



Citizen Lawsuit as a Pillar of Democracy and Dignified Justice

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Abstract

Citizen Lawsuit is a legal instrument that allows individuals or groups of citizens to file lawsuits against the state or state officials for negligence that harms public interests. This article analyzes the concept, legal basis, challenges, and implementation of citizen lawsuits in Indonesia, with comparative insights from other legal systems, particularly the United States. The research employs a normative legal approach, utilizing primary sources such as legislation, the Indonesian Civil Code, and jurisprudence, alongside secondary sources including legal journals and books. Findings indicate that, although not explicitly regulated, citizen lawsuits have the potential to strengthen democracy and promote dignified justice by enhancing public oversight over government policies. The study recommends strengthening regulations, improving the capacity of legal practitioners, and empowering society to ensure the mechanism is effective and sustainable.

Keywords: *Citizen Lawsuit; Dignified Justice; Democracy; Indonesia; Legal Oversight*

Introduction

Within the principle of a democratic state governed by the rule of law, citizens are not merely positioned as passive subjects awaiting protection from the state, but also as active actors who bear both a moral responsibility and a constitutional right to participate in monitoring governmental conduct. The Constitution of the Republic of Indonesia, particularly Article 1 paragraph (3) of the 1945 Constitution, explicitly affirms that Indonesia is a state based on the rule of law, which entails that all actions of state officials must conform to legal norms and principles of public accountability¹. In this framework, the right of citizens to be protected is indeed a fundamental pillar in the state–citizen relationship. However, substantive democracy demands more than protection alone; it requires the active involvement of society in ensuring the realization of justice, transparency, and accountability in governance.

One of the most concrete manifestations of such participation is the citizen lawsuit. This legal instrument grants the public standing to bring claims against the state or governmental authorities alleged to have neglected their constitutional duties. In Indonesian legal practice, citizen lawsuits have gained recognition through several strategic cases, such as the lawsuit filed by Munir and colleagues before the Central Jakarta District Court concerning the neglect of Indonesian migrant workers deported from

¹ The 1945 Constitution of the Republic of Indonesia, Article 1 paragraph (3).

Nunukan, as well as the challenge against the National Examination policy, which was subsequently acknowledged as jurisprudence by the Supreme Court in Decision No. 2596 K/Pdt/2008². Accordingly, the citizen lawsuit operates not only as a legal avenue for redress sought by individuals or groups, but also as an essential mechanism of checks and balances, reinforcing the sovereignty of the people over governmental administration.

Furthermore, the citizen lawsuit carries strategic significance in strengthening state accountability. This is consistent with Article 10 paragraph (1) of Law No. 48 of 2009 on Judicial Power, which stipulates that courts are prohibited from refusing to examine, adjudicate, and decide upon a case on the grounds that the law is absent or unclear; instead, courts are obliged to hear and adjudicate such matters³. Consequently, although citizen lawsuits are not explicitly codified within positive statutory law, their legitimacy is derived from these general judicial principles. Thus, the citizen lawsuit may be understood as a bridge between formal legal norms and the substantive values of democracy, ensuring that law enforcement does not remain confined to formal legality but is also imbued with substantive justice rooted in public participation.

This mechanism of litigation enables citizens to take legal action against state officials or bodies that act unlawfully or disregard citizens' constitutional right.⁴ Although not explicitly regulated in Indonesian legislation, its forms have developed through jurisprudence, particularly in environmental and public administration cases.⁵ Such litigation is also grounded in the principle of unlawful acts (Article 1365 of the Civil Code) as a legal basis to hold the state accountable.⁶

The role of citizen litigation becomes increasingly significant in the context of a dignified democracy, as it reflects active public participation in upholding the rule of law and justice. Democracy is not merely about elections but also about the capacity of citizens to demand legal accountability when the state fails to fulfill its obligations toward them.⁷

However, the tangible obstacles include the absence of a clear legal foundation and barriers to access both financial and informational for the public to pursue such lawsuits. Therefore, there is an urgent need for the formal adoption of regulations accommodating citizen litigation mechanisms, so that justice can be achieved inclusively and with dignity.⁸

Research Method

This study employs a normative legal research method, supported by a statute approach, conceptual approach, and case approach. Primary legal materials consist of the 1945 Constitution of the

² Supreme Court of the Republic of Indonesia, Decision No. 2596 K/Pdt/2008 concerning the citizen lawsuit against the National Examination policy; see also Ninik Rahayu, *Perlindungan Hukum bagi Rakyat Melalui Citizen Lawsuit* [Legal Protection for the People through Citizen Lawsuit] (Jakarta: Judicial Commission of the Republic of Indonesia, 2012), pp. 77–79.

³ Law No. 48 of 2009 on Judicial Power, State Gazette of the Republic of Indonesia Year 2009 No. 157.

⁴ Stefany Ismantara, "Citizen Lawsuit: Protector of Constitutional Rights in the Indonesian Legal System," *Journal Equitable*, Vol. 8, No. 2 (2023), highlights the role of citizen lawsuits as an instrument to protect constitutional rights despite the absence of explicit legal basis, as well as access challenges such as financial and informational barriers.

⁵ Putu Bagus Dananjaya & Ni Gusti Ayu Made Nia Rahayu, "Citizen Lawsuit Mechanism from the Perspective of the Indonesian Judicial System," discusses how the mechanism of citizen lawsuits refers to jurisprudence and elements of Article 1365 of the Civil Code.

⁶ Stefanus Aditya Kebingin, "The Position of Citizen Lawsuits in Civil Procedural Law in Indonesia," notes that such lawsuits are based on unlawful acts and have been applied in concrete cases, such as the Munir case.

⁷ Tempo, "Effectiveness of Citizen Lawsuits and Class Actions in a Democratic Rule of Law," states that the effectiveness of these mechanisms largely depends on the extent to which the characteristics of a democratic rule of law are implemented by state authorities.

⁸ Stefany Ismantara, "Citizen Lawsuit: Protector of Constitutional Rights in the Indonesian Legal System," *Journal Equitable*, Vol. 8, No. 2 (2023), highlights the role of citizen lawsuits as an instrument to protect constitutional rights despite the absence of explicit legal basis, as well as access challenges such as financial and informational barriers

Republic of Indonesia, the Indonesian Civil Code, and relevant jurisprudence on *citizen lawsuits*. Secondary materials include scholarly books, journal articles, and expert opinions, while tertiary materials cover legal dictionaries and credible online sources. All materials are analyzed through qualitative-prescriptive analysis, aiming to construct arguments on the urgency of reconstructing *citizen lawsuits* as an instrument to promote democracy and dignified justice.

Discussion

A. The Concept of Citizen Lawsuit

A citizen lawsuit, also known as a *citizen lawsuit*, is a legal mechanism that allows citizens to file claims against the state or public officials for negligence in fulfilling their constitutional duties. Although this concept is more widely recognized in *common law* systems, such as in the United States and India, its application has begun to develop in *civil law* systems, including Indonesia. In Indonesia, such lawsuits are filed in general courts under civil law, particularly Article 1365 of the Indonesian Civil Code, which regulates unlawful acts.⁹

The distinguishing feature of a citizen lawsuit is the presence of negligence by state officials in fulfilling citizens' rights. Unlike *class action* lawsuits aimed at obtaining compensation, citizen lawsuits focus more on the restoration of public rights through orders requiring the state to take specific actions, such as issuing necessary policies or regulations.¹⁰

Although there is no specific legislation explicitly governing citizen lawsuits, several legal foundations support their application in Indonesia:

1. The 1945 Constitution of the Republic of Indonesia

Article 28D paragraph (1) stipulates that everyone has the right to recognition, guarantees, protection, and fair legal certainty, as well as equal treatment before the law. This constitutional provision provides the basis for citizens to seek fulfillment of their rights through legal channels.¹¹

2. Indonesian Civil Code (KUHPerdata)

Article 1365 of the Civil Code regulates unlawful acts, which serves as the legal basis for filing claims against the state or public officials for negligence in fulfilling constitutional duties.¹²

3. Law No. 48 of 2009 on Judicial Power

Article 10 paragraph (1) stipulates that courts are prohibited from refusing to examine, adjudicate, and decide a case on the grounds that the law is absent or unclear. This enables courts to process citizen lawsuits even in the absence of specific legislation.¹³

4. Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution

Articles 17 and 100 regulate the right of any person to file disputes, including through alternative mechanisms such as citizen lawsuits, although in practice these provisions are more commonly used in civil dispute contexts.¹⁴

⁹ Esfandiari, F. (2019). *The Urgency of Forming Laws and Regulations on Citizen Lawsuit*. Eprints.

¹⁰ Iblam.ac.id. (2024). *Concept and Application of Citizen Lawsuit in Indonesia*.

¹¹ The 1945 Constitution of the Republic of Indonesia, Article 28D paragraph (1).

¹² Esfandiari, F. (2019). *The Urgency of Forming Laws and Regulations on Citizen Lawsuit*. Eprints.

¹³ Law No. 48 of 2009 on Judicial Power, Article 10 paragraph (1)

¹⁴ Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution, Articles 17 and 100.

Based on these legal foundations, although there is no specific law explicitly regulating citizen lawsuits, this mechanism is still applicable in Indonesia. To provide greater legal certainty and effectiveness, further regulation regarding procedures and mechanisms for citizen lawsuits within the national legal system is required.¹⁵

B. Comparative Analysis with Other Legal Systems

In countries that adhere to a *common law* system, such as the United States, the citizen lawsuit mechanism (*citizen suit*) is explicitly regulated and accompanied by detailed procedural rules. For instance, the Federal Environmental Laws in the U.S., including the Clean Water Act and the Clean Air Act, grant individuals the right to file lawsuits against the federal government if they believe the government has failed to fulfill its duties in environmental protection. These statutes not only define who may file a suit, the circumstances under which it may be brought, and the remedies available, but they also provide for judicial oversight to ensure compliance with regulatory standards.

The U.S. experience demonstrates several important legal principles. First, citizen suits act as an enforcement tool that complements government regulatory mechanisms, reflecting the philosophy that private citizens can serve as watchdogs in ensuring the rule of law. Second, the detailed statutory framework mitigates potential abuses, as courts maintain strict procedural standards and thresholds for standing and evidence.¹⁶ This ensures that citizen suits serve a genuine public interest rather than becoming instruments of harassment or political pressure.

In contrast, Indonesia operates primarily within a *civil law* tradition, where statutory regulation is the main source of law. While the concept of citizen lawsuits is not yet explicitly codified, judicial practice and jurisprudence have begun to recognize its legitimacy. Several landmark cases, such as the environmental litigation brought by communities against government agencies, illustrate that courts are willing to entertain citizen lawsuits based on general principles of civil liability and unlawful acts under Article 1365 of the Civil Code.¹⁷

From a critical legal perspective, the lack of explicit statutory regulation in Indonesia creates both opportunities and challenges. On one hand, judicial recognition provides flexibility, allowing courts to adapt principles of citizen lawsuits to various public interest cases, including environmental protection, human rights, and governance issues.¹⁸ On the other hand, the absence of procedural clarity raises concerns regarding legal certainty, consistency of judicial outcomes, and potential misuse of the mechanism. For example, without defined standards for standing, evidence, and remedies, citizen lawsuits may lead to inconsistent rulings, prolonged litigation, or even frivolous claims, which can undermine public confidence in the legal system.¹⁹

Therefore, the comparative analysis highlights a crucial point: while Indonesia has the jurisprudential foundation for citizen lawsuits, the system would benefit greatly from explicit statutory provisions that clearly delineate procedural rules, scope of admissible claims, and judicial oversight mechanisms. Such regulation would not only strengthen the rule of law but also ensure that citizen lawsuits achieve their intended purpose of promoting accountability, transparency, and participatory democracy in governance.²⁰

¹⁵ Iblam.ac.id. (2024). *Concept and Application of Citizen Lawsuit in Indonesia*.

¹⁶ Joseph L. Sax, "Playing Darts with a Rembrandt? Environmental Citizen Suits, Standing, and Justiciability," *Michigan Law Review*, Vol. 79, No. 5 (1981): 1033–1065.

¹⁷ Esfandari, F. (2019). *The Urgency of Forming Laws and Regulations on Citizen Lawsuit*. Eprints.

¹⁸ Carwan, C. (2021). *Tracing the History of the Application of Citizen Lawsuit in Indonesia*. *El-Buhuth*.

¹⁹ Iblam.ac.id. (2024). *Concept and Application of Citizen Lawsuit in Indonesia*.

²⁰ Philipus M. Hadjon, *Perlindungan Hukum bagi Rakyat Indonesia* (Surabaya: Bina Ilmu, 1987), pp. 45.

C. Challenges and Obstacles in the Implementation of Citizen Lawsuits

One of the main obstacles in the implementation of citizen lawsuits in Indonesia is the absence of specific regulations that explicitly govern this mechanism. Although several court decisions have accepted such lawsuits, their recognition has been largely ad hoc and not based on clear legal provisions. This situation creates legal uncertainty and potential inconsistencies in the application of the same legal principles across different cases.

Another significant challenge is the limited understanding of citizen lawsuit mechanisms among law enforcement officials, particularly judges. In some environmental cases, for example, judges have treated citizen lawsuits as ordinary civil lawsuits, despite the distinct characteristics and objectives of this type of legal action. Misunderstanding the nature of citizen lawsuits can negatively affect both the procedural process and the outcome of trials.

The principle of legal standing in citizen lawsuits allows individuals to file claims without having to prove direct personal harm. However, in practice, inconsistencies in the application of this principle have emerged. Some courts require proof of direct harm, while others do not, creating uncertainty for citizens who wish to file such lawsuits.

The implementation of citizen lawsuits also requires competent human resources and adequate infrastructure. In reality, many regional courts lack judges with specialized certifications in areas such as environmental law. The absence of training and socialization regarding the mechanism further hinders its effective implementation.

Finally, without clear regulations, there is a risk that the citizen lawsuit mechanism could be misused for personal or political purposes. Lawsuits filed without a strong legal basis can burden the judicial system, harm the defendant, and reduce the effectiveness of this mechanism as a tool for social oversight.

D. Reconstruction and Recommendations

The implementation of citizen lawsuits in Indonesia, while promising as a tool for participatory democracy and public accountability, faces significant challenges that necessitate a structured reconstruction of both legal frameworks and practical mechanisms. The first aspect of this reconstruction involves establishing explicit statutory regulation. Unlike countries such as the United States, where citizen suits are clearly codified within environmental and administrative laws, Indonesia currently relies on judicial precedent and general civil law principles. This absence of a clear statutory foundation leads to legal uncertainty and inconsistencies in court decisions.²¹ By enacting specific legislation that defines the scope, procedural requirements, and admissibility criteria for citizen lawsuits, Indonesia can provide stronger legal certainty for both plaintiffs and defendants.

Secondly, there is a need for capacity-building within the judiciary and legal practitioners. Effective implementation of citizen lawsuits requires judges who are familiar with the unique objectives of such claims, especially those involving public interest matters such as environmental protection, human rights, or governance oversight. Regular training, workshops, and the development of specialized manuals could significantly enhance the judiciary's ability to handle citizen lawsuits efficiently and fairly.²²

Another critical recommendation is the standardization of legal standing and procedural rules. Currently, inconsistencies in the application of legal standing can create barriers for citizens seeking to file claims, particularly when direct harm is not easily demonstrable. Clear guidelines on standing,

²¹ Esfandiari, F. (2019). *The Urgency of Forming Laws and Regulations on Citizen Lawsuit*. Eprints.

²² Carwan, C. (2021). *Tracing the History of the Application of Citizen Lawsuit in Indonesia*. *El-Buhuth*.

evidence requirements, and remedies would prevent arbitrary decisions and ensure that citizen lawsuits remain accessible to the public while minimizing potential misuse or frivolous litigation.²³

Public awareness and participation are equally important in strengthening citizen lawsuit mechanisms. Without adequate knowledge of their rights and legal avenues, citizens cannot effectively utilize this tool to hold the state accountable. Outreach programs, public education campaigns, and collaborations with civil society organizations can empower citizens to participate in legal oversight actively and responsibly.²⁴

Finally, the reconstruction should include monitoring and evaluation mechanisms. Establishing periodic reviews of citizen lawsuit cases, assessing the effectiveness of procedural rules, and identifying challenges encountered by courts and litigants will provide feedback for continuous improvement. Such mechanisms could also inform legislative refinements and policy adjustments to ensure that citizen lawsuits achieve their purpose of promoting transparency, accountability, and participatory governance.²⁵

In conclusion, while the citizen lawsuit mechanism holds great potential for advancing the rule of law and democratic oversight in Indonesia, its full effectiveness depends on a comprehensive reconstruction that addresses legislative gaps, strengthens judicial capacity, standardizes procedures, promotes public engagement, and implements systematic evaluation. By adopting these recommendations, Indonesia can create a robust legal and institutional environment in which citizen lawsuits serve as a meaningful instrument of justice and democratic accountability.

Conclusion

Citizen lawsuits in Indonesia offer a vital tool for promoting participatory democracy and protecting constitutional rights. Although recognized in judicial practice, the lack of explicit legislation creates legal uncertainty and inconsistent outcomes. Lessons from common law systems, such as the U.S., show that clear legal frameworks and procedural rules enhance effectiveness. To maximize the potential of citizen lawsuits, Indonesia needs specific legislation, judicial capacity-building, public awareness initiatives, and systematic monitoring. Properly supported, citizen lawsuits can strengthen the rule of law, ensure government accountability, and empower citizens to safeguard public interest.

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²³ Solissa, F. R. (2024). *Gugatan Citizen Lawsuit dalam Sistem Hukum di Indonesia*. Palasrev.

²⁴ Fatah, A. (2019). *Citizen Lawsuit dalam Kasus Lingkungan Hidup*. Semantics Scholar.

²⁵ Manullang, S. O. (2023). *Eksistensi Citizen Lawsuit dalam Sistem Hukum Indonesia*. BHL Jurnal.

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