HANG TUAH LAW JOURNAL

Volume 9 Issue 1 April 2025

The Role of Environmental Administration Law: A Study of Environmental Struggle of the Awyu Tribe

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Article

Keywords:
State Administrative Law; Awyu Tribe; Environment Stuggle.

Article History
Received: Sep 10, 2024;
Reviewed: Jan 6, 2025;
Accepted: Feb 4, 2025;
Published: Feb 11, 2025.

Abstract

One of the most fundamental environmental problems is the deviation in the application of state administrative law. As a result, there are environmental problems experienced by the Awyu Tribe who are affected by the licence of an oil palm plantation company. Especially during the preparation of the Environmental impact assessment form State Administrative Decree did not provide participation to Awyu Tribe. Therefore, this research aims strengthen the role of administrative law in providing legal protection guarantees for the Awyu Tribe affected by oil palm plantation permits and the role of administrative court as downstream protection of the community by government actions. This research uses normative legal research methods with statutory and conceptual approaches and the analysis technique descriptive qualitative. The results showed that administrative law as basic foundation for issuance of state administrative decisions stipulated in Article 87 of Law No. 30/2014 must pay attention to impact of issuance of state administrative decisions, especially human rights. Judges judgments in the Awyu Tribe case

tend to be positivistic and not progressive in favour private parties. Judges in deciding environmental cases also apply the values of the General Principles of Good Governance and community participation. In addition, laws and regulations on environmental protection and management are umbrella provisions that have not provided welfare for the Awyu people. The presence of administrative law should be able to provide public protection against environmental cases, because the two laws and regulations have continuity. Judges must be able to apply the value of both rules an effort to protect and prosper the community.

Introduction

Law is a complex entity; if we compare it to a jewel, each facet and cut will give a different impression to those who observe it. Law cannot stand alone in distributing and managing welfare in society. It functions to integrate relationships within communities to achieve a certain level of order. The concept of the rule of law in Indonesia is based on the idea of a *rechtstaat*, as articulated by Friedrich Julius Stahl, who emphasized that the rule of law must include four elements: first, the recognition of basic human rights; second, the separation of powers; third, government based on statutory regulations; and fourth, the existence of administrative justice.[1] This implies that in the concept of a legal state, particularly in a *rechtstaat*, all forms of government action are regulated by state administrative law or government administrative law.

The rapid pace of the country's development, along with advancements in environmental law, makes guaranteeing legal certainty for communities affected by development processes essential to support their efforts in defending their environment. Environmental law is closely linked with state administrative law. In a sense, state administrative law can be seen as the foundation of

[1] Yudi Widagdo Harimurti, *Negara Hukum Dan Demokrasi Konsep Dan Perkembangan Kontemporer* (Malang: Setara Press, 2021).

environmental law, with its regulations serving as guidelines for those in environmental law.[2] Environmental legal regulations in Indonesia are governed by Law No. 32/2009 concerning Environmental Protection and Management, which currently serves as the legal basis and umbrella act for environmental regulation. However, in practice, the enforcement of environmental law has not provided adequate protection for communities impacted by the country's development. [3]

Environmental law enforcement is a fundamental aspect of efforts to protect and manage the environment. Preventive measures to address environmental issues through administrative legal means play a crucial role. This ensures that the law enforcement process through administrative legal mechanisms fulfills its function of protecting the "right to a good and healthy environment" as a constitutional right. The aspects of administrative law in environmental law are essential in determining administrative decisions related to the environment.

Administrative law is a state and government phenomenon whose existence is as old as the concept of a legal state, or it emerged simultaneously with the implementation of state and government power based on specific legal rules.[4] The enforcement of environmental law through administrative legal instruments is the first and primary step toward achieving regulatory compliance.[5] Environmental legal issues do not arise if administrative legal instruments are properly enforced. In environmental cases,

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2 Indah Nur Shanty Saleh, 'Urgensi Dan Konsep Ideal Sertifikasi Hakim Lingkungan Hidup Bagi Perwujudan Efektivitas Penegakan Hukum Lingkungan Indonesia', *Jurnal Paradigma Hukum Pembangunan* 6, no. 02 (19 September 2021): 110–39, https://doi.org/10.25170/paradigma.v6i02.2588.

3 Ilham Dwi Rafiqi, 'Pembaruan Politik Hukum Pembentukan Perundang-Undangan Di Bidang Pengelolaan Sumber Daya Alam Perspektif Hukum Progresif', *Bina Hukum Lingkungan* 5, no. 2 (2021): 319–39, http://dx.doi.org/10.24970/bhl.v5i2.163.a

4 Ridwan HR, *Hukum Administrasi Negara*, Revisi (Jakarta: Rajawali Pers, 2016).

5 Nurul Listiyani, Muzahid Akbar Hayat, and Ningrum Ambarsari, 'Penegakan Hukum Administrasi Lingkungan Melalui Instrumen Pengawasan: Rekonstruksi Materi Muatan Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup', *Al-Adl : Jurnal Hukum* 12, no. 1 (8 February 2020): 116–30, https://doi.org/10.31602/al-adl.v12i1.2650.

administrative law offers preventive measures to control environmental impacts, which should be implemented through rigorous monitoring and licensing instruments.

This is exemplified by the environmental case involving the Awyu tribe against the One Stop Investment and Integrated Services Office (DPMPTSP) and PT Indo Asiana Lestari (PT IAL), an oil palm plantation company. The issuance of an environmental feasibility permit has been challenged for violating laws and regulations concerning AMDAL (Environmental Impact Assessment) as well as other environmental protection and management regulations.[6] This case represents a dispute brought before the administrative court concerning state administrative decisions.

The Awyu Tribe filed a lawsuit at the State Administrative Court under case number 6/G/LH/2023/PTUN.JPR. The plaintiff, Hendrikus Woro, a member of the Awyu Tribe, brought the case against the Papua Province One Stop Investment and Integrated Services Office (DPMPTSP) and PT Indo Asiana Lestari. The dispute centers on the Decree of the Head of the Papua Province One Stop Investment and Integrated Services Office Number 82 of 2021, which concerns the Environmental Feasibility of a plan to develop an oil palm plantation and a palm oil processing factory with a capacity of 90 TBS/hour, covering an area of 36,094.4 hectares, by PT Indo Asiana Lestari. This decree is the subject of the dispute as it is a State Administrative Decision issued by a State Administrative Body or Official, as regulated in Article 1, Paragraph 9 of Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning Administrative Justice.

In administrative law, decisions (*beschikking*) are objects of dispute that fall under the exclusive jurisdiction of administrative justice as outlined in the Administrative Court.[7] These decisions can

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6 Greenpeace Indonesia, 'Pejuang Lingkungan Hidup Dari Suku Awyu Ajukan Gugatan Perubahan Iklim Ke PTUN Jayapura' (Greenpeace, 13 March 2023), https://www.greenpeace.org/indonesia/siaran-pers/56193/pejuang-lingkungan-hidup-dari-suku-awyu-ajukan-gugatan-perubahan-iklim-ke-ptun-jayapura/.

7 S. F. Marbun, *Hukum Administrasi Negara I* (Yogyakarta: FH UII Press, 2018).

also be seen as government instruments for executing actions. In the case of the Awyu tribe, the administrative decision in question has had a detrimental impact on the community. The Papua Provincial government, due to this decision, failed to involve the Awyu Tribe in discussions prior to the issuance of the decision, including in the preparation of the AMDAL (Environmental Impact Assessment). Based on Article 41, Paragraph (3) of Law No 2/2021 concerning Amendments to Law No. 21/2001 on Special Autonomy for the Province of Papua, "Negotiations conducted between the provincial and district/city governments and investors must involve local indigenous communities."

Administrative decisions are formal determinations that include factual government actions. Therefore, state administrative decisions must be based on statutory regulations and general principles of good governance. Additionally, these decisions must consider human rights and community participation. The issues faced by the Awyu Tribe in the State Administrative Court, particularly with decisions that have negatively impacted them, highlight that state administrative and environmental laws—despite being designed as umbrella provisions—have not adequately ensured the welfare of the people or effectively promoted environmental preservation. Furthermore, the decisions made by judges in cases involving the Awyu Tribe have yet to significantly enhance the welfare of the community, especially the Awyu Tribe.

Given this issue, a thorough examination and reform are needed to address the deficiencies within the legal framework. It appears that administrative litigation has not adequately protected people's rights. Consequently, both administrative law and environmental law must be analyzed in greater depth to identify their shortcomings and their impact on society. Therefore, efforts to protect rights within the scope of administrative law must be designed to deliver justice and address societal grievances effectively.

Method

The research method employed in this article is normative legal research, which involves examining statutory regulations. The methodological approach includes both a statutory approach and a conceptual approach.[8] The statutory approach is used to evaluate the extent to which judges in the State Administrative Court apply the Law No. 30/2014 and Law No. 32/2009. The conceptual approach is employed to explore effective concepts for assessing and deciding environmental cases. The primary legal materials consist of statutory regulations and decisions from the Jayapura State Administrative Court, Manado State Administrative Court, and Semarang State Administrative Court. Additionally, secondary legal materials, such as books, journals, research reports, and other scholarly literature, are utilized.

Result and Discussion

A. Implementation of Administrative Law in Guaranteening the Protection of Traditional Rights of the Awyu Tribe Community

This sub-discussion explores the application of administrative law not only in terms of its implementation but also based on how government officials or administrative bodies interpret and apply legal norms. A thorough understanding of a norm will impact how officials or administrative bodies implement it. This interpretative process depends on whether the application or enforcement of the law aligns with the principles of legal supremacy and democratic commitment, or deviates from them.

In principle, state administrative law comprises regulations that enable state administrative officials to perform their functions effectively while also ensuring protection for citizens against arbitrary actions by state administration officials.[9] In this context, state

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8 Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2017).

9 Sjachran Basah, *Perlindungan Hukum Terhadap Sikap-Sikap Administrasi Negara* (Bandung: Alumni, 1992).

administrative law plays a crucial role in the process of state administration. Abraham Yohanes and Desat G. argued, the primary function of administrative law is to control power.[10]

In this framework, Peer Leyland and Terry Woods identified several key functions of state administrative law: 1) to control attempts to abuse government authority; 2) to serve as a directive (*command function*) for officials and public bodies to exercise discretion or fulfil their legal obligations; 3) to facilitate the implementation of good governance; 4) to establish accountability and transparency, as well as regulate the participation of individuals or interested parties in the government process; and 5) to provide compensation for losses incurred by public officials or bodies.[11]

Effective control over government actions through administrative law is grounded in the understanding that the government, in performing its duties, operates within two distinct models of action: real action (*eitelijkehandelinge*) and legal action (*rechtshandeli-ngen*). Real actions are those that are not governed by legal norms and therefore do not produce legal consequences. In contrast, Versteden defines legal actions as those conducted by administrative bodies or officials in the execution of government functions.[12]

Within the framework of the rule of law, every government action must be grounded in legal authority. This requirement stems from the principle of the rule of law, one of the key indicators of which is *wetmatigheid van bestuur* (legality of administration). This principle mandate that government officials must first establish their authority based on statutory regulations before taking action in accordance with these regulations. Without a valid basis of authority, no action can be legitimately exercised.[13]

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10 A'an Efendy and Freddy Poernomo, *Hukum Administrasi* (Jakarta: Sinar Grafika, 2017).

11 *Ibid,*

12 Syahrul Ibad, 'Hukum Administrasi Negara Dalam Upaya Penyelenggaraan Pemerintahan Yang Baik', *HUKMY : Jurnal Hukum* 1, no. 1 (30 April 2021): 55–72, https://doi.org/10.35316/hukmy.2021.v1i1.55-72.

13 Ridwan HR, *Hukum Administrasi Negara.*, *Op.Cit.,* hlm. 92.

In state administrative law, the legal actions of state administrative officials are based on three main types of authority: attribution, delegation, and mandate. Some experts categorize the sources of authority for State Administrative officials into two types: attributive (original) authority and non-attributive (non-original) authority. Attributive authority is granted directly by statutory regulations. In contrast, non-attributive authority encompasses mandate and delegation.[14] Attribution refers to authority that is explicitly granted by law, which must be clearly stated in the relevant statutory provisions. Delegation involves the transfer of authority from one government organ or official to another, with the recipient of the delegation—known as the delegate—being accountable solely to the original delegator. Mandate, on the other hand, involves the delegation of some authority from the authority holder to another organ or official, who acts on behalf of the authority holder.[15] Provisions concerning the sources of government authority are also outlined in Law No. 30/2014 concerning Government Administration, specifically in Articles 11, 12, 13, and 14.

In addition to these three main types of authority, State Administrative officials also possess independent authority, known as *freies Ermessen* (discretion). This discretionary authority allows officials to make decisions based on their own judgment, either in making or refraining from making a decision. Discretion is typically exercised to address two main purposes: to fill legal gaps when there is a legal vacuum and to facilitate the implementation of government actions within the framework of a welfare state.[16] In the Government Administration Law, this discretionary power is referred to as discretion. However, the exercise of discretion is subject to limitations

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14 Yusri Munaf, *Hukum Administrasi Negara* (Pekanbaru: Marpoyan Tujuh Publishing, 2016).

15 Wiratno, *Pengantar Hukum Administrasi Negara*, 5th ed. (Jakarta: Universitas Trisakti, 2019).

16 Supriyadi, 'Pembatalan Keputusan Tata Usaha Negara Yang Bertentangan Dengan Hak Asasi Manusia', *Jurnal Ilmu Hukum Legal Opinion* 3, no. 3 (2015), http://portalgaruda.fti.unissula.ac.id/index.php?ref=browse&mod=viewarticle&article=404581.

to ensure it does not conflict with statutory regulations. Discretionary actions must comply with the General Principles of Good Governance, be based on objective reasons, avoid conflicts of interest, and be executed in good faith.

Although the application of legal principles may initially appear sound and the visible impact may seem minimal, the real issue lies in the fact that a more orderly implementation of the law can increase the potential for abuse of power. Such conditions reflect the current challenges in legal practice and democracy. As A. Jakab notes, the expansion of power in modern times does not rely on traditional methods like coups or military force. Instead, it often involves undermining the legal system and democracy from within. Aspiring authoritarian leaders may make gradual efforts, cloaked in the guise of legal and democratic supremacy, to gradually erode or even dismantle the protections afforded by the rule of law.[17]

Recently, the application of administrative law has become a significant concern for experts. This concern arises because administrative law is controlled by executive power, which wields substantial authority, impacting nearly every aspect of daily life. Philip Hamburger, a professor from Colombia, discusses this issue in his provocative book "*Is Administrative Law Unlawful?*". He argues that administrative law represents a contemporary manifestation of the trend towards absolute power or the consolidation of power beyond or even above the law. Consequently, experts are focusing on how to restore and ensure that the functions of state administration align with democratic and legal principles.[18] Based on Government Administration Law, Article 5 outlines that the implementation of government administration is based on three core principles: the principle of legality, the principle of protection of human rights, and the Principles of General Good Governance. Regarding the principle

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[17] Andras Jakab, 'What Can Constitutional Law Do against the Erosion of Democracy and the Rule of Law? On the Interconnectedness of the Protection of Democracy and the Rule of Law', *Constitutional Studies* 6, no. 1 (29 June 2020): 5–34, https://dx.doi.org/10.2139/ssrn.3454649.

[18] Jud Mathews, 'Minimally Democratic Administrative Law', *SSRN Electronic Journal*, 2016, https://doi.org/10.2139/ssrn.2736426.

of human rights, the explanation of Article 5 letter b clarifies that this principle mandates that government bodies or officials must not infringe upon the basic rights of citizens as guaranteed by the 1945 Constitution of the Republic of Indonesia.

The formulation of these provisions logically follows from the application of the rule of law (*rechtsstaat*) concept, which emphasizes the protection of human rights. Friedrich Julius Stahl, the *rechtsstaat concept* encompasses not only a government based on statutory regulations but also the essential protection of human rights.[19] Consequently, in the implementation of administrative law, every action or decision by State Administrative bodies or officials must be grounded in statutory provisions while also considering human rights. Supriyadi (2015) asserts that any State Administrative decision conflicting with human rights is considered invalid.[20] Additionally, State Administrative decisions must uphold legal protection for society, as this is a fundamental right of citizens that cannot be diminished or restricted, and it is the state's obligation to ensure it.[21]

In the case of the Government vs. the Awyu Tribe Community, we can observe a clear disregard for the protection of human rights by administrative officials. The Decree of the Department of Investment and One Stop Integrated Services (DPMPTSP) of Papua Province No. 82/2021, which approves the environmental feasibility of PT Indo Asiana Lestari's plans to establish oil palm plantations and a palm oil processing facility with a capacity of 90 tons of FFB/hour on 36,096.4 hectares of land in Mandobo District and Fofi District, Boven Digoel Regency, Papua Province, significantly undermines the rights of the Awyu Tribe. This land is customary land and integral to the traditional rights of the Awyu Tribe community. Consequently, this decision not only disregards these rights but also contradicts legal and ethical principles.

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19 Ridwan HR, *Hukum Administrasi Negara.*, *Loc.Cit.,* hlm. 19.

20 Supriyadi, 'Pembatalan Keputusan Tata Usaha Negara Yang Bertentangan Dengan Hak Asasi Manusia'., *Loc.Cit.,* hlm. 2.

21 Syofyan Hadi, 'Principles of Defense (Rechtmatigheid) In Decision Standing of State Administration', *Jurnal Cita Hukum* 5, no. 2 (2 February 2018), https://doi.org/10.15408/jch.v5i2.7096.

First matters related to customary rights and the traditional rights of indigenous communities are constitutionally guaranteed by the 1945 Constitution of the Republic of Indonesia. Therefore, it is mandatory for the state to respect and recognize these rights. In line with these constitutional provisions, the protection of indigenous peoples' rights is further affirmed by the Human Rights Law. Specifically, Article 6, paragraphs (1) and (2), stipulates that the differences and needs of customary law communities must be considered and protected by law, society, and the government. This protection includes not only cultural identity but also rights to customary land.

The provisions above indicate that customary rights are an integral part of human rights that must be considered and protected, particularly by the Government when making policies or decisions. Therefore, there should be no justification for the Government to disregard the traditional rights of the Awyu Tribe community, as all mechanisms for policy implementation, especially those related to the economy, are comprehensively regulated by statutory laws. According to the Papua Province Special Autonomy Law, economic development, whether through investment or capital infusion, must adhere to principles that provide the widest possible opportunities for the local and indigenous communities. This includes recognizing and respecting their rights. The implementation of these principles should involve negotiations between the Provincial and Regency/City Governments and investors, with the local community actively participating.

However, in practice, the Papua Provincial Government, through the One Stop Investment and Integrated Services Service (DPMPTSP), did not involve the Awyu indigenous community or the Woro Clan in discussions prior to issuing the Decree on the feasibility of the oil palm plantation development plan dated November 2, 2021. The local indigenous community reported that they were unaware of any public announcements or consultation activities related to the project. Furthermore, there were no announcements in the villages where the Awyu people reside regarding the business plans or activities

for developing oil palm plantations. As a result, the local indigenous communities were unable to offer suggestions, opinions, or responses concerning the business plans or activities affecting their customary lands.[22]

Article 43, paragraph (4) of the Papua Special Autonomy Law stipulates that the allocation of *ulayat*/customary land for any purpose must involve deliberations with the relevant community to reach an agreement on the transfer of the land and compensation. Based on explanation of Article 43, paragraph (4), such deliberations must occur before a permit for land acquisition and the granting of rights is issued by the authorized agency. The agreement reached through these deliberations is a prerequisite for the issuance of the permit and the rights in question. This principle also applies to the acquisition of individual land rights within customary law communities; obtaining the consent of traditional rulers alone is insufficient. Customary rights are vested in specific customary law communities, not in individuals or traditional rulers, even though many traditional rulers have held their positions for generations. Traditional rulers are merely executors of customary rights, acting on behalf of their communities to manage these rights. Therefore, the issuance of the Decree by the Head of the DPMPTSP Service, in this case, disregarded the customary rights of the Awyu Tribe community, as it was done without prior approval from the local indigenous community, contrary to the applicable regulations.

Second, the lack of public announcements or notifications regarding the issuance of the decision letter from the DPMPTSP Service about the feasibility of the oil palm plantation development plan highlights confusion in the implementation of administrative law by state administrations officials in this case. According to the Awyu Tribe community, the local indigenous population was unaware of and had never heard about the environmental feasibility permit issued by

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[22] Nasrun Kartingka, 'Masyarakat Adat Awyu Merasa Belum Dilibatkan Dalam Pengelolaan Lahan', *Koran Kompas*, 11 May 2023, Humaniora edition, https://www.kompas.id/baca/humaniora/2023/05/11/masyarakat-adat-merasa-belum-dilibatkan.

the DPMPTSP. Article 50, paragraphs (1), (2), and (3) of the Government Regulation on environmental protection and management stipulates that the Environmental Feasibility Decree, issued by the Government (Minister, Governor, or Regent/Mayor, as appropriate), must be announced to the public through an environmental information system or other means specified by the government, such as mass media or announcements at project sites. This announcement must occur no later than five working days after the issuance of the Environmental Feasibility Decision.

The failure to announce the decision to the public in this case indicates a lack of good faith on the part of the government regarding the implementation of the oil palm plantation development project in the area. The actions of the State Administrative officials also violate the general principles of good governance, specifically the principles of expediency, openness, public interest, and good service, as outlined in Article 10, paragraph (1) of the Government Administration Law. Consequently, the issuance of the DPMPTSP Service Decree in this instance can be classified as invalid. Based on Article 52, paragraph (2) of the Government Administration Law, a decision made by an authorized State Administrative official must comply with statutory regulations and general principles of good governance (AUPB) to be legally valid.

Third, violations of democratic principles through administrative mechanisms are evident in this case. Specifically, the Environmental Impact Assessment (AMDAL) preparation process did not incorporate community objections or rejections concerning social issues. The Awyu Tribe has been actively protesting against this since 2018, through written objections, rejection letters, and complaints submitted to both the district government and the company, as well as through demonstrations. Despite these efforts, their concerns were not considered in the AMDAL preparation. This demonstrates that the actions of State Administrative officials in this case have violated the principle of meaningful participation as stipulated in Article 2, letter of the Law No. 32/2009.

The explanation above shows that, at the normative level, the concept of state administrative law includes provisions that guarantee adequate protection for human rights. However, this study finds that the main problem lies in the practical implementation of administrative law. Specifically, provisions regarding implementation mechanisms outlined in statutory regulations are often ignored. In the case of the Papua Provincial Government vs. the Awyu Tribe Community, it is evident that the rights of the customary law community were not considered and were even set aside in the determination of policy by State Administrative officials.

B. State Administrative Court's Role as Downstream Community Protection Against Government Actions

The existence of administrative justice, or the State Administrative Court, cannot be separated from the theory of the rule of law (*rechtsstaat*) because State Administrative Court is one of its essential elements.[23] This contrasts with some concepts of the rule of law that do not recognize administrative justice but emphasize equality before the law.[24] Essentially, government administration must adhere to applicable laws.[25] S.F. Marbun emphasized in his book that State Administrative Court is crucial for providing legal protection for individual interests and safeguarding human rights.[26] The establishment of the State Administrative Court in Indonesia is fundamentally aimed at accommodating citizens' rights against

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23 Dani Habibi, 'Perbandingan Hukum Peradilan Tata Usaha Negara Dan Verwaltungsgericht Sebagai Bentuk Perlindungan Hukum Kepada Rakyat', *Jurnal Hukum & Pembangunan* 49, no. 2 (5 July 2019): 320, https://doi.org/10.21143/jhp.vol49.no2.2006.

24 Murtiningsih Kartini and Adi Kusyandi, 'Eksistensi Ptun Sebagai Wujud Perlindungan Hukum Kepada Warga Negara Dari Sikap Tindak Administrasi Negara', *Yustitia* 7, no. 2 (8 November 2021): 236–48, https://doi.org/10.31943/yustitia.v7i2.144.

25 Ach Nadzirun Ilham, Abid Zamzami, and Ahmad Bustomi, 'Peran Ptun Sebagai Perlindungan Hukum Kepada Masyarakat Atas Tindakan Hukum Pemerintah Dalam Perspektif Negara Hukum', *Dinamika* 28, no. 9 (25 January 2022): 4507–22, https://jim.unisma.ac.id/index.php/jdh/article/view/14821.

26 S.F. Marbun, *Peradilan Administrasi Negara dan Upaya Administratif di Indonesia* (Yogyakarta: Kreasi Total Media, 2021).

government actions that conflict with the law and general principles of good governance.

State administrative law is a *juridical instrument* designed to achieve the goals of the Republic of Indonesia. To fulfill these goals, state administrative law outlines the division of duties between state bodies. Therefore, administrative law acts as an emanation of the people's government, serving as a key tool or *jurisdische instrumentarium*. Formally, the sources of state administrative law include laws, administrative practices based on the general principles of good governance, jurisprudence, and doctrine.[27]

The legal regulation in question is Law No. 30/2014 concerning Government Administration, which was promulgated as a guideline for government administration and can be considered material law. To complement material law, formal law is also required. The formal law in question is Law No. 5/1985, as amended by Law No. 9/2004 and Law No. 51/2009 (hereinafter referred to as the Administrative Court). Historically, the administrative court was enacted before the government administration; however, the administrative court and the government administrations address different matters, including the absolute competence of the administrative court. The government administration grants broader authority to the State Administrative Court.[28] The existence of the State Administrative Court in Indonesia is constitutionally grounded in Article 24, paragraph (2) of the 1945 Constitution, which provides the State Administrative Court with a strong legal basis.[29]

Based on this theory, the researcher examines the environmental dispute involving the Awyu Tribe against the Papua Province One Stop Investment and Integrated Services Service and PT Indo Asiana Lestari. The object of the lawsuit is the Decree issued by the Head of the Papua Province One Stop Investment and Integrated Services

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27 Marbun, *Hukum Administrasi Negara I*., *Op.Cit.,* hlm. 58.

28 Habibi, 'Perbandingan Hukum Peradilan Tata Usaha Negara Dan Verwaltungsgericht Sebagai Bentuk Perlindungan Hukum Kepada Rakyat'., *Op.Cit.,* hlm. 18-19.

29 Kartini and Kusyandi, 'Eksistensi Ptun Sebagai Wujud Perlindungan Hukum Kepada Warga Negara Dari Sikap Tindak Administrasi Negara'., *Op.Cit.,* hlm. 241.

Service. According to Tempo newspaper, the indigenous Awyu Tribe from Boven Digoel Regency, South Papua Province, is challenging the granting of an environmental feasibility permit to PT Indo Asiana Lestari, a palm oil plantation company, which allegedly encroaches upon the Awyu Tribe's customary land.[30] In State Administrative Court Decision Number 6/G/LH/2023/PTUN.JPR, the judge rejected the Plaintiff's lawsuit, with the following legal considerations:

First, the object of the dispute is an environmental decision, specifically a decision on environmental suitability (KKLH) issued by the Head of the Integrated Licensing and Investment Agency of Papua Province, which was contested by Defendant II Intervention. Therefore, the object of the dispute is deemed to be definitively delegated and valid in terms of authority. Second, the court did not further examine issues related to Environmental Impact Assessment (AMDAL), as this was not part of the dispute in the *a quo case*. Third, regarding the Plaintiff's argument that the dispute involves a lack of meaningful participation, the judge determined that this issue was not relevant to the subject of the dispute. Fourth, the judge concluded that the object of the dispute does not conflict with statutory regulations or general principles of good governance. Additionally, in deciding to postpone, the judge noted that a *quo decision* could not be stayed because there was no potential for state loss, social conflict, or environmental damage.

Meanwhile, the Manado State Administrative Court decision Number 92/B/LH/2023/PT.TUN.MDO, which resulted from an appeal by the Plaintiffs against a *quo* Jayapura State Administrative Court Decision, was briefly considered by the judge. The judge's assessment was limited to determining whether the lawsuit had been filed within the appropriate timeframe. Specifically, the court examined whether the lawsuit was filed within 90 days of discovering the object of the dispute, as stipulated by Article 55 of Law No. 5/1986

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30 Andi Adam Faturahman and Zacharias Wuragil, 'Gugatan Baru Suku Awyu Di Papua', *Koran Tempo*, 15 March 2023, https://koran.tempo.co/read/nasional/480896/suku-awyu-gugat-izin-lingkungan-pt-ial.

concerning State Administrative Court, Article 77 of Law No. 30/2014 concerning Government Administration, and Article 5 of Supreme Court Regulation No. 6/2018 concerning the Settlement of Government Administrative Disputes After Administrative Efforts.

The disputed decision at the Jayapura State Administrative Court is considered a positive decision, as it was issued as a result of government actions and created specific legal consequences. Positive decisions can be categorized as follows:[31]

1. Decisions that generally create or alter legal conditions (*constitutive beschikking*);
2. Decisions that establish or dissolve a legal entity;
3. Decisions that grant new beneficial rights;
4. Decisions that impose new obligations.

S.F. Marbun's description, the decision issued by the Papua Province created a new legal situation for the Awyu tribal community. In reviewing such decisions, judges can evaluate them based on both statutory regulations—both formal/procedural and material/substantial—and the general principles of good governance. Additionally, the principle of legality in decisions signifies that the actions of officials or state administrative bodies reflect the will of the people, as these actions have received public approval. Thus, the principle of legality embodies the rule of law and democratic principles, which collectively give rise to the concept of the rule of law within a democratic framework.

The Papua Provincial Government did not involve the Awyu Tribe community in discussions regarding the publication of the object of the lawsuit. The Awyu Tribe was unaware of any public announcements or consultation activities related to this matter. Consequently, they were unable to provide suggestions, opinions, or responses to the business plans affecting their customary territory. This situation violates Article 6, paragraph (1) of the Human Rights Law, which mandates that the differences and needs of customary law communities must be considered and protected by law, society, and

[31] Marbun, *Hukum Administrasi Negara I*., *Op.Cit*., hlm. 192.

the government. Additionally, the Papua Special Autonomy Law requires the Papua Provincial Government to recognize, respect, protect, empower, and develop the rights of indigenous peoples.

Additionally, the preparation of the Environmental Impact Assessment (AMDAL) neglected the presence of the Awyu Tribe, who are directly affected by the decision. The Environmental Impact Assessment (AMDAL) also failed to consider the precautionary principle concerning the potential impact on biodiversity. The State Administrative Court and State Administrative High Court judges reviewing the case should assess scientific evidence to properly evaluate these concerns. The discretion of judges in evaluating scientific evidence pertains to how much positive law can constrain their judgment or the parties' evidence. The incorporation of scientific evidence in judicial decisions is closely linked to the precautionary principle, which is a key *substantive legal principle* in environmental cases and is reflected in administrative court rulings.[32] This indicates that judges cannot rely solely on positivistic administrative law when handling environmental cases; they must conduct a thorough assessment that includes more in-depth evidence and evaluation.

Additionally, the researcher examined Semarang State Administrative Court Decision Number 064/G/2014/PTUN.SMG to identify similarities in how State Administrative Court judges decide cases within the scope of state administration. The dispute involved a decision issued by state administrative officials, specifically the Central Java Governor's Decree No. 660.1/17 of 2012, which concerned environmental permits for mining activities and the construction of a cement factory by PT Semen Gresik in Rembang Regency. Semarang State Administrative Court decision concluded that the lawsuit could not be accepted. The legal consideration was that the Plaintiffs had exceeded the 90-day deadline to file the lawsuit.

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[32] Cecep Aminudin, 'Peranan Bukti Ilmiah (Scientific Evdence) Dalam Pengambilan Keputusan Hukum Perkara Tata Usaha Negara Lingkungan Hidup', *IBLAM LAW REVIEW* 4, no. 1 (31 January 2024): 265–75, https://doi.org/10.52249/ilr.v4i1.264.

In administrative cases related to environmental issues that impact public interests, it is essential to consider the rights of the individuals affected. A person has the right to file a lawsuit with the State Administrative Court. Additionally, the resolution must account for broader interests, such as those of the community, local communities, indigenous groups, private organizations, associations, legal entities, or other groups invested in environmental preservation.[33] The court must address and provide reasons for each claim, issue, or argument presented by a party. This includes evaluating concerns related to good governance, social norms, and the protection of public interests.

Based on the description of the State Administrative Court and State Administrative High Court decisions, judges in these cases tend to adhere to the paradigm of legal positivism. This approach leads judges to use a closed logical system, aiming to identify one objective truth.[34] Consequently, judges may focus strictly on formal procedural justice, adhering closely to established rules. However, the essence of environmental law enforcement goes beyond mere procedural adherence; it aims to achieve substantive justice by applying values that protect ecosystem capabilities and environmental functions.[35]

Quoting an interview with Novy Dewi Cahyati, a State Administrative Court judge, Francisca[36] notes that State Administrative Court addresses both general and specific disputes. Specific disputes include issues related to *rechtmatige overheidsdaad* (lawful government actions), positive fictitious State Administrative

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33 Francisca Romana Harjiyatni and Meicke Caroline Anthony, 'Studi Komparatif Penyelesaian Sengketa Lingkungan Di Pengadilan Tata Usaha Negara Indonesia Dan Thailand', *Jurnal Hukum Ius Quia Iustum* 29, no. 2 (1 May 2022): 371–91, https://doi.org/10.20885/iustum.vol29.iss2.art7.

34 Ilham Dwri Rafiqi, *Pengembangan Hukum Profetik Dalam Putusan Hakim Perkara Lingkungan Hidup Ikhtiar Membumikan Wacana Hukum Langitan* (Malang: Universitas Muhammadiyah Malang, 2024).

35 Juliadi Rusydi, Januri Januri, and Rika Santina, 'Tanggungjawab Pemerintah Dalam Penegakan Hukum Lingkungan Hidup Di Tinjau Dari Persepektif Hukum Administrasi Negara', *Audi Et AP : Jurnal Penelitian Hukum* 2, no. 01 (31 January 2023): 54–63, https://doi.org/10.24967/jaeap.v2i01.2064.

36 Harjiyatni and Anthony, 'Studi Komparatif Penyelesaian Sengketa Lingkungan Di Pengadilan Tata Usaha Negara Indonesia Dan Thailand'.

Decisions, election process disputes, abuse of authority, decisions from the Central and Regional Information Commissions, and environmental disputes. This is further supported by the Supreme Court Decision (KMA) No. 036/KMA/SK/II/2013 concerning the Implementation of Handling Environmental Cases. In this context, environmental judges demonstrate their progressiveness by adhering to the Supreme Court's guidelines for handling environmental cases.

In the context of environmental disputes, Francisca quotes Enrico Simanjuntak, who explains that the role and function of State Administrative Court in resolving these disputes extend beyond merely providing legal protection to individuals or civil legal entities harmed by government actions. State Administrative Court also plays a crucial role in protecting the environment from damage caused by activities and businesses with negative environmental impacts.[37] Additionally, Richo Andi Wibowo, in an article published in Tempo Newspaper, notes that it is challenging for the public to expect effective legal protection against problematic government policies through the state administrative court, particularly in cases related to development.[38]

The judge's task in realizing justice is inherently linked to the quality of the decisions they render. A high-quality judicial decision results from a thought process that goes beyond mere legal positivism. In environmental cases, which are complex and often involve extensive scientific evidence, judges are expected to be progressive.[39] This means they should have the courage to apply principles of environmental protection and management, such as the precautionary principle, the polluter pays principle, and the principles of sustainable development.

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37 *Ibid.*

38 Richo Andi Wibowo, 'Perlindungan Hukum Bagi Korban Pembangunan', *Koran Tempo*, 11 January 2024, Opini edition, https://koran.tempo.co/read/opini/486617/korban-proyek-infrastruktur-jokowi.

39 Rafiqi, 'Pembaruan Politik Hukum Pembentukan Perundang-Undangan Di Bidang Pengelolaan Sumber Daya Alam Perspektif Hukum Progresif'. *Op.Cit.,* hlm. 332.

Environmental matters possess certain unique characteristics that distinguish them from other types of cases. An environmental case involves rights guaranteed by the constitution, specifically the right to a good and healthy environment. Additionally, environmental cases often exhibit a structural aspect, where the parties involved face a vertical imbalance—typically, the government with substantial resources versus the community with limited access. In examining these cases, State Administrative Court judges must consider not only the general principles of good governance but also principles of prudence, environmental protection and management, and sustainability.

The decisions produced by the State Administrative Court do not yet reflect adequate environmental protection with a view toward sustainable development, and judges tend to be procedurally formalistic in their considerations.[40] State Administrative Court judges only examine events related to matters that occurred before or during the adoption of administrative decisions. Based on the decisions of State Administrative Court Jayapura, State Administrative Court Manado, and State Administrative Court Semarang, which handle environmental cases similarly, their considerations do not adequately address other relevant principles. In their legal considerations, judges should not solely rely on applicable legal rules. Instead, they should provide a comprehensive assessment, evaluating not just the regulations regarding the deadline for submitting a lawsuit to the State Administrative Cour or the established State Administrative Decision but also the general principles of good governance, community participation in preparing Environmental Impact Assessment (AMDAL), and human rights, particularly for the Awyu tribal community. This approach would better ensure justice for communities affected by environmental management.

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[40] Mutiara Ayu Puspitasari, 'Ratio Decidendi Hakim Pengadilan Tata Usaha Negara Dalam Memutus Sengketa Tata Usaha Negara Tentang Lingkungan Hidup Berkaitan Dengan Penerapan Asas Dominus Litis (Analisis Putusan Nomor 062/G/LH/2016/PTUN.SMG)', *Jurnal Hukum Universitas Diponegoro*, 2019, https://eprints2.undip.ac.id/id/eprint/5244/.

Conclusion

State administrative law provides an ideal construction in the issuence of the state administrative decisions, the rules of state administrative decisions must be based on general principles of good governance (AUPB), especially based on community participation regulated in the Human Right Law. The Awyu tribe is a community affected by state administrative decisions regarding oil palm plantations in Papua Province. The issuance of the decision regarding the processing of oil palm plantations by PT Indo Asiana Lestari did not pay attention to participation and the Awyu Tribe's rejctions was not included in the Environmental Impact Assessment (AMDAL), this contrary to state administrative law and environmental law, so the Awyu Tribe sued the Jayapura State Administrative Court. Administrative law should be able to provide protection for the Awyu people.

The decision of the judges of state administrative court Jayapura and state administrative high court Manado not accept the lawsuit with legal considerations that the Awyu Tribe's lawsuit has expired. Supposedly, state administrative court and state administrative high court judges in handling environmental cases are able to assess in terms of State Administrative Law and Regulations regarding the Environment. In addition, in resolving environmental cases, judges do not prioritize only legal positivism. Judges must be able to provide more comprehensive and in-dept legal considerations by looking at relevant principles.

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Conflicting Interest Statement

There is no conflict of interest in the publication of this article.

Publishing Ethical and Originality Statement

All authors declared that this work is original and has never been published in any form and in any media, nor is it under consideration for publication in any journal, and all sources cited in this work refer to the basic standards of scientific citation.