

Multispecies Justice: Environmental Protection and Management Solutions

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Abstract—This article tries to discuss the issue of "justice" by comparing the objective condition of the environment in Indonesia which continues to worsen and looking at its relationship with the concept of sustainable development and the principle of justice in the PPLH Law. This paper is of the view that the ongoing environmental crisis shows that the idea of sustainable development in practice cannot take into account environmental conditions because it focuses more on aspects of economic development. Apart from that, this condition is exacerbated because the normative meaning of the principles of justice is still "human-oriented". This article is of the view that the idea of "multispecies justice" is a solution to the current environmental crisis. To include this idea in the PPLH Law, the author uses the concept of doctrinal interpretation from Jezki Wroblewski to carry out legal interpretation of the principles of justice in the PPLH Law. Justice must be interpreted to include human and non-human entities or "more-than-human-oriented" justice.

Keywords: doctrinal interpretation; environment; multispecies justice; sustainable development.

Introduction

The phenomenon of environmental policy in Indonesia, such as the recent publication of Government Regulation Number 23 of 2023 concerning Management of Marine Sedimentation Products (PP 23/2023), raises important questions, namely the consideration of the "principle of justice" in the formation of these policies? why can PPs which are hierarchically under the law emerge and ignore the principles of justice in the PPLH Law? The phenomenon of ignoring the principles of justice in the PPLH Law often occurs in various legal and development policies. Environmental problems in Indonesia seem to have no end, it is like we are walking down a long and dark corridor. Therefore, this article attempts to understand this problem, find the reasons for acts of neglect, and also bring this discussion of justice into the developing global discourse on the environment.

Environmental justice becomes *standing position* to discuss the objectives of environmental management in Indonesia. According to Wibisana (2013), the principle of "sustainability and sustainability" in the PPLH Law can be interpreted as "sustainable development". According to him, justice and sustainable development are not only principles but also goals of environmental protection and management in Indonesia (AG Wibisana, 2013). This explanation makes it clear that legally, environmental protection and

management in Indonesia is to realize justice and sustainable development. This article wants to ask the question again, can aspects of justice be side by side with aspects of sustainable development? What if the implementation of sustainable development only focuses or gives heavier consideration to economic aspects rather than ecology or the environment? Can justice be fulfilled? By referring to factual environmental conditions, this article wants to offer a solution to the problem of the environmental crisis which continues to worsen. In 2021, in his professor's inauguration speech, Wibisana said that the idea of sustainable development was only interpreted as "business as usual" (RMGA Wibisana, 2021), meaning that in the Anthropocene era, which in Wibisana's view is called a period full of danger for environmental law, there needs to be a radical breakthrough in environmental law in Indonesia.

In addition, phenomena PP 23/2023 mentioned above shows disharmony with the PPLH Law and has given rise to polemics as seen in the rejection from various groups in Indonesia. Protests against PP 23/2023 were carried out on the grounds that there was minimal environmental consideration. Many people say that this sea sand mining activity will threaten the existence of small islands and the environment in general. On the other hand, the government denies this accusation, according to the KKP, this PP was issued taking into account the carrying capacity of the environment and this prioritizes domestic needs, especially reclamation activities.. This article is of the view that the reasons put forward in rejecting and supporting this PP do not shed any light on the fundamental problem, why is the "principle of justice" often ignored in economic development and derivative policies in environmental management? The case of PP 23/2023 clarifies what was stated above, the economic aspect of sustainable development is more considered than the environmental aspect.

Many studies have been carried out on the principles of justice in the PPLH Law, such as what was done by Wibisana (AG Wibisana, 2017) and Sembiring (Sembiring, 2023). However, these two articles still look at the principles of human-oriented justice - intra-generational and future generations. As with the ideas pushed by Professor Wibisana in the last two years, there needs to be radical ideas in environmental law in Indonesia. Wibisana said law can play a central role because law reflects social relations, values and power (RMGA Wibisana, 2021). Therefore, Departing from the discourse of "multispecies justice" put forward by Kirksey, Sophie Chao, Celermajer, and Price (Chao & Celermajer, 2023; Kirksey & Chao, 2022; Price & Chao, 2023). Multispecies justice is the principle of justice which includes not only the interests of all humans but also the interests of non-humans, such as animals, plants, forests, rivers and other ecological systems. Considering their interests as "demands of justice" means that there is a moral and political obligation for the basic institutions of society, including the political and legal systems, to take these interests into account when making decisions.. This article wants to offer this concept in the PPLH Law. Technically-legally, this concept can be encouraged through expanding the meaning or legal interpretation of the principles of justice. Regarding legal interpretation, the author uses the concept of "doctrinal interpretation" from Jezki Wroblewski. We should start to shift from the principles of justice which were initially only human-oriented to more-than-human-oriented, or what experts call "multispecies justice".

Method

From the start, I assumed that the principle of justice in environmental management was a good touchstone for measuring the substance of environmental legislation and its implementation. Considering the development of the "environmental justice" debate which is also related to broad environmental issues including the phenomenon of global warming and extreme climate change, it is important to open a discussion about the meaning of environmental justice in the PPLH Law. I tried to use the idea of "*multispecies justice*" which is currently being widely discussed to expand the legal interpretation of the "principles of justice" in the PPLH Law. The aim of this research is to look at new spaces in the environmental legal regime in Indonesia.

Result and Discussion

Sustainable Development and Unsustainable Environmental Conditions

What is sustainable development? The World Commission on Environment and Development (WCED), an institution under the UN, defines sustainable development as "development that meets the needs of the present without compromising the ability of future generations to meet their needs"(in Atapattu et al., 2021). This definition is also adopted by Indonesia as stated in the PPLH Law, article 1 point 3 concerning sustainable development. Departing from the definition above, Atapattu, et al., added, Sustainable development aims to elaborate economic development, environmental sustainability and social inclusion.(Atapattu et al., 2021). This means that the idea of sustainable development still stands on the track of the development paradigm inherited from the 18th-20th centuries, but is carried out taking into account the quality of the environment which continues to decline as a result of development. This can be clearly seen in the views of Moha Munasinghe, a World Bank Economist. According to Moha Munasinghe, sustainable development must be seen in three approaches(Rogers et al., 2007), namely: Economics, maximizing income while maintaining constant capital; ecology, maintaining ecosystems; and Socio-Cultural, maintaining the stability of the social-cultural system. In fact, in the view of Atapattu, et al., economic growth is very necessary in implementing sustainable development, which according to them is important for maintaining social development and social justice.(Atapattu et al., 2021).

Historically, the concept of sustainable development began to be discussed at the UN conference on the environment in 1972 in Stocholm, Sweden and received a standard form in 1987 in the Burtran Report (Rogers et al., 2007). If we look at Rogers, et al.,'s explanation of this report, we can see that the concept of sustainable development is an effort to maintain development policies by encouraging integration schemes in anticipating and dealing with the continuing decline in environmental quality. According to Wibisana, since the 1990s, almost all countries in the world have recognized and used sustainable development as an environmental development policy agenda.(AG Wibisana, 2013). However, this effort can be seen both on a national (read: Indonesia) and global scale - after 50 years it has not had a significant impact. The Intergovernmental Panel on Climate Change, an international institution that focuses on monitoring climate change conditions, reported that in 2023, greenhouse gas emissions at the global level will continue to increase.(IPCC Core Writing Team, 2023).

Why are environmental conditions in Indonesia and even globally still continuing to decline? The answer is simple, development continues without considering environmental conditions. Environmental aspects are only limited to administrative obligations, such as Environmental Impact Analysis (AMDAL) documents. Administrative documents are the object of assessment, not factual environmental conditions. As found by one of the national NGOs in Indonesia which works on mining issues, the Mining Advocacy Network (JATAM). JATAM in its 2019 field research on the construction and operation of the Ulumbu PLTP in Flores, East Nusa Tenggara, found that the presence of this PLTP had exacerbated drought and landslides in the rainy season.(Teredi et al., 2019). This is made worse because operating geothermal mining in Wewo village, East Nusa Tenggara to supply energy to PLTP.The existence of an environmental crisis in Indonesia was also reported by the Indonesian Forum for the Environment in its 2023 Environmental Review. In this report, WALHI stated that ecological or environmental disasters in Indonesia in the last decade have continued to increase, and the peak will occur in 2022 with 4650 disaster incidents.(Writing Team - WALHI, 2023).

Meanwhile, in 2022, WALHI will also report Conflicts and environmental disasters in Indonesia continue to spread, not only on land but also in coastal areas and small islands(WALHI National Executive, 2022). This has made the ecological crisis in Indonesia even deeper. According to this report, the ecological crisis condition is caused by the country's political and economic system which prioritizes investment over the safety of people's lives. For example, in the forestry sector during the Jokowi administration, forest area release for plantations was 94% (1.2 million hectares), while for public purposes it was only 1%. 1.2 million hectares. The area for this plantation includes a food estate project which mostly covers tropical rainforest areas in Papua and Kalimantan. In fact, the function of this forest area is very important for environmental sustainability in Indonesia and in the world. The environmental damage situation is also caused by mining

activities. Various permits for natural resource management granted by the government have an impact on reducing the quality of the environment, which goes hand in hand with increasing climate change in Indonesia and globally. Andung Bayu Sekaranom from the Environmental Hydrology and Climatology Laboratory at Gajah Mada University said that extreme weather in Indonesia tends to increase due to the impact of climate change which is now starting to be felt by the community.. The official page of the Ministry of Communication and Information also released similar news, on March 20 2023. It was stated that the Head of the BMKG invited all Indonesian people to work together to contribute to curbing the increasingly alarming rate of global warming and climate change..

Specifically, Rita Padawangi in her writing stated that the implementation of the Jakarta Bay and Benoa Bay reclamation development program has had a serious impact on coastal environmental conditions where there has been a significant decrease in land surface and sea level rise.(Padawangi, 2021). The environmental crisis that is occurring in various places is an effect of the implementation of Indonesia's economic development program. At this point, we again ask where is the consideration of aspects of justice in development?

This situation encourages experts to discuss again the idea of sustainable development which is the basis and orientation of natural resource management. Sneddon, Howarth, and Norgaard see that the interpretation of the concept of "sustainable development" is still often hampered ideologically and epistemologically, they suggest the idea of sustainable politics as a solution to this problem.(Sneddon et al., 2006). However, the practice of development based on economic growth will certainly find a dead end. The reason is that economic growth requires continuous extraction and exploitation of nature and this has an imperative impact on the environmental crisis. The aspect of justice certainly cannot be fulfilled with this condition. This means that the concept of sustainable development which tries to combine economic, social and environmental development cannot be maintained as a solution to environmental decline, both nationally in Indonesia and in the world. In the next section I want to more specifically discuss the "principle of justice" in the PPLH Law.

Human-Oriented Environmental Justice and its Problems

Article 2 of the PPLH Law states that "environmental protection and management is carried out based on the principle of...justice". Justice is one of the 14 principles in environmental protection and management in Indonesia. In the explanation section, this point is explained that environmental protection and management must reflect proportional justice. This proportionality includes every citizen, across regions, across generations and gender. From this clause it can be seen that the aspect of justice in environmental protection and management in Indonesia does not only speak in a partial context, but is comprehensive. Even generations of Indonesians who have not yet been born must be considered. But what about the thousands of ecological disasters that occur as a result of the implementation of economic development? Let alone tomorrow's generation, the current generation cannot enjoy a clean and comfortable living environment because disasters have destroyed everything.

Regarding the principle of justice, Jonas Ebbeson sees that environmental legal regulations and policies are always goal-oriented, where standards, principles and procedures to achieve environmental protection have an important role.(Jo. Ebbeson, 2009). Meanwhile, Wibisana in one of his articles highlighted intra-generational justice. According to Wibisana, from a corrective justice perspective, the concept of the polluter pays principle is very important to use to realize intra-generational justice(AG Wibisana, 2017). Meanwhile, Zefanya highlighted justice in the context of future generations. According to him, regulations regarding the rights of future generations at the operational level have not been touched upon(Sembiring, 2023). Richard Hiskes has a slightly critical view of intergenerational justice, according to him, the struggle for environmental justice which gives rights to future generations is an argument that is unclear and difficult to fight for.(Hiskes, 2008). A different view comes from Gill and Ramachandran, according to them, to realize environmental justice, the judiciary has a very important role and can intervene in changes in human behavior(Gill & Ramachandran, 2021).

The views regarding aspects of environmental justice above clearly show that the justice discourse is still human-oriented. Humans are the only subjects considered in environmental justice discussions. Is this the main problem of the fact that there continues to be neglect of environmental aspects in various economic development programs?

This paper is of the view that human-oriented justice and placing humans as the only subject in environmental protection and management has several problems, including: first, the emergence of contradictions between economic development and environmental protection. The development that is being promoted is for the benefit of humans, environmental protection is also for the benefit of humans, can these two things work in harmony? Meanwhile, economic development is carried out to encourage economic growth that uses extractive and exploitative logic towards the environment. Second, when there are conflicting human interests, one of the interests must be given up or ignored. From the various evidence presented above, in the case of Indonesia, environmental aspects or environmental justice are always ignored in making development policies and implementing development programs. And third, entities other than humans are very weak to consider because their position is only as passive objects. This passive-object view provides a large space and at the same time the possibility of human abuse in managing nature. Humans always put their interests first and this makes environmental protection stagnate or even decline (Latour et al., 2018). This can be seen from various schemes regarding carbon trading or disaster capitalism discourse (IPCC Core Writing Team, 2023; Miteva et al., 2015; Stensrud, 2019; Vera-Cortes et al., 2020).

Multispecies Justice: New Offerings in Environmental Protection and Management

What is the solution if human-oriented environmental justice is problematic, both in terms of substance and implementation? More-than-human-oriented justice is one of the solutions currently being discussed by various scientists from various scientific disciplines. Experts call this "multispecies justice". Kirksey and Chao believe that this term was introduced by Donna Harraway in the book "When Species Meet" (Harraway, 2008; Kirksey & Chao, 2022). In another article by Sophie Chao, Chao and Celermajer argue that life by placing humans as the only subjects in nature has created a very serious and deep earth crisis. (Chao & Celermajer, 2023). Environmental problems are not only human problems, but also include other entities or species. The human-oriented conception of justice is very hegemonic and has shown an inability to handle multidimensional crises created by humans themselves. They clearly convey that the concept of multispecies justice was born from social and political movements that fought for the continuity of life together with humans and non-humans.

David Schlosberg, an environmental political scientist, said that the conception of justice from activists and academics focuses on two very different issues (Schlosberg, 2007). He continued, academic efforts to define ecological justice remain tied to 'distributive' approaches, paradigms and discourses. In this book, Professor Schlosberg wants to expand the meaning of justice so that environmental justice can also include humans and non-humans. Meanwhile, Hiskes is of the view that justice must be seen in terms of what justice requires in terms of our obligations towards the future (Hiskes, 2008). By following Gewirth's views, Hiskes said that what can realize the environmental rights of future generations is a very communal society. (Hiskes, 2008). Thus, for Hiskes, environmental justice can be realized if the prerequisites for a communal community or human rights community can be met. If not, then this is difficult to do.

Discussions about environmental justice also differ between scientists and activists in southern and northern countries. In most southern countries or marginalized communities in northern countries, environmental justice has become a language of resistance to environmental degradation that has a direct impact on them. (Atapattu et al., 2021). Environmental justice issues are often discussed across national borders and ultimately require strict boundaries regarding subject, object and jurisdiction in discussing justice. (Jo. Ebbeson, 2009). This makes discussions about environmental justice very complex and broad. However, as stated by many experts in the context of environmental law, there are four basic elements in environmental justice, namely: distributive justice, social justice, procedural justice, and corrective justice.

Discussions about environmental justice do not only cross national boundaries, but also transcend species boundaries (beyond humans) or legal subject boundaries as previously understood in legal science discourse (Kantian ideas). Currently, environmental justice discourse pays great attention also to non-human subjects (Jo. Ebbeson, 2009). He said, why do we take it for granted that animals do not deserve justice? In the last decade, scientists from various multidisciplinary fields have developed the idea of "multispecies justice", one of which is from the Sydney Environmental Institute (SEI) at The University of Sydney. On the official SEI page it is stated "In a world where the Anthropocene is heightening injustices and introducing new forms of injustice, justice is one of the concepts and an area of practice crying out for wholesale renovation." Scientists who focus on environmental issues at SEI are massively discussing this idea after the severe forest fires in Australia in 2020 and the Covid-19 pandemic. Radical environmental changes as a result of human action provide insight into discussing "what is justice?" According to this institution, justice must be radically reconceptualized because human behavior towards the environment has had serious impacts on humans and non-humans alike. Scientists who are members of SEI in their introduction to the multispecies justice academic project conveyed:

"The Multispecies Justice project has challenged scholars to reconceptualize justice in a way that is sufficiently capacious and fluid to accommodate the vast breadth of our multispecies world. This requires our imagining and including modes of representation and other political practices equipped to appreciate and accommodate the justice claims of all ecological beings – individuals, systems, and their relationships."

In the world of law enforcement, the 2018 court decision in Ecuador which closed the Rio Blanco mine, according to Kirksey and Caho, was an important moment and victory at the intersection of the human social world and the world of life of various species. (Kirksey & Chao, 2022). This is because the lawsuit filed by the Quecha indigenous community and environmental activists in Ecuador not only demands the interests of humans (indigenous communities) living around the Rio Blanco mining area but also the interests of rivers, wetlands and ecosystems in the area. The idea of multispecies justice wants to encourage the interpretation of justice not only to include human interests, but also the interests of entities other than humans. Entities other than humans are not seen as objects but as subjects of law and subjects of justice.

Doctrinal Interpretation: How to Include Multispecies Justice in the PPLH Law

Legal science recognizes the doctrine of 'the limits of the wondering' (Klatt, 2008) This doctrine states that legal words or language have limitations, therefore legal interpretation or discovery is something that must be done. In Indonesia, in practice, legal interpretation is often carried out by judges, especially in criminal cases. However, apart from this, legal interpretation is possible if public interests or needs require it. Diah Imaningrum Susanti in the book 'Legal Interpretation: In Theory and Practice', following Jezki Wroblewski's opinion, states that there are two typologies of legal interpretation, namely: Operative Interpretation; and Doctrinal Interpretation. Operational interpretation is carried out when there is a case and this is usually carried out by the judge. Meanwhile, doctrinal interpretation is tasked with building an adequate set of concepts to eliminate doubts related to norm formulation (Susanti, 2019). By using the concept of doctrinal interpretation put forward by Jezki Wroblewski, this paper encourages the importance of carrying out legal interpretation to expand the meaning of justice in the "principles of justice" in the PPLH Law. Why is it important to interpret? The meaning or 'signified' continues to develop beyond the 'sign'. This happens because human development and life continue to move. For example, in the initial legal formulation the object was tangible goods, but in subsequent developments there were intangible goods such as 'electrical energy'. So the element "goods" must be reinterpreted to also include intangible goods.

Gill and Ramachandran in their article state that there is an urgency to overcome social challenges resulting from the environmental crisis to do "*transformation towards sustainability's*", which must involve reorientation and restructuring of environmental governance processes and governance (Gill & Ramachandran, 2021). The views of these two environmental law scientists gave me insight into thinking about solutions to environmental governance in Indonesia. Environmental law enforcement in Indonesia

seems to be at a deadlock. Our problem is not only in the application of legal regulations in the environmental sector but also in the legal substance of these regulations. As mentioned above, the polemic regarding PP 23 of 2023 (and also the Job Creation Law) shows that the issue of legal substance is very urgent.

Fundamental issues When we talk about legal substance in environmental legal regulations, the fundamental articles in the PPLH Law must be discussed again with reference to the development of factual environmental conditions in Indonesia and globally and the development of academic discourse related to issues surrounding environmental problems. If not, then the principles of justice in the PPLH Law cannot be considered optimally and we cannot improve the quality of the national environment.

In the Explanation section of the PPLH Law, the principle of justice is defined as "*that environmental protection and management must reflect proportional justice for every citizen, both across regions, across generations and across gender*". If we look closely at the definition of justice formulated in the PPLH Law, then what we find is that the justice referred to in this Law is justice for human interests only, which in the PPLH Law are referred to as "citizens".

Conclusion

The current definition of justice in the PPLH Law becomes irrelevant if we compare it with the global environmental justice discourse as described in the previous section. Recently, when we often hear or read about climate change or environmental damage, we often come across the term "anthropocene". The idea of the Anthropocene itself is a criticism of humans who are predicted to have contributed greatly to the earth crisis and climate change in this era.(Berg, 2016; Bollig, 2018; Dube, 2020; Krauss, 2015; Turvey & Crees, 2019). This criticism is raised with the aim that humans, both individually and in groups, must begin to make corrections to various views and actions that see humans as the only subject or humans as superior entities and non-humans as inferior objects or entities.(Latour et al., 2018; A. Tsing, 2016, 2018; AL Tsing et al., 2019). The definition of justice in the PPLH Law looks very anthropocentric, on the other hand, this perspective has been pushed to be radically overhauled.

We can use the concept of Doctrinal Interaction to interpret the principles of justice. This is done because the meaning of environmental justice no longer concerns human interests but also non-human interests. If we talk about human interests by placing them only as 'objects' then efforts to protect them will only be half-hearted, because we will always prioritize the interests of the subject (human). However, in discussing environmental justice, when we position 'non-humans' as subjects, we will consider their existence seriously because subjects are rights bearers.

The meaning of the norms of justice in the PPLH Law must be expanded to include non-humans as subjects and rights bearers in environmental protection and management. Justice must be interpreted as 'multispecies justice'. If this is done, we will be careful in formulating legal policies regarding the use of nature for human benefit. Because we have to pay attention to the interests of other legal subjects, namely non-human interests. Non-humans can mean animals, plants, rivers, sea, air and land. What was done in Ecuador in the Rio Blanco case should be used as a reference to encourage radical law enforcement in order to realize sustainable development. In New Zealand, in March 2017 the government of this country legalized it *Te Ava Tupua (Whanganui River Claims Settlement) Act 2017 (2017 No 7)* or Law Number 7 of 2017 concerning Te Ava Putua or the Whanganui River. In this law the New Zealand government recognizes the existence and attachment of the Te Ava Putua tribe to the Whanganui River and recognizes the Whanganui River as the jurisdiction of the Te Ava Putua tribe.(Ruru, 2018).In this regulation the Whanganui River is also positioned as a legal subject together with the Te Ava Putua tribe. According to Ruru, this was done because the New Zealand government realized that to realize sustainable development, management knowledge about rivers must be provided to communities or tribes that have lived historically with these rivers. In the Maori view the river is not an object but also a subject, the river is represented as their

ancestor. The environmental quality that continues to decline and climate change that occurs everywhere in Indonesia should be a driving force for us to rethink what we call "justice", if we want this shared life between humans and non-humans to continue. This re-interpretation of the principle of justice can be a good solution in protecting and managing the environment in Indonesia amidst the increasing environmental crisis both nationally and globally.

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