In search of Recognition in Constitutional Court: Community's Rights on Natural Resources in Indonesia's Constitutional Court Decisions

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ABSTRACT

This paper aims to describe how and why the Constitutional Court of the Republic of Indonesia has recognized or undermined the legal rights of communities over natural resources; then, it analyses the role of this Constitutional Court to Indonesia's legal reform through its authority of legal review, in this case are Laws concerning natural resources. Due to the enhanced role of Constitutional Court in legal reform of developing countries, it is central to examine the extent to which Indonesia's Constitutional Court would have a positive role in natural resources legal reform. This paper consists of four sections. Firstly, an introductory section that describes Indonesian political transition and its impact on the legal framework on natural resource; Secondly, a legal analysis on natural resources laws and their stipulations on communities; property rights; the extent to which the agenda of neo-liberalism has infiltrated into these laws. Thirdly, an analysis of the decisions of the Constitutional Court and their contributions to strengthen communities' rights over natural resources. The last part concludes trends and factors determining Indonesia's Constitutional Court to recognize or undermine communities' rights on natural resources.

***Keyword**: Indonesia, constitutional court, legal framework, rights to natural resources*

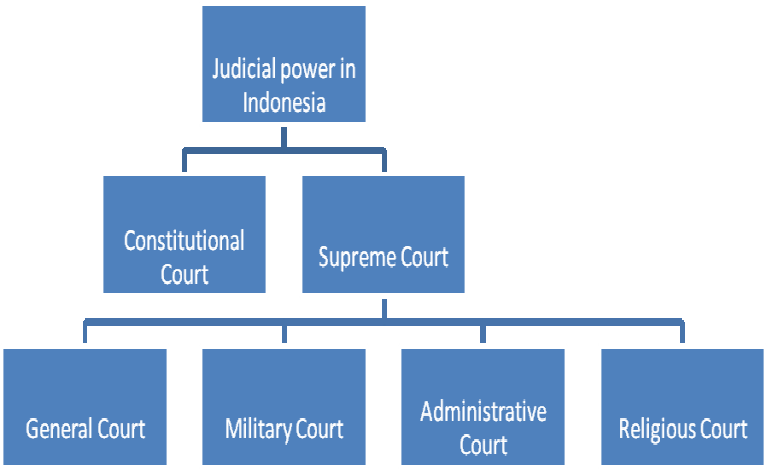
I. Introduction

Indonesia's political transition move from totalitarian New-Order regime to reformation regime taken by changes in many areas. Almost all dimensions of life change with spirit of democratization. The spirit of democratization was done with the reforms in various areas, one of them is in the field of law. Reformation in law sector as called legal reform work to do by instrumental approaches like changing legislation and the establishment of new state agencies.

Legal reform is carried out starting from the constitutional amendment and legislation reform. In the field of natural resources has been revised and the establishment of new laws. During ten years, there are 18 laws was made regarding natural resources (attached).

In other approaches, several new state institutions were created during this period, such as Commissions Eradication of Corruption, Judicial Commissions, and the Constitutional Court. In the shape of the Constitutional Court made two judicial authority in Indonesia. On the one hand there is the Supreme Court which is surrounding general court, administrative courts, religious courts and military court. And the other hand there is the constitutional court which has authority dealing to political and constitutional matters. The Constitutional Court is designed to have five authority: (a) judicial review the laws against the constitution; (b) resolve dispute general election result (c) resolve dispute of authority between state agencies; (d) resolve dissolution of political parties; and (e) the impeachment of the president and vice president.

Judial power in Indonesia



The authority of judicial review is the mostly authority which done by the Constitutional Court since founded in 2003. Various laws are reviewed to the Constitutional Court because it was considered contrary to the constitution norm and the constitutional rights of citizens. Constitutional Court has been reviewed five laws and still reviewing three laws related to natural resources.

The reason for the applicant fill the natural resources laws for judicial review in generally can be grouped in two reasons: First, to correct infiltrate of neo-liberal intervention in the formation of

legislation because it was considered contrary to the concept of state control over natural resources, and second to strengthen community rights over natural resources.

Judicial review of laws related to natural resources by the Constitutional Court is the focus of this paper, namely to see how far the role of the Constitutional Court in the fulfillment or neglect of people's rights over natural resources. Therefore, this paper can be categorized in the governance of the common theme that focuses on the role of judicial institutions. Three questions are answered in this paper include: (1) What decisions of the Constitutional Court regarding review of natural resources laws, (2) How has the Constitutional Court conceptualized the state authority to control natural resources; and (3) How the Constitutional Court enhance or enervate communities' rights on natural resources in their decisions.

II. Legal framework on the rights of natural resources in Indonesia's legislation

Constitutional aspect

Legal reform in Indonesia peaked with the constitutional amendment (1999-2002). Almost 300% of the new substance added in the constitution. There are three aspects from constitution related to the rights and control over natural resources and environmental sustainability in Indonesia's law. **First**, the state control over natural resources (article 33). This issue is the basis for state control over land, water and other natural wealth. State control over natural resources must manage for the greatest prosperity of the people. State control over natural resources are often responsible by government officials to respond community claims over natural resources. These provisions are normative authorizes and set up the state as controller, that is not to become owners of natural resources. But in practice this provision has been distorted, government controlling natural resources with assumes that the natural resources are owned by the state through the government. So, when people impose their claims over natural resources will be faced with a legal framework that gives authority to the state. Therefore, people can be criminalized and driven from their area because of fighting development undertaken by the government.

Second, collective rights of indigenous peoples. This issue is regulated in two constitutional provisions (article 18B paragraph 2 and article 28I paragraph 3). These provisions governing the existence and recognition of indigenous rights over natural resources. But there are problems associated with the norms of recognition because of conditionally recognition require to show existence and rights of indigenous peoples over natural resources. These Conditionally recognition is (a) along in the reality of indigenous peoples still exist, (b) does not conflict with national interests, (c) does not conflict with the principle of unitary of the Republic of Indonesia; and (d) be set in legislation. Four of these requirements in the field which makes the existence and rights of indigenous peoples over natural resources become more limited.

Third, individual property rights. Possess individual rights provided for in the constitution the second amendment in 2000. The provision reads: *Every person shall have the right to private property and property rights should not be taken over arbitrarily by anyone* (Article 28H Paragraph 4). The right of individuals referred to in this provision as individual citizens, not corporations. but in reality, the existing individual rights in constitutional provisions became the basis for the norms of the law relating to the rights of private corporation.

Sectoralism in natural resources management

An important theme in discuss dealing the legal framework of the rights over natural resources in Indonesia is about pattern of natural resources management by state agencies. State agencies divided into several sector to govern natural resources. This pattern called *sectoralism*. *Sectoralism* set up since New Order government in 1960s. Previously, the construction management of natural resources setted in a law concerning the basic of agrarian law. Since 1966, the government enacted Forestry Law and Mining Law in 1967. These laws shown that the orientation of the government was in economic development by exploitation forestry and mining. These laws also being the starting point sectoralisme pattern development in natural resource management. Sectoralism pattern was followed by the formation of various other laws in the field of natural resources and any legislation implemented by specialized institutions in accordance with their authority.

Table 1.
The division of natural resources sector

Natural resource sector	State agencies	Related law
Energy and mineral resources	Ministry of Energy and Mineral Resources	• Law No 11 of 1967 concerning Mining replaced by Law No. 9 of 2009 concerning Mineral and Coal Mining • Law No. 22 of 2001 concerning Oil and Gas • Law No 15 of 1985 concerning Electricity • Law No. 30 of 2007 concerning Energy
Forestry	Ministry of Forestry	Law No. 41 of 1999 revised by Law No. 19 of 2004 concerning Forestry
Water resources	Directorate general of water resources,	Law No. 7 of 2004 concerning Water Resources

	Ministry of Public Works	
Maritime and fisheries	Ministry of Maritime and Fisheries	• Law No. 9 of 1985 replaced by Law No. 31 of 2004 concerning Fisheries • Law No. 17 of 1985 concerning Ratification of UN Convention on the Law of the Sea • Law No. 27 of 2007 concerning Management of Coastal Areas and Small Islands
Agriculture and plantation	Ministry of Agriculture	• Law No. 18 of 2004 concerning Plantation • Law No. 4 of 2006 concerning International Treaty on Genetic Resources for Food and Agriculture
Land	National Land Agency	Law No. 5 of 1960 concerning Basic Agrarian

Sectoralization was further developed during the 32-year New Order regime and becoming more massive since the 1998 reform. Generally *sectoralism* in natural resource management are grouped into six sectors, namely energy sector and mineral resources, forestry, water resources, maritime and fisheries, agriculture and plantation, and land sectors.

Sectoralism taken by separate management of natural resources based on government agencies and legislation which give them authority. There is no single ministry coordinating all state agencies that govern natural resources, although there are ministries coordinator like the Ministry coordinator, politics, law and security, Ministry coordinator for the welfare of the people and Ministry coordinator for economy and finance. Most of the ministries in charge of natural resources are under the ministry of economics and finance. This suggests that natural resources be used as a factor for economic growth, not as a factor for people's welfare.

Sectoralism shows diversity within state institutions in the management of natural resources. This often creates problems in the field because of contestation, conflict of authority and overlapping claim over natural resource areas. This is even more complex when confronted with claims of collective community rights over natural resources. For society, the diversity of this state agencies make them increasingly difficult to negotiate the recognition of their collective rights as a whole because they have to renegotiate their rights to many state agencies.

Promoting Indigenous Peoples' Rights in Legal Reform

Political transition in Indonesia, bringing changes to the law is more hospitable to indigenous peoples in Indonesia. Almost all legislation that was enacted during the transition includes the existence and recognition of indigenous rights over natural resources as part of its substance. This can be seen in the Human Rights Law, Forestry Law, Water Resources Law, Coastal Management and Small islands Law, the Management and Protection of environmental Law. There are also several ongoing initiatives both initiatives to establish a special law concerning indigenous peoples, the regulations implementing the Forestry Law of the customary forest and the ratification of ILO Convention 169 / 1989 Concerning Indigenous and Tribal People in Independent Countries.

Although all of substance of new laws strengthening of indigenous rights over natural resources, but in reality, those regulation is not give positive impact. There are some problems that make legislation reform had not given the maximum results. First, conditionally requirement for recognition. This provision makes state agencies itself fall on difficult to identify indigenous peoples based on normative requirement. Second, the different formulation among laws to formulate definitions, criteria, rights and identification, methods different to the rights of indigenous peoples over natural resources. Third, there are no common standards about the existence and recognition of indigenous rights. This is because there are issues that make indigenous peoples should advocate their rights to deal with many state agencies.

The weakness of national law driven the indigenous peoples to promote legal reform in the region level regarding recognition of their existence and their rights over natural resources. This work is done by encouraging the establishment of local regulations and local chief decree concerning the existence and recognition of indigenous rights over natural resources. Initiative is a lot of real impact for the strengthening of indigenous rights over natural resources.

Intervention neo-liberalism in Indonesian Transition

Intervention neo-liberalism in transitional countries from authoritarian to democratic regimes and post-communist countries performed in conjunction with legal reforms and adoption of the rule of law. Internalization of the rule of law and legal reform are encouraged by international financial institutions to facilitate integrating of neo-liberal economic system of a country with the global economic system.

Political transition in Indonesia, driven by the economic crisis that occurred in 1997-1998. This economic crisis did pave the way for reform through law. Susilo Bambang Yudhoyono said that the crisis crippled Indonesian economy in 1997 because 6 (six) factors, namely:

1. The regional and ge0-economic aspect, Indonesia received a chain effect from the economic crisis that occurred in Thailand and South Korea (*the contagion effect*)
2. As part of a chain effect, in the country happen to speculation and panic behavior outstanding, followed by transfer of capital abroad (*capital flight*) are moving very fast.
3. Indonesian government's policy to respond to the monetary crisis, even if the recipe later compiled together with the IMF, it consider is inappropriate. Errors of this policy include the cause of actual banking crises have weakened its structure, as well as trigger the explosion of foreign debt.
4. Structurally, economic crisis caused by political relations with the business (*crony capitalism*), particularly the relationship between government and entrepreneurs who are not healthy, which in turn leads to errors that are systemic and structural causes of inefficiency and dysfunction.
5. Another form of an unhealthy relationship between government and businessmen such as mentioned above is cronyism, who prey on our economic resources and output on a large scale.
6. The absence of good governance in the last government, which actually is a derivative of the failure of state institutions in establishing and enforcing the rule of law, also causing a structural collapse.

Then the Indonesia government was assisted by the IMF in improving the economy of Indonesia. IMF gives the requirements for providing assistance with the Structural Adjustment Program (SAP). SAP is the entrance to the neoliberal agenda in Indonesia legal reform. Then the entrance more massive in *sectoralization* natural resources and also followed by a wave of privatization or commercialization and privatization of public sector which should be a direct responsibility of the state. This spirit is rooted in what is known as the Washington Consensus that stated that the good economic performance requires free trade, macroeconomic stability and the implementation of appropriate pricing policies for supporting the market mechanism.

Washington Consensus is also known as the basic values of economic neo-liberalism that sneak in globalization. More specifically, Elizabeth Martinez and Arnoldo Garcia says there are 5 (five) basic value of Neo-liberalism, namely:

1. MARKET RULES. Exempt private companies from every attachment that forced the government. Maximum openness of international trade and investment. Reduce labor costs by weakening trade unions and the abolition of labor rights. No more price controls. Fully total freedom of movement of capital, goods and services.
2. PUBLIC SPENDING CUT IN TERMS OF SOCIAL SERVICES. It's like education and health sector, reduction of the budget for the 'safety net' for poor people, and often also reducing the budget for public infrastructure, like roads, bridges, clean water - is also in order to reduce the role of government. On the other hand they do not oppose the existence of subsidies and tax benefits (tax benefits) for businesses.

3. DEREGULATION. Reduce regulation of the government that would reduce employers' profits.
4. PRIVATIZATION. Selling state-owned companies in the field of goods and services to private investors. Including banks, strategic industries, highways, toll roads, electricity, schools, hospitals, and even drinking water. Always with the reasons for greater efficiency, which in fact resulted in the concentration of wealth into a few people and make the public pay more.
5. REMOVE THE CONCEPT OF PUBLIC GOODS (public goods) OR COMMUNITY. Replace it with "individual responsibility", which emphasizes the poor to find its own solution on the unavailability of health care, education, social security and others, and blame them for laziness.

Neoliberal intervention in Indonesian law, the transition instance in schemes for employers in the private rights of forest use, commercialization of plant varieties, legalization geothermal mining permit, commercialization and privatization of water resources, rights of coastal management. Read more list of neo-liberal laws in the field of natural resources can be found in the appendix of this paper.

III. Rights over natural resources before the Constitutional Court

Judicial review of installments act

Since 2003, there were five laws related to natural resources reviewed before Constitutional Court (Law of Electricity, Oil and Gas Law, Forestry Law, the Law on Water Resources and Investment Law). The key argument of the fifth reviewed is related to penetration of neo-liberalism in the form of deregulation, privatization, liberalization and commercialization of natural resources. Adoption of neoliberal values were considered would reduce state responsibility in respecting, protecting and fulfilling human rights and citizens' constitutional rights. The following table shows the substance of judicial review of five laws regarding natural resources that have been reviewed by the Constitutional Court.

Table 2.
Five natural resources law that have been reviewed by the Constitutional Court

No	Judicial review	Substance	Decision
1	Law No 20 of 2002 concerning Electricity	Separation of upstream and downstream industries and the privatization of the electricity business	Accepted. This law repealed a whole by the Court
2	Law No 22 of 2001 concerning Oil and Gas	Determining the price of fuel oil and gas based on market mechanisms	Accepted. The Court stated that fuel pricing based on market mechanism is unconstitutional
3	Law No 19 of 2004	Legalization of mining	Rejected.

	concerning revision of Forestry Law	permits/concessions in protected forest areas	
4	Law No 7 of 2004 concerning Water Resources	Commercialization and privatization of water rights in the exploitation of water resources	Rejected but the Court uses constitutional conditionally clausal
5	Law No 25 of 2007 concerning Investment	Pre-extension of the land rights	One article accepted and other articles rejected with conditionally constitutional clausal.

All reviewed of the law filed by the individual together with NGO community. In view of the decision, there are the diversity of the five review of the law. In Electricity Law, Constitutional Court granted his petition and ruled that the Act does not apply in its entirety. Oil and Gas Law granted especially relating to the pricing of fuel oil and gas based on market mechanisms. So the government should not follow the market price to raise the price of fuel oil and gas. Law on the revision of the Forestry Law rejected by the Court, it make mining activities in protected areas still legal. Water Resources Law rejected overall by the Constitutional Court but by applying clausal conditionally constitutional. Clausal conditionally is significance to remains constitutional in its application throughout the government running the law of water resources in accordance with the interpretation of the Constitutional Court in its decision consideration. While the provision of extension in the face of rights to land granted by the Court, but for the determination of business relating to the determination of the Business. That Is open and closed to foreign capital was rejected by all the constitutional determination conditionally regulated business within government regulations.

Although there are differences among all such decisions, the efforts of indigenous NGOs to confront neo-liberalism intervention did not completely succees. Strengthening the role of the private sector in the form of privatization and commercialization of natural resources continues in society. So it is not wrong to say that the Constitutional Court which was established to realize the supremacy of judicial review through the power of law to be the most effective institution to facilitate the process of integration in the global economy through a series of controversial decisions (Saptaningrum, 2008:81).

In addition to these five judicial review, currently being review three laws related to natural resources to the Constitutional Court. Three of those law are Coastal Management and Small Island Law, Plantation Law and Law of Mineral and Coal Mining. In contrast to the existing judicial review, three ongoing judicial reviews are reviewing for reasons to strengthen community rights in natural resource management. Reinforcement is meant that the community has a right to land and natural resources more powerful without worrying criminalized in the fight for their rights.

Table 3.
Three natural resources laws that are reviewing by the Constitutional Court

No	Judicial review	Substance
1	Law No. 18 of 2004 concerning Plantation	Judicial review related to the criminal provisions that are often a reason to criminalize people who fight for their collective rights over natural resources
2	Law No. 27 of 2007 concerning Management of Coastal and Small Islands	Judicial review related to the right of management of coastal areas (HP3). Construction of this right consider to impacted on the rights of indigenous coastal communities over their traditional territory
3	Law No. 9 of 2009 concerning Mineral and Coal Mining	Judicial review to pursue cancelation of provisions that affect the expulsion of peasants which their territory be used as mining area. And also about determination of the mining area

Same with the five laws that have been reviewed, three laws are reviewing by the Court also submitted by individual, community and NGOs, but different in argument of review. If previous laws review by argument of intervention neo-liberalism, currently review of natural resources laws carried out to provide strengthening community rights over natural resources. The judicial review on the Plantation Law suppose to examine the penal provisions which have been the tool by the state to criminalize the struggle for community rights over land they farm. Judicial review on the Coastal Management and Small Islands Law suppose to remove the right of management of coastal waters (HP3), which can be given to employers and society. This right is to make people have the same title by employers, whereas the capacity to access the different between community and corporation. Thus giving the same title makes people lose their rights because they have to compete with employers. While the law on mineral mining and bricks were tested for not correcting the effects of socio and environmental impacts that have been inflicted on indigenous peoples over the years.

Five functions of state control over natural resources

Judicial review of legislation relating to natural resources is always associated with the concept of state control over natural resources. This concept is an elaboration of Article 33 paragraph (3) of the 1945 Constitution which reads: *Earth and water and the natural riches contained therein controlled by the state and used for the greatest prosperity of the people.* So before reviewing the substance of the law being applied, firstly the Constitutional Court explained the concept of state control over natural resources in its decision. The concept of the procurement of the state over natural resources are the basis for describing the constitutionality of state control over natural resources, including the constitutionality of community rights over natural resources.

Through the decision of testing the Electricity Act (Law no. 20/2002), the Constitutional Court interprets the meaning of the phrase "controlled by the state" of Article 33 paragraph (3) of the 1945 Constitution to 5 functions. Five state functions are as follows:

1. Regulation (*regelendaad*). Function setting by the state through the authority of legislation by Parliament together with the Government, and regulation by the government (*executive*). Type of regulation is as stated in Article 7 of Law No. 10 of 2004, and Decree issued by government agencies (*executive*) that are set (*regelendaad*).
2. Management (*beheersdaad*). Conducted through the mechanism of voting shares (share-holding) and / or through direct involvement in the management of State-Owned Enterprises. In other words the state c.q. Government leverages its control over resources to be used for maximum benefit and prosperity of the people. In local government, this function is performed by local companies.
3. Policy (*beleid*) Performed by the government to formulate and conduct policy.
4. Arrangement (*bestuursdaad*) Performed by the government with the authority to issue and revoke licenses facilities (*vergunning*), license (*licentie*), and concessions (*concessie*).
5. Supervision (*toezichthoudensdaad*) Conducted by the state via Government in order to supervise and control for implementation of control by the state over an important branch of production and/or that controls the lives of many people is really done for the greatest prosperity of all people. Included in this function that do the review authority of central government regulation (executive review).

Five functions of state control over natural resources in the decision of the Constitutional Court into the realm of administrative law because the state government to discuss aspects of the public law. The concept is also not prohibited privatization of natural resources throughout the state as regulator, provider and supervisor license can ensure that privatization are not bad for community life. The concept of state control over natural resources in the decision of the Constitutional Court did not explain the purpose or the values of the control of the country to ensure that the rights of the community collectively serve as the basis for development.

Trend decision of the Constitutional Court

From the implementation of the Court authority in review of natural resources law can be found several important trends. First, applicants who filled judicial review are all among the people and NGOs working on issues of natural resources. This suggests that community groups are the most vulnerable party violated his rights from the birth of legislation in the field of natural resources.

Second, not all legislation in the field of natural resources that are reviewed to the Constitutional Court directly related to community rights over natural resources. Suppose that in review of the Electricity Law for rejecting the privatization of the electricity separates the mastery of industry upstream and downstream industries; review of Oil and Gas Law to proposed oil and natural gas pricing mechanism as set oil

and gas based on market mechanisms, and review of revision of Forestry Law that refuse to grant licenses to mining activities in protected forest areas.

Third, although there are no natural resources law review the Constitutional Court relating to community rights over natural resources, decision of the Court does not warranty to fulfill and make situation for communities to be enjoyed their rights safely. This happens because of two things: (a) The Court believes that the state is strong enough to control natural resources based on the concept of state control over natural resources, and (b) The Court provided an opportunity to create a balance with accommodation of the rights of society well as the rights corporations to obtain concessions. Suppose that in review investment law and judicial review of water resources.

Fourth, this trend also shows that some constitutional judges still have less in-depth understanding relating to natural resource management. Because, accommodation of corporate rights to be balanced with the right of people without security guarantees the right to make the conflict in natural resource management are not resolved.

IV. Few opportunities for indigenous peoples

Although the Constitutional Court decision does not the strengthening of community rights over natural resources, opportunities for strengthening community rights over natural resources through the Constitutional Court was still open, especially for indigenous peoples. Until now the Court has not fully utilized by indigenous peoples to strengthen their rights over natural resources. Though the Law on the Constitutional Court, there is special provision for indigenous peoples to submit the judicial review. That provision have not found in common other court in Indonesia. But in practice, few indigenous peoples still take advantage of the Constitutional Court, they have not been any judicial review of natural resources law submit by indigenous as applicants.

In other cases, the Constitutional Court quite friendly to indigenous people by recognizing the traditional election model mechanisms as part of a general election. This is related to model selection mechanism implemented by the community *Noken* in Papua. Model *Noken* Election is the customary election mechanism held communally and was represented by traditional leaders. Recognition of customary elections model shows that the Constitutional Court can be used as a means of strengthening the rights of other indigenous peoples, including their rights to natural resources. It's just that the strengthening of the rights to natural resources for indigenous peoples not fully utilized. The Court still could be an alternative strengthening the rights of indigenous peoples in the middle of trend formation law which is still dominated by neo-liberal interests.

Appendix

Table
A decade of legislation regarding natural resources post-New Order in Indonesia.[1]

Year	Legistaltion	Neoliberal intervention
1999	Law No. 41 of 1999 concerning Forestry	Maintaining the private right schemes in the forest. Along with Decentralization Law and various implementing local regulation by government to give small scale permit to forest exploitation
2000	Law No. 29 of 2000 concerning Plant Variety Protection	Regulate commercialization of agricultural varieties, including transgenic plants
2001	Law No. 22 of 2001 concerning Oil and Gas	Determination of the oil price through the market mechanism. Forming BP Migas, which will conduct cooperation in utilization of oil and gas contacts with private sector.
2002	Law No. 20 of 2002 concerning Electricity	The transfer mechanism from the public electricity service to market mechanisms and privatization / privatization of power enterprises by *unbundling* way
2003	Law No. 27 of 2003 concerning Gheotermal	Legalizing mining geothermal permit. Business activity in the upstream sector mining geothermal capital intensive.
2004	Law No. 7 of 2004 concerning Water Resources	Commercialization and privatization of water resources
	Law No. 18 of 2004 concerning Plantation	Plantation planning held by considere the market interest
	Law No. 19 of 2004 concerning revition of Forestry Law	Re-legalize open-pit mining in protected forest areas that were previously prohibited under Law No. 41 of 1999 concerning Forestry
	Law No. 31 of 2004 concerning Fisheries	At the level of implementation rules to open komersialiasi fisheries region with various schemes of rights. Pada tingkat peraturan pelaksanaanya membuka komersialiasi wilayah perikanan dengan berbagai skema hak.

[1] Sebagian penjelasan dalam tabel ini diambil dari tulisan Indriaswati Dyah Saptaningrum, *Jejak Neoliberalisme dalam Perkembangan Hukum Indonesia,* Jurnal Jentera Edisi Khusus 2008. Penulis menambahkan beberapa UU baru yang sudah disahkan dan yang sedang dibahas di DPR.

2007	Law No. 25 of 2007 concerning Investment	- Equality between domestic investors with foreign investors - Ease of transfer of assets - Extension on the face of the rights to land and duration of land rights in excess of BAL - Setting investment disputes through international arbitration - Persamaan antara investor dalam negeri dengan investor luar negeri - Kemudahan pemindahan aset - Perpanjangan di muka hak-hak atas tanah dan jangka waktu hak-hak atas tanah yang melebihi UUPA – Pengaturan sengketa penanaman modal melalui arbitrase Internasional
	Law No. 26 of 2007 concerning Spatial Planning	provision of incentives and disinsentive in spatial planning
	Law No. 27 of 2007 concerning Management of Coastal and Small Island	Concessions legalize Coastal Waters
	Law No. 30 of 2007 concerning Energy	Adopting term economic value that is almost similar to the market price that has been canceled by Constitutional Court in Oil and Gas Law
2009	Law No. 4 of 2009 concerning Mineral and Coal Mining	Set the role of private sector through the licensing mechanism. No longer contract or agreement.
	Law No. 30 of 2009 concerning Electricity	-
	Law No. 32 of 2009 concerning Protection and Environmental Management	-
	Law No. 39 of 2009 concerning Special Economic Zones	-
	Law No. 41 of 2009 concerning Protection of Sustainable Food Agricultural Land	-

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