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The Legal Politics of Wonosobo Regency Regional Regulation No. 4 of 2022 on Environmental Protection and Management

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Abstract

Wonosobo Regency faces waste, damage from quarrying, loss of green space and conversion of protected areas. Its Regional Regulation No 4 of 2022 on Environmental Protection and Management is meant to make the Regency clean, healthy and sustainable. This article asks what direction of legal policy the Regulation expresses and what political configuration produced it, using Mahfud MD's theory that a democratic configuration yields a responsive legal product. It is normative legal research with statutory and historical approaches, applied to the Regulation, the national environmental statutes, the 2018 academic paper and the factions' positions in the regional council; it uses no deliberation records or interviews. The findings are that the Regulation follows the structure of Law No 32 of 2009 and adds little that is specific to Wonosobo, and that, as the provisions are described, it is silent on waste, quarrying, sanctions and enforcement. Approval by seven of eight factions, one with a special note, shows consensus but does not prove a democratic configuration. The Regulation is therefore best called partly responsive: its rights and participation provisions respond to the community, but its content leaves enforcement to executive discretion. The article recommends an implementation evaluation and revision of the enforcement provisions.

Keywords

Legislation; Environment; Responsiveness; Configuration; Regulation; Wonosobo

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Introduction

Indonesia is rich in natural resources, and the Constitution gives everyone the right to a good and healthy environment.[1] The statute defines the environment as the unity of space with all matter, energy, living things and behaviour that affect nature, life and human welfare,[2] and government and others must safeguard it. This article studies one regional answer to that duty, Wonosobo Regency Regulation No 4 of 2022 on Environmental Protection and Management (the Regulation).[3] The Regulation covers the whole environment, but the pressure that prompted it is easiest to see in waste. Indonesia's population was reported in 2022 to be about 277.7 million people,[4] and more people produce more waste, a problem of large cities and small ones alike. In Wonosobo, the Wonorejo final disposal site (TPA) is reported to be overloaded, receiving about 70 tonnes a day and 100–125 tonnes at weekends.[5][6] Waste is used here as the test case for the Regulation, because it is the problem the authors name first, and the article asks whether a regulation that is said to address the environment as a whole speaks to it.

Legal politics (politik hukum) is the official line of policy on the law to be applied, whether new law or law that replaces earlier law, to reach the state's aims; Mahfud MD defines it as legal policy, and studies how political forces shape the content of law.[7] His central thesis is that the configuration of politics determines the character of legal products: a democratic configuration tends to produce a responsive (populistic) product, and an authoritarian configuration an orthodox (conservative, elitist) one.[8] The configuration is judged by the working of the legislative process, the roles of the executive and the legislature, and the role of the public; the product is judged by its process of making, its function and its content, and a responsive product is one that reflects the community's sense of justice, is made with broad participation and is detailed enough to be applied without wide executive discretion.[9] These are the criteria used below.

Wonosobo's environmental problems range from small to large-scale pollution and include land damage from Class C mineral quarrying, damaged water sources and

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[1] Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 [1945 Constitution of the Republic of Indonesia], art 28H(1).

[2] Law No 32 of 2009 on Environmental Protection and Management (Indonesia).

[3] Peraturan Daerah Kabupaten Wonosobo Nomor 4 Tahun 2022 tentang Perlindungan dan Pengelolaan Lingkungan Hidup [Wonosobo Regency Regulation No 4 of 2022 on Environmental Protection and Management].

[4] Rauf Nuryama, "Jumlah penduduk Indonesia pada tahun 2022" (2022) tinewss.com, online: <https://www.tinewss.com/indonesia-news/pr-1853617715/jumlah-penduduk-indonesia-pada-tahun-2022>.

[5] Ridlo, "TPA Overload, Wonosobo Darurat Sampah" (2022) gatra.com, online: <https://www.gatra.com/news-536310-lingkungan-tpa-oberload-wonosobo-darurat-sampah.html>.

[6] Wahyu Tri Atmojo, "Overload Sampah" (2022) wonosobozone.com, online: <https://www.wonosobozone.com/berita/pr-4675904266/overload-150-ton-sampah-setiap-hari-masuk-ke-tpa-wonorejo>.

[7] Moh Mahfud MD, *Politik Hukum di Indonesia*, Rev ed (Jakarta: Rajawali Pers, 2010).

[8] *Ibid*.

[9] *Ibid*.

green open space, conversion of protected areas to cultivation and of farmland to housing, and waste. The authority for the Regulation is Law No 23 of 2014 on Regional Government,[10] read with the national environmental statute, Law No 32 of 2009, as amended by the Job Creation legislation. That legislation is now Law No 6 of 2023, which enacted Government Regulation in Lieu of Law No 2 of 2022 after the Constitutional Court held in 2021 that Law No 11 of 2020 was conditionally unconstitutional; the manuscript cites the earlier Law.[11][12]

Few studies apply legal-politics theory to regional environmental regulation. Akib examines the legal politics of environmental management as reflected in regional autonomy legislation, and finds that it does not reflect an ecosystem approach, that authority leans towards control and administrative approaches, and that local environmental institutions are weak; he links this to the dominance of an economic view of development and limited democratisation in making regional policy.[13] Ratmaja studies the legal politics of waste management in the city of Denpasar.[14] Neither studies the Wonosobo Regulation or tests a regional regulation against Mahfud's criteria of a responsive product. This article does so, and its novelty is to read a single regional regulation both for what it takes from national law and for the political process that adopted it.

The article asks two questions: what direction of environmental protection and management policy the Regulation expresses, and what the political configuration was in the discussion of the draft and what that implies for its character as a legal product. Its purpose is to answer both, to show where the evidence does and does not support the conclusion that the Regulation is responsive, and to propose how the Regency should evaluate and improve it.

Research Method

This is normative legal research, in which law is conceived as norms or rules. It uses a statute approach, which examines the relevant laws and regulations, and a historical approach, which traces the development of environmental regulation to the Regulation, together with Mahfud MD's theory as the analytical framework.[15]

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[10] Law No 23 of 2014 on Regional Government (Indonesia).

[11] Law No 6 of 2023 on the Enactment of Government Regulation in Lieu of Law No 2 of 2022 on Job Creation into Law (Indonesia).

[12] Law No 11 of 2020 on Job Creation (Indonesia).

[13] Muhammad Akib, "Politik Hukum Pengelolaan Lingkungan dan Refleksinya dalam Produk Hukum Otonomi Daerah" (2009) 16:3 *Jurnal Media Hukum*, DOI: <10.18196/jmh.v16i3.15378>.

[14] Bhujangga Alam Kusuma Ratmaja, "Politik Hukum Pengelolaan Sampah di Kota Denpasar" (2019), online: <http://eprints.walisongo.ac.id/11140/>.

[15] Mahfud, *supra* note 7.

The legal materials are primary: the Constitution, Law No 4 of 1982, Law No 23 of 1997, Law No 32 of 2009, Law No 23 of 2014, the Job Creation legislation and the Regulation itself, together with the academic paper (naskah akademik) of 2018 prepared by the regional environment office, which is cited in this article.[16] The article uses no records of the regional council's deliberations and no interviews: the only facts about the legislative process that it holds are the number of factions (eight) and their positions, and the conclusions on the political configuration are limited accordingly. Data are analysed qualitatively: the provisions are organised by subject, compared with national law, and assessed against the criteria of a responsive product.

Results and Discussion

Legal Politics of the Regulation

Legislation is a sub-system of the legal system, so the politics of legislation cannot be separated from legal politics, because law is the product of political institutions. Environmental problems in Wonosobo can be classified as macro, meso and micro. Macro problems are large, massive and widely felt and need a quick and effective solution, for example the use of land on the slopes of the Dieng mountains for farming and mining. The way to deal with them is concrete, comprehensive and integrated control of the environment, for which Law No 32 of 2009 is the national step.[17]

Historical Background

National environmental legislation has moved through three statutes. Law No 4 of 1982 laid down the basic provisions for environmental management;[18] Law No 23 of 1997 replaced it with a fuller statute on environmental management;[19] and Law No 32 of 2009 replaced that, adding a separate stress on protection, an environmental permit and wider roles for regional governments.[20] The Job Creation legislation then amended Law No 32 of 2009 and, among other changes, replaced the environmental permit with an environmental approval (persetujuan lingkungan).[21] The Regulation therefore sits at the end of a line in which each statute moved more of the detail to regional governments. Regional regulation of the

[16] Dinas Lingkungan Hidup Kabupaten Wonosobo, *Naskah Akademik* (2018).
[17] Law No 32 of 2009, *supra* note 2.
[18] Law No 4 of 1982 on Basic Provisions for the Management of the Living Environment (Indonesia).
[19] Law No 23 of 1997 on Environmental Management (Indonesia).
[20] Law No 32 of 2009, *supra* note 2.
[21] Law No 6 of 2023, *supra* note 11.

environment in Wonosobo before 2022 is not documented in the manuscript, and the article does not claim a history of earlier Wonosobo regulations.

Content and Policy Direction of the Regulation

The Regulation has 71 articles in nine chapters and aims at a Wonosobo that is clean, healthy, neat, beautiful and sustainable now and in the future.[22] Chapter I (general provisions) sets out the principles in Article 2 (responsibility, sustainability, harmony, integration, benefit, caution, justice, biodiversity, participation, good governance and regional autonomy) and the scope in Article 3 (planning, utilisation, control, maintenance, community rights and duties, participation, coordination and cooperation, and supervision).[23] Chapter II (planning) requires an inventory of the environment as the basis for plans and for determining environmental status by carrying and bearing capacity;[24] Chapter III (utilisation) requires the use of resources to follow the protection and management plan;[25] Chapter IV (control), the largest, runs from Article 9 to Article 57 and covers pollution and damage control, water and air pollution, toxic waste, environmental approval, environmental impact assessment, UKL-UPL and SPPL, environment-based budgeting and environmental risk analysis for businesses with a significant effect;[26] Chapter V provides for maintenance through conservation and reserves;[27] Chapter VI for community rights to education, information, participation and access to justice and the duty to preserve;[28] Chapter VII for participation;[29] Chapter VIII for coordination and cooperation;[30] and Chapter IX for supervision by the Regent of compliance with environmental approvals.[31]

The legal-politics question is why the Regulation takes this shape. Its structure follows that of Law No 32 of 2009, which is organised around planning, utilisation, control, maintenance, supervision and enforcement,[32] and the article numbers above show that most of the Regulation implements that statute at the regional level: inventory and status, pollution control, toxic waste, environmental approval and impact assessment are all national subjects. The policy direction is therefore

[22] Regulation No 4 of 2022, *supra* note 3.
[23] *Ibid*, arts 2, 3.
[24] *Ibid*, art 5(1).
[25] *Ibid*, art 8(1).
[26] *Ibid*, arts 9(1), 13(1), 21(1), 33(1), 38(1), 39, 56(1), 57(1).
[27] *Ibid*, art 58(1).
[28] *Ibid*, arts 60(a), 61(1).
[29] *Ibid*, art 62(1).
[30] *Ibid*, art 63.
[31] *Ibid*, art 65(1).
[32] Law No 32 of 2009, *supra* note 2.

implementation of national law, not a distinct regional choice. That is consistent with the regional government's place in the statutory scheme under Law No 23 of 2014,[33] and it explains why the Regulation reads as comprehensive.

What is specific to Wonosobo is harder to find. The provisions described here give no rule on the Dieng slopes, on Class C mineral quarrying or on conversion of protected areas, although these are the problems the Regulation was made to meet, and none of them is directed at waste, which is governed nationally by Law No 18 of 2008 and has its own regime.[34] Environmental budgeting (Article 56(1)) and risk analysis for businesses with a significant effect (Article 57(1)) are the nearest to local instruments.[35] Nor is there any description of a sanctions or enforcement chapter: the nine chapters end with supervision, and a regulation that sets duties without penalties relies on administrative sanctions and criminal provisions in the national statute. This description comes from the authors' account of the Regulation and must be checked against the official text, which was not available for this analysis. If it is correct, the Regulation is weak where Wonosobo's problems are sharpest.

The Job Creation legislation also changed the regional role. Environmental approval replaced the environmental permit,[36] and the Regulation provides for approval in Article 38(1).[37] Whether the regional government decides approvals, or only supervises compliance under Chapter IX, depends on the scale and kind of business, and the Regulation, as described, gives the Regent a supervisory role without saying what the Regent may do on non-compliance.

The Political Configuration

The manuscript reports that those who took an active part in drafting the Regulation were the regional environment office, eight political factions in the regional council, of which seven approved the draft and one approved it with a special note, and the council itself. Mahfud's theory would infer a democratic configuration, and so a responsive product, from a legislative process that is open, an executive and legislature that share roles, and a public that takes part.[38] The evidence here supports less. Approval by seven of eight factions shows consensus, not participation: in a regional council, consensus is also compatible with a draft that the executive controlled and the factions did not change. The article holds no record

[33] Law No 23 of 2014, *supra* note 10.
[34] Law No 18 of 2008 on Waste Management (Indonesia).
[35] Regulation No 4 of 2022, *supra* note 3, arts 56(1), 57(1).
[36] Law No 6 of 2023, *supra* note 11.
[37] Regulation No 4 of 2022, *supra* note 3, art 38(1).
[38] Mahfud, *supra* note 7.

of who proposed the draft and when, what changes the factions or the public made, what the faction with the special note asked for and whether the note was accepted, or whether hearings were held. The academic paper of 2018 shows that the draft originated in the regional environment office, an executive initiative.[39] The configuration can therefore be called consensual, and probably democratic in form, but its democratic character is a hypothesis.

Table 1 applies Mahfud's criteria to what the article can show.

Table 1. Mahfud's criteria of a responsive product applied to the Regulation

Criterion	What the evidence shows	Assessment
Legislative process	Eight factions took part; seven approved and one approved with a special note	Consensus shown; contestation and amendments not shown
Role of the executive and legislature	Draft based on the 2018 academic paper of the regional environment office; approved by the council	Executive-led; legislative role not documented
Role of the public	Not documented; the Regulation gives rights to information, participation and access to justice (arts 60–62)	Responsive on paper; practice unknown
Content of the product	Comprehensive, follows Law No 32 of 2009; no local rules on quarrying, Dieng or waste; no sanctions described	Partly responsive; wide executive discretion

Source: authors' analysis of the manuscript's account of the Regulation and Mahfud's criteria.

As to content, the Regulation responds to the community in giving rights to education, information, participation and access to justice and a duty to preserve (Articles 60 to 62),[40] which is the strongest evidence of responsiveness. Mahfud's test also asks whether a regulation is detailed enough to be applied without wide executive discretion.[41] Here the Regulation is weaker: the Regent supervises compliance, but as described no provision sets sanctions or the procedure for them, and no provision sets standards for quarrying or waste. Where enforcement is left to the executive's discretion, the product is less responsive than its rights provisions suggest. On balance the Regulation is partly responsive: it is responsive in its participatory rights and comprehensive structure, but the political process that produced it is not shown to have contested its content.

Comparison with Earlier Research

The findings agree with Akib's that regional environmental legislation tends to follow national control and administrative approaches rather than an ecosystem approach, and that institutional capacity is a weakness;[42] the Wonosobo Regulation, which restates the national scheme of planning, control and approval and gives the

[39] Naskah Akademik, *supra* note 16.
[40] Regulation No 4 of 2022, *supra* note 3, arts 60–62.
[41] Mahfud, *supra* note 7.
[42] Akib, *supra* note 13.

Regent a supervisory role, is an example. They differ in that Akib concluded from a wide review of regional legislation that democratisation was limited, whereas this article finds a consensual process in Wonosobo but cannot say how open it was. Ratmaja's work on Denpasar shows that waste can be studied through legal politics;[43] this article suggests that, in Wonosobo, the waste problem that motivated the Regulation is not addressed by provisions specific to it. What the article adds is the test of Mahfud's criteria on a single regional regulation, and a more cautious reading of the vote of the factions.

Policy Implications

The Regulation is an effort to deal with environmental problems comprehensively and in an integrated way, in the spirit of thinking globally and acting locally, and it lets the regional government respond to the effects of climate change, such as the floods, landslides and drought felt in Wonosobo. It places on the regional government the responsibility to ensure that the use of natural resources benefits present and future generations, to guarantee citizens' right to a good and healthy environment, to accommodate local wisdom and to prevent resource use that causes pollution or damage.[44]

These are intentions drawn from the academic paper, and the institutions that would carry them out are thinly described. The Regulation creates a duty to inventory the environment and plan, a requirement of approval and impact assessment, environment-based budgeting, and supervision by the Regent,[45] but as described it names no dedicated fund or enforcement unit and gives the Regent no stated sanctioning powers. Its likely effect on the problems in the Introduction is therefore limited: it can improve planning and permitting for new businesses, but it offers no direct instrument against overload at the Wonorejo site or illegal quarrying. This is a normative study of a regulation adopted in 2022, and its implementation has not been studied, so these effects are inferences from the text.

Conclusion

On the first question, the policy direction of the Regulation is comprehensive implementation of national environmental law at the regional level: it follows Law No 32 of 2009 across planning, utilisation, control, maintenance, community rights, participation, cooperation and supervision, and it adds little that is specific to

[43] Ratmaja, *supra* note 14.
[44] Naskah Akademik, *supra* note 16.
[45] Regulation No 4 of 2022, *supra* note 3, arts 5(1), 38(1), 39, 56(1), 65(1).

Wonosobo's quarrying, Dieng and waste problems. On the second, the political configuration was consensual, since seven of eight factions approved and one approved with a special note, but the record available does not show participation or contestation, so a democratic configuration is probable and not proven. The Regulation is therefore partly responsive: its rights and participation provisions respond to the community, while the lack of described sanctions and local standards leaves much to executive discretion.

Three recommendations follow. The Regent and the Regional House of Representatives should evaluate how the Regulation is implemented against the waste and quarrying problems, using data on approvals issued, inspections made and sanctions imposed. They should review the enforcement provisions and, if the official text confirms the gap, add administrative sanctions and local standards for quarrying and the Dieng slopes. And the council should publish its deliberation records and the 2018 academic paper so that later research can test the claim of a democratic process.

The study has limits. It is normative, relies on the manuscript's account of a regulation that it could not check against the official text, uses no deliberation records or interviews, and covers a regulation adopted in 2022 whose implementation is not examined. Later research should obtain the records and the official text, interview the actors and the affected communities, and study implementation.

Ethics and Data Availability

This research was normative. It did not involve human participants or personal data, so ethical approval was not required. The legal materials are public, and the Regulation and the statutes can be obtained from the Regency and national legal databases; the 2018 academic paper can be requested from the regional environment office.

Use of Generative AI

Generative AI was used only to improve the language of this article (grammar, clarity and style). The authors reviewed the output and are responsible for the content of the article.

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The authors declare no conflict of interest. This research received no external funding.

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