

The Legal Framework of Green Economic Development in Indonesia

Irham Maulidi^{1*}, Rifky Alif Kurniawan², Iing Sholihin Firmansah²

¹Faculty of Law, Trunojoyo Madura University, Indonesia, irhamblue@gmail.com

²Faculty of Law, Trunojoyo Madura University, Indonesia, rifqyalif3@gmail.com

³Faculty of Law, Trunojoyo Madura University, Indonesia, ingsholihinfirmansah33@gmail.com

Abstract

Economic development in a country is an important role in the welfare of the country's own life, including in Indonesia. The wealth of natural resources available in Indonesia is then utilized by the economic industry as the main raw material in meeting the needs of the economic market. However, overexploitation and exploration of existing natural resources can be a threat to sustainable development later. Green Economic development concept is an innovation that great attention to the preservation of natural resources for sustainable development in the future. As a state of law (rechstaat), Indonesia has certainly considered such a thing. The legal framework in Indonesia has regulated the protection and utilization of the environment and the use of natural resources, this is as mandated by the Indonesian constitution which provides the concept of a green constitution in Article 28H paragraph (1) of the 1945 Republic of Indonesia Constitution and Article 33 paragraph (3) and (4) of the 1945 Republic of Indonesia Constitution which reflects sustainable environmental development in Indonesia in the economic sector. This research uses the Doctrinal-Legal research method. Writing method with a conceptual study approach and a statutory approach. Through this research, it is expected to affirm that the concept of green constitution in Indonesia is also interpreted as a role model for economic development that is friendly to the environment, by utilizing existing natural resources as a form of implementation of environmental sustainability and protection of the environment in sustainable development in Indonesia.

Keywords: Green Economic Development, Constitution, Natural Resources

I. Introduction

Lately, problems related to environmental damage have been increasing over time. Starting from the problem of environmental pollution, climate change, to global warming, it is inseparable from the problems faced, especially in Indonesia. Most of the problems of environmental damage are inseparable from the actions of the industrial sector, the economy. Economic industry which then causes environmental damage in Indonesia. Like one case that occurred in 2019, there was pollution in the Citarum tributary of West Java. The Cibee River in Taman Mekar Village, Pangkalan District is filled with foamy waste. The waste comes from PT Pindo Deli Pulp and Paper Mills 3.^[1]

The case that occurred in West Java is only a small example of environmental damage that occurred in the territory of the Unitary State of the Republic of Indonesia. There are still other cases of environmental pollution in several areas in the Unitary State of the Republic of Indonesia. Such as environmental pollution, climate change, and global warming. The majority of the perpetrators of the environmental damage case are companies in the industrial and economic sectors. On the one hand, economic development in a country is indeed very

important. However, on the other hand, environmental sustainability which includes the availability of natural resources is also no less important to pay attention to.

As a country of law (*Rechtstaat*), Indonesia has actually regulated the grand design in terms of regulating economic development policies that are also friendly to the environment. This regulatory concept is known as the green constitution concept. This is contained in the regulation of article 28H paragraph (1) of the 1945 Republic of Indonesia Constitution and Article 33 paragraph (3) and (4) of the 1945 Republic of Indonesia Constitution.

Therefore, this article explores the following research question; How can the legal framework of green economic development in Indonesia prevent environmental damage? Then related to the impact on the development of the sustainable economic sector.

II. Method

This study uses the Doctrinal-Legal Research method. The Doctrinal-Legal research method in Indonesia is known as normative legal research. The method in this study is research on law that is conceptualized and developed on the basis of legal doctrine and legal theory.^[2] This research method provides an instruction, knowledge or teaching. The teachings referred to in this case include legal concepts and principles from all sources, be it cases, laws or rules. So that the research approach used in this study to answer the legal issues raised is to use a conceptual study approach and a statutory approach. This is expected to find answers to the legal issues questions raised in this article.

III. The Green Constitution Concept as a Role Models of The Legal Framework of Green Economic Development in Indonesia

In the regulation of article 28H paragraph (1) of the 1945 Republic of Indonesia Constitution has regulate, "*Every person shall have the right to live in physical and spiritual prosperity, to have a home and to enjoy a good and healthy environment, and shall have the right to obtain medical care*". This is then used as a constitutional basis in carrying out all forms of policies and regulations related to state life in Indonesia. In this arrangement, the legal term is also known, namely the term the green constitution concept.

The green constitution concept is concept of Sustainable development requires the protection of natural resources so that they can be utilized by present and future generations. Because awareness is important to protect the environment from pollution and future damage, it makes sense to regulate environmental policies in the form of legal regulations. The current environmental law products, which are expected to be a guide for all development movements and all levels of government and society, are not enough to force policymakers to follow environmental policies. Currently, environmental interests are often overtaken by other interests, for example, it only benefits the authorities in terms of investment, and environmental interests are ignored. The number of laws and regulations established to regulate environmental policy is inversely proportional to their effectiveness in preventing environmental pollution and degradation.³

The green constitution concept in Indonesia as role models of the legal framework of green economic developments. This can be seen in article 33 paragraph (3) and (4) of the 1945 Republic of Indonesia Constitution which stipulates, the land, the water and the natural resources they contain are controlled by the state and used for the greatest prosperity of the people of the country. Then, the administration of the national economy in Indonesia is economic democracy or People's welfare. Principles of integrity, efficiency, justice, sustainability, environmental wisdom, independence and maintaining a balance between progress and the integrity of the national economy.

From the description of the green constitution concept that has been explained above, it can be seen that Indonesia already has a grand design for the regulation of sustainable economic development policies that are expected to be condensed by considering environmental sustainability and the preservation of existing natural resources. This is important, because all forms of involvement in the industrial sector of the Indonesian economy must pay attention to the applicable legal framework.

The legal framework in Indonesia about the green economic development is regulated hierarchically. Starting from the highest, namely to the lowest. Starting from the regulation of article 28H paragraph (1) and article 33 paragraph (3) and (4) of the 1945 Republic of Indonesia Constitution and Law of The Republic of Indonesia Number 32 year 2009 concerning protection and management of environment. The regulations give the protection for natural resources and environment.

Every company engaged in the economic sector must then pay attention to all forms of policies regulated in the Law of The Republic of Indonesia Number 32 year 2009 concerning protection and management of environment. The regulations give the protection for natural resources and environment. This aims to harmonize the activities of the economic industry sector with environmental sustainability in Indonesia.

Therefore, every company engaged in the economic industry is regulated by law to then pay attention to the analysis of environmental impacts. Companies engaged in the economic industry must develop a strategic plan for factory waste management so as not to pollute the surrounding environment. The green constitution concept gives the role models of the economic industrials to pay attention to the environmental issues in Indonesia.

In article 25 of the Law of The Republic of Indonesia Number 32 year 2009 concerning protection and management of environment has regulate, every company is required to have a classification of environmental impact analysis (AMDAL). For example, evaluating or evaluating the impact of business and/or activities based on plans, evaluating activities around the location of businesses and/or activities based on plans, responses or responses and community responses to planned initiatives and/or activities, estimates of the extent and nature of significant impacts that may arise during implementation of activities and/or activities based on plans, careful assessment of possible impacts to determine environmental feasibility or unfeasibility, as well as environmental monitoring and management.

From the description above, we can know that the legal framework of green economic development in Indonesia has very clearly regulated that all forms of activities in the industrial sector of the economy must then pay attention to the green constitution concept.

This is so that sustainable economic development in Indonesia is carried out so that it does not interfere with or damage the environment and maintains the availability of available natural resources later. So it can also be said that the legal framework of green economic development in Indonesia is quite good in terms of regulating every policy in the behavior of sustainable economic industrial sector activities by maintaining the sustainability of the living environment and the availability of natural resources in the long term.

IV. Conclusion

From the discussion above that has been explained, a conclusion can be drawn that the legal framework of green economic development in Indonesia is very clear. The green constitution in article 28H paragraph (1) and article 33 paragraph (3) and (4) of the 1945 Republic of Indonesia Constitution and Law of The Republic of Indonesia Number 32 year 2009 concerning protection and management of environment is a regulation in which every activity of the industrial sector of the economy must then also pay attention to the balance of environmental sustainability protection and the sustainability of natural resources in the long term. This is also so that if implemented properly, it will have an impact on the prevention of environmental damage such as climate change, global warming, and other environmental damages.

Acknowledgments

We would like to express our sincere thanks to several lecturers at the Faculty of Law, Trunojoyo Madura University who have helped us in completing this article. Thank you also to several colleagues who helped in writing this article.

References

Journal articles:

Heri Sutra Disemadi (2022), *Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies*. *Journal of Judicial Review*. 289-304
<https://journal.uib.ac.id/index.php/jjr/article/view/7280/2878>.

Sekar Anggun Gading Pinilih (2018). *The Green Constitution Concept In The 1945 Constitution Of The Republic Of Indonesia*. *Journal of Legal Pulpit*. 202-213. Team:
<https://journal.ugm.ac.id/jmh/article/view/28684/20052>.

World Wide Web:

<https://voi.id/berita/39139/sejumlah-contoh-kasus-hukum-lingkungan-dan-analisisnya-yang-pernah-terjadi-di-karawang-jawa-barat> [accessed 10 May, 2024]

[1] Quoted from <https://voi.id/berita/39139/sejumlah-contoh-kasus-hukum-lingkungan-dan-analisisnya-yang-pernah-terjadi-di-karawang-jawa-barat> [accessed 10 May, 2024]

[2] Journal Articles: Heri Sutra Disemadi (2022), *Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies*. Journal of Judicial Review. 289-304. part: <https://journal.uib.ac.id/index.php/jjr/article/view/7280/2878> [accessed on 10 May 2024]

[3] Journal Articles: Sekar Anggun Gading Pinilih (2018). *The Green Constitution Concept In The 1945 Constitution Of The Republic Of Indonesia*. Journal of Legal Pulpit. 202-213. Team: <https://journal.ugm.ac.id/jmh/article/view/28684/20052> [accessed on 10 May 2024]