

Green and Health Constitution of Green Open Space and Its Implementation in Surakarta

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Abstract

Purpose: to find the essence from 1945 Constitution of the Republic of Indonesia Article 28H Paragraph (1) confirms that the right to obtain a good and healthy environment and good health services is part of human rights. **Methods:** this research is a normative juridical method and his research aimed at describing the Green Constitution in government policy regarding green open space and its implementation in Surakarta as an attempt to carry out the development and planning of the city that is environmentally friendly. This research was legal research conducted using a qualitative non-doctrinal approach. **The results:** showed that the Green Constitution that is friendly and perspective of the environment contained regulations and protections for environmental perspective. Based on data from the Regional Spatial Planning Coordinating Team (called TKPRD) Surakarta has 10% open space and the latest research conducted by the Geographic Information System (2015) of Surakarta has 9.17% green open space. **Conclusion:** The Municipal Government of Surakarta should provide green open space about what is mandated in Law by 30%.

Keywords: *Green, Healthy, Constitution, Open Space, Environment, Surakarta.*

Introduction

One of the global environmental problems that have received attention and must be faced by the world community currently is global warming which causes climate change. Global warming is a modern and complicated problem. Poverty, economy, development and population growth are the causes. It is not an easy thing to overcome and if it is continuously neglected, it will become worse, as stated by Priyanta [1].

One of the characteristics of a modern country is the conclusive statement about human rights in the constitution, as the statement “. One of the other hand many modern constitutions contain declarations of the right of the subject.”The 1945 Constitution Article 28H paragraph (1) states “Every person has the right to live in physical and spiritual prosperity, to live, and to have a good and healthy living environment and to have the right to receive health services”.

This also relates to the 1945 Constitution Article 33 that explicitly and expressly states that the Earth and the water of the natural resources contained therein are controlled by the Country and used for the greatest prosperity of the people. According to Silalahi [2].This means in development the principle of sustainability is applied to natural resources and subsequently utilizes these natural resources by not destroying human-environmental governance.

The existence of Law Number 32 Year 2009 concerning Environmental Protection and Management is one of the efforts to protect the environment without ignoring the will of development to achieve controlled, planned and sustainable development. The nature of development is changes in the environment and changes that can lead to positive aspects will also lead to negative aspects. A progressive legal approach that starts with a

growing awareness of all people who have a concern for the environment to understand that environmental problems have reached red indicators, said Absori [3]. Law Number 26 Number 2007 concerning Spatial Planning in Article 29 paragraph 2 and Regional Regulation of Surakarta Number 10 Number 2015 concerning Environmental Protection and Management in Article 18 paragraph 2 states expressly that the proportion of green open space is at least 30% (thirty percent) of the total area.

However, Based on the results of the Regional Spatial Planning Coordinating Team, Surakarta has only 10% open space and based on the latest research conducted by the geographic information system (2015), Surakarta has 9.17% green open space left. The Municipal Government of Surakarta must provide 30% green open space as mandated in Law.

The Green Constitution is one of the matters that answers various kinds of community concerns regarding the decline in environmental functions and all things considered, the researchers conducted a further study regarding the Green Constitution Policy in Optimization of Green Open Space Functions in Surakarta, Indonesia.

Research Methodology

This research was legal research conducted using a qualitative non-doctrinal approach. The type of study in this research was more descriptive because it intended to clearly describe various matters related to the object of the research, namely the green open space of Surakarta.

Findings and Discussion

Green Constitution of Green Open Space in Surakarta

The Indonesian national legal system is a legal system based on the Pancasila and 1945 Constitution of the Republic of Indonesia that consist of a number of the provision of law, jurisprudence and customary law including environmental law. From legal perspective, according to Absori,[4] the 1945 Constitution, the concept of the Green Constitution is reflected only in the idea of power, human rights, and economic concept. Sovereignty is in the hands of the people which is reflected in the concept of human rights over a healthy

environment as referred to in Article 28 H paragraph (1) of the 1945 Constitution “Every person has the right to live in peace and prosperity, to live, and to obtain a good and healthy environment. And also has the right to receive health services”.

The green constitution is also reflected in the concept of democracy which is related to the principle of sustainable development and environmental insight, which is firmly regulated in Article 33 paragraph (4) of the 1945 Constitution “The national economy is organized based on democracy economics with the principle of togetherness, efficiency, justice, sustainability, environmental insight, independence, and by maintaining a balance of progress and national economic unity.” According to Jimly Ashiddiqie, related to the idea of the importance of a green constitution, environmental sovereignty and a new model of democracy concept are termed as ecocracy.

This term can be used to enrich the treasury of understanding that is reflected from the terms of democracy (popular sovereignty), nomocracy (legal sovereignty) and theocracy (sovereignty of god) that have been known over periods. The term ecocracy is not a completely new term because since the end of 1990. Identically, said Asshiddiqie the term of the green constitution has often been used since the 1970s to describe the relationship of a particular matter with the idea of environmental protection[5].

The Municipal Government of Surakarta must pay attention and pay close attention to the matters related to the implementation of the environment so that it is always oriented to environmental insight, said Absori [6]. By this, the efforts will be seen to prevent and even more to overcome environmental pollution and damage.

Therefore, Law Number Number 32 Year 2009 concerning Environmental Protection and Management (called UUPPLH) regulates the duties and authority of government and local or municipal government as contained in Chapter IX of the Law. In article 43 paragraph (3), it regulates the duties and authority of the local government or municipal government in environmental protection and management. The Municipal Government of Surakarta through Local Regulation Number 10 Year 2015.

On September 8, 2009 the House of Representatives and the Government ratified UUPPLH in lieu of Law Number 23 Year 1997 concerning Environmental Management (called UUPPLH). This law has many changes. From the title, it has changed with the addition of a word of Protection other than the word of Management. According to Michell et al [7]. In managing the environment to prevent land damage, it is necessary to enforce laws and regulations to protect the environment.

Progressive changes to the legal instruments in UUPPLH, said Salim,[8] are expected to minimize the ecological risk arising from development impacts that do not pay attention to the aspects of environmental sustainability. Therefore, UUPPLH regulates the duties and authorities of local government and or municipal government as regulated in Chapter IX of the Law.

Furthermore, article 43 paragraph (3) regulates the duties and authority of local government / municipal government regarding environmental protection and management. The Municipal Government of Surakarta issued the Regional Regulation Number 10 Year 2015 concerning Environmental Protection and Management

in response to the central government policy instruments that issued regulations on the direction, policies, and steps in environmental protection and management. Heinhard Steiger's statement that the broadest form of protection of a person is called subjective right. The government still tends to take much time in formulating responsive policies. A responsive legal instrument is a must because the responsive law is placing itself in an inseparable position, and also must be able to welcome other entities by paying attention and adopting the desires that live in society, as argued by Nurmandi [9].

The Government of Surakarta (10) also issues the same rules and contained in Regional Regulation Number 10 Year 2015 Article 18 paragraph (2) which regulates the division of Public and Private Green Open Spaces. However, until the current time, the policy to provide Surakarta 30% of green open space (20% public green space and 10% private green space) has not been as expected based on the results of the Regional Spatial Planning Coordinating Team data collection in which Surakarta should have 10% of open spaces. The latest data released the number of green open spaces in Surakarta can be seen in Table 1.

Table 1: Area of Green Open Space in Surakarta

No	Name	Area		
		M ²	Ha	Percentage
1	Green Open Space of City Park	87.744.73	8.77	0.19
2	Green Open Space of Green Lane Road	125.867.68	12.59	0.27
3	Green Open Space of Urban Village Park	10.845.03	1.08	0.02
4	Green Open Space of Sports Field	170.314.96	17.03	0.36
5	Green Open Space of Public Burial Place	412.476.13	41.25	0.88
6	Green Open Space of City Forest	425.263.45	42.53	0.91
7	Green Open Space of Border Railroad City	126.213.46	12.92	0.28
8	Green Open Space of River Boarder	914.376.59	91.44	1.96
9	Green Open Space of School	753.830.12	75.38	1.62
10	Green Open Space of Government Office	412.928.49	41.29	0.88
11	Green Open Space of Another Green Lane	190.443.71	19.04	0.41
12	other Green Open Spaces (Field, Grave, Road Median)	559.486.62	55.95	1,20
13	Green Open Space of Hospital – Community Health Center	86.054.01	8.61	0.18
Total Area of Public Green Open Space		4.278.844.98	427.88	9.17
Area of Surakarta		46.663.338.0	4.666.33	100.00

(Source: Calculated using SIG, 2015)

The table above shows the data based on the results of Geographic Information System (2015) that the area of green open space in Surakarta is 427.88 Ha or 9.17% of the total area of Surakarta of 4,666.33 Ha. Thus, the government needs to take more concrete steps considering the percentage of targeted green space is not related to the regulations issued.

The Implementation of Green Constitution of Green Open Space in Surakarta

Environment and development are a unity that cannot be separated. Development is a conscious attempt made by humans to achieve a better life to meet human welfare, as argued by Mitchell et al [7]. While in Indonesia, the essence of development is the development of Indonesian people as a whole and the development of all Indonesian people. For this reason, the development includes several basic dimensions involving physical progress such as food, clothing, housing, and so on.

The mental progress dimension is in the form of education, security, justice, and health, said Ruslan [11]. Surakarta as a center of trade and industry from the surrounding area with a growing population over the year has a population increase of 3.25% in 2013 with the population density of 12,000 per square kilometer and the number of the population during the day can reach 1.5 million to 2 million people (see data *Dispendukcapil.surakarta.go.id*).

One of the obstacles that will be discussed in this research is the increase of dense settlements in Surakarta as a result of high growth rates of crossing areas or rest areas in Central Java Province. The dynamic condition of Surakarta results in the increases in population density level.

Such conditions require a land expansion for new areas and other needs such as for settlements (data from the population census in 2010 found that the shortage of houses in Indonesia has reached 13.6 million units of Indonesia's population in 2010 of 237 people or 61 million families in which there are 22% of the population or 13.6 million families do not have a house), commercial buildings and others so that the surrounding area, according to Subagyo [12].

Regarding the conversion of agricultural land into building land in Surakarta, it is found that productive land area in Surakarta in 2016 remains 82 hectares, as informed by Handayani [13]. From conversion data by the Central Bureau of Statistics for Java Island, there is around 80 percent of rice land conversion occurs in the area of the national food production center, Java island. Data obtained from the land audit results

conducted by the Ministry of Agriculture and Central Bureau of Statistics reveal the fact that from 2008 to 2010 the conversion rate of rice land in Java was 600 thousand hectares or an average of 200 thousand hectares per year, said Ruslan [11]. The perceived impact due to the increased rate of conversion of agricultural land is the decline in the ability to prepare food.

The land conversion indirectly causes damage to forests and urban land which has an impact on decreasing water absorption and increasing runoff of surface water in Surakarta city. These actions urgently to be carried out and become the responsibility of all parties.

The Municipal Government of Surakarta has issued several programs to preserve the environment such as the expansion of green open space in which based on the results of the Geographic Information System mapping (2015) conducted in this study, the area of green open space in Surakarta is 427.88 Ha or 9.17% of the total area of Surakarta of 4,666.33 Ha considering the target must be obtained is 30% of the total area of Surakarta. The Surakarta Green Movement through planting and maintenance of urban forests is the right momentum and concrete action for all components of society in preserving the environment.

It is also the best step suggested for the community in anticipating global climate change and as a motivation to realize the beautiful city of Surakarta. Apart from that, other actions such as not damaging the environment in the form of tree logging, land management that does not pay attention to the rules of soil conservation, littering or disposing of waste, using hazardous substances in activities, damaging water spring, and others are forms of proper anticipation. Urban forest rehabilitation is an effort to restore, maintain and improve the function of urban forests so that the carrying capacity and role in supporting the life support system are maintained.

The development of urban forests is intended as an effort to improve the urban environment to create a healthy, neat and beautiful urban environment in a certain area so that it can improve and maintain the microclimate, aesthetics, water absorption and balance of the urban environment. The target location for activities is empty land in

urban areas both on state land and land rights which are designated as urban forests by the Official Government of Surakarta that authorizes the requirements stipulated in Government Regulation Number 63 Year 2002 concerning Urban Forests. The urban forest is a part of green open space according to the design of Urban Spatial Planning. The minimum area of an urban forest is 0.25 Ha in an area. Components of activities include design, provide the seeds, and maintain. Therefore, the attempts to revitalize the urban forest are the basis of greening the urban environment activity, especially in the scope of the municipal government of Surakarta.

Conclusion

The Green Constitution in the 1945 Constitution is emphasizing that the right to obtain a good and healthy environment and good health services is a part of human rights. The implementation of the green constitution of open space in Surakarta shows the decrease of green open space.

This is due to a large number of land-use conversions such as forests and agricultural land that are not controlled to become buildings and housing. For this reason, it is necessary to have government policies and community support to restructure Surakarta. Besides, it is necessary to rehabilitate forests and urban land that have not been functioning according to their purpose as a green open space.

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