

Addressing the paradox: Why environmental constitutionalism is more than just rights?

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Abstract. Paradoxes exist in environmental constitutionalism, and this article seeks to explain them, particularly by explaining why rights and obligations and complicated enforcement methods all pertain to this topic. This research seeks to understand how environmental constitutionalism may be reimagined in the Indonesian context, with its wide range of environmental problems and frequently insufficient policies, to strengthen justice and sustainability. This study takes a normative stance, examining environmental constitutionalism from a legal and theoretical perspective. The constitutional and legal framework of Indonesia are examined to see how they deal with environmental challenges. The conceptual method, meanwhile, is applied to explore environmental constitutionalism in greater depth than the field of rights. This article proposes that rethinking the roles of the state, society, and the private sector within the constitutional framework is key to solving Indonesia's environmental problems. The findings show that a rights-only approach to environmental constitutionalism overlooks societal obligations and the socio-political factors that shape environmental policies in Indonesia. By incorporating this contradiction into the constitutional framework, we may be able to create policies that are more inclusive, egalitarian, and sustainable for everybody.

1 Introduction

There are two distinct senses to the term "State." The first is that, as a type of social organization, it stands out from the crowd in two ways: in terms of its basic category, voluntarism, and in terms of the secondary category, socialism. The idea of a nation-state has always been central. This is true both in ancient Greece and modern times. During that time, numerous proposals concerning the nature of the state were made. The ancient Greek philosophers Socrates, Plato, and Aristotle all wrote about the state in their works [1]. The existence of land, sovereignty, and society are all necessary conditions for a state to exist, but there is also one complete duty that the state must own: the Constitution, as the codified basis for a country's ideals, principles, and made-up course of action [2].

The Constitution includes several essential provisions, one of which is related to environmental protection. This is crucial because, as Lael K. Weis has pointed out, there has

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been an impressive global trend toward the approval of environmental clauses in constitutions since the early 1970s [3]. Forty years ago, environmental concerns were scarcely discussed in constitutional law. More than seventy-five percent of country constitutions around the world now include environmental protections, a trend seen at the provincial level in numerous nations [3]. Despite this variety, it is safe to say that no other social value "has achieved such a large degree of constitutional recognition in such a short period of time." There is widespread agreement that environmental concerns need consideration in constitutional law [4] [5], The constitutional implications of this phenomena are controversial. The idea that "attempts to institutionalize environmental legislation are still largely symbolic efforts" is widely held, even among those who claim to favor environmental constitutionalism."

Multiple schools of thought agree that the difficulty in institutionalizing environmental legislation has been more symbolic than substantive up to this point. Weale et al. point out that the fundamental principles of environmental policy defined by European Union member states are often broad, but crucial nonetheless. In this case, the vagueness can be interpreted symbolically as a 'statement of intent' without any specifics of how it will be put into practice. This topic is taken further by Yasuaki, who demonstrates the increasing complexity of environmental challenges in the context of legal trans-civilization by bringing up the field of international law [6]. The incorporation of environmental standards into a country's Constitution or laws becomes more difficult as a result.

In addition, Coglianese expanded the discussion to include social and legal movements, arguing that achieving success in institutionalizing environmental movements is crucial but does not guarantee the introduction of efficient policies [7]. Attempts to enshrine environmental norms in laws or constitutions end up being more of a declaration of shared values and ideals than an efficient instrument of law enforcement. Article 28h, paragraph 1, of Indonesia's 1945 constitution is relevant here, The rights of people to health and a clean environment have been included, although the development of these rights has frequently been more rhetorical than substantive. The word "good and healthy environment" conveys an ideal that is not often backed up by concrete enforcement mechanisms or well-thought-out laws.

This leaves open the question of whether this provision of the constitution is merely a matter of constitutional cosmetics that have not been completely applied or whether the state has done enough to execute it. If we consider the full scope of Indonesia's environmental crisis—from deforestation to pollution issues—we see a wide chasm between constitutional guarantees and actual conditions.

A constitutional entitlement to health care may nonetheless be very sensitive to environmental conditions. The paradoxical right to a "good and healthy living environment" might be empty words without strong and transparent law enforcement procedures and the obligation of the state and society to protect it. It is from this vantage point that we can begin to explore the tangled web of environmental constitutionalism, a phenomenon that seems to encompass idealism but often falls into the ambiguity of execution, and which is more than just a statement of human rights. Article 28h, paragraph 1, of Indonesia's Constitution from 1945 eloquently connects human rights to "a good and healthy living environment." This rhetorical sophistication, however, appears to be an illusion. The environmental challenges we face today, from deforestation to pollution, are troubling because they highlight the vast chasm that exists between the Constitution and the world as we know it.

Is this essay more than just "constitutional cosmetic?" a bunch of fancy words with no follow-through? There is a paradox in environmental constitutionalism that this issue highlights. Health care is likewise guaranteed by the Constitution, but unlike environmental protection, it is affected by environmental factors. So, it's not enough to view it as a rights issue; we also need government and social accountability, as well as effective and open law enforcement systems. This essay aims to clarify the seeming contradiction between

environmental constitutionalism and the reality of the situation by explaining how rights and obligations are intertwined with elaborate systems of law enforcement. The research aims to learn how environmental constitutionalism might be rethought to promote justice and sustainability in Indonesia, a country plagued by a wide range of environmental challenges and frequently insufficient measures.

The available literature provides a rich and in-depth analytical foundation for the theme "overcoming paradoxes: Why is environmental constitutionalism more than a right?" For instance, Syafriadi improves our comprehension of the inherent connection between the state and the Constitution by claiming that, under the context of constitutionalism, they are two sides of the same coin [8]. This can serve as a useful beginning point for figuring out how to apply constitutional ideas to environmental concerns. On the other side, Lael K Weis questions the legal rights-based perspective that is frequently the focus of environmental constitutionalism. As an alternative, Lael K Weis promotes the "contra judicative model," which places institutional accountability on the executive and legislative branches [3]. It presents a paradigm that may make it easier to handle environmental problems without becoming bogged down in the legal intricacies that frequently delay the implementation of policy.

James May's work further broadens the discussion's focus by examining how human rights have changed through time to emphasise a healthy environment. May notes that this idea has evolved into a crucial component of international environmental constitutionalism and highlights the fact that many nations have altered their constitutions to include this right [9]. Due to O'gorman's work, there are now chances to examine the effectiveness of human rights models in accomplishing more general environmental goals. This research examines the historical development of environmental constitutionalism and demonstrates how the context of Amendments to the Constitution impact efficacy [10]. Understanding the restrictions of the rights-based approach to resolving environmental challenges is crucial.

Polk, on the other hand, questioned the effectiveness of "green" amendments at the state level in the United States, claiming that they frequently simply serve as procedural rights rather than substantive ones. Polik argues that environmental constitutionalism's promise has not been completely realised [11], a remark that is equally applicable to Pan Mohamad Faiz's examination of environmental protection in light of Indonesia's constitution. Faiz emphasised that although environmental norms were established in the 1945 Constitution, they are still seen as supporting rather than guiding principles [12]. Considering the body of research, we can conclude that environmental constitutionalism is a complicated and multifaceted phenomenon that cannot be grasped or implemented solely from a rights perspective. This necessitates a more comprehensive model that considers the interactions between the various governmental branches, the socio-political environment in which constitutional amendments are adopted, as well as the various practical and ideological issues that affect the success of those amendments. Fundamentally, environmental constitutionalism aims to bring together legal norms, environmental requirements, and political realities—a process that calls for both critical and constructive thinking.

To prevent environmental constitutionalism's paradigm from degenerating into empty symbolism, it must be subjected to critical examination and revision. Through a study of relevant concepts and theories, this essay aims to address these issues. It is undeniably urgent in the Indonesian context to make environmental constitutionalism not merely a decorative element in the legal text, but a tool of justice and sustainability. A broader conception of constitutional law is being established here, one that not only strengthens protections for individuals' rights but also their obligations and how they might be enforced.

2 Literature Review

Environmental constitutionalism, as a concept that incorporates between environmental rights and responsibilities into a country's highest legal framework, is a topic that is receiving more attention. In the Indonesian context, this concept has special meaning, considering the unique challenges faced by the country in maintaining a balance between economic growth, social justice, and environmental protection.

O’Gorman’s work highlights the importance of context in the constitutional amendment process to adopt environmental constitutionalism [10]. For Indonesia, this means that internal factors such as political leadership, public engagement, and constitutional ideology, as well as external factors such as learning and acculturation, must be carefully considered. This shows that the process of adopting environmental constitutionalism is not only limited to changing the text of the constitution, but also involves the changes of practices and attitudes of society.

May and Daly's research emphasizes the importance of elevating the principles of environmental sustainability to be part of the constitutional text. In Indonesia's case, this means recognizing that a healthy environment is not just a policy preference, but a fundamental right that is closely linked to the well-being of current and future generations [13]. This approach can help Indonesia face global environmental challenges, such as climate change and ecosystem damage, in a more structured and sustainable way.

Habermas and Rehg in their work, examine the dynamics between constitutionalism and democracy, which is very relevant for Indonesia [14]. They highlight how constitutionalism, which tends to emphasize legal stability, can clash, or coexist with democratic principles, which emphasize the will and participation of the people. For Indonesia, this shows the need for an effective balance between the rule of law and popular sovereignty, especially in decision-making that impacts the environment.

A study by Lalander and Merimaa on environmental conflict in Ecuador shows the importance of narrative and context in the discussion of environmental issues [15]. This illustrates how different actors can have different perspectives on the same issue, a dynamic that Indonesia may also experience. In the Indonesian context, this means that environmental issues are not only about policies and laws, but also about diverse narratives and perceptions from various groups in society.

and The last, May and Daly's research on the role of constitutional jurisprudence in climate justice highlights how courts can play an important role in interpreting and implementing environmental constitutionalism [16]. This is relevant for Indonesia, where courts can make an important contribution to maintaining a balance between environmental protection, human rights and economic development. Overall, this literature shows that environmental constitutionalism in Indonesia is about more than just establishing rights; it is a dynamic process involving interactions between various legal, political, social, and economic factors. Environmental constitutionalism in Indonesia should be considered as a comprehensive framework covering aspects of law, policy, and social change, which supports environmental protection and sustainable development.

3 Method

The issue or theme investigated in this study serves as the basis for classifying it as either descriptive or prescriptive normative legal research. In order to discover a solution to the central question at hand, this study takes a philosophical and analytical method, which emphasizes the use of logic, critical analysis, and philosophy to arrive at a conclusion (O’Gorman, 2017). And will be analyzed using descriptive analytical techniques, such as outlining relevant laws, theoretical legal frameworks, and effective enforcement policies

[18]. Understanding and addressing Indonesia's pressing need for more substantial environmental constitutionalism is the goal of normative research methodologies that combine philosophical and analytical approaches. There are two primary foci in this strategy. The foundation consists of a theoretical and philosophical dissection of the accepted canons of constitutional law. This is done in order to construct more egalitarian and sustainable conceptual alternatives and to expose the underlying assumptions and ideological alignments of the regulation.

The second layer is an analysis of these rules' applicability within the framework of law enforcement. An overview of the practical implementation of these guidelines will be provided using analytical and descriptive methodologies. Substantive objections of the efficacy and fairness of the application of said law based on relevant evidence or observations will, however, enrich this study. This research aims to provide light on the potential of environmental constitutionalism as a tool for achieving ecological justice and long-term sustainability. The state and society's roles and duties in achieving sustainable development will be more clearly defined, and law enforcement mechanisms will be bolstered as a result. All analyses should adhere to the norms of scientific criticism and provide convincing arguments to contribute to the advancement of knowledge and practice in the fields of constitutional and environmental law in Indonesia.

4 Result and Discussion

4.1 The paradox of constitutional guarantees of the environment in Indonesia between Hope and reality

The preservation of individual rights and freedoms guaranteed by the Constitution of a country is referred to as the "constitutional guarantee" legal premise. When it comes to the organization of government, the rights of citizens, and the fundamental ideas that govern the country, the Constitution is the highest legal instrument there is [19]. Constitutional protections state that the government or any other entity may not infringe upon or revoke such rights without due process of law. It makes sure people can go to court if the government or someone else tries to violate their rights or freedoms.

Civil rights, political rights, economic, social, and cultural rights are just few of the areas that are typically protected by constitutional provisions [20]. For instance, certain countries' constitutions may protect citizens' rights to free expression, equal protection under the law, education, religious freedom, and environmental safety [21]. Courts and law enforcement play an important role in upholding the notion of constitutional guarantees by judging whether the actions of other governments or persons violate the Constitution.

Promoting democratic values and the rule of law is another essential function of constitutional guarantees [22]. This implies that no one, not even the government, is above the law. Therefore, in a country that values its constitutional protections, the government must follow the rules outlined therein and must not violate the rights and liberties granted by the Constitution. One of the most essential pillars of the legal systems of many nations is constitutional guarantees, which serve to strike a balance between the powers of government and the rights of the individual [23].

Defending "the entire Indonesian nation and all Indonesian blood," fostering "the general welfare," illuminating "the life of the nation," and contributing to "the implementation of a world order based on independence, lasting peace, and social justice" are all stated as goals of the Indonesian state in the Preamble to the 1945 Constitution [24]. The Constitution of the Republic of Indonesia (UUD 1945) provides a robust legal foundation for constitutional protections against environmental damage. Every person in the United States has the right to

a safe and livable environment, as guaranteed by our founding document. The significance of striking a balance between economic growth and public welfare and environmental protection is reflected in the Constitution's requirement for environmental protection and preservation, expressing the state's commitment to environmental sustainability and the fact that this right is an essential component of every citizen's fundamental freedoms [25].

Everyone has a right to live in prosperity and in a healthy environment, and everyone has a responsibility to protect the environment, according to Article 28h of the 1945 Constitution. Clean air, clean water, and a pollution-free environment are examples of qualities that provide for a good living environment in this context. Article 33 of the 1945 Constitution, in addition to Article 28H, is also highly relevant to environmental protection. According to the Almighty God's kinship concept, this article governs the economy. This demonstrates that community welfare and environmental sustainability must be taken into consideration while Indonesia's economy and development are carried out.

Additionally, the Constitutional Court plays a significant part in upholding Indonesia's constitutional protections for the environment. The Constitutional Court has made a few key judgements involving environmental issues, including one that limited oil and gas exploration in national parks while emphasising the protection of the constitutional right to a healthy environment. The application to challenge Law No. 22 of 2001 on oil and gas (UU Migas), which violates the 1945 Constitution, was also partially approved by the Constitutional Court. The Constitutional Court's rulings on environmental concerns must be respected by the government and mining firms [26].

Environmental protection is a focus of several legislation and regulations that Indonesia's government has passed. Law No. 32 of 2009 on Environmental Protection and Management is one of the important legislations. This law gives Indonesia a solid legal basis for environmental protection and preservation, and it also gives the government the power to control environmental governance in a sustainable way. The restrictions in Chapter X Part 3 of Article 69 regarding environmental protection and management, such as those against pollution, the introduction of hazardous materials (B3), the introduction of garbage into environmental media, the clearance of land by burning, and others, are explicitly defined in this law. Following these prohibitions, Chapter XV of the criminal provisions of Articles 97-123 has strict and obvious consequences.

The Paris Agreement on Climate Change is one of many international agreements relating to the environment that the Government of Indonesia and the Legislature have ratified. President Joko Widodo's representative Siti Nurbaya, Minister of Environment and Forestry, signed the Paris Agreement on Climate Change on April 23, 2016. Environmental protection is a focus of several legislation and regulations that Indonesia's government has passed. Law No. 32 of 2009 on Environmental Protection and Management is one of the important legislations. This law gives Indonesia a solid legal basis for environmental protection and preservation, and it also gives the government the power to control environmental governance in a sustainable way. The restrictions in Chapter X Part 3 of Article 69 regarding environmental protection and management, such as those against pollution, the introduction of hazardous materials (B3), the introduction of garbage into environmental media, the clearance of land by burning, and others, are explicitly defined in this law. Following these prohibitions, Chapter XV of the criminal provisions of Articles 97-123 has strict and obvious consequences.

Internationally, the Indonesian government and legislature have ratified several environmental treaties, notably the Paris Climate Agreement. On-going Climate Change Agreement. President Joko Widodo's representative Siti Nurbaya, Minister of Environment and Forestry, signed the Paris Agreement on Climate Change on April 23, 2016 [27]. This agreement has been ratified by Indonesia through Law Number 16 of 2016 [28]. The Paris Agreement sets a periodic review mechanism, so each state member will gradually step up

their efforts or objectives. It is anticipated that as a result of this process, each state party will gradually expand its efforts or objectives [29]. Indonesia's commitment to taking part in international efforts to solve environmental challenges, particularly climate change, is demonstrated by its ratification of the Paris Agreement [30].

Although Indonesia has a sound constitutional foundation and stringent environmental laws, there are still significant obstacles to the successful implementation and enforcement of environmental protection. Forest preservation is threatened by ongoing deforestation, aquatic habitats are threatened by water pollution from agriculture and industry, and human and ecosystem health is harmed by air pollution from transportation and industry. In the meantime, climate change's consequences are becoming more pronounced due to harsh weather and rising sea levels.

Over the past few decades, deforestation in Indonesia has intensified into a significant issue. However, the Ministry of Environment and Forestry reports that Indonesia's rate of deforestation managed to drop by 75.03% in the 2019–2020 timeframe, to 115.46 thousand há [31]. Indonesia's net deforestation rates inside and outside of forest regions between 2013 and 2021 were also documented by the Central Bureau of Statistics [32]. However, PPID reports that Indonesia's deforestation rate fell by 8.4% in 2021–2022 [33]. The ecology and human survival are both significantly impacted by deforestation in Indonesia. The forest is a sizable area that is densely covered in several plant species with significant carbon dioxide absorption rates. The largest sources of oxygen on the Earth's surface are forests themselves. One of the advantages of forests for the survival of humans and the environment is maintaining and maintaining soil fertility.

Meanwhile, Indonesia's major issue with air and water pollution has an impact on both the environment and public health. According to IQAir data from June 2023, Jakarta became the Southeast Asian metropolis with the worst air quality and repeatedly rated #1 in the world for the world's worst air pollution. Along with China, India, Pakistan, Bangladesh, and Nigeria, Indonesia is one of the top six nations that contribute the most to global air pollution [34]. Pollutants from factories, fires in the forest, cars, and cigarettes all contribute to air pollution by entering the atmosphere. Air pollution can affect breathing, interfere with oxygen delivery to the blood, cause miscarriages, and cause gout, among other health impacts [35]. Additionally, ozone layer loss, acid rain, eutrophication, adverse effects on animals, and global warming are all impacted by air pollution [36]. In the meantime, Indonesia also faces a significant issue with water contamination, particularly in metropolitan areas. Industrial, domestic, and agricultural waste entering rivers and seas results in water pollution [37].

The annual average air temperature data, which increased from 26.8 °C in the period 1991–2020 to 27.0 °C in 2022, provide evidence of Indonesia's changing climate. Additionally, since 1981, the observation data period, the May 2023 air temperature anomaly is the fifth greatest anomaly value [38]. Indonesia is experiencing a change in climate due to a variety of factors, such as the effects of greenhouse gases, global warming, and the degradation of forests. Increased air temperature, increased rainfall intensity, raised sea level, and other effects of climate change in Indonesia [39].

Thus, Indonesia faces significant issues with deforestation, air and water pollution, as well as climate change. Despite decreases in deforestation rates and mitigation initiatives for climate change, there are still significant obstacles. The environment and climate change are significantly impacted by deforestation, while ecosystems and human health are negatively impacted by air and water pollution. The rise in average temperatures and the severity of extreme weather are other signs of climate change. Serious efforts are needed to address these issues, such as pollution control, forest protection, and climate change mitigation. To safeguard Indonesia's future and future generations, there needs to be an increase in environmental awareness and practical action.

4.2 Responsibility of government and society in Environmental Management

The preamble of the 1945 Constitution (UUD 1945) makes it very clear that the Indonesian government is accountable for managing and protecting the environment. This is demonstrated by the nation's dedication to defending the bloody Indonesian nation as a whole and advancing social welfare in general, including environmental protection. The Second Amendment and Article 28 H of the 1945 Constitution both assert that everyone has the right to live in a safe and healthy environment.

In Indonesia, society and the government both share responsibility for environmental management. The creation, administration, and enforcement of legislation pertaining to environmental preservation are all major responsibilities of the state. Managing permissions for potentially polluting activities is part of this environmental practises, monitoring and regulating deforestation, and supporting industry. The enormous natural resources of Indonesia must be preserved and managed by the government. The community, on the other hand, plays a significant role in raising environmental awareness, ensuring that laws are followed, and taking part in environmental conservation initiatives like reforestation and sustainable waste management. The secret to sustaining environmental sustainability for a better future is close government-society cooperation.

In Indonesia, environmental management is a state obligation that is governed by Law Number 32 of 2009 on Environmental Protection and Management. The state is responsible for the planning, use, control, upkeep, supervision, and enforcement of environmental laws. Implementing waste management practises like the 3R (Reduce, Reuse, Recycle) programme and building environmentally friendly landfills are two instances of concrete practise (TPA). Additionally, the state monitors businesses that have the potential to contaminate the environment and punishes offenders [40].

Here are some examples of state obligations in environmental management in Indonesia in the future, where the government must put up its best efforts:

- Strengthening international collaboration to combat climate change and implement sustainable environmental management, particularly considering Indonesia's G20 presidency.
- Encourage businesses to consider the social, non-physical, and physical aspects of the environment and recognise those that excel at environmental management with awards.
- Increase oversight of sectors with the potential to harm the environment and impose severe penalties on offenders.
- Improving disaster-prone areas' soil and spring conservation programmes, tree planting campaigns, and infiltration well construction. And
- As part of measures to ensure environmental sustainability, give environmental friendly landfill construction (TPA) priority.

The people of Indonesia have a significant role in environmental conservation in addition to the government. Given Indonesia's natural diversity and the country's serious environmental issues, this is an irrefutable fact. Because the community in Indonesia has a significant role to play in environmental management, its importance in protecting the environment cannot be understated. Real-world applications of practise are possible through:

- Sustainable agriculture and smart gardening can boost agricultural production. Instead of heavily relying on hazardous chemicals, we can use natural enemies to control crop pests. Crop rotation can assist in preserving the equilibrium of the ecosystem.
- Using domestic items and choosing local ones might cut down on the import of goods that might be contaminated with harmful substances. Additionally, it aids the regional economy.

- The Pelestarian Flora and Fauna We can protect the local flora and fauna as well as the ecosystem by tackling illegal hunting and other forms of illegal hunting.
- *Konservasi Hutan* has a crucial purpose in producing oxygen, modifying the atmosphere, and providing habitat for a wide variety of living things. By using *reboisasi*, disclosing illicit logging practises, and eliminating forest encroachment, one can learn about the *kelestarians* of the forest.
- To determine the potential environmental impact of a significant construction project, such as building or road, an Environmental Impact Assessment (EIA) must be conducted. This lessens the likelihood of needless environmental harm.
- Reforestation is a crucial step to maintain the sustainability of forests, as forest conditions are becoming more and more vulnerable.

The steps are consistent with the 1945 Constitution's directive. The fourth paragraph of the Preamble to the 1945 Constitution states that the state of Indonesia has a duty to safeguard the environment of all Indonesian citizens. Additionally, the 1945 Constitution's requirement (Article 28 H paragraph [1] of the Second Amendment), which emphasises everyone's right to a pleasant and healthy living environment, supports the above-mentioned environmental preservation efforts. Communities support the exercise of these fundamental rights by implementing sustainable practices and preserving natural balance.

As a result, the government and people of Indonesia are following the directive of the 1945 Constitution, which places a strong emphasis on the preservation and upkeep of a good and healthy environment for all residents. The mandate of the 1945 Constitution includes efforts to protect the environment in the local community. The state of Indonesia was ordered to be responsible for defending the entire Indonesian nation, stopping all Indonesian bloodshed, and advancing the general welfare in the Preamble of the 1945 Constitution. An environment that is healthy and sustainable is crucial to overall wellbeing. As a result, the community's active involvement in protecting the environment is a practical application of the 1945 Constitution's principles and mandate.

4.3 Economic paradox and Environmental Protection regulatory and implementation perspective

Indonesia has abundant natural resources because of its special geographic circumstances [41], beginning with mineral resources and moving on to the variety of flora and fauna [42]. Alternatively said, Indonesia is rich in natural resources [43–45]. One of the economic potentials is natural resources. Anthropocentrism, positivism, and other practises that place humans in the centre of resource exploitation are the norm in natural resource management [46–48]. People are encouraged to work towards utilising the environment to suit the growing necessities of life [49]. Utilising resources excessively without taking environmental sustainability into account is an act of exploitation [50], hence, the effect on environmental harm [51]. Basically, it's right to take advantage of the environment [45], as long as it is carried out in line with the law and causes no harm.

Natural resources are valuable not only economically but also politically and socially in some societies [46]. Because the environment is essential to human life, protecting it is not just a responsibility under the Constitution, laws, and regulations, but also a must for survival. Environmental awareness must be viewed as a way of life rather than only a requirement to implement regulations. Man coexists with the environment, and the environment is crucial to human existence [52]. Since having a nice environment is essential to existence and since different geographic areas have varied qualities, people endeavour to preserve it from generation to generation [53]. By modifying the characteristics of each environment (for instance, coastal areas are different from mountainous areas, or cities), environmental

protection is accomplished [54]. Since previous generations uphold environmental sustainability as living law, protecting the environment is a responsibility [55].

Human demands typically change and diversify as technology advances. Modernization calls for quick action and quick outcomes [56]. The anticipated outcome is typically one that can be observed objectively. To all aspects, the same paradigm applies. If forced to choose between using single-use plastic bags and cloth shopping bags, which are typically more troublesome, single-use plastic bags are typically preferred because they can be used immediately and offer benefits, even though using them in large quantities over time can have negative environmental effects, [57] developing, for example. Development that prioritises quick outcomes can be observed objectively and tends to happen instantly. This influences the development process, which is often materialistic and focused on immediate financial gain. When compared to economic development, environmental conservation often receives less attention because it does not considerably deliver immediate benefits.

Most areas of state life in Indonesia are governed by the law [58], such that national policy incorporates both environmental protection and economic development. Environmental protection and economic development might be at odds with one another. the idea that natural resources are valuable economic assets for the state [59]. Consequently, benefits are appropriate. excessive human use of the environment for economic gain and its effects on the environment [60]. The process of using the environment with an eye towards the economy The process of maximising economic advantages is hindered by environmental protection [61], likewise called exploitation syndrome [62,63]. Utilising the environment in a way that contributes to environmental deterioration, such as through illegal logging, mining, fishing, pollution, the destruction of forests, environmental crime, corruption, and so forth [50].

The prevailing paradigm in the development process today is developmentism and neoliberalism, which views the environment as a consumer good that promotes economic growth [64] development that is ongoing and focused on enhancing material welfare [65] environmental degradation is a result of disregarding environmental sustainability. Future people are likely to suffer from development processes that disregard the environment [65,66]. Constant environmental deterioration affects how ecosystems change, [66,67] While there is a very intimate relationship between humans and their environment, ecosystems [68]. Environmental elements play a role in determining public health [69].

The community rejects the development process because of its objectivity towards the environment, which ultimately leads to a worldview that is hostile to empowerment and development and generally has an impact on raising the poverty rate [70]. The 1945 NRI Constitution, which serves as the supreme Basic Law, does not support anti-development sentiments. According to Article 33, paragraph 3 of the NRI Constitution, which is related to the national economy, the notion of the environment as a resource is appropriate [58]. The Indonesian Constitution's Article 33 paragraph 3 establishes the state's right to the environment with the ultimate aim of utilising it for societal welfare. [71,72] Based on these notions, it must be realised that: (1) environmental wealth of capital assets forms the foundation of economic activity, necessitating special handling; (2) special handling necessitates the authority to convert environmental advantages into tangible goods. [62,73] The 1945 Constitution does not support anti-development because the environment is a valuable economic resource.

Economically oriented development is required, but so is a healthy, sustainable environment. Development must be carried out in a way that is not only commercially focused but also incorporates green thinking to ensure that the environment is effectively preserved [70]. Today's environmental devastation is impacted by ineffective policies, destructive technologies, a lack of political commitment, and environmentalist views and ideologies. environmental harm caused by state actors, numerous commercial operations, and the individualism and consumerism paradigm [70,74].

In addition to passive state activities like a legal vacuum, a lack of specialised regulation, or delays in regulation during the development process, active policies often prioritise the economy over the environment. All these acts have an effect on the environment. Environmental sustainability is threatened by growth that inevitably leads to industrialization [75]. Environmental deterioration is influenced by environmental and spatial patterns that are frequently unsustainable and poorly managed [76,77], common issues that occur Pollution, air pollution, industrial waste disposal, and forest devastation occur as industry grows [75]. Air pollution is affected by an increase in industrial and transportation activity [78], the existence of urbanisation movements without an accompanying urban planning strategy [79], In order to meet the demands of urbanisation and industrial operations, more energy must also be produced [80]. The entire process described above is harmful to the environment. Current environmental regulations are thought to not be able to address environmental challenges because of the way they are currently set up [81]. Environmental legislation is viewed as being weak [82]. In addition to following the rules, environmental management and protection are also thought to be less effective when they are put into practise [82].

Compared to other sectors, such as the investment, oil and gas, and mining sectors, some environmental policies are given less importance during implementation [83]. According to Ministry of Forestry data, from 1982 to 1990, annual forest damage ranged from +900,000 hectares to +1.8 million hectares, and from 1990 to 1997 to +2.83 million hectares [77,84]. If law enforcement is implemented properly and effectively, the desired conditions can be achieved [82,85]. Environmental deterioration coexists with the advancement of development.

One of the issues referred to the local government by regional autonomy is environmental management. Through regional autonomy, local governments are given control over the management of the environment in the hopes of fostering a more wholesome democratic culture locally [64]. Additionally, local communities should play a bigger part in protecting the environment [77]. The existence of regional autonomy in environmental management, which affected the rate of environmental deterioration.[86] Each region aims to boost PAD (local revenue) within the framework of regional autonomy. One strategy is to grant approval for environmental usage without taking the possibility of environmental damage into account [87]. Examples are the situations involving PT Semen Gresik in Pati and PT Newmont in West Nusa Tenggara [87].

The definition of national development goes beyond economic growth to include the enhancement of public welfare, along with comfort and a clean environment [88]. Environmental management seeks to promote environmentally responsible behaviour across a range of contexts [89]. Protecting the environment must begin with laws and policies, [59] then comes the application of ethical and moral laws.

5 Conclusion

The concept of environmental constitutionalism requires a nuanced balancing act between rights, reciprocal obligations, and challenging enforcement procedures. Broadening this perspective is essential in the Indonesian context due to the country's numerous environmental issues and frequently ineffective measures. An in-depth understanding of how Indonesia's Constitution and legal system address environmental challenges is provided by the research methodology that integrates legislative and conceptual components. According to the findings, environmental constitutionalism that just emphasises individual rights may overlook social accountability and the sociopolitical factors that shape environmental policy.

The report suggests that the state, society, and private sector should reassess their duties within a constitutional framework to address Indonesia's environmental concerns. This

paradox can be included into the constitutional framework, opening the door for more inclusive, egalitarian, and sustainable policies, laying the groundwork for improved environmental policy in Indonesia in the future.

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