



📁 Artikel

Kapan saja

Sejak 2023

Sejak 2022

Sejak 2019

Rentang khusus...

Urutkan menurut  
relevansi

Urutkan menurut tanggal

Semua jenis

Artikel kajian

☐ sertakan paten

☒ mencakup kutipan

Citizens' Constitutional Rights to a Sustainable Environment based on Pancasila

[PDF] eudl.eu

[AA Najib](#)

IWLEG 2022: Proceedings of the 1st International Workshop on Law ..., 2023 • [books.google.com](#)

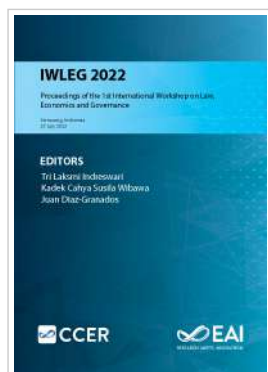
**Abstract**

Nowadays, environmental problems are fundamental to be answered because the resulting impacts involve the conditions of human life globally. Therefore, environmental problems are a shared responsibility between humans and various countries. One of the efforts to overcome these problems is through a legal approach. The Republic of Indonesia's 1945 Constitution places a heavy emphasis on the control of the judicial system in Indonesia. In addition, Pancasila, the nation's soul, also sees that humans and

TAMPILKAN LEBIH BANYAK ▾

☆ Simpan 📌 Kutip Artikel terkait 2 versi

Menampilkan hasil terbaik untuk penelusuran ini. [Lihat semua hasil](#)


[Buy Full Book](#)

IWLEG 2022

[Other Years](#)

IWLEG 2022

[Ethics and Malpractice](#)
[Statement](#)
[Back to CCER](#)

## IWLEG

Proceedings of the 1st International Workshop on Law, Economics and Governance, IWLEG 2022, 27 July 2022, Semarang, Indonesia

We proudly present the proceedings of 1st International Workshop on Law, Economic and Governance 2022 (IWLEG 2022). It focuses on how the wave of digitalization of government transformation, especially in Law and Democracy, Law and Indigenous People, Law in Contemporary Issues, Law and Economics,...

[more »](#)

**Editor(s):** Tri Laksmi Indreswari (Universitas Diponegoro, Indonesia), Kadek Cahya Susila Wibawa (Universitas Diponegoro, Indonesia) and Juan Diaz-Granados (University of Canberra, Australia)

Publisher EAI ISBN 978-1-63190-376-2 ISSN 2593-7650 Series CCER

Conference dates 27th Jul 2022 Location Semarang, Indonesia

Appeared in EUDL 2023-01-09

Copyright © 2023–2023 EAI

Select

Ordered by [title](#) or [year](#)

Showing 11–20 of 39 results

Page size: [10](#) [25](#) [50](#)
[First](#) [Previous](#) [1](#) [2](#) [3](#) [4](#) [Next](#) [Last](#)

### [Penal Policy in Undertaking Transnational Crime](#)

Research Article in Proceedings of the 1st International Workshop on Law, Economics and Governance, IWLEG 2022, 27 July 2022, Semarang, Indonesia

Umi Rozah, Jaco Barkhuizen

### [Post Tin Mining Reclamation According to Law Number 3 of 2020 in Kutai Kartanegara Regency – East Kalimantan](#)

Research Article in Proceedings of the 1st International Workshop on Law, Economics and Governance, IWLEG 2022, 27 July 2022, Semarang, Indonesia

Agung Basuki Prasetyo, Iga Gangga Santi Dewi, Yuli Prasetyo Adi

### [Prospects for Settlement of Minor Crimes Through Village Judiciary in Indonesia](#)

Research Article in Proceedings of the 1st International Workshop on Law, Economics and Governance, IWLEG 2022, 27 July 2022, Semarang, Indonesia

Muhammad Azil Maskur, Pujiyono Pujiyono, Irma Cahyaningtyas, Anis Widyawati

### [Reflection on Indonesian Regulations Regarding the Prevention and Enforcement of Sexual Violence Online](#)

Research Article in Proceedings of the 1st International Workshop on Law, Economics and Governance, IWLEG 2022, 27 July 2022, Semarang, Indonesia

Ani Purwanti, Dyah Wijaningsih, Muh. Afif Mahfud

### [Strengthening Anti-Eco-SLAPP Regulations in Indonesia](#)

Research Article in Proceedings of the 1st International Workshop on Law, Economics and Governance, IWLEG 2022, 27 July 2022, Semarang, Indonesia

Aju Putrijanti, Sekar Anggun Gading Pinilih

### [The Role of Electronic in Actualizing a Modern and Accessible Trial by a Justice Seeking Community in Indonesia](#)

Research Article in Proceedings of the 1st International Workshop on Law, Economics and Governance, IWLEG 2022, 27 July 2022, Semarang, Indonesia

Dewantoro Dewantoro, Achmad Busro, Ery Agus Priyono

### [Agrarian Injustice and the Absence of a Maximum Limit of Land Ownership for Legal Entities](#)

Research Article in Proceedings of the 1st International Workshop on Law, Economics and Governance, IWLEG 2022, 27 July 2022, Semarang, Indonesia

Muh. Afif Mahfud, Suteki Suteki

### [Building A Legal Reasoning Based on Environmental Conservation in Indonesia](#)

Research Article in Proceedings of the 1st International Workshop on Law, Economics and Governance, IWLEG 2022, 27 July 2022, Semarang, Indonesia

Tri Laksmi Indreswari

### [Citizens' Constitutional Rights to a Sustainable Environment based on Pancasila](#)

Research Article in Proceedings of the 1st International Workshop on Law, Economics and Governance, IWLEG 2022, 27 July 2022, Semarang, Indonesia


[Buy Full Book](#)

IWLEG 2022

[Other Years](#)

IWLEG 2022

[Ethics and Malpractice](#)
[Statement](#)
[Back to CCER](#)

## IWLEG

Proceedings of the 1st International Workshop on Law, Economics and Governance, IWLEG 2022, 27 July 2022, Semarang, Indonesia

We proudly present the proceedings of 1st International Workshop on Law, Economic and Governance 2022 (IWLEG 2022). It focuses on how the wave of digitalization of government transformation, especially in Law and Democracy, Law and Indigenous People, Law in Contemporary Issues, Law and Economics,...

[more »](#)

**Editor(s):** Tri Laksmi Indreswari (Universitas Diponegoro, Indonesia), Kadek Cahya Susila Wibawa (Universitas Diponegoro, Indonesia) and Juan Diaz-Granados (University of Canberra, Australia)

Publisher EAI ISBN 978-1-63190-376-2 ISSN 2593-7650 Series CCER

Conference dates 27th Jul 2022 Location Semarang, Indonesia

Appeared in EUDL 2023-01-09

Copyright © 2023–2023 EAI

Select

Ordered by [title](#) or [year](#)

Showing 11–20 of 39 results

Page size: [10](#) [25](#) [50](#)
[First](#) [Previous](#) [1](#) [2](#) [3](#) [4](#) [Next](#) [Last](#)

### [Penal Policy in Undertaking Transnational Crime](#)

Research Article in Proceedings of the 1st International Workshop on Law, Economics and Governance, IWLEG 2022, 27 July 2022, Semarang, Indonesia

Umi Rozah, Jaco Barkhuizen

### [Post Tin Mining Reclamation According to Law Number 3 of 2020 in Kutai Kartanegara Regency – East Kalimantan](#)

Research Article in Proceedings of the 1st International Workshop on Law, Economics and Governance, IWLEG 2022, 27 July 2022, Semarang, Indonesia

Agung Basuki Prasetyo, Iga Gangga Santi Dewi, Yuli Prasetyo Adi

### [Prospects for Settlement of Minor Crimes Through Village Judiciary in Indonesia](#)

Research Article in Proceedings of the 1st International Workshop on Law, Economics and Governance, IWLEG 2022, 27 July 2022, Semarang, Indonesia

Muhammad Azil Maskur, Pujiyono Pujiyono, Irma Cahyaningtyas, Anis Widyawati

### [Reflection on Indonesian Regulations Regarding the Prevention and Enforcement of Sexual Violence Online](#)

Research Article in Proceedings of the 1st International Workshop on Law, Economics and Governance, IWLEG 2022, 27 July 2022, Semarang, Indonesia

Ani Purwanti, Dyah Wijaningsih, Muh. Afif Mahfud

### [Strengthening Anti-Eco-SLAPP Regulations in Indonesia](#)

Research Article in Proceedings of the 1st International Workshop on Law, Economics and Governance, IWLEG 2022, 27 July 2022, Semarang, Indonesia

Aju Putrijanti, Sekar Anggun Gading Pinilih

### [The Role of Electronic in Actualizing a Modern and Accessible Trial by a Justice Seeking Community in Indonesia](#)

Research Article in Proceedings of the 1st International Workshop on Law, Economics and Governance, IWLEG 2022, 27 July 2022, Semarang, Indonesia

Dewantoro Dewantoro, Achmad Busro, Ery Agus Priyono

### [Agrarian Injustice and the Absence of a Maximum Limit of Land Ownership for Legal Entities](#)

Research Article in Proceedings of the 1st International Workshop on Law, Economics and Governance, IWLEG 2022, 27 July 2022, Semarang, Indonesia

Muh. Afif Mahfud, Suteki Suteki

### [Building A Legal Reasoning Based on Environmental Conservation in Indonesia](#)

Research Article in Proceedings of the 1st International Workshop on Law, Economics and Governance, IWLEG 2022, 27 July 2022, Semarang, Indonesia

Tri Laksmi Indreswari

### [Citizens' Constitutional Rights to a Sustainable Environment based on Pancasila](#)

Research Article in Proceedings of the 1st International Workshop on Law, Economics and Governance, IWLEG 2022, 27 July 2022, Semarang, Indonesia

[Comparison of Election Arrangements for Traditional Village Heads in Bali and Maluku Province](#)

Research Article in Proceedings of the 1st International Workshop on Law, Economics and Governance, IWLEG 2022, 27 July 2022, Semarang, Indonesia

Ratna Herawati, Devi Yulida

---

[First](#) [Previous](#) [1](#) **[2](#)** [3](#) [4](#) [Next](#) [Last](#)

---

[About](#) | [Contact Us](#)



# Citizens' Constitutional Rights to a Sustainable Environment based on Pancasila

Ahmad Ainun Najib

{najib1925@live.undip.ac.id}

Universitas Diponegoro, Indonesia

**Abstract.** Nowadays, environmental problems are fundamental to be answered because the resulting impacts involve the conditions of human life globally. Therefore, environmental problems are a shared responsibility between humans and various countries. One of the efforts to overcome these problems is through a legal approach. The Republic of Indonesia's 1945 Constitution places a heavy emphasis on the control of the judicial system in Indonesia. In addition, Pancasila, the nation's soul, also sees that humans and the environment are one unit that has a reciprocal relationship. The focus of this study seeks to answer two problems: First, what is the conception of a suitable environment in Pancasila and the 1945 Constitution? Second, is it possible to have an environmental court guaranteeing human rights to the environment in Indonesia? This research is normative legal research with primary, secondary, and tertiary legal materials. The collection of legal materials is carried out through a literature study supported by a legal approach, conceptual approach, and philosophical approach. The findings of this study are, first, Pancasila and the 1945 Constitution of the Republic of Indonesia are conceptually about a sustainable environment which is further elaborated through Law no. 32 of 2009. Second, a special court can be realized in Indonesia as a state commitment to protecting a sustainable environment, as has been practiced in several countries, including Thailand, the Philippines, and New Zealand.

**Keywords:** Sustainable Environment, Constitutional Rights, Pancasila

## 1 Introduction

Environmental problems are no longer the responsibility of individuals or one particular country. Environmental problems have now become a common problem for the entire world community, which raises a shared responsibility to overcome them. One of the environmental problems is related to environmental pollution. J. Barros and J. M. Johnston said that environmental pollution is closely related to development activities carried out by humans, including industrial activities, mining, transportation, and agriculture [1]. It shows that every human activity always impacts the environment.

In addition, according to Mattias Finger [2], ineffective technology that even tends to be destructive are low political commitment, ideas, and ideologies that ultimately harm the environment. Deviant actions and behavior of state officials, the spread of cultural patterns like consumerism and individualism, and people who are not well-educated are just a few factors contributing to the current global environmental crisis.

Contrarily, how people view the environment as simple item fuels several environmental catastrophes. In actuality, the term "environment" refers to the totality of the physical space

# Penal Policy in Undertaking Transnational Crime

Umi Rozah<sup>1</sup>, Jaco Barkhuizen<sup>2</sup>  
{umi\_rozah@live.undip.ac.id<sup>1</sup>, Ochadearl7@gmail.com<sup>1</sup>, jaco.barkhuizen@ul.ac.za<sup>2</sup>,  
Jacobarkhuizen1@gmail.com<sup>2</sup>}

Universitas Diponegoro, Indonesia<sup>1</sup>  
University of Limpopo, South Africa<sup>2</sup>

**Abstract.** The development of science and technology and this global era, moreover, bringing positive impacts, have negative impacts as well, where for certain people it is used as a form of committing crimes that are transnational both in their actions and as a result, known as Transnational Crimes. The purpose of this article is to review the implementation of criminal policies in combating transnational crime. By using a doctrinal approach method, where the materials are collected from literature studies either through regulations, mass media, and literature. It was found that criminal politics in Indonesia in undertaking transnational crime is achieved by ratifying international instruments and enacting laws and regulations that criminalize acts related to transnational crimes, among others in the Law on criminal enactments of corruption, money laundering, human trafficking, and terrorism. It is crucial to support the apparatus in terms of capacity and cooperation with international and international law enforcement agencies in undertaking transnational crimes.

**Keywords:** Policy, Crime, Crime, Transnational

## 1 Introduction

Many talks about my drinking, but no one about my thirst (Anton Van Duinkerken)

The above phrase is quoted from the book *The Other Side of Criminology* written by G. Peter Hoefnagels, describing that society in general only judges a phenomenon (crime) from the outside without looking at the cause of why the phenomenon (crime) was committed. Thus, it is crucial to change the way of seeing (change of lens) crimes that occur in society holistically, which will result in a comprehensive arrangement as well in undertaking crime, for the protection of society and the order of values in society.

The penal system is inextricable from the economic, social, cultural, and political factors of a nation. This is as formulated in the Milan Plan of Action United Nations Convention in 1985, that: *crime prevention and criminal justice should be considered in the context of economic development, political systems, social and cultural values, and social change.*

In attaining an effective penal policy, must be based on principles things from the penal system, specifically the concept of crime and punishment itself [1]. An integral approach in penal policy must be accomplished with numerous strategies that combine criminal policy with social policy and combine crime prevention endeavours through penal policy and non-penal policy.

# Citizens' Constitutional Rights to a Sustainable Environment based on Pancasila

*by Ahmad Ainun Najib*

---

**Submission date:** 23-Nov-2023 12:25PM (UTC+0700)

**Submission ID:** 2236716519

**File name:** citizens\_constitutional.pdf (337.72K)

**Word count:** 4816

**Character count:** 27685

# Citizens' Constitutional Rights to a Sustainable Environment based on Pancasila

Ahmad Ainun Najib  
{najib1925@live.undip.ac.id}

Universitas Diponegoro, Indonesia

**Abstract.** Nowadays, environmental problems are fundamental to be answered because the resulting impacts involve the conditions of human life globally. Therefore, environmental problems are a shared responsibility between humans and various countries. One of the efforts to overcome these problems is through a legal approach. The Republic of Indonesia's 1945 Constitution places a heavy emphasis on the control of the judicial system in Indonesia. In addition, Pancasila, the nation's soul, also sees that humans and the environment are one unit that has a reciprocal relationship. The focus of this study seeks to answer two problems: First, what is the conception of a suitable environment in Pancasila and the 1945 Constitution? Second, is it possible to have an environmental court guaranteeing human rights to the environment in Indonesia? This research is normative legal research with primary, secondary, and tertiary legal materials. The collection of legal materials is carried out through a literature study supported by a legal approach, conceptual approach, and philosophical approach. The findings of this study are, first, Pancasila and the 1945 Constitution of the Republic of Indonesia are conceptually about a sustainable environment which is further elaborated through Law no. 32 of 2009. Second, a special court can be realized in Indonesia as a state commitment to protecting a sustainable environment, as has been practiced in several countries, including Thailand, the Philippines, and New Zealand.

**Keywords:** Sustainable Environment, Constitutional Rights, Pancasila

## 1 Introduction

Environmental problems are no longer the responsibility of individuals or one particular country. Environmental problems have now become a common problem for the entire world community, which raises a shared responsibility to overcome them. One of the environmental problems is related to environmental pollution. J. Barros and J. M. Johnston said that environmental pollution is closely related to development activities carried out by humans, including industrial activities, mining, transportation, and agriculture [1]. It shows that every human activity always impacts the environment.

In addition, according to Mattias Finger [2], ineffective technology that even tends to be destructive are low political commitment, ideas, and ideologies that ultimately harm the environment. Deviant actions and behavior of state officials, the spread of cultural patterns like consumerism and individualism, and people who are not well-educated are just a few factors contributing to the current global environmental crisis.

Contrarily, how people view the environment as simple item fuels several environmental catastrophes. In actuality, the term "environment" refers to the totality of the physical space



that all living creatures occupy. As a result, a lack of significant consideration for environmental issues in development and empowerment will lead to anti-development and anti-empowerment, which may violate human rights over time. It also raises the concern of the world community to see the circumstances in which environmental concerns have expanded to become a global issue. When developing the strategy for the Second World Development Decade (1970-1980), U Thant, then-United Nations Secretary General, wrote the following in the report he submitted. He stated that [3]:

*".....for the first time in human history, there has been a crisis with a worldwide reach, both developed and developing countries, regarding the relationship between humans and their environment. The signs of the threat have been visible for a long time: population explosion, inadequate integration of powerful technologies with environmental requirements, destruction of cultivated land, unplanned development of urban areas, loss of open space and growing danger of extinction regarding many animal and plant life forms. There is no doubt that if this process continues, future life on this earth will be threatened....."*

In response to these conditions, various international agendas such as conferences, agreements, commitments and cooperation in the environmental field were implemented. Some of those agendas are the Declaration of the United Nations Conference on the Human Environment in 1972, the United Nations Conference on Environment and Development (UNCED) in 1992, the Johannesburg Summit, the World Summit on Sustainable Development in 2002, and the Rio+20 Conference in 2012. In response to the environment's declining function, the state is required to create regulations relating to national environmental protection. These various agendas represent efforts for sustainable development within a long-term development framework and broader participation in formulating policies [4]. In Indonesia, regulations related to environmental issues have also experienced positive developments. Through reforms carried out as a form of constitutional amendment, they also influence the framework of environmental law in Indonesia. Environmental law, which initially only existed at the level of legislation through constitutional amendments, has changed to the level of constitutionalization. This can be seen in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states that "Everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy living environment and have the right to obtain health services." In addition, it is also emphasized in Article 34, paragraph (4) of the 1945 Constitution of the Republic of Indonesia, "The national economy is organized based on economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental insight, independence, and by maintaining a balance in the development and unity of the national economy."

According to Jimly Asshiddiqie, two articles explicitly committed to environmental issues in the constitution indicate that the 1945 Constitution of the Republic of Indonesia has reflected the concept of a Green Constitution [5]. The next step is how to formulate it into more operational rules. According to Emil Salim, sustainable development requires managing natural resources as objectively as possible, so a development approach with environmental development is needed. Therefore, the existing legal rules must support that direction, especially in the context of the Pancasila Law State, where there are Pancasila values that have values related to the environment. Thus, the development of environmental law must also be in harmony with the values of God, humanity, unity, deliberation, and social justice.

## 2 Problems Formulation

Referring to the description that has been described above, the formulation of the problems that will be answered in this research are as follows: First, how is the conception of a suitable environment in Pancasila and the 1945 Constitution; Second, is it possible to have an environmental court to guarantee human rights to the environment in Indonesia?

## 3 Method

The writing of this study uses normative legal research methods using primary, secondary, and tertiary legal materials as the source. The collection of legal materials is carried out through literature studies such as legislation and literature related to the title of this study. In addition, this study uses three research approaches: The legislative Approach, Conceptual Approach, And Philosophical Approach.

## 4 Discussion

### 4.1 Pancasila Law State (Negara Hukum Pancasila)

The concept of the rule of law was not born suddenly but from the influence of existing situations and conditions. Historically, the law has also continually transformed, switching from one form to another. Thus, the law always grows organically at its conceptual and substantive-normative levels and in its structural order. It also gave birth to various concepts of the rule of law, including *rechistaats*, the rule of law, socialist legality, Islamic nomocracy, and in Indonesia, namely the Pancasila Law State (Negara Hukum Pancasila).

The conception of the rule of law in Indonesia has characteristics based on the spirit and volkgeist of Indonesia, namely Pancasila. It also distinguishes the conception of the Indonesian legal state from the conception of *rechistaat* and the rule of law [6]. Further explanation regarding the concept is the amendment to the 1945 Constitution of the Republic of Indonesia, which is then explained in Article 1 paragraph (3) that Indonesia is a state of law. This provision also abolishes the explanation of the 1945 Constitution before the amendment, which mentions the word *rechtsstaat* in

Pancasila, in its unique and central position in the Indonesian state, is the basis for the conception of the Indonesian legal state. According to Jimly Asshiddiqie, that Pancasila is a *filosofische grondslag*, *commons platforms* and *kalimatun sawa*. Pancasila, as a form of the Indonesian state's philosophy (*weltanschauung*), is an ideal or idea that every Indonesian citizen should always strive to achieve. Pancasila, as the basis of the state (*philosofische grondslag*), is the foundation and essential guide in the administration of the state and people's lives. Pancasila is a guideline as well as a regulator covering the administration of state and the development of its people. The precepts of Pancasila serve as a guide in all the implementation of state and community activities, including guidelines for legal activities [7].

Pancasila's position as a state philosophy (*staatsidee*) covers its derivative sub-fields, such as law, politics, economics, and culture. On this basis, Pancasila is also used as a legal view (*rechtsidee*) of Indonesia, which is the basis for the emergence of the term Pancasila Law State (Negara Hukum Pancasila). Pancasila is the source of all existing laws. It makes the values of

Pancasila dominantly contained in every legal product, both at the formation, implementation, and enforcement levels [8].

According to Arif Hidayat, the Pancasila Law State is a new legal state concept based on the views and philosophy of life in Indonesia. The new concept is the Pancasila Law State as a unity of views and philosophy of life full of ethical and moral values. Pancasila as a legal ideal (*rechtsidee*) serves as the base and ideal prerequisites that form the basis of every positive law. In addition, Pancasila also directs the law to the goals to be achieved. The Pancasila Law State is prismatic (prismatic law), a concept that integrates the good elements in various legal systems in the world to form a new and complete law.

According to Hamdan Zoelva, the Pancasila Law State has the same elements as *rechtsstaat* and the rule of law, but there are differentiating elements to the rule of law concept in general. The difference is in the values contained in the Preamble to the 1945 Constitution, which contains the value of God Almighty and the absence of separation between the state and religion, the principle of deliberation in the exercise of state power, the principle of social justice, kinship, and *gotong-royong*, and the law that serves the Indonesian state's integrity.

In addition, making the concept of administering the Indonesian state based on the concept of The Pancasila Law State, the law must always be focused on realizing the state's goals. The objectives of the state of Indonesia are stated in the Preamble to the 1945 Constitution of the Republic of Indonesia, which 1) protect the entire nation and the entire homeland of Indonesia; 2) promote the general welfare; 3) educate the nation's life; 4) participate in implementing world peace, based on freedom, eternal peace, and social justice.

Although not explicitly referring to the country's goals, the Pancasila Law State recognizes human rights as citizens by protecting the entire nation and the homeland of Indonesia. The commitment to protecting human rights includes the right to a good and healthy environment. The realization of a good and healthy living environment must also be sustainable, which is one form of manifestation of the development of general welfare which can educate people's lives.

Thus, the constitutional state of Pancasila indirectly aims to accommodate commitments to fulfilling citizens' rights to a sustainable environment. It is then confirmed in Article 28H paragraph (1) and Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia. Therefore, every state policy taken by state administrators related to the environment must follow the principles of The Pancasila Law State and the Constitution of the Republic of Indonesia. 1945.

#### 4.2 The Concept of a Sustainable Environment in Indonesia

The environment regulation in Indonesia has undergone several stages of development. Global developments related to the environment have accompanied the paradigm shift in environmental regulation in Indonesia. At least, successively, several regulations regulate the environment in Indonesia from the beginning of independence until after the reform era. These laws include Law Number 4 of 1982, Law Number 23 of 1997, and the current law, Law Number 32 of 2009.

As mentioned earlier in this study, the legal state of Indonesia is The Pancasila Law State. Pancasila occupies a position as a legal ideal (*rechtsidee*), where its values are contained in the construction of the legal system in Indonesia, starting from the formation, implementation, and enforcement. The values of Pancasila as a philosophy view that the environment and humans are a unity that has a reciprocal relationship. It is reflected in most eastern philosophies, which view that humans must be friendly with nature to establish a harmonious relationship, not to exploit it [9]. But in reality, since the beginning of independence until the New Order era,

Environmental laws are still deemed inadequate to accommodate environmental protection and human rights to a sustainable environment.

The basis of the change in the paradigm of environmental regulation occurred along with the passage of reforms, one of which was the amendment of the constitution. The right to the environment is part of human rights that must be protected and fulfilled as contained in Article 28H paragraph (2) of the 1945 Constitution of the Republic of Indonesia. In addition, national development in the economic sector must be carried out based on the principles of environmental sustainability as contained in Article 33, paragraph (4) of The 1945 Constitution of the Republic of Indonesia. Thus, the 1945 Constitution of the Republic of Indonesia has conceptually adhered to the notion of environmental sovereignty, which is associated with the term ecocracy or ecological power, where humans are one of the components of the environment that have a significant role in their environment.

Moreover, environmental issues are no longer subordinated to national economic interests. National economic development must be in line with environmental interests guaranteed by the constitution. This is as stated in the MPR Decree No. IX/MPR/2001 concerning Agrarian Reform and Natural Resource Management. It is stated in Article 3 of MPR Decree No. IX/MPR/2001 that the management of natural resources found on land, sea, and space is optimal, fair, sustainable, and environmentally friendly.

Furthermore, in Article 4, letter G of MPR Decree No. IX/MPR/2001, it is stated that natural resource management must be carried out with the principle of maintaining sustainability that can provide optimal benefits, both for current and future generations, while taking into account the capacity and support of the environment.

After reading the justification on MPR Decree No. IX/MPR/2001, it is clear that Indonesia's environmental management principles include generational justice. According to Edith Brown, the generational justice principle states that each generation of human beings has the right to receive and occupy a world that is not degraded due to the previous generation's deeds [10]. Regarding the principle of generational justice, Weiss believes that this principle has given birth to an obligation to protect the environment on Earth. There are three types of protection: protection of options, protection of quality, and protection of access. These three aspects of protection aim to ensure that each generation has a level of utilization that is at least the same as the previous generation's level while encouraging equity improvements for each generation [11].

In addition to changes in environmental regulations nationally and globally, there is also an agenda for the Sustainable Development Summit held in Johannesburg, South Africa, in 2002. The summit resulted in sustainable principles listed in UNCED, including 1) intergenerational justice; 2) justice in one generation; 3) the principle of early prevention; 4) protection of biodiversity; 5) internalization of environmental costs. One of the agreed outcomes to support sustainable development is the implementation of an integrated approach, taking into account various aspects of hazard and inclusion to address the vulnerability, risk assessment, and disaster management, including prevention, mitigation, preparedness, response, and recovery which are essential elements for realizing the world more secure.

The culmination of efforts to overhaul the regulation of environmental law in Indonesia is the promulgation of Law Number 32 of 2009 concerning Environmental Protection and Management (UU PPLH). In contrast to the previous law, which only used the term life management, the PPLH Law added the word "Protection." The addition of the word "protection" with the idea that it brings out the meaning of the importance of the environment to obtain sustainable protection [12].



**Table 1.** The development of environmental law in Indonesia

Law No. 4 of 1982	Law No. 23 of 1997	Law No. 32 of 2009
<ul style="list-style-type: none"> <li>● About the Basics of the Environment</li> <li>● Influenced by the spirit of the 1972 Stockholm conference</li> <li>● Several contradictory implementation laws</li> </ul>	<ul style="list-style-type: none"> <li>● About Environmental Management</li> <li>● As a correction to Law No. 4 of 1982</li> <li>● Not yet fully implemented</li> </ul>	<ul style="list-style-type: none"> <li>● About Environmental Protection and Management</li> <li>● In addition to Law No. 23 of 1997</li> <li>● Introducing a new perspective on the environmental provisions of the Republic of Indonesia's 1945 Constitution</li> </ul>

Furthermore, the presence of Law Number 32 of 2009 concerning Environmental Protection and Management is an urgent need that is motivated by [13]:

- The Republic of Indonesia's 1945 Constitution's Article 28H paragraph (1) states that every Indonesian person has a human right to a healthy environment;
- According to Article 33(4) of the 1945 Constitution of the Republic of Indonesia, a development paradigm that is founded on the ideas of sustainable development is required;
- the 1945 Constitution of the Republic of Indonesia's Article 18 alters the connection between the center and the regions, including environmental management;
- Increasing global warming as a shared responsibility of the world community.

In addition, the material regulated in the PPLH Law is comprehensive includes in terms of space and natural wealth, which includes human resources, living natural resources, non-biological natural resources, and artificial natural resources [14]. The PPLH Law is planned to be used as a kind of umbrella act because of the many things that are regulated. This can be seen in Article 44 of the PPLH Law, which states that every drafting of legislation at the national and regional levels must pay attention to the protection of environmental functions and the principles of environmental protection and management following the provisions stipulated in the PPLH Law. Thus, the regulation regarding using natural resources and their management must refer to the PPLH Law.

In addition, the PPLH Law defines the environment as a larger space that contains all things, forces, conditions, and living things, including people and the behaviors they engage in that have an impact on nature itself, the continuation of life, and the welfare of both humans and other animals. The PPLH Law's environmental management guiding principles are founded on: 1) State responsibility, 2) sustainability, 3) harmony and balance, 4) cohesion, 5) benefits, 6) caution, 7) fairness, 8) ecoregions, 9) biodiversity, 10) polluter pays, 11) participation, 12) local wisdom, 13) good governance, and 14) regional autonomy.

The objectives of environmental protection and management contained in the PPLH Law include:

- 1) Maintain the Indonesian Republic's Unitary State's territory;
- 2) Ensure human life, health, and safety;
- 3) Ensure the survival of the ecosystem and the continuation of the lives of all living beings;
- 4) Keeping up the maintenance of environmental functions;
- 5) Achieving environmental balance, harmony, and concord;
- 6) Ensuring that justice is done for both current and future generations;
- 7) Ensuring the environmental right is upheld and protected as a component of human rights;

- 8) Regulating prudent natural resource use;
- 9) The achievement of sustainable development;
- 10) Considering future environmental problems.

In light of these developments, it can be said that the environmental regulation in the PPLH

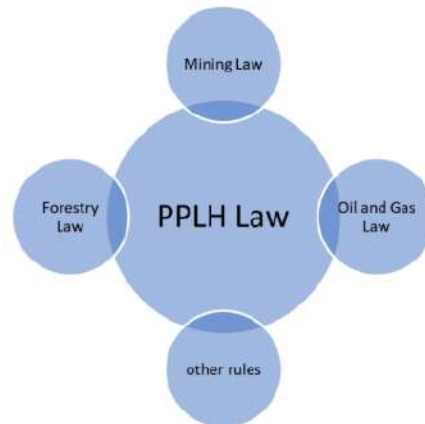


Fig. 1. Environmental regulation in the PPLH law

Law has a more comprehensive conception. The position of the environment in the state's development process has been significantly strengthened by including the right to the environment as one of the human rights in the constitution. Because a good and healthy environment is fundamentally the most fundamental and essential right that cannot be diminished so that humans can enjoy a good and healthy environment. Because basically, the environment is an ecological unit which is also an ecosystem where humans are in it. The ecosystem is a reciprocal relationship between various components to support environmental sustainability itself.

#### 4.3 Environmental Enforcement

As was previously stated, the constitutionally guaranteed right to the environment is a significant aspect of human rights. Therefore, environmental crimes are crimes against human rights. More than that, violating a safe and healthy environment is a constitutional offense [15]. Therefore, as part of the state's obligation to maintain a healthy environment, a successful effort in terms of law enforcement is required.

Although environmental law has a solid normative perspective, there are many environmental infractions in daily life. Ineffective law enforcement is partially to blame for this. Furthermore, the legal resolution of environmental disputes frequently results in disappointment. Given these circumstances, the concept of a special environmental court arose.

Because environmental cases differ from other matters in several ways, the concept of a special environmental court was developed. Environmental cases are sometimes characterized as structural cases that provide a vertical conflict between those with greater access to resources and those with less access. It is envisaged that environmental justice will be attained

with the establishment of the special court. Environmental justice, according to Haydn Washington and others, is [16]:

*"Equitable distribution of environmental risks and benefit; fair and meaningful participation in environmental decision-making; recognition of community ways of life, local knowledge, and cultural difference; and the capability of (human) communities and individuals to function and flourish in society (Schlisberg, 2007). Apart from Scholesberg (2007) (who does argue that environmental justice should include natural systems), most definitions of the term are all about justice for humans".*

Daud Silalahi contends that a judicial institution specializing in environmental issues must be established. The government's efforts to ensure community access to justice, especially environmental justice, can include environmental courts because it may be inferred from the dispute that environmental issues are difficult to solve. This is apparent from the legal procedure and the motivations underlying environmental conflicts. Especially if big businesses are involved in the disagreement. The future environmental justice system needs to pay attention to specific details surrounding this topic [17].

In contrast, special environmental courts have been formed in several nations to ensure that environmental cases are adequately handled. Thailand, the Philippines, and New Zealand are just a few of these nations. The Thai Supreme Court created the Environmental Law Division as a new special division that is housed at both the Supreme Court and the Court of Appeal. The goal of this new division's creation is to educate judges about environmental issues; in this case, a dedicated environmental division is anticipated to improve the judiciary's involvement in addressing the world's mounting environmental challenges. A chairman, secretary, and 14 trained judges and judges with environmental expertise make up the environmental division [18].

In reference to the Philippines, the Supreme Court of the country enacted a resolution in 2007 creating the Green Bench as an amendment to A.M.No.07-11-12-SC, appointing 117 environmental courts made up of first- and second-level courts to deal with all environmental cases. The court retains the right to hear cases outside of the usual courtroom setting. In contrast, the environmental court in New Zealand is a unique court that is distinct from the regular court. The following are among the areas under the purview of the special court: 1) the use of water resources for dams, permits, waste disposal, and mining permits, 2) land use; 3) the management of environmental effects resulting from exploration and mining, and 4) a declaration of the legality of an activity that has an impact on the environment.

It is appropriate for Indonesia to reassess this concept in light of numerous changes in the international community, where several nations have set up special tribunals for the environment. At the same time, several agrarian conflicts have prompted requests for the establishment of an agrarian court. The concept of an environmental court can therefore be linked with the concept of an agrarian court, equivalent to swimming two or three islands past. An example of a potential environmental court in Indonesia is provided below.

**Table 2.** Environmental Special Court Model

<b>Court Model</b>	<b>Consequence</b>
- The provincial capital is host to the special court model developed within the general judiciary. The Corruption Court and the Industrial Relations Court are two examples	- Amending the Judicial Power Act - There must be a separate procedural law - Judges have been chosen among qualified, accredited judges - Judges are selected on an ad-hoc basis from among the experts

Court Model	Consequence
- In the typical court environment, which is found in some major cities, special court models are established. The business court is one example	- Amending the Judicial Power Act - There must be a separate procedural law - Judges have been chosen among qualified, accredited judges - Judges are selected on an ad-hoc basis from among the experts.

The state's dedication to defending the environment as a human right is demonstrated by creating a special environmental court. More importantly, Indonesia, an archipelagic nation with a large agricultural sector, urgently requires a reliable law enforcement system to safeguard its ecosystem. Consequently, there is a pressing need to work toward establishing an environmental court.

## 5 Conclusion

The following conclusions can be derived from the discussion detailed in the paper above: First, environmental preservation is entirely governed by the Pancasila environmental philosophy and the Republic of Indonesia's 1945 Constitution. In addition, the 1945 Constitution's constitutionalization of the environment made the environment a crucial component of human rights. This viewpoint also highlights the requirement that national economic development adheres to the values of a sustainable environment.

Second, although environmental law was enshrined in the Republic of Indonesia's 1945 Constitution and later made active by Law No. 32 of 2009, it is still seen as having limited practical utility, particularly in law enforcement. Environmental disputes, which frequently combine economic and political concerns, are impossible to resolve through law enforcement that only uses regular courts. Indonesia should thus follow suit by drawing on lessons learned from other nations that have established special courts for environmental cases. The special court demonstrates the state's dedication to defending environmental management for the environment, whose presence is urgently needed today.

## References

- [1] J. Barros dan J.M. Jhonston in Muhar Junef and Moh Husain, "Pembentukan Pengadilan Khusus Lingkungan Sebagai Wujud Tanggung Jawab Negara Pada Upaya Keadilan Ekologis," *Jurnal Penelitian Hukum De Jure* 21, no. 1 (2021): 59–74.
- [2] Mattias Finger in Pan Mohamad Faiz, "Perlindungan Terhadap Lingkungan Dalam Perspektif Konstitusi," *Jurnal Konstitusi* 13, no. 4 (2016): 766.
- [3] M. Priyanta, "Penerapan Konsep Konstitusi Hijau (Green Constitution) Di Indonesia Sebagai Tanggung Jawab Negara Dalam Perlindungan Dan Pengelolaan Lingkungan Hidup," *Jurnal Konstitusi* 7, no. 4 (2010): 113–130, [http://download.garuda.ristekdikti.go.id/article.php?article=505832&val=10359&title=Penerapan Konsep Konstitusi Hijau Green Constitution di Indonesia Sebagai Tanggung Jawab Negara Dalam Perlindungan dan Pengelolaan Lingkungan Hidup#page=3&zoom=auto,-12,43](http://download.garuda.ristekdikti.go.id/article.php?article=505832&val=10359&title=Penerapan%20Konsep%20Konstitusi%20Hijau%20Green%20Constitution%20di%20Indonesia%20Sebagai%20Tanggung%20Jawab%20Negara%20Dalam%20Perlindungan%20dan%20Pengelolaan%20Lingkungan%20Hidup#page=3&zoom=auto,-12,43).



- [4] I Gede Yusa and Bagus Hermanto, "Implementasi Green Constitution Di Indonesia: Jaminan Hak Konstitusional Pembangunan Lingkungan Hidup Berkelanjutan," *Jurnal Konstitusi* 15, no. 2 (2018): 306.
- [5] Jimly Asshiddiqie, *Green Constitution Nuanisa Hijau Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*, 1st ed. (Depok: Rajagrafindo Persada, 2016), 80.
- [6] Arief Hidayat, Paper of Negara Hukum Berwatak Pancasila, presented in the activity "Peningkatan Pemahaman Hak Konstitusional Warga Negara Bagi Asosiasi Dosen Pancasila dan Kewarganegaraan dan Asosiasi Profesi Pendidikan Pancasila dan Kewarganegaraan" in Bogor on August 21, 2019, the Constitutional Court of the Republic of Indonesia.
- [7] Jimly Asshiddiqie, *Konstitusi Bernegara (Praksis Kenegaraan Bermartabat Dan Democratic)*, ed. Achmad Edy Subiyanto and Anna Triningsih (Malang, 2016).
- [8] Hamdan Zoelva, "Prospek Negara Hukum Indonesia: Gagasan Dan Realita," *Hasanuddin Law Review* 1, no. 2 (2015): 178.
- [9] Darmodiharjo Darji and Shidarta, *Pokok-Pokok Filsafat Hukum: Apa Dan Bagaimana Filsafat Hukum Indonesia* (Jakarta: Gramedia Pustaka Utama, 2004).
- [10] Rofi Wahanisa and Septhian Eka Adiyatma, "Konsepsi Asas Kelestarian Dan Keberlanjutan Dalam Perlindungan Dan Pengelolaan Lingkungan Hidup Dalam Nilai Pancasila," *Bina Hukum Lingkungan* 6, no. 1 (2021): 93–118.
- [11] Andri G. Wibisana, "Perlindungan Lingkungan Dalam Perspektif Keadilan Antar Generasi: Sebuah Penelusuran Teoritis Singkat," *Masalah-Masalah Hukum* 46, no. 1 (2017): 9–19.
- [12] Takdir Rahmadi, *Hukum Lingkungan Di Indonesia*, kedua. (Depok: Rajagrafindo Persada, 2015).
- [13] Marhaeni Ria Siombo, "Arah Politik Hukum Lingkungan Di Indonesia," *Masalah-Masalah Hukum* 42, no. 3 (2013): 381–389–389.
- [14] Sodikin, "Gagasan Kedaulatan Lingkungan Dalam Konstitusi Dan Implementasinya Dalam Pelestarian Lingkungan Hidup," *Masalah-Masalah Hukum* 48, no. 3 (2019): 294.
- [15] Rochmani, "Perlindungan Hak Atas Lingkungan Hidup Yang Baik Dan Sehat Di Era Globalisasi," *Masalah-Masalah Hukum* 44, no. 1 (2015): 18–25.
- [16] Haydn Washington et al., "Foregrounding Ecojustice in Conservation," *Biological Conservation* 228, no. April (2018): 367–374, <https://doi.org/10.1016/j.biocon.2018.09.011>.
- [17] Junef and Husain, "Pembentukan Pengadilan Khusus Lingkungan Sebagai Wujud Tanggung Jawab Negara Pada Upaya Keadilan Ekologis."
- [18] Rochmani, "The Urgency of the Environmental Court in the Settlement Of," *Bina Hukum Lingkungan* 4, no. 2 (2020): 293–312.

# Citizens' Constitutional Rights to a Sustainable Environment based on Pancasila

## ORIGINALITY REPORT

11%	11%	8%	7%
SIMILARITY INDEX	INTERNET SOURCES	PUBLICATIONS	STUDENT PAPERS

## PRIMARY SOURCES

1	<a href="http://ijmmu.com">ijmmu.com</a> Internet Source	2%
2	<a href="http://jurnal.unissula.ac.id">jurnal.unissula.ac.id</a> Internet Source	1%
3	<a href="http://talenta.usu.ac.id">talenta.usu.ac.id</a> Internet Source	1%
4	Submitted to Academic Library Consortium Student Paper	1%
5	<a href="http://repository.unissula.ac.id">repository.unissula.ac.id</a> Internet Source	1%
6	<a href="http://valleyinternational.net">valleyinternational.net</a> Internet Source	1%
7	<a href="http://fhukum.unpatti.ac.id">fhukum.unpatti.ac.id</a> Internet Source	1%
8	Submitted to The Scientific & Technological Research Council of Turkey (TUBITAK) Student Paper	1%

9

Internet Source

1 %

10

[www.srac.ro](http://www.srac.ro)

Internet Source

1 %

11

[european-science.com](http://european-science.com)

Internet Source

1 %

Exclude quotes On

Exclude matches < 1 %

Exclude bibliography On

# Citizens’ Constitutional Rights to a Sustainable Environment based on Pancasila

## GRADEMARK REPORT

FINAL GRADE

GENERAL COMMENTS

/0

PAGE 1

PAGE 2

PAGE 3

PAGE 4

PAGE 5

PAGE 6

PAGE 7

PAGE 8

PAGE 9

PAGE 10