

# Limitation of Environmental Organizations' Right to Sue Against Limited Production Forest Area

(Case Study of Decision Number: 16/Pdt.G/LH/2023/PN.Bkn)

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**Abstract:** Environmental law enforcement provides space for environmental organizations to file lawsuits in the interests of environmental conservation as regulated in Article 92 of Law Number 32 of 2009 concerning Environmental Protection and Management. However, in practice, the right to sue environmental organizations is not always accepted by the courts, especially when it concerns certain areas such as Limited Production Forests. This study aims to analyze the material of environmental organizations' lawsuits based on Decree Number 16/PDT.G/LH/2023/PN.BKN. This study uses a normative juridical method and a case study approach with data sources in the form of court decision documents and related laws and regulations. The results of the study show that in this case, this Decision shows that it recognizes the active role of environmental organizations in supervising and suing permit applications for forest areas. In this case, the plaintiff organization argued that the defendant's actions in carrying out exploitation activities in the Limited Production Forest area had violated the law and harmed the ecological function of the forest, thus fulfilling the elements of an unlawful act as regulated in Article 1365 of the Civil Code. This finding resulted in an understanding of the analysis related to the material of the environmental organization's right to sue as an instrument of social control and supervision of forest area utilization policies..

**Keywords:** Right to Sue, Environmental Organization, Unlawful Acts.

## 1. INTRODUCTION

Indonesia as a country with abundant natural resources, faces significant challenges in managing the balance between economic development and environmental conservation [1]. The palm oil plantation industry, which has become one of the country's largest foreign exchange earners with a contribution of more than 15 billion USD in exports in 2020, faces various complex environmental legal issues [2]. The expansion of palm oil plantations reaching more than 48 million hectares has had a significant impact on forest areas, especially on Limited Production Forests (HPT) which should be protected based on the provisions of applicable laws and regulations.

Environmental legal issues in the context of oil palm plantations are increasingly complex when involving aspects of law enforcement through judicial institutions. Environmental organizations, as one of the parties with an interest in environmental conservation, often face limitations in accessing justice through lawsuit

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mechanisms in court. This occurs because of restrictions on the right to sue (legal standing) regulated in Law Number 32 of 2009 concerning Environmental Protection and Management [3].

The concept of environmental organizations' right to sue in the Indonesian legal system has undergone significant development, but still faces various implementation obstacles. Research shows that although environmental organizations' right to sue has been legally recognized since 1997, not many organizations have exercised their right to file a lawsuit in court [4]. This limitation is due to the fairly strict requirements, including that the organization must be a legal entity, have articles of association stating the purpose of environmental conservation, and have carried out real activities in accordance with the articles of association for at least two years.

Bibliometric studies from the Scopus database show that the issue of palm oil and environmental quality has become an increasing academic concern, with 1,378 documents published in the period 2000-2022 [5]. Temporal analysis indicates a thematic evolution from environmental criticism to techno-economic innovation and governance mechanisms [6]. However, research on the legal aspects, especially regarding the limitations of environmental organizations' right to sue, still requires more in-depth study [7].

The concept of unlawful acts (*onrechtmatige daad*) in the context of the environment has an important role in the enforcement of environmental law in Indonesia [8]. Civil unlawful acts lead to an extensive interpretation, namely by interpreting the law as not the same as the statute, so that *onrechtmatig* is distinguished from *onwetmatig*. In environmental cases, lawsuits for unlawful acts become an important instrument to provide concrete consequences for parties who damage the environment [9].

Environmental law enforcement through civil instruments faces its own challenges, especially in terms of proof and determination of compensation. Research shows that the combination of the concept of rule of law and welfare state is very important in environmental civil cases, which include aspects of legal certainty and legality. The issue of social justice, which is also a welfare state concept, includes justice for the current generation and future generations [8].

This study uses a normative legal approach with the method of statutory regulatory approach and conceptual approach. The theoretical study is based on the theory of environmental lawsuit rights put forward by Christopher Stone, which provides legitimacy for environmental organizations to represent environmental

interests in court [10]. In addition, this study also integrates perspectives from John Rawls' theory of justice and the theory of law enforcement in the environmental context [11].

Data analysis was conducted through a case study of Decision Number: 16/Pdt.G/LH/2023/PN Bkn involving the Riau Madani Foundation as a plaintiff in a palm oil plantation case in the Limited Production Forest area. This case study was chosen because it represents the complexity of legal issues between the right to sue environmental organizations and environmental law enforcement in the context of palm oil plantations.

The urgency of this research is increasing considering the paradigm shift in environmental law enforcement in Indonesia. The new Criminal Code amendments have raised concerns about weakening environmental protection and facilitating the persecution of environmental defenders. On the other hand, the government is seeking to improve law enforcement in handling forest and land fires with a multi-layer sanctions approach [12].

This research is also relevant to global developments in environmental litigation, where non-governmental organizations are increasingly using rights-based litigation strategies to secure environmental rights. Comparative studies show that environmental NGOs in different countries face similar challenges related to access to justice, including issues of security for costs and limitations on standing [13].

This study aims to analyze the limitations of environmental organizations' right to sue in the context of Limited Production Forest areas, focusing on a case study of court decisions involving illegal oil palm plantations. The expected academic contribution is to provide a comprehensive understanding of the legal dynamics between economic interests and environmental protection in the Indonesian justice system.

In practice, this study is expected to provide recommendations for improving the legal framework governing the right to sue environmental organizations, so that it can be more effective in enforcing environmental laws and maintaining ecosystem balance. The findings of this study are also expected to contribute to the development of more sustainable policies in the management of oil palm plantations in Indonesia.

## 2. LITERATURE REVIEW

### Theory of Legal Certainty

The Theory of Legal Certainty, fundamentally developed by Hans Kelsen in his Pure Theory of Law, establishes that legal systems must provide predictable and stable normative frameworks to ensure effective governance and individual security. Kelsen's conceptualization emphasizes the distinction between the 'is' (*sein*) and 'ought' (*sollen*) fields, where legal certainty operates within the normative realm controlled by the principle of imputation, ensuring that when specific conditions are met, predictable legal consequences follow. Contemporary research demonstrates that legal certainty serves as a structural element of the rule of law, providing stability to legal relations and systems through clear, unambiguous legal provisions that enable citizens to predict legal consequences and rely on the consistency of judicial decisions. The principle encompasses both ex ante predictability, allowing citizens to foresee legal effects of regulations, and post-effectiveness stability, ensuring that public authority decisions cannot be arbitrarily changed once legally established, thereby creating a foundation for legitimate expectations and constitutional protection [14].

### Theory of Justice

The Theory of Justice, most comprehensively articulated by John Rawls in his seminal work "A Theory of Justice," establishes justice as fairness through the original position and veil of ignorance concepts, where rational individuals would choose principles of justice without knowledge of their particular circumstances. Rawls' framework introduces two fundamental principles: the liberty principle ensuring equal basic freedoms for all, and the difference principle permitting social and economic inequalities only when they benefit the least advantaged members of society. Recent academic literature demonstrates that justice theory has evolved beyond Rawlsian frameworks to encompass organizational justice dimensions, examining distributive, procedural, and interactional justice in various social contexts. Contemporary legal scholarship emphasizes that justice serves as a foundational element in all social relationships, creating environments where individuals feel valued and respected while providing normative guidance for legal decision-making and institutional design [15].

### Theory of Legal Protection

The Theory of Legal Protection, significantly developed by Philipus M. Hadjon, conceptualizes legal protection as the safeguarding of human dignity and recognition of fundamental rights possessed by legal subjects based on legal provisions against arbitrary exercise of power. Hadjon's theoretical framework distinguishes between preventive protection, where citizens are given opportunities to present their opinions before governmental decisions become definitive to prevent disputes, and repressive protection,

which aims to resolve existing disputes through judicial mechanisms. Contemporary research demonstrates that legal protection theory encompasses both individual rights protection and broader systemic safeguards, extending to occupational safety, consumer rights, environmental protection, and constitutional guarantees. The theory emphasizes that effective legal protection requires not only formal legal frameworks but also accessible enforcement mechanisms, institutional capacity, and procedural safeguards that ensure vulnerable populations can access justice and remedy when their rights are violated [16].

### **Theory of Legal Responsibility**

The Theory of Legal Responsibility, substantially influenced by Hans Kelsen's Pure Theory of Law, establishes the conceptual foundation for understanding liability as the consequence of violating legal norms, distinguishing between subjective responsibility based on culpability and objective (strict) liability independent of fault. Kelsen's framework emphasizes that legal responsibility emerges from the relationship between legal obligations and sanctions, where the subject of legal responsibility and legal obligation are equivalent, creating a systematic approach to accountability that encompasses individual, collective, and institutional dimensions [17]. Recent academic literature demonstrates that legal responsibility theory has evolved to encompass constitutional, civil, and criminal liability frameworks, with particular emphasis on proportionality principles that ensure sanctions correspond appropriately to the severity of violations and circumstances of commission. Contemporary scholarship recognizes both positive (prospective) responsibility involving voluntary compliance with legal duties and negative (retrospective) responsibility triggered by violations, creating a comprehensive framework for understanding how legal systems allocate accountability and ensure normative compliance across different areas of law [18].

### **3. PROPOSED METHOD**

This study employs a normative juridical research methodology, utilizing a doctrinal legal research approach to analyze the limitations of environmental organizations' right to sue regarding limited production forest areas. The research is conducted through a normative juridical approach, where legal research activities are undertaken to explain the law without requiring support from social data or facts, as normative legal science only recognizes legal materials rather than social data or facts. Primary legal materials include relevant environmental law regulations, particularly Law No. 32 of 2009 concerning Environmental Protection and Management, Law No. 41 of 1999 concerning Forestry, and the court decision from Bangkinang District Court No. 16/PDT.G/LH/2023/PN.BKN as the main case study. Secondary legal materials comprise legal literature, academic journals, legal articles, and research

reports related to environmental law and organizational standing rights. Data collection is performed through statutory studies and literature review of legal materials, which are then systematically classified and analyzed. The analysis employs a prescriptive analytical method to draw conclusions and recommendations that are mutually consistent, focusing on the examination of legal principles, systematic legal analysis, and synchronization of environmental law regulations within the Indonesian legal framework.

#### 4. RESULTS AND DISCUSSION

##### **The Outcome of the Environmental Organization's Tort Lawsuit Regarding the Limited Production Forest Area Permit Case in Decision Number: 16/Pdt.G/LH/2023/PN Bkn**

Case Position of Decision Number: 16/Pdt.G/Lh/2023/PN Bkn Concerning the Lawsuit Filed by an Environmental Organization

The case presents a significant application of Christopher Stone's seminal Rights of Nature doctrine, originally articulated in 1972, which establishes that natural elements including forests, rivers, seas, elephants, trees, and other inanimate objects possess inherent legal rights. This theoretical framework enables environmental organizations to assume guardianship roles on behalf of natural objects when pursuing judicial remedies for environmental harm. The plaintiff foundation, Yayasan Riau Madani, invoked this doctrine alongside Islamic jurisprudential principles, specifically citing Quranic verse Al-A'raf 56, which prohibits causing corruption upon the earth after divine restoration. This integration of secular environmental law theory with religious legal principles demonstrates the evolving nature of environmental jurisprudence in jurisdictions where traditional and modern legal systems intersect, establishing a broader foundation for environmental protection that transcends purely secular legal frameworks.

The disputed territory's legal status underwent multiple administrative transformations, initially designated as Limited Production Forest under Ministerial Decree No. 173/Kpts-II/1986, subsequently reaffirmed through Regional Regulation No. 10/1994 concerning Spatial Planning, and later modified through various ministerial decisions including SK. 673/Menhut-II/2014. The administrative process of forest designation encompasses four distinct phases: designation, boundary demarcation, mapping, and final determination as prescribed under Article 15 of Law No. 41/1999 on Forestry. Although the contested area had not completed the final determination phase, the absence of explicit statutory provisions invalidating incomplete designation processes maintains the forest's protected status under Indonesian forestry law. State authority over forest resources, as codified in Article 4 of the Forestry Law, vests comprehensive control in the national government, requiring ministerial

authorization for any utilization, management, or alteration of forest areas, thereby establishing the legal foundation for challenging unauthorized forest conversion activities.

The defendant's unauthorized conversion of approximately 70 hectares of designated forest land into oil palm plantation constitutes a clear violation of Article 50(3)(a)(b) of Law No. 41/1999 on Forestry, which prohibits unauthorized occupation and utilization of forest areas. This conduct simultaneously violates Article 17(2)(b) of Law No. 18/2013 on Prevention and Eradication of Forest Destruction, specifically prohibiting plantation activities within forest areas without ministerial authorization. The tortious nature of these violations stems from the defendant's failure to comply with the mandatory forest release procedures established through Joint Ministerial Decree No. 364/Kpts-II/90, 519/Kpts/HK.50/7/90, and 23-VIII-1990 regarding forest release and land use rights for agricultural development. The continuing nature of the environmental damage, evidenced by ongoing palm oil transportation, heavy machinery operations, and chemical application for vegetation control, establishes a pattern of continuous tortious conduct that progressively degrades the forest ecosystem and its constituent biotic and abiotic components.

The plaintiff's request for provisional relief seeks immediate cessation of all activities within the disputed area pending final adjudication, recognizing that continued environmental degradation during litigation proceedings would render ultimate judicial relief ineffective. This approach aligns with the precautionary principle in environmental law, prioritizing ecosystem preservation over economic interests when irreversible harm threatens protected natural resources. The substantive relief sought encompasses comprehensive ecological restoration, including removal of all oil palm cultivation, demolition of existing structures, and reforestation using appropriate industrial plantation species such as *Acacia*, followed by transfer of the restored area to state control under the Ministry of Environment and Forestry. This remedial framework acknowledges that effective environmental protection requires not merely cessation of harmful activities but active restoration of damaged ecosystems to their original ecological function, thereby addressing both the immediate environmental harm and the broader implications for regional forest conservation and global climate stability.

Yayasan Riau Madani's legal standing derives from its chartered purpose of enhancing community participation in forest and environmental conservation through independent action, as specified in Article 3(2)(e) of its founding charter. The foundation's demonstrated capacity through investigative forestry activities and environmental litigation establishes the requisite organizational competence to serve as environmental guardian in judicial proceedings. This standing concept extends beyond traditional notions of direct injury, embracing a broader understanding of environmental harm that recognizes organizational plaintiffs as legitimate representatives of diffuse environmental interests. The case illustrates how environmental organizations can effectively bridge the gap between abstract environmental rights and concrete legal remedies, providing institutional mechanisms for

enforcing environmental protection where individual plaintiffs might lack the resources or expertise necessary for complex environmental litigation involving multiple regulatory frameworks and technical ecological evidence.

### Legal Standing of Environmental Organizations in Exercising the Right of Organizational Lawsuit

Legal standing constitutes a fundamental prerequisite in civil procedural law, serving as a formal requirement for the initiation of legal proceedings before courts of competent jurisdiction. The doctrine mandates that any natural or legal person seeking judicial intervention must demonstrate sufficient legal interest to warrant court consideration of their claims. As articulated in civil procedure jurisprudence, the principle of *point d'intérêt*, *point d'action* establishes that adequate legal interest represents the primary condition for judicial acceptance of any lawsuit. This fundamental requirement ensures that courts only adjudicate matters where plaintiffs possess genuine stakes in the outcome, thereby preventing frivolous litigation and maintaining judicial efficiency [4].

The traditional civil law framework requires that plaintiffs demonstrate direct legal relationships with the subject matter of their claims, establishing that they have suffered direct harm from the alleged legal violations. This conventional approach necessitates that legal subjects who have not sustained immediate damage from relevant legal events cannot initiate legal proceedings, thereby limiting access to justice to those with demonstrable personal injuries. However, the evolution of public interest litigation has introduced alternative mechanisms that challenge this restrictive interpretation, particularly in the context of environmental protection where harm extends beyond individual interests to encompass broader societal concerns [19].

Public interest litigation in environmental matters represents a paradigmatic shift from traditional adversarial proceedings to collective action mechanisms designed to protect common environmental resources. This litigation model encompasses various forms including *actio popularis*, citizen lawsuits, group actions, class actions, and organizational legal standing, each serving distinct functions in environmental protection frameworks. The underlying rationale for such litigation mechanisms rests upon the recognition that environmental harm often affects diffuse interests that may not manifest as direct individual injuries, necessitating alternative pathways for judicial intervention [19].

Environmental public interest litigation serves multiple objectives through a benefits-costs analytical framework, including judicial economy through consolidated proceedings, enhanced access to justice for affected communities, and behavioral modification of potential environmental violators. These mechanisms recognize that environmental ecosystems, due to their inanimate nature, cannot advocate for their own protection, thereby requiring institutional representatives to safeguard ecological interests. The development of such



litigation tools reflects growing recognition that traditional standing requirements may inadequately address environmental challenges where harm is collective, diffuse, or long-term in nature [20].

Environmental organizations seeking to exercise legal standing must satisfy specific statutory criteria that distinguish them from conventional civil litigants. Under Indonesian environmental law, specifically Law No. 32 of 2009 concerning Environmental Protection and Management, qualifying organizations must fulfill three essential requirements: legal entity status, constitutional mandates for environmental preservation explicitly stated in their founding documents, and demonstration of at least two years of substantive environmental activities consistent with their organizational purposes. These requirements establish a framework that balances access to justice with procedural safeguards against potential abuse of the litigation system [4].

The legal standing mechanism for environmental organizations operates on fundamentally different principles compared to traditional civil procedure requirements. While conventional civil litigation demands proof of direct legal interest and actual harm, environmental legal standing requires organizations to demonstrate their institutional mandate for environmental protection rather than personal injury or direct legal interest. This departure from the *point d'interest*, *point d'action* principle reflects legislative recognition that environmental protection often requires institutional advocacy on behalf of voiceless ecological systems [19].

The development of environmental legal standing varies significantly across international jurisdictions, reflecting different approaches to balancing access to justice with procedural requirements. The Aarhus Convention, adopted in 1998, established important precedents for environmental organizations' access to justice in European jurisdictions, requiring member states to ensure that qualifying environmental non-governmental organizations have presumptive standing to challenge violations of environmental law. Article 9(3) of the Convention mandates that states provide access to justice for members of the public to challenge acts or omissions contravening national environmental law, while granting states discretion in establishing specific criteria for such access [19].

European Union jurisprudence has further expanded environmental organizations' litigation rights through decisions such as *Deutsche Umwelthilfe eV*, where the Court of Justice confirmed that environmental associations can challenge all violations of environmental law, not merely specific categories of administrative decisions. This evolution demonstrates a broader international trend toward recognizing environmental organizations as essential actors in environmental law enforcement, particularly where governmental agencies may lack capacity or political will to pursue environmental violations. Comparative analysis reveals that successful environmental litigation systems typically provide clear statutory frameworks for

organizational standing while maintaining sufficient flexibility to accommodate diverse environmental protection scenarios [19].

The evolution of environmental legal standing in Indonesia traces its origins to the landmark WALHI case of 1988, where the Indonesian Forum for Environment first asserted organizational standing to challenge environmental pollution and destruction. Although the Central Jakarta District Court ultimately rejected WALHI's substantive claims in Decision No. 820/PDT.G/1988 dated August 14, 1989, the court's recognition of WALHI's legal standing established crucial precedent for subsequent environmental litigation. This judicial recognition occurred despite WALHI's lack of direct environmental impact or formal representation of affected parties, demonstrating early judicial acceptance of organizational environmental advocacy [21].

The WALHI precedent catalyzed legislative developments that culminated in the formal codification of environmental legal standing in Law No. 23 of 1997 concerning Environmental Management, subsequently replaced by Law No. 32 of 2009. Contemporary applications of organizational environmental standing include significant cases such as the Jakarta Bay reclamation dispute, where WALHI challenged governmental permitting decisions lacking adequate environmental assessment, and forest exploitation cases in Kalimantan and Papua, where environmental organizations contested mining activities affecting indigenous rights and ecological integrity. These cases demonstrate the practical utility of environmental legal standing in addressing complex environmental challenges that transcend individual interests and require institutional advocacy for effective resolution [21].

The procedural framework governing environmental legal standing creates distinct pathways that diverge significantly from conventional civil litigation requirements. Courts examining public interest environmental cases must conduct comprehensive preliminary assessments of both standing requirements and potential consequences of allowing organizational litigation to proceed. This judicial scrutiny includes evaluation of whether cases warrant class action treatment and assessment of organizational plaintiffs' compliance with statutory environmental advocacy criteria.

The fundamental distinction between traditional legal standing and environmental organizational standing lies in the nature of required legal interest demonstration. Traditional civil procedure mandates direct legal interest and personal harm, while environmental legal standing requires organizational plaintiffs to establish their institutional mandate for environmental protection as articulated in their constitutional documents. This procedural innovation recognizes that environmental protection often necessitates advocacy by institutions specifically dedicated to ecological preservation rather than parties suffering immediate personal injury. The implementation of these distinct procedural requirements reflects broader recognition that environmental challenges require specialized litigation

mechanisms capable of addressing collective environmental interests that may not align with traditional adversarial litigation models.

### Regulation of the Right to Sue of Organizations under Law Number 32 of 2009 concerning Environmental Protection and Management

Indonesia's environmental legal framework underwent significant transformation with the enactment of Law Number 32 of 2009 concerning Environmental Protection and Management (UUPPLH), which fundamentally altered the landscape of environmental litigation by establishing comprehensive provisions for organizational legal standing. This legislative development represents a paradigmatic shift from traditional restrictive standing doctrines toward a more inclusive approach that recognizes environmental organizations as legitimate guardians of environmental interests [22]. The law explicitly grants environmental organizations the right to file lawsuits in the interest of environmental function conservation, thereby institutionalizing their role as environmental defenders within Indonesia's legal system. This framework aligns with international trends in environmental law, particularly the principles embodied in the Aarhus Convention, which emphasizes broad access to justice for environmental matters and recognizes the vital role of non-governmental organizations in environmental protection [21].

Article 92 of UUPPLH establishes specific statutory requirements that environmental organizations must fulfill to exercise their right to sue, creating a structured framework for organizational legal capacity. These requirements mandate that qualifying organizations must be established as legal entities, explicitly state in their articles of association that they are founded for environmental function conservation purposes, and demonstrate at least two years of concrete activities in accordance with their stated environmental objectives. The law further restricts organizational claims to specific remedial actions without monetary compensation, except for actual costs and expenditures incurred, distinguishing organizational standing from individual victim claims. This regulatory approach reflects Indonesia's commitment to balancing environmental protection with legal certainty, ensuring that only legitimate environmental organizations with demonstrated commitment can access the courts for environmental litigation [23].

Indonesia's organizational standing provisions demonstrate both convergence with and divergence from international environmental law practices, particularly when compared to European Union approaches under the Aarhus Convention framework. While European jurisdictions have increasingly adopted presumptive standing for environmental NGOs, Indonesia maintains more restrictive qualification criteria that require specific organizational characteristics and demonstrated environmental activities [19]. The Indonesian approach reflects a cautious expansion of environmental standing that seeks to prevent frivolous litigation while enabling legitimate environmental organizations to enforce environmental

protection. This comparative perspective reveals that Indonesia's model represents a middle ground between highly restrictive traditional standing doctrines and more liberal environmental access regimes found in some European jurisdictions [24].

The practical application of organizational standing provisions has evolved through judicial interpretation and enforcement practice, with Indonesian courts gradually developing jurisprudence that clarifies the scope and limitations of environmental organizational rights. Notable cases have established precedents for how courts assess organizational qualification criteria and determine the appropriateness of remedial claims, contributing to a growing body of environmental litigation jurisprudence. The enforcement mechanism has been strengthened by recent regulatory developments, including Ministerial Regulation No. 10 of 2024, which provides additional protection for environmental defenders and organizations engaged in environmental advocacy. These developments demonstrate the dynamic nature of environmental law implementation and the ongoing evolution of organizational standing doctrine through practice and regulatory refinement [25].

Despite progressive legal provisions, significant challenges persist in the effective implementation of organizational standing rights, including procedural complexities, resource limitations, and institutional barriers that may impede environmental organizations' access to justice. The restriction of organizational claims to specific remedial actions without broader compensatory relief may limit the deterrent effect of organizational litigation and reduce incentives for environmental compliance. Additionally, the requirement for organizations to demonstrate substantial prior environmental activities may exclude newer or smaller organizations that lack extensive operational histories but possess legitimate environmental interests. These limitations highlight the ongoing tension between ensuring access to environmental justice and maintaining appropriate gatekeeping mechanisms to prevent abuse of litigation processes [21].

The evolving landscape of environmental law and organizational standing suggests several areas for potential reform and development, including the possible expansion of compensatory remedies available to environmental organizations and the refinement of qualification criteria to better accommodate diverse organizational structures. International developments in environmental standing doctrine, particularly the growing recognition of environmental organizations as essential participants in environmental governance, may influence future Indonesian legislative and judicial developments. The integration of environmental protection with sustainable development goals and climate change imperatives may also necessitate broader organizational standing provisions that enable more comprehensive environmental enforcement. These considerations reflect the dynamic nature of environmental law and the need for continuous adaptation to emerging environmental challenges and evolving concepts of environmental justice.

## Environmental Damage Constitutes an Unlawful Act That Must Be Subject to Civil Compensation Claims

Environmental damage constitutes an unlawful act (*onrechtmatige daad*) that triggers civil liability for compensation under Indonesian law and comparative legal frameworks. In civil law, compensation may arise from two principal sources: breach of contract (*wanprestasi*) and unlawful acts (*tort/delict*). Environmental harm typically falls under the latter, where the act disrupts social balance not only by violating statutory law but also by breaching societal norms. Article 1365 of the Indonesian Civil Code (*KUHPerdata*) stipulates five essential elements for unlawful acts: (1) an act, (2) unlawfulness, (3) fault, (4) loss suffered by the victim, and (5) causality between the act and the loss. However, in environmental cases, the element of fault may be replaced by strict or absolute liability, as reflected in Article 88 of Law No. 32/2009 on Environmental Protection and Management (*UU PPLH*), which imposes liability without the need to prove fault for activities involving hazardous substances or causing significant environmental threats [26].

This strict liability regime is designed to ensure that those responsible for environmental harm are held accountable and must provide compensation or undertake specific remedial actions, such as restoring environmental functions or eliminating the causes of pollution. The scope of compensation is not limited to private losses but extends to public interests, including environmental restoration costs. The assessment of damages follows guidelines established in ministerial regulations, ensuring that the calculation of losses both material and immaterial is methodical and evidence-based, often relying on scientific studies and expert testimony.

Dispute resolution in environmental cases may proceed through litigation or alternative dispute resolution, with court action available if out-of-court settlements fail<sup>1</sup>. The law also provides for coercive measures, such as daily fines for delayed compliance with court orders. Notably, the regulatory framework has evolved, with some recent legislative changes, such as those introduced by the Omnibus Law (*UU Cipta Kerja*), criticized for narrowing public participation in environmental decision-making processes compared to previous laws. Nevertheless, the fundamental principle remains: environmental damage resulting from unlawful acts obligates the perpetrator to compensate affected parties and/or restore the environment, reflecting both private and public law dimensions of environmental liability [26]. This approach aligns with international principles, such as the "polluter pays" doctrine, and comparative legal systems, which recognize fault-based, strict, and absolute liability models in environmental torts, with strict liability being most prevalent for significant ecological harm.

## **The Subject Matter of Claims That Should Be Filed by Environmental Organizations to Provide Justice for the Community**

### **Implementation of the Results of a Tort Lawsuit Concerning the Permit for Limited Production Forest Area**

This section examines the requirements for environmental organizations to establish legal standing (*locus standi*) in tort litigation concerning limited production forest permits. Under Indonesian Environmental Protection and Management Law No. 32/2009 and Forestry Law No. 41/1999, environmental organizations must satisfy specific criteria including legal entity status, explicit environmental conservation objectives in their articles of association, and demonstrated operational activities for a minimum period of two years. The judicial panel's consideration of Yayasan Riau Madani's legal standing demonstrates the procedural prerequisites for organizational standing in environmental tort cases, establishing precedential framework for future forest conservation litigation.

The analysis focuses on the application of Article 1365 of the Indonesian Civil Code in determining tort liability for unlawful acts concerning forest permits. The court identified three essential elements: concrete unlawful conduct (violating statutory provisions, infringing upon others' rights, or contravening legal obligations), resulting damages, and causal nexus between the conduct and harm. The defendant's violation of Article 50(3) of the Forestry Law and Article 17(2)(b) of the Forest Destruction Prevention and Eradication Law constituted the basis for establishing tort liability in unauthorized forest area utilization.

The court's adjudication encompasses comprehensive remedial measures including declaratory relief confirming tort liability, mandatory restoration orders for the 70-hectare forest area, and financial penalties (*dwangsom*) of IDR 10,000,000 daily for non-compliance. The judgment demonstrates the judicial application of restorative justice principles in environmental tort cases, emphasizing ecosystem rehabilitation over purely monetary compensation. The enforcement framework includes compliance obligations for co-defendants and procedural cost allocation, establishing precedent for environmental restoration as primary remedy in forest conservation litigation.

The implementation process comprises sequential phases: permit revocation by issuing authorities, cessation of unauthorized operations, environmental restoration activities, and ongoing monitoring by competent agencies. The Kementerian Lingkungan Hidup dan Kehutanan (KLHK) bears primary responsibility for overseeing compliance with court orders. The implementation framework requires inter-agency coordination to ensure effective permit cancellation, operational suspension, and ecological rehabilitation, demonstrating the complex administrative machinery necessary for environmental tort judgment execution.

Environmental restoration constitutes the primary remedy in forest conservation tort litigation, requiring defendants to rehabilitate damaged ecosystems through reforestation, waste removal, and habitat reconstruction. The restorative approach prioritizes ecological

recovery over financial compensation, reflecting international environmental law principles. The implementation requires technical expertise in forest ecology, sustained monitoring of restoration progress, and adaptive management strategies to ensure successful ecosystem rehabilitation within the adjudicated timeframe.

Effective implementation necessitates robust enforcement mechanisms including administrative sanctions for continued violations, criminal prosecution for non-compliance with court orders, and civil penalties for delayed execution. The enforcement framework involves multiple governmental agencies coordinating surveillance, violation detection, and sanction imposition. The legal system's response to implementation failures determines the practical efficacy of environmental tort litigation as forest conservation tool, requiring sustained institutional commitment to judicial enforcement in environmental protection cases.

### Legal Certainty That Should Be Included in Lawsuits Filed by Environmental Organizations to Provide Justice for the Community

Environmental organizations serve as crucial intermediaries in protecting community interests through judicial mechanisms, yet their effectiveness depends fundamentally on the legal certainty embedded within their litigation strategies. The recognition of environmental organizations' legal standing represents a paradigmatic shift from traditional individual-centered litigation to collective environmental advocacy, particularly evident in jurisdictions where Article 92 of environmental protection laws explicitly grants such standing. This legal evolution reflects the growing acknowledgment that environmental harm transcends individual boundaries and requires institutional representation capable of addressing systemic environmental injustices [7].

The integration of the UN Guiding Principles on Business and Human Rights into environmental litigation constitutes a fundamental requirement for legal certainty in organizational lawsuits. Environmental organizations must demonstrate how corporate defendants have failed to implement adequate human rights due diligence, particularly regarding environmental dimensions that affect community welfare. This framework necessitates that lawsuits articulate specific breaches of the corporate responsibility to respect human rights, including the substantive rights to safe climate, clean air, healthy ecosystems, safe water, and non-toxic environments. The procedural dimensions equally demand incorporation of access to information, public participation, and access to justice mechanisms within the litigation strategy.

Corporate environmental liability must be established through demonstrable failures in due diligence processes, including inadequate policy formulation, insufficient impact assessment, poor integration of environmental considerations into business operations, and deficient monitoring and reporting mechanisms. Legal certainty requires that environmental

organizations present comprehensive evidence of how corporate activities have violated both national environmental standards and international human rights obligations. The litigation must establish clear causal links between corporate conduct and environmental harm, addressing traditional challenges of proving direct causation in environmental cases [24].

Environmental organizations must establish their representative capacity through demonstrable connections to affected communities, ensuring that lawsuits genuinely reflect community interests rather than abstract environmental concerns. The legal framework requires evidence of meaningful community consultation, documentation of actual environmental impacts on community livelihoods including impacts on fishermen, farmers, and other vulnerable groups, and proof of health consequences affecting community members. This community-centered approach distinguishes legitimate environmental advocacy from purely ideological litigation [7].

Procedural justice demands that environmental organizations provide transparent information sharing mechanisms, create opportunities for meaningful community participation in litigation strategy, and ensure fair decision-making processes that respect community autonomy. The legal certainty framework must incorporate provisions for ongoing community engagement throughout the litigation process, including mechanisms for community members to provide input on settlement negotiations and remedial measures. Organizations must demonstrate their accountability to affected communities through formal reporting mechanisms and participatory governance structures [27].

The incorporation of intergenerational equity principles represents a critical component of legal certainty in environmental litigation, requiring organizations to articulate how current environmental harm affects future generations' rights to environmental quality and sustainability. Legal arguments must demonstrate how present environmental degradation compromises future generations' access to natural resources, ecosystem services, and environmental amenities. This temporal dimension of environmental justice necessitates that lawsuits seek not merely compensatory damages but also prospective relief designed to prevent ongoing environmental deterioration.

Environmental organizations must present evidence regarding long-term environmental consequences, including ecosystem restoration requirements, sustainable resource management obligations, and climate change mitigation measures. The intergenerational framework requires that remedial orders incorporate binding commitments to environmental restoration and sustainable practices extending beyond immediate compliance measures. Legal certainty demands that courts possess adequate authority to monitor long-term compliance with environmentally protective orders.

The third pillar of the UN Guiding Principles mandates that environmental organizations articulate specific remedial mechanisms capable of addressing both individual and community harm. Legal certainty requires that lawsuits specify primary remediation



measures designed to restore damaged environmental resources to baseline conditions, complementary remediation addressing residual environmental harm, and compensatory measures addressing interim environmental losses. The remedial framework must acknowledge that environmental restoration often requires extended timeframes and ongoing monitoring [19].

Environmental organizations must demonstrate the inadequacy of existing non-judicial remedial mechanisms, including corporate grievance procedures, administrative enforcement mechanisms, and voluntary compliance programs. This requirement necessitates evidence that affected communities lack effective access to alternative dispute resolution mechanisms or that such mechanisms have proven insufficient to address environmental harm. Legal certainty demands that judicial remedies provide meaningful redress unavailable through other channels.

Environmental litigation by organizations requires sophisticated evidential frameworks capable of demonstrating environmental harm through scientific evidence, economic analysis, and community impact assessment. Legal certainty necessitates that organizations present credible expert testimony regarding environmental conditions, health impacts, and restoration possibilities. The evidential standard must satisfy strict liability requirements where applicable, while also addressing negligence-based claims requiring proof of corporate fault.

Organizations must present comprehensive documentation of regulatory violations, permit breaches, and failures to comply with environmental standards. This includes evidence of corporate knowledge regarding environmental risks, inadequate environmental management systems, and failures to implement best available technologies. Legal certainty requires that evidential presentations meet judicial standards for environmental causation while addressing complex scientific uncertainties inherent in environmental litigation.

The effectiveness of environmental litigation depends upon robust enforcement mechanisms capable of ensuring corporate compliance with judicial orders. Legal certainty requires that environmental organizations seek specific performance remedies rather than merely monetary damages, including injunctive relief preventing ongoing environmental harm and mandatory orders requiring environmental restoration. The litigation framework must address potential corporate insolvency issues that might frustrate remedial implementation.

Environmental organizations must propose realistic implementation timelines, monitoring mechanisms, and enforcement procedures capable of ensuring long-term compliance. This includes requirements for environmental insurance or bonding mechanisms that guarantee financial resources for environmental restoration. Legal certainty demands that judicial orders include specific enforcement mechanisms, including contempt procedures and alternative enforcement strategies [28].

Legal certainty in environmental litigation by organizations requires comprehensive integration of substantive human rights principles, procedural justice mechanisms,

intergenerational equity considerations, and effective remedial frameworks. The successful implementation of these requirements depends upon robust evidential standards, meaningful community representation, and enforceable judicial remedies capable of addressing both immediate environmental harm and long-term sustainability concerns. This holistic approach to environmental litigation ensures that organizational advocacy genuinely serves community interests while advancing broader environmental protection objectives.

## 5. CONCLUSIONS

This study demonstrates that the legal framework governing environmental organizations' right to sue in Indonesia has evolved to provide meaningful access to environmental justice, as evidenced by the successful litigation in Decision No. 16/PDT.G/LH/2023/PN.BKN. The case involving Yayasan Riau Madani's lawsuit against unauthorized palm oil plantation activities in Limited Production Forest areas represents a significant judicial recognition of organizational standing in environmental protection matters. The court's acceptance of the environmental organization's legal standing, based on compliance with Article 92 of Law No. 32/2009 concerning Environmental Protection and Management, establishes an important precedent for civil society participation in forest governance. This judicial decision reinforces the principle that environmental organizations can effectively serve as guardians of ecological interests when statutory requirements are met, including legal entity status, explicit environmental conservation mandates in organizational articles, and demonstrated operational activities for a minimum of two years.

The implications of this case extend beyond individual litigation success to broader environmental governance and corporate accountability frameworks. The court's determination that defendants committed unlawful acts (*perbuatan melawan hukum*) in managing forest resources without proper authorization underscores the judiciary's willingness to enforce environmental regulations through civil remedies. Furthermore, the integration of international frameworks such as the UN Guiding Principles on Business and Human Rights into environmental litigation strategies represents a progressive approach to addressing corporate environmental responsibility. This convergence of domestic environmental law with international human rights principles suggests that future environmental litigation may increasingly incorporate broader accountability mechanisms that address not only ecological damage but also community rights and intergenerational justice concerns. The study recommends strengthening institutional support for environmental organizations and enhancing inter-agency coordination to ensure more effective implementation of environmental protection measures in forest management practices.

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