JURNAL JURISPRUDENCE
Vol. 14, No. 1, 2024, pp.137-151
p-ISSN: 1829-5045 ; e-ISSN : 2549-5615
Website: https://journals2.ums.ac.id/index.php/jurisprudence/issue/view/172

# Implementation of Governance and Sustainable Development Aspects of the Environmental Law Protection and Management Act from the Rationality Perspective of Judges

**Dwi Perdita Sari**
Universitas Indonesia, Indonesia
dwiperdita.sari@yahoo.com

**Wiwiek Awiati**
Universitas Indonesia, Indonesia
wiwiek.awiati@ui.ac.id

DOI: 10.23917/jurisprudence.v14i1.4775

**Submission Track:**

Received:

April 23, 2024

Final Revision:

June 27, 2024

Available online:

June 30, 2024

Corresponding Author:
**Dwi Perdita Sari**
dwiperdita.sari@yahoo.com

***ABSTRACT***

***Purpose of the study:****This article seeks to re-examine whether there is a strong link between components of environmental governance and legal rationality in order to achieve sustainable environmental development. This study investigates the relationship between the substantive features and execution of the prevailing arrangements in the Environmental Protection and Management Act (PPLH), as well as factors of environmental governance and the rule of law, in order to achieve sustainable development.*
***Methodology:****The study took a normative juridical approach to environmental law. The method of data collection then used primary data, which contained PPLH Act substance and three court judges' rulings with Numbers 135/B/2015/PT.TUN. SBY, 148/G/LH/2017/PTUN-BDG, and 640/PID. B/LH/2021/PT PBR. This data analysis is applied by studying the substance and positive legal structure of these three Judge's rulings documents above to resolve legal difficulties by methodically gathering them.*
***Results:****This study demonstrates that environmental governance, the rule of law, and sustainable development are adequately regulated normatively. However, this study demonstrates that the legal reasoning of the court judge in the Judge's Decision in environmental issues, which incorporates the component of governance, contradicts the aim of the PPLH Act. The paper then proposes a shift in decision-making that prioritizes repressive logic over associated legislation. The court judge's ruling, based on repressive logic, focuses on resolving environmental and community issues as victims of*

*governance practices imposed by regional officials. Similarly, the resolution of environmental matters should be settled in special courts rather than using the District Court.*

***Applications of this study:****PPLH Act, which governs natural resource mining exploitation, has the potential to increase incorrect environmental governance formulation, abuse of power, and violation of environmental laws. The Indonesian government, particularly its legislative institutions, should evaluate the PPLH Act to reduce the number of contradictory laws among its articles. The court should examine how the system of decision-making principles from environmental issues that are more in favor of environmental and human problems, which is deemed inappropriate by applying formal and associated legal rationalities. The court judges' decisions should be based on repressive rationality, with an emphasis on environmental and community issues. Thus, the Judge's choices should decide a case based on the settlement of the victims, such as humans and the environment.*

***Novelty/ Originality of this study:****The study's originality is that it focuses on a judge's controversial judgment to resolve environmental license issues involving mining permits. Another innovative idea is that Indonesia's government should establish special courts to resolve environmental issues that arise in society. The substance of PPLH Act cannot inevitably solve environmental cases in communities that have practiced environmental culture in their territories.*

***Keywords:*** *Environmental governance; PPLH Act; Legal Substance; Legal Rasionality*

**ABSTRAK**

**Tujuan:** Artikel ini bertujuan untuk mempertanyakan kembali apakah terdapat keterkaitan yang erat antara aspek tata kelola lingkungan hidup dan rasionalitas hukum oleh Hakim pengadilan dalam mewujudkan pembangunan yang berkelanjutan. Penelitian ini melihat keterkaitan antara unsur substantif dan implementasi pengaturan yang ada dalam Undang-Undang Perlindungan dan Pengelolaan Lingkungan Hidup (PPLH) dengan aspek tata kelola lingkungan hidup untuk mewujudkan pembangunan berkelanjutan.

**Metode Penelitian:** Aspek *governance* diuji menggunakan substansi dan implementasinya berdasarkan substansi UU PPLH dengan metode penelitian hukum yuridis-normatif. Metode pengumpulan data menggunakan data primer berupa UU PPLH dan 3 (tiga) putusan Hakim pengadilan dengan Nomor 135/B/2015/PT.TUN.SBY, Nomor 148/G/LH/2017/PTUN-BDG, dan Nomor 640/PID.B/LH/2021/PT PBR. Analisis data yang diterapkan

dengan menguji isi dan struktur hukum positif untuk menyelesaikan persoalan hukum dalam ketiga putusan pengadilan diatas dengan menyusunnya secara sistematis dari hasil dokumentasi ketiga putusan tersebut.

**Hasil Penelitian:** Tulisan ini menunjukkan bahwa norma tata kelola lingkungan hidup cukup diatur secara normatif. Namun kajian ini menunjukkan bahwa rasionalitas putusan Hakim pengadilan pada UU PPLH belum berjalan maksimal sehingga menghambat terwujudnya konsekuensi dari tujuan UU PPLH mengenai pembangunan berkelanjutan. Rasionalitas hukum oleh Hakim pengadilan dalam Putusan Hakim dalam kasus perkara lingkungan, yang meliputi aspek tata kelola (*governance*) dinilai sangat bertentangan dengan tujuan dari UU PPLH. Sehingga penelitian ini menyarankan untuk dilakukannya perubahan dalam pengambil keputusan yang tidak hanya berfokus pada perundang – undangan yang terkait saja, namun lebih kepada rasionalitas represif. Putusan Hakim pengadilan berdasarkan rasionalitas represif berfokus pada penyelesaian permasalahan lingkungan dan masyarakat sebagai korban dari kebijakan tata kelola yang diputuskan oleh pejabat daerah tersebut. Begitu juga dengan penyelesaian kasus lingkungan agar diselesaikan pada pengadilan khusus atau tidak menggunakan pengadilan Negeri.

**Implementasi Penelitian:** UU PPLH berkaitan Izin Usaha Pertambangan (IUP) yang dapat berpotensi meningkatkan kesalahan perumusan tata kelola lingkungan, meningkatnya penyalahgunaan kekuasaan, dan pelanggaran hukum lingkungan. Pengadilan harus mengkaji ulang bagaimana sistem prinsip pengambilan putusan dari perkara – perkara lingkungan yang lebih berpihak kepada permasalahan lingkungan dan manusia, yang dinilai sudah tidak tepat jika hanya menggunakan rasionalitas formal dan rasionalitas perundang – undangan terkait. Putusan Hakim pengadilan disarankan bersifat rasionalitas represif yang berfokus pada permasalahan lingkungan dan Masyarakat, sehingga Para Hakim memutuskan suatu perkara berdasarkan pada penyelesaian dari para korban, dalam hal ini adalah Masyarakat dan lingkungannya

**Kebaharuan dalam penelitian:** Kebaruan dalam penelitian ini adalah dengan menyoroti keputusan hakim yang dinilai kontroversial dalam memutuskan kasus perizinan lingkungan yang berkaitan dengan perizinan pertambangan yang telah dimiliki oleh Perusahaan pertambangan. Kebaruan yang kedua adalah perlunya menciptakan pengadilan khusus untuk kasus lingkungan yang terjadi dalam Masyarakat. Hal ini dikarenakan UU PPLH belum tentu dapat menyelesaikan masalah lingkungan dalam maysrakat yang memiliki budaya lingkungan yang terkait.

**Kata Kunci:** Tata Kelola; UU PPLH; Substansi Hukum; Rasionalitas Hukum

## Introduction

Environmental concerns are becoming more and more important in today's world, not just in Indonesia. This is regarded as typical, despite the fact that environmental damage can have an effect beyond state lines. For instance, smoke from forest fires in Kalimantan that are brought on by excessive heat or the willful actions of careless people can travel beyond Indonesian borders and into Malaysia, Brunei Darussalam, and Singapore (Nurhayati & Ambari, 2021). Given that wildfire smoke can trigger asthma attacks and pneumonia, it is understandable why numerous schools have been forced to temporarily close as a result of the fires (Sheldon & Sankaran, 2017). Another instance is the possibility that very small Indonesian islands could sink as a result of rising sea levels brought on by global warming and the melting of Arctic ice (Dinas Lingkungan Hidup, 2014). Therefore, it is evident that a variety of global warming-related phenomena have put the lives of numerous people in numerous nations in danger (Ivanov, 2023).

Pollution cases and forest fires that lead to the deterioration of the environment's quality remain a major concern for Indonesia (Nisa & Suharno, 2020). The local government's issuance of the Mining Exploration Permit (Izin Usaha Pertambangan/IUP) has led to the occurrence of forest fires and deforestation, which has created opportunities for new economic ventures and residential developments for the surrounding community. The state bears complete responsibility for environmental damage as this clearly shows a connection between development activities and environmental harm (Siombo, 2014). A democratic nation's citizens are entitled to certain basic rights, one of which is the right to a safe and healthy living environment (Constitutional Court, 2015). These rights are guaranteed by the 1945 Constitution, Article 28H Section (1), and the state is required to uphold them. However, environmental degradation is thought to violate Indonesian citizens' fundamental rights and has put their right to life in jeopardy.

It is apparent from this that the state has a responsibility to ensure that economic development proceeds without negatively affecting the environment. This concept is also known as "sustainable development" (Fahmi, 2011). Environmental management, including that of non-renewable resources, is a constant component of any economic activity (Raya, 2022). Nonetheless, it is believed that environmental protection regulations and actual

conditions overlap (Aswandi, 2022). Sustainable development, in reality, prioritizes economic factors over environmental concerns (Luthfie & Zaldya, 2020), demonstrating the detrimental effects of economic expansion on the environment (Muhammad, 2021).

The faster economic development happens, the more effectively the community's economic issues can be resolved, allowing the community to be the exclusive focus of development rather than the environment. Since the environment is a legal topic, both the right to sustainability and the enforcement of environmental law are required (Hastuti, 2003). One of the instruments created to achieve sustainable development in Indonesia is Law No. 32 of 2009, which regulates the Environmental Law Protection and Management Act (PPLH). Standards for environmental quality, environmental impact analyses, environmental permits, financial instruments, and environmental audits are examples of environmental law instruments (Efendi, 2016). The PPLH Act's consideration section explains that sustainable development theory and environmental orientation are prerequisites for national economic development. Within the welfare state legal framework, the PPLH Act serves as an environmental statute aimed at achieving equitable and sustainable development in environmental management (Helmi, 2011). The PPLH Act's existence is crucial in addressing various environmental damage issues (Thani, 2017). The application of aspects of good environmental and sustainable development has a positive impact on community empowerment(Nur & Husen, 2022).

A sustainable ecosystem is realized through the conceptual framework of *governance*, which governs the conduct of business and societal actors(Alisjahbana & Murniningtyas, 2018). Environmental management calls for collaboration between corporations and the community, and environmental governance is a system made up of sociocultural, political, and economic elements (Alisjahbana & Murniningtyas, 2018). There are equal rights and responsibilities for managing and maintaining the environment for all parties, including the government and the community (Purniawati et al., 2020). It is deemed ineffective in practice to apply good governance principles when creating policies or managing regional development (Andi, 2022). Policies regarding regional autonomy and the environment place greater emphasis on using local knowledge to solve environmental issues. This is due to the fact that decentralized laws, free from conflicting interests, are more effective at resolving issues than centralized laws (Anugrah, 2021).

Similarly, the Mineral and Coal Mining Law No. 3 of 2020's ease of licensing is driving up mining companies' operations(Rahayu & Faisal, 2021), which could lead to more environmental harm. Mining law and environmental law are intertwined, with environmental approval being a necessary condition for securing a mining business license. Therefore, business actors who violate environmental approvals in the mineral and coal law are subject to preventive and repressive administrative sanctions under the environmental law (Dewa et al., 2023).

Given the aforementioned issues, elements of the rule of law where law enforcement efforts are centralized are required to strengthen the realization of sustainable environmental development. This will ensure that the law can protect everyone without intervention from or by any party, including state officials (Constitutional Court, 2013). The implementation of sustainable environmental laws in Indonesia has not proceeded according to plan. The growing number of environmental pollution cases demonstrate this, and it is unclear where the law is placed—whether it is solely in the legislation or includes law enforcement (Suseni, 2021).

It is crucial to comprehend the effects of governance on the environment in order to accomplish this goal. Meanwhile, based on the findings of legal rationality by Indonesian court judges, the implementation of the governance aspects has determined whether there is materialization or not. It is significant to highlight that the governance and reasonability of the judge's ruling, as well as research on the application of sustainable environmental development in the PPLH Act, served as the foundation for this study.

The decision number 135/B/2015/PT.TUN.SBY, number 148/G/LH/2017/PTUN-BDG, and number 640/PPID.B/LH/2021/PPT PBR demonstrate the judges' legal reasoning. The public has expressed disapproval of the court judges' application of legal rationality in these three rulings, which involved resolving a dispute involving elements of environmental governance and the rule of law. The relevant legislation's content or formal rationality continues to serve as the foundation for the judge's decision-making process. In order for the ruling party to benefit more from the judge's ruling and to maintain the Trias Politika (separation of powers) doctrine—which places the executive, legislative, and judicial branches in one body and is thought to lead to tyranny of power—in Indonesian law (Respationo & Hamzah, 2013).

Additional research indicates that environmental cases ought to be treated differently from other cases, with a special environmental court handling environmental cases instead of

the District Court. This is so that cases involving environmental destruction can be settled solely through the PPLH Act and not require the involvement of other relevant laws.

## RESEARCH METHODS

This study was conducted using normative juridical approach. In his book Legal Research, Pieter Marzuki explains how the juridical-normative research method looks for solutions to a variety of problems or legal issues by analyzing the rule of law, legal doctrine, and legal principles (Marzuki, 2017). "Normative law" research is the term used to describe normative juridical research. Conversely, Muhaimin clarified—citing Wiradipraja—that juridical-normative legal research centers its analysis around positive legal norms (Muhaimin, 2020). In light of the fact that this study aims to determine how court judges apply the law enforcement provisions of the PPLH Act (Law No. 32 of 2009) to aspects of governance and legal rationality, normative juridical law testing is used.

This implies that the way the PPLH Act governs governance and how this element is justified in the logic of the judge's decision will be scrutinized for the first time. Put differently, the PPLH Act will be examined from two angles in this study: its content and how it has been applied in court rulings. Specifically, primary data in the form of court decisions bearing the numbers 135/B/2015/PT.TUN.SBY, 148/G/LH/2017/PTUN-BDG, and 640// PID.B/LH/2021/PPT PBR, as well as law (UU) number 32 of 2009 (PPLH Act), are collected. As the three aforementioned, court decisions' legal issues are resolved through the application of data analysis, which looks at the structure and content of positive law. The procedure used in the analysis of this data involved methodically gathering information from the records of the three court rulings mentioned above.

## RESULTS AND DISCUSSION

### 1. Aspects of Governance in the Substantive PPLH Act

The concept of governance is taken from the term “governance” in English, then quoted fromBennett dan Satterfield (2018), where their opinion refers to Graham et al. (2003) and Lockwood (2010) by defining "governance’ as “...the institutions, structures, and processes that determine who makes decisions, how and for whom decisions are made, whether, how and what actions are taken, and by whom and what impact”. If this definition is followed, then institutions, structures, and processes—all of which are linked to choices and actions regarding

what is made, done, and its effect—are the three key indicators of governance. 'What' in this context is referred to as the environment. Thus, when discussing environmental governance, it becomes imperative to discuss who has the authority to make decisions and take actions related to environmental management, as well as how and for whom those decisions are made. Gaining an understanding of environmental governance entails learning how environmental decrees are made and whether or not the methods and regulations put in place can produce sustainable results for the environment and society (Bennett & Satterfield, 2018). Social sustainability must be included in any discussion of sustainable development. The reason for this is that protecting or preserving the environment requires an all-encompassing approach, meaning that every element of it—including people—must be safe or sustainable. Collective human discourse also includes social and cultural institutions.

Bennett and Satterfield make it clear that the capacity, performance, and structure of institutional, structural, and procedural elements of governance are the five main topics of discussion when it comes to environmental governance. The concept of *governance* in environmental law discourse gave birth to the concept of good environmental governance. That being said, this idea is derived from the ideas of environmental governance and good governance in the context of environmental law. As a result, the idea of good environmental governance can be understood as the state's perspective on environmental management as it relates to the community's direct implementation plan (Purniawati et al., 2020).

Environmental planning encompasses activities related to gathering environmental data, identifying *ecoregions* regionally, and formulating the PPLH Act, as stated in Article 5 of the Act. The institution is authorized to establish the territory ecoregion after an inventory of the environment is carried out by the minister. The PPLH Act's Article 7(1) specifies that the relevant minister is the Minister of Environment and Forestry at the moment. As stated in Article 9 Section 1 of the PPLH Act, the Environmental Protection and Management Plan (Rencana Perlindungan dan Pengelolaan Lingkungan Hidup/RPPLH) is divided into three categories: national, provincial, and municipal/regency. According to Article 10 Section 1 of the PPLH Act, the minister of MoEF is in charge of preparing the national RPPLH, the governor is in charge of preparing the provincial RPPLH, and the regent or mayor is responsible for preparing the regency or municipal RPPLH in accordance with their jurisdiction. The preparation of this RPPLH and the provisions pertaining to the demarcation of territories and *ecoregions* are blatant examples of institutional governance.

Meanwhile, the PPLH Act's Article 9, Sections (3) and (4) provide a description of the "structure" component of PPLH planning. Provincial RPPLH is derived from national RPPLH, whereas municipal/regency RPPLH is derived from provincial RPPLH. The structural relationships that exist between the national, provincial, and regency/city are implicitly revealed by this clause. Concurrently, the plan for the phase-out of RPPLH preparation pertains to the "process" element of PPLH planning activities. The preparation of the National RPPLH was carried out after the establishment of the National Environmental Inventory. Meanwhile, the environmental inventory at the island/archipelago and ecoregion levels, as well as the national RPPLH, are completed before the provincial RPPLH. Likewise, phasing is part of the activities of RPPLH in the regency or city.

As previously indicated, national economic development must be based on the ideas of sustainable development and be environmentally conscious, as stated in the PPLH Act's consideration section. The PPLH Act states that in order to carry out national economic development, both the federal government and local governments must create a Strategic Environmental Assessment (SEA) to guarantee that the concept of sustainable development has been taken into consideration. This idea ought to serve as both the foundation and an integral part of a region's development plan. The government recognizes that although Indonesia is an archipelagic nation with an abundance of natural resources, it is also susceptible to environmental harm, which is why this Moe obligation exists—at least with regard to the PPLH Act.

Example of a governance case settlement that defies the PPLH Act is when WALHI filed a lawsuit against the Bali Governor's decree pertaining to the nature-based tourism management permit on the TAHURA Ngurah Rai area utilization block in Bali Province, which was granted to PT. TIRTA RAHMAT BAHARI, whose decree is deemed to violate PPLH law Article 92. The panel of judges decided that the governor of Bali had revoked the tourism company's license based on the decision with Number 01/G/2013/PPTUN.Dps because it had been established that the company had established lodging, restaurant, and spa businesses in violation of the decree that had been issued. Additionally, payment to the plaintiff is demanded of the defendant (Constitutional Court, 2024). The aforementioned illustration demonstrates how the official regulatory authority, the governor of Bali, can issue commands on *governance* that are deemed in conflict with PPLH Act *governance*. The court's ruling to the Bali governor provides

proof of the implementation of the PPLH Act's requirements for law enforcement in the field. Therefore, it is obvious that the PPLH Act's environmental governance implementation requirements were met both in terms of content and application.

**2. The PPLH Act's implementation is reflected in the judges' application of rationale to environmental law.**

There is always interaction between the dynamics of the law itself and the dynamics of society (internal dynamics vs external dynamics). The evaluation of the judge's ruling takes into account both of these dynamics and is accomplished by adjusting how facts, standards, morality, and legal doctrine relate to one another—either separately, jointly, or correlatively. When reviewing, evaluating, and rendering a decision in a case, a judge must base his decision on written law. Nonetheless, the judge must be able to interpret the legislation in accordance with the 1945 Constitutional principles and Law Number 48 of 2009 if the written law is not found or is judged excessive. The tenets of this legislation serve as judges' guidelines and foundation when exercising their discretion to find and enact laws. In fact, when the judges created the law, they determined that there were still issues and that this created controversy in the community (Respationo & Hamzah, 2013).

The illogical decision made by the judge amply illustrates how abnormally practical law develops. On the other hand, a judge must deliver a true and equitable decision, which is highly desired by those who seek justice. Therefore, a judge must base his decisions not only on the science of law, with the assistance of various sciences but also on legal theory and philosophy, particularly when handling cases involving issues that essentially affect conscience (Respationo & Hamzah, 2013).

The following examples demonstrate how licensing decisions have not been overturned and how law enforcement has not been put into practice, demonstrating that sustainable development is not a reality. The first case stemmed from a review conducted by WALHI and the community to revoke the Central Javan governor's order granting business licenses to PT. Semen Indonesia in 2016. Legal positivism reasoning, which is based on Law Number 5 of 1986 on Administrative Justice, which specifies that the period of application for a lawsuit is 90 days after the governor of Central Java issued a decree, is the legal reasoning employed by judges in the Semarang Administrative Court and Surabaya Administrative Court. The plaintiff's lawsuit was dismissed by the panel of judges of the Semarang State Administrative Court due to its expiration and exceeding the stipulated time limit (Dwi Utomo et al., 2023).

Similarly, the Surabaya Administrative Court's ruling (number 135/B/2015/PT .TUN. SBY), attested to the Semarang administrative court's ruling that the plaintiff's lawsuit has run its course. This decision was made as a result of the dispute's object—the Central Javan governor's decree with number 660.1/17/2012—having been socialized between 2012 and 2013. Consequently, the appellant's (JMPPK) claim that he became aware of the dispute's object only on June 18, 2014, is void. Article 46, Section 2 of Law No. 14 of 1985 pertaining to the Supreme Court stipulates that within 14 days of the appellant being notified of the decision or court decision, the application for reversal in a civil case must be made, either orally or in writing, to the Clerk of the Court of First Instance who has rendered a decision (Dwi Utomo et al., 2023).

The next case came from a lawsuit by the community and WALHI organization regarding the issuance of illegal land ownership certificates by the One Stop Integrated Service and Investment Agency West Java Province with PT. Cirebon Energi Prasarana. In light of the Supreme Court's ruling number 148/GG / LH/2017/PTUN-BDG, the Bandung Administrative Court ruled that the plaintiff's report was void or canceled because it lacked the authority to investigate, determine, and settle quo disputes (Constitutional Court, 2024). After this decision was made, the provincial government of West Java actually issued a new environmental permit for PT. Cirebon Energi Prasarana. The judge's ruling is contentious and undoubtedly creates a negative precedent for Indonesian legality and environmental governance (Johar, 2021).

The most recent case stemmed from the judge's decision, which was deemed inappropriate, and was assigned the number 640/PID.B/LH/2021/PT PBR. First, the judges disregarded the *presumptio justae causa* principle, also known as the *het vermoden van rechmatigheid*. Second, it is not perceived that community control absolves the business of accountability. Third, the public prosecutor's article is not a formal criminal article; rather, it is a material criminal article, meaning that any act can be considered criminal as long as it is thought to be necessary to complete the offense. The court's decision in this case should be pro-environmental because the judge used an ecocentric approach to legal reasoning. This means that the decision should reject the defendant's appeal and support the court's initial ruling (Jiwanti & Soponyono, 2022).

Furthermore, a judge's decisions play a significant part in achieving pro-environmental justice. The jury's decision as an output is also heavily impacted by the inputs, which include

the understanding and methodology employed. Specifically, the idea that man is the center of the universe's system—that is, the anthropocentric perspective—is primarily to blame for the philosophical error that underlies the current environmental degradation problem. Consequently, it is imperative to practice ecological consciousness from an ecocentric perspective, which holds that the environment has rights equivalent to human rights to life. Judges who adopt an ecocentric approach will consider environmental sustainability when selecting the cases to be considered (Jiwanti & Soponyono, 2022).

The three cases mentioned above demonstrate how formal legal rationality continues to be the dominant pattern in Indonesian court decisions. Practical law development ought to be focused on a reflexive kind of rationality in order to establish good court governance. The process of making this transition involves moving from the formal to the substantive and finally to the reflexive forms of legal reasoning (Respationo & Hamzah, 2013). To fulfill the objectives of the PPLH Act, cases involving environmental destruction should be settled by a special court. A sense of ecological justice for the struggles of civil society impacted by environmental damage can be achieved through the creation of a special environmental court (Junef & Husain, 2021).

As previously explained, the court judge's ruling above maintained the existence of the "Trias Politika" doctrine in Indonesian law. This doctrine was inspired by *Emmanuel Kant* or *Montesquieu,* and then developed by John Locke in his teaching. “Separation of Power”. This teaching explains, *“There can be no liberty when the legislative and executive powers are joined in the same person or body of lords because it is to be feared that the monarch or body will make tyrannical laws to be administered in a tyrannical way. Furthermore, if the judicial authority is not kept apart from the legislative and executive branches, then no liberty exists."* The interpretation of this teaching clarifies that when the legislative, executive, and judicial branches are concentrated in one hand or body, independence cannot exist. A "tyranny of power" can result from one person or body having too much power(Respationo & Hamzah, 2013), allowing the ruling party to overturn a court judge's decision.

## CONCLUSION

The PPLH Act's substantive provisions are thought to have realized judicial, regulatory, and governance aspects. This aspect has been sufficiently regulated in substance, as can be observed in the case of the PPLH Act and governance. The rationality of the law, which is

determined by a court judge who is regarded as commercial and goes against the desires of the community and environmental development, is the source of the problem when it comes to achieving sustainable development. The realization of the Sustainable Environmental Development Goals outlined in the PPLH Act is significantly impacted by the legal rationality of this court judge. The judges' rulings are still regarded as formal rationality. The judge renders a decision based on the applicable laws, which are thought to undermine the PPLH Act's purpose and prevent sustainable environmental development. The three rulings made by this court's judges ought to be reflexive law, meaning they should have used their conscience, attention, and judgment to side with society and the environment.

## REFERENCES

Alisjahbana, A. S., & Murniningtyas, E. (2018). *Tujuan Pembangunan Berkelanjutan di Indonesia: Konsep Target dan Strategi Implementasi* (Vol. 3, Issue 2).

Andi, N. F. U. (2022). Penerapan Prinsip Good Governance Dalam Merumuskan Program Kebijakan Pembangunan Daerah Di Bappedalitbang Kabupaten Mamasa. *Arajang: Jurnal Ilmu Sosial Politik*, *5*(1), 76–91. https://doi.org/10.31605/arajang.v5i1.2494

Anugrah, F. N. (2021). Kewenangan Tata Kelola Lingkungan Hidup oleh Pemerintahan Daerah dalam Perspektif Otonomi Daerah. *Jurnal Wasaka Hukum*, *9*(2), 204–222. https://ojs.stihsa-bjm.ac.id/index.php/wasaka/article/view/43

Ash-shidiqqi, E. A. (2021). Rule of Law dalam Perspektif Critical Legal Studies. *Amnesti Jurnal Hukum*, *3*(1), 25–36. https://doi.org/10.37729/amnesti.v3i1.895

Aswandi. (2022). Interpretasi Pemikiran Hukum Kritis Terhadap Kebijakan Perlindungan Lingkungan Hidup Dalam Hukum Positif di Indonesia. *Tanjungpura Law Journal*, *6*(2), 163–178. http://jurnal.untan.ac.id/index.php/tlj

Atwal, M. (2023). Rule of Law and Democracy. *International Journal of Education Humanities and Social Science*, *06*(01), 259–263. https://doi.org/10.54922/ijehss.2023.0489

Bennett, N. J., & Satterfield, T. (2018). Environmental governance: A practical framework to guide design, evaluation, and analysis. *Conservation Letters*, *11*(6), 1–13. https://doi.org/10.1111/conl.12600

Dewa, M. J., Sensu, L., Tatawu, G., Haris, O. K., Sinapoy, M. S., & Jufri, N. (2023). Penegakan Hukum dalam Tata Kelola Pertambangan Berkelanjutan Berwawasan Lingkungan Law Enforcement In Environmentally Inspected Sustainable Mining Governance. *Halu Oleo Legal Research* |, *5*(1), 62–75. http://e-journal.unair.ac.id/index.php/

Dicey, A. V. (2023). *Writings On Democracy And The Referendum*. Cambridge University Press. https://doi.org/http://dx.doi.org/10.1017/9781108955799

Dinas Lingkungan Hidup. (2014). *Pemanasan Global Ancam Pulau-Pulau Kecil Indonesia*. Kabupaten Grobogan. https://dlh.grobogan.go.id/index.php/info-lh/berita/15-pemanasan-global-ancam-pulau-pulau-kecil-indonesia

Dwi Utomo, H., Absori, A., Kachippa Suvirat, Khudzaifah Dimyati, Wardiono, K., & Rochman, S. (2023). Comparison of Legal Reasoning Models in Consideration Of Decision No. 064/G/2014/PTUN SMG, No. 135/B/2015/PT.TUN.SBY, And No. 99/PK/TUN/2016 In The Case Of PT Semen Gresik (Persero) Tbk Environmental Permit in Rembang Regency, Central Java. *Jurnal Jurisprudence*, *13*(1), 59–78. https://doi.org/10.23917/jurisprudence.v13i1.1707

Efendi, A. (2016). Instrumen Hukum Lingkungan Sebagai Sarana Pencegahan Pencemaran Lingkungan.

*Jurnal Supremasi*, *6*(1), 3. https://doi.org/10.35457/supremasi.v6i1.395

Fahmi, S. (2011). Asas Tanggung Jawab Negara Sebagai Dasar Pelaksanaan Perlindungan Dan Pengelolaan Lingkungan Hidup. *Jurnal Hukum Ius Quia Iustum*, *18*(2), 212–228. https://doi.org/10.20885/iustum.vol18.iss2.art4

Graham, J., Amos, B., & Plumptre, T. (2003). Governance principles for protected areas in the 21 st century, prepared for the fifth World Parks Congress Durban, South Africa in collaboration with Parks Canada and Canadian International Development Agency. In *Prepared for The Fifth World Parks Congress Durban, South Africa*.

Hakim, E. R. (2020). Penegakan Hukum Lingkungan Indonesia Dalam Aspek Kepidanaan. *Media Keadilan: Jurnal Ilmu Hukum*, *11*(1), 43. https://doi.org/10.31764/jmk.v11i1.1615

Hastuti, N. T. (2003). Aspek dan Fungi Hukum Lingkungan Dalam Pembangunan Berkelanjutan. *Perspective*, *9*(3), 202–226. https://doi.org/DOI: https://doi.org/10.30742/perspektif.v8i3.305

Helmi, H. (2011). Hukum Lingkungan Dalam Negara Hukum Kesejahteraan untuk Mewujudkan Pembangunan Berkelanjutan. *Inovatif: Jurnal Ilmu Hukum*, *4*(5), 93–103.

Ivanov, V. (2023). Arctic Sea Ice Loss Enhances the Oceanic Contribution to Climate Change. *Atmosphere*, *14*(2). https://doi.org/10.3390/atmos14020409

Jiwanti, A., & Soponyono, E. (2022). The Urgency of Judge's Legal Reasoning in Deciding on an Environmental Crime Case Based on an Ecocentric Approach (Review of Case Decision No. 640/PID.B/LH/2021/PT PBR). *Jurnal Jurisprudence*, *12*(1), 71–91. https://doi.org/10.23917/jurisprudence.v12i1.1092

Johar, O. A. (2021). Realitas Permasalahan Penegakan Hukum Lingkungan Di Indonesia. *Jurnal Ilmu Lingkungan*, *15*(1), 54–65. https://doi.org/10.31258/jil.15.1.p.54-65

Junef, M., & Husain, M. (2021). Pembentukan Pengadilan Khusus Lingkungan Sebagai Wujud Tanggung Jawab Negara pada Upaya Keadilan Ekologis. *Jurnal Penelitian Hukum De Jure*, *21*(1), 59. https://doi.org/10.30641/dejure.2021.v21.59-74

Lockwood, M. (2010). Good Governance for Terrestrial Protected Areas: A Framework, Principles and Performance Outcomes. *Journal of Environmental Management*, *91*(3), 754–766. https://doi.org/10.1016/j.jenvman.2009.10.005

Luthfie, F. S., & Zaldya, I. (2020). Dampak Keputusan Pemberian Izin Lingkungan oleh Pejabat Pemberi Izin terhadap Pembangunan Lingkungan Hidup yang Berkelanjutan. *Padjadjaran Law Review*, *8*(2), 52–66.

Mahkamah Agung. (2024). *Direktori Putusan Mahkamah Agung Republik Indonesia*. Mahkamah Agung. https://putusan3.mahkamahagung.go.id/direktori/index/pengadilan/mahkamah-agung/

Mahkamah Konstitusi. (2013). *Ketua MK: Supremasi Hukum Harus Disertai Kemampuan Menegakkan Kaidah Hukum*. Mahkamah Konstitusi. https://www.mkri.id/index.php?page=web.Berita&id=8923

Mahkamah Konstitusi. (2015). *Hak dan Kewajiban Warga Negara Indonesia dengan UUD 45*. Mahkamah Konstitusi. https://www.mkri.id/index.php?id=11732&page=web.Berita

Marzuki, P. M. (2017). *Penelitian Hukum* (Edisi 13). Kencana.

Muhaimin. (2020). *Metode Penelitian Hukum*. UPT Mataram University Press.

Muhammad, F. (2021). Analisis Pembangunan Berkelanjutan di Pulau Jawa. *Jurnal Ilmiah: Fakultas Ekonomi Dan Bisnis*.

Nisa, A. N., & Suharno, S. (2020). Penegakan Hukum Terhadap Permasalahan Lingkungan Hidup Untuk Mewujudkan Pembangunan Berkelanjutan. *Jurnal Bina Mulia Hukum*, *4*(2), 294. https://doi.org/10.23920/jbmh.v4i2.337

Nur, M. S., & Husen, A. (2022). Penerapan Good Environmental Governance dan Pembangunan Berkelanjutan Sebagai Upaya Pemberdayaan Masyarakat. *Jurnal Green Growth Dan Manajemen Lingkungan*, *11*(1), 35–49. https://doi.org/10.21009/jgg.v11i1.25110

Nurhayati, D. A., & Ambari. (2021). Peran Indonesia Di Dalam Penanggulangan Kabut Asap Di Kawasan Asia Tenggara. *Jurnal Pendidikan Kewarganegaraan Undiksha*, *9*(2), 331–339. https://ejournal.undiksha.ac.id/index.php/JJPP/article/view/34136

Purniawati, P., Kasana, N., & Rodiyah, R. (2020). Good Environmental Governance in Indonesia (Perspective of Environmental Protection and Management). *The Indonesian Journal of*

*International Clinical Legal Education*, *2*(1), 43–56. https://doi.org/10.15294/ijicle.v2i1.37328

Rahayu, D. P., & Faisal, F. (2021). Eksistensi Pertambangan Rakyat Pasca Pemberlakuan Perubahan Undang-Undang tentang Pertambangan Mineral dan Batubara. *Jurnal Pembangunan Hukum Indonesia*, *3*(3), 337–353. https://doi.org/10.14710/jphi.v3i3.337-353

Raya, M. Y. (2022). Instrumen Ekonomi pada Dana Jaminan untuk Pemulihan Fungsi Lingkungan Hidup. *El-Iqtishady : Jurnal Hukum Ekonomi Syariah*, *4*(1), 96–105. https://doi.org/DOI: https://doi.org/10.24252/el-iqthisady.vi.29689

Respationo, H. S., & Hamzah, M. G. (2013). Putusan Hakim: Menuju Rasionalitas Hukum Refleksif Dalam Penegakan Hukum. *Yustisia Jurnal Hukum*, *2*(2), 101–107. https://doi.org/10.20961/yustisia.v2i2.10194

Santosa, M. A., & Quina, M. (2014). Gerakan Pembaruan Hukum Lingkungan Indonesia Dan Perwujudan Tata Kelola Lingkungan Yang Baik Dalam Negara Demokrasi. *Jurnal Hukum Lingkungan Indonesia*, *1*(1), 23–54. https://doi.org/10.38011/jhli.v1i1.164

Sheldon, T. L., & Sankaran, C. (2017). The impact of Indonesian Forest Fires on Singaporean Pollution and Health. *American Economic Review: Papers & Proceedings*, *107*(5), 526–529. https://doi.org/10.1257/aer.p20171134

Siombo, M. R. (2014). Tanggung Jawab Pemda Terhadap Kerusakan Lingkungan Hidup Kaitannya Dengan Kewenangan Perizinan Di Bidang Kehutanan Dan Pertambangan. *Jurnal Dinamika Hukum*, *14*(3), 394–405. https://doi.org/10.20884/1.jdh.2014.14.3.306

Suseni, K. A. (2021). Penegakan Hukum Lingkungan Sebagai Upaya Membangun Lingkungan Yang Bersih Dan Sehat. *Pariksa*, *5*(1), 1–7.

Thani, S. (2017). Peranan Hukum Dalam Perlindungan dan Pengelolaan Lingkungan Hidup. *Jurnal Warta*, *51*, 1–7. https://doi.org/DOI: https://doi.org/10.46576/wdw.v0i51.240

Wright, D. V. (2020). Environmental Rule of Law: In need of coherence in contested terrain. *McGill International Journal of Sustainable Development Law & Policy*, *15*(1), 17–26. https://ssrn.com/abstract=3527784