

Reconstructing Legal Policies for Marine Environmental Protection Against Water Pollution in Indonesia: A Socio-Legal Perspective

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ABSTRACT

This research aims to analyze the problems of legal policy implementation in the protection of the marine environment against water pollution in Indonesia and to formulate a more effective and equitable reconstruction of legal policies based on socio-legal perspectives and justice theory. The formulation of the problems in this study includes: 1) how to implement the legal policy of protecting the marine environment against water pollution in Indonesia; and 2) how legal policies can be reconstructed to ensure more effective and equitable protection of the marine environment. The research method used is an empirical or sociological juridical method (*empirical socio-legal research*), with a qualitative approach through data collection techniques in the form of interviews, field observations, and documentation studies. This study examines the implementation of the law in the community, the behavior of business actors, and the effectiveness of environmental law enforcement in the field.

The results of the study show that although normatively Indonesia already has a fairly comprehensive regulation in the protection of the marine environment, its implementation still faces various obstacles, including weak law enforcement, overlapping authority between institutions, low compliance of business actors, and lack of community participation. In addition, there is a gap between written law (*law in books*) and practice in the field (*law in action*), which shows that the law is not fully effective as an instrument to control marine pollution. Based on these findings, legal policy reconstruction needs to be carried out by integrating the principles of justice theory, including distributive justice, procedural justice, and intergenerational justice. The reconstruction is realized through strengthening fair and firm law enforcement, increasing institutional coordination, expanding public participation, and implementing economic and social instruments that encourage business actors' compliance. Thus, this study concludes that a socio-legal approach based on the theory of justice is the right strategy in realizing a more effective, responsive, and equitable legal policy for the protection of the marine environment in Indonesia.

Keywords: Reconstructing, Legal, Policies, Marine, Environmental, Protection, Against, Water, Pollution, Indonesia, Socio-Legal, Perspective.

INTRODUCTION

Background

Indonesia as the largest archipelagic country in the world has a very large and strategic sea area, making the sea the main resource in marine-based national development. However, in recent developments, the problem of seawater pollution is increasingly showing a significant escalation and has become a very urgent legal issue to be studied. Various national reports show that marine pollution comes not only from domestic waste, but also from industrial activities, mining, shipping, and offshore oil leaks that have a wide impact on ecosystems. In fact, the increase in the amount of plastic waste in Indonesia's waters has placed Indonesia as one of the largest contributors in the world, which at the same time has caused international pressure on national policies in the environmental sector. This condition indicates that the existing legal framework has not been able to comprehensively answer the complexity of the problem. From a socio-legal perspective, this phenomenon not only reflects weak regulations, but also shows the existence of problems of community behavior and social structures that contribute to pollution. Therefore, the reconstruction of legal policies is an urgent need to be able to answer the increasingly complex challenges of the marine environment.¹

Seawater pollution in Indonesia in recent years has also been marked by an increase in concrete cases that show weak enforcement of environmental laws. One of the frequent phenomena is the illegal dumping of oil waste by tankers, which pollutes the waters and damages marine ecosystems massively. This practice often involves cross-border actors, thus raising jurisdictional and coordination issues between law enforcement agencies. In addition, there is still a practice of dumping industrial waste into rivers that flow into the sea without adequate treatment, which ultimately worsens the condition of seawater quality. This shows that the existing legal system has not been able to reach all aspects of pollution control effectively. In the socio-legal approach, this problem is also related to the weak legal awareness of the community and the low compliance of business actors with environmental

¹ Takdir Rahmadi, *Environmental Law in Indonesia* (Jakarta: Rajawali Pers, 2018), pp. 145–147.

regulations. Therefore, a more adaptive and responsive legal policy approach is needed to evolve social dynamics.²

In addition to law enforcement factors, the problem of marine pollution is also closely related to weaknesses in the licensing and environmental monitoring system. In practice, many business licenses are granted without adequately considering the carrying capacity of the environment, thus opening up opportunities for pollution. This is exacerbated by the weak supervision of the implementation of environmental permits that have been granted, so that many business actors do not comply with environmental management obligations. In this context, the existence of Law Number 32 of 2009 concerning Environmental Protection and Management has actually provided a fairly comprehensive legal framework, but its implementation still faces various obstacles. The socio-legal approach shows that this problem is not only related to normative aspects, but also to institutional factors, legal culture, and economic interests that are often more dominant than environmental interests. Therefore, it is necessary to reconstruct legal policies that are able to integrate legal and social aspects more effectively.³

The development of environmental regulations in Indonesia also shows significant dynamics, especially with the presence of Law Number 11 of 2020 concerning Job Creation which brings changes in the environmental licensing system. Although it aims to increase investment, this regulation actually raises concerns related to the weakening of environmental protection, including in the context of marine pollution. Simplifying licensing procedures is considered to have the potential to reduce the quality of supervision of business activities that risk polluting the environment. From a socio-legal perspective, this regulatory change reflects the tug-of-war between economic development and environmental protection. This shows that legal policy cannot be separated from the social and political context that surrounds it. Therefore, legal policy reconstruction needs to be carried out by considering the balance between economic interests and environmental sustainability.⁴

² Siti Sundari Rangkuti, *Environmental Law and National Environmental Policy* (Surabaya: Airlangga University Press, 2019), pp. 102–105.

³ I Made Arya Utama, *Environmental Law: An Environmental-Based Licensing Legal System* (Bandung: Pustaka Setia, 2020), pp. 98–101.

⁴ Huala Adolf, *Aspects of State in International Law* (Bandung: Refika Aditama, 2015), pp. 210–213.

In addition, the problem of marine pollution is also related to weak coordination between institutions in marine environmental management. There are various institutions that have authority in the field of marine and environment, but there is often an overlap of authority that hinders the effectiveness of law enforcement. This condition is exacerbated by the lack of integration of data and information related to marine pollution, making it difficult to make the right policy-making process. From a socio-legal perspective, this problem reflects weaknesses in the institutional structure that have not been able to work synergistically. Therefore, it is necessary to reconstruct legal policies that are able to strengthen coordination between institutions and increase the effectiveness of integrated marine environmental management.⁵

The phenomenon of marine pollution also cannot be separated from the socio-economic factors of coastal communities who still have a low level of environmental awareness. Many people still throw garbage into the sea or river due to limited waste management facilities. In addition, economic pressure also encourages people to carry out activities that have the potential to pollute the environment, such as the use of hazardous chemicals in fishing. From a socio-legal perspective, this condition shows that a legal approach alone is not enough to solve the problem of marine pollution. A more comprehensive approach is needed that involves aspects of education, community empowerment, and social behavior change. Therefore, legal policy reconstruction needs to pay attention to the socio-economic aspects of the community as an integral part of efforts to protect the marine environment.⁶

In the global context, the issue of marine pollution is also a growing international concern, especially related to plastic pollution and climate change. Indonesia as part of the international community has an obligation to fulfill various global commitments in the protection of the marine environment, as stipulated in various international conventions. However, the implementation of this commitment at the national level still faces various obstacles, both in terms of regulations and institutional capacity. From a socio-legal perspective, this shows that there is a gap between international norms and national

⁵ Soerjono Soekanto, *Factors Affecting Law Enforcement* (Jakarta: Rajawali Pers, 2014), pp. 45–47.

⁶ Satjipto Rahardjo, *Progressive Law: A Synthesis of Indonesian Law* (Yogyakarta: Genta Publishing, 2009), pp. 72–75.

practices. Therefore, legal policy reconstruction needs to consider the harmonization between national law and international law in efforts to protect the marine environment.⁷

The problem of marine pollution is also related to the aspect of legal accountability for polluters which often has not been enforced optimally. Many cases of pollution do not lead to strict sanctions, so they do not have a deterrent effect on the perpetrators. This shows that the environmental law enforcement system still has weaknesses, both in terms of legal substance, law enforcement structure, and community legal culture. From a socio-legal perspective, this problem reflects inequality in the application of the law which is often influenced by factors of power and economic interests. Therefore, the reconstruction of legal policies needs to be directed at strengthening a more fair and effective legal accountability system.⁸

The issue of marine pollution is also increasingly complex with technological developments that allow pollution to occur on a larger scale and is difficult to detect. For example, the use of technology in the maritime and energy industries that is not balanced with an adequate monitoring system can increase the risk of environmental pollution. In addition, technological developments also require updates in legal regulations in order to accommodate the dynamics that occur. From a socio-legal perspective, this shows that the law must be able to adapt to technological developments and social changes that occur. Therefore, legal policy reconstruction needs to be carried out on an ongoing basis so that it remains relevant to the times.⁹

In the end, the problem of seawater pollution in Indonesia shows that the current legal policy has not been able to provide optimal protection for the marine environment. Various factors such as weak law enforcement, weak regulations, low public awareness, and the complexity of social and economic dynamics are challenges that must be faced. From a socio-legal perspective, this problem demands a more holistic approach in the formulation of legal policy, which not only focuses on normative aspects, but also pays attention to the social factors that affect the effectiveness of the law. Therefore, the reconstruction of the legal policy

⁷ Philippe Sands, *Principles of International Environmental Law* (Cambridge: Cambridge University Press, 2012), pp. 305–308.

⁸ Jimly Asshiddiqie, *Law Enforcement* (Jakarta: Sinar Grafika, 2016), pp. 134–136.

⁹ Lawrence M. Friedman, *The Legal System: A Social Science Perspective* (New York: Russell Sage Foundation, 1975), pp. 15–18.

on marine environmental protection is an urgent need to realize sustainable and equitable environmental management in Indonesia.

Research Question

1. What are the socio-legal factors contributing to marine water pollution in Indonesia despite existing regulations?
2. How can legal policies be reconstructed to ensure more effective and equitable protection of marine environments?

THEORETICAL FRAMEWORK

1. Theory of Sustainable Development

Sustainable Development *theory* is a conceptual framework that emphasizes the balance between the needs of economic development, environmental protection, and social justice as three main pillars that cannot be separated. In the context of seawater pollution in Indonesia, this theory is relevant to explain why the existence of regulations has not been able to effectively reduce pollution levels. This is due to the imbalance in the implementation of the three pillars, where economic interests are often more dominant than environmental protection. Development policies oriented towards economic growth, such as coastal industrialization and exploitation of marine resources, often ignore the principle of sustainability. As a result, existing regulations are only formalistic and not implemented substantively. In a socio-legal perspective, this condition shows that law does not stand alone, but is influenced by the social and economic dynamics that develop in society. Therefore, sustainable development theory provides a foundation for analyzing how these imbalances become a major factor in ocean pollution.¹⁰

One of the socio-legal factors that contribute to marine pollution is the weak legal *culture* of the community and business actors in complying with environmental regulations. Within the framework of sustainable development theory, community participation and environmental awareness are important elements in realizing sustainability. However, in practice, there are still many coastal communities who dispose of waste directly into the sea due to limited facilities and low environmental awareness. Similarly, business actors often ignore waste management obligations for

¹⁰ World Commission on Environment and Development, *Our Common Future* (Oxford: Oxford University Press, 1987), pp. 43–45.

the sake of production cost efficiency. This shows that the existence of regulations alone is not enough without the support of a strong legal culture. From a socio-legal perspective, this phenomenon reflects the gap between legal norms and social behavior that prevails in society. Therefore, the sustainable development approach emphasizes the importance of integration between regulation and social behavior change in addressing marine pollution.¹¹

In addition, institutional factors are also the main cause of the lack of optimal protection of the marine environment even though regulations have been available. Sustainable development theory emphasizes the importance of good *governance* as a prerequisite for the success of environmental policies. However, in practice in Indonesia, there is still overlap of authority between institutions, weak coordination, and limited institutional capacity to carry out supervision and law enforcement. This condition causes the implementation of regulations to be ineffective and opens up opportunities for environmental violations. From a socio-legal perspective, these institutional weaknesses reflect that the legal structure has not been able to support sustainability goals optimally. Therefore, the reconstruction of legal policies needs to be directed at strengthening institutions that are able to integrate environmental, social, and economic aspects in a balanced manner.¹²

Economic factors are also an important determinant in explaining why marine pollution persists despite existing regulations. In the framework of sustainable development, economic activities should be carried out taking into account long-term environmental and social impacts. But in reality, many business actors prioritize short-term profits without paying attention to the ecological impact. This is exacerbated by weak environmental economic instruments, such as environmental taxes or incentive and disincentive mechanisms, which should be able to encourage environmentally friendly behavior. From a socio-legal perspective, this condition shows that the law has not been able to internalize environmental costs into economic activities. Therefore,

¹¹ Lawrence M. Friedman, *American Law: An Introduction* (New York: W.W. Norton & Company, 1984), pp. 22–25.

¹² Janet E. Milne, *Environmental Taxation and the Law* (Cheltenham: Edward Elgar Publishing, 2017), pp. 88–90.

sustainable development theory emphasizes the importance of integration between economic policy and environmental law to create a fairer and more sustainable system.¹³

In the end, political and legal factors also play a significant role in determining the effectiveness of environmental regulations in overcoming marine pollution. Sustainable development theory emphasizes that public policies must be formulated in an inclusive manner and oriented towards long-term interests. But in practice, environmental policies are often influenced by short-term political and economic interests, thus ignoring the principle of sustainability. This can be seen from the existence of regulations that tend to provide ease of investment, but do not provide adequate protection for the environment. From a socio-legal perspective, this condition shows that the law is not neutral, but rather influenced by existing social and political forces. Therefore, the reconstruction of the legal policy of marine environmental protection needs to be carried out by prioritizing the principles of sustainable development as the basis for the formulation of more just and effective policies.¹⁴

2. Theory of Justice (Justice Theory)

The *Theory of Justice* as proposed by John Rawls provides a strong philosophical foundation in formulating fair legal policies, including in the context of protecting the marine environment. Rawls emphasized two main principles, namely the principle of equal freedom and the *principle of difference*, which requires that social and economic inequality be regulated in such a way as to provide the greatest benefit to the most disadvantaged groups. In the context of marine pollution, coastal communities and traditional fishermen are often the most affected, but have limited access to legal protection. Therefore, legal policy reconstruction must be directed to ensure that the protection of the marine environment is not only formal, but also

¹³ Nicholas Stern, *The Economics of Climate Change: The Stern Review* (Cambridge: Cambridge University Press, 2007), pp. 41–44.

¹⁴ Klaus Bosselmann, *The Principle of Sustainability: Transforming Law and Governance* (London: Routledge, 2016), pp. 67–70.

substantive by giving priority to these vulnerable groups. Thus, the Rawlsian approach to justice becomes relevant in encouraging more inclusive and socially just legal policies.¹⁵

Furthermore, justice theory also emphasizes the importance of a fair distribution of environmental benefits and burdens, which in practice is often not achieved in environmental policy in Indonesia. Industrial activities and exploitation of marine resources tend to provide economic benefits for certain groups, while the impact of pollution is borne by the wider community, especially coastal communities. This inequality shows the existence of distributive injustices that must be corrected through legal policy reconstruction. From a socio-legal perspective, legal policy must not only regulate prohibitions and sanctions, but also ensure a fairer mechanism for the distribution of benefits and burdens. Therefore, the distributive justice approach is important in formulating marine environmental protection policies that are not only effective, but also socially just.¹⁶

In addition to distributive justice, justice theory also includes aspects of procedural *justice*, which emphasizes the importance of community participation in the decision-making process. In the context of marine environmental policy, local communities are often not adequately involved in the policy formulation process that directly impacts their lives. This causes the resulting policies not to reflect the needs and interests of the affected communities. Therefore, legal policy reconstruction must ensure an effective, transparent, and accountable public participation mechanism. This approach is in line with the principle of procedural fairness which demands a fair process in every decision-making. Thus, the resulting legal policy has not only formal legitimacy, but also social legitimacy.¹⁷

Furthermore, justice theory is also related to the concept of *intergenerational justice*, which emphasizes the importance of maintaining environmental sustainability for future generations. In the context of marine pollution, uncontrolled exploitation of

¹⁵ John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971), pp. 53–56.

¹⁶ Andrew Dobson, *Justice and the Environment: Conceptions of Environmental Sustainability and Dimensions of Social Justice* (Oxford: Oxford University Press, 1998), pp. 45–48.

¹⁷ Eileen Skinnider, *Environmental Justice in Law and Practice* (Vancouver: International Centre for Criminal Law Reform, 2011), pp. 22–25.

resources and increasing pollution can threaten the sustainability of marine ecosystems in the future. Therefore, legal policies must be designed to protect not only the interests of the current generation, but also future generations. From a socio-legal perspective, this requires a paradigm shift in policy formulation, from exploitative to sustainability-oriented. Thus, the reconstruction of the legal policy of marine environmental protection must include the principle of intergenerational justice as one of the main foundations.¹⁸

In the end, the application of justice theory in the reconstruction of marine environmental protection legal policies requires an integration between normative aspects and social realities in society. Fair legal policies are not only measured by the existence of written rules, but also by the extent to which they are able to provide real protection for society and the environment. In this context, a socio-legal approach is important to ensure that the legal policies formulated are truly responsive to the needs of the community and are able to overcome various social factors that cause marine pollution. Therefore, legal policy reconstruction must be carried out comprehensively by integrating the principles of distributive, procedural, and intergenerational justice, so as to realize more effective and equitable protection of the marine environment in Indonesia.¹⁹

¹⁸ Edith Brown Weiss, *In Fairness to Future Generations: International Law, Common Patrimony, and Intergenerational Equity* (Tokyo: United Nations University Press, 1989), pp. 38–41.

¹⁹ Amartya Sen, *The Idea of Justice* (Cambridge: Harvard University Press, 2009), pp. 67–70.

RESEARCH METHODOLOGY

The research method used in this study is the *empirical socio-legal research* method, which is a legal research approach that not only examines legal norms textually, but also examines how the law is implemented in social practices in society. This approach aims to understand the effectiveness of the law in empirical reality, especially in the context of protecting the marine environment against water pollution in Indonesia. Thus, this research does not stop at the analysis of laws and regulations alone, but also examines the interaction between laws, community behavior, and social structures that affect the success or failure of environmental law enforcement. This approach is particularly relevant considering that the problem of marine pollution is not only caused by weak legal norms, but also by complex social, economic, and cultural factors. Therefore, the empirical juridical method is the right instrument to reveal the gap between the law *in books* and the law *in action*.²⁰

In its implementation, this study uses a qualitative approach with data collection techniques through *in-depth interviews*, field observations, and documentation studies on various cases of marine pollution that occur in Indonesia. Interviews were conducted with various relevant parties, such as law enforcement officials, government officials, business actors, and coastal communities who are directly affected by pollution. Field observations are carried out to obtain a clear picture of the condition of the marine environment and practices that have the potential to cause pollution. Meanwhile, the documentation study was carried out by examining various reports, court decisions, and official data related to marine pollution. With the combination of these data collection techniques, it is hoped that this research can produce a comprehensive picture of the implementation of environmental law in the field.²¹

In addition, this study also examines the behavior of business actors as one of the main factors that affect the occurrence of marine pollution. From a socio-legal perspective, the behavior of business actors is not only influenced by existing regulations, but also by economic factors, organizational culture, and the level of legal awareness. Therefore, this study seeks to identify the motivation, compliance, and behavior patterns of business actors in carrying out environmental management obligations. This analysis is important to find out the extent to

²⁰ Soerjono Soekanto, *Introduction to Legal Research* (Jakarta: UI Press, 1983), pp. 51–54.

²¹ Johnny Ibrahim, *Theory and Methodology of Normative Law Research* (Malang: Bayumedia, 2006), pp. 295–298.

which existing legal policies are able to influence the behavior of business actors, as well as to identify factors that become obstacles in the implementation of environmental laws. Thus, this research focuses not only on normative aspects, but also on the social dynamics that affect the effectiveness of the law.²²

Furthermore, this study also assesses the effectiveness of environmental law enforcement in the field, including the role of law enforcement officials in handling marine pollution cases. This analysis covers various aspects, such as coordination between institutions, the availability of resources, and the obstacles faced in the law enforcement process. From a socio-legal perspective, the effectiveness of law enforcement is not only determined by the quality of regulation, but also by structural and cultural factors that affect the performance of law enforcement officials. Therefore, this study seeks to identify various factors that affect the effectiveness of environmental law enforcement, as well as formulate recommendations to improve the performance of law enforcement officials in protecting the marine environment.²³

In the end, the data obtained in this study was analyzed qualitatively using descriptive-analytical analysis techniques, namely by describing data obtained from the field, then analyzed to find patterns, relationships, and factors that affect the implementation of marine environmental laws. This analysis was carried out systematically to produce comprehensive conclusions regarding the effectiveness of legal policies in protecting the marine environment from water pollution. By using empirical juridical methods, this research is expected to make a significant contribution to the development of legal policies that are more responsive to the needs of the community and more effective in overcoming the problem of marine pollution in Indonesia.²⁴

²² Lawrence M. Friedman, *American Law: An Introduction* (New York: W.W. Norton & Company, 1984), pp. 34–37.

²³ Satjipto Rahardjo, *Law Enforcement Problems: A Sociological Review* (Bandung: Sinar Baru, 1983), pp. 23–26.

²⁴ Peter Mahmud Marzuki, *Legal Research* (Jakarta: Kencana Prenada Media Group, 2011), pp. 158–161.

RESEARCH RESULTS

Socio-Legal Factors That Contribute to Seawater Pollution in Indonesia Despite Regulations

The socio-legal factors that contribute to seawater pollution in Indonesia despite the existence of various regulations can be analyzed through the perspective of *the Theory of Sustainable Development* which emphasizes the balance between economic development, environmental protection, and social justice. The concept of sustainable development as popularized by the World Commission on Environment and Development emphasizes that development must meet the needs of the current generation without sacrificing the capabilities of future generations. However, in practice in Indonesia, development orientation still tends to focus on short-term economic growth, so environmental protection aspects are often overlooked. This can be seen from the increase in industrial activities and exploitation of marine resources that are not balanced with adequate environmental management. In this context, existing regulations have not been able to fully internalize the principles of sustainable development in their implementation, so that marine pollution still occurs.²⁵

One of the main factors is the weak legal culture of the community that has not fully supported efforts to protect the marine environment. Although regulations have regulated the prohibition of dumping waste into the sea, in practice there are still many people who throw waste directly into the waters. This shows that there is a gap between legal norms and social behavior of the community. In the perspective of sustainable development, environmental awareness is an important element that every individual must possess to maintain the sustainability of the ecosystem. However, the low level of environmental education and the lack of legal socialization cause the community to not fully understand the long-term impact of marine pollution. Therefore, the cultural factor of law is one of the main causes of ineffective regulation in preventing pollution.²⁶

In addition, the behavior of business actors is also a significant factor that contributes to marine pollution. Many business actors still prioritize production cost efficiency by ignoring waste management obligations. From the perspective of sustainable development, economic activities should not damage the environment, but in practice there are often trade-offs between economic benefits and environmental sustainability. This shows that existing

²⁵ World Commission on Environment and Development, *Our Common Future* (Oxford: Oxford University Press, 1987), pp. 43–45.

²⁶ Emil Salim, *Sustainable Development: Concepts and Implementation* (Jakarta: Gramedia, 2010), pp. 67–69.

regulations have not been able to create sufficient incentives for business actors to comply with environmental regulations. In addition, weak supervision also opens up opportunities for business actors to commit violations without meaningful consequences. Thus, economic factors and business interests are one of the main drivers of marine pollution.²⁷

Another factor that is no less important is the weak enforcement of environmental laws which still face various structural and cultural obstacles. Although there are various regulations governing marine pollution, in practice law enforcement often does not run effectively. This is due to the limited resources of law enforcement officials, lack of coordination between institutions, and the existence of corrupt practices that hinder the law enforcement process. In the perspective of sustainable development, effective law enforcement is a key prerequisite for ensuring environmental sustainability. But in reality, weak law enforcement actually worsens the condition of marine pollution.²⁸

In addition, the overlap of regulations and institutions is also a factor that hinders the effectiveness of marine environmental protection. Various agencies have authority in the management of the marine environment, but there is often no good coordination between them. This causes confusion in the implementation of regulations and weak supervision of activities that have the potential to pollute the environment. From a sustainable development perspective, *good governance* is an important element in ensuring the success of environmental policies. However, the overlap of authority actually shows weaknesses in the existing institutional system.²⁹

Another social factor is economic inequality that encourages people to carry out activities that have the potential to pollute the environment. Economically disadvantaged coastal communities often have no choice but to engage in environmentally damaging activities, such as the use of hazardous chemicals in fishing. In the perspective of sustainable development, the aspect of social justice is an important component that must be considered in policy formulation. However, the still high economic inequality in Indonesia has caused

²⁷ Michael Jacobs, *The Green Economy: Environment, Sustainable Development and the Politics of the Future* (London: Pluto Press, 1991), pp. 112–115.

²⁸ Nicholas A. Robinson, *Comparative Environmental Law and Regulation* (New York: Oxford University Press, 2012), pp. 98–101.

²⁹ Daniel C. Esty, *Greening the GATT: Trade, Environment, and the Future* (Washington DC: Institute for International Economics, 1994), pp. 56–58.

environmental protection efforts to be less effective. Therefore, socioeconomic factors are one of the main causes of marine pollution.³⁰

In addition, low public participation in the policy-making process is also a factor that affects the effectiveness of environmental regulations. Many policies are made without directly involving the affected communities, so they do not reflect their needs and interests. From a sustainable development perspective, community participation is an important element in ensuring policy success. However, in practice, public participation is still limited and often a formality. This causes the resulting policies to be less effective in overcoming the problem of marine pollution.³¹

Globalization factors also affect the increase in marine pollution in Indonesia. International trade flows and foreign investment encourage an increase in industrial activities and marine transportation that have the potential to pollute the environment. From a sustainable development perspective, globalization should be able to provide economic benefits without harming the environment. However, in practice, globalization often worsens environmental conditions due to weak regulation and supervision. This shows that external factors also have a role in increasing marine pollution.³²

In addition, technological developments that are not balanced with adequate regulations are also a contributing factor to marine pollution. Increasingly sophisticated industrial technologies allow for large-scale production, but also increase the risk of environmental pollution. From a sustainable development perspective, technology is supposed to be used to support environmental sustainability, but in practice it is often used to improve production efficiency without paying attention to environmental impacts. This shows that existing regulations have not been able to keep up with rapid technological developments.³³

In the end, these various socio-legal factors show that the existence of regulations alone is not enough to overcome the problem of marine pollution in Indonesia. In the perspective of sustainable development, a more holistic approach is needed that integrates

³⁰ Amartya Sen, *Development as Freedom* (New York: Alfred A. Knopf, 1999), pp. 87–90.

³¹ Sherry R. Arnstein, *A Ladder of Citizen Participation* (Chicago: American Institute of Planners, 1969), pp. 217–220.

³² Joseph E. Stiglitz, *Globalization and Its Discontents* (New York: W.W. Norton & Company, 2002), pp. 134–137.

³³ Peter P. Rogers, *An Introduction to Sustainable Development* (London: Earthscan, 2008), pp. 152–155.

legal, social, economic, and environmental aspects. Regulations must be supported by effective law enforcement, high public awareness, and good governance in order to achieve sustainable development goals. Therefore, efforts to address marine pollution must be carried out comprehensively by involving various parties and considering various factors that affect the success of environmental policies.

Reconstruction of legal policies to ensure more effective and equitable protection of the marine environment

The reconstruction of legal policies in the protection of the marine environment must depart from the understanding that law functions not only as an instrument of regulation, but also as a tool to realize social and ecological justice. From the perspective of justice theory, the law must be able to distribute environmental benefits and burdens proportionately, so that there is no inequality between those who enjoy economic benefits and those who bear the impact of pollution. Therefore, legal policy needs to be reconstructed by strengthening the principle of substantive justice that guarantees protection for vulnerable groups, especially coastal communities that depend on marine resources. This approach requires a paradigm shift from a formalistic law to a law that is responsive to social reality.³⁴

Within the framework of distributive justice, legal policy reconstruction must ensure that the benefits of the utilization of marine resources are not only enjoyed by corporations or large business actors, but also by local communities. This inequality in the distribution of benefits is often a source of social conflict and environmental damage. Therefore, legal policies must regulate a fair benefit-sharing mechanism and provide appropriate compensation for communities affected by pollution. Thus, the law not only functions as a means of control, but also as a means of equitable redistribution.³⁵

In addition to distributive justice, legal policy reconstruction must also pay attention to the aspect of procedural justice, namely ensuring that all stakeholders have equal access to the decision-making process. In practice, environmental policies are often drafted without directly involving the affected communities, resulting in policies that are not responsive to the

³⁴ John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971), pp. 75–78.

³⁵ Andrew Dobson, *Justice and the Environment: Conceptions of Environmental Sustainability and Dimensions of Social Justice* (Oxford: Oxford University Press, 1998), pp. 60–63.

needs of the community. Therefore, an effective and transparent public participation mechanism is needed at every stage of policy formulation. This is important to increase the social legitimacy of the resulting legal policies.³⁶

Legal policy reconstruction must also strengthen the aspect of fair law enforcement. So far, environmental law enforcement in Indonesia has often been inconsistent and tends to be weak against large business actors. This creates injustice in the application of the law and reduces the deterrent effect for polluters. Therefore, legal policies must be directed at strengthening a law enforcement system that is transparent, accountable, and non-discriminatory. This approach is in line with the principle of justice that demands equal treatment before the law.³⁷

In the context of intergenerational justice, legal policy reconstruction must consider the sustainability of the marine environment as a legacy for future generations. The uncontrolled exploitation of marine resources and increasing pollution can threaten the sustainability of marine ecosystems in the future. Therefore, legal policies must be designed with sustainability principles in mind that ensure a balance between current economic needs and the interests of future generations. This approach requires restrictions on activities that have the potential to damage the environment.³⁸

Legal policy reconstruction also needs to pay attention to the aspect of ecological justice, namely the recognition of natural rights as an entity that must be protected. In this perspective, the marine environment is not only seen as an object of exploitation, but also as a subject with intrinsic value. Therefore, legal policies must integrate the principles of ecosystem protection as a whole, including the protection of marine biodiversity. This approach will encourage the birth of policies that are more oriented towards ecological sustainability.³⁹

³⁶ Eileen Skinnider, *Environmental Justice in Law and Practice* (Vancouver: International Centre for Criminal Law Reform, 2011), pp. 30–33.

³⁷ Jimly Asshiddiqie, *Law Enforcement* (Jakarta: Sinar Grafika, 2016), pp. 140–143.

³⁸ Edith Brown Weiss, *In Fairness to Future Generations: International Law, Common Patrimony, and Intergenerational Equity* (Tokyo: United Nations University Press, 1989), pp. 52–55.

³⁹ Klaus Bosselmann, *The Principle of Sustainability: Transforming Law and Governance* (London: Routledge, 2008), pp. 88–91.

In addition, the reconstruction of legal policies must strengthen coordination between institutions in the management of the marine environment. The current fragmentation of authority often hinders the effectiveness of law enforcement and environmental surveillance. Therefore, stronger institutional integration is needed to ensure that legal policies can be implemented effectively. This approach is in line with legal systems theory that emphasizes the importance of synergy between legal structure, substance, and culture.⁴⁰

Legal policy reconstruction must also pay attention to economic aspects as a factor that affects the behavior of business actors. In many cases, business actors tend to ignore environmental obligations due to the perceived high cost of compliance. Therefore, legal policies need to integrate economic instruments, such as incentives and disincentives, to encourage compliance with environmental regulations. This approach will create a balance between economic interests and environmental protection.⁴¹

Furthermore, legal policy reconstruction must prioritize the principles of transparency and accountability in marine environmental management. Lack of transparency in the decision-making process often leads to public distrust of the government. Therefore, legal policies must ensure broad access to information for the public and effective monitoring mechanisms. This is important to create *good environmental governance*.⁴²

From a socio-legal perspective, legal policy reconstruction must also consider the legal culture of the community as an important factor in the effectiveness of the law. Low legal awareness of the community is often an obstacle in the implementation of environmental policies. Therefore, efforts are needed to increase public awareness and participation in the protection of the marine environment. This approach will strengthen a legal culture that supports environmental sustainability.⁴³

Legal policy reconstruction must also pay attention to the harmonization between national law and international law. As a country bound by various international conventions

⁴⁰ Lawrence M. Friedman, *The Legal System: A Social Science Perspective* (New York: Russell Sage Foundation, 1975), pp. 16–19.

⁴¹ Nicholas Stern, *The Economics of Climate Change: The Stern Review* (Cambridge: Cambridge University Press, 2007), pp. 215–218.

⁴² UNDP, *Governance for Sustainable Human Development* (New York: United Nations Development Programme, 1997), pp. 9–12.

⁴³ Soerjono Soekanto, *Legal Awareness and Legal Compliance* (Jakarta: Rajawali Pers, 2010), pp. 67–70.

in the field of the environment, Indonesia has an obligation to adapt national policies to international standards. This is important to ensure that the protection of the marine environment is carried out in accordance with global commitments. Thus, the resulting legal policy will have stronger legitimacy at the international level.⁴⁴

In the end, the reconstruction of marine environmental protection legal policies must be carried out comprehensively by integrating various principles of justice, both distributive, procedural, and intergenerational. This approach will result in legal policies that are not only effective in preventing and addressing pollution, but also fair to all parties involved. Thus, the reconstruction of legal policies is a strategic step to realize sustainable and equitable protection of the marine environment in Indonesia.

⁴⁴ Philippe Sands, *Principles of International Environmental Law* (Cambridge: Cambridge University Press, 2012), pp. 320–323.

CONCLUSION

The results of the study show that:

1. The main problem in protecting the marine environment against water pollution in Indonesia lies in the lack of optimal implementation of existing legal policies, both in terms of substance, structure, and legal culture. Normatively, Indonesia actually has a fairly comprehensive regulatory framework, such as Law Number 32 of 2009 concerning Environmental Protection and Management and various other sectoral regulations. However, in practice, various obstacles are still found, including weak law enforcement, overlapping authority between institutions, low compliance of business actors, and lack of community participation. The empirical juridical approach shows that there is a gap between law in books and law in action, where the law is not fully able to function as an instrument to control marine pollution effectively. Therefore, the problem of marine pollution is not only normative, but also a complex social problem that requires a comprehensive socio-legal approach.
2. The reconstruction of the legal policy for the protection of the marine environment needs to be carried out based on the theory of justice in order to realize more effective and equitable protection. The reconstruction must include strengthening distributive justice through a more proportionate sharing of environmental benefits and burdens, procedural justice through increased public participation in policy-making, and intergenerational justice by ensuring the sustainability of the marine environment in the future. In addition, legal policies also need to be directed at strengthening firm and non-discriminatory law enforcement, improving institutional coordination, and integrating economic and social instruments to encourage compliance of business actors. Thus, a socio-legal approach based on the theory of justice is the key in formulating legal policies that are not only normatively effective, but also responsive to social realities and able to provide equitable protection for the marine environment and the Indonesian people.

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