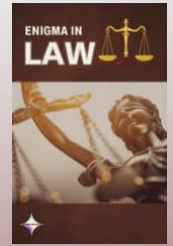




e-ISSN: 3026-6068

Enigma in Law

Journal website: <https://enigma.or.id/index.php/law>



Analyzing and Investigating the Legal Aspects of Green Policy

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ARTICLE INFO

Keywords:

Administrative law
Climate change
Environment
Green policy
Sustainable

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All authors have reviewed and approved the final version of the manuscript.

<https://doi.org/10.61996/law.v1i2.34>

1. Introduction

Amidst a growing environmental catastrophe, the global community is collectively advocating for the significance of green policies—solutions for sustainable development that uphold the balance between humanity and the Earth. However, this strategic measure is not only contingent upon benevolent intentions and public outreach efforts. The legislative part of the Green Policy is crucial in transforming well-meaning aspirations into tangible and enduring actions that promote sustainability. This study seeks to further explore the intricacies of the legal dimensions of green policy. This paper examines the diverse legal viewpoints that form the basis of this policy, encompassing public authority and private accountability, state administration and economic dynamics, and its contribution to meeting international obligations. The objective is for the study to not only enter the domain of discussion but also

ABSTRACT

The legal dimensions of green policy are crucial in propelling tangible transformation towards sustainable development. Gaining insights from other viewpoints, including those from the public, commercial, administrative, and international sectors, can facilitate the development and execution of policies that are both effective and comprehensive. Green policy is incorporated into the environmental legal system from a public law standpoint, with the aim of ensuring justice and safeguarding the environment against harm. Private law serves as a strong defense for the human rights of residents to reside in a clean and safe environment, achieved through the use of legal agreements and legal actions. From an administrative law perspective, green policy is regarded as a mechanism that governs and oversees government actions, ensuring their alignment with ecologically sustainable ideals. Indonesia must fulfill its commitments in global agreements such as the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement, which also possess legal standing at the international level.

delve into specific legal mechanisms. We will analyze instances of correlated laws and regulations, such as the Environmental Law and Air Pollution Control, scrutinize the functions of authorized government entities, and briefly discuss sustainable finance rules.¹

Public law perspective

From a legal standpoint, the study of green policy can be considered a component of environmental law. Environmental law governs the interactions and dynamics between human beings and the natural environment. Environmental law seeks to safeguard the environment from harm and ensure individuals' entitlement to reside in a wholesome and secure environment. Green policy represents a deliberate effort to uphold and implement environmental regulations. The rationale behind green policy is to mitigate the adverse effects of human activities on the environment. Green policy includes

statutory restrictions, government policies, and programs specifically designed to protect the environment.²

Here are some examples of environmentally friendly measures from the standpoint of public legislation: Law Number 32 of 2009 pertains to the safeguarding and administration of the environment. This legislation serves as a comprehensive legal framework for the enforcement of environmental conservation and administration in Indonesia. This legislation governs multiple facets of the environment, encompassing the responsibility of commercial entities to conduct their operations in an ecologically conscious manner. Regulation 79/2014 on Air Pollution Control issued by the government regulates the control of air pollution. This government rule mandates that motor vehicle owners utilize eco-friendly vehicles. The Minister of Environment and Forestry has issued Regulation Number 7 of 2022, which pertains to the management of hazardous and toxic materials (*bahan beracun and berbahaya/B3*) waste governs the treatment of B3 garbage. This ministerial rule governs the responsibilities of producers in the management of the B3 trash they generate. Multiple approaches, such as developing robust legislation and regulations, rigorously enforcing laws, and educating and reaching out to the community, can achieve the implementation of green policy from a public law perspective. The government should establish robust legislation and regulations to safeguard the environment. The laws and regulations need to be stringent and unambiguous in order to deter infractions. The government should also implement stringent legislation against individuals who commit environmental infractions. In addition, it is imperative for the government to offer education and outreach programs to raise public awareness of the significance of environmental conservation.³

Private law perspective

When viewed through the lens of private law, green policy becomes a component of civil law. Civil law governs the legal interactions and obligations between individuals. The primary objective of civil law is to safeguard individuals' rights, encompassing the entitlement to reside in an environment that promotes well-being and good health. Green policy is a

deliberate endeavor to safeguard individuals' entitlements, encompassing the right to reside in a salubrious environment. Green policy aims to reduce the negative impact of human activities on the environment. Green policy implements various measures, such as agreements, lawsuits, or other actions, to safeguard the environment.⁴

From a private law perspective, here are a few examples of environmentally friendly legislation: Contracts between developers and home buyers might govern the developer's responsibilities to ensure a conducive living environment in the vicinity of the dwelling. Developers must engage in activities such as tree planting, establishing garbage disposal sites, and implementing waste management practices. Any individual who perceives themselves as being at a disadvantage due to environmental contamination has the right to initiate legal proceedings against the party responsible for the pollution. The lawsuit may seek restitution, demand cessation of the polluter's operations, or request governmental intervention. Individuals can engage in several measures to safeguard the environment, such as organizing demonstrations, staging protests, or abstaining from purchasing things that lack ecological sustainability. Several means can achieve the implementation of green policy from a private law viewpoint, including establishing robust legal mechanisms, raising public consciousness, and fostering collaboration among relevant parties. The government should establish robust legal mechanisms to safeguard the environment, such as by imposing regulations on the liabilities of entities that contribute to environmental contamination. The government should enhance public consciousness regarding the significance of environmental preservation. In addition, the government must collaborate with other stakeholders, such as corporations and the community, to safeguard the environment.^{5,6}

Administrative law perspective

From an administrative law standpoint, one can analyze green policy as a component of state administrative law. State administrative law governs the interactions between the government and society. State administrative law seeks to regulate the principles of effective governance, which encompass

ecologically sustainable practices. Green policy can be defined as a deliberate attempt to govern and control governmental actions that have a direct influence on the natural environment. The rationale behind green policy is to mitigate the adverse effects of governmental actions on the environment. Green policy includes statutory restrictions, government policies, and programs specifically designed to protect the environment.⁷

Law Number 32 of 2009 pertains to the protection and management of the environment. This legislation governs the government's responsibilities in safeguarding the environment. For instance, the government has a duty to develop environmental management plans, regulate environmental pollutants, and undertake environmental rehabilitation and restoration. Regulation 79/2014 is a government measure that focuses on controlling air pollution. This government legislation governs the control of air pollution. This government rule mandates the government's responsibility to oversee air quality and manage the origins of air pollution. The Minister of Environment and Forestry has issued Regulation Number 7 of 2022, which pertains to the management of B3 waste. This ministerial rule governs the treatment of B3 garbage. This ministerial directive governs the government's responsibilities in managing B3 trash.⁸

To achieve green policy implementation from an administrative law perspective, the government should enhance legislation and regulations, ensure rigorous law enforcement, and bolster the competency of government officials. The government should establish robust legislation and regulations to safeguard the environment. It is imperative that these laws and regulations are stringent and unambiguous in order to deter any breaches. The government should also implement stringent legislation against individuals who commit environmental infractions. In addition, it is imperative for the government to enhance the proficiency of government personnel in executing environmentally friendly policies. In addition to that, it is imperative for the government to include the community in the implementation of environmentally friendly policies. The community can serve as an overseer and regulate the execution of environmentally friendly policies by the government.⁹

International law perspective

From an international legal standpoint, studying green policy helps Indonesia fulfill its international commitments. Indonesia has officially approved multiple international accords concerning environmental preservation, such as the United Nations Framework Convention on Climate Change (UNFCCC), the Ramsar Convention on Wetlands, the Convention on Biological Diversity, the Kyoto Convention, and the Paris Agreement. These international treaties govern multiple facets of environmental conservation, encompassing measures to mitigate climate change, save wetlands, preserve biodiversity, curtail greenhouse gas emissions, and promote sustainable development. Green policy implementation in Indonesia reflects a conscientious effort to fulfill the country's commitments under several international agreements. Indonesia has established a goal to decrease its greenhouse gas emissions by 29% before the year 2030 as commitment to the Paris Agreement.^{10,11}

The implementation of green policy from an international law perspective can be achieved by several means, such as formulating legislation and regulations that align with international accords, rigorously enforcing laws against environmental infractions, and fostering collaboration with other nations. The government should establish legislation and regulations that align with international treaties and conventions. These laws and regulations must be firm and explicit to prevent infractions. The government should also implement stringent legislation against individuals who commit environmental infractions. Furthermore, it is imperative for the government to collaborate with other nations in order to save the environment.¹¹

2. Conclusion

The legal dimensions of green policy are crucial in catalyzing tangible transformation towards sustainable development. Green policy is incorporated into the environmental legal system from a public law standpoint, with the aim of ensuring justice and safeguarding the environment against harm. Private law serves as a strong defense for individuals' fundamental rights to reside in a clean and safe environment, achieved through legal agreements and

legal actions. Through the administrative law lens, green policy serves as a regulatory mechanism for government actions, guaranteeing their alignment with ecologically sustainable objectives.

3. References

1. Arief MA. Environmental law in Indonesia: history, theoretical framework, and practice [Hukum lingkungan di Indonesia: sejarah, kerangka teori, dan praktik]. 2019. Jakarta: Kencana.
2. Bard M. The role of public law in enforcing green policy in Indonesia [Peran hukum publik dalam penegakan green policy di Indonesia]. *J Hukum Lingkungan*. 2023;12(2):161-74.
3. Pratiwi E. Environmental law enforcement in Indonesia: a public law perspective [Penegakan hukum lingkungan di Indonesia: perspektif hukum publik]. *J Hukum Lingkungan*. 2021;10(1): 1-15.
4. Agus A. Environmental protection in private law: a juridical review [Perlindungan lingkungan hidup dalam hukum privat: suatu tinjauan yuridis]. *J Hukum Lingkungan*. 2022;11(2):141-54.
5. Heru W. Criminal liability of environmental polluters: a review of private law [Tanggung jawab pidana pelaku pencemaran lingkungan: suatu tinjauan hukum privat]. *J Hukum Lingkungan*. 2020;9(1):1-15.
6. Nadia N. Environmental lawsuits: a private law review [Gugatan lingkungan hidup: suatu tinjauan hukum privat]. *J Hukum Lingkungan*. 2022;11(1):1-15.
7. Alamsyah A. Government policy in environmental protection: a review of administrative law [Kebijakan pemerintah dalam perlindungan lingkungan hidup: suatu tinjauan hukum administrasi]. *J Hukum Lingkungan*. 2021;10(2):155-70.
8. Hakim M. Government enforcement of environmental law: a review of administrative law [Penegakan hukum lingkungan oleh pemerintah: suatu tinjauan hukum administrasi]. *J Hukum Lingkungan*. 2022;11(2):155-70.
9. Setiawan AW. Government accountability in environmental pollution: a review of administrative law [Pertanggungjawaban pemerintah dalam pencemaran lingkungan: suatu tinjauan hukum administrasi]. *J Hukum Lingkungan*. 2020;9(2):1-15.
10. Arief MA. International environmental law: problems and solutions [Hukum lingkungan internasional: masalah dan solusinya]. 2018. Jakarta: Kencana.
11. Indonesian Ministry of Environment and Forestry. Paris Agreement implementation in Indonesia [Implementasi Perjanjian Paris di Indonesia]. 2022. Jakarta.