

# Law Enforcement Against Perpetrators of Environmental Destruction Based on the Principle of Direct Responsibility in Class Action Civil Lawsuits

Suharyansyah<sup>1</sup>, Subianta Mandala<sup>2</sup>  
{ansahhm@gmail.com}

Universitas Borobudur, Jakarta, Indonesia<sup>12</sup>

**Abstract.** Development activities in addition to having a positive value but reduce the risk of pollution and destruction of the environment so that the basic structures and functions of ecosystems that support life can be damaged. The environment must be managed with the principle of conserving a harmonious, harmonious and balanced environmental function to support with an eye on the environment, sustainable development is possible. The preservation of environmental functions is in the people's interests; thus, it necessitates accountability, openness, and community participation, which can be accomplished by individuals, environmental organizations such as non-governmental organizations, indigenous people's groups, and others, in order to maintain and increase the power of the community. support the environment which is the foundation of continued development. The existence of legal actions in the form of environmental destruction by means of forest and land burning and the destruction of certain natural resource areas, as well as behavior of violations by the community against statutory regulations in realizing the area in order to maintain environmental health, this must be taken legal action and efforts truly. Civil lawsuits through class action, this is a right whose authorization is regulated under Article 1365 of the Civil Code is linked to the provisions of Law Number 32 of 2009 for Environmental Protection and Management (UUPPLH).

**Keywords:** Class action civil lawsuit

## 1 Introduction

Environmental pollution continues to grow along with the powerlessness of law enforcers in law enforcement which is regulated Environmental Protection and Management Act of 2009 (Law 32 of 2009) (UUPPLH) as a result of legal events and legal actions by the community. The law, as a means of law enforcement on the environment, has regulated and ordered, as well as provided legal sanctions for parties who have violated the law, as well as for parties who feel aggrieved to take legal action. [1]

In addition to having a positive value, the Pollution and environmental degradation are minimized as a result of development operations so that the basic structures and functions of ecosystems that support life can be damaged. Therefore, to support sustainable development with an environmental perspective for increasing welfare and prosperity, the Indonesian

environment must be managed with the principle of conserving a harmonious, harmonious, and balanced ecological function.

Maintaining the sustainability of environmental functions is in the interests of the people as a result of development activities, pollution and environmental deterioration are reduced, to maintain and increase the power of the community. support for the environment is the foundation of continued development. Regarding the existence of legal actions in the form of environmental destruction through forest and land fires and the destruction of specific natural resource areas, as well as violations by the community against laws and regulations in realizing zones to maintain environmental health, it turns out that it continues to develop in several areas on the island. Sumatera, Kalimantan, Sulawesi, West Papua, and several industrial sections in Indonesia.[1] The action implies various aspects that result in extraordinary losses, both in terms of economic, health, sociological, and legal aspects as well as from the environmental sustainability situation itself.

The enactment the importance of environmental protection and management is demonstrated by Law No. 32 of 2009 protection and management are related to sustainable development. Therefore, the law recommends civil, criminal, and administrative sanctions against parties polluting or destroying the environment. The problems raised in this paper; Law Enforcement Against Perpetrators of Environmental Destruction Based on the Principle of Direct Responsibility in Class Action Civil Lawsuits?

## **2 Discussion**

Development is carried out as part of governmental policy to benefit the population by consistently exploiting natural resources. Meanwhile, natural resources are scarce and inconsistent in quantity and quality, while demand for natural resources is rising as a result of increased development to meet the demands of a growing population. [2]

Such development operations run the risk of polluting the environment and causing damage to its functions. The fact demonstrates that Indonesia's development is based on the industrial and mining sectors, which, among other things, consume a variety of chemicals and radioactive substances, as well as deplete natural resources. [3] In addition to making products that are helpful to people's lives, industrial and mining advances in Indonesia produce hazardous and poisonous wastes that, when disposed of in environmental media, can endanger the health and survival of humans and other living beings.

On the other hand, the essence of the environment has become a matter of potential for environmental damage and impacts, which are caused by structural and unstructured changes from the physical implementation of development.[4] The environment's essence is life, which includes the order and values of life, as well as maintaining the sustainability of the environment and natural resources and social justice for human life for the right to the environment today and future generations.[4] Likewise, it needs to be emphasized that the environment must be viewed and treated as a subject, managed for sustainable living, not solely for developmental growth.[5] In Indonesia, environmental protection is carried out, among others, through law enforcement, which consists of Administrative, civil, and criminal law enforcement are all types of law enforcement. [6]

A group of people from Central Kalimantan filed a lawsuit against the President who was considered to have legitimized a legal action that led to forest fires so that the air quality was polluted as enforcement of civil environmental law by carrying out a class action lawsuit.

The Palangkaraya District Court Decision No. 118/Pdt.G/LH/2016/PN.PLK In March 2017, the Palangkaraya District Court granted a claim by residents who were members of and authorized the Anti-Smoke Advocacy Team against the President and several government agencies. Using the Citizen Law Suit (CLS) lawsuit mechanism, residents questioned the forest fires and haze disaster in 2015. The Assembly assessed that the Government had failed to take action to tackle the haze disaster.

In its decision, the panel of judges requires the Government to make a roadmap for early prevention; prevention and recovery of victims of forest and land fires; environmental restoration; and the establishment of a specialized lung and other ailment hospital due to air pollution; create a pollution-free space evacuation place. In its Year-End Note, ICEL assessed that the Palangkaraya District Court's decision corrected the government's negligence in controlling pollution and damage caused by forest fires. The Court of Appeals also upheld the decision.

Legal remedies that can be taken by the aggrieved community related to environmental destruction about civil sanctions are governed by the Environmental Protection and Management Law No. 32 of 2009, it is regulated in Articles 84 to 92 of the UUPPLH, which is based on the community's legal efforts to file civil lawsuits and can be linked to Article 1365 of the Civil Code regarding unlawful acts for which compensation can be requested.

The "Every conduct that breaches the law, which causes harm to another person, obligates the person who, due to his guilt in causing the loss, compensates for the loss," according to Article 1365 of the Civil Code. [7] The analogy related to the article stipulates that those who commit acts that violate the law are obliged to compensate.

The process of compensation is a result of environmental destruction acts through a class-action lawsuit, the legal basis of which is in accordance with the terms of Law No. 32 of 2009 on Environmental Protection and Management and the Civil Code. It means that its enforcement and implementation must be based on applicable laws. The responsibility for environmental restoration related to the civil law aspects of the environment is a set of responsibilities that a person, party, or community has to suffering who have a right to a decent and healthy environment have been violated.

Enforcement of Civil Environmental Law is Law enforcement is defined as an effort to make justice, legal certainty, and social benefits a reality by employing the process of enforcing or implementing legal norms as a guidance for actors in legal actions or social relationships. and state, against parties who violate environmental laws, and provide legal protection for those who have legal protection rights regulated by Law Number 32 of 2009 concerning Environmental Protection and Management, as well as providing legal protection for those who have legal protection rights regulated by Law Number 32 of 2009 concerning Environmental Protection and Management, as well as providing legal protection for those who have legal protection rights regulated by Law Number 32 of 2009 concerning Environmental Protection and sanctions for parties who have violated and for those who have violated the law. parties who feel aggrieved to take legal action, through legal action and civil lawsuits.

Thus, the basis for a class-action lawsuit that can be carried out by the community is that it can use the basis of the Direct Responsibility Principle, that a set of obligations that a person or a society has to suffering whose rights to a decent and healthy environment have been infringed, as well as environmental responsibility restoration related to aspects of ecological civil law, as stated in Article 54 paragraph (1) which obliges everyone who pollutes and/or destroys the environment is obliged to restore environmental functions.

Class Action Civil Lawsuits are legal efforts by the community to file a civil lawsuit which is regulated based on Articles 84 to 92 of Law No. 32 of 2009 on Environmental Protection and

Management, which can be related to Article 1365 of the Civil Code on illegal conduct that can be prosecuted requested. compensation.

Philosophically, the basis of the Direct Responsibility Principle, compiles civil lawsuits as a set of obligations that a person or a society has to suffering whose rights to a decent and healthy environment have been infringed, as well as environmental responsibility restoration related to aspects of environmental civil law, as stated in Article 54 paragraph (1) which obliges everyone who pollutes and/or destroys the environment is obliged to restore environmental functions, which is regulated based on Law No. 32 of 2009, relating to environmental protection and management, is linked to Article 1365 of the Civil Code, which deals with acts against the law for which compensation can be sought. As regulated by Law Number 32 of 2009 concerning Environmental Protection and Management, the position of legal communities who file civil cases in Class Actions is also a right and has legitimacy.

At least, the legal ramifications of the environmental protection and management punishments outlined in Law No. 32 of 2009, particularly related to the civil law aspects, prove that the development of the environmental sector is carried out to prevent and anticipate the terrible consequences caused by these development activities as well as those caused by business legal entities and the use of natural resources carried out without heeding the applicable legal provisions. The increasing Infrastructure expansion, industrialization, consumptive lifestyles, and insufficient law enforcement are all factors that contribute to environmental contamination and a reduction in ecological carrying capacity, and the not yet optimal empowerment of Human Resources who are concerned about participating in maintaining a good and healthy environment.

### 3 Conclusion

Placing enforcing the law enacted by Law No. 32 of 2009 on Environmental Protection and Management, in enforcing environmental law only as an ultimatum remidium, will not be profitable in environmental management based on realizing ecological sustainability. Losses due to environmental destruction and pollution, if analyzed qualitatively, cannot be assessed indefinitely. Therefore, carrying out a class-action civil lawsuit proves that everyone's rights can be accumulated into community rights to become the basis for obtaining a good and healthy environment. Furthermore, for anyone who destroys and pollutes the environment, the person concerned must be responsible for his actions.

### References

- [1] Azis Budianto, Hukum Lingkungan, Jakarta: Cintya Press Press, 2016
- [2] Irmawan Hasmain, Ekonomi Pembangunan Indonesia, Jakarta: Pamator Press , 2016
- [3] Mahyudi Alwi, Penegakan Hukum Lingkungan, Bandung:Ganesha Media, 2015
- [4] Ridwan Hanafi, Hukum dan Pembangunan Nasional, Yogyakarta: Jakal Press, 2013
- [5] Siwanto, Pembangunan Berwawasan Lingkungan, Jakarta: Intermedia, 2018
- [6] Koesnadi Hardjasoemantri, Hukum Tata Lingkungan, Yogyakarta: Gajahmada University Press, 2012
- [7] KUHPerdata
- [8] Undang-undang Nomor 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup