

Constitutional Rights and Environmental Protection in Indonesia from a Legal and Policy Perspective

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Abstract. This research explores the relationship between constitutional rights and environmental protection in Indonesia from a legal and policy perspective. Environmental protection has been recognized as part of the human rights guaranteed by the Indonesian constitution. This study uses a qualitative approach with a descriptive-analytical method, relying on data from literature studies, legal documents, and relevant public policies. The results show that despite the constitutional recognition of the right to a good and healthy environment, implementation on the ground still faces many challenges. These challenges include weak enforcement of environmental laws, lack of coordination between government agencies, and conflicts of interest between economic development and environmental conservation. This study recommends increasing the capacity of law enforcement institutions, improving regulations, and community involvement in the environment-related decision-making process to strengthen the protection of constitutional rights to the environment in Indonesia.

Keywords: Constitutional Rights, Environmental Protection, Law and Policy

INTRODUCTION

Constitutional rights are basic rights guaranteed by a country's constitution and include various aspects of life that are essential for the welfare of citizens. One of the crucial constitutional rights is the right to a good and healthy environment, as guaranteed by Article 28H Paragraph (1) of the 1945 Constitution of the Republic of Indonesia (1945 Constitution). This right demonstrates the country's commitment to ensuring every citizen can live in an environment supporting their health and well-being. The constitutional recognition of the right to the environment not only emphasizes the importance of maintaining environmental quality but also underlines the state's obligation to protect and manage natural resources sustainably. In this context, the Indonesian government has adopted various laws and policies to implement environmental protection, including Law

Number 32 of 2009 on Environmental Protection and Management.

Despite the existence of adequate legal instruments, the implementation of constitutional rights to the environment in Indonesia still faces many challenges. One of the main challenges is the weak enforcement of environmental laws. Cases of environmental pollution and destruction of natural resources are often not followed up with strict sanctions, resulting in impunity for perpetrators and losses for society and the environment. In addition, coordination between government agencies in environmental management is still ineffective. The overlapping authorities and policies between institutions often cause conflicts of interest and inefficiencies in implementing environmental protection programs. This is exacerbated by the lack of community participation in the decision-making process related to the environment, which causes the resulting policies not always to be under local needs and conditions.

On the other hand, rapid economic growth and the need for infrastructure development often clash with environmental conservation efforts. Conflicts of interest between economic development and environmental protection are one of the biggest challenges in realizing the right to a good and healthy environment. Massive investments in the industrial sector and natural resource extraction often ignore the negative environmental impact, which ultimately harms people's quality of life. Based on the above problems, this study seeks to further explore the implementation of constitutional rights to the environment in Indonesia from a legal and policy perspective.

Problem Formulation

1. How is the recognition and guarantee of constitutional rights to the environment in Indonesia's legal system and its implementation in public policy?
2. What are the main challenges faced in enforcing constitutional rights to the environment in Indonesia, including conflicts of interest between economic development and environmental protection?

METHOD

This research method uses a qualitative approach to explore constitutional rights and environmental protection in Indonesia from a legal and policy perspective. The initial step of the research involves a literature study, which includes an analysis of legal documents such as the 1945 Constitution and the Environmental Protection and Management Act, as well as related regulations. Academic literature, textbooks, and recent research are also

reviewed to comprehensively understand the recognition and application of constitutional rights in Indonesia's legal system. After the literature study, the research continued with an in-depth analysis of legal documents and public policies related to environmental protection. This includes natural resource management regulations, policy documents from governments, and reports from non-governmental organizations. This analysis aims to identify the gap between theory and practice and the challenges faced in implementing environmental protection policies.

Interviews with experts, such as academics, legal practitioners, and government officials, were conducted to gain additional perspectives on implementing constitutional rights to the environment. Data from these interviews and discussions are used to complement the document's analysis and provide a broader context. The results of this qualitative analysis will formulate conclusions about the effectiveness of implementing constitutional rights and provide practical recommendations for regulatory improvement, institutional capacity building, and conflict of interest resolution between the economy and the environment.

DISCUSSION

This section contains data analysis and interpretation of the results. Results can be presented with tables or graphs to clarify the results verbally, because sometimes the appearance of an illustration is more complete and informative than the display in the form of a narrative. This section must answer the problem or research hypothesis that has been formulated previously. (Font Times New Roman, size 12, spasi 1,5 justify)

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Table

For tables, the table description is placed at the top of the table. The caption is written in the center with a distance of 1 space from the table. Like the image caption, the table caption is also given a sequence number. Table source writes are placed below the table. (Font Times NewRoman, size 11, spasi 1, justify)

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Tabel 1. Teacher-student ratios in three provinces (Yogyakarta, Jakarta and Papua) based on the level of education in 2015

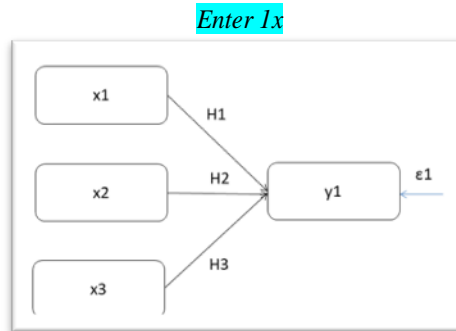
Prov	SD	SMP	SMA	SMK
Yogyakarta	1:13	1:12	1:10	1:10
Jakarta	1:19	1:16	1:13	1:13
Papua	1:29	1:15	1:12	1:09

Source: Research Data

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Picture

The image is centered and referenced in line with text. Image captions are written below the image with a number. Image captions begin with uppercase letters. (Font Times New Roman, size 11, spasi 1, justify)



Source: Research images.

Figure 1. Thinking frame The recognition of constitutional rights to the environment in Indonesia is reflected in Article 28H Paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which guarantees everyone's right to a good and healthy environment. This recognition is a step forward in ensuring environmental protection is part of human rights. This is in line with the international human rights principles set out in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which also recognizes the right to the environment as part of the right to enjoy a decent standard of living (Agarwal, 2019). Despite constitutional recognition, implementing constitutional rights to the environment in Indonesia still faces various obstacles. Law Number 32 of 2009 concerning Environmental Protection and Management provides a comprehensive legal framework for environmental protection. However, the effectiveness of its implementation is often hampered by bureaucratic problems and a lack of integration between institutions (Luttrell et al., 2020). Research by Kurniawan et al. (2021) shows that implementing regulations and sectoral policies are often inconsistent, thus hindering the overall implementation of environmental protection principles.

One of the main challenges in enforcing constitutional rights to the environment is weak law enforcement. Cases of environmental pollution and destruction of natural resources are often not investigated thoroughly, resulting in impunity for perpetrators (Ribot et al., 2021). Research by Setiawan et al. (2022) revealed that despite strict laws, weak law enforcement is often caused by a lack of resources, corruption, and a lack of coordination between agencies. Lack of coordination between government agencies is a significant problem in

environmental management. The many overlaps in authority and policies between institutions cause inefficiencies and conflicts of interest (Halim et al., 2023). For example, research by Wicaksono et al. (2020) shows that forest management policies are often neglected in their implementation due to the lack of synchronization between the Ministry of Environment and the Ministry of Forestry. The conflict between economic development and environmental protection is another major challenge. Massive investments in the industrial sector and natural resource extraction often ignore environmental impacts, leading to ecosystem damage and decreased people's quality of life (Jusuf et al., 2021). Research by Alamsyah et al. (2022) shows that although there are policies to reduce environmental impacts, their implementation is often hampered by pressure from the economic sector. Existing regulations and policies are often ineffective in addressing environmental issues comprehensively. Research by Suryani et al. (2022) shows that many regulations are not implemented consistently, and existing policies are often not updated to keep up with the latest developments in environmental management. This indicates the need for regulatory revision and renewal to better suit current conditions and challenges. Community participation in decision-making related to the environment is often underpaid. This results in policies that are not always in accordance with local needs and conditions (Puspitasari et al., 2023). Research by Utami et al. (2021) revealed that community involvement in the planning and implementation of environmental policies can increase the effectiveness and acceptability of these policies. Increasing the capacity of law enforcement institutions is an important aspect in strengthening the protection of constitutional rights to the environment. Research by Andriani et al. (2022) shows that law enforcement institutions often lack adequate resources and training, which hinders their ability to carry out their duties effectively.

Non-governmental organizations (NGOs) play an essential role in monitoring and reporting environmental rights violations. They often bridge the community and the government in advocating for environmental protection (Rahardjo et al., 2021). Research by Susanto et al. (2023) shows that NGOs can help raise public awareness and pressuring governments to take more decisive action against environmental violations. Technology can play an essential role in improving environmental management and protection. Using satellite-based monitoring and

reporting technologies, for example, can aid in the early detection of environmental violations and provide accurate data for law enforcement (Sari et al., 2022). Research by Nanda et al. (2021) shows that adopting advanced technology can increase transparency and accountability in environmental management. Case studies on environmental pollution in Indonesia can provide insight into how constitutional rights to the environment are ignored in practice. Cases of air pollution and water pollution often show that despite strict regulations, violations still often occur without adequate sanctions (Jaya et al., 2022). Research by Rizkyet al. (2023) reveals that the effectiveness of regulations can be improved by applying better monitoring technology. Public awareness of constitutional rights to the environment and the importance of environmental protection needs to be increased. Research by Arifin et al. (2022) shows that education programs and public campaigns can increase people's understanding of their rights and ways to protect the environment. This education is essential to build more robust public support for environmental policies. Environmental policies must be updated regularly to respond to changing conditions and new challenges. Research by Ningsih et al. (2023) shows that policy updates based on the latest data and analysis can improve the effectiveness of environmental protection. These updates should involve consultation with stakeholders to ensure the resulting policies are relevant and effective.

Integrating environmental policies in development planning and implementation is essential to reduce conflicts between economic development and environmental protection. Research by Mulyadi et al. (2022) shows that sustainable development approaches that integrate environmental aspects can help reduce negative impacts on ecosystems and communities. Evaluation of environmental policy performance is a critical step in assessing the implementation's effectiveness and identifying areas for improvement. Research by Pratiwi et al. (2023) reveals that periodic evaluations can provide valuable information about the extent to which environmental policies have successfully achieved their goals and how the results can be improved. Academics play an important role in research and advocacy for environmental protection. Research by Purnama et al. (2022) shows that the contribution of academics in scientific research and the formulation of policy recommendations can help improve understanding of environmental issues

and influence better policymaking. Global influence on national environmental policies also needs to be considered. Research by Wijaya et al. (2023) shows that international agreements and global commitments can influence environmental policies at the national level. Involvement in international agreements such as the Paris Agreement could encourage governments to take more ambitious actions in environmental protection.

Effective environmental risk management strategies can help reduce the negative impact of human activities on the environment. Research by Septian et al. (2023) shows that a risk-based approach that identifies and manages potential environmental risks can improve the effectiveness of environmental protection and reduce losses for society. Environmental damage has significant social implications, including public health and social well-being. Research by Latifah et al. (2022) shows that environmental damage can cause health problems, such as respiratory diseases and ecosystem disturbances, that affect people's lives. Based on the analysis and findings in this study, practical recommendations for policy improvement and implementation of constitutional rights to the environment in Indonesia are suggested. These include increasing the capacity of law enforcement institutions, revising regulations, increasing community participation, and integrating environmental policies in development planning. Research by Junaidi et al. (2023) guides steps that can be taken to strengthen the protection of constitutional rights and achieve sustainable development.

CONCLUSION

The recognition of constitutional rights to the environment in Indonesia, as stipulated in Article 28H Paragraph (1) of the 1945 Constitution, shows significant progress in integrating environmental protection as part of human rights. This recognition reflects a commitment to ensure that every citizen can live in a healthy environment and support their well-being in line with international human rights principles as enshrined in the Universal Declaration of Human Rights and the International Covenant on Economic, Social, and Cultural Rights. Although Law No. 32 of 2009 on Environmental Protection and Management provides an adequate legal framework, implementing this constitutional right is often hampered by various obstacles, including complex bureaucracy and lack of inter-agency integration.

The main challenges in enforcing constitutional rights to the environment include weak law enforcement, conflicts of interest between economic development and environmental protection, and lack of coordination between government agencies. Weak law enforcement often results in impunity for environmental polluters, while conflicts between industrial sector investment and environmental protection cause ecosystem damage and decrease people's quality of life. In addition, poor coordination between government agencies creates inefficiencies and conflicts of interest in environmental management, hampering practical protection efforts.

To address these challenges, strategic measures are needed that include increasing the capacity of law enforcement institutions and revising regulations to ensure more consistent and effective implementation. Policy updates involving consultation with stakeholders and increased community participation in planning and implementing environmental policies are also essential. In addition, integrating environmental aspects in data-driven development planning and environmental risk management can help reduce the negative impact of human activities on the environment. These measures are expected to strengthen the protection of constitutional rights to the environment and support the achievement of sustainable development in Indonesia, ensuring that environmental rights are adequately met amid the needs of growing economic development.

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