

# Quo Vadis, Greening Nature's Rights? Enlivening Community Environmental Law and Establishing Legal Personhood for Nature

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**Abstract.** Nature and humans are two entities that cannot be separated. The relationship between the two influences each other. Humans who live together with nature are prevalent when doing something that harms nature. Therefore, to protect and manage the environment, the Law is present during such a situation. This paper aims to (i) explain the existing environmental Law in Indonesian society as a gateway to greening natural rights and (ii) explain quo Vadis are greening nature's rights through enlivening existing environmental laws in the community and establishing legal personhood for nature. The paper results show that (i) several environmental laws exist in Indonesian society to maintain and protect the environment from water and land. Some of these laws can be transplanted into favorable legal provisions so that they become a gateway to greening natural rights, and (ii) Efforts to reforest natural rights also require optimization through the establishment of legal personhood for nature as a legal subject in obtaining protection from human actions that can damage nature. Protection is something that must be considered and done by humans because both live side by side. Meanwhile, the Law strengthens the relationship between the two, and its existence creates balanced and prosperous reciprocity.

**Keywords:** Rights, Community Environmental Law, and Legal Personhood.

## 1 Introduction

An environment is where abiotic objects, such as soil, water, sunlight, and biotic objects, such as plants, animals, and humans, interact naturally. These natural interactions cover all abiotic and biotic aspects in an interconnected order that cannot be separated from one another.[1] The relationship between humans and their environment is closely related to the environmental conditions, so humans are responsible for maintaining, managing, and preserving the surrounding environment.[2]

The Indonesian state has guaranteed the concept of the environment in the constitution, namely Article 28H paragraph (1) and Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia. Article 28H Paragraph (1) reads;

*Everyone has the right to live in physical prosperity and spirituality, have a place to live, get a good and healthy living environment, and have the right to obtain health services. Article 33 Paragraph (1) explains that the national economy is organized based on economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental insight, and independence, and by maintaining a balance of progress and national economic unity.[3]*

If observed, the position of the environment in the Indonesian constitution becomes the state's focus to guarantee citizens and future generations enjoy a decent life as experienced by citizens today and is one of the essential principles in organizing the national economy.[4] Further provisions governing the environment are enshrined in Law Number 32 of 2009 concerning Protection and Management of the Environment as amended by Law Number 11 of 2020 concerning Job Creation, which explains that the environment is a unitary space with all objects, forces, circumstances, and living things, including humans and their behavior that affects nature itself, the continuity of life and the welfare of humans and other living creatures.[5] Understanding the environment gives the meaning that, in essence, aspects of the environment are not limited to what is in an environment but also the interaction between all that exists in the environment. The interaction is in harmony with human existence in activities integrated with the environment and vice versa. The existence of the environment depends on human activities, which are one of the factors for environmental sustainability.[6]

Guarantees and environmental sustainability are our collective obligations from various parties, especially the government as policymakers, to ensure cooperative environmental management and protection to create a safe, healthy, and comfortable environment for various living creatures, including humans. Talking about the existence of the environment, it will be related to environmental ethical theories such as the natural rights approach. The concept of natural rights by Christopher Stone indicates that legal personality should be given to all natural objects to enable nature to have rights that can be enforced parallel to human rights.[7] Enforced rights are intended to prevent damage or environmental management measures for the environment.













Factors that cause environmental damage are divided into two, namely natural factors and human factors. Cases of pollution and environmental damage originating from human actions, the majority of which are related to the use of natural resources without regard to care and management for the sustainability of the function of natural resources. This will have an impact on the birth of various environmental problems that we still encounter today, such as landslides, flash floods, depletion of the ozone layer, forest fires, the destruction of biodiversity at sea and land, contamination of rivers, seas, lakes, and other waters, air pollution, scattered garbage is the result of human disobedience to their obligations in maintaining and managing natural resources.[8]

Several cases of environmental pollution, such as residents of Toba Regency, North Sumatra, who reported to the Criminal Investigation Police a company suspected of having polluted the environment for 34 years, residents along the Malinau River complained to the Regional People's Representative Council (DPRD) of North Kalimantan on suspicion of environmental pollution by one of the coal company, a report by a resident on the pollution of Situ Cintongtut by a factory in Cicadas that often dumps factory waste that flows into Situ Citongtut, exploitation of forests for plantations by companies that destroys the forest ecosystem inhabited by Punan Batu and the threat of damage to land and sea by the company nickel mine on Wawonii











Island. Field facts prove that environmental pollution is still happening, so even though the government has set such regulations, it has not accommodated community discipline in understanding the importance of protecting and preserving the environment, both individually and as legal entities.

The data reinforces the urgency of corrective action on natural conditions in Indonesia. Some environmental problems that have a negative impact are still found and take away the rights of nature. Based on the Sustainable Development Report in 2022, Indonesia's life below water and life on land indicators have stagnated. Below are the details of the assessment of each of the indicators referred to:[9]

**Table 1. Life Below Water Assessment Indicators**

Indicators	Value	Year	Rating	Trend
<i>The mean area that is protected in marine sites important to biodiversity (%)</i>	25.5	2020		
<i>Ocean health index: clean waters score (worst 0-100 best)</i>	58.2	2020		
Fish caught from overexploited or collapsed stocks (% of total catch)	16.7	2018		
<i>Fish caught by trawling or dredging (%)</i>	38.3	2018		
Fish caught that are the discarded (%)	4.4	2018		
<i>Marine biodiversity threats embodied in imports (per million population)</i>	0.0	2018		

**Table 2. Life on Land Assessment Indicators**

Indicators	Value	Year	Rating	Trend
<i>The mean area that is protected in terrestrial sites important to biodiversity (%)</i>	25.9	2020		
<i>Mean area that is protected in freshwater sites important to biodiversity (%)</i>	39.0	2020		
<i>Red list index of species survival (worst 0-1 best)</i>	0.8	2021		
Permanent deforestation (% of forest area, 5-year average)	0.7	2020		
<i>Terrestrial freshwater biodiversity threats embodied in imports (per million population)</i>	0.2	2018		

**Description:**



In people's lives, several elements are found that fill the social dimension. As mentioned earlier, humans and the environment are two entities that cannot be separated. However, if you look further, one type of community is identical to having a close relationship with nature, namely the customary law community. This community is described in the draft law; customary law communities are people who live for generations in some geographical regions, have the same place of residence, cultural identity, customary Law, strong relations with land and the environment, as well as a value system that determines economic institutions, political, social, cultural, and legal.

The definition above explains that in addition to having a solid relationship with the environment, it seems that in the life of indigenous peoples, it is also inherent in customary Law. Snouck Hurgronje introduced the Law with the term's meaning as giving a name to a social control system in Indonesian society.[10] It is an unwritten rule that is maintained as a guide in social life. An explanation explains that although the rules are not written, they can substantially grow, develop, and take root in society. Rules relating to the environment are included. The following are environmental Law in customary law communities:

**Table 3. Environmental Law in Indigenous Law Communities**

Indigenous Law Communities	Environmental Aspects
Indigenous law community Muara Kibul, Jambi, Sumatera	Rivers and forests[11]
Indigenous law community Petapahan, Riau, Sumatera	Rivers and forests [12]
Indigenous law community of Rejang Lebong Regency, Bengkulu, Sumatera	Forests [13]
Indigenous law community Metulang, North Kalimantan, Kalimantan	Forests including rivers[14]
Indigenous law community Ammatoa, Bulukumba Regency, Sulawesi	Forests[15]
Indigenous law community Nanggroe Aceh Darussalam, Sumatera	Sea[16]
Indigenous law community in Seram, Maluku	Sea[17]

The problematic phenomenon still surrounding Indonesia's nature requires comprehensive action to achieve a sustainable environment. Meanwhile, natural rights are something that humans often forget. Environmental damage and pollution are bad precedents humans create in their relationship with nature—an egocentric created by exploiting nature and overriding its protection rights. The background of this problem makes the writer think of the need to revive the community's environmental Law and form a legal personhood for nature.

Philosophically, nature has the right to obtain protection for human activities related to it. The fulfilment of these rights is not solely for nature. The preservation and sustainability of nature can also be felt by humans again. Humans can use nature well and as much as possible to achieve prosperity. The sociological approach views Indonesia as having environmental laws that live in society and align with the objectives of protecting and fulfilling natural rights. The community in question is the customary law community. This is coherent with juridical optics, namely the recognition and respect for indigenous peoples in the 1945 Constitution of the Republic of Indonesia, and the draft law on indigenous peoples opens the gate to greening natural rights by positing community environmental law and establishing legal personhood for nature.

## 2 Result and Discussion

### 2.1. Environmental Law Indonesian Society: Gateway to Greening Natural Rights

The environment is all objects, situations, conditions, and interactions that exist in the room inhabited by humans and have an impact on human life, which includes all aspects of life, such as power, objects, and living things that exist in an order that is mutually sustainable and cannot be separated from one another. Discussions about environmental issues in this era of globalization should be carried out through an appropriate approach oriented towards environmental interests (*environment-oriented Law*), which is inherent in the provisions of legal regulations for human actions or behavior and related institutions in empowering and utilizing natural resources. And understand the consequences of the negative impacts of such use.

Normatively, legal principles relating to the existence of the environment and nature have implications for the essential values contained in human life. Discussing the importance of the environment is in line with the urgency of the 1972 Stockholm Declaration, the 1992 Rio de Janeiro Conference, the 2002 Johannesburg Conference, and the 2012 Rio+20 Conference.[11] The concept of environmentally sound development in the 1972 Stockholm Conference was the first internationally agreed concept, which was affirmed in Principle 13 of the Declaration of the United Nations Conference on the Human Environment:

*To achieve a more rational management of resources and thus to improve the environment, States should adopt an integrated and coordinated approach to their development planning to ensure that development is compatible with the need to protect and improve the environment for the benefit of their population.*

Then, the concept was further studied in depth at the high-level Conference in Rio de Janeiro by giving birth to 3 (three) main pillars that support sustainable development: economic development, social development, and environmental protection. The legal principles contained in the conference emphasized that the certainty of the existence of the environment is a substantial matter in the survival of human life.

The birth of the conference seeks to be able to carry out sustainable development while still paying attention to excellent and correct policies and environmental management so that national environmental protection arrangements are needed for each country, which will become a *tool of control* as a guarantee of environmental functions related to the environment. Directly related to sustainable development. The development of environmental protection in Indonesia began with changes in the Indonesian constitution which was amended four times and accommodated the development of human rights to the environment in Article 28H paragraph (1) and guarantees for sustainable environmental development in Article 33 paragraph (4) The 1945 Constitution of the Republic of Indonesia. The two articles guarantee their citizens a decent life for the environment and economic development that considers environmental insight essential. In addition to the constitution, legal positivism related to the environment is contained in the Law on Environmental Protection and Management and its amendments as a further regulation which emphasizes that a good and healthy environment is a human right of every Indonesian citizen as mandated in Article 28H paragraph (1) of the Law—1945 Constitution of the Republic of Indonesia.

Normatively, the concept of environmental management as enshrined in Article 9, paragraphs (1) to (4) of Law Number 32 of 2009 concerning Environmental Protection and Management emphasizes several important things as the basis for management that the government may ignore as the control and person in charge of environmental management in a country. Some of the crucial things referred to are as follows:<sup>1</sup>

- 1) The government, as the holder of national policy in environmental management, continues to pay attention to the values that live in the community;
- 2) Environmental management is carried out in an integrated manner by government agencies following their respective duties and responsibilities, the community and other development actors by taking into account the integrated planning and implementation of national policies and
- 3) The integrated planning and implementation of national environmental management policies are coordinated by the Minister assigned to manage the environment.

Apart from those previously mentioned, the management concept intended by the government must also carry out issues of urgency regarding the environment, which in the future can be seen as essential in environmental management based on Article 10 of a quo law.

Long before favorable laws were promulgated internationally and nationally, customary law communities in Indonesia in several regions had laws to protect and defend the environment in which they live as a form of "respect" for the goodness that nature has given to their lives. Some environmental laws originating and living in customary law communities can be classified in the following table form:

**Table 4.** Environmental Law in Indigenous Law Communities

Indigenous Law Communities	Environmental Law	Description
Muara Kibul Village, West Tabir District, Merangin Regency, Jambi.	Customary Law based on Islam is "adat syarak, syarak with scripture, syarak with adat in wearing" which consists of 13 (thirteen) points and 5 (five) of them are related to the environment (rivers and forests).	Prohibition of feeding or electrocuting fish, livestock and plants; prohibition of taking or cutting or cutting durian, netting, petai, kabau, and areca nut in gardens and human figures, livestock in cages at night, plants in cages during the day; and prohibition of planting complex plants on jointly owned land (customary land).[11]
Petapahan, Kampar Regency, Riau.	Environmental Law to protect the Imbo Putui customary forest and rivers in the area, along with sanctions for violators of customary rules.	Supervision of the management and protection of the customary environment by the Dubalang of each tribe, and there are sanctions if violated. The community is given the authority to manage the environment, both forests

<sup>1</sup> [6] 39.

			and rivers, with provisions agreed with each tribe.[12]
Rejang Lebong Regency, Bengkulu.	Regional Regulation of Rejang Lebong Regency Number 5 of 2018.		There are rules regarding <i>the prohibition</i> forest (forbidden forest) which cannot be opened and used for various functions other than the conservation function. The prohibition on opening spring buffer areas and landslide-prone areas as a function of protecting customary areas, in addition to the Law in the regional regulations, it is also regulated by customary institutions that enforce various violations known as <i>Jenang Kutei</i> (Village Judges) along with customary justice mechanisms to impose sanctions for various violations.[13]
Metualang Village, South Kayan District, Malinau Regency, North Kalimantan.	Customary Law (unwritten or oral) that plays a role in protecting and conserving forests.		There are rules for the use of animals, timber, and field boundaries, as well as the ownership of <i>jekau</i> (former fields).[14]
Tana Toa Village, Kajang District, Bulukumba Regency, South Sulawesi.	Ammatoa Decree by the Indigenous Territory Leader and Human Liaison with Tu'Rie Ara'Na (Almighty).		Ammatoa as the customary leader, divides the forest into 3 parts, namely Borong Karamaka (Sacred Forest), a forest area prohibited for all types of activities except for ritual activities or events. There may be no logging, area measurement, tree planting, or visits other than the above exceptions, including the prohibition of disturbing flora and fauna contained in it. Borong Batasayya (Border Forest) is a forest where timber is allowed to be harvested as long as the supply of wood is still there and with the permission of the Ammatoa is the customary leader, and Borong Luara' (People's Forest) is a forest that the community can manage. If there is a customary violation in the form of timber theft or logging of phonn, the forest rangers will report the incident to Gall' Puto and forward it to Ammatoa.[15]
Nanggroe Darussalam	Aceh Customary Law <i>Laot</i>		In managing the marine environment, the Panglima <i>Laot</i> (sea) customary institution applies the values and concepts of local wisdom to maintain and supervise the provisions of customary law and marine customs, coordinating and supervising every fishing effort in the sea; settle disputes

		or disputes that occur between fellow members of the fishermen or their groups; administer and organize traditional sea ceremonies; guarding or supervising that the trees on the beach are not cut down; is a liaison agency between fishermen and the government; and improve the standard of living of coastal fishermen.[16]
Eti Village, West Seram District, West Seram Regency, Maluku.	Law <i>Sasi</i> ( <i>sasi</i> includes forest products, and <i>sasi</i> includes sea cucumbers, bia lola, pearls, and fish).	The local legal system contains prohibitions and obligations to pick or extract the potential of natural resources of certain types in the short term.[17]

From the table described previously, we can see that the Indonesian people regulate the ins and outs of how they use the environment reciprocally with natural resource management to maintain their function. Environment as their source of livelihood. In some discourses, nature and the environment do not exist or are separate from humans but blend and go hand in hand with humans and other living things in their daily lives.

Nature is an entity that has the same rights as human rights to obtain protection from pollution and damage as well as management related to the environment and nature. The theory is a theory of 'natural rights' that places the position of nature as a subject that can have independent rights regardless of conflicts of human interests. The concept of natural rights was famously echoed by Christopher Stone in 1972 who asserted that legal personality should be given to all natural objects that gave birth to legal personality to allow nature to have enforceable rights.[7]

The *Community Environmental Legal Defense Fund* (CELDF) declared the concept of natural rights in the United States, established in the 1990s to emphasize community control in making environmental decisions in their area Kotamadya.[18] The concept of natural rights gives nature a subject represented by individuals responsible for voicing protection on behalf of natural objects. Through environmental law that lives in Indonesian society, if it is associated with the concept of natural rights, it can be a gateway to greening natural rights by the philosophy of the Indonesian people in protecting the environment in their respective areas which refers to the norms and values that live in the community itself.

### **3.2. Quo Vadis, Greening Nature's Rights: Enlivening Community Environmental Law and Establishing a Legal Personhood for Nature**

Legal responsibilities for the environment are emerging all over the world. Starting from an existence that is only limited to regulating relationships between humans. As for the environment, which is also an entity side by side with humans, it has not yet received coverage in the legal aspect. Until 1972, it became a momentum that gave good hope to environmental Law. A declaration called Stockholm places humans and the environment on legal principles that show the cruciality of nature for human life.

It is stated in the Stockholm declaration that the protection and improvement of the human environment is a major issue which affects the well-being of peoples and economic development throughout the world, it is the urgent desire of the people of the whole world and the duty of all



governments. As for Principle 1, the declaration explains that man has the fundamental right to freedom, equality, and adequate conditions of life in an environment of quality that permits a life of dignity and well-being, and *he bears a solemn responsibility to protect and improve the environment for present and future generations*. In this respect, policies promoting or perpetuating apartheid, racial segregation, discrimination, colonial, and other forms of oppression and foreign domination stand condemned and must be eliminated.

Not only that, in 1992, there was a Rio de Janeiro declaration which in Principle 1 also explained that *human beings are at the center of concerns for sustainable development*. They are entitled to a healthy and productive life in harmony with nature. Then in Principle 2 it is stated that states have, following the charter of the United Nations and the principles of international Law, the sovereign right to exploit their resources pursuant to their own environmental and developmental policies *and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other states or of areas beyond the limits of national jurisdiction*.

The existence of international environmental Law above, shows that the position of nature is so substantial in relation to humans that it requires protection so that its existence can coexist well with human life. Environmental Law is present as a means of controlling human relations with nature. This ecocentric approach unites humans and the environment with the principle of development balanced by improving the quality and improving environmental functions. Overcoming the practical conditions that have been planted and thrived as stated by Fukuyama that the position of humans and the environment is only limited to getting optimal satisfaction for humans.[19]

The degradation of environmental quality has brought back the need for systematic protection and management to preserve environmental functions and prevent further damage and pollution. This is done in various ways such as planning, utilization, control, maintenance, supervision, and law enforcement. In this case, what needs to be underlined is that the Law is also a part of it.

Environment and sustainable development are discourse that is constantly being discussed. New mechanisms are being sought as a form of better implementation of human responsibility towards problematic environmental conditions. The thinker Christopher Stone in 1972 argued about the personality of Law and natural rights. He conveyed that legal personality should be given to all natural objects to get better protection. This legal personality will provide the possibility for nature to have enforceable rights. This idea allows nature to demand and receive benefits for protection.

In the United States there is a declaration of natural rights resulting from the Community Environmental Legal Defense Fund (CELDF) work which establishes democratic control in making environmental decisions for local communities. Their first focus was to draw up regulations prohibiting certain activities of companies in the municipality.[18] The next aspect that is contained is about natural rights. *Thus citizens can exercise these rights on behalf of the linked nature*. This is in line with what Stone stated regarding the position of natural Law that has rights and also allows *humans to enter in the name of nature or as guardians of nature to enforce these rights*.

Domestically, these ideas can be transplanted into Indonesian environmental Law's future. Paying attention to the rights of nature so that it grows green is done in two ways: reviving the Environmental Law of the community and forming a legal personhood for nature. *First*, bring environmental laws to life. This section will at least bring together Law, the environment, and humans at one point. This point can then be broken down into a long, unified discussion. This can be started with forming a social structure that comes from the many individuals with various interests. Collected in a certain area to form an order called society. For these various interests, in community life a case can occur. From there, the Law is present in the community as the glue of life that creates peace. Therefore, there is a legal adage that says *ubi societas ibi ius*. The depth of its meaning is where there is society, there is Law.[20]

Diving deep, environmental Law is one of the laws found and lived in society. This is as described previously so that it becomes a supporter of the socio-juridical aspect to concretize this idea. Bringing environmental Law to life in society is a fundamental and crucial thing that must be done, especially in customary law communities. It is not without reason that indigenous peoples as elements of society that are close to nature besides having the potential to fill the space in this idea are also not infrequently an element that is harmed due to damage and contamination of the environment they live in and their surroundings.

The potential referred to above is that customary law communities have a close relationship with nature and some even live together with nature. Such conditions make people more aware of the nature they live in and their surroundings. This knowledge forms awareness to protect nature as an effort to fulfill the necessities of life that cannot be separated from natural resources. Then as a community that is close to nature, the territory of indigenous peoples is also often harmed due to human activities, both individuals and companies that cause damage and pollution. This spectrum gave birth to a thing with the name of Law. Environmental laws created by society to regulate human actions that destroy nature. This is the opening way for indigenous peoples to become supervisors and guardians for nature.

Bringing the Law of the community environment to life is by positing the Law into statutory regulations. The concept of the rule of Law is used as an approach in parsing this idea. In the legal system of Continental Europe, legislation is the main source of Law.[21] The consequence is that the teachings of positivism are something that Indonesia tends to implement as a state of Law. The teachings that embed the legal value of certainty are in it. Law and legal certainty are two inherent things, both of which will be found in written legal norms.[22]

Van Apeldoorn argues that legal certainty means things that can be determined by Law in concrete terms. Fence M Wantu argues, Law without the value of legal certainty will lose its meaning because it can no longer be used as a behavioral guide for everyone. Legal certainty is defined as the clarity of norms so that they can be used as guidelines for the community. Then by Maria SW Sumardjono normatively legal certainty is interpreted as requiring the existence of a set of laws and regulations. Empirically, the existence of laws and regulations needs to be implemented by human resources.[23]

In a state of Law, the Law is the commander in the administration of the state.[24] Therefore, the formation of Law on the multidimensionality of life becomes a matter of concern, one of which is environmental Law. Positive environmental Law in society is a necessity. The fourth paragraph of the preamble to the 1945 Constitution of the Republic of Indonesia explains that

the state aims *to protect the entire Indonesian nation and all of Indonesia's bloodshed*. The meaning of the country's goals also includes the protection of the Indonesian environment which is carried out thoroughly on various components related to the environment. The concrete legal formulation is Article 33 paragraph (3) and paragraph (4) of the 1945 Constitution of the Republic of Indonesia.[25]

When the convergence between Law and humans has been described in the discussion above, then the environment and humans will fill the dimensions of this paper. In carrying out their lives, humans and development are common things. Development in addition to meeting human needs in various aspects, will also create an advanced state for a country. However, development that is not based on the values and ethics of environmental protection will be the beginning of destruction. Optimal utilization of natural resources requires harmonization and adjustment to these natural capabilities. Therefore, in the implementation of development, it is required to meet 3 aspects: economic, socio-cultural, and ecological.[26]

The long explanation above is nothing but to enter into the discussion space for positive environmental Law in society. An idea that is in line with the country's goal to protect the environment in sustainable development. The existence of community environmental law, especially in customary law communities, is something that needs to be acknowledged. Regulations related to environmental protection are a good value and are the beginning of the recognition of natural rights. As described in table 4, some of the rules can be positive into the laws and regulations in Indonesia.

In addition to being based on a philosophical foundation regarding the purpose of environmental protection for environmental sustainability and sustainability so as to achieve prosperity, as well as from the sociological aspect of the existence of customary law communities and the environmental laws that live in them. Juridically, Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia explains that *the state recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with community development and the principles of the Unitary State of the Republic of Indonesia. regulated by Law*. [3] Article a quo is then used as the basis for the formation of a draft law on indigenous peoples, which regulates the recognition, protection, and empowerment of indigenous peoples. Draft law is *a quo* mentioned in Article 2, one of the principles is the preservation and sustainability of environmental functions. Draft law *a quo* regarding the right to the environment for indigenous peoples.[27]

Furthermore, the scope of regulation regarding customary law communities in the draft law *a quo* is mentioned in Article 2, one of the foundations of which is the sustainability and continuity of the function of the living environment. Not only that, Article 28H paragraph (1) and Article 28I paragraph (3) of the Constitution of the Republic of Indonesia Year 1945 regarding the right to a good environment and respect for the rights of traditional communities [3] are formulated in Article 28 of the draft law *a quo* on the right to the environment for customary law communities.[27]

Positive environmental Law of the community in this case is to include content on environmental Law in several aspects such as rivers, forests, and the sea into one type of legislation based on Article 7 paragraph (1) of Law Number 12 of 2011 concerning the Establishment of Legislative Regulations is a Regional Regulation.[28] The regional regulations

in question are regional regulations concerning the recognition and protection of customary law communities. This content can be included in the scope of the provisions regarding the participation of the special community related to protecting and preserving the customary law community accompanied by provisions on environmental Law that exist in the community.

**Second**, establish a legal personhood for nature. Natural rights will not exist fully without legal personhood. It is a guardian to nature. Nature is assumed to be a legal subject who has rights. Therefore, nature needs a guardian based on a court order.[29] There are two mechanisms for determining guardians for nature. First, a person from the general public can apply to the court to become a guardian. Second, the customary law community head can appoint someone in their territory to be a guardian or volunteer their own application to the court. This makes it possible for guardians to speak and sue on behalf of nature especially in court courts and also before administrative decision makers.

From a legal perspective, this is relevant considering that the existence of a guardian for nature is an effort to reforest nature's rights as well as to concretize Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia. This will achieve the goal of protecting nature for sustainable development. Next, guardians for nature come from customary law communities, as a form of acknowledgment of the existence of customary law communities to maintain and protect nature, especially those around it. This is a form of crystallization of Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia. In addition, this is linear with the formulation of the a quo article that the state recognizes the traditional rights of indigenous peoples. That one of these rights is the right to the environment. A very participatory form of environmental protection process that supports environmental sustainability and sustainability.

Relevance is also found in the draft law on customary law communities which regulates protection such as the protection of customary territories and traditional knowledge in Article 19. Coherent with this, indigenous peoples have rights such as the right to the environment in Article 28. That indigenous peoples have the right to on a good and healthy environment and one of the manifestations of this right is in the form of a complaint due to allegations of environmental pollution and/or destruction. Then, the guardian for nature is also a form of community participation which is in line with Article 45 of a quo bill. It is stated in a quo article that community participation can be carried out by: (i) maintaining, maintaining, and increasing the preservation of environmental functions in customary areas; and (ii) submit reports on the occurrence of hazards, pollution, and/or environmental destruction in customary areas.

This is a comprehensive idea for greening nature's rights. The above will be the beginning of the green rights of nature because there is certainty for nature to get its rights which is linear with the achievement of other legal values such as benefit and justice for nature. That through the implementation of this legal provision, the utilization of natural resources will be based on balanced and sustainable values for nature so that nature will still be able to provide good resources for humans in addition to sustainability will also be achieved. The next legal value is justice. For the rights it has, nature will also demand justice if there is a violation through its guardian. The formation and implementation of this community environmental law will make it clear for nature to demand law enforcement. Enforcement of this environmental Law, of course, will lead to the achievement of ecological justice.

## 4 Conclusion

The existence of environmental Law is important for human life. Present in the midst of the relationship between humans, the environment, and development. The aim is to protect the environment in order to achieve sustainability and sustainability. It is regulated in international and national legal instruments and is even found in the lives of indigenous and tribal peoples. Public awareness of the environment is in line with the discourse on natural rights. This spectrum gave rise to the idea of greening nature's rights. The idea is carried out through reviving the community's environmental Law and forming a legal personhood with a guardian for nature. *First*, reviving the environmental Law of the community is by positing the existing environmental Law in customary law communities into laws and regulations such as regional regulations. The contents can be included in the scope of the provisions regarding the participation of the special community related to protecting and preserving the customary law community accompanied by provisions on environmental Law that exist in the community. *Second*, establishing legal personhood for nature with the existence of a guardian based on a court order. The mechanism for determining the guardian for nature can be in the form of someone from the general public or the head of the customary law community who can appoint someone in their territory. Guardians can speak and sue on behalf of nature, especially in court courts and also before administrative decision-makers.

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