

Analysis of Green Constitutions in Environmental Law Related to Spatial Planning and Balance of IKN Development in Indonesia

Mardiana¹, Syabila Saputri²

¹Faculty of Law, Mulawarman University, Samarinda, Indonesia

²Faculty of Economics and Business, Mulawarman University, Samarinda, Inod

Email : mardianaresearch@gmail.com¹, syabilasapu3@gmail.com

Received: September 20, 2024

Revised: October 20, 2024

Accepted: October 23, 2024

Published: October 26, 2024

Corresponding Author:

Author Name*: Mardiana

Email*: mardianaresearch@gmail.com

Abstrak: *This study analyzes the implementation of the green constitution in environmental law concerning spatial planning and the development of the National Capital (IKN) in Indonesia. The Green Constitution emphasizes environmental protection as a human right, as stated in Article 28H of the 1945 Constitution. The research focuses on the challenges of IKN development in East Kalimantan, including the risks of environmental damage such as deforestation and ecosystem disruption. The Indonesian government is committed to maintaining 80% of the IKN area as green space, but effective implementation requires stricter law enforcement and greater involvement of local communities. The methodology used is a normative juridical approach through the analysis of applicable legal regulations. The results highlight the importance of applying environmentally friendly technologies and ecosystem restoration as efforts to maintain environmental sustainability amidst development. Collaboration between stakeholders, including the government, private sector, and community, is essential to achieving a balance between economic growth and environmental preservation. This study recommends strengthening environmental law enforcement, increasing local community involvement in the development process, and the use of technologies that support sustainable development.*

Keywords : *Environmental Law, Green Constitution, IKN.*

INTRODUCTION

The right to a prosperous life also gets a good and healthy living environment and obtaining health services in Article 28H paragraph (1) of the 1945 Constitution.¹ This is in accordance with The Green Constitution which emphasizes the integration of environmental protection principles into the country's constitution to strengthen legal protection of the environment and ensure human rights to a healthy environment. In Indonesia, this is regulated in Article 28H paragraph (1) and Article 33 paragraph (4) of the 1945 Constitution.

Green constitutions are concepts that focus on environmental protection through constitutional instruments. This idea emerged in response to the increase in widespread environmental damage. The existence of this concept is inseparable from the understanding that the environmental crisis is not only an ecological problem, but also closely related to the existing political structure. In Indonesia, the

¹ Article 28H paragraph (1) of the 1945 Constitution guarantees the right of everyone to live a prosperous life in birth and mind, to live, and to get a good and healthy living environment. In addition, everyone also has the right to receive health services.



discourse on the Green Constitution first appeared in 2008, when the Constitutional Court held a meeting with the Regional Representative Council (DPD). This concept was introduced by Prof. Dr. Jimly Asshiddiqie in his book "Green Constitution: Green Nuances of the Constitution of the Republic of Indonesia Year 1945." According to Jimly, the Green Constitution puts forward the concept of ecocracy, which places the environment as a subject with its own rights, not just an object that can be exploited by humans.² The environment must be preserved and protected from damage. Achmad Sodiki also emphasized the importance of a more in-depth study of the Green Constitution and the opportunity to adopt it in amending the 1945 Constitution of the Republic of Indonesia. Since the fourth amendment in 2022, the recognition of environmental rights in the new constitution is reflected in Article 28H Paragraph (1), which guarantees everyone's right to a good and healthy environment.

Talking about Green Constitutions, it can be related to an issue that still has public attention related to the relocation of the National Capital City (IKN) from Jakarta to East Kalimantan, which began since the ratification of Law Number 3 of 2022, has become an important issue that has triggered various reactions in the community. One of the main objectives of this move is to support the Golden Indonesia Vision 2045 through equitable development, so that it is no longer centered on Java Island. The plan to move the capital out of Java was first proposed in the 2020-2024 National Medium-Term Development Plan (RPJMN) by Indonesian President Jokowi Widodo.³ However, behind this ambition, there are deep concerns about the negative environmental impact on Kalimantan, which is rich in biodiversity. The risk of environmental damage due to deforestation and industrial expansion, such as oil palm plantations, is a serious concern if development planning is not done carefully. Considering that East Kalimantan has complex topographical challenges, as well as the need for unequal distribution of clean water, the government is required to be wiser in implementing this project.

Based on a report by the Central Statistics Agency (BPS), with a population density of 15,938 people/km², Jakarta has been facing various urban problems such as congestion, air pollution, and heavy infrastructure loads. Therefore, relocating the capital city is expected to alleviate the pressure on Jakarta and provide a long-term solution for environmental sustainability in the New Capital City (IKN). However, many have criticized the government's lack of attention to Environmental Impact Assessment (AMDAL), which should be a key component in development planning, in accordance with Government

² Indonesia itself has Law Number 4 of 1982 concerning Basic Provisions on Environmental Management that are legal milestones in the modern environment in Indonesia. After 15 (fifteen) years, it turns out that Law No. 4 In 1982, it was not able to solve environmental problems in Indonesia. then replaced by Law No. 23 of 1997 concerning Environmental Management life, and the last one is Law No. 32 of 2009 concerning the Protection and Environmental Management. Not only the three laws, but also supported by Government Regulations in the implementation of management and life protection protection.

³ The IKN Nusantara project is one of the major initiatives in the decade of infrastructure development under President Jokowi's leadership. Located in East Kalimantan, this project symbolizes Indonesia's transformation into a more modern nation. IKN Nusantara is set to become the new governmental center, replacing Jakarta.

Regulation No. 27/2012 Article 3 Paragraph 1 that requires every activity that has a significant impact on the environment to have an AMDAL. Without proper assessment, this project could risk worsening the condition of Kalimantan's environment, which should be protected.⁴

Looking at the development of the National Capital City (IKN) covers a land area of about 256,142 hectares and 68,189 hectares of marine waters, bordering several sub-districts in North Penajam Paser Regency, Balikpapan City, and the Makassar Strait to the north. The complex topography, with slopes of more than 40% and significant elevation variations, demands extra attention in sustainable land management. In addition, the unequal distribution of clean water is a challenge in itself, requiring the development of infrastructure that can meet water needs fairly and equitably. Therefore, Environmental Impact Assessment (AMDAL) should be a top priority to ensure environmentally friendly and sustainable development in the IKN region.

Despite the pros and cons surrounding the decision to relocate the capital city, the Government of Indonesia continues to show serious commitment in realizing the National Capital City (IKN) as a symbol of the new national identity.⁵ The city, which is expected to be environmentally friendly, economically competitive, and reflect Indonesia's cultural diversity, has three main objectives: (1) realizing a sustainable city with resource efficiency and low carbon emissions, (2) becoming a future economic driver through innovation and technology, and (3) becoming a symbol of national identity. This step reflects the government's serious commitment, including the establishment of the Nusantara Capital Authority, a ministry-level institution that will manage the Nusantara Capital Special Region.⁶ The government's seriousness is also shown by the implementation of the Indonesian Independence Day Ceremony on August 17, 2024 at IKN, which was attended by the Heads of State Institutions, the Governor of Bank Indonesia, some Ministers of the Advanced Indonesia Cabinet, the Attorney General, the TNI Commander, the National Police Chief, and limited invited guests. The ceremony was attended by 1,000 invited guests, both for the flag raising and lowering ceremony, which is a sign that the

⁴ Law Number 3 of 2022 regarding the Capital City has established that Indonesia's capital will move from Jakarta to Nusantara, located in East Kalimantan. The development plan for the Nusantara Capital City is outlined in Presidential Regulation Number 63 of 2022 concerning the Detailed Master Plan for the Nusantara Capital City (Perpres 63/2022). This regulation explains that the fundamental principles for developing the capital area integrate three urban development concepts: forest city, sponge city, and smart city.

⁵ The concept of developing Nusantara as a forest city is a nature-based solution. This forest city concept embodies the principles of sustainable urbanism by preserving, managing, and restoring forest ecosystems to address various social and environmental changes. Implementing a forest city offers advantages in economic, social, and environmental aspects, including enhanced biodiversity, improved water and air quality, and addressing climate change.

⁶ The passing of Law Number 3 of 2022 concerning the Capital City of Nusantara (IKN) in February last year sparked controversy. In addition to facing opposition from several groups, the drafting of the IKN Law was criticized for lacking public participation. The debate has persisted as the government moved forward with plans to revise the law. During a working meeting with the Ministry of Law and Human Rights, six parliamentary factions supported the government's proposal to include the draft law replacing the IKN Law in the 2023 priority legislative program. These factions were PDIP, Golkar Party, PAN, PKB, PPP, and Gerindra Party. Meanwhile, the Democratic Party and PKS opposed the proposal, while the NasDem Party chose to abstain.

relocation of the capital city is not just a discourse, but a reality that has now been realized.

It can be said that the Capital City of the Archipelago (IKN) will be an example of the application of spatial planning and governance that is not only good, but also fast, as stated by Plt. Head of the IKN Authority, Basuki Hadimuljono, after a meeting with President Jokowi, on Monday (29/07/2024). Speed in obtaining permits and development is a priority, making IKN an example for other cities in Indonesia. Therefore, it is not surprising that the development process until the ratification of the IKN Law was carried out very quickly. IKN is not just a relocation of the capital city, but also a milestone towards Advances Indonesia 2045, with a focus on innovation, technology and green economy. Therefore, as explained earlier that the Spatial Plan for the IKN National Strategic Area, has been regulated in Presidential Regulation Number 64 of 2022 for the period 2022-2042, which emphasizes that IKN will become a sustainable, modern, and productive city, as well as a symbol of national identity. In the process, IKN is expected to drive economic growth through various areas, including the Capital City Region of the Archipelago (KIKN), Capital City Development Region of the Archipelago (KIPKN), and coastal waters of IKN. Although the development of IKN brings potential benefits such as economic growth and infrastructure modernization, there are important challenges related to environmental law. In the spatial planning and development of IKN, it's important to pay attention to the carrying capacity of the environment, and implement strict environmental protection and management. Maintaining a balance between development and environmental conservation is essential to prevent negative impacts such as ecosystem damage and environmental degradation. This includes proper management of the Environmental Impact Assessment (AMDAL) and taking into account the rights and existence of local indigenous communities.

The results of in-depth research into environmental regulations in Indonesia show that Law No. 3 of 2022 is used by the government as a basis for responding to counter-issues in society, especially regarding the development of the Capital City of the Archipelago (IKN). The government emphasizes that the development of IKN will be based on the principle of environmentally friendly (*Green Energy*).⁷ Therefore, it is important to review other legal regulations to ensure environmental protection during the construction of the National Capital City (IKN). In the KSN Spatial Plan (RTR), the IKN in East Kalimantan is required to prioritize controlling space utilization and maintaining balance between regions and sectors in East Kalimantan. This is so that the development of IKN can achieve long-term goals without compromising environmental sustainability, in line with the principles of Indonesian environmental law that prioritize nature conservation. However, there is a discrepancy with Article 42 paragraphs a and b in the National Capital City Law No. 21 of 2023, which states that laws and regulations that conflict with the National Capital City development policy are no longer valid. This discrepancy can be a challenge in applying the principles of environmental law that have been established, so it requires more attention so that development remains in line with the principles of

⁷ Green energy refers to energy sources derived from materials that are generally safe and environmentally friendly, causing no harmful effects on the environment. Examples of these energy sources include water, wind, and others.

environmental sustainability in Indonesia.⁸

To date, infrastructure development for the Capital City of the Archipelago (IKN) has reached 50.4% of the total 108 contracted packages, with details of Batch I at 91.4%, Batch II at 56.3%, and Batch III at 14%. As of August 2024, the government has allocated IDR 41.41 trillion, which is divided into water resources, roads, bridges, and housing infrastructure development. Some of the major infrastructure that has been completed and inaugurated by Indonesian President Joko Widodo includes the Sepaku Semoi Dam, Sepaku Intake, Pulau Balang Bridge, and Taman Kusuma Bangsa. On August 17, 2024, a number of facilities such as the State Palace and several ministerial offices were also been temporarily functional.

Reflecting back on Law No.3 of 2022 and Presidential Regulation No. 64 of 2022, which stipulates the Spatial Plan of the National Strategic Area (KSN) for the Capital City of the Archipelago, we see an effort to create a sustainable, safe, modern, and productive city. This Spatial Plan serves to regulate the utilization of space and coordinate development in order to be in accordance with economic growth, environmental conservation, defense and security needs. However, the question that arises is to what extent this spatial planning is in line with the vision of Green Constitutions towards Smart City in Indonesia.

METODOLOGI

In preparing this research, a normative juridical method was used, which focuses on analyzing legal norms and applicable rules to evaluate environmental governance and balance in the context of the development of the Capital City of the Archipelago (IKN). Data was collected through reviewing various regulations, ranging from national to regional levels, with a focus on environmental law aspects. In addition, literature studies from books and journals were also used, to gain perspectives on the development of the Capital City of the Archipelago (IKN) in terms of governance and balance.

RESULTS AND DISCUSSION

1.1 Green Constitutional Principles in Indonesian Environmental Law

Based on Article 25A which reads "The Unitary State of the Republic of Indonesia is an archipelago characterized by an archipelago with an area whose boundaries and rights are determined by law".⁹ This chapter explains additional constitutional rules that greatly determine the style and color of

⁸ Article 42, paragraph 1, points a and b state that when this law comes into effect, two main provisions will be applied regarding the preparation, construction, and relocation of the National Capital, as well as the administration of the Special Regional Government of the Nusantara Capital. First, all laws and regulations that contradict the policies related to these activities will be declared void. Second, the laws and regulations governing regional governments will also no longer apply.

⁹ Article 25A of the 1945 Constitution of the Republic of Indonesia states that Indonesia is a unitary archipelagic state characterized by the concept of "nusantara," with its territory, including boundaries and rights, defined by law. This concept describes a chain of islands and the waters between them, encompassing all resources within the water, land, and the air above. Additionally, Article 33 paragraph (3) of the 1945 Constitution stipulates that the state controls the earth, water, and natural resources contained therein and utilizes them for the greatest benefit of the people.

the 1945 Constitution as a modern constitution in the world, which officially developed into a constitution called the Indonesian Blue Constitution (Blue Constitution) or as a green constitution (Green Constitution). If examined, the green color of the 1945 Constitution is more related to land areas, while the blue color of the 1945 Constitution is more related to water and air areas. In addition, the normative foundations of the green constitution are also related to legal policies with state and government territorial issues and national development spatial planning, especially IKN. Unfortunately, Law No. 26/2007 on Spatial Planning only regulates aspects of the land area. Although in Article 1 of this Law, what is defined as space is "a container that includes land space, sea space, and air space, including space within the earth as a unified area, where humans and other creatures live, carry out activities, and maintain their survival" However, in the regulatory material of the articles, there is no understanding of sea area and airspace as referred to as "sea space and airspace" according to the operational definition above. This is in accordance with Law No. 21 of 2003 Concerning the Amendment to Law No. 3 of 2022 Concerning the National Capital, in article 15 where the spatial planning of the National Capital refers to: (a) The national spatial plan; (b) The zoning plan of the interregional area of the Makassar Strait; (c) The spatial plan of the island of Kalimantan; (d) The spatial plan of the KSN of the archipelago capital, and; (e) The detailed spatial plan of the archipelago capital.

The fourth amendment to the 1945 Constitution marks the introduction of the concept of a green constitution in Indonesia (Asshiddiqie, 2009).¹⁰ The application of the green constitution in the constitutional system provides a legal basis for sustainable environmental management, aiming to preserve the environment so that it remains clean and healthy, and can be passed into future generations. The right to a good and healthy environment is part of human rights that should not be violated, and has been guaranteed by the 1945 Constitution. In Article 28J paragraph (1), it is stated that everyone is obliged to respect the human rights of others in the life of society, nation and state. In addition, Article 28H paragraph (1) also stipulates that every individual has the right to physical and mental well-being, a place to live, and a good and healthy environment, along with the right to health services. From these provisions, it is clear that the 1945 Constitution guarantees the right of every citizen to a decent environment and housing. The existence of articles regulating the environment shows that Indonesia adopts the principle of green constitution in state governance.

The green constitution is reflected in Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia, which states that the national economy must be based on economic democracy with the principles of togetherness, equitable efficiency, sustainability, environmental awareness, independence, and maintaining a balance between progress and national economic unity.¹¹ Development that takes into account environmental aspects can be interpreted as a deliberate and planned action with the aim of managing natural resources wisely, in accordance with the capacity and carrying capacity of the environment. Environmental management aims to realize development that pays attention to the environment and controls the appropriate use of natural resources. Meanwhile, sustainable development refers to a development process that is expected to be able to meet current human needs without

¹⁰ The Fourth Amendment to the 1945 Constitution of the Republic of Indonesia is the fourth amendment to the Constitution. This amendment was approved during the 6th Plenary Session of the People's Consultative Assembly (MPR) on August 10, 2002. This process was part of the 2002 Annual General Session of the MPR, which took place from August 1 to August 11, 2002.

¹¹ The national economy is organized based on the principles of economic democracy, emphasizing togetherness, equitable efficiency, sustainability, environmental awareness, independence, and maintaining a balance between progress and national economic unity.

sacrificing the fulfillment of the needs of future generations in the use of natural resources.

The green constitution stipulated in the 1945 Constitution emphasizes the importance of environmental sovereignty as a basic principle that must be adopted by the state to preserve the environment. Article 33 paragraph (4) of the 1945 Constitution affirms that Indonesia's economic development, including development efforts, must be carried out based on sustainable principles that are environmentally friendly. The inclusion of environment-related norms in the 1945 Constitution reflects Indonesia's commitment to the principle of a green constitution, as reflected in Article 28H paragraph (1) and Article 33 paragraph (4) which strongly favors environmental protection. With this green constitutional principle, every government policy in various development sectors must be in line with the principle of sustainability oriented towards environmental preservation as mandated in the 1945 Constitution. In addition to the principle of popular sovereignty reflected in Article 1 paragraph (2) of the 1945 Constitution, Indonesia also adheres to the principle of environmental sovereignty, which is realized through Article 28H paragraph (1) and Article 33 paragraph (4). As the highest basic law in the Indonesian constitutional system, the 1945 Constitution of the Republic of Indonesia occupies the highest position in the hierarchy of laws and regulations, as stipulated in Article 7 paragraph (1) of Law Number 12/2011 on the Formation of Laws and Regulations. This hierarchy includes the 1945 Constitution of the Republic of Indonesia, MPR Decrees, Laws/Legislative Regulations, Government Regulations, Presidential Regulations, Provincial Regional Regulations, and Regency/City Regional Regulations.

Although the 1945 Constitution of the Republic of Indonesia contains provisions related to environmental protection, environmental problems and damage have not been fully resolved. The causes of environmental damage can be attributed to weak law enforcement against perpetrators of damage, low public awareness to protect the environment, and sanctions that do not have a deterrent effect. In addition, there may be weaknesses in the prevailing regulations. To overcome these problems, it is necessary to strengthen the environmental norms contained in the 1945 Constitution, considering that the constitution is the source of law for all laws and regulations. This strengthening is expected to encourage subordinate regulations to follow suit. Environmental norms in the law need to be clarified and explicitly detailed, in order to provide more comprehensive protection to the environment and minimize the damage that occurs.

Strengthening environmental norms can be done by adopting practices from other countries that have clearly integrated environmental principles in their constitutions, such as those implemented in the constitutions of Ecuador and France. It is expected that the fifth amendment to the Indonesian Constitution will include more detailed provisions on environmental protection in line with the principle of sustainability. This principle serves as a preventive measure against the potential negative impacts of the application of science and technology that could harm the environment. Thus, it is hoped that these strengthening measures can reduce the environmental damage that continues to occur in Indonesia.

1.2 Environmental Law Enforcement in Indonesia

Within the territory of the Unitary State of the Republic of Indonesia with an archipelago outlook, it plays a role in exercising its sovereignty, sovereign rights and jurisdiction. The government has the responsibility to manage the environment as a whole, which includes planning, utilization, preservation, restoration, supervision and control. In this case, the government functions as the main director, ensuring that all activities related to environmental management run according to the principles of sustainability. As

a rule maker, the government is tasked with establishing institutions that focus on sustainable environmental management.¹²

Environmental management and protection, as stipulated in Law No. 32/2009, is an organized and integrated effort to maintain the sustainability of environmental functions and prevent pollution and damage.¹³ These steps include planning, utilization, supervision, maintenance, and law enforcement. In order to protect the environment, various comprehensive policies and programs have been developed, including prevention and handling of damage, as well as efforts to restore environmental quality. All of this is supported by a management system that includes institutional strengthening, human resource capacity building, partnerships, strong laws, access to information, and adequate funding.

The use of natural resources, according to Law No. 32/2009 on Environmental Protection and Management, must be in line with the balance of environmental functions. Therefore, every development policy, plan or program must be based on a commitment to preserve the environment and strive for sustainable development. The environmental problems we face today were originally part of a natural process, where natural events occur and the environment can recover naturally through homeostasis mechanisms. However, over time, environmental problems are no longer just a natural phenomenon, as human intervention has become a very significant factor, accelerating and exacerbating the damage done. Environmental issues are essentially about finding solutions to ensure that the earth and nature remain habitable places, for a peaceful, prosperous and sustainable life. By therefore, actions that damage the environment are tantamount to threatening the survival of humans and other creatures.

The Indonesian Constitution, as enshrined in the 1945 Constitution and its amendments, emphasizes that the state has an obligation to manage natural resources for the welfare of society. This is explicitly stipulated in Article 33 paragraph (3), which states that the state has authority over the earth, water and all existing natural resources for the common prosperity. Although development is an important factor in efforts to improve welfare and address various challenges, unsustainable development practices and lack of attention to environmental aspects have the potential to cause adverse impacts. Such development imbalances can exacerbate existing environmental and social problems, as well as create new problems such as deforestation, damage to coastal and marine areas, pollution of water resources, soil, air, and various environmental challenges in urban areas and communities.

The government has issued Law No. 23 of 1997, which was later revised through Law No. 32 of 2009 on Environmental Protection and Management. This amendment specifically aims to strengthen the planning and law enforcement aspects related to the environment, by giving more attention to both aspects. However, this law still has weaknesses, namely the absence of rules that explicitly regulate the commitment of stakeholders in slowing down, stopping, or restoring environmental damage (Adnan,

¹² The government acts as the primary controller in environmental oversight. Their responsibilities include designing, implementing, and monitoring environmental policies that focus on nature conservation, pollution control, and natural resource management.

¹³ Law No. 32 of 2009 on the Protection and Management of the Environment aims to protect the Unitary State of the Republic of Indonesia from pollution and environmental damage. This law seeks to achieve sustainable development and address global environmental issues, recognizing that a good and healthy environment is a right that every citizen should have access to.

2009: 36).

Koesnadi Hardjasoemantri quoted Moenadjat who stated that modern environmental law aims to regulate human behavior through the application of rules and norms, with the main objective of protecting the environment from damage and degradation.¹⁴ This is done so that environmental sustainability can be maintained and passed on to current and future generations. Meanwhile, Hamzah, by referring to Nottie Handhaving Milieurecht, explains that environmental law enforcement includes supervision activities as well as the application of sanctions through administrative, criminal, and civil instruments, in order to ensure compliance with applicable laws, both collectively and individually. Supervision in this case involves government action to ensure compliance with existing regulations, which is in line with the investigative process in criminal law (Marpaung Leden, 1997: 38). To ensure the sustainability of environmental functions, every company operating in various sectors is required to take the following steps:

- a. Companies are required to prepare an Environmental Impact Analysis (AMDAL) as stipulated in Article 22 to Article 33 of Law No. 32 of 2009 on Environmental Protection and Management. This AMDAL is a study that aims to assess the important impact of a business activity on the environment, so that it becomes part of the process of determining the environmental feasibility of the planned activity or business.
- b. If a business or activity does not qualify for mandatory AMDAL, the company must prepare an Environmental Management Effort and Environmental Monitoring Effort (UKL-UPL), in accordance with the provisions of Article 34 and Article 35 of the same law. UKL-UPL is intended to address smaller impacts but still requires management and monitoring.
- c. Hazardous and toxic material (B3) management is also an obligation of the company. This includes the control process at the production, distribution, storage, use, and disposal stages, as stipulated in Article 58 and Article 59 of Law No. 32/2009. This management aims to minimize risks to the environment.

In addition, companies are also prohibited from violating established environmental damage standards, in accordance with the provisions in Article 20 paragraphs (1) to (5) and Article 21 paragraphs (1) to (4) of the same law.¹⁵ Companies involved in environmental pollution and damage can be subject

¹⁴ Koesnadi Hardjasoemantri asserts that every individual possesses a subjective right to a healthy environment. The realization of the right to a good and healthy environment is fundamentally an effort to fulfill other human rights, particularly the right to life, the right to an adequate standard of living, the right to health, and other rights that are closely linked to the condition of a healthy environment. Siti Sundari Rangkuti also emphasizes that the legal interpretation of the right to a good and healthy environment must be realized through the establishment of various legal channels to protect the community in environmental matters. Forms of such protection include the right to participate in administrative legal procedures, such as the right to engage (inspraak, public hearing) or the right to appeal (beroep) against administrative decisions (state administrative law).

¹⁵ Sustainable forestry aims to preserve forest resources and maintain environmental integrity for the benefit of current and future generations. Forest resources are natural assets closely linked to the environment, both physically and socio-culturally. Damage to these resources can lead to severe consequences, including climate change, river degradation, and a decline in human environmental quality. Therefore, managing forest resources must be approached comprehensively and sustainably, integrating it with the management of other natural resources to ensure overall ecological balance.

to various legal actions, including:

1. **Administrative Sanctions**

Administrative sanctions are the initial legal measures imposed on companies proven to have committed environmental pollution and damage. This action has a crucial role in preventing and overcoming violations of the law, and focuses on protecting the interests protected by the violated regulations. Environmental law enforcement can be carried out with preventive and repressive approaches. The preventive approach includes active supervision of compliance with regulations, without having to wait for the occurrence of concrete events that indicate a violation. These steps can be implemented through monitoring and the use of supervision-oriented authority. (Refer to Article 71 paragraphs (1), (2), and (3), Article 72, Article 73, Article 74 paragraphs (1), (2), and (3), and Article 75 of Law Number 32 of 2009 concerning Environmental Protection and Management). In addition, Article 76 paragraph (2) of the same Law stipulates that administrative sanctions may include various actions, such as the provision of written warnings, the application of coercion by the government, temporary suspension of environmental permits, and revocation of applicable environmental permits.

2. **Civil Sanctions**

Civil sanctions are the second legal measure applied to companies proven to have committed environmental pollution and damage. Based on Article 84 of Law No. 32/2009, the settlement of environmental disputes can be carried out by filing a claim for compensation and/or environmental recovery costs in two ways: out-of-court settlement and settlement through litigation.¹⁶

Out-of-court settlement of environmental disputes, as stipulated in Article 85 and Article 86 of Law No. 32/2009 on Environmental Protection and Management, aims to reach an agreement on the amount of compensation and the steps needed to prevent the recurrence of negative impacts on the environment.¹⁷ This process takes place on a voluntary basis between the parties involved, including the injured party, the party responsible for the loss, as well as the government agencies that have the authority. In addition, individuals or groups concerned with environmental management can also participate in this process. Dispute resolution is conducted through environmental mediation, and the outcome is usually set out in the form of a written agreement signed by all parties, so that it is considered to have legal force comparable to a contract in

¹⁶ Article 84 of the UUPPLH states that environmental dispute resolution can be pursued either through the court system or outside of it. The choice of how to resolve the dispute is voluntary for the parties involved. Legal action in court can only be taken if the alternative dispute resolution method chosen has been declared unsuccessful by one or both of the parties. From this provision, it can be concluded that environmental dispute resolution emphasizes voluntary mediation, allowing the parties to choose their preferred forum—either in court or out of court. Court proceedings will only take place if the mediation process outside the court has failed to resolve the issues at hand.

¹⁷ Environmental dispute resolution outside the court aims to reach an agreement based on Article 85 of the Environmental Management Law (UUPPLH), which includes compensation, restoration actions for pollution or damage, measures to prevent recurrence, and actions to avoid negative environmental impacts. This process can involve third parties such as mediators or arbitrators. In contrast, disputes can also be settled through litigation via civil lawsuits, criminal charges in general courts, or administrative lawsuits in the State Administrative Court (PTUN). The choice of litigation route depends on the nature of the legal violations involved; civil suits are filed in general courts when the violations cause harm to others or the environment and do not fall under criminal offenses as defined in the UUPPLH.

accordance with the provisions in the Civil Code. However, it is important to note that environmental mediation does not cover settlements regarding criminal aspects. Therefore, even if an agreement has been reached and implemented, this does not preclude the possibility of filing criminal charges.

Settlement of environmental disputes in court, which is regulated in Article 87 to Article 93 of Law No. 32/2009 on Environmental Protection and Management, aims to address issues such as compensation, environmental restoration, strict liability, as well as set time limits for filing a lawsuit. The law also grants the government, local governments, communities, and environmental organizations the right to sue, including the right to file an administrative lawsuit.

a. **Compensation**

Any unlawful act, such as environmental pollution or damage that results in harm to individuals or ecosystems, requires the person in charge of the business or company to provide compensation and/or take certain actions. In addition, judges are authorized to sanction the payment of daily fines for any delay in the completion of such actions.

b. **Absolute Liability**

Those responsible for businesses that have a significant impact on the environment, especially those that use hazardous and toxic materials, are fully liable for the losses incurred without the need to prove fault.

c. **Statute of Limitations for Filing a Lawsuit**

The time limit for filing a lawsuit with the court follows the provisions of the applicable Civil Procedure Law, calculated from the moment the victim becomes aware of environmental pollution or damage. However, this provision does not apply to pollution cases involving hazardous and toxic materials.

d. **Right to sue the government and local government**

Government agencies and local governments responsible for the environment have the right to file a lawsuit for compensation as well as certain actions against businesses or activities that cause adverse environmental pollution or damage.

e. **Community Suit Right**

The public has the right to file a lawsuit collectively for personal and community interests if they suffer losses due to environmental pollution or damage.

f. **Environmental Organization's Right of Suit**

As part of its responsibility to protect and manage the environment, environmental organizations have the right to file a lawsuit for the preservation of environmental functions. However, this right is limited to a demand to perform certain actions without submitting a request for compensation, except for real costs or expenses.

g. **Administrative Lawsuit**

Every individual has the right to file a lawsuit against a state administrative decision if a state administrative body or official issues an environmental permit. Business licenses that are not equipped with EIA documents or UKL-UPL documents cannot be issued to business actors.¹⁸

¹⁸ The statute of limitations for filing a lawsuit related to environmental pollution or damage is calculated from the time the issue is known, following the provisions of the Civil Code, except for cases involving Hazardous and Toxic

3. Criminal Witness

Criminal sanctions are the final step in law enforcement aimed at companies found guilty of environmental pollution and damage. The purpose of these sanctions is to educate companies about the consequences of their actions as well as protect the public interest regulated by law. In addition, criminal sanctions also aim to prevent other individuals or entities from committing actions that harm the environment. In the application of criminal sanctions against companies related to environmental cases, it is important to follow the applicable legal provisions, similar to the process in other criminal cases. This includes the principle of legality, which demands that the act being prosecuted must be in accordance with the law in force at the time the act was committed and there must be evidence of guilt.

Law No. 32/2009 on Environmental Protection and Management regulates criminal provisions in Article 97 to Article 120.¹⁹ Article 98 states that any individual who intentionally commits an act that results in pollution of the air, environment, water, or sea will be subject to sanctions. If the act results in injury or poses a risk to human health, the perpetrator may be sentenced to imprisonment with a minimum duration of four years and a maximum of twelve years, as well as a fine of between four billion and twelve billion rupiah. If the act causes serious injury or even death, the perpetrator could face a minimum five-year and maximum fifteen-year prison sentence, as well as fines ranging from five billion to fifteen billion rupiah.

1.3 Spatial Planning and Sustainable Development in the Context of the National Capital City (IKN)

Spatial planning is a crucial aspect in managing a country's territory, including in realizing sustainable development.²⁰ Spatial planning is defined as a form of spatial structure and spatial pattern, which includes land space, sea space, air, and space within the earth as a unified area where humans and other creatures live. Spatial planning is a major challenge in modern city development, especially in the

Materials (B3). Government agencies and local authorities are authorized to file for compensation due to environmental harm, with further provisions outlined by Ministerial Regulations. The public has the right to file class action lawsuits if they suffer losses due to pollution, provided there is a shared factual basis and legal grounds among group members. Environmental organizations can also sue to protect environmental functions but can only seek specific actions without compensation, provided they meet certain criteria. Additionally, individuals can challenge administrative decisions regarding environmental permits that do not comply with regulations, in accordance with the Administrative Court Procedure Law.

¹⁹ This law introduces the concept of minimum and maximum penalties in criminal enforcement, along with the expansion of evidence collection and penalties for violations of quality standards. It also emphasizes the integration of criminal enforcement and the regulation of corporate crimes. However, environmental criminal enforcement adheres to the principle of *ultimum remedium*, which states that criminal law should only be applied as a last resort after administrative enforcement efforts are deemed unsuccessful. This principle applies specifically to certain formal crimes, such as violations of wastewater quality standards, emissions, and disturbances.

²⁰ Spatial Planning reflects geographical aspects that mirror policies developed within society, relating to economic, social, and cultural domains. It represents the organization of spatial structure and patterns that are arranged at national, regional, and local levels.

midst of rapid urbanization and population growth. In the context of sustainable urban planning, spatial planning is not only about regulating settlements or infrastructure, but also includes environmental protection for future generations. As stipulated in **Law No. 26/2007** on Spatial **Planning**, spatial **planning** includes three main aspects: spatial **planning**, **spatial utilization**, and **spatial utilization control**. This arrangement must consider the balance between economic, social, and environmental interests, especially in regulating the allocation of areas into **protected** and **cultivation** functions (Article 5 of Law No. 26 of 2007).

In the development of the National Capital City (IKN) in East Kalimantan, spatial planning plays an important role in ensuring that space utilization is carried out optimally, efficiently and harmoniously. IKN must be designed comprehensively to ensure that all development sectors can integrate harmoniously, so that land use can be directed to improve the quality of life of the community while maintaining environmental sustainability. The ultimate goal is to create an area that is able to meet the needs of the present generation without compromising the ability of future generations to meet their needs, in accordance with the principles of sustainable development.

The legal basis that can be used as a guideline in spatial planning refers to Law No. 26/2007 on Spatial Planning, especially Article 3, which states that spatial planning is implemented to create a safe, comfortable, productive, and sustainable national spatial area. In addition, it is also necessary to consider Article 28H paragraph (1) of the 1945 Constitution, which emphasizes the right of every individual to obtain a good and healthy environment as part of human rights.²¹

Furthermore, good spatial planning must also be supported by effective **law enforcement**.²² As explained by Jimly Asshiddiqie, law enforcement includes concrete efforts to realize the real application of legal norms, both by individuals and by law enforcement officials. In a spatial perspective, this enforcement includes control of spatial utilization through **monitoring** and **prosecution of** violations of spatial plans (Article 37 of Law No. 26/2007). Without strict control and enforcement, spatial plans risk becoming mere documents without real implementation, which can ultimately result in irreparable environmental damage.

In facing the challenges of modernization and development, spatial planning for IKN must include more than just physical planning. The development of IKN requires a multidimensional approach that includes integrated social, economic and environmental management strategies. Thus, proper spatial

²¹ The state is responsible for implementing spatial planning to achieve the prosperity of the people. To this end, the authority for spatial planning is granted to both the central and local governments. The regulation of spatial planning is carried out through the establishment of laws and regulations related to the field, including guidelines concerning spatial planning.

²² Law enforcement is an organized system within the government structure responsible for upholding the law by discovering, preventing, recovering, or punishing offenders. While this term typically includes agencies such as the police, courts, and other law enforcement entities, it can also refer to individuals—including those who are not official police officers—who engage in patrols and oversight to prevent crime and apprehend offenders. Law enforcement can be carried out by both individuals and organizations, functioning as police or through other means.

planning can anticipate problems that may arise and ensure the sustainability of development in the long term. After the passing of the IKN Draft Law (RUU) by the House of Representatives (DPR) RI. Article 42 a and b of the bill states that all provisions of laws and regulations that conflict with the IKN development policy will be declared invalid. This shows that the government has a vision to create spatial planning and development that is integrated with the needs of IKN as the new center of government in Indonesia. This arrangement is designed so that various regulations that may hinder the IKN development process can be set aside, thereby accelerating the achievement of the strategic goals to be achieved.

In the spatial context, the IKN development policy is expected to create a well-planned area, where every aspect of development is carefully considered so as not to damage the environment and support the survival of the surrounding community. Sustainable development, in this case, includes not only the development of physical infrastructure, but also the preservation of natural resources and the sustainability of ecosystems. As a city that is expected to be an example for future city management, IKN Nusantara needs to put forward spatial principles that focus on harmonization between development and environmental preservation.

Reflecting on Article 42, it also regulates the implementation of the IKN Special Regional Government which will be further regulated through implementing regulations. This opens up opportunities for flexible and innovative governance in IKN, including in terms of appointing officials who do not have to come from among the State Civil Apparatus (ASN).²³ This indicates that IKN is designed to be an area with a more adaptive government structure, able to absorb competent labor from various backgrounds to support spatial development and sustainable development. Sustainable development in the IKN Nusantara must also consider the social and economic impacts on local communities and the surrounding area. The success of IKN in creating a balance between modern development in Indonesia as a whole, In this case, a strong synergy between the government, the community, and the private sector is needed so that the IKN spatial planning can run in accordance with the big vision of environmentally friendly and inclusive development.

Spatial planning and sustainable development in the context of the National Capital City (IKN) are closely related to Indonesia's global commitment to the achievement of the Sustainable Development Goals (SDGs), particularly goal 15 which focuses on the sustainable use of ecosystems, control of land degradation, and preservation of biodiversity.²⁴ In this regard, the government has adopted a land stewardship policy regulated in Law No. 26/2007 on Spatial Planning, as part of an effort to manage land use wisely, in accordance with the spatial functions that have been planned in the Regional Spatial Plan

²³ Article 42 states that when this law comes into effect regarding the preparation, construction, and relocation of the National Capital, as well as the administration of the Special Region of the National Capital Nusantara, all provisions of legislation that contradict these policy implementations will be declared null and void. This also includes regulations governing regional government.

²⁴ Goal 15 of the 17 Sustainable Development Goals (SDGs) focuses on the protection, restoration, and sustainable use of terrestrial ecosystems. This includes the sustainable management of forests, halting desertification, restoring degraded land, and preventing biodiversity loss.

(RTRW) and Detailed Spatial Plan (RDTR). Spatial management in IKN Nusantara is expected to be a model that integrates the concept of sustainable development in every aspect of its development.

Therefore, land stewardship in IKN must be carried out by prioritizing the principle of harmony between development needs and environmental preservation.²⁵ A clear and structured spatial plan is an important basis in ensuring that every use and utilization of land is in accordance with the objectives of sustainable development. This is important because IKN is planned as a modern center of government, but still considers environmental sustainability by involving regional spatial plans that include land rights, state land, and customary land of indigenous peoples. Therefore, land use in IKN must consider the balance between the needs of protected areas and cultivated areas.

Furthermore, land stewardship in the development of IKN refers to the National and Provincial RTRW in stages if the relevant District/City RTRW has not been established. This complementary arrangement ensures that spatial planning in IKN remains directed and coordinated with national planning. That said, IKN Nusantara can serve as an example for the development of other regions in Indonesia that prioritize the principle of sustainability.²⁶ Good spatial planning, especially in relation to land use, is the main foundation for successful long-term sustainable development that has a positive impact on the environment, society and the local economy. The success of IKN's spatial planning will also support the government's efforts to achieve the SDGs targets, particularly in preserving ecosystems and biodiversity. The application of a more specific RDTR at a detailed scale allows land utilization in accordance with the plan, so that any development in IKN can go hand in hand with environmental protection efforts. With this approach, IKN Nusantara has the potential to become a symbol of Indonesia's success in implementing the concept of spatial planning sustainable, strengthening the link between economic development, social welfare and environmental sustainability.

The relationship between humans and the environment is very close, where human survival is very dependent on the surrounding ecosystem. The environment includes not only physical space, but also all elements that affect life, both humans and other living things. To maintain the sustainability of life's welfare, a wise approach is needed in managing space and natural resources, especially land. In this context, the principles of environmental governance and sustainable development become very relevant, considering that undirected development can damage ecosystems and affect the lives of future generations.

²⁵ The development and enhancement of IKN are grounded in the principle of ecological balance, as outlined in Article 3 Paragraph (2) of Law No. 3 of 2022. This principle is detailed through key performance indicators (KPIs) that emphasize three main aspects: harmony with nature, circularity, and resilience with low carbon emissions. Targets to be achieved by 2045 include allocating at least 65% of the IKN area as protected zones, 10% as agricultural production areas, utilizing 100% renewable energy, achieving 60% energy savings in buildings, reaching Net Zero Emission, recycling 60% of waste, and processing 100% of wastewater. Thus, environmental protection is a primary focus in the development of IKN, aligning with the vision of making IKN a forest city, sponge city, and smart city.

²⁶ The development of IKN Nusantara reflects the government's commitment to achieving inclusive and sustainable economic growth for all Indonesians. By engaging various stakeholders and fostering strong collaboration, IKN Nusantara is expected to become a new growth driver that promotes progress and well-being for the nation in the future.

Land use regulations based on the environment and sustainable development have been regulated in various regulations, one of which is Government Regulation No. 16/2004 on Land Stewardship. The principle of integration in this regulation emphasizes the importance of harmonizing land use with spatial plans and considering environmental impacts.²⁷ When spatial planning does not pay attention to the balance between development and the environment, the sustainability of the ecosystem will be threatened, disrupting the welfare of people who depend on land as a source of livelihood.

Furthermore, the principle of harmony, harmony and balance in land use planning emphasizes harmony between the rights and obligations of landowners. Land utilization must be in accordance with the functions set out in the spatial plan, as incompatible land use can adversely affect the balance of the ecosystem. This is closely related to the principle of sustainability, which emphasizes the importance of maintaining the function of land so that it remains sustainable for present and future generations. In the scale of development of the National Capital City (IKN), these principles must be implemented responsibly to ensure that development does not damage the environment, but rather creates an area that supports a sustainable natural and social balance.

By striking a balance between infrastructure development and environmental conservation, IKN can be a development model that not only focuses on economic growth, but also maintains the sustainability of natural resources. This is a big challenge, but it is in line with a long-term development vision that is oriented towards the well-being of people and the ecosystem as a whole.

The utilization of space and land in Indonesia, as stipulated in the Job Creation Law and Government Regulation Number 21 of 2021 on the Implementation of Spatial Planning, requires compliance with applicable spatial regulations. Any individual or entity wishing to utilize space must first obtain a Conformity of Space Utilization Activities (KKPR).²⁸ This document ensures that the proposed space utilization activity plan is in accordance with the spatial plan that has been established by the government. With KKPR, every development activity can be directed in accordance with the vision of planned, organized, and sustainable development.

The importance of KKPR lies not only in spatial utilization, but also serves as the basis for building permits and business licenses in certain sectors. In the context of development in the Archipelago's National Capital, the application of the KKPR will ensure that every development is carried out by considering spatial planning that supports environmental sustainability. This is essential, given that IKN is designed as a future city that promotes a balance between modernization and nature conservation.

²⁷ If there is a change in the Regional Spatial Plan, all land use and utilization must adhere to the most recent Regional Spatial Plan, as stipulated in Article 13.

²⁸ The Job Creation Law and Government Regulation Number 21 of 2021 are viewed by the government as strategic steps to address investment issues and job creation, largely caused by overlapping spatial planning regulations. This regulation aims to simplify investment through more strategic land use. Previously, the spatial planning process was considered complex and convoluted, so the implementation of this legislation is expected to resolve existing problems and foster a more conducive investment climate.

Moreover, KKPR is also concerned with the acquisition of land and the issuance of land rights. This means that any space utilization in IKN must go through a legal mechanism that not only protects the rights of landowners, but also ensures that land governance is in line with sustainable spatial planning. Thus, IKN Nusantara is expected to become a model city that not only prioritizes physical development, but also involves the community in a transparent governance process that is oriented towards long-term prosperity.²⁹

The business licensing policy regulated through the Spatial Planning Compatibility Policy (KKPR) is a strategic step to simplify the complex process of spatial utilization. With KKPR, the basic requirements for licensing become more integrated without compromising the quality of spatial planning. This allows a safe, comfortable, productive and sustainable space for all life activities to be realized effectively. The elimination of various previously required permits, such as location permits and City Plan Certificates, provides clarity and legal certainty in spatial utilization, and accelerates the process of issuing Land Rights.

In the development of the Archipelago's National Capital City (IKN), the KKPR is a single reference that ensures that every development activity is in line with the established spatial plan. KKPR not only replaces old permits, such as principle permit, land use permit, and building construction permit, but also provides a more efficient mechanism through three types of permits: KKPR Confirmation, KKPR Approval, and KKPR Recommendation. With these three types of KKPR, the government has more precise tools to ensure that space utilization in IKN goes according to plan, both in terms of regional planning and the implementation of sustainable development policies.

In addition to simplifying the administrative process, KKPR plays an important role in maintaining a balance between development and environmental sustainability in the IKN area. Every decision related to spatial planning and land use must consider sustainability aspects, with the aim of creating an environment that can continue to support social, economic and ecological development in the future.³⁰ KKPR provides a framework that allows IKN to grow as a modern city that maintains harmony with nature, while creating spaces that support community welfare and ecosystem sustainability. Ultimately, the application of KKPR in the development of the IKN Nusantara reflects the government's efforts to create efficient, environmentally friendly and sustainable spatial governance. This is an

²⁹ Conformity of Space Utilization Activities (KKPR) is a document that states that the action plan for space utilization is in accordance with the Spatial Plan (RTR). Currently, the KKPR has become an important reference in the business licensing process in Indonesia, ensuring that every space utilization activity is in line with applicable spatial planning regulations.

³⁰ In a press statement during the inauguration of the Head and Deputy Head of the Nusantara Capital Authority at the State Palace in Jakarta on March 10, 2022, Bambang Susantono emphasized that the development of Nusantara Capital should not only focus on physical infrastructure but also on strengthening social interactions and the quality of life for its residents. He called on all segments of society to support the vision of making Nusantara Capital an inclusive, green, and sustainable city designed to meet the needs of all communities, with the development process occurring in five stages in accordance with the Capital City Law, from 2022 to 2045.

important milestone in ensuring that the development of the new capital city not only meets current infrastructure needs but also contributes to a greener and more competitive future.

Land management and utilization is an important aspect of any development, especially for large projects that have a wide impact, such as the development of the Archipelago's National Capital City (IKN). In Law 26/2007, land stewardship is strictly regulated through a land stewardship balance mechanism, which considers various factors of land availability, including water resources infrastructure and flood control. This emphasizes the importance of careful spatial planning to ensure that land is used in accordance with needs and does not damage existing ecosystems.

Giving first priority to the central and local governments in terms of transferring land rights for the public interest does not mean ignoring the rights of the community. On the contrary, this policy is designed to ensure the smooth running of public development, such as infrastructure, while still respecting people's land ownership rights. In the context of IKN development, this step is important so that the development process runs efficiently and can meet long-term needs, including in providing vital public facilities.³¹

While the government is given priority in land acquisition, this does not mean that it is free to act arbitrarily. The process must be carried out by considering the balance between the interests of economic development and environmental sustainability, so that the goal of sustainable development can be achieved. This implies that in designing spatial planning and implementing IKN development, the government must still pay attention to aspects of social justice and environmental sustainability, with the ultimate goal of creating prosperity for the entire community.

Ultimately, development for the public interest carried out through careful spatial planning not only aims to support economic growth, but must also synergize with environmental conservation efforts. Thus, IKN can become a symbol of development that is not only modern, but also environmentally friendly and sustainable.

1.4 Environmental Impacts and Challenges of Implementing Green Constitution in IKN Development

Infrastructure development in Indonesia is a strategic step to achieve equitable development, not only focused on big cities, but also covering areas that have been marginalized. This equality is expected to drive the economy in all regions, encourage more inclusive growth, and create wider employment opportunities. In this case, the construction of IKN Nusantara in East Kalimantan is a symbol and pioneer for efforts to equalize development in Indonesia.

³¹ In this context, the Nusantara Capital City (IKN) plays a crucial role in shifting the development focus toward a more Indonesia-centric approach while accelerating the country's economic transformation. The IKN Authority, as the government body responsible for coordinating the development of this new capital, is continuously working to expedite the processes of preparation, construction, relocation, and the management of the special regional government for IKN.

The government under the leadership of President Jokowi took a bold step by planning and implementing the construction of IKN Nusantara, which was officially stipulated by the enactment of Law Number 3 of 2022. The target completion of the first phase of construction by mid-2024 shows a strong commitment to realizing a modern and sustainable new center of government. With a strategic location in Kutai Kartanegara and Penajam Paser Utara Regencies, IKN is expected to not only become an administrative center, but also a center of innovation and economic growth that can provide benefits to the wider community.³²

The development of the National Capital City (IKN) in East Kalimantan needs to pay attention to environmental aspects and sustainability. Kalimantan, which has a forest area of 36.9 million hectares, presents both challenges and opportunities in balancing development and nature conservation. It is important to ensure that development activities do not damage ecosystems and respect the existence of forests; therefore, a sustainable approach must be integrated in spatial plans. This includes wise management of natural resources and the application of environmentally friendly technologies. As such, IKN Nusantara is more than just a physical project; it reflects the values of sustainability and prosperity that are national goals.³³ Development that takes into account social, economic and environmental balance will be the foundation for a better future for Indonesia, where every individual can benefit from inclusive and sustainable growth.

Building a mega project in the middle of a forest known as the lungs of the world raises fundamental questions about the sustainability of the forest when thousands of hectares of land are allocated for the construction of a new government center. These massive development activities not only have the potential to damage biodiversity, but can also disrupt ecosystems that have become habitats for various species of flora and fauna. In this context, it is crucial to assess the environmental impacts resulting from such large projects and seek alternatives that can minimize damage to the environment.

The IKN area in East Kalimantan is known to have a very diverse biodiversity, including 527 plant species, 180 bird species, 25 herpetofauna species, and more than 100 mammals, many of which are threatened with extinction. This emphasizes the importance of this forest area, not only for the local ecosystem but also for the health of the global environment. Therefore, development in these areas should

³² OIKN emphasizes the importance of human resource development in the development of IKN. In 2022 and 2023, OIKN collaborated with government agencies, state-owned enterprises, universities, and community organizations to empower local communities through various initiatives, guidance, and skill enhancement. This approach aligns with the principle of IKN as an inclusive city, ensuring that no party is left behind, in accordance with the Sustainable Development Goals (SDGs). OIKN appreciates all parties contributing to the foundational development of IKN as a step towards Indonesia Gold 2045.

³³ The significant transformation toward a Prosperous Indonesia is the main goal of developing the New Capital City (IKN) in Kalimantan, initiated by President Joko Widodo's administration. This project not only reflects an ambitious vision for national progress but also showcases the diverse national identity of Indonesia. Therefore, the development of IKN is expected to create a harmonious synergy between economic advancement and the preservation of existing cultural values in Indonesia.

follow the principles of sustainable development, where environmental interests and the sustainability of biodiversity are top priorities.

Although a number of studies related to the feasibility study of project development in IKN have been conducted, the results often seem incomplete or not maximized.³⁴ This inadequacy can potentially lead to social conflicts involving local communities, who are actually an important element in the restoration and management of IKN. Local communities have valuable knowledge and experience in preserving the environment, so their involvement in the development planning and implementation process is essential. Through constructive dialog between the government, developers and communities, solutions that benefit all parties can be achieved.

Taking all these factors into account, a good spatial planning in IKN should include protection of the environment and biodiversity, while still supporting the development of needed infrastructure. A holistic and participatory development approach will ensure that IKN not only becomes a modern center of government, but also maintains the important ecological functions of the forest area. As such, IKN can serve as an example of how development can be done in a responsible and sustainable manner, benefiting all levels of society and the environment.³⁵

It should be noted that the development of the archipelago's capital city faces major challenges in preserving the biodiversity of the region. The government is committed to maintaining 80 percent of the IKN area as forest, but the rapid development process is expected to make it difficult to restore 65 percent forest cover in a short time. This shows that infrastructure development must be done with a sustainable approach and consider environmental impacts holistically, including upstream to downstream restoration.

The biodiversity of IKN is very rich, with 527 plant species, 180 bird species, 25 herpetofauna, and more than 100 mammals. However, this diversity is threatened by habitat destruction due to development. In this context, it is important for the government to implement a good governance strategy, where every development step is carefully considered to minimize negative impacts on the environment and endangered animals. Moreover, a number of primate and carnivore species, such as orangutans, clouded leopards and golden cats, are under threat and need to be protected.

Environmental restoration is a key aspect of sustainable development in IKN. Effective measures must cover a wide range of issues, including governance, watershed protection, and carbon monitoring to maintain ecosystem balance. By maintaining natural habitats and taking appropriate restoration actions,

³⁴ The urgency of relocating the capital city from Jakarta to Ibu Kota Nusantara (IKN) stems from the overcrowding and various issues faced by DKI Jakarta and Java Island. President Jokowi emphasized that Jakarta is burdened by severe traffic congestion, rising pollution, and high population density. Therefore, relocating the capital is viewed as a strategic move to address these challenges and distribute the burden more evenly across Indonesia.

³⁵ After undergoing discussions involving the government, the House of Representatives (DPR), and public testing, the DPR RI officially enacted Law No. 3 of 2022 concerning the Capital City (IKN) on February 18, 2022. In line with Law No. 3 of 2022 and Presidential Regulation No. 63 of 2022, which outlines the Master Plan for the Nusantara Capital City, the construction of the IKN is planned to take place in five phases from 2022 to 2045.

the government can create an environment that supports biodiversity while improving the quality of life for the community.

In addition, the development of IKN must also pay attention to socio-economic aspects, where the surrounding community is involved in the decision-making process and resource management. By ensuring active community participation, development projects can be more inclusive and support sustainability. The presence of the nation's capital cannot be separated from the enormous challenges faced by the environment and biodiversity in Kalimantan. The list of animal species in the vicinity of IKN shows that many of them are endangered, including primates such as Bornean orangutans and proboscis monkeys, and carnivores such as clouded leopards and sun bears. Careless development can threaten their natural habitats, cause population declines, and potentially eliminate these species from the ecosystem. Therefore, it is important to integrate sustainability principles in every aspect of planning and implementing IKN development.³⁶

By placing ecosystem protection as a priority, IKN development should be designed to minimize environmental damage. This includes efforts to protect remaining natural forests and avoid deforestation that could impact animal survival. Environmentally friendly development not only supports the sustainability of endangered species, but also ensures that ecosystem benefits such as carbon storage, climate regulation, and protection of water resources are maintained. Guaranteeing the sustainability of forests around IKN can be done through a communal-based approach involving local communities and other stakeholders. Protecting forests means preserving and strengthen communities' ability to utilize natural resources sustainably. Initiatives such as environmental education programs, conservation area management and ecotourism- based economic development can contribute to environmental sustainability and the welfare of local communities.³⁷

In the face of development challenges, it is important for decision makers to ensure that every step of IKN's development focuses not only on economic growth, but also on creating a healthy and sustainable environment. By considering all these aspects, the development of IKN is expected to become a model for the development of other cities in Indonesia, where growth and environmental preservation can go hand in hand for a better future.

³⁶ The concept of developing the National Capital (IKN) considers ecological and economic burdens by designing the area to remain within its carrying capacity. In this context, IKN emphasizes efficient construction principles and leverages information technology to achieve zero waste. This includes integrated urban water management, where water utilities and urban water cycle management are harmoniously implemented to maintain environmental sustainability and resource efficiency.

³⁷ IKN dirancang sebagai kota cerdas (smart city), di mana fondasi kota cerdas ini memiliki peran penting. Teknologi berbasis sistem informasi menjadi alat utama untuk meningkatkan efisiensi layanan kota, pengelolaan sumber daya, dan keamanan warga. Dengan mengintegrasikan teknologi ke dalam berbagai aspek layanan perkotaan, kualitas hidup masyarakat IKN diharapkan akan meningkat secara signifikan.

CONCLUSIONS

Based on the analysis of the **Green Constitution** in environmental law and spatial planning related to the development of the National Capital City of the Archipelago, it appears that Indonesia is trying to integrate the principles of environmental sustainability with modern development. The 1945 Constitution has included the right to a good and healthy environment as part of human rights, and this is in line with the concept of Green Constitutions. The development of IKN aims to create sustainable cities by paying attention to spatial planning that supports resource efficiency, carbon emission reduction, and biodiversity preservation.

However, in practice, major challenges still arise. The risk of environmental damage, such as deforestation, ecosystem disruption, and imbalance in resource use, is a serious concern. Although the government is committed to maintaining 80% of the IKN area as green areas, implementation challenges such as forest sustainability and local community involvement should be given more attention. IKN's vision to become Indonesia's **Smart City**, which is modern and environmentally friendly, is in line with the **Green Constitution**, but its implementation requires strict supervision and more effective enforcement of environmental laws. The concept demands more careful planning so that development does not harm the environment or surrounding communities.

In an effort to ensure that the development of the National Capital City (IKN) in East Kalimantan not only has a positive economic impact, but also maintains environmental sustainability and community welfare, the following recommendations are expected to be a guide for the government and all stakeholders. These recommendations aim to optimize the application of *Green Constitution* principles and create a balance between development and environmental preservation.

First, Strengthening Environmental Law Enforcement, where the Government needs to ensure that every step of development complies with environmental regulations, especially through strict enforcement of AMDAL. Strict sanctions must be given to parties who violate environmental regulations so that there is a deterrent effect. Not to forget, the Involvement of Local Communities, where the IKN development process must involve local communities, not only as beneficiaries but also as actors in maintaining environmental sustainability. This involvement can be through environmental education programs, conservation, and ecotourism-based economic development. As well as the Utilization of Environmentally Friendly Technology, where sustainable technology must be applied in every aspect of development, such as the use of renewable energy and construction materials that do not damage the environment. This will reduce negative impacts on ecosystems and minimize carbon emissions and Forest and Ecosystem Restoration, where serious efforts are needed to restore forests and ecosystems damaged by development. Rehabilitation programs and wildlife habitat protection should be a top priority to maintain the balance of ecosystems in the IKN area, as well as Inter-Stakeholder Collaboration The government, NGOs, private sector, and communities must work together in preserving the environment. This collaboration can increase the effectiveness in maintaining biodiversity and ensuring sustainable development in IKN.

ACKNOWLEDGMENTS

First and foremost, I offer my deepest gratitude to God Almighty for His infinite grace and guidance, without which the completion of this journal would not have been possible. I would also like to extend my sincere thanks to Mulawarman University for the invaluable support and opportunity provided throughout the research and writing process. My appreciation extends to everyone who has contributed, either directly or indirectly, to the development and publication of this work. In particular, I am especially grateful to Syabila Syaputri for her unwavering support, encouragement, and companionship during the writing of this journal. Her presence throughout this journey has been a source of strength and motivation. I hope this journal can serve as a meaningful contribution to the discourse on environmental sustainability and the development of Indonesia's new capital city. May the efforts of all involved be rewarded with lasting success and blessings.

REFERENCES

Book

- Ria Siombo, Marhaeni. Environmental Law & Implementation of Sustainable Development in Indonesia: Gramedia Pustaka Utama, 2013.
- Assidhiddiqie, Jimly. Green Constitution: Green Shades of the 1945 Constitution: Raja Grafindo Persada, 2017.
- Assidhiddiqie, Jimly. Green and Blue Constitution: Nusantara Visionary Constitution: Raja Grafindo Persada, 2021.

Journal Article

- Yanti Fristikawati, Nugroho Adi Pradana, "Environmental Protection, and Development of the State Capital (IKN) in Legal Review", Journal of Law, Legislation and Social Institutions. Sinta Justice Journal 4, Vol 7, No 2 . pISSN: 2541-4682/ eISSN: 2614-5642. 2022 : 384
- Shelly Novi Handarini, Amelia Agusni, and Nurmayanti, "Realizing the Development of a Low-Carbon IKN through the Application of Environmentally Friendly Building Principles and the Procurement of Environmentally Friendly Goods and Services", STANDARD: Better Standard Better Living, Vol. 1 No. 2, 2022, p. 22.
- Jenifer Gabrys, "Programming Nature as Infrastructure in the Smart Forest City", Journal of Urban Technology Volume 29, 2022 <https://www.tandfonline.com/doi/full/10.1080/10630732.2021.2004067> Accessed October 10, 2022
- Jatam: EIA and 5 IKN Project Documents Hidden from the Public. Raden Ariyo Wicaksono. (2023, July 3). Accessed on Apr 24, 2024. Quoted from <https://betahita.id/news/detail/8956/jatam-amdal-dan-5-dokumenproyek-ikn-disembunyikan-dari-publik.html>
- Ministry of Environment and Forestry, 2015. as quoted by the Indonesian Forest & Forestry Status 2020, Ministry of Environment and Forestry of the Republic of Indonesia. 2020. ISBN: 978-602-8358- 91-0 :15-16
- Dian Herdiana, "Moving the State Capital: Efforts to Distribute Development or Realize Good Governance", Transformative Journal, Volume 8 Issue 1, March 2022, p. 1

Legal Documents

Constitution of the Republic of Indonesia 1945

Law of the Republic of Indonesia Number 32 of 2009 concerning Environmental Protection and Management

Law of the Republic of Indonesia Number 26 of 2007 concerning Spatial Planning

Law Number 26 of 2007 concerning Spatial Planning

Law Number 27 of 2007 concerning the Management of Coastal Areas and Small Islands

Law Number 32 of 2014 concerning Marine Affairs

Law Number 11 of 2020 concerning Job Creation

Government Regulation Number 15 of 2010 concerning the Implementation of Spatial Planning

Government Regulation Number 62 of 2010 concerning the Utilization of the Outermost Small Islands

Government Regulation Number 8 of 2013 concerning the Accuracy of Spatial Plan Maps