

# THE EFFECTIVENESS OF CLASS ACTION JUDICIAL PROCEDURE IN INDONESIA LEGAL SYSTEM

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## Abstract

The aim of the study is to explain about the effectiveness of class action judicial procedure in fulfilling community rights protection according to Indonesia legal system. Class action is a civil lawsuit filed by someone or more people representing the group that is harmed to file a lawsuit to the court because of the similarity of facts and legal basis between one or more people who represent the group and the group represented. The state ideally exists to guarantee, protect, and fulfill the fundamental rights of every citizen, but there are some members or groups of the people who are harmed by the policies of the government which have implications for the revoking of some of the fundamental rights of the citizens. In this context, the Indonesian legal system has regulations specifically to obtain justice for all citizens, which are called class actions. Through the use of normative juridical methods, this study concludes that most people in Indonesia do not know and understand legal remedies through class action, even though the legal arrangements regarding class action lawsuit have been regulated in the Environmental Management Law, precisely in Article 37 paragraph (1) and (2), including the Supreme Court Regulation Number 1 of 2002 on Group Representative Lawsuit Procedures. It has impacted on the lack of fulfillment of a justice sense for the community in obtaining their rights in the court system.

**Keywords:** Class Action, Judicial Procedure, Consumer's Rights, Indonesia Legal System.

## Introduction

The concept of a class action lawsuit was initially known in countries that adhere to the Anglo-Saxon or the Common Law system, such as the United Kingdom and the United States. For the first time, a class action lawsuit was regulated in the United Kingdom Supreme Court Judicature Act of 1873. Then, the concept was adopted by the United States and set forth in the United State Federal Rule of Civil Procedure in 1938. In 1966, class action was stated explicitly in Article 23 of the US Federal Rule of Civil Procedure, in particular which regulates the class action procedure (Lestari & Adiyatma, 2020).

Class action is defined as a method for individuals who have similar claims to join together to make claims to be more efficient, and

someone who will take part in a class action, must give approval to a representative (Iqbal, 2012). In Indonesian law context, the term class action lawsuit is very well known in civil procedural law which is regulated in the Environmental Management Law Number 41 of 1997, the Forestry Law Number 41 of 1999, the Consumer Protection Law Number 8 of 1999, and regulated furtherly in the Indonesian Supreme Court Regulation Number 1 of 2002 on the Procedures for Filing Class Action Community Representative Lawsuits (Parlina, 2021).

Class action lawsuits are procedural rights in the form of lawsuits by community groups through their representatives, based on the common problems, legal facts, and common interests, to obtain compensation and/or certain actions from

the defendants through a civil court process (Afriansyah, Jayadi & Vania, 2019). A group lawsuit, class action, or class representative is a legal institution originating from the common law system. Many countries followed a civil law system, including Indonesia, have adopted this principle to protect the consumer rights like regulated in the Indonesian Consumer Protection Law (Tjukup, 2015).

Regarding the effectiveness of using class actions lawsuit, there are two kinds. First, since 2002 until now, the implementation of class action is not much. It means that class action lawsuits are not as massive or effective as conventional civil lawsuits. Second, in terms of advantages and disadvantages, class action does not necessarily guarantee compensation because it is returned to the judge's decision in the court system (Tjahjani, 2021). In other words, the effectiveness of the judge's decision in the court system is very relative and does not necessarily have legal certainty to resolve and decide the case he faces (Kurniawan, Andhika, Lestari, Rosidah, & Veranita, 2020).

For example, in several studies carried out by legal experts at Indonesian universities, it is stated that class action is a civil lawsuit filed by one or more persons representing an aggrieved group to file a lawsuit in court because of the similarity of facts and legal basis between one person or another (more representing the group) with the group being represented (Kadim, 2019). In several previous studies, it was explained that the Business Competition Supervisory Commission or KPPU's decision can be used as the basis for a class action lawsuit in court in the context of demanding compensation for consumer losses caused by violations of business competition as long as the KPPU's deliberations and decisions include preliminary evidence of public (consumer) loss and meet the general requirements for a class action lawsuit. The juridical obstacles really depend on the level of understanding of the judges and also the documents and/or case files from the KPPU as evidence of consideration of consumer losses (Kaligis, 2006).

If it is referred to class action lawsuit regulation, not all consumer protection issues can be

brought up to the law enforcement process through class action approach. This is due on several aspects, such as; first, the lack of public awareness to report; second, the lack of community courage to act or claim; third, the lack of public knowledge about the protection of consumer rights; fourth, the limited facilities and infrastructure from the government; fifth, the lack of firmness of the legal apparatus to act; sixth, the absence of a single view or conception regarding on the protection of consumer rights. The key to solving the problem of consumer rights protection is the common perception between the public, law enforcement officers, practitioners and activists, but what is more important is the issue of authority in law enforcement.

Based on the background, this paper will be focused on the judicial procedures for the application of class action in legal practice in Indonesia, especially analyzed from the perspective of the legal effectiveness theory in the settlement of civil disputes. It will be focused on discussing some problems such as: first, what is the understanding of the judicial procedure for class action in Indonesia, how is the practice of class action in Indonesia, how the effectiveness of the judicial procedure of class action lawsuit in the protection of consumer rights in Indonesia.

## Method

This research is a normative or doctrinal legal research and focused on the effectiveness of class action judicial procedure in fulfilling community rights protection according to Indonesia legal system. The sources of the data were carried out from the number of literatures and documents that related to the research objective. Analysis of the data uses the combination of bibliographical and critical legal analysis through deductive and inductive approaches, including case, historical, conceptual, and critical legal analysis regarding the class action juridical cases in Indonesia until the formulation of the conclusion.

## Understanding Class Action in Indonesia Legal System

In legal aspect, class action can be understood as a method given to a group of people who have an interest in a problem, whether one or more members sue or sued as a group representative without having to participate from every member of the group. Class action is also known as a class action lawsuit. There are a number of definitions of class actions, which differ in terms of formulation but have the same essence. In this context, a number of Indonesian legal experts provide the following formulation of the class action lawsuit understanding (Widiarty, 2015).

They explained several definitions about the term of class action, both according to legal dictionaries, statutory regulations, and from legal experts, such as: first, in the 10th edition of the *Mariam Webster Collegiate Dictionary* in 1994, there is stated that class action is "a legal action under taken by one ore more plaintiffs on behalf of themselves and all other persons having an identical interest in allegedly wrong". It means that legal action carried out by a group of people who represent a large group that has the same interests; second, in *Black's Law Dictionary*, class action is a large group of people who have an interest in a case, which one or more can sue or be sued to represent a large group of people without needing to mention an event one member being represented; and third, in *Glorilier Multi Media Encyclopedia* explained that class action is a lawsuit filed by one or more members of a community group representing all members of a community group (Yuntho, 2005).

In judicial matter, a class action or representative lawsuit is a procedure in a civil case that gives procedural rights to one or a number of people (a small number) acting as plaintiffs to fight for the interests of hundreds, thousands or millions of other people who experience the same suffering or loss. A person or a number of people who appear as plaintiffs are referred to as class representatives, while a large number of people, they represent are called class members (Santosa, 1997).

In addition, it also gave an understanding and requirements regarding class action. It can be tried by the court are lawsuits that consist of several points: first, have a large number of plaintiffs, so they are impractical when used in ordinary cases; second, for a person or persons from that group file a lawsuit as a representative; third, there are legal problems and the facts of the lawsuit or joint resistance; and fourth, the representatives who convened must be able to defend the interests of the group (Nasution, 1999).

Another legal scholar also provides an understanding of class action as a method given to a group of people who have an interest in the same issue, whether one or more members sue or are sued as group representatives without each member of the group being directly involved in the judicial process. In addition, there are also given for those who provide an understanding of class action as a method or method for individuals who have similar claims to join together to file claims to be more efficient and someone who will participate in class actions must give approval to representatives. Furthermore, it is also stated that the involvement of the court in the class action lawsuit was very large. Each representative, in order to appear in court, must obtain approval from the court by taking into several reasons such as: fisrt, class action is the best course of action to file a lawsuit; second, have the same type of claim; third, there are many plaintiffs; and fourth, decent or appropriate representation (Rajagukguk, 2000).

The provisions regarding class action in the Consumer Protection Law Number 8 of 1999 are contained in Article 46 Paragraph 1 Letter b, which the Article 46 stipulates that a lawsuit for a business actor's violation can be made by: (a) an aggrieved consumer or heir concerned; (b) consumer groups that have the same interests; (c) a non-governmental consumer protection institution that meets the requirements, namely in the form of a legal entity or foundation, which in its articles of association clearly states that the purpose of the establishment of the organization is for the benefit of consumer protection and has carried out activities in accordance with its articles of association; and (d) the government

and/or related agencies if the goods and/or services consumed or utilized result in large material losses and/or no small number of victims.

Furthermore, in Article 45 Paragraph 2 of the the Consumer Protection Law Number 8 of 1999 also stipulates that the dispute resolution mechanism can be chosen voluntarily by the disputing parties, namely through court or out of court (arbitration as an alternative dispute resolution). However, if the settlement of the dispute outside the court is still not found by one party or both parties, a lawsuit through the court can be taken. To implement the material law as formulated above, a formal law has been issued in the form of Supreme Court Regulation Number 1 of 2002 on the Class Action Lawsuit Procedure. In this context, the other provisions of the Civil Procedure Law are still applied, other than what has been regulated in Article 10 of the Supreme Court Regulation Number 1 of 2002.

#### Class Action Classification in Indonesia Legal System

The class action lawsuit against group representatives was formally regulated in 2002 in the form of the Indonesian Supreme Court Regulation Number 1 of 2002 on April 26, 2002 (Sutiyoso, 2004). There is regulating lawsuits filed in groups, one of which is class action. The definition of class action based on the Indonesian Supreme Court Regulation Number 1 of 2002 is a method of filing a lawsuit in which one or more people who represent a group file a lawsuit for themselves or themselves and at the same time represent a large group of people who have the same facts or basis between the group representatives and the members of the said group (Sundari, 2010).

The class action lawsuit is also a form of lawsuit in the name of the public interest. This is an efficient solution because in filing a lawsuit with many class members there is no need to mention the identity of the parties one by one. The fact that class action lawsuits are not widely known by the public, even the skills of judges in handling these cases are still limited. The problem of class action lawsuits becomes more

complicated when the parties who become class members are very large. Judges in examining cases must be guided by the Indonesian Supreme Court Regulation Number 1 of 2002 by carefully examining who is a class member. The parties listed in the lawsuit are not necessarily part of the group who are directly harmed, it is necessary to review the possibility that the names listed are simply withdrawn without the knowledge and consent of the parties concerned. This must be proven by a statement made in writing by each class member that they include parties who feel that their interests have been harmed.

Based on Article 1 the Indonesian Supreme Court Regulation Number 1 of 2002, class action lawsuit is a procedure for filing a lawsuit, in which one or more people representing the group file a lawsuit for themselves or themselves and at the same time represent a large group of people, who have the same facts or legal basis between the representatives of the group and the members of the group in question. Meanwhile, group representative is one or more people who suffer losses who file a lawsuit and at the same time represent a larger group of people (Sinaulan, 2016).

In this regards, some legal scholars in Indonesia explained that there are two types of class actions lawsuit. First are Plaintiff Class Action and Defendant Class Action. Defendant Class Action is the filing of a lawsuit on a representative basis by one or more persons who are appointed to defend their own interests and the interests of a large number of groups. For several countries like UK, Australia, India, United States, and Canada as well as Indonesia use the Defendant Class Action. Second are Public Class Action and Private Class Action. Hybrid Class Action is a kind of class action efforts where there are several rights demanded by a group of people, but the object of the lawsuit is to obtain a judge's decision based on a claim against certain goods or property rights from the defendant. An example of this type of this class action case is the design of the steering wheel in the shape of an msa horn that endangers consumers in the event of an accident. There have been many victims who had accidents due to being stabbed by the steering wheel in the

form of deer antlers. Therefore, both drivers who have or have not had an accident can file a lawsuit with the car steering company, with several demands: some demand that it be replaced with a safe design, some demand a different steering wheel that is safe, and some demand compensation, which how much money for having an accident (Thalib, 2008).

Moreover, there is known a spurious class action as a class action judicial procedure in which several interests of unrelated group members relate to each other in the same matter against a defendant. An example of this lawsuit is for example the existence of a problem from a customer of hospitality. Block I Consumers complain that there is no clean water facility as promised by the developer. Block II Consumers complained about the absence of a playground and Block III consumers complained about the lack of good road facilities. Block I and II Consumers can file a class action lawsuit based on the problems he experiences. However, after the provisions of the 1938 Federal Rule of Civil Procedure were revised in 1966, the division was removed because it was often confusing in its application. But even though the federal legal system has been abolished, there are some states that still adhere to it, though not all types. The state of Louisiana still adheres to Tmecclass action and the state of Georgia still adheres to Spnrrious class action.

For several countries that unfollow the Common Law system, they do not recognize class action proceduress, but they have a procedure for filing a lawsuit that involves a large number of people on a representative basis (Maskanah, 2003). The following are lawsuits with dimensions of public interest outside of class action:

a. Action Popularis

According to Gokkel, *actio popularis* is a lawsuit that can be filed by anyone, without any restrictions, with regulation by the state. According to Kopenhagen-Edzes, in the *actio popularis* anyone can sue in the name of the public interest by using article 1401 Nieuw BW (Article 1365 BW). From these two opinions, it can be concluded that *actio popularis* is a lawsuit that can be filed by anyone against an unlawful

act in the name of the public interest, based on the regulations governing the procedure. In Black's Law Dictionary, public interest or public interest is the interest of the wider community or citizens in general related to the state or government.

However, an easier understanding of the general interest is the interest that must take precedence over personal or individual interests or other interests, which include the interests of the nation and state, public services in the wider community, the people at large and or development in various fields. The implementation of the public interest is the duty of the government, so that lawsuits by *actio popularis* are generally addressed to the government. However, it is possible that public services are also carried out by the private sector, so that the *actio popularis* lawsuit can also be filed against the private sector that participates in organizing the public interest.

*Actio Popularis* has something in common with a class action, which is both a lawsuit involving the interests of a large number of people on a representative basis by one or more people. What distinguishes it from class action is that in popular action, everyone who has the right to file a lawsuit is on the basis that he is a member of the community without requiring that he is the person who suffers a direct loss. In class action, not everyone can file a lawsuit, but only one or several people who are members of the group who suffer direct losses. The interests that are demanded in the *actio popularis* are the public interests which are considered the interests of every member of the community as well, while in the class action the interests that are demanded are the same interests in a problem that befell the group.

b. Citizen Law Suit

The principle of *actio popularis* in the civil law legal system is the same as the principle of citizen law suit in the common law legal system, for example in a lawsuit against a violation of environmental pollution filed by a citizen, regardless of whether the citizen experiences directly or indirectly from the pollution. This is because the issue of environmental protection is

in the public interest or the interests of the wider community, so every citizen has the right to demand it.

### c. Group Actions

Not a few legal practitioners who confuse the definition of class action and the concept of Non-Governmental Organizations (NGOs) claim rights. In fact, class action and NGO lawsuits have differences. The class representative lawsuit consists of one or more class representatives (class representatives) and class members who are generally large in number (class members). Both class representatives and class members are generally victims or those who experience real losses.

### Class Action Requirement in Indonesia Legal System

General requirements that need to exist include a large number of people, group demands are more practical, and representatives must be honest and adequate. It can be accepted by the group, and has a legal and factual interest from the party being represented. In addition, a class action can be a method for individuals who have similar claims to join together to make claims to be more efficient, and for someone who will take part in a class action must give approval to a representative (Rizaldi, 2015).

The role of the court is very large because every representative to go forward in court must obtain approval from the court, where the court will assess or pay attention to several points, such as: first, class action is the best course of action to file a lawsuit; second, having the same type of claim; third, the number of plaintiffs; and fourth, the representation is appropriate or appropriate. The basic uses of class action include case efficiency, an economical litigation process, avoiding repeated decisions that can risk inconsistencies in decisions in the same case (Editor, 2010).

Seeing from a judicial procedural point of view, a class action lawsuit is useful for justice seekers to get a legal right that has been violated through the civil route. This procedure is in line with the principle of cheap, practical, fast and efficient

judiciary as regulated in Law Number 14 of 1970 which has been amended by the Law Number 35 of 1999 on the Principles of Judicial Power. Then to adjust to the 1945 Constitution as a result of the amendment, the Law Number 35 of 1999 was again amended by the Law Number 4 of 2004 on Judicial Power (Santosa, 1999).

Based on the description above, the writer is interested in discussing how is the Class Action Lawsuit Mechanism? In this case, every citizen has the same rights before the law and he also has the right to defend his rights if he feels harmed by other parties. This is the rationale for the holding of civil lawsuit rules. In general, there are two types of class action lawsuits, namely lawsuits made outside the court known as non-litigation and lawsuits made through the courts are called litigation (Wiyanto, 2003). Therefore, a civil lawsuit can be the basis for holding a civil court. Class action is a method for individuals who have similar demands to join together to make demands to be more efficient, and also for someone who will take part in class actions must give approval to representatives. This means that the basic uses of class action include case efficiency, an economical litigation process, avoiding repeated decisions that can risk inconsistencies in decisions in the same case.

In the laws and regulations of the Unitary State of the Republic of Indonesia, there are several regulations governing the class action lawsuit, which are as follows:

a. The Law Number 8 of 1999 on Consumer Protection Article 46 Paragraph (1) Letter b states that "A lawsuit against a business actor's violation can be made by: (1) an aggrieved consumer or heir concerned; (2) a group of consumers who have the same interests, etc;"

b. The Law Number 41 of 1999 on Forestry Article 71 Paragraph (1) states that "The community has the right to file a representative lawsuit to the court and or report to law enforcement against forest damage that is detrimental to people's lives." Article 71 Paragraph (2) states that "The right to file a

lawsuit as referred to in paragraph (1) is limited to claims against forest management that are not in accordance with the prevailing laws and regulations." Article 73 Paragraph (1) states that "In the context of implementing forest management responsibilities, forestry sector organizations have the right to file a representative lawsuit in the interest of preserving forest functions." Article 73 Paragraph (2) states that "Forestry sector organizations that have the right to file a lawsuit as referred to in Paragraph (1) states that it has to meet the following requirements: (a) in the form of a legal entity; (b) the organization in its articles of association expressly states the purpose of establishing the organization for the sake of preserving forest functions; and (c) has carried out activities in accordance with its articles of association."

c. The Law Number 32 of 2009 on Environmental Protection and Management Community Lawsuit Article 91 Paragraph states that (1) "The community has the right to file a group representative lawsuit for their own interests and/or for the benefit of the community if they suffer losses due to pollution and/or environmental damage." Paragraph (2) states that "A lawsuit can be filed if there are similarities in facts or events, legal basis, and types of claims between group representatives and group members". Paragraph (3) states that "regarding the community's right to sue shall be carried out in accordance with the laws and regulations." The provision on Environmental Organization Lawsuit regulated in the Article 92 Paragraph (1), there is stated that "In the context of implementing the responsibility for environmental protection and management, environmental organizations have the right to file lawsuits in the interest of preserving environmental functions." Paragraph (2) states that "The right to file a lawsuit is limited to a demand to take certain actions without any claim for compensation, except for real costs or expenses."

d. The Law Number 17 of 2019 on Water Resources Article 61 Paragraph (1) stated that "In implementing Water Resources Management, the community has the right to: file a lawsuit to the court against various Water

Resources problems that are detrimental to their lives.

Besides that, the legal basis for carrying out a class action lawsuit is also referring to the Indonesia Supreme Court Regulation Number 1 of 2002 on the Procedure for a Class Action Lawsuit, which is stated that a representative lawsuit procedure must meet the following requirements:

a. The existence of a large number of members (Numerosity), is the number of group members (class members) must be so large that it is not effective and efficient if the lawsuit is carried out individually (individually);

b. There is commonality; there is a commonality of facts (events) and the similarity of the legal basis (question of law) between the representing parties (class representatives) and the represented parties (class members). Group representatives are required to explain the existence of this similarity;

c. Similarity (Typicality), Claims (for plaintiff Class Action) and defense (for defendant Class Action) from all members represented (class members) must be of the same type. In general, in a class action, the type of claim demanded is the payment of compensation;

d. Honest group representatives (Adequacy of Representation), Group representatives must have honesty and sincerity to protect the interests of group members represented, by fulfilling several requirements;

1) must have the same facts and or legal basis with the members of the group he represents;

2) have strong evidence;

3) honest;

4) have the sincerity to protect the interests of the members of the group;

5) has an attitude that does not put his own interests ahead of the interests of his group members; and

6) able to cope with paying court fees. The lawsuit, in addition to meeting the formal

requirements as stipulated in the Civil Procedure Code, must contain:

- a) complete and clear identity;
  - b) information about group members;
  - c) a detailed and specific definition of the group;
  - d) posita from all groups;
  - e) if the claims are not the same due to different nature and damages, then in one lawsuit it can be grouped into several parts or sub-groups;
  - f) Petition or petition for compensation, distribution mechanism and proposed team formation.
- e. If the requirements as mentioned above are not met, it may result in the claim being filed inadmissible. The parties that can file a class action lawsuit are as follows: (1) society; (2) non-governmental organizations; and (c) government.

#### Class Action Judicial Procedure in the Court System

In the laws and regulations in the Unitary State of the Republic of Indonesia, there are several regulations that regulate the Class Action lawsuit, as follows: (1) Consumer Protection Law Number 8 of 1999; (2) Forestry Law Number 41 of 1999; (3) Environmental Protection and Management Law Number 32 of 2009; and (4) Water Resources Law Number 17 of 2019. The lawsuit is registered with the general court, as soon as the judge decides that the filing of the class action lawsuit is valid, and the group representative notifies the group members through print/electronic media, government offices or directly to group members.

After notification is made, the group members within a certain period of time are given the opportunity to declare out of group membership. Furthermore, the trial process must be conducted in accordance with the provisions stipulated in the Civil Procedure Code (1) Examination of the

Parties; (2) Mediation; (3) Reading of the lawsuit by the plaintiff; (4) Answers from the defendants; (5) Plaintiff's reply or rebuttal to the answers that have been submitted by the Plaintiff; (6) Defendant's answer to the plaintiff's response in the replica; (7) the Evidence which is the submission of evidence and hearing witnesses; (8) Conclusion which is a resume and is read out simultaneously by both parties; and (9) Decision (Budi, 2021).

Based on Article 2 the Supreme Court Regulation Number 1 of 2002, a lawsuit can be filed using the Class Representative Lawsuit procedure if it is required several requirements, such as: (1) the number of group members is so large that it is not effective and efficient if the lawsuit is carried out individually or jointly in one lawsuit; (2) there are similarities in facts or events and similarities in the legal basis used which are substantial, and there are similar types of claims between group representatives and group members; (3) the group representatives have honesty and sincerity to protect the interests of the group members they represent; (4) the judge may recommend to the group representative to replace the lawyer, if the lawyer performs actions that are contrary to the obligation to defend and protect the interests of his group members (Najib, 2020).

The provisions of procedural law in class action in Indonesia are also specifically regulated in the Supreme Court Regulation Number 1 of 2002 on the Class Action Lawsuit, which is implemented in practice as long as it is not regulated by the Supreme Court Regulation Number 1 of 2002, the procedural law of class action also applies the provisions in the applicable Civil Procedure Code (HIR/RBg). To represent the legal interests of group members, group representatives are not required to obtain a special power of attorney from group members (Article 4 the Supreme Court Regulation Number 1 of 2002).

In the provisions of civil procedural law in Indonesia, there is no obligation for the parties (both Plaintiffs and Defendants) to be represented by other people or lawyers during the examination at trial. The parties can also directly advance in the examination process at



the trial. However, as with the usual trial process, the parties are usually represented or authorized by lawyers to appear in court. In the case of class action, the provisions of civil procedural law also apply which requires that if the representative of the group of parties is represented or accompanied by a lawyer, it is required to make a special power of attorney between the group representatives to the lawyer.

In some countries used the classaction procedure, they generally have the same general requirements, such as: (a) there are a large number of members (Numerosity). The number of group members (classnetnbers) must be so large that it is not effective and efficient if the lawsuit is carried out individually; (b) there is commonality. The commonality of facts or events and a common legal basis (guestion of law) between the representing parties (class representatives) and the represented parties (classmenibers), which the group representatives are required to explain the existence of this similarity; (c) Similar (Typicality) The demands (for plaintiff Class Action) and defense (for defedant Class Action) from all members represented (class menibers) must be the same. In general, in a class action, the type of claim demanded is the payment of compensation; (d) honest group representatives (Adeguacy of Representation) Group representatives must have honesty and sincerity to protect the interests of the group members represented. To determine whether the group representative has the Adeguacy of Representation criteria is not easily, because it really depends on the judge's judgment. Thus, to represent the legal interests of group members, group representatives are not required to obtain a special power of attorney from group members. However, in the event that the group representative represents the proceedings to a lawyer, the group representative must provide a special power of attorney to the lawyer of his choice.

Refering to the above description, it can be emphasized here that the elements of class action judicial procedure consist of several points, such as: (a) civil litigation; and (b) group representative (class representative), which there are similarities in specific facts or events

and the similarity in legal basis (question of law) between the representing party (class representative) and the represented party (class member). There are requirements that must be met in using class action procedures. Failure to meet these requirements may result in the claim being filed inadmissible.

#### Class Action Judicial Benefits in the Indonesia Court System

There are several benefits that can be obtained when filing a lawsuit using the class action procedure. John Basten sees that there are five benefits that can be obtained, such as: firrst, regulate the settlement of cases involving many people that cannot be submitted individually; and second, ensuring that claims for small compensation and limited funds are appropriate. Meanwhile, the Ontario Law Reform Commission sees three benefits that can be obtained from the class action procedure, namely: (a) achieve a more economical judiciary, and (b) provide greater opportunities to court and c) change the inappropriate behavior of violators or potential offenders (Basten, 1996).

In general, there are also two benefits that can be obtained when using class action procedures (Rosenfield, 1976). First, the litigation process becomes very economical (judicial economy). It is no secret for the public that litigation in court will cost a lot of money. For the Plaintiff, by going through the ciass action mechanism, court fees and costs for lawyers are cheaper compared to individual lawsuits, which sometimes do not match the amount of compensation to be received. Not a few parties (individuals) have expressed their intention to settle their cases, by filing a lawsuit to the court due to the high cost of the case and attorney's fees. Economic benefits are not only carried out by the Plaintiff but also by the Defendant, because by filing a class action lawsuit, the defendant only pays one time to serve the lawsuit from the aggrieved parties. As for the court itself, it is very uneconomical to have to serve similar lawsuits one by one and continuously and in large enough numbers

Second, it must be guaranteed an access to justice in encouraging careful behavior (behavior modification) and changing the attitude of violators. Filing a class action lawsuit can "punish" the party who is proven guilty, responsible for paying compensation in the amount intended for all victims sufferers (in a more concise way) as a result of their unlawful acts. This can encourage each party or business person in charge (private or government) to act extra cautiously. In addition, by frequently filing class action lawsuits, it is expected to change the attitude of the perpetrators of violations so as to foster a deterrent attitude for those who have the potential to harm the interests of the wider community.

Although there are many benefits that can be obtained in filing a class action lawsuit, it does not mean that it does not have weaknesses. Some of the disadvantages of the class action procedure such as: (a) difficulty in managing. The larger the number of group members, the more difficult it is to manage a class action lawsuit. The difficulties that occur are usually at the time of notification and distribution of compensation. The large number of group members and spread in several unequal areas will make it difficult in terms of notification and require no small amount of money. If the lawsuit is won and compensation is given, it is not impossible that the amount of compensation is not commensurate with the distribution costs; (b) it can lead to injustice. If the procedure chosen to determine membership is the optout procedure, there is no optout statement from people who are potential members of the group, just because they are not aware of the notification will result in them becoming members of the group with all the consequences. The consequence is that they will be bound by the decision handed down by the judge. The problem is that if the lawsuit is defeated or counterclaimed, the group members must also bear the consequences; and (c) it can cause bankruptcy of the defendant. The mass media coverage and the notification of class action lawsuits in the mass media can be an attack on the position or power of the defendant. Usually media readers will have bad prejudices. Even though it is not necessarily the defendant is the

guilty party because whether or not the defendant is true still has to be proven by the court (Wulandari & Yusa, 2016).

Legal recognition of the existence of class actions lawsuit in Indonesia is regulated in the Environmental Management Law, like in Article 37 paragraphs (1) and (2), which is specifically regulated in the Supreme Court Regulation Number 1 of 2002 on Class Action Judicial Procedures. For example, the Jakarta High Court won a class action lawsuit against the residents of Bukit Duri against the Jakarta Regional Government last July. The decision upheld the decision of the Central Jakarta District Court in October 2017 which sentenced the Jakarta Provincial Government and other defendants to pay compensation to residents totaling more than 18 Billion Rupiahs. The lawsuit stems from the eviction of the residents of Bukit Duri by the previous Governor of Jakarta, Basuki Tjahja Purnama (Ahok), in 2016. The residents who feel their rights have been violated then file a class action. This Bukit Duri resident class action is not the first. Previously, it was recorded that there was a court decision that granted the class action of citizens against the KPU who were harmed because they could not vote in 2004. There was also a lawsuit by representatives of flood victims against the DKI Provincial Government in 2002. But what and how is a class action lawsuit? We help refresh your memory by writing below (Hibatullah, 2018).

In terms of regulations, class action lawsuits in Indonesia have been known since the Law Number 23 of 1997 on the Environment. It is also in the Consumer Protection Act and the Forestry Law issued in 1999. Then, the Article 1 of the Supreme Court regulates this concept through Supreme Court Regulation Number 1 of 2002 stated that a class action lawsuit as a procedure for filing a lawsuit, in which one or more people representing a group file a lawsuit for themselves or themselves and at the same time represent a large group of people who have the same facts or the legal basis between the group representative and the group member in question.

Thus, in the case of the lawsuit by the residents of Bukit Duri above, there were four representatives of the group who were the plaintiffs in the trial. At the same time, they acted on behalf of the group of 89 families who felt that their rights had been harmed by the evictions carried out by the provincial government. So it is clear, this class action lawsuit aims to facilitate public access in obtaining justice and efficiency in resolving violations of the law that harm many people. If these two goals are achieved, then the dream that justice can be conducted in a simple, fast, low cost, and transparent manner will be closer and more effective. Shortly, the application of class action in Indonesia is less effective, because this is due to a lack of knowledge from the community and law enforcement themselves regarding the procedure for class action. This shows that civil cases submitted to the court through class action are sometimes rejected by judges due to the lack of material and formal requirements.

## CONCLUSION

Class action or representative lawsuit is a judicial procedure in civil cases that gives procedural rights for one or a number of people (not many) to act as plaintiffs to fight for the interests of hundreds, thousands or millions of other people who experience the same suffering or loss. It is also a judicial procedure for a person or a number of people who appear as Plaintiffs are referred to act as the class representatives, while a large number of people they represent are called class members. The litigation process will become very economical (judicial economy) because it is no secret to the public that litigation effort in the court system will cost a lot of money, and of course, there are encourages behavior modification to be carefull and changes in the perpetrators attitude from the violations. Therefore, class action lawsuit can be taken by a group in judicial effort to resolve a dispute that is motivated by good reasons in accordance with its objectives. It is more directed in simplifying an access for the community in obtaining justice, as well as making efficient settlement of law violations

that harm many people. Through class action lawsuit, there is hoped that it will be able to realize the provisions stipulated in the judicial power, which the trial is carried out in a simple, fast and low cost, or what is often referred to as the principle of the trilogy of justice. Despite it becomes part of judicial efforts to access to justice, there may be discovered many challenges and legal critics, starting from determining the membership of the group itself to the compensation that was deemed small and inappropriate.

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