

Implementation of the Green Constitution Concept in Local Regulations in Kudus Regency as an Effort to Support Sustainable Development

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Abstract

The Green Constitution concept emphasizes that environmental protection is a constitutional mandate that must be reflected in every legal policy, including regional regulations. This research aims to analyze to what extent the Green Constitution concept has been adopted in Kudus Regency regional regulations, while also assessing the effectiveness of regional regulations in supporting law enforcement and compliance with environmental regulations. This research uses normative and empirical juridical methods with a qualitative approach. Data was obtained through a review of legislation, literature studies, as well as observations and interviews with policy makers and stakeholders in Kudus Regency. The research results show that normatively, a number of regional regulations have included provision related to environmental preservation, especially in spatial planning and waste management. However, empirically, its implementation has not been optimal because it is still limited to administrative aspects, weak law enforcement, minimal coordination between institutions, and low community participation. Nevertheless, there are positive initiatives by local governments in integrating sustainability principles through community-based programs. Thus, the implementation of the Green Constitution concept in Kudus Regency requires strengthening of legal substance, harmonization of regulations, and strengthening of implementation capacity so that regional regulations do not stop as normative texts, but truly become effective and equitable instruments for environmental protection.

Keryword: Implementation, *Green Constitution*, Kudus, Sustainable Development

INTRODUCTION

The Green Constitution concept emphasizes the importance of balance between economic development, social welfare and environmental preservation (Ranjani &

Setiawan, 2024). As a follow-up, many countries have begun to show their concern for environmental protection, one of which is by "greening the constitution" and issuing several regulations governing environmental protection at the national level (Ranjani & Setiawan, 2024). This development is in line with the increasing awareness that development cannot be separated from sustainable ecological aspects.

Currently, environmental issues have become global issues which demands every country, including in Indonesia to provide regulations that are capable of responding to the challenges of environmental damage. In Indonesia, concern for the environment is manifested in various laws and regulations that is directly guaranteed by the constitution. Even in the constitution, Article 34 paragraph (4) Year 1945 Constitution of the Republic of Indonesia confirm the state's responsibility to ensure sustainable environmental development. This reflects the concept of Green Constitution is in line with ecological principles (Rela Bhakti et al., 2024) so that the progress that has been achieved is not destroyed but rather its sustainability maintained for future generations

The Green Constitution and green legislation that Indonesia has must be understood and passed on regional level. This concept can't run well if the central and regional governments as the administrators don't have a complete understanding of green governance. Green governance interpreted as a government policy that oriented to sustainable and pro-environmental development. Another term for green governance also often referred as *good environmental goverance*, which is all stakeholders must pay attention to environmental factors in all their policies that has been created and executed (Alfath et al., 2019).

The Constitution has mandated that the state is required to protect citizens through provision a healthy, comfortable and clean environment. This mandate should be a reference and concern for the central and regional governments in formulating policies that are oriented towards sustainability. For example, Desi Rela Bhakti's research shows that there are at least five regions that have environmentally friendly regional regulations, namely Surakarta City, Yogyakarta City, Temanggung Regency, Sragen Regency, and Tangerang Regency (Rela Bhakti et al., 2024). These facts show that commitment to the Green Constitution at the regional level is indeed possible and has begun to be implemented in several regions. However, this research has not specifically examined how the substance of the Regional Regulation interacts with real environmental problems in the field. The novelty of this research lies in its focus on Kudus Regency by evaluate not only how the Green Constitution concept is adopted in Regional Regulations but also its effectiveness in responding to actual environmental problems such as flooding, landslides, river pollution, and waste accumulation.

In contrast to these areas, Kudus Regency faces a more complex situation. Kudus Regency is known as an industrial city that has great potential in the economic and tourism sectors. However, despite its potential, Kudus Regency still has serious problems related to the environment. Data from 2024 shows that 28.03% of villages/sub-districts in Kudus Regency had environmental pollution, and 22.22% of villages/sub-districts had polluted rivers (Kudus, 2024). Flooding in Kudus Regency is also an annual problem. In 2023 were recorded 122 flood location points, Meanwhile, the latest flood disaster data in Kudus Regency, in February 2025 shows 40 villages in Kudus were affected by floods that overflowed into residential areas (Pemerintah Kabupaten Kudus, 2025a) In addition, there were 41 landslides in Kudus Regency throughout 2024 (Pemerintah Kabupaten Kudus, 2025b).

The problems of flooding, landslides and garbage accumulation are not only triggered by natural factors but are also related to weaknesses in the substance of regional regulations. Several Regional Regulations in Kudus, for example Regional Regulation Number 4 Year 2017 concerning Waste Management and Regional Regulation Number 4 Year 2022 concerning Amendments to Regional Regulation Number 6 Year 2015 concerning Environmental Protection and Management, the existing sanctions provisions generally still prioritize administrative aspects. The regulation of sanctions which only consist of warnings or limited administrative fines has resulted in the widespread practice of disposal industrial waste into rivers, low community compliance with waste management, and land conversion in protected areas. As a result, regional regulations that should function as preventive instruments actually have no coercive power, so that environmental problems continue to recur every year.

Frequent flooding, landslides and garbage accumulation often occur in river and forest areas located in community plantation areas or community land that borders state forest areas is inseparable from the weak substance of regional regulations which only regulate administrative sanctions without strong coercive power. Sanctions in Regional Regulations that are only administrative in nature cause violations of permits and environmental management to occur frequently without providing a deterrent effect (Wawancara PKPLH Kudus, 2025). As a result, rivers and forest areas that should be natural fortresses are becoming increasingly vulnerable. This condition is usually triggered by planting patterns that are not suitable for the soil patterns of mountainous areas which tends to be sloping. (Hernanda et al., 2024a). Production plants such as corn that is widely planted by the community is economically profitable, but it is unable to withstand heavy rains or maintain soil stability (Hernanda et al., 2024b). As a result, the risk of floods and landslides increases, while the environmental carrying capacity weakens.

The latest case that occurred in Kudus Regency is the problem of increasing waste volume, especially at the Tanjungrejo Final Disposal Site (TPA), Jekulo District, Kudus Regency which in 2024 contain 150 tons of waste per day (Safuan, 2025). This condition adds to the long list of environmental problems in Kudus Regency. Ideally, various problems ranging from floods, landslides, river pollution, to the waste management crisis should be a priority for local governments because they directly affect the quality of life of the community. The commitment to mainstreaming environmental issues should be made now, especially since the constitution has provided a clear legal basis. Article 28H paragraph (1) and Article 33 paragraph (4) year 1945 Constitution of the Republic of Indonesia guarantee the right to a healthy environment and at the same time confirm the direction of sustainable development as a form of actualization of the concept of a green constitution.

According to the hierarchy theory of legal regulations, the legal system is structured in levels where lower regulations must not contradict with higher regulations. Provisions regarding the hierarchy of statutory regulations are regulated in Law Number 12 Year 2011 concerning the Formation of Statutory Regulations, which emphasizes that higher regulations regulate lower regulations (Qiston, 2024). Thus, Regional Regulations also need to look at regulations above them, such as the Constitution and Laws. Regulations containing provisions regarding the environment are contained in Article 28 paragraph (1) of the Constitution of the Republic of

Indonesia and are further strengthened by Article 9 paragraph (3) of Law Number 39 Year 1999 concerning Human Rights, Law Number 32 of 2009 concerning Environmental Protection and Management (Nurmardiansyah, n.d.).

Throughout 2020 to 2024, Kudus Regency has had 59 (fifty-nine) Regional Regulations, with 7 (seven) of them related to greening or the environment, as well as 1 (one) Regional Regulation concerning waste management which was issued in 2017. However, if we look at the scale of existing environmental problems, this number still does not reflect a serious commitment to ecological issues. As an industrial city with a rapid growth rate, Kudus Regency needs to strengthen its legal instruments to be more responsive, especially in facing the challenges of climate change and environmental damage. In addition, the implementation of regulations based on a green constitution can also encourage the realization of a green economy and inclusive and sustainable development.

Based on the background description, this research is then limited to two main problems, namely how to implement the green constitution concept in Kudus Regency regional regulations as an instrument of sustainable development, and how effective these regional regulations are in supporting environmental law enforcement at the regional level. Thus, this study is directed not only at the substance of law from a normative perspective, but also at the implementation aspect, including how regulations can provide certainty and coercive power for their implementation. The aim of this research is to analyze the extent to which the Green Constitution concept is adopted in Kudus regional regulations, while also assessing the effectiveness of regional regulations in supporting law enforcement and compliance with environmental regulations. This is in line up with the concept of sustainable development which is related to the principles of the green constitution. Sustainable development is realized through the Sustainable Development Goals program (SDGs) (Choirisma et al., 2024). The urgency of this research lies in the fact that there are still many environmental problems in Kudus Regency that require more responsive regulations and stronger law enforcement. Academically, this research is expected to enrich the literature on the implementation of the Green Constitution at the regional level, particularly by combining normative and empirical perspectives. Meanwhile, practically, this research can provide input for local governments in formulating environmental policies that are more comprehensive, equitable, and sustainability-oriented, so that economic development in Kudus Regency can go hand in hand with the protection of the right to a healthy environment.

METHODS

Research methods are a way of studying or analyzing research with the aim of finding a solution to the legal problem being researched (Muhaimin, 2020). This research combines normative and empirical juridical methods with a qualitative approach. The normative approach is used to view law as a unified system of norms (Ranjani & Setiawan, 2024) with a focus on regional laws and regional regulations relevant to the research object. Meanwhile, the empirical approach is used to examining how the law is applied in practice by observing the social realities that occur in society (Muhammad Syahrur, 2022) through observation and interviews with policy makers and stakeholders in Kudus Regency. The legal materials used in this research include primary legal materials, secondary legal materials and tertiary legal materials. Primary legal materials in the form of laws and regulations directly related

to the research object, secondary legal materials in the form of literature, books, journals, which discuss environmental law, regional government, green constitution, green economy, and sustainable development, and tertiary legal materials, such as legal dictionaries, encyclopedias, and other supporting sources which can provide additional understanding of the primary and secondary legal materials. Data collection was done through document and literature studies as well as observation and interviews. An official from the Kudus Environmental Service stated, "*Regional regulations do exist, but enforcement of sanctions is weak. Many industries still dump waste into rivers because the sanctions are only administrative warnings.*" (Wawancara PKPLH Kudus, 2025). Data then were analyzed qualitatively by interpreting the contents of regulations and literature, and identifying the main themes from field findings. The results of the analysis are processed comprehensively to provide a comprehensive picture of the implementation of the Green Constitution in Kudus Regency regional regulations, the effectiveness of its implementation, and its contribution to sustainable development.

DISCUSSION AND RESULT

Internationalization of the Green Constitution Concept in Regional Regulations in Kudus Regency

Environmental interests are often sidelined by other interests that are more profitable economically and in terms of investment, so that the existence of regulations is often not directly proportional to their effectiveness in preventing environmental pollution and damage. This condition shows that environmental sovereignty has not yet gained a strong position in state practice. Therefore, it is necessary to strengthen it by integrating environmental protection principles into the constitution as the highest law, which is known as the Green Constitution concept (Pinilih, 2018).

Constitutional studies are increasingly considered important for most countries, especially countries with constitutional democratic systems. This is very common because the constitution is the highest law in a country and is the fundamental basis for all forms of law or statutory regulations. The constitution is not just a document, but the constitution has a function as a basic principle in the administration of a country (the living constitution). Pan Mohamad Faiz revealed in his research that in relation to environmental issues, it can be concluded that the existence of norms regarding the environment or sustainable development in the constitution has a significant legal influence (Faiz, 2006).

With this foundation, internalizing the principles of the Green Constitution in regional regulations is crucial to ensure that development at the regional level remains in line with the constitutional mandate. Kudus Regency, as a region facing quite complex environmental problems such as flooding, landslides, river pollution, and waste management, requires regional regulations that are not only administrative in nature, but also have strong coercive power. Internalization of the green constitutional principles in the Kudus Regional Regulation is expected to be able to balance the interests of industrial economic development with environmental protection, while simultaneously realizing the goals of sustainable development as reflected in the *Sustainable Development Goals* (SDGs).

Article 33 paragraph (4) and Article 28H contain constitutional provisions that emphasize the importance of sustainable and environmentally friendly governance.

Those two norms demonstrate the characteristics that the Indonesian constitution is oriented towards green principles. Then these legal norms are implemented in several laws and regulations. One of them is Law Number 32 Year 2009 concerning Environmental Protection and Management. In Article 1 paragraph (3), development is defined as a conscious and planned effort that integrate environmental, social and economic aspects into a development strategy to guarantee environmental integrity, as well as the safety, capabilities, welfare and quality of life current and future generations (Alfath et al., 2019).

Indonesia has a concept of regional autonomy, where regions have the authority to regulate and make regulations according to the conditions and needs of their respective regions. In this case, Kudus Regency as an industrial city has potential in terms of economy and tourism. Based on the results of interviews with representatives of Kudus Regency Regional Government (Pemda), it was explained that the main challenge in environmental management in the Kudus region is the limited land that must accommodate industrial development, indeed we often experience many clashes there. Because the area is not too large, while industrial expansion is occurring in almost all areas. This is our challenge right there. It was true that we experienced a deadlock many times. However, we still found common ground and were able to continue (Wawancara Pemda Kudus, 2025).

Regulations on environmental issues in Kudus Regency has been accommodated through several Regional Regulations, such as Regional Regulation Number 4 Year 2022 concerning Environmental Protection and Management in Kudus Regency and Regional Regulation Number 4 Year 2017 concerning Waste Management, which are designed with an orientation towards environmental insight. These two regulations basically demonstrate the local government's commitment in responding to sustainability issues. However, the quality of these norms still requires further study, as to whether they are merely administrative and declarative or capable of providing a strong binding force to encourage behavioral changes in communities and business actors in protecting the environment.

Normatively, in the consideration section of Regional Regulation stated that a good and healthy living environment is a basic right of every Indonesian citizen as mandated in Article 28H of the 1945 Constitution of the Republic of Indonesia. In addition, in section (b) it is written that the environment and natural resources in the Kudus Regency area are the main asset for development in all fields, so that its utilization must be done comprehensively/integrated, and sustainably while maintaining the environmental sustainability function (Peraturan Daerah Kabupaten Kudus, 2015). This formulation shows that there is recognition of the principles of a green constitution, but its effectiveness depends largely on the extent to which these norms are translated into technical instruments, law enforcement mechanisms, and policy implementation in the field.

Considerations in the Regional Regulation has provided an overview that this Regional Regulation has constitutional legitimacy because it is based on Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states that every person has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy environment. The right to a good and healthy environment is part of human rights that must be protected by the state, both at the central and regional levels. In addition, this Regional Regulation is also in line with Article 33 paragraph (3) of the 1945 Constitution which states that the earth, water and

natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. Thus, the substance of the Regional Regulation does not only regulate environmental governance at the regional level, but also a manifestation of the constitutional mandate to manage natural resources in a fair, integrated and sustainable manner.

According to one of the Kudus Bappeda officials, this regulation is positioned as a regional legal instrument that not only provides certainty regarding the fulfillment of the community's right to a healthy environment, but also ensures that natural resource management continues to run within a sustainable framework for the prosperity of the people (Wawancara Bappeda Kudus, 2025).

Analysis of the Implementation of the Green Constitution Concept in Kudus Regency in Encouraging Sustainable Development

The implementation of the green constitution in Kudus Regency can be seen through regional policies that are oriented towards environmental protection and sustainable natural resource management. The Green Constitution itself is interpreted as the materialization of constitutional principles that place the environment as basic rights of society as well as a state obligation to guarantee its sustainability. The Kudus Regency Regional Regulation itself cannot be separated from the framework of Hans Kelsen's Stufenbau Theory (Asshiddiqie & Safa'at, 2014) because its existence is based on higher legal norms, namely the 1945 Constitution of the Republic of Indonesia and the Environmental Law. The implementation of this principle is reflected in the preparation of regional regulations that support environmental preservation lingkungan, strengthening waste management governance, environmentally friendly spatial planning, and development policies that integrate ecological, social, and economic aspects.

As a city with a fairly strong industrial base, Kudus Regency faces serious challenges related to air pollution, waste management, and reduced green open spaces. The formulation of Regional Regulations relating to environmental issues is a concrete form of implementation the Green Constitution concept. Throughout 2020 to 2024, Kudus Regency has established a number of Regional Regulations, with 7 of them related to environmental issues and one specific on waste management that has been in occur since 2017. The presence of this regulation indicate the commitment of local governments to balancing economic development with environmental sustainability aspects.

However, if analyzed using Hans Kelsen's Stufenbau Theory, the position of the Kudus Regency Regional Regulation as a regional legal norm should be in line with higher norms. In reality, there is still a gap between the constitutional principles that guarantee the right to a healthy environment (Wawancara Bappeda Kudus, 2025) as regulated in Article 28H and Article 33 of the 1945 Constitution of the Republic of Indonesia with the substance of the Regional Regulation. Several Kudus Regency Regional Regulations, especially those relating to the environment, tend to be administrative in nature and do not yet emphasize the aspect of strict sanctions for violations, including industrial waste disposal (Wawancara PKPLH Kudus, 2025). This shows that low-level norms are not yet fully consistent with high-level norms.

This condition, when analyzed through the perspective of green constitutionalism, illustrates the weak transformation of green constitutional values into regional regulations. The implementation of a green constitution is not only

related to the formation of regulations but also the implementation of policies that are in line with the principles of a green economy. Its implementation includes Regional Regulation Number 4 Year 2022 concerning Environmental Protection and Management, which emphasizes the obligations of regional governments, business actors, and the community to maintain environmental quality, control pollution, and preserve ecosystem functions. In addition, the Regional Regulation on Waste Management, namely Regional Regulation Number 4 Year 2017, also regulates the reduction, sorting, transportation, and processing of household and industrial waste,, while encouraging community participation in efforts to *reduce, reuse, recycle* (3R). The greening policy and addition of Green Open Space (RTH) are also carried out through the arrangement of city parks, greening of roads, and protection of protected areas to maintain ecological balance and air quality. Other efforts can be seen from the water and river pollution control program which is aimed at reducing the pollution load from industrial and household activities, considering that Kudus has a strategic river flow for the community.

Not only in implementation, public participation also plays a role from the stage of drafting regional regulations, where the community, academics and civil society organizations are involved through FGDs. This involvement strengthens the legitimacy of the regulations while encouraging a sense of community ownership towards the environmental policies that are established. However, the implementation of the green constitution in Kudus Regency still faces a number of obstacles such as limited budget and resources, low public awareness, and weak law enforcement. Then, if linked to the sustainable development agenda, a number of regional regulations in Kudus Regency actually have the potential to contribute to achieving global goals. Regional Regulation Number 4 Year 2017 concerning Waste Management, for example, normatively supports the achievement of Sustainable Development Goals (SDGs) 11.6, which emphasizes the importance of reducing urban environmental impacts through improving air quality and urban waste management. This can be seen from the substance of the regional regulation which regulates the obligations of the community and business actors in waste management, the role of local government in providing waste facilities, as well as efforts to reduce and handle waste in an integrated manner. However, this harmony is still limited to the normative level because the implementation of the regional regulation is not optimal; the sanctions regulated tend to be administrative in nature and weak in enforcement, so they have not been able to prevent the practice of carelessly disposal waste or industrial waste into the environment.

As an industrial-based city, Kudus Regency also faces factory waste that requires stricter supervision to prevent environmental pollution. However, environmental policies are often implemented partially so that they are less integrated with other developments. This has the potential to create an imbalance between economic interests and environmental sustainability. On the other hand, budget limitations, low awareness in some communities, and weak coordination between institutions also become a factor inhibiting the effectiveness of environmental policy implementation. The lack of integration of environmental policies in Kudus Regency reflects the less than optimal implementation of the principles of the green constitution in the implementation of regional government, even though the Constitution, through Article 28H and Article 33 of the 1945 Constitution of the Republic of Indonesia, has emphasized that a healthy environment is a constitutional right of citizens as well as an

obligation of the state to guarantee its sustainability. However, when regional policies are implemented partially and are not connected to other development sectors, there is a gap between constitutional norms and implementation practices at the regional level.

Lack of policy integration opens up opportunities for environmental crimes due to weak supervision. The practice of discharging industrial waste into rivers without treatment, air pollution due to excessive emissions, or converting green open spaces without permission can be categorized as environmental crimes based on Articles 97–120 of Law Number 32 Year 2009 concerning Environmental Protection and Management. So far, the sanctions applied in Kudus Regency have tended to be administrative in nature, such as warnings, fines, or revocation of permits, so they have not fully provided a deterrent effect for environmental violators. The weak implementation of criminal sanctions means that perpetrators of environmental pollution or destruction still have room to repeat the same violations. However, effective environmental law enforcement requires a combination of administrative, civil and criminal sanctions, which are applied consistently and in a coordinated manner.

By understanding these constraints, local governments need to strengthen sustainable development strategies, including by increasing environmental budgets, tightening law enforcement, expanding public education, and strengthening community participation mechanisms in the preparation, implementation, and evaluation of Regional Regulations. This step is important so that the green constitution concept truly becomes the foundation for sustainable development in Kudus Regency. Local governments can also optimize synergies with academics, non-governmental organizations, and local communities to create innovations in environmental management. With this collaborative approach, the implementation of the green constitution in Kudus Regency is not only normative, but also applicable and effective in the long term.

CONCLUSION

This research shows that the application of the green constitution concept in Regional Regulations in Kudus Regency partly had a constitutional basis and reflects the region's commitment to environmental protection. However, in terms of implementation still faces various obstacles, including budget limitations, weak law enforcement, lack of public awareness and minimal cross-sectoral policies. This condition poses challenges as an industrial city that is vulnerable to ecological disasters, such as landslides, floods, and pollution. As a contribution, this study proposes a Green Constitution Design at the regional level that includes success indicators in the form of consistency of regional regulations with the principles of the green constitution, the effectiveness of environmental law enforcement sanctions, budget allocation and public participation as well as the integration of environmental policies with the targets of the Sustainable Development Goals (SDGs).

Even though there are still problems, the existence of a number of environmentally aware regional regulations and community participation in their drafting are positive initial steps towards sustainable development. Moving forward, strengthening strategies through increasing environmental budgets, strict law enforcement, expanding public education, and synergizing with various stakeholders need to be continuously developed so that the green constitution does not just stop at the normative level, but also becomes an applicable instrument that can realizing a

balance between economic growth and environmental sustainability in Kudus Regency.

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