

POSITION OF CLASS ACTION LAWSUITS IN ENVIRONMENTAL POLLUTION DISPUTE SETTLEMENT

Mahdalena Nur Lailatul ¹, Halimatul Maryani ²

^{1,2} Fakultas Hukum Universitas Muslim Nusantara Al Washliyah Medan

Email : halimatul.maryani@umnaw.ac.id

ARTICLE INFO

History of the article:

Received: 06/01/2026

Corrected: 15/01/2026

Accepted : 25/01/2026

Published: 25/01/2026

Keywords:

Lawsuit, Class Action, Environmental Pollution

ABSTRACT

Class action lawsuits serve as an important environmental dispute resolution mechanism, allowing one or more individuals to represent a large group of people who have suffered similar losses due to environmental pollution or damage. The mechanism for filing a class action lawsuit in an environmental pollution dispute involves several important stages, starting from the preparation of a lawsuit that meets formal and material requirements, to the certification process, notification, examination and proof in court. Factors causing class action lawsuits in environmental pollution disputes is a combination of large-scale environmental damage caused by various parties (human and natural), losses suffered by many people simultaneously, and the failure or inability of the government to resolve disputes effectively, which encourages people to seek justice through legal channels of collective litigation

1. Introduction

Globalization has influenced Indonesian law, encompassing both formal and substantive law. This is reflected in the development of existing legal systems, which legitimize comprehensive policies, particularly the common law system, even though Indonesia is known to adhere to the Continental European legal system. It can be argued that the function of the legal system itself is as a component used for dispute resolution.

The development of civil procedural law practice in Indonesia has seen significant changes. Recently, the Indonesian legal system has introduced a class action lawsuit, a concept previously absent. Procedural law encompasses all legal regulations governing how substantive law is enforced through judges. A procedural law system can be considered effective if competent institutions exist to assert rights in court, whether for individuals or large groups, commonly known as class actions. Class action lawsuits were

introduced in the UK and have since spread to other countries, including Indonesia.

Class action lawsuits are a way to facilitate justice seekers' access to redress for violated legal rights through civil litigation. It is impractical to file individual lawsuits involving hundreds, thousands, or even millions of people who have suffered losses, with the same facts or legal basis, and with the same defendants. The legal process would be costly and inefficient.

In light of recent developments, an increasing number of lawsuits are being pursued using class action procedures. The legal protection of class action lawsuits, or group representation, has recently become a frequently discussed topic among academics, legal advisors, and non-governmental organizations.

A class action lawsuit, as referred to in Supreme Court Regulation Number 1 of 2002, is a lawsuit in which one or more individuals can act as representatives of a group in presenting a lawsuit containing similar facts or legal basis. In essence, a class action lawsuit is a civil lawsuit which is usually related to a request for compensation, where this lawsuit is filed by a number of people acting as class representatives and also representing hundreds to thousands of victims who have interests.

In principle, class action lawsuits are a way to facilitate the recovery of violated legal rights through civil proceedings. It is impractical to file separate cases involving public harm, with the same facts, legal basis, and defendants. This would only create inefficiencies for the injured parties, the plaintiffs, and the courts themselves.

A class action lawsuit is a method used to facilitate those seeking justice to obtain redress for their violated rights through civil proceedings. The purpose of a class action lawsuit is to minimize individual lawsuits, legal facts, and claims that could hinder the court process, and to create time efficiency and lower costs in filing lawsuits. However, in practice, class actions also have many weaknesses

2. Research Method

This research is descriptive analytical, namely research that merely describes the condition of the object or event without any intention of drawing generally applicable conclusions. The type of research used in this study is normative legal research with a normative juridical approach. Normative legal research is also called doctrinal legal research, where law is conceptualized as what is written in legislation (law in books), and research into

3. Results And Discussion

To initiate and resolve a civil dispute, one of the disputing parties must file a request for a hearing with the court. The party whose rights have been violated in a civil case is called the plaintiff, who files a lawsuit with the court against the violating party (defendant), stating the facts of the case (posita) and the plaintiff's demands (petitum).

There are two types of lawsuits in civil cases, including:

1. Application Lawsuit (Voluntair)

A voluntary lawsuit is a civil matter filed in the form of a petition signed by the applicant or their attorney and addressed to the Chief Justice of the District Court. The characteristics of a voluntary lawsuit include:

- a. The issues raised are purely one-sided in nature.
- b. This lawsuit or application is without dispute.
- c. No other party or third party is drawn as an opponent.
- d. The parties are called the Applicant and the Respondent

2. Contentious Lawsuit

A contentious lawsuit is a civil matter in the form of a lawsuit. The characteristics of a contentious lawsuit include:

- a. The problem raised is the prosecution of a right in a dispute between a person or legal entity and another person or legal entity.
- b. There is a dispute in this lawsuit.
- c. There are opponents or other parties who could be dragged into this lawsuit.
- d. The parties are called the plaintiff and the defendant.

Each person in a civil process, starting with the submission of a lawsuit, can be submitted in writing or orally if the plaintiff cannot read and write. The form of an oral lawsuit is guided by Article 120 HIR/144 RBg which states that if the plaintiff is illiterate, the lawsuit can be submitted orally to the head of the District Court, who records the lawsuit or orders it to be recorded.

An oral lawsuit can be filed verbally with the Chief Justice of the District Court, outlining/explaining the intent of the lawsuit. The Chief Justice will record or order the lawsuit filed by the plaintiff to be recorded and formulate the lawsuit in written form as best as possible, in accordance with the plaintiff's explanations.

To determine whether a lawsuit can be filed through a class action lawsuit, several requirements must first be met, and the class representative or his/her attorney must prove that the lawsuit filed has met the requirements stipulated in Supreme Court Regulation (Perma) Number 1 of 2002 concerning Class Action Lawsuit Procedures of the Supreme Court of the Republic of Indonesia.

A class action lawsuit in an environmental pollution dispute is filed by a group of affected communities represented by one or more individuals (class representatives). The primary step is to file a lawsuit with the District Court in the defendant's domicile, which must contain the complete identity of the class representative and a clear description of the group represented, as well as specific *posita* (reasons for the lawsuit) and demands (*petitum*), including a proposed compensation distribution mechanism if granted. The legal basis is Law Number 32 of 2009 concerning Environmental Protection and Management. The steps for filing a class action lawsuit are as follows:

1. Determine group representatives.

Determine one or more people who will act as class representatives.

2. Drafting a lawsuit.

Make a lawsuit letter submitted to the District Court in the defendant's jurisdiction.

- a. Complete and clear identity of the group representative.
- b. In detail and specifically the groups represented, without the need to name each member individually.
- c. In detail the reasons for the lawsuit that apply to the entire group, whether identified or not members.
- d. State your demands clearly and in detail. If the demand is for compensation, include a proposal regarding the mechanism or procedures for distributing the compensation to all group members.

3. Include supporting documents

Prepare supporting documents relevant to the environmental pollution case.

4. Submit a security deposit application (optional)

If necessary, submit a request for confiscation of the defendant's assets as collateral for the implementation of the decision by attaching initial evidence of asset ownership.

5. Following the trial process

Attend every stage of the trial. If the lawsuit is granted, the judge will decide the amount of compensation, the recipient groups, and the distribution mechanism.

The legal basis for filing a class action lawsuit is as follows:

1. Law Number 32 of 2009 concerning Environmental Protection and Management
2. Supreme Court Regulation (PERMA) Number 1 of 2002 concerning Class Action Lawsuit Procedures (previously a general guide)

This class action lawsuit is important for the following reasons:

1. Avoid repeating individual lawsuits for the same case.

2. Provide an opportunity for affected communities to demand accountability without having to file lawsuits individually.

Several elements related to class action lawsuits include:

1. Civil lawsuits, namely class action lawsuits, fall under the purview of civil law. The term lawsuit is known in civil procedural law as an action aimed at obtaining protection of rights granted by the court to prevent attempts to take the law into one's own hands (*eigenechting*).
2. A Class Representative is one or more individuals who have suffered losses and who file a lawsuit on behalf of a larger group. To become a class representative, a special power of attorney from a class member is not required. When a class action lawsuit is filed in court, the class representative's position as an active plaintiff becomes active.
3. Class members are a large group of people who have suffered losses and whose interests are represented in court by a class representative. If a class action is filed in court, the class members' position is as passive plaintiffs.
4. There is a loss, namely to be able to file a class action, both the class representative and the class members must have actually or actually suffered a loss or be termed concrete injured parties.
5. Similarity of events or facts and legal basis, namely there is similarity of facts (events) and similarity of legal basis (question of law) between the representing party (class representative) and the represented party (class members)

Article 2 of Supreme Court Regulation Number 1 of 2002 stipulates that a lawsuit can only be filed using the class action procedure if it meets the following requirements:

1. Large number of group members

Supreme Court Regulation No. 1 of 2002 does not specify a minimum number of group members for a lawsuit to be examined based on group representation. It only requires that the number of group members be a certain number, making it impractical and inefficient for lawsuits to be filed individually. While this choice of Supreme Court Regulation No. 1 of 2002 is perfectly suited to everyday practice in Indonesia, in practice, it will create a lack of legal certainty between the decisions of one court and another.

Supreme Court Regulation No. 1 of 2002 also does not specify a maximum limit for class members. In practice, determining a maximum limit for group members is difficult, but Article 3 (e) provides that if a group has a large number of members, it can be divided into subgroups. Similarly, if the value and nature of the losses experienced by each group member differ, several subgroups can be separated.

2. There is a similarity of facts (Commonality)

There are similarities in facts (events) and legal grounds (questions of law) between the class representative and the represented parties (class members). The class representative is required to explain these similarities. However, this does not mean that differences are unacceptable; they are acceptable as long as they are substantial or principled.

Supreme Court Regulation Number 1 of 2002 stipulates these requirements simultaneously in Article 2 paragraph (2) which is formulated as "there are similarities in facts or events and similarities in the legal basis used which are substantial, and there are similarities in the type of demands between the group representatives and their group members." In practice, these two requirements (similarities in facts and legal basis and similarities in demands) can be categorized or formulated as "the existence of the same interest". The formulation of the requirement of the same interest "the same interest" in various provisions in common law countries does vary.

Ordinary civil lawsuits do not have provisions governing the requirements and content of the lawsuit. Article 118 of the HIR only regulates how a lawsuit must be filed. In practice, a lawsuit should contain at least the following:

1. Complete and clear identity of the plaintiff and defendant;
2. The facts of the case and the legal facts that form the basis for filing a lawsuit or what is known as *posita*. In the *posita* section (basis for lawsuit). In general, in practice, it contains the facts/legal events that form the basis for the lawsuit as well as a brief description of the legal matters, namely in relation to the occurrence of the legal relationship, without having to mention articles of legislation or legal regulations including customary law, because such matters will be indicated or explained by the judge in his decision later, if deemed necessary (*positu*).
3. The demands made by the plaintiff, also known as the *petitum*, are the main points of the claim. The *petitum* (main claim) outlines what the plaintiff wishes or requests to be decided by the court (*conclusum*).

In practice, in a class action, not everyone has the right to file, but only one or several members of a group who have directly suffered losses. The interests sought in a popular action are the public interest, considered the interests of every member of society, while in a class action, the interests sought are the same interests in a problem affecting the group.

Based on the provisions of Article 1 letter (b) of Supreme Court Regulation No. 1 of 2002 concerning Class Action Lawsuit Procedures, it is determined that a group representative is one or more people who have suffered losses who file a lawsuit and also represent a larger group of people (group members). In

addition to themselves, the group representative also represents the interests of other, larger parties who have also suffered losses.

A class action lawsuit is a procedure for filing a lawsuit, in which one or more people representing a group file a lawsuit for themselves or themselves and at the same time represent a large group of people, who have the same facts or legal basis between the group representative and the members of the group in question. Thus, a party who has not suffered a loss cannot file a lawsuit as a representative of the injured group of people, because they do not have the legal power as a person entitled to represent the group based on Article 1 letter b of Perma No. 1 of 2002. The party representing the injured group of people must also have honesty and sincerity in protecting the interests of the members of the group they represent, have the same facts or events and the same legal basis used which is substantial, as well as the same type of claim with the members of the group they represent

4. Conclusion

The mechanism for filing a class action lawsuit in an environmental pollution dispute involves several important stages, starting from drafting a lawsuit that meets formal and material requirements, to the certification process, notification, examination, and proof in court. The lawsuit is filed with the District Court according to the defendant's domicile, stating the clear identity of the class representative, a detailed definition of the class, and specific *posita* (basis for the lawsuit) and *petitum* (demands), including a proposed compensation distribution mechanism.

Factors causing class action lawsuits in environmental pollution disputes is a combination of large-scale environmental damage caused by various parties (human and natural), losses suffered by many people simultaneously, and the failure or inability of the government to resolve disputes effectively, which encourages people to seek justice through legal channels of collective litigation.

The advantages of class action lawsuits are why they are chosen to resolve pollution disputes involving community groups in environmental disputes. The advantages of class action lawsuits include cost efficiency by sharing litigation costs among many group members, legal effectiveness by providing collective power to sue, preventing inconsistencies by avoiding multiple different decisions for the same case, and increasing access to justice for those who feel they lack the resources to file individual lawsuits. Disadvantages of class action lawsuits include the plaintiff's lack of full control over their individual case, the potential for small or coupon settlements, and the difficulty of managing a large



group of members. Furthermore, the requirements that are not yet clearly defined and a lack of understanding of the procedure can result in many lawsuits being rejected

References

- Badriyah Harun and Aryya Wyagrahtama, Procedures for Filing a Class Action. Pustaka Yustisia, Yogyakarta, 2018.
- Bambang Sunggono. Legal Research Methodology, Raja Grafindo Persada, Jakarta: 2018.
- BN. Marbun, Indonesian Cities of the Future and Prospects, Erlangga, Jakarta, 2015.
- Faizal Kamil. Principles of Civil Procedure, Iblam Publishing Agency, Jakarta, 2018.
- Gatot Supramono, Settlement of Environmental Disputes in Indonesia, Renika, Jakarta, 2013.
- Koesnadi Hardjasoemantri, Environmental Law, Gajah Mada University Press, Yogyakarta, 2020.
- Lilik Mulyadi, Provisional Claims in Civil Procedure Law in Judicial Practice, Bayumedia Publishing, Malang, 2019.
- Mas Achmad Santosa. Concept and Implementation of Class Action Lawsuits, ICEL, Jakarta, 2017.
- , Good Governance, ICE, Jakarta, 2011.