

The Constitutional Right to Public Health through Citizen Lawsuit Against Environmental Pollution Caused by Medical Waste

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ABSTRACT : Environmental pollution resulting from medical and industrial waste increasingly threatens the fulfillment of citizens' constitutional rights to ecological conditions suitable for life, as guaranteed by Article 28H paragraph (1) and Article 33 paragraph (4) of the 1945 Constitution. The right to a proper environment is closely linked to the right to health; therefore, state negligence in preventing and addressing pollution essentially constitutes a denial of constitutional obligations. This study applies normative legal analysis through a review of concepts and regulations to analyze the relationship between the concept of a Green Constitution, the constitutional right to the environment, and the Citizen Lawsuit mechanism in waste pollution cases, particularly medical waste. The results of the study indicate that the Citizen Lawsuit functions as a participatory litigation instrument that expands access to justice and enables citizens to hold the government accountable for negligence in environmental protection and public health. However, its effectiveness is hindered by limitations in procedural regulations, differing interpretations regarding legal standing, and a lack of understanding among law enforcement officials

KEYWORDS - constitutional rights, environment, public health, Citizen Lawsuit, law enforcement.

I. INTRODUCTION

The phenomenon of pollution from hazardous material residues arising from hospital medical services is a significant factor causing serious environmental pollution. Pollution from medical waste carries risks and can be distinguished into two broad categories: Clinical or Non-Clinical waste, in both liquid and solid forms. The management process must be carried out according to the proper rules and procedures; otherwise, it can have a major impact on the environment. This situation can certainly disrupt environmental balance, damage habitats, and even threaten the survival of the surrounding community. This pollution directly impacts people's lives because it affects water quality, soil fertility, and the health of local residents. Issues in the health and environmental sectors in the current era of globalization are becoming increasingly complex, particularly regarding environmental pollution caused by medical waste.

Medical waste resulting from hospital activities must be managed properly, especially infectious medical waste which requires appropriate management in accordance with existing procedures. However, in practice, many medical waste managers still handle medical waste improperly and mix medical waste with non-medical waste, which leads to adverse effects that actually increase the risk of environmental problems. There is a need for "environment-oriented law" or a conception of environmental protection and maintenance of living spaces that is created in an orderly and certain manner, as embodied in national legal instruments that all parties can follow and understand. In the development of modern constitutional law, public concern for ecological issues continues to increase. Countries around the world are beginning to realize that a constitution is not limited to normative

roles and power alone; it must also contain the principle of sustainability to guarantee the survival of future generations.

A series of international conferences, such as the global meetings on the environment from Stockholm to Johannesburg and Rio+20 in 2012, marked an important shift in how states view the environment. These forums not only highlighted the global decline of environmental functions but also affirmed that economic development can no longer be separated from the principle of sustainability. Through the resulting declarations and action plans, nations are encouraged to incorporate environmental protection into national policies, strengthen legal instruments, and expand public participation in policy formulation. Consequently, these conferences promote the emergence of a long-term sustainable development paradigm that demands the active involvement of the state in establishing and enforcing environmental protection rules at the national level.

This idea then evolved into the concept of a Green Constitution a constitution that consciously incorporates environmental protection and management as part of the constitutional rights of citizens as well as the obligations of the state. In this perspective, the guarantee of environmental quality is not interpreted merely as a sectoral policy, but as a constitutional commitment that binds all branches of state power. In Indonesia, the idea of a Green Constitution is explicitly reflected and affirmed in constitutional provisions regarding ecological and health rights and requires the implementation of a national economy that is environmentally conscious and sustainable.⁴ These provisions place natural preservation as a core element of the principles of a rule-of-law state, human dignity, and the sustainability of social life.

Within this framework, ecological rights are positioned as a fundamental constitutional interest of the community. Constitutional rights refer to rights held collectively by the community to enjoy, maintain, and fight for environmental quality adequate for survival or rights that obtain constitutional legitimacy. These rights arise from the reality that environmental damage almost never affects only specific individuals but impacts the lives of the broader community, including sustainability for the future. Therefore, necessary conservation efforts cannot be separated from the interrelated common interests of society, and the state is obliged to regulate, supervise, and take action against any act that threatens environmental sustainability as part of fulfilling citizens' constitutional rights.

As citizens, we are entitled to ecological rights based on the constitution and sectoral laws that serve as the legal foundation for the health and environmental sectors. Philipus M. Hadjon explains that weaknesses in law enforcement will cause the community to lose substantive legal protection, even though those rights have been guaranteed normatively. As citizens who possess ecological rights, individuals are also authorized to submit objections and demands through legal mechanisms when environmental damage causes harm. This right is not merely an ethical claim but a legal right that finds its basis in the constitution and statutory regulations. In the Indonesian legal system, an instrument has been developed that can be utilized to fight for these rights, namely the Citizen Lawsuit, which opens space for the public to sue the state for negligence in carrying out environmental protection obligations.

In the realm of civil law, the Citizen Lawsuit has characteristics that distinguish it from ordinary civil lawsuits. Conventional civil lawsuits generally rely on the existence of a private legal relationship between the parties, such as a contractual engagement or an unlawful act (tort) that directly harms a specific party. In contrast, the Citizen Lawsuit is oriented toward the protection of public interests and collective constitutional rights. Therefore, in a Citizen Lawsuit, the plaintiff is not required to prove concrete individual losses, but rather only needs to prove a violation of basic norms or public interests. Research conducted by R.R. Kurniawan titled "Integration of Citizen Lawsuit as a Procedural Right to a Good and Healthy Environment" in the Pagaruyuang Law Journal positions the CLS as a procedural right of citizens to oversee the fulfillment of the right to a good and healthy environment and emphasizes the importance of harmonization between the 1945 Constitution and the PPLH Law. The similarity with this study is that both view the CLS as a manifestation of constitutional rights. However, Kurniawan's research is more general and conceptual in nature and has not specifically analyzed the issue of medical waste or the technical aspects of applying the Citizen Lawsuit in such cases.

The Green Constitution idea affirms that environmental preservation and protection are placed as fundamental human rights elements, equivalent to the rights to life, health, and human dignity. In this framework,

the state is not only obliged to avoid actions that damage the environment but also bears a positive responsibility to take legislative, administrative, and judicial steps that guarantee the sustainability of ecosystems to ensure cross-generational welfare. Such obligations include drafting environmentally sound policies, consistent law enforcement against violations, and providing access to justice for affected communities. Thus, the Green Constitution concept no longer views the environment merely as an object of technical regulation, but as a shared living space that must be guarded through a combination of state responsibility and active citizen participation.

The citizen lawsuit mechanism in this matter gains its relevance because it provides a channel for the public to monitor, sue, and correct government policies or actions that potentially harm the environment. Through this citizen involvement, a balance is created between state authority and public control in realizing ecological justice and protecting constitutional rights. The recognition of ecological rights and sustainable natural resource management is codified in "Article 28H paragraph (1) and Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia," which reflects the spirit in this context. One mechanism that can be pursued is through the Citizen Lawsuit, an effort by the community to control negligence by both the state and business actors in carrying out the constitutional mandate related to environmental protection and public health. Although the Citizen Lawsuit is theoretically regulated in "Article 91 of Law Number 32 of 2009 concerning Environmental Protection and Management" and "Supreme Court Chairman's Decree No. 36/KMA/SK/II/2013 concerning the Enactment of Guidelines for Handling Environmental Cases," in practice, it remains less known and has not operated optimally. The lack of public understanding regarding the right to sue the state through the Citizen Lawsuit mechanism is one of the main factors hindering its implementation.

Limitations in normative regulations regarding the citizen lawsuit result in legal uncertainty, especially concerning the scope of objects that can be sued and the clarity of follow-up actions regarding decisions declaring government negligence. This void and ambiguity cause various problems in the practice of filing lawsuits, both in terms of the construction of the petition and the assessment of the plaintiff's legal standing. Although the citizen lawsuit mechanism has been mentioned as regulated in statutory provisions and judicial policies, its regulation remains general and has not provided adequate technical guidance for judges and the parties involved.

As a result, many citizen lawsuits filed on the basis of a citizen lawsuit end with "not admissible" (niet ontvankelijk verklaard) decisions because they are deemed not to meet the formal or material requirements considered mandatory by the judge. The lack of clarity regarding the qualifications for the plaintiff's legal standing, the limits of the objects of the lawsuit considered appropriate for submission through a citizen lawsuit, and the formulation of the petition which is often perceived as exceeding the court's authority make this instrument appear "awkward" in judicial practice. In several cases, judges tend to use ordinary civil lawsuit standards or even class action standards to evaluate the construction of a citizen lawsuit, so the space for innovation that should be provided by the development of doctrine and jurisprudence becomes very limited. Additionally, the lack of socialization and understanding among law enforcement officials within the judiciary, the prosecutor's office, and the government regarding the concept of the citizen lawsuit further weakens its position as an instrument for public participation in environmental law enforcement. This mechanism is often seen merely as a technical variation of a civil lawsuit, rather than as a constitutional means for citizens to challenge state negligence in fulfilling its obligations. Yet, if implemented consistently and progressively, the citizen lawsuit could become a concrete manifestation of the Green Constitution principle namely, providing space for direct public involvement in monitoring, correcting, and encouraging the fulfillment of government obligations in maintaining ecology and the right to public health. Thus, strengthening doctrinal understanding and procedural regulations for the citizen lawsuit is key so that this instrument does not stop at the normative level but functions effectively as a constitutional correction tool for government policies and actions that harm the environment. The phenomenon of environmental pollution caused by medical and industrial waste shows a serious impact on the quality of water, air, and ecosystem balance. Data from the Ministry of Environment and Forestry in 2023 recorded an increase in cases of pollution in water bodies in recent years, while a 2022 World Health Organization study shows that most medical waste in the Southeast Asian region is still not managed properly according to health and environmental standards.

These conditions not only disrupt the ecological capacity of the region but also directly threaten the health conditions of the population in industrial areas and health service facilities. The complexity of these issues demands the presence of a legal system that is strictly oriented toward the protection of the environment and public health. The concept of "environment-oriented law" places the environment not merely as an object of technical regulation, but as the realization of human rights and constitutional guarantees. Therefore, environmental law norms must be designed not only to regulate licensing and technical waste management but also to ensure that every government policy and action aligns with the government's responsibility to ensure environmental quality.

In the development of modern constitutional law, attention to environmental issues has been strengthened through various international forums such as the 1972 Stockholm Conference, the global forums in Brazil (1992), South Africa (2002), and follow-up meetings two decades later, forming a continuity of agendas affirming the importance of sustainable development and the state's constitutional responsibility to protect the environment for current and future generations. From these developments, the idea of a Green Constitution was born—a constitution that incorporates the principle of efforts to preserve and organize nature as part of the system of constitutional legal responsibility, so that environmental issues are no longer placed on the periphery but become part of the heart of state power regulation and citizen protection.

In Indonesia, the idea of a Green Constitution is reflected in Article 28H paragraph (1) and Article 33 paragraph (4) of the Constitution of the Republic of Indonesia, which establish constitutional guarantees for every individual to enjoy decent living conditions physically and mentally, obtain safe housing, and exist within a maintained ecological order, while simultaneously placing the national economic system within a long-term development framework that is friendly to natural sustainability. Being healthy has a collective nature, as environmental damage does not only affect specific individuals but affects the quality of life of the wider community. Therefore, the fulfillment of this right demands the active responsibility of the state to regulate, supervise, and take action against any form of pollution that threatens the health and safety of citizens.

II. RESEARCH METHOD

This research method relies on a doctrinal analysis of applicable laws and regulations, doctrines, principles, and prevailing court decisions. Literature research serves as the primary focus of this analysis regarding health rights, environmental protection, and citizen litigation mechanisms to control state or corporate entities that fail to fulfill their environmental protection responsibilities.

The selection of this method is based on the conceptual and normative character of the research, where the primary issue lies in how legal construction provides protection for public health rights when environmental pollution occurs due to factory waste. Thus, the research does not emphasize empirical field data collection, but rather a study of applicable legal materials, doctrines, and legal practices through specific case studies.

III. RESULTS AND DISCUSSION

Environmental pollution fundamentally does not only result in the degradation of life-supporting ecosystems but also causes direct consequences for public health. These health impacts strengthen the argument that environmental pollution is closely linked to the fulfillment of the public's constitutional right to health. This means the state effectively ignores the fulfillment of its citizens' basic rights when it does nothing to control pollution. According to "Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia," every citizen has the right to physical and spiritual well-being, including the fundamental right to a quality of nature suitable for life.

The rights to life, liberty, and the pursuit of happiness are fundamental human rights explicitly and implicitly guaranteed by the state's founding documents, constitution, or basic laws. State officials are powerless to revoke these rights due to their high status in the legal system. Therefore, the executive, legislative, and judicial branches are obligated to preserve, protect, and enforce them. Constitutional rights function as instruments to limit state power, thereby preventing abuses of authority that could harm citizens. These rights are understood not only as individual rights of citizens but also as part of human rights that possess universal recognition. Consequently,

a violation of constitutional rights means not only a denial of the constitution but also a form of disregard for the principles of the rule of law and democracy.

In a modern context, the existence of constitutional rights serves as a bridge between the state and its citizens, as well as a foundation for public control mechanisms, such as judicial review and Citizen Lawsuits, to ensure that state power remains within legal corridors. In the legal realm, the Citizen Lawsuit mechanism exists as an important instrument that the public can use to fight for their rights when the state is deemed negligent in carrying out its constitutional obligations. A Citizen Lawsuit provides space for citizens to file a lawsuit without having to experience direct loss, but rather on the basis of a broader public interest. "Central Jakarta District Court Decision Number 28/Pdt.G/2003/PN.JKT.PST," which handled actions reflecting the disregard for the basic rights of hundreds of thousands of Indonesian migrant workers who were forcibly repatriated, was the first court decision in Indonesia to recognize the Citizen Lawsuit mechanism in 2003. In the context of environmental preservation and other fields requiring government action, this decision serves as a precedent for the use of citizen lawsuits as a means of controlling government actions that exceed their limits.

Citizen Lawsuit decisions in the environmental field first became known through an air pollution case in Jakarta, namely "Central Jakarta District Court Decision Number 374/Pdt.G/LH/2019/PN.Jkt.Pst." In that case, a number of citizens sued the central and local governments for being deemed negligent in fulfilling the public's right to clean air as guaranteed by the constitution. This decision became an important milestone because, for the first time, the Citizen Lawsuit mechanism was used directly as an effort to promote basic rights guaranteed by the constitution related to the sustainability of a healthy nature. This legal development was later strengthened by the issuance of "Decision of the Chief Justice of the Supreme Court of the Republic of Indonesia Number 36/KMA/SK/II/2013 concerning the Implementation of Guidelines for Handling Environmental Cases," which provided judicial guidance in handling environmental disputes more comprehensively. Further updates were realized through "Supreme Court Regulation (PERMA) Number 1 of 2023 concerning Guidelines for Adjudicating Environmental Cases," which became the basis for environmental procedural law in Indonesia. This regulation not only governs the procedures for settling environmental cases but also accommodates Citizen Lawsuit mechanisms as well as civil, criminal, and administrative cases related to environmental issues.

Citizen Lawsuit and the Challenges of Protecting the Right to a Healthy Environment in Indonesia

Citizen Lawsuit is a legal instrument that allows the public to file a lawsuit against the government for negligence that causes harm. The Citizen Lawsuit is a legal system that developed in countries adhering to the common law system, but due to modern developments, the Citizen Lawsuit mechanism has begun to be adopted by civil law countries. Both citizen lawsuits and class action lawsuits share the same conceptual foundation: both encompass the interests of several individuals represented by one or more individuals.

There is a fundamental difference between the two. A citizen lawsuit is implemented by citizens to fight for public interests, whereas a class action focuses more on the interests of a specific, specifically affected group. In Indonesian legal practice, a citizen lawsuit has several key characteristics, including:

1. The plaintiff's standing must be proven as a legal Indonesian citizen;
2. The defendants include all government officials from the top leadership to public officials according to their authority, who are deemed not to have carried out their obligations toward the people's constitutional interests;
3. This lawsuit is based on actions that contradict the law due to the state's omission of citizens' constitutional rights. Therefore, the form of negligence along with the unfulfilled rights must be explained in detail in the lawsuit;
4. The procedure for filing a citizen lawsuit in Indonesia is sufficiently carried out through the submission of an official legal notice (legal notice/warning) before filing the claim;
5. The *petitum* (prayer for relief) in this lawsuit cannot take the form of material damages but must focus on requesting the state to issue specific policies or actions for the fulfillment of citizens' rights.

To date, the Citizen Lawsuit in Indonesia still faces several serious challenges. There remains a void of formal mechanisms within the national legal order, causing academic debate regarding the applicant's legal standing, the scope of the case, and the absolute authority of the court in deciding such cases. Although there is no direct regulation regarding Citizen Lawsuits based on judicial power, judges will not dismiss the examination of a case on the pretext of a normative void. This is stated in "Law Number 4 of 2004 concerning Judicial Power.

The idea of equal treatment under the law, as affirmed in the constitution regarding the principle of popular sovereignty, serves as the basis for filing the citizen lawsuit mechanism in Indonesia. It is a public means to demand a proper quality of nature—an important moment in the history of citizen litigation, which seeks to hold the government accountable for its alleged failure to adequately protect migrant workers abroad. This decision subsequently gave birth to more citizen lawsuit cases in Indonesia.

Application of Citizen Lawsuit in Judicial Practice in Indonesia

After outlining the constitutional basis and the legal framework underlying the Citizen Lawsuit mechanism in Indonesia, it is important to examine how the concept is applied in judicial practice. The application of the Citizen Lawsuit in Indonesia is not limited to academic discourse but has taken concrete form through several court decisions that provide direction for the development of environmental law and the protection of citizens' constitutional rights. Through an analysis of these decisions, one can understand how the courts interpret the position of citizens as legal subjects entitled to sue on behalf of the public interest, and how judges balance the interests of the government, industrial actors, and the community's right to a clean and healthy environment.

Despite significant developments, the application of the Citizen Lawsuit mechanism in Indonesia still faces several fundamental obstacles. For instance, a Citizen Lawsuit allows citizens to file a lawsuit without having to experience direct loss. This is considered a deviation from the classic principle of *point d'interet*, *point d'action* (no interest, no right to sue), which often becomes the basis for exceptions (objections) by the defendant or some judges. On the government's side, they often take a defensive stance when sued through the citizen lawsuit mechanism. Instead of acknowledging their negligence, the government tends to submit formal defenses or use public policy reasons as an excuse, which ultimately weakens the decision. Limitations in the process of involvement in reducing environmental contamination pose a serious challenge because citizen lawsuit decisions generally focus only on administrative improvements or financial compensation, while environmental restoration requires a long time, high costs, and complex cross-agency coordination.

Regardless of various normative and implementation hurdles, the Citizen Lawsuit mechanism has promising prospects in strengthening the protection of public health rights against waste-related environmental pollution. As an instrument for the democratization of law, the Citizen Lawsuit opens space for the community to participate in monitoring and correcting government policies that are negligent in protecting the constitutional right to a clean and healthy environment. This mechanism also plays an important role in strengthening government accountability, protecting the collective rights of the community, and serving as a form of strategic litigation that can drive public policy changes in the field of environmental and industrial management. With clearer regulations through Supreme Court Regulation Number 1 of 2023, the Citizen Lawsuit has the potential to develop into a means of law enforcement that not only demands justice but also strengthens sustainable environmental governance that favors public health.

IV. CONCLUSION

This research confirms that the guarantee of natural quality is an essential element inseparable from citizens' constitutional rights as guaranteed by Article 28H paragraph (1) and Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia. Environmental pollution due to medical waste not only degrades the quality of natural systems but also has a real impact on the realization of basic human rights to health. When the state fails to prevent or overcome such pollution, that failure is essentially a denial of the constitutional obligations inherent in the state as the administrator of power. Within the framework of the Green Constitution, environmental protection and public health become an integral part of the constitutional design governing the power relations between the government, society, and natural assets.

The Citizen Lawsuit plays a vital role as a participatory litigation instrument that opens space for citizens to demand state accountability resulting from the omission of these constitutional obligations. Through a Citizen Lawsuit, citizens obtain standing as active legal subjects who can sue based on public interest without having to prove individual personal loss. A number of court decisions show that this mechanism can be a means to test the consistency of government policies with their constitutional obligations, both in the environmental field and the fulfillment of other basic rights.

Nevertheless, the application of the Citizen Lawsuit in Indonesia still faces normative and practical obstacles. The absence of comprehensive procedural regulations in the legislation, differences in interpretation regarding the plaintiff's legal standing, and the uneven understanding among law enforcement officials regarding the characteristics of citizen lawsuits cause many cases to end with inadmissible decisions (*niet ontvankelijk verklaard*). Furthermore, the level of public awareness regarding constitutional guarantees of ecological quality and the understanding of the Citizen Lawsuit mechanism is still relatively low, so the use of this instrument has not been optimal, particularly in cases of pollution due to medical waste. Based on these findings, several recommendations can be proposed. First, it is necessary to draft more detailed technical regulations regarding the procedures for filing, examining, and executing Citizen Lawsuit decisions in the environmental field. These regulations need to provide clarity on legal standing requirements, the scope of the lawsuit's object, and the forms of restoration that the court can order, thereby creating legal certainty and consistency of application across all levels of the judiciary. Second, the Supreme Court and judicial educational institutions need to strengthen education and training programs for judges and other law enforcement apparatus regarding environmental law, constitutional rights, and citizen lawsuit mechanisms so that the perspectives used in deciding cases align with Green Constitution principles and human rights protection. Third, the government and relevant institutions need to increase socialization to the public regarding the basic interest in proper natural conditions and the legal mechanisms that can be used to enforce them, including Citizen Lawsuits.

Increasing legal literacy and public participation is important to ensure that this mechanism does not just stop as a normative concept but is truly used as a tool of social control over government policies and actions that potentially harm the environment and public health. Fourth, industrial actors and healthcare facilities must place environmental protection as part of social responsibility and legal compliance, including through the management of medical and industrial waste according to environmental quality standards and the precautionary principle. With synergy between the strengthening of the normative framework, the enhancement of institutional capacity, and the expansion of public participation and business compliance, the Citizen Lawsuit has the potential to develop into a legal enforcement instrument capable of realizing environmental justice, government accountability, and the sustainable protection of constitutional rights to public health.

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