



**ICILS**  
International  
Conference  
on Indonesian  
Legal Studies  
**2018**



# BOOK OF ABSTRACTS

**1st International Conference on  
Indonesian Legal Studies**

**Contemporary Issues  
on Indonesian Legal Studies  
in the Global Context**

**Semarang, 25 July 2018**



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SCHEDULE

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# INTERNATIONAL CONFERENCE ON INDONESIAN LEGAL STUDIES

Contemporary Issues on Indonesian  
Legal Studies in the Global Context

organized by



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*Berwawasan Konservasi, Bereputasi Internasional, Berkarakter Pancasila*

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## CONFERENCE SCHEDULE *at* GLANCE

Wednesday, July 25<sup>th</sup> 2018  
Grand Candi Hotel, Semarang, Indonesia

TIME	SCHEDULE
07.30-08.30	Registration and Coffee Morning
08.30-08.40	National Anthem of Indonesia
08.45-08.55	1. Welcoming Speech of ICILS 2018 Chairperson
	2. Speech and Opening by Rector of Universitas Negeri Semarang, or Dean Faculty of Law UNNES
09.00-10.55	International Conference, Panel I
11.00-12.55	International Conference, Panel II
13.00-14.00	Break
14.00-16.00	Parallel Session, <i>Paper Presentation</i>

## CHAMBER I

### TOPIC

Private and Commercial Law, Business Law, Intellectual Property Rights Law, Economic Law, Sharia/ Islamic Law, Family Law, and *other related issues.*

#### Parallel Session I

No	Presenter(s)	Title of Paper
1	Anis Mashdurohatun	Comparison of Trademark Laws as Fiduciary Guarantee Objects
	Gunarto	
2	Resky Gustiandi Candra Imansyah	Corporate Responsibility Towards Corporate Social Responsibility (CSR): Arrangement of Law and Consequences in the Social and Economic Field
	Absori	
3	Kholidah Romli	Effect of the Online Transportation against Conventional Transportation and User of Transportation Services in Semarang Poncol Railway Station
	Shania Correlly Noor' Sabila	
	Farhan Hamka Ilyasa	
4	Ruth Caroline RA Silalahi	Impact of Visa-Free for Foreign Labor on the State of Indonesian Country
5	Dyah Permata Budi Asri	Legal Protection of Traditional Cultural Expression as a Regional Asset in Yogyakarta

#### Parallel Session II

No	Presenter(s)	Title of Paper
6	Yoga Mahardhita	Optimizing the Authority of Indonesia Customs in Legal Protection of Intellectual Property Rights
	Kholis Roisah	
7	R. Murjiyanto	The Effectiveness of Law Enforcement against Violations of the Law on

		Prohibition of Monopolistic Practices and Unfair Business Competition
8	Dewi Sulistianingsih Pujiono	The Protection of Indonesian Batik Products in the Face of Economic Globalization
9	Rindia Fanny Kusumaningtyas	The Protection of <i>Semarangan</i> Batik Creation in Perspective Design Industry Act 31 of 2001
10	Zaenul Mahmudi	The Status of Children Born Out of Wedlock in Indonesian Context with Special Reference to Their Inheritance Right Perspective of <i>Maqasid Al-Shari'ah</i>

\*time is conditional

## CHAMBER II

### TOPIC

Criminal Law, International Law, Human Rights Law, Comparative Law, Criminology and Victimology, Law and Justice, and *other related issues*.

### Parallel Session I

No	Presenter(s)	Title of Paper
1	Abdul Sakban	Attempts to Preemptive Police Action to Reduce and Prevent Cyberbullying Crimes in Internet Media
	Sahrul	
	Andi Kasmawati	
	Heri Tahir	
2	Ali Masyhar	The Handling Model for the Victims of Terrorism in Australia and Indonesia: A Comparative Study
	Rodiyah	
	Dani Muhtada	
3	Sri Endah Wahyuningsih	The Benefits of the E-Traffic Ticketing (E-Tilang) System in the Settlement of Traffic
	Muchamad Iksan	



		Violation in Indonesia
4	M.Musa	Participation Theory and Reasoning to Determine Faults of Actors in Criminal Action of Corruption
5	Yanti Amelia Lewerissa	LGBTIQ Behavior in Criminal Law Perspective and Maluku Protestant Church Teachings (GPM)
	Roland Samson	
6	Aras Firdaus	Liability of Criminal Exploitation to Children Under Age by Law Number 35 Year 2014 on Child Protection

Parallel Session II

No	Presenter(s)	Title of Paper
7	M. Alvi Syahrin	The Rohingya Refugees Crisis: Legal Protection on International Law and Islamic Law
8	Siti Khoerunnisa	Position of Belief in The Status of Freedom of Religion and Belief Based on The International Law, National Law, and Islamic Law
	Rohmat	
	Regita Prameswari	
9	Ramiyanto	Penalty Imposition is Under the Specified Minimum Threshold in Terms of Justice
10	Indah Sri Utari	Criminology Studies and Social Control Perspective to the Trend of Children Infringing Law in Indonesian Society
11	Wisnu Pratama	Causing Factors and Strategic Step Solving of Vigilante (Study Case in Mlilir Village Indonesia)
	Iryanto	
	Dede Mardiansyah	
	Septian Eka Adiyatma	

\*time is conditional

## CHAMBER III

### TOPIC

Agrarian and Spatial Law, Land Law, Environmental Law, and  
other related issues

#### Parallel Session I

No	Presenter(s)	Title of Paper
1	Nabbilah Amir	The Urgency of the Good Governance Principle in Protection and Management of the Environment (Case Study of Sepat Reservoir Surabaya)
2	Sri Wulandari Bambang Teguh Handoyo	Build A Control System Towards The Distribution of The Hazardous Material (Methanol) Functions Abuse as A Mixed Liquor
3	Vica Jillyan Edsti Saija	Destruction Behind The Theme of Environmental Utilization
4	Tirta Mulya Wira Pradana Indah Mutiara Dewi Bagus Edi Prayogo	Land Conversion and Food Sovereignty Threat in the Perspective of Democracy

#### Parallel Session II

No	Presenter(s)	Title of Paper
5	Sri Suhediningsih Suteki Sukirno	Policy of Land Registration Oriented in Social Justice in Indonesia
6	Netty S.R. Naiborhu	Regulating the Utilization of Renewable Energy in Order to Deal with Climate Change in Indonesia
7	Rachmad Safa'at Airin Liemanto	State's Responsibility for Law Enforcement Over Forest Fires in Indonesia (A Case Study on Forest Fires In Riau and Kalimantan)
8	Agita Chici Rosdiana Ghina Elmira	Transfer of Sustainable Agricultural Land to The

Ricky Adhitama Mahendra Putra	Welfare of Farmer
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## CHAMBER IV

### TOPIC

Constitutional Law, Administrative Law, State Law, Law and Development, and *other related issues*.

#### Parallel Session I

No	Presenter(s)	Title of Paper
1	Prilian Cahyani	The Indonesian Traditional Healer Accountability in the Law and Culture Perspective
2	Mukhlis R.	The Riau Society's Understanding and Philosophical Basis of Law on the Implementation of the Death Penalty
3	Nunik Nurhayati	Reflection of Legal Philosophy in Industrial Society
4	Iswanto Galang Taufani	Democracy and Local Election in the Unity of Indonesia
5	Jeanny HV Hutauruk	The Obstacles against E-Government Implementation to Actualize Good Governance in the Judicial Board in Indonesia
6	Anna Triningsih Oly Viana Agustine	Society Participation As A Constitutional Awareness Form On Democracy Development In Digital Era

#### Parallel Session II

No	Presenter(s)	Title of Paper
7	Francisca Romana Harjiyatni	The Obstacles of Legal Structures on State Administrative Courts in Resolving the Permits of Forest Utilization
8	Saru Arifin	The Implementation of Problem Based Learning Method in

		Indonesian Law Education
9	Zulfikar Ardiwardana Wanda	Logical Fallacy Decision the Constitutional Court Confirmed "Status Quo" Through Presidential Threshold 2019
10	Rohmat	Synergy of Customary Law in Actualization of Education Based Local Wisdom for Indigenous Peoples Fisherman of Pantura as a Development Effort Comprehensive and Quality Education
11	Henry Dianto Pardamean Sinaga	Reorientation of Tax Legal Certainty in Indonesia: An Exploration of Transcendental Law

## CHAMBER V

### TOPIC General Topics

#### Parallel Session I

No	Presenter(s)	Title of Paper
1	Muhammad Azil Maskur	Urgency of Judge Guidance Formulation in Taking the Indonesian Living Law
2	Amarru Muftie Holish	The Right of Disability in the Perspective of Human Rights
3	Ubaidillah Kamal Ridwan Arifin	Deriving Environmental Rights from the Indonesian Human Rights Law and Environmental Protection Law for the Protection of Human Rights and Fundamental Freedoms
4	Suhadi	Harmonization of Regulation on Land Acquisition For Infrastructure Development with Public-Private Partnership Scheme In Indonesia
5	Nurul Fibrianti	Consumer Protection of Prepaid

ABSTRACTS

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Book of Abstract  
International Conference on Indonesian Legal Studies  
Faculty of Law, Universitas Negeri Semarang, July 25, 2018

Abstract

The Urgency of the Good  
Governance Principle in  
Protection and management of  
the environment (Case Study of  
*Sepat Reservoir Surabaya*)

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<sup>1</sup>Faculty of Law, Universitas Surabaya, Indonesia

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This study aims to determine and analyze the urgency of the principle of good governance on the conversion of sepat reservoir land through the issuance of decree of Mayor of Surabaya. 188.45 / 366 / 436.1.2 / 2008 concerning land swap exchange of local assets from the Government of Surabaya with land owned by PT. Ciputra Surya. This research uses empirical legal research method and method using case approach (case approach). The results of this study indicate that there are legal implications of the absence of transparency of public administration document of sepat reservoir is feared will cause bad precedent for the implementation of governance in Surabaya. The implementation of the principle of good governance is a way of opening the

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of Advances in Social Science, Education and Humanities Research  
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public administration documents of the sepat reservoir to provide a sense of security and foster the confidence of citizens of Surabaya to the Government. The outcomes of this research can be the basis of consideration for Surabaya City Government to open the public administration document of sepat reservoir dam as well as become the basis for Local Government in committing to realize environmental protection and management.

*Keywords—Good Governance, Environmental, Over Land Function.*

The Publication of this conference will be published on Proceedings Series of Advances in Social Science, Education and Humanities Research (ASSEHR), Atlantis Press and internationally indexed



**1st International Conference *on*  
Indonesian Legal Studies**





# **The Urgency of the Good Governance Principle in Protection and management of the environment (Case Study of Sepat Reservoir Surabaya)**

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## **Abstract**

This study aims to determine and analyze the urgency of the principle of good governance on the conversion of sepat reservoir land through the issuance of decree of Mayor of Surabaya. 188.45 / 366 / 436.1.2 / 2008 concerning land swap exchange of local assets from the Government of Surabaya with land owned by PT. Ciputra Surya. This research uses empirical legal research method and method using case approach (case approach). The results of this study indicate that there are legal implications of the absence of transparency of public administration document of sepat reservoir is feared will cause bad precedent for the implementation of governance in Surabaya. The implementation of the principle of good governance is a way of opening the public administration documents of the sepat reservoir to provide a sense of security and foster the confidence of citizens of Surabaya to the Government. The outcomes of this research can be the basis of consideration for Surabaya City Government to open the public administration document of sepat reservoir dam as well as become the basis for Local Government in committing to realize environmental protection and management.

**Keywords:** Good Governance, Environmental, Over Land Function.

## **I. Background**

The development of regional infrastructure is a reference to the improvement of the main public facilities for the developing regions, the implementation of development with ease, smoothly so as to produce good facilities and quality for the community. However, in the case of the improvement of infrastructure development does not always run smoothly, various problems arise as problems in the city of Surabaya one of them, the impact of the issuance of the Surabaya City Government Decision which implicated on the community counter to the decision. Efforts to increase the infrastructure development are made by the Local Government of Surabaya with PT. Ciputra Surya, where the Surabaya City Government facilitated the opening of land for the construction of Surabaya Sport Center or better known as *Gelora Bung Tomo* (GBT). The initial plan that began in 2007 as a step swap land between PT. Ciputra Surya, which owns 20.4 hectares of land in Pakal. Based on the planning will be built GBT by the Government of Surabaya City with compensation of the land exchange with land owned by the Government of Surabaya in four urban villages namely, Beringin District 45 hectares, Lidah Kulon District 6.7 hectares, Babat Jerawat District 6.7 hectares and Jeruk District 4,3 hectares. Within a short span of time, the Surabaya City Government obtained the approval of the City Council of Surabaya through the issuance of Decree No. 39 of 2008 on October 22, 2007.

After obtaining the approval of the Parliament of Surabaya City, Surabaya City Government on December 30, 2008 issued Decree No. 188.45 / 366 / 436.1.2 / 2008 which reaffirms the approval of the DPRD, the Surabaya City Government conducted a land swap with PT. Ciputra Surya pursuant to Joint Agreement No. 593/2423/436.3.2/2009 and No. 031/SY/sm/LAND-CPS/VI-09, dated June 4, 2009 handover made on condition of PT.

Ciputra Surya must make payment to the Government of Surabaya for Rp. 14.9 billion. The land is officially owned by PT. Ciputra Surya based on Building Use Right Certificate (HGB) No. 4057/Kel.Lidah Kulon issued by Land Office of Surabaya City on December 23, 2009. The problems that then arise as a result of the land swap is between the land taken over by PT.Ciputra Surya there is a reservoir with an area of 6.675 hectares known as the sepat reservoir. Sepat Reservoir is a former Village Cash Land (TKD) or *bondhodeso* that serves as a reservoir utilized by the people of Dukuh Sepat, Lidah Kulon District, Lakarsantri Sub-District, Surabaya City, the utilization of ecosystems in the reservoir (small fish) and most importantly local wisdom which is very identical between the community and the reservoir itself the alms of *sedekah bumi*.

Various efforts have been made by the community to defend the sepat reservoirs as their regional icons, ranging from lawsuits, police reports to the submission of a request for information submitted by the East Java Indonesia Environmental Forum (WALHI Jatim) on 4 May 2015 to the Mayor of Surabaya, after no response, WALHI Jatim sent an objection letter sent on 3 June 2015. Then disputed in the information commission, the decision of the East Java Provincial Information Commission No.100/II/KI-Prof.Jatim-PS-AMA/2016 dated 24 February 2016, and sentenced the applicant objection to pay case fee. Furthermore, the *Mahkamah Agung* (MA) No. decision 438K / TUN / 2016 which explicitly rejected the Mayor of Surabaya appeal against the public information lawsuit, which was previously won by WALHI Jatim. Through the decision WALHI Jatim as the party who won the lawsuit case, asked the Surabaya City Government to comply with the decision of the *Mahkamah Agung*. But until the verdict set on October 13, 2016, the Government of Surabaya as the defendant did not open the documents related to the ruislag as well as over the Sepat Reservoir function. In fact, dated September 7, 2017 Surabaya City Government filed a Judicial Review (PK) to the *Mahkamah Agung* with case number 111PK/TUN/2017 to WALHI Jatim. WALHI Jatim, LPBP and LBH Surabaya since March 8, 2017, trying to remind the Surabaya City Government through a letter addressed to the City Hall of Surabaya. The contents of the letter in essence appealed that the City Government of Surabaya open the public documents requested according to the Supreme Court decision. Decision of the *Mahkamah Agung* rejecting the Judicial Review with case number 111PK/TUN/2017. So WALHI Jatim with LPBP and LBH Surabaya, demanded that the Mayor of Surabaya open the document. On January 25, 2018, residents do action in town hall and get information if the Government of Surabaya has no documents requested and still no certainty until now.

The problem of swapping this sepat reservoir reaped many of the responses poured through the studies. The previous research was conducted by Adhi Murti Citra Amalia H who conducted a study related to the identification of conflicts that occurred due to differences of views from the Citraland developers and local residents of the reservoir land status. Developers see de jure land tenure through government-issued legal ownership certificates, which are their own HGB (Hak Guna Bangunan) certificates, while the surrounding community perceives de facto land tenure, based on the historical value that the reservoir is made on the self-reliance of residents of the past . While the cause of the conflict itself is divided into three major scopes, namely environmental issues, ideology and historical value, and social welfare. (Adhi Murti Citra Amalia H: 2012) Furthermore, the research was also conducted by Ruri Widayani about Surabaya City Government Policy on Land Ownership by Developers in West Surabaya Area (Study of Disputes of Sepat Lidah Kulon Reservoir Cases) that specifically did reveal the pattern of mastery done by developer as the developer ie PT. Ciputra Surya to the land of Surabaya City Government is Sepat Reservoir Lidah Kulon, with the subject of PT. Ciputra Surya as the largest developer in Surabaya. The author also analyzed the direction of the Surabaya City Government policy regarding the dispute

case of Sepat Lidah Kulon with conflict theory using several concepts, among others: power and policy. (Rury Widyani: 2012)

Based on the above background description then drawn the formulation of the problem:

How is the application of the principle of good governance in the Protection and Environmental Management Especially on Sepat Reservoir Lidah Kulon Surabaya?

## **II. Discussion**

### **a. Impact of Expert of Field Function of Sepat Reservoir to Environment Based on UUPPLH**

The implementation of spatial planning in Indonesia is based on the existence of Act No. 26 year 2007 (Hereinafter referred to as Act No. 26 year 2007) on spatial arrangement, which became the basis for the implementation of spatial planning, with the aim of monitoring the spatial plan, spatial control, spatial controlling, to the spatial management.

Spatial arrangement is a process of spatial planning, space utilization, and control of space utilization. Spatial planning is an activity that includes the arrangement, guidance, implementation, and supervision of spatial planning. While the arrangement of spatial arrangement is the effort of forming legal foundation for government, local government and society in spatial arrangement. (Robert Kurniawan Ruslak Hammar: 41: 2017)

Space utilization as regulated in Act No. 26 year 2007 provides the essence of spatial arrangement becomes a necessity in the spatial arrangement, so that space can benefit the citizens. Various activities in the process of spatial planning one of them is a land function expert. The transfer of functions is a practice of changing the function of the land, from a pre-existing function to a new function that is planned by certain parties concerned with the transfer of land functions. Implementation of this land function expert often aims at economic and community needs fulfillment. For example, the expert function of agricultural land into residential land.

Implementation of land conversion often gets rejection from the community especially if the land to be converted is a land that has strategic potential in the area. For example the transfer of existing land function in sepat reservoir district lidah kulon, lakarsantri, West Surabaya. Sepat Reservoir is the object of land swap dispute over the assets of the Surabaya City Government with PT. Ciputra Surya, the community together with WALHI Jatim rejected the land ownership done by PT. Ciputra Surya. Where PT Ciputra Surya after the issuance of HGB certificate on land along with sepat reservoir fencing is very high and very closed, so people who want to do activities in the sepat reservoir is not allowed. HGB certificate of land owned by PT. Ciputra Surya sepat reservoir switch function to the land of ex-reward or lands of yard no longer in accordance with the initial function of sepat reservoir. In fact, before the fencing by PT. Ciputra Surya, various activities of citizens doing in sepat reservoir both activities related to the economy and related to local wisdom. Communities around the reservoir often do activities related to local wisdom, one of which is the alms of the earth routinely done in reservoirs and even the public hopes sepat reservoir can be the object of nature tourism and local wisdom so as not eroded by civilization. However, post-fencing the community already does not have the same access and freedom as before. Worse yet, the public can only peek through the small gaps that exist in the fence. The impact of land conversion in sepat reservoir to the yard is quite worrying about the surrounding

community because of the possibility that the land is managed by PT. Ciputra Surya as a luxury housing developer to expand its business by closing the sepat reservoir in full such as jeruk reservoir which is also located not far from the sepat reservoir area. In the case of spatial use by the Surabaya City Government in the exchange of land rolls should refer to the Regional Regulation Spatial Plan (RTRW) of Surabaya City 2014-2034 as a guideline for the arrangement of city government has a spatial structure.

According to Yunus Wahid, the spatial, ecological, development, environmental management, juridical, and spatial plan can be seen from the perspective of land use and concept. Spatial is always related to land, place, region and time. It is a tool in optimum utilization of resources as a policy direction. Therefore, the spatial structure has a hierarchy and is dynamic in addition to being functional and/or formal. (Yunus Wahid: 13: 2014)

In designing the RTRW, central and local governments are required to pay attention to the principles and basic principles as set out in Article 2 of Act No. 26 Year 2007 namely:

- a) The Principle of Integration;
- b) The Principle of Harmony;
- c) Sustainability Principle;
- d) Principle of Empowerment;
- e) Principle of Openness;
- f) Togetherness and Partnership Principles;
- g) Principle of Protection of Public Interest;
- h) Principle of Legal and Justice Certainty; and;
- i) Principle of Accountability.

Principles or principles of the law is a basic foundation in spatial planning. Thus, if the provision of a spatial plan (land, sea and air, even basement) in areas that are not in accordance with or contrary to the principles of law contained in Act No. 26 year 2007, it will result in the spatial plan being null and void or may be canceled. (Arba: 43: 2017)

Principles of RTRW should also be the basis for the Surabaya City Government in the implementation of space utilization. The context that occurs in the transfer function of this sepat reservoir is the Surabaya City Government, in fact not yet optimal in applying the basic principles of spatial planning. The same thing happened in the case of closing of *jeruk* reservoir which was originally a reservoir (irrigation) for farming around now closed and switch function to settlement. This is also the basis of community rejection along with WALHI Jatim is based on the function of sepat reservoir as functioning as water catchment area during the rainy season, because reservoir sepat located in West Surabaya area is vulnerable area of ecological disaster such as flood. Thus, the existence of sepat reservoir and other reservoirs in West Surabaya function, among others, first to stabilize the groundwater surface, so that in the dry season the surrounding people can still use the existing wells as a source of clean water. Both functions as surface runoff during the rainy season can be accommodated in the available reservoirs, thus reducing the volume of runoff water flowing into the lower channel, given the very low downstream channel capacity.

Change of function of reservoir should be through Strategic Environmental Assessment (KLHS). KLHS is one of the instruments obliged to control and enforce environment continuously for central and regional government as stated in Act No. 32 Year 2009 on Environmental Protection and Management (hereinafter referred to as PPLH Act) the instrument ensures that sustainable development becomes the basis and integrated in the development of a region and/or policies, plans and/or programs.

KLHS is a form of study that must exist in the formation of RTRW both national and RTRW area implementation KLHS provisions set in UUPH which contains as a

direction/guidance in its application. KLHS is also considered to have similarities with the Environmental Impact Assessment (AMDAL), which is the basis for dissemination is the AMDAL is an environmental feasibility study related to the licensing underlying decision making, while KLHS is a study that becomes the decision aiding for the government.

Paying attention to this matter, it becomes obligation of Surabaya City Government to pay attention to principle and principles in designing RTRW surabaya city based on KLHS before doing swap of reservoir land with sepat land which currently stands GBT in pakal.

### **b. Application of Good Governance Principle in the transfer function of sepat reservoir**

After the issuance of the *Mahkamah Agung* Decision which rejected the Judicial Review by lawsuit number 111PK/TUN/2017 based on the lawsuit of public documents, WALHI Jatim with LPBP and LBH Surabaya demanded that the Mayor of Surabaya to open the document of exchange administration of guling of septa reservoir with GBT At 25 Januari 2018. Residents do action in town hall and get information if the Government of Surabaya has no or do not have or do not keep the documents requested and post-action is still uncertain about it.

Furthermore, at the time of the action, the Surabaya City Government told the residents, along with WALHI Jatim, LPBP and LBH should request to the relevant agencies for the opening of documents of exchange of spat of land sepat reservoir with GBT. The statement describes the situation as if the government is not ready to open the exchange document. In fact, people are told to look for the documents themselves. Therefore, the Surabaya City Government is considered to have neglected in applying the good general governance principles (Good Governance).

In various laws governing administrative courts in the Netherlands, the general principles of good governance (ABBB) are referred to as the basis of appeal and testing (among others, Article 8 paragraph 1 under WET AROB). Gradually it has been accepted that ABBB should be regarded as the norms of the unwritten law, which always have to be obeyed by the government, although the precise meaning of ABBB for individual circumstances may not always be elaborated. It can also be said that ABBB, is, unwritten legal principles, from which for certain circumstances can be withdrawn applicable rules of law. (Philipus M. Hadjon et al.: 262: 2015)

Good Governance is mentioned in several terms, among others:

1. The administration of a trustworthy government;
2. System good governance;
3. Good governance and responsible management;
4. Good governance;
5. Clean government.

(Sofyan Effendie in Juniarto Ridwan and Ahmad Sodik Suderajat: 169: 2017)

In general, the governance of Good Governance is related to issues of transparency, public accountability and so on. In order to understand and make it happen the understanding of good governance is actually quite complicated and complex, not just about transparency and accountability. Conceptually it can also be understood that good governance shows a process that positions the people to manage their economy. Its institutions and social and political resources are not only used for development, but also to create integration for the people's welfare. (Juniarto Ridwan and Sodik Suderajat: 81: 2017)

According to the United Nations Economic Commission of Europe, the principles of good governance include:

1. Participation: Involvement of all stakeholders;
2. Decency: The establishment and execution of the regulations shall be carried out without harm to or cause any complaints by the public;
3. Transparency: clarity and openness in decision making;
4. Accountability: the expansion of political actors who must be accountable to society for what they say and do;
5. Fairness: rules should be treated equally to everyone in society;
6. Efficiency: the execution by human and financial resources available in an unreasonable, procrastinating or corrupt manner, or harming the generations to come. (United Nations Economic Communication for Europe, Guidebook on Promoting Good Governance in Public-Private Partnership, (New York and Geneva: United Nations, 2008 pp. 13-14)

The strategic plan in good governance, which is the need for new approach in the implementation of state and development that is directed to the realization of good governance, namely: "...The process of democratic, professional government management, upholds supreme and human rights, decentralized, participative, transparent, fair, clean and accountable; in addition to being efficient, effective, and oriented towards improving the nation's competitiveness. "(Sahya Anggara: 209: 2016)

Closed document exchange swap *sepat* reservoir, *lidah kulon* with GBT Pakal between the Government of Surabaya with PT. Ciputra Surya stigma that the government of Surabaya City does not apply the principle of good governance in running the government activities which do not accommodate principles of good governance. The description of the explanation of the principle of good governance relating to the transfer function of *sepat* reservoir is described as follows:

1. Participation

In the execution of exchange guling reserve *sepat lidah kulon* with GBT Pakal does not involve all stakeholders, where the government does not carry out public tests to residents around the *sepat* reservoir. The public test becomes one of the foundations of the Surabaya City Government to be able to carry out the swap trade of *sepat* reservoir land or can not be done the swap exchange. Public test is a question-answer process or discussion with the public related to the State Administrative Decision (KTUN) related to the community.

2. Decency

That KTUN issued by the Government of Surabaya City culminate in the rejection of the community around the *sepat* reservoir because the KTUN can harm the surrounding community apart from the side of local wisdom and the environment.

3. Transparency

Surabaya City Government, since starting a split separate swap exchange agreement with PT. Ciputra Surya in 2008 was deemed not transparent to the people of Surabaya city, until the time of the issuance of the decision of the Supreme Court winning the citizens and WALHI Jatim to be able to open the document exchange guling *sepat* reserve with GBT, Surabaya city government did not provide documents requested by citizen and WALHI Jatim. The documents requested by citizens and WALHI Jatim are Community Test, Strategic Environmental Study and some other documents that become the basis for the transfer of the function of the reservoir land.

4. Accountability

Accountability in this case is also a question of the community as well WALHI Jatim, where in the process of dispute over the last few years the Surabaya City Government led by the Mayor of Surabaya has never faced directly with the people who cons will the KTUN. In the course of the dispute the Mayor of Surabaya as the leader of Surabaya City who was elected on the political rights of the people of Surabaya City is always represented by his staff both from the *Biro Hukum* Surabaya and other agencies.

5. Fairness

The implementation of the same attitude in the case of sepat reservoir this local government is required not to selectively choose in serving the community with all professions of any kind. However, the fact is that the government let alone fencing of reservoirs without considering the counter cons in the community.

6. Efficiency

Surabaya City Government in the exchange of sepat reservoir with GBT can harm the next generation of Surabaya city. This is a result of future generations that are increasingly distant from local wisdom Surabaya City no longer maintain and strengthen local wisdom but individualist tend amid the flow of modernization. In addition, the impact of environmental damage will also be felt in future generations such as floods, geothermal increases, etc.

Principle of good governance is the main breath as a driving organ in running the government activities. Moreover, in Act No. 14 year 2008 on public information disclosure, the Government of Surabaya City is encouraged to implement good governance in a good and serious way to create harmony in the utilization of space, society and government.

### **III. Conclusion**

Based on the above description it can be concluded that all forms of land transfer activities in a region must be concerned with various things, in addition to environmental impacts, community consent to local community wisdom, in order to avoid disputes in the future as happened in the case of disputes sepat reservoir. Through the case of sepat reservoirs it can be seen that the Surabaya City Government has not been able to implement the principle of good governance mainly on the principle of transparency. The Surabaya City Government tends to be closed to the documents of sepat reservoirs that should be the domain of public documents. Whereas in this case citizens and WALHI Jatim has won the lawsuit of the public about the opening of public documents sepat reservoir. However, the government always avoids any action to answer the lawsuit. Surabaya City Government as the holder of authority in the management of governance in Surabaya, it is unfortunate should refer to the Regional Regulation Spatial Plan (RTRW) Surabaya 2014-2034 well with attention to the Strategic Environmental Review (KLHS) in the dispute over land sepat reservoir function, considering the area of West Surabaya is easy to flood then pay attention to local wisdom of local community. Local wisdom becomes important, there are values of philosophy and culture of the citizens of Surabaya city in it. If the sepat reservoir is made into a luxury yard or even later will be covered, the thing that is sure to happen is the eroding of local wisdom of the surrounding community so that the regional identity of Surabaya City will erode slowly.

### **Bibliography**

#### **Act**

Act Number 26 Year 2007 about Spatial Planning.

Act Number 32 Year 2009 about Environmental Protection and Management.

Act Number 14 of 2008 about public information disclosure.

Local Regulation of Surabaya City Number 12 Year 2014 about Surabaya Urban Spatial Plan Year 2014-2034.

### **Books**

Anggara, Sahya., 2016, *Ilmu Administrasi Negara (Kajian Konsep, Teori, dan fakta dalam Upaya Menciptakan Good Governance)*, Pustaka Setia, Bandung.

Arba, 2017, *Hukum Tata Ruang dan Tata Guna Tanah*, Sinar Grafika, Jakarta Timur.

Efendi, A'an dan Freddy Poernomo, 2017, *Hukum Administrasi*, Sinar Grafika, Jakarta Timur.

Hadjon, Philipus M. dkk, 2015, *Pengantar Hukum Administrasi Indonesia*, Gadjah Mada University Press, Yogyakarta.

Hammar, Robert Kurniawan Ruslak, 2017, *Penataan Ruang Berbasis Kearifan Lokal*, Calpulis, Yogyakarta.

Ridwan, Juniarto dan Sodik Suderajat, 2017 *Hukum Administrasi Negara (Dan Kebijakan layanan Publik)*, Nuansa Cendika, Bandung.

Wahid, Yunus., 2016, *Pengantar Hukum Tata Ruang*, Kencana.

### **Journal**

Adhi Murti Citra Amalia H, *Konflik Waduk Sepat*, **Jurnal AntroUnairDotNet**, Vol.1/No.1/Juli-Desember, 2012.

Ruri Widayani, *Kebijakan Pemerintah Kota Surabaya tentang Penguasaan Lahan oleh Pengembang di Wilayah Surabaya Barat Studi Tentang Sengketa Kasus Waduk Sepat Lidah Kulon*, **Jurnal Politik Muda**, Vol. 1, No. 1, Oktober-Desember, 2012.

*United Nasion Economic Communication for Europe, Guidebook on Promoting Good Governance in Public-Private Partnership*, (New York and Ganeva :United Nation, 2008