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**Community Participation in Environmental Monitoring as an
Manifestation of the Principles of a Just Legal State**

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Article

Abstract

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This study examines public participation in environmental supervision as a manifestation of the principle of a just rule of law within the Indonesian constitutional framework. Environmental protection is constitutionally guaranteed as a human right under Article 28H paragraph (1) of the 1945 Constitution, requiring not only state responsibility but also active community involvement. The research employs a normative juridical method using statutory and conceptual approaches, focusing on the analysis of the 1945 Constitution, Law Number 32 of 2009 on Environmental Protection and Management, and its implementing regulations, particularly Government Regulation Number 22 of 2021. The findings indicate that although Indonesian positive law formally guarantees public participation in environmental oversight, its implementation remains largely procedural and has not yet achieved meaningful participation due to limited access to information, low environmental legal literacy, and weak law enforcement mechanisms. As a result, public involvement often lacks substantive influence on environmental decision-making and supervision. This study concludes that strengthening legal frameworks and institutional mechanisms is necessary to ensure effective, inclusive, and equitable public participation. Such reinforcement is essential to realizing ecological justice and transforming public participation into a substantive constitutional instrument that supports democratic governance, environmental sustainability, and the realization of a just rule of law in Indonesia.

Keywords: Community participation, Environmental monitoring, Rule of law, Ecological justice.

A. INTRODUCTION

Environmental degradation has emerged as one of the most pressing global challenges, affecting not only ecological sustainability but also the protection of fundamental human rights. Contemporary constitutional discourse increasingly recognizes a healthy environment as an essential prerequisite for human dignity and social justice (Berry 1999; Eckersley 1992). In this context, environmental protection can no longer be viewed solely as a technical or administrative matter but must be understood as an integral component of constitutional governance and the rule of law. Many modern constitutions, including that of Indonesia, explicitly acknowledge the right to a good and healthy environment as a constitutional right, thereby imposing corresponding obligations on the state to protect, respect, and fulfill this right.

Indonesia's 1945 Constitution, particularly Article 28H paragraph (1), affirms that every person has the right to a good and healthy environment. This provision situates environmental protection firmly within the framework of human rights and constitutional law. However, constitutional guarantees alone are insufficient without effective mechanisms to ensure their implementation. One such mechanism is public participation in environmental governance, especially in environmental supervision. Public participation serves not only as a democratic instrument but also as a form of social control over state power, ensuring transparency, accountability, and justice in environmental decision-making (Rahardjo 2019; Huda 2021).

The importance of public participation has been widely discussed in environmental law and governance literature. Internationally, the Aarhus Convention establishes three fundamental pillars of environmental democracy: access to information, public participation in decision-making, and access to justice in environmental matters (UNECE 1998). Scholars argue that these pillars are essential for achieving sustainable development and environmental justice (Sands 2018). Although Indonesia is not a party to the Aarhus Convention, its principles have been substantively reflected in national legislation, particularly Law Number 32 of 2009 on Environmental Protection and Management.

Despite this normative recognition, the effectiveness of public participation in environmental supervision remains contested. Some scholars maintain that formal legal recognition of participation rights is sufficient to ensure environmental protection, provided that enforcement mechanisms are strengthened (Hardjasoemantri 2019). Others argue that participation in many developing democracies tends to be procedural rather than substantive, functioning merely as an administrative requirement without real influence on policy outcomes (Pateman 1970; Nonet and Selznick 1978). This debate highlights a fundamental divergence in understanding participation either as a legal formality or as a substantive constitutional right that empowers citizens as active guardians of environmental sustainability.

In the Indonesian context, this controversy is particularly evident. Empirical studies and civil society reports indicate that many environmentally significant projects proceed with limited or symbolic public involvement, especially at the local level (WALHI 2024). Environmental impact assessment processes, public hearings, and consultation forums often fail to incorporate community input meaningfully, resulting in persistent environmental conflicts, pollution, deforestation, and ecological injustice. These findings challenge the assumption that existing legal frameworks automatically translate into effective participatory governance.

From a constitutional perspective, public participation in environmental supervision is closely linked to the concept of the rule of law (*rechtsstaat*). Classical theories of the rule of law emphasize legality, separation of powers, and judicial protection of rights (Stahl 1845). However, contemporary constitutional thought expands this notion to include substantive

justice, social welfare, and ecological sustainability (Asshiddiqie 2020). In this expanded framework, the rule of law is not merely about rule by law but about law as a moral and institutional system that safeguards both human and environmental interests.

The concept of ecological justice further enriches this discussion. Ecological justice challenges anthropocentric legal paradigms by emphasizing the intrinsic value of nature and the rights of future generations (Berry 1999; Eckersley 1992). In Indonesia, this perspective has been articulated through the idea of a “green constitution,” which interprets constitutional provisions as mandating environmental protection as a core state function (Asshiddiqie 2020). Within this paradigm, public participation becomes a constitutional necessity rather than a discretionary policy choice.

Nevertheless, there remains a significant gap between constitutional ideals and practical implementation. Limited access to environmental information, low levels of environmental legal literacy, and weak law enforcement mechanisms continue to undermine meaningful public participation (Soekanto 2018). This gap raises critical questions about whether Indonesia’s legal system adequately reflects the principle of a just rule of law in environmental governance or whether it merely reproduces formalistic compliance without substantive justice.

Against this background, this study seeks to examine public participation in environmental supervision as an embodiment of the principle of a just rule of law in Indonesia. The main aim of this research is to analyze how Indonesian positive law regulates public participation in environmental supervision, to assess the effectiveness of its implementation, and to formulate an ideal model of participatory environmental governance that reflects constitutional justice and ecological sustainability. Using a normative juridical approach with statutory and conceptual analysis, this study contributes to ongoing scholarly debates on environmental democracy, constitutionalism, and ecological justice.

The principal conclusion of this study is that while Indonesia has established a strong normative foundation for public participation in environmental supervision, its implementation remains largely procedural and has yet to achieve meaningful participation. Strengthening legal guarantees, improving access to information, and empowering communities are therefore essential to transforming public participation into a substantive constitutional instrument capable of realizing a just, democratic, and environmentally sustainable rule of law.

B. MATERIALS AND METHODS

This study adopts a normative legal research design aimed at examining public participation in environmental supervision within the framework of a just rule of law in Indonesia. Normative legal research is appropriate for this study because it focuses on analyzing legal norms, principles, and doctrines governing environmental governance and public participation, rather than measuring empirical behavior (Ibrahim 2020; Marzuki 2021). The research is descriptive-analytical in nature, combining systematic description of existing legal frameworks with critical legal analysis to assess their coherence, effectiveness, and normative implications.

The primary materials used in this research consist of binding legal instruments, including the 1945 Constitution of the Republic of Indonesia, Law Number 32 of 2009 on Environmental Protection and Management, Law Number 14 of 2008 on Public Information Disclosure, and Government Regulation Number 22 of 2021 concerning the Implementation of Environmental Protection and Management. These materials were selected because they constitute the core legal basis regulating environmental rights and public participation in Indonesia. Secondary materials include scholarly books, peer-reviewed journal articles, policy reports, and

authoritative legal commentaries discussing constitutional law, environmental law, ecological justice, and participatory governance (Asshiddiqie 2020; Hardjasoemantri 2019; Sands 2018). Tertiary materials, such as legal dictionaries and encyclopedias, were used to clarify legal terminology and conceptual definitions.

Data collection was conducted through comprehensive library research. Legal texts and academic sources were obtained from publicly accessible databases, including official government websites, national legal repositories, university libraries, and indexed academic journals. No proprietary databases or restricted documents were used. Consequently, all materials analyzed in this study are openly available and can be accessed by other researchers for replication or further study. This research does not involve confidential data, human subjects, or ethical clearance requirements.

The analytical process employed qualitative legal analysis using several methods of legal interpretation. Grammatical interpretation was applied to examine the literal meaning of statutory provisions, while systematic interpretation was used to analyze the relationship between constitutional norms and implementing legislation. Teleological interpretation was employed to assess the objectives and purposes underlying participatory environmental provisions, particularly in relation to ecological justice and democratic governance (Van Hoecke 2011). In addition, a conceptual approach was used to analyze theoretical constructs such as the rule of law, meaningful public participation, and ecological justice, allowing the integration of normative theory with positive law.

Comparative references to international standards, particularly the principles embodied in the Aarhus Convention, were used as analytical benchmarks rather than as sources of binding law (UNECE 1998). These comparisons serve to contextualize Indonesian regulations within broader developments in environmental democracy. No new experimental methods or computational models were developed in this study. All analytical steps, sources, and interpretive approaches are fully disclosed to enable replication and further scholarly inquiry.

Research manuscripts reporting large datasets that are deposited in a publicly available database should specify where the data have been deposited and provide the relevant accession numbers. If the accession numbers have not yet been obtained at the time of submission, please state that they will be provided during review. They must be provided prior to publication. Interventionary studies involving animals or humans, and other studies that require ethical approval, must list the authority that provided approval and the corresponding ethical approval code.

C. RESULT AND DISCUSSION

Legal Framework of Public Participation in Environmental Supervision

The analysis of Indonesian positive law shows that public participation in environmental supervision is normatively well established. Article 28H paragraph (1) of the 1945 Constitution provides a constitutional foundation by recognizing the right to a good and healthy environment as a fundamental human right. This provision is operationalized through Law Number 32 of 2009, particularly Article 70, which explicitly grants the public broad rights to participate in environmental protection and management. Government Regulation Number 22 of 2021 further elaborates participatory mechanisms, including access to environmental information, public consultation, and community involvement in environmental impact assessment processes. These findings confirm that, at the normative level, Indonesia has adopted key elements of

environmental democracy comparable to international standards (Hardjasoemantri 2019; Asshiddiqie 2020).

Effectiveness and Limitations of Participatory Mechanisms

Despite the comprehensive legal framework, the results indicate significant limitations in the practical effectiveness of public participation. Existing participatory mechanisms tend to be procedural rather than substantive, often limiting public involvement to formal consultations without meaningful influence on decision-making outcomes. This finding is consistent with previous studies that highlight a persistent gap between “law in books” and “law in action” in Indonesian environmental governance (Rahardjo 2006; WALHI 2024). Limited access to information, unequal power relations between communities and corporate actors, and weak enforcement mechanisms undermine the transformative potential of participation. Consequently, public participation frequently functions as a legitimizing tool for predetermined policies rather than as an instrument of democratic control.

Interpretation in Light of Rule of Law and Ecological Justice Theories

From the perspective of rule-of-law theory, these findings suggest that the formal recognition of participatory rights has not yet been fully translated into effective guarantees of justice and accountability. Classical rule-of-law principles emphasize not only legality and certainty but also fairness and public oversight of state power (Stahl 1845; Radbruch 1947). The limited effectiveness of participation thus reflects a broader challenge in realizing a just rule of law that integrates democratic governance with environmental protection. Furthermore, when viewed through the lens of ecological justice, the current participatory model remains predominantly anthropocentric, prioritizing administrative efficiency and economic development over long-term ecological sustainability (Eckersley 1992; Berry 1999).

Broader Implications and Future Research Directions

The implications of these findings extend beyond the Indonesian context. They underscore a global challenge in environmental governance: ensuring that participatory rights are not merely symbolic but genuinely empower communities to influence environmental outcomes. Strengthening meaningful participation requires institutional reforms that enhance transparency, legal literacy, and access to justice, as well as mechanisms that ensure public input has tangible legal consequences. Future research may build on this study by incorporating empirical or socio-legal methods to examine community experiences with participatory mechanisms at the local level, or by conducting comparative analyses with jurisdictions that have successfully implemented substantive environmental participation. Such research would further enrich the understanding of how public participation can function as a core pillar of ecological justice and a truly just rule of law.

D. CONCLUSION

This study demonstrates that public participation in environmental supervision occupies a central position within the Indonesian legal framework as an expression of the principle of a just rule of law. Normatively, the constitutional recognition of environmental rights and the statutory guarantees provided by Law Number 32 of 2009 establish a solid legal foundation for participatory environmental governance. However, the analysis reveals a significant gap between normative guarantees and their practical realization. Public participation is frequently implemented in a procedural and formalistic manner, limiting its capacity to influence environmental decision-making and to promote substantive ecological justice.

The findings further indicate that meaningful public participation cannot be achieved solely through the existence of legal provisions, but requires supportive institutional structures, effective enforcement mechanisms, and equitable access to information and justice. From a broader perspective, strengthening participatory mechanisms is essential not only for improving environmental protection but also for reinforcing democratic governance and accountability within the rule-of-law framework. Ultimately, this study concludes that transforming public participation from a symbolic requirement into a substantive constitutional instrument is a critical step toward achieving ecological justice, sustainable development, and a just rule of law for present and future generations.

REFERENCES

- Asshiddiqie, J. (2020). *Green constitution: Nuansa hijau Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*. Rajawali Pers.
- Asshiddiqie, J. (2021). *Konstitusi dan konstitusionalisme Indonesia*. Rajawali Pers.
- Berry, T. (1999). *The great work: Our way into the future*. Bell Tower.
- Eckersley, R. (1992). *Environmentalism and political theory: Toward an ecocentric approach*. State University of New York Press.
- Garner, B. A. (2019). *Black's law dictionary* (11th ed.). Thomson Reuters.
- Hardjasoemantri, K. (2019). *Hukum tata lingkungan*. Gadjah Mada University Press.
- Huda, N. (2021). *Hukum tata negara Indonesia*. Rajawali Pers.
- Ibrahim, J. (2020). *Teori dan metodologi penelitian hukum normatif*. Bayumedia Publishing.
- Latif, Y. (2023). *Negara paripurna: Historisitas, rasionalitas, dan aktualitas Pancasila*. Gramedia Pustaka Utama.
- Marzuki, P. M. (2021). *Penelitian hukum*. Kencana Prenada Media.
- Moleong, L. J. (2021). *Metodologi penelitian kualitatif*. Remaja Rosdakarya.
- Nonet, P., & Selznick, P. (1978). *Law and society in transition: Toward responsive law*. Harper & Row.
- Pateman, C. (1970). *Participation and democratic theory*. Cambridge University Press.
- Radbruch, G. (1947). *Einführung in die rechtswissenschaften*. C. F. Müller.
- Rahardjo, S. (2006). *Hukum dan masyarakat*. Angkasa.
- Rahardjo, S. (2019). *Ilmu hukum: Suatu pengantar*. Citra Aditya Bakti.
- Sands, P. (2018). *Principles of international environmental law* (4th ed.). Cambridge University Press. <https://doi.org/10.1017/9781316563980>
- Soekanto, S. (2018). *Pengantar penelitian hukum*. Universitas Indonesia Press.
- Stahl, F. J. (1845). *Die philosophie des rechts*. Mohr Siebeck.
- Susanti, D. O. (2022). *Metode penelitian hukum*. Sinar Grafika.
- Van Hoecke, M. (2011). *Methodologies of legal research: What kind of method for what kind of discipline?* Hart Publishing.
- Wahana Lingkungan Hidup Indonesia. (2024). Krisis ekologis dan partisipasi publik dalam pengawasan lingkungan. *Jurnal Hukum Lingkungan Indonesia*, 9(2), 88–105.
- . (2023). Partisipasi masyarakat dalam pengawasan lingkungan hidup di Indonesia. *Jurnal Hukum Lingkungan Indonesia*, 8(3), 117–134.

United Nations Economic Commission for Europe. (1998). *Convention on access to information, public participation in decision-making and access to justice in environmental matters (Aarhus Convention)*. UNECE.

United Nations. (1972). *Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration)*. United Nations Publications.