

Class Action in the Civil-Court Legal System: A Legal-Theoretic Analysis

I Ketut Tjukup

Doctorate Law Program, Post Graduate Studies, Udayana University,
INDONESIA.

ketut.tjukup@gmail.com

ABSTRACT

Civil Procedure Code in Indonesia based on HIR and RBg did not regulate the legal form of class action. In theory and practice, this form of class action law was very useful and could realize simple, fast and low cost judicature. PERMA No. 1 2002 soon needed refinement and judges should play a major role or be active in applying this form of class action law. It was necessary to do a comparative study on countries whose civil justice system had successfully implemented a class action. Inspection mechanisms needed simplification and should not hinder the process of examination and application of a class action lawsuit. The rights and obligations between the representatives of the class were that the power relations and their representation must be honest. Specifically in Indonesia at first lawsuit (Class Action) was regulated in material law i.e. in the Law No.23 of 1997 on Environmental Management, Law No. 8 of 1999 on Consumer Protection and Law 41 of 1999 on forestry. The three laws had not been equipped with a judicial procedure in Class Action, this judicial procedures pointed to the civil procedure law, as well as any claim submitted to the district court through the Class Action was always rejected and not accepted by reason of the procedure Class Action was a legal form in Anglo-Saxon legal system and was not known in Indonesia that followed the Continental European Law system. Onset cases detrimental to the public in large numbers and RBg HIR as a source of civil law were no longer adequate and because of the useful guidance from the public, Class Action was to overcome bottlenecks judicial proceedings, thus the Supreme Court for its authority issued PERMA No. 1 of 2002 on Class Action Procedures.

Keywords: Civil Procedure Law, Class Action

INTRODUCTION

Background of the Study

The Indonesian positive law (*ius constitutum*) in the domain of legal law or civil law was HIR STB 1848 No 16, STB 1941 No 44 applicable in the jurisdiction of Java and Madura, RBg 1927 No 227 was applicable in the jurisdiction outside Java and Madura. According to the provision of article 123 HIR and article 147 clause (1) RBg: Both parties if they desired could request for assistance or representative to an attorney who had been assigned for that purpose and should be made by writing an authorization letter otherwise the entity giving the authority were present.

The Law of Civil Procedure according to the HIR and RBg did not recognize any form of class Action law. The legal form of class Action was known in the Anglo Saxon legal system. Indonesia whose patterns of legal system follow the Continental European legal system tradition does not recognize this Class Action Law. Only in its later development in the Indonesian legal system the class action was specifically regulated in the environmental law,

i.e. Code No. 23 year 1997 on the Living Environmental Management, Code No. 8 year 1999 on Consumer Protection and Code No. 41 year 1999 on Forestry.

The three kinds of Codes just regulated in the material law, whereas code procedure in its formal, legal class action which was applicable, referred to the law of Civil Procedure HIR and RBg. The development in the system of the Indonesian court of civil justice and in order to fill the legal vacuum (*rechtvacuum*) on the procedure of the *Class Action* examination process and the demand of legal development in the society and in order to overcome the obstacle course of civil judicial process the Attorney General issued PERMA No. 1 Year 2002 on Class Action Procedure.

Seeing the legal facts in the society nowadays the problems concerning public interests and harming them a great deal happened the more frequently, the existing law of civil procedure, i.e. the HIR and RBg were not sufficient anymore so that there was a new demand for a national law, i.e. Class Action. According to Mas Achmad Santoso, in the context of judicial lawsuit which involved a large number of plaintiffs, then establishing Class Action was very relevant in Indonesia.² Mas Achmad Santoso further said that Class Action had three advantages:

First, the economically related court case process with class action binding meant that the repetition of similar individual lawsuits could be avoided. It was not economical for the court to process similar lawsuits individually. The defendant also could have an economic advantage because by class action the defendant had to pay the cost only once to serve the lawsuit of the victims.

Second, access to justice if the lawsuit/claim was presented individually will cause a burden to the prospective plaintiff. This kind of burden often became an obstacle for someone to fight for his/her right in the court. This was the more so when the cost for the lawsuit that s/he had to pay later was not balanced with the claim being presented. Through the class action procedure this economical obstacle could be overcome if the victims join together in one lawsuit.

Third, the behaviour modification of the violation when the Class Action procedure was applied meant that it gave a wider access to the justice seeker by presenting his/her claim by way of cost efficiency. Access to this class action would be likely to open an opportunity to encourage a change in attitude of those who could potentially harm the interests of the wider community. We called this kind of opportunity an opportunity of deterrent effect.³

Class action could make the judicature be more simple, faster and inexpensive. According to Daryatmo, by class action for the case it was enough to be represented by one or some of the victims who filed a civil action before the local district court. When in its decision which had permanent legal binding, the victim was won, other victims could immediately ask for compensation without filing new claims.⁴

The development of a class action in the civil judicial practice in Indonesia each lawsuit originally proposed by each community (the victims) had been rejected or not accepted by the court on the grounds that the law of civil procedure applicable in Indonesia was not familiar with the judicial procedure in the class action. Before the issuance of PERMA No. 1 year 2002, and after class action was regulated in Code No. 23 year 1997 (UUPLH) according to Susanti Adi Nugroho, since then had emerged to the surface class action claims, be it from those who filed on behalf of the victims of environmental pollutions or claims on behalf of

² Mas Achmad Santosa. (1998). *Konsep dan Penerapan Gugatan Peradilan (Class Action)*. Jakarta: ICEL. p. 13.

³ *Ibid*, pp. 13-14.

⁴ Sudaryatmo. (1996). *Masalah Perlindungan Konsumen di Indonesia*. Bandung: Aditya Bakti. pp. 93-94.

the consumer interest, or class actions which were filed to the central or local government because of negligence in management. Because at that time, there was no application procedure, then there was the uncertainty of the law in the application of the judge's ruling, starting with the decision was could not be accepted because there were no rules.⁵

Further according Susanti Adi Nugroho, after PERMA No. 1 Year 2012 were issued there was unregulated legal vacuum which caused problems in its application, such class action claims which were directed toward the same defendant, filed in different courts of justice, with the question now whether it was possible now to merge them into one case so that the defendant did not have to deal with the same case but filed by representatives of groups in different courts. If it were possible what was the mechanism of the merging of the case.⁶ Another vacuum which was not regulated was how to realize the compensation for the many members of the many groups whose jurisdiction territory were dispersed, if later on their class action was permitted.⁷

Problems

Based on the above background description the problems may be formulated as follows:

1. Has the arrangement of the class action claims according to PERMA No. 1 Year 2002 already been sufficient?
2. What was the assessing mechanism for the class action in the civil judicial system?
3. What was the legal binding which was applicable between the class representative and the class members (the victims as a whole)

Aims and Advantages

Aim

The general aim was to find a theoretical and judicial picture on the class action in the civil judicial system. Specifically the writer wanted to write a theoretical and judicial analysis about the organizing of class action, its assessment mechanism and the legal relation that applied between the class representative and the victims.

The Theoretical Advantage

To be able to develop the aspect of the formal law (the law of civil procedure) so as to broaden the writer's orientation. The practical advantage was for the civil law's practical needs.

Method of Writing

1. The type of research in this writing was a normative research and the approach utilized was juridical, conceptual approach and case approach.
2. The Source of Law being used in this writing consisted of primary source of law and secondary source of law. Primary source of law was the material from the positive law (*ius constitutum*) which is implemented in Indonesia concerning the class action. Among them are as follows:
 - a. The Constitution of the State of the Republic of Indonesia 1945.
 - b. HIR STB 1941 No. 44 and RBg STB 1927 No. 227

⁵ Susanti Adi Nugroho. (2010). *Class Action dan Perbandingannya dengan Negara lain*. Jakarta: Kencana Prenada Media Group. p. 31.

⁶ *Ibid*, pp. 31-32.

⁷ *Ibid*, p.32.

- c. Code No. 23 Year 1993 on the Living Environmental Management;
- d. Code No. 32 year 2009 on Living Environmental Protection and Management;
- e. Code No. 48 year 2009 on Judicial Power;
- f. PERMA No. 1 Year 2002 On the Procedure of Class Action Claims,
- g. Judicial verdicts; while the secondary source of law is the source of law from articles, books, magazine, internet, etcetera.

3. The Technique in Collecting the Legal Materials

This was done by doing library research, documentation study, note-takings on related materials in this writing.

4. Legal Material Analysis Techniques

The primary and secondary Legal Material Analysis Techniques used as analysis materials on the above three formulated problems were descriptive analyses. With the juridical approach it was to analyse whether the legal basis in the procedure of the law in this case PERMA No. 1 Year 2002 had already been sufficient or not, or there might be legal vacuum, or vagueness of the law, plus whether it was already relevant with the principles of the law and also if it was already relevant with the goal of the law, i.e. justice, legal certainty and the principles expediency. Conceptual approach was the one that explained legal concepts on Class Action in order to prevent multiple-interpretation. Meanwhile, a case approach was how the legal considerations on the judge's decision/ruling in implementing Class Action or Ration Decidendi of judge's decision/ruling. The result of the analysis was used as the material for writing and was elaborated descriptively.

DISCUSSION

The Arrangement for the Class Action in the Positive Law System in Indonesia

As had been described by the writer before the Indonesian positive law in the law of civil procedure based on the HIR and RBg did not regulate the legal form of the class action, because the patterns of the Indonesian legal system followed the legal system tradition practised in the *Continental Europe* or the *Civil Law system* which did not recognized class action. Whereas the law of civil procedure in countries that adhered the *Anglo Saxon* law system or *Common Law System* had with certainty given the basis for the application of class action. The legal provisions governing class action were enacted in 1966 after the law of civil procedure at the federal level had been modified by adding article 23 from the special Federal Rule related to the class action procedure.

Article 23 Federal Rule had set requirements for class action as follows:

1. *Numerosity* (the number of people that filed were so many). This first requirement determined that the class members should make up such a large number that when the claims were filed one by one (individually) that would cause impracticality and would not be efficient.
2. *Commonality*: There should be facts which they had in common to one another or question of law between the representing party and the party being represented.
3. *Typicality*: The lawsuit (for the plaintiff's class action), or the defence (for the defendant's class action) from the whole class members, must be in common.

4. *Adequacy of representation*: This requirement obliged the class representative to guarantee honesty and fairness as well as capable of protecting the class members' interest.⁸

Of the four (4) requirements which had been set it could be seen that the class action was a civil lawsuit which was filed by a number of people with the commonality of case in order to represent their own interests as well as the interests of the hundred or even thousands of other people without the necessity of involving every class member.

Class action was basically according to Mas Achmad Santosa a civil suit (usually related to the request of injunction or compensation), which was filed by a number of people (one or two people as the class representatives representing their own interests as well as the interests of hundred or even thousands of other people of the class members.⁹the stipulation in article 23: Federal Rule of Procedure was used as an inspiration in formulating the class action in the environmental law in Indonesia (found in article 37 Code No. 23 Year 1997 on the Living Environmental Management).

In the opinion of Siti Sundari Rangkuti, class action was the thought substance for the law of civil procedure on environment.¹⁰ According to Suparto Wijoyo, the procedure of class action was acknowledged in Indonesia by the UUPLH. Obviously it needs juridical modification of the law of the civil procedure that is in effect nowadays.¹¹

The next development in the positive law in Indonesia class action was regulated in the material law i.e. in the legislation, respectively as follows:

1. Code No. 23 Year 1997 on the Living Environmental Management.
2. Code No. 32 Year 2009 on the Living Environmental Protection and management which revoked the Code No. 23 Year 1997.
3. Code No. 41 Year 1999 on Forestry
4. Code No. 8 Year 1999 on Consumer Protection
5. Code No. 18 Year 1999 on Construction services
6. Code No. 18 Year 2008 on Waste Management
7. Code No. 5 Year 1983 on Indonesia's Exclusive Economic Zone
8. Code No. 10 Year 1997 on Nuclear Energy Empowerment.

And, to overcome the legal vacuum (*recht vacuum*) in the law of civil procedure according to HIR and RBg that did not regulate the judicial procedure on class action, based on the authority of the Attorney General in order to launch a civil judicial process issued by PERMA No. 1 Year 2002 Class Action Claims. From the formulation of the Article 1 Year 2002 letter (a) it was mentioned that class action claims was a procedure for filing a lawsuit in which one person or more class representatives filed a lawsuit for him-/herself or themselves and at the same time representing a group of many people, who had the same facts or legal basis civil procedures for the representative of the group and members of the group.

The Legislation had not been equipped with formal law and in practice nowadays in filing for class action it must be based on PERMA NO. 1 of 2002 on the Procedure of Class

⁸ Mas Achmad Santosa. *Op. Cit.*, pp. 10-11.

⁹ Mas Achmad Santosa. *Op. Cit.*, p. 10.

¹⁰ Siti Sundari Rngkuti. (2000). *Hukum Lingkungan dan Keibjaksanaan Lingkungan Nasional*. Surabaya: Airlangga University Press. p. 318.

¹¹ Suparto Wijoyo. (1991). *Penyelesaian Sengketa Lingkungan (Settlement of Environmental Disputes)*. Surabaya: Airlangga University Press. p. 46.

Action. Besides PERMA and legislation in the formulation of class action based on the class action known in the *Anglo Saxon* law system or *Common Law System*. According to NHT Siahaan, the general idea of PERMA No. 1 of 2002 was the same as principles applied in many other countries where the victims who filed a lawsuit in large quantities represented by several people there should be equality of fact or law, claims and defenses of the representative and member of the class should be similar.¹² So according to SIAHAAN, PERMA only specify the number of how many, and did not specify the minimum number of them as representatives of the class action lawsuit.¹³

In the opinion of Syahrul Machmud in the class action examination process, 2 (two) systems were recognized. At the beginning of the examination subject to the provisions of PERMA No. 1 of 2002, whereas the proceeding examinations were guided by the HIR and RBG.¹⁴ PERMA No. 1 2002 consists of 6 chapters and 11 articles. Having examined the PERMA there was much vagueness in it and its application contains a lot of trouble. The absence of legal certainty in Article 1, letter b, on the number of the group representative of 1 or more or no provision could answer clearly because in the society we encountered groups among other groups of villages, districts, counties, farmers, fishermen, miners, ranchers, and etcetera.

It also needs to be emphasized in the PERMA because in the competence of the court level I (the District Court), each of which had its own jurisdiction the matter would determine the number of the groups. In a lot of cases environmental pollutions often brought about cross-sectional impact/losses that hurt the groups. In Article 1 letter c, i.e. on the notice, it was necessary to be confirmed either through the common practice of giving a notice or through Internet. An assertion was needed in Article 4 letter g, for those group members who had bad intention or being dishonest. It was specified in article 4 that: in order to represent the legal interests of the group members, the group representative must not be required to obtain special authorization letter from the group members. This needed to guarantee legal certainty if they wanted to resign/withdraw and was being dishonest or not earnest. Article 5 paragraph 5 of the PERMA, the judge decided on the use of procedures for class actions declared unlawful, it was necessary to clarify whether the re-submission was not possible then cut through the judge's decision. It should be differentiated according to the principle of active judges according to PERMA No. 1 in 2002 with the principle of passive judges in ordinary lawsuit examination.

Mechanism of Class Action Examination in Civil Judicature System in Indonesia

In judicature practice in Indonesia according to Mas Achmad Santosa the class action actually has been tried to be practiced in our judicature world among others by the suit of Bentoel Remaja, Dengue, pollution of Ci Ujung River and the suit of Patal Senayan labor.¹⁵ So thus with the civil suit at PN Jakarta Selatan year 1992, nine PT. Industri Sandang I's labours made a suit in the name of themselves and on behalf of other 1200 labours. Unfortunately, the demand of the implementation of class action procedure such as this one was always objected with the reason that our procedure of law does not arrange it.¹⁶ New development was in the case of the increasing of LPG's selling price in the Verdict No. 550/Pdt.G/2000/PA.JAK.Pust. that has acceded the procedure of class action.

PERMA No.1 Year 2002 has been determined in Article 5 of the process of class action judicature examination:

¹² N.H.T. Siahaan. (2004). *Hukum Lingkungan dan Ekologi Pembangunan*. Jakarta: Erlangga. p. 335.

¹³ *Ibid.*

¹⁴ Syahrul Machmud. (2012). *Penegakan HUKUM Lingkungan Indonesia, Penegakan Hukum Administrasi, Hukum Perdata dan Hukum Pidana Menurut Undang-Undang No. 32 Tahun 2009*. Yogyakarta: Graha Ilmu. p. 200.

¹⁵ Mas Achmad Santosa. *Op. Cit.*, pp. 79-80.

¹⁶ Mas Achmad Santosa. *Op. Cit.*, p. 80.

1. In the beginning of judicature examination process the judge is obliged to examine and consider the criteria of the group's class action as meant in Article 2.
2. The judge can give advice to the parties about the stipulations of group's class action as meant in Article 3.
3. The validity of group's class action as meant in subsection (2) is written in a court's decision.
4. If the judge has decided that the using of the procedure of group's class action is stated to be valid, then immediately after that the judge ordered the litigant to submit a notification model proposal to obtain judge's approval.
5. If the judge decided that the using of the procedure of class action is stated not to be valid, then the examination is stopped by judge's verdict.

Observing the stipulation of the Article 5, whether the criteria of group's class action as mentioned in Article 2 has determined the stipulations of group's class action. According to this PERMA No.1 Year 2002, the judge has active role to give advice about the stipulations of group's class action. Complete and clear identity, group's definition, posita of the whole group and the group's representatives, there are some groupings if the legal suits are not the same due to the different nature and disadvantage. Legal suit or petitum has to be clear and detail. If it was compared to the examination of civil suit according to HIR and RBg there are no activities performed by the Judge, and the legal suit submitted by the litigant directly being examined.

In the submitting of class action according to PERMA No.1 Year 2002 the group's representative is not obliged to make a power or attorney. On the contrary, according to HIR and RBg it is obliged for everyone who goes forward to the Court if was to be represented to make a special power of attorney with the activity of the judge after the class action is being agreed, furthermore it was continued the same examination as in the examination of an ordinary civil suit.

If the writer compared it to the application of legal suit submitting in class action, according to E. Sundari, the first procedure has to be through by the group's representative is submitting an application to submit the legal suit in class action in written to the Court.¹⁷ Generally, the Common Law countries determine that class action cannot be submitted without the approval or permit or certification in advance from the Court.¹⁸ Furthermore, according to E. Sundari, the Australian Federal Government determined of what stipulations that should be included in the application as being arranged in S. 33 H (1) and (2) of FCAA which should include the following things:

1. Identity of the group that will be represented.
2. Explain the legal suit and the statement that the legal suit is really submitted on behalf of the whole of the group's members represented.
3. There are similarity of law problems and fact in general that was submitted.¹⁹

According to Mas Achmad Santosa in Indro Sugianto, there are 4 stages that should be carried out in the process of case examination that using the procedures of class action, those are: Stage I: stage of legal suit feasibility examination as class action. Stage II is the

¹⁷ E. Sundari. (2002). *Pengajuan Gugatan Secara Class Action (Suatu Studi Perbandingan dan Penerapannya di Indonesia)*. Yogyakarta: Penerbit Universitas Atma Jaya. p. 71.

¹⁸*Ibid.*

¹⁹*Ibid*, p. 72.

determination of liability, Stage III is the stage of the determination of type and form of remedy (civil remedies) and Stage IV is the stage of distribution and administration of indemnity settlement.²⁰ The important thing that should be noticed is the determination of the prevailing of “opt in” and “opt out” procedures (defining the class). In various jurisdictions in the countries with common law system, the procedure of class determination is carried out in simple way without any consent from the class members.

In the beginning of class action process, it did not need to mention the name or mention any of class’s members specifically.²¹ It was only to publish it through media with the purpose whether want to join it or not, will bring any consequences after there was any judge’s verdict. Before the judge decided whether it was the class action suit or an ordinary legal suit, according to Suparto Wijoyo the preliminary certification test was determined, in order that the group’s members can carried out *opt in* and *opt out* (before the procedure begin).²² *Opt in* is a confirmation that was a part of group’s members, *opt out* is the procedure to group’s member (society) to state that he/she is out from the class action.²³

If it was compared to the certification mechanism in the United States of America it was carried out by preliminary certification test applied in the beginning of the court and often it was a heavy burden due to so much time spent and cause the expensive legal suit process.²⁴ Furthermore the initial certification which is formally that raise image that the certification process is an obstacle to utilize the class action procedure.²⁵ What about in Indonesia? According to Sugeng Riyono and Bambang Mulyono, the procedure mechanism needs to be simplified because, generally, the position of society’s member in Indonesia, socially and economically, still susceptible so they cannot prevent or avoid violation carried out by the people who run the economy and or the ruler / government to them.²⁶ Therefore, according to writer the judge has important role in overcoming the difficulty and time in this certification process.

The important thing in judicature process after judge’s verdict in indemnity was acceded, judge is obliged to decide the amount of indemnity in detail, determining of the group and/or group relation who have the right, mechanism of indemnity distribution and measurements that should be accumulated by the group’s representative in the process of determination and distribution such as carried out notification.²⁷

Legal Relations between Class Representative and Class Members

In the practice of Civil Judicial in Indonesia, class action of that class representative indorse to the legal advisor, if that class representative wills, they could be indorse to the authority according the process of making authorization. Based on the PERMA No.1 Year 2002 Class Action in Article 4 mentioned that represent the interest of the law of class members not were required to obtain a special power attorney from the members of the group. Or there is not a power attorney from class members to the class representative, because both of them become victims.

²⁰ Indro Sugianto. (2013). *Class Action Konsep dan Strategi Gugatan Kelompok untuk Membuka Akses Keadilan Bagi Rakyat*. Stara Press Malang, p. 12.

²¹ Mas Achmad Santosa, et. Al. (1999). *Pedoman Penggunaan Gugatan Perwakilan (Class Action)*. Jakarta: YLBHI, pp. 19-20.

²² Suparto Wijoyo. *Op. Cit.*, p. 45.

²³ *Ibid.*

²⁴ Sugeng Riyono and Bambang H. Mulyono. *Prosedur Gugatan Class Action*. p. 16.

²⁵ *Ibid.*

²⁶ *Ibid*, p. 17.

²⁷ *Ibid*, p. 23.

Article 123 HIR/147 RBg, materiil party can be directly dealing in the court so that the class representative could be called as formil party and materiil party. Law relationship at this time is proceeding in the practice of a class action in Anglo Saxon's law system that is based on good faith, because of the class representative is similar as victim party which has same interest with class member and does not make a special power of attorney.

As the example, the increasing prices of selling LPG which already jammed by central Jakarta district court in their ruling: Put.No. 550/Pdt.G/2000/PN.JAK.Pust., Date. 9 October 2001, class representative does not need to make a special power of attorney, with option out that class action just enough to announce it in public notice. Legal aspects that will be arising on the legal relationship between class members with class representatives would be reviewed from some aspects.

Civil Law Aspect

- a. Have a similar civil responsibility between the class representatives with who represent (class members).
- b. Law effect that will be arise are the provision of authority between the class representatives with class member or the imposition of duties between class representatives which is representing class members without received a fee.
- c. Deviation from the purpose of native class action based on Anglo Saxon's legal system could lead to accountability criminal and civil that stands alone.

Civil Procedural Law Aspect

Class representative who are representing class member if equipped by power attorney as can be seen in legal standing could be binding and it can guarantee for the legal certainty. It can bind explicitly so the class representatives as representatives will be seriously fight for their interests, because it is possible that class representatives stop unilaterally on the road while the case has not been jammed. By make this power attorney, class representatives could be authorization to the substitution authority, so that the law's effect that will be arises is there will be an agreement that bind between class representatives with class members.

According to M.A. Jurisprudence Reg. No. 2884/K/Pdt/1984 it is about representation, in this case representation as representative based on Anglo Saxon's law which is not equal with the provision of authority (*vertegenwoordiging*) as they are known in civil code (BW). Based on Anglo's Saxon Law, representative means someone who acts or performs legal action to others with the authority or whose special function with full responsibility. Based on Law its means in the emergence of defaults, so that representative directly has a responsibility.

The relationship of civil law in class action like an authority relationship but the authority does not mean authority's receiver, received the command directly from the endorser. The authority in class action is indirectly authority. Class representative obtain their right and obligation as the result of their works, only it seems that class representative act for their self but really they did for others, the representative did not visible, but they stay there. Based on Article 4 PERMA No. 1 Year 2002, to represent the interest of the group, not was required to obtain a special power of attorney from class members. This is understandable because class representatives equally as the party of victim and as the party of requisitionist fight for the same interests. If the class representatives committing an unlawful act can be accounted by sued based on unlawful deed, violated good decency that has been recognized in formulation unlawful deed of jurisprudence in widely meaning based on Article 1365 KUH Perdata.

CONCLUSION AND SUGGESTIONS

Conclusions

- a. The arrangement of class action in Indonesia's positive law system in civil procedural law field has not made the comprehensive arrangement yet.
- b. PERMA No. 1 Year 2002 about class action needs some improvement and judges hold an active role in applying those PERMA.
- c. The application of mechanism inspection of class action is very complicated specially when the procedure of class action are accepted or declined.
- d. Law Relations between class representatives with class members is a legal authority relationship.

Suggestions

- a. Civil law that explain about class action need to be constituted because it can realize simple judicial, fast and low cost.
- b. In theoritis, need to do a comparative study with other countries which already successful in applying this class action procedure.
- c. Judge holds a large role for the victims who want to fight for their rights to the court by using a class action procedure.

REFERENCES

- [1] Sundari, E. (2002). *Pengajuan Gugatan Secara Class Action (Suatu Studi Perbandingan dan Penerapannya di Indonesia)*. Yogyakarta: Penerbit Universitas Atma Jaya.
- [2] Indro, S. (2013). *Class Action Konsep dan Strategi Gugatan Kelompok untuk Membuka Akses Keadilan Bagi Rakyat*. Malang: Stara Press.
- [3] Santosa, M. A. (1998). *Konsep dan Penerapan Gugatan Peradilan (Class Action)*. Jakarta: ICEL.
- [4] Santosa et al. (1999). *Pedoman Penggunaan Gugatan Perwakilan (Class Action)*. Jakarta: YLBHI.
- [5] Siahaan, N.H.T. (2004). *Hukum Lingkungan dan Ekologi Pembangunan*. Jakarta: Erlangga.
- [6] Rangkuti, S. S. (2000). *Hukum Lingkungan dan Kebijakan Lingkungan Nasional (Second Edition)*. Surabaya: Airlangga University Press.
- [7] Sudaryatmo. (1996). *Masalah Perlindungan Konsumen di Indonesia*. Bandung: Citra Aditya Bakti.
- [8] Riyono, S., & Mulyono, B.H. *Prosedur Gugatan Class Action*
- [9] Wijoyo, S. (1991). *Penyelesaian Sengketa Lingkungan (Settlement of Environmental Disputes)*. Surabaya: Airlangga University Press.
- [10] Nugroho, S. A. (2010). *Class Action dan Perbandingannya dengan Negara lain*. Jakarta: Kencana Prenada Media.
- [11] Machmud, S. (2012). *Penegakan Hukum Lingkungan Indonesia, Penegakan Hukum Administrasi, Hukum Perdata dan Hukum Pidana Menurut Undang-Undang No. 32 Tahun 2009*. Yogyakarta: Graha Ilmu.