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Fighting State Negligence: Class Action Lawsuits as an Instrument of Justice for Flood Victims (An Analysis of the Banjarmasin State Administrative Court Decision and its Relevance for West Java Flash Floods 2025)

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Abstract: Class action lawsuits have become an important instrument in fighting for justice for victims of natural disasters in Indonesia, as seen in the 2021 South Kalimantan flash flood case. This study analyzes the effectiveness of class action lawsuits as a corrective justice mechanism under Law No. 24 of 2007 on Disaster Management by examining the Banjarmasin State Administrative Court Decision No. 6/PEN-HS/2021/1/PTUN.BJM and its relevance to the West Java 2025 flash flood. Through a juridical-normative approach with document analysis of court decisions, the research shows that although the lawsuit required significant resource mobilization and was unsuccessful in obtaining material compensation that should have been the right of victims according to Article 26 letter (d) of Law No. 24 of 2007, it proved effective in forcing disaster management policy reform. The South Kalimantan case led to the procurement of an early warning system worth IDR771.5 million and supporting infrastructure worth IDR2.2 billion. Comparative analysis identified similar patterns of institutional negligence in both disasters: unpreparedness of early warning systems, slow emergency response, and neglect of the impact of environmental damage due to land conversion. This research confirms that despite evidentiary challenges and bureaucratic resistance, class action lawsuits remain a vital instrument in promoting government accountability and structural reform in disaster management as mandated by Law No. 24/2007.

Keyword: Class Action Lawsuit, Disaster Management, Government Negligence

Abstrak: Gugatan class action menjadi instrumen penting dalam memperjuangkan keadilan bagi korban bencana alam di Indonesia, seperti yang terlihat pada kasus banjir bandang Kalimantan Selatan tahun 2021. Penelitian ini menganalisis efektivitas gugatan class action sebagai mekanisme keadilan korektif berdasarkan UU No. 24 Tahun 2007 tentang Penanggulangan Bencana dengan mengkaji Putusan PTUN Banjarmasin No. 6/PEN-HS/2021/1/PTUN.BJM dan relevansinya dengan banjir bandang Jawa Barat 2025. Melalui pendekatan yuridis-normatif dengan analisis dokumen putusan pengadilan, penelitian ini menunjukkan bahwa meskipun gugatan tersebut membutuhkan pengerahan sumber daya

yang cukup besar dan tidak berhasil mendapatkan ganti rugi materiil yang seharusnya menjadi hak korban menurut Pasal 26 huruf (d) UU No. 24 Tahun 2007, gugatan tersebut terbukti efektif dalam mendorong reformasi kebijakan penanggulangan bencana. Kasus di Kalimantan Selatan berujung pada pengadaan sistem peringatan dini senilai Rp771,5 juta dan infrastruktur pendukung senilai Rp2,2 miliar. Analisis komparatif mengidentifikasi pola kelalaian institusional yang serupa pada kedua bencana tersebut: ketidaksiapan sistem peringatan dini, lambatnya tanggap darurat, dan pengabaian terhadap dampak kerusakan lingkungan akibat alih fungsi lahan. Penelitian ini menegaskan bahwa meskipun terdapat tantangan pembuktian dan resistensi birokrasi, gugatan perwakilan kelompok tetap menjadi instrumen penting dalam mendorong akuntabilitas pemerintah dan reformasi struktural dalam penanggulangan bencana sebagaimana diamanatkan oleh UU No. 24/2007.

Kata Kunci: Gugatan Perwakilan Kelompok, Penanggulangan Bencana, Kelalaian Pemerintah.

INTRODUCTION

Indonesia as a tropical archipelago is highly vulnerable to natural disasters, including floods, which occur almost every year. Flooding is not only a routine phenomenon, but has developed into a social disaster when the state fails to protect its people. The flash floods that hit South Kalimantan in January 2021 and West Java in early 2025 show a recurring pattern of government negligence, especially in risk mitigation, early warning systems and emergency response. When losses are not only material, but also involve the loss of security and the right to a good living environment, fundamental questions arise: to what extent is the state responsible?

The 2021 South Kalimantan flash flood was the largest disaster in the province in the past decade, displacing more than 100,000 residents and causing losses estimated at hundreds of billions of rupiah. Research by WALHI and various environmental NGOs suggests that the floods were not solely the result of extreme rainfall, but rather due to massive land conversion in the Barito watershed, with 50% of the area having been converted to mining and oil palm plantations in the last two decades (WALHI South Kalimantan, 2021, pp. 5-7). However, the provincial and central governments tend to avoid responsibility and blame natural conditions. The government's slow and uncoordinated response prompted the affected communities to take legal action through a class action lawsuit.

The lawsuit was filed by 53 residents to the Banjarmasin State Administrative Court (PTUN) and recorded as case No. 6/PEN-HS/2021/PTUN.BJM. In its verdict, the panel of judges partially granted the citizens' lawsuit, declared the government negligent in fulfilling the citizens' right to disaster protection, and ordered the government to improve environmental governance policies and mitigation infrastructure. The verdict, although it did not provide direct material compensation, had a major impact in encouraging policy reform, with the South Kalimantan Provincial Government budgeting more than Rp2.9 billion to build an early warning system and strengthen embankments in flood-prone areas.

This class action lawsuit sets an important precedent. As a mechanism stipulated in Perma No. 1 of 2002, class action provides legitimacy for a group of victims to hold the state responsible for losses arising from systemic policies (or omissions). However, the use of this mechanism in Indonesia still faces serious challenges: from the difficulty of proving the causal link between policy and disaster, to bureaucratic resistance, to barriers to financing and access to legal aid.

In early 2025, West Java was again hit by major flash floods in several areas such as Garut and Subang Regencies. The media recorded that more than 60,000 people were

affected, with more than 2,000 houses severely damaged and economic losses reaching Rp300 billion. Some preliminary analysis suggests that the root causes are not much different from the South Kalimantan case: massive land clearing, weak early warning systems, and poor emergency response coordination. However, until now there has been no significant legal action taken by affected residents. This is where the relevance of comparative studies becomes important.

Using the case of a class action lawsuit in South Kalimantan as a reference to jurisprudence and practice, this research aims to analyze the possibility and relevance of a similar mechanism being used in the context of the West Java 2025 floods. Substantive justice for disaster victims is not sufficiently enforced through social assistance alone, but also through legal accountability for structural negligence of the state.

As a state of law (Article 1 paragraph 3 of the 1945 Constitution), the Indonesian government is obliged to ensure the protection of citizens' rights, including in disaster situations. Law No. 24/2007 on Disaster Management confirms that the organization of disaster management is the responsibility of the government and is part of public services. In Article 26 letter (d), it is emphasized that disaster victims are entitled to compensation assistance for loss of property and work due to disasters. If these rights are ignored, then legal recourse, including through class action, becomes natural and necessary.

This research focuses on class action lawsuits as an important corrective justice instrument in the Indonesian legal system, especially in the context of ecological disasters involving government negligence. The comparative study between South Kalimantan 2021 and West Java 2025 is expected to show patterns of systemic wrongdoing, while paving the way for policy reform and strengthening the rights of disaster-affected communities.

The purpose of this research is to analyze the effectiveness of class action lawsuits as a corrective justice mechanism based on Law No. 24 of 2007 concerning Disaster Management by examining PTUN Banjarmasin Decision No. 6/PEN-HS/2021/1/PTUN.BJM and its relevance to the West Java 2025 flash flood.

METHOD

This research uses a juridical-normative method with a case study approach and comparative case analysis. The juridical-normative approach is used to examine legislation, legal doctrine, and principles relating to state responsibility in disaster management, particularly as stipulated in Law No. 24/2007 on Disaster Management and Supreme Court Regulation No. 1/2002 on Class Action. This approach allows researchers to identify legal norms that form the basis of citizen lawsuits against state institutional negligence.

A case study was conducted on PTUN Banjarmasin Decision No. 6/PEN-HS/2021/PTUN.BJM which became an important precedent in the practice of class action lawsuits in the field of natural disaster management. The decision document was analyzed using systematic and teleological interpretation techniques to reveal the legal argumentation used by the panel of judges and its impact on public policy reform.

To measure the relevance and applicability of similar lawsuits in the context of the West Java 2025 flash floods, a comparison was made to empirical conditions in the field based on WALHI reports, national media coverage, and data from BNPB. This method aims to identify similar patterns of structural negligence that can be the basis for lawsuits.

The analysis was conducted by integrating corrective justice theory as a normative foundation and framework for thinking about the relationship between victims and the state. This methodology allows researchers to bridge private law theory and public law practice in the context of disaster collective litigation.

RESULT AND DISCUSSION

Juridical Analysis of the Banjarmasin State Administrative Court Decision No. 6/PEN-HS/2021/PTUN.BJM

Summary of Legal Facts

In January 2021, South Kalimantan Province experienced the worst flash flood disaster in its history. The floods hit 11 districts/cities, including Banjar Regency, Hulu Sungai Tengah, Tanah Laut, and Banjarmasin City. Thousands of houses were submerged, tens of thousands of residents were displaced, and casualties occurred. Based on data from the National Disaster Management Agency (BNPB), the disaster was caused by extreme rainfall combined with environmental degradation in the Barito watershed, including deforestation, land conversion, and weak spatial control.

In response to the disaster, the Legal Aid Institute (LBH) and the Indonesian Forum for the Environment (WALHI) of South Kalimantan, together with 53 affected residents, filed a class action lawsuit against the South Kalimantan Provincial Government, specifically against the Governor of South Kalimantan. The lawsuit was filed with the Banjarmasin State Administrative Court (PTUN) with case register No. 6/PEN-HS/2021/PTUN.BJM.

The plaintiffs argued that the flooding was not merely a natural disaster, but was a direct result of the government's negligence in carrying out its constitutional and administrative duties in the field of environmental protection and disaster risk mitigation. The lawsuit is based on, among others, Law No. 24/2007 on Disaster Management and Supreme Court Regulation (Perma) No. 1/2002 on Class Actions. The plaintiffs accused the government of failing to supervise land conversion, especially in the Barito watershed, which accelerated the rate of ecosystem destruction and increased flood risk.

Analysis of Legal Considerations by the Panel of Judges

In its verdict, the Panel of Judges of PTUN Banjarmasin stated that the South Kalimantan Provincial Government had committed unlawful acts by government agencies and/or officials (*onrechtmatige overheidsdaad*), because it did not carry out its legal obligations in the field of environmental management and disaster management as stipulated in Law No. 24 of 2007, Law No. 32 of 2009 concerning Environmental Protection and Management, and its derivative laws and regulations.

The judge stated that there was strong evidence showing that the government failed to supervise land exploitation activities, mining licenses, and land use changes in the upstream area of the Barito watershed. These activities took place massively without adequate control, causing a loss of soil absorption capacity and disruption of ecosystem balance. In fact, the government has a legal obligation to control and prevent environmental risks through a mitigation approach, as stipulated in Articles 44 and 45 of Law No. 24 of 2007.

The Tribunal also highlighted the absence of an early warning system and weak institutional preparedness as additional evidence of administrative negligence. The government is considered to have no effective standard operating procedures (SOPs) for dealing with hydrometeorological disasters, even though the South Kalimantan region is geologically and climatologically classified as a flood-prone area. As a result, thousands of residents became victims without having the opportunity to receive proper protection or warning.

The decision of PTUN Banjarmasin reflects a progressive approach to the principle of government due diligence in protecting the basic rights of citizens, including the right to a good and healthy environment (Article 28H of the 1945 Constitution) and the right to security from disasters. This decision also emphasizes that structural failures in governance can have juridical consequences.

Evaluation of the Effectiveness of Class Action Lawsuits

While this lawsuit did not result in direct financial compensation to the victims, its effectiveness was felt in strategic and structural aspects.

First, the ruling forced the South Kalimantan Provincial Government to take corrective measures. The government allocated IDR771.5 million to build an early warning system and IDR2.2 billion to build flood management infrastructure in critical areas. This is a substantial form of non-material remedy.

Second, this lawsuit sets an important precedent in class action practice in Indonesia. In legal practice, class action is often considered an effective instrument to voice public interests that are individually difficult or not worth fighting for. In the context of natural disasters, where the impact is widespread and touches on the constitutional rights of citizens, this mechanism has proven capable of promoting vertical accountability to executive power.

Third, the lawsuit opened up space for citizen participation in controlling environment-based public policies. Research by Saragih and Nugroho (2022) shows that the success of this lawsuit encouraged the birth of environmental advocacy forums at the local level, and strengthened the role of civil society in monitoring environmental licensing and governance (Saragih & Nugroho, 2022, p. 129).

However, challenges remain. The lawsuit does not necessarily change the structure of administrative law that triggers ecological disasters. The verdict is only declarative and corrective in nature, not going into punitive territory or strict sanctions against negligent officials. This shows the limited jurisdiction of PTUN in touching the individual accountability of public officials.

Juridical and Policy Reflections

This decision emphasizes that the disaster management paradigm must shift from a reactive to a preventive approach. Local governments have constitutional and administrative obligations to conduct risk governance based on science, law and social justice. This is in line with the principles of good governance, particularly the principles of accountability, transparency and community participation.

Normatively, this decision also strengthens the legal position of Article 26 of Law No. 24/2007, which gives the public the right to obtain correct, fast, and precise information about potential disasters. In addition, this decision is in line with Article 1365 of the Civil Code regarding tort, which states that every act that violates the law and causes harm to others obliges the perpetrator to compensate for the loss.

Relevance of Class Action Lawsuit for the West Java Flood 2025 Case

Disaster Background and Structural Issues

In March 2025, the West Java region was again hit by a major flood disaster, especially in Bekasi Regency and its surroundings. The floods caused extensive damage: thousands of houses were submerged, public infrastructure was paralyzed, and thousands of people fled to temporary shelters that lacked facilities. Behind the disaster, preliminary investigations from the Bekasi Legal Aid Institute (LBH), WALHI West Java, and a number of environmental organizations revealed fundamental structural problems. Not only due to extreme weather factors and high rainfall, this flood also reflects weak local governance, especially in controlling land use change, poor spatial supervision, and the absence of early warning systems and community evacuation simulations.

This condition is very similar to the case of major floods in South Kalimantan in 2021, which later became the basis for the birth of a progressive decision from the Banjarmasin State Administrative Court (PTUN) through case No. 6/PEN-HS/2021/PTUN.BJM. In this case, a class action lawsuit filed by affected communities and accompanied by WALHI

proved effective in pressuring the government to make corrections to disaster mitigation policies. By looking at the parallelism between these two events, an important juridical question arises: to what extent is the relevance of the class action mechanism applied to flood cases in West Java?

Legal Basis and Formality

Normatively, Law No. 24/2007 on Disaster Management has provided a strong foundation to hold the state responsible in the event of negligence in the implementation of mitigation, preparedness and disaster management functions. Article 26 letter (d) explicitly states that the government is obliged to guarantee the protection of the rights of disaster victims, including through early warning systems and risk governance based on disaster risk reduction (DRR). Meanwhile, Article 55 paragraph (2) states that the government's failure to carry out these duties can be legally challenged.

Thus, if residents affected by the Bekasi floods can prove that their losses are the result of government negligence-whether in the form of neglect of spatial planning violations, unpreparedness of the emergency response system, or lack of prevention efforts-then class action becomes a valid and relevant legal tool. This instrument can be filed based on Supreme Court Regulation (Perma) No. 1 of 2002 concerning Class Action Procedures, which regulates the formal mechanism for groups of victims who have the same legal interests to sue collectively.

Lessons from the South Kalimantan Precedent

The Banjarmasin State Administrative Court's decision in the South Kalimantan case became an important jurisprudence in the context of class action lawsuits over ecological disasters. Although it did not provide direct material compensation to victims, the verdict was widely recognized as a corrective measure that succeeded in forcing the government to make systemic improvements, including special budget allocations for the development of early warning systems and flood management infrastructure (Saragih & Nugroho, 2022).

In terms of legal reasoning, the Panel of Judges in the decision recognized the causal relationship between the government's administrative omission of environmental damage and the emergence of flood disasters. The judges also used a corrective justice approach, as explained by Nadler (2020), namely that public law can be used to correct unequal relations between the state and citizens, especially when citizens' basic rights are violated by structural negligence.

Thus, the legal logic used in the South Kalimantan case can be a direct reference in building a class action lawsuit argument for the West Java flood case, utilizing the doctrines of state liability and citizen rights-based litigation.

Practical and Sociological Challenges

Although normatively and juridically class action lawsuits are very relevant, their implementation in West Java certainly faces its own challenges. First, weaknesses in loss documentation and administrative evidence are major obstacles. Many victims do not have official records related to property losses or loss of income, which makes the lawsuit lose its evidentiary strength in the quantum loss aspect.

Second, organizing victims is also not easy. Affected communities are generally dispersed, lack legal capacity, and not all are aware of their rights. Without facilitation from civil society organizations (CSOs) or legal aid agencies, potential class actions may fail at an early stage because they do not meet the administrative requirements in Perma No. 1 Year 2002, such as group clarity, proper representation, and homogeneous legal interests.

Third, resistance from the government is also a challenge. In public narratives, governments often frame disasters as "natural" or "fateful" phenomena, rather than as a result of managerial failures. This obscures state responsibility and weakens public pressure on the government. Therefore, the role of media and public awareness campaigns is crucial to build support for litigation measures.

Socio-Political and Human Rights Relevance

A class action lawsuit in the context of the West Java floods is not only legally important, but also highly relevant from a socio-political and human rights perspective. Floods are ecological events whose impacts are not socially neutral. Vulnerable groups such as the poor, the elderly, women and children are the most affected, but are often the least heard in the public policy decision-making process.

Public litigation through class action mechanisms can be a tool to restore these unequal power relations, by making the courts an alternative democratic space. In addition to providing a deterrent effect to public officials, this step also builds people's legal literacy about their rights, and strengthens the role of civil society as a watchdog of state power.

In the long term, the use of class actions for ecological disaster cases such as floods can strengthen human rights and environment-based strategic litigation in Indonesia, and expand the scope of access to justice for marginalized communities. This is in line with the principle of access to justice guaranteed in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia and Article 3 of Law No. 39 of 1999 concerning Human Rights.

Comparisons and Legal Implications

Comparison of South Kalimantan and West Java Cases

The class action lawsuit filed by 53 South Kalimantan residents against the Governor of South Kalimantan in 2021 is an important precedent in the practice of environmental litigation in Indonesia. The lawsuit was filed following flash floods that hit 10 districts/cities and displaced more than 100,000 people. The plaintiffs argued that the local government was negligent in mitigating disaster risks, mainly due to a weak early warning system, inadequate spatial supervision, and lack of coordination in disaster management (Project Multatuli, 2021).

The Banjarmasin State Administrative Court (PTUN) in Decision Number 6/PEN-HS/2021/PTUN.BJM partially granted the plaintiffs' lawsuit. In its ruling, the court ordered the government to build and maintain a flood early warning system, as well as improve disaster risk communication to the public. Although the verdict does not provide direct material compensation to the plaintiffs, it has a significant corrective impact on public policy. The verdict is in line with the provisions of Article 26 letter d of Law No. 24/2007 on Disaster Management, which stipulates the right of the public to obtain correct, prompt and precise information regarding disasters.

In contrast, the floods that hit Bekasi and surrounding areas in early March 2025 showed a similar pattern of negligence. The floods resulted in thousands of homes being submerged, economic activity disrupted, and huge losses for the community. Initial investigations showed that the main causes of the floods were uncontrolled land use change, poor drainage systems, and the absence of an adequate early warning system. Although the discourse on class action lawsuits has emerged in the public sphere and media, to date no formal lawsuit has been filed by affected communities.

In terms of legal substance and social conditions, there are strong contextual similarities between the South Kalimantan case and the potential lawsuit in West Java. Both involve the government's failure to fulfill its constitutional obligations to protect the right to a good and healthy environment and the right to security from disasters. However, factors such as the

capacity of citizen organizations, access to legal aid, and the courage to sue public officials remain key differentiators between the two cases.

Legal and Policy Implications

From a legal perspective, the success of the class action lawsuit in South Kalimantan strengthens the principle that public officials can be held legally accountable through administrative courts if proven negligent in exercising their authority. This is in line with the doctrine of corrective justice, which emphasizes the importance of restoring victims' losses due to the negligence of the authorities. According to Weinrib (2002), corrective justice focuses on the relationship between the perpetrator and the victim, where the perpetrator is obliged to restore the harm caused to the victim.

Moreover, the policy implications of this litigation practice are significant. A class action lawsuit is not only a judicial tool, but also a political and social pressure that can accelerate structural reforms in disaster management. In South Kalimantan, the lawsuit led to the procurement of an early warning system worth IDR771.5 million and the construction of supporting infrastructure amounting to IDR2.2 billion - proof that legal pressure can result in real change in public policy.

In the case of West Java, if a class action lawsuit is actually filed, it will serve as a check and balance instrument on the bureaucratic inaction and unpreparedness of local governments in dealing with disasters. More broadly, the lawsuit could pave the way for the establishment of new jurisprudence in environmental-based disaster litigation, as well as strengthen the position of victims as active legal subjects, not just objects of state assistance.

Theoretical Perspectives on Corrective Justice and State Responsibility

In the context of environmental law and disaster management, the principle of corrective justice plays an important role in assessing the state's responsibility for the harm suffered by the community. Corrective justice emphasizes the restoration of the victim's position to its original state before the violation or negligence occurred. In this case, the state as a government organizer has an obligation to ensure that policies and actions taken do not harm the community, and is responsible for negligence that causes harm.

Furthermore, the corrective justice approach in civil law, particularly in the context of state responsibility, requires effective legal mechanisms to hold governments accountable. This includes access to a fair trial, transparency in the legal process, and the courage of the people to claim their rights through legal channels.

CONCLUSION

The class action lawsuit in the context of the 2021 South Kalimantan flood disaster is an important precedent in efforts to fight for justice for disaster victims in Indonesia. Through analysis of the Banjarmasin State Administrative Court Decision No. 6/PEN-HS/2021/1/PTUN.BJM, it can be seen that although the lawsuit did not succeed in obtaining direct material compensation, it substantively succeeded in encouraging concrete disaster management policy reforms. The local government being ordered to build an early warning system and improve disaster information mechanisms is a form of corrective justice that shows that legal instruments can be a tool for structural change when the state neglects its obligations.

Comparisons with floods in West Java in 2025 indicate a similar pattern of institutional negligence, namely weak risk mitigation, slow emergency response, and negligent spatial planning. However, the absence of class action lawsuits in West Java reflects non-judicial challenges such as limited access to legal aid and low legal literacy.

This research shows that class action lawsuits, although complex and facing evidentiary challenges and bureaucratic resistance, remain a vital instrument in demanding government accountability. In the midst of the threat of climate crisis and the increasing intensity of disasters, the strengthening of legal mechanisms such as class actions is becoming increasingly relevant, both as a means of recovery for victims and as a reminder that the state's responsibility does not stop at providing assistance, but includes the protection of the rights of citizens as a whole.

For this reason, it is recommended that local governments be more open to legal criticism, while civil society and universities strengthen the advocacy capacity of disaster victims to be more empowered in demanding justice through legal channels.

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