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The Right to a Healthy Environment: Consequences of Inconsistent Judgments in Indonesian State Administrative Courts

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Abstract

As a pivotal justice enforcement agency in Indonesia, the State Administrative Court (PTUN) is instrumental in protecting citizens' rights, particularly in cases where administrative decisions by state officials cause harm. This article critically analyzes the implications of this problem construct judge decisions, explicitly focusing on environmental destruction cases. The interpretation of legal provisions plays a decisive role in determining outcomes. However, explaining the background of rationality used by judges is still being debated among scholars. Through an in-depth examination of several judicial decisions, the study identifies significant inconsistencies in interpreting Article 53 Paragraph (1) of the Administrative Court Law, especially concerning the phrase' interests are harmed.' These inconsistencies undermine legal certainty and expose underlying sociological issues, including power imbalances and social inequality. Mainly, that disproportionately hinders vulnerable communities from accessing justice. The analysis suggests that if left unaddressed, these disparities could further erode the principle of equality before the law, a cornerstone of justice, and weaken the foundations of environmental justice in Indonesia. A systematic interpretation is used to develop alternatives to overcome the challenges arising from ecological rights. Based on the inconsistency of Article 53 Paragraph (1) interpretation, this article argues that harmonization with domestic laws and international environmental agreements is the legal foundation. Furthermore, this approach is essential for reinforcing the judiciary's role in upholding citizens' rights, ensuring equitable access to justice, and strengthening Indonesia's legal framework for environmental protection.

Keywords: Environment, Inconsistency, Justice, Rights, State Administrative Court

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I. INTRODUCTION

Access to justice is central to sustainable development. Promoting the rule of law at national, regional, and international levels is essential for sustainable and inclusive growth, full realization of human rights, and environmental protection. Embodied in sixteen Sustainable Development Goals of the United Nations 2030 Agenda for Sustainable Development, it is also a key enabler of all other goals and targets. Aside from being a right in itself, access to justice is also a means to remedy other rights that have been neglected or violated. In a context of marked inequalities, the rule of law supports better economic opportunities, provides legal certainty, secures better livelihoods, and translates the voices of individuals and communities, especially those in vulnerable situations, into concrete results and actions, thus contributing to the creation of safe and peaceful societies.[1]

Indonesia's State Administrative Court (PTUN) is a consequence of the development of state administrative law after the spread of the welfare state concept.[2] The concept of the welfare state emerged from the idea of the *rechtstaat*, popularized in the 19th and early 20th centuries. During this time, it was commonly believed that the role of the state and government was limited to matters of public interest, like foreign relations and warfare, and they were not expected to intervene in the personal affairs of their citizens. At this point, the state's role was limited and inactive. It was commonly known as a "night watchman state," where it only protected the nobility's property and guarded against theft, fraud, contract violations, and security issues. However, it did not have the authority to control, coerce, or regulate relationships between communities.

The concept of a welfare state then emerged as an idea in which the state uses a democratic system of government and is responsible for the welfare of its people. The goal is to reduce people's suffering, such as poverty, unemployment, health problems, etc. Therefore, countries that apply the concept of a welfare state have public policies that are service, assistance, protection, or prevention of social problems.[3] In Indonesia, the State Administrative Court (PTUN) was established through Law No. 5 of 1986, later amended twice by Law No. 9 of 2004 and Law No. 51 of 2009. This court is responsible for resolving disputes between individuals and state administration officials who have issued an administrative decision (KTUN) that has harmed the individual's interests.

PTUN itself is a logical consequence of the actions or actions of everyone, whether as a citizen or as a government official, which is determined by law, and the actions of government officials must be accountable morally and legally.[4] Besides that, PTUN also has a vital role as a supervisor of legal actions from the *bestuur* or the

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[1] T. C. ECLAC., *Ensuring Environmental Access Rights in the Caribbean: Analysis of Selected Case Law* (Santiago: United Nations Publication, 2018).
[2] H. Salmon, 'Eksistensi Peradilan Tata Usaha Negara (PTUN) Dalam Mewujudkan Suatu Pemerintahan Yang Baik', *Salmon, H.* 16, no. 4 (2010): 16–26.
[3] M. Huda, *Pekerjaan Sosial Dan Kesejahteraan Sosial: Sebuah Pengantar* (Yogyakarta: Pustaka Pelajar, 2009).
[4] H. R. Ridwan, *Hukum Administrasi Negara* (Jakarta: Raja Grafindo Persada, 2011).

government, as well as protecting the right of civil rights of the community against abuse of authority or arbitrariness by government officials.[5] If an administrative effort (administrative objections and administrative appeals) has already been taken but was ineffective, or if no administrative effort is required, the individual can file a lawsuit within 90 days at the State Administrative Court, as stated in Article 55 of the Administrative Court Law.[6]

As one of the justice enforcement agencies in Indonesia, the PTUN plays a significant role in upholding the rights of citizens, especially those relating to the rights of citizens who state administration officials have injured through the KTUN. One of the objects of rights that the PTUN must uphold is the right to obtain a suitable living environment as stated in Article 28 H Constitution of the Republic of Indonesia (UUD NRI 1945). As an entity that controls access to the environment as stipulated by Article 33 Paragraph (3) of the 1945 UUD NRI 1945, the government issues many strategic state administration decisions regarding environmental management through its officials, utilization, and allotment of the environment. Despite being a public service, numerous government actions infringe on citizens' rights to a healthy living environment.

Even though it is a channel of justice, the considerations issued by PTUN judges reflect complete justice. This can be seen from the various considerations of the judge's decision, especially in interpreting Article 53 Paragraph (1) of the Administrative Court Law, specifically in environmental disputes. The elucidation of Article 53 paragraph (1) further details the reasons for being able to file a lawsuit at the Administrative Court, namely "feeling an administrative decision has harmed their interests" explained in the following sentence, "only individuals or civil legal entities whose interests are affected by the legal consequences of an Administrative Decision" State Enterprises issued. Therefore, those concerned feel aggrieved and are allowed to challenge State Administrative Decisions.

Article 53, paragraph (1) of the Administrative Court Law has been interpreted inconsistently, even in some cases deviating from its literal meaning. This inconsistency impacts access to justice and equality before the law for individuals seeking justice in environmental state administration disputes. For this reason, it is interesting to study further how inconsistent the application of Article 53 paragraph (1) of the PTUN Law is in testing the legal position of affected individuals in environmental TUN disputes so far and how the proper interpretation of Article 53 paragraph (1) in testing the legal position of affected individuals in environmental administration disputes.

This research has reviewed ten judges' decisions in identical environmental cases and identified multiple interpretations of Article 53 Paragraph (1) of the Administrative Court Law. This inconsistency impacts access to justice and equality before the law for individuals seeking justice in environmental state administration disputes. The main

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[5] P. E. Lotulung, 'Peradiian Tata Usaha Negara Dalam Kaitannya Dengan Rechtsstaat Republik Indonesia', *Jurnal Hukum Dan Pembangunan* 21, no. 26 (1991): 579–87.

[6] Indroharto, *Usaha Memahami Undang-Undang Tentang Peradilan Tata Usaha Negara Buku II Beracara Di Pengadilan Tata Usaha Negara* (Jakarta: Pustaka Sinar Harapan, 2003).

goal to be achieved in environmental cases is ecological justice. Environmental justice aims to ensure fair treatment for all social and economic groups, including but not limited to those defined by race and ethnicity, such as low-income populations.

Environmental justice encompasses the fair distribution of environmental benefits among all individuals, including access to parks and other benefits of the natural environment. It is not limited to those affected by pollution or other environmental issues.[7] Ecological justice encompasses addressing present and future environmental problems and recognizing cultural factors. It also involves ensuring citizen participation in decision-making. Therefore, community involvement in decision-making is crucial for achieving ecological justice.[8]

Environmental justice encompasses addressing present and future environmental issues and recognizing cultural factors. It also involves ensuring citizen participation in decision-making. Therefore, community involvement in decision-making processes is crucial for achieving environmental justice. For this reason, it is interesting to study whether the abovementioned issues indicate PTUN's failure to guarantee the right to a suitable living environment.

This study will focus on answering two questions for the reasons given in the background. ***First***, how the inconsistency in the meaning of the phrase "interests are harmed" in Article 53 Paragraph (1) of the Administrative Court Law and its impact on the objectives of legal certainty and access to justice for society. ***Second,*** how to reconstruct the correct interpretation of Article 53 paragraph (1) of the Administrative Court Law in an environmental PTUN dispute.

This research is legal. According to F. Sugeng Istanto, legal analysis is applied or specifically applied to the field of law.[9] The type to be used in this research is normative legal research. This research examined library materials or secondary data.[10] In terms of nature, this research is a descriptive study. Descriptive research describes something in a particular time and space. This descriptive research significantly inappropriately presents the existing legal materials, where legal prescriptions are prepared according to the materials.

Elaborating on environmental rights issues is a research area that should be scrutinized with multi-discipline. Integrating legal and sociological perspectives in judicial interpretation and policymaking is essential for fostering a more equitable and context-sensitive legal system. The traditional legal approach, which emphasizes the interpretation and application of laws within a formalistic framework, this method often fails to account for the broader social contexts in which legal rules operate. Legal decisions are not merely abstract exercises in logic; they have profound implications for power distribution and resources within society. Thus, a legal approach that collaborates

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[7] C. J. Magallanes, 'Indigenous Environmental Justice: Access to Environmental Justice for Māori', *Victoria University of Wellington Legal Research Papers* 22, no. 11 (2022): 1–44.

[8] Willy Riawan Tjandra, 'Dinamika Keadilan Dan Kepastian Hukum Dalam Peradilan Tata Usaha Negara', *Mimbar Hukum*, 2011, 75–88.

[9] S. Istanto, *Penelitian Hukum* (Yogyakarta: CV Ganda, 2017).

[10] S. Soekanto, *Pengantar Penelitian Hukum* (Jakarta: Universitas Indonesia Press, 1984).

with sociological insights can better address the complexities of social reality, particularly in areas such as environmental law, where the effects of legal decisions are deeply intertwined with social, economic, and cultural factors.

To operationalize legal and sociological approaches, this article adopts a systematic interpretive approach that explicitly considers the social implications of legal rulings. Consequently, this approach would require judges to move beyond textualist or originalist interpretations and engage with empirical data and sociological research to assess the broader impact of their decisions. In interpreting the phrase "interests are harmed" within environmental legislation, with this research, judges should evaluate the direct legal consequences and consider how different communities are differentially affected by environmental degradation. Additionally, the approach aligns with the principles of substantive equality, which demand that the law not only treat individuals equally in theory but also achieve equitable outcomes in practice.

II. INCONSISTENCY IN CONSIDERATION OF REASONS FOR LAWSUIT

Even though Article 53, paragraph (1) of the Administrative Court Law requires that the phrase loss be interpreted against the interests determined to be affected by the administrative decisions. The application of this provision in environmental cases filed by individuals varies widely. Courts do not consistently determine what interests are affected by the KTUN law before evaluating whether these interests have been lost.

Several decisions apply interpretations following the grammatical interpretation of Article 53 paragraph (1) of the Administrative Court Law; there are many other variations of interpretation. Instead of requiring the interests of the aggrieved, several decisions required environmental losses due to the impact of activities permitted by the KTUN, even though the two are very different. Several decisions consider interests and losses simultaneously without step-by-step testing.

Decisions with similar interpretations of Article 53 paragraph (1) of the Administrative Court Law and involving similar facts can reach contrasting conclusions. This inconsistency of interpretation and application results in very different decisions concerning the same facts. This section will explain various interpretations of the phrases "their interests are affected by the legal consequences of the KTUN" and "therefore those concerned feel disadvantaged" in Article 53, paragraph (1) of the Administrative Court Law, specifically concerning environmental cases.

In the Decision of the Supreme Court of the Republic of Indonesia Decision No. 99PK/TUN/2016, Joko Prianto et al. v. Governor of Central Java and PT Semen Indonesia, six people from six villages in two sub-districts are suing for an environmental permit that allows cement mining in the Watu Putih groundwater basin (CAT).[11] In arguing for 'injured interests,' the plaintiffs stated that they had 'potentially suffered losses

[11] Mahkamah Agung RI, 'Putusan No. 99PK/TUN/2016' (Jakarta, 2016).

concerning CAT Watu Putih's water source and the impact of dust from cement mining. When the case was tried, the activity had not been operational, nor had pre-construction activities been started, which had no impact on the plaintiffs. In its review, the Supreme Court of the Republic of Indonesia (MARI) decided that the plaintiffs had legal standing and considered the aggrieved interests by systematically interpreting Law No. 32 of 2009 concerning Environmental Protection and Management (UU PPLH).

In its considerations, MARI refers to the right to a healthy environment, the obligation to preserve environmental functions and control environmental pollution and/or damage, and equal and broad rights and opportunities to protect and manage the environment for citizens. Interests are values that must be protected by law. The fact that the plaintiff owns the land that was acquired at the site of the disputed object and the plaintiff's residence, which is included in the village area which is part of the content of the disputed thing, is enough to show the loss of interests from aspects of values that must be protected by law. In addition, MARI also considers the interests of the process, where the purpose of the lawsuit is to take preventive action/prevention of the danger of environmental pollution/damage without explicitly considering how the interests of this process have been harmed.

Another model of consideration that accommodates the interests of the aggrieved even though the activity has not been implemented can be seen in Medan District Administrative. Court, Decision No. 166/G/LH/2016/PTUN-MDN Farid Wadjdi Ali et al. v. Governor of North Sumatra, PT PLN (Persero) UIP II, Head of the North Sumatra Prosecutor's Office (T-Intv).[12] In this case, the judge gave legal status to forty-one individuals who live and own land where the transmission construction will be passed, which is permitted by the KTUN.

The plaintiffs claimed that their interests were adversely affected because they were not involved in the permit issuance process, which prevented them from having a say in assessing environmental impacts. They also stated that their right to express their opinions was disregarded, and they suffered "moral losses" due to mental stress caused by worries about the potential effects of transmission on noise levels, health, inadequate compensation, and reduced land prices, among other concerns. The judge has given legal standing by interpreting Article 53 paragraph (1) of the Administrative Court Law in conjunction with Article 93 paragraph (1) of the PPLH Law and Article 87 of Law no. 30 of 2014 relating to Government Administration (UU AP). As a result, it has been concluded that the plaintiff's interests are at risk due to the potential legal consequences arising from the KTUN issuance.

A comparable approach was adopted in the case at the Jakarta State Administrative Court, Decision No. 193/G/LH/2015/PTUN-JKT Gobang et al.; KIARA and WALHI v. Governor of DKI Jakarta v. PT Muara Wisesa Samudra, where the judge accepted the legal status of six Jakarta Bay fishermen who sued the KTUN, which allowed reclamation in the sea space where they fished.[13] The plaintiffs argued that

[12] Pengadilan Tata Usaha Negeri Medan, 'Putusan No. 166/G/LH/2016/PTUN-MDN', 2016.
[13] Pengadilan Tata Usaha Negara Jakarta, 'Putusan No. 193/G/LH/2015/PTUN-JKT', 2015.

decreased catches, the potential for ecosystem damage, and a more significant loss of fish had harmed their interests.

In their legal analysis, the judge determined that if there is a chance of legal repercussions, even a small loss could lead to more significant losses. Therefore, preventative measures are necessary to protect the values that need safeguarding and fulfill the requirements of the disadvantaged party's interest. In reaching this conclusion, the judge also systematically interpreted Article 53 paragraph (1) of the Administrative Court Law with Article 87 of Law no. 30 of 2014 and Article 1 number 25 of the PPLH Law.

Several cases consider interests and losses individually but still require actual losses, as in Decision No. 19/G/LH/2017/PTUN-SRG, case of Reza Ganny et al. v. Mayor of South Tangerang and PT PP Properti, Tbk (Company).[14] The assembly simultaneously assesses the interests and losses by considering the residence's proximity and the impact that the plaintiff has felt. In this case, the judge thought the construction site was "adjacent to" where the plaintiffs lived, namely in the same area. In interpreting the damages, the judge considered the impact the plaintiffs had felt, citing “noise,” “raising of dust,” and “puddles of water disrupting the flow of traffic,” all of which had occurred and were felt by the plaintiffs.

Consideration of interests and losses simultaneously is also seen in Decision No. 22/G/LH/2017/PTUN-SRG, 2017, regarding the case of Miswanto et al. v. Mayor of Bontang and PT Pupuk Kaltim (Int'v).[15] However, in both cases, the interpretation of the loss considers the potential impact and the impact that has been felt. In Denny Gusmalino, the panel granted legal standing to seventeen individuals who challenged the environmental permit to build a hospital near their residence.

The Assembly considered the distance between the plaintiffs' residence and the construction site measurably, "The closest is four meters, and the farthest twelve meters. The Assembly also considered that the construction "has the potential" to cause "dry groundwater sources" and "disturbing health and safety." It even felt the plaintiffs' simulation of the morning sun that "just arrived at residents' homes at 9.32 am". The last factor considered was the impact the plaintiffs had felt, namely noise that lasted twenty-two to twenty-four hours during the four months of construction.

The Supreme Court reinforced this at the cassation level, which concluded that it cannot be denied that the factory cluster in the industrial area certainly has an impact. The addition of pollutants and waste significantly endangers the community's health around the plant industrial area, in this case, the plaintiff, even though the activities are not yet operational. The judge also considered cracks in residents' houses when cutting the pre-construction hill, concluding "a potential loss of value that must be protected by law."

Other models interpret losses based on potential impacts without first determining "interests," as in Supreme Court Decision No. 426K/TUN/LH/2018, 2018,

[14] Pengadilan Tata Usaha Negara Serang, ‘Putusan No. 19/G/LH/2017/PTUN-SRG’, 2017.
[15] Pengadilan Tata Usaha Negara Serang, ‘Putusan No. 22/G/LH/2017/PTUN-SRG’, 2017.

regarding the case of Dudin Waluyo Asmoro Santo vs. Mayor of Samarinda and PT Gunung Artho.[16] In this case, the judge granted legal standing for an individual who contested the environmental permit of the developer from which he bought the house. The plaintiff argued that his interests were harmed due to the developer's non-compliance with the Environmental Management Efforts and Environmental Monitoring Efforts, or in Indonesia, terms called "*Upaya Pengelolaan Lingkungan dan Upaya Pemantauan Lingkungan*, UKL-UPL," which had the potential to cause him to be affected by flooding. In assessing the legal interest of the plaintiff, the judge referred to the potential impact estimated in the environmental document (UKL-UPL) and concluded that the plaintiff "has a direct interest" in the "potential impact" as predicted in the study when the permit holder fails to carry out its obligations.

It is essential to underline that in testing the legal position in all the cases above, the judge did not require the plaintiff to show that the loss suffered was caused by KTUN being sued and did not require environmental documents to be insufficient to manage the impact. Tests regarding the adequacy of impact management in environmental documents are considered separately in the subject matter. However, in addition to the cases above, other interpretation models require testing standards that are far more difficult, such as in-depth consideration of the causes and effects of environmental impacts with KTUN and the adequacy of protection documents in preventing potential losses in considering the legal standing.

In Decision No. 2/G/LH/2018/PTUN.DPS, 2018, in the case of I Ketut Mangku et al. v. The Governor of Bali and PT PLTU Celukan Bawang, the panel of judges interpreted the KTUN as having legal consequences if there had been actual losses suffered as a direct result of the object of the dispute being released.[17] However, the judge mixed up the implications of the KTUN on interests protected by law with the consequences of operating activities on the environment, as seen from the judge's consideration that 'the plaintiff has suffered no direct and actual loss. This issue is because construction activities have not yet started. Remarkably, there has not been any environmental pollution or damage feared by the plaintiffs without first determining the interests of the plaintiffs.

Furthermore, the Denpasar State Administrative Court also rejected the plaintiff's legal position based on the potential for pollution, whether stated or failed to be managed in AMDAL. The Assembly believes that the AMDAL will be sufficient to prevent risks and potential pollution. It is argued that there is a lack of scientific evidence from experts, even though the plaintiffs cited publications by international authorities, peer-reviewed scientific articles, AMDAL analysis by experts, and expert testimony.

In addition, at least three decisions adopt the loss interpretation model, which requires direct and actual losses suffered by the Plaintiffs and a causal relationship between the losses and the KTUN being sued. For example, in Decision No. 41/G/LH/2018/PTUN.PBR related to the case of Depi et al. vs. The Mayor of Padang and

[16] Mahkamah Agung RI, 'Putusan No. 426K/TUN/LH/2018' (Jakarta, 2018).
[17] Pengadilan Tata Usaha Negara Denpasar, 'Putusan No. 2/G/LH/2018/PTUN.DPS', 2018.

PT Trans Retail Properties. The judge required the plaintiff to "prove that environmental pollution, to be an exact violation of water quality standards, had occurred due to the permit issuance."

Decision No. 00/G/LH/2018/PTUN. SBY. the case of YLBHR v. The Head of the Department of Environment and Sanitation of Indragiri Hulu Regency and PT Risman Scham Palm Indonesia, and the case of Sutamah & Rumiati vs. Regent of Mojokerto and PT PRIA), where the judge required the plaintiffs to "provide that there was water pollution in the Reteh River which caused environmental damage as part of the examination of legal standing. Even in cases where the permit is an expansion of a business and activity with a track record of pollution, the judge still requires the plaintiffs to "prove the existence of environmental damage themselves" and "a causal relationship between the alleged environmental damage and the activity concerned."

Inconsistency in the interpretation of Article 53 paragraph (1) and its application in environmental cases has important implications for access to justice in environmental cases, especially for affected individual plaintiffs with wide variations. According to Article 53, paragraph (1), individual justice seekers with valid legal arguments are hindered or reluctant to access justice or defend their rights. The lack of certainty about whether their statements will be heard and the inappropriate application of legal standing norms will prevent a lawsuit worthy of the subject matter from proceeding. This contrast in access to justice is evident in practice in cases where there are similarities in facts subject to different testing standards for legal status.

The inconsistent interpretation of Article 53 paragraph (1) Ironically, in these three cases, the justice seekers still failed to get to the bottom of the case even though environmental pollution had occurred and the plaintiffs had felt the direct impact of the pollution. In these three cases, testing of legal standing required proving that activities permitted by the KTUN caused the impact felt. The inconsistent interpretation of Article 53 paragraph (1) stops applicants from having the opportunity to evaluate state administrative decisions based on statutory regulations and AUPB. This happened in the cases of Depi et al., ILBHR, and Sutamah & Rumiati. Ironically, in these two cases, the justice seekers still failed to get to the bottom of the case even though environmental pollution had occurred and the plaintiffs had felt the direct effects of the pollution. In these three cases, testing of legal standing required proving that activities permitted by the KTUN caused the impact felt.

The loss of opportunity to examine the subject matter also has implications for the low chance of affected communities to prevent the negative impacts of activities as early as possible. It also impacts the likelihood of success for justice seekers to stop activities permitted by the KTUN. Once the damage has been done to ecosystems and health, the loss is irreversible, thus forcing claimants to wait for harm to occur. The closed possibility of going to trial the main case because there is no loss suffered can also be detrimental to the project owner or, in this case, those who are also being sued in the Administrative Court. There will be more significant costs or losses for the project initiator when the project is terminated later when it is already in progress.

III. A SOCIO-LEGAL RECONSTRUCTION OF ARTICLE 53 SECTION (1)

Systematic interpretation, namely interpreting the law by connecting it with other laws.[18] The Administrative Court Law requires understanding a legal position that guarantees access to justice for justice seekers. Even though the Administrative Court Law and the treatise on its discussion do not contain explicit guidelines in interpreting the interests affected by the legal consequences of the Administrative Court, they feel aggrieved.[19]

The Administrative Court Law should facilitate access to justice for justice seekers so that it follows the aims and objectives of the legislators. The considerations of the PTUN Law clearly show that legislators want the PTUN to play the role of checks and balances. Supervised government actions and provided protection and access to justice for justice seekers, mainly to maintain the rights of a healthy environment. In the treatise on the discussion regarding the purpose of the Administrative Court, it is designed to enable the community as an element of control for government officials to uphold the lines of truth and justice by implementing all applicable laws and providing protection to the people.

Another basis that requires interpretation of Article 53 paragraph (1) of the Administrative Court Law, which guarantees access to justice, is based on a systematic understanding of the Judicial Powers Law. This requires courts to assist justice seekers and strive to overcome all obstacles to achieve a simple, fast, and low-cost trial. In determining interests, systematic interpretation is not limited to the values protected by the PPLH Law; it also needs to look at the values protected by other laws.

The role of the judge is to explore, follow, and understand the socio-legal values and sense of justice that live in society, as required by the Law on Judicial Power. Then, it becomes essential to receive socialization and access to administrative documents. Concerning the principle of accuracy, the Government Administration Law also implicitly protects the interests of other parties involved or related to their opinions being heard and considered. It also includes the interests of interested parties so that information, facts, evidence, witnesses, and experts are relevant or profitable for him before making a decision. This explanation is in line with the words of Article 44 Paragraph (1), Article 46, and Article 51 of the Government Administration Law-UU AP.

For environmental cases, the UU PPLH has limits on its interests as stipulated in Article 65. Civil society interests as values protected by law include equal and broadest opportunities to preserve and manage the environment through social supervision, giving suggestions, opinions, objections, and complaints, and submitting information and/or reports. This interest is the right to a good and healthy environment for citizens. Further detail includes 'the right to receive environmental education, access to

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[18] S. Mertokusumo, *Bab-Bab Tentang Penemuan Hukum* (Bandung: Citra Aditya Bakti, 1993).
[19] DPR RI, *Proses Pembahasan Rancangan Undang-Undang Republik Indonesia Tentang Peradilan Tata Usaha Negara* (Jakarta: Sekretariat Jenderal Dewan Perwakilan Rakyat, 1996).

information, access to participation, and access to justice in fulfilling the right to a good and healthy environment,' the right to submit proposals and/or objections to business plans and/or activities that are expected to have an impact on the environment.

Administrative justice is intended for two essential things: supervising or "*rechtmatigheid control*" government actions and providing legal protection or "*rechts—bescherming*" for society and the government.[20] Interest is essential for determining "standing to sue," which is the minimum position a legal subject must have to file a lawsuit. The definition of interest or "*beleng*" in administrative law terminology was put forward by Ten Berge and Tak referring to "*de waarde die beschremd moeten warden en inzet vormt van het process* or *rechtens te beschrement belang* namely interest, which is a value that must be protected.[21] Meanwhile, the critical value that the court should protect is the conception of human rights within the framework of a state of the rule of law.

The essential criteria can be seen from two crucial perspectives: interest as quality and interest as the goal of a process. The benchmarks become more flexible if interest is seen as a process that wants to achieve goals. If interest is seen as quality, it assesses importance from a quality point of view, and the measure becomes very rigid. Interest is defined as self-interest, individual interest, and direct interest.

Interests are seen as a process that wants to achieve goals, and interests are not only individual interests but also accommodate group interests. In addition, interests have a self-orientation dimension and can represent other parties. The assessment of interests should also not be interpreted as direct but indirect interests, which can be calculated clearly. Even immaterial interests are also interests that must be protected by law in administrative law processes.

Thus, it is clear to interpret that the interests resulting from the issuance of the KTUN concerning the UU PPLH and the determination of losses to the above interests are different and should not be confused with losses due to environmental impacts. Injury to interests as described above, such as rejecting individual proposals or objections to activities or excluding individuals from providing information and opportunities for participation in determining impact management, should be sufficient to show an aggrieved interest. Losses to this interest can occur without requiring an environmental impact.

In the context of environmental interests, international agreements regarding access rights, mainly information, participation, and justice to the environment, indicate that many countries apply legal status provisions that guarantee access to justice and prevention. The Aarhus Convention requires state parties to ensure sufficient interests for the public whose procedural rights, such as access to information and participation, have been violated.[22] In addition, the Aarhus Convention requires state parties to ensure

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[20] J. V. Hoeven, *De Drie Dimensies van Het Bestuursrecht* (Alphen aan den Rijik: Samsom H D Tjeenk Willink, 1989).

[21] J. T. Tak, *Hoofdlijnen van Het Nederlands Administartief Processrecht* (Zwolle: W.E.J. Tjeenk Willink, 1987).

[22] UNECE, 'Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters (Aarhus Convention)', 1998.

that 'members of the public,' according to criteria specified in domestic legislation, have access to administrative procedures or access to courts to 'reject acts and omissions by private persons and public authorities that are contrary to the relevant provisions of their national law, with the environment. The above procedures must provide adequate and effective remedies, including delays in implementing the KTUN, and must be fair, equitable, timely, and not too expensive.

Apart from Aarhus, the Escazu Convention also requires access to justice for injured procedural interests regarding access to information and participation. In addition, the Escazu Convention also requires state parties to guarantee access to justice in environmental issues by having a broad, active legal position in defending the healthy environment. Moreover, it possibly orders precautionary measures and temporary measures, among others, to prevent, stop, reduce, or rehabilitate environmental damage.[23]

Apart from the agreement, the state's obligation to ensure access to justice for procedural rights is also emphasized in the United Nations Environment Program (UNEP) guidelines. Regarding preparing national legislation, especially related to access to information, public participation, and access to justice in environmental issues.[24] Report of the UN Special Rapporteur on state obligations concerning enjoying a safe, clean, healthy, and sustainable environment.[25] As well as advisors' opinions to the Inter-American Court of Human Rights regarding the environment and human rights.[26]

UNEP's guidelines state that states should 'provide a broad interpretation of the position in processes related to environmental issues to achieve adequate access to justice.' The Inter-American Court of Human Rights, in the opinion of its counsel, believes that states should provide access to remedies to challenge any provisions, decisions, acts, or omissions of public authorities. Mainly, it violates or may violate obligations under environmental law to fully realize other procedural rights, namely, the right to access information and public participation.

Following the previous explanation, Southeast Asian countries, Malaysia, the Philippines, and Thailand, have implemented respect for the plaintiff's position. In the Philippines, in 1993, Oposa v. Factoran gave children legal standing to ask the Secretary for Environment and Natural Resources to cancel all existing logging permits and stop issuing new ones. [27] This legal position is rooted in the interests of the plaintiff concerning the right to a balanced and healthy ecology and the intergenerational

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[23] United Nation, 'Regional Agreement on Access to Information, Public Participant and Justice in Environmental Matters in Latin America and Caribbean', 2010.

[24] U. N. Program, 'Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matter', 2010.

[25] UN General Assembly, 'Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy, and Sustainable Environment', 2018.

[26] I. A. C. Rights, 'Requested by the Republic of Colombia Re: The Environment and Human Rights (State Obligations in Relation to the Environment in the Context of the Protection and Guarantee of the Rights to Life and to Personal Integrity', 2017.

[27] A. D. Bank, *Annual Report 2020: Climate Change, Coming Soon to a Court Near You Asian Development Bank* (Metro Manila: Bernard Wood, 2021).

responsibility of the plaintiff to maintain the rhythm and harmony of nature for the full enjoyment of this right.[28]

In Malaysia, the Federal Court granted TUN's lawsuit over the government's refusal to access information on water distribution concessions. This decision stated the application of the 'adversely affected test' in examining the legal standing of individual plaintiffs and bodies or organizations. It requires that the applicant demonstrates a genuine interest in the matter being sued and does not necessarily involve infringement of personal rights or suffering special damages.[29]

In Thailand, the Chiang Mai Administrative Court granted legal action rights to three hundred eighty-six individuals who lived and worked in villages licensed as coal mines. In awarding legal standing, the judge considered that 'the plaintiff has a constitutional right to participate in the protection, promotion, and preservation of the quality balanced and sustainable environment and biodiversity in the region. These constitutional safeguards provide a regular and sustainable life in an environment that will not compromise his health, well-being, or quality of life.[30] The court considered that all 378 plaintiffs were directly affected stakeholders, more than the public, from permitted mining operations. Although the mine had not commenced operations when the complaint was filed, the 378 plaintiffs were persons who might be harmed by Defendant 1's issuance of mining permits.

Thus, to be consistent with global and regional practices in Indonesia, the interpretation of Article 53 paragraph (1) of the Administrative Court Law should promote equal rights to a healthy environment. If it is related to environmental interests, it should accommodate procedural rights, which are the rights to information and participation, and accept damages for injuring these procedural interests. To be able to provide timely and effective remedies that are in line with the precautionary principle, the court needs to accommodate the interest in ensuring that the KTUN being tested is following the law and AUPB, which is broader than the interest in ensuring the effectiveness of licensing as a preventive instrument for managing substantial impact.

Positive law will only be effective if it is in harmony with the laws that exist in society, which reflect the values that reside within it. Law should be seen as a social institution that serves societal needs, and legal science should create an optimal framework to fulfill those needs.[31] The essence of law's existence cannot be separated from humans in a social context. As is known, humans are social creatures who cannot live without others; only by living in society can humans maintain their existence.

In society, humans can fulfill their interests. Still, at the same time, in living in society, there is great potential to damage, reduce, or even take away their interests

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[28] et al. Resident Marine Mammals of the Protected Seascape Tañon Strait v. Angelo Reyes, *G. R. No. 180771 & 181527* (Republic of the Philippines Supreme Court, 2015).

[29] Air [2014] 3 MLJ dan Komunikasi & Anor Malaysian Trade Union Congress & Ors v Menteri Tenaga, *Civil Appeal No 01(F)-6–03 OF 2013(W)* (Federal Court (Putrajaya), 2014).

[30] Jet Sri-Ngeon v. Minister of Industry, 'Case No. 2/2563' (Chiang Mai Administrative Court, 2020).

[31] Muhammad Syukri Albani Nasution et al., *Hukum Dalam Pendekatan Filsafat* (Bandung: Citra Aditya Bakti, 2015).

because of the similarity of interests between one human being and another human being as fellow members of society. This is the ontological basis for the existence of law, namely to provide regulations in social life, which, with these regulations, will guarantee the continuity of social life. In providing regulations, the law protects the interests of each member of society proportionally so that there is protection of the interests of each member of society.

Article 53 Paragraph (1) of the Administrative Court Law states that a person or civil legal entity who feels that a State Administrative Decision has harmed their interests can submit a written lawsuit to the Court. However, the judge interpreted the meaning of "his interests were harmed" differently. In sociological studies, this is known as social action. Social actions have subjective meaning for and from the actors.[32] Therefore, it is essential to understand the rationality in the constructed social settings.

In Weberian sociology, human actions can be categorized into four distinct types, each driven by different motivations and influences.[33] Instrumentally rational action is primarily goal-oriented; individuals engage in such actions with specific objectives in mind, carefully selecting and rationalizing the means to achieve these goals, often calculating the most efficient path to success. On the other hand, value-rational action is motivated by a person's adherence to specific values, such as ethics, aesthetics, or religious beliefs.

Actions are undertaken with a deep commitment to these values, even if they do not lead to tangible success or material gain. Affectual action is driven by emotions and feelings, where a person's behavior is primarily controlled by their current emotional state. These actions often occur spontaneously, without premeditation or rational consideration, and are more about expressing inner emotions than achieving specific goals. Finally, traditional action is rooted in longstanding customs and practices, where individuals act in particular ways simply because those actions have been historically ingrained in their culture. These actions are often performed unconsciously, without questioning the underlying reasons, reflecting a deep-seated adherence to tradition.

Therefore, in the Socio-legal debate, Weber's typology of human action provides a comprehensive framework for understanding various motivations behind individual behavior and its application to judicial decision-making.[34] Then, in complex areas like environmental destruction, the limitations arise from the need for judicial decisions to balance legal rationality with ethical considerations, emotional responses, and the evolving nature of environmental challenges, particularly requiring flexibility and innovative social actions. Hence, Administrative Court judges seem to interpret Article 53 Paragraph (1) of the Administrative Court Law differently. This can be disadvantageous to the plaintiff. Ideally, judges should interpret statutory regulations based on Rational value.

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[32] Ambo Upe, *Sosiologi Politik Kontemporer* (Jakarta: Prestasi Pustaka, 2008).
[33] George Ritzer and Douglas J. Goodman, *Teori Sosiologi Modern* (Jakarta: Prenanda Media, 2005).
[34] Joko Sriwidodo, *Hukum Dalam Perspektif Sosiologi Dan Politik Di Indonesia* (Yogyakarta: Kepel Press, 2020).

Related to the topic of this article, then a judge should be guided by rational and material law and irrational and formal law. In environmental cases, the meaning of "their interests are harmed" in Article 53 Paragraph (1) of the Administrative Court Law should follow the provisions in more updated statutory regulations, namely Article 83 Letter e of the Government Administration Law, which states that State Administrative Decisions which can be the object of dispute in the Administrative Court also includes decisions whose losses can be predicted. This means that judges should consistently process cases of State Administrative Decisions in the environmental sector even though the plaintiff has not yet felt the losses caused by these decisions. This is because the most recent legal regulations have naturally been adjusted to the ideology of the Indonesian nation, namely Pancasila, which is inclusive.

Based on this perspective, Weberian analysis reveals critical limitations in judicial decision-making when addressing environmental challenges, as it often emphasizes legal formalism, where existing laws and precedents strictly guide decisions without fully considering the broader ecological or social consequences. This approach can lead to outcomes that, while legally sound, fail to address the complexities of environmental issues or the long-term impacts on vulnerable communities. Additionally, the conflict between judges' ethical values and the constraint of the legal framework highlights a significant gap, where moral obligations to protect the environment are often subordinated to rigid legal norms.

The influence of emotions in cases of environmental harm introduces inconsistency, undermining the stability needed for effective environmental governance. Moreover, reliance on traditional legal practices can stifle the development of innovative legal interpretations necessary for tackling emerging ecological challenges. Overall, Weber's framework, while insightful in categorizing human actions, falls short in addressing environmental destruction's systemic and multifaceted nature, underscoring the need for a more dynamic and integrative approach in legal decision-making.

IV. JUDICIAL CONSISTENCY IN ENVIRONMENTAL CASES

One of the problems often faced by judicial institutions, including PTUN, is regarding the consistency of their decisions. In the cases above, even with the same touchstone, the judge's assessment of an article's formulation has many variations. In common law countries, such actions can be qualified as overruling practices.[35] Overselling is a practice whereby the court gives a new judicial opinion, replacing the previous one.[36] Overcoming this decision received many questions from legal observers and the community because the court was inconsistent. In addition, inconsistent choices are seen as likely to result

[35] P. D. Cruz, *Comparative Law in Changing the World* (London/Sydney: Cavendish Publishing, 1999).
[36] W. Brewbaker, 'Found Law, Made Law and Creation: Reconsidering Blackstone's Declaratory Theory', *Journal of Law and Religion* 22, no. 1 (2006): 265–86.

in legal uncertainty and confusion among the public regarding which decisions they must comply with.

In addition to the concept of overruling, in the world of procedural law, there is also the principle of precedent, also known as stare decisions. Stare decisions is a principle that requires judges to follow previous judges' decisions if they involve the same facts and issues. The main objective of adopting this precedent principle is to create legal certainty in society in addition to legal justice.[37] Adhering to the principle of precedent makes it impossible for judges to practice overruling in their decisions. Stare devices are a common principle in common law countries.

In Indonesia, whose legal system inherits the Continental European or civil law, theoretically, it does not adhere to this doctrine of precedent. However, what is developed in Indonesia is the implementation of the precedent doctrine, namely through permanent jurisprudence, because jurisprudence is also recognized as a source of law in Indonesia.[38] Article 50 of Law Number 48 of 2009 concerning Judicial Power allows judges to find their law through legal ijtihad. Suppose this legal ijtihad is later outlined in a decision and justified by the Supreme Court. In that case, it will become a reference for other judges trying similar cases to become jurisprudence.[39]

According to Peter de Cruz, the part of the binding court decision is the ratio decidendi.[40] The ratio decidendi consists of disclosing the reasons before the judge decides. Meanwhile, in the view of Abraham Amos, this part of the consideration or *ratio decidendi* cannot be separated from the decision and has legally binding power, which can be formulated as a rule of law.[41]

If you look at the cases presented in the previous explanation, the decision at the Supreme Court level still experiences several variations. The variations in decisions are increasing at other levels of justice under the Supreme Court. Even though it is a Continental European country, the varied perspectives on this decision give the impression that the judiciary still needs to fulfill a sense of certainty, especially in environmental cases in Indonesia. The consistency of the judge's decision is the meaning of the judge's understanding of a legal issue or question. Decision consistency alone can provide legal certainty and increase public confidence in the judiciary. The inconsistency of judges in issuing decisions could be a factor in weakening environmental law enforcement in Indonesia.[42]

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[37] S. Mertokusumo, *Penemuan Hukum Sebuah Pengantar* (Yogyakarta: Liberty, 2009).

[38] Mahkamah Agung RI, *Naskah Akademis Tentang Pembentukan Hukum Melalui Yurisprudensi* (Jakarta: Mahkamah Agung, 2005).

[39] M. F. Hamdi, 'Kedudukan Yurisprudensi Putusan Mahkamah Konstitusi Dalam Merekonstruksi Hukum Acara', *Jurnal Legislasi Indonesia* 16, no. 3 (2019): 313–24.

[40] Cruz, *Comparative Law in Changing the World*.

[41] A. H. Amos, *Legal Opinion Teoritis & Empirisme* (Jakarta: PT Grafindo Persada, 2007).

[42] Sri Wahyuni et al., 'Konsistensi Putusan Hakim Terhadap Perkara Kerugian Lingkungan Hidup Di Indonesia', *ADLIYA: Jurnal Hukum Dan Kemanusiaan* 15, no. 2 (2021): 197–216.

V. CONCLUSION

The law guides judges in examining the plaintiff's legal position in submitting reasons for suing him by determining the interests affected by the law and then selecting how the issuance of the administrative decisions harms these interests. It has been increasingly clarified since Article 87 UUAP, which expands the meaning of state administrative decisions to be precise, Article 87 letter e. However, the practice of varying decisions in assessing the plaintiff's position regarding the reasons for suing, as stated in Article 53 paragraph (1) of the Administrative Court Law, still occurs, especially in environmental cases. As a result, access to justice for justice seekers becomes invalid and can even further harm one of the purposes of the law, namely legal certainty.

Civil society will also lose the opportunity to take preventive measures against environmental damage. In addition, the loss of the opportunity to evaluate the subject matter of the case opened the door to the plaintiffs' suffering, especially in environmental cases, because allowing the possible activities to operate would have an adverse ecological impact on the plaintiff and the broader community in general. Anticipating similar incidents in the future, Administrative Court (PTUN) judges should conduct a systematic interpretation by juxtaposing it with related laws and regulations to promote the rights to a healthy environment for citizens.

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