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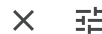
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Penulis : Bachrul Amiq, M. Syahrul Borman, Moh. Taufik, Renda Aranggraeni, Pudji Astuti, Sukanya Aimim-Tham.

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Dear Editor

Please find enclosed our manuscript entitled "**Environmental Damage: Community Lawsuit Against The Government Over Industrial Business Licenses**" by Bachrul Amiq, M. Syahrul Borman, Moh. Taufik, Renda Aranggraeni, Pudji Astuti, Sukanya Aimim-Tham. We want to submit it for publication as research in **Law Reform**.

This study examines the challenges and opportunities in implementing the authority of the state administrative court as a form of law enforcement on business licenses that impact environmental damage. This study uses the qualitative method NVivo12 Plus 12 by analyzing legal rules, journals, and online print media such as detik.com and kompas.com. The research focuses on the approach of laws and regulations related to the environment and case studies based on Supreme Court decisions.

The results showed that the participatory role of the community in the existence of environmental damage is crucial. Community participation is an obligation as an absolute citizen in the framework of creating a healthy living environment; community participation is not only used as a means to achieve goals but is used as an end. Ownership of the right to a healthy environment includes (1) the right to receive environmental information held by public authorities, (2) the right to participatory environmental decision-making, (3) the right to review procedures for challenging public decisions that have been made within the scope of access to justice.

I believe this research provides novelty for on law in industrial business licenses. So we believe our findings will interest a broad audience, such as readers of Law Reform.

I affirm that this work is unique and has not been published or is currently being considered for publication anywhere. I have no conflicts of interest to disclose.

We would suggest the following experts as potential reviewers;

- Eko Priyo Purnomo: eko@umy.ac.id
- Halimah Abdul Manaf: imah@uum.edu.my

Please address all correspondence to bachrulamiq@unesa.ac.id

I appreciate your consideration of this manuscript.

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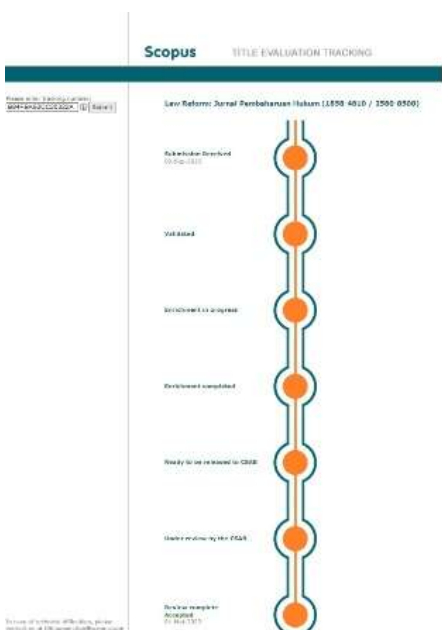
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ENVIRONMENTAL DAMAGE: COMMUNITY LAWSUIT AGAINST THE GOVERNMENT OVER INDUSTRIAL BUSINESS LICENSES

ABSTRACT

This study examines the challenges and opportunities in implementing the authority of the state administrative court as a form of law enforcement on business licenses that impact environmental damage. This study uses the qualitative method NVivo12 Plus 12 by analyzing legal rules, journals, and online print media such as detik.com and kompas.com. The research focuses on the approach of laws and regulations related to the environment and case studies based on Supreme Court decisions. The results showed that the participatory role of the community in the existence of environmental damage is crucial. Community participation is an obligation as an absolute citizen in the framework of creating a healthy living environment; community participation is not only used as a means to achieve goals but is used as an end. Ownership of the right to a healthy environment includes (1) the right to receive environmental information held by public authorities, (2) the right to participatory environmental decision-making, (3) the right to review procedures for challenging public decisions that have been made within the scope of access to justice.

Keywords: *Sustainable development, Good governance, Administrative law, Environmental damage, Administrative courts.*

ABSTRAK

Penelitian ini mengkaji tantangan dan peluang dalam mengimplementasikan kewenangan peradilan tata usaha negara sebagai bentuk penegakan hukum terhadap izin usaha yang berdampak pada kerusakan lingkungan. Penelitian ini menggunakan metode kualitatif NVivo12 Plus 12 dengan menganalisis aturan hukum, jurnal, dan media cetak online seperti detik.com dan kompas.com. Penelitian berfokus pada pendekatan peraturan perundang-undangan terkait lingkungan hidup dan studi kasus berdasarkan putusan Mahkamah Agung. Hasil penelitian menunjukkan bahwa peran serta masyarakat terhadap adanya kerusakan lingkungan sangat penting. Partisipasi masyarakat merupakan kewajiban sebagai warga negara yang mutlak dilakukan dalam rangka menciptakan lingkungan hidup yang sehat, partisipasi masyarakat tidak hanya dijadikan sebagai alat untuk mencapai tujuan tetapi dijadikan sebagai tujuan. Kepemilikan hak atas lingkungan hidup yang sehat meliputi (1) hak untuk mendapatkan informasi lingkungan hidup yang diselenggarakan oleh badan publik, (2) hak atas pengambilan keputusan lingkungan hidup yang partisipatif, (3) hak untuk melakukan peninjauan kembali atas prosedur pengujian terhadap keputusan publik yang telah ditetapkan dalam ruang lingkup akses terhadap keadilan.

Kata kunci: *Pembangunan berkelanjutan, Tata kelola pemerintahan, Hukum administrasi, Kerusakan lingkungan, Peradilan administrasi.*

INTRODUCTION

This study aims to explore the role of the community in environmental management with

the fundamental right to access justice based on legal considerations and the scope of authority of the State Administrative Court (Molavi, 2020). The

authority to enforce the law due to business licenses that impact environmental damage in Indonesia, often in the legal consideration of the examination of lawsuits by the community, causes material and immaterial losses (Jassal, 2020). On the other hand, several things need to be considered regarding (1) conformity with the level of risk, (2) conformity with spatial planning, and (3) public announcement and consultation for directly affected communities (Ety et al., 2022).

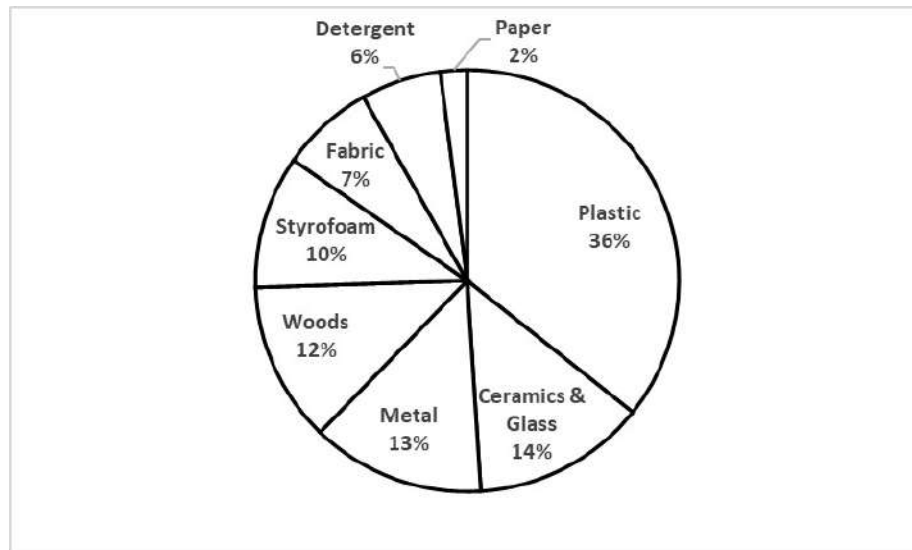
As a regulator, the government uses permits as a juridical means to control people's behavior, especially those engaged in industry, aiming to allow people who apply for them to carry out specific prohibited actions (Ali et al., 2022). However, business licenses are relevantly granted to reduce the destructive power of industry, inefficient licensing procedures, and non-flexible management standards that can increase uncertainty about environmentally sound development (White, 2023). Following the principle of legality, government actions must be under the law, including determining administrative decisions (Moran, Dharmananda, & Barnes, 2023).

The causes of environmental damage are natural and human factors; one of the human factors is due to industrial activities that can

cause maritime damage (Capps & Babula, 2019). Moreover, if the business license granted by the government causes environmental damage (Z. J. Wang, 2020); to prevent environmental damage, Law No. 32/2009 on Environmental Protection and Management (Perindungan dan Pengelolaan Lingkungan Hidup/UUPPLH) adopts the principles contained in the 1992 Rio Declaration, such as state responsibility, integration, justice, participation, and polluter pays (Jankovic, 2021).

The complexity of the main opposition in this research is community participation in environmental management due to legal policies in the form of business licenses that cause ecological damage, thus limiting the capacity of community access to justice (Molavi, 2020). On the other hand, if the community is not involved in the environmental control process, especially the issuance of business licenses, it will be procedurally invalid (Katz & Zamir, 2023). The principles of sustainable and environmentally sound development can be applied well if the analysis is carried out at the early stages of planning the development process concerning environmental management (Kulovesi, Mehling, & Morgera, 2019).

Figure 1. Percentage of marine ecosystem pollution debris data



Source. (Dihni, 2022)

Oceanographic Center of the Indonesian Navy, pollution in Indonesian seas is substantial because it is dominated by plastic waste, followed by metal, glass, and ceramic waste (Lasut, 2021). The emergency handling of plastic waste in the sea requires the community's active role in urging the government to enforce laws, such as monitoring industrial activities after the issuance of business licenses (Braumann, 2023). Based on Figure 1, the percentage level of the weight of waste in Indonesia's oceans due to industrial destructive power that makes the marine ecosystem become bad (Holm, 2023).

Environmental damage from other industrial activities is oil waste spills at sea, which cannot be considered a simple problem because it involves many legal subjects (White, 2023). The community's active role in managing a healthy environment, based on Article 67 of the UUPPLH, is that everyone is obliged to control pollution or environmental damage ((Molavi, 2020). Therefore, this research focuses on the Supreme Court's decision review system regarding industrial activity business licenses that can cause environmental damage(Verbruggen, 2022).

Indicators of the legality of administrative decision-making in the process of issuing business licenses for companies are that they must have sufficient authority (Snow, 2021), both material time or place, and based on procedures regulated in laws and regulations, as well as compliance with the General Principles of Good Governance (*asas umum pemerintahan yang baik/AUPB*) (Jankovic, 2021). Furthermore, this research examines the network of local legal subjects and several communities related to environmental pollution by analyzing Supreme Court decisions in industrial business licenses that impact environmental damage based on a legal perspective(Purnomo, Zahra, Malawani, & Anand, 2021).

The environmental damage that occurs raises a big question mark regarding who has legal standing to file a lawsuit to the State Administrative Court (*peradilan tata usaha negara/PTUN*) (Etty et al., 2022), and how the authority of the State Administrative Court over disputes arising from the issuance of business licenses has an impact on environmental damage (Jassal, 2020). Because of this, government policies other than mitigation,

namely through laws and regulations to protect natural resources, include a supervision system of various environmental management and protection (Katz & Zamir, 2023).

Based on this, this research will elaborate on the provisions of UUPPLH and case studies of environmental damage due to business licenses by analyzing the Supreme Court's decision (Nagheeb, 2023). Thus, it can be used as a reference in the future by the parties, especially individuals, communities, and environmental organizations who file a lawsuit over the impact of environmental pollution due to the existence of a business permit for industrial activities (Snow, 2021). Based on the explanation, there is a need for public control and transparency as a preventive measure or mitigation of catastrophic environmental damage that occurs due to industrial activities (Douglass & Manney, 2020).

LITERATURE REVIEW

Law Enforcement in Environmental Damage

In recent years, environmental issues such as seawater pollution from factory effluents and plastic pollution have increased pressure on the sectoral and siloed approaches used by various parties in the interest of profitability (Morath, 2022). The Climate Sustainability Group's seven priority issues address a wide range of degradation: land degradation, biodiversity loss, marine litter, water management, sustainable consumption and resource efficiency, sustainable finance, and ocean protection (Nagheeb, 2023). Global environmental issues are global warming and the damage of corporate chemical runoff to marine ecosystems, which pose a significant threat to biodiversity and livelihoods (Hendlin, Arcuri, Lepenies, & Huesker, 2020).

Furthermore, the role of law in overcoming environmental damage is crucial as a regulation of environmental problems that has

the basic principles of sustainable development (Hackmann, 2018). In Indonesia, environmentally sustainable development is defined as a conscious and planned effort that integrates the environment as a development process to ensure the ability, welfare, and quality of life of future generations (Horsch et al., 2023). This research looks at the role of communities in class actions in Indonesia due to industrial activities that impact environmental damage (Kotzé, 2019).

When a policy in its implementation is misaligned, it is necessary to have the participation of the community or environmental organizations to create a legal umbrella for healthy environmental management as sustainable development (Wu, 2023). To realize the preservation and development of the beneficial value of biodiversity in a sustainable manner (Sachs, Kroll, Lafortune, Fuller, & Woelm, 2022). it is necessary to manage and prepare biological conservation planning in an integrated, comprehensive, effective, and participatory way and involve all stakeholders; this is only possible with the role of the government through policies and regulations (Elliott, 2020; Nagheeb, 2023).

The historical development of legal protection in Indonesia, especially related to environmental damage, can be through class action lawsuits and legal standing (Arcus, 2021). Environmental management, parties harmed by environmental damage can file a claim for rights (Petersmann, 2022). Considering that the most significant part of Environmental Law is Administrative Law, the settlement of environmental disputes that are harmed by a business license in the environmental sector (Molavi, 2020), is based on Law Number 5 of 1986 concerning State Administrative Justice (*peradilan tata usaha negara/UUPTUN*). A lawsuit to the State Administrative Court regarding the demand that the business license be declared null or invalid so that the court's

decision immediately stops environmental pollution due to industrial activity business licenses that impact environmental damage(Wang, 2023).

Environmental problems have resulted in global and transnational effects, which can lead to environmental damage, and the impact spreads beyond borders (Nagheeb, 2023). Environmental issues arise due to the interaction of industrial activities with the existence of natural resources (Drakel, 2022). The greater the amount and intensity of exploitation of nature, the impact on environmental quality degradation tends to increase (Platjouw & Pozdnakova, 2023). Therefore, law and public participation in class action lawsuits is crucial to stop environmental damage.

Applying the principle of *erga omnes* or legal acts applies to every individual, person, or country without distinction (Moran et al., 2023). Therefore, the existence of a class action lawsuit becomes the authority of the Administrative Court with the arguments of the "*Erga Omnes*" principle and the "*Ius Coria Novit*" principle based on Article 10 paragraph (1) of the Judicial Power Law, that judges are prohibited from refusing to examine and also hear incoming lawsuits for reasons of lack or absence of legal basis (Alam, Maharani, & M, 2020). The judge's belief and paradigm will also determine the continuation of this class action lawsuit since the preparatory examination stage at the State Administrative Court(Jiménez, 2023).

The Position of Class Action Lawsuits as an Environmental Law Enforcement Tool

Industrial activities, in practice, require a license; the initiator of the action must have a business license (Holm, 2023). The government is authorized to provide regulatory aspects through decisions. This decision is called a permit (McMahon, 2021), a "Business Permit" that, based on Article 40 of the UUPPLH,

emphasizes that every business activity that has an impact on the environment must have a business permit, which has changed its nomenclature and substance in the Job Creation Law to "Environmental Approval" either from the central government or local government (Illahi, Gusri, & Sugianto, 2021)

Control over the granting of business licenses can not only be carried out by individuals and environmental organizations (Roy, 2018), but more broadly, the UUPLH, in Article 91, provides a door for the community to control licensing through the state administrative court by way of community lawsuits or class actions (Moran et al., 2023). The representative suit symbolizes the progress of environmental regulation and is a legal recognition of the impact of environmental damage (White, 2023). In environmental damage cases, the victims are always huge in number (Mongar, 2023).

People affected by environmental damage due to industrial activities can file a lawsuit individually (Snow, 2021), but the process will be very long and costly. And what happens is that Article 5 paragraph (2) of the Judicial Power Law will not be achieved (Parlina, 2021). Meanwhile, the UUPPLH, Consumer Protection, Construction Services, Forestry, Waste Management, and Water Resources Law provide new opportunities by allowing the public to file class action lawsuits (Elliott, 2020).

Supreme Court Regulation Number 1 of 2002 concerning Class Action Lawsuits (*peraturan mahkamah agung/PERMA Class Action*) was issued in response to the development of class action lawsuits. This provision contains lawsuit rules with different characteristics from ordinary civil lawsuits (Jiménez, 2023). In a class action lawsuit, class representatives do not need a power of attorney from the class members, as the class action does not involve damages or monetary claims. Still, only filing a declaratory demand lawsuit, as

public notice is not necessary (Snow, 2021). The right to class action lawsuits provides access to justice to the public in resolving disputes through the courts (Murray, 2019).

One of the solutions to environmental disputes is through the courts (Jiménez, 2023). Settlement of environmental disputes through the court is based on Article 87 paragraph (1) of UUPPLH in conjunction with Article 1365 of the Civil Code on Compensation for Unlawful Acts (Lestari & Djanggih, 2019). Class Action lawsuits are important in cases of environmental damage that involve losses to a group of people (Alhayyan & Leviza, 2020). The public can sue or be sued as a party who gets power of attorney on behalf of various parties by fulfilling the requirements of a class action lawsuit. The fact that in environmental issues, environmental damage affects many people, not just one or two individuals, is an important factor (Molavi, 2020).

RESEARCH METHODS

Based on the legal perspective on the legal standing of filing a lawsuit with the State Administrative Court (Arcus, 2021), nine Supreme Court decisions that discuss this matter were reviewed. In addition, the characteristics of the research problem are a motivation to apply qualitative research methods as an analysis method (Purnomo, Zahra, & Malawani, 2021; Wu, 2023). This research uses secondary data on environmental cases published by the Supreme Court of the Republic of Indonesia

(Table 1). The use of NVivo 12 plus software aims to map and explore the network of actors on the legal standing of filing a class action lawsuit to the PTUN, as stated in the documents issued by the Supreme Court of the Republic of Indonesia, which are further supported and complemented by online media.

The purpose of objectivity in improving the quality of analysis is to re-examine comparative data with news in the media (Khairunnisa, 2023). The media is a confirmation technique for data obtained from Supreme Court decisions. The selected national online media are www.detik.com, www.kompas.com, and www.tribun.com from 2018-2023. Then, nine online news articles were collected and analyzed based on keywords related to environmental damage cases (Heyvaert, 2021). Online news articles corroborated or confirmed arguments in Supreme Court decisions related to environmental issues (De Souza, Finger, De Araújo, & Maranhão, 2023).

NCapture collected data from three online news sites (Lasut, 2021). In addition, Nvivo 12 Plus has robust reporting capabilities and explores news information regarding community participation in environmental damage. Data collection was analyzed with the help of NVivo (Khairunnisa, Nurmandi, Muallidin, & Kurniawan, 2022). The steps shown in Figure 2 were used as follows: The first step in the analysis was to import nine Supreme Court

Table 1. Supreme Court Decisions on Class Action for Environmental Damage

No	Name
1	Supreme Court Decision Number 1927 K/Pid.Sus-LH/2023
2	Supreme Court Decision Number 94 K/Pid.Sus-LH/2023
3	Supreme Court Decision Number 92 K/Pid.Sus-LH/2023
4	Supreme Court Decision Number 247 K/Pid.B-LH/2021
5	Supreme Court Decision Number 70 K/Pid.Sus-LH/2021
6	Supreme Court Decision Number 2919 K/Pid.Sus-LH/2020
7	Supreme Court Decision Number 1932 K/Pid.Sus-LH/2016
8	Supreme Court Decision Number 1274 K/Pid/2016
9	Supreme Court Decision Number 129 K/Pid/2016

Source. <https://www.mahkamahagung.go.id/id>

decisions and several online news articles (Adrian, Purnomo, & Enrici, 2023). The second step was coding information related to the schema codes of the Supreme Court decisions and some online news articles.

Furthermore, the third step was analyzed using word clouds and crosstabs to identify the legal standing of the lawsuit to the PTUN based on the correlation with the activity scheme code (White, 2023). The fourth step is to create an actor-network map to describe the details of three actor networks with legal standing to file a lawsuit with the PTUN. For the results of the analysis, crosstab tools were used to obtain the value of the network of actors who can file a class action lawsuit to the PTUN due to the impact of environmental damage from industrial activities (Horsch et al., 2023; Sihalo, 2022). Furthermore, a word cloud is used in the analysis that considers the relationship of several actor networks based on the correlation value to obtain the content of the decision from the Supreme Court (Purnomo, Zahra, & Malawani, 2021).

DISCUSSION

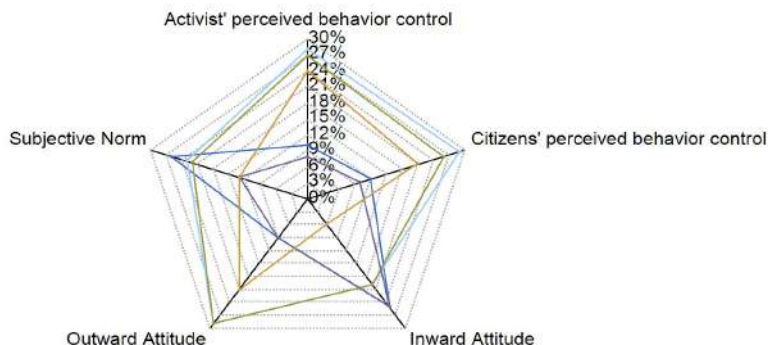
A good and healthy environment is the human right of every Indonesian citizen, as mandated in Article 28H paragraph (1) of the 1945 Constitution (Gandryani & Hadi, 2021). Government, private, and community organizations are responsible for protecting and managing the environment (Witney, 2021). Environmental management based on good governance (Murray, 2019) will avoid or reduce environmental conflicts for sustainable development (Sachs et al., 2022).

The supervisory space is part of the community's responsibility in managing the environment (Braaksma & Graaf, 2018). Supervision is part of preventive administrative law enforcement that involves the community (White, 2023). In connection with that, legal instruments should be able to overhaul the legal paradigm oriented towards environmental management with sustainable insights (Drakel, 2022). Thus, it can be realized that the environment bears its rights and is not merely an instrumental part of human rights (Holm, 2023).

Figure 2. Word cloud results based on environmental case decisions

environmental damage due to industrial activities licensing law

Figure 3. Network of actors who can file a class action lawsuit



Source. Data processing by. Nvivo 12, (2023)

Source. Data processing by. Nvivo 12, (2023)

The results of the Supreme Court decision data, harmonized and confirmed with the word cloud in Figure 2, show three dominant words regarding environmental damage due to industrial activities (Holm, 2023). Based on nine environmental case decisions issued by the Supreme Court. Most business license cases that resulted in environmental damage (Mongar, 2023), were generally understood to result from industrial activities (Alhayyan & Leviza, 2020). However, there is an exciting result where the words "environment," "lawsuit," and "verdict" are the main words (figure 3), which means that the environment affected by damage due to industrial activities determines the object of a lawsuit that

results in a verdict (Hackmann, 2018).

Figure 3 shows the correlation of several actor networks involved in environmental management. The correlation held by the actors, identified as the government, has a lower value than the main actors with the legal standing to the PTUN (Morath, 2022). Correlation between actors determines who can file a class action lawsuit (Bestian Adha & Erwin Syahrudin, 2022). Figure 3, Table 1 shows the role of the main actors in environmental management, namely the community, which has a percentage of behavioral control of 29.53%, meaning that the community files more class action lawsuits due to environmental damage caused by industrial

Table 2. Detailed network of actor participation in environmental management

	Activist' perceived behavior control	Citizens' perceived behavior control	Inward Attitude	Outward Attitude	Subjective Norm
Central Government	10,37%	12,08%	25,58%	9,77%	26,97%
Citizen	28,89%	29,53%	20,93%	29,32%	23,6%
Company	27,41%	26,17%	20,93%	29,32%	22,47%
Local Government	8,89%	10,74%	25,58%	9,77%	13,48%
NGO	24,44%	21,48%	6,98%	21,8%	13,48%

Source. Data processing by. Nvivo 12, (2023)

activities.

Table 2 details the actor's participation network in environmental management. The inward attitude possessed by the government is very high, especially focusing on the outward attitude, with a total of 9.77%. The government participation percentage is deficient compared to the community, with a percentage data of 29.32%. The percentage means that participation is carried out by the community in environmental activities due to industrial activities (Zhao, 2021), as environmental awareness regarding community involvement to achieve optimization of supervision so that supervision will become more effective, efficient, and optimal (Vieira et al., 2020).

Community's Right to Sue for Business License Impacting Environmental Damage

The debate among the judiciary is on the issue of who has legal standing to file a lawsuit with the Administrative Court (Kühn, 2021). From the data collected based on the Supreme Court's decision, it becomes a parameter that the network of actors who can file a lawsuit at the Administrative Court is individuals, communities, and environmental organizations (Alam et al., 2020). Due to the awareness of good and healthy environmental management, environmental damage due to industrial activities does not have to wait for losses but is based on environmental sustainability (Alhayyan & Leviza, 2020).

The state must recognize the importance of protecting nature without exception (Lee, 2023). To preserve the environment, the government provides justice to the community for participation in environmental management justice to the community for the involvement in environmental management (Kadir & Murray, 2019). This participatory concept can be "exported" to neighboring countries even after being tested domestically (Alhayyan & Leviza, 2020). The government has the authority to grant business licenses for the development of

industrial activities, which are certainly related to sustainable development that focuses on economic aspects and does not have the potential to damage the environment in the future (Gaol, 2021).

Every business or activity impacting the environment must have an AMDAL, UKL-UPL, or SPPL (Illahi et al., 2021). Environmental permits that have been delegated to BKPM are only formal procedures. Business licenses are fundamental and the primary key to ensuring development at the implementation level is safe and can be controlled for environmental impact (Alhayyan & Leviza, 2020). Determining whether or not a business plan or activity has an important impact on the environment, this regulation uses the level of business risk to determine the type of business license that must be owned by business actors (Demeyere, 2020).

A permit is a preventive juridical instrument (Douglass & Manney, 2020) because it cannot be separated from the orders and obligations that must be obeyed by the permit holder (Zhao, 2021). Then, permits also function as repressive; due to the human activity inherent in the licensing basis, permits can be used to protect the environment. The initiator of activities that cause environmental damage cannot apply for a business license if it does not have an environmental permit (Alhayyan & Leviza, 2020). An industrial activity that obtains a license for environmental management is intended to be automatically charged with the obligation to mitigate environmental damage arising from industrial activities (Mirafzal, Wadhera, & Stal-Le Cardinal, 2023).

Given the increasingly massive ecological damage due to the threat of industrial activities through licensing in one sector and other sectors, the Judiciary has not been able to see environmental crime cases as extraordinary crimes (Ad & Pada, 2022). The public has the same rights and opportunities to play an active

role regarding environmental protection and management within the framework of legal instruments (Katz & Zamir, 2023). Therefore, based on Article 91 of the UUPPLH, the public has the right to file a class action lawsuit for their interests or the benefit of the community if they suffer losses due to environmental damage caused by industrial activities (Zhao, 2021).

Article 70, paragraph (3) letter d of UUPPLH states that one of the roles of the community in environmental protection and management is carried out by social supervision (Illahi et al., 2021). Meanwhile, the right to sue environmental organizations in Article 92 paragraph (1) of the UUPPLH is limited by stating certain conditions so that only some organizations can apply for legal standing if the conditions are met (Fadli, 2021). Article 92, paragraph (3) provides criteria that environmental organizations must meet as legal standing to the Administrative Court. The requirements, namely, a legal entity oriented towards environmental conservation (Elliott, 2020), and has carried out actual activities following its articles of association for at least 2 (two) years.

The Authority of the State Administrative Court (PTUN) Regarding Environmental Cases

The settlement of environmental disputes by filing a civil lawsuit through the Court (Lee, 2023), due to certain activities that have the potential to damage the environment as referred to in Article 1 number 25 of the UUPPLH, gives legal standing to individuals, communities and environmental organizations (Gaol, 2021). The legal standing system often needs to be clarified with class action, even though the two have very different essences (Morath, 2022). In a class action lawsuit, the network of actors who file a lawsuit have something in common as victims of environmental damage due to industrial activities (Braumann, 2023).

In the settlement of environmental disputes, PTUN not only provides legal protection to the injured party as a seeker of justice but also provides legal protection to the environment that suffers damage due to the issuance of KTUN to carry out activities that can endanger the environment. There are two types of liability systems due to the establishment of PTUN's authority as described in the PTUN Law (Lestari & Djanggih, 2019). PTUN plays a role in accepting lawsuits against government actions that harm citizens (Ridwan, Heryansyah, & Pratiwi, 2018). On the other hand, government actions that harm the community due to business licenses issued by the government can be filed through the PTUN based on unlawful acts by public officials (Arliman, 2018).

Based on the government administration regime, the provisions regarding the right of liability against environmental permits are not excluded as a state administrative object against state administrative decisions that only apply the principle of *presumptio justae causa*, in its implementation can be delayed if it can create environmental damage (Alhayyan & Leviza, 2020). For example, Thailand and India, which have independent and independent environmental law jurisdictions, such as the special environmental division of the First Level Administrative Court and the Supreme Court of Thailand, have the authority to hear administrative cases related to environmental issues (Harjiyatni, Anthony, & Meicke, 2022).

Related to administrative disputes related to the environment in Thailand and the competence of judges who are knowledgeable in the field of environmental law, special procedures are regulated related to dispute resolution whose object is environmental matters (Ellis, 2018), namely with the issuance of the Recommendation of the President of the Supreme Administrative Court on Administrative Court Procedure Relating to Environmental

Issues (Harjiyatni et al., 2022). The Recommendation of the President of the Supreme Administrative Court is a practical guideline for adjudicating and instructs administrative courts to use recommendations as guidelines in administrative cases relating to the environment (Illahi et al., 2021).

There are 2 (two) roles of PTUN judges in dispute resolution, according to Stone Sweet & della Cananea (2021), namely, Bridging the Gap Between Law and Society. The role of judges is to understand the purpose of law in society and help achieve its goals (Stone Sweet, 2021). Second, Protecting The Constitution and Democracy, protecting the constitution and democracy. Judicial protection in democracy in general and human rights in particular is characteristic of most developing democracies (Jiménez, 2023). Article 47 of the State Administrative Court Law states that the authority of the State Administrative Court is to examine, decide, and resolve disputes. The root of the disagreement in environmental disputes is pollution, so the interpretation of Article 47 of the State Administrative Court Law in the context of the environment is that wherever possible, the State Administrative Court resolves environmental pollution and degradation (Illahi et al., 2021).

The settlement of the impact of environmental damage due to industrial activities to resolve environmental disputes (Elliott, 2020), through Law Number 30 of 2014 concerning Government Administration and PERMA Number 2 of 2019, the State Administrative Court is authorized to adjudicate disputes over government actions (Alhayyan & Leviza, 2020). Meanwhile, concerning environmental disputes, the PTUN can resolve environmental disputes through factual action lawsuits filed by the public demanding concrete actions from the government, which is reluctant to impose

sanctions on perpetrators of environmental damage (Joy, 2021).

In enforcing environmental regulations, preventive and repressive administrative law efforts can be made (Kisingo, 2023), applied to activities that violate licensing requirements (Petersmann, 2022). Meanwhile, in testing environmental disputes in practice, several provisions deviate from the ideals of environmental protection (Horsch et al., 2023). Therefore, with complete confidence, judges make decisions and create norms as a legal discovery process through philosophically, sociologically, and juridically established legal interpretations to achieve truth and justice in protecting environmental sustainability (Kohli & Menon, 2021).

CONCLUSION

The research shows several things with the findings: (1) individuals, communities, and environmental organizations affected by environmental damage due to industrial activity business licenses have the right to file a class action administrative lawsuit in the jurisdiction of the Administrative Court. (2) related to parties who have legal standing act based on the interests of the wider community because of environmental rights violations. (3) The application of a lawsuit through the court, either by class action or legal standing, can be used as a way of pursuing justice so that every element of society and government has awareness and plays an active role in protecting and preserving the environment from all industrial activities that can cause environmental damage.

Based on the principles of *erga omnes* and *ius curia novit*, it is the basis for the authority of the PTUN in accommodating policies in the interests of sustainability and preventing public losses due to environmental damage. The General Principles of Good Governance (AUPB) guidelines for decisions that can potentially

cause environmental damage can be the object of disputes at the PTUN. Environmental principles should be used as a test tool and consideration of judges in PTUN decisions whose object of dispute is business licenses in the environmental field.

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DATA AVAILABILITY

Data are available from the authors on request

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Sen, 12 Feb, 01.52 (5 hari yang lalu)

kepada saya

Bachrul Amiq:

Thank you for submitting the revision of manuscript, "ENVIRONMENTAL DAMAGE: COMMUNITY LAWSUIT AGAINST THE GOVERNMENT OVER INDUSTRIAL BUSINESS LICENSES" to LAW REFORM. With the online journal management system that we are using, you will be able to track its progress through the editorial process by logging in to the journal web site:

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If you have any questions, please contact me. Thank you for considering this journal as a venue for your work.

Prof. Dr. Kholis Roisah, S.H., M.Hum.

LAW REFORM

LAW REFORM

<http://ejournal.undip.ac.id/index.php/lawreform>

I am so pleased to have your constructive comments. Based on your comments and suggestions, I have revised the manuscripts. Therefore, my manuscript is muscular now, and I hope this manuscript can meet your requirements.

Please have a look my revised manuscript.

Looking forward to hearing from you.

Thank

Bachrul Amiq

1. Question;

Dear Bachrul Amiq:

consisting of a maximum of 200 words, containing the background of the problem, urgency / purpose of writing, research methods (for research articles) and research results and conclusions:

Answer;

I have revised and followed all of these requirements.

2. Question;

The research focus contained in the introduction regarding the implementation of state administrative justice authority has not been reflected in the research results. In your research results, you directly explain community participation.

Please explain briefly the relationship between the authority of the state administrative judiciary and community participation, which you wrote in the results

Answer:

I have revised the abstract.

3. Question:

INTRODUCTION consists of:

- **Problem Background**

[Arial Narrow 12, justify, 1.5 spaces, the first paragraph indents 1 cm, writing sentences between paragraphs with no spaces (no before and after space). Contains a description of the background of the problem to be studied along with the problems written in the Gap Analysis and Problems].

- **Theoretical framework**

[Arial Narrow 12, justify, 1.5 spaces, the first paragraph indents 1 cm, writing sentences between paragraphs with no spaces (no before and after space). Contains a description of the theories used in the article. All theories should be cited in the Results and Discussion chapter].

- **Gap Analysis and Problems**

[Arial Narrow 12, justify, 1.5 spaces, the first paragraph indents 1 cm, writing sentences between paragraphs with no spaces (no before and after space). Contains about the gap between *das sollen* (a description of the provisions, principles, principles, applicable legal doctrine) and *das sein* (a description of empirical facts) and also contains a description of why research needs to be carried out, and or what is unique about this research compared to other research. previously. In addition, there must also be a research objective].

- **State of the art (Recent Research Results)**

[Arial Narrow 12, justify, 1.5 spaces, the first paragraph indents 1 cm, writing sentences between paragraphs with no spaces (no before and after space). Contains a description of the research study compared to previous research studies published in the Journal (referring to at least 5 articles in 3 Nationally Accredited Journals and 2 International Journals).

Answer;

I have improved the introduction according to the reviewer's guidelines and added green blocks.

4. Question

It has not explained the authority of the state administrative judiciary as a form of law enforcement regarding business permits that have an impact on environmental damage.

Answer:

I have revised and followed your instructions

5. Question

An interesting problem, if this discussion shows whether community participation in the right to sue encounters obstacles. What are the obstacles to the right to sue and then analyzed using supporting theory

Answer:

Please have a look my revised manuscript.

Looking forward to hearing from you.

6. Question

Explain the novelty of your research in the final paragraph, what makes it different and how your research stands in the various research studies that you have reviewed

Answer:

I have revised and improved the explanation

7. Question

Editorial mewajibkan author mensitasi jurnal terindeks Scopus minimal 7 (harap diwarnai biru)

Dan mensita jurnal pada Law Reform sendiri minimal 3 (harap diwarnai ungu)

Answer:

I have revised and followed all of these requirements.

Thank

ENVIRONMENTAL DAMAGE: COMMUNITY LAWSUIT AGAINST THE GOVERNMENT OVER INDUSTRIAL BUSINESS LICENSES

ABSTRACT

This study examines the challenges and opportunities in implementing the authority of the state administrative court as a form of law enforcement on business licenses that impact environmental damage. This study uses the qualitative method NVivo12 Plus 12 by analyzing legal rules, journals, and online print media such as detik.com and kompas.com. The research focuses on the approach of laws and regulations related to the environment and case studies based on Supreme Court decisions. The results showed that the participatory role of the community in the existence of environmental damage is crucial. Community participation is an obligation as an absolute citizen in the framework of creating a healthy living environment; community participation is not only used as a means to achieve goals but is used as an end. Ownership of the right to a healthy environment includes (1) the right to receive environmental information held by public authorities, (2) the right to participatory environmental decision-making, (3) the right to review procedures for challenging public decisions that have been made within the scope of access to justice.

Keywords: Sustainable Development; Good Governance; Administrative Law; Environmental Damage; Administrative Courts.

A. INTRODUCTION (spasi 1.5 s/d daftarpustaka)

This study aims to explore the role of the community in environmental management with the fundamental right to access justice based on legal considerations and the scope of authority of the State Administrative Court (Molavi, 2020). The authority to enforce the law due to business licenses that impact environmental damage in Indonesia, often in the legal consideration of the examination of lawsuits by the community, causes material and immaterial losses (Jassal, 2020). On the other hand, several things need to be considered regarding (1) conformity with the level of risk, (2) conformity with spatial planning, and (3) public announcement and consultation for directly affected communities (Etty et al., 2022).

As a regulator, the government uses permits as a juridical means to control people's behavior, especially those engaged in industry, aiming to allow people who apply for them to carry out specific prohibited actions (Ali et al., 2022). However, business licenses are relevantly granted to reduce the destructive power of

industry, inefficient licensing procedures, and non-flexible management standards that can increase uncertainty about environmentally sound development (White, 2023). Following the principle of legality, government actions must be under the law, including determining administrative decisions (Moran, Dharmananda, & Barnes, 2023).

The causes of environmental damage are natural and human factors; one of the human factors is due to industrial activities that can cause maritime damage (Capps, & Babula, 2019). Moreover, if the business license granted by the government causes environmental damage (Z. J. Wang, 2020); to prevent environmental damage, Law No. 32/2009 on Environmental Protection and Management (Perlindungan dan Pengelolaan Lingkungan Hidup/ UUPPLH) adopts the principles contained in the 1992 Rio Declaration, such as state responsibility, integration, justice, participation, and polluter pays (Jankovic, 2021).

The complexity of the main opposition in this research is community participation in environmental management due to legal policies

Comment [R1]: consisting of a maximum of 200 words, containing the background of the problem, urgency / purpose of writing, research methods (for research articles) and research results and conclusions].

Comment [p2]: The research focus contained in the introduction regarding the implementation of state administrative justice authority has not been reflected in the research results. In your research results, you directly explain community participation. Please explain briefly the relationship between the authority of the state administrative judiciary and community participation, which you wrote in the results

Comment [R3]: INTRODUCTION consists of:

- Problem Background

[Arial Narrow 12, justify, 1.5 spaces, the first paragraph indents 1 cm, writing sentences between paragraphs with no spaces (no before and after space). Contains a description of the background of the problem to be studied along with the problems written in the Gap Analysis and Problems].

- Theoretical framework

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- Gap Analysis and Problems

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- State of the art (Recent Research Results)

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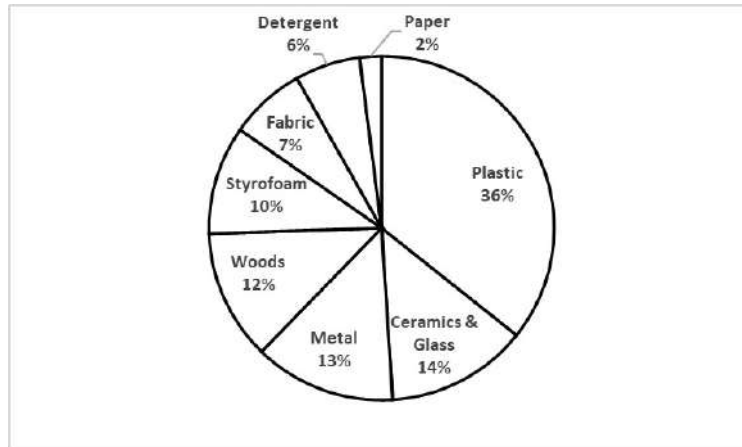
Comment [p6]: It has not explained the authority of the state administrative judiciary as a form of law enforcement regarding business permits that have an impact on environmental damage.

in the form of business licenses that cause ecological damage, thus limiting the capacity of community access to justice (Molavi, 2020). On the other hand, if the community is not involved in the environmental control process, especially the issuance of business licenses, it will be procedurally invalid (Katz, & Zamir, 2023). The principles of sustainable and environmentally sound development can be applied well if the analysis is carried out at the early stages of planning the development process concerning environmental management (Kulovesi, Mehling, & Morgera, 2019).

Environmental damage from other industrial activities is oil waste spills at sea, which cannot be considered a simple problem because it involves many legal subjects (White, 2023). The community's active role in managing a healthy environment, based on Article 67 of the UUPPLH, is that everyone is obliged to control pollution or environmental damage (Molavi, 2020). Therefore, this research focuses on the Supreme Court's decision review system regarding industrial activity business licenses that can cause environmental damage (Verbruggen, 2022).

Indicators of the legality of administrative

Figure 1. Percentage of marine ecosystem pollution debris data



Source. (Dihni, 2022)

Oceanographic Center of the Indonesian Navy, pollution in Indonesian seas is substantial because it is dominated by plastic waste, followed by metal, glass, and ceramic waste (Lasut, 2021). The emergency handling of plastic waste in the sea requires the community's active role in urging the government to enforce laws, such as monitoring industrial activities after the issuance of business licenses (Braumann, 2023). Based on Figure 1, the percentage level of the weight of waste in Indonesia's oceans due to industrial destructive power that makes the marine ecosystem become bad (Holm, 2023).

decision-making in the process of issuing

business licenses for companies are that they must have sufficient authority (Snow, 2021), both material time or place, and based on procedures regulated in laws and regulations, as well as compliance with the General Principles of Good Governance (*asasumumpemerintahan yang baik/AUPB*) (Jankovic, 2021). Furthermore, this research examines the network of local legal subjects and several communities related to environmental pollution by analyzing Supreme Court decisions in industrial business licenses that impact environmental damage based on a

legal perspective (Purnomo, Zahra, Malawani, & Anand, 2021).

The environmental damage that occurs raises a big question mark regarding who has legal standing to file a lawsuit to the State Administrative Court (*peradilan tatausahan negara*/PTUN) (Ety et al., 2022), and how the authority of the State Administrative Court over disputes arising from the issuance of business licenses has an impact on environmental damage (Jassal, 2020). Because of this, government policies other than mitigation, namely through laws and regulations to protect natural resources, include a supervision system of various environmental management and protection (Katz, & Zamir, 2023).

Based on this, this research will elaborate on the provisions of UUPPLH and case studies of environmental damage due to business licenses by analyzing the Supreme Court's decision (Nagheeb, 2023). Thus, it can be used as a reference in the future by the parties, especially individuals, communities, and environmental organizations who file a lawsuit over the impact of environmental pollution due to the existence of a business permit for industrial activities (Snow, 2021). Based on the explanation, there is a need for public control and transparency as a preventive measure or mitigation of catastrophic environmental damage that occurs due to industrial activities (Douglass, & Manney, 2020).

LITERATURE REVIEW

Law Enforcement in Environmental Damage

In recent years, environmental issues such as seawater pollution from factory effluents and plastic pollution have increased pressure on the sectoral and siloed approaches used by various parties in the interest of profitability (Morath, 2022). The Climate Sustainability Group's seven priority issues address a wide range of degradation: land degradation, biodiversity loss, marine litter, water management, sustainable consumption and resource efficiency, sustainable finance, and ocean protection (Nagheeb, 2023). Global environmental issues are global warming and the damage of corporate chemical runoff to

marine ecosystems, which pose a significant threat to biodiversity and livelihoods (Hendlin, Arcuri, Leperies, & Huesker, 2020).

Furthermore, the role of law in overcoming environmental damage is crucial as a regulation of environmental problems that has the basic principles of sustainable development (Hackmann, 2018). In Indonesia, environmentally sustainable development is defined as a conscious and planned effort that integrates the environment as a development process to ensure the ability, welfare, and quality of life of future generations (Horsch et al, 2023). This research looks at the role of communities in class actions in Indonesia due to industrial activities that impact environmental damage (Kotzé, 2019).

When a policy in its implementation is misaligned, it is necessary to have the participation of the community or environmental organizations to create a legal umbrella for healthy environmental management as sustainable development (Wu, 2023). To realize the preservation and development of the beneficial value of biodiversity in a sustainable manner (Sachs, Kroll, Lafortune, Fuller, & Woelm, 2022), it is necessary to manage and prepare biological conservation planning in an integrated, comprehensive, effective, and participatory way and involve all stakeholders; this is only possible with the role of the government through policies and regulations (Elliott, 2020; Nagheeb, 2023).

The historical development of legal protection in Indonesia, especially related to environmental damage, can be through class action lawsuits and legal standing (Arcus, 2021). Environmental management, parties harmed by environmental damage can file a claim for rights (Petersmann, 2022). Considering that the most significant part of Environmental Law is Administrative Law, the settlement of environmental disputes that are harmed by a business license in the environmental sector (Molavi, 2020), is based on Law Number 5 of 1986 concerning State Administrative Justice (*peradilan tatausahan negara*/UUPTUN). A lawsuit to the State Administrative Court regarding the demand that the business license be declared null

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(Purnomo et al, 2021)

Comment [R10]: (Hendlin et al, 2020)

Comment [p8]: An interesting problem, if this discussion shows whether community participation in the right to sue encounters obstacles. What are the obstacles to the right to sue and then analyzed using supporting theory

Comment [R11]: (Sachs et al, 2022)

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or invalid so that the court's decision immediately stops environmental pollution due to industrial activity business licenses that impact environmental damage(Wang, 2023).

Environmental problems have resulted in global and transnational effects, which can lead to environmental damage, and the impact spreads beyond borders (Nagheeby, 2023). Environmental issues arise due to the interaction of industrial activities with the existence of natural resources (Drakel, 2022). The greater the amount and intensity of exploitation of nature, the impact on environmental quality degradation tends to increase (Platjouw,& Pozdnakova, 2023). Therefore, law and public participation in class action lawsuits is crucial to stop environmental damage.

Applying the principle of *erga omnes* or legal acts applies to every individual, person, or country without distinction (Moran, Dharmananda, & Barnes, 2023). Therefore, the existence of a class action lawsuit becomes the authority of the Administrative Court with the arguments of the "*Erga Omnes*" principle and the "*Ius Coria Novit*" principle based on Article 10 paragraph (1) of the Judicial Power Law, that judges are prohibited from refusing to examine and also hear incoming lawsuits for reasons of lack or absence of legal basis (Alam, Maharani, & M, 2020). The judge's belief and paradigm will also determine the continuation of this class action lawsuit since the preparatory examination stage at the State Administrative Court(Jiménez, 2023).

The Position of Class Action Lawsuits as an Environmental Law Enforcement Tool

Industrial activities, in practice, require a license; the initiator of the action must have a business license (Holm, 2023). The government is authorized to provide regulatory aspects through decisions. This decision is called a permit (McMahon, 2021), a "Business Permit" that, based on Article 40 of the UUPPLH, emphasizes that every business activity that has an impact on the environment must have a business permit, which has changed its nomenclature and substance in the Job Creation Law to

"Environmental Approval" either from the central government or local government (Illahi, Gusri, & Sugianto, 2021)

Control over the granting of business licenses can not only be carried out by individuals and environmental organizations (Roy, 2018), but more broadly, the UUPPLH, in Article 91, provides a door for the community to control licensing through the state administrative court by way of community lawsuits or class actions (Moran, Dharmananda, & Barnes, 2023). The representative suit symbolizes the progress of environmental regulation and is a legal recognition of the impact of environmental damage (White, 2023). In environmental damage cases, the victims are always huge in number (Mongar, 2023).

People affected by environmental damage due to industrial activities can file a lawsuit individually (Snow, 2021), but the process will be very long and costly. And what happens is that Article 5 paragraph (2) of the Judicial Power Law will not be achieved (Parlina, 2021). Meanwhile, the UUPPLH, Consumer Protection, Construction Services, Forestry, Waste Management, and Water Resources Law provide new opportunities by allowing the public to file class action lawsuits (Elliott, 2020).

Supreme Court Regulation Number 1 of 2002 concerning Class Action Lawsuits (*peraturanmahkamahagung*/PERMA Class Action) was issued in response to the development of class action lawsuits. This provision contains lawsuit rules with different characteristics from ordinary civil lawsuits (Jiménez, 2023). In a class action lawsuit, class representatives do not need a power of attorney from the class members, as the class action does not involve damages or monetary claims. Still, only filing a declaratory demand lawsuit, as public notice is not necessary (Snow, 2021). The right to class action lawsuits provides access to justice to the public in resolving disputes through the courts (Murray, 2019).

One of the solutions to environmental disputes is through the courts (Jiménez, 2023). Settlement of environmental disputes through the

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(Nur'Alam, Maharani, & Maretha M, 2020)

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court is based on Article 87 paragraph (1) of UUPPLH in conjunction with Article 1365 of the Civil Code on Compensation for Unlawful Acts (Lestari, & Djanggih, 2019). Class Action lawsuits are important in cases of environmental damage that involve losses to a group of people (Alhayyan, & Leviza, 2020). The public can sue or be sued as a party who gets power of attorney on behalf of various parties by fulfilling the requirements of a class action lawsuit. The fact that in environmental issues, environmental damage affects many people, not just one or two individuals, is an important factor (Molavi, 2020).

B. RESEARCH METHODS

Based on the legal perspective on the legal standing of filing a lawsuit with the State Administrative Court (Arcus, 2021), nine Supreme Court decisions that discuss this matter were reviewed. In addition, the characteristics of the research problem are a motivation to apply qualitative research methods as an analysis method (Purnomo, Zahra, & Malawani, 2021; Wu, 2023). This research uses secondary data on environmental cases published by the Supreme Court of the Republic of Indonesia (Table 1). The use of NVivo 12 plus software aims to map and explore the network of actors on the legal standing of filing a class action lawsuit to the PTUN, as stated in the documents issued by the Supreme Court of the Republic of Indonesia, which are further supported and complemented by online media.

The purpose of objectivity in improving the quality of analysis is to re-examine comparative data with news in the media (Khairunnisa, 2023). The media is a confirmation technique for data obtained from Supreme Court decisions. The selected national online media are www.detik.com, www.kompas.com, and www.tribun.com from 2018-2023. Then, nine online news articles were collected and analyzed based on keywords related to environmental damage cases (Heyvaert, 2021). Online news articles corroborated or confirmed arguments in Supreme Court decisions related to environmental issues (De Souza, Finger, De Araújo, & Maranhão, 2023).

NCapture collected data from three online news sites (Lasut, 2021). In addition, NVivo 12 Plus has robust reporting capabilities and explores news information regarding community participation in environmental damage. Data collection was analyzed with the help of NVivo (Khairunnisa, Nurmandi, Muallidin, & Kurniawan, 2022). The steps shown in Figure 2 were used as follows: The first step in the analysis was to import nine Supreme Court decisions and several online news articles (Adrian, Purnomo, & Enrici, 2023). The second step was coding information related to the schema codes of the Supreme Court decisions and some online news articles.

Furthermore, the third step was analyzed using word clouds and crosstabs to identify the legal standing of the lawsuit to the PTUN based on the correlation with the activity scheme code

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Comment [R16]: (Khairunnisa et al, 2022)

Table 1. Supreme Court Decisions on Class Action for Environmental Damage

No	Name
1	Supreme Court Decision Number 1927 K/Pid.Sus-LH/2023
2	Supreme Court Decision Number 94 K/Pid.Sus-LH/2023
3	Supreme Court Decision Number 92 K/Pid.Sus-LH/2023
4	Supreme Court Decision Number 247 K/Pid.B-LH/2021
5	Supreme Court Decision Number 70 K/Pid.Sus-LH/2021
6	Supreme Court Decision Number 2919 K/Pid.Sus-LH/2020
7	Supreme Court Decision Number 1932 K/Pid.Sus-LH/2016
8	Supreme Court Decision Number 1274 K/Pid/2016
9	Supreme Court Decision Number 129 K/Pid/2016

Source: <https://www.mahkamahagung.go.id/id>

(White, 2023). The fourth step is to create an actor-network map to describe the details of three actor networks with legal standing to file a lawsuit with the PTUN. For the results of the analysis, crosstab tools were used to obtain the value of the network of actors who can file a class action lawsuit to the PTUN due to the impact of environmental damage from industrial activities (Horsch et al, 2023; Sihalo, 2022). Furthermore, a word cloud is used in the analysis that considers the relationship of several actor networks based on the correlation value to obtain the content of the decision from the Supreme Court (Purnomo, Zahra, & Malawani, 2021).

C. DISCUSSION

A good and healthy environment is the human right of every Indonesian citizen, as mandated in Article 28H paragraph (1) of the 1945 Constitution (Gandryani, & Hadi, 2021). Government, private, and community organizations are responsible for protecting and managing the environment (Witney, 2021). Environmental management based on good governance (Murray, 2019) will avoid or reduce environmental conflicts for sustainable development (Sachs et al, 2022).

The supervisory space is part of the community's responsibility in managing the environment (Braaksma & Graaf, 2018). Supervision is part of preventive administrative law enforcement that involves the community (White, 2023). In connection with that, legal instruments should be able to overhaul the legal paradigm oriented towards environmental management with sustainable insights (Drakel, 2022). Thus, it can be realized that the environment bears its rights and is not merely an instrumental part of human rights (Holm, 2023). (paragraflanjutannyautukdapatdinaikkan)

Comment [R17]: RESULTS AND DISCUSSION

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Figure 2. Word cloud results based on environmental case decisions

Figure 3. Network of actors who can file a class action lawsuit

Source. Data processing by. Nvivo 12, (2023)

Source. Data processing by. Nvivo 12, (2023)

(figure 2 dan 3 menumpuk, untuk dapat diperbaiki)

The results of the Supreme Court decision data, harmonized and confirmed with the word cloud in Figure 2, show three dominant words regarding environmental damage due to industrial activities (Holm, 2023). Based on nine environmental case decisions issued by the Supreme Court. Most business license cases that resulted in environmental damage (Mongar, 2023), were generally understood to result from industrial activities (Alhayyan, & Leviza, 2020). However, there is an exciting result where the words "environment," "lawsuit," and "verdict" are the main words (figure 3), which means that the environment affected by damage due to industrial activities determines the object of a lawsuit that results in a verdict (Hackmann, 2018).

Figure 3 shows the correlation of several actor networks involved in environmental

management. The correlation held by the actors, identified as the government, has a lower value than the main actors with the legal standing to the PTUN (Morath, 2022). Correlation between actors determines who can file a class action lawsuit (Bestian Adha & Erwin Syahrudin, 2022). Figure 3, Table 1 shows the role of the main actors in environmental management, namely the community, which has a percentage of behavioral control of 29.53%, meaning that the community files more class action lawsuits due to environmental damage caused by industrial activities.

Table 2 details the actor's participation network in environmental management. The inward attitude possessed by the government is very high, especially focusing on the outward attitude, with a total of 9.77%. The government

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Table 2. Detailed network of actor participation in environmental management

	Activist' perceived behavior control	Citizens' perceived behavior control	Inward Attitude	Outward Attitude	Subjective Norm
Central Government	10,37%	12,08%	25,58%	9,77%	26,97%
Citizen	28,89%	29,53%	20,93%	29,32%	23,6%
Company	27,41%	26,17%	20,93%	29,32%	22,47%
Local Government	8,89%	10,74%	25,58%	9,77%	13,48%
NGO	24,44%	21,48%	6,98%	21,8%	13,48%

Source. Data processing by. Nvivo 12, (2023)

(table 2 untuk dapat disesuikan letaknya)

participation percentage is deficient compared to the community, with a percentage data of 29.32%. The percentage means that participation is carried out by the community in environmental activities due to industrial activities (Zhao, 2021), as environmental awareness regarding community involvement to achieve optimization of supervision so that supervision will become more effective, efficient, and optimal (Vieira et al, 2020).

Community's Right to Sue for Business License Impacting Environmental Damage

The debate among the judiciary is on the issue of who has legal standing to file a lawsuit with the Administrative Court (Kühn, 2021). From the data collected based on the Supreme Court's decision, it becomes a parameter that the network of actors who can file a lawsuit at the Administrative Court is individuals, communities, and environmental organizations (Alam et al., 2020). Due to the awareness of good and healthy environmental management, environmental damage due to industrial activities does not have to wait for losses but is based on environmental sustainability (Alhayyan, & Leviza, 2020).

The state must recognize the importance of protecting nature without exception (Lee, 2023). To preserve the environment, the government provides justice to the community for participation in environmental management justice to the community for the involvement in environmental management (Kadir, & Murray, 2019). This participatory concept can be "exported" to neighboring countries even after being tested domestically (Alhayyan, & Leviza, 2020). The government has the authority to grant business licenses for the development of industrial activities, which are certainly related to sustainable development that focuses on economic aspects and does not have the potential to damage the environment in the future (Gao, 2021).

Every business or activity impacting the environment must have an AMDAL, UKL-UPL, or SPPL (Illahi, Gusri, & Sugianto, 2021). Environmental permits that have been delegated to BKPM are only formal procedures. Business

licenses are fundamental and the primary key to ensuring development at the implementation level is safe and can be controlled for environmental impact (Alhayyan & Leviza, 2020). Determining whether or not a business plan or activity has an important impact on the environment, this regulation uses the level of business risk to determine the type of business license that must be owned by business actors (Demeyere, 2020).

A permit is a preventive juridical instrument (Douglass, & Manney, 2020) because it cannot be separated from the orders and obligations that must be obeyed by the permit holder (Zhao, 2021). Then, permits also function as repressive; due to the human activity inherent in the licensing basis, permits can be used to protect the environment. The initiator of activities that cause environmental damage cannot apply for a business license if it does not have an environmental permit (Alhayyan, & Leviza, 2020). An industrial activity that obtains a license for environmental management is intended to be automatically charged with the obligation to mitigate environmental damage arising from industrial activities (Mirafzal, Wadhera, & Stal-Le Cardinal, 2023).

Given the increasingly massive ecological damage due to the threat of industrial activities through licensing in one sector and other sectors, the Judiciary has not been able to see environmental crime cases as extraordinary crimes (Ad, & Pada, 2022). The public has the same rights and opportunities to play an active role regarding environmental protection and management within the framework of legal instruments (Katz, & Zamir, 2023). Therefore, based on Article 91 of the UUPPLH, the public has the right to file a class action lawsuit for their interests or the benefit of the community if they suffer losses due to environmental damage caused by industrial activities (Zhao, 2021).

Article 70, paragraph (3) letter d of UUPPLH states that one of the roles of the community in environmental protection and management is carried out by social supervision (Illahi, Gusri, & Sugianto, 2021). Meanwhile, the right to sue environmental organizations in Article

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Comment [R21]: Diperbaiki (3 namaakhir author, tahun)

92 paragraph (1) of the UUPPLH is limited by stating certain conditions so that only some organizations can apply for legal standing if the conditions are met (Fadli, 2021). Article 92, paragraph (3) provides criteria that environmental organizations must meet as legal standing to the Administrative Court. The requirements, namely, a legal entity oriented towards environmental conservation (Elliott, 2020), and has carried out actual activities following its articles of association for at least 2 (two) years.

The Authority of the State Administrative Court (PTUN) Regarding Environmental Cases

The settlement of environmental disputes by filing a civil lawsuit through the Court (Lee, 2023), due to certain activities that have the potential to damage the environment as referred to in Article 1 number 25 of the UUPPLH, gives legal standing to individuals, communities and environmental organizations (Gaol, 2021). The legal standing system often needs to be clarified with class action, even though the two have very different essences (Morath, 2022). In a class action lawsuit, the network of actors who file a lawsuit have something in common as victims of environmental damage due to industrial activities (Braumann, 2023).

In the settlement of environmental disputes, PTUN not only provides legal protection to the injured party as a seeker of justice but also provides legal protection to the environment that suffers damage due to the issuance of KTUN to carry out activities that can endanger the environment. There are two types of liability systems due to the establishment of PTUN's authority as described in the PTUN Law (Lestari, & Djanggih, 2019). PTUN plays a role in accepting lawsuits against government actions that harm citizens (Ridwan, Heryansyah, & Pratiwi, 2018). On the other hand, government actions that harm the community due to business licenses issued by the government can be filed through the PTUN based on unlawful acts by public officials (Arliman S, 2018).

Based on the government administration regime, the provisions regarding the right of

liability against environmental permits are not excluded as a state administrative object against state administrative decisions that only apply the principle of *presumptiojustaecausa*, in its implementation can be delayed if it can create environmental damage (Alhayyan, & Leviza, 2020). For example, Thailand and India, which have independent and independent environmental law jurisdictions, such as the special environmental division of the First Level Administrative Court and the Supreme Court of Thailand, have the authority to hear administrative cases related to environmental issues (Harjiyatni, Anthony, & Meicke, 2022).

Related to administrative disputes related to the environment in Thailand and the competence of judges who are knowledgeable in the field of environmental law, special procedures are regulated related to dispute resolution whose object is environmental matters (Ellis, 2018), namely with the issuance of the Recommendation of the President of the Supreme Administrative Court on Administrative Court Procedure Relating to Environmental Issues (Harjiyatni, Anthony, & Meicke, 2022). The Recommendation of the President of the Supreme Administrative Court is a practical guideline for adjudicating and instructs administrative courts to use recommendations as guidelines in administrative cases relating to the environment (Illahi et al., 2021).

There are 2 (two) roles of PTUN judges in dispute resolution, according to Stone Sweet & della Cananea (2021), namely, Bridging the Gap Between Law and Society. The role of judges is to understand the purpose of law in society and help achieve its goals (Stone Sweet, 2021). Second, Protecting The Constitution and Democracy, protecting the constitution and democracy. Judicial protection in democracy in general and human rights in particular is characteristic of most developing democracies (Jiménez, 2023). Article 47 of the State Administrative Court Law states that the authority of the State Administrative Court is to examine, decide, and resolve disputes. The root of the disagreement in environmental disputes is pollution, so the interpretation of Article 47 of the State Administrative Court Law in

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the context of the environment is that wherever possible, the State Administrative Court resolves environmental pollution and degradation (Illahi, Gusri, & Sugianto, 2021).

The settlement of the impact of environmental damage due to industrial activities to resolve environmental disputes (Elliott, 2020), through Law Number 30 of 2014 concerning Government Administration and PERMA Number 2 of 2019, the State Administrative Court is authorized to adjudicate disputes over government actions (Alhayyan, & Leviza, 2020). Meanwhile, concerning environmental disputes, the PTUN can resolve environmental disputes through factual action lawsuits filed by the public demanding concrete actions from the government, which is reluctant to impose sanctions on perpetrators of environmental damage (Joy, 2021).

In enforcing environmental regulations, preventive and repressive administrative law efforts can be made (Kisingo, 2023), applied to activities that violate licensing requirements (Petersmann, 2022). Meanwhile, in testing environmental disputes in practice, several provisions deviate from the ideals of environmental protection (Horsch et al, 2023). Therefore, with complete confidence, judges make decisions and create norms as a legal discovery process through philosophically, sociologically, and juridically established legal interpretations to achieve truth and justice in protecting environmental sustainability (Kohli, & Menon, 2021).

D. CONCLUSION

The research shows several things with the findings: (1) individuals, communities, and environmental organizations affected by environmental damage due to industrial activity business licenses have the right to file a class action administrative lawsuit in the jurisdiction of the Administrative Court. (2) related to parties who have legal standing act based on the interests of the wider community because of environmental rights violations. (3) The application of a lawsuit through the court, either

by class action or legal standing, can be used as a way of pursuing justice so that every element of society and government has awareness and plays an active role in protecting and preserving the environment from all industrial activities that can cause environmental damage.

Based on the principles of erga omnes and ius curia novit, it is the basis for the authority of the PTUN in accommodating policies in the interests of sustainability and preventing public losses due to environmental damage. The General Principles of Good Governance (AUPB) guidelines for decisions that can potentially cause environmental damage can be the object of disputes at the PTUN. Environmental principles should be used as a test tool and consideration of judges in PTUN decisions whose object of dispute is business licenses in the environmental field.

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DATA AVAILABILITY

Data are available from the authors on request

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ENVIRONMENTAL DAMAGE: COMMUNITY LAWSUIT AGAINST THE GOVERNMENT OVER INDUSTRIAL BUSINESS LICENSES

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ABSTRACT

This study examines the challenges and opportunities in implementing the authority of the state administrative court as a form of law enforcement on business licenses that impact environmental damage. This study uses the qualitative method NVivo12 Plus 12 by analyzing legal rules, journals, and online print media such as detik.com and kompas.com. The research focuses on the approach of laws and regulations related to the environment and case studies based on Supreme Court decisions. PTUN plays a role in accepting claims against government actions that harm citizens. Still, the authority of PTUN, with the principle of "Erga Omnes" and "Ius Coria Novit," is authorized to adjudicate disputes over government actions related to environmental disputes. Community participation is crucial for creating a healthy environment and is not only used as a tool to achieve goals but also as a goal. Ownership of the right to a healthy environment includes (1) the right to receive environmental information held by public authorities, (2) the right to participatory environmental decision-making, (3) the right to review procedures for challenging public decisions that have been made within the scope of access to justice.

Keywords: Sustainable Development; Good Governance; Administrative Law; Environmental Damage; Administrative Courts.

A. INTRODUCTION

This research emphasizes the crucial role of communities in environmental management, highlighting the potential for environmental degradation due to conflicts between economic and rapid development interests (Li et al., 2024). The authority to enforce the law due to business licenses that impact environmental damage in Indonesia, often in the legal consideration of the examination of lawsuits by the community, causes material and immaterial

losses (Jassal, 2020). On the other hand, several things need to be considered regarding (1) conformity with the level of risk, (2) conformity with spatial planning, and (3) public announcement and consultation for directly affected communities (Etty et al., 2022).

As a regulator, the government uses permits as a juridical means to control people's behavior, especially those engaged in industry, aiming to allow people who apply for them to carry out specific prohibited actions (Ali et al.,

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- Problem Background

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- Theoretical framework

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- Gap Analysis and Problems

[Arial Narrow 12, justify, 1.5 spaces, the first paragraph indents 1 cm, writing sentences between paragraphs with no spaces (no before and after space). Contains about the gap between das solen (a description of the provisions, principles, principles, applicable legal doctrine) and das sein (a description of empirical facts) and also contains a description of why research needs to be carried out, and or what is unique about this research compared to other research, previously. In addition, there must also be a research objective].

- State of the art (Recent Research Results)

[Arial Narrow 12, justify, 1.5 spaces, the first paragraph indents 1 cm, writing sentences between paragraphs with no spaces (no before and after space). Contains a description of the research study compared to previous research studies published in the Journal (referring to at least 5 articles in 3 Nationally Accredited Journals and 2 International Journals).

Comment [Anonymous6]: I have improved the introduction according to the reviewer guideline, and added with green blocks.

2022). However, business licenses are relevantly granted to reduce the destructive power of industry, inefficient licensing procedures, and non-flexible management standards that can increase uncertainty about environmentally sound development (White, 2023). Following the principle of legality, government actions must be under the law, including determining administrative decisions (Moran et al., 2023).

The causes of environmental damage are natural and human factors; one of the human factors is due to industrial activities that can cause maritime damage (Rizvi et al., 2020). Moreover, if the business license granted by the government causes environmental damage (Molavi, 2020); to prevent environmental damage, Law No. 32/2009 on Environmental Protection and Management (Perlindungan dan Pengelolaan Lingkungan Hidup/UUPPLH) adopts the principles contained in the 1992 Rio Declaration, such as state responsibility, integration, justice, participation, and polluter pays (Jankovic, 2021).

The PTUN has the authority to review government policies related to environmentally damaging business licenses, overturn decisions if not adequately protected, and test license validity (Prendergast, 2019). If a permit violates

ecological laws, the PTUN cancelled (Lo, 2022). It also handles dispute resolution, enforces environmental regulations, and provides community and environmental protection through examination and dispute resolution (Stacey, 2022). The Administrative Court can protect the community and environment from adverse impacts caused by licenses that do not consider ecological aspects (Perraudeau, 2019).

The complexity of the main opposition in this research is community participation in environmental management due to legal policies in the form of business licenses that cause ecological damage, thus limiting the capacity of community access to justice (Molavi, 2020). On the other hand, if the community is not involved in the environmental control process, especially the issuance of business licenses, it will be procedurally invalid (Perraudeau, 2019). The principles of sustainable and environmentally sound development can be applied well if the analysis is carried out at the early stages of planning the development process concerning environmental management (Kulovesi et al., 2019).

Oceanographic Center of the Indonesian Navy, pollution in Indonesian seas is substantial

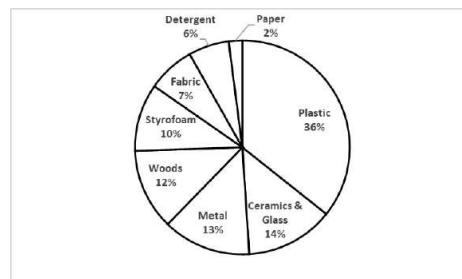
Comment [p9]: It has not explained the authority of the state administrative judiciary as a form of law enforcement regarding business permits that have an impact on environmental damage.

Comment [Anonymous10]: I have revised following to the comments.

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Figure 1. Percentage of marine ecosystem pollution debris data



Source. (Dihni, 2022)

because it is dominated by plastic waste, followed by metal, glass, and ceramic waste (Lasut, 2021). The emergency handling of plastic waste in the sea requires the community's active role in urging the government to enforce laws, such as monitoring industrial activities after the issuance of business licenses (Braumann, 2023). Based on Figure 1, the percentage level of the weight of waste in Indonesia's oceans due to industrial destructive power that makes the marine ecosystem become bad (Holm, 2023).

Environmental damage from other industrial activities is oil waste spills at sea, which cannot be considered a simple problem because it involves many legal subjects (White, 2023). The community's active role in managing a healthy environment, based on Article 67 of the UUPPLH, is that everyone is obliged to control pollution or environmental damage ((Molavi, 2020). Therefore, this research focuses on the Supreme Court's decision review system regarding industrial activity business licenses that can cause environmental damage(Verbruggen, 2022).

Indicators of the legality of administrative decision-making in the process of issuing business licenses for companies are that they must have sufficient authority (Snow, 2021), both material time or place, and based on procedures regulated in laws and regulations, as well as compliance with the General Principles of Good Governance (*asas umum pemerintahan yang baik/AUPB*) (Jankovic, 2021). Furthermore, this research examines the network of local legal subjects and several communities related to

environmental pollution by analyzing Supreme Court decisions in industrial business licenses that impact environmental damage based on a legal perspective(Purnomoet al., 2021).

The environmental damage that occurs raises a big question mark regarding who has legal standing to file a lawsuit to the State Administrative Court (*peradilan tata usaha negara/PTUN*) (Etty et al., 2022), and how the authority of the State Administrative Court over disputes arising from the issuance of business licenses has an impact on environmental damage (Jassal, 2020). Because of this, government policies other than mitigation, namely through laws and regulations to protect natural resources, include a supervision system of various environmental management and protection(Katz & Zamir, 2023).

Community participation in the right to sue for business licenses causing environmental damage often faces obstacles such as limited access to information, limited resources, threats or intimidation, and a weak judicial system (Becker-Weinberg, 2023). Conflict Theory in the Sociology of Law can help analyze these barriers by highlighting how societal power and inequality affect access to justice and the legal system (Iverson & Renold, 2022). These barriers can be attributed to conflicting interests between economic interests and environmental protection, unequal resource access, and political power. Understanding these factors can help improve legal participation in environmentally damaging business activities(Joos, 2023).

Based on this, this research will elaborate on the provisions of UUPPLH and case studies of environmental damage due to business licenses by analyzing the Supreme Court's decision (Nagheeb, 2023). Thus, it can be used as a reference in the future by the parties, especially individuals, communities, and environmental organizations who file a lawsuit over the impact of environmental pollution due to the existence of a business permit for industrial activities (Snow, 2021). Based on the explanation, there is a need for public control and transparency as a preventive measure or mitigation of catastrophic environmental damage that occurs due to industrial activities (Douglass & Manney, 2020).

1. Law Enforcement in Environmental Damage

In recent years, environmental issues such as seawater pollution from factory effluents and plastic pollution have increased pressure on the sectoral and siloed approaches used by various parties in the interest of profitability (Morath, 2022). The Climate Sustainability Group's seven priority issues address a wide range of degradation: land degradation, biodiversity loss, marine litter, water management, sustainable consumption and resource efficiency, sustainable finance, and ocean protection (Nagheeb, 2023). Global environmental issues are global warming and the damage of corporate chemical runoff to marine ecosystems, which pose a significant

threat to biodiversity and livelihoods (Hendlin et al., 2020).

Furthermore, the role of law in overcoming environmental damage is crucial as a regulation of environmental problems that has the basic principles of sustainable development (Hackmann, 2018). In Indonesia, environmentally sustainable development is defined as a conscious and planned effort that integrates the environment as a development process to ensure the ability, welfare, and quality of life of future generations (Horsch et al., 2023). This research looks at the role of communities in class actions in Indonesia due to industrial activities that impact environmental damage (Kotzé, 2019).

When a policy in its implementation is misaligned, it is necessary to have the participation of the community or environmental organizations to create a legal umbrella for healthy environmental management as sustainable development (Wu, 2023). To realize the preservation and development of the beneficial value of biodiversity in a sustainable manner (Younus et al., 2023). It is necessary to manage and prepare biological conservation planning in an integrated, comprehensive, effective, and participatory way and involve all stakeholders; this is only possible with the role of the government through policies and regulations (Elliott, 2020; Nagheeb, 2023).

The historical development of legal protection in Indonesia, especially related to environmental damage, can be through class action lawsuits and legal standing (Horsch et al.,

Comment [p11]: An interesting problem, if this discussion shows whether community participation in the right to sue encounters obstacles. What are the obstacles to the right to sue and then analyzed using supporting theory

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Comment [R15]: (Hendlin et al, 2020)

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2023). Environmental management, parties harmed by environmental damage can file a claim for rights (Petersmann, 2022). Considering that the most significant part of Environmental Law is Administrative Law, the settlement of environmental disputes that are harmed by a business license in the environmental sector (Molavi, 2020), is based on Law Number 5 of 1986 concerning State Administrative Justice (*peradilan tata usaha negara/UUPTUN*). A lawsuit to the State Administrative Court regarding the demand that the business license be declared null or invalid so that the court's decision immediately stops environmental pollution due to industrial activity business licenses that impact environmental damage (Li et al., 2024).

Environmental problems have resulted in global and transnational effects, which can lead to environmental damage, and the impact spreads beyond borders (Nagheeb, 2023). Environmental issues arise due to the interaction of industrial activities with the existence of natural resources (Drakel, 2022). The greater the amount and intensity of exploitation of nature, the impact on environmental quality degradation tends to increase (Horsch et al., 2023). Therefore, law and public participation in class action lawsuits is crucial to stop environmental damage.

The study "Environmental Damage: Community Lawsuits against the Government over Industrial Business Licenses" highlights the role of communities in environmental protection and the legal mechanisms they use to challenge harmful policies (Tignino, 2023). It explores the

effectiveness of the judicial system in handling ecological claims and the challenges communities face in obtaining justice (Illahi et al., 2021). The research's novelty lies in its focus on community lawsuits against the government over industrial business licenses, which directly links individual actions to environmental and social justice issues (Putri, 2022).

Applying the principle of *erga omnes* or legal acts applies to every individual, person, or country without distinction (Moran et al., 2023). Therefore, the existence of a class action lawsuit becomes the authority of the Administrative Court with the arguments of the "Erga Omnes" principle and the "*Ius Coria Novit*" principle based on Article 10 paragraph (1) of the Judicial Power Law, that judges are prohibited from refusing to examine and also hear incoming lawsuits for reasons of lack or absence of legal basis (Illahi et al., 2021). The judge's belief and paradigm will also determine the continuation of this class action lawsuit since the preparatory examination stage at the State Administrative Court (Jiménez, 2023).

2. The Position of Class Action Lawsuits as an Environmental Law Enforcement Tool

Industrial activities, in practice, require a license; the initiator of the action must have a business license (Holm, 2023). The government is authorized to provide regulatory aspects through decisions. This decision is called a permit (McMahon, 2021), a "Business Permit" that, based on Article 40 of the UUPPLH, emphasizes

Comment [p17]: Explain the novelty of your research in the final paragraph, what makes it different and how your research stands in the various research studies that you have reviewed

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that every business activity that has an impact on the environment must have a business permit, which has changed its nomenclature and substance in the Job Creation Law to "Environmental Approval" either from the central government or local government (Illahi et al., 2021).

Control over the granting of business licenses can not only be carried out by individuals and environmental organizations (Roy, 2018), but more broadly, the UUPLH, in Article 91, provides a door for the community to control licensing through the state administrative court by way of community lawsuits or class actions (Moran et al., 2023). The representative suit symbolizes the progress of environmental regulation and is a legal recognition of the impact of environmental damage (White, 2023). In environmental damage cases, the victims are always huge in number (Jiménez, 2023).

People affected by environmental damage due to industrial activities can file a lawsuit individually (Snow, 2021), but the process will be very long and costly. And what happens is that Article 5 paragraph (2) of the Judicial Power Law will not be achieved (Parlina, 2021). Meanwhile, the UUPPLH, Consumer Protection, Construction Services, Forestry, Waste Management, and Water Resources Law provide new opportunities by allowing the public to file class action lawsuits (Elliott, 2020).

Supreme Court Regulation Number 1 of 2002 concerning Class Action Lawsuits (*peraturan mahkamah agung/PERMA* Class

Action) was issued in response to the development of class action lawsuits. This provision contains lawsuit rules with different characteristics from ordinary civil lawsuits (Jiménez, 2023). In a class action lawsuit, class representatives do not need a power of attorney from the class members, as the class action does not involve damages or monetary claims. Still, only filing a declaratory demand lawsuit, as public notice is not necessary (Snow, 2021). The right to class action lawsuits provides access to justice to the public in resolving disputes through the courts (Wu, 2023).

One of the solutions to environmental disputes is through the courts (Rofingi et al., 2022). Settlement of environmental disputes through the court is based on Article 87 paragraph (1) of UUPPLH in conjunction with Article 1365 of the Civil Code on Compensation for Unlawful Acts (Lestari & Djanggih, 2019). Class Action lawsuits are important in cases of environmental damage that involve losses to a group of people (Alhayyan & Leviza, 2020). The public can sue or be sued as a party who gets power of attorney on behalf of various parties by fulfilling the requirements of a class action lawsuit. The fact that in environmental issues, environmental damage affects many people, not just one or two individuals, is an important factor (Molavi, 2020).

B. RESEARCH METHODS

Based on the legal perspective on the legal standing of filing a lawsuit with the State Administrative Court (Jiménez, 2023), nine

Comment [p21]: As a legal researcher, you must include what approach you used. Is Normative ?, namely conceptualizing law as Normative..

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Supreme Court decisions that discuss this matter were reviewed. In addition, the characteristics of the research problem are a motivation to apply qualitative research methods as an analysis method (Wu, 2023). **The study employs a normative approach by analyzing secondary data on environmental cases published by the Supreme Court of the Republic of Indonesia (Table 1).** The use of NVivo 12 plus software aims to map and explore the network of actors on the legal standing of filing a class action lawsuit to the PTUN, as stated in the documents issued by the Supreme Court of the Republic of Indonesia, which are further supported and complemented by online media.

The purpose of objectivity in improving the quality of analysis is to re-examine comparative data with news in the media (Jiménez, 2023). The media is a confirmation technique for data obtained from Supreme Court decisions. The selected national online media are

Table 1. Supreme Court Decisions on Class Action for Environmental Damage

No	Name
1	Supreme Court Decision Number 1927 K/Pid.Sus-LH/2023
2	Supreme Court Decision Number 94 K/Pid.Sus-LH/2023
3	Supreme Court Decision Number 92 K/Pid.Sus-LH/2023
4	Supreme Court Decision Number 247 K/Pid.B-LH/2021
5	Supreme Court Decision Number 70 K/Pid.Sus-LH/2021
6	Supreme Court Decision Number 2919 K/Pid.Sus-LH/2020
7	Supreme Court Decision Number 1932 K/Pid.Sus-LH/2016
8	Supreme Court Decision Number 1274 K/Pid/2016
9	Supreme Court Decision Number 129 K/Pid/2016

Source. <https://www.mahkamahagung.go.id/id>

www.detik.com, www.kompas.com, and www.tribun.com from 2018-2023. Then, nine online news articles were collected and analyzed based on keywords related to environmental damage cases (Heyvaert, 2021). Online news articles corroborated or confirmed arguments in Supreme Court decisions related to environmental issues (De Souza et al., 2023).

NCapture collected data from three online news sites (Lasut, 2021). In addition, Nvivo 12 Plus has robust reporting capabilities and explores news information regarding community participation in environmental damage. Data collection was analyzed with the help of NVivo (Khairunnisa et al., 2022).



Figure 2. The analysis process
Source. Adopted by (Khairunnisa et al., 2023)

The steps shown in Figure 2 were used as follows: The first step in the analysis was to import nine Supreme Court decisions and several online news articles (Adrian et al., 2023). The second step was coding information related to the schema codes of the Supreme Court decisions and some online news articles.

Furthermore, the third step was analyzed using word clouds and crosstabs to identify the legal standing of the lawsuit to the PTUN based on the correlation with the activity scheme code (White, 2023). The fourth step is to create an actor-network map to describe the details of three actor networks with legal standing to file a lawsuit

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with the PTUN. For the results of the analysis, crosstab tools were used to obtain the value of the network of actors who can file a class action lawsuit to the PTUN due to the impact of environmental damage from industrial activities (Horsch et al., 2023). Furthermore, a word cloud is used in the analysis that considers the relationship of several actor networks based on the correlation value to obtain the content of the decision from the Supreme Court(Purnomoet al., 2021)

C. DISCUSSION

A good and healthy environment is the human right of every Indonesian citizen, as mandated in Article 28H paragraph (1) of the 1945 Constitution (Purnomoet al., 2021). Government, private, and community organizations are responsible for protecting and managing the environment (Witney, 2021). Environmental management based on good governance (Elliott, 2020) will avoid or reduce environmental conflicts for sustainable development (Nagheeb, 2023).

The supervisory space is part of the community's responsibility in managing the

environment (Braaksma & Graaf, 2018). Supervision is part of preventive administrative law enforcement that involves the community (White, 2023). In connection with that, legal instruments should be able to overhaul the legal paradigm oriented towards environmental management with sustainable insights (Drakel, 2022). Thus, it can be realized that the environment bears its rights and is not merely an instrumental part of human rights (Holm, 2023).



Figure 3. Word cloud results based on environmental case decisions
Source. Data processing by. Nvivo 12, (2023)

Comment [R25]: RESULTS AND DISCUSSION
[Arial Narrow 12, justify, 1.5 spaces, each paragraph begins with writing indented 1 cm, writing sentences between paragraphs with no spaces (no before and after space). The results of the research (scientific finding) and discussion are explained in a scientific, analytical and critical descriptive manner. The description of the discussion is adjusted to the order of the problems consisting of sub-chapters]. Writing the sub chapter title Arial Narrow, font 12, bold, using Arabic numerals].

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The results of the Supreme Court decision data, harmonized and confirmed with the word cloud in Figure 2, show three dominant words regarding environmental damage due to industrial activities (Holm, 2023). Based on nine environmental case decisions issued by the Supreme Court. Most business license cases that resulted in environmental damage (Mongar, 2023), were generally understood to result from industrial activities (Purnomoet al., 2021). However, there is an exciting result where the words "environment," "lawsuit," and "verdict" are the main words (figure 3), which means that the environment affected by damage due to industrial activities determines the object of a lawsuit that results in a verdict(Hackmann, 2018).

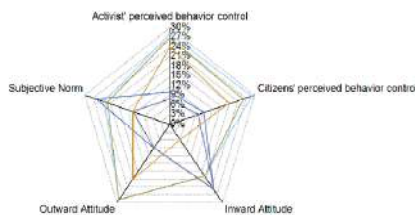


Figure 4. Network of actors who can file a class action lawsuit
Source. Data processing by. Nvivo 12, (2023)

Figure 4 shows the correlation of several actor networks involved in environmental management. The correlation held by the actors, identified as the government, has a lower value than the main actors with the legal standing to the PTUN (Morath, 2022). Correlation between actors determines who can file a class action lawsuit (Rofingi et al., 2022). Figure 3, Table 1 shows the

Table 2. Detailed network of actor participation in environmental management

	Activist' perceiv ed behavior control	Citizens' perceived behavior control	Inw ard Attit ude	Outw ard Attit ude	Subj ectiv e Nor m
Centr al Gove rnm ent	10,37%	12,08%	25, 58 %	9,77 %	26,9 7%
Citiz en	28,89%	29,53%	20, 93 %	29,32 %	23,6 %
Com pany	27,41%	26,17%	20, 93 %	29,32 %	22,4 7%
Local Gove rnm ent	8,89%	10,74%	25, 58 %	9,77 %	13,4 8%
NGO	24,44%	21,48%	6,9 8%	21,8 %	13,4 8%

Source. Data processing by. Nvivo 12, (2023)

role of the main actors in environmental management, namely the community, which has a percentage of behavioral control of 29.53%, meaning that the community files more class action lawsuits due to environmental damage caused by industrial activities.

Table 2 details the actor's participation network in environmental management. The inward attitude possessed by the government is very high, especially focusing on the outward attitude, with a total of 9.77%. The government participation percentage is deficient compared to the community, with a percentage data of 29.32%. The percentage means that participation is carried out by the community in environmental activities due to industrial activities (Zhao, 2021), as environmental awareness regarding community

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involvement to achieve optimization of supervision so that supervision will become more effective, efficient, and optimal(Heyvaert, 2021).

1. **Community's Right to Sue for Business License Impacting Environmental Damage**

The debate among the judiciary is on the issue of who has legal standing to file a lawsuit with the Administrative Court(Rofingi et al., 2022). From the data collected based on the Supreme Court's decision, it becomes a parameter that the network of actors who can file a lawsuit at the Administrative Court is individuals, communities, and environmental organizations ('Alam et al., 2020). Due to the awareness of good and healthy environmental management, environmental damage due to industrial activities does not have to wait for losses but is based on environmental sustainability (Alhayyan & Leviza, 2020).

The state must recognize the importance of protecting nature without exception (Mongar, 2023). To preserve the environment, the government provides justice to the community for participation in environmental management justice to the community for the involvement in environmental management(Kadir & Murray, 2019). This participatory concept can be "exported" to neighboring countries even after being tested domestically (Warsono et al., 2023). The government has the authority to grant business licenses for the development of industrial activities, which are certainly related to sustainable development that focuses on economic aspects and does not have the

potential to damage the environment in the future(Purnomo, Zahra, & Malawani, 2021).

Every business or activity impacting the environment must have an AMDAL, UKL-UPL, or SPPL (Illahi et al., 2021). Environmental permits that have been delegated to BKPM are only formal procedures. Business licenses are fundamental and the primary key to ensuring development at the implementation level is safe and can be controlled for environmental impact (Heyvaert, 2021). Determining whether or not a business plan or activity has an important impact on the environment, this regulation uses the level of business risk to determine the type of business license that must be owned by business actors (Mongar, 2023).

A permit is a preventive juridical instrument (Douglass & Manney, 2020) because it cannot be separated from the orders and obligations that must be obeyed by the permit holder (Zhao, 2021). Then, permits also function as repressive; due to the human activity inherent in the licensing basis, permits can be used to protect the environment. The initiator of activities that cause environmental damage cannot apply for a business license if it does not have an environmental permit (Alhayyan & Leviza, 2020). An industrial activity that obtains a license for environmental management is intended to be automatically charged with the obligation to mitigate environmental damage arising from industrial activities (Elliott, 2020).

Given the increasingly massive ecological damage due to the threat of industrial activities

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through licensing in one sector and other sectors, the Judiciary has not been able to see environmental crime cases as extraordinary crimes (Warsono et al., 2023). The public has the same rights and opportunities to play an active role regarding environmental protection and management within the framework of legal instruments (Katz & Zamir, 2023). Therefore, based on Article 91 of the UUPPLH, the public has the right to file a class action lawsuit for their interests or the benefit of the community if they suffer losses due to environmental damage caused by industrial activities (Zhao, 2021).

Article 70, paragraph (3) letter d of UUPPLH states that one of the roles of the community in environmental protection and management is carried out by social supervision (Illahi et al., 2021). Meanwhile, the right to sue environmental organizations in Article 92 paragraph (1) of the UUPPLH is limited by stating certain conditions so that only some organizations can apply for legal standing if the conditions are met (Nagheeb, 2023). Article 92, paragraph (3) provides criteria that environmental organizations must meet as legal standing to the Administrative Court. The requirements, namely, a legal entity oriented towards environmental conservation (Elliott, 2020), and has carried out actual activities following its articles of association for at least 2 (two) years.

2. *The Authority of the State Administrative Court (PTUN) Regarding Environmental Cases*

The settlement of environmental disputes by filing a civil lawsuit through the Court (Triana et al., 2022), due to certain activities that have the potential to damage the environment as referred to in Article 1 number 25 of the UUPPLH, gives legal standing to individuals, communities and environmental organizations (Nagheeb, 2023). The legal standing system often needs to be clarified with class action, even though the two have very different essences (Morath, 2022). In a class action lawsuit, the network of actors who file a lawsuit have something in common as victims of environmental damage due to industrial activities (Braumann, 2023).

Environmental dispute resolution through class action and legal standing can solve ecological damage (Triana et al., 2022). However, these methods can raise issues such as unrepresentative representation, power of the opposing party, defined class criteria, and legal standing requirements. Class action may not reflect the true interests of the entire group, while legal standing requires demonstrating a strong interest in the matter (Risqi, 2022). Costs and resources are significant, with environmental organizations having more resources. Legal limitations also apply to each jurisdiction. To minimize these problems, ecological communities and organizations should prepare thoroughly, including mapping out interests, obtaining financial backing, and ensuring solid legal arguments supported by sufficient evidence (Elliott, 2020).

Comment [p35]: Settlement of environmental disputes by means of litigation with class action and legal standing, the explanation has not been focused on, and what problems arise from community participation by way of representation (class action), and also the participation of environmental organizations (legal standing) in lawsuits for environmental permits has not been explained

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In the settlement of environmental disputes, PTUN not only provides legal protection to the injured party as a seeker of justice but also provides legal protection to the environment that suffers damage due to the issuance of KTUN to carry out activities that can endanger the environment. There are two types of liability systems due to the establishment of PTUN's authority as described in the PTUN Law (Lestari & Djanggih, 2019). PTUN plays a role in accepting lawsuits against government actions that harm citizens (Rochaeti et al., 2023). On the other hand, government actions that harm the community due to business licenses issued by the government can be filed through the PTUN based on unlawful acts by public officials (Warsono et al., 2023).

Based on the government administration regime, the provisions regarding the right of liability against environmental permits are not excluded as a state administrative object against state administrative decisions that only apply the principle of *presumptio justae causa*, in its implementation can be delayed if it can create environmental damage (Alhayyan & Leviza, 2020). For example, Thailand and India, which have independent and independent environmental law jurisdictions, such as the special environmental division of the First Level Administrative Court and the Supreme Court of Thailand, have the authority to hear administrative cases related to environmental issues (Heyvaert, 2021).

Related to administrative disputes related to the environment in Thailand and the competence of judges who are knowledgeable in the field of environmental law, special procedures are regulated related to dispute resolution whose object is environmental matters (Etty et al., 2022), namely with the issuance of the Recommendation of the President of the Supreme Administrative Court on Administrative Court Procedure Relating to Environmental Issues (Jassal, 2020). The Recommendation of the President of the Supreme Administrative Court is a practical guideline for adjudicating and instructs administrative courts to use recommendations as guidelines in administrative cases relating to the environment (Agustiyara et al., 2021).

There are 2 (two) roles of PTUN judges in dispute resolution, according to Stone Sweet & della Cananea (2021), namely, Bridging the Gap Between Law and Society. The role of judges is to understand the purpose of law in society and help achieve its goals (Rofingi et al., 2022). Second, Protecting The Constitution and Democracy, protecting the constitution and democracy. Judicial protection in democracy in general and human rights in particular is characteristic of most developing democracies (Jiménez, 2023). Judges play a crucial role in environmental disputes, ensuring justice, upholding the law, and protecting communities and the environment. They enforce environmental laws, weigh common interests, and provide justice for all parties. Conflict theory in the sociology of law highlights conflicts of interest between industry and communities or

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Comment [p39]: It is necessary to explain the role of judges in environmental disputes. Has the judge sided with the environment? And whether the Judge pays attention to the community or environmental organizations in participating in environmental protection. Use theory for the analysis

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environmental organizations (Rizvi et al., 2020). Judges must consider these dynamics to make fair decisions. Understanding the importance of community and environmental organization participation can lead to more thorough and pro-environmental choices. However, judges are influenced by personal values, political views, and pressure from various parties, so strong oversight and accountability mechanisms are essential to ensure justice and environmental protection (Illahi et al., 2021).

The settlement of the impact of environmental damage due to industrial activities to resolve environmental disputes (Elliott, 2020), through Law Number 30 of 2014 concerning Government Administration and PERMA Number 2 of 2019, the State Administrative Court is authorized to adjudicate disputes over government actions (Alhayyan & Leviza, 2020). Meanwhile, concerning environmental disputes, the PTUN can resolve environmental disputes through factual action lawsuits filed by the public demanding concrete actions from the government, which is reluctant to impose sanctions on perpetrators of environmental damage (Purnomo, Agustiyara, et al., 2021).

In enforcing environmental regulations, preventive and repressive administrative law efforts can be made (Rizvi et al., 2020), applied to activities that violate licensing requirements (Petersmann, 2022). Meanwhile, in testing environmental disputes in practice, several provisions deviate from the ideals of environmental protection (Horsch et al., 2023).

Therefore, with complete confidence, judges make decisions and create norms as a legal discovery process through philosophically, sociologically, and juridically established legal interpretations to achieve truth and justice in protecting environmental sustainability (Warsono et al., 2023).

D. CONCLUSION

The research shows several things with the findings: (1) individuals, communities, and environmental organizations affected by environmental damage due to industrial activity business licenses have the right to file a class action administrative lawsuit in the jurisdiction of the Administrative Court. (2) related to parties who have legal standing act based on the interests of the wider community because of environmental rights violations. (3) The application of a lawsuit through the court, either by class action or legal standing, can be used as a way of pursuing justice so that every element of society and government has awareness and plays an active role in protecting and preserving the environment from all industrial activities that can cause environmental damage.

Based on the principles of "*erga omnes and ius curia novit*", it is the basis for the authority of the PTUN in accommodating policies in the interests of sustainability and preventing public losses due to environmental damage. The General Principles of Good Governance (AUPB) guidelines for decisions that can potentially cause environmental damage can be the object of disputes at the PTUN. Environmental principles

Comment [p43]: This conclusion does not yet take the form of a combination of findings and analysis

Comment [Anonymous44]: I have revised

should be used as a test tool and consideration of judges in PTUN decisions whose object of dispute is business licenses in the environmental field.

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LAW REFORM
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Dear Authors,

I would like to confirm that your paper entitled “**Environmental Damage: Community Lawsuit Against The Government Over Industrial Business Licenses**” Authored by **Bachrul Amiq, M. Syahrul Borman, Moh Taufik, Rendra Arangraeni, Pudji Astuti & Sukanya Aimim-Tham** has been blind reviewed and accepted for publishing in the **LAW REFORM**, will be published on Vol.20, No.1, 2024

On behalf of Editorial Board and Publisher, thank you very much for your submission to our journal.

Sincerely,


Prof. Dr. Kholis Boisah, S.H., M.Hum.
Editor in Chief



ENVIRONMENTAL DAMAGE: COMMUNITY LAWSUIT AGAINST THE GOVERNMENT OVER INDUSTRIAL BUSINESS LICENSES

ABSTRACT

This study examines the challenges and opportunities in implementing the authority of the state administrative court as a form of law enforcement on business licenses that impact environmental damage. This study uses the qualitative method NVivo12 Plus 12 by analyzing legal rules, journals, and online print media such as detik.com and kompas.com. The research focuses on the approach of laws and regulations related to the environment and case studies based on Supreme Court decisions. The results showed that the participatory role of the community in the existence of environmental damage is crucial. Community participation is an obligation as an absolute citizen in the framework of creating a healthy living environment; community participation is not only used as a means to achieve goals but is used as an end. Ownership of the right to a healthy environment includes (1) the right to receive environmental information held by public authorities, (2) the right to participatory environmental decision-making, (3) the right to review procedures for challenging public decisions that have been made within the scope of access to justice.

Keywords: *Sustainable development, Good governance, Administrative law, Environmental damage, Administrative courts.*

ABSTRAK

Penelitian ini mengkaji tantangan dan peluang dalam mengimplementasikan kewenangan peradilan tata usaha negara sebagai bentuk penegakan hukum terhadap izin usaha yang berdampak pada kerusakan lingkungan. Penelitian ini menggunakan metode kualitatif NVivo12 Plus 12 dengan menganalisis aturan hukum, jurnal, dan media cetak online seperti detik.com dan kompas.com. Penelitian berfokus pada pendekatan peraturan perundang-undangan terkait lingkungan hidup dan studi kasus berdasarkan putusan Mahkamah Agung. Hasil penelitian menunjukkan bahwa peran serta masyarakat terhadap adanya kerusakan lingkungan sangat penting. Partisipasi masyarakat merupakan kewajiban sebagai warga negara yang mutlak dilakukan dalam rangka menciptakan lingkungan hidup yang sehat, partisipasi masyarakat tidak hanya dijadikan sebagai alat untuk mencapai tujuan tetapi dijadikan sebagai tujuan. Kepemilikan hak atas lingkungan hidup yang sehat meliputi (1) hak untuk mendapatkan informasi lingkungan hidup yang diselenggarakan oleh badan publik, (2) hak atas pengambilan keputusan lingkungan hidup yang partisipatif, (3) hak untuk melakukan peninjauan kembali atas prosedur pengujian terhadap keputusan publik yang telah ditetapkan dalam ruang lingkup akses terhadap keadilan.

Kata kunci: *Pembangunan berkelanjutan, Tata kelola pemerintahan, Hukum administrasi, Kerusakan lingkungan, Peradilan administrasi.*

INTRODUCTION

This study aims to explore the role of the community in environmental management with

the fundamental right to access justice based on legal considerations and the scope of authority of the State Administrative Court (Molavi, 2020). The

authority to enforce the law due to business licenses that impact environmental damage in Indonesia, often in the legal consideration of the examination of lawsuits by the community, causes material and immaterial losses (Jassal, 2020). On the other hand, several things need to be considered regarding (1) conformity with the level of risk, (2) conformity with spatial planning, and (3) public announcement and consultation for directly affected communities (Ety et al., 2022).

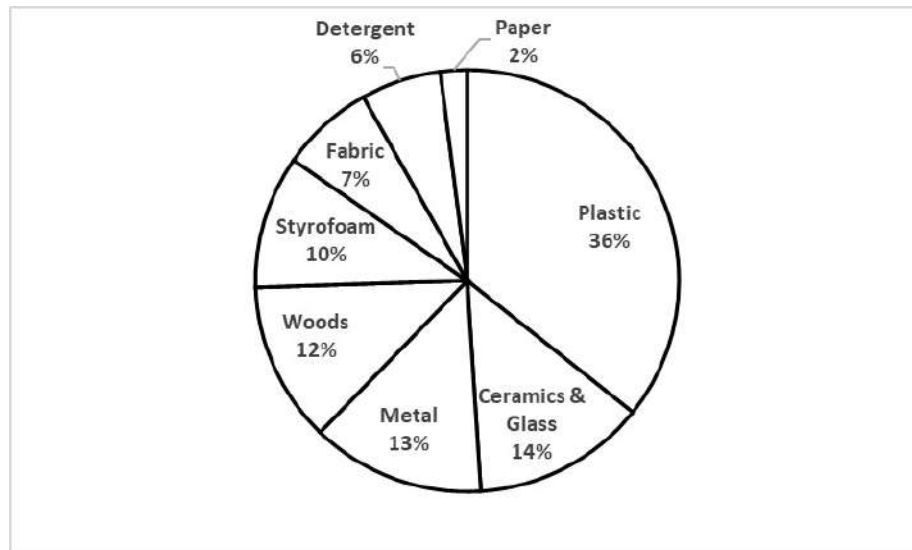
As a regulator, the government uses permits as a juridical means to control people's behavior, especially those engaged in industry, aiming to allow people who apply for them to carry out specific prohibited actions (Ali et al., 2022). However, business licenses are relevantly granted to reduce the destructive power of industry, inefficient licensing procedures, and non-flexible management standards that can increase uncertainty about environmentally sound development (White, 2023). Following the principle of legality, government actions must be under the law, including determining administrative decisions (Moran, Dharmananda, & Barnes, 2023).

The causes of environmental damage are natural and human factors; one of the human factors is due to industrial activities that can

cause maritime damage (Capps & Babula, 2019). Moreover, if the business license granted by the government causes environmental damage (Z. J. Wang, 2020); to prevent environmental damage, Law No. 32/2009 on Environmental Protection and Management (Perindungan dan Pengelolaan Lingkungan Hidup/UUPPLH) adopts the principles contained in the 1992 Rio Declaration, such as state responsibility, integration, justice, participation, and polluter pays (Jankovic, 2021).

The complexity of the main opposition in this research is community participation in environmental management due to legal policies in the form of business licenses that cause ecological damage, thus limiting the capacity of community access to justice (Molavi, 2020). On the other hand, if the community is not involved in the environmental control process, especially the issuance of business licenses, it will be procedurally invalid (Katz & Zamir, 2023). The principles of sustainable and environmentally sound development can be applied well if the analysis is carried out at the early stages of planning the development process concerning environmental management (Kulovesi, Mehling, & Morgera, 2019).

Figure 1. Percentage of marine ecosystem pollution debris data



Source. (Dihni, 2022)

Oceanographic Center of the Indonesian Navy, pollution in Indonesian seas is substantial because it is dominated by plastic waste, followed by metal, glass, and ceramic waste (Lasut, 2021). The emergency handling of plastic waste in the sea requires the community's active role in urging the government to enforce laws, such as monitoring industrial activities after the issuance of business licenses (Braumann, 2023). Based on Figure 1, the percentage level of the weight of waste in Indonesia's oceans due to industrial destructive power that makes the marine ecosystem become bad (Holm, 2023).

Environmental damage from other industrial activities is oil waste spills at sea, which cannot be considered a simple problem because it involves many legal subjects (White, 2023). The community's active role in managing a healthy environment, based on Article 67 of the UUPPLH, is that everyone is obliged to control pollution or environmental damage ((Molavi, 2020). Therefore, this research focuses on the Supreme Court's decision review system regarding industrial activity business licenses that can cause environmental damage(Verbruggen, 2022).

Indicators of the legality of administrative decision-making in the process of issuing business licenses for companies are that they must have sufficient authority (Snow, 2021), both material time or place, and based on procedures regulated in laws and regulations, as well as compliance with the General Principles of Good Governance (*asas umum pemerintahan yang baik/AUPB*) (Jankovic, 2021). Furthermore, this research examines the network of local legal subjects and several communities related to environmental pollution by analyzing Supreme Court decisions in industrial business licenses that impact environmental damage based on a legal perspective(Purnomo, Zahra, Malawani, & Anand, 2021).

The environmental damage that occurs raises a big question mark regarding who has legal standing to file a lawsuit to the State Administrative Court (*peradilan tata usaha negara/PTUN*) (Etty et al., 2022), and how the authority of the State Administrative Court over disputes arising from the issuance of business licenses has an impact on environmental damage (Jassal, 2020). Because of this, government policies other than mitigation,

namely through laws and regulations to protect natural resources, include a supervision system of various environmental management and protection (Katz & Zamir, 2023).

Based on this, this research will elaborate on the provisions of UUPPLH and case studies of environmental damage due to business licenses by analyzing the Supreme Court's decision (Nagheeb, 2023). Thus, it can be used as a reference in the future by the parties, especially individuals, communities, and environmental organizations who file a lawsuit over the impact of environmental pollution due to the existence of a business permit for industrial activities (Snow, 2021). Based on the explanation, there is a need for public control and transparency as a preventive measure or mitigation of catastrophic environmental damage that occurs due to industrial activities (Douglass & Manney, 2020).

LITERATURE REVIEW

Law Enforcement in Environmental Damage

In recent years, environmental issues such as seawater pollution from factory effluents and plastic pollution have increased pressure on the sectoral and siloed approaches used by various parties in the interest of profitability (Morath, 2022). The Climate Sustainability Group's seven priority issues address a wide range of degradation: land degradation, biodiversity loss, marine litter, water management, sustainable consumption and resource efficiency, sustainable finance, and ocean protection (Nagheeb, 2023). Global environmental issues are global warming and the damage of corporate chemical runoff to marine ecosystems, which pose a significant threat to biodiversity and livelihoods (Hendlin, Arcuri, Lepenies, & Huesker, 2020).

Furthermore, the role of law in overcoming environmental damage is crucial as a regulation of environmental problems that has

the basic principles of sustainable development (Hackmann, 2018). In Indonesia, environmentally sustainable development is defined as a conscious and planned effort that integrates the environment as a development process to ensure the ability, welfare, and quality of life of future generations (Horsch et al., 2023). This research looks at the role of communities in class actions in Indonesia due to industrial activities that impact environmental damage (Kotzé, 2019).

When a policy in its implementation is misaligned, it is necessary to have the participation of the community or environmental organizations to create a legal umbrella for healthy environmental management as sustainable development (Wu, 2023). To realize the preservation and development of the beneficial value of biodiversity in a sustainable manner (Sachs, Kroll, Lafortune, Fuller, & Woelm, 2022). it is necessary to manage and prepare biological conservation planning in an integrated, comprehensive, effective, and participatory way and involve all stakeholders; this is only possible with the role of the government through policies and regulations (Elliott, 2020; Nagheeb, 2023).

The historical development of legal protection in Indonesia, especially related to environmental damage, can be through class action lawsuits and legal standing (Arcus, 2021). Environmental management, parties harmed by environmental damage can file a claim for rights (Petersmann, 2022). Considering that the most significant part of Environmental Law is Administrative Law, the settlement of environmental disputes that are harmed by a business license in the environmental sector (Molavi, 2020), is based on Law Number 5 of 1986 concerning State Administrative Justice (*peradilan tata usaha negara/UUPTUN*). A lawsuit to the State Administrative Court regarding the demand that the business license be declared null or invalid so that the court's

decision immediately stops environmental pollution due to industrial activity business licenses that impact environmental damage(Wang, 2023).

Environmental problems have resulted in global and transnational effects, which can lead to environmental damage, and the impact spreads beyond borders (Nagheeb, 2023). Environmental issues arise due to the interaction of industrial activities with the existence of natural resources (Drakel, 2022). The greater the amount and intensity of exploitation of nature, the impact on environmental quality degradation tends to increase (Platjouw & Pozdnakova, 2023). Therefore, law and public participation in class action lawsuits is crucial to stop environmental damage.

Applying the principle of *erga omnes* or legal acts applies to every individual, person, or country without distinction (Moran et al., 2023). Therefore, the existence of a class action lawsuit becomes the authority of the Administrative Court with the arguments of the "*Erga Omnes*" principle and the "*Ius Coria Novit*" principle based on Article 10 paragraph (1) of the Judicial Power Law, that judges are prohibited from refusing to examine and also hear incoming lawsuits for reasons of lack or absence of legal basis (Alam, Maharani, & M, 2020). The judge's belief and paradigm will also determine the continuation of this class action lawsuit since the preparatory examination stage at the State Administrative Court(Jiménez, 2023).

The Position of Class Action Lawsuits as an Environmental Law Enforcement Tool

Industrial activities, in practice, require a license; the initiator of the action must have a business license (Holm, 2023). The government is authorized to provide regulatory aspects through decisions. This decision is called a permit (McMahon, 2021), a "Business Permit" that, based on Article 40 of the UUPPLH,

emphasizes that every business activity that has an impact on the environment must have a business permit, which has changed its nomenclature and substance in the Job Creation Law to "Environmental Approval" either from the central government or local government (Illahi, Gusri, & Sugianto, 2021)

Control over the granting of business licenses can not only be carried out by individuals and environmental organizations (Roy, 2018), but more broadly, the UUPPLH, in Article 91, provides a door for the community to control licensing through the state administrative court by way of community lawsuits or class actions (Moran et al., 2023). The representative suit symbolizes the progress of environmental regulation and is a legal recognition of the impact of environmental damage (White, 2023). In environmental damage cases, the victims are always huge in number (Mongar, 2023).

People affected by environmental damage due to industrial activities can file a lawsuit individually (Snow, 2021), but the process will be very long and costly. And what happens is that Article 5 paragraph (2) of the Judicial Power Law will not be achieved (Parlina, 2021). Meanwhile, the UUPPLH, Consumer Protection, Construction Services, Forestry, Waste Management, and Water Resources Law provide new opportunities by allowing the public to file class action lawsuits (Elliott, 2020).

Supreme Court Regulation Number 1 of 2002 concerning Class Action Lawsuits (*peraturan mahkamah agung/PERMA Class Action*) was issued in response to the development of class action lawsuits. This provision contains lawsuit rules with different characteristics from ordinary civil lawsuits (Jiménez, 2023). In a class action lawsuit, class representatives do not need a power of attorney from the class members, as the class action does not involve damages or monetary claims. Still, only filing a declaratory demand lawsuit, as

public notice is not necessary (Snow, 2021). The right to class action lawsuits provides access to justice to the public in resolving disputes through the courts (Murray, 2019).

One of the solutions to environmental disputes is through the courts (Jiménez, 2023). Settlement of environmental disputes through the court is based on Article 87 paragraph (1) of UUPPLH in conjunction with Article 1365 of the Civil Code on Compensation for Unlawful Acts (Lestari & Djanggih, 2019). Class Action lawsuits are important in cases of environmental damage that involve losses to a group of people (Alhayyan & Leviza, 2020). The public can sue or be sued as a party who gets power of attorney on behalf of various parties by fulfilling the requirements of a class action lawsuit. The fact that in environmental issues, environmental damage affects many people, not just one or two individuals, is an important factor (Molavi, 2020).

RESEARCH METHODS

Based on the legal perspective on the legal standing of filing a lawsuit with the State Administrative Court (Arcus, 2021), nine Supreme Court decisions that discuss this matter were reviewed. In addition, the characteristics of the research problem are a motivation to apply qualitative research methods as an analysis method (Purnomo, Zahra, & Malawani, 2021; Wu, 2023). This research uses secondary data on environmental cases published by the Supreme Court of the Republic of Indonesia

(Table 1). The use of NVivo 12 plus software aims to map and explore the network of actors on the legal standing of filing a class action lawsuit to the PTUN, as stated in the documents issued by the Supreme Court of the Republic of Indonesia, which are further supported and complemented by online media.

The purpose of objectivity in improving the quality of analysis is to re-examine comparative data with news in the media (Khairunnisa, 2023). The media is a confirmation technique for data obtained from Supreme Court decisions. The selected national online media are www.detik.com, www.kompas.com, and www.tribun.com from 2018-2023. Then, nine online news articles were collected and analyzed based on keywords related to environmental damage cases (Heyvaert, 2021). Online news articles corroborated or confirmed arguments in Supreme Court decisions related to environmental issues (De Souza, Finger, De Araújo, & Maranhão, 2023).

NCapture collected data from three online news sites (Lasut, 2021). In addition, Nvivo 12 Plus has robust reporting capabilities and explores news information regarding community participation in environmental damage. Data collection was analyzed with the help of NVivo (Khairunnisa, Nurmandi, Muallidin, & Kurniawan, 2022). The steps shown in Figure 2 were used as follows: The first step in the analysis was to import nine Supreme Court

Table 1. Supreme Court Decisions on Class Action for Environmental Damage

No	Name
1	Supreme Court Decision Number 1927 K/Pid.Sus-LH/2023
2	Supreme Court Decision Number 94 K/Pid.Sus-LH/2023
3	Supreme Court Decision Number 92 K/Pid.Sus-LH/2023
4	Supreme Court Decision Number 247 K/Pid.B-LH/2021
5	Supreme Court Decision Number 70 K/Pid.Sus-LH/2021
6	Supreme Court Decision Number 2919 K/Pid.Sus-LH/2020
7	Supreme Court Decision Number 1932 K/Pid.Sus-LH/2016
8	Supreme Court Decision Number 1274 K/Pid/2016
9	Supreme Court Decision Number 129 K/Pid/2016

Source. <https://www.mahkamahagung.go.id/id>

decisions and several online news articles (Adrian, Purnomo, & Enrici, 2023). The second step was coding information related to the schema codes of the Supreme Court decisions and some online news articles.

Furthermore, the third step was analyzed using word clouds and crosstabs to identify the legal standing of the lawsuit to the PTUN based on the correlation with the activity scheme code (White, 2023). The fourth step is to create an actor-network map to describe the details of three actor networks with legal standing to file a lawsuit with the PTUN. For the results of the analysis, crosstab tools were used to obtain the value of the network of actors who can file a class action lawsuit to the PTUN due to the impact of environmental damage from industrial activities (Horsch et al., 2023; Sihalo, 2022). Furthermore, a word cloud is used in the analysis that considers the relationship of several actor networks based on the correlation value to obtain the content of the decision from the Supreme Court (Purnomo, Zahra, & Malawani, 2021).

DISCUSSION

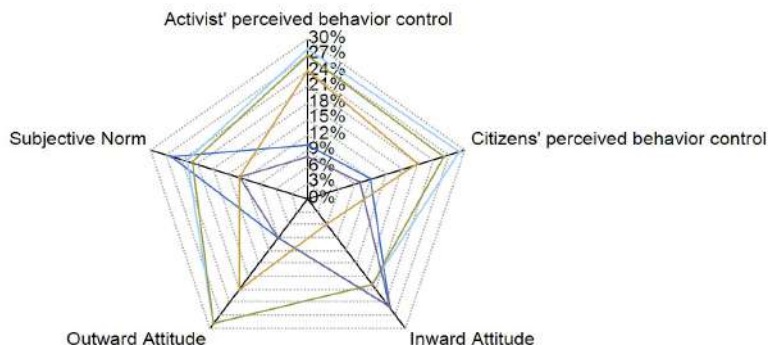
A good and healthy environment is the human right of every Indonesian citizen, as mandated in Article 28H paragraph (1) of the 1945 Constitution (Gandryani & Hadi, 2021). Government, private, and community organizations are responsible for protecting and managing the environment (Witney, 2021). Environmental management based on good governance (Murray, 2019) will avoid or reduce environmental conflicts for sustainable development (Sachs et al., 2022).

The supervisory space is part of the community's responsibility in managing the environment (Braaksma & Graaf, 2018). Supervision is part of preventive administrative law enforcement that involves the community (White, 2023). In connection with that, legal instruments should be able to overhaul the legal paradigm oriented towards environmental management with sustainable insights (Drakel, 2022). Thus, it can be realized that the environment bears its rights and is not merely an instrumental part of human rights (Holm, 2023).

Figure 2. Word cloud results based on environmental case decisions

environmental damage industrial activities licensing law

Figure 3. Network of actors who can file a class action lawsuit



Source. Data processing by. Nvivo 12, (2023)

Source. Data processing by. Nvivo 12, (2023)

The results of the Supreme Court decision data, harmonized and confirmed with the word cloud in Figure 2, show three dominant words regarding environmental damage due to industrial activities (Holm, 2023). Based on nine environmental case decisions issued by the Supreme Court. Most business license cases that resulted in environmental damage (Mongar, 2023), were generally understood to result from industrial activities (Alhayyan & Leviza, 2020). However, there is an exciting result where the words "environment," "lawsuit," and "verdict" are the main words (figure 3), which means that the environment affected by damage due to industrial activities determines the object of a lawsuit that

results in a verdict(Hackmann, 2018).

Figure 3 shows the correlation of several actor networks involved in environmental management. The correlation held by the actors, identified as the government, has a lower value than the main actors with the legal standing to the PTUN (Morath, 2022). Correlation between actors determines who can file a class action lawsuit (Bestian Adha & Erwin Syahrudin, 2022). Figure 3, Table 1 shows the role of the main actors in environmental management, namely the community, which has a percentage of behavioral control of 29.53%, meaning that the community files more class action lawsuits due to environmental damage caused by industrial

Table 2. Detailed network of actor participation in environmental management

	Activist' perceived behavior control	Citizens' perceived behavior control	Inward Attitude	Outward Attitude	Subjective Norm
Central Government	10,37%	12,08%	25,58%	9,77%	26,97%
Citizen	28,89%	29,53%	20,93%	29,32%	23,6%
Company	27,41%	26,17%	20,93%	29,32%	22,47%
Local Government	8,89%	10,74%	25,58%	9,77%	13,48%
NGO	24,44%	21,48%	6,98%	21,8%	13,48%

Source. Data processing by. Nvivo 12, (2023)

activities.

Table 2 details the actor's participation network in environmental management. The inward attitude possessed by the government is very high, especially focusing on the outward attitude, with a total of 9.77%. The government participation percentage is deficient compared to the community, with a percentage data of 29.32%. The percentage means that participation is carried out by the community in environmental activities due to industrial activities (Zhao, 2021), as environmental awareness regarding community involvement to achieve optimization of supervision so that supervision will become more effective, efficient, and optimal (Vieira et al., 2020).

Community's Right to Sue for Business License Impacting Environmental Damage

The debate among the judiciary is on the issue of who has legal standing to file a lawsuit with the Administrative Court (Kühn, 2021). From the data collected based on the Supreme Court's decision, it becomes a parameter that the network of actors who can file a lawsuit at the Administrative Court is individuals, communities, and environmental organizations (Alam et al., 2020). Due to the awareness of good and healthy environmental management, environmental damage due to industrial activities does not have to wait for losses but is based on environmental sustainability (Alhayyan & Leviza, 2020).

The state must recognize the importance of protecting nature without exception (Lee, 2023). To preserve the environment, the government provides justice to the community for participation in environmental management justice to the community for the involvement in environmental management (Kadir & Murray, 2019). This participatory concept can be "exported" to neighboring countries even after being tested domestically (Alhayyan & Leviza, 2020). The government has the authority to grant business licenses for the development of

industrial activities, which are certainly related to sustainable development that focuses on economic aspects and does not have the potential to damage the environment in the future (Gaol, 2021).

Every business or activity impacting the environment must have an AMDAL, UKL-UPL, or SPPL (Illahi et al., 2021). Environmental permits that have been delegated to BKPM are only formal procedures. Business licenses are fundamental and the primary key to ensuring development at the implementation level is safe and can be controlled for environmental impact (Alhayyan & Leviza, 2020). Determining whether or not a business plan or activity has an important impact on the environment, this regulation uses the level of business risk to determine the type of business license that must be owned by business actors (Demeyere, 2020).

A permit is a preventive juridical instrument (Douglass & Manney, 2020) because it cannot be separated from the orders and obligations that must be obeyed by the permit holder (Zhao, 2021). Then, permits also function as repressive; due to the human activity inherent in the licensing basis, permits can be used to protect the environment. The initiator of activities that cause environmental damage cannot apply for a business license if it does not have an environmental permit (Alhayyan & Leviza, 2020). An industrial activity that obtains a license for environmental management is intended to be automatically charged with the obligation to mitigate environmental damage arising from industrial activities (Mirafzal, Wadhera, & Stal-Le Cardinal, 2023).

Given the increasingly massive ecological damage due to the threat of industrial activities through licensing in one sector and other sectors, the Judiciary has not been able to see environmental crime cases as extraordinary crimes (Ad & Pada, 2022). The public has the same rights and opportunities to play an active

role regarding environmental protection and management within the framework of legal instruments (Katz & Zamir, 2023). Therefore, based on Article 91 of the UUPPLH, the public has the right to file a class action lawsuit for their interests or the benefit of the community if they suffer losses due to environmental damage caused by industrial activities (Zhao, 2021).

Article 70, paragraph (3) letter d of UUPPLH states that one of the roles of the community in environmental protection and management is carried out by social supervision (Illahi et al., 2021). Meanwhile, the right to sue environmental organizations in Article 92 paragraph (1) of the UUPPLH is limited by stating certain conditions so that only some organizations can apply for legal standing if the conditions are met (Fadli, 2021). Article 92, paragraph (3) provides criteria that environmental organizations must meet as legal standing to the Administrative Court. The requirements, namely, a legal entity oriented towards environmental conservation (Elliott, 2020), and has carried out actual activities following its articles of association for at least 2 (two) years.

The Authority of the State Administrative Court (PTUN) Regarding Environmental Cases

The settlement of environmental disputes by filing a civil lawsuit through the Court (Lee, 2023), due to certain activities that have the potential to damage the environment as referred to in Article 1 number 25 of the UUPPLH, gives legal standing to individuals, communities and environmental organizations (Gaol, 2021). The legal standing system often needs to be clarified with class action, even though the two have very different essences (Morath, 2022). In a class action lawsuit, the network of actors who file a lawsuit have something in common as victims of environmental damage due to industrial activities (Braumann, 2023).

In the settlement of environmental disputes, PTUN not only provides legal protection to the injured party as a seeker of justice but also provides legal protection to the environment that suffers damage due to the issuance of KTUN to carry out activities that can endanger the environment. There are two types of liability systems due to the establishment of PTUN's authority as described in the PTUN Law (Lestari & Djanggih, 2019). PTUN plays a role in accepting lawsuits against government actions that harm citizens (Ridwan, Heryansyah, & Pratiwi, 2018). On the other hand, government actions that harm the community due to business licenses issued by the government can be filed through the PTUN based on unlawful acts by public officials (Arliman, 2018).

Based on the government administration regime, the provisions regarding the right of liability against environmental permits are not excluded as a state administrative object against state administrative decisions that only apply the principle of *presumptio justae causa*, in its implementation can be delayed if it can create environmental damage (Alhayyan & Leviza, 2020). For example, Thailand and India, which have independent and independent environmental law jurisdictions, such as the special environmental division of the First Level Administrative Court and the Supreme Court of Thailand, have the authority to hear administrative cases related to environmental issues (Harjiyatni, Anthony, & Meicke, 2022).

Related to administrative disputes related to the environment in Thailand and the competence of judges who are knowledgeable in the field of environmental law, special procedures are regulated related to dispute resolution whose object is environmental matters (Ellis, 2018), namely with the issuance of the Recommendation of the President of the Supreme Administrative Court on Administrative Court Procedure Relating to Environmental

Issues (Harjiyatni et al., 2022). The Recommendation of the President of the Supreme Administrative Court is a practical guideline for adjudicating and instructs administrative courts to use recommendations as guidelines in administrative cases relating to the environment (Illahi et al., 2021).

There are 2 (two) roles of PTUN judges in dispute resolution, according to Stone Sweet & della Cananea (2021), namely, Bridging the Gap Between Law and Society. The role of judges is to understand the purpose of law in society and help achieve its goals (Stone Sweet, 2021). Second, Protecting The Constitution and Democracy, protecting the constitution and democracy. Judicial protection in democracy in general and human rights in particular is characteristic of most developing democracies (Jiménez, 2023). Article 47 of the State Administrative Court Law states that the authority of the State Administrative Court is to examine, decide, and resolve disputes. The root of the disagreement in environmental disputes is pollution, so the interpretation of Article 47 of the State Administrative Court Law in the context of the environment is that wherever possible, the State Administrative Court resolves environmental pollution and degradation (Illahi et al., 2021).

The settlement of the impact of environmental damage due to industrial activities to resolve environmental disputes (Elliott, 2020), through Law Number 30 of 2014 concerning Government Administration and PERMA Number 2 of 2019, the State Administrative Court is authorized to adjudicate disputes over government actions (Alhayyan & Leviza, 2020). Meanwhile, concerning environmental disputes, the PTUN can resolve environmental disputes through factual action lawsuits filed by the public demanding concrete actions from the government, which is reluctant to impose

sanctions on perpetrators of environmental damage (Joy, 2021).

In enforcing environmental regulations, preventive and repressive administrative law efforts can be made (Kisingo, 2023), applied to activities that violate licensing requirements (Petersmann, 2022). Meanwhile, in testing environmental disputes in practice, several provisions deviate from the ideals of environmental protection (Horsch et al., 2023). Therefore, with complete confidence, judges make decisions and create norms as a legal discovery process through philosophically, sociologically, and juridically established legal interpretations to achieve truth and justice in protecting environmental sustainability (Kohli & Menon, 2021).

CONCLUSION

The research shows several things with the findings: (1) individuals, communities, and environmental organizations affected by environmental damage due to industrial activity business licenses have the right to file a class action administrative lawsuit in the jurisdiction of the Administrative Court. (2) related to parties who have legal standing act based on the interests of the wider community because of environmental rights violations. (3) The application of a lawsuit through the court, either by class action or legal standing, can be used as a way of pursuing justice so that every element of society and government has awareness and plays an active role in protecting and preserving the environment from all industrial activities that can cause environmental damage.

Based on the principles of *erga omnes* and *ius curia novit*, it is the basis for the authority of the PTUN in accommodating policies in the interests of sustainability and preventing public losses due to environmental damage. The General Principles of Good Governance (AUPB) guidelines for decisions that can potentially

cause environmental damage can be the object of disputes at the PTUN. Environmental principles should be used as a test tool and consideration of judges in PTUN decisions whose object of dispute is business licenses in the environmental field.

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Data are available from the authors on request

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