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Legal Analysis of The Effectiveness of Waste Management Law In Indonesia Using The Ottawa Charter Health Promotion Framework

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Abstract: This study aims to evaluate the effectiveness of the implementation of Law No. 18 of 2008 concerning Waste Management, especially in internalizing the obligation to sort waste from source, by adopting a transdisciplinary approach through the integration of the Ottawa Charter paradigm. Using normative legal research methods, this study examines the applicable positive legal framework and reconstructs its effectiveness based on the five main pillars of the Ottawa Charter. The results of the study indicate that although normatively the waste management policy has reflected the Build Healthy Public Policy principle, its implementation has not been optimal due to weak infrastructure support (Create Supportive Environments pillar) and low community participation (Strengthen Community Action). This inequality creates a legal paradox in which the state demands citizens' obligations without providing adequate support for their fulfillment. The main contribution of this study lies in the development of an adaptive and participatory waste management legal reform model, by making the law a facilitator of collective behavioral change that is ecologically just through a contextual cross-sectoral approach.

Keywords: Legal Effectiveness; Waste Management; Legal Empowerment; Ottawa Charter; Health Promotion.

INTRODUCTION

The factual basis (feitelijke gronden) of this problem is the systemic emergency status in national waste management, which is characterized by a fundamental dissonance between the rate of waste generation and the policy response and management capacity. The empirically measured escalation of waste generation volume and its exponential growth projections justify the need for imperative legal intervention. The systemic management capacity deficit, manifested in the level of unmanaged waste reaching 70.19% (Ministry of Home Affairs, 2025), indicates a structural failure. The prevalence of the open dumping method in the majority of landfills shows a sharp gap between the legal norms that should be (das Sollen) and the practices in the field (das Sein). Thus, the critical condition of landfills such as in Bantar Gebang is no longer just a technical problem, but a manifestation of legal and policy failures

that have the potential to cause serious legal implications related to constitutional rights to a healthy environment (Ministry of Home Affairs, 2025).

The context of this factual crisis has significant legal implications and material impacts on public health and environmental carrying capacity. Failure to manage waste creates a pathogenic environment that is conducive to the proliferation of infectious disease vectors. Simultaneously, the waste decomposition process produces destructive environmental impacts through leachate and methane gas emissions, which cause cross-sectoral pollution of soil, surface water, and groundwater, thus threatening the resilience of clean water resources. Factual precedents such as the humanitarian tragedy at the Leuwigajah landfill, as well as the high incidence of chronic diseases that can be attributed to exposure to the landfill environment, are irrefutable empirical evidence. This confirms that maladministration in de facto waste management is a form of neglect of the fulfillment of citizens' fundamental rights to a good and healthy environment (Ministry of Home Affairs, 2025).

In the positive legal order (ius constitutum) of Indonesia, Law No. 18 of 2008 concerning Waste Management (Waste Management Law) is a fundamental legal instrument that marks the existence of a paradigmatic reform in the waste management regime. This regulation conceptually transforms the approach from being linear and end-of-pipe to a framework based on the principle of a circular economy, emphasizing source reduction and resource recycling (Sachdeva, A., 2017). The central norm mandated by this law is the implementation of integrated waste management from upstream to downstream, which imperatively imposes a legal obligation on every legal subject to sort waste from its source (Kusmayadi, K., Lisdiyono, E., & Mulyani, S., 2022). The ratio legis or teleological objective of this law goes beyond merely administrative-technical aspects, because it explicitly aims to "improve public health and environmental quality and make waste a resource". Thus, this Waste Management Law functions as a legal instrument and direct derivation of the state's obligation to fulfill the constitutional rights of citizens to a good and healthy environment as guaranteed by Article 28H paragraph (1) of the 1945 NRI Constitution.

Although the lex lata related to waste management has been in effect for more than a decade, the implementation of its main mandate, namely waste sorting at source, has proven to be empirically ineffective. Quantitative indicators such as low recycling rates and high volumes of unmanaged waste (Ministry of Home Affairs, 2025), justify the existence of a substantial legal gap between law in the books and law in action. The locus of the problematic does not lie in the legal vacuum, but rather in the fundamental deficiency in the design of legal policy and its implementation strategy. This creates a legal paradox: the existence of an asymmetry in which the state imposes legal obligations on citizens, but simultaneously neglects to fulfill its correlative obligation to provide the infrastructure and service systems that are prerequisites for fulfilling these obligations. This systemic failure definitively demonstrates the insufficiency of the legal-formalistic approach in engineering complex social behavioral change.

The insufficiency of the legal-formalistic approach demands the adoption of a holistic and transdisciplinary analytical framework to diagnose deficiencies in the prevailing legal architecture. To this end, this study conducts a conceptual transposition by adopting the Ottawa Charter (WHO, 1986) as a legal policy analysis tool, which is internationally recognized as a paradigm for designing effective and empowerment-oriented public policies (Lee, MS, 2015). The five strategic pillars in the charter are operationalized as legal parameters for conducting a critical evaluation of the effectiveness of the legal regime for waste management. Consequently, this framework is used to diagnose the causality of the failure of legal policies in internalizing waste sorting behavior, as well as to formulate recommendations for legal reform so that the law can be transformed into an authentic legal empowerment instrument.

Based on the complexity of the systemic crisis of waste management and the failure to implement legal norms that have been described previously, the focus of this research is

directed to answer two main problem formulations. First, how effective is Law No. 18 of 2008 concerning Waste Management in internalizing the obligation to sort waste from the source as part of fulfilling the right to a healthy environment? Second, how can the optimization of legal instruments through a transdisciplinary approach, especially by integrating the Ottawa Charter paradigm, be used as a basis for evaluating and formulating legal reforms that aim to make law a means of empowering communities in sustainable waste management? These two questions are the starting point for dismantling the roots of regulatory failure and offering a legal construction that is more responsive to contemporary socio-ecological realities.

METHOD

This study is a normative legal study that is qualitative and prescriptive in nature, because it not only describes legal norms, but also provides assessments and recommendations based on the conceptual framework used. The approaches used in this study include a legislative approach, which aims to systematically analyze the hierarchy and synchronization of laws and regulations related to waste management, as well as a conceptual approach, which utilizes the principles in the Ottawa Charter for Health Promotion as a benchmark in assessing the substance of regulations. The sources of legal materials consist of primary legal materials in the form of laws and regulations, and secondary legal materials in the form of the Ottawa Charter and literature from national and international textbooks and scientific journals in the fields of environmental law, legal sociology, and public health. The analysis technique used is qualitative analysis with a systematic interpretation approach, where primary legal materials are mapped into the five pillars of the Ottawa Charter to assess the effectiveness and coherence of their regulations in the context of waste management that is oriented towards public health and environmental sustainability (Lee, MS, 2015).

RESULTS AND DISCUSSION

Effectiveness of Law No. 18 of 2008 in Internalizing the Obligation to Sort Waste from the Source as Part of Fulfilling the Right to a Healthy Environment

Law No. 18 of 2008 concerning Waste Management shows paradigmatic progress in the waste management regime in Indonesia. This law emphasizes the importance of management based on the principles of reduction, reuse, and recycling. Articles 13 and 22 explicitly contain the obligation to sort waste from the source, both by households and business actors (Kurniawati, D., Kholidah, F., Negarawati, RGM, et al. (2024).

The findings of this study indicate that there is a striking gap between normative provisions in laws and regulations and actual practices in the field. Although Law No. 18 of 2008 has stipulated the obligation to sort waste from source as one of the main principles of waste management, its implementation in various levels of society is still far from expectations. Even in urban areas that have better access to waste management infrastructure, the level of compliance with sorting obligations has proven to be very low. This can be seen from the practice that is still common, namely mixing organic and inorganic waste by households, traditional markets, offices, and government institutions that should be role models in implementing public policies (Yudhoyono, AH, 2025).

This condition reflects the lack of collective awareness and ecological responsibility that are the main foundations for successful waste management based on the principle of sustainability. Waste sorting as a legal obligation has not been fully internalized into the daily behavior of the community, which causes the norm to be symbolic and non-operational. In addition, the inconsistency of implementation by government agencies shows a weak institutional commitment to enforcing the rules they themselves set. As a result, legal norms that should be instruments of social change are actually delegitimized because they are not

accompanied by consistent practices and examples from key actors in the waste management system.

This shows that the norm of sorting has not been successfully internalized into the legal consciousness of society (rechtsbewustzijn). Legal norms that are not embedded in the cognitive and affective structure of citizens will not result in voluntary compliance, but will only depend on the existence of sanctions and supervision, which in practice are also very minimal. This failure of internalization is largely due to the absence of an adequate supporting system (enabling environment). Citizens are burdened with legal obligations, but the state does not simultaneously provide physical or educational facilities that enable the implementation of these norms. This imbalance gives rise to an asymmetry in legal responsibility. For example, there are still many areas that do not have separate trash bins, there are no garbage collection fleets that separate types of waste, and recycling facilities are very limited. As a result, even though people want to sort, these efforts become meaningless when all the waste ends up being mixed back together during transportation or at the final disposal site (TPA).

This study also noted that the preparation and harmonization of derivative regulations, such as Ministerial Regulations or Regional Regulations, are still not optimal. Many regions do not yet have regional regulations on waste management that are in accordance with the principles of integrated and sustainable management as mandated by Law No. 18 of 2008. The administrative and criminal sanctions system that should function as an instrument of law enforcement has not been running effectively (Muslihudin, M., Wuryaningsih, T., Wulan, T., et al., 2023). There is no concrete enforcement mechanism for violations of sorting obligations, either at the individual or corporate level. The law loses its deterrent effect. This selective and weak enforcement of environmental law creates a public perception that the norm of sorting is only a moral appeal, not a legal obligation that must be obeyed. This further strengthens the public's apathy and skepticism towards the role of law as a tool for social change.

Furthermore, the formalistic approach in the formulation and implementation of this legal policy also weakens its effectiveness. Regulations place too much emphasis on the normative dimension without considering the sociological, cultural, and psychological factors that shape people's behavior in interacting with waste. This legal paradox shows that the state has formally required people to sort waste, but has failed to carry out its correlative obligations to ensure the infrastructure, systems, and social environment that support such compliance. This is a form of inconsistency in fulfilling constitutional rights to a healthy environment.

Fulfillment of environmental rights cannot be achieved only through the formation of laws, but must be accompanied by holistic and sustainable implementation tools. Laws must be present not only as normative rules, but also as instruments of change that are able to encourage collective ecological awareness. In addition to physical infrastructure, aspects of education and counseling are crucial. This study found that low environmental literacy in the community is a major obstacle to the implementation of the sorting policy. The socialization carried out by the government is still sporadic, unstructured, and does not reach all levels of society.

The absence of an integrated environmental education program in the formal curriculum also weakens the process of building awareness from an early age. This is contrary to the spirit of Article 13 of Law No. 18 of 2008 which emphasizes the importance of community participation in all aspects of waste management. Within the framework of decentralization, local governments should be at the forefront of implementing sorting obligations. However, in practice, many local governments do not make waste management a budget and policy priority, which results in weak supervision and minimal incentives for business actors and the community.

Economic incentives for segregated waste management are still very low. Efforts made by communities such as waste banks and recycling cooperatives are not optimally supported

by fiscal and institutional policies, so that the sustainability of these grassroots initiatives is fragile and dependent on volunteers or donations. Law No. 18 of 2008 has provided space for the participation of the private sector and the community in waste management. However, this space has not been translated concretely into a fair and sustainable partnership. Weak synergy between stakeholders exacerbates the fragmentation of waste management governance.

This condition indicates that the problem does not lie in the absence of law (legal vacuum), but rather in legal dysfunction due to policy design that is not responsive to social and technical realities in the field (Noeswantari, D., 2004). The law becomes non-operational because it is not designed adaptively and participatively. The effectiveness of Law No. 18 of 2008 in internalizing the obligation to sort waste is still far from optimal. Without critical evaluation and structural improvements in the legal and policy framework, the progressive norms in the law are at risk of becoming mere legal rhetoric that is not down to earth. Thus, there is a need for reformulation of implementation strategies based on transdisciplinary, participatory, and data-based approaches. The law cannot stand alone in encouraging behavioral change if it is not supported by an education system, infrastructure, collaborative governance, and firm and fair supervision. The effectiveness of the law in the context of waste management must be measured not only from the existence of its norms, but from the extent to which the law is able to shape collective behavior, strengthen citizen rights, and create real ecological justice at the community level.

Optimizing Legal Instruments through a Transdisciplinary Approach by Integrating the Ottawa Charter Paradigm

The juridical-formalistic approach is a method of formulating legal policies that emphasizes the normative aspect, namely how the law is formulated in the form of written rules that are imperative in nature containing commands and prohibitions (Malik, S., & Nurunnabi, M. 2024). Although this approach is important in providing legal certainty, this study shows that the juridical-formalistic approach to waste management policies in Indonesia has fundamental weaknesses. The resulting legal norms are often abstract and non-contextual, because they do not consider the social, economic, and cultural conditions of the community as the subject who will implement the norms.

As a result of the rigidity of this approach, legal norms are difficult to internalize in the daily lives of society. In fact, the success of law is not only determined by its existence in regulatory texts, but by the extent to which these norms are alive and applied in collective behavior. When law fails to understand the complexity of society, it loses its strategic function as a social engineering tool. A transdisciplinary approach becomes relevant and urgent, because it allows law to synergize with social sciences, psychology, economics, and public policy to bridge the gap between legal norms and real practices in society.

The integration of the Ottawa Charter paradigm (WHO, 1986) into the design of waste management legal policies offers a new perspective that is more holistic and empowerment-oriented. This paradigm, which was originally developed in the realm of public health promotion, is very relevant to be applied in environmental management because it has five strategic principles that are applicable across sectors. By adopting this framework, the law is not only focused on compliance, but also on creating social prerequisites that allow responsible environmental behavior to grow organically.

The first principle of the Ottawa Charter is building healthy public policy (Dugani, S., Bhutta, ZA, & Kissoon, N., 2017). Waste regulation management, this principle requires policy makers to formulate legal norms that are not only technically correct, but also pay attention to social and ecological sustainability. This can be done by integrating environmental and social impact analysis in depth in every legislative or regulatory process.

The second principle is creating supportive environments. The law must be balanced with the provision of infrastructure and facilities that enable the community to carry out its obligations. Without a sorting place, a sorting transportation system, and easily accessible recycling facilities, the legal norm of waste sorting will lose its practical legitimacy. This principle requires that legal policies are not merely top-down, but provide real support to citizens.

The third principle is strengthening community action. This refers to the importance of encouraging active community participation in waste management. Legal instruments can support this principle by creating regulatory schemes that support the formation of waste-conscious communities, waste banks, and recycling cooperatives. Fiscal incentives, legal recognition of these social entities, and technical support from the government are concrete steps to bring this principle to life in the legal system.

The fourth principle of the Ottawa Charter is developing personal skills. Thus, it demands the formulation of regulations that regulate the obligation of environmental education from an early age. Mandatory curriculum on waste management, training for industry players, and environmental law counseling for the community are concrete examples of how the law can strengthen the capacity of individuals to behave in an environmentally friendly manner.

The fifth principle is reorienting health services. This principle emphasizes the need for collaboration between the environmental and health sectors. Legal instruments can be used to encourage health service providers to actively engage in campaigns to reduce the risk of disease due to polluted environments, as well as to contribute to reporting and mapping the health impacts of poor waste management.

With these five principles, law is no longer understood as a mere repressive instrument, but rather as a normative ecosystem capable of forming a new social structure that supports sustainable environmental management. This paradigm also demands a change in perspective in the formulation of law: from merely an institutional product to an inclusive and collaborative social process. This transdisciplinary approach also addresses the sectoral fragmentation that often occurs in the management of public policy. Waste management cannot only be the domain of the Ministry of Environment, but must also be connected to the education, health, industry, and even cultural sectors. Therefore, the laws that are formulated must also be able to facilitate effective cross-sectoral coordination.

Community involvement in legal formulation is an important aspect of this paradigm. Public consultation, policy trials, and local community involvement can increase the legitimacy of the law in the eyes of the community. In addition, communities that are involved from the start tend to have a sense of ownership of the norms that are formulated, so they are more likely to comply with and internalize the norms. The Ottawa Charter also provides a framework for evaluating the effectiveness of laws more broadly. Evaluations focus not only on compliance rates or violations, but also on the extent to which the law succeeds in forming a supportive social environment, strengthening participation, and creating long-term behavioral change.

This study found that integrating the principles of the Ottawa Charter into the legal policy framework for waste management can improve the effectiveness of waste sorting norms implementation. Laws designed based on this approach have proven to be more inclusive, adaptive to local conditions, and oriented towards social transformation rather than mere enforcement. A concrete example of this integration is the success of several cities in Indonesia that have implemented a community approach to waste management based on waste banks. Cities such as Surabaya show that with regulatory support, economic incentives, and community involvement, waste sorting policies can be more effective than a purely coercive approach.

The transdisciplinary approach encourages legal innovation, namely innovation in the methods and substance of law. For example, the use of non-traditional legal instruments such

as nudge regulation, soft law, and environmental agreements can complement conventional regulations in achieving complex policy objectives. In the digital era, law can also utilize technology to implement the principles of the Ottawa Charter. Waste monitoring applications, geospatial information systems, and social media can be part of a modern legal ecosystem that allows the public to be actively involved in supervision and education.

This paradigm also raises the need for changes in the culture of the legal bureaucracy itself. Law enforcers, legislators, and state officials need to be trained to understand that the success of the law is not only measured by the level of enforcement, but also by how much the law is able to mobilize participation and shape sustainable social behavior. The integration of the Ottawa Charter paradigm is not only a theoretical strategy, but a practical approach that can overcome the stagnation of the implementation of waste management laws in Indonesia. Its principles can be used as an ethical and functional compass in designing, implementing, and evaluating laws that are oriented towards protecting the right to a healthy environment.

This study recommends that the Ottawa Charter be used as a formal reference in formulating waste management policies, both at the national and regional levels. This approach is not only in line with the spirit of the 1945 Constitution of the Republic of Indonesia in guaranteeing the right to a good environment, but is also relevant to Indonesia's commitment to the sustainable development agenda (SDGs), especially goals 11 and 12. Optimizing law through a transdisciplinary approach requires a paradigm shift in viewing law: from an instrument of control to a means of empowerment. In this way, law becomes not only a protector of rights, but also a facilitator of social transformation for the future of a sustainable environment and a healthy society.

CONCLUSION

Based on two main findings, it can be concluded that the effectiveness of the implementation of Law No. 18 of 2008 in internalizing the obligation to sort waste still faces significant obstacles due to the dominance of the legal-formalistic approach that does not consider the social reality of society. The legal norms contained in the law tend to be symbolic due to weak infrastructure, low public participation, and lack of cross-sector integration. To answer these challenges, this study emphasizes the importance of optimizing legal instruments through a transdisciplinary approach by adopting the Ottawa Charter paradigm as a more holistic and contextual framework. The integration of principles such as healthy public policy, community empowerment, and cross-sector collaboration allows the law to function as a facilitator of sustainable social change. Scientifically, this study contributes in the form of an offer of a more adaptive, participatory, and ecological justice-oriented legal policy reform model, by emphasizing the importance of synergy between normative aspects and social dimensions in the formulation and implementation of environmental regulations in Indonesia.

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