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MIMBAR KEADILAN

Constitutional Ecocentrism: Reinvigorating Intergenerational Justice Rooted in Pancasila Through the Recognition of Nature's Rights

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Abstract

The escalating ecological crisis in 2026 demands a fundamental shift in constitutional law paradigms, from anthropocentrism toward ecocentrism. The Indonesian Constitution, particularly Article 28H paragraph (1) of the 1945 Constitution, still dogmatically positions the environment merely as an object for fulfilling human needs. This paradigm indirectly legitimizes massive exploitation that threatens intergenerational justice. Therefore, this study aims to construct the recognition of Rights of Nature as an independent legal subject through the reactualization of the First, Second, and Fifth Principles of Pancasila to ensure the realization of ecological justice and civilized humanity. This research employs a normative juridical method using statutory, conceptual, and comparative approaches. The findings reveal that current environmental law enforcement often experiences stagnation due to the absence of legal personhood for nature, resulting in nature's inability to exercise legal standing to challenge its own destruction. Through the reactualization of the values of Divinity, Just and Civilized Humanity, and Social Justice, the concept of justice must be interpreted extensively across temporal dimensions (intergenerational) and ontological dimensions (recognizing ecosystem entities). Drawing lessons from Ecuador's constitutional framework and jurisprudence, the recognition of Rights of Nature in Indonesia may be realized through the Constitutional Court's evolutionary interpretation of the State Control doctrine under Article 33 of the 1945 Constitution, followed by the institutionalization of an ecological guardianship mechanism. This framework would establish absolute constitutional protection to restrain short-term economic exploitation for the sustainability of future ecosystems.

1. Introduction

The Earth we walk on today is in the midst of an ecological emergency. Empirical evidence points to a deeply concerning escalation of damage; the 2025 Indonesia Deforestation Status Report by Auriga Nusantara documents a national surge in deforestation of up to 66 percent.[1] Over the course of a single year, 433,751 hectares of Indonesia's forest cover vanished, with the epicenter of the worst damage located in the regions of Kalimantan and Papua.[2] The maritime sector is no less concerning, with the Ministry of Marine Affairs and Fisheries (KKP) reporting that 20 million tons of waste entered Indonesian waters by the end of 2025,

[1] Zintan Prihatini, "Auriga Ungkap Deforestasi Indonesia Naik 66 Persen, Terluas di Kalimantan," *Kompas.com*, 1 April 2026, https://lestari.kompas.com/read/2026/04/01/111400386/auriga-ungkap-deforestasi-indonesia-naik-66-persen-terluas-di-kalimantan

[2] Zintan Prihatini, "KKP: 20 Juta Ton Sampah Masuk ke Laut, Sumber Utamanya dari Pesisir," *Kompas.com*, 30 Desember 2025, https://lestari.kompas.com/read/2025/12/30/183000686/kkp--20-juta-ton-sampah-masuk-ke-laut-sumber-utamanya-dari-pesisir.

systematically damaging coral reef ecosystems.[3] This situation is exacerbated by global climate change, which is driving sea-level rise and threatening the existence of dozens of small islands in eastern Indonesia. Inhabited islands, such as Langkai Island, now routinely face the threat of severe tidal flooding that paralyzes the economic and social fabric of their communities.[4]

Indonesia is often claimed to have adopted the principles of a Green Constitution, reflected in the guarantee of the right to a healthy environment under Article 28H (1) and the principle of environmentally sustainable development under Article 33 (4) of the 1945 Constitution of the Republic of Indonesia.[5] Unfortunately, our constitutional legal framework has proven unable to curb the pace of extractive industry exploitation. This structural failure is further confirmed by national budget policy.[6] The budget allocation for disaster mitigation for the National Disaster Management Agency (BNPB) in the 2026 State Budget Draft has actually been drastically cut to just Rp491 billion, amidst the threat of deadly ecological disasters.[7] This fact underscores that environmental conservation commitments are often compromised in pursuit of short-term economic growth targets.

This legal stagnation stems from a long-standing philosophical flaw. Indonesia's legal system remains heavily dominated by an anthropocentric paradigm, a worldview that places humans at the center and as the sole rulers of the universe.[8] Natural landscapes such as customary forests in Papua or the archipelago's coastlines are reduced solely to objects, property, or economic commodities under conventional law.[9] The consequences are profound: when conservation agendas clash with investment interests, this legal framework, which views nature as an inanimate object, will always seek legal justifications to facilitate exploitation.[10] This situation constitutes a betrayal of the principle of intergenerational equity,

[3] Manda Firmansyah, "Krisis Iklim, Pulau Kecil Tenggelam dan Perlu Mitigasi Berbasis Lokal," *Kompas.com*, 23 September 2025, https://lestari.kompas.com/read/2025/09/23/103100186/krisis-iklim-pulau-kecil-tenggelam-dan-perlu-mitigasi-berbasis-lokal.

[4] Malik Akbar Simanullang, "Aktualisasi Nilai-Nilai Pancasila dan UUD 1945 Dalam Penguatan Karakter Bangsa dan Negara yang Harmonis," *Jurnal Ilmiah Publika (JIP)* 13, no. 2 (2025): 101-111, https://jurnal.ugj.ac.id/index.php/Publika

[5] Zico Junius Fernando et al., "Environment as a Legal Subject in the Reconstruction of Indonesia's Environmental Law," *Indonesian Journal of Environmental Law & Sustainable Development* 4, no. 1 (2025): 95–125, https://doi.org/10.15294/jelv4i1.20146

[6] Boy Jerry Even Sembiring et al, *Membayar Mahal Ambisi Pertumbuhan: Dari Konflik, Bencana Ekologis, Hingga Krisis Lain!*, (Jakarta, Eksekutif Nasional WALHI, 2026), hlm 24-25.

[7] Ismail Rumadan, "Implementation of Mining Business License and Intergenerational Justice in Indonesia," *The International Journal of Humanities & Social Studies* 9, no. 7 (Juli 2021): 185–193, https://doi.org/10.24940/theijhss/2021/v9/i7/HS2107-053

[8] M. Khusnul Khuluq, "Lingkungan yang Baik sebagai Hak Konstitusional," *MariNews*, 4 Februari 2026, https://marinews.mahkamahagung.go.id/artikel/lingkungan-yang-baik-sebagai-hak-konstitusional-0P4

[9] Aminuddin Kasim et al., "Mining Business Licensing in Indonesia: Perspective Administrative Law After the Revision of the Mineral and Coal Law," *Russian Law Journal* 11, no. 3 (2023): 1248–1255, https://russianlawjournal.org

[10] M. Khusnul Khuluq, "Lingkungan yang Baik sebagai Hak Konstitusional,"

a moral imperative that obligates today's rulers to bequeath a habitable Earth to future generations.[11]

The discourse on constitutional law at the global level is now shifting toward a more emancipatory concept: the recognition of the Rights of Nature. The core idea is to grant independent legal personhood to ecosystems.[12] This status acknowledges that rivers or forests possess inherent constitutional rights to live, grow, and restore themselves, with their protection guaranteed by the state just as it is for human subjects. Academic studies on the protection of environmental rights and intergenerational justice have, in fact, attracted the attention of many scholars. A critical review of the current literature reveals that crucial research gaps still exist. Shokhikhah's (2025) research has examined the constitutional rights of future generations to a sustainable environment and has begun to open a discourse toward green constitutionalism and the recognition of the rights of nature. However, the proposed solutions still focus on strengthening constitutional instruments within the framework of positive law and have not explicitly advocated for the ontological transformation of nature as a primary legal subject.[13] The study by Dwiani et al. (2025), in discussing the fulfillment of the right to a healthy environment, places greater emphasis on the state's responsibilities and obligations within the framework of human rights, without developing a discourse on the recognition of nature as a legal subject possessing the standing to defend its own interests before the courts.[14] The comparative legal study by Fadillah and Azhari (2024), which examines the concept of nature as a legal subject in Indonesia, New Zealand, and Ecuador, sharply concludes that our positive law has not yet been able to accommodate this concept.[15] Unfortunately, the study fails to formulate an epistemological foundation rooted in the state ideology of Pancasila to facilitate this legal transition in Indonesia.

Unlike Shokhikhah's (2025) study, which focuses on the instruments of green constitutionalism in general, or Dwiani et al. (2025), who remain bound by the subject-object dichotomy within the framework of conventional human rights, this research offers an ontological transformation grounded in Pancasila-based theos-ecocentrism. The novelty of this paper lies in the effort to synchronize the values of Belief in God, Humanity, and Social Justice as the basis for the legitimacy of recognizing the Rights of Nature. While the concept of Pachamama in Ecuador is rooted in indigenous cosmology that tends toward secular-pantheism, the reconstruction in this study is grounded in the philosophy of Pancasila, which

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[11] Muhamad Akmal Fadillah dan Aidul Fitriciada Azhari, "Conceptualizing Nature as a Legal Subject: A Comparative Study of Laws Between Indonesia, New Zealand, and Ecuador," *Jurnal USM Law Review* 7, no. 1 (2024): 376–392, https://journals.usm.ac.id/index.php/julr/article/view/8880/3947

[12] Muhammad Pasha Nur Fauzan, "Environmental Personhood Reimagined: A Concise Philosophical Review," *Mimbar Hukum* 36, no. 1 (2024): 141-174, https://journal.ugm.ac.id/v3/MH/article/download/7553/4303.

[13] Zilda Khilmatus Shokhikhah, "Hak Konstitusional Generasi Mendatang atas Lingkungan Hidup Layak: Kajian Hukum Tata Negara terhadap Tanggung Jawab Negara dalam Pembangunan Berkelanjutan," *Jurnal Riset Rumpun Ilmu Sosial, Politik dan Humaniora* 4, no. 3 (2025): 175–86, https://doi.org/10.55606/jurrish.v4i3.5767

[14] Ulfi Dwiani dkk., "Hak atas Lingkungan Hidup yang Baik dan Sehat sebagai Hak Asasi Manusia: Tantangan Konstitusional dan Implementasinya di Indonesia," *Custodia: Journal of Legal, Political, and Humanistic Inquiry* 1, no. 2 (Desember 2025): 248–257, https://scriptaintelektual.com/custodia

[15] Muhamad Akmal Fadillah, Aidul Fitriciada Azhari, "Conceptualizing Nature as a Legal Subject," 283

positions nature as a sacred entity created by God possessing intrinsic dignity; thus, its recognition as a legal subject is a logical consequence of the civilization of the Indonesian nation.

This article aims to offer a fresh perspective by attempting to reconstruct the foundation for the recognition of the Rights of Nature, drawing on the depth of Pancasila philosophy, particularly the First, Second, and Fifth Principles. Specifically, this study aims to: (1) expose the fundamental flaws of the anthropocentric dogma in Article 28H and Article 33 of the 1945 Constitution of the Republic of Indonesia; (2) examine the principle of intergenerational justice as the true manifestation of Pancasila values; and (3) formulate an institutional design for "ecological stewardship" as a practical instrument to ground the Rights of Nature in Indonesia. Discussing this issue in 2026 is not merely an academic trend but a civilizational imperative. Transforming the status of nature from a mere commodity to a subject with dignity is an existential obligation if we do not wish to count down to the ecological extinction of our own nation.

2. Methods

This study employs a normative legal research method (juridical-normative) structured in a descriptive-analytical manner. The study focuses on a critical examination of legal norms, contemporary constitutional doctrines, and authoritative constitutional texts within the academic sphere.[16] The research methodology is supported by three main approaches as analytical tools. The statutory approach is employed to examine textual inconsistencies and philosophical discrepancies in Article 28H (1) and Article 33 of the 1945 Constitution of the Republic of Indonesia. The conceptual approach is used to redefine the meaning of intergenerational justice by incorporating the ecosentrism paradigm rooted in the values of Pancasila. The comparative approach is employed to examine jurisprudential and constitutional innovations in Ecuador, a country that has proven successful in recognizing nature as a full legal subject.[17] All secondary data, the majority of which is sourced from reputable scientific journals published within the last five years, was collected through a literature review and analyzed using deductive syllogistic logic to formulate prescriptions for equitable environmental governance.[18]

3. Results and Discussion

3.1. The Stagnation of Anthropocentric Dogma and the Urgency of Reactualizing Pancasila

Constitutional discourse often asserts that the Indonesian Constitution has been progressive in accommodating the concept of a Green Constitution. Conceptually, this idea calls for the preservation of environmental carrying capacity to be established as the highest norm guiding the nation's development.[19] The objective reality on the ground, from the destruction of hundreds of thousands of hectares of forest to the pollution of the Indonesian

[16] Kornelius Benuf dan Muhamad Azhar, "Metodologi Penelitian Hukum sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Jurnal Gema Keadilan* 7, no. 1 (2020): 20–33
[17] Peter Mahmud Marzuki, *Penelitian Hukum,* (Jakarta: Kencana, 2021), 133
[18] Muhaimin, *Metode Penelitian Hukum,* (Mataram: Mataram University Press, 2020), 60
[19] Febrian Chandra, Adithiya Diar, dan Hartati Hartati, "Konstitusi Hijau (Green Constitution) dalam Upaya Pelestarian Lingkungan Hidup yang Berkeadilan," *Jurnal Penelitian Inovatif (JUPIN)* 4, no. 3 (Agustus 2024): 889–96, https://doi.org/10.54082/jupin.441.

archipelago's seas by plastic waste, actually demonstrates that our constitutional legal instruments inherently contain a fundamental flaw.[20]

The text of Article 28H (1) of the 1945 Constitution of the Republic of Indonesia reads: "*setiap warga Negara memiliki hak untuk dapat hidup sejahtera, lahir dan batin, bertempat tinggal, serta mendapatkan lingkungan hidup yang baik dan sehat.*"[21] The absolute use of the phrase "*setiap orang*" effectively locks in the notion that the sole holder of fundamental rights within this earthly ecosystem is humanity alone. The environment is positioned merely as a supporting facility for human survival.[22] This anthropocentric dominance is further reinforced by the provision of Article 33, paragraph (3) of the 1945 Constitution, which stipulates that natural resources are "*dikuasai oleh negara.*" The convergence of these two articles crystallizes a legal system that is deeply anthropocentric, while reducing the status of mountains, forests, and oceans to passive property subject to exploitation in the name of economic prosperity.[23]

However, characterizing Article 33 paragraph (3) as automatically anthropocentric without examining the evolution of the Constitutional Court's (MK) interpretation constitutes a significantly flawed analysis. Through its landmark jurisprudence, particularly in MK Decision No. 3/PUU-VIII/2010 regarding the judicial review of the Law on the Management of Coastal Zones and Small Islands, the Court explicitly formulated four constitutional parameters to assess the phrase "the greatest prosperity of the people". These four parameters limiting state power include: (1) the level of natural resource utilization for the people, (2) the level of equitable distribution of benefits for the people, (3) the level of public participation in determining the benefits, and (4) respect for the people's hereditary rights in utilizing the ecosystem. By affirming the parameters of "equitable distribution of benefits" and "respect for hereditary rights," the MK doctrinally delegitimized the concept that state control constitutes absolute ownership (*dominium*); instead, the state is established merely as a trustee (holder of public trust) bearing the absolute obligation to ensure ecological sustainability to achieve such equity.[24]

The destructive impact of this reduction of nature to an object is starkly evident in judicial practice. Massive environmental crimes within Indonesia's legal mechanism, such as mining waste leaks that destroy river ecosystems, can only be brought to trial if the plaintiff can prove that humans have suffered physical or material harm.[25] This is the greatest irony in

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[20] Muhammad Pasha Nur Fauzan, "Meninjau Ulang Gagasan Green Constitution: Mengungkapmiskonsepsi Dan Kritik", *LITRA: Jurnal Hukum Lingkungan, Tata Ruang, dan Agraria* 1, no. 1, (2021): 1-21. https://doi.org/10.23920/litra.v1i1.573

[21] *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*, ps. 28H ayat (1)

[22] Antono Adhi Susanto, "Reconstruction of the 1945 Constitution for Strengthening the Legal Framework of Indonesia Environmental Law: Rekonstruksi UUD 1945 Menuju Penguatan Hukum Lingkungan Indonesia," *Jurnal Konstitusi* 21, no. 2 (2024): 183–202, https://doi.org/10.31078/jk2122

[23] Ayu Okta Melliana and Indirani Wauran, "Constructing An Argumentation For Nature As A Legal Subject," *Refleksi Hukum: Jurnal Ilmu Hukum* 8, no. 1 (2024): 93–122, https://doi.org/10.24246/jrh.2023.v8.i1.p93-122

[24] Mahkamah Konstitusi Republik Indonesia, *Putusan Nomor 3/PUU-VIII/2010 tentang Pengujian Undang-Undang Nomor 27 Tahun 2007 tentang Pengelolaan Wilayah Pesisir dan Pulau-Pulau Kecil terhadap Undang-Undang Dasar Negara Republik Indonesia Tahun 1945* (2010), 181–184.

[25] Safaat Nugraha, Muhammad Abas, and Yuniar Rahmatiar, "Analisis Yuridis Terhadap Pertanggungjawaban Perdata Perusahaan Atas Kegiatan Pertambangan Ilegal Ditinjau Dari Undang-Undang No. 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup: (Studi Kasus

our legal system; the law becomes utterly insensitive to ecological damage itself. An endemic species that dies from poisoning due to the drying up of a river has no legal standing to seek redress in court. Investment certainty ultimately forces the law to legitimize the suffering of nature.[26]

The Indonesian people do not actually need to adopt foreign theories wholesale to resolve this civilizational impasse. The answer to this problem has long been embedded in the philosophical rationale of Pancasila.[27] The reactivation of ecocentrism in Indonesia is, in fact, inseparable from the philosophical roots of the First Principle, "*Ketuhanan Yang Maha Esa*." In the logic of Indonesian constitutionalism, nature is not a void without an owner, but rather a trust from the Creator. Theoretically, within the realm of constitutional law, we must refer to the *Stufentheorie* proposed by Hans Kelsen and refined by Hans Nawiasky, where Pancasila is established as the *Staatsfundamentalnorm* or *Grundnorm*.[28] As a *Grundnorm*, Pancasila is not merely a pseudo-moral-spiritual guideline, but the highest presupposition of validity (the ultimate cause) that acts as the *causa prima* for the entire national legal system.[29] Therefore, the theological concept of the First Principle, which views nature as a sacred creation, transforms from a mere ethical philosophy into an "objective constitutional obligation" for state institutions. [30] Through the normative transmission of this *Grundnorm*, the recognition of the Rights of Nature is no longer an abstract theory but a manifestation of "constitutional subjectivity"; a state that consciously legalizes the massive destruction of nature is essentially committing an unconstitutional act and a desecration of the very foundation of the Republic of Indonesia's highest legal order.[31]

Respect for these natural entities resonates deeply with the Second Principle, "*Kemanusiaan yang Adil dan Beradab*." The notion of "ecological righteousness" loses its theoretical foundation if the Second Principle continues to be confined solely as a sociological framework governing exclusive human-to-human etiquette and moral conduct. Thus, the Second Principle must be reconstructed through the paradigm of "expansion of the concept of the moral subject".[32] In the philosophy of ecocentrism, environmental ethics requires

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Pertambangan Ilegal Di Jawa Barat)," *Jurnal Ilmu Hukum, Humaniora dan Politik (JIHHP)* 5, no. 6 (2025): 5295–5308, https://dinastirev.org/JIHHP/article/view/5748.

[26] Joti Wahyu Pranoto et al., "Paradigma Ekosentris dalam Hukum Lingkungan Indonesia: Reorientasi Prinsip Pembangunan Berkelanjutan atas Pengembangan Energi Panas Bumi di Kawasan Gunung Slamet," *Jurnal Tana Mana* 6, no. 2 (2025): 237–246, https://ojs.staialfurqan.ac.id/jtm/article/view/1279

[27] Rangga Kala Mahaswa, "De-Antroposentrisme Pancasila: Sebuah Riset Awal Filsafat," *Pancasila: Jurnal Keindonesiaan* 1, no. 1 (2021): 57–69, https://doi.org/10.52738/pjk.v1i1.10

[28] Hendra Wahanu Prabandani, "Menelusuri Kedudukan Pancasila sebagai Sumber dari Segala Sumber Hukum (Discovering the Position of Pancasila as the Basic Norm in Indonesia)," IBLAM Law Review 2, no. 1 (2022): 160–165, https://doi.org/10.52249/ilr.v2i1.63.

[29] I Gusti Ngurah Santika et al., "Pancasila sebagai Grundnorm dalam Sistem Hukum Indonesia: Analisis Filosofis dan Yuridis," *Journal of Multidisciplinary Law Studies* 3, no. 2 (2025): 51–58

[30] Ahmad Ainun Najib, "Citizens' Constitutional Rights to a Sustainable Environment Based on Pancasila," in *Proceedings of the 1st International Workshop on Law, Economics and Governance* (Semarang: EAI, 2023), 4–7, https://doi.org/10.4108/eai.27-7-2022.2326296

[31] Jimly Asshiddiqie, *Green Constitution: Nuansa Hijau Undang-Undang Dasar Negara Republik Indonesia Tahun 1945* (Jakarta: Rajawali Pers, 2009), 98-102

[32] Budi Handoyo, "Eco Sufism: Pemikiran Amran Waly dan Ibnu Arabi dalam Menjawab Isu Lingkungan Hidup di Indonesia," *Tadabbur: Jurnal Peradaban Islam* 7, no. 2 (2025): 127–145, https://doi.org/10.22373/tadabbur.v7i2.877

humanity to incorporate non-human biological entities into its moral considerations, providing equal space and opportunities for flora and fauna to grow, develop, and optimally regenerate their existence without exploitative intrusion. By incorporating this expansion of the moral subject, the Second Principle ceases to be merely a passive source of environmental morality and transforms into a robust normative foundation to dictate the constitutional obligation of enforcing ecological justice, wherein a civilized nation refuses to act as a tyrannical conqueror of nature.

The concept of Intergenerational Justice actually has a very solid ideological foundation in the Fifth Principle, "*Keadilan Sosial bagi Seluruh Rakyat Indonesia*." Unfortunately, interpretations of social justice have often been reduced to merely an issue of economic equality for people living in the present (intragenerational). In reality, the reckless exploitation and extraction of natural resources have been scientifically proven to generate an accumulation of ecological debt and exacerbate the chasm of climate injustice.[33] The consequences of this environmental destruction and resource extraction disproportionately impose social costs, economic suffering, and environmental burdens onto marginalized/vulnerable communities and strip away the livability of future generations' living spaces.

Conversely, the majority of benefits and surplus from such extractive capital accumulation are perpetually concentrated in the hands of a few oligarchic corporations or elite actors. Due to this extreme inequality, Intergenerational Justice can no longer be positioned merely as a moralistic appeal; it must be declared a *constitutionally grounded justice claim* that is integrated as a fundamental component of the Fifth Principle. The structural integration of this intergenerational justice theory effectively overhauls the definition of Pancasila's Social Justice: from an original narrow focus on the redistribution of monetary circulation, to a distributive justice regime that comprehensively safeguards the distribution of access to natural resources, equitable enjoyment of environmental sustainability, while concurrently distributing the burden of responsibility across temporal boundaries to preserve the life destiny of the natural environment itself.[34]

3.2. Grounding the Rights of Nature through Ecological Stewardship Architecture

The transformation of a landscape's legal status from a mere inanimate object to a legal subject with dignity may still be considered an overly utopian idea by some orthodox legal scholars. Developments in global constitutional law, however, prove the opposite. In 2008, the Republic of Ecuador made history as the first country in the world to explicitly recognize the Rights of Mother Earth (Pachamama) in its constitution.[35]

Ecuador did not merely position the discourse on the Rights of Nature as rhetorical window dressing or a symbol of normative legitimacy; rather, it boldly systematized its

[33] Radia Hi. M. Hi. Ali, "Eksistensi Aktivisme Yudisial dalam Penegakan Hukum Lingkungan" (Tesis Magister, Universitas Hasanuddin, 2025), 15–20, https://repository.unhas.ac.id/id/eprint/49096/

[34] Muhammad Fadli, "Konstitusi Hijau: Hak Atas Lingkungan Sehat Sebagai Bagian Dari Hak Asasi Dalam UUD 1945," *Jurnal Hukum Lex Generalis* 6, no. 12 (2025), https://doi.org/10.56370/jhlg.v6i12.2089

[35] Olga Patricia Hapsari et al., "Implikasi Konstitusional Pengakuan Hak Alam Sebagai Subjek Hukum Dalam Perlindungan Lingkungan Hidup (Perspektif Hukum Indonesia dan Ekuador)," *Journal of Studia Legalia* 6, no. 1 (2025), https://studialegalia.ub.ac.id/index.php/studialegalia/article/view/187

Volume 19 Nomor 2 August 2026: 244-258

constitutional structure by institutionalizing an independent Chapter on the Rights of Nature (*Derechos de la Naturaleza*) specifically and operationally within its supreme constitution. This constitutional structure absolutely affirms that nature, as a rights-holder, possesses the full right to have its sustainability respected, its functional maintenance cycles guaranteed, and the right to regenerate free from destructive human interference.[36] The operationalization of Ecuador's constitutional order is sharpened by a procedural law doctrine overhaul; the Ecuadorian constitution facilitates and grants exceptionally broad legal standing, allowing any citizen, individual, or community to stand in judicial proceedings to represent the ecological rights of nature without being hindered by the prerequisite of proving the existence of (anthropocentric) material harm suffered by the plaintiff.

This progressive legal innovation needs to be carefully integrated into Indonesia's constitutional system without disrupting existing procedural frameworks.[37] This paradigm shift can be systematically mapped out in the following matrix:

Table 1. Matrix for the Reconstruction of the Constitutional Environmental Law Paradigm.

Point of Analysis	Traditional Paradigm (Anthropocentric)	New Paradigm (Ecocentric-Pancasila)
Ontological Status of Nature	Passive objects/properties under the absolute power of the state (res nullius/dominium).	Dignified autonomous legal subject (Legal Personhood).
Justice & Burden Distribution Orientation	Intragenerational economic justice: allowing the accumulation of ecological debt and climate injustice.	Constitutional intergenerational justice and distributive equity to prevent environmental burdens from spreading across generations.
Scope of Legal Personhood	Protecting the human right to continue exploiting nature safely.	Guaranteeing the inherent right of ecosystems to exist, regenerate, and remain undamaged.
State Control Rights	Exploitative state ownership (State Ownership).	Public Trusteeship limited by ecological obligations.
Ecosystem Beneficiaries	Focuses on the current generation (humans) and the corporation holding the permit.	Future generations and the sustainability of the ecosystem entity itself.
Protection & Conflict Resolution	Protecting exploitation rights; the lack of scientific certainty often creates loopholes for extractive projects to pass.	Absolute protection of natural rights; conflicts are resolved through the precautionary principle and the principle of in dubio pro natura.

[36] Erin O'Donnell, *Legal Rights for Rivers: Competition, Collaboration and Water Governance* (London: Routledge, 2018), 89–93. https://doi.org/10.4324/9780429469053

[37] Hyronimus Rhiti, "Rekonstruksi Keadilan Ekologis Berbasis Rights of Nature dalam Perspektif Filsafat Hukum Lingkungan," *SOL JUSTICIA* 8, no. 2 (2025): 1–9, https://doi.org/10.54816/sj.v8i2.1063

Litigation Mechanism	Legal standing requires proof of material/physical human losses.	Nature's claims are represented directly as a fiduciary through the institution of "Ecological Guardianship," without the requirement of human losses.

Source: Researcher Construction Results, 2026

An analysis of Table 1 raises an essential technical question: how is the mechanism or parameter determined to assess the degree of "*dignity*" of an ecosystem to qualify it for independent legal subject protection? Do all environmental landscapes, from urban drainage canals and coastlines to mountain ranges, receive the same, uniform legal personhood rights? Furthermore, how does the highest court resolve extreme legal conflicts (rights conflicts) when the supremacy of nature conservation rights clashes head-on with the legality of mega-extractive industry licenses backed by official state investment permits? This critical dilemma has had its concrete resolution vividly demonstrated by the landmark decision of the Ecuadorian Constitutional Court, specifically Decision No. 1149-19-JP/21 regarding the Los Cedros Protected Forest Dispute.

In formulating the "*dignity*" parameter, the Ecuadorian Constitutional Court proved that not all territories are treated equally; rather, the court mandated rigorous ecological science assessment parameters. The status of legal personhood for Los Cedros was confirmed because the area was proven to possess rich endemicity, harbor critically endangered ancient endemic species (such as the highly rare brown-headed spider monkey), and play an exceptionally vital functional hydrological role as a water catchment area for surrounding communities.[38] Regarding the resolution of the direct conflict between mega-mining operation rights versus the Rights of Nature, the Court progressively dismantled the economic deadlock by applying the *precautionary principle* and utilizing *the in dubio pro natura* maxim. In its reasoning, the Court formulated the doctrine that scientific uncertainty regarding the margin of damage thresholds, amidst the looming threat of fatal environmental hazards, must not be exploited as a loophole to approve mining permits.[39] Instead, it must trigger absolute judicial intervention to declare *null and void* all exploitative dredging operations to uphold the survival capacity of nature. For the recognition of the Rights of Nature to avoid becoming mere rhetoric, it is necessary to institutionalize a procedural instrument known as Ecological Guardianship.[40]

The realization of this civilizational innovation does not require the Indonesian nation to undergo the process of amending the 1945 Constitution, which entails high political costs. However, proposing a solution without constitutional amendment often attracts sharp

[38] Matthew R. Peck et al., "The Conflict between Rights of Nature and Mining in Ecuador: Implications of the Los Cedros Cloud Forest Case for Biodiversity Conservation," *People and Nature* 6, no. 4 (2024): 1–15, https://doi.org/10.1002/pan3.10615

[39] Andrés Martínez-Moscoso, Pablo Alarcón-Peña, and Martina Sánchez Espinosa, "Los Derechos de la Naturaleza en la Jurisprudencia de la Corte Constitucional Ecuatoriana: Reconocimiento y Evolución Histórica," *Dikaion* 32, no. 1 (2023): 1–29, https://doi.org/10.5294/dika.2023.32.1.17

[40] Desi Fitriyani, "Constitutional Court Assessment on Production Branches Controlled by The State: Penilaian Mahkamah Konstitusi terhadap Cabang Produksi yang Dikuasai oleh Negara," *Jurnal Konstitusi* 21, no. 1 (2024): 98–117, https://doi.org/10.31078/jk2116

criticism regarding the boundaries and constitutional justification of interpretative authority itself.[41] The public often raises the following questions: Is it justifiable for the Constitutional Court to create or establish new fundamental rights for a subject that were never originally written in the foundational text? Does such judicial action not betray the pursuit of the original intent of the constitution's framers? And, to what extent can this judicial activism be tolerated without being accused of executing a covert amendment or constitutional mutation under Indonesia's presidential system?

Constitutional analysis affirms that the formulation of nature's rights by the MK is by no means an act of legal smuggling or reckless constitutional mutation. Doctrinally, the essential function of the Constitutional Court is designed not merely as a mouthpiece of the law, but is legally tasked with extracting and recognizing "*implied constitutional rights*" to prevent the law from being rendered obsolete by the escalation of contemporary realities.[42] Recognizing natural entities as rights-holders is a purely evolutionary interpretative step;[43] by re-anchoring the legal foundation on Pancasila as the Staatsfundamentalnorm, the MK's judicial activism here serves to fortify and protect the spirit of the constitution (the living constitution) from destructive practices that legalize civilizational annihilation, rather than conducting a destructive overhaul of the state's basic structure.[44] In its capacity as the guardian of the constitution, the Constitutional Court needs only to conduct an evolutionary interpretation of the phrase *"dikuasai oleh negara"* in Article 33, paragraph (3).

This phrase has often been misinterpreted as a form of state ownership that grants the government broad discretion to freely grant concession permits. Through an evolutionary interpretation, the Constitutional Court can shift the doctrine of dominium (exploitative state ownership) to the doctrine of public trusteeship (state trusteeship/public trust). The constitutional affirmation of the Public Trust Doctrine drastically forces a reformulation of the limits of state authority; the state is strictly positioned not as an absolute owner akin to a corporation, but is solely mandated to serve as a trustee to secure and manage the environmental property (the trust property) for the public interest. However, to ensure this doctrine is not once again reduced to anthropocentric terms, an essential question arises: who exactly are the true *beneficiaries* situated at the apex of the state's fiduciary protection?

An analysis of fiduciary responsibility unequivocally establishes that the spectrum of beneficiaries must not be narrowly restricted to accommodate the insatiable consumption of

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[41] Vincentius Patria Setyawan, "Ekologi sebagai Subjek Hukum: Rekonstruksi Paradigma Perlindungan Lingkungan Hidup di Indonesia," *Jurnal Hukum Mimbar Justitia (JHMJ)* 11, no. 2 (2025): 285-304, https://jurnal.unsur.ac.id/index.php/jhmj/article/view/5970

[42] Pan Mohamad Faiz, "Dimensi Judicial Activism dalam Putusan Mahkamah Konstitusi," *Jurnal Konstitusi* 13, no. 2 (2016): 406–430. https://jurnalkonstitusi.mkri.id/index.php/jk/article/view/1328/0

[43] Ramlani Lina Sinaulan, Rahmat Saputra, and Sugeng, "The Constitutional Court as a Positive Legislative through the Living Constitution Approach," *International Journal of Law and Society* 2, no. 4 (2025): 311–322, https://doi.org/10.62951/ijls.v2i4.780

[44] Reisa Malida, "The Legal Standing of Pancasila in the Practice of Judicial Review of Legislation Against the Constitution in Indonesia," *Negrei: Academic Journal of Law and Governance* 4, no. 2 (2024): 171–191 https://journal.iaincurup.ac.id/index.php/negrei/article/view/13145

the current human generation.[45] More profoundly, the Public Trust Doctrine obligates the state to fulfill its protective responsibilities by dedicating cumulative sustainable benefits to the survival of future generations, while simultaneously affirming that wild ecosystems and biodiversity habitats inherently possess legal standing as objective beneficiaries whose dignity and right to life must be safeguarded by state protection.[46] The meaning of state sovereignty over natural resources must be restored to its essence: a constitutional mandate to act as a protector and guardian to preserve the Earth's sustainability.[47]

Jurisprudentially, the Constitutional Court has repeatedly engaged in judicial activism to protect the rights of indigenous communities. Therefore, granting legal standing to ecosystem entities through a trusteeship institution is the logical continuation of the protection of constitutional rights that are non-discriminatory in nature. [48] The state can delegate its legal mandate to parties possessing integrity and a spiritual connection to the environment through this trusteeship doctrine. Such mandates can be granted to environmental civil society organizations (such as WALHI), independent state commissions, or, most authentically, to local Indigenous Legal Community leaders, because these communities have long proven their capacity to maintain socio-ecological order through established customary judicial systems and multi-level sanctions.[49]

Institutionalizing this system would allow an Indigenous elder from the Papuan interior to stand with full authority before the Supreme Court to demand the revocation of permits issued to corporations that destroy the environment.[50] Their presence in the courtroom is not driven by the petty motive of seeking material compensation, but rather to speak out forcefully as Legal Guardians in demanding justice for the Right to Life of the rivers and forests inherited from their ancestors. The institutionalization of ecological guardianship is operated through strict accountability mechanisms to avoid conflicts of interest.[51] Legal guardians (whether NGOs or Indigenous Communities) act not on behalf of group interests, but as fiduciaries for the sake of the ecosystem. Restoration funds obtained from winning environmental lawsuits in court do not go into the guardians' personal pockets but must be managed within an

[45] Svenja Behrendt, "Facing the Future: Conceiving Legal Obligations Towards Future Generations," *Politics and Governance* 12 (2024): 1–13, https://doi.org/10.17645/pag.7839
[46] Klaus Bosselmann, "Saving the Earth for Future Generations: Some Reflections," *Environmental Policy and Law* 54, nos. 2–3 (2024): 95–104, https://doi.org/10.3233/EPL-239030
[47] Ahmad Redi, "Dinamika Konsepsi Penguasaan Negara Atas Sumber Daya Alam," *Jurnal Konstitusi* 12, no. 2 (2015): 401–421.
[48] Diya Ul Akmal, Mas Iman Kusnandar, and Fatkhul Muin, "Protecting Indigenous Peoples' Constitutional Rights Through Legal Formation," *Jurnal Konstitusi* 20, no. 4 (2023): 819–842, https://doi.org/10.31078/jk2214
[49] Eka Faizin Hidayat et al., "Eksistensi Penerapan Sanksi Adat Bertingkat dalam Peradilan Adat Aceh: Relasi Hukum Adat dengan Qanun Aceh," *Journal Presumption of Law* 7, no. 2 (2025): 106–122, https://doi.org/10.31949/jpl.v7i2.11506
[50] Dian Agung Wicaksono, "Dynamics of Granting Legal Standing to the Indigenous Community in Constitutional Review of Law (Dinamika Pemberian Kedudukan Hukum Pemohon bagi Masyarakat Hukum Adat dalam Pengujian Undang-Undang)," *Jurnal Konstitusi* 20, no. 3 (2023): 494–513, https://doi.org/10.31078/jk2037
[51] Prasida Alya Putri, Dimas Andrianto Kusuma, and Rayi Kharisma Rajib, "Eksistensi Legal Standing Organisasi Lingkungan Dalam Menghadapi Sengketa Lingkungan Hidup di Indonesia," *Jurnal Ilmiah Research Student* 1, no. 5 (2024): 309-318, https://ejurnal.kampusakademik.co.id/index.php/jirs/article/view/1362/1250

"Environmental Trust Fund" supervised by the state for tangible ecological restoration. Thus, this concept transforms from a mere philosophical utopia into a concrete and transparent instrument of law enforcement.

4. Conclusions

The anthropocentric paradigm embedded in Article 28H (1) and Article 33(3) of the 1945 Constitution of the Republic of Indonesia has proven to construct nature solely as passive property and an object of economic exploitation. This paralyzes the enforcement of environmental law because natural entities lose their legal standing to sue for the damage they have suffered. To resolve this impasse, the reactivation of the First, Second, and Fifth Principles of Pancasila as the state's Grundnorm necessitates an expansion of the meaning of intergenerational justice; from what was originally limited to intragenerational economic equity, to justice that transcends the dimension of time and grants ontological recognition to nature as God's creation and an autonomous legal subject (Rights of Nature) whose dignity is scientifically measurable.

As a practical step, this transformation toward an ecocentric constitutional law does not require a constitutional amendment with high political costs. This study recommends that the Constitutional Court immediately take progressive steps through an evolutionary interpretation of the phrase "*dikuasai oleh negara*" into the doctrine of public trusteeship (state trusteeship). By extracting implied constitutional rights, the state is strictly repositioned as a trustee whose absolute beneficiaries are future generations and the ecosystem itself, not corporate interests. This interpretation must be followed up in practice through the institutionalization of the "Ecological Guardianship" instrument within Indonesia's judicial system. Through this instrument, the state can delegate its legal mandate to civil society organizations or leaders of Indigenous Legal Communities to represent the interests of nature in the courtroom without the prerequisite of proving human material harm. Furthermore, in resolving extreme legal conflicts against extractive licenses, the judiciary must apply the precautionary principle and the *in dubio pro natura maxim*, so that mountains, forests, and rivers have an absolute legal instrument to seek justice for their own right to life.

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