



International Journal of Law, Justice and Jurisprudence

E-ISSN: 2790-0681
P-ISSN: 2790-0673
www.lawjournal.info
IJLJJ 2024; 4(2): 14-21
Received: 12-05-2024
Accepted: 16-06-2024

**Damar Alam Hari Sudewo
Ramadita**
Master of Law Researcher,
Udayana University,
Indonesia

The state's responsibility for the right to clean air as an implication of Jakarta ranking 1st in the world's worst air quality from a human rights perspective

Damar Alam Hari Sudewo Ramadita

DOI: <https://doi.org/10.22271/2790-0673.2024.v4.i2a.119>

Abstract

On August 13, 2023, Jakarta was crowned as the most polluted city in the world. Air pollution has become a pressing issue in the community as it disrupts public health, and the constitution has stipulated that people have the right to a healthy environment. This article aims to discuss The State's Responsibility for the Right to Clean Air as an Implication of Jakarta Ranking 1st in the World's Worst Air Quality from a Human Rights Perspective. It reflects legal research that employs a statutory and conceptual approach. Primary legal materials are obtained from Indonesia's national laws and regulations and relevant international legal instruments, while secondary legal materials are derived from books, journal articles, and website content. The findings indicate that the government is responsible for safeguarding the people's right to a clean environment, as per the decision of the Central Jakarta District Court No. 374/PDT.G/LH/2019/PN.JKT.PST. In that decision, the panel of judges found that the defendants did not fulfill their duties as state officials in upholding the citizens' right to a clean and healthy environment in DKI Jakarta. This decision is supported by the high level of air pollution in Jakarta, with the average Air Quality Index (AQI) in October 2021 reaching 120 US AQI, which is classified as "unhealthy for sensitive groups." This means that air pollution levels in the DKI Jakarta region have entered the "unhealthy" category based on the Air Pollution Standard Index (ISPU) established by the Minister of State for the Environment's Decision No. KEP 45/MENLH/1997.

Keywords: The state's, responsibility, implication, Jakarta, world's worst air quality

Introduction

Humans, often without realizing it, have been living, growing, and evolving within an ecosystem, known as ecology. It represents a mutually dependent relationship between biotic (living) and abiotic (non-living) elements that interact reciprocally within a specific region. (Raseukiy 2023) ^[1] The interplay of these elements occurs in a balanced and dynamic manner, resulting in an environment that supports the life of living organisms within that area. This analogy pertains to the mutual relationship between humans and nature, represented here as the environment. (Saab 2023) ^[2] Conceptually, it is emphasized that the environment consists of humans and all their interactions with natural resources, meaning that all human activities have an impact on the environment, and conversely, humans are also dependent on their surroundings. (Saab 2023) ^[3]

As life progresses and needs increase, humans utilize natural resources such as water, soil, air, and all the Earth's resources to meet their needs. However, it is crucial to remember that these resources are a limited gift from God. Therefore, there is a need for utilization, management, and preservation to ensure that these limited natural resources can continue to be used and appreciated by future generations. This demonstrates the interconnectedness between humans and the environment.

In line with the Constitution of the Republic of Indonesia, which states that the Earth, water, and all natural riches within the country's territory are under state control and are to be used for the prosperity of the people, it means that all resources, including land, are part of the natural resources owned by the state, and their benefits should be felt by the entire population. The environment is defined as a medium that encompasses air, water, and land. Environmental quality is affected by everything within this space, including living beings, humans, and their behaviors that influence nature. Legislation has been established to address efforts in environmental protection and management. (Kriswandanu 2023) ^[4] This can also be interpreted as a form of fulfilling the state's obligations and roles in managing and preserving all natural riches for the welfare of the people.

Correspondence Author:
**Damar Alam Hari Sudewo
Ramadita**
Master of Law Researcher,
Udayana University,
Indonesia

The role of the state in utilizing its resources is implied in the implementation of national and sustainable development. Supported by the rapid advancement of globalization, it has driven the acceleration of growth and social mobility. However, in practice, the implementation of national development related to the environment and spatial planning has, to a certain extent, negatively impacted the quality and function of the environment itself. This demonstrates that human behavior and actions in meeting their needs do not always have a positive impact on the environment, and environmental degradation often occurs as a result of efforts to fulfill these needs. (Supriyanto 2014) ^[5] Ideally, all forms of development aim to improve the welfare of society. However, this has consequences in terms of the use of natural resources that sometimes exceed the capacity and ability of the environment, leading to a decline in environmental quality. (Binawan and Soetopo 2023) ^[6] In fact, environmental issues in developing countries differ from those in developed countries. One of the problems in Indonesia is air pollution. The high incidence of air pollution cases in Indonesia, especially in major cities like Jakarta, has earned Indonesia the unfortunate rank of the ninth-largest polluter in the world. This is regrettable because Indonesia, known as the lungs of the world due to its natural conditions and geography, is actually one of the world's major contributors to pollution. The Center for International Forestry Research (CIFOR) has recognized Indonesian forests as the world's lungs, producing 30-40% of the Earth's oxygen reserves. Cifor, "CIFOR-ICRAF in Indonesia: Three Decades of Partnership," <https://www.cifor.org/knowledge/publication/8652> accessed at 2:25 PM, 27 September 2023 ^[7]. Air pollution itself is an activity that arises from human actions and, often unknowingly, has a widespread impact on the environment. These actions are evidenced by the increasing ownership and use of private and public transportation in major cities in Indonesia, which add to emissions and pollute the air, the incineration of household waste (burning garbage), and various industrial activities that produce emission gases, among others. The low awareness and concern of the public regarding air pollution contribute to the high levels of environmental pollution, especially air pollution. Nur Indah Shanty Saleh and Bitu Gadsia Spaltani, "Reformulasi Perlindungan Hukum Bagi Pejuang Hak Atas Lingkungan Hidup Yang Baik Dan Sehat," *Jatiswara* 37, no. 2 (2022): 163-75, [/doi.org/10.29303/jtsw.v37i2.402](https://doi.org/10.29303/jtsw.v37i2.402) ^[8]. In September 2021, the judges of the Central Jakarta District Court issued a verdict on a lawsuit related to air pollution in the DKI Jakarta area, filed against the President of Indonesia (Defendant I) to the Governor of DKI Jakarta (Defendant V) with case registration number 374/PDT.G/LH/2019/PN.JKT.PST. The court's decision stated that the defendants had committed unlawful acts related to air pollution in the DKI Jakarta area. Environmental issues that occur in several countries, including Indonesia, are essentially categorized as environmental crimes and have long-term effects on the environment. This proves that many environmental problems related to air pollution have not been resolved to this day. There is a need for collective awareness and attention to protect and preserve the environment to maintain its sustainability and balance. Air pollution issues are not just a national concern but an international one. Air pollution occurring in each country has an impact on the

global environmental balance. The World Health Organization (WHO) explains that the poor quality of air in almost every major city in the world leads to increased health threats, including diseases such as stroke, lung cancer, heart disease, and chronic and acute respiratory diseases. Another consequence of air pollution is global warming caused by the greenhouse effect, which leads to a rise in temperatures across the Earth's surface, affecting both flora and fauna. World Health Organization, "Meningkatkan Ketangguhan Masyarakat Dalam Menghadapi Perubahan Iklim," 2021, <https://www.who.int/indonesia/news/campaign/world-health-day-2021/perubahan-iklim#:~:text=Kelompok rentan termasuk perempuan % 2C anak, sebagai akibat dari perubahan iklim.> Accessed at 2:36 PM 27 September 2023 ^[9].

The progress and development of globalization have given rise to various environmental issues on both domestic and global scales. These issues ultimately stem from human behavior and attitudes in meeting their needs. This is interpreted as a part of environmental ethics, emphasizing that all activities related to the environment need to consider their impacts on environmental balance. (Lewis 2012) ^[10] The application of environmental ethics extends beyond the interdependence and separation between humans and their environment; it encompasses all behaviors and actions towards nature, including relationships between humans, between humans and other living beings, and the relationship between all living beings and the environment in a broad sense. (Lewis 2012) ^[11]

Air pollution is an ongoing issue that requires massive efforts from all parties, including policy-making by the government, active participation from the public, and individual responsibility. There is a need for awareness of the importance of preserving the environment, including ensuring air quality. Various previous studies related to air pollution have been conducted, including articles, journals, and research. (Yuliyanto, Alatiqoh, and Alfauq 2022) ^[12] Breathing clean air is as important as eating healthy and nutritious food. The vital role of air in human life cannot be denied. However, the 2021 World Air Quality Report released by IQAir shows that only three percent of cities worldwide meet the latest air quality guidelines set by the World Health Organization (WHO). The report also indicates that air quality in major cities in Indonesia is still categorized as hazardous to public health. Jakarta is identified as having the worst air quality in Indonesia, with an average annual PM 2.5 concentration of 39.2 g/m³, exceeding WHO standards by up to seven times. Greenpeace ID, "Jakarta Silent Killer," 2017, <https://www.greenpeace.org/static/planet4southeastasia-stateless/2020/10/48d34259-jakartas-silent-killer-report-oct-24-2017-1.pdf>, Accessed at 2:42 PM, 27 September 2023 ^[13].

On June 3, 2022, Jakarta was even recorded as the city with the worst air quality in the world. The concentration of PM_{2.5} in Jakarta's air exceeded the WHO standard by more than 15.8 times. The latest data from the Air Quality Indicator (AQI) for Jakarta on August 13, 2023, indicated a score of 170 for Jakarta with Particle Matter (PM) 2.5 - categorized as "UNHEALTHY." Petir Garda Bhwana, "Indonesia Denies Report That Jakarta Tops Worst Air Pollution List," accessed September 27, 2023, <https://en.tempo.co/read/1759475/indonesia-denies-report->

that-jakarta-tops-worst-air-pollution-list, Accessed at 2:44 PM, 27 September 2023 ^[14]. It is well known that the threat of air pollution cannot be underestimated, as the constitutional rights of Indonesian citizens, as stated in Article 28h Paragraph 1 of the 1945 Constitution, have declared:

"Every person has the right to live in a prosperous physical and spiritual environment, to reside, to get a good and healthy environment, and has the right to obtain health services."

Discussions about the right to clean air as a human right have been debated in the conceptual complexity. In Jakarta, this has become the backdrop for public lawsuits against both central and local governments, which are deemed responsible for air pollution and the subsequent harm suffered by the public. The discourse related to clean air has long been incorporated into the government's policy administration, now increasing as individual and community rights issues, especially for those less fortunate in dealing with air pollution.

The scope of this research focuses on the government's responsibility for environmental pollution as an implication of Jakarta being the most polluted city in the world. As mentioned in previous data, according to the Air Quality Indicator (AQI) for Jakarta on August 13, 2023, Jakarta was assessed with a score of 170 with Particle Matter (PM) 2.5 - categorized as "UNHEALTHY." This is based on the fact that in Indonesia's constitution, every citizen has the right to a clean environment. The impact of air pollution goes beyond that; according to IQ Air data, air pollution caused 8,100 deaths in Jakarta during 2023 and resulted in approximately US\$2.1 billion in losses to Jakarta during the same period. This value is equivalent to IDR 32.09 trillion (US\$1 = IDR 15,280). Other research, conducted by the global health organization Vital Strategies and the Jakarta Environmental Agency, estimated that air pollution in Jakarta could potentially cause more than 10,000 deaths and 5,000 people to be hospitalized for cardiorespiratory diseases every year. Furthermore, it leads to over 7,000 adverse outcomes in children and costs more than US\$2.9 billion per year (2.2% of Jakarta's regional gross domestic product/PDRB). (Bhwana n.d.) ^[15]

2. Research Method

This research applies a normative legal research method using a conceptual approach by examining concepts related to the community's right to a healthy environment, first the concept of human rights from the perspective of Indonesian national law and international law as the basis for protecting the community's right to a healthy environment free from pollution. Next, the approach used in this research is a legislative approach, identifying relevant legal regulations to address the issues in this research, and an analytical approach to primary legal materials and secondary legal materials are analyzed in detail and structured to obtain answers to legal issues. Legal sources are sought through document studies, and the writing analysis used is qualitative. According to Peter Mahmud Marzuki's view, the normative legal research approach is a process to identify primary legal sources such as legal regulations, legal doctrines, and legal principles, and secondary legal sources such as journals, books, and relevant websites to respond to and find solutions to legal issues that arise in society. Peter

Mahmud Marzuki, *Penelitian Hukum Edisi Revisi* (Jakarta: Kencana, 2017), p. 24 ^[16]

3. Result and Discussion

3.1 The Community's Right to Access the Right to a Clean Environment in the Context of Pollution-free From Indonesian Legal Perspective

Air pollution is a condition in which the quality of the air becomes degraded and contaminated by substances, both harmless and harmful to human health. Air pollution usually occurs in large cities and densely industrialized areas that emit gases containing substances above permissible limits. Air pollutants are categorized into primary pollutants and secondary pollutants. (Cima 2022) Primary pollutants are contaminating substances directly emitted from the source of air pollution. Carbon monoxide is an example of a primary air pollutant because it results from combustion. Secondary pollutants are contaminating substances formed from the reactions of primary pollutants in the atmosphere. (Emina 2020) The formation of ozone in photochemical smog is an example of secondary air pollution. (Emina 2020) ^[17]

The atmosphere is a complex, dynamic, and fragile system. Lately, concerns about the effects of air pollution emissions in a global context and their relationship with global warming, climate change, and stratospheric ozone depletion have been increasing. According to Chambers and Master, air pollution is the addition of physical or chemical substances to the normal air environment in quantities that reach a certain level, making it detectable by humans (or measurable) and capable of affecting humans, animals, vegetation, and materials. (Anastasha Ruth Nugroho 2023) ^[18]

The right to a clean and healthy environment is closely related to the achievement of human quality of life, so the right to a clean and healthy environment cannot be diminished under any circumstances. Furthermore, any form of discrimination is not allowed in respecting the right to a clean environment. The universal values of human rights are then translated into various national legal products in various countries to protect and uphold humanitarian values. (Wartoyo 2020) ^[19] Even these universal values are enshrined in international instruments, including international human rights agreements. The explanation above clearly indicates pollution in the form of carbon monoxide resulting from the emissions of power plants and vehicle exhaust from oil-based fuels. (Wartoyo 2020) ^[20]

Director General of Pollution Control and Environmental Damage Control at the Ministry of Environment and Forestry, Sigit Reliantoro, stated that the largest source of air pollution in Jakarta is the transportation sector, contributing 44%. The industrial sector follows with 31%, manufacturing with 10%, housing with 14%, and commercial with 1%. Environmental health is a support system for achieving the highest possible level of health. Therefore, the right to environmental health cannot be separated from the right to health itself. Kementerian Lingkungan Hidup dan Kehutanan, "KLHK Gelar Uji Emisi, Tekan Polusi Udara Di Wilayah Kota," 2022, <https://ppid.menlhk.go.id/berita/siaran-pers/6458/klhk-gelar-uji-emisi-tekan-polusi-udara-di-wilayah-kota?find=uji-emisi>, diakses pada 3:20 PM, 27 September 2023 ^[21]. Article 12, paragraph (1) of the Covenant on Economic, Social, and Cultural Rights (CESCR), as mentioned earlier,

also refers to "environmental health" because the highest standards for physical health are not only obtained through adequate nutrition but also through a good and healthy environment. Even in its paragraph (2), clause b, it explicitly states "improvement of all aspects of environmental and industrial health." The wording used in Article 12, paragraph (2), clause b, seems to indicate an obligation to refrain from certain actions. This action also indicates that there is an obligation on the state that creates and has ratified the covenant to improve the living conditions of its population through specific measures related to human environmental health.

Assurance of health and the right to environmental health are enshrined in the body of the Fourth Amendment to the 1945 Constitution. Article 28H, paragraph (1) states that "Every person has the right to live in physical and spiritual well-being, to reside, and to have a good and healthy environment, and has the right to obtain health services." This article mandates the state to be responsible and obliged to provide good health services for all citizens in order to realize an Indonesian society that lives in physical and spiritual well-being. Thus, Article 28H, paragraph (1), also imposes an obligation on the government to provide health services to its people in need. Meanwhile, the right to health protection obligates the state/government to make regulations to ensure that the health of every individual, as a right holder, is safe from health-threatening issues.

This article is not only about physical and spiritual well-being but also about the right to have a good and healthy environment. This means that both of these rights have been legally guaranteed by our 1945 Constitution. Article 9, paragraph (1) of Law Number 39 of 1999 on Human Rights states that "Every person has the right to life, to maintain life, and to improve the quality of life." Maintaining and improving the quality of life means that there is an assurance for each individual to have the freedom to strive for the improvement of their quality of life. Life and the life mentioned in paragraph (1) further define in paragraph (2) that:

"Every person has the right to be peaceful, safe, peaceful, happy, prosperous in body and mind." In improving one's quality of life, it refers not only to physical health but also to environmental health to obtain a clean and healthy environment, as stated in paragraph (3): "Every person has the right to a good and healthy environment."

3.2 The Community's Right to Access the Right to a Clean Environment in the Context of Pollution-free From an International Legal Perspective

The right to clean air is an increasingly important concept in a global context due to the worsening impacts of air pollution on human health, the environment, and the economy. Understanding the importance of the right to clean air and its protection at the international level can be outlined as follows:

Human health: Clean air is a prerequisite for good human health. Air pollution can contain harmful substances such as particulate matter, toxic chemical compounds, and toxic gases like carbon monoxide and ozone. Repeated exposure to this pollution has been shown to increase the risk of respiratory diseases, heart diseases, cancer, and various other health problems. The right to clean air means that

everyone has the right to breathe air that does not harm their health.

Environmental protection: Air pollution also has damaging impacts on the environment. For example, air pollution can harm forests, bodies of water, and other ecosystems. Greenhouse gases like carbon dioxide produced from air pollution also contribute to global climate change. The right to clean air includes the right to preserve a healthy natural ecosystem and support biodiversity. (Huhta 2023) ^[22]

Quality of life: Clean air improves overall quality of life. When people can breathe freely and safely, they have better opportunities for development and participation in social and economic life. Additionally, good air quality supports sectors like tourism and agriculture that rely on a clean environment.

Shared responsibility: Air pollution knows no national borders. Particles and gases can easily cross boundaries, making the protection of clean air a shared responsibility for the global community. International cooperation is necessary to address cross-border air pollution and ensure that the right to clean air is respected for everyone.

International law: Several international agreements have been made to protect clean air, such as the Montreal Protocol on Substances that Deplete the Ozone Layer and the Paris Agreement on Climate Change. These are examples of how the international community has recognized the importance of safeguarding clean air and working together to reduce the impacts of air pollution on global health and the environment. (Huhta 2023) ^[23]

To protect the right to clean air at the international level, it is important to adopt policies and actions that support the reduction of air pollution, invest in clean energy, and promote eco-friendly technologies. (Indrawati 2022) ^[24] Additionally, public awareness and participation are also needed to encourage governments and international institutions to take more active measures in preserving clean air for the well-being of humanity and our planet. (Nopyandri 2014) ^[25]

The Universal Declaration of Human Rights (hereinafter referred to as UDHR) was adopted by the United Nations General Assembly on December 10, 1948. The UDHR contains the fundamental principles of human rights and fundamental freedoms as a common standard of achievement for all peoples and nations. The document is a shared agreement referred to as the International Magna Carta on human rights.

The United Nations (UN) has established the Universal Declaration of Human Rights (UDHR), which has been signed by 48 UN member states and serves as a set of principles that guide how humans should treat one another. However, the UDHR is fundamental in achieving civil and democratic societies, as it provides guidance for the international community to respect the rights of all humans to live, to earn a decent living, to freedom and security, to freedom of expression and speech, and to participate, including aspects of the right to a good and healthy environment. (O. Oyewole 2021) ^[26]

The right to a clean environment (RCE) is access to intact natural resources that allow humans to live and sustain

themselves, including the right to a good ecology, ranging from the rights of specific species to the rights of individuals to enjoy and live in a still healthy environment. (Oxford 2022) ^[27] The aspect of the right to a good and healthy environment is a right that must be protected and respected. The right to a clean environment is formulated as one of the human rights visible in Article 25, paragraph (1) of the UDHR, which states that:

"Everyone has the right to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions."

Furthermore, in Article 12, paragraph (1) of the International Covenant on Economic, Social and Cultural Rights, it is affirmed that "the States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health." In the International Covenant on Economic, Social, and Cultural Rights, there are key terms contained in the Covenant, which have legal obligations, including but not limited to:

- a) To take steps
- b) To guarantee
- c) To ensure
- d) To recognize
- e) To respect or have to respect for
- f) To undertake
- g) To promote

The understanding of these key terms can serve as a reference for countries worldwide in the process of protecting and fulfilling human rights, especially those related to the right to a healthy environment. Furthermore, the United Nations also issued UN Resolution 3281 on December 12, 1974, with one of its goals being the creation of conditions for the protection, preservation, and enhancement of the quality of the environment.

Subsequently, international attention to the relationship between human rights and the environment emerged in 1972 at the United Nations Conference on the Human Environment held in Stockholm (The Human Environment). This conference was the first of its kind to address environmental issues and took place from June 1 to June 16, 1972, attended by 113 countries and known as the United Nations Conference on the Human Environment.

Environmental issues began to gain attention when the United Nations Economic and Social Council conducted a review of the results of the "First United Nations Development Decade (1960-1970)" to formulate the strategy for the "Second United Nations Development Decade (1970-1980)." The discussion on environmental issues was specifically initiated by the representative of Sweden on May 28, 1968, along with a suggestion to explore the possibility of holding an international conference on environmental issues, which was eventually held in Stockholm, Sweden, from June 5 to June 16, 1972. This conference was a major and highly significant meeting for the future of the human environment. (Utami and Primawardani 2021) Upon examination, the results of the Stockholm Conference provided a clear picture of addressing environmental issues, which would have implications for people to obtain their rights to a good and healthy environment. (Priyanta 2017) ^[28]

The World Commission on Environment and Development (WCED) is an institution that resulted from the decision of the United Nations General Assembly in 1983, as a follow-up to the outcomes of the 1972 Stockholm Conference. It has several member countries, including Indonesia, and is headquartered in Geneva, Switzerland. The tasks carried out by this institution include, among others:

- a) Proposing long-term environmental development strategies towards sustainable development in the year 2000 and beyond;
- b) Proposing ways to ensure that environmental concerns can be incorporated into international cooperation to achieve harmony between population, natural resources, the environment, and development;
- c) Proposing ways for the international community to more effectively respond to environmentally conscious development patterns; and
- d) Proposing ways to address long-term environmental issues in the action agenda for the development decade. (Savaresi 2020)

The United Nations' attention to environmental issues has been continuous, demonstrated by the organization of the Earth Summit held in Rio de Janeiro from June 3 to 14, 1992. This conference was organized to implement the resolutions of the United Nations General Assembly and commemorated the 20th anniversary of the 1972 Stockholm Conference. The conference, known as the United Nations Conference on Environment and Development (UNCED), was attended by 177 heads of state and government representatives. The most important outcome of UNCED's work was the issuance of "The Rio de Janeiro Declaration on Environment and Development" (Rio Declaration), which outlines 27 fundamental principles on the environment and development, primarily aimed at environmental protection.

Environmental protection has also been carried out at the regional level, particularly within ASEAN (Association of Southeast Asian Nations). Various environmental agreements have been reached among ASEAN member countries, including:

- a) Jakarta Declaration on Environment and Development (September 18, 1997)
- b) Bandar Seri Begawan Resolution on Environment and Development (1994)
- c) Singapore Resolution on Environment and Development (1992)
- d) The Kuala Lumpur Accord on Environment and Development (1990)
- e) Jakarta Resolution on Sustainable Development (1987)
- f) Agreement on the Conservation of Nature and Natural Resources (1985)
- g) Bangkok Declaration on the ASEAN Environment (1984)
- h) ASEAN Declaration on Heritage Parks and Reserves (1984)
- i) Manila Declaration on the ASEAN Environment (1981)
- j) While these agreements have been established at the ASEAN level, in reality, the environment continues to deteriorate due to exploitation. (Kusnadi 2021)

3.3 The State's Responsibility as the Protection of the Right to a Clean Environment

The problems arising from air pollution are a reflection of a few issues that have arisen due to human activities in meeting their life needs. Environmental destruction is not limited to Indonesia, it occurs in various parts of the world. There are several common supporting factors contributing to the increase in air pollution levels in metropolitan cities worldwide, one of which is the emission of motor vehicle exhaust gases. (Sodikin 2021) The increase in the use of motor vehicles is directly proportional to the high emissions produced. This condition can be found in major cities in developing countries, mainly due to the limited awareness of their residents regarding environmental cleanliness. (Sugiartha and Widiati 2020) ^[29]

Based on the decision of the Central Jakarta District Court with case registration number 374/PDT.G/LH/2019/PN.JKT.PST, the panel of judges imposed sanctions on the defendants, including improving the establishment of national and specific ambient air quality standards in certain areas. This is where the responsibility and role of the state in managing the environment come into play. In that decision, the panel of judges found that the defendants did not fulfill their duties as state officials in upholding the citizens' right to a clean and healthy environment in DKI Jakarta. (Usman 2018) This decision is supported by the high level of air pollution in Jakarta, with the average Air Quality Index (AQI) in October 2021 reaching 120 US AQI, which is classified as "unhealthy for sensitive groups." This means that air pollution levels in the DKI Jakarta region have entered the "unhealthy" category based on the Air Pollution Standard Index (ISPU) established by the Minister of State for the Environment's Decision No. KEP 45/MENLH/1997. As for the national ambient air quality standards, they are regulated in Government Regulation No. 41 of 1999. However, unfortunately, this regulation still does not comprehensively address dangerous and toxic air pollutants. (Wartini 2017) ^[30]

Fambient pollution also affects the natural environment, including parameters such as acid rain, global warming, and the depletion of the Earth's ozone layer. Another issue arises when examining the role and responsibility of the state through the government in preserving and managing the environment. (Murhaini 2015) ^[31] The state has a duty to protect all its citizens, which is expanded through guiding principles implemented in environmental protection and management based on the legislation. One of the fundamental guiding principles applied in the lawsuit against several state officials is the principle of state responsibility. (Umukoro 2022) ^[32] This principle emphasizes the state's obligation to protect all citizens, its territory, and all the resources that grow, live, and develop within it. This principle is an implementation of the state's obligations as stated in the Constitution of the Republic of Indonesia, where the state guarantees the rights of citizens to a decent standard of living and a good quality of life (life quality). (Sedubun 2022) ^[33]

In carrying out government activities related to providing public services and meeting the needs of the community, the state, through the government, requires the establishment of public policies. Public policy is one of the legal products issued by the state and falls under the state's authority to carry out all administrative actions. In environmental law,

one of the administrative actions established by the state is licensing. The state has the authority to establish preventive and repressive policies for all activities that are considered detrimental to the environment and its citizens. (Wartini and Ghafur 2015) ^[34]

Regarding the protection and management of the environment, preventive policies that the state can take include improving instruments, supervision, and licensing for all business activities that have the potential to harm the quality of the environment. In essence, prevention is the effort made by the state to prevent violations or deviations from previously established regulations. In other words, improvements to all relevant instruments and law enforcement agencies need to be carried out by the state through suitable and up-to-date policies. (Sugiartha and Widiati 2020) This is to prevent new environmental problems from occurring in the future. This is where the state's presence in the implementation of environmental protection and management, based on the principles of balance and integration, comes into play. (Wattimena 2021) ^[35]

Repressive policies can be implemented by evaluating and revising each element and component that supports all policies established in the preventive phase. This is done to counteract or at least minimize recurring violations. With the various policies established by the state through the government, it is hoped that they will provide solutions to the development and societal needs, especially in terms of environmental conservation. Because ultimately, the goal of law enforcement related to environmental protection and management is to prevent any actions that harm the environment and cause a deterioration in environmental quality. (Sedubun 2022) ^[36]

As a maker and implementer of policies through stakeholders, the state must consider the balance and sustainability of the environment. All policies implemented undoubtedly carry risks, especially concerning the environment. In Indonesia, efforts to address some environmental pollution issues are still very minimal, including in terms of legal regulations, law enforcement agencies, and public awareness and understanding. Public understanding here refers to the low level of public awareness of the importance of cleanliness and environmental preservation in their surroundings, which can affect the balance of nature. (Wartini and Ghafur 2015) ^[37] Unfortunately, this lack of awareness is prevalent in some regions. Paradoxically, in large cities where residents have a better understanding of the importance of environmental cleanliness, some of them choose to be indifferent to actions classified as environmental pollution. This is regrettable because the indifference of some members of the community can lead to a domino effect in the future. (Oxford 2022) ^[38]

Conclusion

The protection of a clean and healthy environment is the serious and effective responsibility of the state. A clean and healthy environment is a fundamental right of every citizen, and the state plays a key role in ensuring that this right is fulfilled. The state must take preventive measures, such as improving regulations and strict monitoring of activities that have the potential to harm the environment. Repressive policies are also important to address violations that occur. In the context of Indonesia, there needs to be an

improvement in legal instruments and stronger law enforcement efforts to address environmental pollution issues. In addition to the role of the state, the awareness and understanding of the public also play a crucial role in environmental preservation. Public understanding of the importance of environmental cleanliness and a healthy environment needs to be enhanced. Education and awareness can help change people's behavior to be more environmentally conscious in their surroundings. However, a challenge that is still faced is the low level of understanding among communities in some areas about the negative impacts of environmental pollution. Furthermore, some residents in major cities who should be more environmentally aware sometimes disregard pollution actions. In order to maintain a good and healthy environment, there needs to be a collective effort between the state, the community, and relevant stakeholders to create a clean, healthy, and sustainable environment.

References

1. Nugroho AR, Najicha FU. Pemenuhan Hak Asasi Manusia Atas Lingkungan Hidup Yang Sehat. *Jurnal Yustitia*. 2023;9(1):128.
2. Bhwana PG. Indonesia Denies Report That Jakarta Tops Worst Air Pollution List. [Internet]. Available from: <https://en.tempo.co/read/1759475/indonesia-denies-report-that-jakarta-tops-worst-air-pollution-list>. Accessed September 27, 2023.
3. Binawan A, Soetopo MGS. Implementasi Hak Atas Lingkungan Hidup Yang Bersih, Sehat, Dan Berkelanjutan Dalam Konteks Hukum Indonesia. *Jurnal Hukum Lingkungan Indonesia*. 2023;9(1):121-156. doi: 10.38011/jhli.v9i1.499.
4. CIFOR. CIFOR-ICRAF in Indonesia: Three Decades of Partnership. [Internet]. Available from: <https://www.cifor.org/knowledge/publication/8652>. Accessed September 27, 2023.
5. Cima E. The Right to a Healthy Environment: Reconceptualizing Human Rights in the Face of Climate Change. *Review of European, Comparative and International Environmental Law*. 2022;31(1):38-49. doi: 10.1111/reel.12430.
6. Emina KA. Overview of Environmental Jurisprudence within Environmental Ethics. *Journal Office*. 2020;6(1):53. doi: 10.26858/jo.v6i1.15007.
7. Huhta K. Conceptualising Energy Justice in the Context of Human Rights Law. *Nordic Journal of Human Rights*. 2023;0(0):1-15. doi: 10.1080/18918131.2023.2210443.
8. Green Peace ID. Jakarta Silent Killer. [Internet]. Available from: <https://www.greenpeace.org/static/planet4-southeastasia-stateless/2020/10/48d34259-jakartas-silent-killer-report-oct-24-2017-1.pdf>. Accessed September 27, 2023.
9. Indrawati N. Perlindungan Hukum Terhadap Partisipasi Masyarakat (Anti SLAPP) Dalam Penegakan Hukum Lingkungan Hidup Di Indonesia. *Media Iuris*. 2022;5(1):115. doi: 10.20473/mi.v5i1.33052.
10. Kementerian Lingkungan Hidup dan Kehutanan. KLHK Gelar Uji Emisi, Tekan Polusi Udara Di Wilayah Kota. [Internet]. Available from: <https://ppid.menlhk.go.id/berita/siaran-pers/6458/klhk-gelar-uji-emisi-tekan-polusi-udara-di-wilayah-kota?find=uji%20emisi>. Accessed September 27, 2023.
11. Kriswandanu AR. Implementasi Hak Asasi Manusia Dalam Kasus Pelanggaran Lingkungan Hidup Di Wilayah Yogyakarta: Sebuah Analisis Hukum Komparatif. *Jurnal Hukum Dan HAM Wara Sains*. 2023;2(6):483-491. doi: 10.58812/jhhws.v2i6.443.
12. Kusnadi SA. Perlindungan Hukum Data Pribadi Sebagai Hak Privasi. *AL WASATH Jurnal Ilmu Hukum*. 2021;2(1):9-16. doi: 10.47776/alwasath.v2i1.127.
13. Lewis B. Human Rights and Environmental Wrongs: Achieving Environmental Justice through Human Rights Law. *International Journal for Crime, Justice and Social Democracy*. 2012;1(1):65-73. doi: 10.5204/ijcjsd.v1i1.69.
14. Murhaini S. Aspek Sosiologi Peran Serta Masyarakat Dalam Perlindungan Dan Pengelolaan Lingkungan Hidup. *Jurnal Cakrawala Hukum*. 2015;6(2):239-255.
15. Nopyandri. Hak Atas Lingkungan Hidup Dan Kaitannya Dengan Peran Serta Masyarakat Dalam Pengelolaan Lingkungan Hidup Dalam Perspektif Otonomi Daerah. *Jurnal Universitas Jambi*. 2014;7(3):33-44.
16. Oyewole O. Navigating the Waters: International Law, Environment and Human Rights. *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah*. 2021;6(1):1-12. doi: 10.22373/petita.v6i1.115.
17. World Health Organization. Meningkatkan Ketangguhan Masyarakat Dalam Menghadapi Perubahan Iklim. [Internet]. Available from: <https://www.who.int/indonesia/news/campaign/world-health-day-2021/perubahan-iklim#:~:text=Kelompok rentan termasuk perempuan%2C anak,sebagai akibat dari perubahan iklim>. Accessed September 27, 2023.
18. Oxford. General Development Human Rights and the Environment. *Yearbook of International Environmental Law*. 2022;32(1):33-38.
19. Pemerintah Republik Indonesia. Undang-Undang Republik Indonesia Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia. *Lembaran Negara*. 1999;1999/No. 165, TLN NO. 3886, LL SETNEG: Hlm 29 (39):2.
20. Marzuki PM. *Penelitian Hukum Edisi Revisi*. Jakarta: Kencana; c2017.
21. Priyanta M. Integrated Environmental Law System Strategies To Adapt Climate Change Impact From Energy Resilience in Indonesia. *Jurnal Dinamika Hukum*. 2017;17(3):296. doi: 10.20884/1.jdh.2017.17.3.932.
22. Raseukiy SAG. Membaca Kebijakan Hukum Dalam Pemenuhan Hak Atas Lingkungan Yang Bersih, Sehat, Dan Berkelanjutan Sebagai Hak Asasi Manusia Universal. *Jurnal Hukum Lingkungan Indonesia*. 2023;9(1):1-24. doi: 10.38011/jhli.v9i1.508.
23. Saab A. Discourses of Fear on Climate Change in International Human Rights Law. *European Journal of International Law*. 2023;34(1):113-135. doi: 10.1093/ejil/chad002.
24. Savaresi A. Human Rights and the Impacts of Climate Change: Revisiting the Assumptions. *Oñati Socio-Legal Series*. 2020;11(1):231-253. doi: 10.35295/osls.iisl/0000-0000-0000-1143.
25. Sedubun VJ. Pembentukan Peraturan Daerah Tentang Pembela Hak Asasi Manusia Bidang Lingkungan Hidup

- Oleh Masyarakat Adat. Bina Hukum Lingkungan Jurnal. 2022;7(1). doi: 10.24970/bhl.v7i1.252.
26. Saleh NS, Spaltani BG. Reformulasi Perlindungan Hukum Bagi Pejuang Hak Atas Lingkungan Hidup Yang Baik Dan Sehat. Jatiswara. 2022;37(2):163-175. doi: 10.29303/jtsw.v37i2.402.
27. Sodikin. Perumusan Hak Atas Lingkungan Hidup Yang Baik Dan Sehat Dalam Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Serta Upaya Perlindungan Dan Pemenuhannya. Supremasi Jurnal Hukum Universitas Sahid. 2021;3(2):106-125. doi: 10.36441/supremasi.v3i2.207.
28. Sugiarta I NG, Widiati IAP. Tanggungjawab Pemerintah Dalam Pengelolaan Lingkungan Hidup Berbasis Partisipasi Masyarakat Untuk Pembangunan Daerah Bali. Kertha Wicaksana. 2020;14(2):96-102. doi: 10.22225/kw.14.2.1862.96-102.
29. Supriyanto BH. Law Enforcement Regarding Human Rights According to Positive Law in Indonesia. Al-Azhar Indonesia Seri Pranata Sosial. 2014;2(3):151-168.
30. Umukoro B. Looking Beyond the Constitution: Legislative Efforts toward Environmental Rights in Nigeria: A Review of Some Salient Legislations. Brawijaya Law Journal. 2022;9(2):141-164. doi: 10.21776/ub.blj.2022.009.02.03.
31. Usman AS. Lingkungan Hidup Sebagai Subjek Hukum: Redefinisi Relasi Hak Asasi Manusia Dan Hak Asasi Lingkungan Hidup Dalam Perspektif Negara Hukum. Jurnal Ilmiah Hukum LEGALITY. 2018;26(1):1. doi: 10.22219/jihl.v26i1.6610.
32. Utami PN, Primawardani Y. Upaya Pemenuhan Hak Atas Lingkungan Hidup Terhadap Kebakaran Hutan Bagi Masyarakat Riau. Jurnal Hak Asasi Manusia. 2021;12(3):367-384. doi: 10.30641/ham.2021.12.367-384.
33. Wartini S. Urgensi Pengaturan Perlindungan Pengungsi Lingkungan Akibat Perubahan Iklim Dalam Perspektif Hukum Internasional. Jurnal Dinamika Hukum. 2017;17(1):15-28. doi: 10.20884/1.jdh.2017.17.1.706.
34. Wartini S, Ghafur J. Perbandingan Kebijakan Hukum Terhadap Tanggung Jawab Transnasional Corporations Atas Pelanggaran Hak Menikmati Lingkungan Yang Sehat Di Beberapa Negara. Jurnal Hukum Ius Quia Iustum. 2015;22(3):346-372. doi: 10.20885/iustum.vol22.iss3.art2.
35. Wartoyo FX. Peran Negara Menghadapi Problematika Hak Asasi Manusia (HAM) Dalam Lingkungan Hayati. WASKITA: Jurnal Pendidikan Nilai Dan Pembangunan Karakter. 2020;4(1):57-66. doi: 10.21776/ub.waskita.2020.004.01.5.
36. Wattimena JAY. Pemenuhan Hak Atas Air Bersih Dan Sehat, Serta Hak Menggugat Masyarakat. Balobe Law Journal. 2021;1(1):1-12. doi: 10.47268/balobe.v1i1.497.
37. Yuliyanto E, Alatiqoh M, Alfauq AH. Inter-Correlation between Human Rights and Environmental Justice: A Discourse of Right to a Good and Healthy Environment in Indonesia. Indonesian Journal of Environmental Law and Sustainable Development. 2022;1(2):213-236. doi: 10.15294/ijel.v1i2.58045.