

# Implications of Citizen Lawsuits for Forest and Land Fires in Central Kalimantan Province from the Perspective of Environmental Justice

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**Abstract:** - Forest and land fires in Central Kalimantan Province in 2015 caused a lot of losses in the aspects of health and the economy. Therefore, the community filed a citizen lawsuit at the Palangkaraya District Court in 2016, suing the Indonesian President, various Ministers, the Governor, and the Legislative House of Central Kalimantan. From the first level to the cassation level, the plaintiffs won the case. But then, a judicial review was carried out and the Supreme Court granted it. So, the Government was free from any charges. This research used a socio-legal research method with a case study approach. Decision No. 980 PK/PDT/2022 which granted the Substantial Government Review had not created justice for the community and the environment, even though it aimed to maximize benefits for the community. The lawsuit filed by civil society in the case of forest fires in Central Kalimantan in 2015 against the government was a citizen lawsuit. The community's demands through the lawsuit aimed to uphold and protect the environment and ecocracy principles. Thus, the Supreme Court decision is considered to fail in representing the principle of substantive justice.

**Key-Words:** - Lawsuit, citizen, forest fires, Central Kalimantan, environmental justice

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## 1 Introduction

The quality of natural resources in the world is currently decreasing. This greatly affects humans who still depend on natural resources to live, [1]. On one hand, humans will use more than 50 percent of the natural resources on Earth. On the other hand, it takes 1.5 years for the earth to produce and replenish the resources that have been used in the previous year. Humans' increased demand for natural resources can place tremendous pressure on biodiversity, which will certainly threaten the aspects of security, health, equity, and prosperity, [2].

The Republic of Indonesia is currently experiencing serious problems regarding increased pollution and environmental damage. Furthermore, environmental issues are a great responsibility as they will affect the life quality of the future

generations. The exploitation of natural resources and the environment caused their quality to worsen. The destruction of nature such as sea and forest ecosystems has led to disasters such as floods and landslides occurring in many places. A disaster that annually happens in Indonesia is forest fires.

Forest destruction due to the clearing of forests for settlements, agricultural fields, and other economic activities can be a factor that causes global warming. According to a report released by the World Bank, currently, 100,000 to 200,000 million m<sup>2</sup> of tropical forests are destroyed every year. Meanwhile, in Indonesia, around 6,000 million to 2,500 million m<sup>2</sup> of tropical forests are destroyed annually. This is highly concerning as tropical forests are considered the lungs of the earth which can circulate and transform carbon dioxide into oxygen, [3].

In the context of Indonesia, forest and land fires are still occurring, especially in Sumatra, Riau, and Kalimantan Islands. Severe forest and land fires occurred in Riau and Kalimantan in 1997/1998 and had very serious impacts, including health problems, land accidents, and plane crashes. The smoke generated from this disaster affected neighboring countries. During that year, Indonesia experienced the most severe forest fires in the world. Images of cities engulfed in smog, forests on fire, and the suffering of humans and other living creatures were featured on the front pages of newspapers and television, attracting public attention. Neighboring countries such as Singapore and Malaysia as well as agencies for development aid were involved in trying to put out the forest fires. This incident was declared one of the worst environmental disasters of the century, [4], [5].

According to the Ministry of Environment and Forestry, the area of forest and land fires in Indonesia reached 3,287,220,000 m<sup>2</sup> in 2019. Central Kalimantan Province recorded an area of 447,690,000 m<sup>2</sup>, West Kalimantan 259,000,000 m<sup>2</sup>, South Kalimantan 194,900,000 m<sup>2</sup>, South Sumatra 118,260,000 m<sup>2</sup>, Jambi 110,220,000 m<sup>2</sup>, and Riau 492,660,000 m<sup>2</sup>, [6].

The condition indicates that the same rate of forest fires struck across all arable land. In addition, illegal forest fires are linked to a range of commercial and livelihood activities. Various activities that have contributed to the subsequent occurrence of forest fires need to be explored. The burned area in the protected forests was quite significant, reaching more than 23,477,170,000 m<sup>2</sup>, [7].

According to the data from the Ministry of Environment and Forestry, in 2021, the area of forest and land fires in Indonesia has increased compared to that of 2020. Based on the data from the Ministry of Environment and Forestry, burned forests and land in Indonesia reached 3,545,820,000 m<sup>2</sup>, or an increase of 19.4% compared to 2,969,420,000 m<sup>2</sup> in 2020.

It was found that Central Kalimantan became one of the provinces with the highest rate of forest fires in Indonesia. The latest report released by the Ministry of Environment and Forestry showed that in 2021, the forest and land fires reached 2,994,300 m<sup>2</sup>. Forest and land fires occur almost every year in the Central Kalimantan Province as well as other regions or provinces in Indonesia, especially during the dry season. Hot weather causes forests and land to dry up, [8]. This condition can trigger fires. In addition, land clearing by fire conducted by local communities and corporations is suspected to trigger

the fires. Theoretically, forest and land fires will occur only if the three causing elements are met, namely: heat, oxygen, and fuel. These three elements are known as the Triangle of Fire,

In 2019, all regencies/cities in Central Kalimantan Province were affected by the fires. The largest burned area was in Palangkaraya City (38,969,000 m<sup>2</sup>), while the city/regency that was least affected by the fires was Gunung Mas Regency (120,000 m<sup>2</sup> of burned area). Detailed information on the forest and land fires in Central Kalimantan is shown in Table 1.

Table 1. Forest and Land Fires in Central Kalimantan, 2019

| No  | Regency/City      | Width (m <sup>2</sup> ) |
|-----|-------------------|-------------------------|
| 1.  | South Barito      | 2,318,000               |
| 2.  | East Barito       | 1,220,000               |
| 3.  | North Barito      | 1,600,000               |
| 4.  | Gunung Mas        | 120,000                 |
| 5.  | Kapuas            | 9,027,000               |
| 6.  | Katingan          | 4,530,000               |
| 7.  | West Kotawaringin | 13,930,000              |
| 8.  | East Kotawaringin | 237,180,000             |
| 9.  | Lamandau          | 2,477,000               |
| 10. | Murung Raya       | 7,810,000               |
| 11. | Palangkaraya      | 38,969,000              |
| 12. | Pulang Pisau      | 134,990,000             |
| 13. | Seruyan           | 167,590,000             |
| 14. | Sukamara          | 20,440,000              |

Source: The report from the Task Force of Forest and Land Fires in Central Kalimantan, 2019

Several natural events cause forest fires to occur. Forest fires caused by natural factors usually do cause impacts as great as those caused by human negligence. In addition, several natural events can trigger forest fires, such as the prolonged dry season that can raise temperatures in various areas, including forests. Such high temperatures can trigger forest fires. Besides, lightning strikes can also potentially cause forest fires. In addition, climate change that occurs as a result of global warming can also cause frequent lightning strikes to occur, [9].

In addition to natural causes, forest fires can occur due to intentional actions of human or human activity. Uncontrolled land burning may result in deforestation because the fires may spread to forests, causing forest fires. Furthermore, land clearing for plantations usually causes land burning. On small scales, these forest fires can still be overcome. Unfortunately, if the fires are the work of a large company and on a large scale, it will be very difficult to extinguish the fires. Such fires are

especially dangerous when they burn peatlands or swamp areas, [10].

The issue discussed in this research is that forest fires always happen. It is somewhat like a routine phenomenon in Indonesia. The plaintiff of the citizen lawsuit against forest and land fires believed that the government did not carry out enough efforts to prevent forest fires. They also deemed that the government did not impose enough punishments for perpetrators of forest fires.

According to the plaintiffs, the common lawsuit method was inadequate. They deemed that the civil lawsuit and the method of reporting criminal cases were not sufficient. As other lawsuit models were not enough, the plaintiff chose to file this case through the citizen lawsuit method.

The citizen lawsuit is a new classification that is not yet acknowledged in Indonesia. However, the stipulations of the Indonesian law oblige judges to never reject cases under the reason that the law for that case does not exist yet. In the end, the citizen lawsuit became an unknown lawsuit but its case can be filed in the Indonesian court.

The lawsuit filed by the plaintiffs was considered an unlawful act by the authorities (*onrechmatige overheidsdaad*), while the acts against the law committed by the defendants were: as administrators of the government, governmental officials were negligent in carrying out their functions and duties to seriously take preventive countermeasures, [11]. Comparatively, the citizen lawsuit does not demand or ask for money or compensation. This lawsuit was filed specially for governmental negligence.

This lawsuit was one of the lawsuit models that was suitable for this case. If granted, this lawsuit will bring consequences to policies. This means that it demands the government through the court to carry out the policies in the lawsuit.

One of the cases that occurred in the civil realm was the case of forest and land fires. A coalition of civil society members of the Central Kalimantan Anti-Smog Movement filed a civil lawsuit at the Palangkaraya District Court on August 16, 2016. The lawsuit was addressed to several state officials. Among them were President Joko Widodo, the Minister of Environment and Forestry, the Minister of Agriculture, the Minister of Agrarian Affairs and Spatial Planning, the Minister of Health, the Governor, and the Regional Legislative House of Central Kalimantan Province, [12].

The Palangkaraya District Court granted the lawsuit. This case reached cassation by the defendants, in this case, the Government of Indonesia. The appeal in 2019 filed by the

Government of Indonesia against the lawsuit of forest fire-induced smog disaster that occurred in Central Kalimantan in 2015 did not change the results of the decision handed down by the Palangkaraya District Court. The Supreme Court rejected the appeal and stated that the defendants had committed unlawful acts. There were 10 demands granted by the panel of judges in the case of the forest fire lawsuit in Central Kalimantan. In essence, they asked the Government of Indonesia, namely the President, relevant ministries, and local governments to implement the orders of Law No. 32 of 2009 on Environmental Protection and Management. Furthermore, the defendant filed a judicial review in the Supreme Court. There has been no decision on the legal action thus far.

This research aimed to analyze the case of citizen lawsuits for forest and land fires in Central Kalimantan Province, Indonesia, considering that the decision made was an anomaly. This decision was categorized as the first decision which is interesting to discuss, especially in the aspect of legal development and its perspective of justice.

This research has a strong novelty compared to the previous research. A previous research, [6], discussed the citizen lawsuit on forest and land fires based on the ecocracy concept (a review of the Supreme Court Decision No. 3555 k/pdt/2018). But their research only focused on the review of the Indonesian Supreme Court, It lacked a discussion on the socio-legal and philosophical aspects of the decision on this citizen lawsuit.

Another research, [13], discussed the citizen lawsuit in handling the disaster of forest fires in Kalimantan. This research showed that the citizen lawsuit can become an interesting choice for citizens to file a lawsuit and demand the court to force the government to carry out the various necessary policies. This research, [13], discussed the aspect of the juridical effect of the decision and its benefits without discussing its social aspect as what is carried out in this research.

Instead of carrying out Decision No. 3555K/PDT/2018 which was decided on July 16, 2019, the government submitted a judicial review. The Supreme Court granted the judicial review through decision No. 980PK/PDT/2022. The decision freed the government as the defendant from all lawsuits in the previous decision. Based on the aforementioned problems, the author will analyze this legal case from the perspective of environmental justice philosophy.

## 2 Methodology

In this paper, the author used the socio-legal research method, [14]. The socio-legal method was usually used as an umbrella method. This method referred to the research method in legal research that was linked to the methodological part of social studies. One of the important characteristics of the socio-legal method was that it was multi-disciplinary or social interdisciplinary, [15]. This meant that the theoretical and methodological perspectives in the socio-legal method were arranged based on social research that was conducted using various disciplines of social studies, [16].

The disciplines of social studies used were highly varied. The strength of such a multi-disciplinary or interdisciplinary approach is that researchers can produce various new research findings. Meanwhile, the challenge was that the researchers had to master multiple competencies that were required to produce the socio-legal research that was according to the methodological and theoretical standard from the core of the scientific discipline they used, namely legal and social studies.

Socio-legal research first explored and resolved the issue of the normative framework of a problem, [16]. Normative studies needed to be conducted first because it was practical to be used to understand a complex situation. This was so that it became easier to uncover the contents of texts, norms, and legal doctrinal works, [17]. Next, it was found that studies with a doctrinal approach were deemed to be unsatisfactory, especially in responding to the context of justice which was more substantive and more acceptable to the public, [18]. Siddharta stated that in socio-legal research many variants of research methods can be labeled as socio-legal methods, such as hermeneutics, ethnography, discourse analysis, and case studies, [19].

A hermeneutic approach is needed to understand the law because the law is not only in the form of written text. But the law also displays many symbols, pictures, signs, colors, and movements, [15]. This is because the law is always in the realm of human life and humans are inseparable from the elements of language, speech, historical actions, experiences, culture, society, and politics, [20]. This situation makes the law full of values whose meaning can be understood when explored by considering the contexts based on the conditions, social settings, and objectives during the creation of the texts, [21].

## 3 Results

Forest and land fires in Central Kalimantan Province have occurred for a long time. It started massively in 1997 and the last occurred in 2015, [22]. The area of forest and land fires in 2015 in Central Kalimantan Province was approximately 1,228,829,000 m<sup>2</sup>. Based on the data from the National Disaster Management Agency in 2015, fires occurred on peat lands covering an area of 1,969,870,000 m<sup>2</sup> and non-peat lands covering an area of 1,338,760,000 m<sup>2</sup>, [6].

The impacts of forest and land fires were worse than before. Many residents experienced shortness of breath. They had difficulties obtaining medicine as no adequate health centers were available. So, the victims had to be evacuated to South Kalimantan province where the smog was not too thick, [23]. Therefore, the surrounding community filed lawsuits at the Palangkaraya District Court. The lawsuit registered in 2016 was filed against the President, the Minister of Environment and Forestry, the Minister of Agriculture, the Minister of Agrarian Affairs and Spatial Planning/National Land Agency, the Minister of Health, the Governor of Central Kalimantan, and the Regional Legislative House of Central Kalimantan. The contents of the *posita* (a written argument that forms the basis of a lawsuit) were that forest and land fires originating from forestry and plantation investments resulted in losses in many sectors such as health, education, and economy, [24].

After going through eighteen trials, in March 2017, the Palangkaraya District Court granted some parts of the plaintiff's claim and stated that the defendant had violated the law. Therefore, the defendant had to fulfill the plaintiff's ten demands. In September 2017, the Palangkaraya High Court strengthened the decision by rejecting the defendant's appeal. Furthermore, in July 2019, the panel of cassation judges also strengthened the decision with case No. 555K/PDT/2018, [25].

The plaintiffs in this case were environmental activists who were members of the Central Kalimantan Anti-Smog Movement, [26]. They are Arie Rompas, the Executive Director of Walhi (*Wahana Lingkungan Hidup Indonesia*/Environmental Facility of Indonesia) of Central Kalimantan; Afandy, the Deputy Director of Walhi Central Kalimantan; Nordin, the Director of Save Our Borneo; Mariaty A Niun, the Director of JARI; Faturokhman, the Coordinator of Fire Watch Central Kalimantan; Herlina, the Treasurer of Walhi Central Kalimantan; and Kartika Sari, a resident of Palangkaraya City. They sued the government after

the devastating fires that hit the Kalimantan forests in 2015 through the citizen lawsuit mechanism.

According to the law, the citizen lawsuit is for negligence in carrying out the responsibilities and obligations as stipulated in the 1945 Constitution of the Republic of Indonesia. The defendants allowed forest fires to occur from August to October 2015, which resulted in many losses. As a result, the constitutional rights regulated in Article 28 H of the 1945 Constitution in conjunction with Articles 2 and 9 paragraph 3 of Law No. 39 of 1999 concerning Human Rights in conjunction with Article 65 paragraph 1 of Law No. 39 of 2009 concerning Environmental Protection and Management were violated. The unlawful acts committed by defendant I have implications for the unlawful acts of defendants II to VII.

Forest fires in Central Kalimantan have occurred frequently since 1997. In 2015, the impact became worse. Many residents even experienced shortness of breath. On October 30, 1999, Law No. 41 of 1999 concerning Forestry was stipulated and enforced. Then, on June 24, 2003, Central Kalimantan Regional Regulation No. 5/2003 concerning Forest and/or Land Fire Control was enacted and came into effect on June 25, 2003. On August 11, 2004, Law No. 18/2004 concerning Plantations was enacted and enforced, [27]. On October 3, 2009, Law Number 32 of 2009 concerning Environmental Protection and Management was passed. On June 8, 2010, Governor Regulation No. 15 of 2010 was stipulated. It concerned amendments to the Central Kalimantan Governor Regulation No. 52 of 2008 concerning Guidelines for Land and Plantation Clearing for Communities in Central Kalimantan and was implemented on June 9, 2010. On September 12, 2014, a Government Regulation concerning the Protection and Management of Ecosystems was stipulated and affected on September 15, 2014. On January 6, 2016, a Presidential Regulation (PERPRES) regarding the Peatland Restoration Agency was enacted and enforced. On December 2, 2016, Government Regulation No. 57 of 2016 was stipulated. It concerned an Amendment to Government Regulation Number 71 of 2014 concerning the Protection and Management of Peatland Ecosystems and was enforced on December 6, 2016. All of these laws and regulations regulate forest management and efforts to enforce the law against incidents of forest fires.

Furthermore, in this paper, the author explores other legal facts regarding the community's lawsuit against the government over the forest fire incidents in Central Kalimantan. It started on March 22, 2017,

when the Palangkaraya District Court granted some of the plaintiff's claims and stated that the defendant, in this case, the government, had violated the law. Then on September 19, 2017, the Palangkaraya High Court rejected the appeal of President Joko Widodo, his ministers, and the Regional Government of Central Kalimantan. In July 2019, the cassation decision was rejected with case decision No. 3555 K/PDT/2018. However, in the final legal action on November 3, 2022, the Supreme Court granted the Judicial Review submitted by the government with Decision No. 980 PK/PDT/2022.

## 4 Discussion

### 4.1 Citizen Lawsuit Rights

A citizen's right to sue or citizen lawsuit is a lawsuit filed by citizens on behalf of the public interest to sue state administrators for their failure to carry out their legal obligations. This submission was based on the unlawful acts of state administrators that harmed citizens. The compensation demanded is not in the form of money but in the form of immaterial benefits, namely the issuance of a decision by the government, [13]

In the process of a citizen lawsuit, the plaintiff needs to provide a notification in the form of a subpoena which contains at least an explanation that a citizen lawsuit will be filed against state administrators for their failure or negligence in fulfilling the rights of their citizens. It provides an opportunity for the state administrators to fulfill their obligations if they do not want the plaintiffs to continue the lawsuit. The notification period in the United States legal system is no later than 60 days before filing a lawsuit, [28]. However, in Indonesia, this type of lawsuit has not been regulated in detail,

The citizen lawsuit is a lawsuit for public interests that depart from the awareness to protect human rights. The citizen lawsuit is a mechanism for filing a case as a manifestation of citizens' access to the interests of all citizens or the public interests. It functions to demand the responsibility of the state establishers for their negligence in fulfilling citizen rights. Such negligence is argued as law-violating actions in fulfilling citizen rights. Citizen lawsuit is proposed in the scope of general court and is categorized into the civil case group, [26].

So far, the form of a lawsuit by citizens under the name of public interest has not specifically been regulated in Indonesian legal regulations. Citizen lawsuit to sue state establishers is a lawsuit mechanism that is acknowledged in the common

law system. In the United States, Australia, and India, citizen lawsuits rampantly developed especially concerning environmental law, [29].

Some citizen lawsuits that have been filed into court are Decision No. 28/Pdt.G/2003/PN.Jkt.Pst on the neglect of migrant workers in Nunukan; Decision No. 228/Pdt.G/2006/PN.Jkt.Pst on the lawsuit of victims of national examination organization; and Decision No. 55/PDT.G/2013/PN.SMDA on the issuing of the coal mining permit in Samarinda as a trigger of global warming which worsened the impacts of climate change in Samarinda City, East Kalimantan, [28].

The acceptance of the citizen lawsuit model in Indonesia is an adaptation to answer the various phenomena that develop in society. It is not only limited to the material law context, but it also encompasses the procedural law as formal law that functions to enforce the material law. In its journey, law enforcement must be dynamic and follow the latest social development, [30].

The Supreme Court issued Regulation No. 1 of 2002 regarding Class Action Lawsuits, namely a procedure to file a lawsuit by a person or persons who represent the group to file a lawsuit. This lawsuit is intended for himself. Besides, it can also be used to represent a group of people. Both group representatives and or other members of the group have a uniformity or similarity of legal basis.

Referring to citizen lawsuits through the citizen lawsuit mechanism in cases of forest and land fires as well as the people's victory up to the Supreme Court level, it appears that access to justice through the citizen lawsuit mechanism can be realized in Indonesia. Four things related to citizen lawsuit submissions need special attention, [31]. The first focus is the scope of citizen lawsuits in Indonesia. The existing cases still focus on the government's absence in enacting and making certain policies to fulfill the plaintiff's constitutional rights.

Thus far, no single case regarding permits has been filed to force the government to ensure that permit holders carry out their obligations. This is because the government neglects to do so. Apart from that, it is also important to observe that the government's obligations in terms of legislation are not limited to the government's obligations in issuing regulations or policy products, [32].

In this case, many spaces need to be explored by citizen plaintiffs to test and refine the idea of citizen lawsuits in the context of the Indonesian environment. With the plaintiff's argumentation of legal substance based on legal analysis and strong reasoning, the judge's decision will be more likely to

be directed at an important landmark decision for the development of a citizen lawsuit. Second, citizen lawsuits concerning the occurrence of a violation and omission can be filed. None of the lawsuits presupposes, and thus none of the judge's decisions has carefully considered whether a citizen plaintiff can sue for an offense that had entirely occurred in the past. Third, it is regarding the effect of the government's lawsuit/indictment on the matter being sued in the citizen lawsuit, which the government had filed before the citizen lawsuit was filed. Fourth, the obligation to reimburse attorney fees if the plaintiff wins, [33].

#### **4.2 Environmental Law Enforcement in Cases of Forest Fires in Central Kalimantan Province**

The Supreme Court's Decision No. 3555 K/PDT/2018 stated that the government had committed an unlawful act in the case of forest and land fires in Central Kalimantan Province. Regarding this unlawful act, Sidhartha said that the basis for determining the unlawful act was Article 1365 of the Civil Code which states, "Every unlawful act that causes harm to another person obliges the person who is guilty of causing the losses to compensate for those losses."

As a result, the perpetrator must provide compensation to the party affected by the act. Sidhartha, citing the views of a legal expert from the common law system, A. J. Pannett, stated, "In principle, the law will not impose an obligation to compensate for all forms of violations. The types of losses that are called *damnum sine injuria* are examples of exceptions, namely if the loss is caused by an offense committed because the perpetrator carries out a statutory order. It means that even though there is a loss, the perpetrator is not obliged to compensate for that loss if he or she acted based on a statutory order. On the other hand, there is also the doctrine of *injuria sine damno*, which states that even though there is no loss, the perpetrator is still obliged to compensate for the loss. The application of this last doctrine is the act of entering someone else's land (trespassing). This doctrine is also called *injuria absque damno*, [31], which was interpreted as "injury without damage". It is wrong doing, but from which no loss or damage results, and which, therefore, will not sustain an action. This doctrine is indeed commonly applied in civil lawsuits, but that does not mean it cannot be applied to causes that tend to be public, such as humiliation, fraud, and sentencing errors, [19].

Based on this doctrine, the state is obliged to be accountable for actions that are deemed to violate the law as stipulated in Article 87 Law No. 32 of 2009. This article is the realization of the principle "polluter pays." In addition to being required to pay compensation, environmental polluters and/or destroyers are burdened by judges to take certain legal actions. The Palangkaraya District Court Panel of Judges sentenced the defendant and burdened them with legal action as ordered in the court decision and strengthened with the Supreme Court decision.

The Supreme Court decision No. 3555 K/PDT/2018 stated that the government committed an unlawful act and was asked to compensate for the losses due to the unlawful acts. This, according to the author, was realized due to the judge's understanding of the essence of the environment. The purpose of environmental protection and management is suitable with Article 3 of the Environmental Protection and Management Act. In its decision, the Supreme Court stated that the government must be responsible. Absolute responsibility (strict liability) is conducted as stipulated in Article 88 of the Environmental Protection and Management Act. In this case, absolute responsibility is an element of error that does not need to be proven by the plaintiff as a basis for compensation payments. In implementing the absolute responsibility principle, the burden of proof no longer lies with the plaintiff, but the defendant is burdened to prove that there was no unlawful act, [34].

In the elucidation of the Environmental Protection and Management Act Article 34, it is explained that any unlawful acts in the form of environmental pollution or destruction of harm to other people or the environment require those responsible for a business and/or activity to pay compensation and/or perform certain actions. In the explanation, the law states that apart from paying compensation, polluters can also be burdened with the obligation to take certain actions such as issuing implementing regulations of the Environmental Protection and Management Act and the construction of other infrastructure to prevent the future reoccurrence of unlawful acts against the environment.

Before the review, Decision No. 3555 K/PDT/2018 stated that the defendants as authorities who were obliged to protect and fulfill the people's right to a clean and healthy environment had not carried out their duty properly. The lack of anticipation and quick action against the spread of forest fires caused environmental pollution and

damage. The government from the central level to the regional governments failed to coordinate properly. Thus, the forest and land fires were not handled well. The government was declared guilty and committed an unlawful act.

But after the Supreme Court granted the Judicial Review which was carried out by the government, Decision No. 980 PK/PDT/2022 freed the government from the previous penalty. Then, it became a polemic that caused problems in many sectors. In examining the aspect of substantive justice, Roscoe Pound argued that justice is related to human effort and control. Efforts are interpreted as the orientation of maximizing benefits to the greatest benefit of the people. According to this view, justice is also interpreted as a harmonious and balanced distribution. In addition, the aspect of justice as human control, according to Pound, is also relevant to efforts to limit human personal egoism which then reduces the rights of others. Egoism must be limited so that everyone in a community obtains the same benefits. Furthermore, the idea of justice was also proposed by John Rawls. He argued that for the sake of fairness, justice should be easily understood by society. It should be realized in real life, and not only be aspirational and unreachable, [35].

The benefit of the analysis in this research is the finding that the implementation of justice must be manifested in various aspects of human life. In addition, according to John Rawls' view, justice is determined by the system that regulates and implements it and it is not solely determined by the results, [36]. An outcome that is considered fair may be unfair because it is not balanced by a system that creates injustice. By conducting this analysis, the researcher obtained information on the demands addressed to the government. In this case, the government must increase its motivation in protecting the environment and preventing forest fires. Therefore, in the analysis of substantive justice, the Supreme Court granted the government's efforts to take legal action in the form of a review.

1. Issuing regulations of Law No. 32 of 2009 concerning Environmental Protection and Management, which are important for the prevention and control of forest and land fires, by involving community participation, namely:
  - a. Government Regulation regarding procedures for determining the buffering capacity of the environment;
  - b. Government regulations regarding environmental quality standards, which include: water quality standards, seawater quality standards, ambient air quality

- standards, and other quality standards that are in line with the developments in science and technology;
- c. Government regulations regarding standard criteria for environmental damage related to forest and/or land fires;
  - d. Government regulations regarding environmental economic instruments;
  - e. Government regulations regarding environmental risk analysis;
  - f. Government regulations regarding procedures for overcoming environmental pollution and/or damage; and
  - g. Government regulations regarding procedures for restoring environmental functions;
2. Forming a joint team whose functions are as follows:
    - a. Conducting a review and revising business permits for managing forests and plantations, either those that have been burned or those that have not been burned based on the required criteria for issuing permits. It must also consider the buffering capacity of the environment in the Central Kalimantan Province;
    - b. Enforcing civil, criminal, and administrative environmental laws on companies whose land has caught fire;
    - c. Making a roadmap for early prevention, response, and recovery for victims of forest and land fires as well as environmental restoration;
  3. Taking immediate actions, such as:
    - a. Establishing a special hospital for lungs and other diseases which can be accessed free of charge for smog victims due to air pollution in Central Kalimantan Province;
    - b. Ordering all regional hospitals in the Central Kalimantan province area to waive medical expenses for people affected by the smog in the Central Kalimantan province;
    - c. Providing an evacuation area in the form of pollution-free spaces to anticipate forest and land fires that cause air pollution;
    - d. Preparing evacuation technical instructions and cooperating with other agencies to ensure that the evacuation runs smoothly;
  4. Providing the following:
    - a. A map of vulnerability to forest, land, and plantation fires in Central Kalimantan Province;
    - b. A policy concerning standard equipment for controlling forest and plantation fires in Central Kalimantan Province;

5. Conducting the following:
  - a. Announcing the burned land and the company holding the permit publicly;
  - b. Developing an information disclosure system for forest, land, and plantation fires in Central Kalimantan Province;
  - c. Announcing environmental guarantee funds and countermeasure funds originating from companies whose land was burned;
  - d. Announcing forest conservation investment funds from companies holding forestry licenses.

## 5 Conclusion

The lawsuit filed by civil society in the case of forest fires in Central Kalimantan in 2015 which was against the government was a citizen lawsuit. It was on behalf of the public interest to sue state administrators for not carrying out their legal obligations. The final result of the case at the first level through the Decision of the Palangka Raya District Court No. 118/Pdt.G/LH/2016/PN Plk declared that the government lost the case. Even, at the appeal and cassation levels the Supreme Court decision No. 3555 K/Pdt/2018 and the Palangka Raya High Court Decision No. 36/PDT/2017/PT PLK declared the government as guilty. However, the government continued to take legal action in terms of a Judicial Review level which was granted by the Supreme Court through Decision No. 980 PK/PDT/2022 and finally freed the government from all previous charges. Meanwhile, the demands made by the community through the lawsuit were conducted to uphold and protect the environment and ecocracy principles. Thus, the Supreme Court decision is considered not to represent the principle of substantive justice. The limitation of this study was that this research perceived the citizen lawsuit for the case of forest fires from the perspective of environmental justice using the sociolegal method. Future researchers may analyze the side effects of this decision on the condition of the forest and society as future research.

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- F. X. Ary Setiawan: Conceived the research, provided an original idea of the study, and provided materials and data for the research.
- Absori Absori: Designed the methods, selected research data, analyzed and interpreted the data, and wrote the paper.
- Kelik Wardiono: Analyzed the data, provided a description, wrote the paper, reviewed the paper, and validated the data.
- Arief Budiono: Provided materials and data for the research, reviewed the paper, submitted the article, and finished the revisions.
- Achmadi Achmadi: Provided materials and data for the research and reviewed the paper.
- Wardah Yuspin: Validation and verification research data, wrote the paper, reviewed revisions paper.

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### **Conflict of Interest**

The authors have no conflict of interest to declare.

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