



Political Law Protection and Management Environment Towards Indonesian Ecocracy

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Abstract This article explores protection and environmental political laws in regard to economic management in Indonesia. there are two main problems that should be analyzed, (1) how is the protection and environmental political laws in Indonesia? And (2) how is the protection and environmental political laws in Indonesia in reaching Indonesia's economy. This is normative legal research by statutory and conceptual approach. It is then analyzed through law theory and law political concept as the basis for discussing the matters. The discussion is exploring protection and environmental political laws in Indonesia nowadays heading to democratic and responsive. Legal politics that is democratic and responsive provides a way to achieve the goals of Indonesia's economy.

Keywords: Ecocracy, Environment Management, Political Law Protection

1. INTRODUCTION

The 1945 Constitution of the Republic of Indonesia states that a good and healthy environment is a basic human right and constitutional right for every person. inhabitant country Indonesia. By Because That, country, government, And all over stakeholders interests are obliged to carry out environmental protection and management in the implementation of sustainable development so that the Indonesian environment can remain source And support life for people Indonesia as well as creature life other.

Indonesia has abundant biodiversity and natural resources. This wealth needs to be protected and managed in an integrated and integrated environmental protection and management system between the marine, terrestrial and marine environments. air based on Nusantara insight. Indonesia is also in a very vulnerable position to the impacts of climate change. These impacts include decreased food production, disruption availability water, spread pest And disease plant as well as human disease, the rise surface sea, sinking the islands small, And extinction of biodiversity.

Availability source Power natural in a way quantity or quality No evenly, while development activities require increasing natural resources. Activities development Also contain risk the occurrence pollution And environmental damage. This condition can result in environmental carrying capacity, capacity, and productivity life decrease Which on Finally become burden social.

Protection And management environment life demand developed a system Which integrated in the form of a policy national protection And environmental

management life Which must implemented in a way obedient principle And consequent from center until to the area.

Use source Power natural must in harmony, harmonious, And balanced with environmental function life. As the consequences, policy, plan, and/or development programs must be inspired by the obligation to preserve the environment and realize objective development sustainable.

Wrong One means For reach ideals in protection And environmental management life in Indonesia is through instrument the law, Which in matter This Constitution. However, in his journey Constitution the experience reject pull and configured with political in its making.

Apart from the ideal of achieving a state based on law through the establishment of laws Which based on democracy, Already should Now Indonesia move to direction the country that protect And manage environment Which sustainable Which called with “ecocracy” through instrument the law That. Matter This in line with opinion Arief Hidayat who state besides democracy, nomocracy, theocracy, must Also ecocracy¹ run with development law Which based on environment.

Based on background behind problem in on, lifted two problem main, namely:
(1) How is it? political law protection And management environment life in Indonesia?
(2) How is it? building political law protection And environmental management in frame reach “ecocracy” Indonesia?

2. METHOD STUDY

The research method used in this study is the normative legal research method with a post-positivism paradigm. By using a legislative approach (*statutes approach*) And approach conceptual (*conceptual approach*). The source of legal material comes from primary legal material which is elaborated with secondary legal material. secondary. Which collected with technique literature Which Then analyzed sequentially start source material law primary to secondary.

3. RESULTS STUDY AND DISCUSSION

Political Law Protection And Management Environment Life in Indonesia

Moh. Mahfud MD., opinions that political law is line policy official regarding the law that will be enforced either by making new laws or by replacing existing ones law long, in frame reach objective country. Directions country against the law Also applicable in

arrange environment life in Indonesia. In Frame legal policy at least There is three Constitution Which Once applicable And currently applicable in Indonesia which regulates the environment in Indonesia, namely Law No. 4 of 1982 (hereinafter abbreviated as Law No. 4/1982), Law No. 23 of 1997 (hereinafter abbreviated Act No 23/1997) And Which applicable Now Constitution No. 32 Years 2009 (Furthermore abbreviated Act No. 32/2009).

History also records that the name of the Environmental Law has changed, start from Constitution about Provision Main Point Management Environment Life, Then change become Constitution About Management Environment Life, and that applicable Now is Constitution about Protection And Environmental Management.

Name from every Constitution Which different between One with Which other it is alleged influenced by line policy country on moment That in matter environmental management in Indonesia Which related also with regime government on moment that. At least, related with periodization arrangement environment life in Indonesia can shared two namely regime order New (UU No 4/1982 And Act No 23/1997) And order reform (Law No. 32/2009).

Journey historical started moment implementation Act No 4/1982 Which has mark the beginning development device law as base for effort management environment Indonesia's life as an integral part of sustainable development efforts that are environmentally conscious. In the period of more than a decade since enactment Constitution the, awareness environment life public has increased rapidly, which is indicated by, among other things, the increasing number of community organizations working in the environmental sector in addition to non-governmental organizations. There is also an increase in community pioneering in preserving environmental functions so that public No only just participate, but Also capable play a role in real. Temporary That, problem law environment life Which grow And grow in public need arrangement in form law for the sake of ensure legal certainty. In his journey, Because need existence adjustment with condition global And physique environment Which changed in Indonesia, replace it Constitution the with UU no 23/1997. Which the settings No Far different with What Which set up by Constitution previously with a number of matter Which customized.

Act No. 23/1997 This load norm law environment life. Besides That, this law will become runway For evaluate And adapt all regulation legislation containing provisions on the applicable environment, namely legislation on irrigation, mining and energy, forestry, conservation source Power natural biological And its ecosystem, industry, settlement,

arrangement room, order land use, etc.

Improvement utilization various provision law, Good law administration, law civil and law criminal, And business For make effective dispute resolution environment life in a way alternative, that is settlement dispute environment life outside court For reach agreement inter-party Which dispute. Beside that, it is necessary also opened possibility he did lawsuit representative.

It is hoped that by resolving environmental disputes in this way, increase obedience public to system mark about how the importance of preservation And development ability environment life in life man present time And human life time front.

The Law on Basic Provisions for Environmental Management has the following characteristics:

- a. Simple but can cover possible future developments, as appropriate. with circumstances, time, and place;
- b. contains basic provisions as a basis for further regulation of its role ;
- c. covers all aspects of the environmental sector, so that it can become a basis for further arrangements for each aspect, which will be outlined in the form of separate regulations.

Apart from that, this law will be a basis for assessing and adjusting all regulation legislation Which load provision about The environmental aspects that are currently in force are laws and regulations regarding irrigation, mining and energy, forestry, protection and preservation of nature, industry, settlements, order room, order use land, And other.

Furthermore, Law No. 23/1997 was replaced by Law No. 32/2009 concerning Protection and Management Environment Life Which born on time reform Which arrange:

- a) integrity elements management environment life;
- b) clarity authority between center And area;
- c) strengthening on effort control environment ;
- d) strengthening instruments for preventing environmental pollution and/or damage, which include strategic environmental assessment instruments, spatial planning, environmental quality standards, criteria standard damage environment life, Environmental Impact Analysis, effort management environment environmental monitoring and management efforts, licensing, environmental economic instruments, environmental-based legislation, environmental-based budgets, environmental risk analysis, and other instruments in accordance with developments in science and technology;
- e) utilization licensing as instrument control;
- f) utilization ecosystem approach ;

- g) certainty in respond And anticipate development global environment ;
- h) strengthening environmental democracy through access to information, access to participation, and access to justice as well as strengthening community rights in environmental protection and management;
- i) enforcement law civil, administration, And criminal in a way more clear;
- j) strengthening institutions for environmental protection and management to be more effective and responsive;
- k) strengthening the authority of environmental supervisory officers and environmental civil servant investigators.

Journey long law about environment life in Indonesia like has described previously cannot be released from the political elements of the rulers at that time so that have an impact on character product law Which produced, specifically about law environment in Indonesia.

Moh. Mahfud MD in particular general explains that the indicators character product law is assessed as law Which responsive is in the making of it involving public participation, the content is aspirational towards the needs of the community and the details of the content are limited, so that No cause multi interpretation Which confusing And resulting in a lack of legal certainty.

Whereas indicator character product law rated as law Which orthodox is in the making of it centralistic-dominant, It means only race ruler Which form the legal product without any participation from the people. Then, positivist - instrumentalistic and the details of the contents are *open interpretative* , giving freedom to law enforcers (judge) For interpret provision law the. Law is product political, a statement Which will difficult denied For state connection between powers And law. Power This represented by What Which called power politics. Statement the born from A theory that configuration Political in a the state determines pattern law Which will applied on country the. Political in a An authoritarian state will produce orthodox laws. While democratic politics will produce responsive laws.

Configuration political authoritarian is configuration political Which put government in a very dominant position with an interventionist nature in determining and implementation of state policies, so that the potential and aspirations of the community are not aggregated and articulated in a way proportional. Even, with role government Which very dominant, body representative people And party political No functioning with Good And more is a tool for justification (*rubber stamp*) for the government's wishes, while the

press does not have freedom And always is at in lower control government in shadow of banning.

The democratic political configuration is a configuration that opens up space for public participation to be maximally involved in determining state policy. Such politics places the government in a greater role as an organization that must implement will its people, Which formulated in a way democratic.

Act No. 4/1982 And Act No. 23/1997 rated based on parameter product law in on can classified to in character law Which orthodox Because born in the regime political Which authoritarian. Whereas Act No 32/ 2009 classified as to in product the law that responsive Because born in regime political democratic time reform Now.

The argument is that Law No. 32/2009 ⁴ gives broad authority to the Minister. For carry out all over authority government in field protection And management environment life as well as do coordination with agency other. Through Constitution This Also, Government give authority Which very wide to the government area in do protection And management environment life in the area each Which No set up in Constitution Number 23 Year 1997 about Management Environment Life. By Because That, institution Which have burden Work based on Constitution This No Enough only a organization Which establish and coordinate the implementation of policies, but an organization with a portfolio is needed set, carry out, And supervise policy protection and environmental management.

In addition, this institution is also expected to have the scope of authority to supervise source Power natural For interest conservation. For ensure The implementation of the main tasks and functions of the institution requires adequate funding support from the state revenue and expenditure budget for the Government and the revenue and expenditure budget. area Which adequate For government area.

On time order reform born Act No. 32/2009 Which in a way line arrange matter following:

- a) There is a Strategic Environmental Assessment, hereinafter abbreviated as KLHS, namely a series of systematic, comprehensive and participatory analyses to ensure that the principles of sustainable development have become the basis and are integrated into the development of a region and/or policies, plans and/or programs.
- b) No differentiate Natural Resources not updated with Natural Resources updated.
- c) Entry discourse Change climate.

- d) It's arranged Management waste B3.
- e) It's arranged Dumping.
- f) It regulates ecoregions, namely geographical areas that have similar characteristics of climate, soil, water, native flora and fauna, as well as patterns of human interaction with nature that describe the integrity of natural systems and the environment.
- g) Local wisdom is regulated as noble values that apply in the social order of life to, among other things, protect and manage the environment sustainably.
- h) It is regulated that customary law communities are groups of people who have lived in a certain geographical area for generations due to ties of origin. ancestors, a strong relationship with the environment, and a value system that determines economic, political, social and legal institutions.
- i) The regulation on environmental economic instruments is a set of economic policies to encourage the government, regional governments, or every person towards preserving environmental functions.
- j) The environmental permit is regulated as a permit granted to any person who carries out a business and/or activity that requires an Amdal or UKL-UPL in the context of environmental protection and management as a prerequisite for obtaining a business and/or activity permit.

Say key in Act 32/2009 Which cause classified as character law responsive And autonomous Because, No centralized authority on government center and the existence of participation public Good local and and public custom as well as right its customs.

This in line also with opinion Mukthi Fadjar Which state, character legal product post reform in classify into the type character law autonomous. As for characteristics - main features character type law autonomous ⁵ between other:

- a) Emphasis on legal rules as the primary means of monitoring official and unofficial power.
- b) There is court Which free Which No can manipulated by And free from political and economic power.
- c) Separation law from politics.
- d) Court to strive law applied in a way fair.

Borrowing the opinion of Adnan Buyung Nasution ⁶ who is of the opinion that there are other powers of the amendment to the 1945 Constitution, including: the existence of protection for human rights (the existence of environmental rights is a strength in the amendment to the UUD), limitations on power country, direct presidential elections, establishment of the Supreme Court apart from executive power, as well as the birth of the

Constitutional Court and the Judicial Commission.

Reach Country Ecocracy Indonesia Through Building Political Law Environment

Like has outlined previously that Indonesia Now No Enough just reach ideals country law (*nomocracy*) Which based on mark Deity (*theocracy*) and democratic values, but must also achieve a sovereign state in the environment (*ecocracy*). Caring in the sense that through its legal instruments it has been regulated regarding the sustainability or sustainability environment For time front.

This has been generally described in Law No. 32/2009 which is implemented with the principle of preventive efforts in the context of controlling environmental impacts by utilizing in a way maximum instrument supervision And licensing. In matter pollution And damage environment life Already happen, need done effort repressive in the form of effective, consequential and consistent law enforcement against pollution and damage environment life Which Already happen.

Law No. 39/2009 is the gateway to the Indonesian "ecocracy" state because it is One system law protection And management environment life Which clear, firm, And comprehensive use ensure certainty law as runway for protection and management source Power natural as well as activity development other.

It is said to be the gateway to an 'ecocracy' state because this law empowers various provision law, Good law administration, law civil law, as well as criminal law. Civil law provisions include the resolution of environmental disputes life outside the court and in the court. Settlement of environmental disputes in in court including class action lawsuits, environmental organization lawsuits, or right sue government. Through method the expected besides will creating a deterrent effect will also increase the awareness of all stakeholders about how important it is protection And management environment life for the sake of life generation present and future.

Indonesia's environment must be protected and managed properly based on the principle of responsibility. answer country, principle sustainability, And principle justice. Besides That, environmental management must be able to provide economic, social and cultural benefits. based on principle caution, democracy environment, decentralization, and recognition And award to wisdom local And wisdom environment. There is recognition This is form law responsive as put forward Philip Nonet and Philip Selznick.

In frame reach "country ecocracy Indonesia" No only charged to legal regulations alone, namely legal regulations that are pro-environmental with the term *green legislation* , However must Also in support with umbrella law Which pro-environment Also,

which in Indonesia is called a constitution, so the term *green constitution emerged* along with it. with budget country Which pro-environment Which called *green budgeting* .

On in principle, *green constitution* do constitutionalization norm environmental law to in constitution through raise degrees norm protection environment to the constitutional level. Thus, the importance of principles of sustainable development environmentally aware and environmental protection has a strong foothold in legislation. On that basis, *the green constitution* then introduce terminology And draft Which called with *ecocracy* which emphasizes importance sovereignty environment.

In context Indonesia, *green constitution* And *ecocracy* reflected in idea about power And right basic man as well as draft democracy economy as emphasized by Constitution Base Country Republic Indonesia Year 1945 (UD NRI 1945). Article 28H Paragraph (1) and Article 33 Paragraph (4) of the 1945 Constitution provide base constitutional for *green constitution* . With thus, norm protection environment life in Indonesia actually now has own foothold which is increasingly strong. However, Still Not yet Lots maker policy public and public wide in Land Water Which know And understand about matter Which important This. That is why a program is needed to disseminate knowledge and understanding of the *green constitution* and *ecocracy* .

Chapter 28H paragraph (1) UD NRI Year 1945 reads: "*Every person entitled live in prosperity born And inner, located stay, And get environment life Which good and Healthy as well as entitled to obtain service health.*" Right For get a good living environment and health and good health services are human rights basic man. Because That, UD NRI Year 1945 clear very pro-environment life.

Meanwhile, Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia states: "*The national economy is organized based on economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental awareness, independence, and by maintaining balance progress And unity economy national*" There is two draft Which related to the idea of an ecosystem, namely that the national economy based on economic democracy must contain the principle sustainable and environmentally friendly. Clear in constitution as instrument umbrella political law Indonesia recognized by nature own its sovereignty Alone. By Because That, beside people as the human being who considered sovereign, natural Also sovereign. This is it Which intended with principle of sovereignty environment

No Enough until there, dream become country environment or ecocracy Also need a role government as former And enforcer law as well as awareness society towards the environment which is a system to ensure the effective implementation of objectives achievement country ecocracy the.

This is in line with the opinion of Lawrence Freidman , who stated that law in the sense of structure and regulation is only one of three phenomena that are all equivalent and very real. *First* , there are social and legal forces that in a way certain urge enter And to form law. Then, *Second* , appear law itself, the structures and regulations. *Third* , there is the impact of the law. towards behavior in the outside world. From where is the law originate and what which is the result. Law as a system consists of a structure as a real element in law as a permanent body framework. The substance is composed of regulations and provision How agency structure law must behave. Whereas culture law is strength social Which continously to move law Which is element attitudes and social values of society.

So that with political law national must can push And fill in all elements in in system law national so that Work in accordance with ideals nation, state objectives, ambition law, And rules guide law in Country Republic Indonesia as contained in in Opening UUD 1945 specifically Which related with environment life. Law Which become object development law is institution Which used by the community. Because That public determine Alone How law That they accept, understand, And run. Political law is policy base organizer country in the field law Which will, currently, And has applicable, Which sourced from mark-mark applicable in society For reach objective country Which aspired to. Political law national must stand on on framework base ideals nation namely public Which fair and prosperous based on Pancasila, objective country, values Pancasila as base country, system law Pancasila And political law national must be based on rights citizen base country And rights basic man including right will environment life Which good. Politics law national formed in frame realize objective ideals ideal country Indonesia. Objective That covering two aspect Which each other related: (1) As a tool (*tools*) or means And step Which can used by government For create a system law national Which desired, And (2) With system law national That will realized ideals nation Indonesia Which more big.

Besides matter in on, political law Indonesia specifically related environment life in order to reach country *ecocracy* Indonesia must still notice method guide law in

Indonesia¹⁰ Which sourced from base country Indonesia namely Pancasila between other:

- a) Indonesian law must aim at and guarantee national integration both territorially and ideologically.
- b) Law must simultaneously build democracy And nomocracy.
- c) Build justice social.
- d) Build tolerance religious and civilized.

Wrong One the point is, is reach justice social for all over people Indonesia, including justice in the environmental sector by absorbing and appreciating community aspirations in environmental protection and management in Indonesia for the sake of sustainability.

In the concept of sustainable development , *the* development process is expected to be able to meet current needs without endangering the capabilities of future generations. come to fulfill his needs in utilise potential source Power natural For life. All activities economy in public and activity community on in general, as well as activity social culture And social political, No may only considering interests term short For day This, If profit day This obtained through ways or steps And actions Which can damage potential And Power support natural For generation Which will come, so activities Which considered It can be said that it does not provide benefits for the present in accordance with the principles of sustainable development, If matter That reflected in formulation policy means policy so it can be it is said contradictory with constitution (unconstitutional), If matter That reflected in government actions, then this can also be said to be contrary to the 1945 Constitution. This means that nature recognizes the existence of its own power and basic rights . Which No may violated by anybody (*inalienable rights*).

4. CONCLUSION

Based on the discussion above, the following conclusions can be drawn: as follows: First, that political law Constitution related environment life in Indonesia experience two periodization, namely, period time order new with coming into effect Act No. 4/1982 and Law No. 23/1997, where authoritarian politics with its orthodox legal character apply, and the reform order with the enactment of Law No. 32/2009, where democratic politics apply. with character the law Which responsive.

Second, with coming into effect Act No. 32/2009 Which characterful law

responsive with a democratic government regime, it can be a gateway for Indonesia towards 'ecocracy' (an environment-based state) with community participation and not centralized authority on government center as well as existence principle sustainable environment.

As for suggestion Which can delivered, between other: First, so that in achieving an "ecocratic" Indonesian state, in addition to creating pro-environmental legal regulations, also in government actions in the form of policies and legal actions as well as awareness public Which honor environment Also must in improve.

Second, in Indonesia, in the national legal development program, real steps are taken in detail and systematically to achieve an "ecocracy" state, including with an environmentally based budget.

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