

Reconstruction of Citizen Lawsuits in Indonesia in Realising Justice

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Abstract

Legal issues, particularly those related to the protection of citizens' rights, are addressed through the mechanism of citizen lawsuits (CLS). Until now, citizen lawsuits have only covered the environment, but there are several other sectors that have not been accommodated in the regulations on citizen lawsuits. This has led to legal uncertainty and inconsistency in court rulings on citizen lawsuits. This study uses normative legal research with a normative juridical approach based on the post-positivism paradigm. The results of this study explain that the characteristics of civil lawsuits are as follows: Basis of the lawsuit: public interest; Subject: the plaintiff is a citizen; Defendant: the government or private parties carrying out governmental affairs; Object of the lawsuit: negligence or failure to fulfil legal obligations; Notification/summons: must be sent 60 working days before the lawsuit; Claim: does not include monetary compensation, but requests that the government create regulations and policies. This reconstruction uses a dignified justice approach, namely Simplification of Procedures: CLS must have simple procedures, be affordable, and cover various fields; Subject of Lawsuits: Regulations must cover human rights violations and actions that harm the public interest, with an emphasis that the public interest also includes human rights; Judicial Competence: the authority between the District Court (PN) and the Administrative Court (TUN) must be clarified, with human rights-related lawsuits falling under the competence of the District Court; Capacity Building for Judges: training for District Court judges; Dismissal Mechanism: there is an initial selection process to screen CLS cases.

Keywords: Reconstruction; Citizen Lawsuits; Justice.

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INTRODUCTION

Indonesia is a country governed by the rule of law. [1] A country governed by the rule of law, also known as a rechtsstaat [2] or the rule of law [3], is a country where every action is based on rules or in accordance with established laws. [4] In the concept of a country governed by the rule of law, the exercise of governmental power must be based on the law and be legally accountable. As a constitutional state, Indonesia has its own characteristics, whereby Pancasila is positioned as the foundation of the state, containing

values to be applied in society, and the 1945 Constitution is positioned as the highest written constitution or basic law. A further elaboration of Pancasila as the foundation of the state is later translated into legal norms that culminate in the 1945 Constitution.[5] As the highest basic law in Indonesia, the 1945 Constitution is a philosophical foundation that contains basic principles for the regulation of the state and includes the main patterns of state policy that must be further regulated.[6] This means that the laws and regulations below it, as well as state policies and the process of state administration, must have objectives that are in harmony with and not

¹ Janpatah Simamora, "Tafsir Makna Negara Hukum Dalam Perspektif Undang-Undang Dasar Negara Republik Indonesia Tahun 1945", *Jurnal Dinamika Hukum*, 14/3, (2014), hlm. 547-561.

² Zahermann Armandz Muabaz, "Negara Berdasarkan Hukum (Rechtsstaats) Bukan Kekuasaan (Machtsstaat)", *Jurnal Hukum dan Peradilan*, 6/3, 2017 : 421-446, DOI : 10.25216/JHP.6.3.2017.421-446.

³ Yunani Abiyoso, "Konstitusionalisme Komunitas ASEAN dan Penegakan Rule of Law", *Pakuan Law Review*, 3/2, 2017: 16-30.

⁴ Sayuti, "Konsep Rechtsstaat Dalam Negara Hukum Indonesia (Kajian Terhadap Pendapat Azhari)", *Nalar Fiqh*, 4/2, (2011), hlm. 81-105.

⁵ Winarno, *Paradigma Baru Pendidikan Pancasila*, PT. Bumi Aksara Group, Jakarta, 2016, hlm. 51.

⁶ Muhammad Akib, *Politik Hukum Lingkungan*, RajaGrafindo Persada, Depok, 2016, hlm. 32.

contrary to the 1945 Constitution or Pancasila as the foundation of the state.

The fundamental purpose of establishing the Republic of Indonesia is to ensure the welfare of all its people without exception. This is also stated in the preamble to the 1945 Constitution, which mandates that one of the functions of the government in achieving the objectives of the state is to 'protect the entire Indonesian nation and all of Indonesia's bloodshed and to promote general welfare, educate the nation and participate in implementing world order based on independence, eternal peace and social justice'.^[7] Therefore, based on the contents of paragraph IV of the preamble to the 1945 Constitution, it is clear that it sends a message to state administrators to always strive to advance the general welfare, which means that state administrators or the government are obliged to continuously strive to improve the welfare of its citizens. Based on this, it can be concluded that apart from being a constitutional state, Indonesia also adheres to the concept of a welfare state.

Thus, in a constitutional state that embraces the concept of a welfare state, the protection of citizens' rights is often considered the primary objective, because the state was formed on the basis of a social contract.^[8] It is through this social contract that individuals in a community within the state surrender their political and social rights to the state and society.^[9] Because these rights are surrendered to the state community, the state must guarantee the rights that remain attached to individuals and within the bonds of community life.

To realise the protection of its citizens' rights, the 1945 Constitution as the constitution of the Republic of Indonesia has extensively regulated and guaranteed the rights of its citizens. The regulation and guarantee of a citizen's rights can serve as a reference for state administrators to avoid arbitrary actions in optimising their state duties. Meanwhile, for the

community/citizens, this serves as a guideline in actualising their rights with a sense of responsibility.^[10]

As a citizen, even though their rights are regulated and protected by the constitution, in order to defend these rights, they need access to justice in both the public and private legal spheres. In Indonesia, access to justice is provided through independent judicial institutions (the judiciary). The judiciary is an institution that serves to adjudicate violations of the constitution and laws by government institutions. One of the institutions that runs the judiciary in Indonesia is the Supreme Court of the Republic of Indonesia as the highest court in Indonesia, which oversees the courts below it.

One of the instruments that has recently emerged in efforts to resolve various legal issues, particularly those related to the protection of citizens' rights, is to file a lawsuit through the Citizen Lawsuit (CLS) mechanism.

A Citizen Lawsuit, or CLS, also known as *Actio Popularis*, is a lawsuit filed by a citizen against the state, usually on the basis of legal interests before a court of law.^[11] CLS was initially common in countries that adhere to the common law system (Anglo-Saxon system)^[12] and was later adopted by countries that adhere to the civil law system,^[13] such as the United States and India, which were already familiar with this type of lawsuit.^[14] The first case involving a citizen lawsuit emerged in the United States and was subsequently accommodated in legislation such as the Clean Air Act, Clean Water Act, and so on.

The procedure for filing a lawsuit using the citizen lawsuit mechanism is a manifestation of individual access for citizens for the benefit of all citizens or the public interest, whereby every citizen can file a lawsuit against actions or even omissions by the State regarding the rights of citizens. Citizen lawsuits are a mechanism for citizens to sue the State for its failure to fulfil the rights of citizens.^[15]

⁷ Alinea IV pembukaan Undang-Undang Dasar Republik Indonesia Tahun 1945.

⁸ Wawan Kuswandoro, *Relasi Negara dan Rakyat: Kontrak Sosial Sebuah Integritas Bawaan*, <http://wkwk.lecture.ub.ac.id/2015/10/relasi-negara-dan-rakyat-kontrak-sosial-sebuah-integritas-bawaan>, diakses pada tanggal 19 Januari 2024.

⁹ Muntoha, *Negara Hukum Indonesia Pasca Perubahan UUD 1945*, Kaukaba, Yogyakarta, 2013, Hlm. 10.

¹⁰ Lusy Liany, Ely Alawiyah Jufri, Mohammad Kharis Umardani, "Penyuluhan Hak Dan Kewajiban Warga Negeri Adalah Konstitusi Kepada Organisasi Siswa Intra Sekolah (Osis) Madrasah Aliyah Negeri 3 Jakarta", *Jurnal Baliresa*, 5/1, 2020: 51-64.

¹¹ Muhammad Adiguna Bimasakti, "Merekonstruksi Paradigma Gugatan Citizen Lawsuit Di Indonesia Sebagai Sengketa Administrasi", *Jurnal Hukum & Pembangunan*, 50/1, 2020: 230-244, DOI: <http://dx.doi.org/10.21143/jhp.vol50.no1.2492>.

¹² Choky R. Ramadhan, "Konvergensi Civil Law dan Common Law di Indonesia dalam Penemuan dan Pembentukan Hukum", *Mimbar Hukum*, 30/2, 2018: 213-229.

¹³ Erick Christian Fabrian Siagian, Hendra Sulaksana, Mohammad Zaky Kelly Antonio Fernando, Dinda Ayudhia Rachmawati, Susilo Sumardi, "Sejarah Sistem Hukum Eropa Kontinental (Civil Law) Dan implementasinya Di Indonesia", *Jurnal Lex Specialis*, 1/1, 2021: 43-47.

¹⁴ Abdul Fatah, "Gugatan Warga Negara Sebagai Mekanisme Pemenuhan Hak Asasi Manusia Dan Hak Konstitusional Warga Negara", *Yuridika*, 28/3, 2013: 293-303.

¹⁵ Isrok dan Rizki Emil Birham, *Citizen Lawsuit: Penegakan Hukum Alternatif Warga Negara*, Malang: Universitas Brawijaya Press, 2010, hlm. 21.

The emergence of citizen lawsuits in countries that adhere to the civil law system, including Indonesia, is a form of legal adoption or grafting of laws from one country to another with different social realities and legal systems, which has recently been referred to as law transplants. One of the originators of this theory is Alan Watson in his 1974 book *Legal Transplants*. [16]

Transplant laws generally pose many problems in their application, as they are considered incompatible with the way of life, customs and culture of the nation or country itself. Transplanted laws do not originate from the aspirations of citizens or communities, but are adopted from outside sources. Ideally, laws should develop in tandem with the development of the community in which they are applied, so that they embody the values and morals that have been passed down from generation to generation, making them compatible for implementation. Meanwhile, in legal transplantation, the law that is officially introduced or established by the national government differs from the customs and daily lives of the community, often resulting in the law becoming inapplicable.

As a form of legal transplantation, the application of Citizen Lawsuits in Indonesia initially raised various issues, as Citizen Lawsuits were still unfamiliar and not well known in the Indonesian legal system at that time.

The main issues were the lack of literature and regulations governing them at that time. The impact of the absence of regulations, or at least clear regulations, related to Citizen Lawsuits resulted in problems and obstacles such as differences in treatment between courts in handling Citizen Lawsuit cases, differences in views regarding judicial competence, verdicts, the procedural law used, and the criteria and requirements for Citizen Lawsuits.

Until now, the understanding of citizen lawsuits has only covered environmental rights, even though there are several other rights that have not been accommodated but should be accommodated in the regulations.

Due to these obstacles, the implementation of Citizen Lawsuits in the Indonesian legal system cannot be optimally carried out. Citizen Lawsuits are a new product resulting from the transplantation of laws from other countries that have legal systems different from Indonesia's. As explained earlier, laws can be applicable and compatible for implementation if they contain noble values that exist and grow together with the community.

Based on these considerations, it is necessary to reconstruct the mechanism of Citizen Lawsuits outside the environmental context, which are in fact products of

legal transplantation, in order to harmonise them with the identity and philosophy of the Indonesian nation, which embodies the values of Pancasila, so that they can be optimally applied in the Indonesian legal system. The reconstruction of the Citizen Lawsuit in this case will be used to realise dignified justice, which is a concept of justice that humanises humans by exploring and harmonising with the values and outlook on life of the Indonesian nation, in the form of the values of Pancasila, with an emphasis on the second principle, namely 'Just and civilised humanity'.

Adopting laws from other countries is actually perfectly acceptable, such as citizen lawsuits, which are a product of legal transplantation. However, when our country adopts laws from other countries, it often forgets the noble values of our own legal culture, even though Indonesia has its own legal identity rooted in the diversity of cultural values spread throughout the archipelago, which are united under the principle of unity in diversity and bound together by the highest legal values, namely Pancasila.

Therefore, Indonesia must not adopt a foreign legal system and then apply it in positive law, causing Indonesia to lose its legal identity that has been deeply rooted since the time of our ancestors, thereby threatening the sovereignty of the nation itself.

The use of dignified justice in applying citizen lawsuits is more about preserving the noble values that exist in Indonesia, so that the use of citizen lawsuits is more applicable by exploring the values of Pancasila that are more just and civilised. By building legal awareness and encouraging active participation, Indonesian society can overcome these challenges and realise the Pancasila vision of creating a just, civilised, and equitable society. By strengthening its legal identity rooted in Pancasila values and cultural diversity, Indonesia can become a role model for other countries in building an inclusive and equitable legal system.

Therefore, this paper will describe and analyse studies on the regulation and application of the Citizen Lawsuit mechanism in the current legal system in Indonesia, as well as an analysis of the reconstruction of the Citizen Lawsuit mechanism from the perspective of dignified justice theory so that it is more applicable and can be optimally applied in the legal system in Indonesia.

DISCUSSION

1. Characteristics of Citizen Lawsuits in Indonesia

Citizen lawsuits have given citizens access to sue the government or institutions that run the government for policies or actions that are considered to violate their rights as citizens. The existence of citizen

¹⁶ Ahmad Fauzi dan Asril Sitompul, *Transplantasi Hukum dan Permasalahan dalam Penerapan Hukum di Indonesia Medan*, Pustaka Prima, 2020, hlm. 2.

lawsuits is a manifestation of the openness of access for individual citizens for the benefit of all citizens or the public interest, whereby every citizen can file a lawsuit against an act or omission of the state that is contrary to the rights of citizens. [17]

As is well known, citizen lawsuits originated and were implemented in several countries that adhere to the common law system, which is certainly different from the legal system in Indonesia, which adheres to the civil law system (European continental legal system). At that time, due to fundamental differences in the sources of law in the common law system, which did not originate from parliament but from legal precedents or unwritten sources of law, whereas civil law originated from written law, citizens' lawsuits were not regulated by any laws or regulations. [18]

The starting point for citizen lawsuits in Indonesia was the movement of non-governmental organisations (NGOs) and legal aid institutions (LBH) in response to the increasing number of government actions that ignored its obligations as the protector and guarantor of human rights or the rights of its citizens. [19]

Various sources have different opinions regarding citizen lawsuits in Indonesia, but based on the author's research, most state that the first citizen lawsuit in Indonesia was filed by LBH Jakarta in relation to the Nunukan case, which was successfully won by LBH Jakarta, resulting in thousands of migrant workers who had been abandoned in Nunukan finally being repatriated. This case marked the beginning of the government's policy shift through the mechanism of citizen lawsuits, often referred to as citizen lawsuits.

From this case, it is understood that this lawsuit mechanism occurs when citizens file a lawsuit against the government based on public interest due to the failure to carry out legal responsibilities as they should. In other words, this lawsuit aims to protect all aspects of society from the actions of state administrators that result in the unfulfilled rights of citizens. [20]

However, long before the Nunukan case, there was a case that became the beginning or precursor to the citizen lawsuit mechanism, which occurred in the 1970s, namely a citizen lawsuit related to the construction of Taman Mini Indonesia Indah (TMII) against the government at that time because it was considered

detrimental to the interests of many people (the public). Although at that time the lawsuit was not explicitly referred to as a citizen lawsuit, this case had important elements that are believed to have formed the basis for the emergence of citizen lawsuits.

The TMII and Nunukan cases have set a precedent for several cases that use the citizen lawsuit mechanism in the Indonesian judicial system. In fact, some of these cases have been accepted and decided at the Supreme Court level and have become legally binding (in kracht), demonstrating that citizen lawsuits have become a viable legal mechanism within Indonesia's civil justice system, even though at that time there were no regulations governing the procedures for citizen lawsuits.

The enactment of Law No. 23 of 1997 on Environmental Management, which states that the community has the right to report or sue parties that cause environmental damage, and the enactment of Law No. 32 of 2009 on Environmental Protection and Management, strengthen the rights of citizens to file lawsuits, either individually or as a group.

Following the rise in lawsuits filed using the citizen lawsuit mechanism in several courts in Indonesia, but at that time there was no legal framework to regulate it, the Supreme Court, as the institution that exercises judicial power and is given the authority to make regulations, responded by issuing Supreme Court Chief Justice Decree No. 36/KMA/SK/I/2013 on the Enforcement of Guidelines for Handling Environmental Cases, which for the first time regulated citizen lawsuits (Citizen Lawsuit/CLS/Actio Popularis). With the issuance of Decree No. 36/KMA/SK/I/2013, Indonesia has officially recognised the existence of citizen lawsuits in its legal system, which adheres to civil law. The recognition of citizen lawsuits is a form of legal transplantation from countries that adhere to common law.

The issuance of Supreme Court Chief Justice Decree No. 36/KMA/SK/I/2013 on the Implementation of Guidelines for Handling Environmental Cases did not immediately resolve issues regarding the mechanism for citizen lawsuits in the Indonesian legal system, because the decree still lacks explanations regarding citizen lawsuits and there is no formal law on the mechanism for filing citizen lawsuits. At that time, there were even

¹⁷ Anonymous, Class Action & Citizen Lawsuit Laporan Penelitian, Badan Litbang Diklat Hukum Dan Peradilan Mahkamah Agung RI (2009).

¹⁸ Kadek Agus Sudiarawan, Alia Yofira Karunian, Dewa Gede Sudika Mangku, Bagus Hermanto, "Discourses On Citizen Lawsuit As Administrative Dispute Object: Government Administration Law Vs. Administrative Court Law", *JILS (Journal Of Indonesian Legal Studies)*, Volume 7/2, (2022) hlm. 10.

¹⁹ Julaidin & Henny Puspita Sari, Citizen Lawsuit (Gugatan Warga Negara) Terhadap Penyelenggara Negara Dalam Mencari Keadilan, 1 SWARA JUSTISIA 13-23 (2019).

²⁰ Rizki Emil Birham, *Citizen Lawsuit: Penegakan Hukum Alternatif Bagi Warga Negara*. Universitas Brawijaya Press, 2019. hlm.21.

differences of opinion regarding the authority to adjudicate citizen lawsuits between the General Court and the Administrative Court. This is because the decree does not specify which court has the authority to adjudicate citizen lawsuits.

The lack of regulations and the absence of formal procedural law regarding citizen lawsuits has prompted the Supreme Court to issue more detailed rules on citizen lawsuits through Supreme Court Regulation (Perma) of the Republic of Indonesia Number 1 of 2023 concerning Guidelines for Adjudicating Environmental Cases, which revokes several previous regulations, including the Decree of the Chief Justice of the Supreme Court Number 36/KMA/SK/I/2013 concerning the Enforcement of Guidelines for Handling Environmental Cases, so that Perma Number 1 of 2023 is currently the only legal umbrella for citizen lawsuits. The Perma actually regulates more about citizen lawsuits than the previous Decree of the Chief Justice of the Supreme Court Number 36/KMA/SK/I/2013. In fact, the Perma clarifies that both the General Court and the Administrative Court have the right to adjudicate citizen lawsuits within their respective jurisdictions. However, it is unfortunate that the Perma does not specifically regulate citizen lawsuits, but is essentially a regulation on guidelines for adjudicating environmental cases, which recognises the existence of a simplified lawsuit mechanism and regulates several matters related to citizen lawsuits. Thus, the Perma explicitly accommodates citizen lawsuits in the field of the environment.

Based on its concept, the citizen lawsuit mechanism has several characteristics or special features that distinguish it from several previously known lawsuits, whereby there are similarities between citizen lawsuits and class actions, namely in that the subject of a class action lawsuit (Group Lawsuit) in that the object of the lawsuit is the interests of a community group that has been harmed by a legal action, whereas in citizen lawsuits, the subject of the legal action is the government/state or private parties carrying out government affairs. The difference is that the interests in citizen lawsuits are not direct interests but rather the general rights of citizens that have been neglected and have a broader scope. This means that what is being advanced in this case is the 'interest to sue' (Processbelang) as a citizen (representing all citizens covered by the regulations that will be the object) and no longer merely the 'interest of protecting values' (Het Rechters te Beschermen Belang). According to Ten Berge,²¹ interests in public law have two meanings, namely:

- 1) Het rechters te beschermen belang or Legally Protected Interest, which refers to values that must be protected by law; and
- 2) Processbelang or Procedural Interest, which refers to matters to be achieved by filing a lawsuit in court.

This is clearly different from civil procedural law, which applies the principle of Point d'Interet Point d'Action (to be discussed in the next section), which means that the interested party is the party entitled to sue.²² Literally, point d'Interet point d'action means 'point of interest, point of action'. In a citizen lawsuit, the plaintiff does not only bring their personal interests to bear, but also those of all the people who will be affected by the product that is the subject of the dispute. Furthermore, the plaintiff in a citizen lawsuit does not need to prove actual damages, as is generally required in civil lawsuits. [²³]

2. Reconstruction of Citizen Lawsuits to Achieve Justice.

A citizen lawsuit is a legal instrument whereby citizens or groups of citizens can file a lawsuit against the government or institutions that are deemed to have violated their rights or failed to fulfil their obligations to protect citizens' rights, which are closely related to human rights. In this case, citizen lawsuits are a means of citizen participation in government oversight. When there are policies or actions that are considered harmful or neglectful of human rights, citizens can file lawsuits to demand improvements. In addition, citizen lawsuits are a means of encouraging changes in public policies that are deemed to not protect or even threaten human rights. For example, lawsuits against policies that are detrimental to the environment, public health, or civil liberties. In their place of origin, citizen lawsuits have succeeded in encouraging the cancellation or revision of regulations or policies that are detrimental to the public interest.

The enactment of citizen lawsuit instruments also has significance in terms of strengthening the principle of the rule of law. In a state governed by the rule of law, citizen lawsuits are a tangible manifestation of citizens' right to obtain justice through legal channels. These lawsuits reinforce the principle that all citizens have the same rights to protection before the law. This is why citizen lawsuits need to be implemented in Indonesia's legal system.

To that end, in order for citizens' claims to be optimally effective, several adjustments to the laws and way of life of a nation are necessary. The Indonesian people adhere to Pancasila as their philosophy of life, which means that Pancasila is a principle, a way of

²¹ ²¹ J.B.J.M. Ten Berge, dan A.Q.C. Tak, *Hoofdlijnen van het Nederlands Administratief Processrecht*, Zwolle: W. E. J. Tjeenk Willink, 1987, hlm. 65.

²² Sudikno Mertokusumo, 2006, *Hukum Acara Perdata Indonesia*, Yogyakarta: Liberty, hlm. 53.

²³ Moch. Iqbal, *Op.Cit.*, hlm. 106.

thinking, or a moral guideline for every Indonesian citizen in their behaviour and way of life. As a philosophy of life, Pancasila contains basic values that reflect the personality of the Indonesian nation and serve as a reference in social, national and state life. The values contained in Pancasila are the foundation for maintaining the integrity of the Indonesian nation amid diversity, whether in terms of religion, law, culture, ethnicity or political views.

Pancasila as a philosophy of life for the state also serves as a foundation in facing global changes and challenges of the times. The values contained in Pancasila are universal and can be implemented in various conditions faced by the Indonesian nation.

In order to optimise the implementation of citizens' lawsuits in Indonesia, which are essentially a transplant of legal concepts, and to anticipate several obstacles in their implementation, an approach based on the values and philosophy of life of the Indonesian people is required. As explained earlier, these values are the values of Pancasila. The values contained in Pancasila need to be incorporated into the implementation of citizen lawsuits so that the mechanism becomes more adaptable and can be applied optimally.

In anticipation of obstacles in the implementation of citizen lawsuits, it is necessary to reconstruct several aspects of the current rules governing citizen lawsuits, in this case, Supreme Court Regulation No. 1 of 2023 concerning Guidelines for Adjudicating Environmental Cases, by incorporating the values contained in Pancasila through a dignified justice approach so that the application and procedures for citizen lawsuits can be applied adaptively and optimally in the Indonesian legal system. Ideally, regulations related to citizen lawsuits should be regulated in separate regulations, which in the near future could take the form of a Supreme Court Regulation (Perma), considering that the process of drafting and amending a law by the Government and the House of Representatives requires a considerable amount of time. Furthermore, regulations related to citizen lawsuits do not appear to be a priority for the Government and the House of Representatives in the near future. Therefore, the Supreme Court, with the authority that has been granted to it, can issue a Supreme Court Regulation in a shorter period of time. However, in the future, it is hoped that citizen lawsuits can be regulated in a separate law that specifically regulates citizen lawsuits in terms of both formal and material law, as follows:

1. The new regulations need to accommodate and provide access to lawsuits filed by citizens outside the environmental sector.

In drafting specific rules for citizens' lawsuits outside the environmental sphere, it is important to consider several things. First, the rules must ensure broad accessibility for citizens from various backgrounds. This

means that the procedures for citizens' lawsuits must be simple and not require high costs, so that it is not only citizens with sufficient resources who can file lawsuits. Second, the regulations must accommodate various types of human rights violations and actions that are detrimental to the public interest.

In addition, the regulations must provide protection for citizens as plaintiffs from retaliation or intimidation that may be carried out by the defendant, especially when the defendant is the government or an entity that has power. This protection is important to ensure that citizens feel safe and free from pressure in demanding their rights. In this case, special arrangements for citizen lawsuits must include mechanisms that enable plaintiffs to obtain legal support and protection from threats that may arise during the legal process.

2. The new regulations need to accommodate formal laws regarding the procedures for resolving citizens' lawsuits.

Perma Number 1 of 2023 does not regulate formal law or the procedures for examining citizen lawsuits, but after reviewing the Supreme Court Chief Justice's Letter No. 36/KMA/SK/II/2013 concerning the Enforcement of Guidelines for Handling Environmental Cases, it is stated that the procedural mechanism in citizen lawsuit trials refers to HIR, meaning that it uses formal law or civil procedural law in general.

Several specific characteristics of citizen lawsuits include:

- 1) The basis of a citizen lawsuit is limited to unlawful acts against the public interest;
- 2) The plaintiff in a citizen lawsuit can be any citizen who is not necessarily directly affected or harmed, while the defendant is the government, a state institution, or a private party that carries out government affairs;
- 3) The object of the lawsuit in a citizen lawsuit is the neglect or non-implementation of legal obligations by agencies that carry out government affairs;
- 4) There must be a mandatory notification/summons submitted within 60 (sixty) working days before filing a lawsuit. If there is no notification/summons, the lawsuit must be declared inadmissible;
- 5) The petition in a citizen lawsuit may not seek monetary compensation, but rather demand that the government enact legislation under the law that is the government's obligation and/or formulate certain policies or carry out legal obligations in accordance with its authority.

The specific characteristics of citizen lawsuits must, of course, be accommodated through new regulations related to formal law or procedural law for citizen lawsuits. This is to serve as a guideline for judicial institutions in examining citizen lawsuits and to avoid

differences in interpretation between courts, which could lead to new injustices.

3. The new regulations need to comprehensively accommodate aspects of citizens' lawsuits that have remained unclear until now.

Perma Number 1 of 2023 has indeed recognised the existence of citizen lawsuits, including providing a definition and several requirements for the lawsuit mechanism. However, there are still several aspects of citizen lawsuits that remain unclear and are essential, thus requiring further explanation.

First, there is the issue of the unclear boundaries of jurisdiction between the general courts and the administrative courts. Second, Perma No. 1 of 2023 only regulates absolute jurisdiction but does not regulate the relative jurisdiction of the courts.

To provide a solution to the first problem, it may be necessary to include an explanation in the regulations regarding the respective authorities of the courts with jurisdiction (administrative and general), for example, if the regulations already exist but the agency carrying out government affairs is negligent, then that agency is ordered to carry out its obligations, which then becomes the jurisdiction of the administrative court. whereas if the regulation does not yet exist and the petition requests that the agency administering government affairs issue a regulation or policy, this falls under the absolute jurisdiction of the general court. This is based on the consideration that the jurisdiction of the TUN court relates to decisions on state administration, in this case decisions that have been made or already exist, so that its nature is only to negate, whereas the power to make new regulations or policies falls under the jurisdiction of the general court.

Secondly, with regard to relative authority, it must be considered where the authority of the agency is derived from. In Indonesia, authority is generally acquired in two ways, namely: 1) Through mandate, 2) Through delegation. Based on responsibility, it is understood that authority derived from a mandate remains with the mandator, while authority obtained through delegation of responsibility lies with the delegatee.

Thirdly, a selective case screening process must be carried out before CLS cases can proceed to trial. This is useful in order to make it easier for plaintiffs to file civil lawsuits against the government, namely by educating plaintiffs about the legal basis and rules that must be applied. This indirectly helps plaintiffs to avoid mistakes when filing their lawsuits.

CONCLUSION

Based on the above, the author then formulated several conclusions that can be drawn, including:

- 1) There are several specific characteristics of citizen lawsuits, including:
 - a. The basis of the lawsuit is for the public interest;
 - b. The plaintiff is any citizen who does not have to be directly affected or harmed, while the defendant is the government, state institutions, or private parties that carry out government affairs;
 - c. The object of the lawsuit is the neglect or non-implementation of legal obligations;
 - d. There must be a mandatory notification/summons submitted within 60 (sixty) working days before filing a lawsuit. If there is no notification/summons, the lawsuit must be declared inadmissible;
 - e. No monetary compensation may be claimed.
 - f. The petition of a citizen's lawsuit is for the government to enact legislation under the law that is the government's obligation and/or formulate certain policies or carry out legal obligations in accordance with its authority.

Reconstruction of regulations on citizen lawsuits to realise dignified justice. It is important to have strict and clear rules governing CLS in various fields other than the environment. First, CLS procedures must be simple and not require high costs. Second, the regulations must accommodate various types of rights violations that can be the subject of CLS, including human rights violations, violations of public services, and actions that harm the public interest. It is important to clarify that the public interest in CLS does not only cover environmental issues, but also universally recognised human rights that are guaranteed by the Indonesian constitution. Third, specific rules regarding CLS must clarify the division of authority between the District Court and the Administrative Court. One of these is the simplification of cases through a single window, whereby CLS lawsuits related to human rights interests must fall under the jurisdiction of district courts that have the capacity to handle them. Fourth, the competence of the court must be supported by capacity building and training for judges in the district court, considering that not all judges are proficient in legal aspects related to human rights. Fifth, one aspect that needs to be considered in the regulation is the application of a dismissal mechanism or selective case screening before CLS cases can proceed to trial.

Suggestions

Based on the results of this study, it is recommended that:

- 1) It is recommended that specific regulations be immediately drafted to comprehensively regulate CLS outside the field of the environment. These regulations must cover various rights violations that can be the subject of CLS, including human rights violations,

violations of public services, and actions that harm the public interest.

- 2) It is recommended that a mechanism for dismissal or selective case screening be implemented before CLS cases can proceed to trial. This mechanism is important to prevent potential abuse of CLS by parties who do not have legitimate interests, as well as to manage the volume of cases in court.

REFERENCES

- Abdul Fatah, "Gugatan Warga Negara Sebagai Mekanisme Pemenuhan Hak Asasi Manusia Dan Hak Konstitusional Warga Negara", *Yuridika*, 28/3, 2013: 293-303.
- Ahmad Fauzi dan Asril Sitompul, *Transplantasi Hukum dan Permasalahan dalam Penerapan Hukum di Indonesia Medan*, Pustaka Prima, 2020
- Anonymous, *Class Action & Citizen Lawsuit Laporan Penelitian*, Badan Litbang Diklat Hukum Dan Peradilan Mahkamah Agung RI (2009).
- Choky R. Ramadhan, "Konvergensi Civil Law dan Common Law di Indonesia dalam Penemuan dan Pembentukan Hukum", *Mimbar Hukum*, 30/2, 2018: 213-229.
- Erick Christian Fabrian Siagian, Hendra Sulaksana, Mohammad Zaky Kelly Antonio Fernando, Dinda Ayudhia Rachmawati, Susilo Sumardi, "Sejarah Sistem Hukum Eropa Kontinental (Civil Law) Danimplementasinya Di Indonesia", *Jurnal Lex Specialis*, 1/1, 2021: 43-47.
- Isrok dan Rizki Emil Birham, *Citizen Lawsuit: Penegakan Hukum Alternatif Warga Negara*, Malang: Universitas Brawijaya Press, 2010
- J.B.J.M. Ten Berge, dan A.Q.C. Tak, *Hoofddlijnen van het Nederlands Administratief Processrecht*, Zwolle: W. E. J. Tjeenk Willink, 1987
- Janpatar Simamora, "Tafsir Makna Negara Hukum Dalam Perspektif Undang-Undang Dasar Negara Republik Indonesia Tahun 1945", *Jurnal Dinamika Hukum*, 14/3, (2014)
- Julaidin & Henny Puspita Sari, *Citizen Lawsuit (Gugatan Warga Negara) Terhadap Penyelenggara Negara Dalam Mencari Keadilan*, 1 SWARA JUSTISIA 13–23 (2019).
- Kadek Agus Sudiarawan, Alia Yofira Karunian, Dewa Gede Sudika Mangku, Bagus Hermanto, "Discourses On Citizen Lawsuit As Administrative Dispute Object: Government Administration Law Vs. Administrative Court Law", *JILS (Journal Of Indonesian Legal Studies)*, Volume 7/2, (2022)
- Lusy Liany, Ely Alawiyah Jufri, Mohammad Kharis Umardani, "Penyuluhan Hak Dan Kewajiban Warga Negar Dalam Konstitusi Kepada Organisasi Siswa Intra Sekolah (Osis) Madrasah Aliyah Negeri 3 Jakarta", *Jurnal Balireso*, 5/1, 2020: 51-64.
- Moch. Iqbal, "Aspek Hukum Class Action dan Citizen Lawsuit serta Perkembangannya di Indonesia", *Jurnal Hukum dan Peradilan*, 1/1, 2012: 22, DOI:10.25216/JHP.1.1.2012.89-112.
- Muhammad Adiguna Bimasakti, "Merekonstruksi Paradigma Gugatan Citizen Lawsuit Di Indonesia Sebagai Sengketa Administrasi", *Jurnal Hukum & Pembangunan*, 50/1, 2020: 230-244, DOI: <http://dx.doi.org/10.21143/jhp.vol50.no1.2492>.
- Muhammad Akib, *Politik Hukum Lingkungan*, RajaGrafindo Persada, Depok, 2016
- Muntoha, *Negara Hukum Indonesia Pasca Perubahan UUD 1945*, Kaukaba, Yogyakarta, 2013
- Rizki Emil Birham, *Citizen Lawsuit: Penegakan Hukum Alternatif Bagi Warga Negara*. Universitas Brawijaya Press, 2019.
- Sayuti, "Konsep Rechtsstaat Dalam Negara Hukum Indonesia (Kajian Terhadap Pendapat Azhari)", *Nalar Fiqh*, 4/2, (2011)
- Sudikno Mertokusumo, 2006, *Hukum Acara Perdata Indonesia*, Yogyakarta: Liberty
- Wawan Kuswandro, *Relasi Negara dan Rakyat: Kontrak Sosial Sebuah Integritas Bawaan*, <http://wkwk.lecture.ub.ac.id/2015/10/relasi-negara-dan-rakyat-kontrak-sosial-sebuah-integritas-bawaan>
- Winarno, *Paradigma Baru Pendidikan Pancasila*, PT. Bumi Aksara Group, Jakarta, 2016
- Yunani Abiyoso, "Konstitusionalisme Komunitas ASEAN dan Penegakan Rule of Law", *Pakuan Law Review*, 3/2, 2017: 16-30.
- Zahermann Armandz Muabez, "Negara Berdasarkan Hukum (Rechtsstaats) Bukan Kekuasaan (Machtsstaat)", *Jurnal Hukum dan Peradilan*, 6/3, 2017 : 421-446, DOI : 10.25216/JHP.6.3.2017.421-446.