



## THE INFLUENCE OF GLOBALIZATION ON ENVIRONMENTAL LAW

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### Article Info

#### Article history:

Received :

Acceptance :

Published :

Available online

<http://aspublisher.co.id/index.php/lexsocietas>

E-ISSN: xxxx-xxxx

#### How to cite:

Furqoni, S., & Sukaraja, D. (2024) The "Influence Of Globalization On Environment Law". *Lex Societas: Journal of Law and Public Administration*, vol. 2, no. 1, pp. 51-61 2024. [lexsocietas.2024.xxxxx](http://lexsocietas.2024.xxxxx) [Online].



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### ABSTRACT

*Globalization that creates adherence to values and norms between nations is a positive trend of globalization in various fields of life. Global environmental issues are a reflection of the international community on the environmental damage/pollution that has hit the world due to development. The type of legal research that the author uses in the preparation of this legal writing is normative juridical research type. The influence of globalization on environmental law, of course, will affect Indonesian legal politics in the environmental field. this can be seen from the government's policy of ratifying various international conventions relating to environmental protection. In addition to ratifying the various international conventions, the Indonesian government also issued several laws and regulations in the environmental field such as Law Number 32 of 2009 concerning Environmental Protection and Management. Existing environmental legal instruments should be enforced consistently, especially in environmental law enforcement related to carbon emissions that have an impact on environmental pollution by applying certification to factories that pollute the air.*

**Keywords:** environment and globalisation

## 1. INTRODUCTION

Globalization is a new developmental change in the order of association and relations between nations that is characterized by the acceleration of information flows due to advances in science and technology and cannot be limited by national borders. Globalization marked by the reform era demands new and standard values and norms, both in national life and in life between nations. The positive and potentially negative side of globalization is that interdependence between nations is getting bigger. In addition, international standard standards are needed in various fields of life, the dominance of foreign models and the increasingly strong role of the private sector, and rapid social change.

Globalization that creates adherence to values and norms between nations is a positive trend of globalization in various fields of life (Rahayu, 2022). Globalization in the economic field has a connection to political life, social culture, and so on. An example of current economic globalization along with globalization in the political field is democratization, transparency, human rights, and the environment, which are often “linkage” to each other (Yanuarsi, 2019). The influence of globalization has grown so rapidly and rapidly, the indication is that it has been felt by the increasing rate of development in the fields of transportation, foreign capital investment, tourism, trade, and lately also towards environmental aspects that touch the lives of mankind (Thani, 2017).

Development is a conscious effort made by humans to achieve a better life. The essence of development is how to make the future better than today. However, it cannot be denied that development will always be in contact with the environment (Sriyatno 2007). Bruce Mitcel said that environmental resource management will experience four main situations, namely: (a) change, (b) complexity, (c) uncertainty and (d) conflict. In the context of Indonesia, the nature of development according to Emil Salim is the development of Indonesian people as a whole and the development of all Indonesian people. This means that development includes first, external progress, such as food, clothing, housing and others; second, internal progress, such as education, a sense of security, a sense of justice, a sense of health; third, progress that includes all people as reflected in the improvement of life with social justice.

Emil Salim further said that although development has been going on for hundreds of years in the world, but only at the beginning of the seventies, the world began to realize and worry about environmental pollution and damage so that it began to handle it seriously as a world problem. Global environmental problems are a reflection of the international community on the environmental damage/pollution that has hit the world due to development. Meadow provides a report on the various problems that afflict many countries in the world in a report entitled *The limits to growth*, a report to the club of rome project on the *Predicament of mankind*.

## 2. RESEARCH METHODE

The type of legal research that the author uses in the preparation of this legal writing is normative juridical research type. Normative Juridical Research is research whose main focus in its study is based on positive legal rules or norms, normative juridical research, with a literature study approach, this research is based on analyzing legal norms, both law in the sense of legislation (Rambe & Sihombing, 2024), thus the object being analyzed is positive legal norms or principles. That is, research on legal principles by using research to identify a problem (problem Identification) alone and research by providing solutions to problems. So, the decisive element is the purpose of legal research, and the additional or supporting elements as outlined in advance (Soekanto, 2010)

### **3. RESULT AND ANALYSIS**

#### **1. Overview of Globalization**

##### **a. Definition of Globalization**

In the 20th century, globalization has been felt, namely after World War II, every country must prepare mentally to accept the fact that the entry of external influences on all aspects of national life and the national identity of each citizen wherever they are. The initial process of the development of globalization was marked by advances in information and communication technology, which ultimately drove globalization. Globalization and internationalization both have similarities in terms of character and globalization is often interpreted as internationalization. Some define globalization as something related to the diminishing role, power and boundaries of a country.

Globalization in the broadest sense refers to the activities of all people in the world. Globalization can even be defined as the intensification of social relations around the world which connects remote areas with major cities and in various ways, where local events are shaped by events occurring elsewhere and vice versa. The following are some definitions of globalization according to experts.

According to A.G. MC Grew in Joko A. Saputra, globalization is a process of various events, decisions and activities that can have important consequences for various individuals and communities around the world. Therefore, globalization is a silent witness to the process of the event taking place, every step taken consciously or unconsciously is interrelated and has a direct influence on the individual himself and the people in other parts of the world also feel it. The definition of globalization according to Barker is that "globalization is a global economic, social, cultural and political connection that increasingly leads in various directions throughout the world and penetrates into our consciousness". Globalization in addition to changing lifestyles also changes other aspects, in which case globalization has spread widely in aspects of life and entered into our consciousness with new habits.

According to Robertson, Globalization is often interpreted as a process that produces a single world. Indeed, the flow of globalization is very fast, so it can be interpreted that humans unconsciously often think that the world seems to belong to themselves because

they are too focused on themselves, which triggers less socializing “. In addition, according to Barker and Robertson, globalization has unconsciously entered human life.

Anthony Giddens also argues that “globalization is the intensification of global social relations that connect distant regions, so that what happens in one region can also be known in other regions, which are in distant places and vice versa”. So he believes that the concept of multiculturalism is the right concept to explain the current cultural conditions. So as time goes by the development of information and communication technology runs fast and rapidly, this globalization is increasingly spreading to all corners of the world. It is fast, rapid and widespread, not limited to developed countries with high economic growth, but across the borders of developing and poor countries with low economic growth. The development of information and communication technology are two interrelated processes, both of which support each other. There is no globalization without the advancement of information and communication technology. The development of information and communication technology will both run slowly if people do not think forward and globally. In contrast to the previous experts' statements about the increasingly rapid flow of globalization and unconsciously enter into humans.

According to Giddens that “Globalization is the interdependence between one nation and another, between one human being and another through trade, travel, tourism, culture, information, and extensive interaction so that national boundaries become increasingly narrow”. So that Giddens' opinion emphasizes the process of individuals and groups such as communities and countries interacting, related and bound and influencing each other.

While Tomlinson, also defines, “globalization as a shrinkage of the distance traveled and a reduction in the time taken in carrying out various daily activities, either physically (such as travel by air) or vicariously (such as the distribution of information and images using electronic media), to cross them”. Globalization can be defined as the process of developing economic activities across national and regional boundaries.

1. According to Scholte, globalization is as follows:

- 1) Internationalization. Globalization is defined as the increasing activity of international relations. Although each country still maintains its identity, it is becoming increasingly dependent on each other.
- 2) Liberalization. Globalization is also defined as the diminishing boundaries of a country. For example, export/import pricing, foreign exchange traffic and migration.
- 3) Universalization. The wider spread of materials and immaterials throughout the world is also defined as globalization. Experiences in one place can become experiences around the world.
- 4) Westernization. Westernization is a form of universalization, where the wider spread of cultures and ways of thinking have a global effect. Westernization includes movies, TV dramas, pop music, fashion, language, technology and food.

- 5) Transplanetary relations and supratetotiality. This fifth definition is slightly different from the previous four. The previous four definitions identify that each country still maintains its ontological status, but this fifth definition explains that the global world has its own ontology, not just a combination of various countries.

Unconsciously, globalization can be defined as global information that contains general notification content, delivered through a mass communication process in general as well. According to Susanto, Globalization is observed and measured through several indicators, namely the type of technology is the type of technology used by users in accessing information, media is electronic or print media used in accessing information, the communication process is the method used by media users in order to exchange information “. Globalization opens our horizons because it is easy to get information from all over the world, but unconsciously globalization also keeps people close and brings people far away.

It must be admitted that the main role in today's globalization process is developed countries. They try to export local values in their countries to be spread throughout the world as global values. They do this easily because they control the flow of information and communication technology. At the same time, developing countries are unable to disseminate their own local values because of their low competitiveness. As a result, developing countries only become spectators to the entry and development of developed countries' values, which are considered global values, into their countries.

#### **b.Purpose of Globalization**

The purpose of globalization is none other than to eliminate differences between people and create equal human rights, so that it can be interpreted that globalization can be experienced or felt by all groups, both old and young or even children. According to Schesser “The purpose and action of electronic communication is not to replace communication”. Meanwhile, according to Garret, “In the context of social movement activities, these technological changes also change how citizens and activists communicate, collaborate and demonstrate”. So that it has the same right to be able to experience globalization, especially in feeling the benefits of globalization. In addition, the purpose of globalization is also to accelerate the dissemination of information easily and provide convenience in making it easier to meet needs.

#### **c.Impact of Globalization**

Globalization can make the world seem narrower, in the past when going to watch a football broadcast you had to go to the country that held the match. But now there is no need to go anywhere just to see it on television. Then when you want to contact someone, you must first meet that person, but in this era with the telephone, you don't need to meet in person, just talk over the phone. Not only telephones, now social media also has a positive and negative impact on users, which is none other than as a source of information, a means of self-expression and building connections.

## 2. ENVIRONMENTAL LAW REVIEW

### a. Function of Environmental Law

Environmental protection and management will not run optimally without adequate legal instruments that specifically regulate environmental protection. The environment will experience tremendous destruction without efforts to prevent and punish those who violate it. The law has an important role to provide a deterrent effect to people who violate environmental laws. If there is no law governing the environment, it will cause tremendous damage to the environment. People arbitrarily use protected forests for personal interests without caring about others. With the existence of environmental laws accompanied by strictness to violators, it will minimize environmental damage. This is because the penalties given by law to violators are very severe (Rambe et al, 2024)

1. Environmental law enforcement has regulated all forms of violations and crimes, for perpetrators both carried out by individuals and entities with prevention (preventive) and repression (repressive) efforts. For this repressive action, there are several types of instruments that can be applied and their application depends on the need, as consideration, among others, looks at the impact caused. The types of instruments include:
  - 1) Administrative Action.
  - 2) Civil actions (civil proceedings).
  - 3) Criminal Action (Criminal Process).

Of the three instruments there is no priority scale or is the first and last order, so if there is an assumption that criminal action is the last punishment in its application and if other actions do not solve the problem. This is not entirely true, even this criminal action only resolves one-sidedly has not reached the sufferer, namely a group of people affected by the impact in the form of recovery to its original state. According to Takdir Rahmadi, environmental law is a field or branch of law that has a peculiarity that Drupsteen calls a functional field of law (*functioneel rechtsgebied*), which contains elements of administrative law, criminal law and civil law.

Therefore, environmental law enforcement can be interpreted as the use or application of instruments and sanctions in the fields of administrative law, criminal law and civil law. State administrative lawsuits are a means of State administrative law that can be used by citizens or civil legal entities against government agencies or officials who issue administrative decisions that formally or materially contradict environmental laws and regulations (Saraan et al, 2024). The use of criminal law sanctions can only be carried out by government agencies. The use of civil law instruments, namely civil lawsuits, can be carried out by citizens, civil legal entities and also government agencies.

However, when compared among the three areas of law, most environmental legal norms fall into the area of State administrative law. The environmental criminal law contained in the 1997 UUPH can be noted to have progressed significantly. It is far more developed than the scope of the reach of the Criminal Code, as well as the 1982 UUPH. UUPH 1997 is the basis of the criminal law system benchmark for sectoral

regulation, which contains criminal law instruments, such as land, mining, forestry, fisheries, electricity, marine resources and so on (Saraan & Rambe, 2023). Determination of criminal law in certain sectors that are not in accordance with developments, can use the provisions of UUPLH as an alternative to overcome the lack of suitability. UUPLH contains a relatively sophisticated criminal enforcement system that combines with the common law system. In certain cases, there is, for example, criminal strict liability, namely criminal liability without basing the aspect of 'fault'. Similarly, the punishment system is not solely based on causality, namely by first proving whether or not there is a causal relationship between the event, which is called a material offense, but also by basing it on formal actions that violate the specified article.

### **b.Environmental Law Enforcement System**

Environmental law enforcement is closely related to obedience for users and implementers of laws and regulations, in this case both the community and state administrators, namely law enforcement. With the signal that the law is obeyed by the community is a sign that the purpose of creating regulations is achieved. Law enforcement that contains compliance does not arise suddenly but through a process formed from the awareness of every human being to implement and not implement according to the existing regulations.

Environmental law enforcement, related to various aspects that are quite complex, with the aim of maintaining and creating an environment that can be enjoyed by every human being in a broad sense by not disturbing the environment itself. In capturing the attitude of irresponsible parties, a form of legislation has been created in the form of laws and various implementing regulations.

To realise the objectives of environmental management through the prevention and control of pollution, an appropriate legal approach strategy is needed in resolving environmental cases by optimally utilising the existence of Law Number 32 of 2009 concerning the Environment. As a supporter of the implementation of these rules, government officials must be involved who correctly understand the implementation and enforcement of environmental law as a functional law. Environmental administrative law enforcement has several strategic benefits when compared to civil and criminal law enforcement. And these strategic benefits, namely:

1. Administrative law enforcement in the environmental sector can be optimised as a preventive tool.
2. Administrative law enforcement (which is preventive in nature) can be more cost-efficient than criminal and civil law enforcement. Financing for administrative law enforcement includes the cost of routine field supervision and laboratory testing which is cheaper than evidence collection, field investigations, hiring expert witnesses to prove causality in criminal and civil cases.
3. Administrative law enforcement has more ability to invite public participation. Public participation is carried out starting from the licensing process, monitoring

the arrangement/supervision, and participation in filing objections and asking state administrative officials to impose administrative sanctions.

An act regulated in environmental criminal law to be declared as a criminal offence is always associated with further regulation in administrative law, because in the formulation of environmental criminal offences, an act is declared as a criminal offence if it is carried out contrary to administrative requirements. The intertwining of criminal law and administrative law in criminal environmental law, *delege lata*, is a fact that must be accepted and will make environmental law enforcement better if it runs in synergy, or become an obstacle if it does not work together.

According to Alvi Syahrin, the criminal provisions as stipulated in the UUPLH are intended to protect the environment by providing the threat of criminal sanctions. The process of handling criminal offences, refers to the criminal procedure law, namely Law No. 8 of 1981 concerning the Criminal Procedure Code (hereinafter abbreviated as KUHAP).

The criminal law enforcement process based on KUHAP consists of:

- a) Reporting.
- b) Investigation.
- c) Investigation.
- d) Prosecution.
- e) Trial.
- f) Verdict.
- g) Implementation and supervision of decisions

Based on the provisions in the Environmental Management Law, it can be said that the environmental law enforcement system in Indonesia consists of the compliance stage and the enforcement stage and includes aspects of administrative law, civil law and criminal law aspects, including aspects of international law. Therefore, the resolution of environmental cases tends to provide opportunities to question aspects of the four branches of law. Environmental law enforcement at the compliance monitoring stage gives a very large role to local governments that have apparatus from various sectors. In order for the role of the apparatus in the region to run effectively, of course, the ability of staff in the region is needed through training, the development of adequate data networks, and the establishment of environmental funds.

#### 4. CONCLUSION

The influence of globalisation on environmental law will certainly affect the politics of Indonesian law in the environmental field. This can be seen from the government's policy of ratifying various international conventions relating to environmental protection. In addition to ratifying various international conventions, the Indonesian government also issued several laws and regulations in the field of environment such as Law Number 32 of 2009 concerning Protection and Management of the Environment and several laws and regulations that have a relationship with the environment, such as the law on territorial waters, plantation law, forestry law, agricultural law, oil and gas law, The existing environmental law instruments should be enforced consistently, especially in



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environmental law enforcement related to carbon emissions that have an impact on environmental pollution by applying certification to factories that pollute the air.

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