

MANAGING GREEN ENVIRONMENT IN INDONESIA: PRESENTING THE APPEARANCE OF EXCELLENCE

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ABSTRACT

The primary goals of this qualitative article are to both theoretically and practically examine Vasak's concept of third generation human rights in the Indonesian Constitution. The constitutionality of Vasak's concept of green rights in his third generation of human rights reflects Indonesia's commitment to a healthy and sustainable environment. However, the concept is not applicable in practice because it is only disguised as having environmental merit. The green rights mentioned throughout the development of Indonesia therefore have negative environmental impact as this country employs counterproductive environmentally friendly strategic plans but mostly infringes human rights. This study employs the socio-legal method, as well as human rights and statutory approaches. The study is based on a desk review of the Constitution, International Covenant referenced books, legal doctrines, articles, law journals, and environmental rights documents. Along with institutional, implementation, and policy design failures, the Green Rights in the 1945 Constitution have not been applied holistically. To achieve environmentally friendly, sustainable development, as well as the emergence of intergenerational justice and human rights, the country must incorporate the concept of green rights into its constitution in a holistic manner between humans and nature.

Keywords: Environmental Management, Environmental Rights, Holistic, Indonesia, Sustainable

INTRODUCTION

Although Indonesia has constitutionalized Vasak's third generation of human rights, particularly collective rights in environmental protection as a State duty and human dignity in its Constitution (Shultziner & Carmi, 2014; Messetti & Dallari, 2018), in which both the individual as well as the state share the same degree of responsibility and responsibility for all of its protection (Young, 2019). It is only cloaked in the guise of environmental benevolence. The practice of green rights mentioned in Indonesia's legal framework has a negative impact on the environment because the country employs weak Green Growth Approaches (Huberty et al., 2011; Global Green Growth Institute, 2014).

The third generation of human rights, which includes solidarity rights among other things. The following rights are enshrined in the 1945 Indonesian Constitution: (i) the right to development; (ii) the right to peace; (iii) the right to own natural resources; (iv) the right to a good environment; and (v) the right to cultural heritage. As part of the third generation of human rights, this research concentrates on the right to a healthy environment.

As a developing country with complex environmental problems, it is suggested that Indonesia's inability to protect the environment (land, water, and air) ranks the country sixth in the world, trailing Bangladesh, Pakistan, Mongolia, and Afghanistan (Conserve Energy Future, 2020). In 2020, Indonesia was ranked 122 out of 180 countries in terms of environmental health, and 116 out of 180 countries in terms of the Environmental Performance Index (Environmental Performance Index, 2020). In addition to the foregoing, the country is projected to amount around 3.22 million metric tonnes plastic waste per year, making it the world's second largest polluter of the ocean after

China (The ASEAN Post, 2018). Plastic waste pollution from Indonesia affects not only the world ocean but also its rivers. Lebreton, et al., (2021) discovered that Indonesian rivers are among the top 20 most polluted rivers in the world in their earlier study on river plastic emissions to the world's oceans. Emissions from industrial processes or vehicles are also another threat to the environment. However, this sort of behavior is indeed not willing to take responsibility for Indonesia's emission levels; somewhat less, the maximum emission is caused by peat soils, an ecosystem composed of organic, spongy substances formed by decayed plants that can store a huge amount of carbon dioxide. The country also emits the most greenhouse gases of the any developed country (Carbon Brief, 2019).

The primary cause of environmental degradation is a downward trend in standards of living. An increase in the water pollution, landslides, wildlife extinction, air pollution, and an unbalanced ecosystem are all indicators of this (Putri, 2021). In addition, Indonesia is the second-largest emitter of marine micro-plastic debris (Mongabay, 2019).

Funding is critical in achieving Green rights implementation between humans and nature in order to reduce environmental damage and climate change, as well as to ensure changes in atmospheric conditions. Planting trees and preserving forests will help to reduce pollution. Nature will benefit as a result of this. However, as per the Global Fire Emissions Database version 4, intentional burning of agricultural lands caused forest and land fires in the country in 2015, resulting in a burn of approximately 2.6 million hectares of land and a greenhouse gas outpouring of 1750 million metric tons of CO₂ equivalent to MtCO_{2e}. Thus according reports from 2019, the hotspots have affected 328.724 hectares of forest and farmed land (Yuniastuti & Hasibuan, 2019).

As a commitment to environmental protection and management, one of the ideas and developments in environmental protection efforts is to include environmental human rights provisions in the country's constitution. The green constitution is one of those things that responds to various types of societal concerns by reducing environmental risk. In order to control environmental destruction and prevent further climate change, the concept of green rights should be applied between people and nature. Moreover, the Indonesian government established a fund for forest takeover. This will be used to conduct forest research and to help safeguard them. However, as shown in a 2020 study, wildfires across the ASEAN region are wrecking a huge amount of land or even going to affect human health (Greenpeace Southeast Asia, 2020). One other cause of potential long term damage is climate change. Besides that, increasing ocean temperature changes and plastic waste destroy coral reefs, obstruct ocean currents, as well as alter fish migration patterns, and some sea creatures are dying as a result of global warming (Jones, 2019).

The major issue in the above description is that the achievement of the right to a good environment in the Indonesian constitution has failed because it is not implemented holistically due to some environmental law enforcement and management obstacles. This should be included in green and those of the Indonesian constitution. In order to put an end to global warming, this research will create a new method of environmental protection practice. Everyone's right to a healthy environment has still not been realized due to hurdles in the enforcement of sustainability legislation.

LITERATURE REVIEW

Previous studies focused on environmental protection as a constitutional right, as well as the decision to deliver it also has drawn attention to the Green Constitution. (Yusa, 2018; Pinilih, 2018; Sundawa et al., 2018; Naiborhu, 2019; Nurmardiansyah, 2015; Imhof, Gutmann & Voigt, 2016; Shulztiner & Carmi, 2014; Handayani, 2012; Jundiani, 2011; Asshiddiqie, 2009). Policy failure, legislative failure, and institutional failure, on the other hand, have never been considered. The environment principle of having to be green (going green), which necessitates a large sum of

money, is difficult to grasp. (Joseph, 2019). Another widely misunderstood point would be that the goal of environmental protection is to benefit humans rather than the environment (Laitos & Wolongevicz, 2014). Yet another strategic approach besides protecting the environment whilst also benefiting all humans and the environment is creative regulatory reform (Clarke et al., 1994).

Vasak centered his campaign for environmental rights on the well-known French Revolution slogans of liberty, equality, and brotherhood (Domaradzki, Khvostova & Pupovac, 2019). He divides them into three generations: The first, Blue Rights, or first Generation of Human Rights. They were also referred to as traditional human rights. These rights are the result of demands to be free of the shackles of state authoritarianism. Human rights exist to safeguard people's private lives. The right to life, the right to move freely, the right to property, and the right to think and practice religion are all examples of blue rights. Because these rights are still not infringed upon, they are also known as negative rights. Since there is no interference with a person's rights and freedoms, these are also referred to as negative rights. People should have the right to maintain consciousness without interference by the state or other social factors. The achievement of such rights is completely reliant on the state's failure to respond. Since it intrudes on peoples' rights, the state should never be deeply engaged in the accomplishment of such rights. This is what makes it different a first generation of human rights from the second.

Second Generation Human Rights, also known as Red Rights. These primarily pertain to economic, social, and cultural rights. They were established in the nineteenth century to combat the poverty and exploitation brought about by the Industrial Revolution (Prahastini, Hafisah & Sumardjo, 2019). These rights include the right to a living wage, the right to a reasonable amount of rest, and the right to an education.

Green Rights, or indeed the Third Generation of Human Rights. This generation is made up of people's life experiences and how those experiences have influenced them. These rights cannot be exercised by a single person, but must be exercised by all parties who would be affected (United Nations Human Rights Special Procedures, 2018). Everybody bears responsibility for protecting the environment. Environmental issues, such as global warming, affect everyone, so everyone should be concerned. Other third-generation human rights include the right to peace, development, the individual liberty to choose one's own destiny, an entitlement, and the right to communicate.

The third generation of human rights, which includes solidarity rights among other things. The following rights are enshrined in the 1945 Indonesian Constitution: (i) the right to development; (ii) the right to peace; (iii) the right to own natural resources; (iv) the right to a good environment; and (v) the right to cultural heritage. As part of the third generation of human rights, this research concentrates on the right to a healthy environment.

METHODOLOGY

The Indonesian Constitution 1945 was the main type of legal material used in this research, which was conducted in the library. This study employs the socio-legal method, as well as human rights and statutory approaches. The study is based on a desk review of the Constitution, International Covenant referenced books, legal doctrines, articles, law journals, and environmental rights documents. Environmental-related materials from books, law reports, and journal articles are among the additional data sources. This research paper focuses on the environmental laws and protection in Indonesia. The research will assist to address and focus on improving Green Rights issues. Since the researcher meets the objects through research and is not inspired by assumption, the scientific method is constructivism. The study will show how Green rights could be accomplished.

ANALYSES

Green Rights in the Indonesian Legal System

Article 28 (H) of the Second Amendment to the 1945 Constitution guarantees the right to a good and healthy environment. It clearly states that people have a responsibility to keep the environment clean and safe. Because Indonesia has recognized the value of environmental rights to future generations, every citizen is obligated to protect the environment. The Indonesian constitution recognizes environmental rights and generational development. Everyone has the right to a healthy environment and a healthy life, according to Law Number 39 of 1999. This continuous evolution can be traced back to the 1972 United Nations Conference on Human Environmental Development in Stockholm, Sweden. The Stockholm Conference outcomes do have potential to transform Indonesia's development and environmental management (Sakumoto, 2007).

Furthermore, Indonesia is one of the countries that acknowledges environmental rights and their importance to future generations. As a result, according to Law Number 32 of 2009, continuous development is a premeditated attempt to integrate environmental outlooks into planned development in order to ensure a stable as well as dependable environment. The role of the environment is guided by Law Number 32 of 2009, explicitly Article 67, that further requires anyone to promote sustainable development. Indonesia has instituted a plan to reduce forest fires and focus on improving sustainable agriculture. Laws such as Presidential Instruction No. 11 Year 2015 were passed, leading to fewer wildfires and improvements in land management. It was authorized as a follow-up with Presidential Instruction No.16 issuance in 2011. All such two laws were modified in order to develop better norms.

The Concept of a Green Constitution

The concept "Green Constitution" refers to the inclusion of environmental lawful standards into the constitution or the extension of environmental norms to the constitutional level (Faiz, 2016). The idea behind enshrining green rights in the constitution and to provide a foundation for the design of environmental laws and also a means of protecting citizens' rights even after an encroachment takes place. Instituting green rights in the constitution, however according Imhof, Gutmann & Voight, (2016), entails intergenerational redistribution for the benefit of future generations and contributes to the provision of public goods, which redistributes resources among all members of society.

The Green Constitution emerged as an idea that many constitutions around the world adopted, to 148 countries incorporating it (Imhof, Gutmann & Voigt, 2016). Small companies in South Africa and Ecuador have been slain mostly by effects of increased external power in several remote landscapes. It also has a negative impact on environmental resources, community rules, and labor rights. Ecuador creates a chapter in its constitution titled "Rights to Nature," rather than treating it as property as the rules require (Boyd, 2013). Environmental issues have indeed been elevated to the same level as human rights issues. France, for example, also include environmental concerns in its constitution (Burgorgue, Astresses & Bruck, 2019). The government's role in protecting the environment and citizens' rights is outlined in the Portuguese constitution, which is also included.

The green constitution introduces the concept of ecocracy or environmental supremacy (Asshidiqie, 2009). Article 28 H paragraph 1 and Article 33 paragraph 4 of the 1945 Indonesian constitution lay the groundwork for a Green constitution. Environmental protection strategies have boosted, however most people in this nation are clueless of this. A program should be developed to increase awareness and understanding of Green Constitution. The constitution's carefully

considered element of sustainable development serves as the foundation for all of this. Furthermore, the Green Constitution embodies environmental growth as just an important aspect of environmental health (Harper, 2014). Environmental growth does indeed have a long social and economic lifespan.

Meanwhile, as per Article 33 paragraph (4), "the national economy shall be determined on the basis of wealth redistribution, with precepts of oneness, equitable efficiency, sustainability, environmental insight, independence, and by maintaining a balance between progress and national economic unity." The country's environmental protection has continued to improve, but far more improvement is required.

Constitutionality of Environmental Norms

Once Indonesia gained its independence from the Netherlands, the goal of Green Constitution is to lay the foundation for Indonesian citizens' rights. Such citizens did deserve to live in a decent and pleasant environment. In attempt with constitutionality to take place in Indonesia, specific standards have been developed. Green Constitution law dictates that the environment should be managed in order to ensure long survivability. The purpose of incorporating green rights in to the constitution is just to avoid pollutants from damaging the environment. The constitutionality of environmental rules must be established as just a basis for dealing with state-related issues for all this purpose. It should develop a solid strategy for preserving human rights and ensuring everyone's individual liberty.

Furthermore, environmental management entails preventing pollution and mitigating damage. The system that seeks to promote environmental management has decided to make environmental sustainability a prerequisite. This system requires organizational stability, human resources, funding, environmentalists, legislation, as well as information accessibility. The degree to which the essence of the surrounding environment is correlated has an effect on environmental management. The support system is effected, but it is linked to the deployment of development in other sectors. Ecocracy has had a significant positive impact on the Green rights enshrined in the Indonesian constitution, as it prevents environmental destruction. The Green constitution aids in the restoration of mental and physical quality of life, and also the implementation of environment-based environmental regulations.

Every individual does have the right to live in peace, both physically and psychologically. When committing an unlawful act against environment, the mental quality of life should be deemed. Karel Vasak's idea will be used to reevaluate the principle of mental and physical well-being while trying to forge a powerful relationship with the environment. Environmental issues are a human rights concern since they are immediate and therefore are centered upon on growth of coming generations.

Models of Green Rights Implementation in Indonesia

Environmental degradation increased significantly and the use of natural resources after Environmental Protection and Management Regulation was passed. And according to 2019 Water Resources Indonesia report, Indonesian economic growth over the past two decades has culminated in accomplishment for country's citizens. From 2000 to 2018, Indonesia's economy grew at an annual rate with 5 to 6 percent, and indeed the country has been capable of reducing poverty levels by quarter. This economic boost, however, comes at a high cost. A bush fire emerged during the year 2019, leading to economic loss. This loss equates to 0.5 percent of the nation's GDP.

In addition, the rate at which trees are being toppled continues to rise. Boating in prohibited areas remains, as well as marine administration is ineffective. The climatic conditions have started

to deteriorate, and a large amount of waste is being dumped into the ocean, putting marine life in danger. The adoption of the Omnibus Act over the Protection and Management Act demonstrated the state's lack of conservation commitment.

On the one hand, the pursuit of a healthy environment is a fundamental right of every citizen, but on the other, standard of living also declined. Environmental damage, pollution, as well as human degradation of the environment all have harmed human rights. Natural resources are being seized by people since they provide it as source of income. According to Lawalata (2013), the general rules of environmental growth in Indonesia entail the concept of sustainable development, which would serve as the basis for fulfilling the needs of the future generation. It also aims to stimulate economic growth, reduce environmental impacts, and focus on promoting full equality.

Attempts to restore and salvage the environment, however, are overshadowed by the level of destruction and damage that is currently happening. This indicates that environmental issues are not yet a key problem in Indonesia. Decisions are made at the highest ranks, and as a result, those that do not reflect the interests of environmental preservation. According to the principles of Law 32 of 2009, human relations with the surrounding environment should be made sustainable in order to create a functional human being. It also states that there should be an awareness that people as well as the environment are intrinsically tied.

Policy Failure

Policy failures take place when there is a mismatch between the government's intended objective and what it has actually accomplished. Green Rights was a tremendous effort, but there are still many issues that need to be addressed. One of policy failures in achieving environmentally sustainable rights in Indonesia seems to be the weakening of community engagement (Hariandja, 2020). The community is the most vulnerable to environmental damage caused by regional changes. The Omnibus Law actually undermines community involvement in achieving a good and healthy living environment. This is demonstrated by the repeal of Article 36 of Law Number 32/2009 concerning Environmental Protection and Management (UUPPLH), which required environmental permits as a condition about doing business. After this new law is enacted, the Omnibus Law, the community involvement in monitoring the implementation of environmental law will no longer be valid.

Since the community do not fully understand the law, the community must be included in order for them to have enough and ample information, and the people's right to protection must also be ascertained. Everyone should be concerned about the environment even though people affect the economy, the government, the investment sector, and society as a whole. The community should be involved in consistent with the norms of strategy accomplishment as well as greater transparency.

Implementation Failure

Despite the fact that the government has issued several regulations aimed at environmental law enforcement, their implementation has been hampered by both environmental law enforcers itself and its implementation. Enforcing environmental laws is a challenging issue for almost every part of the world seeing as human interests continue to be given priority over environmental interests. Human interests as the primary reason for environmental sustainability have triggered the government to end up losing the commitment to actually implement environmental law.

According to the European Union Network for the Implementation and Enforcement of Environmental Law (2015), common causes of poor implementation include a lack of resources, insufficient capacity within organizations responsible for environmental regulation and enforcement, and inadequate sanctions and low levels of fines. those who break the law. Above all,

as Guzman (2011) found that the origins of disaster for violations of human and environmental rights are a lack of motivation to implement regulations and a lack of ability to enforce environmental regulations. Difficulties in implementing environmental law not only do actually impact developing countries; those that also directly impact developed countries where motivation is a key factor.

The disproportionate number of competent Environmental Supervisory Officers (PPLH) throughout Indonesia in terms of the number of business operations which must be closely monitored becomes a source of failure to implement supervision (Indonesian Center for Environmental Law "ICEL", 2020). The lack of data and history of compliance by business actors as the basis for supervision, as well as the not-yet-optimal management of environmental information systems for supervision, and the accountability mechanism for environmental supervision are still not feasible. Because of all these issues, environmental oversight has been unable to optimally encourage compliance and, more fundamentally, is still unable to enforce environmental rules, nor even preserve the healthy and good environmental sustainability.

This situation could have been avoided immediately, and the government should have provided a solution because it endangers the lives of current and future generations. The government must become more professional; it must act with integrity and aspiration. The four techniques of government performance supervision must be used to examine the assessment. They are as follows: oversight, supervision, and the emergence of an open government. The State Audit Board provides oversight in collaboration with the State Officials Wealth Audit Board. These commissions will function effectively if the following criteria are satisfied: People who serve on commissions should be truthful and well-liked by society. The commissions should be honest and well-liked by society, and the government agency recruitment system should be run professionally, free of interference from the parties who established the commission.

In order to integrate effective governance, the concept of open government should be included, that acknowledges the citizenry's responsibility to examine the decision-making process. Citizens must have the right to access information and participate in public policy making under open government because environmental degradation and ignorance of native communities' rights can be harmful to the entire community. Government officials had also ignored oversight as those who pursue interests that differ significantly from the public at large.

Institutional Failure

Deforestation and wildfires are two examples of environmental violations that have wreaked havoc on the environment. People exploit the environment while being supervised by institutions entrusted with its protection. In this case, the Green Constitution should be used to protect the environment, as the country is working on an environmentally friendly constitution. Citizens must follow the law and work to create a clean, pollution-free environment. It complies with Indonesian Constitution Article 28, which states that everyone has the right to live in a clean and safe environment. It means that the environment encompasses all living and nonliving things, including humans, objects, and powers that have an impact on nature. However, natural resources that should be used to boost economic growth are being overexploited and are on the verge of being depleted.

The incorporation of green rights into the constitution is one strategy for increasing and developing environmental awareness, in which the role of the state institution is to enforce environmental protection rules. Article 32 of the 2009 Constitution contains environmental laws that address issues such as environmental management, forest laws, oil laws, gas laws, electricity laws, and natural resources. Policies to protect the environment have been put in place since the country has become mindful of environmental sustainability. So the Green constitution is distinctive or even intends to find a sustainable nature, this same probability from any problems that arise from

it is negligible. Indonesia is one of the world's most environmentally degraded countries, trying to make the Green Constitution a crucified document.

CONCLUSION

The study examines green policies described in the Indonesian plot, which can have ideas with conservations, peace movements, and social progressivism. Moreover, the secondary qualitative study elaborates the prospective civil liberties, social justice to arrange nonviolence, social justice, and eventually green anarchism. Green rights can be managed through the use of green constitution concepts in conjunction with the use of technology to control sustainable development and preservation. Furthermore, the study has secondary analysis results that have been adopted the environmental sovereignty to inherent fundamental human rights, and aspects against environmental hazard. It is assumed that Karel Vasak concept adoption in the constitution learning developments with sustainability that countries must support the issues regarding environmental impact and take legal steps in turn. The government is also responsible for managing policies by taking concrete steps as well as making serious constitutional decisions in order to avoid failures in achieving environmental sustainability. Civic education in Indonesia manages to combine education and teaching to maximize the effectiveness of the system. It can be concluded with a green constitution based on green rights associated with global recovery issues. The creation of green rights is part of a moral consciousness that the application can improve the living standards and ways of life of Indonesians.

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