

Sustainable Development Principles in the Green Constitution

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Abstract. This study aims to inspire the importance of sustainable development principles with environmental insight and environmental protection as strong footholds in student's legislation. Methodologically, this research used Research and Development on the application of sustainable development education model through green constitution in lecturing process. The results show that the magnitude of the influence or the contribution of the implementation of sustainable development education through Green Constitution to the increase of students' constitutional awareness reach 48,6% to the improvement of students' constitution awareness.

1. Introduction

Recently, the issue of sustainable development is an important issue that needs to be socialized in the midst of people's lives. The background is the phenomena of destruction and environmental pollution that has been uncontrollable. Various environmental disasters have been hit, like landslides, floods, earthquakes, forest fires, illegal loggings, Lapindo mud disaster, and so forth. It has proved that the state, the people, and the environment are no longer harmonious due to the weak role of the state in protecting the safety of its citizens [1, 2]. The issue of state responsibility for the protection and the management of environment is only beginning to be realized and carried out by many states, of both developed and developing countries, after the world development causing the decline of environment quality globally [3].

Nowadays, the importance of sustainable development that takes into account environmental aspects for the sustainability of planet earth, humans, animals, plants, and other species is increasingly believed. Without any protection and environmental management at an early stage with environmental and sustainable insights, environmental pollution and/or degradation, environmental conflicts or disputes between environment and development, between humans and the environment, and between humans and other creatures caused by the lack of available natural resources can easily be occurred.

Sustainable development is supported by three pillars resembling a house. These pillars are built on three domains of international law, namely international environmental law, international economic law, and international human rights law [3]. The 1945 Constitution of the Unitary State of the Republic of Indonesia mandates that the government, entrepreneurs, and all elements of society shall exercise protection and environmental management, in the implementation of sustainable and environmentally sound development [4]. Therefore, the 1945 Constitution can also be referred as the green constitution.

A green constitution applies environmental sovereignty or ecocracy, where the environment is no longer an object that can be arbitrarily violated by humans. The environment is a subject that has its



own rights to be preserved and also protected from damage [5]. Thus, the government is required to make policies that pay attention to the principles of the environment and should not be contrary to the constitution [6]. This principle is developed rapidly throughout the world as a clear principle (axiomatic) in preserving environment [7]. Prevention is done by taking concrete steps, although there is no scientific evidence as to how large and deep the consequences might be. However, this principle will only be applied on the estimation that has serious repercussions and irreversible damage to the environment [7].

Environmental law in the simplest sense is the law that regulates the environmental order [8]. In addition to Indonesia, there are several countries that guarantee constitutional rights and obligations related to environment such as South Africa (1996), Angola (1992), Armenia (1995), Netherlands (1983), Bhutan (2008), Brazil (1988) Chile (1980), Ecuador (2008), the Philippines (1987), Ghana (1992), India (1976), South Korea (1987), Nepal (2007), France (2006), Portugal (1976), Spain (1978), and so forth [5,6]. However, no countries have a similar constitution. There are differences. The differences occur due to different backgrounds, such as history, culture, ideology, philosophy, and so on [9].

The placement of the environment as a pseudo-law subject was inspired by the Stockholm Declaration of February 6, 1972, which has become the guidance for UN members. Through the declaration, there is a formal recognition of environmental rights. The 1972 Stockholm Declaration was an integral and complementary part of the 1948 Declaration of Human Rights. The conference was regarded as “a new liberate movement to free from the threat of their freedom to the environment of their own making” [8]. Starting from early 1980s, the Court has developed a body of ‘green constitutional law’ to safeguard the citizens’ health from the deleterious effects of environmental degradation [10]. However, according to Asshiddiqie, the 2008 Ecuadorian Constitution is referred as The Green Constitution, which is considered very green, in the sense of firm and strong protection of the environment.

In Indonesia, Civic Education brings education of citizenship based on constitution, which implicitly contains teaching about how can citizens exercise their rights and obligations according to applicable regulations. In the domain of Civic Education, the science of law becomes one of the disciplines of Civic Education. It is expected that the internalization of sustainable development in Civic Education can teach young people to meet the current needs without compromising the right to meet the needs of future generations. Thus, in accordance with the background of the problem, this paper presents the effectiveness of the application of education for the sustainable development of green constitution to the increase of students’ constitutional awareness.

2. Methods

This research applied quantitative approach with quasi-experiment method. A quasi-experimental research is intended to determine the presence or the absence of a result of “something” imposed on the subject of questioning. The experimental design was Nonequivalent Control Group Design. This design is similar to pretest-posttest control group design or control group. By exposing the quasi-experimental method, the aim of the second year research is to quantify the differences between classes that did not use the model of green constitution-based sustainable development and the classes using the model, as well as to draw conclusions of questions related to behavior, experience, or characteristics of a phenomenon.

The location of the research was in the Faculty of Social Sciences Education, the Indonesia University of Education. The sample of research covered 98 students of the Department of Civic Education registered in the Civil Law class of 2015. The data collection technique in this research includes (1) participation/observation, (2) documentation study, (3) interviews, and (4) questionnaires. The data analysis was performed qualitatively and quantitatively. The Qualitative data analysis was done through several steps: (1) reviewing the available data; (2) conducting data reduction by summarizing so that the important data would remain; (3) preparing units that were categorized while

performing coding; and (4) conducting a validity check of data. The quantitative analysis was performed by using descriptive/percentage statistical analysis.

3. Results and discussion

Law, as an integrated system, covers one an element of behavior of legal subjects who hold rights and obligations determined by the norm of the rule (subjective and cultural elements). If a norm is not a statement of fact, no statement of fact can contradict the norm. Therefore, there is no exception to a norm. An exception is a state or fact (behavior) that makes the exception a figurative statement because according to its nature, norm cannot be “broken” (changed) [11].

The development of environmental policy, according to Asshiddiqie, consists of 2 (two) stages of environmental development. In the first stage, on the worldwide growing awareness of the importance of protecting the environment from the threat of pollution and destruction, environmental policies are set forth in the form of official legislation. Thus, a wave of the world arises, namely the wave of legalization or legislation of environmental policies. After the enactment of many legislations officially, most of the regulations are ineffective in preventing pollution and destruction of the environment. Such dissatisfaction is widespread in many countries, so there is a demand to strengthen the environmental policy law in the constitution as the supreme law. This latest development is what Asshiddiqie calls the second wave or the second stage development by carrying out the constitutionalization of environmental policy into the formulation of the 1945 Constitution.

Based on the hypothesis testing, the application of sustainable development education through Green Constitution has a relationship and influence on students' constitutional awareness. The magnitude of the relationship between the application of sustainable development education through the Green Constitution (X) and the increase of student constitution awareness (Y) is 0.696 with a value of 0.000. Because the sig value (2-tailed) = 0,000 < α = 0.05, the research hypothesis is accepted. There is a significant relationship between the application of sustainable development education through Green Constitution and the increase of students' constitutional awareness. The closeness of the relationship is considered in the range 0.60 to 0.80

In addition, to reveal the magnitude of the influence or the contribution of the application of sustainable development education through Green Constitution to the increase of students' constitution awareness reached $(r)^2 = 0,696^2 = 48,6\%$. Other factors besides the application of sustainable development education through Green Constitution that affect student constitution awareness is $(100 - 48,6) \%$ or 51,4%. They are, for example, factors of lecturer role, students' characteristics, habits, environment (family, society, school), and others.

The concept of green constitution covers the environment as a human right, where human beings are entitled to obtain a good and healthy environment and good health services. From both concepts, it can be concluded that to protect human rights on good and healthy environment, it is necessary to present government policies based on environmental principles to emerge the concept of green regulation where environmental policies can be found in the form of legislation [12]. Therefore, the environment and human rights have a very close link, i.e. human rights violations are often the cause of environmental degradation. On the other hand, the degradation of environmental supporting capacity (ecosystem) leads to human rights violations [13]. In addition, the human rights of the environment are fundamental human rights. The rights are inherent since they reinforce the construction of human life [14].

The right to a clean environment belongs to the third generation category. There are three types of rights in this category, namely right to development, right to peace, and right to a clean environment. This third generation of human rights is commonly known as the solidarity right [15]. Thus, the environment has the right, and the right to life is given to the environment because people are aware that without a good environment, human life can be destroyed [16]. Driyarkara states that human and nature, or world, are a single construction. Because of this construction, human can only grow as human by developing nature. Human have to build a culture of its various forms and only by living in its development, human beings develop as human beings.

Green is a new red, white, and blue because it is a strategy that can help to ease global warming, biodiversity degradation, energy poverty, oil dictatorship, and energy shortages. We solve our own problems by helping the world to solve its problems. In addition, the green principle has a commitment to the environment as part of a wider ideology that places humanitarian relationships with the natural world as a basis, with the consequence of increasing efficiency in development activities without sacrificing environmental sustainability. It is not what Goleman describes in his book *Ecological Intelligence: The Coming Age of Radical Transparency*, which lays out that so many products which has been labeled “green” are mere nonsense, and highlights human inconsistencies in response to the ecological crisis. According to Goleman, the products labeled “green” are actually classified as greenish –that is “draped with the mere appearance of ecological merit” and is decorated with an environmentally friendly appearance [17].

The empirical findings that indicate a positive and significant influence of the application of sustainable education based on green constitution on the increase of students’ constitutional awareness produce some of the following information. First, in relation to the increasing student’s constitutional awareness affected by the variables, then every student in the Civil Law course has indirectly got a holistic character education that is implemented by using education of green constitution-based sustainable development.

Second, the model of sustainable development education that has elements of green constitution can be incorporated into learning component in schools and universities. Based on the Preamble of the 1945 Constitution of the Republic of Indonesia explicitly states that the Government of the Unitary Republic of Indonesia has an obligation to educate the nation’s life. The provisions of Article 28H paragraph (1) and Article 33 paragraph (1-5) of the 1945 Constitution of the Republic of Indonesia are the basic norms for the protection and the management of environment in Indonesia. Article 28H Paragraph (1) of the NRI Constitution states as follows “Everyone is entitled to live a healthy and prosperous life, to live in and to get a good and healthy living environment, and to be entitled to health services”.

Article 33 paragraph (1-5) of the 1945 Constitution states as follows “The economy is constituted as a joint effort based on the principle of togetherness. (2) Production branches, which are important for the state and affect the livelihood of the people, are controlled by the state. (3) The earth and water and natural resources contained therein are controlled by the state and are used for the greater prosperity of the people. (4) The national economy is organized based on economic democracy with the principles of togetherness, fair efficiency and sustainability, environmental insight, independence, and by maintaining a balance of progress and national economic unity. (5) Further provisions concerning the implementation of this article shall be regulated in an Act”.

Therefore, the 1945 Constitution of the Republic of Indonesia can be said to be a modern constitution, which is “.....one of the many modern constitutions contain the declaration of the right of the subject [18]. The conceptual model of sustainable development education through the green constitution-based sustainable development education model encompasses the entire learning component covering materials, methods, media, sources, and evaluations aimed at building intelligent human resources through education. Sustainable development education is not similar with education on sustainable development or simply knowledge transfer.

Third, the result of the description of student perception, the habituation conducted on the implementation of the green constitution-based sustainable development education model in the lecture is considered as ‘good’. The students’ constitutional awareness in the lecture is also considered as ‘good’. Therefore, it clearly affirms that the implementation of sustainable development education model in the lectures can run effectively and efficiently towards students’ constitutional awareness.

If we agree to elevate the degree of the environment, our attention/commitment to the environment is not because of compassionate for the environment, but it is more emphasized on consciousness [16]. Thus, we can inherit the environment in good condition and healthy to our grandchildren and not been questioned by them [17].

Fourth, the green constitution-based sustainable development education model is applicable in a lifelong learning perspective. The sustainable development education model applied in the lecture demands a reorientation of learning from objectives, content, structure, and evaluation that is fully integrated in the lecturing process that demonstrates the lecture activities from classroom activities, counseling, to the socialization of environmental law products. It aims to develop students' potential through knowledge transfer, to construct understanding, attitude formation, and practical action. The implementation is the concept of national legal products related to environmental management and protection. Students are conditioned to understand the legal elements of law, the establishment of law, and the process of law enforcement.

Fifth, Indonesia, as a participating country in the recovery of global issues, needs to be broader and comprehensive in developing sustainable development mission indirectly through education. Steps and decisions that consider the environment as merely an object to fulfill human ambition/satisfaction damaging the environment itself, therefore, must be prevented. Because the agenda of saving the environment in Indonesia is a very urgent agenda, it is necessary to support the sustainability of human life [19]. Thus, the formation of human resources through sustainable development education seeks to realize a constitutional awareness that is a part of moral consciousness. Aspects that need to be addressed in the enforcement of environmental law are the monitoring, the application of administrative sanctions, and cases of forest fires [20,21].

4. Conclusions

Sustainable education of green constitution is necessary for an agrarian country. It is closely related to the lack of land in the world that can provide a good life. Therefore, its existence must be protected firmly and strictly in a supreme degree of law through the Constitution. Indonesia has realized that it immediately sets the limits on environmental management. The existence of these rules is not merely rhetoric but a form of national consciousness, which is poured in the highest level of law that must be guaranteed by whole nation.

By conducting study and research from now on, we can formulate a form of sustainable green constitution education that is suitable for Indonesia. Based on the results, the research concludes several points. (1) The implementation of sustainable development education model through green constitution is directed to three main activity components (lecturing activity, extension activity, and socialization activity) of law product to society. (2) The result of the perception of the students' habituation towards the implementation of the green constitution-based sustainable development education model in the lecture is considered as 'good' and the students' constitutional awareness in the lecture is also considered as 'good'. (3) The magnitude of the influence or contribution of the application of sustainable development education through Green Constitution equals to 48,6% to the improvement of student constitution awareness.

References

- [1] Mukhlis & Mustafa. 2011. Ekologi Konstitusi: Antara Rekonstruksi, Investasi atau Eksploitasi atas Nama NKRI. *Jurnal Konstitusi*. 8 (3), 161-206.
- [2] Asshiddiqie, J. 2009. Kini Saatnya ,Membumikan Konstitusi Hijau, Kuliah Umum dan diskusi publik yang bertajuk "Konstitusi Hijau dan Hak Asasi Manusia", sebagai bagian dari hak konstitusional warga negara dalam pengelolaan lingkungan hidup dan kekayaan alam di Indonesia, Sarekat Hijau Indonesia (SHI).
- [3] Priyanta, M. 2010. Penerapan Konsep Konstitusi Hijau (Green Konstitution) di Indonesia sebagai Tanggung Jawab Negara dalam Perlindungan dan Pengelolaan Lingkungan Hidup. *Jurnal Konstitusi*. 7 (4), 113-130
- [4] McGoldrick, D. 1996. "Sustainable Development and Human Rights: An Integrated Conception", *The International and Comparative Law Quarterly*. 45 (4), 796-801.
- [5] Helmi. 2012. *Hukum Perizinan Lingkungan Hidup*. Jakarta: Sinar Grafika
- [6] Adhayanto, O. 2014. Maritime Constitution. *Jurnal Selat*. 2 (1), 135-145

- [7] Freestone, D & Hey, E. 1996. Origins and Development of the Precautionary Principle, dalam *The Precautionary Principle and International Law, The Challenge of Implementation*. Hague: Kluwer Law International
- [8] Danuseputro, M. 1982. *Hukum Lingkungan Global*. Bandung: Bina Cipta.
- [9] Manan, B. 1995. *Pertumbuhan dan Perkembangan Konstitusi Suatu Negara*. Bandung: Mandar,
- [10] Sharma, R. 2008. Green Courts in India: Strengthening Environmental Governance. *Law, Environmental and Development Journal*. 4 (1), 50-71
- [11] Kelsen, H. 1978. *Pure Theory of Law*. Berkeley: University of California Press.
- [12] Akib, M. 2013. *Politik Hukum Lingkungan: Dinamika dan Refleksinya dalam Produk Hukum Otonomi Daerah*. Jakarta: Rajawali Pers.
- [13] Santosa, M.A. 1997. Hak Asasi Manusia dan Lingkungan Hidup, dalam *ICEL Staff Articles, Indonesian Center for Environmental Law (ICEL)*. Jakarta.
- [14] El Muhtaj, M. 2009. *Dimensi-dimensi HAM: Mengurai Hak Ekonomi, Sosial, dan Budaya*. Jakarta: PT. Raja Grafindo Persada.
- [15] Tomuschat, C. 2003. *Human Rights Between Idealism and Realism*. Oxford: Oxford University Press.
- [16] Effendi, M. 1986. *Prinsip-prinsip Dasar HAM dan Hukum Lingkungan Hidup*. Malang: FH Universitas Brawijaya.
- [17] Goleman, D. 2009. *Ecological Intelligence: The Coming Age of Radical Transparency*. London, England: Penguin Books Ltd.
- [18] Wheare, K.C. 1975. *Modern Constitution*. London: Oxford University Press.
- [19] Effendi, M dan Evandri, T.S. 2007. *HAM Dalam Dimensi/Dinamika Yuridis, Sosial, Politik (Hukum Hak Asasi Manusia) Dalam Masyarakat*. Bogor: Ghalia Indonesia.
- [20] Arsyad, S dan Rustiadi, E. 2012. *Penyelamatan Tanah, Air dan Lingkungan*. Jakarta: Buku Obor.
- [21] Wijoyo, S. 2016. *Strengthening Environmental Law Enforcement Against Crime*. Surabaya: Airlangga University Press