

# The application of environmental law in preserving nature: Agrarian, legislative, and constitutional perspectives

W Handanto<sup>1\*</sup>, A Nugraha<sup>1</sup> and M Shobirin<sup>1</sup>

<sup>1</sup> Universitas Muhammadiyah Cirebon, Cirebon, Indonesia

\*Corresponding author email: [wildanhandantoo506@gmail.com](mailto:wildanhandantoo506@gmail.com)

## Abstract

Environmental law in Indonesia is inherently connected to agrarian aspects, legislative frameworks, and constitutional guarantees in the broader effort to preserve nature. This study employs a qualitative approach with a desk study method to analyze environmental regulations, governance of agrarian resources, and the constitutional right of citizens to a good and healthy environment. Although several legal instruments exist, such as Law No. 32 of 2009 on Environmental Protection and Management and Government Regulation No. 27 of 2012 on Environmental Permits, their implementation in practice remains hampered by weak law enforcement, persistent agrarian conflicts, and overlapping regulations between central and regional authorities. At the same time, judicial reviews of environmental provisions by the Constitutional Court highlight the significance of safeguarding environmental rights within Indonesia's constitutional framework. This study recommends strengthening the environmental legal system through greater synergy with agrarian law, harmonization of legislative instruments, and enhanced protection of citizens' constitutional rights to ensure sustainable environmental governance.

## Keywords

Environmental law, Agrarian law, Legislation, Constitution, Law enforcement

## Introduction

Indonesia is a country endowed with abundant natural resources and biodiversity. Tropical forests, fertile soils, mineral deposits, and vast marine areas constitute vital assets for national development. However, alongside efforts to utilize these resources, serious challenges related to environmental sustainability have emerged. Practices of overexploitation, large-scale land conversion, industrial pollution, and recurrent ecological disasters pose significant threats to ecosystem sustainability and community welfare.

This condition underscores the urgent role of law in regulating and controlling human activities that impact the environment. Environmental law functions as a binding

### Published:

October 20, 2024

This work is licensed  
under a [Creative  
Commons Attribution-  
NonCommercial 4.0  
International License](#)

Selection and Peer-  
review under the  
responsibility of the 5<sup>th</sup>  
BIS-HSS 2023 Committee

regulatory framework for individuals, corporations, and the state in ensuring the protection of nature from degradation. In Indonesia, Law No. 32 of 2009 on Environmental Protection and Management serves as the primary legal foundation for enforcing sustainability principles. Nevertheless, its implementation has not been fully effective. Numerous cases of pollution and environmental destruction have not been met with strict legal sanctions and often involve actors with significant political or economic power.

Environmental challenges in Indonesia are also intrinsically connected to agrarian law. Many environmental problems originate from land ownership and land-use issues, such as unauthorized land clearing, disputes between indigenous communities and corporations, and the granting of land concessions that disregard environmental carrying capacity. Although the Basic Agrarian Law No. 5 of 1960 regulates land rights, its implementation frequently deviates from the principle of prudence in the sustainable utilization of natural resources [1]. Thus, examining the interplay between environmental law and agrarian law is essential.

At the same time, environmental issues must also be viewed from a constitutional perspective. Article 28H paragraph (1) of the 1945 Constitution guarantees that every person has the right to live in physical and spiritual well-being, and to a good and healthy environment. This constitutional recognition provides citizens with the right to demand environmental protection through legal mechanisms, including judicial review at the Constitutional Court. In several cases—such as the judicial review of the Job Creation Law, which was criticized for undermining environmental safeguards—the Constitutional Court has played a critical role in protecting citizens' constitutional rights.

Therefore, environmental law cannot be approached solely in a sectoral manner. A holistic study is required, one that integrates agrarian perspectives, statutory frameworks, and constitutional procedural law. Such an interdisciplinary approach is crucial for understanding the complexity of environmental issues across legal domains and for formulating solutions that are both appropriate and sustainable. This study seeks to analyze the relationship between environmental law and agrarian law in natural resource management, to examine environmental law within the framework of national legislation, and to explore the relevance of constitutional procedural law to the protection of the right to a healthy environment [2].

## Methods

This study employs a qualitative normative legal research approach using literature-based analysis (library research) to examine the application of environmental law in Indonesia from agrarian, legislative, and constitutional perspectives. The data are derived from secondary legal materials, including statutory instruments, government regulations, Constitutional Court decisions, and relevant scholarly works. The primary sources analyzed consist of Law No. 32 of 2009 on Environmental Protection and Management and Government Regulation No. 27 of 2012 on Environmental Permits as

the core environmental framework, Law No. 5 of 1960 on Basic Agrarian Principles which regulates land ownership and utilization, and Constitutional Court rulings on environmental disputes that safeguard citizens' constitutional rights to a good and healthy environment. Through normative-deductive analysis, this method aims to provide a comprehensive understanding of how environmental law operates and intersects with agrarian regulation and constitutional guarantees, while also identifying challenges and opportunities for strengthening sustainable environmental governance.

## Results and Discussion

### *The relationship between environmental law and agrarian law*

Agrarian law, as a branch of law regulating land rights and the control of natural resources, is closely linked to environmental sustainability. In practice, issues of land ownership and utilization in Indonesia are often intertwined with environmental degradation, particularly when land clearing is carried out without consideration of ecological balance. The conversion of forests into oil palm plantations or open-pit mining areas, for instance, has frequently resulted in deforestation, water pollution, and the destruction of natural habitats. One critical issue lies in the issuance of Land Use Rights (*Hak Guna Usaha* or HGU) permits on lands that should function as protected areas. The lack of synchronization between agrarian law (Law No. 5 of 1960 on Basic Agrarian Principles) and environmental law (Law No. 32 of 2009 on Environmental Protection and Management) has created legal loopholes that allow businesses to exploit land in ways that damage the environment. This indicates the need for an integrated legal framework that incorporates sustainability principles into the granting and management of land rights. Strengthening government oversight is essential, particularly by making Environmental Impact Analysis (AMDAL) a mandatory requirement for every agrarian permit. By embedding environmental safeguards into agrarian regulation, land law would no longer be driven solely by economic interests but would also serve as an instrument to ensure ecological preservation and sustainable development.

### *Legislative aspects in environmental law*

Indonesia has established a variety of legal instruments governing environmental protection, with Law No. 32 of 2009 on Environmental Protection and Management (UUPPLH) serving as the primary framework. This law regulates fundamental principles such as pollution prevention, waste management, natural resource conservation, and the imposition of administrative, civil, and criminal sanctions. Nevertheless, the implementation of these legal provisions continues to face significant challenges. One of the main problems is the overlapping authority between central and regional governments, which often leads to ineffectiveness in law enforcement. Additionally, the absence of harmonization among sectoral regulations—such as those governing mining, plantations, and forestry—has created policy conflicts that undermine environmental sustainability. Another critical weakness is the lack of meaningful public

participation in both the legislative process and the preparation of Environmental Impact Analysis (AMDAL) documents, which has resulted in regulations that frequently prioritize economic interests over ecological preservation.

To address these shortcomings, several solutions are necessary. First, the government must conduct a comprehensive review of overlapping regulations to eliminate inconsistencies and strengthen coherence in the environmental legal framework. Second, the principle of “green legislation” should be applied consistently in the drafting of laws and regulations, ensuring that environmental sustainability becomes an integral part of every policy. Third, it is crucial to expand public participation in the formulation of environmental policies, thereby ensuring that legal products are not only legally sound but also socially legitimate and environmentally responsive. Through these measures, environmental legislation in Indonesia can become more comprehensive, coherent, and participatory, aligning with the broader goals of sustainable development [3].

### *Constitutional procedural law and protection of environmental rights*

The Indonesian Constitution explicitly guarantees the right to a good and healthy environment through Article 28H paragraph (1) of the 1945 Constitution. This constitutional right is fundamental and has often been invoked by citizens as a legal basis for submitting judicial review petitions to the Constitutional Court (*Mahkamah Konstitusi* / MK) against statutory provisions deemed to conflict with environmental rights. One of the most prominent examples is the judicial review of the Job Creation Law, where civil society organizations argued that the relaxation of requirements for AMDAL and environmental permits undermines environmental protection and threatens community rights. Another significant precedent is Constitutional Court Decision No. 18/PUU-XVII/2019, in which the Court affirmed that the state bears an obligation to protect the environment as an integral part of fulfilling human rights.

In this regard, the study of Constitutional Procedural Law is highly relevant, as it provides an understanding of both the formal and substantive mechanisms for judicial review, highlights the role of citizens in asserting their environmental rights through constitutional channels, and underscores the Constitutional Court’s authority to ensure that environmental regulations remain consistent with the constitutional mandate. Thus, the resolution of environmental disputes in Indonesia cannot rely solely on administrative or criminal instruments; it must also involve constitutional mechanisms as a vital form of checks and balances over legislative and executive powers. Strengthening the role of constitutional adjudication therefore represents an essential pathway for guaranteeing environmental rights within the framework of a democratic state based on the rule of law.

## Conclusion

The implementation of environmental law in Indonesia cannot be separated from its intersection with agrarian regulation, legislative frameworks, and constitutional guarantees. Synergy among these three dimensions is essential to build a legal system that is just, effective, and sustainable. To achieve this, the government must prioritize the harmonization of sectoral regulations, strengthen the capacity and integrity of environmental law enforcement institutions, and address agrarian conflicts through the principles of ecological justice. Equally important, the state must guarantee public access to constitutional justice in environmental matters, ensuring that citizens' constitutional rights to a good and healthy environment are upheld. Only through such an integrated approach can Indonesia develop a coherent legal framework that simultaneously safeguards natural resources, resolves socio-agrarian disputes, and secures environmental rights for present and future generations.

## References

- [1] A. Hasim, "Environmental Protection is a Form of Implementation of the Green Constitution in the 1945 Constitution," *At-Tanwir Law Rev.* , vol. 3, no. 1, p. 18, 2023.
- [2] OA Johar, "The Reality of Environmental Law Enforcement Problems in Indonesia," *J. Environmental Science.* , vol. 15, no. 1, p. 54, 2021.
- [3] W. Nugroho, "Constitutionality of the Rights of Indigenous Communities in Managing Customary Forests: Empirical Facts on the Legalization of Permits," *J. Constitution* , vol. 11, no. 1, p. 109, 2016.