https://doi.org/10.54588/cc.2025v30n2a6

La urgencia de establecer un tribunal ambiental en Indonesia basado en el enfoque de los derechos de la naturaleza (Un estudio comparativo de Chile)

The Urgency of Establishing an Indonesian Environmental Court Based on the Rights of Nature Approach (A Comparative Study of Chile)

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Fecha de recepción: 17/10/2025
Fecha de aceptación: 21/11/2025

Resumen

La crisis ecológica que ha afectado a Indonesia pone de manifiesto el fracaso del paradigma jurídico, que sigue siendo antropocéntrico y considera la naturaleza únicamente como un objeto de explotación económica. Este estudio propone el enfoque de los derechos de la naturaleza como nueva base para una reforma del derecho ambiental más ecocéntrica y ecológicamente justa. Mediante un método normativo-comparativo, este estudio compara la experiencia de Chile en la creación de los Tribunales Ambientales con las condiciones jurídicas de Indonesia. Los resultados del análisis muestran que reconocer a la naturaleza como sujeto de derecho tiene el potencial de fortalecer la protección ecológica, aumentar la legitimidad del poder judicial y ampliar el acceso a la justicia para las comunidades y las entidades naturales. El modelo propuesto de tribunal ambiental basado en los derechos de la naturaleza hace hincapié en tres características principales: la inclusividad, ya que involucra a la comunidad y al Estado en la representación de la naturaleza; la cientificidad, a través de la participación de jueces técnicos y pruebas ecológicas; y la transformatividad, ya que fomenta un cambio de paradigma en el derecho hacia la justicia ecológica. Al integrar los valores de Pancasila y la Constitución, se espera que la creación de un tribunal medioambiental indonesio basado en los derechos de la naturaleza sea un paso estratégico hacia una legislación que coexista con la naturaleza, en lugar de una legislación que la domine.

Palabras clave: Justicia ecológica. Tribunal medioambiental. Reforma legal. Derechos de la naturaleza.

Abstract

The ecological crisis that has hit Indonesia highlights the failure of the still anthropocentric legal paradigm, where nature is seen only as an object of economic exploitation. This study offers the Rights of Nature approach as a new foundation for environmental law reform that's more ecocentric and ecologically just. Using a normative-comparative method, this study compares Chile's experience in forming Tribunales Ambientales with the legal conditions in Indonesia. The results of the analysis show that recognizing nature as a legal subject has the potential to strengthen ecological protection, increase the legitimacy of the judiciary, and expand access to justice for communities and natural entities. The proposed Rights of Nature-based environmental court model emphasizes three main characteristics: inclusiveness, because it involves the community and the state in representing nature; scientificity, through the involvement of technical judges and ecological evidence; and transformativeness, because it encourages a paradigm shift in law towards environmental justice. By integrating the values of Pancasila and the constitution, establishing an Indonesian Environmental Court based on the Rights of Nature is expected to be a strategic step towards a law that coexists with nature, rather than one that dominates it.

Keywords: Ecological Justice. Environmental Court. Legal Reform. Rights of Nature.

Introduction

These global symptoms reflect not only ecological degradation but also the inadequacy of existing legal systems in responding to complex environmental harms. This context underscores the urgency for Indonesia to explore more transformative judicial models capable of addressing ecological crises beyond conventional environmental governance.

The global ecological crisis is a paradox of modern civilization, highlighting the imbalance between humans and nature. Advances in science and technology have improved human welfare, but they have also led to severe ecological consequences, such as forest degradation, marine pollution, climate change, and species extinction (Abdussamad *et al*., 2024; Bakung *et al*., 2024; Brownsword, 2019). The failure of the environmental legal system is due to weak enforcement and philosophical limitations in viewing nature as an intrinsic value. The Rights of Nature approach, which acknowledges nature's inherent right to exist, thrive, and regenerate naturally, requires changes in legal norms and epistemological transformation. Latin American countries like Ecuador and Chile exemplify this shift (Imran *et al*., 2024; Cano Pecharroman, 2018).

Ecuador's 2008 Constitution recognized nature's rights, while Chile is integrating this principle into its constitutional reform. This process involves legal debate and political transformation, promoting social justice and ecological democracy. Chile's efforts demonstrate that environmental protection requires recognizing nature as a legal subject (Harris *et al*., 2019; Barandiaran, 2025). Despite its biodiversity, Indonesia's environmental legal system struggles to address ecological damage, such as water pollution, deforestation, forest fires, and agrarian conflicts.

Current mechanisms focus on controlling damage, while law enforcement is hindered by overlapping authority, limited technical capacity, and economic interests (Rs *et al*., 2023; Sonhaji *et al*., 2022; Zahroh & Najicha, 2022). These structural weaknesses indicate that Indonesia's existing enforcement mechanisms are insufficient and point to the necessity of developing a dedicated judicial model capable of addressing environmental harms more substantively.

The lack of a judicial body dedicated solely to environmental disputes in Indonesia highlights a gap in the national legal system. Currently, ecological cases are handled by general courts, which lack the technical expertise and environmental perspectives needed. Comparative studies on Chile's experience highlight the importance of integrating Rights of Nature into the legal system, allowing nature to be viewed as an entity with legal standing equal to humans. This approach could fundamentally change environmental case resolution in Indonesia, shifting from assessing administrative violations to providing substantial protection for ecosystems. However, the constitutional commitment to environmental protection in Indonesia presents challenges in formulating a Rights of Nature-based environmental court model (Akchurin, 2023).

A global study on the Rights of Nature reveals a shift towards a holistic ecological paradigm in environmental law. Successful implementation depends on institutional design that allows non-human entities legal standing and access to environmental justice. Specialized courts improve procedures but don't guarantee substantial ecological restoration. In Indonesia, weak enforcement and a lack of specialized courts create a gap between environmental rights and anthropocentric legal practices (Akchurin, 2021; Kauffman & Martin, 2018; Macpherson, 2022; Nature, 2024).

Accordingly, this study explicitly aims to examine how the Rights of Nature framework can be operationalized within Indonesia's environmental legal system through the design of a specialized environmental court. The research gap emerges at both the institutional and normative levels. Hus, this study contributes theoretically by integrating Rights of Nature principles with an operational institutional design for environmental adjudication, an approach that has not been offered by previous literature.

Existing literature has extensively discussed the importance of natural rights and lessons from Latin American experiences. Still, it has not yet produced an operational design for environmental courts suitable for Indonesia's legal structure. There have been no studies that systematically combine the Rights of Nature approach with a judicial institutional model possessing technical expertise, scientific evidence mechanisms, and a mandate for sustainable ecosystem restoration. This research aims to fill that gap by formulating an environmental court model based on natural rights, rooted in the principles of ecological justice, and compatible with the national legal system. A comparative approach to Chile is used as a reflective framework to assess the potential integration of natural rights into the Indonesian justice system, thus forming a conceptual and practical foundation for more just, progressive, and sustainable environmental law reform.

Research Methods

The research method uses a normative-comparative approach with analysis of legal documents, jurisprudence, and contemporary environmental law theories. In applying the normative-comparative method, this study used specific comparison criteria, including institutional structure, judicial mandate, procedural mechanisms, and recognition of ecological rights. These criteria enabled a

systematic assessment of similarities and differences between Indonesia and Chile, ensuring that the comparative findings were grounded in clear analytical parameters.

The primary legal materials analyzed in this study include Indonesia's 1945 Constitution, Law No. 32/2009 on Environmental Protection and Management, and Chile's Environmental Framework Law. Secondary materials consist of judicial decisions, academic articles on environmental jurisprudence, and comparative law commentaries, while tertiary materials include official reports, institutional publications, and international environmental documents.

The analysis was conducted using doctrinal legal interpretation combined with legal hermeneutics to examine the normative meaning of environmental rights. Additionally, a comparative-law reasoning model was used to synthesize Chilean legal experience into a conceptual institutional design suitable for Indonesia. Chile was selected as the comparator jurisdiction because it shares a civil-law tradition with Indonesia and has developed one of the most advanced environmental court systems in Latin America. Its experience offers relevant institutional lessons and normative precedents that can inform Indonesia's efforts to integrate Rights of Nature into ecological adjudication.

The normative approach is used to examine the legal norms governing environmental protection and the potential recognition of natural rights in the Indonesian legal system, while the comparative approach is used to compare the institutional models of environmental courts in Indonesia and Chile. The analysis was conducted qualitatively through the exploration of primary, secondary, and tertiary legal materials to formulate an ideal model for establishing Rights of Nature-based environmental courts relevant to the Indonesian legal context.

Results and Discussion

1. The Relevance of Rights of Nature to the Indonesian Legal System

The Rights of Nature concept is a progressive environmental legal thought that aims to address the global ecological crisis by asserting nature's inherent rights to live, thrive, regenerate, and maintain balance, rather than relying on human benefit. This approach challenges the anthropocentric legal system that views nature as a resource for exploitation (Epstein, 2023). In this context, the Rights of Nature concept directly challenges the modern legal model that has been based on the dichotomy between humans and nature. Christopher D. Stone, in his monumental work, "Should Trees Have Standing?", was a pioneering figure in proposing the radical idea that natural entities such as rivers, forests, and mountains should be recognized as legal subjects with the right to be protected in court. This thinking then developed through the Earth Jurisprudence movement, pioneered by Cormac Cullinan and Thomas Berry, which emphasized that legal systems should be subject to the laws of the earth (Earth law), not solely to human-made laws. In various countries, especially in Latin America, this idea has taken on a constitutional form. Ecuador and Bolivia, for example, have incorporated the recognition of natural rights into their constitutions, which is a historic milestone for the development of global environmental law (D. Stone, 2018; Schmidt, 2022; Gilbert *et al*., 2023).

The relevance of Rights of Nature needs to be understood through three main dimensions: the philosophical, the legal, and the normative. The three are intertwined and form a strong conceptual basis for the potential application of the principle of Rights of Nature in the national legal system. Philosophically, the Indonesian legal system has a foundation that allows for the acceptance of the idea of Rights of Nature. Pancasila, as the foundation of the state and the source of all laws, places the relationship between humans and nature in a harmonious, not hierarchical, position. The second principle, "Just and civilized humanity," and the fifth principle, "Social justice for all Indonesian people," can be interpreted as a moral foundation for realizing comprehensive ecological justice. The concept of social justice in the Pancasila perspective is not limited to human relationships but rather encompasses the balance between humans, society, and their environment. Therefore, the Rights of Nature paradigm is not actually foreign to the fundamental values of the Indonesian nation, as it embodies the spirit of justice, balance, and ecological responsibility that aligns with the nation's philosophy of life.

Furthermore, the value systems in customary law across various regions in Indonesia also show a close similarity with the principle of Rights of Nature. In the view of indigenous communities, nature is not an object of ownership but an integral part of the community of life. Many indigenous communities in the archipelago consider forests, rivers, and mountains to have guardian spirits (spirit of place) and believe they deserve respect. For example, indigenous communities in Papua recognize the principle of "tahu ni hak," which means respect for natural territories as entities with their own right to life. In Bali, there is the concept of Tri Hita Karana, which emphasizes the balance between human relationships with God, fellow humans, and nature. Similar values can be found in the indigenous Dayak communities, who consider the forest the "mother of life" and believe it should not be damaged without a legitimate moral reason. All these values reflect an ecocentric worldview, in line with the Rights of Nature principle developing in international environmental law (Khuan *et al*., 2025; Imamulhadi *et al*., 2025; Mahmud *et al*., 2025; Pelizzon, 2025).

In practical terms, these constitutional principles could be operationalized through judicial interpretation, particularly by the Constitutional Court in expanding the doctrinal meaning of environmental rights, or through specialized environmental chambers under the Supreme Court that adopt an ecocentric approach in adjudication. These judicial pathways offer concrete institutional entry points for embedding RoN into Indonesia's constitutional practice.

Legally, the Indonesian legal system has provided a sufficient normative basis for integrating the Rights of Nature principle, although it has not explicitly recognized it. The Indonesian Constitution, through Article 28H paragraph (1) of the 1945 Constitution, guarantees every person the right to a good and healthy environment as part of human rights. This provision implicitly includes the state's responsibility to maintain the balance of the ecosystem, although its focus remains on human rights. Additionally, Article 33, paragraph (3) of the 1945 Constitution states that "land, water, and the natural resources contained therein shall be controlled by the state and used for the greatest possible prosperity of the people." The text is often interpreted too narrowly, as if it justifies the exploitation of natural resources for economic development. However, a broader interpretation suggests that state control should be viewed as a form of management that promotes ecological sustainability and safeguards the rights of nature itself (Indra *et al*., 2023; Van Der Muur, 2018).

Law Number 32 of 2009 on Environmental Protection and Management (PPLH) supports a more ecocentric approach. Article 2 of the PPLH Law highlights the principles of state responsibility, sustainability, and participation in environmental management. Although this law does not explicitly mention natural rights, it sets the groundwork for acknowledging that environmental protection is essential not only for human interests but also for the survival of the ecological system itself. For instance, Article 69, paragraph (1), letter h, which prohibits the destruction of forest ecosystems, can be interpreted as recognizing the ecosystem's right to remain intact and function naturally. There is an opportunity to broaden the interpretation of positive law to include natural rights as subjects of law (Gobel *et al*., 2024; Sudarmo *et al*., 2025). These normative and structural challenges become more visible when examined in the context of real enforcement failures, where anthropocentric legal biases and institutional limitations manifest directly in concrete environmental disputes.

The integration of Rights of Nature into the Indonesian legal system faces challenges due to its anthropocentric structure, where humans are the center of interest and nature is viewed as a regulated legal object. The weak position of society in the environmental legal system also hinders its implementation. Rights of Nature can address these weaknesses by recognizing nature as a legal subject, allowing communities, institutions, and environmental organizations to advocate for their rights in court (Indrawati, 2022; Cribb *et al*., 2024). Besides legal reasons, the recognition of the Rights of Nature also has a strong normative dimension in the context of national legal system reform. Conceptually, the Indonesian legal paradigm should not stop at the principle of sustainable development, but must move toward the principle of ecological justice.

Sustainable development tends to balance economic, social, and environmental considerations within a framework of compromise, whereas ecological justice demands recognition of nature's intrinsic right to exist without excessive exploitation. This principle can serve as the basis for reforming Indonesia's environmental laws to be more transformative and oriented toward long-term protection of life systems. In an institutional context, the application of Rights of Nature is also relevant for strengthening the structure of environmental law enforcement. Environmental law enforcement in Indonesia has encountered various challenges at the administrative, civil, and criminal levels (Okafor-Yarwood *et al*., 2020).

Numerous instances of environmental pollution and destruction often result in insufficient penalties due to inadequate evidence, jurisdictional conflicts among agencies, and the limited technical skills of law enforcement officials. For example, the case of PT Marimas polluting the Klampisan River in Semarang did not result in criminal sanctions because the evidence was considered insufficient. At the same time, illegal mining activities in the Bila River in South Sulawesi continued without law enforcement despite being reported by the community. The case of palm oil waste pollution in Bengkalis resulted in only minor sanctions according to legal provisions. A similar situation occurred with the pollution of the Cikijing River, which was resolved through an out-of-court agreement. This was mainly due to overlapping authorities and the limited capacity of environmental laboratories. Major incidents such as the 2018 Balikpapan oil spill and the pollution of Buyat Bay by PT Newmont Minahasa Raya illustrate how inadequate scientific evidence and political pressure can weaken the enforcement of environmental laws. Conversely, companies that harm the environment can exploit legal mechanisms to intimidate experts or activists who seek accountability. Recognition of natural rights can broaden the basis of legitimacy for courts to decide environmental cases not only based on human harm, but also on overall ecological damage. This will also strengthen the principle of preventive justice, where courts have a stronger legal basis to prevent potential environmental damage before it occurs (Jong, 2025).

https://doi.org/10.54588/cc.2025v30n2a6

From a social perspective, implementing Rights of Nature can strengthen the position of local and indigenous communities in protecting their living areas. Many environmental conflicts in Indonesia stem from the marginalization of local communities who have lost access and control over natural resources due to the expansion of extractive industries. By recognizing natural rights and providing space for society to represent those natural laws, ecological democracy is strengthened. Society is no longer just a recipient of impacts but has become part of the legal protection mechanism for nature. This approach also enhances the spirit of environmental citizenship, which is the active participation of citizens in protecting and restoring ecosystems. The recognition of Rights of Nature in the Indonesian legal system will also enrich the constitutional interpretation of the right to a good and healthy environment (Ahmed *et al*., 2019).

Until now, this right has been regarded solely as an individual human right. In fact, by broadening its interpretation to include ecological rights, the state has a constitutional duty to ensure the rights of natural entities. This involves establishing special environmental courts focused on ecological restoration rather than just economic compensation. In this way, the Rights of Nature can provide a conceptual framework for creating new legal norms and enhancing judicial institutions that respond effectively to ecological crises (Razak *et al*., 2023).

The implementation of Rights of Nature cannot be separated from doctrinal and political challenges. In civil law traditions like Indonesia, legal subjects are typically limited to humans and legal entities created by humans. Recognizing nature as a subject of law means expanding the scope of legal subjects to include non-human entities, which demands a fundamental shift in the construction of legal theory. Changes like these demand intellectual courage along with progressive legal and political reform. Furthermore, powerful economic interests in the mining, plantation, and energy sectors often present significant obstacles to efforts aimed at reforming environmental laws. In this context, the concept of Rights of Nature should be viewed not just as a philosophical idea but as a transformative strategy to balance the power between economic interests and ecological sustainability.

Practically, the application of the Rights of Nature principle can begin through progressive jurisprudence mechanisms before being formally institutionalized. Judges can interpret environmental legislation provisions extensively to protect ecological rights. For example, in rulings related to deforestation or river pollution, courts can affirm that damage to ecosystems is a violation of natural rights that must be restored, not merely a violation of human rights. This approach aligns with the principle of living law in the Indonesian legal system, where law evolves in accordance with the values of society.

Additionally, the integration of Rights of Nature can be strengthened through administrative policies and legislation. The government can designate specific areas, such as customary forests, strategic rivers, or conservation areas, as legal entities with the right to be protected and restored. These policies not only enhance legal protections for the environment but also lay the groundwork for the creation of environmental courts with special authority to uphold the rights of nature. Therefore, the significance of the Rights of Nature extends beyond a theoretical framework; it can be effectively implemented within national legal practices.

Nevertheless, the institutionalization of RoN in Indonesia will inevitably face structural constraints, including the persistence of sectoral legislation, entrenched extractive-industry interests, and bureaucratic fragmentation. Acknowledging these barriers does not weaken the normative argument but rather situates RoN reform within a realistic institutional landscape, emphasizing the need for phased and politically strategic implementation.

The integration of the Rights of Nature into the Indonesian legal system is not intended to replace the current legal framework; instead, it aims to enhance and balance it. This approach encourages the legal system to shift from a human-centered perspective to one that promotes a more equitable ecological balance. By recognizing nature as a legal subject, Indonesian law can transform into a system that not only protects human rights to the environment but also environmental rights over humans. This is the essence of ecological justice, a justice that doesn't stop at social relationships, but encompasses the entire order of life.

2. Experiences, Challenges, and Lessons from the Rights of Nature Recognition Efforts in Chile

The development of Rights of Nature in Chile is one of the most fascinating examples of environmental law dynamics in Latin America. This country has embarked on a long journey to reshape the relationship between humans and nature through complex constitutional and institutional processes. Although explicit recognition of natural rights has not been successfully institutionalized permanently, Chile's experience provides valuable lessons on pursuing the concept, facing challenges, and building environmental institutional models to address contemporary ecological crises. To understand this context, it is essential to first trace the historical roots and legal structures of Chilean environmental law that formed the basis for the emergence of the Rights of Nature idea.

Chile is known as one of the countries in Latin America with a relatively advanced and structured environmental legal system. Large-scale reforms in the field of environmental law began in 1994 with the enactment of

the Environmental Framework Law (Ley sobre Bases Generales del Medio Ambiente), which was later strengthened by the establishment of specialized institutions such as the Ministry of the Environment (Ministerio del Medio Ambiente) and the Environmental Enforcement Agency (Superintendencia del Medio Ambiente). However, the most progressive step occurred in 2012, when Chile established Tribunales Ambientales, or Environmental Courts. The establishment of this institution marks a significant milestone in Chile's legal system, as it is the first time the country has a specialized court exclusively handling environmental disputes (Retamal Valenzuela, 2019; Buitrago *et al*., 2022).

At present, three Tribunales Ambientales are operating in Santiago, Antofagasta, and Valdivia. Each court has jurisdiction over a specific geographic area. Each court is composed of a panel of three judges: two legal judges and one technical judge with scientific expertise in environmental science or ecology. This composition reflects a multidisciplinary approach that places scientific aspects on par with legal aspects, thereby strengthening the legitimacy and effectiveness of the decision. The presence of Tribunales Ambientales played a significant role in changing the pattern of environmental law enforcement in Chile. Before this institution was established, environmental disputes were often resolved through administrative channels or general courts, which usually lacked sufficient technical expertise. With this specialized court, the legal process became more focused and based on scientific evidence of ecological impact (Buitrago *et al*., 2022).

Some significant cases, such as the Pascua-Lama Project, a gold and silver mining project in the Andes Mountains, serve as examples of how environmental courts are willing to suspend permits for large projects due to violations of water and glacier protection standards. In this case, the Tribunales Ambientales of Antofagasta affirmed that the protection of ecosystems cannot be compromised solely for economic interests. Similarly, in the case of the Dominga Project, the court reviewed the administrative decision regarding the large mining and port project in the northern coastal region because it potentially threatened the habitats of rare species such as Humboldt penguins and blue whales. These kinds of decisions show how Chile's environmental justice system has moved toward an ecological justice paradigm. The idea of explicitly including Rights of Nature in the Chilean constitution emerged within a broader political context (Quinteros Caceres *et al*., 2024; Moraga, 2024; Madariaga, 2019).

After the end of the authoritarian rule of Augusto Pinochet (1973–1990), Chilean society demanded a new constitution that was more democratic, participatory, and responsive to social and environmental issues. The old constitution inherited from 1980 is considered too market-oriented and does not adequately protect social or ecological rights. That momentum peaked after a significant wave of social protests in 2019 demanding social and environmental justice. In response, the Chilean government agreed to form a Convención Constitucional (Constitutional Convention) to draft a new constitution. During the drafting process, environmental issues became a significant focus. For the first time in Chilean history, the principle of Rights of Nature was included in the constitutional draft submitted in 2022. The draft states that "Nature has the right to be respected and restored, and the state has the obligation to guarantee and promote these rights." This sentence marks the formal recognition that nature is not merely an object of protection, but a legal entity with an inherent right to live and thrive (Issacharoff & Verdugo, 2023; Anbleyth-Evans *et al*., 2022).

Unfortunately, the draft constitution was rejected by a majority of the Chilean people in a national referendum in September 2022. The rejection was not solely due to environmental regulations, but rather because of the general perception that the constitution's design was too radical and complex. However, for academics and environmental activists, this process remains a historic achievement because it shows that the Rights of Nature have become part of public discourse and mainstream political debate. After that failure, similar efforts were made in the subsequent constitutional revision in 2023, but the latest version proposed by the conservative commission again removed the clause recognizing natural rights. Despite this, the concept provided a significant intellectual and moral legacy for future policymakers ("Chile Overwhelmingly Rejects Progressive New Constitution," 2022; Acchiardo *et al*., 2023).

Chile's experience demonstrates that recognizing natural rights requires strong institutions and an ecologically aware society. Tribunales Ambientales have proven to be an effective forum for translating the values of ecological justice into legal practice. However, even with the existence of this institution, the implementation of the Rights of Nature principle still faces structural challenges. One of these is the tension between administrative and judicial institutions. The courts have overturned many decisions by the Superintendencia del Medio Ambiente for being considered insufficiently transparent or not based on the principle of prevention. Conversely, some court rulings have also been deemed too interventionist by the executive branch. This tension shows that transforming to an ecological legal paradigm needs not only new legal instruments but also shifts in institutional culture and better coordination between authorities (Bordalí, 2025).

Besides institutional issues, another major challenge is political and economic resistance. Chile is one of the world's largest copper exporters, and its economy is

heavily reliant on extractive sectors such as mining and energy. As a result, every effort to tighten environmental protection is often opposed by large industries that have a strong influence on state policy. Economic actors are concerned that recognizing the Rights of Nature will create legal uncertainty and hinder investment. This concern is reinforced by a political narrative that accuses the idea of natural rights of being an unrealistic form of "green radicalism." In such conditions, it's natural for the majority of the public to be cautious, especially when environmental issues are linked to potential economic slowdowns. This phenomenon shows that the success of recognizing natural rights depends not only on legal arguments but also on how the idea is communicated to the broader public (Pauchard *et al*., 2025; Cianchi, 2015).

One key reason the 2022 draft was publicly perceived as 'too radical' relates to communication gaps and political framing. Opponents successfully portrayed their environmental provisions, including RoN recognition and expanded ecological guarantees, as threats to economic stability and property rights. This highlights the importance of public narrative management in advancing ecocentric constitutional reforms.

Other challenges are conceptual and doctrinal. The civil law tradition in Chile, similar to that in Indonesia, places humans and legal entities as the only legitimate subjects of law. Recognizing nature as a legal subject is considered to create ambiguity in responsibility and legal representation. Although morally acceptable, the legal technicalities of natural representation in court are still debated. Is it the state, environmental institutions, or civil society that has the right to represent nature? In practice, some environmental cases do use representatives from organizations or local communities to sue on behalf of nature, but its formal legitimacy has not yet been constitutionally recognized. Additionally, in many rulings, judges still use the framework that environmental protection is necessary to protect human well-being, rather than the right of nature itself.

In other words, Rights of Nature has not yet succeeded in replacing the anthropocentric paradigm that is deeply ingrained in Chile's legal system. Similar forms of institutional friction could potentially arise in Indonesia, particularly between a future environmental court and sectoral ministries whose mandates remain development-oriented. Anticipating these tensions is essential for designing a harmonious multi-institutional framework.

Academic criticism of this process also comes from Chilean environmental law scholars. Experts such as Ezio Costa Cordella, Valentina Durán Medina, and Dominique Hervé Espejo argue that, despite Chile having a relatively strong environmental legal and institutional framework, its approach is still predominantly oriented toward natural resource management rather than ecological justice. This view aligns with the analysis of Jorge E. Viñuales, who highlights that environmental law reforms in Latin America, including Chile, are often technocratic and fail to integrate moral and philosophical dimensions into the relationship between humans and nature (Espejo, 2015; Costa, 2019; Herve, 2018; Voigt, 2019).

This approach results in what is called technocratic environmentalism, a legal system that focuses on administrative efficiency and pollution control but fails to transform the fundamental values of the law. In this context, Rights of Nature offers a more radical alternative, as it demands a change in the legal paradigm itself, not just procedural strengthening. However, this kind of paradigm shift requires broad social and political support, which has not yet fully formed in Chile (Antonello & Howkins, 2020).

These critiques reinforce the central argument of this paper that institutional reforms, while necessary, are insufficient without a deeper paradigm shift toward ecological justice. Chile's experience illustrates how technocratic environmentalism can limit transformative potential when the underlying legal philosophy remains anthropocentric. Chile's experience in recognizing the Rights of Nature offers valuable lessons for Indonesia. It emphasizes the need for adequate constitutional and institutional support, community participation, and a balance between legal politics and public awareness. The success of the Rights of Nature depends on the acceptance of local wisdom and principles, which can be integrated into the national legal system. Indonesia can benefit from developing environmental education at the academic level, judicial institutions, government, and community organizations. This will equip judges, prosecutors, and law enforcement officials with a new understanding of ecological justice.

A paradigm shift in law can be achieved through a gradual process, beginning with the establishment of environmental chambers in existing courts, followed by the creation of specialized environmental courts. The idea of Rights of Nature is not just a legal project but also a cultural one, requiring a change in humanity's perspective on nature. In conclusion, Chile's experience highlights the importance of building a legal system that recognizes natural rights and fosters a legal culture that respects nature as part of the community of life. Chile's constitutional failure also offers strategic lessons for Indonesia: broad public buy-in, political coalition-building, and careful communication of ecological reforms are crucial to avoid similar rejection. Embedding RoN into national discourse incrementally may help cultivate societal acceptance before formal institutionalization.

3. Relevant Institutional Model of Environmental Courts for Indonesia

The environmental crisis in Indonesia is no longer a technical issue, but rather an institutional and legal paradigm crisis. Natural resource management focused on economic growth without ecological balance has led to systemic damage to forests, water, air, and biodiversity. In this situation, the judiciary plays a crucial role as the last line of defense in ensuring ecological justice. However, experience over the past three decades shows that the conventional justice system in Indonesia has not been able to address the complexity of environmental issues. (Solechan *et al*., 2022)

Cases of river pollution, deforestation, forest fires, and natural resource exploitation often result in weak rulings or fail to address the root of the problem. This condition underscores the urgency of establishing an environmental court that is institutionally independent and based on the Rights of Nature principle, a legal paradigm that places nature as a legal subject entitled to protection and restoration. The application of Rights of Nature within the context of judicial institutions requires a fundamental shift in how the law views the relationship between humans and the environment.

Indonesia's positive legal system has been anthropocentric, with environmental law designed to protect human interests against ecological damage, rather than to safeguard nature as an entity with intrinsic value. General and administrative courts do indeed have the authority to adjudicate ecological cases. However, their approach is still dominated by a formalistic perspective that treats nature merely as an object of dispute. In many cases, judges only assess economic or administrative losses, while the broader ecological dimensions are often overlooked. Therefore, Rights of Nature-based environmental courts are expected to shift the legal orientation from mere "environmental law enforcement" to "ecosystem restoration and respect for nature's rights" (Yuono, 2019).

Philosophically, the establishment of environmental courts has a strong foundation in the nation's constitutional values and ideology. Pancasila, as the source of all law, emphasizes the importance of balance between humans and nature. The second principle, "Just and civilized humanity," not only emphasizes human relationships but also human responsibility toward the environment as part of civilization. Meanwhile, the fifth principle, "Social justice for all the people of Indonesia," can be broadened to include ecological justice encompassing all living beings. In this context, the establishment of environmental courts is a concrete manifestation of the ideals of Pancasila law, which is a law that is not only socially just but also civilized toward nature. This principle aligns with the mandate of Article 28H paragraph (1) of the 1945 Constitution, which guarantees everyone's right to a good and healthy environment, and Article 33 paragraph (3), which mandates state control over natural resources for the prosperity of the people. Environmental courts can be seen as an instrument for realizing the state's constitutional obligation to maintain the sustainability of natural resources as part of shared prosperity (Indrastuti & Prasetyo, 2020).

Within a normative framework, the establishment of environmental courts is also a step toward strengthening the implementation of Law Number 32 of 2009 concerning Environmental Protection and Management (PPLH). This law has provided space for the principles of ecological justice and public participation, but its enforcement mechanisms still rely on the general judiciary. In fact, environmental issues have special characteristics, high technical complexity, cross-regional and temporal damage, and impacts that involve various sectors and social groups. Therefore, the overly formal nature of the standard legal system makes it challenging to deliver substantive justice in ecological cases. A standalone environmental court model would allow judges to decide cases by considering scientific and ecological dimensions more deeply, rather than merely legal-formal aspects (Prasetyo Ningrum, 2023).

Indonesia's environmental court model should be built in two phases: a transition phase and a phase of full institutionalization. The first phase involves establishing an Environmental Chamber under the jurisdiction of the District Court and State Administrative Court in areas with high environmental damage. This will lead to the establishment of an Environmental Court as a special judicial body under the Supreme Court with national jurisdictional authority. The model mimics the development pattern of corruption and commercial courts in Indonesia, which began with the establishment of extraordinary chambers before being permanently institutionalized. Environmental courts should adopt a mixed model of legal and scientific courts, similar to Chile's, with equal standing in the panel. They should also have cross-sectoral jurisdiction, covering civil, criminal, and administrative cases related to the environment. (Cohen-Shacham *et al*., 2019)

Implementing this two-phase model will likely face significant bureaucratic inertia and overlapping institutional authorities, particularly between the Ministry of Environment and Forestry, regional governments, and sectoral ministries whose mandates are not aligned with ecocentric adjudication. These structural barriers need careful regulatory coordination and political commitment to ensure institutional coherence.

One of the most essential elements in the design of Rights of Nature-based environmental courts is the mechanism

for representation. Because nature cannot speak and act on its own, it is necessary to determine who is entitled to represent it in court. Several representation options can be applied in parallel. First, the state guardianship model, where state institutions such as the Ministry of Environment and Forestry act as legal representatives for nature in some instances, is considered. Second, the community guardianship model proposes that indigenous peoples or local communities, who have a spiritual and ecological connection to a specific area, be given the authority to become legal representatives of nature. Third, the dual guardianship model combines both aspects, as implemented in New Zealand in the case of the Whanganui River, where the river is recognized as a legal entity with two official representatives: one from the government and one from the indigenous Māori community. This third model is the most ideal for Indonesia because it reflects the principle of balance between state authority and community participation (Reed *et al*., 2021).

Besides representation, it's also essential to design inclusive procedural mechanisms in the environmental litigation process. The ecological standing system needs to be adopted to broaden the right to sue, so it's not limited to parties who directly experience economic loss. Community organizations, local communities, and even individuals can file lawsuits on behalf of ecological interests. This procedure will strengthen the preventive function of the law, as society can act earlier before damage occurs. During the trial process, the court can use amicus curiae instruments, expert opinions, or independent institutions to enrich the analysis of the decision. Additionally, scientific evidence must be facilitated with technological tools such as satellite mapping, laboratory analysis, and geographic information systems. The use of strong scientific evidence will increase the legitimacy of the decision and ensure that the court's decision is truly based on objective ecological conditions (Lambe *et al*., 2019; Picolotti & Taillant, 2022).

In the context of implementation, the success of the environmental court model will be heavily determined by the readiness of human resources and synergy between institutions. Education and training programs are needed for judges, prosecutors, lawyers, and environmental investigators to understand the concepts of ecological justice and natural rights. The law curriculum in universities needs to be updated to include courses on Earth Jurisprudence and Ecological Law, so that the new generation of law enforcers has adequate ecological awareness. In addition, supporting institutions such as an Environmental Judicial Council need to be established to serve as an advisory and supervisory body in the application of environmental law in the courts. This institution can be composed of academics, legal practitioners, scientists, and representatives of civil society, ensuring that the process of enforcing environmental law is participatory and transparent (Sovacool *et al*., 2017; Alslamah, 2025).

Nevertheless, the dual guardianship model carries the risk of state dominance, particularly if governmental representatives overshadow indigenous voices. Ensuring meaningful indigenous participation requires clear safeguards, participatory appointment procedures, and legal guarantees preventing symbolic or token representation.From the perspective of national legal governance, the establishment of environmental courts must also be accompanied by the harmonization of laws and regulations.

Many sectoral laws in Indonesia overlap and are inconsistent in regulating ecological protection, such as the Forestry Law, the Mineral and Coal Mining Law, and the Energy Law. This regulatory fragmentation creates legal uncertainty and opens the door for abuse of power. Therefore, revising the Environmental Protection and Management Law is crucial to provide an explicit legal basis for the existence of environmental courts, expand the public's right to sue, and regulate ecological restoration mechanisms. In the long run, the formation of the Environmental Court Act could be a step toward codifying all environmental court principles and procedures into a complete legal framework. In strengthening evidentiary procedures, ecological indicators should be prioritized over purely economic loss assessments. This requires establishing judicial standards that recognize ecosystem integrity, such as carrying capacity, biodiversity metrics, and ecological thresholds, as primary considerations in judicial reasoning.

Rights of Nature-based environmental courts will also have broad normative implications for the Indonesian legal system. First, it will shift the legal paradigm from an anthropocentric orientation toward an ecocentric paradigm. Law is no longer just an instrument to protect human interests, but also a means to safeguard the sustainability of life for all beings. Second, environmental courts will strengthen the legitimacy of national law in the eyes of the international community, as they demonstrate Indonesia's commitment to the principles of global ecological justice as outlined in the Paris Agreement, the Convention on Biological Diversity, and the UN Harmony with Nature Initiative. Third, environmental courts will increase public trust in the judicial system, as society sees the law not only siding with economic power, but also with our shared survival.

However, of course, the establishment of environmental courts is not without its challenges. Political and economic resistance is a significant constraint, given the many large interests involved in the exploitation of natural resources.

Additionally, administrative obstacles such as budget limitations, inter-agency coordination, and the technical capacity of officials also need to be anticipated. To overcome this, a phased approach is key. The government could start with a pilot project in several areas with high levels of ecological awareness and strong institutional support, such as Bali, East Kalimantan, and Yogyakarta. Success in this pilot area will serve as empirical evidence for the effectiveness of the environmental court model before it is expanded nationally.

The establishment of environmental courts must also consider Indonesia's diverse social and cultural dimensions. The national legal system does not exist in a vacuum; it interacts with local values and customary law that have long been present in society. In many indigenous communities in Indonesia, the principle of Rights of Nature has long been practiced through respect for the spirits that guard forests, mountains, or rivers. Therefore, environmental courts need to make room for the recognition of customary law in the trial process, for example, by presenting representatives of indigenous communities as amici curiae or cultural witnesses who can provide local moral and ecological perspectives. In this way, environmental courts become not only formal legal institutions, but also arenas for dialogue between state law and local wisdom.

Conceptually, the establishment of Rights of Nature-based environmental courts will also broaden the meaning of justice within the Indonesian legal system. For a long time, legal justice has often been interpreted in a social or economic context, while its ecological dimension has not been a primary concern. However, without ecological justice, social justice will never be realized. Environmental damage always has the most significant impact on poor and vulnerable communities. Thus, environmental courts are not only legal institutions but also instruments of ecological justice redistribution, ensuring that the right to a good and healthy environment can be enjoyed by all segments of society, including future generations. This intergenerational principle affirms that the Rights of Nature are not a romantic idea, but a concrete manifestation of the state's moral and constitutional responsibility toward the future.

To harmonize these fragmented rules, an Environmental Court Act must clarify whether it will function as a framework statute setting out institutional authority and structural mandates or as a procedural statute specifying litigation processes, evidentiary rules, and judicial powers. A hybrid model may offer the best alignment with Indonesia’s hierarchical legal system.

Ultimately, the institutional model of environmental courts relevant to Indonesia must meet three main characteristics: inclusive, scientific, and transformative. Inclusive means that this court involves all stakeholders of the state, society, indigenous communities, and nature itself in the judicial process. Scientific means that every decision is based on strong ecological evidence and multidisciplinary analysis. Transformative implies that the court not only resolves disputes but also changes how law and society perceive the nature of legal issues. By meeting these three characteristics, environmental courts will become an effective instrument in realizing ecological justice and sustainable constitutionalism in Indonesia.

A concise comparative reflection also suggests that Indonesia must anticipate political and bureaucratic resistance similar to those observed in Chile. Embedding ecological values within judicial practice requires strategic legal drafting, coalition-building, and long-term institutional strengthening. Thus, the establishment of Rights of Nature-based environmental courts is not merely a technocratic agenda, but a historic step toward a more just, civilized, and sustainable legal system. This court will symbolize a significant shift in Indonesian legal civilization from a law that governs nature to one that coexists with nature. It marks a transition from a paradigm of domination to a paradigm of coexistence, where humans and nature are recognized as equal subjects in the community of life. It is within this framework that the Rights of Nature finds its relevance and currency for the future of Indonesian environmental law.

Conclusion

This research confirms that Indonesia’s ecological crisis stems not only from weak law enforcement but also from an entrenched anthropocentric legal paradigm that places human interests above environmental integrity. By adopting the Rights of Nature approach, this study offers a more ecocentric conceptual foundation for ecological law reform, one that recognizes nature as a legal subject with inherent rights to exist, regenerate, and be restored. Drawing on Chile’s experience, particularly the establishment of specialized Tribunales Ambientales, this research demonstrates the institutional value of courts that integrate legal, scientific, and ecological expertise. However, Chile’s constitutional rejection also illustrates the importance of political communication, public acceptance, and the need to anticipate institutional resistance.

In the Indonesian context, establishing Rights of Nature-based Environmental Courts constitutes a strategic pathway toward substantive ecological protection. Such a model can serve as an inclusive, scientific, and transformative judicial instrument that aligns with Pancasila’s ecocentric values and constitutional mandates. Yet, its success will depend heavily on addressing practical barriers, including bureaucratic inertia, overlapping sectoral authorities, and the risk of state dominance within representation mechanisms such as the

dual guardianship model. Ensuring meaningful participation of indigenous communities and prioritizing ecological evidence over economic loss in judicial reasoning will be essential to strengthening the Court's legitimacy and environmental outcomes.

Future research should further explore the design of an Environmental Court Act capable of harmonizing Indonesia's fragmented environmental laws, whether through a framework statute defining institutional authority or a procedural statute specifying evidentiary standards and litigation mechanisms. Strengthening the ecological literacy of law enforcement officers, expanding interdisciplinary training for judges, and deepening collaboration between the state, indigenous groups, scientists, and academics will be pivotal in supporting long-term institutional transformation. Ultimately, implementing the Rights of Nature in Indonesia is not merely a legal reform but a profound moral, cultural, and paradigmatic shift toward a system of sustainable ecological justice that recognizes humans and nature as coequal members of the community of life.

Acknowledgements
The author would like to express his deepest gratitude to the Institute for Research and Community Service (LPPM) of Sriwijaya University for its support and funding of research through the 2025 Lecturer Professional Scheme. The author would also like to thank the Rector of Sriwijaya University, Prof. Dr. Taufiq Marwa, S.E., M.Si., for his wisdom, encouragement, and commitment in promoting research in the fields of law and the environment. The support from Sriwijaya University has been an essential foundation for the implementation of this research. May the results of this research contribute significantly to the development of legal science and environmental policy in Indonesia, serving as a stepping stone for establishing a more equitable judicial system for both humans and nature

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Conservación Colombiana 30 (2). Diciembre 2025
ISSN 1900–1592
https://revista.proaves.org

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La urgencia de establecer un tribunal ambiental en Indonesia basado en el enfoque de los derechos de la naturaleza (Un estudio comparativo de Chile).

Citación del artículo: RS, I. R., Panjaitan, Saut P., Yuningsih, H., Banjarani, D. R., Ricco, A. 2025. La urgencia de establecer un tribunal ambiental en Indonesia basado en el enfoque de los derechos de la naturaleza (Un estudio comparativo de Chile). Conservación Colombiana, 30(2), 64-77 pp.
https://doi.org/10.54588/cc.2025v30n2a6

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