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LEGAL POLITICS FOR THE ESTABLISHMENT OF LAWS REGARDING CLIMATE CHANGE IN PROMOTING A GREEN ECONOMY CLIMATE IN INDONESIA

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ABSTRACT
The global climate crisis, which is increasingly in crisis, indicates that there is an urgency to encourage various parties related to world climate impacts to immediately take real action. This, for example, is an entrepreneur who produces carbon emissions and causes bad world climate. With these problems, there needs to be a paradigm shift related to the business world to push through a better climate. One way to concretely support this paradigm is through the establishment of a Law on Climate Change. With the existence of this Law, companies must comply with the provisions contained therein so that they directly implement the green economy. This study discusses normatively with statutory, conceptual, and case approaches. This research found that one of the efforts to achieve a good and optimal green economy climate is to encourage the establishment of a Law on Climate Change. This is based on the concept of shared ownership of the environment. The formation of the Law on Climate Change will change the paradigm of business and society in viewing climate conditions.

KEY WORDS
Climate change, legal politics, green economy.

In the current development of regulations in Indonesia, there are very few regulations governing the concept of public ownership relating to natural resources and the environment. In the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) explicitly verbis the concept of public ownership contained in article 33 paragraph (3) which states that the management of land, water and natural resources is carried out by the state whose purpose is for prosperity people. The implicit meaning of the verb relating to people's sovereignty in the management of land, water and natural resources is agreed upon by Tody Sasmitha, Haryo Budhiawan, and Sukayadi who stated that the paradigm in Article 33 of the 1945 Constitution of the Republic of Indonesia is not oriented towards state power over its people, but people's power over the state through the provision of power in the management of natural resources.[1]

The concept of collective ownership in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia is also agreed upon by the Constitutional Court in the Constitutional Court Decision Number 001-021-022/PUU-I/2003 which states as follows:[2]

"... also includes the notion of public ownership by the people's collectivity, which gives a mandate for the state to carry out policies (beleid) and management actions (bestuursdaad), regulation (regelendaad), management (behersdaad) and supervision (toezichthoudensdaan) for the greatest purpose--the great prosperity of the people."

The concept of collective ownership is doctrinally known as the public trust doctrine. Historically, public trust doctrine has been known since ancient Rome, then was adopted in England in the Middle Ages, and then in America in the 19th century. In environmental law, Gerald Torres and Nathan Bellinger call this doctrine Law's DNA because it is the oldest.

[1] *Tody S., Haryo B., Sukayadi, The Meaning of the Right to Control the State by the Constitutional Court (Study of MK Decision No 35/PUU-X/2012; MK Decision No. 50/PUUX/2012; and MK Decision No. 3/PUUVIII/2010), Center for Research and Community Service, National Land College, Yogyakarta, 2014.*
[2] *See in the Decision of the Constitutional Court Number 001-021-022/PUU-I/2003 environmental law doctrine in the world which provides affirmation of collective ownership of the environment.*

Harrison Dunning refers to this doctrine as the fundamental doctrine of American property law, therefore position in the concept of rights as natural rights is inherent in everyone. [3]In the United States, the doctrine of public trust has become a legal medium in protecting and preserving the environment which has been emphasized since 1969 through the embodiment of this doctrine in the National Environmental Policy Act (NEPA) which states that the national objective in environmental management is to fulfill the responsibilities of each generation as trustee of the environment for succeeding generations. Since the adoption of the public trust doctrine normatively in the NEPA, it has encouraged various states to adopt it into their state constitutions.[4]

Public Trust Doctrine (PTD) is a doctrine that dates back to Roman times and developed in several countries by demonstrating public interest that must be considered in the ecology management. The PTD doctrine has developed a lot in various environmental and natural resource disputes in the United States because the concept of its application is considered as new breakthrough in environmental law. According to Richard Frank, PTD is a doctrine that forms the basis for environmental law and management Natural Resources, which shows the government's mandatory to maintain public interest in the management of natural resources. Existing resources will be developed by the company; in accordance with the strategy determined by the company to achieve the vision and mission that have been determined; and the integration of all these resources is called capabilities.[5]

PTD is used in many countries where the concept of trust is inherent without evidence of a written agreement is required in the relationship between the state and society. To understand the context of trusts, the context of trusts in private law will be described for comparison. Trust in the concept of private law can be analogous to the relationship between apartment managers and tenants in a lease agreement. In this case, the tenant has the obligation to maintain cleanliness of the unit and the manager is obliged to provide a clean unit, repair damaged public facilities. This simple example of a trust shows both parties must maintain the same object so that the next tenant can use the unit.

According to Sagarin & Turnipseed, PTD has four main elements, namely: 1) the existence of conflicts between public and private interests in the management of natural resources in public space; 2) it can be accessed directly by the public and used as commercial facilities (fishing, navigation etc.) and tourism (recreational activity); 3) the existence of activities to change the function of natural resources that aimed at advancing the economy or to benefit private parties; 4) If the natural resources in the public space are degraded and reduce the right of public access, the public has the right to file a lawsuit to the court. The four elements are not cumulatively binding because each state has a different laws and interpretations of PTD.

Like many American common laws, the origin of the American public trust doctrine is English. In English common law, property categorized as jus publicum/res communes was held by the King in trust for his subjects. The property consisted mainly of coastal waters and rivers affected by the tides, which were important to the people as a means of navigation and commerce as well as a source of food. The provisions of the doctrine remained in force after the American Revolution as contained in the Arnold V. Mundydan Martin V. Waddell decision. The judges in both cases stated that the rights once held by the British monarchy were now vested in the people, represented by the state as sovereign. Meanwhile, the provisions of Article 28H paragraph (1) of the 1945 Constitution focus more on the fulfillment of the community's right to a good and healthy environment as part of the fulfillment of their welfare. Santosa even emphasized that the inclusion of Article 28H paragraph (1) in the Indonesian constitution signifies the state's recognition of the subjective rights and obligations of the state in environmental management and protection. In the context of the common law tradition, the government's right to sue based on the provisions of Article 28H paragraph (1) of the 1945 Constitution is closer to the doctrine of parens patriae. The term "parens patriae"

[3] *Harrison C. Dunning, A Fundamental Doctrine of American Property Law, 19 Envtl. L. 515 (1989)*
[4] *Sun, H. "Toward a New Social-Political Theory of The Public Trust Doctrine". Vermont Law Review, Vol. 565, (2011).*
[5] *Yohan Tirtayasa, Canvas Business Strategy in The Application of Local Credits in Bank BCA, Jakarta, 2020.*

is Latin, meaning "father of his country". Parens patriae was originally a doctrine that provided a position for the King to protect his subjects who could not protect themselves because they were idiots or insane. In its development, under this doctrine the state is allowed to file a lawsuit for costs or damages arising from behavior that threatens the health, safety, and welfare of citizens, including in relation to environmental pollution/damage.

Currently, in Indonesia, the regulation that adheres to the public trust doctrine is only limited to managing natural resources contained in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Even though in the world, this doctrine has been used as part of the campaign to overcome the climate crisis. The public trust doctrine in overcoming the world's climate crisis states that the atmosphere enters common public trust assets. The world is campaigning against the climate crisis based on the public trust doctrine as a step to force carbon emission reductions. One of the institutions that has campaigned for this is the Our Children's Trust by launching a petition to encourage governments in various countries to reduce carbon emissions as well as to formulate policy prescriptions to reduce carbon emission reductions with various world climate experts.[6]

Recognition of environmental rights inherent in everyone in the 1945 Constitution of the Republic of Indonesia is confirmed in article 28H, then in the implementation of the national economy in article 33 paragraph (4). These two articles explicitly indicate that in administering the state, including in economic development, it must not degrade the people's right to access a clean and healthy environment.

Humanity's concern for the environment has now become a global concern in the context of in the interest of humanity itself. The concern of a group of people alone for the environment is not enough environment is not enough because changes in an environment whose impact is not only locally limited locally, but has a global impact. That is why the "United Nations Conference on the Human Environment" which was held in Stockholm on June 5-16, 1972 has emphasized that environmental management for the preservation of environmental capacity is an obligation of all human beings is an obligation of all human beings and every government around the world. In 1982, Indonesia issued a very important law on environmental management, namely: Law No. 4 of 1982 on the Basic Provisions of Environmental Management (its philosophy rests on "environmental law as an umbrella"), which has since been replaced by the Law No. 4 of 1982 on the Basic Provisions of Environmental Management. Environment (hereinafter referred to as the Environmental Management Law/UUPLH) (the philosophy is based on "management"). The policy on environmental management with the enactment of the environmental law is a response of the government and the Indonesian people to the results of the United Nations Conference on the Human Environment which was held on June 5 to 16, 1972 in Stockholm.

Recognizing the need for environmental management for the preservation of a harmonious and balanced ability of a harmonious and balanced environment to support sustainable development, it is necessary to increase the utilization of the environment. sustainable development, it is necessary to improve the utilization of the potential of natural resources and the environment by natural resources and the environment by converting, rehabilitating and saving use by applying environmentally environmentally friendly technology, as well as utilizing natural resources for the greatest prosperity of the people by paying attention to the sustainability of the environment. Prosperity of the people by taking into account the preservation of the function and balance of the environment, sustainable development, economic and cultural interests of local communities and spatial planning, whose exploitation is regulated by spatial planning, whose exploitation is regulated by law.

The right to the environment must be protected by the state because basically environmental ownership belongs to all. Therefore the statement of Siti Nurbaya (Minister of Environment and Forestry) in a joint forum with the Indonesian Student Association (PPI) stating that "development that is taking place on a large scale in the era of President Jokowi

[6] *Mary Christina Wood & Gordon Levitt, The Public Trust Doctrine in Environmental Decision Making, (USA: Edward Elgar Publishing, 2015)*

must not stop in the name of carbon emissions or in the name of deforestation" [7] is a statement which is very wrong. This also confirms that the State has not embraced collective rights to the environment.

Environmental pollution is one that cause the quality of the environment decreases up to a certain level that causing the environment to become less or unable to function anymore in accordance with its designation environmental damage in terms of where it occurs can be classified into three, namely air pollution, water, and land.

Air pollutant can be a gas and particles. The effects of air pollution vary, but the severe are the effects of air pollution nuclear against living things, in to some extent, can cause mutations, various disease consequences gene abnormalities, and even death. In recent times experts discover the fact how the temperature the earth's surface is is getting warmer compared to previous times. Global warming is caused by in the atmosphere there is an increase in level an unfit gas called "greenhouse effect" when this gas can be said as a form of waste gas originating from factories, motorized vehicles, nuclear tests and forest fires.

Water pollution can be defined as the concentration of the type of pollutant in water over a period of time that causes harm. Standards of water bodies and wastewater characteristics made up foundation of human health and resilience in receiving various contaminants. Include odor, color, turbidity, and conductivity.

Soil pollution is caused by the following types of pollution:

- Plastic wasted that hard to crush, bottles, rubber synthesis, broken glass and cans;
- Non-bio detergent degradable (naturally hard to decipher);
- Chemical substances from wasted agriculture, such as insecticides.

Noise pollution is a nuisance in the environment caused by sound or noise that causes it the unrest of living beings in surrounding. Sound pollution caused by loud noises height that makes the surrounding area be noisy and not pleasant. Noise level occurs when the sound intensity exceeds 70 decibels (dB).

Based on the findings of the regular annual report presented at the Intergovernmental Panel on Climate Change (IPCC) forum 'Climate Change 2007: Impacts, Adaptation and Vulnerability' on 6 April 2007, several scientific the report outlines some of the scientific predictions on the impacts of climate change. Between 75 and 250 million people in some countries, including on the African continent, are projected to face increased water stress due to climate change by 2020. Agricultural production, including access to food, is expected to be severely compromised, adversely affecting livelihoods across the African continent and exacerbating food security and malnutrition.

The expected impacts on the Asian continent stem from the disappearance of glaciers around the Himalayas, which is expected to lead to large-scale flooding and degradation of water resources over the next 20-30 years. This will be followed by reduced river flows and degraded freshwater availability in Central Asia, South Asia, East Asia and South-East Asia, affecting South-East Asia and more than one billion people by 2050. Island countries located near the equator are expected to see their coastlines shift due to sea-level rise, affecting their general activities. One obvious climate change impact that will occur in the Indonesian context is that sea levels will rise by one meter, causing major problems for communities living in coastal areas. Many communities will lose their homes and resources as the coastline is scraped and recedes for several kilometers. According to some studies, millions of people living in coastal areas will be directly affected. Indonesia's more than 80,000 km of coastline is home to a high concentration of population and socio-economic activities, including economic activities in cities, towns, coastal towns and ports. Natural ecosystems such as mangroves will also experience a lot of disruption due to increased pollution and inundation.

The issue of climate change is a highly complex, multidimensional problem that touches on science, economics, and justice. Currently, much attention is focused on the economic and scientific impacts of climate change. While much attention has been paid to

[7] *Anonymous, Minister of Environment and Forestry: Jokowi's Development Must Not Stop in the Name of Zero Deforestation, detik.com, accessed on 31 July 2022.*

the economic and scientific impacts of climate change, little attention has been paid to the justice dimension of climate change. The concept of justice in the environmental dimension is a contested issue that involves multiple sectors and interests. From an environmental justice perspective, the geographical conditions of each country are a resource to be handled wisely and a right to a good environment. Climate change has complicated the issue of resource sharing between countries and between current and future generations. Managing and conserving renewable resources is the only way, but acid rain and global warming are destroying forest ecosystems. Controlling anthropogenic carbon emissions requires an international solution to avert catastrophe and stop the degradation of existing ecosystems. To fulfill their commitments, all countries must reduce their existing emissions. At the same time, developing countries can reasonably argue that the problem is primarily caused by developed countries that have used emission-causing energy for utilitarian purposes. Environmental damage that has an impact on extreme climate change is indeed a complicated problem to solve. This was conveyed by Rostow in his book[8]which states that economic development will definitely sacrifice the environment. In other words, economic development will damage the environmental ecosystem and also encourage extreme climate change. On the other hand, that economic development is a necessity; environmental damage is only a matter of time.

To prevent these problems, legal instruments are needed, namely regulations regarding the Climate Change Law. By encouraging the formation of the Climate Change Law, the green economy climate in Indonesia will also be better. This is because with this arrangement the company must control the emissions it emits from its production business. This research will discuss the legal politics of making laws on climate change in promoting a green economy climate in Indonesia.

RESULTS AND DISCUSSION

The term legal politics, which is a formation of two words recht and politic. Etymologically the word recht means law. The word law itself comes from the Arabic law (plural word ahkam), which means decision (judgment, verdict, decision), provision (province), command (command), government (government). Legal politics is the basic policy of administering the state in the field of law which will be, is being and has been in effect, originating from the values prevailing in society to achieve the aspired goals of the state. In formulating and enacting laws that have been and will be implemented, legal politics surrenders legislative authority to state administrators, but with due regard to the values prevailing in society. And all of that is directed in order to achieve the goals of the country that aspires to. Legislation is part of subsystem of the legal system. Term legal politics or statutory politics based on the principle that the law and/or laws and regulations basically are the design or result of institutional design politics (political body).

Law as a social rule or norm is inseparable from the values that apply in a society, it can even be said that the law is a reflection and concretization of the values that at one time were valid in society. The law will more or less always follow the values that become the common consciousness of certain people and apply effectively in regulating their lives. The same thing happened in legal politics.

Law is a social phenomenon; it only develops in the life of humans. It appears in harmonizing the meeting between the needs and interests of the community, whether compatible or conflicting the needs and interests of the citizens of society, whether compatible or conflicting. This always takes place because humans always live together in atmosphere interdependence. Law has a meaning as the main need as regulating the needs and interests of individuals in collective life, the law is presented one of them in the form of social instruments in the midst of social life. Every organized society, which can determine the patterns of permanent relationships between its members' relationship, is a society that has more or less clear goals, has more or less clear goals. Politics is the field in society that

[8] *Rostow, The Stages of Economic Growth, (London: Cambridge University Press, 1991).*

relates to the goals of that society structure is concerned with organizing collective activity to achieve collectively achieves collectively salient goals.

In the perspective of legal implementation in the political field, sociological studies of law become more interesting, especially in political dispute resolution, which shows the many variables that come into play, but at the same time show the effectiveness of the political settlement of political cases outside the court, which is done through mediation by a third party. This shows that justice can not only be obtained in court, but beyond that court, but further than that, real justice emerges from the agreements made by the parties to the dispute. Law is a political product so that the character of each legal product will be determined or colored by consideration of power. Practical world, there are many factors that can lead to the superiority of law over politics, depending on the situation. of law or politics, depending on the situation and conditions of state administration.

Mahfud MD stated about there are three kinds of answers to see the relationship between law and politics. First, the law is a determinant politics, political activities must be subject to law. Second, the view that sees that political determinants of the law because in fact the law is full of political product with political interests and configurations, and the third view that sees that law and politics are two elements of a balanced social subsystem, because even though the law is a political product, when there is a law that regulates politics activity, politics must obey the law.

The legal politics of one country is different from the legal politics of other countries. This difference is caused by differences in historical background, world view, socio-cultural, and political will of each government. In other words, legal politics is local and particular (applicable only from and to certain countries), not universal (applicable throughout the world). However, that does not mean that the legal politics of a country ignores the realities and politics of international law. It is this difference in the legal politics of a particular country with other countries that then gives rise to what is called national legal politics. As an overview in research, it is necessary to make a definition of legal politics. The definition of legal politics by various legal experts is as follows. First, according to Padmo Wahjono, the definition of legal politics is as a basic policy that determines the direction, form and content of the law to be formed.

Teuku Muhammad Radhie conceptualizes legal politics as a statement of will state authorities regarding laws that apply in the territory of a country and regarding the direction in which the law is to be developed. According to constitutional law expert Moh. Mahfud MD, legal politics is a legal policy or a line official (policy) regarding the law that will be enforced either with the new law or by replacing old laws, in order to achieve state goals. From the definitions of some of the experts above, an argument can be drawn that the elements of legal politics are the existence of rulers, regions, policies, and implementers of these policies also the implementer of the policy.

Legal politics is the process of law formation and the implementation of a legal system or order that regulates the life of society. So the definition of legal politics does not only contain the meaning of formation of law through the formation of laws and regulations (legal substance) as understood so far, but also in the sense of strengthening law enforcement and law enforcement facilities (legal substance) strengthening of law enforcement and means of law enforcement (legal structure) as well as the development of a legal culture (legal substance), legal structure as well as the development of a legal culture. However, there are additional elements that are important to add apart from the three main elements above, according to the author, namely the means and means of law enforcement elements above, according to the author, namely facilities and infrastructure that provide supporting power from the beginning of the formation to the implementation so that the law can be achieved properly in social life.

Political influence in law formation is evident in the formation of legislation. Each stage of the formation of laws and regulations cannot be avoided from political influence, which ultimately has an impact on the substance of the legislation formed by the government. According to Article 1 Point 1 of Law No.12 of 2011, the formation of laws and regulations is the making of laws and regulations which include legislation which includes the stages of

planning, drafting, discussion, ratification or stipulation and enactment. Legislation is part of the law and has an urgent value for the development of the Indonesian legal system in the future. What is meant by legislation is a written regulation that contains legal norms that are generally binding and legal norms that are binding in general and are formed or stipulated by state institutions or authorized officials through procedures set forth in the state institutions or authorized officials through procedures stipulated in laws and regulations. Various types of laws and regulations in Indonesia are contained in Article 7 of Law No. 12/2011. Law No. 12 of 2011, in practice the formation of these laws and regulations has not optimally reflected the basis, principles and process of forming good legislation, so that the products of legislation good legislation, so that the resulting legislation products create many problems in the future, especially many problems arise in the future, especially law enforcement problems. In fact, it cannot be denied that laws and regulations that have been enacted and promulgated have been requested for review to legislations that have been passed and promulgated are requested for testing to the Constitutional Court and the Supreme Court. According to Daniel S. Lev, the most decisive in the legal process is the conception and structure of political power. Namely that the law is more or less always a political tool and that the place of law in the state depends on the political balance, definition of power, the evolution of political, economic and social ideologies, and so on.

Swiss Re Institute warns that the biggest impact of climate change is can remove up to 18% of GDP world economy in 2050 if the global temperature rose by 32°C. The size of the negative impact of climate change keeps the government in different countries take different preventive actions measures to prevent worsening climate change by improving quality environment. One means to overcome the impact of climate change is the Green Economy is an economy with a purpose to reduce environmental risks and ecological scarcity and aims to sustainable development without destroying environment.

The term “Green Economy” first time used in 1989 in “Blueprint for a Green Economy”, a report for the British Government created by a group of leading environmental economists. The report is created to provide advice to the British Government for provides a consensus on the term “development sustainable” and the implications for development continuous measurement of progress economics and appraisal of projects and policies.

In terms of legal politics in the green economy aspect, the thing that needs to be known first is regarding the green economy. The United Nations Environment Program (UNEP) in its report entitled Towards Green Economy states: Greening the economy refers to the process of reconfiguring businesses and infrastructure to deliver better returns on natural, human and economic capital investments, while at the same time reducing gas emissions, extracting and using fewer natural resources, creating less greenhouse waste and reducing social disparities.[9]

Components contained in UNEP’s Green Economy Initiative include three series of activities, namely to:

- Generate Green Economy Reports and related research materials, which will analyze the implications macroeconomics, sustainability, and poverty reduction from investment green in various sectors ranging from renewable energy to agriculture sustainable and delivering a guide on applicable policies catalyze increased investment in these sectors;
- Provide consulting services about how to move towards a green economy in certain countries;
- Involving various research, non-governmental organizations, businesses and UN partner in implementing Green Economy Initiatives.

The terms “Green Economy”, “Green Growth” “Sustainable Development” cannot be separated. This is due to emergence concept of Green Economy and Green Growth is a movement toward that approach more integrated and comprehensive to combines social and

[9] *Makmun M. 2016, " Green Economy: Concept, Implementation and Role of the Ministry of Finance", Journal of Economics and Development, 19(2), pp 1-15. doi: 10.14203/JEP.19.2.2011.1-15. or https://jurnalonomi.lipi.go.id/JEP/article/view/60*

environmental factors in economic process, for the sake of achieving sustainable development. Therefore, Green Growth is economic growth that contributes to the use of capital nature responsibly, prevents and reduces pollution, and creates opportunities to increase well-being social as a whole by building Green Economy and finally made it possible achieving sustainable development goals (sustainable development).

To achieve sustainable development, the Green Economy aims to maintain and enhance the value of the natural resource base, increase resource efficiency, encourage sustainable or environmentally friendly patterns of production and consumption, and push the world towards production and consumption patterns that are sustainable or environmentally friendly, as well as pushing the world towards low-carbon development. Therefore, green economy initiatives should aim to improve the combination of economic growth and sustainable environment, especially in relation to the structure of the economy and its level of level of development. In the form of licenses or use rights obtained, the benefits of mining companies are generally only enjoyed by a few people/groups. In fact, the detrimental impact of mining activities is carried out by the surrounding community, causing environmental damage. Via creation of a green economy paradigm, we hope to minimize/avoid the following.

The green economy seeks to eliminate the negative impact of economic growth on the environment and the scarcity of natural resources. In simple terms, a green economy can be interpreted as an economy that is low in carbon (does not produce emissions and environmental pollution), saves natural resources and is socially just. Green economy is the economy of the real world, the world of work, human needs, raw materials from the earth and how all these things are combined into one harmoniously.[10]

Green economy is really about use value not exchange value, about quality not quantity, about regeneration of individuals, communities and ecosystems not about the accumulation of money or materials. The definition of Green economy is broader in scope than the low carbon economy (LCE) or Low Fossil Fuel Economy (LFFE), namely economic activities that provide minimal output of greenhouse gas (GHG) emissions released. This green economy is included in a new economic model that is developing very rapidly which is the opposite of the current economic model or the black economic model that uses fossil fuels.[11] Green economy is based on ecological economic knowledge which discusses the economic dependence of humans on natural ecosystems and the effects of human economic activity on climate change and global warming; UNEP states that the application of green economy can be seen through:[12]

- Increased public and private investment in the green sector;
- Increase in the quantity and quality of employment in the Green sector;
- Increase in GDP from the Green sector;
- Decrease in the use of energy or resources per unit of production;
- Reduction in CO^2 levels and pollution/GDP;
- Reduction in consumption which generates a lot of waste.

Green economics is based on the knowledge of ecological economics, which discusses the economic dependence of humans on ecosystems which discusses the economic dependence of humans on natural ecosystems and the effects of human economic activity on climate change and ecosystems and the effects of human economic activity on climate change and global warming. UNEP states that the application of the green economy can seen through, increased public and private investment in the green sector, increase in GDP from the green sector, a decrease in resources per unit of production and a decrease in consumption that produces a lot of waste.

[10] *Laura Saikku, et.al., 2016, Implementing The Green Economy in a European Context: Lesson Learned from Theories, Concept and Case Studies, Helsinki, Finland, Juvenes Print.*

[11] *Lucian Georgesen, et.al., 2017, "The Global Green Economy: A review of Concepts, Definitions, Measurement Methodologies and Their Interactions", Geo Geography and Environment Journals 4(1), doi: http://dx.doi. org/10.1002/geo2.36*

[12] *Anonymous, 2013, "Introduction to Green Economy", A DEVCO Training Course Prepared in Partnership with UNITAR, UNEP, and ILO, Brussels.*

Sweden was the first country to adopt environmental protection legislation since 1967. The Nordic country significantly managed its economy while reducing carbon emissions and pollution. Today, more than half of Sweden's national energy supply comes from renewable energy. In urban areas, Stockholm, Sweden's capital, has experienced significant population growth. By the 1950s, the city was already densely populated, while millions of people needed to be provided with clean water, clean air and clean energy. In developing countries, building houses on forests and agricultural land is often the solution to the problem. Instead, Stockholm established an urban national park to protect green space.

The green economy has been implemented in several countries around the world. In order to address the waste and resource issues facing the country, Japan established a series of laws and regulations including a legal framework and the Fundamental Law for Establishing a Sound Material Cycle Society Basic Plan to establish a general scheme, Waste Management Law and Law for Promotion of Effective Utilization. To establish a general scheme, the Waste Management Law and Act for the Promotion of Effective Utilization of Resources implemented additional regulations covering the separate processing of products/materials such as packaging, home appliances (refrigerators, washing machines, air conditioners and televisions), food, building materials and vehicles have been approved The Environmental Nation Strategy proposes building a sustainable society through comprehensive measures that integrates the following three aspects of society: (1) A Low-Carbon Society, (2) A Sound Material - Cycle Society, and (3) A Society in Harmony with Nature.

This strategy emphasizes the utilization of local wisdom and traditions where people live in harmony with nature, together with environmental technologies and renewable energy. It also promotes economic growth and creates environmentally sound local communities. This cooperation is carried out by various sectors that are expected to contribute to the development and prosperity of the world. It is expected to contribute to the development and prosperity of the world. With the "Environmental Nation Strategy" which emphasizes on three different aspects of what the Japanese government plans to envision in a sustainable society. The Japanese government plans to envision in a sustainable society, the synergy between these three aspects is very important.

Implementation of the Climate Change Law, if there is one in the future, will be very much in line with the green economy. This is because in the discussion of the Climate Change Law, of course the aspects that are highly discussed are aspects of the business world. Given that the current bad climate conditions cannot be separated from the business world. The existence of the Climate Change Law will change the community's paradigm regarding the business world that is friendly to green energy.

Therefore, the existence of the Climate Change Law will make various new regulations that are pro-environmental. The paradigm that was originally only destructive, especially for the business world towards the environment, will be more orderly with the encouragement of the law on climate change. Change needs to look for competencies to find core competencies in the business being carried out.[13]

Normatively, Indonesia's commitment to managing climate issues internationally has been carried out through the ratification of Law Number 6 of 1994 concerning Ratification of the United Nations Framework Convention on Climate Change and Presidential Regulation Number 98 of 2021 concerning Implementation of Carbon Economic Value to Achieve National Contribution Targets and Control of Greenhouse Gas Emissions in National Development. But in reality, based on data, net deforestation in 2019-2020 outside Indonesia's forest areas reached 115.5 thousand hectares. The largest deforestation rate occurred in the secondary forest class, which was 104.4 hectares, with 60.64 thousand occurring in forest areas and the remaining 43.7 thousand outside forest areas. Although this number is very large.[14] This reality is very contradictory when compared to the value in the

[13] *Ali, Hapzi. (2020). Module 9 BC, Canvas Business Models, Diversification and Balance. Jakarta: Mercu Buana University.*
[14] *Anonymous, Indonesia's Net Deforestation Figures Inside and Outside Forest Areas for 2013-2020, bps.go.id, accessed on 31 July 2022.*

Nationally Determined Contribution (NDC) which seeks to reduce greenhouse gas emissions by 29% to 40% by 2030 and build national resilience to climate change conditions.

This large deforestation rate indicates that there is no consistent commitment by the government, so that efforts to achieve the NDC target to implement low greenhouse gas emission development and climate resilience in 2050 may be hampered. Therefore, achieving climate resilience and implementing low-gas emission development cannot only be achieved through reforms within government bodies. Rather, it is necessary to emphasize the aspects of forming legislation.

Forms of exploitation such as sand mining, pumice excavation, gold excavation will cause ecological hazards. The destruction of the order of the natural balance system has a huge great influence on the survival of creatures on this earth. Waste disposal into the sea will also affect the existing marine ecosystem. Not only large waste disposal but also waste disposal by small and medium-sized companies, medium-sized companies will also have little or no impact on the existing ecosystem. For this reason, it is necessary to protection and management of the environment that is serious and consistent by all stakeholders. Environmental damage that continues to be left unchecked will have an impact on future generations. To anticipate that the environmental impact is not too severe and does not endanger the next generation, it is necessary to have rules that regulate it and enforce it on every person who violates people who violate the laws and regulations

Currently, Indonesia's long-term environmental policy refers to Law No. 27/2007 on the Environment. Law No. 27/2007 on the National Long-Term Development Plan (RPJP) for the next 20 years in various aspects/sectors of development as an effort to spread and achieve the national goals as stated in the Preamble of the Constitution. The mission of Indonesia's long-term mission related to the environment is in the Vision and Mission of the National

National Development 2005-2025, in point 6, namely: "Realizing a beautiful and sustainable Indonesia". In order to realize a beautiful and sustainable Indonesia, the goals and directions of environmental development outlined in the 2005-2025 RPJP in accordance with Law No. 27 of 2007 concerning RPJP 2005-2025. The goals of the 2005-2025 RPJP on the environment according to Law No. 27 of 2007 are as follows (President of the Republic of Indonesia, 2007). The goals of the 2005-2025 RPJP, especially on the environment are as follows:

- Improving management and use of natural resources and preservation of environmental functions as reflected in by maintaining the function of carrying capacity and its recovery ability in supporting the quality of social and economic life in harmony;
- The preservation of the richness of the diversity of types and uniqueness of natural resources to realize added value, national competitiveness, and development capital;
- Increased awareness, mental attitude and behavior of the community in the management of natural resources and the preservation of environmental functions to maintain comfort, balance and sustainability. preservation of natural resource functions to maintain comfort and quality of life.

Currently, Indonesia does not yet have a specific law that regulates climate change. Even though this is very important to achieve the target of climate resilience which is the government's commitment. Regulations related to climate change and efforts to achieve targets on climate change in Indonesia are currently regulated through various regulations spread across technical regulations at the level of Ministerial Regulations and Presidential Regulations. According to Bayu Dwi Anggono, the many laws and regulations that exist to regulate problems only become obstacles in their implementation because they can create disputes and conflicts between regulations.[15]

To overcome this, the first step is to establish a Law on Climate Change using the omnibus law method that has been adopted by Indonesia through Law Number 13 of 2022

[15] *Bayu Dwi Anggono, Omnibus Law as a Law Formation Technique: Adoption Opportunities and Challenges in the Indonesian Legislative System, Rechtsvinding Journal, Vol. 9, No. 1, (2020).* [13] *Maria Farida, Science of Legislation, (Yogyakarta: Kanisius, 2007).*

concerning the Second Amendment to Law Number 12 of 2011 concerning the Establishment of Legislation. -Invitation. In this way, all regulations pertaining to climate change refer to the specific law on climate change. In addition, formally the Law on Climate Change will be lex specialis from the existing laws.

The principle of lex specialis derogat legi generali means that special laws (norms/legal rules) negate the validity of general laws (norms/legal rules). The principle of prioritization for special legal rules as contained in this contained in this principle has been known and practiced since long ago, long before the formation of the modern legal state as it exists today. It is recorded in the history of classical law that this principle has been known since the time of the Roman empire as a thought of Aemilius Papinianus, a Roman jurist born in Syria, who gave many critical and constructive thoughts for the critical and constructive thinking for the formation of law at that time. Papinianus' digest became one of the most important parts in the Theodosian Code (Codex Theodosianates to the particular is regarded as the most important. The rationale for favoring this specific law is that the specific rules are more relevant and compatible and better adapted to the needs of the law and more specific subjects that cannot be reached by the general rule of law. Perhaps, since its formation, this special legal provision that are special in nature are indeed realized to have the potential to deviate from the general provisions with the intention to complement or even make improvements or corrections to the general legal provisions. This is in line with view of the famous utilitarian legal philosopher, Jeremy Bentham, who said that special provisions are made based on a view closer and more appropriate to the subject than general provisions, which can be considered Implementing the principle of lex specialis is not an easy task given the absence of a measure of principle is not an easy thing considering that there is no definite to determine absolutely that a rule of law is special to another rule of law that is general. The general-specific relationship between a regulation and other regulations is relative. Sometimes a regulation acts as lex specialis, but in relation to other regulations can also act as lex generalis. However, determining the lex specialis in a case of norm conflict is not impossible. Legal science is indeed not an field of science that in every question always has a right or wrong answer. Truth in legal science is not absolute, but the search for rational and acceptable rational and acceptable answers can be taken by using a logical approach systematic law.

Prof. Bagir Manan in his book "Indonesian Positive Law" as quoted by Indonesian Positive Law" as quoted by A.A.Oka Mahendra in his article entitled "Harmonization of Legislation" suggests that there are several things that can be used as guidelines in applying the principle of lex specialis derogat legi generali, namely as follows:

- the provisions found in the general rule of law provisions found in general legal rules remain in effect, except those specifically regulated in the special legal rules;
- the lex specialis provision must be equal to the lex generalis provisions (for example, laws with laws);
- the lex specialis provision must be in the same legal the same legal environment (regime) as the lex generalis.

The Law on Climate Change which will be drafted later adopts the principle of public trust doctrine as its basis. In the formation of laws and regulations, the principle becomes a very important aspect to form a regulation. Maria Farida revealed that the position of the principle in the formation of laws and regulations is as a guide or sign for forming good laws and regulations.[13]

Although the concept of PTD is more developed in countries with a common law system such as the common law system such as the United States, some of the principles contained in the PTD have relevance in the context of Indonesian legal context. Daud Silalahi explains that the concept of PTD is the root of environmental legislation of environmental legislation in Indonesia. The concept of PTD is closely related to the principle of common ownership principle and returns to the original essence where environment, legitimately belongs to the shared, including water, sea, land, air and its surroundings.

According to Huffman, the development of public trust doctrine has touched on so many areas that "the possibilities seem only limited by the imagination." Even the courts of the United States, as well as the constitutions of its states, also have state constitutions, also have broad public rights over natural resources broad. It almost seems as if the public trust doctrine has developed more in the public interest in natural resources than anything else. Thus, the public trust doctrine offers two main insights: First, water is a public good; Second, the state controls natural resources in its capacity as custodian of the owner of the water (the public).

Making the public trust doctrine one of the principles in the Law on Climate Change has juridical consequences, namely that anyone can file a lawsuit against the government, business actors, or individuals wherever environmental damage occurs without going through Non-Governmental Organizations (NGOs). Each of these people does not need to have a direct loss to file the lawsuit. This lawsuit does not need to be in the form of a class action lawsuit or citizen lawsuit, but can be an individual lawsuit.

Individual lawsuits are essentially a mechanism by which citizens can challenge the responsibility of state officials for negligence in exercising the rights of citizens as individuals. The negligence would be an act of violation of the law, so citizens' suits would be heard in the general courts, in this case, the civil courts. On the basis of negligence, in petitum the state is punished for enacting a policy that is regulatory in nature (regulation) so that such negligence does not occur in the future.

Based on several individual lawsuit cases that have been filed in Indonesia, the following characteristics of individual lawsuits can be described as follows:

a. In an individual lawsuit, the defendant party is the state organizers, ranging from the president to officials who are considered to have officials who are considered to have committed negligence in fulfilling the rights of their citizens. If in the lawsuit there are elements of other parties other than state administrators, then the lawsuit is no longer a individual lawsuit because there are elements of the lawsuit is no longer a citizen lawsuit because there is an element of citizen against citizen and cannot be examined with individual lawsuit mechanism;

b. In an individual lawsuit, what is argued is the negligence of state organizers in fulfilling the rights of citizens, state organizers in fulfilling the rights of citizens, which must be described in the form of what negligence has been committed and what rights the state has failed to fulfill;

c. The plaintiff is a citizen acting on behalf of a citizen and it is sufficient to prove that he/she is an Indonesian citizen. The plaintiff does not have to be a citizen who is directly harmed; therefore the plaintiff does not have to prove the material loss felt by the plaintiff;

d. Individual lawsuit does not require notification and option out as is the case with class action lawsuits. In practice, individual lawsuit is sufficient to provide notification in the form of a subpoena to the state organizer containing that a citizen lawsuit will be filed for negligence in fulfilling citizens' rights;

e. The petitum in a individual lawsuit only contains a request that the state issue a policy that regulates the fulfillment of citizens' rights;

f. The petitum of a class action lawsuit may not request for material damages because the citizens who sue are not citizens;

g. The petitum of a individual lawsuit may not contain the annulment of a State Implementation Decree (State Administrative Decree);

h. The petitum in a individual lawsuit may not contain a request to annul a law because this is the authority of the State Administrative Court.

If we compare individual lawsuit with class action, there are similarities between the two, namely that the lawsuit filed both involve the interests of interests of a number of people who in the end in the lawsuit are represented by one or more people. Meanwhile, when viewed from the differences, there are several differences between the two, namely:

1. In an individual lawsuit, every citizen has the right to file a lawsuit, based on the basis that the person is a citizen without having to prove that the person is a citizen. citizen without having to prove that the person also experience material or immaterial losses in the

case, whereas in a class action the right to file a lawsuit is a representative of one or more people who are the representative of a group of people who have suffered material or immaterial loss;

2. What is demanded in a individual lawsuit is the public interest, which is considered as the common interest of all members of society. What is demanded in a individual lawsuit is the public interest that is considered as the, whereas in a class action lawsuit what is demanded is the interests based on similarities on the basis of the facts and laws that that befalls the group;

3. individual lawsuits can only be filed against state officials or the government where the demand is not in the form of compensation but better service and protection to the community in the form of better service and protection to the community in the form of making regulations so that the same mistakes do not recur in the future, while class action lawsuits are generally in the future, while class action lawsuits are generally a claim for claim for financial compensation, where the plaintiff has suffered a direct loss as a result of the defendant's actions. However, it does not rule out the possibility of demands for the return to the original state in the case of environmental damage.

The basis of the lawsuit is because in the public trust doctrine that everyone has property rights to the environment including the right to climate resilience. The principle of common ownership in the public trust doctrine was also emphasized by Daud Silalahi who said that the two concepts are in line.[16] In this way, the public trust doctrine also gives obligations to the public in supervising government policies because the nature of this doctrine is intergenerational to sustain a good environment for future generations. One of its intergenerational characteristics is confirmed by the opinion of the Supreme Court of the Philippines in oposa v. factor is as follows:

“Every generation has a responsibility to the next to preserve that rhythm and harmony for the full enjoyment of a balanced and healthy ecology.... [This] belongs to a different category of rights [than civil and political rights] altogether for it concerns nothing less than self-preservation and self-perpetuation... the advancement of which may even be said to update all governments and constitutions.”[17]

By making the public trust doctrine a principle in the Law on Climate Change later, it will add to the State's task of accommodating public rights and private rights related to climate change. The purpose of this accommodation is that the state can revoke the permits granted to (private) business actors in managing the environment that causes extreme climate change on the basis of collective ownership of the environment by everyone.

CONCLUSION

In this research it was found that one of the efforts to achieve a good and optimal green economy climate is to encourage the establishment of a Law on Climate Change. This is based on the concept of shared ownership of the environment. The formation of the Law on Climate Change will change the paradigm of business and society in viewing climate conditions. The paradigm that is built will tend to be better and highly oriented towards environmental interests. Through the formation of the Law on Climate Change, there will be more and more pro-environmental regulations, especially climate.

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