

EXISTENCE OF ENVIRONMENTAL DEFENDERS IN ENVIRONMENTAL CONFLICTS DUE TO CLIMATE CRISIS

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Abstract - This article identifies situations experienced by environmental defenders due to conflicts triggered by the climate crisis and the protection they secure. Environmental defenders are a vulnerable and precarious group. Environmental conflicts due to the climate crisis might lead to violence and murder. The dynamics of this phenomenon are caused by the earth's climate issues, giving rise to the crisis, scarcity, degradation, stock depletion, competition for natural resources, and even exploitation by business parties or the government—primarily on non-renewable natural resources. The world community carried out agreements to anticipate the worsening crisis. United Nations (UN) ratified a policy to identify and mitigate environmental abuses that significantly impact the world for better protection, including environmental defenders. This study applied a normative juridical approach by qualitatively analyzing legal materials, namely regulations, journals, and previous studies.

Keywords: Environmental defenders; environmental conflict; climate crisis.

INTRODUCTION

Over the years, environmental conditions and functions increasingly demonstrate a need for improvement in its management. The needs go along with development goals to escalate life quality and community welfare since the natural resources have been degrading in quantity and quality. Utilization of natural resources frequently triggers environmental issues, such as water, air, and soil pollution; excessive exploitation of non-renewable natural resources; and reduced biodiversity and forest land.

Environmental issues are crucial to examine, specifically for the extent of legal protection. Environmental problems often arise due to the destruction and pollution of the environment caused by the uncontrolled use of natural resources. (Swari & Cahyani, 2022) This is because there is a reverse relationship between the expansion of the human population relying on natural resources and the environment's limited capacity to renew itself to meet human needs. Eventually, the unconstrained use can also lead to environmental conflicts.

Environmental conflicts are influenced by climate change, global warming, and complex climate crisis. Climate change refers to changes in the Earth's temperature and heating, along with the consequences of these changes. Meanwhile, global warming is the long-term increase in the earth's surface temperature. (Hassan M. Heshmati, 2013) Then, campaigners and environmental enthusiasts use the term "climate crisis" to describe the current dilemma of environmental sustainability.

The recurring climate crisis poses a challenging dilemma for the long-term sustainability of the earth's ecosystem. In truth, the climate crisis affects all life on earth, not just human existence. One aspect of the climate crisis is the consistent rise in global temperatures, which began around 1880. 2020 was the second warmest year since pre-industrial times, spanned in 1880-1990. (Rebecca & Luann, 2020)

Based on a report by the National Agency for Disaster Countermeasures (BNPB), several disasters occurred due to the climate crisis as follows: (Superadmin, 2020)

Table 1. Total of Disasters in 2021

Earthquake	24
Volcano eruption	1
Forest and land fires	579
Drought	15
Flood	1.794
Landslide	1.321
Extreme weather	1.577
Tidal waves & abrasion	91
Total	5.402

Climate change gives rise to the climate crisis, which triggers disasters and scarcity of natural resources, in which conflicts between business parties come about. Conceptually, environmental conflict is a state in which different interests between parties, especially on ownership and management of limited natural resources, cause clashes. It is broadly defined as a social conflict involving the environment. (Kusapy, Lay, & Kaho, 2005)

Among various environmental conflicts, a primary role demonstrates how some people set groups and defend their environment from detrimental social and ecological impacts. They stand out for reasons, one of which is because their lives depend on a healthy ecosystem. These people are popularly known as environmental defenders.

Environmental defenders are individuals or groups who protect the environment by rejecting the unfair and unsustainable use of resources, which has social and environmental implications. (UNEP, 2018) Those referred to as environmental defenders can include indigenous communities, farmers, fishermen whose livelihoods may be threatened by environmental destruction, environmental activists, social movements, journalists, and others who actively advocate for the environment because degradation has reached unacceptable levels for them. (Scheidel et al., 2020) Globally, the role of environmental defenders in protecting and conserving the environment has been recognized by the United Nations Human Rights Council (from now on referred to as the UN).

Activities carried out by environmental defenders inevitably face various threats from those who oppose their objectives. They are generally subjected to threats of murder, mental and physical attacks, silencing, and creating policies or laws to criminalize their actions (criminalization). Violations of environmental rights against communities and individuals continue to escalate. Land grabbing by private sectors, businesses, or the state forces indigenous communities and local populations to relocate forcefully for a better livelihood.

Quoting from Global Witness, there were 227 killings recorded in 2020, and from 2002 to 2022, Global Witness and its partners have reported 2,177 deaths of environmental defenders. More than 10 people were killed in 12 countries between 2016 and 2020. The threats faced by environmental defenders extend far beyond the number of attacks and killings. Former UN Special Rapporteur on human rights, John Knox, stated that according to the principles of human and environmental rights, for every person killed, 20 to 100 others are tortured, unlawfully imprisoned, and subjected to defamation and other forms of intimidation. (Brief, 2022) Approximately 40-50% of the victims are indigenous communities and local populations who defend their lands and natural resources, which are vital for their livelihoods. (Council & Records, 2017)

Environmental issues arising from the climate crisis conflict with the concept of human rights, which states that everyone has the right to a good and healthy environment and the right to fight for those rights. George W. Pring and Penelope Canan introduced the term Strategic Lawsuit Against Public Participation (SLAPP), a lawsuit filed by the government to influence actions or outcomes to counter lawsuits related to substantive issues and the public interests of civil society or non-governmental organizations. (Pring & Canan, 1996) Strategies to combat SLAPP can be implemented within the judicial process, including executive, legislative, and judicial policies. To avoid SLAPP, one approach is to implement the concept of Anti-SLAPP.

This study proposes to examine the impacts of environmental conflicts caused by the climate crisis on environmental defenders. As mentioned, the climate crisis has become an inevitable disaster for global society since the advent of the industrial/modern era. However, many climate issues frequently focus on technological perspectives, even though the climate crisis involves more than just temperature and precipitation. The detrimental impacts of the climate crisis are also felt politically and socially within communities, particularly among vulnerable groups—in terms of their adaptive capacity and lack of access to specific resources. (Goodrich, Udas, & Larrington-Spencer, 2019)

Previous studies demonstrate that various forms of violence against environmental defenders are multidimensional approaches. (Navas, Mingorria, & Aguilar-González, 2018) The preceding-elaborated background encourages the researchers to conduct a study entitled "Existence of Environmental Defenders in Environmental Conflicts due to Climate Crisis." The researchers tried to reveal how far environmental defenders are protected due to environmental disputes.

RESEARCH METHOD

This study was doctrinal and used a normative juridical approach. It used legal materials from regulations, publications, and previous studies. (Bambang Sunggono, 2003) The legal sources must be

obtained through literature investigation. All were then analyzed qualitatively to identify the protection of environmental defenders due to environmental disputes.

RESULT AND DISCUSSION

1. World's Response to Climate Crisis

The impacts of climate disasters are a real problem to handle seriously. Intergovernmental Panel on Climate Change, in a report entitled "Climate Change 2022: Impacts, Adaptation, and Vulnerability", states that the increase in the temperature of the earth's surface is expected to continue beyond 1.5 degrees Celsius as a stable standard in the next two decades.(IPCC, 2022) In response to this worsening phenomenon, the international community agreed to minimize the earth's surface temperature increase through the Paris Agreement signed in 2016. One hundred seventy-one countries, including Indonesia, signed the agreement. It is an extension of the Kyoto Protocol, signed in 1997.

The international community has struggled to meet the goals of the Paris Agreement. Subsequently, the United Nations Conference of the Parties (COP26) was held in Glasgow, Scotland. The COP26 summit resulted in the Glasgow Climate Pact, which aimed to address climate change and its impacts.(Change, 2021) Indonesia, represented by President Joko Widodo, actively participated in COP26 and agreed to the Glasgow Climate Pact, thereby completing the Paris Rulebook, which will serve as a guide for implementing the Paris Agreement.

2. Condition of Environmental Defenders

Environmental defenders are individuals and groups that fight for the protection and promotion of human rights related to the environment. They come from various backgrounds and carry out their agenda in many ways. Some are journalists, some are lawyers, and some are even farmers in a remote area—who have no idea they are defenders, etc. However, environmental defenders are generally local and tribal communities whose environment is threatened by massive projects such as mining.(Change, 2021)

Global population growth also leads to economic development that inevitably involves increased demand for natural resources. Both governments and businesses are competing to exploit these resources. While countries have the right to use natural resources for economic and social development, as long as their actions follow international and domestic laws, the reality is that using natural resources often leads to detrimental effects.(Change, 2021) A concrete example can be found in Indonesia with the enactment of Law No. 3 of 2020, amending Law No. 4 of 2009 on Mineral and Coal Mining. This situation puts environmental defenders in a critical position to secure justice and protect the environment. Furthermore, environmental defenders are also vulnerable and at risk as they strive to fulfill their goals of preserving the environment amidst emerging environmental conflicts.

Vulnerable and precarious situations faced by environmental defenders depart from their questions on the existing system, specifically on state and company interests in managing land and individuals as resources. Environmental defenders are also against the state being extractive and usurping land rights. It is recorded that in 11% of cases globally, environmental defenders contribute to stopping projects that damage the environment and social conflict, defending their environment from damage, and maintaining their livelihoods.

Environmental conflicts can be broadly defined as social conflicts related to the environment. Homer Dixon argues that environmental conflicts typically arise from poverty and scarcity of natural resources caused by demand, supply, or structural factors.(Homer-Dixon TF, 2010) This opinion can be interpreted to mean that natural resource scarcity influences environmental conflict fluctuation. The environmental conflicts will worsen if natural resources are overexploited, degraded, or depleted.

Increasing environmental conflicts affect the situation of environmental defenders. One of these conflicts is the occurrence of killings, a form of violence that arises in environmental conflicts.(Navas et al., 2018) Environmental conflicts are influenced by economic activities related to exploiting natural resources and waste disposal. EJAtlas documents that the most frequently reported sectors are mining, accounting for 21% of cases, followed by the fossil fuel energy sector at 17%, biomass, land use at 15%, and water management, such as dams, at 14%.(Scheidel et al., 2020)According to John Knox, environmental defenders' vulnerability and increasing environmental conflicts are due to the following reasons:escalating requests for extraction and exploitation of natural resources;lack of political power and legal recognition to the most influenced communities; and weak or corrupt legal institutions create a culture of impunity.(J.Knox, Op.cit.Pg.10)

3. World's Response to Climate Crisis

Environmental defenders are often local groups who organize themselves, such as local associations and social movements driven to take action based on concerns about their communities' social and environmental impacts. Environmental conflicts bring both positive and negative outcomes for environmental defenders. One common positive social outcome is strengthening participation among affected individuals, including increased community involvement and participation in consultations, planning, and policy-making related to project developments. According to Butt, the state structurally plays a role in various environmental conflicts. Data shows that tribal environmental defenders are significantly vulnerable to violence.

The movement of environmental defenders, who strive to protect nature and promote the sustainable use of natural resources for a just environmental future, continues to gain momentum. However, this is accompanied by increasing violence, killings, environmental impacts, health consequences, and cultural impacts. Therefore, the urgent need to protect environmental defenders from escalating environmental conflicts requires support, and activists persist in protesting as a legitimate and recognized way to demand justice and compensation.

In 2018, the UN put forward a policy framework to promote more excellent protection of environmental defenders. Furthermore, in 2019 the UN Human Rights Council unanimously passed a resolution on "Recognizing the Contribution of Environmental Human Rights Defenders." (Manusia, n.d.) The public is more aware of the violence and killings experienced by environmental defenders, which increased substantially based on the Global Witness report.

The preceding explanation highlights the failure of governments worldwide to enforce laws that protect human rights defenders, especially those involved in environmental issues. Governments often misuse laws to harass and criminalize these defenders. They also enact regulations that make it difficult for environmental defenders to mobilize and carry out their actions to preserve the environment. Environmental defenders are also subjected to arbitrary treatment. Furthermore, they face negative stigma from individuals and communities who view them as opposing progress and hindering economic development.

Environmental destruction resulting in environmental conflicts has disrupted human rights, and the United Nations has recognized its critical role in protecting the environment from destruction and promoting and protecting human rights. The United Nations has also recognized the promotion and protection of human rights related to the enjoyment of a safe, clean, healthy, and sustainable environment and has recognized that environmental and land defenders are among the human rights defenders most at risk. (Manusia, n.d.)

Environmental defenders are acknowledged as human rights defenders by the UN Declaration on Human Rights, adopted by General Assembly of the United Nations in 1998. The rights include:

- a. The right to advance and advocate for the protection of human rights.
- b. The right to be protected.
- c. The right to freedom of opinion, freedom of expression, and the development and discussion of new ideas on human rights.
- d. The right to access and communicate with international bodies and to access funding.
- e. The right to freedom of assembly, freedom of association, and protest.
- f. The right to an effective remedy. (J.Knox, Op.cit. Pg.16.)

Quoting from the UN Environment Policy aims to promote more excellent protection for environmental defenders by identifying and reducing environmental abuses that significantly impact the future world. The UN Environment has obtained its mandate from UN General Assembly Resolution 2997 (XXVII) (1972), which aims to provide leadership and foster partnerships in caring for the environment by inspiring, informing, and enabling governments and societies to improve their quality of life without sacrificing it for future generations. Mandates from the UN are reinforced by:

- a. UN Human Rights Council Resolution on Human Rights and the Environment, most recently Resolution 34/20, which calls on the UN Environment to increase cooperation with other agencies to exchange information and build synergies in the protection of human rights and environmental protection;
- b. UN Environment Program Governing Council Decision 27/9 on advancing justice, governance, and law for environmental sustainability;
- c. Results of a meeting of senior government officials with environmental law experts on the fourth Development Program midterm review and Environmental Periodic Review;

- d. Environmental Law (Montevideo IV Programme) which identified human rights and the environment as an emerging priority area; and
- e. UN Environment Assembly Resolution 2/19 on the Mid-Semester Review of the Montevideo IV Program.

The final goal of protection for environmental defenders is to achieve ideal environmental justice to fulfill community rights, such as the right to a healthy environment, policy-making, and decision-making, specifically on activities that potentially damage the environment. (Sari, 2020)

CONCLUSION

Violence, intimidation, and murder against environmental defenders have occurred worldwide recently. This phenomenon is caused by the increasing number of environmental conflicts resulting from unsustainable, exploitative, and harmful utilization of natural resources as a prolonged impact of the climate crisis. The rising levels of violence and killings experienced by environmental defenders put them in a critical position. In response to this issue, environmental defenders continue to engage in legitimate movements and protests to reclaim their rights, obtain legal protection, and be globally recognized as human rights defenders. Concerning this, the UN presented a policy framework in 2018 to promote more excellent protection for environmental defenders.

Furthermore, in 2019, the UN Human Rights Council unanimously adopted a resolution recognizing the contributions of Environmental Human Rights Defenders. This was followed by increased public awareness regarding the violence and killings faced by environmental defenders. Therefore, there is a need for stronger regulations among countries worldwide and the establishment of additional rules that govern the protection of environmental defenders. Law enforcement agencies can also adopt a more progressive approach to addressing environmental conflicts.

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