard ecological equilibrium.

Despite the resounding calls for action and the declaration of sustainable development paradigms by global leaders, intellectuals, and environmental advocates, the realization of these principles has fallen short of expectations. This failure is starkly evidenced by the escalating environmental degradation, exemplified by the proliferation of greenhouse gas emissions, the escalating temperature of the planet, and the pervasive

¹⁴ Zon, Fadli, Muhammad Iskandar, and Susanto Zuhdi. "Tinjauan Sejarah Hukum Pasal 33 UUD 1945 sebagai Ideologi Ekonomi (The Legal History Review of Article 33 UUD 1945 as Economic Ideology)." *Negara Hukum: Membangun Hukum untuk Keadilan dan Kesejahteraan* 7.1 (2017): 111-125; Wibowo, Suyanto Edi. "Memahami Makna Pasal 33 Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Perihal Penguasaan Oleh Negara Terhadap Sumber Daya Alam [Comprehend The Meaning of Article 33 of The 1945 Constitution of The Republic of Indonesia on State Authority Over Natural Resources]." *Jurnal Legislasi Indonesia* 12.4 (2018): 1-57.

impacts of climate change observed worldwide, including within Indonesia.

The legal dynamics of environmental management outline the trajectory of legal policies formulated and enforced by the government to attain specific objectives. These objectives, shaped not only by national interests but also influenced by international agendas, underscore the intricate interplay between domestic and global policy realms. Consequently, the politics of environmental law exhibits a dynamic nature, evolving in tandem with shifts in national interests and the evolving landscape of global policies.¹⁵

With the transition from a centralized to a decentralized government system, environmental policies began to be addressed through various legal frameworks under regional autonomy. However, despite this decentralization, substantive disharmony within environmental law politics persists, characterized by inconsistencies in the formulation of provisions across different legal instruments. Consequently, regional environmental authority and institutional arrangements suffer from weaknesses, impeding the development of interregional cooperation in the environmental sector.

The realm of environmental management reflects the nuanced interplay of legal policies crafted by governments to attain specific objectives, which, according to scholars like A Sonny Keraf, is often marred by systemic challenges. Keraf identifies two primary reasons for the failure to effectively implement the paradigm of sustainable development.¹⁶

Firstly, Keraf argues that the paradigm itself is inadequately comprehended, lacking a clear set of operational principles to guide and animate the entire development process. This dearth of understanding hampers the integration of sustainable development principles into policy formulation and implementation. Secondly, Keraf points to the

¹⁵ Niessen, Nicole. *Environmental law in development: lessons from the Indonesian experience*. Edward Elgar Publishing, 2006; Peluso, Nancy Lee. "A look at environmental discourses and politics in Indonesia." *Nature in the Global South: Environmental Projects in South and Southeast Asia*, ed. P. Greenough and AL Tsing (2003): 231-252.

¹⁶ Keraf, A. Sonny. *Etika Lingkungan Hidup*. Jakarta: Penerbit Buku Kompas, 2010.

persistence of ecological crises as evidence of the paradigm's failure, attributing this to the entrenched ideology of developmentalism. This ideology, centered on prioritizing development geared towards economic growth, fosters a climate where the exploitation of natural resources takes precedence over environmental sustainability. Consequently, unchecked economic growth exacerbates environmental degradation, resulting in widespread environmental damage and pollution.¹⁷

Furthermore, the essence of sustainable development lies in the endeavor to harmonize, integrate, and accord equal importance to three pivotal dimensions of development: economic, socio-cultural, and environmental. This holistic approach posits that these dimensions are interconnected, necessitating their simultaneous consideration and avoidance of contradiction.

Experts such as Brundtland emphasized the imperative of viewing economic, socio-cultural, and environmental development as intertwined facets, rather than disparate entities. This interconnectedness underscores the need for development strategies that transcend narrow economic objectives to encompass broader societal and environmental dimensions.¹⁸

However, in the Indonesian context, there has been a prevalent misconception regarding sustainable development, with a predominant focus on economic growth at the expense of socio-cultural and environmental considerations. This narrow interpretation of development has dire consequences, leading to societal impoverishment, environmental degradation, and health hazards resulting from pollution.¹⁹

According to scholars like Jeffrey Sachs, sustainable development requires a paradigm shift towards inclusive growth that prioritizes not only economic prosperity but also social equity and environmental stewardship.

¹⁷ Keraf.

¹⁸ Brundtland, Gro Harlem. "What is sustainable development." *Our common future* 8.9 (1987). See also Mahardika, Ega Rijal, and Muhammad Azhary Bayu. "Legal Politics of Indonesian Environmental Management: Discourse Between Maintaining Environmental Sustainability and Economic Interests." *Indonesian Journal of Environmental Law and Sustainable Development* 1.1 (2022): 1-28.

¹⁹ Basiago, Andrew D. "Sustainable development in Indonesia: A case study of an indigenous regime of environmental law and policy." *The International Journal of Sustainable Development & World Ecology* 2.3 (1995): 199-211.

Failure to adopt such a holistic approach risks perpetuating cycles of poverty, environmental degradation, and social dislocation, undermining the long-term viability of development efforts.²⁰

Article 1 Number 3 of Law Number 32 of 2009 concerning Environmental Protection and Management defines sustainable development as a conscientious and planned approach that integrates environmental, social, and economic dimensions into development strategies. Its aim is to safeguard the integrity of the environment and enhance the safety, resilience, welfare, and quality of life for both current and future generations.²¹

Sustainable development entails ensuring the survival of ecosystems by conserving their functions and capacities that sustain life, both directly and indirectly. It involves utilizing natural resources in a manner that aligns with nature's capacity or through sustainable management practices. Moreover, sustainable development facilitates the simultaneous and continuous development of various sectors and activities, both within the same region and timeframe, as well as across different regions and periods. It emphasizes enhancing and preserving the ability of ecosystems to provide natural resources while safeguarding and supporting livelihoods in an ongoing manner.²²

In the other context, it is evident that increased economic growth has the potential to enhance per capita income and improve the welfare of communities abundant in natural resources. However, the repercussions

²⁰ Sachs, Jeffrey D. *The Age of Sustainable Development*. Columbia University Press, 2015. See also Sachs, Jeffrey D., and Andrew M. Warner. "The curse of natural resources." *European Economic Review* 45.4-6 (2001): 827-838.

²¹ Karjoko, Lego, et al. "Indonesia's Sustainable Development Goals Resolving Waste Problem: Informal to Formal Policy." *International Journal of Sustainable Development & Planning* 17.2 (2022); Nasikhin, Rodhatul, Muhammad Akib, and Agus Triono. "Sustainable development goals and environmentally sound infrastructure development in Indonesia." *Asian Journal of Legal Studies* 1.1 (2022): 7-13.

²² Parris, Thomas M., and Robert W. Kates. "Characterizing and measuring sustainable development." *Annual Review of Environment and Resources* 28.1 (2003): 559-586; Mitlin, Diana. "Sustainable development: A guide to the literature." *Environment and Urbanization* 4.1 (1992): 111-124; Elliott, Jennifer. *An Introduction to Sustainable Development*. Routledge, 2012.

of excessive resource exploitation are often overlooked, leading to significant environmental degradation and social conflicts at the community level.²³

Effective environmental management is intricately linked to the realization of societal welfare. By prioritizing sound environmental stewardship, countries can ensure sustainable development that benefits both present and future generations. It is imperative for governmental institutions to optimize their efforts in responsibly utilizing and regulating natural resources to promote the well-being of their citizens.

The preamble to the Constitution of the Republic of Indonesia in 1945 underscores the importance of protecting and managing natural resources while maintaining their carrying capacity to enhance the welfare of present and future generations. Article 33 paragraph 3 of the Constitution explicitly mandates the State to control all natural resources for the prosperity of the people. It is imperative that the State's control and authority in managing natural resources align with the collective aspirations of the Indonesian populace.²⁴

Furthermore, sustainable development aims to synchronize, integrate, and accord equal importance to three primary dimensions of development: economic, socio-cultural, and environmental. While the economic aspect is undeniably crucial, sustainable development emphasizes the interrelatedness of these three dimensions and the need for their harmonious coexistence. It is essential to foster relationships among these aspects to achieve holistic development that promotes the well-being of both society and the environment.

²³ Rees, William E. "Economic development and environmental protection: an ecological economics perspective." *Environmental Monitoring and Assessment* 86 (2003): 29-45; Feiock, Ronald C., and Christopher Stream. "Environmental protection versus economic development: A false trade-off?." *Public Administration Review* 61.3 (2001): 313-321.

²⁴ Absori, Absori, et al. "Indonesia as an Ecocratic Country: The State's Responsibility and the People's Participation in Preserving and in Managing the Environment Quality." *Quality-Access to Success* 21.179 (2020); McCarthy, John F., and Carol Warren. "Communities, environments and local governance in Reform Era Indonesia." *Community, environment and local governance in Indonesia*. Routledge, 2012. 1-21.

Against the backdrop of Indonesia's burgeoning economy and expanding industrial base, the political direction of environmental management law assumes heightened significance.²⁵ As the nation grapples with the dual challenges of economic growth and ecological sustainability, the alignment of political priorities becomes a decisive factor in shaping environmental policy and practice.

Moreover, Indonesia's environmental landscape is intricately entwined with global dynamics, as evidenced by transboundary issues such as climate change, marine pollution, and biodiversity loss. In an era of interconnectedness, the political direction of environmental management law must navigate not only domestic imperatives but also international obligations and collaborations, underscoring the need for a nuanced and multilateral approach to environmental governance.²⁶

In this context, the forthcoming analysis seeks to unravel the intricate tapestry of political forces shaping Indonesia's environmental management law. By delving into historical trajectories, contemporary challenges, and prospective outlooks, this study endeavors to illuminate the pathways toward a more sustainable and equitable future. As we embark on this intellectual voyage, let us not merely decipher the political direction of environmental management law but also dare to envision a world where ecological integrity and human prosperity converge harmoniously.

Legal Politics of Environmental Management in Indonesia

The legal politics of environmental management in Indonesia encapsulates a complex interplay of legal frameworks, governmental

²⁵ Djidin, Des Alwi. "The political economy of Indonesia's new economic policy." *Journal of Contemporary Asia* 27.1 (1997): 14-36; Ananta, Aris, Mulyana Soekarni, and Sjamsul Arifin, eds. *The Indonesian economy: Entering a new era*. Institute of Southeast Asian Studies, 2011.

²⁶ Steiner, Achim, Lee A. Kimball, and John Scanlon. "Global governance for the environment and the role of Multilateral Environmental Agreements in conservation." *Oryx* 37.2 (2003): 227-237; Jänicke, Martin, and Helge Jörgens. "New approaches to environmental governance." *The Ecological Modernisation Reader*. Routledge, 2020, pp. 156-189.

policies, and socio-political dynamics aimed at addressing the nation's environmental challenges while fostering sustainable development. As Indonesia grapples with the urgent need to balance economic growth with environmental conservation, the legal landscape governing environmental management serves as a crucial terrain where competing interests intersect and policy decisions are made.²⁷

The dynamic nature of environmental management in Indonesia is underscored by the evolving legal and policy frameworks that have emerged over time. From the foundational principles enshrined in the Constitution to the enactment of specific environmental laws and regulations, the country's legal landscape reflects a continuous endeavor to address environmental concerns within the broader context of national development. However, amidst this legal framework lie complexities and challenges, including inconsistencies in enforcement, gaps in regulation, and competing interests among stakeholders, all of which contribute to shaping the trajectory of environmental governance in Indonesia.

Within the realm of legal politics concerning environmental management in Indonesia, analysis operates on three distinct levels. Firstly, at Level 1, legal politics pertains to the formulation of official state policies regarding laws that will be enacted, amended, or revoked. This involves the deliberate decision-making process by governmental bodies to shape the legal framework governing environmental management.²⁸

Secondly, at Level 2, legal politics extends to the realm of political struggles and debates, where competing interests and ideologies vie for influence over the legislative process. This level recognizes law as a product

²⁷ Andriansyah, Andriansyah, Endang Sulastri, and Evi Satispi. "The role of government policies in environmental management." *Research Horizon* 1.3 (2021): 86-93; Laraswati, Dwi, et al. "Nongovernmental organizations as interest groups and their roles in policy processes: Insights from Indonesian forest and environmental governance." *Forest and Society* 6.2 (2022): 570-589.

²⁸ See Hakim, Dani Amran. "Politik Hukum Lingkungan Hidup di Indonesia Berdasarkan Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup." *Fiat Justitia: 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.

of political dynamics, wherein the outcomes of these struggles and debates ultimately shape the content and direction of environmental legislation.²⁹

Finally, at Level 3, legal politics encompasses the implementation of legal policies on the ground. This involves the practical application and enforcement of environmental laws, where governmental agencies, regulatory bodies, and stakeholders interact to interpret and enact legal provisions within real-world contexts. Understanding these three levels of legal politics provides insight into the multifaceted nature of environmental governance in Indonesia, highlighting the interplay between policy formulation, political dynamics, and practical implementation.³⁰

In simplified terms, legal politics can be defined as the formulation and implementation of national legal policies by the government. This encompasses an understanding of how power dynamics influence the creation and enforcement of laws. Legal definitions go beyond mere directives or imperatives; they are subsystems influenced by politics, shaping both the content and implementation of laws. From drafting the material and articles to their enforcement, politics plays a significant role in determining legal frameworks, highlighting the intricate relationship between law and governance.

Abdul Hakim Garuda Nusantara defines political law as the national implementation of legal policies by the Indonesian government. This encompasses two key aspects. Firstly, it involves legal development through the creation and revision of legal materials to address evolving needs. Secondly, political law entails the execution of existing legal

²⁹ Hakim, "Politik Hukum Lingkungan Hidup di Indonesia Berdasarkan Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup."

³⁰ Hakim, "Politik Hukum Lingkungan Hidup di Indonesia Berdasarkan Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup." *See also* Nurmardiansyah, Eko. "Eco-Philosophy dan Implikasinya dalam Politik Hukum Lingkungan di Indonesia." *Melintas* 30.1 (2014): 70-104; Satmaidi, Edra. "Politik Hukum Pengelolaan Lingkungan Hidup di Indonesia Setelah Perubahan Undang-Undang Dasar 1945." *Jurnal Konstitusi* 4.1 (2011).

provisions, including the affirmation of institutional functions and guidance for law enforcement agencies.³¹

Political legal reform, particularly in the sphere of environmental law, stands as a pressing imperative in Indonesia, as underscored by the Indonesian Center for Environmental Law (ICEL). According to ICEL, a comprehensive and integrated approach to reform is essential, with a focus on enhancing various facets of the legal and institutional framework governing environmental governance. Central to ICEL's vision of reform is the imperative to strengthen representative institutions, ensuring their capacity to effectively carry out control functions. This entails fostering robust systems of representation that can adequately address the multifaceted challenges facing environmental protection and management.³²

Furthermore, ICEL emphasizes the critical importance of judicial independence in the context of environmental law reform. A judiciary that operates free from executive interference, characterized by integrity and professionalism, is deemed essential for upholding the rule of law and ensuring equitable access to justice in environmental matters. By safeguarding the judiciary's autonomy, legal reforms can bolster public trust in the judicial system and reinforce its role as a cornerstone of environmental governance.³³

In addition to judicial independence, ICEL advocates for the cultivation of a professional and accountable bureaucracy to effectively implement environmental policies and regulations. A government apparatus characterized by professionalism and integrity is seen as

³¹ Nusantara, Hakim Garuda. *Politik Hukum Indonesia*. Jakarta: YLBHI, 1988. See also Sakir, Ahmad Rosandi, et al. *Politik Hukum Indonesia*. CV. Gita Lentera, 2023.

³² Lee Peluso, Nancy, Suraya Afiff, and Noer Fauzi Rachman. "Claiming the grounds for reform: agrarian and environmental movements in Indonesia." *Journal of Agrarian Change* 8.2-3 (2008): 377-407; Luttrell, Cecilia, et al. "The political context of REDD+ in Indonesia: Constituencies for change." *Environmental Science & Policy* 35 (2014): 67-75. See also Purdy, Jedediah. "The Politics of Nature: Climate Change, Environmental Law, and Democracy." *The Yale Law Journal* (2010): 1122-1209.

³³ See Niessen, Nicole. *Environmental law in development: lessons from the Indonesian experience*. Edward Elgar Publishing, 2006.

paramount for ensuring the efficient and equitable administration of environmental laws. Moreover, ICEL underscores the pivotal role of civil society in environmental governance, highlighting the need to nurture a vibrant and active civil society capable of fulfilling public control functions and exerting pressure on government and industry to uphold environmental standards.³⁴

Democratic decentralization emerges as another key pillar of ICEL's reform agenda, with a focus on empowering regional representative institutions and fostering active engagement from local civil society organizations. By devolving decision-making authority to the local level and promoting participatory governance mechanisms, reforms seek to enhance the responsiveness and accountability of environmental governance structures to the needs and concerns of local communities. Finally, ICEL emphasizes the importance of establishing effective conflict resolution mechanisms to address disputes arising from environmental issues, providing avenues for stakeholders to resolve conflicts peacefully and constructively. Through these multifaceted reforms, ICEL envisions a strengthened legal and institutional framework that can effectively address the complex and interconnected challenges of environmental governance in Indonesia.³⁵

Article 20, Article 21, Article 28H paragraph (1), and Article 33 paragraphs (3) and (4) of the Constitution of the Republic of Indonesia Year 1945 serve as foundational pillars guiding the formulation and implementation of Law Number 32 of 2009. These constitutional provisions provide essential considerations that inform the legal

³⁴ ICEL. "Catatan Akhir Tahun 2016 Indonesian Center for Environmental Law: Tahun Kelam Kebijakan dan Penegakan Hukum Lingkungan di Indonesia". *Jurnal Hukum Lingkungan Indonesia* 3.2 (2017): 141-170; Maruf, Arifin. "Legal aspects of environment in Indonesia: An efforts to prevent environmental damage and pollution." *Journal of Human Rights, Culture and Legal System* 1.1 (2021).

³⁵ ICEL. "Catatan Akhir Tahun 2016 Indonesian Center for Environmental Law: Tahun Kelam Kebijakan dan Penegakan Hukum Lingkungan di Indonesia". See also Sembiring, Raynaldo G. "Indonesia Environmental Law Outlook 2022: Menata Kembali Hukum Lingkungan Indonesia", *Report*, February 2, 2022. Available online at <https://icel.or.id/id-id/search/v/indonesia-environmental-law-outlook-2022-menata-kembali-hukum-lingkungan-indonesia>

framework governing environmental protection and management in Indonesia. By anchoring environmental law within the broader constitutional framework, these provisions underscore the fundamental importance of environmental preservation and sustainable development as key principles of governance. Therefore, Law Number 32 of 2009 must be interpreted and applied in alignment with the constitutional mandates outlined in these pivotal articles, ensuring that environmental policies and regulations adhere to the overarching principles enshrined in Indonesia's supreme law.³⁶

The nature of law as a political product becomes evident upon examining the provisions outlined in Article 20 of the Constitution of the Republic of Indonesia Year 1945. This constitutional article delineates the legislative process, attributing significant power to the House of Representatives in the formation of laws. Central to this process is the requirement for mutual agreement between the House of Representatives and the President on each draft legislation under consideration. However, the political dimension of law is palpable in the provision that stipulates if mutual approval is not attained, the draft legislation cannot proceed further during that legislative session. Consequently, the legislative process is inherently influenced by political negotiations and dynamics, wherein the interests and priorities of different stakeholders come into play.

Moreover, the role of the President in confirming mutually approved legal plans underscores the interplay between law and politics. The President's authority to confirm approved legislation into law signifies a crucial step in the legislative process, highlighting the executive branch's role in shaping legal outcomes. Notably, Article 20 further elucidates that in cases where the President does not ratify the draft legislation within a specified timeframe, the draft automatically becomes law. This provision underscores the intricate balance of power between the legislative and executive branches, illustrating how political considerations can influence the enactment of laws in Indonesia.

³⁶ See Sutrisno, Shaula Fitriasih. "Pembangunan Berkelanjutan dalam Undang-undang Nomor 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup Perspektif Politik Hukum dalam Tinjauan Hukum Islam." *Thesis*. Yogyakarta: Universitas Islam Indonesia, 2018.

In the further, Article 20 of the Constitution serves as a testament to the inherently political nature of lawmaking in Indonesia. The legislative process, as outlined in this constitutional provision, reflects a complex interplay of political interests, negotiations, and dynamics, wherein the formulation and enactment of laws are contingent upon achieving mutual agreement between the House of Representatives and the President. Therefore, understanding the political dimensions of law is essential for comprehending the legal landscape in Indonesia and the broader dynamics that shape its governance framework.

Legal politics encompasses the intricate process of formulating and implementing laws, which serves to delineate the nature and trajectory of legal development within a society. In the context of Indonesia, the Constitution of the Republic of Indonesia Year 1945 stands as the cornerstone of legal policy governing environmental protection and management. Article 28 H paragraph 1 of the Constitution underscores the fundamental right of every individual to lead a prosperous life, encompassing physical and mental well-being, and to reside in a conducive and healthy environment, with access to essential health services.

Furthermore, Article 33 paragraph (3) of the Constitution vests the State with control over the earth, water, and natural resources contained therein, with the mandate to utilize them for the utmost prosperity of the people. This provision underscores the State's responsibility to manage natural resources in a manner that prioritizes the welfare and interests of its citizens. Additionally, Article 33 paragraph (4) emphasizes the principles underpinning the organization of the national economy, highlighting the importance of economic democracy, equitable efficiency, sustainability, and environmental consciousness.

Collectively, these constitutional provisions delineate the overarching principles guiding environmental governance in Indonesia. They affirm the State's duty to protect and manage natural resources for the benefit of the people while promoting economic democracy, sustainability, and environmental awareness. As such, understanding the constitutional basis of environmental law is crucial for comprehending the legal framework governing environmental protection and management in Indonesia.

The provisions outlined in Article 28H paragraph (1) and Article 33 paragraphs (3), (4), and (5) of the 1945 Constitution delineate five critical state legal policies concerning environmental management and natural resource utilization. Firstly, these provisions affirm that environmental management and the utilization of natural resources must be situated within the framework of upholding, protecting, and fulfilling the human rights of every citizen to a conducive and healthy environment. This underscores the imperative that the pursuit of development and resource exploitation should not compromise the inherent right of individuals to a favorable environmental condition.

Secondly, the Constitution asserts that environmental management and the utilization of natural resources are the responsibility of the state. Through its authority to control, the state formulates regulations and policies governing the utilization of the environment and natural resources, thus ensuring their sustainable and equitable utilization.

Thirdly, the welfare of the people serves as the philosophical and sociological foundation for all environmental management activities and the utilization of natural resources. This underscores the principle that these activities should ultimately contribute to enhancing the well-being and prosperity of the populace.

Moreover, environmental management and the utilization of natural resources are regarded as instrumental in achieving sustainable development from an environmental perspective. This entails ensuring that the objectives of environmental management and natural resource utilization not only encompass the welfare of the people but also integrate considerations of environmental sustainability and national economic progress.

Lastly, there exists a delegation of authority to regulate environmental management through legislation. This underscores the importance of legal frameworks in providing clarity and coherence in environmental governance, thereby facilitating effective implementation and enforcement of environmental policies and regulations.³⁷

³⁷ Niessen, Nicole. "Decentralized environmental management." *Environmental Law in Development* (2006): 143; Setiawan, Bakti, and Sudharto P. Hadi. "Regional

Key Provisions of Law Number 32 of 2009: Environmental Protection and Management

Prior to the enactment of Law Number 32 of 2009 on Environmental Protection and Management, Indonesia had witnessed the emergence of earlier legislative frameworks addressing environmental concerns. Law Number 4 of 1982 laid down the basic provisions for environmental management, reflecting the evolving public awareness and understanding of environmental issues at the time.³⁸ However, as environmental challenges continued to escalate, it became apparent that existing laws needed revision and refinement to effectively address contemporary environmental issues.

Subsequently, Law Number 23 of 1997 was introduced to further regulate environmental management in Indonesia. Despite its enactment, it became evident that this legislation alone was insufficient in adequately addressing the growing complexity of environmental problems. The need for a new paradigm in Indonesia's environmental management system became increasingly apparent, especially given the changing constitutional landscape with the advent of regional autonomy in 2001.

Before the implementation of regional autonomy, all regulatory authority, including environmental and natural resource management, was centralized under the jurisdiction of the central government. However, with the decentralization of authority to local governments, there arose a pressing need for a more comprehensive and consistent legislative framework to govern environmental matters effectively at both the national and local levels.

autonomy and local resource management in Indonesia." *Asia Pacific Viewpoint* 48.1 (2007): 72-84.

³⁸ Sudarmadi, Sigit, et al. "A survey of perception, knowledge, awareness, and attitude in regard to environmental problems in a sample of two different social groups in Jakarta, Indonesia." *Environment, Development and Sustainability* 3 (2001): 169-183; Parker, Lyn, Kelsie Prabawa-Sear, and Wahyu Kustiningsih. "How young people in Indonesia see themselves as environmentalists: Identity, behaviour, perceptions and responsibility." *Indonesia and the Malay World* 46.136 (2018): 263-282; Jahja, Rusfadia Saktiyanti. "Developing environmental education model based on local wisdom." *Komunitas* 8.1 (2016): 135-144.

Hence, the introduction of Law Number 32 of 2009 marked a significant step towards fulfilling this need. This legislation aimed to provide a more robust and substantive framework for environmental protection and management, aligning with the principles of regional autonomy and addressing the increasingly complex environmental challenges facing Indonesia. By encompassing a more comprehensive and consistent approach, Law Number 32 of 2009 sought to establish a more effective legal foundation for environmental governance in Indonesia.

Article 33 paragraph (4) of the 1945 Constitution unequivocally emphasizes that the national economy must adhere to principles of sustainability and environmental soundness. This provision underscores the intrinsic connection between environmental and natural resource management and the overarching goal of fostering a sustainable national economy. In conjunction with Article 33 paragraph (3), which grants the State control over the earth, water, and natural resources, it becomes evident that environmental and natural resource management plays a pivotal role in driving economic development while being bound by principles of sustainability and environmental consciousness.

The legal conception of development that embraces these principles is commonly referred to as sustainable development. It signifies a holistic approach to development that integrates environmental considerations with socio-economic objectives, aiming to meet the needs of the present without compromising the ability of future generations to meet their own needs. Therefore, sustainable development entails a harmonious balance between economic growth, social progress, and environmental protection, ensuring the long-term well-being of both humanity and the planet.

In sustainable development, the utilization of natural resources must be approached with rationality, as emphasized by Daud Silalahi. This entails ensuring that the exploitation of resources maximizes benefits while safeguarding the interests of future generations. Sustainable development principles dictate that natural resources should be utilized in a manner that does not compromise environmental integrity or deplete resources beyond their capacity for renewal. Therefore, integrating sustainability into

development frameworks necessitates responsible management of natural resources to mitigate adverse environmental impacts.³⁹

Global experts echo the importance of government intervention in natural resource management to prevent irrational exploitation. According to the provisions of Article 33 paragraph (3) of the 1945 Constitution, the government bears the responsibility for regulating environmental and natural resource management. This constitutional mandate underscores the pivotal role of government intervention in formulating and enforcing policies to ensure sustainable resource utilization. By establishing regulatory frameworks and enforcing compliance measures, governments can mitigate environmental degradation and promote sustainable development practices.

Furthermore, renowned environmental economist Herman Daly emphasizes the concept of "*steady-state economics*," advocating for an economic system that operates within the ecological limits of the planet. Daly argues that prioritizing economic growth at the expense of environmental sustainability is unsustainable in the long run. Instead, he advocates for a steady-state economy that maintains stable levels of resource consumption and waste production, ensuring ecological integrity while meeting human needs. This perspective underscores the importance of integrating environmental considerations into economic policy-making to achieve sustainable development goals.⁴⁰

The rational and sustainable use of natural resources necessitates proactive government intervention and the adoption of policies that prioritize environmental conservation alongside economic development. By adhering to principles of sustainability and incorporating expert insights into policy formulation, governments can pave the way for a more sustainable and equitable future. Therefore, Law Number 32 of 2009 on Environmental Protection and Management came into existence. Philosophically, this legislation underscores the significance of human rights, particularly the right to a conducive and healthy environment for

³⁹ Silalahi, Daud. *Hukum Lingkungan: Dalam Sistem Penegakan Hukum Lingkungan Indonesia*. Bandung: Alumni, 1996

⁴⁰ Daly, Herman E. *Beyond growth: the economics of sustainable development*. Beacon Press, 2014.

all citizens. By enshrining this right, the law acknowledges the intrinsic connection between environmental quality and the well-being of individuals within society.

The 1945 Constitution of the Republic of Indonesia unequivocally declares that a conducive and healthy environment is not only a human right but also a constitutional right afforded to every Indonesian citizen. Consequently, the state, government, and all stakeholders bear the responsibility of upholding environmental protection and management in line with the principles of sustainable development. This commitment ensures that the Indonesian environment serves as a vital resource and sustenance for the nation's populace and diverse ecosystems alike.

Article 1 Number 2 of Law Number 32 of 2009 concerning Environmental Protection and Management reinforces this constitutional mandate. It defines environmental protection and management as a systematic and integrated endeavor aimed at preserving environmental functions while preventing pollution and damage. This multifaceted approach encompasses various activities such as planning, utilization, control, maintenance, supervision, and law enforcement, highlighting the comprehensive nature of environmental stewardship mandated by the law.

In this novel legal paradigm governing environmental management and protection, the framework of legal politics, as manifested in legal policy, encapsulates the core ideals of the nation, the objectives of the state, and the fundamental principles of the law. The legal policy concerning environmental management and protection in Indonesia delineates a multifaceted array of objectives aimed at:

Firstly, safeguarding the territorial integrity of the Unitary State of the Republic of Indonesia by combating pollution and preventing environmental degradation. Secondly, ensuring the safety, health, and welfare of the populace, thereby emphasizing human well-being as a paramount concern. Thirdly, preserving the viability of ecosystems and the survival of biodiversity, acknowledging their critical role in sustaining life on Earth. Fourthly, upholding the functional integrity of environmental systems to support ecological balance and resilience. Fifthly, fostering harmony and equilibrium within the environment, recognizing the interdependent relationships between natural elements and human activities.

Moreover, this legal framework endeavors to promote intergenerational justice by safeguarding the rights and interests of both present and future generations. It further seeks to enshrine the right to a healthy environment as an inherent human entitlement and fundamental human right. Additionally, the framework aims to regulate and oversee the prudent utilization of natural resources, ensuring their sustainable exploitation and management for long-term societal benefit.

Furthermore, the legal policy is geared towards fostering sustainable development practices that integrate economic prosperity, social equity, and environmental sustainability. Lastly, it underscores the proactive stance of Indonesia in addressing global environmental challenges through anticipatory measures and international cooperation, highlighting its commitment to global environmental stewardship.

In order to achieve the aforementioned objectives, Law Number 32 of 2009 on Environmental Management and Protection, abbreviated as 6P, delineates a comprehensive framework encompassing planning, utilization, control, maintenance, supervision, and law enforcement. These pillars serve to preserve environmental functions and prevent pollution and damage.

At the core of environmental protection and management lies planning, which serves as the foundational principle. Effective planning is essential for the successful implementation of environmental safeguards and strategies. Without meticulous planning, the efficacy of subsequent measures in utilization, control, supervision, and law enforcement may be compromised.

Moreover, the law underscores the importance of considering the carrying capacity and accommodating capacity of the environment in the utilization of natural resources. This entails ensuring that resource exploitation remains within the bounds of environmental sustainability, safeguarding the integrity of ecological processes, functions, and capacities essential for maintaining environmental health and resilience. By integrating considerations of environmental capacity into resource management practices, the law aims to mitigate the risk of overexploitation and environmental degradation, thereby promoting long-term sustainability and resilience.

Implementation of Legal Policy (Law Number 32 of 2009 concerning Environmental Management and Protection)

The central focus of Law Number 32 of 2009 on Environmental Management and Protection has been elucidated, yet there are certain aspects of the law warranting critique. Specifically, Article 46 stipulates:

"In addition to the provisions outlined in Article 45, the Government and local authorities are mandated to allocate funds for environmental restoration to address pollution and damage to environmental quality existing at the time of this law's enactment."

While this provision acknowledges the imperative of environmental restoration, it raises several points for critical examination. Primarily, concerns may arise regarding the adequacy and effectiveness of the allocated budget for environmental restoration. Additionally, questions may arise regarding the mechanisms for budget allocation and utilization, including transparency, accountability, and monitoring mechanisms to ensure efficient and equitable distribution of funds. Furthermore, there may be considerations regarding the prioritization of environmental restoration efforts and the identification of areas or ecosystems most in need of remediation. Overall, while Article 46 underscores the commitment to environmental restoration, careful scrutiny and evaluation of its implementation are essential to ensure its efficacy and alignment with the overarching goals of environmental protection and sustainability.

This provision presents significant drawbacks for both the populace and the government in terms of environmental management. During the years 2000-2008, rampant environmental degradation ensued due to the actions of irresponsible individuals. Illegal logging and unregulated coal mining activities led to extensive environmental damage, with mining operations often failing to implement reclamation measures, resulting in numerous open pits scattered throughout mining sites.

The discourse surrounding the implementation system of the law comprises three primary components: the legal framework to be enforced,

the institutions responsible for its execution, and the personnel within these institutions. These personnel typically encompass administrative bodies and judicial entities, including law enforcement agencies such as the police, prosecutors, and judges, as well as various administrative bodies tasked with enforcing laws at the executive level.

Regardless of the quality of legislation crafted by the Central Government and the House of Representatives (DPR), the efficacy of environmental laws ultimately hinges on the expertise and commitment of relevant agencies and stakeholders. It is imperative that those tasked with implementing environmental regulations possess specialized knowledge in environmental science and law enforcement, ensuring clarity and coherence in enforcement procedures. Moreover, community awareness and engagement are indispensable in fostering effective environmental management and protection practices.

A Sonny Keraf highlights several critical considerations for the successful implementation of new environmental legislation: Firstly, environmental laws should not be perceived solely as instruments for safeguarding environmental interests. They must strike a balance between environmental protection and economic development across various sectors, thereby avoiding hindrances to development initiatives.⁴¹

Secondly, the establishment of a robust institution such as the State Ministry of Environment (KNLH) with enhanced authority and substantial budgetary support is essential for fulfilling the mandates outlined in the legislation.

Thirdly, meaningful engagement and collaboration among diverse stakeholders, including the DPR, mass media, experts, environmentalists, non-governmental organizations, and the broader community, are imperative for effectively addressing environmental challenges. KNLH should actively embrace and involve these stakeholders to ensure their active participation in the implementation process.

Lastly, concerted efforts are needed to convince other sectors of the importance of environmental conservation within the framework of national development. Emphasizing the interconnectedness of

⁴¹ Keraf. *Etika Lingkungan Hidup*. See also Keraf, A. Sonny, Rosalia Retno, and Dwi Koratno. *Krisis & Bencana Lingkungan Hidup Dlobal*. Yogyakarta: Kanisius, 2010.

environmental health with economic prosperity, the legislation should be positioned as a tool to foster sustainable development and ensure the well-being of current and future generations. Ultimately, the support and collaboration of all sectors are vital to realizing the collective benefits of environmental protection for the Indonesian populace.

Conclusion

The conclusion drawn from the discussion emphasizes the necessity of a comprehensive paradigm shift in development, transcending the singular focus on economic growth to incorporate socio-cultural and environmental considerations. It is imperative to cultivate a societal ethos that prioritizes environmental stewardship alongside economic advancement. Encouraging a shift in community culture towards greater environmental consciousness is essential, as the prevailing anthropocentric mindset poses a significant obstacle to environmental preservation. Without a fundamental shift in societal values towards a deeper appreciation and reverence for the environment, sustainable development will remain elusive.

While significant progress has been made in the formulation of environmental management and protection laws, such as Law Number 32 of 2009, there remain areas for improvement. Addressing existing gaps, such as the absence of a Government Regulation on Strategic Environmental Studies (KLHS) and the need for robust environmental permit assessments, is crucial to enhancing the effectiveness of environmental regulations. Additionally, law enforcement mechanisms must be strengthened to ensure swift and decisive action against environmental offenders, thereby deterring future violations. Adequate budgetary allocations are essential to support comprehensive environmental management and protection initiatives, underscoring the importance of sustained financial commitment to safeguarding the environment for present and future generations.

References

- Absori, Absori, et al. "Indonesia as an Ecocratic Country: The State's Responsibility and the People's Participation in Preserving and in Managing the Environment Quality." *Quality-Access to Success* 21.179 (2020).
- Aminah, Aminah. "Implikasi Konsep Utilitarianisme dalam Pengelolaan Sumberdaya Hutan Terhadap Masyarakat Adat." *Masalah-Masalah Hukum* 43.2 (2014): 172-178.
- Ananta, Aris, Mulyana Soekarni, and Sjamsul Arifin, eds. *The Indonesian economy: Entering a new era*. Institute of Southeast Asian Studies, 2011.
- Anderson, Patrick, Asep Firdaus, and Avi Mahaningtyas. "Big commitments, small results: environmental governance and climate change mitigation under Yudhoyono." *The Yudhoyono Presidency: Indonesia's Decade of Stability and Stagnation, Institute of Southeast Asian Studies, Singapore* (2015): 258-273.
- Andriansyah, Andriansyah, Endang Sulastris, and Evi Satispi. "The role of government policies in environmental management." *Research Horizon* 1.3 (2021): 86-93.
- Anisah, Bintan Rahayu. "Eksistensi Investasi Hijau dalam Poros Pembangunan Ekonomi sebagai Bentuk Manifestasi Perlindungan atas Lingkungan Hidup." *Padjadjaran Law Review* 8.1 (2020): 127-142.
- Austin, Kemen G., et al. "What causes deforestation in Indonesia?." *Environmental Research Letters* 14.2 (2019): 024007.
- Basiago, Andrew D. "Sustainable development in Indonesia: A case study of an indigenous regime of environmental law and policy." *The International Journal of Sustainable Development & World Ecology* 2.3 (1995): 199-211.
- Brown, Lester R. *Building a Sustainable Society*. WW Norton & Company, Inc., New York, 1981.
- Brundtland, Gro Harlem, and Mansour Khalid. *Our common future*. Oxford University Press, Oxford, GB, 1987.

- Brundtland, Gro Harlem. "Our common future—Call for action." *Environmental Conservation* 14.4 (1987): 291-294.
- Brundtland, Gro Harlem. "What is sustainable development." *Our Common Future* 8.9 (1987).
- Cahyani, Ferina Ardhi. "Upaya peningkatan daya dukung lingkungan melalui penerapan prinsip sustainable development berdasarkan Undang-Undang nomor 32 tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup." *Indonesian State Law Review* 2.2 (2020): 168-179.
- Daly, Herman E. *Beyond growth: the economics of sustainable development*. Beacon Press, 2014.
- Djidin, Des Alwi. "The political economy of Indonesia's new economic policy." *Journal of Contemporary Asia* 27.1 (1997): 14-36.
- Elliott, Jennifer. *An Introduction to Sustainable Development*. Routledge, 2012.
- Feiock, Ronald C., and Christopher Stream. "Environmental protection versus economic development: A false trade-off?." *Public Administration Review* 61.3 (2001): 313-321.
- 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).
- Hidayanti, Sugina, Indra Koswara, and Yopie Gunawan. "The land legal system in Indonesia and land rights according to the basic agrarian law (UUPA)." *Legal Brief* 11.1 (2021): 366-378.
- Holzhacker, Ronald L., Rafael Wittek, and Johan Woltjer. "Decentralization and governance for sustainable society in Indonesia." *Decentralization and governance in Indonesia*. Cham: Springer International Publishing, 2015, pp. 3-29.
- ICEL. "Catatan Akhir Tahun 2016 Indonesian Center for Environmental Law: Tahun Kelam Kebijakan dan Penegakan Hukum Lingkungan di Indonesia". *Jurnal Hukum Lingkungan Indonesia* 3.2 (2017): 141-170.
- Jahja, Rusfadia Saktiyanti. "Developing environmental education model based on local wisdom." *Komunitas* 8.1 (2016): 135-144.

- Jänicke, Martin, and Helge Jörgens. "New approaches to environmental governance." *The Ecological Modernisation Reader*. Routledge, 2020, pp. 156-189.
- Kahpi, Ashabul. "Jaminan konstitusional terhadap hak atas lingkungan hidup di Indonesia." *Al Daulah: Jurnal Hukum Pidana dan Ketatanegaraan* 2.2 (2016): 143-159.
- Karjoko, Lego, et al. "Indonesia's Sustainable Development Goals Resolving Waste Problem: Informal to Formal Policy." *International Journal of Sustainable Development & Planning* 17.2 (2022).
- Keraf, A. Sonny, Rosalia Retno, and Dwi Koratno. *Krisis & Bencana Lingkungan Hidup Dlobal*. Yogyakarta: Kanisius, 2010.
- Keraf, A. Sonny. *Etika Lingkungan Hidup*. Jakarta: Penerbit Buku Kompas, 2010.
- Kurniawan, Robert, et al. "Eco-environment vulnerability assessment using remote sensing approach in East Kalimantan, Indonesia." *Remote Sensing Applications: Society and Environment* 27 (2022): 100791.
- Laraswati, Dwi, et al. "Nongovernmental organizations as interest groups and their roles in policy processes: Insights from Indonesian forest and environmental governance." *Forest and Society* 6.2 (2022): 570-589.
- Lee Peluso, Nancy, Suraya Afiff, and Noer Fauzi Rachman. "Claiming the grounds for reform: agrarian and environmental movements in Indonesia." *Journal of Agrarian Change* 8.2-3 (2008): 377-407.
- Lewis, Peter. *Growing apart: Oil, politics, and economic change in Indonesia and Nigeria*. University of Michigan Press, 2009.
- Luttrell, Cecilia, et al. "The political context of REDD+ in Indonesia: Constituencies for change." *Environmental Science & Policy* 35 (2014): 67-75.
- Mahardika, Ega Rijal, and Muhammad Azhary Bayu. "Legal Politics of Indonesian Environmental Management: Discourse Between Maintaining Environmental Sustainability and Economic Interests." *Indonesian Journal of Environmental Law and Sustainable Development* 1.1 (2022): 1-28.

- Maruf, Arifin. "Legal aspects of environment in Indonesia: An efforts to prevent environmental damage and pollution." *Journal of Human Rights, Culture and Legal System* 1.1 (2021).
- McCarthy, John F. "Changing to gray: Decentralization and the emergence of volatile socio-legal configurations in Central Kalimantan, Indonesia." *World development* 32.7 (2004): 1199-1223.
- McCarthy, John F., and Carol Warren. "Communities, environments and local governance in Reform Era Indonesia." *Community, environment and local governance in Indonesia*. Routledge, 2012, pp. 1-21.
- Mitlin, Diana. "Sustainable development: A guide to the literature." *Environment and Urbanization* 4.1 (1992): 111-124.
- Muhdar, Muhamad, Mohamad Nasir, and Rosdiana Rosdiana. "Implikasi Hukum Terhadap Praktik Pinjam Pakai Kawasan Hutan untuk Kegiatan Pertambangan Batubara." *Hasanuddin Law Review* 1.3 (2015): 430-451.
- Najicha, F. Ulfatun, and Sapto Hermawan. "Law in the Globalization and its influence on economic development and environmental preservation based on pancasila and the Indonesian Constitution of 1945." *3rd International Conference on Globalization of Law and Local Wisdom (ICGLOW 2019)*. Atlantis Press, 2019.
- Nasikhin, Rodhatul, Muhammad Akib, and Agus Triono. "Sustainable development goals and environmentally sound infrastructure development in Indonesia." *Asian Journal of Legal Studies* 1.1 (2022): 7-13.
- Niessen, Nicole. "Decentralized environmental management." *Environmental Law in Development* (2006): 143.
- Niessen, Nicole. *Environmental law in development: lessons from the Indonesian experience*. Edward Elgar Publishing, 2006.
- Nikolakis, William, and John L. Innes, eds. *The wicked problem of forest policy: a multidisciplinary approach to sustainability in forest landscapes*. Cambridge University Press, 2020.
- Novita, Asti Amelia. "Environmental Governance and Climate Change Adaptation in Indonesia." *Jurnal Ilmiah Administrasi Publik* 7.1 (2021): 46-55.

- Nurmardiansyah, Eko. "Eco-Philosophy dan Implikasinya dalam Politik Hukum Lingkungan di Indonesia." *Melintas* 30.1 (2014): 70-104.
- Nusantara, Hakim Garuda. *Politik Hukum Indonesia*. Jakarta: YLBHI, 1988.
- Parker, Lyn, Kelsie Prabawa-Sear, and Wahyu Kustiningsih. "How young people in Indonesia see themselves as environmentalists: Identity, behaviour, perceptions and responsibility." *Indonesia and the Malay World* 46.136 (2018): 263-282.
- Parris, Thomas M., and Robert W. Kates. "Characterizing and measuring sustainable development." *Annual Review of Environment and Resources* 28.1 (2003): 559-586.
- Peluso, Nancy Lee. "A look at environmental discourses and politics in Indonesia." *Nature in the Global South: Environmental Projects in South and Southeast Asia*, ed. P. Greenough and AL Tsing (2003): 231-252.
- Purdy, Jedediah. "The Politics of Nature: Climate Change, Environmental Law, and Democracy." *The Yale Law Journal* (2010): 1122-1209.
- Rachman, Irfan Nur. "Politik Hukum Pengelolaan Sumber Daya Alam Menurut Pasal 33 UUD 1945." *Jurnal Konstitusi* 13.1 (2016): 195-212.
- Rahmat, Mamat. "Alokasi Pendapatan dari Jasa Pengurangan Emisi Melalui Pencegahan Deforestasi: Sebuah Tinjauan Alokasi Benefit dan Kerangka Hukum Fiskal (Allocation of Benefit from Emission Reduction Service Through Deforestation Avoided: an Overview of Benefit)." *Jurnal Manusia dan Lingkungan* 17.2 (2010): 98-102.
- Rees, William E. "Economic development and environmental protection: an ecological economics perspective." *Environmental Monitoring and Assessment* 86 (2003): 29-45.
- Riggs, Rebecca Anne, et al. "Governing the landscape: potential and challenges of integrated approaches to landscape sustainability in Indonesia." *Landscape Ecology* 36 (2021): 2409-2426.
- Sachs, Jeffrey D. *The Age of Sustainable Development*. Columbia University Press, 2015.
- Sachs, Jeffrey D., and Andrew M. Warner. "The curse of natural resources." *European Economic Review* 45.4-6 (2001): 827-838.

- Sakir, Ahmad Rosandi, et al. *Politik Hukum Indonesia*. CV. Gita Lentera, 2023.
- Santoso, Wahyu Yun, and Adrianto Dwi Nugroho. "Pemanfaatan penerimaan negara bukan pajak di bidang kehutanan dalam melestarikan fungsi lingkungan." *Mimbar Hukum* 21.3 (2009): 554-574.
- Satmaidi, Edra. "Politik Hukum Pengelolaan Lingkungan Hidup di Indonesia Setelah Perubahan Undang-Undang Dasar 1945." *Jurnal Konstitusi* 4.1 (2011).
- Sembiring, Raynaldo G. "Indonesia Environmental Law Outlook 2022: Menata Kembali Hukum Lingkungan Indonesia", *Report*, February 2, 2022. Available online at <<https://icel.or.id/id-id/search/v/indonesia-environmental-law-outlook-2022-menata-kembali-hukum-lingkungan-indonesia>>.
- Setiawan, Bakti, and Sudharto P. Hadi. "Regional autonomy and local resource management in Indonesia." *Asia Pacific Viewpoint* 48.1 (2007): 72-84.
- Siagian, Tiodora Hadumaon, et al. "Social vulnerability to natural hazards in Indonesia: Driving factors and policy implications." *Natural Hazards* 70 (2014): 1603-1617.
- Silalahi, Daud. *Hukum Lingkungan: Dalam Sistem Penegakan Hukum Lingkungan Indonesia*. Bandung: Alumni, 1996.
- Soedarso, Bambang Prabowo. "Perspektif keadilan lingkungan dalam penyelenggaraan tata kelola hutan dan moratorium kehutanan." *Jurnal Hukum dan Bisnis (Selisik)* 1.1 (2015): 55-75.
- Steiner, Achim, Lee A. Kimball, and John Scanlon. "Global governance for the environment and the role of Multilateral Environmental Agreements in conservation." *Oryx* 37.2 (2003): 227-237.
- Sudarmadi, Sigit, et al. "A survey of perception, knowledge, awareness, and attitude in regard to environmental problems in a sample of two different social groups in Jakarta, Indonesia." *Environment, Development and Sustainability* 3 (2001): 169-183.
- Sutrisno, Shaula Fitriasih. "Pembangunan Berkelanjutan dalam Undang-undang Nomor 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup Perspektif Politik Hukum dalam

- Tinjauan Hukum Islam." *Thesis*. Yogyakarta: Universitas Islam Indonesia, 2018.
- Tacconi, Luca, Rafael J. Rodrigues, and Ahmad Maryudi. "Law enforcement and deforestation: Lessons for Indonesia from Brazil." *Forest Policy and Economics* 108 (2019): 101943.
- Wati, Evi Purnama. "Perlindungan dan Pengelolaan Lingkungan Hidup dalam Pembangunan yang Berkelanjutan." *Bina Hukum Lingkungan* 3.1 (2018): 119-126.
- Wibawa, I. Putu Sastra. "Politik Hukum Perlindungan dan Pengelolaan Lingkungan Menuju Ekokrasi Indonesia." *Kanun Jurnal Ilmu Hukum* 18.1 (2016): 51-68.
- Wibowo, Adi, and Supriatna Supriatna. "Coastal Environmental Vulnerability on Coastal Cities in Indonesia." *Jurnal Ilmu dan Teknologi Kelautan Tropis* 3.2 (2011).
- Wibowo, Suyanto Edi. "Memahami Makna Pasal 33 Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Perihal Penguasaan oleh Negara Terhadap Sumber Daya Alam [Comprehend The Meaning of Article 33 of The 1945 Constitution of The Republic of Indonesia on State Authority Over Natural Resources]." *Jurnal Legislasi Indonesia* 12.4 (2018): 1-57.
- Zon, Fadli, Muhammad Iskandar, and Susanto Zuhdi. "Tinjauan Sejarah Hukum Pasal 33 UUD 1945 sebagai Ideologi Ekonomi (The Legal History Review of Article 33 UUD 1945 as Economic Ideology)." *Negara Hukum: Membangun Hukum untuk Keadilan dan Kesejahteraan* 7.1 (2017): 111-125.

DECLARATION OF CONFLICTING INTERESTS

The authors state that there is no conflict of interest in the publication of this article.

FUNDING INFORMATION

None

ACKNOWLEDGMENT

We extend our sincere appreciation to the Indonesian Center of Environmental Law (ICEL), the Green Movement and Society Jakarta, the Malaysian Environmental Justice Movement, and the Indonesian Environmental Justice Forum Bali for their invaluable support. ICEL's expertise in environmental law has enriched our understanding of legal frameworks. The Green Movement and Society Jakarta's grassroots initiatives have mobilized communities for positive environmental change. The Malaysian Environmental Justice Movement's advocacy efforts have advanced environmental rights across borders. The Indonesian Environmental Justice Forum Bali's collaboration has promoted environmental justice and conservation. Together, these organizations have played pivotal roles in our collective pursuit of environmental protection and justice. We are grateful for their partnership and commitment to creating a greener, more sustainable future for all.

HISTORY OF ARTICLE

Submitted : February 12, 2022

Revised : July 21, 2022; October 19, 2022; January 5, 2023

Accepted : January 20, 2023

Published : January 31, 2023