Indonesian Constitutional Policies to Overcome Climate Crisis from Ecological Democracy Perspectives

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Abstract. The nature of such a global challenge as was posed by the caused for its constitutional protection by the State to enable access to an environment that is not harmful to health. This research seeks to examine Indonesian Constitution policy of climate crisis in perspective eco-democracy. It emphasizes two important things, the first is regarding state constitution role in dealing with climate crisis issue, that is how upmanage matters revisited by 1945 Constitution of Republic Indonesia also how towards public participation through ecological democracy being substance of affirmation accountability the state. The work is based partly on the normative-legal-and-statute-conceptual methodology. The findings from such an analysis show that, despite having enacted various environmental and climate regulations, there are only limited rooms for effectively achieving transparency, public participation, and law enforcement provisions. Ecological democracy also provides a schema of work, in which citizens become the weavers in drafting climate policy and its implementation, and cements state's constitutional legitimacy and accountabilities for their progressions towards environmental sustainability.

1 Introduction

The climate crisis moved from an environmental problem to a civilisational challenge that implicates some of the most foundational aspects of human life including human rights, state sovereignty, inter-generational justice.[1] Legally, the climate crisis is no longer merely a policy problem; it constitutes an emergency and has become an extreme constitutional controversy. It is the most important responsibility for the state to protect its citizens from danger as it practices with sovereign force so that in a trust of being at one with population, no one other but our people to be able to call upon society resources. Today climate change is one among them.[3] The 1945 Constitution of the Republic Indonesia as the country's highest law does not contain any explicit reference to the words of "climate change" or "climate crisis". But, this is understandable, as the founding fathers did not yet face these complexities when they wrote the Constitution.[4] However, the Constitution is not a static document and its values must be construed dynamically to deal with new issues. A number of provisions in the 1945 Constitution, including those on the

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goals of the state, human rights and natural resource management offer a strong constitutional basis for framing arguments around state responsibilities and accountability to address climate change.[5]

Such accountability cannot simply be measured based on political speeches delivered at international fora or by the existence of laws. There needs to be a concrete instrument by which such accountability could be tested and maintained. It is here that the place of climate litigation and public involvement becomes profoundly important. Since then, through litigation initiated by members of the public and civil society in a number of jurisdictions across the globe, it is clear that taking states to court can be an effective way to push them to ramp up the ambition and action inherent in their climate policies. Public participation in decision-making is also an essential precondition for ecological democracy. In order to respond the aforementioned challenges, it is necessary to develop a research question that deals with how State's constitutional accountability on climate crisis can be constructed within Indonesian legal system. This article on the constitutional obligations of the Indonesian state in mitigation efforts to tackle climate crisis and community participation in ecological democracy for enhancing constitutional accountability of the state against climate crisis. The conversation will navigate the function of climate litigation and public participation as accountability enforcement tools, and a map of the different types of State responsibilities at stake. If we make ourselves master of this doctrine, it is not likely that we will be so morally obtuse as to deny that it is a constitutional imperative for the State to do right by way of addressing the climate crisis.

2 Methods

This research adopts statute approach because its focus is to examine constitutional responsibilities of Indonesian state on climate crisis and how ecological democracy strengthens such constitutional accountability. Therefore, this study is not empirically about the field, but an examination of legal rules and principles, standards and doctrines related to state liability in protecting environment and public participation in climate policy.[6] In realizing these objectives, this study uses a number of legal methods, namely Legal Research with statutes and laws are (The Constitution of 1945), Law Number 32 the year 2009 on Environmental Protection and Management, Act No. 16 of the year 2016 concerning the Paris Agreement-related Ratification as well as its implementing regulation. The conceptual method is applied to the analysis and explication of ecological democracy, constitutional accountability and environmental justice. A historic perspective is moreover employed, albeit limited here to the emergence of the State's responsibility.

3 Results and Discussion

3.1 State's Constitutional Obligations regarding Climate Crisis Mitigation

While the 1945 Constitution doesn't explicitly acknowledge the climate crisis, its principles are strong enough to demand accountability from the state. This is based on three main foundations: (i) The State's duty to defend all its citizens; (ii) the right of citizens to a dignified environment and healthy, and iii), Who has the state with regard to natural resources management. A dynamic reading of these pillars makes possible the framing of constitutional imperatives to meet and grapple with the challenges presented in times of today's climate crisis. So, the State's duty to intervene is not a manufactured one; it finds its source in both the spirit and text of the Constitution. These three pillars, taken together, construct a full beam engine of constitutional obligation. The State is not only held by a

negative duty to avoid all acts or omissions which damage the environment, but also by a positive duty to protect and guarantee the human right of every citizen to live in a healthy environment free from threats that could arising from climate crisis. This provides the juridical framework for citizens to demand government accountability through legal and institutional channels. The constitutional obligation of the State to tackle the climate crisis may be compared with the responsibility of a ship's captain (the State), toward its passengers (its citizens). The 1945 Constitution is the Carrefour and the captain must safely steer his ship to reach its premises. This command not only involves an injunction for the captain to avoid intentionally putting his ship in danger (a negative duty), but also an ethical requirement for him to look at the weather report, prepare the lifeboats, and change course when warned of a coming storm. The captain not making necessary preventive measures against the storm (the climate crisis) is negligence on which he owes the passengers.[8] The State's first obligation, flows from said [article]4 (fourth) of it: Arts 1 and 3 above; especially the one that reads *"…to protect the whole people of Indonesia and the entire homeland of Indonesia…."* This idea of defense needs to be very broadly construed, not confined to military threats but extended to any kind of danger that threatens the survival of the nation. The existential threats of the climate crisis like entirely disappearing small islands, crops failing and food insecurity, and a lack of fresh water are clear and present dangers to the "the whole people" and "the entire homeland", which must be attended by the State as part of its constitutional mandate. The above obligation has a positive nature (obligatio ad faciendum), meaning that the State cannot sit back. The State should take proactive measures to establish policies of mitigation that strengthen society's capacity regarding climate change. Failure to act can be seen as a neglect of one of the most basic duties of the State. This obligation is even augmented to the level of international treaties; for example, the Paris Agreement that upon ratification becomes part and parcel of national law and real demonstration on how much a sovereign nation wants to protect its people from something global.[9]

The second and most explicit pillar is the guarantee of the right to a good and healthy environment (Article 28H (1) of the 1945 Constitution). The provision states: *"Every person shall have the right to live in physical and spiritual prosperity, to have a place to live, and to enjoy a good and healthy environment, and shall have the right to obtain health services."* This is an actionable right, the observance of which can be requested and secured in courts. This constitutional right is fundamentally compromised by the climate crisis and its consequences, including air pollution, heatwaves and disease transmission.[10] A healthy sound environment is a heritage that each one of us has to pass on to the coming generations. Climate measures are based exclusively on short-term economic logic that neglects long-term-destructive practices, thus infringing the rights of future generations to a liveable environment. Yet, as the German Federal Constitutional Court's far-reaching climate decision in 2021 makes clear, this logic was deployed openly when declaring inadequate action on climate an unjust burden on future (especially younger) generations and therefore an infringement of their basic rights.[11] The third pillar is the state mandate for the management of natural resources, in Article 33 paragraphs (3) and (4) of the 1945 Constitution. Paragraph (3), "*The land, the waters, and the natural resources contained therein shall be controlled by the State and utilized for the greatest prosperity of the people*." The amendment containing paragraph (4) also specifies that the national economy shall be organized along the lines of economic democracy, and to be both sustainable and ecological.[12] It is the words 'sustainable' and 'eco-minded' as a key. These are formulated to be placed almost at the centre of national economic systems. Interlinked with other outcomes, this in turn mandates that all economic policy and natural resources management activities are undertaken to take account of their impact on greenhouse-gas emissions and resilience to climatic change in the context of our multiple planetary-scale

environmental conundrums. The development programmes reliant on intensive extraction of fossil fuels, for example, may be a pointed to violate the constitutional principles of sustainability and environmental protection as enshrined in the Constitution. A systemic reading of these articles, including as well the additional Article 28 C (the right to dwell collective interest) and the Article 28 D (the right to just legal certainty), it transpires that in fact the 1945 Constitution already has a DNA of a green constitution. State responsibility for the climate crisis may take different shapes and broadly fall under legal, political, and moral responsibility. These three kinds are not opposed but rather mixed up into one another:

Table 1. Comparison of State Responsibility for the Climate Crisis

Type of Respon sibility	Definition	Legal or Normative Basis	Main Mechanism	Example or Implementation	Key Characteristics
Legal Account ability	The most formal and enforceable form of accountability, exercised through judicial mechanisms when the State fails to fulfill its legal obligations.	The Constitution, statutory laws (e.g., Environment al Protection and Management Law), and international agreements.	Litigation — judicial proceedings to assess governmental negligence or to compel specific actions.	Citizen lawsuits concerning environmental pollution or violations of constitutional rights.	Formal, enforceable, and produces binding legal consequences.
Political Account ability	The government's responsibility to answer to the legislature and the public through democratic mechanisms.	The democratic system, parliamentary oversight mechanisms, and electoral processes.	Parliamentar y supervision (interpellatio n, inquiry rights, and statements of opinion) and elections as instruments of political sanction.	Citizens' refusal to reelect governments that fail to protect the environment; parliamentary evaluation of climate policies.	Dependent on public and legislative political awareness.
Moral Account ability	Ethical responsibility grounded in principles of justice, including toward future generations and the global community.	Principles of justice, global ethics, and the doctrine of Common but Differentiate d Responsibiliti es (CBDR).	Moral pressure, advocacy, and public opinion formation to influence policy change.	Moral appeals to reduce carbon emissions for the sake of future generations; expressions of solidarity with developing nations.	Non-enforceable legally yet serves as a foundation for legal and political legitimacy.

Legal responsibility is the most formal, strict, and enforceable type of state responsibility and is implemented through a judicial process. It occurs when the State fails in its obligations under the Constitution or statute laws (including for example the Environmental Protection and Management Law), to treaties. It is litigation, through which courts can produce decisions against the government for its negligence or to compel the State to take some kind of measures.[13] Political accountability, unlike moral

accountability, is established through democratic processes. It is mostly exercised through the government's accountability to the legislature in terms of parliamentary scrutiny and accountability to citizens through free, fair and transparent processes. Moral responsibility is ethical and based on justice. It is related to the obligation the State has towards future generations (intergenerational justice) and that it has vis-à-vis the international community, in particular countries poorer or more at risk (climate justice). This ethical framework is captured in the principle of CBDR, even though moral responsibility could hardly be judicially enforced.

3.2 Public Participation within the Framework of Ecological Democracy to Strengthen the State's Constitutional Accountability

The salient form of public action, apart from litigation, is a core aspect of holding states to account in democratic societies. [14] Climate policies affect many areas of life in society, it is thus necessary for the public to be broadly and meaningfully involved in the development, implementation and monitoring of these policies. Public participation enhances state accountability through shining light on the decision-making process, promoting good policy and reinforcing legitimacy. It is not a new form of democracy, but it is adding an element of nature into what we call 'democracy' essentially extending the sphere and reasoning behind democracy to the environment. For this idea to work, what is needed is for citizens to deliberate and negotiate with decision-makers. Ecological democracy demands the extension of the political community, not only to future generations but also in a very real sense to nature itself as it joins us around the table. A practical proposal which reflects this philosophy is the concept of climate citizens' assembly: a group of citizens randomly selected, in respect to whom very detailed information has been provided so that they can advise on policies for climate action.

Public engagement on climate matters for a variety of reasons. First, it serves to legitimate policy in a way that may facilitate the adoption of politically difficult policies such as carbon taxes. Second, it enshrines a just transition that ensures workers and the communities dependent on fossil fuels (such as coalminers) will have their voices heard and their needs considered. Third, it acts as social discipline to prevent corruption in projects climate at large scale. Fourth, it is social innovation from the grassroots. For accountability purposes, public engagement should be institutionalized so that it is formal and structured. Several key mechanisms include:

1. Right to Information: The government is obliged to provide easy access to relevant climate-related information, using instruments such as the Public Information Disclosure Act.
2. Public Consultation and Environmental Impact Assessment (EIA): Every policy or project plan that has a significant impact on the climate must undergo a meaningful public consultation process and a participatory EIA.
3. Innovative Mechanisms: Such as climate citizens' assemblies, which can serve as breakthroughs to overcome political gridlock.
4. Complaint Mechanisms: There must be clear and secure channels for the public to report violations of environmental law (whistleblowing systems).

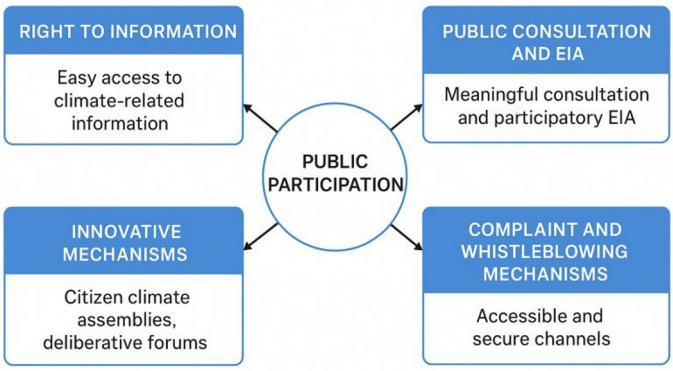

Fig 1. Public Participation Mechanism [15]

Where political and administrative instruments are not enough to deliver climate policies, the strategic opening is judicialization or the use of courts to put pressure on governments from citizens who demand accountably. Climate Litigation refers to judicial procedures, initiated in courts around the globe, which advocate for a 'greater' climate action by governments and/or companies. This action turns the court into a theater of climate justice struggle for all over the world. Beneath it all, the climate litigation playing itself out in this country is about enforcing the law. The law is a means for citizens to use "to make the state act according to its own rules" and in compliance with its constitutional responsibilities. It is an ad for bears, but also a case that may turn on the value of climate litigation not only to public consciousnesses and policies, but jurisprudence as well. It is best defined as the instrument of litigation. The targets of these lawsuits are themselves diverse they run the gamut from challenging national emission targets which are too timid all the way through to permits for new fossil fuel projects, compensation from polluting companies and government inaction on climate-related disaster prevention. Accountability and climate justice are the two main aims of climate litigation. Lawsuits are routinely brought by, or on behalf of, the people that suffer most from the effects of climate change farmers, fisherfolk, indigenous groups as well as women and young people. Below are a few examples of climate litigation case studies across different countries that demonstrate the roles courts have had in advancing climate accountability:

Table 2. Comparison of Climate Litigation Cases

Case	Country / Year	Key Issue	Court Decision	Legal Basis	Impact / Significance
Urgenda Foundation v. The State of the Netherlands	Netherlands / 2019	Government's failure to take adequate action to reduce greenhouse gas emissions.	The Supreme Court ordered the Dutch government to reduce emissions 25% by 2020 compared to 1990 levels.	Constitutional duty of care and the European Convention on Human Rights (Articles 2 & 8).	Landmark case establishing that insufficient climate action violates human rights obligations.
Neubauer, et al. v. Germany	Germany / 2021	Climate law unfairly burdened younger	The Federal Constitutional Court ruled that the Climate	German Basic Law (Constitution),	Strengthened the concept of intergeneratio

		generations with future emission reductions.	Protection Act was partly unconstitutional and required revision.	particularly fundamental rights and intergenerati onal justice.	nal equity in climate law and pushed for more ambitious climate targets.
Future Generati ons v. Ministry of the Environ ment	Colombi a / 2018	Government's failure to stop Amazon deforestation and protect future generations.	The Supreme Court recognized the Amazon rainforest as a legal subject.	Constitution al right to a healthy environment and rights of future generations.	Set global precedent for recognizing nature as a rights-bearing entity.
Jakarta Air Pollution Lawsuit	Indonesia / 2021	Government negligence in ensuring citizens' right to clean air.	The court ruled that the President and other officials were liable for unlawful omission and ordered policy improvements.	Indonesian Constitution (right to a healthy environment) and environment al laws.	Established judicial accountabilit y for environmenta l negligence; inspired broader climate litigation awareness.

Climate litigation also functions as a law enforcement mechanism by narrowing the divide between commitments and actions, the so-called commitment action gap. Its requires states to meet the targets they've assigned themselves. In addition, litigation facilitates policy coherence, as it challenges government decisions (such as the licensing of new coal-fired power plants) that are at odds with national climate goals. This new trend in the field of law is a more lawsuit approach: suing businesses themselves. A seminal case is the Milieudefensie et al. v. Royal Dutch Shell (2021) in the Netherlands, since its ruling required Shell to cut its carbon emissions by 45 percent by 2030. It's a new era of corporate accountability. The future of ecological democracy in Indonesia will take place if climate becomes a governance decision and the concerns are addressed. This reinforces that climate policy will no longer be "sectored", but is a responsibility of all ministries.

4 Conclusion

Not only the state have a constitutional obligation arising from its mandate to protect health, the environment and the rights we all share to life that is healthy and sustainable; they are also expected to confront this crisis even farther head on. Based on the regulation system at 1974 Constitution of the Republic of Indonesia, climate mitigation must be done incorporationally in national development policy by government. To comply with this duty, states must not only comply with domestic environmental law and international obligation themselves, but to realisation of these standards through legal and institutional frameworks that are transparent and that may serve as a check against state non-action. Residents' participation within the EDC domain offers a valuable tool for strengthening state's constitutional-accountability. Efficient and orderly participation, from information to public consultations and citizen assemblies, from climate litigation, in this way guarantees the inclusiveness, transparency and accountability of Climate governance towards present and future populations. Through bringing ecological values into democratic processes,

Indonesia can evolve toward a new form of governance in which environmental sustainability and constitutional justice form twin bases for national resilience.

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