

Formal Requirements for Class Action Lawsuits in Environmental Cases in Indonesia: Problems and Solutions

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ABSTRACT

Class action lawsuits serve as a vital instrument in the enforcement of environmental law, particularly in advocating for the interests of affected communities. Although the regulation of class actions has been recognized in Indonesian legislation, such as Law Number 23 of 1997 in conjunction with Law Number 32 of 2009, as well as Supreme Court Regulation (PERMA) Number 1 of 2002, its implementation continues to face various legal and technical challenges. One of the main issues is the frequent rejection of environmental class action lawsuits by courts on the grounds of not meeting formal requirements. Therefore, the purpose of this paper is to identify procedural obstacles in the implementation of class actions and to provide policy recommendations to improve public access to environmental justice. This study employs a normative juridical method using a statutory approach. The findings indicate that PERMA Number 1 of 2002, as the legal basis for class action lawsuits, is no longer responsive to contemporary developments. To address this, two primary solutions are proposed: first, to elevate the status of PERMA to a law; and second, to establish environmental courts as a specialized forum for resolving environmental disputes. It can be concluded that a more comprehensive regulatory reconstruction and harmonization of norms within Indonesia's civil judicial system for environmental matters is necessary to ensure the effectiveness of environmental protection through the class action mechanism.

KEYWORDS: *Class Actions; Environmental Justice; Environmental Court; Legal Reform*

1. INTRODUCTION

The environment is indispensable in sustaining human existence and the vitality of other living organisms; therefore, its preservation and continuous maintenance are of the utmost importance. Regrettably, environmental conditions frequently deteriorate due to

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numerous human endeavors, especially exploitative ones, including industrial operations, mining, and extensive land clearing. Inadequate oversight of the consequences stemming from these activities often results in pollution and environmental degradation, adversely affecting nearby communities directly and indirectly.¹

Moreover, the rising incidence of global environmental pollution has garnered considerable public interest in environmental matters. In light of these concerns, the Indonesian legal framework has instituted measures to safeguard the environment and ensure adherence to the law.² One legal framework that addresses this matter is Law Number 32 of 2009 regarding Environmental Protection and Management. This legislation establishes that the populace is endowed with legal rights to hold individuals or entities responsible for environmental pollution or degradation accountable, and it includes the provision for class action lawsuits as a means of redress.

Class action lawsuits are conventionally governed by Supreme Court Regulation (PERMA) Number 1 of 2002, which outlines the procedures for such legal actions. Article 1(a) delineates a class action as "a procedural mechanism wherein one or more individuals, acting as representatives of a collective, initiate a lawsuit not only for themselves but also on behalf of a substantial number of individuals who possess analogous facts or legal grounds with the group representatives." In contrast to singular lawsuits, a class action permits one or more individuals to commence or contest a claim on behalf of a collective of individuals who share a comparable legal circumstance.³

This mechanism enables a group of individuals who have experienced analogous harm to initiate a collective lawsuit, with representation by one or more cohort members. This methodology is regarded as superior in efficiency and efficacy in the quest for environmental justice, especially in scenarios where numerous individuals have suffered

¹ M. Beni Kurniawan, 'Implementation of Electronic Trial (E-Litigation) on the Civil Cases in Indonesia Court As a Legal Renewal of Civil Procedural Law', *Jurnal Hukum Dan Peradilan*, 9.1 (2020), p. 43, doi:10.25216/jhp.9.1.2020.43-70.

² Paula Hannaford-agor, 'Our New Normal? How COVID-19 Accelerated Pre-Pandemic Trends in State Court Litigation', *DePaul Law Review*, 71.2 (2022).

³ Nana Y Amoah and Alex P Tang, 'Board, Audit Committee and Restatement-Induced Class Action Lawsuits', *Advances in Accounting*, 26.2 (2010), pp. 155–69, doi:https://doi.org/10.1016/j.adiac.2010.04.001; Brian C McTier and John K Wald, 'The Causes and Consequences of Securities Class Action Litigation', *Journal of Corporate Finance*, 17.3 (2011), pp. 649–65, doi:https://doi.org/10.1016/j.jcorpfin.2010.11.003.

from environmental harm and possess shared legal interests.⁴ Class action lawsuits are predominantly employed in the United States to initiate claims against corporations or firms concerning economic activities. This particular form of litigation is favored due to its perceived ability to yield a more expedient resolution in contrast to traditional individual lawsuits.⁵

In Indonesia, class action lawsuits are a prevalent mechanism for addressing environmental disputes. This mechanism is significant due to the collective and widespread nature of the impacts associated with pollution or environmental degradation.⁶ Moreover, the class action mechanism presents notable benefits regarding conserving time and resources for plaintiffs and the judicial system. This initiative offers a valuable avenue for individuals or small collectives who may not possess the necessary resources to engage in legal proceedings independently. In environmental protection and consumer rights, class actions are vital for empowering marginalized groups to secure justice that might otherwise remain elusive. Moreover, aggregating analogous claims into a unified legal action can engender a deterrent effect for transgressors, given the substantial legal liabilities and collective compensation at stake.

Nevertheless, the practical application of the class action mechanism in Indonesia encounters numerous challenges regarding formal and procedural dimensions.⁷ Challenges emerge from the stringent administrative stipulations outlined in Supreme Court Regulation (PERMA) Number 1 of 2002 concerning Procedures for Class Action Lawsuits. These requirements necessitate the presence of shared legal interests among group members, precise identification of the group representative, a comprehensive definition of the group, and an effective notification mechanism for the parties being

⁴ Joan Martinez-Alier, 'Mining Conflicts, Environmental Justice, and Valuation', *Journal of Hazardous Materials*, 86.1 (2001), pp. 153–70, doi:[https://doi.org/10.1016/S0304-3894\(01\)00252-7](https://doi.org/10.1016/S0304-3894(01)00252-7).

⁵ Chukwumerije Okereke and Mark Charlesworth, *Environmental and Ecological Justice, Advances in International Environmental Politics*, 2014, doi:10.1057/9781137338976.

⁶ 'Remec Faces Class Action Lawsuit', *III-Vs Review*, 17.8 (2004), p. 10, doi:[https://doi.org/10.1016/S0961-1290\(04\)00760-4](https://doi.org/10.1016/S0961-1290(04)00760-4); 'Class Action Lawsuit against Discovery Labs Dismissed', *Focus on Surfactants*, 2007.6 (2007), p. 7, doi:[https://doi.org/10.1016/S1351-4210\(07\)70220-2](https://doi.org/10.1016/S1351-4210(07)70220-2); Daniel Bradley, Brandon N Cline, and Qin Lian, 'Class Action Lawsuits and Executive Stock Option Exercise', *Journal of Corporate Finance*, 27 (2014), pp. 157–72, doi:<https://doi.org/10.1016/j.jcorpfin.2014.04.002>.

⁷ Myriam Gilles, 'Class Dismissed: Contemporary Judicial Hostility to Small-Claims Consumer Class Actions', *DePaul Law Review*, 59.2 (2010), p. 305; 'Remec Faces Class Action Lawsuit'.

represented. Should these stipulations remain unfulfilled, the court can dismiss the lawsuit. Articles 2(a) through 2(d) of PERMA Number 1 of 2002 delineate the formal prerequisites for a class action lawsuit. Article 2(a) stipulates that the number of group members must be sufficiently substantial to render it ineffective or inefficient for the lawsuit to be pursued individually or collectively in a singular legal action. The absence of precise regulations regarding the optimal number of group members deemed effective and efficient in this article has provoked inquiries and ignited discourse.⁸

Challenges emerge in environmental pollution litigation, which adversely affect the community and the ecosystem, when the court dismisses such cases for not fulfilling the procedural prerequisites of a lawsuit.⁹ Several rulings suggest that, despite the tangible environmental harm experienced by the community, failure to adhere to procedural requirements may undermine their entitlement to legal recourse.¹⁰ The formal stipulations at hand arise from uncertainties in delineating the group, insufficient identification of its members, and concerns about the authority of the group representative to legally act on behalf of all constituents. This underscores that excessively inflexible legal protocols can obstruct the public's ability to attain justice, especially for demographics with constrained comprehension and access to legal support.¹¹

In the case of the Rantau Prapat District Court No. 15/Pdt.G/LH/2023/PN.RAP, the judge determined that the class action lawsuit presented by the community was to be dismissed, noting that it failed to satisfy the formal criteria established in PERMA No. 1 of 2002. The lawsuit revealed several deficiencies, notably an ambiguity in the definition of the group, an inadequate identification of its members, and uncertainties regarding the representative's legal authority to act on behalf of the entire group.¹² This ruling suggests

⁸ Amoah and Tang, 'Board, Audit Committee and Restatement-Induced Class Action Lawsuits'; McTier and Wald, 'The Causes and Consequences of Securities Class Action Litigation'.

⁹ T Kortetmäki, *Justice in and to Nature: An Application of the Broad Framework of Environmental and Ecological Justice*, *Disertasi*, 2017, doi:10.13140/RG.2.2.34395.05926.

¹⁰ Rian Saputra, Albertus Usada, and Muhammad Saiful Islam, 'Ecological Justice in Environmental Criminal Sanctions for Corporations in Indonesia: Problems and Solution', *Journal of Law, Environmental and Justice*, 2.1 (2024), pp. 1–17, doi:10.62264/jlej.v2i1.19.

¹¹ Amoah and Tang, 'Board, Audit Committee and Restatement-Induced Class Action Lawsuits'; McTier and Wald, 'The Causes and Consequences of Securities Class Action Litigation'.

¹² Wayne Kondro, 'Class-Action Lawsuit Threatened by Canadian Female Prisoners', *The Lancet*, 354.9196 (1999), p. 2144, doi:https://doi.org/10.1016/S0140-6736(05)77054-9.

that, notwithstanding the genuine environmental damage experienced by the community, failure to adhere to formal stipulations may invalidate their entitlement to legal recourse.¹³ Consequently, it is essential to assess the execution of PERMA and strengthen the function of legal aid institutions to guarantee that class action lawsuits operate effectively, as a mechanism for collective justice.

Many studies indicate that, while the class action mechanism serves as a robust solution for addressing environmental cases characterized by widespread harm, numerous lawsuits continue to be dismissed for not fulfilling formal criteria. In light of this, Wayan Didik Prayoga and Anak Agung Gede Agung Dharmakusuma underscore the significance of the certification phase in the preliminary assessment of class action lawsuits. During the certification process, judges evaluate the feasibility of the lawsuit, considering whether the size of the group is sufficient to render individual lawsuits impractical. Moreover, Puspa Indah Ayu Agustin's comparative analysis examines the execution of class actions in Indonesia and Australia. In Australia, the legislation clearly delineates the regulations regarding the minimum number of group members, in contrast to Indonesia, which remains devoid of comparable stipulations. In light of this analysis, the study advocates for Indonesia to contemplate the adoption of a comparable practice to bolster legal certainty in the execution of class action lawsuits.

This research showcases its originality by referencing prior studies that have explored the dynamics of class action lawsuits within environmental concerns.¹⁴ A study by Nurasti Parlina delves into the class action lawsuit initiated by the victims of the Mandalawangi landslide, emphasizing the advantages of such legal actions regarding compensation and the assurance of legal clarity.¹⁵ Secondly, the research conducted by Mella Ismelina Farma Rahayu examines the ecological justice aspect associated with the Leuwigajah Landfill landslide; however, it fails to consider the formal requirements pertinent to class action

¹³ Paul Sergius Koku, 'An Analysis and the Effects of Class-Action Lawsuits', *Journal of Business Research*, 59.4 (2006), pp. 508–15, doi:<https://doi.org/10.1016/j.jbusres.2005.07.002>.

¹⁴ Ahmad Dhiaulhaq and others, 'Environmental Justice and Human Well-Being Bundles in Protected Areas: An Assessment in Campo Ma'an Landscape, Cameroon', *Forest Policy and Economics*, 159 (2024), p. 103137, doi:<https://doi.org/10.1016/j.forpol.2023.103137>.

¹⁵ Nurasti Parlina, 'PENERAPAN CLASS ACTION DI INDONESIA STUDI KASUS PUTUSAN NOMOR 1794 K/Pdt/2004', *Jurnal Poros Hukum Padjadjaran*, 2.2 (2021), pp. 237–52, doi:10.23920/jphp.v2i2.377.

lawsuits.¹⁶ Third, a study by Prim Haryadi highlights the application of the strict liability concept in environmental law enforcement to avoid uncertainties in calculating environmental recovery costs. This research, however, is confined to the government's role and does not engage with the complexities of formal mechanism issues.¹⁷ This research highlights the pressing need to revise the formal criteria governing class action lawsuits, focusing on the effectiveness and efficiency of the requisite group members. This research delves into the legal deficiencies that result in the dismissal of numerous lawsuits at their inception. It provides a normative-comparative analysis and specific recommendations to reformulate regulations to facilitate more assured and systematic access to environmental justice.¹⁸ This research presents a unique contribution to the scientific community.

The significance of this research is rooted in the necessity to assess and enhance the class action lawsuit framework in environmental cases, which profoundly affect the communities involved. This research seeks to elucidate the procedural impediments encountered in the execution of class actions and to propose policy recommendations that may enhance public accessibility to environmental justice.¹⁹ Consequently, this study aims to enhance the reform of Indonesia's civil procedure law, specifically by harmonizing the principle of access to justice with procedural flexibility, all while safeguarding the interests of the wider public. In light of the preceding discussion, the research inquiries for this study are as follows: How can the class action lawsuit framework about environmental pollution cases in Indonesia be executed with greater efficacy, particularly in overcoming challenges associated with the formal stipulations specified in PERMA No. 1 of 2002?

2. RESEARCH METHODS

This study utilizes normative legal research as its methodological approach, examining

¹⁶ Mella Ismelina Farma Rahayu, 'Keadilan Ekologis Dalam Gugatan Class Action Tempat Pembuangan Akhir Leuwigajah', *Jurnal Yudisial*, 5.1 (2012), pp. 17–35 <<https://jurnal.komisiyudisial.go.id/index.php/jy/article/download/162/139>>.

¹⁷ Prim Haryadi, 'Pengembangan Hukum Lingkungan Hidup Melalui Penegakan Hukum Perdata Di Indonesia', *Jurnal Konstitusi*, 14.1 (2017), pp. 124–49.

¹⁸ Martinez-Alier, 'Mining Conflicts, Environmental Justice, and Valuation'.

¹⁹ Okereke and Charlesworth, *Environmental and Ecological Justice*.

existing written legal norms to analyze a particular legal issue.²⁰ This research primarily focuses on the Supreme Court Regulation (PERMA) No. 1 of 2002 concerning the Procedural Law for Class Action Lawsuits, which is essential for comprehending the procedural framework and its implementation in environmental cases. This research employs a conceptual framework to rigorously analyze fundamental legal concepts and principles associated with class action lawsuits, including the definition of a group, the formal prerequisites for initiating a class action, and the mechanisms designed to uphold justice for collective claims.²¹ The information for this study is chiefly obtained via extensive library research, encompassing a thorough examination of both primary and secondary legal sources. Fundamental legal sources encompass statutes, regulations, and judicial rulings, crucial for comprehending the legal framework and its practical application.²² Secondary sources encompass scholarly articles, legal textbooks, and reputable online resources, offering significant context and insights into the broader legal framework. This meticulous approach guarantees a nuanced and exhaustive analysis of the complexities associated with class action lawsuits in environmental law, facilitating the development of well-founded conclusions and policy suggestions.

3. RESULTS AND DISCUSSION

Issues Regarding Formal Requirements for Environmental Group Lawsuits

The procedural law delineated in the Supreme Court Regulation (PERMA) No. 1 of 2002 concerning Class Action Lawsuits establishes the foundational framework for executing group lawsuits in Indonesia. To ensure that a lawsuit is acknowledged as a legitimate class action, it is imperative that several formal requirements are satisfied. Initially, it is essential to establish a common factual foundation and legal rationale that aligns the group representative with all group members. This indicates that the occurrences that form the basis of the purported damage and the legal principles

²⁰ Willy Naresta Hanum, Tran Thi Dieu Ha, and Nilam Firmandayu, 'Eliminating Ecological Damage in Geothermal Energy Extraction: Fulfillment of Ecological Rights by Proposing Permits Standardization', *Journal of Law, Environmental and Justice*, 2.2 (2024), pp. 205–28, doi:10.62264/jlej.v2i2.105.

²¹ 'Class-Action Lawsuit Filed against US Carbon Black Suppliers', *Focus on Pigments*, 2003.7 (2003), p. 7, doi:[https://doi.org/10.1016/S0969-6210\(03\)00736-7](https://doi.org/10.1016/S0969-6210(03)00736-7).

²² Suparto Suparto and Jose Gama Santos, 'Regional Spatial Regulation in Riau Province: Policy Formation Problems and Solutions', *Journal of Law, Environmental and Justice*, 2.2 (2024), pp. 185–204, doi:10.62264/jlej.v2i2.104.

transgressed must be consistent across all group members.²³ It is crucial to guarantee that the lawsuit adequately reflects the group's collective legal interests, thereby averting any potential conflicts of interest throughout the resolution process.

Secondly, the group representative must possess the requisite skills and abilities to adeptly advocate for and safeguard the interests of every member within the group. The caliber of representation holds significant importance, as in a class action, the group representative engages actively in the judicial proceedings, with the remaining group members being represented through this singular individual. Should the court express doubts regarding the representative's capacity to comprehend and articulate the interests of all group members, this may constitute a basis for dismissing the lawsuit. Third, the identification and definition of the group must be articulated with precision and specificity. This definition encompasses criteria for membership within the group, delineates the extent of its impact, and specifies the limitations regarding inclusion in the group.²⁴

This requirement aims to eliminate ambiguity and guarantee that only those truly impacted parties are represented in the lawsuit. The absence of precise definitions regarding the group could result in legal ambiguity and complications in implementing the court's ruling. Fourth, there exists a duty to inform other members of the group.²⁵ This notification upholds transparency, enabling group members who are not directly engaged in the lawsuit to stay apprised of the current legal proceedings and decide whether to engage (opt in) or disengage from the lawsuit (opt out). This procedure serves as a legal safeguard, ensuring that individuals within the group are neither inadvertently nor involuntarily represented without their explicit consent or knowledge.²⁶

In numerous instances within Indonesia, the judiciary has determined that the

²³ Qiming Wang and others, 'Law Firm Market Share and Securities Class Action Litigation Outcomes', *The Quarterly Review of Economics and Finance*, 84 (2022), pp. 596–609, doi:<https://doi.org/10.1016/j.qref.2020.10.013>.

²⁴ Robert L Kellogg, 'Accounting Activities, Security Prices, and Class Action Lawsuits', *Journal of Accounting and Economics*, 6.3 (1984), pp. 185–204, doi:[https://doi.org/10.1016/0165-4101\(84\)90024-7](https://doi.org/10.1016/0165-4101(84)90024-7).

²⁵ Sergius Koku, 'An Analysis and the Effects of Class-Action Lawsuits'; Gilles, 'Class Dismissed: Contemporary Judicial Hostility to Small-Claims Consumer Class Actions'.

²⁶ Omer Unsal, 'Employee Lawsuits and Business Downsizing: Evidence from Labor Unions', *Journal of Financial Stability*, 74 (2024), p. 101318, doi:<https://doi.org/10.1016/j.jfs.2024.101318>.

submitted class action lawsuits do not fulfill all formal prerequisites, especially regarding the represented group's specificity and the group representative's ability to effectively articulate and safeguard the legal interests of its constituents.²⁷ Consequently, these lawsuits are deemed inadmissible and precluded from advancing to the substantive examination stage. This discussion includes the rulings from the Rantau Prapat District Court, identified as No. 15/Pdt.G/LH/2023/PN.RAP, and the Slawi District Court, designated as No. 37/Pdt.G/LH/2021/PN Slw. Both cases pertain to class action lawsuits addressing environmental pollution purportedly detrimental to the local populace. In the Rantau Prapat case, the court deemed the lawsuit inadmissible (*niet ontvankelijk verklaard*), with the class represented by the head of an NGO (Non-Governmental Organization) overseeing the matter, in a suit regarding the pollution of the Kalundang River. The lawsuit indeed possessed significant potential to uphold the rights of the communities impacted.

Moreover, there was evidence indicating that the defendant company failed to manage waste properly and violated environmental laws. However, due to procedural and formal deficiencies in fulfilling the class action requirements, the polluter escaped legal accountability. Similarly, in the Slawi case, the District Court also declared the lawsuit inadmissible (NO) in a claim filed by local residents concerning environmental pollution and factory operations.²⁸ These two decisions illustrate that formal aspects of class action lawsuits play a critical role in determining the continuation of legal proceedings. However, the lack of clarity in substantive matters becomes a barrier and can ultimately undermine the opportunity to obtain justice. This situation reflects a disconnect between legal procedures and social realities, where communities often lacking legal expertise are burdened by complex administrative requirements.²⁹

²⁷ Kellogg, 'Accounting Activities, Security Prices, and Class Action Lawsuits'; Bradley, Cline, and Lian, 'Class Action Lawsuits and Executive Stock Option Exercise'.

²⁸ Ana Mercedes Lopez Rodriguez, 'CLASS ACTION IN THE EU: LESSONS FROM MIXED JURISDICTIONS', *Journal of International and Comparative Law*, 11.2 (2024), pp. 277 – 306 <<https://www.scopus.com/inward/record.uri?eid=2-s2.0-85209774170&partnerID=40&md5=8ad03257c8569a14fc5738baf0d08ba5>>.

²⁹ Claire E Crutchley, Kristina Minnick, and Patrick J Schorno, 'When Governance Fails: Naming Directors in Class Action Lawsuits', *Journal of Corporate Finance*, 35 (2015), pp. 81–96, doi:<https://doi.org/10.1016/j.jcorpfin.2015.08.008>.

Thus, while the judges' legal reasoning is consistent with the relevant formal provisions, these cases illustrate that our legal system still grapples with considerable challenges in guaranteeing that inflexible procedural rules do not obstruct the public, especially vulnerable groups, from attaining substantive justice in environmental matters.³⁰ This suggests that the procedural framework governing class action lawsuits in environmental matters still lacks and necessitates thorough assessment and reform. The legal framework surrounding class actions warrants reevaluation to mitigate the excessive focus on stringent administrative elements while maintaining the fundamental objective of these mechanisms: to facilitate more accessible and expedited justice for impacted communities. Moreover, enhancing public access to sufficient legal assistance is crucial, enabling communities to effectively meet procedural obligations without insufficient legal knowledge or constrained resources.³¹

It is imperative to adopt a more advanced legal framework that emphasizes substantive justice rather than merely adhering to procedural formalities to enhance the efficacy of legal safeguards in environmental matters, especially via class action lawsuits.³² Substantive justice underscores the fundamental aims and intentions of the law, which include safeguarding the rights of victims, offering redress for the injuries endured, and ensuring that transgressors are held responsible for their actions. Conversely, procedural justice emphasizes adherence to formal legal processes, which, while significant, frequently serve as impediments for structurally vulnerable communities and possess limited legal resources.³³

Alongside a more progressive judicial approach, the proactive involvement of legal aid

³⁰ Crutchley, Minnick, and Schorno, 'When Governance Fails: Naming Directors in Class Action Lawsuits'; McTier and Wald, 'The Causes and Consequences of Securities Class Action Litigation'.

³¹ Wang and others, 'Law Firm Market Share and Securities Class Action Litigation Outcomes'; Xuxing Huang and others, 'U.S. Class Action Lawsuits Targeting Foreign Firms: The Country Spillover Effect', *Journal of Corporate Finance*, 45 (2017), pp. 378–400, doi:<https://doi.org/10.1016/j.jcorpfin.2017.05.011>.

³² Anup Basnet and others, 'The Effect of Securities Class Action Lawsuits on Mergers and Acquisitions', *Global Finance Journal*, 48 (2021), p. 100556, doi:<https://doi.org/10.1016/j.gfj.2020.100556>; W. B Rubenstein, 'Why Enable Litigation: A Positive Externalities Theory of the Small Claims Class Action', *UMKC L. Rev.*, 74 (2005), p. 709.

³³ Stephanie Cruz and Donald L Chi, 'Research Evidence Use in Early and Periodic Screening, Diagnostic, and Treatment Dental Medicaid Class Action Lawsuits', *Dental Clinics of North America*, 61.3 (2017), pp. 627–44, doi:<https://doi.org/10.1016/j.cden.2017.03.001>.

institutions and civil society organizations (CSOs) is vital in connecting affected communities with the legal system.³⁴ These institutions serve an essential function by imparting legal education, aiding in the formulation of lawsuits, and championing the protection of public rights. Legal aid organizations have the potential to enhance public engagement in environmental matters and bolster community capabilities to leverage legal frameworks effectively. It is of paramount significance to address the pressing necessity for reform in Indonesia's procedural law concerning class actions.³⁵

The Supreme Court Regulation (PERMA) No. 1 of 2002, which presently functions as the principal guide for initiating class action lawsuits, is increasingly perceived as inadequately addressing the complexities introduced by contemporary environmental law. This regulation requires an update to enhance its adaptability, not solely concerning formal requirements but also in embracing the principles of ecological justice, fostering public participation, and safeguarding vulnerable groups. For example, the processes could be streamlined for communities directly impacted, and the legal status of environmental NGOs could be enhanced, enabling them to authentically advocate for environmental concerns in judicial settings.³⁶

A thorough analysis reveals that a significant practical obstacle to enforcing environmental lawsuits is rooted in the public's constrained comprehension of the prevailing legal structures.³⁷ Communities, especially those residing in regions adversely affected by pollution or environmental degradation, frequently possess insufficient understanding of the legal processes they are required to navigate. They might not possess a comprehensive understanding of the delineation of the group to be represented, the

³⁴ Lee E Biggerstaff and William J Moser, 'The Reaction of Firm Ex Ante Cost of Equity Capital to the Resolution of Shareholder Class Action Lawsuits', *Journal of Accounting and Public Policy*, 38.4 (2019), p. 106669, doi:<https://doi.org/10.1016/j.jaccpubpol.2019.07.001>.

³⁵ Lynn Ahlgrim-Delzell and James R Dudley, 'Confirmed, Unconfirmed, and False Allegations of Abuse Made by Adults with Mental Retardation Who Are Members of a Class Action Lawsuit☆', *Child Abuse & Neglect*, 25.8 (2001), pp. 1121–32, doi:[https://doi.org/10.1016/S0145-2134\(01\)00260-5](https://doi.org/10.1016/S0145-2134(01)00260-5); Rubenstein, 'Why Enable Litigation: A Positive Externalities Theory of the Small Claims Class Action'.

³⁶ 'Remec Faces Class Action Lawsuit'; Parlina, 'PENERAPAN CLASS ACTION DI INDONESIA STUDI KASUS PUTUSAN NOMOR 1794 K/Pdt/2004'.

³⁷ Onur Bayar and others, 'Litigation and Information Effects on Private Sales of Securities', *Journal of Corporate Finance*, 88 (2024), p. 102628, doi:<https://doi.org/10.1016/j.jcorpfin.2024.102628>; McTier and Wald, 'The Causes and Consequences of Securities Class Action Litigation'.

procedural frameworks of trials, the standards of evidence, and the legal foundations for the claim, all of which are essential for fulfilling the formal criteria established by law.³⁸

Assistance in a technical capacity is essential for the formulation of class action lawsuits that adhere to these established formal standards. Nevertheless, communities often find themselves without straightforward access to legal resources and professionals, including attorneys, environmental specialists, or organizations that offer legal support.³⁹ Consequently, even though the issues they encounter are genuine and pervasive, their insufficient comprehension or constrained ability to maneuver through the administrative facets of litigation frequently hinders them from submitting claims that fulfill the requisite formal legal standards. By integrating more victim-centered legal interpretations, enhancing legal aid institutions, and reforming procedural law regulations, there is optimism that the class action mechanism can evolve into a genuinely potent instrument for achieving ecological justice.⁴⁰ Ecological justice transcends the mere entitlement to a healthy environment; it also involves the obligation to preserve the equilibrium of nature and guarantee sustainability for generations to come.

Strengthening Class Actions Based on Legal Certainty and Environmental Justice as a Solution

The progression of time, coupled with the swift pace of the digital revolution, has precipitated significant industrial growth, consequently resulting in environmental

³⁸ Christina M. Kennedy and others, 'Indigenous Peoples' Lands Are Threatened by Industrial Development; Conversion Risk Assessment Reveals Need to Support Indigenous Stewardship', *One Earth*, 6.8 (2023), pp. 1032–49, doi:10.1016/J.ONEEAR.2023.07.006; Ariel BenYishay and others, 'Indigenous Land Rights and Deforestation: Evidence from the Brazilian Amazon', *Journal of Environmental Economics and Management*, 86 (2017), pp. 29–47, doi:10.1016/J.JEEM.2017.07.008.

³⁹ Athanasios Yupsanis, 'The International Labour Organization and Its Contribution to the Protection of the Rights of Indigenous Peoples', *Canadian Yearbook of International Law/Annuaire Canadien de Droit International*, 49 (2012), pp. 117–76, doi:10.1017/S006900580001033X; M Graziano Ceddia, Ulrich Gunter, and Alexandre Corriveau-Bourque, 'Land Tenure and Agricultural Expansion in Latin America: The Role of Indigenous Peoples' and Local Communities' Forest Rights', *Global Environmental Change*, 35 (2015), pp. 316–22, doi:10.1016/J.GLOENVCHA.2015.09.010.

⁴⁰ Dimitris Stevis, 'Whose Ecological Justice?', *Strategies: Journal of Theory, Culture & Politics*, 13.1 (2000), pp. 63–76, doi:10.1080/10402130050007520; Keisha April and others, 'Conceptualizing Juvenile Justice Reform: Integrating the Public Health, Social Ecological, and Restorative Justice Models', *Children and Youth Services Review*, 148 (2023), p. 106887, doi:https://doi.org/10.1016/j.childyouth.2023.106887; Brian Baxter, *A Theory of Ecological Justice* (Routledge, 2005).

degradation. The escalation of global environmental transformations has profoundly influenced human livelihoods and well-being.⁴¹ Consequently, humanity must engage in endeavors to adapt to and endure the increasing array of environmental challenges through many strategies. These strategies must emphasize resource utilization and incorporate a legally equitable approach that is mindful of environmental considerations.⁴² From a normative perspective, legal reform emerges as a significant solution that can be proposed, particularly for civil law jurisdictions such as Indonesia.

The initiation of legal reform regarding class action representation should commence with a thorough revision of PERMA Number 1 of 2002, which pertains to Class Action Lawsuits. The regulation governing the class action mechanism in Indonesia, PERMA, needs modernization. Furthermore, it fails to adequately address the annual escalating environmental challenges. As previously articulated, a notable issue with PERMA No. 1 of 2002 is found within Article 2, which delineates the stipulations governing class action lawsuits. A thorough examination reveals that the lack of a clause restricting the number of class members, coupled with the ambiguous identification and definition of the group, leads to numerous complications.⁴³ To establish legal certainty in Indonesia, it is imperative to undertake a thorough review to ensure that this PERMA is elevated to the status of law, thereby securing a more definitive constitutional foundation. The legislative body is anticipated to develop a Draft Law concerning Class Action Lawsuits.

Alongside the call for reform in the clarity of class action lawsuit requirements, enhancing the principle of environmental justice is imperative. Evaluating the presence of environmental justice presents challenges; however, it can be quantified through various fairness indicators.⁴⁴ These include the fundamental right of each individual to a

⁴¹ Dhiaulhaq and others, 'Environmental Justice and Human Well-Being Bundles in Protected Areas: An Assessment in Campo Ma'an Landscape, Cameroon'.

⁴² Aya Morris and others, 'Advancing Equitable Partnerships: Frontline Community Visions for Coastal Resiliency Knowledge Co-Production, Social Cohesion, and Environmental Justice', *Geoforum*, 154 (2024), p. 104051, doi:<https://doi.org/10.1016/j.geoforum.2024.104051>.

⁴³ Kondro, 'Class-Action Lawsuit Threatened by Canadian Female Prisoners'; Sergius Koku, 'An Analysis and the Effects of Class-Action Lawsuits'.

⁴⁴ Rika Fajrini, 'Environmental Harm and Decriminalization of Traditional Slash-and-Burn Practices in Indonesia', *International Journal for Crime, Justice and Social Democracy*, 11.1 (2022), pp. 28–43, doi:[10.5204/ijcjsd.2034](https://doi.org/10.5204/ijcjsd.2034); Okereke and Charlesworth, *Environmental and Ecological Justice*; Kortetmäki, *Justice in and to Nature: An Application of the Broad Framework of Environmental and Ecological Justice*.

healthy environment, the entitlement to safeguard the environment from degradation and pollution, and the involvement of the public in decision-making processes concerning the management of natural resources. Furthermore, environmental justice encompasses the entitlement to consent to or deny projects that affect the environment, the right for traditional communities to derive economic advantages from natural resources, equitable compensation for environmental harm, access to the restoration of infringed rights, and robust, enforceable legal assurances, both in theory (written law) and in practice (law in action).⁴⁵

Environmental justice confronts matters such as systemic racism and ecological harm, highlighting how marginalized communities disproportionately endure the consequences of industrial advancement. The core tenet of environmental justice asserts that each individual and community has the inherent right to advocate for their interests.⁴⁶

This indicates that they possess the requisite experience, knowledge, and capability to discern what is most beneficial for themselves, particularly regarding choices that influence their lives and surroundings. Environmental justice comprises three interrelated dimensions: substantive justice, which highlights the equitable distribution of environmental impacts and benefits, often revealing that marginalized or minority groups disproportionately endure environmental challenges; procedural justice, which insists on equitable access to information and involvement in environmental decision-making processes; and recognition justice, which necessitates the acknowledgment of the rights, perspectives, and wisdom of impacted communities, including indigenous populations.⁴⁷ Regrettably, the historical impact of colonial frameworks frequently overlooks their contributions and viewpoints, resulting in systemic disparities and marginalization within contemporary environmental policies.

⁴⁵ Rian Saputra and others, 'Reform Regulation of Novum in Criminal Judges in an Effort to Provide Legal Certainty', *JILS (Journal of Indonesian Legal Studies)*, 6.2 (2021), pp. 437–82, doi:10.15294/jils.v6i2.51371.

⁴⁶ Jia Yen Lai, Sam Staddon, and Alistair Hamilton, 'Technical Experts' Perspectives of Justice-Related Norms: Lessons from Everyday Environmental Practices in Indonesia', *Land Use Policy*, 102 (2021), p. 105234, doi:<https://doi.org/10.1016/j.landusepol.2020.105234>; Martinez-Alier, 'Mining Conflicts, Environmental Justice, and Valuation'.

⁴⁷ Femke and Wijdekop, 'Restorative Justice Responses to Environmental Harm (IUCN Report)'; Kortetmäki, *Justice in and to Nature: An Application of the Broad Framework of Environmental and Ecological Justice*.

Assessing the fairness of a situation is, without a doubt, a complex endeavor. Individuals possess distinct moral viewpoints, leading to diverse reactions to environmental and societal transformations. Many development and environmental conservation disputes emerge from a pervasive sense of perceived injustice among individuals. From an ethical perspective, justice plays a crucial role in shaping an individual's perception of their life as flourishing or afflicted.⁴⁸ Consequently, it is essential to recognize that varying groups or individuals may necessitate distinct methodologies to experience a sense of prosperity and equitable treatment. From a pragmatic standpoint, an awareness of justice significantly shapes individuals' behaviors and collaborative efforts, particularly in the collective management of natural resources. At times, the pursuit of justice eclipses the inclination towards self-interest.

On the other hand, should the community perceive a lack of fairness in their treatment, their concern for properly preserving resources may diminish significantly. This may impede conservation initiatives or the management of environmental resources.⁴⁹ Consequently, specialists have started to promote an increased emphasis on justice within the frameworks of policies related to climate change, nature conservation, and overall environmental stewardship.

Establishing legislation and regulatory frameworks in environmental affairs is essential for enhancing the restoration of verdant ecosystems and curtailing the public sector's reliance on polluting energy sources. The primary measure in implementing environmental protection laws may involve establishing stringent penalties for corporations that surpass pollution thresholds and contravene environmental regulations. Under stringent environmental regulations, companies must adhere to established environmental protection standards by implementing necessary enhancements within the

⁴⁸ Stevis, 'Whose Ecological Justice?'; Henner Busch and others, 'Mining Coal While Digging for Justice: Investigating Justice Claims against a Coal-Phase out in Five Countries', *The Extractive Industries and Society*, 15 (2023), p. 101275, doi:<https://doi.org/10.1016/j.exis.2023.101275>.

⁴⁹ Evanthie Michalena and Valérie Angeon, 'Local Challenges in the Promotion of Renewable Energy Sources: The Case of Crete', *Energy Policy*, 37.5 (2009), pp. 2018–26, doi:<https://doi.org/10.1016/j.enpol.2009.01.047>; Chengyuan Xie and Lu Huang, 'How to Drive Sustainable Economic Development: The Role of Fintech, Natural Resources, and Social Vulnerability', *Resources Policy*, 94 (2024), p. 105104, doi:<https://doi.org/10.1016/j.resourpol.2024.105104>; Ram Ranjan, 'Optimal Restoration of Common Property Resources under Uncertainty', *Resources Policy*, 77 (2022), doi:[10.1016/j.resourpol.2022.102688](https://doi.org/10.1016/j.resourpol.2022.102688).

timeline prescribed by governmental authorities.⁵⁰

In the immediate context, organizations frequently enhance their overall factor productivity and elevate their management standards to adhere to compliance mandates. On one hand, environmental regulations compel companies to adapt their production models and enhance processes to align with environmental protection standards. When approached with sustainability in mind, implementing this condition has the potential to mitigate environmental pollution and circumvent legal disputes with local communities surrounding the enterprise.⁵¹

In Indonesia, pursuing sustainable development to attain environmental justice encounters numerous complex challenges, notably the clash of interests between economic pursuits and the imperative of environmental conservation. The discord among competing interests that complicates environmental law enforcement is undeniably challenging to navigate; however, it does not imply that resolution is unattainable. A thorough examination of the issue through the lens of environmental law can be undertaken if the research is approached with diligence and if those responsible for enforcement demonstrate a genuine commitment to tackling the persistent environmental challenges.⁵²

Research indicates that the tension between enforcing environmental justice and economic considerations is also present in developed nations, including the United States. The policies guiding the transition to low-carbon energy in the United States have predominantly emphasized an economic framework to enhance market efficiency. Policies grounded in economic principles frequently impose hardships on impoverished and at-risk communities, exemplified by escalating energy costs, carbon levies, or eliminating subsidies, all while failing to offer sufficient compensation or protective social

⁵⁰ T D Ngo and Mahdi, 'Chapter 14 - Targeting Deforestation Through Local Forest Governance in Indonesia and Vietnam', in *Redefining Diversity & Dynamics of Natural Resources Management in Asia, Volume 1*, ed. by Ganesh P Shivakoti, Ujjwal Pradhan, and Helmi (Elsevier, 2017), pp. 273–88, doi:<https://doi.org/10.1016/B978-0-12-805454-3.00014-1>.

⁵¹ Paul B Stretesky and others, 'Does Oil and Gas Development Increase Crime within UK Local Authorities?', *Extractive Industries and Society*, 5.3 (2018), pp. 356 – 365, doi:[10.1016/j.exis.2018.03.006](https://doi.org/10.1016/j.exis.2018.03.006).

⁵² Nicole M Ardoin, Alison W Bowers, and Estelle Gaillard, 'Environmental Education Outcomes for Conservation: A Systematic Review', *Biological Conservation*, 241 (2020), p. 108224, doi:<https://doi.org/10.1016/j.biocon.2019.108224>.

measures.⁵³ Implementing carbon energy in the pursuit of developing an environmentally sustainable product inevitably imposes an ecological burden that disproportionately affects marginalized communities. Energy transition policies overly centered on economic rationale undermine the foundational principles of environmental justice and the safeguarding of ecosystems.

A further proposition worthy of consideration to tackle the persistent challenges in environmental litigation, which frequently falters due to insufficient formal criteria, is the creation of an independent environmental court endowed with its legal authority. This concept is a thorough approach to ensure the implementation of the Principle of Environmental Justice.⁵⁴ An environmental court would function as a vital conduit, effectively narrowing the divide between major corporations and everyday communities. It would establish a legal platform that enables the public to seek justice in environmental conflicts, while fostering public awareness and promoting active engagement in preserving our environment.

Should it be established, an environmental court has the potential to serve as a pivotal element of environmental regulation, significantly contributing to the prevention of environmental infractions by corporations through the enhancement of legal frameworks and judicial scrutiny. This court is anticipated to enhance the Indonesian legal framework by addressing ecological and social imperatives, thereby fostering a harmonious relationship between developmental ambitions and environmental stewardship. Moreover, the Environmental Court exemplifies Indonesia's dedication to sustainable development objectives, showcasing an advanced methodology for attaining environmental justice and safeguarding biodiversity.⁵⁵

Alongside Indonesia, the environmental court system has also been established in China, demonstrating ongoing advancements through the elevation of penalties for

⁵³ Tiziana Luisetti and others, '7.6 - Blue Carbon: Challenges for Definition, Valuation and Governance', in *Treatise on Estuarine and Coastal Science (Second Edition)*, ed. by Daniel Baird and Michael Elliott, Second Edition (Academic Press, 2024), pp. 132–53, doi:<https://doi.org/10.1016/B978-0-323-90798-9.00059-7>.

⁵⁴ Okereke and Charlesworth, *Environmental and Ecological Justice*.

⁵⁵ Januar Rahadian Mahendra, Rizal Akbar Aldyan, and Silas Oghenemaro Emovwodo, 'Examining Indonesian Government Policies in Tackling Deforestation: Balancing Economy and Environment', *Journal of Law, Environmental and Justice*, 2.1 (2024), pp. 42–62, doi:[10.62264/jlej.v2i1.93](https://doi.org/10.62264/jlej.v2i1.93).

environmental infractions and the fortification of ecological safeguards. In China, environmental courts engage in the transparent adjudication of violations, resulting in increased legal expenses and significant reputational harm for the offenders. This compels organizations to adopt a more earnest approach towards environmental preservation and to adhere more closely to sustainable credit policies.⁵⁶

The prompt actions of the judiciary and equitable decisions guarantee that the sanctions enforced are genuinely impactful. This system enhances the motivational and inhibitory aspects of green credit policies, simultaneously fostering a more proactive approach among companies to mitigate carbon emissions.⁵⁷ Green credit represents a novel advancement within the financial sector, seamlessly incorporating ecological considerations into lending frameworks. In application, green credit policies facilitate the acquisition of loans for environmentally sustainable projects characterized by low carbon emissions. This prompts organizations to reflect on the ecological ramifications of each corporate choice.⁵⁸ The objective is to guarantee the progression of economic development and preserve environmental sustainability.

In contrast, Latin American nations that adhere to Common Law frameworks, like Chile, have instituted an environmental court since 2013. Despite being forged in a context of pressure and internal discord, Chile exhibits a greater responsiveness to environmental concerns than Indonesia. Chile is recognized for its intricate history of social and environmental disputes, evolving from being labeled a "green inhibitor" to, more recently, being regarded by some as a "regional leader" in environmental and climate policy. Research in Chile has shown that environmental courts can create opportunities in terms

⁵⁶ Fajrini, 'Environmental Harm and Decriminalization of Traditional Slash-and-Burn Practices in Indonesia'.

⁵⁷ Xiping Zhang, Aimin Fu, and Guang Hu, 'Establishment of Environmental Courts and Corporate Green Innovation', *Finance Research Letters*, 69 (2024), p. 106192, doi:<https://doi.org/10.1016/j.frl.2024.106192>; Zilong Liu and others, 'Law and Governance in Environmental Oversight: The Role of Environmental Courts in Enhancing Corporate Information Transparency', *Finance Research Letters*, 80 (2025), p. 107364, doi:<https://doi.org/10.1016/j.frl.2025.107364>; Lisha Wang and others, 'Do Specialized Courts Matter? Environmental Judiciary and Corporate Emissions in China', *Energy Policy*, 199 (2025), p. 114532, doi:<https://doi.org/10.1016/j.enpol.2025.114532>.

⁵⁸ Chunning Xu and others, 'Nexus between Western and Chinese Crude Oil Mining Firms: An Examination of Modalities, Practices, and Socio-Ecological Ramifications', *The Extractive Industries and Society*, 19 (2024), p. 101503, doi:<https://doi.org/10.1016/j.exis.2024.101503>.

of recognition, participation, and distribution.⁵⁹

Environmental courts have the potential to facilitate procedural justice and equitable distribution, encompassing aspects such as public consultations, compensation mechanisms, and initiatives for environmental restoration.⁶⁰ This process further facilitates the enforcement of current regulations, resulting in tangible outcomes such as the cessation of resource exploitation, heightened penalties, and the fortification of community positions through technical and legal institutional support, thereby decelerating the momentum of land grabbing and industrial exploitation.⁶¹

The preceding analysis shows that a range of strategic solutions must be promptly implemented to tackle the challenges associated with the dismissal of environmental lawsuits, especially those initiated via the class action framework. A thorough reevaluation of the Supreme Court Regulation (PERMA) No. 1 of 2002 on Class Action Lawsuits is essential. This revision must be thorough, considering the necessity for more comprehensive, inclusive, and adaptive legal frameworks that address the intricacies of environmental cases. Furthermore, creating an autonomous environmental court endowed with specialized authority to adjudicate environmental protection and management is essential.

This court should function not merely as a venue for resolving disputes but also as a catalyst for advancing and equitably enforcing environmental law. The establishment of an environmental court will enhance the capacity of victims and communities to champion their right to a healthy environment, thereby expediting the attainment of environmental justice within the framework of the national legal system. While both solutions necessitate considerable time, resources, and a profound political commitment, these initiatives represent essential strategic measures that must be undertaken without

⁵⁹ Yilin Li and others, 'Environmental Courts, Green Credit, and Corporate Carbon Reduction', *Finance Research Letters*, 79 (2025), p. 107274, doi:<https://doi.org/10.1016/j.frl.2025.107274>.

⁶⁰ Xiaofeng Liu and others, 'Environmental Legal Institutions and Management Earnings Forecasts: Evidence from the Establishment of Environmental Courts in China', *International Review of Economics & Finance*, 93 (2024), pp. 545–73, doi:<https://doi.org/10.1016/j.iref.2024.05.004>.

⁶¹ Li and others, 'Environmental Courts, Green Credit, and Corporate Carbon Reduction'; Xuemei Li, Minghui Li, and Huixiang Zeng, 'Environmental Judicial Reform and Corporate Investment Behavior — Based on a Quasi-Natural Experiment of Environmental Courts', *Journal of Environmental Management*, 365 (2024), p. 121640, doi:<https://doi.org/10.1016/j.jenvman.2024.121640>.

delay as part of the state's obligation to enhance access to environmental justice.

4. CONCLUSION

A class action lawsuit is crucial in enforcing environmental law, enabling impacted communities to pursue collective justice. Nonetheless, the execution of this mechanism in Indonesia continues to encounter numerous challenges, especially in formal and procedural dimensions. The courts dismiss numerous environmental class action lawsuits due to noncompliance with statutory criteria, exacerbated by the vagueness and constraints inherent in the PERMA Number 1 of 2002 provisions. The findings of this study suggest that this regulation is no longer attuned to the contemporary legal demands and environmental protection standards. Consequently, concrete measures are required to enhance the legality and efficacy of class actions through two primary strategies: amending the regulation of class actions into a more comprehensive statute; and instituting an environmental court as a specialized entity to adjudicate environmental disputes equitably and efficiently. Such actions can enhance public access to environmental justice and facilitate more effective legal protection for the environment

5. CONFLICTING INTEREST STATEMENT

The authors state that there is no conflict of interest in the publication of this article.

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