

When the Court Decisions Encourage Deforestation in Indonesia: A Case of Tahura Mangrove Forest Project

Putu Eka Rosiariani*

University of Dwijendra, Indonesia

I Gusti Ngurah Parikesit Widiatedja

University of Udayana, Indonesia

Muhammad Qadam Shah

Seattle Pacific University, USA.

ABSTRACT: The abstract presents a critical analysis of the role played by court decisions in the prevention of deforestation. Over the past few decades, Indonesia has witnessed extensive deforestation, primarily due to the expansion of oil palm and agriculture. This has had a significant impact on Bali's tourism industry, which heavily relies on this sector for development. The Tahura Mangrove Forest Project serves as an example of a tourism venture that has resulted in damage to the forested area. Despite the prohibition of commercial projects on protected land, the government issued a utilization permit for the construction of guest houses. This study employs a normative approach, identifying and evaluating significant laws, rules, and court rulings pertaining to Indonesian forestry management. It finds that rather than effectively curbing deforestation, controversial court decisions have actually encouraged it. The courts' assertion that public interest groups lacked standing to challenge violations of forestry laws, which could potentially cause environmental harm, was based on the argument that the damage was only a possibility during the planning stage and could not be accurately quantified. This paper identifies three factors contributing to the judges' adoption of a narrow standing test: their limited judges' competence, reliance on the Supreme Court's existence, and corruption.

KEYWORDS: Court Decisions, Deforestation, Forestry Law, Environmental Law



Copyright © 2023 by Author(s)

This work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License. All writings published in this journal are personal views of the authors and do not represent the views of this journal and the author's affiliated institutions.

HOW TO CITE:

Rosariyani, Putu Eka, et al., "*When the Court Decisions Encourage Deforestation in Indonesia: A Case of Tahura Mangrove Forest Project*" (2023) 4:2 Indonesian Journal of Law and Society 76-97, online: <<https://doi.org/10.19184/ijls.v4i2.41195>>.

Submitted: 20/07/2023 Reviewed: 25/08/2023 Accepted: 10/09/2023

* Corresponding author's e-mail: putuekarosariyani@gmail.com

I. INTRODUCTION

Forests in Indonesia are vast and has been the third-largest tropical forests in the world. This kind of forests is one of the greatest biodiversity hotspots on Earth. Indonesia is home to 10 per cent to 15 per cent of all known birds, mammals, and plants on the planet.¹ However, Indonesia has experienced the highest rates of deforestation in the world.² From 1990 to 2015, it has been losing forest cover at a rate of 1.1 per cent per year.³ There are some ways how Indonesian tropical rainforest has been transformed into other land uses, including releasing certain area from the forest area; using forest area for non-forestry purposes; and maximizing production forests for logging.⁴ For non-forestry purposes, oil palm plantations are one of the major causes of Indonesia's continued deforestation⁵, where they have contributed more than two-fifths of nationwide deforestation.⁶

Deforestation also takes place in mangrove forests. In the Indonesia Province of North Mollucas, mangrove forest has been destructed by converting it into various daily purposes, including for firewood, home building materials, furnishings.⁷ In the Indonesia Province of East Java, the destruction of mangrove forests has occurred due to land conversion intensification.⁸ Although the government of Indonesia has enacted around 218 national forest-related policy documents from 1999 to 2016, they appeared to be ineffective to control deforestation.⁹ Conflicting and

¹ Aritta Suwarno, et al., "Land-use trade-offs in the Kapuas peat forest, Central Kalimantan, Indonesia," (2018) 75 Land Use Policy (2018) 344, <https://doi.org/10.1016/j.landusepol.2018.03.015>

² Rodney J. Keenan, et al., "Dynamics of global forest area: Results from the FAO Global Forest Resources Assessment 2015," (2015) 11 Forest Ecology and Management 352, <https://doi.org/10.1016/j.foreco.2015.06.014>, see also Yvonne Kunz, "The fridge in the forest': Historical trajectories of land tenure regulations fostering landscape transformation in Jambi Province, Sumatra, Indonesia" (2017) 5 Forest Ecology and Management 81 <https://doi.org/10.1016/j.forpol.2017.04.005>

³ Food and Agriculture Organization, Global Forest Resources Assessment 2015, (Rome:FAO, 2015) at 42, <https://www.fao.org/3/i4808e/i4808e.pdf>

⁴ Muhammad Alif K. Sahide & Lukas Giessen, "The Fragmented land use administration in Indonesia - Analysing bureaucratic responsibilities influencing tropical rainforest transformation systems" (2015) 43 Land Use Policy 96, <https://doi.org/10.1016/j.landusepol.2014.11.005>

⁵ Ernawati Apriani, et al., "Non-state certification of smallholders for sustainable palm oil in Sumatra, Indonesia," (2020) 99 Land Use Policy 105, <https://doi.org/10.1016/j.landusepol.2020.105112>, see also Doni Prabowo, et al., "Conversion of forests into oil palm plantations in West Kalimantan, Indonesia: Insights from actors' power and its dynamics," (2017) 33 Forest Policy and Economics 78, <https://doi.org/10.1016/j.forpol.2017.01.004>

⁶ Kemen G Austin, et al. "What causes deforestation in Indonesia?"(2019) Environmental Research Letters 14, <https://doi.org/10.1088/1748-9326/aaf6db>

⁷ Abdulrasyid Tolangara, "Forest destruction, wood utilization and mangrove area in District Jailolo, West Halmahera Regency, Province of North Mollucas and the conservation education."(2014) 10 International Journal of Engineering Research and Development 55, <http://www.ijerd.com/paper/vol10-issue1/I1015460.pdf>

⁸ Rudianto, "Causes and effects of mangrove ecosystem damage on carbon stocks and absorption in East Java, Indonesia," (2020) 12 Sustainability 14, <https://doi.org/10.3390/su122410319>

⁹ James T. Erbaugh and Dodik R. Nurrochmat, "Paradigm shift and business as usual through policy

overlapping policies concerning forest management are one of the leading causes, leading to the difficulty of NGOs, businesses, and local communities to comply with all those policies.¹⁰ The problem of forest law enforcement has also exacerbated this issue.¹¹

Deforestation has spanned tourism, particularly in Bali as where it relies on tourism.¹² However, the news is not all good in Bali as tourism projects have adversely affected the environment.¹³ Some projects have enormously decreased the number of forests in Bali that has been mainly converted into tourism facilities.¹⁴ Tahura Mangrove Forest Project (The Tahura Project) is a leading example of how a tourism project causes deforestation. Tahura is an acronym for Taman Hutan Raya (Tahura) or Great Forest Park, which is the largest mangrove forest in Bali.¹⁵ In this case, the Bali Provincial government ignored existing regulations, both at central and provincial levels, when it granted a nature tourism exploitation permit for this project. This case was more interesting when the courts seemed to encourage deforestation through their controversial decisions. The courts have held as long as the infrastructure development is not complete and the projects are not up and running, there can be no indication of environmental damage.

When the current studies mostly show that deforestation has linked with oil palm plantations and agriculture,¹⁶ this study will show how deforestation also takes place in tourism. It will also demonstrate how the court decision has neglected the importance of environmental protection. Unfortunately, only a few studies have shown the fact that the court decisions

layering: Forest-related policy change in Indonesia (1999-2016)” (2019) 86 Land Use Policy 137 , <https://doi.org/10.1016/j.landusepol.2019.04.021>

¹⁰ Dwi Amalia Sari, et al., “Evaluating policy coherence: A case study of peatland forests on the Kampar Peninsula landscape, Indonesia”, (2021) 105 Land Use Policy 396 , <https://doi.org/10.1016/j.landusepol.2021.105396>

¹¹ Luca Tacconi, “Law enforcement and deforestation: Lessons for Indonesia from Brazil” (2019) Forest Policy and Economics 108, <https://doi.org/10.1016/j.forpol.2019.05.029>, see also Sulistya Ekawati, et al. “Policies affecting the implementation of REDD+ in Indonesia (cases in Papua, Riau and Central Kalimantan),” (2019) Forest Policy and Economics 108, <https://doi.org/10.1016/j.forpol.2019.05.025>

¹² Luh Ayu Nadira Saraswati and Anak Agung Gede Duwira Hadi Santosa, “Establishing a Regional-Owned Limited Liability Company: Would it Support an Integrated Tourism Management in Bali ?” (2021) 5 Udayana Journal of Law and Culture 59, <https://doi.org/10.24843/UJLC.2021.v05.i01.p04>.

¹³ Ministry of Environment and Forestry, Inventarisasi Sumber Pencemar Lingkungan Pesisir dan Laut Yang Berasal Dari Non Point Sources di Tanjung Benoa [The Inventory of Coastal and Marine Environment Pollutant Sources from Non Point Sources in Tanjung Benoa] (Jakarta, 2015) at 43. See also Mega Rasnawati and Putu Gede Arya Sumerta Yasa, “Determination of the Benoa Bay Maritime Conservation Area in the Effectiveness of Environmental Maintenance” (2021) 1 Udayana Master Law Journal 37, <https://doi.org/10.24843/JMHU.2021.v10.i01.p04>

¹⁴ I Ketut Budarma, Syncretism between Tourists and Local Culture: The Impact of Tourism on Balinese Culture, Economy and Environment (Master Thesis, Université d'Angers, 2011) at 67.

¹⁵ Ministry of Environment and Forestry (2011), Information of Tahura Ngurah Rai, available at: http://bpkh8.menlhk.go.id/pdf/karya_tulis_mandiri/buklet_tahura.pdf (accessed on 7 February 2023)

¹⁶ See Prabowo, supra note 5 and Austin, supra note 6.

may discourage the importance of preventing deforestation and environmental damage.

By using the Tahura Project as a case study, this paper asks two central questions to try and understand why the court decisions seemed to encourage deforestation in Indonesia. First, how the court decisions have encouraged deforestation in the Tahura Project Case? Second, what are the factors that have caused the court decisions to fail to prevent deforestation?

II. RESEARCH METHOD

This study will use a normative approach,¹⁷ identifying and assessing major legislations, regulations and court decisions addressing forestry management in Indonesia, as well as research findings, evaluations, and other relevant references. It investigated the suitable legal framework in forestry management using the statute technique. All data assembled was then evaluated employing qualitative approaches, and the findings were thoroughly documented.

III. THE CONTROVERSIAL COURT DECISIONS: THE REASON AND IMPACT

Scholars have indicated the reasons behind the controversial court decisions. Some of the non-legal factors, such as the policy preferences, political context and the formal safeguards of judicial independence, affect judicial conduct.¹⁸ Besides, the regulation concerning the selection and removal of judges significantly determines judicial independence, particularly in authoritarian regimes.¹⁹ The reluctance to revisit earlier cases also deserves to mention. Revisiting has merit amid the complex relationship to the rule of law. However, when there are no institutional mechanisms in place, enabling the court the chance to revisit earlier cases, then the controversial court decisions will be more likely to occur.²⁰

In developing countries, Trubek then stated that judicial incompetence is a common cause of regulatory failure. For instance, judges applied laws

¹⁷ Agus Raharjo, "The Legal Policy of Criminal Justice Bureaucracy Cybercrime,"(2022) 10: 2 *Bestuur*, 105–22, <https://doi.org/https://doi.org/10.20961/bestuur.v10i2.64498>.

¹⁸ Ward Farnsworth, et al., "Policy preferences and legal interpretation," (2013) 1 *Journal of Law and Court* 117, <https://doi.org/10.1086/668603>

¹⁹ James Melton and Tom Ginsburg, "Does de jure judicial independence really matter?: A reevaluation of explanations for judicial independence," (2014) 2 *Journal of Law and Court* 188, <https://doi.org/10.1086/676999>. See also Dawn M. Chutkow, "The chief justice as executive: Judicial conference committee appointments" (2014) 2 *Journal of Law and Court* 301, <https://doi.org/10.1086/677172>

²⁰ Christopher P McMillion and Kevin Vance, "Criticism from Below: The Supreme Court's Decision to Revisit Cases" (2017) 5 *Journal of Law and Court* 82.

rigidly and mechanically, neglecting the unavoidable discretion in the adjudication process, and then analyzing the policy objectives behind the laws to assist them in applying this discretion.²¹ Anthony Ogus explained a “capture theory” as a reason behind the regulatory failure. Specifically, state agencies in meeting the public interest goals assigned to them might have been subverted by pressure, influence, and “bribery” to protect the interest of those who were the subjects of the regulation.²²

In Indonesia, Samekto argued that the legal crisis in Indonesia had occurred because the legal enforcement apparatus treated the law as tradable activities as if the justice belongs only to a certain group of people so-called “justice (not) for all”.²³ Mahfud MD then explained, although the public spotlight during the ten years of reform, the practice of judicial mafia persisted.²⁴ Moreover, corrupt behavior was also widespread within the Indonesian courts, resulting in the very few cases reaching the trial stage, and even fewer convictions.²⁵

A poor court decision may discourage the prevention of deforestation and environmental damage as the following studies have shown. In Goa, the government granted permission to build a hotel within the coastal regulation zone. The court then concluded that the hotel would not negatively affect the ecology of the region. Interestingly, this decision was solely based on the assessment from other governmental agencies, such as the State Environmental Protection Authority, and the Ministry of Environment and Forests.²⁶ In China, environmental courts have limited citizen and public interest organization access to the courts.²⁷

IV. THE TAHURA PROJECT AND THE REGULATION OF FOREST MANAGEMENT IN INDONESIA

²¹ David M. Trubek, “The Rule of Law in development assistance: Past, present, and future,” in David M. Trubek & Alvaro Santos, *The New Law and Economic Development: A Critical Appraisal* (Cambridge: Cambridge University Press, 2004) at 74, <https://doi.org/10.1017/CBO9780511754425.003>

²² Anthony Ogus, *Regulation: Legal Form and Economic Theory* (Oxford University Press, 1994) at 34

²³ F Adji Samekto, *Justice (Not) for All* (Kritik terhadap Hukum Modern dalam Perspektif Studi Hukum Kritis) (Yogyakarta: Genta Press, 2008) at 124

²⁴ Mahfud MD., *Capaian dan Proyeksi Kondisi Hukum Indonesia* (2009) 16 *Jurnal Hukum* 300.

²⁵ Marcus Colchester, et al, *Justice in the Forest Rural Livelihoods and Forest Law enforcement* (CIFOR, 2006) at 117

²⁶ Nupur Chowdhury, “Environmental risk regulation and the Indian Supreme Court: An exercise in deformalization of the law?” (2014) 17 *Journal of Risk research* 44 <https://doi.org/10.1080/13669877.2013.822918>

²⁷ Daniel J. Knudsen, “Environmental Protection Bureau, 2.0: China’s environmental courts as enforcement institutions,” (2013) 15 *Environmental Practice* 461 <https://doi.org/10.1017/S1466046613000306>

A. National Framework

The 1945 Constitution of Indonesia states in Article 33 that "the earth, water and the natural resources contained therein are to be controlled by the state." Law Number 5 of 1960 on The Basic Agrarian Law (BAL) and Law Number 41 of 1999 on Forestry (Forestry Law) then explicitly provide the central government control over all forested areas. The Environment and Forestry Ministry has the jurisdiction to execute forest management and exploitation rights under BAL and Forestry Law while the National Land Agency grants and recognizes rights over forestland. According to Article 6 Forestry Law, Forest areas have three important functions, namely conservation, protection, and production. Furthermore, the government must divide forest areas into utilization and protection blocks.

Government Regulation Number 28 of 2011 on the management of Natural Reserves and Nature Conservation Areas explains the forest utilization plan in nature conservation areas. Article 1(2) defines "a nature conservation area" as "a region with certain characteristics, both in land and in waters that have the main function of the protection of life support systems, preservation of the diversity of plant and animal species, and sustainable utilization of natural resources and ecosystems." This area consists of national parks, forest parks and nature parks, that are managed based on zoning and block systems. The block system divides the nature conservation area into protection blocks, utilization blocks and other blocks.

Article 26 Law Number 6 of 2023 on Job Creation then stated that the utilization of protected forests can take the form of area utilization, environmental services utilization, and non-timber forest product collection. This can be undertaken by obtaining Business Licenses from the Central Government. Article 29A then explained that the utilization of Protected Forests and Production Forests can be carried out through social forestry activities.

The presence of Job Creation Law has sparked controversy since it has simplified the business permit process under the Forestry Law. Forestry Law arranged 8 types of business permits for the utilization of forest areas following the function and purpose of the forest. Job Creation Law, however, reduced the number of types of permits to just one, the business permit, which is granted by the central government. This trend demonstrates how centralistic Indonesian forestry management is. Furthermore, Job Creation Law increased the possibility of considerable government participation in forested regions through the system of business permits. Applying for business licenses in forest regions is simpler for everyone, especially those with money and influence. Future environmental effects are significantly at

risk since it is simple to give licenses without taking ecological factors into account.²⁸

Concerning tourism activities, Government Regulation Number 36 of 2010 explains how ecotourism can be undertaken in nature conservation areas, including wildlife reserves, national parks, forest parks and nature parks. According to Article 7, there are two types of tourism business recognized by this regulation: ecotourism services and ecotourism facilities. As regards ecotourism facilities, these include tourism businesses that provide accommodation and adventure tourism facilities. Article 8 states that Ecotourism businesses may only be started after obtaining a utilization permit, which is only granted in respect of national parks, forest parks and nature parks. The utilization permit is granted for 55 years and may be extended for another 20 years according to Article 16.

B. The Tahura Project

Tahura is an acronym for Taman Hutan Raya (Tahura) or Great Forest Park, a huge mangrove forest, which is also known as Tahura Ngurah Rai. Tahura is the largest mangrove forest in Bali and is located near the center of tourism in Bali: Nusa Dua, Sanur, and Kuta. The flora in this forest is dominated by the species *Sonneratia alba*, *Duabanga moluccana*, *Aegiceras corniculatum*, *Rhizophora mucronata* and other plants, such as *Derris heterophylla* and *Acanthus ilicifolius*, *Rhizophora mucronata* and *Avicennia marina*. The diverse fauna includes various species of birds such as *Fregeta minor*, *Sula leucogaster*, *Sterna hirundo*, *Halcyon chloris*, *Geopelia striata*, *Streptopelia chinensis* and *Ducula* spp., Green Turtles (*Chelonia mydas*), Hawksbill turtles (*Eretmochelys imbricate*), and sea cucumbers (*Echinodermata*).²⁹

The creation of Tahura, with an area of 1,373.50 Ha, was declared by the central government through Minister of Forestry Decree Number 544 / Kpts-II / 1993 of 25 September 1993. The Tahura area covers six villages in the Bali City of Denpasar, and six villages in the Bali District of Badung. The Tahura management is under the authority of a Technical Implementing Unit, coordinated by the Bali Provincial Forestry Agency. This decree divided Tahura's area into three main activity blocks: protection, utilization, and other (religious, cultural, and historical, rehabilitation and traditional) blocks.

²⁸ Empat Potensi Dampak Kebijakan Omnibus Law di Sektor Kehutanan dan Lingkungan, 6 Oktober 2020 available at <https://sebijak.fkt.ugm.ac.id/2020/10/06/empat-potensi-dampak-kebijakan-omnibus-law-di-sektor-kehutanan-dan-lingkungan/> (accessed on 19 September 2023).

²⁹ The Forestry Agency of Bali, (2012) Technical Implementing Unit Tahura Ngurah Rai, available at <http://www.dishut.baliprov.go.id/id/UPT-TAHURA-Ngurah-Rai> (Accessed on 21 January 2023)

C. The Issuance of the Utilization Permit

This case began when the President Director of PT Tirta Rahmat Bahari (TRB) submitted letter Number 001 / TRB / Dps / IV / 2011 of 27 April 2011, applying for a permit for nature tourism utilization in Tahura, Bali. According to the site plan, TRB would build 75 guest houses, eight restaurants, two spas, five cafes, five stalls, two offices, one swimming pool, and a multipurpose building.

In 2011, several governmental agencies issued recommendations to grant TRB an utilization permit. Specifically, the Technical Implementing Unit of Tahura issued a permit supporting the TRB's application because, according to the 2007 Tahura Map, TRB's proposed project was located on a utilization block, although the exact location and size of the requested area needed to be checked. Hence, it complied with Law Number 5 of 1990, which states that the utilization block of Tahura Ngurah Rai was allowed to be used for tourism and recreation.

The Bali Provincial Tourism Agency also issued a technical recommendation, stating that the location of the project complied with the existing spatial plan.³⁰ It stated that the requested location fell into the category of tourism attractions "outside a tourism area and of special attractions located in the city of Denpasar". The central government, through the Bali Natural Resources Conservation Centre, also supported the Tahura Project by issuing a recommendation letter.³¹ It stated that natural tourism facilities could be developed in a utilization block, and according to the site plan, this project was located on a utilization block, not a protected block. The recommendations of these three agencies led the Governor of Bali to issue a permit for the utilization of nature tourism on the utilization block of Tahura that covered 102 Ha, for 55 years, from 2012 to 2067.

D. The Construction of the Tahura Project, the Violation of Forestry Law and the Resulting Damage

The Tahura Project became a source of controversy from the moment the central government opened the opportunity for the provincial government and investors to conduct commercial activities within mangrove forest areas. Law Number 5 of 1990 on the Conservation of Biological Resources and its Ecosystem prohibits commercial activity within mangrove

³⁰ The Bali Provincial Tourism Agency (2011), The Letter of the Head of the Bali Provincial Tourism Agency.

³¹ The Bali Natural Resources Conservation Center (2011), The Letter of The Bali Natural Resources Conservation Center of the Directorate General of Forest Protection and Nature Conservation, the Ministry of Forestry.

forests or Tahura as they are classified as a “natural conservation area”. Interestingly, the central government through the Minister of Forestry Decree Number 544 / Kpts-II / 1993 of 25 September 1993 divided Tahura Ngurah Rai area into three main activity blocks: protection, utilization and other blocks. Therefore, opportunity was created to conduct commercial activities in utilization blocks in Tahura Ngurah Rai.

The utilization permit for Tahura also violated Law Number 41 of 1999 on Forestry. According to Article 18, the central, provincial and district governments must have forest areas of at least 30 per cent within their territories. Bali, however, only had 22 per cent of forest area within its territory, far from the minimum. If the project proceeded as agreed, then the percentage of forestry area would be significantly further decreased. The most flagrant violation related to this project was that the site plan included a protection block in Tahura Ngurah Rai. After checking and comparing the site plan of this project with the 2007 Tahura Zoning Map, it became clear that the project, particularly 75 guest houses, would be located not only in the utilisation block but in the protection block, where commercial projects were prohibited. Equally, there would be huge scale mangrove logging because the plan of this project was mostly located in dense vegetation area, not in empty land or non-mangrove land.

The project is particularly controversial because the Bali Provincial government, particularly the Forestry Agency, modified the existing zoning map by issuing a new map in 2012, that is, after the permit was granted to TRB. In the 2012 map, the location of 75 guesthouses was on the utilization block, while the 2007 map showed that the guesthouses were on the protection block. There was no explanation from the Bali Provincial government as to why and how this process was undertaken.

Government Regulation Number 10 of 2010 states that changes in the allocation and function of forest areas are carried out to fulfil the demands of the dynamics of national development and the aspirations of society, taking into account the distribution of functions; and sustainable benefits of the forest. To obtain approval for such a process, according to Article 30, the Governor has to have technical consultations with the Minister. The Minister then must conduct a technical review in the form of integrated research with relevant government agencies. According to Article 32, when the approval is granted, the Governor must integrate the change of allocation and function of forest area by revision of the provincial spatial plan.

In the Tahura case, there was no information publicly available to assess whether the Bali Provincial government had properly conducted this procedure. Moreover, when the Tahura Zoning Map was modified, the Bali Provincial SPL should also have been revised to integrate this change.

However, the Bali Provincial government did not conduct any such revision, nor was it requested to do so. Responding to the controversies above, the Governor of Bali, along with other provincial agencies, claimed that the goal of the exploitation permit was to “save the environment” in Tahura. The problem of plastic waste required a prompt solution involving cooperation with a third party as the Bali Provincial government was unable to handle the accumulation of plastic waste in Tahura due to limited personnel and budget.³² The Head of the Technical Implementing Unit of Tahura added that Tahura Ngurah Rai land had been used by unscrupulous persons to dispose of and burn garbage.³³

All these claims by governmental officials and the investor have been contested, leading to massive public protests, especially from environmental NGOs across Bali in 2012. WALHI, a leading environmental NGO in Bali, argued that the exploitation permit was merely business-oriented and sacrificed the environment. If the Bali Provincial government stated that the reason behind the issuance of the permit was to resolve the accumulation of plastic trash in Tahura, why then was the investor only responsible for conducting mangrove conservation in 102.22 out of 1373.5 hectares? Who should be responsible for the rest?

If TRB was worried about the condition of the mangrove forest and intended to maintain its sustainability, why were there no Corporate Social Responsibility (CSR) programs in place? Historically, CSR programs in Bali have had some success in the environmental context. In the 1980s, for example, the Japan International Cooperation Agency (JICA) conducted elective environmental restoration in Tahura Mangrove Forest. Hence, it did not make sense for TRB to address the sustainability of the Tahura Mangrove Forest by building 75 guest houses in the protected block. Moreover, the claim that this project would not result in the cutting of existing mangroves was extremely unlikely, because the Governor’s permit clearly allowed TRB to cut mangroves as long as it had permission from the Bali Provincial Forestry Agency.

The Director of TRB always stated that the Tahura Project would only build 12 semi-permanent gazebos for tourists to rest in, and refused to admit to the development of 75 guest houses. However, from its development plan and the court proceedings, the development of 75 guest houses was definitely a part of the Tahura Project. It seems clear that TRB tried to cover up the development of the guest houses, to keep them from public scrutiny.

³² Interview with The Secretary of Forestry Agency of Bali, Denpasar, 5 December 2019.

³³ Interview with the Head of Technical Implementation Unit of Tahura Bali, Denpasar, 6 December 2019.

As regards potential environmental damage, the Forest Area Conservation Centre under the Ministry of Forestry warned that commercial activities in the Tahura Ngurah Rai could lead to changed habitat conditions in a mangrove forest, including coastal reclamation, sedimentation, pollution-generating activities, tourist activity adjacent to the area, deforestation, and material acquisition.³⁴ For instance, the reclamation of Serangan Island caused a change in the patterns of seawater flow into the bay area of Benoa so that the erosion, abrasion and precipitation at some points resulted in the loss of forest vegetation.

V. COURT DECISIONS AND DEFORESTATION

A. How The Court Decisions Have Encouraged Deforestation

The Tahura Project became the first environmental lawsuit in Bali. Prior to suing the Governor, an environmental NGO, WALHI, submitted two letters of summons or somasi.³⁵ The summons insisted the Governor revoke the utilization permit issued to TRB. The Governor made no official response. WALHI then filed a lawsuit at the State Administrative Court of Denpasar against the Governor of Bali (No.01/G/2013/PTUN.Dps), accusing him of illegally issuing the utilization permit to exploit 102.2 hectares of Tahura mangrove forest to a private company for 55 years. The aim here was to force the Governor to revoke this permit issued to TRB.

In 2013, the State Administrative Court of Denpasar (Decision Number 01/G/2013/PTUN.Dps.) decided:

“To grant the Plaintiff's claim and declare void the Governor of Bali decree Number 1051 / 03-L / HK / 2012 on the granting of nature tourism exploitation permit on the utilization block of Tahura Ngurah Rai area of 102.22 hectares to PT Tirta Rahmat Bahari, and order the Defendant to immediately revoke the decree”.³⁶

In its judgment, the panel of judges explained that the decree issued by the Governor of Bali was contrary to the Governor's own policy, which imposed a moratorium on tourism accommodation permits in Southern Bali. This TRB Project established 75 guest houses and eight restaurants. Further, the Governor, in issuing the decree, did not comply with Law Number 14 of 2008 on Disclosure of Public Information as he had not acted transparently while issuing this decree.

³⁴ Ministry of Environment and Forestry, *supra* note 15.

³⁵ The Jakarta Post, “Walhi Sues Bali Governor Issuing Mangrove Permit” (Jakarta Post, 24 December 2012), available at <https://www.thejakartapost.com/news/2012/12/24/walhi-sue-bali-governor-issuing-mangrove-permit.html> (accessed on 7 January 2023).

³⁶ The State Administrative Court of Denpasar, (2013), The Decision of the State Administrative Court of Denpasar Number 01/G/2013/PTUN.Dps.

As regards the site plan of guest houses alleged to be on the protection block, the judges conducted a site inspection and invited expert witnesses. From inspection, the judges stated that when they stood in the southernmost tip of a gazebo, they saw the sea and the toll road on the southern side. When the judges asked the defendant where guest houses would be built, the defendant pointed in the direction of the sea. The judges then matched the 2007 Tahura Zoning Map with the site plan. The judges found that the development plan of the tourism facilities, especially the construction of 75 guest houses, assuming any such construction was lawful, was clearly in the protection block, not the utilization block, so it violated the spatial plan for Tahura and Law Number 41 of 1999 on Forestry.³⁷

The judges also questioned the explanations of an expert witness who argued that the guest houses were still in the utilization block. The witness pointed to a protection block marked in blue in the 2007 Tahura Zoning Map, the witness insisted that the map had been wrongly coloured, stating that the 2012 Tahura Zoning Map was the right one. The judges then found that the 2012 Tahura Zoning Map was published after the Governor issued the exploitation permit to TRB.³⁸

In the Appellate Administrative Court, the situation changed drastically, as this Court did not consider the clear violations of forestry law identified by the district court to be the main issue. In fact, the Appellate Administrative Court annulled the decision of the State Administrative Court of Denpasar in decision Number 183/B/2013/PT.TUN.SBY, stating that the exploitation permit was no longer invalid. The main reason they gave was that WALHI had no legal standing, as no environmental damage had yet occurred. This meant that the Appellate Administrative Court was treating the matter as if it were an environmental law case, not a matter concerned with forest management more generally. Its arguments could, therefore, be set aside. The panel of judges reasoned that:

“Considering that the object of the dispute is the term “potential” environmental damages, the Court takes the view that, “potential” means “later”, while [the project] is now still only at the “plan” stage. When does “potential” become “real”? The answer is when the infrastructure development is completed and the projects are running”.³⁹

Examining the meaning of “potential” in “potential environmental damage”, the panel stated that “potential means something that is still

³⁷ Ibid.

³⁸ Ibid.

³⁹ The Appellate Administrative Court (2013) The Decision of Appellate Administrative Court No: 183/B/2013/PT.TUN.SBY.

hidden, unreal and speculative”. Equally, “as long as the management of Environmental Impact Assessment (EIA) is implemented properly, environmental damage could be prevented”. However, the object of the summons had not been environmental damage, although this may have been the outcome WALHI was trying to prevent. The object of the summons concerned the unlawful issue of a permit.⁴⁰

The Supreme Court of Indonesia in Decision No.151 K/TUN/2014, upheld the decision of the Appellate Administrative Court, saying that:

“The Court of Appeal's decision as *Judex Facti* is right and correct. It is because the object of the dispute, that is “potential” environmental damage, is still at the planning stage, when the level of damages has not been accurately measured yet”.⁴¹

The fact that both the Appellate Administrative Court and the Supreme Court hold that the plaintiff has no existing interest in the matter is why community groups with an interest in the maintenance of forestry laws are unable to litigate to prevent violations of forestry laws that are yet to cause damage. This in turn indicates the difficulties involved in enforcing forestry laws and holding the administrators of these laws to account.

B. Why The Court Decisions Have Encouraged Deforestation

This paper has discussed how recent court decisions have produced a very narrow test of standing that prevents public interest organizations from holding government officers to account where environmental damage is foreseeable but has not yet occurred. It will now explain what motivates these controversial decisions in more detail. This paper finds three reasons why judges applied such a narrow test of standing, namely: their incompetence; their dependence on the existence of the Supreme Court; and corruption.

1. Judges Incompetence

As in the case of the Tahura Project, the decisions of the Appellate Court and the Supreme Court should be criticized for avoiding the main issue in the dispute, namely the fact that the decree of the Governor violated the spatial plan in Tahura Ngurah Rai and Forestry Law. Both the Appellate Court and the Supreme Court considered issues of standing and applied a narrow test of standing by stating that the environmental NGO had no standing because environmental damage had not yet occurred, thus allowing them to avoid adjudication of the legality of the Governor's decision.

The environmental damage that will occur if the Tahura Project

⁴⁰ Ibid.

⁴¹ The Supreme Court, The Supreme Court Decision Number 151 K/TUN/2014.

proceeds is obvious, because the project is being developed in a protection block. Surely the loss of part of the protection block, and the ensuing decline of mangrove ecosystems, means that the project inevitably involves environmental damage. Could it ever be possible to develop a project located in dense vegetation areas without logging the mangrove trees, and thus clearly causing environmental damage? The judgement makes a mockery of forestry laws, the object of which is to prevent environmental damage, amongst other matters.

Interestingly judicial incompetence has been evident in other forest protection cases. Specifically, the Judges of the Palembang District Court controversially decided in 2015 that burning forest did not constitute environmental damage. In this case, the Ministry of Environment and Forestry filed a lawsuit against a company, PT Bumi Mekar Hijau (BMH) for burning forest in South Sumatra. However, the Judges held that the evidence presented was not sufficient. One of the reasons was that there was no scientific evidence to show that the burning process had actually damaged the forest land. Furthermore, the court held, the land still functioned well, as acacia trees could later be planted on the burned land.⁴² This absurd decision led to some critics, saying that on this rationale, theft might not be a crime because the victims of the theft could earn money back through working.

Similarly, in 2018, WALHI filed a lawsuit against the PT Kusuma Raya Utama, which conducted coal mining in the Bukit Kabu Seminang conservation forest block. The panel of judges at the Bengkulu District Court rejected WALHI's claim, arguing that it had not presented strong evidence to show that coal mining in the conservation forest block could damage the environment.⁴³

The reluctance of judges to refer to previous judges' decisions is another factor contributing to judicial incompetence. Although Indonesia has a civil law tradition, this does not mean that judges can always neglect previous relevant judges' decisions. They can be persuasive and should, at least, be considered. In 2014, there was a case in the Meulaboh District Court, Aceh, involving the Ministry of Environment and Forestry and Kalista Alam Company. This company was accused of burning land in the Rawa Tripa peatland in Nagan Raya District, which was a part of the Leuser Ecosystem Area with protected functions. The Meulaboh District Court found the company liable, and ordered it to pay material compensation of

⁴² The Palembang District Court, (2015), The Decision of Palembang District Court Number 24/Pdt.G/2015/PN.Plg.

⁴³ The Bengkulu District Court (2018) The Decision of Bengkulu District Court No : 44/Pdt.G/LH/2018/PN.Bgl.

IDR 114 billion to the state and IDR 251 billion for land recovery fund.⁴⁴

This case was a good example of judicial competence that properly applied forestry laws. The judges in the Tahura case should have referred to this decision, which showed that the violation of forestry planning would likely damage the environment, sooner or later, and so WALHI should have been granted standing. However, as there are no institutional mechanisms in place, requiring the court to revisit earlier cases, then the controversial court decisions are rampant, as this case has shown.

2. The Dependence on the Existence of the Supreme Court

Lower court judges' dependence on the Supreme Court also plays an important role. Under the Soeharto administration (1967-1998), the executive body, through the Ministry of Justice, controlled judicial administration, including budgeting, employment, and promotion of the judges. As a consequence, state intervention in judicial decisions was rampant in this era. Specifically, judges' decisions were not grounded "on evidence before them but telephoned instructions from Soeharto's inner circle".⁴⁵

After 1998, in the Reformation era, the Supreme Court took control from the Ministry of Justice, implementing changes to article 24 of the Constitution of 1945, which now guarantees judicial independence. Reflecting this, judges are now named as "state officials" or *pejabat negara* instead of "civil servants" or *pegawai negeri*. However, the dominant control of the Supreme Court created by its formal independence gave it complete administrative and managerial authority over all courts below it, including the selection and removal of lower-court judges. As a result, they are now highly dependent on Supreme Court officials, and need to have a "good relationship" with the higher courts for their careers to advance. This has led to an increase of patronage networks within judicial institutions in Indonesia.⁴⁶

The Chief Justice of the Supreme Court often issues so-called "magic memos" or "surat sakti", instructing a lower court to make a particular decision, or stating that a particular decision cannot be enforced. These memos have no clear legal basis, and are often seemingly the result of corruption, but are usually followed as if they were law, and are frequently used to override environmental-related cases.⁴⁷ Consistent with the current studies, the dependence on the existence of the supreme court has adversely

⁴⁴ Meulaboh District Court (2012) The Decision of Meulaboh District Court No12/ PDT.G/ 2012/ PN.MBO.

⁴⁵ Simon Butt and Tim Lindsey, *Indonesian Law* (Oxford:Oxford University Press, 2018) at 73

⁴⁶ Ibid.

⁴⁷ Ibid, at 81

affected the independence of lower-court judges. It also reflects the existence of capture theory where court decisions have been undermined or captured by the Supreme Court's pressure and as a result, the decisions made tend to be controversial and diverge from the principles of justice.

3. Corruption

A large number of scholars support the assertion that the most prominent problem in the judicial system in Indonesia is corruption. The Judicial mafia is continued in Indonesia,⁴⁸ where the legal enforcement apparatus treated the law as tradable activities as if the justice belongs only to a certain group of people so-called "justice (not) for all".⁴⁹ The establishment of the Judicial Commission and the enhancement of the integrity and quality of judges have not been able to restore public trust in law enforcement in Indonesia.⁵⁰

Referring to the number of complaints submitted to the National Ombudsman Commission, Crouch shows that most of them are related to corruption within the Supreme Court and general courts.⁵¹ Similarly, Butt and Lindsey argue that bribery scandals involving judges and court officials are common and this is, in fact, one reason why courts tend to favour development over the environment in so many cases.⁵² For example, in 2018, Corruption Eradication Commission or Komisi Pemberantasan Korupsi (KPK) has revealed bribery scandals implicating judges and court officials all across Indonesia, including, among others, Bandung,⁵³ Bengkulu,⁵⁴ Tangerang,⁵⁵ Medan,⁵⁶ Jepara,⁵⁷ and Balikpapan.⁵⁸ Interestingly, according to

⁴⁸ Mahfud, *supra* note 22.

⁴⁹ Samekto, *supra* note 23.

⁵⁰ Erman Suparman, "Menolak Mafia peradilan: Menjaga Integritas Hakim, Menyelaraskan Perbuatan dan Nuraninya," (2017) 47 *Jurnal Hukum dan Pembangunan* 62.

⁵¹ Melissa Crouch, "Indonesia's National and Local Ombudsman Reforms; Salvaging a Failed Experiment?", in Tim Lindsey (Ed.), *Indonesia: Law and Society* (Federation Press, 2008) at 386

⁵² Simon Butt and Tim Lindsey, "Judicial Mafia: The Courts and State Illegality in Indonesia," in Edward Aspinall and Gerry Van Klinken (Eds.), *State and Illegality in Indonesia* (Jakarta: KITLV, 2010) at 189

⁵³ Berita Satu, Kasus Suap Hakim, KPK Gali Peran Walikota Bandung (2013) available at <https://www.beritasatu.com/archive/116692/kasus-suap-hakim-kpk-gali-peran-walikota-bandung> (accessed on 21 March 2023).

⁵⁴ Kompas, KPK Periksa Polisi dan Jaksa Dalam Kasus Suap Hakim Bengkulu (2017) available at <https://nasional.kompas.com/read/2017/09/22/12205211/kpk-periksa-ketua-pengadilan-negeri-terkait-suap-hakim-di-bengkulu> (accessed on 9 april 2023)

⁵⁵ The Jakarta Post, Tangerang Court Officials Arrested in Bribery Case (2018a) available at <https://www.thejakartapost.com/news/2018/03/13/tangerang-court-officials-arrested-in-bribery-case.html> (accessed on 6 March 2023).

⁵⁶ The Jakarta Post, Judge in Meiliana Trial Arrested for Alleged Graft (2018) available at <https://www.thejakartapost.com/news/2018/08/28/kpk-arrests-meiliana-judge-for-alleged-bribery.html> (accessed on 8 January 2023)

⁵⁷ Detik, KPK Tahan Bupati Jepara Terkait Kasus Suap Hakim PN Semarang (2019), available at <https://news.detik.com/berita/d-4547427/kpk-tahan-bupati-jepara-terkait-suap-hakim-pn-semarang> (accessed on 19 January 2023)

⁵⁸ Kompas, Kasus Suap Hakim PN Balikpapan: KPK Telah Geledah 6 Tempat, (2019) available at

statistics from the Judicial Commission, there were around 26 allegations of corrupt behavior by judges in Indonesia in 2023.⁵⁹

In this case, there is no evidence to connect the controversial court decisions to corruption. However, given the existence of judicial incompetence and the trend of bribery scandals involving judges and court officials, one can speculate that there is a link between controversial decisions and corruption. This finding is supported by broader theoretical work. Ogus uses “capture theory” to explain why the public interest objectives designated to state officials have been undermined by “bribery” and other such “hidden interests.”⁶⁰ Moreover, corrupt behavior was also widespread within the Indonesian courts, as the above cases have shown.

VI. CONCLUSION

According to recent study, agribusiness and oil palm plantations are mostly to blame for Indonesia's deforestation. Deforestation is nonetheless also happening in the travel and tourist industry, as the Tahura Project indicates. Unexpectedly, the court's rulings in this case are contentious since they appear to support deforestation. They claimed that the environmental NGO lacked the authority to protest the infringement of the forestry legislation since the harm to the environment was only "potential" at the time of planning and its effects could not be quantified. Judges' ineptitude, lower court judges' reliance on the Supreme Court, and corruption are three reasons for the problematic decisions.

DECLARATION OF CONFLICTING INTERESTS

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

<https://nasional.kompas.com/read/2019/05/06/19333471/kasus-suap-hakim-pn-balikpapan-kpk-telah-geledah-6-tempat?page=all> (accessed on 11 January 2023)

⁵⁹ KY Rekomendasi Penjatuhan Sanksi Terhadap 24 Hakim, (2023), available at <https://www.hukumonline.com/berita/a/triwulan-i-2023--ky-rekomendasi-penjatuhan-sanksi-terhadap-24-hakim-lt64367138e66fe/> (accessed on 19 September 2023)

⁶⁰ Ogus, *supra* note 21.

BIBLIOGRAPHY

- Apriani, Ernawati, et al., “Non-state certification of smallholders for sustainable palm oil in Sumatra, Indonesia,” (2020) 99 *Land Use Policy* 105 , <https://doi.org/10.1016/j.landusepol.2020.105112>
- Aspinall, Edward, and Gerry Van Klinken (Eds.), *State and Illegality in Indonesia* (Jakarta: KITLV, 2010)
- Austin, Kemen G, et al. “What causes deforestation in Indonesia?”(2019) *Environmental Research Letters* 14, <https://doi.org/10.1088/1748-9326/aaf6db>
- Berita Satu, Kasus Suap Hakim, KPK Gali Peran Walikota Bandung (2013) available at <https://www.beritasatu.com/archive/116692/kasus-suap-hakim-kpk-gali-peran-walikota-bandung> (accessed on 21 March 2023).
- Budarma, I Ketut, *Syncretism between Tourists and Local Culture: The Impact of Tourism on Balinese Culture, Economy and Environment* (Master Thesis, Université d'Angers, 2011)
- Butt, Simon and Tim Lindsey, *Indonesian Law* (Oxford:Oxford University Press, 2018)
- Chutkow, Dawn M, “The chief justice as executive: Judicial conference committee appointments” (2014) 2 *Journal of Law and Court* 301, <https://doi.org/10.1086/677172>
- Chowdhury, Nupur, “Environmental risk regulation and the Indian Supreme Court: An exercise in deformalization of the law?” (2014) 17 *Journal of Risk research* 44 <https://doi.org/10.1080/13669877.2013.822918>
- Colchester, Marcus, et al, *Justice in the Forest Rural Livelihoods and Forest Law enforcement* (CIFOR, 2006)
- Detik, KPK Tahan Bupati Jepara Terkait Kasus Suap Hakim PN Semarang (2019), available at <https://news.detik.com/berita/d-4547427/kpk-tahan-bupati-jepara-terkait-suap-hakim-pn-semarang> (accessed on 19 January 2023)

- Ekawati, Sulistya, et al. "Policies affecting the implementation of REDD+ in Indonesia (cases in Papua, Riau and Central Kalimantan)," (2019) *Forest Policy and Economics* 108, <https://doi.org/10.1016/j.forpol.2019.05.025>
- Erbaugh, James T. and Dodik R. Nurrochmat, "Paradigm shift and business as usual through policy layering: Forest-related policy change in Indonesia (1999-2016)" (2019) 86 *Land Use Policy* 137 , <https://doi.org/10.1016/j.landusepol.2019.04.021>
- Farnsworth, Ward, et al., "Policy preferences and legal interpretation," (2013) 1 *Journal of Law and Court* 117, <https://doi.org/10.1086/668603>
- Kompas, Kasus Suap Hakim PN Balikpapan: KPK Telah Geledah 6 Tempat, (2019) available at <https://nasional.kompas.com/read/2019/05/06/19333471/kasus-suap-hakim-pn-balikpapan-kpk-telah-geledah-6-tempat?page=all> (accessed on 11 January 2023)
- Keenan, Rodney J. et al., "Dynamics of global forest area: Results from the FAO Global Forest Resources Assessment 2015," (2015) 11 *Forest Ecology and Management* 352, <https://doi.org/10.1016/j.foreco.2015.06.014>.
- Kunz, Yvonne, "The fridge in the forest': Historical trajectories of land tenure regulations fostering landscape transformation in Jambi Province, Sumatra, Indonesia" (2017) 5 *Forest Ecology and Management* 81 <https://doi.org/10.1016/j.forpol.2017.04.005>
- Knudsen, Daniel J, "Environmental Protection Bureau, 2.0: China's *environmental courts as enforcement institutions*," (2013) 15 *Environmental Practice* 461 <https://doi.org/10.1017/S1466046613000306>
- Lindsey, Tim (Ed.), Indonesia: Law and Society (Federation Press, 2008)
- Mahfud MD., "Capaian dan Proyeksi Kondisi Hukum Indonesia" (2009) 16 *Jurnal Hukum* 300

Ministry of Environment and Forestry, *Inventarisasi Sumber Pencemar Lingkungan Pesisir dan Laut Yang Berasal Dari Non Point Sources di Tanjung Benoa* [The Inventory of Coastal and Marine Environment Pollutant Sources from Non Point Sources in Tanjung Benoa] (Jakarta, 2015)

Ministry of Environment and Forestry (2011), Information of Tahura Ngurah Rai, available at: http://bpkh8.menlhk.go.id/pdf/karya_tulis_mandiri/buklet_tahura.pdf (accessed on 7 February 2023)

McMillion, Christopher P and Kevin Vance, “Criticism from Below: The Supreme Court’s Decision to Revisit Cases” (2017) 5 *Journal of Law and Court* 82.

Meulaboh District Court, 2012. The Decision of Meulaboh District Court No12/ PDT.G/ 2012/ PN.MBO.

Melton, James and Tom Ginsburg, “Does de jure judicial independence really matter?: A reevaluation of explanations for judicial independence,” (2014) 2 *Journal of Law and Court* 188, <https://doi.org/10.1086/676999>.

Ogus, Anthony, *Regulation: Legal Form and Economic Theory* (Oxford University Press, 1994)

Prabowo, Doni et al., “Conversion of forests into oil palm plantations in West Kalimantan, Indonesia: Insights from actors’ power and its dynamics,” (2017) 33 *Forest Policy and Economics* 78, <https://doi.org/10.1016/j.forpol.2017.01.004>

Rasnawati, Mega and Putu Gede Arya Sumerta Yasa, “Determination of the Benoa Bay Maritime Conservation Area in the Effectiveness of Environmental Maintenance” (2021) 1 *Udayana Master Law Journal* 37, <https://doi.org/10.24843/JMHU.2021.v10.i01.p04>

Raharjo, Agus, “The Legal Policy of Criminal Justice Bureaucracy Cybercrime,”(2022) 10: 2 *Bestuur*, 105–22, <https://doi.org/https://doi.org/10.20961/bestuur.v10i2.64498>.

- Rudianto, "Causes and effects of mangrove ecosystem damage on carbon stocks and absorption in East Java, Indonesia," (2020) 12 *Sustainability* 14, <https://doi.org/10.3390/su122410319>
- Sari, Dwi Amalia, et al., "Evaluating policy coherence: A case study of peatland forests on the Kampar Peninsula landscape, Indonesia', (2021) 105 *Land Use Policy* 396, <https://doi.org/10.1016/j.landusepol.2021.105396>
- Saraswati, Luh Ayu Nadira and Anak Agung Gede Duwira Hadi Santosa, "Establishing a Regional-Owned Limited Liability Company: Would it Support an Integrated Tourism Management in Bali ?" (2021) 5 *Udayana Journal of Law and Culture* 59, <https://doi.org/10.24843/UJLC.2021.v05.i01.p04>.
- Sahide, Muhammad Alif K. & Lukas Giessen, "The Fragmented land use administration in Indonesia - Analysing bureaucratic responsibilities influencing tropical rainforest transformation systems" (2015) 43 *Land Use Policy* 96, <https://doi.org/10.1016/j.landusepol.2014.11.005>
- Samekto, F Adji, *Justice (Not) for All (Kritik terhadap Hukum Modern dalam Perspektif Studi Hukum Kritis)* (Yogyakarta: Genta Press, 2008)
- Suwarno, Aritta et al., "Land-use trade-offs in the Kapuas peat forest, Central Kalimantan, Indonesia," (2018) 75 *Land Use Policy* (2018) 344, <https://doi.org/10.1016/j.landusepol.2018.03.015>
- Suparman, Erman "Menolak Mafia peradilan: Menjaga Integritas Hakim, Menyelaraskan Perbuatan dan Nuraninya," (2017) 47 *Jurnal Hukum dan Pembangunan* 62.
- Tacconi, Luca "Law enforcement and deforestation: Lessons for Indonesia from Brazil" (2019) *Forest Policy and Economics* 108, <https://doi.org/10.1016/j.forpol.2019.05.029>
- The Appellate Administrative Court, 2013. *The Decision of Appellate Administrative Court No: 183/B/2013/PT.TUN.SBY.*
- The Bali Provincial Tourism Agency, 2011. *The Letter of the Head of the Bali Provincial Tourism Agency.*

The Bengkulu District Court, 2018. The Decision of Bengkulu District Court No : 44/Pdt.G/LH/2018/PN.Bgl.

The Palembang District Court, 2015. The Decision of Palembang District Court Number 24/Pdt.G/2015/PN.Plg.

The State Administrative Court of Denpasar, 2013. The Decision of the State Administrative Court of Denpasar Number 01/G/2013/PTUN.Dps.

The Supreme Court, 2014. The Supreme Court Decision Number 151 K/TUN/2014.

Tolangara, Abdulrasyid, "Forest destruction, wood utilization and mangrove area in District Jailolo, West Halmahera Regency, Province of North Moluccas and the conservation education."(2014) 10 *International Journal of Engineering Research and Development* 55, <http://www.ijerd.com/paper/vol10-issue1/I1015460.pdf>

Trubek, David M & Alvaro Santos, *The New Law and Economic Development: A Critical Appraisal* (Cambridge: Cambridge University Press, 2004)