



# CIREBON INTERNATIONAL CONFERENCE ON EDUCATION AND ECONOMICS (CICEE)

## LEGAL STANDING IN ENVIRONMENTAL STATE ADMINISTRATIVE DISPUTES IN INDONESIA

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### Abstract

*The right to sue is a determining factor for someone who is in a lawsuit whether they are a legal subject who has fulfilled the requirements or not fulfilled the requirements to file a case before the court in accordance with the provisions of the applicable law. The right to sue is given to three parties, first an individual. Second, business entities incorporated or unincorporated. Third, environmental organizations. The three parties are given the right to file a lawsuit if their interests are harmed by state administrative decisions and or government administrative actions. Research examines the application of rules or norms or is called normative juridical research. Using primary and secondary legal materials. The aim of this research is to philosophically examine the right to sue in environmental state administration cases. The results of the study reveal that the right to sue owned by individuals, business entities, environmental organizations is accompanied by requirements that must be met. The mechanism for resolving environmental state administrative disputes filed by the plaintiff in order to realize his right to sue begins with the registration of a lawsuit to the PTUN with its authority.*

**Keywords:** *Right to sue, environmental state administrative dispute, Authority of PTUN.*

### INTRODUCTION

The right to sue/legal standing/*ius standi* is a concept or situation where a person has the right to file a lawsuit or petition before the court in accordance with the requirements. or the right of one of the parties to file a lawsuit or request legal enforcement of an obligation or right. In this context, the publication of the K.T.U.N. has resulted in the interests of individuals or civil legal entities being harmed. Normatively, this is contained in Law no. 9 of 2004 Article 53 paragraph (1) which gives the right to file a lawsuit in court if one's interests are harmed.

The written lawsuit is submitted to the competent court, namely the State Administrative Court, with the petition that the disputed state administrative decision or the one that caused the loss of interest be annulled or invalidated with or without a claim for compensation. The loss of interest caused by the issuance of a KTUN by a state administrative body/official at the central, provincial and district levels, for example, environmental pollution and destruction. Based on the definition of pollution and environmental damage, the difference between pollution and environmental damage is obtained. Environmental pollution results in a decrease in the quality of one of the components of water, soil or air. For example, if there is water pollution, this means that there has been a decrease in the

quality of water components consisting of hydrogen and oxygen elements that are beneficial to human health. Environmental destruction results in a decrease in the quality of all components of the biological and physical environment (Fitriah, 2017).

In 2021, the villages/sub-districts affected by water pollution are as follows:

No	Province	Village
1	Central Java	1.310
2	West Java	1.217
3	East Java	1.152
4	West Kalimantan	715
5	South Sumatera	673
6	Central Kalimantan	610
7	South Sumatera	440
8	South Kalimantan	396
9	Jambi	390
10	Aceh	350
<b>Total</b>		<b>7253</b>

Source: <https://databoks.katadata.co.id/datapublish/2022/03/24/pencemaran-air-terjadi-di-10-ribu-desakelurahan-indonesia>

The same source revealed that in 2021 there were 4,496 villages/sub-districts affected by factory waste pollution. A total of 1,499 villages experienced soil pollution, while 5,644 villages were affected by air pollution. Other data revealed the granting of environmental permits that were contrary to laws and regulations based on PTUN Decision Number 124/G/LH/2016/PTUN-BDG. Decision Number 580 K/TUN/2018 and Decision Number 448 K/TUN/2018 (Putri et al., 2022). The data above leads to the formulation of the problem, namely how are the requirements for obtaining the right to sue in environmental state administrative cases in Indonesia? How is the mechanism of the right to sue in environmental state administrative cases in Indonesia to obtain a good and healthy environment as mandated by the provisions of Article 28H of the 1945 Constitution of the Republic of Indonesia?

## METHOD

The research method in this writing is a normative juridical research method. A research method with a focus on examining the application of rules or norms in positive law. Normative legal research methods do not recognize field research, because the focus of research is legal materials. So the normative juridical research method can be said to be library based, focusing on reading and analysis of the primary and secondary materials (Luthfie & Zaldya, 2020). Using primary and secondary legal materials. Legislation, such as Law no. 32 of 2009 concerning PPLH. UU no. 5 of 1986 concerning PTUN and its amendments are primary legal material. Meanwhile, secondary legal materials are taken from research results

## RESULTS AND DISCUSSIONS

### Suit Rights In Environmental State Administrative Cases In Indonesia And Their Requirements.

The right to sue/legal standing (legal standi) in civil cases is given to three parties, first, individuals, second party is business entities incorporated or unincorporated, third party is environmental organizations. These three parties can have the right to sue provided that their interests are harmed by the issuance of a state administrative decision. The prerequisites for

an environmental organization to have a right of challenge are: is a legal entity, has articles of association with the aim of providing environmental protection and actually acts for environmental protection (Effendi, 2013).

Environmental organizations or non-governmental organizations that have filed a lawsuit to the State Administrative Court are WALHI, Foundation for Population and Environmental Studies, Foundation for Environmental Law Development, Foundation for Population and Environmental Studies Forum.

### **Mechanism For Resolving Environmental State Administrative Disputes In Indonesia.**

The State of Indonesia is predicated as a state of law as stipulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. It is stated that the State of Indonesia is a state of law. This means that in state life in a country the law of being the commander in chief is the law. ( Jimly Asshiddiqie, 2006).

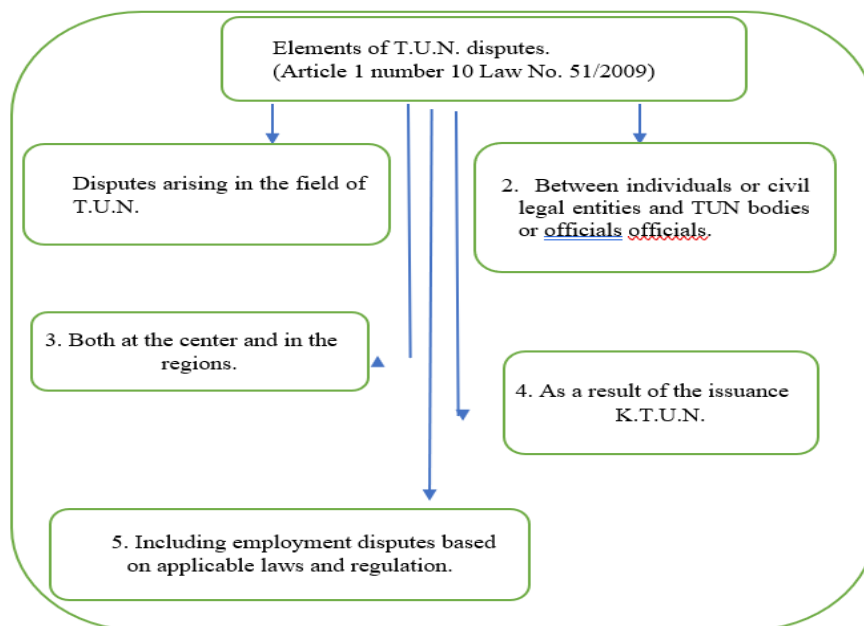
The state of law in the sense of rechtsstaat (a German term) with its figures Julius Stahl, Immanuel Kant, Fichte, Paul Laband has several elements that make up a state of law. That the state of law must have concern for:

1. Protection of human rights.
2. Division of power.
3. Government by law.
4. State administrative court.

While the state of law in the rule of law with its figure A.V. Dicey has several elements that make up a state of law, namely:

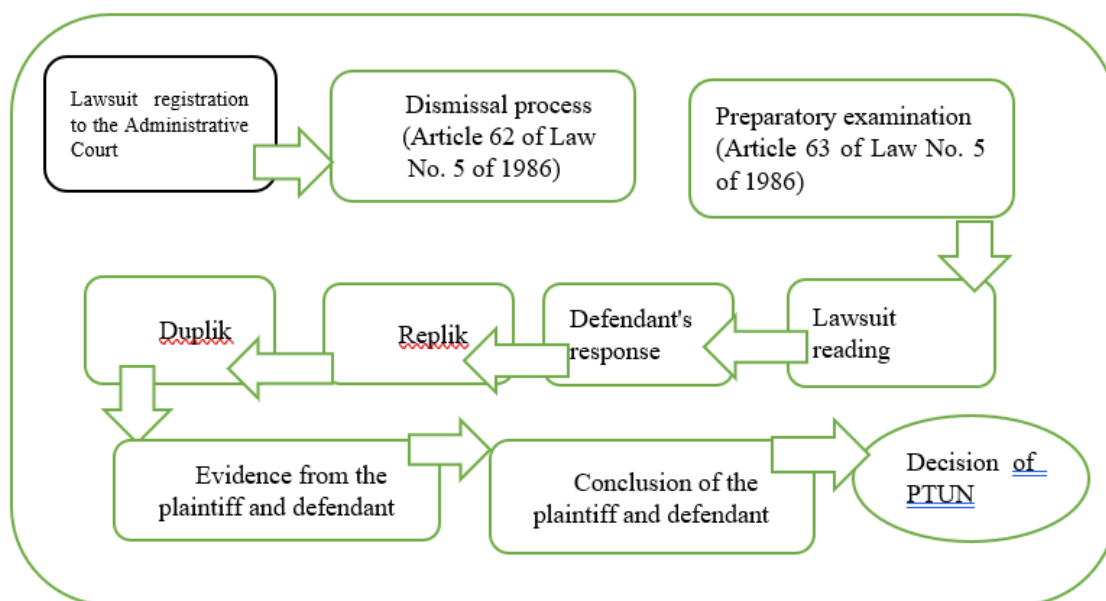
1. Supremacy of law (supremacy of law). The legal principle that emphasizes that the state must be subject to the law and must not rule beyond its limits.
2. Equality before the law.
3. Constitutional guarantees that emphasize that the law is not enforced irrationally, arbitrarily, or without certainty (due process of law).

Looking at the characteristics of the rule of law mentioned above, it seems that the Indonesian state has fulfilled all these requirements. The state of law in the sense of rechtsstaat requires that the state of law must have a state administrative court. Indonesia also has a state administrative court, with the competence to examine, hear, and decide state administrative disputes. Meanwhile, the elements are as shown in the table below:



Environmental state administrative disputes are resolved through a lawsuit to the state administrative court filed by parties who have the right to sue or as plaintiffs. The right to sue is given to three parties, first, individual persons. Second, business entities incorporated or not incorporated. Third, environmental organizations.

The mechanism for resolving environmental state administrative disputes filed by plaintiffs in realizing their claim rights is as follows:



## CONCLUSION

The right to sue in environmental state administrative disputes is given to individuals, business entities incorporated or unincorporated, environmental organizations that meet the requirements.

The mechanism for resolving environmental state administrative disputes filed by claimants in order to realize their claim rights begins with the registration of a lawsuit to the PTUN with its authority.

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