

Environmental Rights in Constitutional Court Decision No. 119/PUU-XXIII/2025 from the Perspective of Maqāṣid al-Sharī'ah

(Hak Lingkungan Hidup Dalam Putusan Mahkamah Konstitusi 119/PUU-XXIII/2025 Perspektif Maqashid al-Syariah)

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ABSTRACT

This study examines environmental rights in Constitutional Court Decision No. 119/PUU-XXIII/2025 from the perspective of *Maqāṣid al-Sharī'ah*. The issue is significant because the right to a good and healthy environment is guaranteed under Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, yet environmental defenders often face criminalization or civil lawsuits when conducting environmental advocacy. **Purpose:** This study aims to analyze the constitutional protection of environmental rights, the legal reasoning of the Constitutional Court in Decision No. 119/PUU-XXIII/2025, and its relevance to the principles of *maqashid al-shariah*. **Method:** This research uses a normative juridical method with a qualitative descriptive-analytical approach. The data were collected through library research on the 1945 Constitution, Law No. 32 of 2009, Constitutional Court Decision No. 119/PUU-XXIII/2025, and relevant Islamic legal literature. The data were analyzed through legal interpretation, conceptual analysis, and systematic conclusion drawing. **Findings:** The findings show that the Constitutional Court expanded the scope of legal protection for environmental defenders by declaring that the Elucidation of Article 66 of the Environmental Protection and Management Law has no binding legal force insofar as it limits environmental advocacy only to litigation. This protection includes policy advocacy, public campaigns, research, complaints, community assistance, and peaceful social action conducted in good faith. **Contribution:** From the perspective of *Maqāṣid al-Sharī'ah*, the decision is consistent with the protection of life, property, progeny, and the environment. This study concludes that Constitutional Court Decision No. 119/PUU-XXIII/2025 strengthens environmental democracy, prevents the criminalization of

environmental defenders, and supports ecological justice based on constitutional principles and Islamic values.

Keywords: Constitutional Court, environmental defenders, environmental rights, Islamic law, *Maqashid al-Shariah*.

ABSTRAK

Penelitian ini membahas hak lingkungan hidup dalam Putusan Mahkamah Konstitusi Nomor 119/PUU-XXIII/2025 dari perspektif *maqashid al-syariah*. Isu ini penting karena hak atas lingkungan hidup yang baik dan sehat telah dijamin dalam Pasal 28H ayat (1) UUD 1945, tetapi pejuang lingkungan masih kerap menghadapi risiko kriminalisasi atau gugatan perdata ketika melakukan advokasi lingkungan. **Tujuan:** Penelitian ini bertujuan menganalisis bentuk perlindungan hak konstitusional atas lingkungan hidup, pertimbangan hukum Mahkamah Konstitusi dalam Putusan Nomor 119/PUU-XXIII/2025, serta relevansinya dengan prinsip *maqashid al-syariah*. **Metode:** Penelitian ini menggunakan metode yuridis normatif dengan pendekatan kualitatif deskriptif-analitis. Data diperoleh melalui studi kepustakaan terhadap UUD 1945, UU No. 32 Tahun 2009, Putusan MK No. 119/PUU-XXIII/2025, serta literatur hukum Islam yang relevan. Data dianalisis melalui interpretasi hukum, analisis konseptual, dan penarikan kesimpulan secara sistematis. **Hasil Penelitian:** Hasil penelitian menunjukkan bahwa Mahkamah Konstitusi memperluas makna perlindungan hukum bagi pejuang lingkungan dengan menyatakan bahwa Penjelasan Pasal 66 UU PPLH tidak mempunyai kekuatan hukum mengikat sepanjang dimaknai membatasi perjuangan lingkungan hanya melalui jalur litigasi. Perlindungan tersebut mencakup advokasi kebijakan, kampanye publik, penelitian, pengaduan, pendampingan masyarakat, dan aksi sosial damai yang dilakukan dengan itikad baik. **Kontribusi:** Dalam perspektif *maqashid al-syariah*, putusan ini sejalan dengan perlindungan jiwa, harta, keturunan, dan lingkungan hidup. Penelitian ini menyimpulkan bahwa Putusan MK No. 119/PUU-XXIII/2025 memperkuat demokrasi lingkungan, mencegah kriminalisasi pejuang lingkungan, dan mendukung pembangunan keadilan ekologis berbasis konstitusi dan nilai-nilai Islam.

Kata Kunci: hak lingkungan hidup, hukum Islam, Mahkamah Konstitusi, *maqashid al-syariah*, pejuang lingkungan.

Introduction

The global ecological crisis has transformed the right to a clean, healthy, and sustainable environment from a policy aspiration into a fundamental human rights concern. The United Nations General Assembly formally recognized this right in Resolution 76/300, reinforcing the understanding that environmental quality is indispensable to the enjoyment of life, health, dignity, and sustainable development (de Vilchez & Savaresi, 2023; Kanwal, 2024; Tang & Spijkers, 2022; United Nations, 2022). This development forms part of the broader emergence of environmental constitutionalism, which integrates environmental protection, human rights, constitutional obligations, and democratic participation within a unified legal framework. International instruments such as the Aarhus Convention and the Escazú Agreement further demonstrate that access to environmental information, public participation in decision-making, access to justice, and the protection of environmental defenders are essential elements of environmental democracy (May, 2020; Muhtar et al., 2024; World Resources Institute, 2015). Nevertheless, the formal recognition of

environmental rights remains inadequate when individuals and communities defending those rights face criminalization, intimidation, civil litigation, physical violence, or other forms of repression. Global studies demonstrate that environmental defenders commonly employ peaceful and participatory strategies to protect ecosystems and community livelihoods, yet their activities frequently expose them to legal and extralegal pressure (Le Billon & Lujala, 2020; Scheidel et al., 2020). Consequently, the protection of environmental defenders should not be treated merely as an ancillary procedural guarantee but as a constitutive requirement of environmental justice, democratic governance, and the effective realization of environmental rights.

The protection of the environment and those who defend it also presents a significant intellectual challenge for contemporary Islamic legal thought. Islamic environmental ethics is rooted in the principles of divine unity (*tawhīd*), balance (*mīzān*), trusteeship (*amānah*), human stewardship (*khalīfah fī al-ard*), and the prohibition of corruption and destruction (*fasād*) on earth. These principles position human beings not as absolute owners of natural resources but as morally accountable trustees required to manage the earth responsibly and preserve it for present and future generations (Bsoul et al., 2022; R. Rizk, 2014).. Within the framework of *Maqāṣid al-Sharī'ah*, environmental degradation may threaten the preservation of life (*hiḍḍ al-naḥs*), property and sources of livelihood (*hiḍḍ al-māl*), future generations (*hiḍḍ al-naḥs*), and the broader ecological conditions on which these objectives depend. Contemporary scholarship has therefore advanced *hiḍḍ al-bi'ah*, or environmental preservation, as either an extension of the essential objectives of Islamic law or a foundational condition for realizing the other dimensions of *maqāṣid* (Khuluq & Asmuni, 2025). However, much of the existing Islamic environmental literature remains focused on ethical teachings, individual responsibility, sustainable consumption, and the prohibition of environmental destruction. It has not sufficiently examined the legal and institutional mechanisms through which ecological objectives can be implemented, particularly the protection of individuals and communities who actively prevent environmental harm. This limitation creates an important intellectual space for conceptualizing environmental defenders as social agents through whom the ecological purposes of Islamic law are translated into constitutional participation, public advocacy, and institutional accountability.

In Indonesia, the right to a good and healthy environment is expressly guaranteed by Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia. This constitutional recognition requires the state not only to refrain from causing environmental harm but also to establish legal, administrative, and institutional measures capable of respecting, protecting, and fulfilling environmental rights (UUD, 1945). Law No. 32 of 2009 concerning Environmental Protection and Management further recognizes public rights to environmental education, information, participation, justice, objections to environmentally harmful projects, and involvement in environmental governance (UU, 2009). Article 66 of the Law specifically provides that every person who fights for the right to a good and healthy environment cannot be criminally prosecuted or subjected to civil litigation. However, its Elucidation previously appeared to restrict this protection to victims and/or complainants pursuing legal remedies for environmental pollution or destruction. Such a restrictive interpretation created a constitutional problem because environmental protection is not pursued exclusively through formal litigation but also through scientific research, public campaigns, policy advocacy, community assistance, administrative complaints, peaceful protest,

expert testimony, and other forms of civic participation. In Decision No. 119/PUU-XXIII/2025, the Constitutional Court declared the Elucidation of Article 66 conditionally unconstitutional unless interpreted as protecting a broader category of persons, including victims, complainants, witnesses, experts, environmental activists, organizations, and other parties participating in environmental protection and management (MKRI, 2025). The decision therefore transformed Article 66 from a narrowly construed litigation-related safeguard into a broader constitutional guarantee for public participation in environmental governance.

Previous studies provide important foundations for understanding these developments, but their analytical approaches remain fragmented. Constitutional and environmental law scholarship has emphasized that the right to a good and healthy environment constitutes a fundamental constitutional and human right that imposes positive obligations on the state and supports sustainable development (Suong & Budahu, 2022). International studies have also demonstrated that meaningful public participation improves the legitimacy and substantive quality of environmental decision-making, while the repression of environmental defenders weakens environmental governance and perpetuates unequal control over natural resources (Le Billon & Lujala, 2020; Scheidel et al., 2020; Sharman, 2025). In the Indonesian Islamic legal context, Andaru, Amin, and Saptaji analyzed Constitutional Court Decision No. 119/PUU-XXIII/2025, through the perspective of *siyāsah qaḍā'īyyah* and concluded that the decision reflects the Islamic principle of judicial justice by protecting environmental activists from criminalization (Andaru et al., 2025). Nevertheless, constitutional studies have generally concentrated on the legal status of environmental rights without systematically examining environmental defenders as agents of ecological justice. Studies of environmental defenders have primarily focused on participation, repression, and human rights but rarely engage with Islamic legal epistemology, while Islamic environmental scholarship has developed the principles of stewardship, public benefit, prevention of harm, and *hifẓ al-bi'ah* without connecting them to constitutional mechanisms protecting environmental advocacy. The relevant research gap is therefore not simply the absence of a *Maqāṣid al-Sharī'ah* assessment of a particular Constitutional Court decision, but the lack of an integrated framework linking constitutional environmental rights, the institutional protection of environmental defenders, and contemporary *maqāṣid*-based ecological thought.

This study addresses that gap by reconstructing the protection of environmental defenders as a contemporary mechanism for realizing *Maqāṣid al-Sharī'ah*-oriented ecological justice. Its novelty lies in moving beyond a confirmatory assessment of whether Constitutional Court Decision No. 119/PUU-XXIII/2025 is compatible with Islamic principles. Instead, the study conceptualizes environmental defenders as constitutional and social agents who simultaneously safeguard life, livelihoods and property, future generations, public welfare, and ecological integrity through advocacy, participation, research, testimony, community assistance, and the prevention of environmental harm. The protection of these actors is consequently understood not only as a constitutional entitlement but also as an institutional expression of *hifẓ al-nafs*, *hifẓ al-māl*, *hifẓ al-nasl*, *hifẓ al-bi'ah*, *maṣlahah 'āmmah*, and the Islamic obligation to prevent harm. Based on this conceptual position, the study addresses two questions: First, how does Constitutional Court Decision No. 119/PUU-XXIII/2025 reconstruct the constitutional scope and rationale of legal protection for environmental defenders? Second, how can the expanded protection established by the decision be

conceptualized as a contemporary mechanism for realizing ecological justice within the framework of *Maqāṣid al-Sharī'ah*? Accordingly, this study aims to analyze the Court's constitutional reasoning and develop an integrated framework connecting environmental rights, environmental defender protection, and contemporary Islamic ecological jurisprudence. The study argues that environmental rights cannot be effectively fulfilled without protecting those who defend them and that such protection represents an institutional pathway through which constitutional environmentalism and Islamic legal thought converge in safeguarding public and intergenerational welfare.

Methods

This study employed normative legal research using qualitative descriptive and analytical methods, supported by statutory, case, conceptual, and comparative approaches (Hafizd et al., 2026). The statutory approach examined Article 28H paragraph (1) of the 1945 Constitution and Article 66 of Law No. 32 of 2009 concerning Environmental Protection and Management, while the case approach focused on Constitutional Court Decision No. 119/PUU-XXIII/2025 as the main unit of analysis. The conceptual approach was used to examine *Maqāṣid al-Sharī'ah*, *khalīfah fī al-arḍ*, *maṣlaḥah 'āmmah*, Islamic environmental ethics, and relevant legal maxims. Primary legal materials consisted of the Constitution, legislation, and the Constitutional Court decision, while secondary materials included books, journal articles, research reports, international instruments, and scholarly works on environmental rights, environmental defenders, ecological justice, and Islamic legal thought. These materials were collected through identification, inventory, classification, evaluation, and systematic documentation.

The analysis was conducted by first extracting the Court's arguments concerning environmental rights, public participation, non-litigation advocacy, good faith, and protection from criminal and civil proceedings. These findings were then classified and compared with several *maqāṣid* indicators, namely *hiḍḍ al-naḥs* for the protection of life and health, *hiḍḍ al-māl* for property and livelihoods, *hiḍḍ al-naṣl* for future generations, and *hiḍḍ al-bi'ah* for ecological sustainability. The principles of *lā ḍarar wa lā ḍirār*, *dar' al-mafāsid muqaddam 'alā jalb al-maṣāliḥ*, and *maṣlaḥah 'āmmah* were also used to assess the prevention of environmental harm and the protection of public welfare. The credibility of the analysis was maintained through source and theoretical triangulation by comparing the Court's reasoning with legislation, environmental law literature, international scholarship, and Islamic legal sources. As the study relied exclusively on publicly accessible legal documents and did not involve human participants or personal data, formal ethical approval was not required.

Results

1. Environmental Rights as Constitutional Rights of Citizens

The analysis found that Constitutional Court Decision No. 119/PUU-XXIII/2025 places the right to a good and healthy environment within the framework of fundamental constitutional rights rather than treating it merely as an administrative objective of environmental governance. This position is grounded in Constitution 28H paragraph (1) of the 1945 Constitution, which connects environmental quality with welfare, health, residence, and human dignity (MKRI, 2025; UUD, 1945).

Consequently, the constitutional guarantee requires the state not only to recognize environmental rights formally but also to establish effective legal mechanisms for their protection and enforcement.

The Court's reasoning further indicates that the fulfillment of environmental rights depends on meaningful public participation. Citizens are not merely beneficiaries of environmental policies but also active constitutional subjects entitled to monitor, criticize, report, and challenge activities that may cause pollution or ecological destruction. Therefore, participation in environmental protection constitutes an integral component of the constitutional right itself rather than an activity separate from the enjoyment of that right (MKRI, 2025).

The findings also demonstrate that environmental rights possess individual, collective, and intergenerational dimensions. Environmental degradation may directly affect individual life, health, property, and livelihood, while its broader consequences are borne by communities and future generations. This multidimensional character requires environmental protection to include preventive regulation, access to information, public participation, legal remedies, and safeguards for those who defend environmental interests (United Nations, 2018, 2022).

Accordingly, the constitutional protection of the environment cannot be limited to preventing or sanctioning pollution after damage has occurred. It must also protect the social actors who identify risks, provide scientific evidence, assist affected communities, submit complaints, and demand institutional accountability. The decision thus establishes an important relationship between the substantive right to a healthy environment and the procedural right to participate in defending that environment.

2. The Constitutional Court and the Expansion of Protection for Environmental Defenders

The principal finding of the analysis concerns the inconsistency between Article 66 of Law No. 32 of 2009 and its previous Elucidation. Article 66 broadly protects every person who fights for the right to a good and healthy environment from criminal prosecution and civil litigation. However, the Elucidation appeared to narrow this protection to victims and complainants who pursued formal legal remedies, thereby reducing the broader meaning contained in the principal statutory provision (MKRI, 2025; UU, 2009).

The Constitutional Court found that environmental advocacy cannot be interpreted as an activity confined to judicial proceedings. Efforts to defend environmental rights may occur through policy advocacy, research, public campaigns, expert testimony, complaints to public institutions, community assistance, public criticism, and peaceful collective action. Limiting protection to litigation would exclude many actors whose activities are essential to identifying, preventing, and exposing environmental damage (MKRI, 2025).

The Court therefore expanded the protected scope of Article 66 by recognizing both litigation and non-litigation forms of environmental advocacy. This expansion covers individuals and groups who participate in environmental protection in various legitimate capacities, including affected communities, activists, academics, experts, civil society organizations, and other parties acting to protect public environmental interests. The decision consequently transformed Article 66 from a narrowly interpreted procedural safeguard into a broader anti-retaliation guarantee supporting environmental participation.

Another significant finding is the role of good faith as the normative boundary of legal protection. The Court's reasoning indicates that protection applies to environmental advocacy conducted honestly, responsibly, and for the purpose of defending the right to a good and healthy environment. The guarantee does not provide immunity for independent criminal conduct, violence, fabrication of evidence, or actions unrelated to legitimate environmental protection (MKRI, 2025).

The ruling also creates consequences for law-enforcement authorities and courts. Reports, prosecutions, or civil claims directed against environmental defenders must be examined carefully to determine whether they constitute legitimate legal proceedings or retaliatory actions intended to silence public participation. Thus, the decision requires legal institutions to identify possible criminalization and strategic lawsuits against public participation before allowing legal processes to be used as instruments of intimidation.

Overall, the Court's reasoning reconstructs environmental defenders as constitutional participants rather than merely private individuals involved in environmental disputes. Their advocacy performs a public function by supporting transparency, accountability, prevention of environmental harm, and the enforcement of constitutional obligations. The protection provided by Article 66 must therefore be understood as a structural component of environmental democracy and not simply as an individual legal privilege.

3. *Environmental Protection from the Perspective of Maqāṣid al-Sharī'ah*

The analysis of the Court's findings through *Maqāṣid al-Sharī'ah* demonstrates that protecting environmental defenders supports several objectives of Islamic law simultaneously. Environmental advocacy contributes to the protection of life and health under *hifẓ al-nafs* by preventing pollution, ecological disasters, and other environmental conditions that threaten human safety. It also supports *hifẓ al-māl* because environmental degradation may destroy agricultural land, fisheries, forests, water sources, housing, and other foundations of community livelihoods.

The decision also corresponds with *hifẓ al-nasl* because environmental defenders seek to prevent present activities from transferring irreversible ecological burdens to future generations. Their actions protect not only existing communities but also the environmental conditions required for future human survival and welfare. In this respect, intergenerational environmental protection becomes part of the Islamic legal obligation to preserve the continuity and quality of human life.

The findings further support the contemporary development of *hifẓ al-bi'ah*. Environmental preservation is not separate from the classical objectives of Islamic law because life, property, health, and future generations cannot be protected without functioning ecosystems. Accordingly, *hifẓ al-bi'ah* may be understood as both an ecological objective and a foundational condition for realizing *hifẓ al-nafs*, *hifẓ al-māl*, and *hifẓ al-nasl*.

The Court's expansion of legal protection also reflects the principle of *lā ḍarar wa lā ḍirār*, which prohibits causing harm and responding to harm with further harm. Environmental defenders perform an important preventive function by identifying ecological risks and challenging activities that may harm communities or ecosystems. Criminalizing or intimidating these actors would create an additional form of harm because it would weaken society's capacity to prevent environmental destruction.

Similarly, the principle of *dar' al-mafāsīd muqaddam 'alā jalb al-maṣāliḥ* requires the prevention of serious harm to take precedence over the pursuit of limited benefits. The decision provides legal space for communities to examine whether claimed economic or developmental benefits are accompanied by disproportionate ecological costs. It therefore supports public scrutiny as a means of ensuring that development policies do not sacrifice human life, community welfare, and ecological sustainability.

The findings finally indicate that environmental defenders may be conceptualized as social agents of *maqāṣid*. Through research, advocacy, testimony, complaints, public education, and community assistance, they translate the moral responsibility of *khalīfah fī al-arḍ* into practical participation in environmental governance. Their protection is therefore not merely compatible with Islamic law but constitutes an institutional mechanism through which *maṣlaḥah 'āmmah*, ecological responsibility, and the prevention of environmental harm can be realized.

Based on this mapping, Constitutional Court Decision No. 119/PUU-XXIII/2025 establishes a connection between constitutional environmentalism and contemporary Islamic ecological thought. Constitutional recognition provides the legal foundation, environmental defenders function as active social agents, and *Maqāṣid al-Sharī'ah* supplies the ethical and purposive framework. The resulting model may be formulated as follows: constitutional environmental rights generate a right to public participation; effective participation requires protection for environmental defenders; and such protection enables the simultaneous realization of *hifẓ al-nafs*, *hifẓ al-māl*, *hifẓ al-nasl*, and *hifẓ al-bi'ah*.

Discussion

1. Environmental Rights as Constitutional Rights and the Basis for Protecting Environmental Defenders

The findings demonstrate that the constitutional right to a good and healthy environment cannot be interpreted solely as an individual entitlement to enjoy acceptable environmental conditions. It also imposes positive obligations on the state to establish legal, administrative, and institutional mechanisms through which environmental risks can be identified, contested, prevented, and remedied. Article 28H paragraph (1) of the 1945 Constitution must therefore be read together with the principles of public participation, access to information, access to justice, and accountability in environmental governance (MKRI, 2025; UUD, 1945). In this sense, environmental rights contain both substantive and procedural dimensions: the substantive dimension protects environmental quality, while the procedural dimension enables citizens to participate in defending that quality.

This interpretation corresponds with the development of environmental constitutionalism, which places environmental protection within the fundamental structure of constitutional governance. Environmental constitutionalism does not merely require the inclusion of environmental language in a constitutional text; it also requires institutions capable of transforming constitutional commitments into enforceable rights and public responsibilities (O'Gorman, 2017)s. The constitutional recognition of environmental rights would have limited practical significance if citizens could not question environmentally harmful decisions, disclose risks, present scientific evidence, or demand government accountability. Therefore, the effectiveness of environmental

constitutionalism depends on the availability of a safe civic space in which individuals and communities can exercise environmental participation without fear of retaliation.

The findings also support international scholarship emphasizing that public participation is not an obstacle to environmental governance but one of its principal conditions. A meta-analysis of 305 environmental decision-making cases found that participatory processes can improve environmental governance outcomes, particularly when participation is meaningful, sufficiently independent, and capable of influencing decisions (Newig et al., 2023). Public participation allows affected communities to contribute local knowledge, identify overlooked risks, question the distribution of environmental costs, and evaluate whether development policies adequately protect vulnerable groups. Consequently, environmental defenders should not be understood as external opponents of development but as actors who contribute information, oversight, and alternative perspectives necessary for more legitimate and environmentally responsible decisions.

Nevertheless, constitutional recognition does not automatically ensure that environmental rights can be effectively claimed. Hanschel et al. (2022) demonstrate that the practical value of constitutional environmental rights depends heavily on social, political, and institutional contexts, particularly the capacity of vulnerable communities to translate formal rights into meaningful legal and political claims. Communities exposed to extractive industries, infrastructure projects, pollution, or land conversion may possess constitutional rights but lack the resources, legal knowledge, institutional access, or political security needed to invoke them. Environmental defenders help bridge this gap by translating environmental harm into legal claims, assisting affected communities, producing evidence, and connecting local experiences with constitutional obligations.

This study therefore extends the conventional understanding of environmental rights from an object-oriented model to a subject-oriented model. The object-oriented model focuses primarily on environmental quality as something that must be protected, whereas the subject-oriented model also recognizes the people who monitor, defend, and restore the environment as integral components of constitutional protection. Environmental rights become difficult to realize when environmental defenders are exposed to criminal charges, civil lawsuits, intimidation, or institutional exclusion. The protection of environmental defenders should accordingly be viewed as part of the constitutional infrastructure required to make the right to a healthy environment effective.

This argument also broadens the findings of Suong and Budahu (2022), who situate environmental protection within constitutional rights and sustainable development. The present study shows that the constitutional obligation to protect the environment must include the protection of civic actors who enable the state and society to detect environmental violations. Environmental defenders perform a form of public oversight that complements administrative supervision and formal law enforcement. Their protection is therefore not a special privilege granted to activists but a constitutional necessity for the fulfillment of environmental rights, democratic accountability, and intergenerational justice.

2. Constitutional Court Decision No. 119/PUU-XXIII/2025 and the Expansion of Legal Protection

Constitutional Court Decision No. 119/PUU-XXIII/2025 corrected a normative inconsistency between the broad wording of Article 66 of Law No. 32 of 2009 and the narrower meaning previously suggested by its Elucidation. Article 66 protects “every person” who fights for the right to a good and healthy environment, whereas the Elucidation appeared to confine that protection to victims or complainants pursuing formal legal remedies (UU, 2009; MKRI, 2025). Such a limitation was problematic because an elucidation should clarify a statutory norm rather than reduce the range of protected subjects or activities contained in the principal provision. By rejecting a litigation-centred interpretation, the Court restored the broader protective purpose of Article 66.

The expansion from litigation to non-litigation activities reflects the actual structure of environmental advocacy. Environmental protection frequently begins before a dispute enters a courtroom through research, public education, policy criticism, administrative complaints, expert testimony, community organization, peaceful protest, and media campaigns. These activities can reveal environmental risks at an early stage and prevent damage that may become irreversible if legal intervention is delayed. The Court’s interpretation therefore places preventive environmental advocacy on an equal constitutional footing with formal judicial action.

This broader interpretation is supported by international research on environmental conflicts. Scheidel et al. (2020), based on an analysis of 2,743 environmental conflicts, found that environmental defenders predominantly use nonviolent strategies and can contribute to stopping environmentally destructive and socially contentious projects. The effectiveness of environmental mobilization increases when preventive action, diversified protest strategies, and litigation are combined rather than treated as mutually exclusive mechanisms (Scheidel et al., 2020). The Court’s recognition of non-litigation advocacy is therefore consistent with the empirical reality that environmental protection depends on multiple, interconnected forms of participation.

The decision is also significant because environmental defenders frequently face repression precisely because their advocacy challenges powerful economic and political interests. Le Billon and Lujala (2020) found that environmental and land defenders encounter arrests, violence, and killings within socio-environmental conflicts, especially where the rule of law is weak and extractive interests are dominant. Scheidel et al. (2020) similarly identified substantial levels of criminalization, physical violence, and assassination among environmental defenders, with Indigenous communities facing particularly serious risks. Against this global background, Article 66 should be understood not merely as a procedural defence after prosecution or litigation has begun but as an anti-retaliation norm intended to preserve environmental participation.

The Court’s reasoning is also consistent with the emerging international principle that states must establish a safe and enabling environment for environmental human rights defenders. The Escazú Agreement expressly requires states to protect environmental defenders from threats, restrictions, and insecurity, while broader environmental rule-of-law scholarship emphasizes that legal guarantees must address not only direct violence but also cultural, economic, technological, and institutional forms of pressure (Oral, 2024). Although Indonesia is not governed by the Escazú Agreement, its protection model offers a relevant comparative standard for interpreting the state’s obligation to safeguard environmental participation. Decision No. 119/PUU-XXIII/2025 can thus be situated within a wider international movement that treats defender protection as an essential element of environmental democracy.

The requirement of good faith remains important because protection under Article 66 cannot be interpreted as unlimited personal immunity. Good faith distinguishes legitimate environmental advocacy from violence, fabricated evidence, defamation without a factual basis, or conduct unrelated to environmental protection. Nevertheless, good faith should not be applied so strictly that defenders must prove the ultimate correctness of every allegation before receiving protection. Environmental advocacy often concerns uncertain risks, incomplete information, scientific disagreement, or harm that has not yet fully materialized, making the precautionary principle particularly relevant.

In practical terms, the decision requires procedural mechanisms capable of identifying retaliatory legal action at an early stage. Police officers, prosecutors, and judges should assess whether a criminal report or civil claim arises from a person's legitimate environmental participation and whether the proceedings resemble a strategic lawsuit against public participation. Oral (2024) emphasizes that strategic lawsuits can burden defenders with legal costs, reputational damage, and prolonged uncertainty even when the claimant does not ultimately prevail. Protection would therefore remain ineffective if defenders were required to endure an entire criminal or civil process before Article 66 could be invoked.

The implementation of the decision consequently requires clearer institutional guidelines. These may include early screening of complaints against environmental defenders, expedited dismissal of retaliatory claims, temporary suspension of coercive measures, shifting the burden to complainants to demonstrate that their claims are not retaliatory, and providing remedies for defenders who suffer losses because of abusive proceedings. Law-enforcement agencies should also receive specialized training on environmental participation, the precautionary principle, and the distinction between legitimate prosecution and criminalization. Without such operational measures, the expanded constitutional interpretation may remain normatively important but institutionally weak.

Theoretically, the decision transforms Article 66 from a narrow immunity clause into an instrument of environmental democracy. It recognizes that the right to a healthy environment includes not only the right to receive state protection but also the right to participate actively in producing environmental accountability. This development extends the analysis of Andaru et al. (2025), which primarily reads the decision through *siyāsah qaḍā'īyyah* and judicial justice. The present study positions the decision within a broader relationship between constitutional rights, participatory democracy, anti-retaliation protection, and the social conditions necessary for ecological justice.

3. Implications of Constitutional Court Decision No. 119/PUU-XXIII/2025 from the Perspective of *Maqāṣid al-Sharī'ah*

The significance of Decision No. 119/PUU-XXIII/2025 within *Maqāṣid al-Sharī'ah* should not be limited to a conclusion that the decision is compatible with Islamic legal principles. Such a compatibility-based analysis would merely use *maqāṣid* to confirm a result already reached through constitutional interpretation. A stronger contribution emerges when the protection of environmental defenders is conceptualized as an institutional mechanism for realizing the purposes of Islamic law.

In this framework, environmental defenders are not only beneficiaries of legal protection but social agents through whom ecological welfare and the prevention of harm are pursued.

The activities of environmental defenders simultaneously support several dimensions of *maqāṣid*. By preventing pollution, ecological disasters, and exposure to dangerous substances, environmental advocacy protects human life and health under *hiḥẓ al-naḥs*. By defending agricultural land, forests, fisheries, water resources, housing, and community livelihoods, it contributes to *hiḥẓ al-māl*. By resisting environmental practices that transfer irreversible damage to future generations, it also advances *hiḥẓ al-naṣl*. These objectives are interconnected because ecological destruction rarely affects only one dimension of human welfare.

This interconnection supports the development of *hiḥẓ al-bi'ah* as a central component of contemporary *maqāṣid* reasoning. Environmental preservation should not be regarded merely as an additional sixth objective placed beside the five classical necessities. Instead, a functioning environment constitutes the material and ecological foundation upon which the preservation of life, intellect, lineage, property, and religious life depends. Khuluq and Asmuni (2025) similarly argue that *hiḥẓ al-bi'ah* has developed from environmental jurisprudence into an integral dimension of *Maqāṣid al-Sharī'ah* and provides a foundation for the realization of the other essential objectives. This relational position makes environmental protection structurally necessary rather than ethically optional.

Islamic environmental ethics reinforces this interpretation through the concepts of *tawḥīd*, *mīzān*, *amānah*, and *khalīfah fī al-arḍ*. These principles reject the understanding of nature as an object subject to unlimited human control and instead construct human authority as a morally accountable trusteeship. Rizk (2014) explains that Islamic environmental ethics presents a holistic approach in which stewardship, moderation, accountability, and the avoidance of waste guide relations with the natural world. Bsoul et al. (2022) likewise show that environmental preservation and sustainable resource use are embedded in Islamic teachings and closely connected to social responsibility and intergenerational welfare.

Within this ethical framework, environmental defenders can be understood as collective actors performing the responsibility of *khalīfah*. Their research, advocacy, testimony, public education, and community assistance translate stewardship from an abstract moral principle into social and institutional action. Protecting them therefore facilitates the performance of ecological responsibility, while criminalizing them obstructs the community's ability to fulfil its duty to prevent environmental corruption. This perspective shifts Islamic environmental thought from individual morality toward institutional and participatory ecological governance.

The legal maxims *lā ḍarar wa lā ḍirār* and *dar' al-mafāṣid muqaddam 'alā jalb al-maṣāliḥ* further explain the normative value of the decision. The first maxim requires the prevention of harm and rejects conduct that inflicts ecological, health, social, or economic damage upon others. The second requires serious and widespread harm to be prevented before limited benefits are pursued. These principles are especially relevant when development projects promise economic growth but impose disproportionate environmental burdens on local communities and future generations.

Environmental defenders perform an epistemic and preventive function within this process. They provide information concerning possible harm, challenge incomplete environmental assessments, and ensure that purported economic benefits are evaluated together with ecological and social costs.

Criminalization weakens this function and may allow environmental harm to remain concealed until it becomes irreversible. The Court's protection of good-faith advocacy therefore creates institutional space for the Islamic obligation to identify and prevent *mafsadah* before it overwhelms public welfare.

The principle of *maṣlaḥah 'āmmah* also requires environmental decision-making to move beyond narrow calculations of private profit or short-term economic growth. Ecological systems sustain public health, food security, water availability, economic livelihoods, cultural continuity, and intergenerational survival. Environmental defenders articulate these wider public interests when they question projects whose benefits are concentrated but whose environmental costs are distributed among communities. Their protection enables public welfare to be represented within legal and political decision-making.

From this perspective, the decision contributes to contemporary Islamic legal thought in three ways. First, it operationalizes *hifẓ al-bi'ah* through a concrete constitutional institution rather than leaving it as a general moral aspiration. Second, it recognizes civil society participation as a legitimate mechanism for realizing *maqāṣid*, thereby expanding the institutional actors of Islamic legal responsibility beyond state authorities and formal religious institutions. Third, it connects Islamic environmental ethics with constitutional law, human rights, and democratic participation in addressing ecological crises.

This study accordingly proposes a *maqāṣid*-oriented ecological justice model consisting of four interconnected elements. Constitutional environmental rights provide the normative foundation; environmental defenders act as participatory and preventive agents; legal protection secures the civic space necessary for their activities; and *Maqāṣid al-Sharī'ah* supplies the ethical orientation toward life, livelihood, future generations, public welfare, and ecological balance. The absence of any one of these elements weakens the entire structure because rights without defenders may be unenforced, defenders without protection may be silenced, and protection without an ethical orientation may become procedurally formalistic.

The broader policy implication is that Islamic environmental jurisprudence should become more institutionally operational. It should inform environmental legislation, judicial interpretation, law-enforcement guidelines, environmental impact assessments, public consultation, and mechanisms for protecting affected communities. Decision No. 119/PUU-XXIII/2025 demonstrates how constitutional adjudication can provide a legal pathway for this development. The decision therefore represents not only a convergence between Indonesian constitutional law and Islamic values but also a contemporary model for realizing *maqāṣid*-oriented ecological justice through the protection of environmental defenders.

Conclusion

This study concludes that the right to a good and healthy environment is a fundamental constitutional right guaranteed by Article 28H paragraph (1) of the 1945 Constitution and that its effective realization requires not only environmental regulation and enforcement but also meaningful public participation. Constitutional Court Decision No. 119/PUU-XXIII/2025 strengthens this constitutional protection by rejecting a narrow interpretation of Article 66 of Law

No. 32 of 2009 that confined environmental advocacy to formal litigation. The decision expands legal protection to good-faith non-litigation activities, including policy advocacy, public campaigns, research, complaints, community assistance, expert participation, and peaceful social action. From the perspective of *Maqāṣid al-Sharī'ah*, this protection contributes simultaneously to *hifẓ al-naḥs*, *hifẓ al-māl*, *hifẓ al-naṣl*, and *hifẓ al-bi'ah*, while also reflecting the principles of *khalīfah fī al-ard*, *lā ḍarar wa lā ḍirār*, *maṣlahah 'āmmah*, and *dar' al-maḥāsīd muqaddam 'alā jalb al-maṣāliḥ*. The principal theoretical contribution of this study is its conceptualization of environmental defenders as social agents of *maqāṣid* who transform ecological responsibility from an abstract moral principle into concrete constitutional participation. Accordingly, the protection of environmental defenders should be understood not merely as a legal immunity but as a contemporary institutional mechanism for realizing *maqāṣid*-oriented ecological justice. This study also carries practical implications for legislators, law-enforcement institutions, courts, and environmental authorities. The decision should be followed by operational guidelines for identifying retaliatory criminal reports and civil claims, early screening of cases involving environmental defenders, protection against strategic lawsuits, and institutional training on environmental participation and good-faith advocacy. Nevertheless, this study is limited by its normative legal design and reliance on judicial decisions, statutory materials, and Islamic legal literature. It does not empirically assess how police officers, prosecutors, judges, local governments, civil society organizations, Indigenous communities, academics, and environmental defenders have implemented or responded to the decision. Future research should therefore employ socio-legal, comparative, and empirical approaches to evaluate the decision's effectiveness in preventing criminalization, identify institutional obstacles to its application, and compare environmental defender protection across different constitutional and Islamic legal systems. Further studies may also develop *hifẓ al-bi'ah* into a more operational framework for environmental legislation, judicial interpretation, public participation, and ecological governance.

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Linda Amaliyah contributed to conceptualization, methodology, investigation, formal analysis, supervision, writing the original draft, and reviewing and editing the manuscript. **Jefik Zulfikar Hafizd**, as the corresponding author, contributed to conceptualization, project administration, supervision, literature review, formal analysis, manuscript review and editing, and coordination of the submission, revision, and publication processes. **Am'mar Abdullah Arfan** contributed to data curation, formal analysis, and validation. All authors contributed substantially to the study, approved the final version of the manuscript, and agreed to be accountable for all aspects of the work.



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AI Usage Declaration

The authors used ChatGPT (OpenAI) to assist in organizing the literature review and Grammarly to improve grammar, language quality, and writing clarity during manuscript preparation. AI tools were not used to generate research findings, conduct data analysis, interpret results, or draw conclusions. All intellectual content, conceptual development, research design, interpretation of findings, analysis, and conclusions were independently developed, critically reviewed, and approved by the authors. The authors take full responsibility for the originality, accuracy, integrity, and final content of this manuscript

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