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# The Establishment of Environmental Court in Indonesia

## (Penubuhan Mahkamah Alam Sekitar di Indonesia)

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ABSTRACT

*Environmental degradation has caused numerous disasters in many parts of the world. Indonesia, too, has had her share of such catastrophes. The liquid waste in Ciujung River, forest fires and haze of North Sumatera, pollution of Way Seputih River and volcanic mudflow in Sidoarjo are a few examples. As such, the establishment of the Special Environmental Court under the legal system in Indonesia is urgent. In the District Court, victims of environmental polution and degradation are people who are in a weaker position when faced with big industrial companies. The verdicts of the courts do not reflect environmental justice. Although the Indonesian Environmental Management Acts (EMA) has undergone three amendments, it still lacks the necessary bite. This article seeks to provide input for the Indonesian Government concerning the urgent need for the establishment a special environmental court under the General Court System.*

*Keywords: Environmental degradation; community environmental disputes; environmental justice; environmental courts; Indonesia*

ABSTRAK

*Kemusnahan alam sekitar telah mengakibatkan pelbagai mala petaka di merata dunia. Indonesia turut mengalami pelbagai bencana sedemikian rupa. Pembuangan sisa cecair di Sungai Ciujung, kebakaran hutan dan jerubu di Sumatera Utara, pencemaran Sungai Way Putih dan limpahan lumpur gunung berapi di Sidoarjo adalah beberapa contoh bencana ini. Demi keadilan alam sekitar, adalah dirasakan penubuhan sebuah mahkamah khas alam sekitar di bawah kerangka perundangan Indonesia perlu disegerakan. Pada ketika ini di Mahkamah Daerah, mangsa pencemaran dan kemusnahan alam sekitar adalah mereka yang berada di kedudukan yang lebih lemah apabila berhadapan dengan syarikat industri yang besar. Penghakiman mahkamah tidak memperlihatkan keadilan alam sekitar. Walaupun undang-undang alam sekitar Indonesia telah dipinda sebanyak tiga kali, namun ia masih tidak 'bertaring.' Artikel ini bertujuan memberi input kepada kerajaan Indonesia tentang keperluan mendesak untuk mewujudkan satu mahkamah khas alam sekitar di bawah Sistem Mahkamah Umum Indonesia.*

*Kata kunci: Kemusnahan alam sekitar; pertikaian alam sekitar komuniti; keadilan alam sekitar; mahkamah alam sekitar; Indonesia*

## INTRODUCTION

In Indonesia, all community environmental disputes are submitted before the District Courts. Although the Government of Indonesia has amended the Environmental Management Acts (EMA) three times, yet the people's environmental justice is beyond the expectation of the victims of environmental pollution and environmental degradation. In Indonesia, litigation is a popular mechanism for solving disputes as well as other non-litigation mechanism such as mediation. However, the later mechanism also fails to assist the people since the disputants do not understand the concept of mediation which stresses on the parties' cooperation in reaching their agreement through the win-win solution principle.

In addition, there is another alternative mechanism the disputants may employ and that is through the Human Rights Court whereby the 1999 Law No. 39 on Human Rights has acknowledged community environmental rights.[1] Therefore, there is the possibility to bring the disputes to the National Commission of Human Rights (KOMNAS HAM/*Komisi Nasional Hak Asasi Manusia*). However, the human rights court is rarely utilised to solve community environmental disputes in Indonesia. This is despite the fact that the 1972 Stockholm Declaration on Human Environment has raised the awareness of the people on the connection between environmental rights to human rights.

In Indonesia, there are two reasons why environmental human rights violation cannot be submitted to the Human Rights Court. Firstly, environmental rights in the human rights law and environmental law instruments are not under the jurisdiction of The 2000 Law No. 26 on Human Rights Court.[2] This is because the creation of the Human Rights Court in this context was as a result of serious human rights violations committed by the Suharto regime (1967-1998).[3]

Secondly, the difficulty to prosecute environmental rights violators from the human rights point of view lies also on the differences in the schools of thought on the definitions of environmental pollution, environmental damage and environmental degradation as provided for in Article 1 paragraph 14, 16 and 17 of the EMA 2009. According to Article 1(14), environmental pollution is defined as "the introduction of or the inclusion of living things, matter, energy, and/or other components into the environment by human activities that exceed the environmental quality standards that have been set." The definition of environmental damage as provided for in Article 1(16) refers to "an act of people who cause direct or indirect change of the physical, chemical and/or biological environment that exceeds the standard criteria of environmental damage." Furthermore, environmental degradation in Article 1(17) is defined as "a change directly and/or indirectly to the physical, chemical and/or biological environment that goes beyond the standard criteria of environmental damage." The definitions above, according to Director of *Walhi Eksekutif* Jakarta,[4] are too technical and whenever a case is brought to the Court, scientific evidence from other disciplines must be sought. However, the victims are mostly peasants who do not have the required knowledge or recourse to provide the necessary evidence.

However, it has been found that in Indonesia the prosecution of environmental cases from the human rights view point is difficult since human rights law and human rights court do not recognise environmental rights violation as a serious human rights violation.[5] This is also the reason why the Investigation Report of the National Commission on Human Rights on the volcanic mudflow in Sidoarjo, East Java, which occurred on May 29th 2006, was not followed up nor brought to the Human Rights Court.[6] Despite its weaknesses, the District Court is the only court of the first instance for disputants to seek justice.

Based on the axiom above, the environmental court is seen as the proper mechanism for solving environmental disputes. However, under the structure of the court system in Indonesia, there has yet to be an environmental court. As such, this article aims to recommend the creation of an environmental court under the current legal system in Indonesia. The scope of this article composes of the need for environmental court and the proposed environmental court for Indonesia.

## THE NEED FOR AN ENVIRONMENTAL COURT

In community environmental disputes, social and environmental justice of the victims have never been properly served. The large power imbalances that exist between the community and the large corporations have resulted in making environmental dispute settlements burdensome for the community. In this context, there are three kinds of community behaviour in the community environmental disputes: the community that fights pollution for the sake of the environment; the community that fights pollution for the sake of their economic survival; and finally, the community that fights pollution for the sake of human survival and environmental conservation.[7]In the context of environmental diputes in Indonesia most of the cases are within the second category, that is the community that fights pollution for economic survival as most of the said activities on environmental degradation disrupt the people's economic activities.

Environmental disputes involve civil and criminal aspects and the judges who hear the cases in the ordinary courts, despite having the jurisdiction over the case, do not have sufficient knowledge and experiences with the complex nature of environment that require balance between environmental harm and economic benefit, and between the interest of individual and the community.[8] The District Court is, however, not the appropriate court to solve the cases. The quality of the judgment is seen to limit access for people to environmental justice, such as lack of legal background on environmental law and technical expertise, high litigation costs, delay, lack of public information and participation, and public trust.[9] Nevertheless, power imbalance between the perpetrator and the victims also contribute to the factor that affects the quality of the court decision.[10]

With these weaknesses of the district court mentioned above, another alternative should be to submit cases to environmental court. Here, submitting a case before an environmental court shall elicit several advantages, namely, a link between democracy and the environment, the possibility of enhancing freedom of information, allowing citizens' involvement in decision-making on environmental matters, empowering groups that may not have influence in the legislative process and increasing public access to seek redress and remedy for environmental harm.[11] Nevertheless, there are many factors that influence the creation of environmental courts in many countries, such as the blatant disregard for environmental laws and regulations, the disequilibrium between the number of environmental cases to the number of the judges,[12] violation of municipal codes relating to health, fire, housing, building, and zoning codes.[13] Thus, it is seen that apart from environmental issues, political institutions, cultural and religious norms are also part of the public advocacy pressures and factors responsible for the creation of an environmental court.[14]

In connection to the above, the period after the reformation in Indonesia, has revealed the need for special courts in the area of economics, human rights, eradication of corruption, labour, fishery and environment which resulted in the promulgation of several additional regulations to enable the establishment of the special courts. Hence, Indonesia has witnessed the establishment of the Commerce Court (*Pengadilan Niaga*) created by the 1998 Law No. 4 on Bankruptcy,[15] which has been

replaced by The 2004 Law No. 37 on Bankruptcy and the Delay of Debt Obligation,[16] the Human Rights Court (*Pengadilan HAM*) by the 2000 Law No. 26 on Human Rights Court,[17] The Taxation Court (*Pengadilan Pajak*) by the 2002 Law No. 14 on Tax Court,[18] and the Court for Corruption Eradication[19] (*Pengadilan Pemberantasan Tindak Pidana Korupsi/Tipikor*) by the 2002 Law No. 30 on Corruption Eradication Commission (KPK/*Komisi Pemberantasan Korupsi*). Despite these changes and additions, it is rather unfortunate that the need for a special environmental court was not considered during that time. It is contended that the need to have a special environmental court is perceived to be very urgent and important in line with improvements in the Indonesian economy and the need to protect and conserve natural environmental resources.[20]

## PROPOSED ENVIRONMENTAL COURT FOR INDONESIA

The need for the establishment of an environmental court in Indonesia is, as mentioned earlier, due to the increasing complexities involved in environmental disputes and the current lacunae in court decisions which do not reflect environmental justice for the people. For an environmental court to be established, it has to satisfy and comply with the theory of the rights, environmental rights, environmental human rights, environmental justice and environmental ethics. The right to life as well as other rights in human rights is a fundamental human right that relates to the environment. Any violations to environmental rights will thus also impair the enjoyment of human rights. To alleviate this problem and to address the complexity of community environmental disputes, an environmental court must be set up. Environmental human rights is both a constitutional right and a protected rights in the 1945 Constitution and the human rights law and environmental law. Any violations to the protected environmental human rights should be dealt with in an environmental court which serves the people's environmental justice.

A special environmental court as proposed here is designed to handle cases relating to environmental matters only. Asril[21] is of the opinion that the creation of any special court shall be based on the specific subject matter involved. For instance, the Child Court was created to handle cases where the suspect or accused is a child, whose age is between 8 to 18 years old. The establishment of the Anti-Corruption Court, on the other hand, deals with those who violate the 1999 Law No. 31 concerning Corruption. Any corruption case must be investigated first and submitted by the Commission for Corruption Eradication (KPK/*Komisi Pemberantasan Korupsi*). It follows that any crime that relates to matters of economics falls under the jurisdiction of the Economics Court. Further, the Commerce Court is concerned with bankruptcy, the suspension of debt payments and intellectual property rights (IPR). Finally, genocide and the crime against humanity are the serious branches of human rights violations and fall under the jurisdiction of Human Rights Court. Since the EMA 2009 regulates environmental criminal, civil and administrative matters, therefore the environmental court as proposed here should have jurisdiction which cover the areas above.

In Indonesia, all the special courts as mentioned above are subordinate to the General Court as regulated under Article 27 of the 2009 Law No. 48 on Judicial Power[22] which pronounces:

1. The Special Court can only be established in one of the courts under the Supreme Court;
2. The provisions concerning the establishment of special courts shall be regulated by law.

In order to establish an environmental court under the Indonesian court structure, a proposal must first be drawn up to include important details such as the structure of the court, the jurisdiction of the court, the judges, the court procedure and also the utilisation of other non-litigation mechanisms. This model of environmental court is based on the comparative analysis of the environmental courts in New Zealand, Australia and India which have been completed earlier.

### THE STRUCTURE

Based on the in-depth informal interviews with lecturers from various institutions, such as the lecturers at the Administrative Law Division of Faculty of Law Sriwijaya University,[23] the Legal Aid,[24] and Environmental NGOs[25] it is discerned that the proposed environmental court shall be established under the Administrative Court.[26] This is because many community environmental disputes like water pollution, air pollution and land- based pollution as well as environmental degradation are due to the non-compliance of the industries on the licensing system issued by the Government. As such, it is only the Administrative Court that has the jurisdiction to settle the disputes in the field of administration. The issuance of the license falls under this administrative decision. In order to support this argument, there are six elements identified as the elements of administrative decision, and they are: a written determination; issued by administrative organ/officials; contains an administrative act based on the law and regulation; it is concrete (i.e. not abstract or of a general nature) and pertaining to an individual (i.e. concerning a person/legal person); it is final (can be applied without approval from another agency or official) and that it creates legal consequences for a person/legal person.[27] The criteria above have been derived from Article 1 (9) of the 2009 Law No. 51 on The Second Amendment to the 1986 Law No. 5 on Administrative Court which states that:[28]

Administrative Decision is a written determination issued by agencies or officials of state administration, which contains administrative legal actions in accordance with the applicable laws and regulations, concrete, individualized, and final, and which has legal consequences for the person or civil legal entities.

Thus, when a declaration is made that an industrial activity has created a negative impact on the environment, this means that that industry does not conform to the terms stated in the license which they have obtained regarding waste treatment or waste disposal for example. However, submitting environmental cases to the Administrative Court has some advantages and disadvantages. The advantage is that the administrative court is specialist court dealing with administrative decisions issued by the administrative official. This court is thus the right court for this matter. Nevertheless, pollution and environmental degradation are usually not foreseen or expected by the industry. In this respect, the EMA 2009 has a requirement on the EIA (Environmental Impact Assessment) that an individual or body or industry has to follow prior to the establishment of an industry.[29] This requirement is executed through the 2012 Government Regulation (GR) No. 27 on Environmental Permits (The 2012 EP No. 27).[30] Administrative sanctions will be meted out to those who disobey the EP regulations as provided for in Article 53 of the 2012 EIA No. 27, which states that the holder of the EPs is obliged to obey the obligations as provided for in the EPs and the permits to protect and manage the environment. The holder of the EPs shall submit the report in every six months to the Minister of the Environment, the Governor or to the Head of the District (*Bupati*) or the Mayor.

Furthermore, those who violate Article 53 above will be punished with administrative sanction. Based on Article 71, there are four types of administrative sanctions, and they are a written warning, government coercion, the freezing of the environmental permit and the revocation of environmental permit. Administrative sanctions are meted out by the Minister, governor, or regent/mayor in accordance with their authority. There is no information in the 2012 GR No. 27 regarding the person authorised to decide on the administrative sanction, whether it is the judge at the district court, the judge at the administrative court, or the Minister of the Environment. Herein, the regional officials are only authorised to carry out the sanction. As a result, the administrative court will not be able to fully solve environmental problems or environmental conflicts. The weakness or loophole lies in the length of the chain of bureaucracy, making the resolution of the environment, ineffective. As such, submitting the environmental conflicts or environmental problems to the environmental court will be the better solution. Based on the judicial power in Indonesia, the sitting of special courts has already been determined under the General Court. Therefore, the proposed environmental court will also be under the General Court. It is noted that the existence of special courts in Indonesia has been regulated by the law on judicial power, such as the 1964 Law No.19 on Judicial Power, the 1970 Law No. 14 on Judicial Power, the 2000 Law No. 4 on Judicial Power and the most recent is the 2009 Law No. 48 on Judicial Power. The laws above distinguish between the General Court, Special Court and the Administrative Court. The General Court is superior to the Economic Court, Subversion Court, and Corruption Court. It is also noted that under the General Court, there are also special courts, such as the Religion Court and the Martial Court, Tax Court, the Commercial Court and the Corruption Court. Thus, any special court may be established only under the General Court. This is in compliance with Article 27 of the 2009 Law No. 48 on Judicial Power.[31]

The question that arises is that the laws above do not specifically explain under what conditions a special court may be urgently established. In the 2009 Law No. 48 mentioned earlier, the establishment of the special court shall be based on law. Meanwhile in the elucidation of Article 27 (1), it is only mentioned that, "The meaning "the special court" includes Child Court, the Commercial Court, the Human Rights Court, Corruption Court, Labour Court, the Fisheries Court, and the Tax Court." Hence a reading of Article 27 above implies that the Government of Indonesia has to promulgate the law on the environmental court.

In line with the reasoning proposed above, Jimly Asshiddiqie[32] is of the opinion that the proposed special environmental court must be under the General Court, which has already several special courts subordinate to it. Thus, the special environmental court will be in line with other special courts in other countries. Consequently, the proposed environmental court should not be called a "special court" but rather "environmental court" for it has the same power as the other existing courts, such as the Religion Court, the Military Court and the State Administrative Court. The opinion above is in line with the structure of the special courts created under the General Court as regulated by the Law of Judicial Power and in line with the other environmental courts already established in many countries. As such a special environmental court should be established and placed under the General Court.

In terms of the number of judges to be assigned to the environmental court, the law of judicial power in Indonesia deems that the number of the judges hearing a case in court should consist of at least one judge and maximum three judges. A one judge bench is "*hakim tunggal*" while a three-judge bench is called "*hakim panel.*" The single judge is designed to adjudicate small or petty crimes but for serious and high stake offences, the *hakim panel* will be convened. The judges are to be assisted by the clerk of the court (*panitera*) whose job is to record all the events that occur during the court session.[33]

It is noted that the composition of the bench in an environmental court in Australia, New Zealand and India

is different from one to the other but in general it consists of one to twenty judges and assisted by one to twenty of environmental commissioners. This means that the number of judges handling the cases will depend on the complexity of the cases; it can be one single judge or a panel judge. Nevertheless, what make the environmental court dissimilar to those of the special courts in Indonesia are the characteristics of the complexity of community environmental disputes which involve many stakeholders, parties of interest and the related scientific fields. As such, the role of environmental scientists or experts is crucial in assisting the judges to make the decision that will impact on the environmental justice for the people.

### THE JURISDICTION

If one refers to the provisions in the EMA 2009 there are provisions dealing with compensation,[34] criminal sanction,[35] administrative sanction[36] and dispute resolutions.[37] Hence, the jurisdiction of the environmental court should cover the areas that have already been regulated by the EMA 2009. To this end, the environmental court should have broad jurisdiction over civil, criminal and administrative matters. Since the EMA 2009 has provisions for alternative dispute resolutions, therefore the proposed environmental court should also encourage the disputing parties to use the non-litigation mechanisms as practiced in New Zealand and Australia.

### THE JUDGES

In the countries where environmental courts have been established, the environmental judges who should have legal background particularly in environmental law will be assisted by those who have knowledge in environmental science. The role of the environmental scientists or commissioners as they are called in the New Zealand Environment Court (NZEC), or conciliation assessors in the Land and Environment Court of New South Wales (LENSW), is very important for the environmental judge. This point is reiterated in *Dobson v. Commissioner*,[38] where Jackson J. addressed the question of expertise concerning the Tax Court which "deals with a subject that is highly specialized and so complex as to be the despair of judges. It is relatively better staffed for its task than is the judiciary." In yet another case, *Ngati Rangi Trust v Manawatu-Wanganui Regional Council*[39] the environmental judges required detailed information on marine ecology and so resorted to the experts. Thus, environmental judges as proposed here will be those of judges, who have law background especially in environmental law and the clerk (*panitera*) who assists the judge must have a background in environmental science.

### NAME OF THE COURT

If one were to allude to the practice under the structure of the court system in Indonesia, the name of a court is always aligned to its purpose. Therefore the name of the court as proposed here is Environmental Court which in *Bahasa Indonesia* is called the *Pengadilan Lingkungan*. This name is clear, simple and easily understood and easily distinguishable and self-explanatory. Since the sitting of environmental court is under the General Court, therefore this Court should be set up in every capital city of the provinces and districts throughout Indonesia.

### PENALTY

Penalty is a mechanism in law to create a deterrent effect to those who disobey the law. In the Indonesian Criminal Code (ICC) the minimal punishment is one day while the maximum is 20 years imprisonment. Nevertheless, in EMA 2009 criminal offence is seen as a crime.[40] Criminal sanction and fines are given at the same time to the actors of pollution.

For a clear picture on the proposed environmental court, Table 1 provides a summary of the proposed Indonesian Environmental Court covering the structure, the jurisdiction, the judges, *locus standi*, ADRs technique, procedure, penalty and appeal. Further, Figure 1 below visualises the placement of environmental court under the General Court in Indonesia.

## CONCLUSION

Community environmental disputes are dissimilar from other disputes in other areas of law although there are some civil, criminal and administrative aspects that many be similar. In Indonesia and also in many parts of the world, the District Court is the court of the first instance for parties seeking justice for it has jurisdiction over all legal disputes. The character of the Indonesian EMAs and other human rights law, the 1945 Constitution and the complexity of environmental issues involved in disputes heard in District Courts has resulted in decisions that do not really reflect environmental justice of the people. Mediation with its win-win solution characteristic makes it a popular alternative dispute resolution mechanism in many countries. Nevertheless, the success of this mechanism is dependent on the parties' understanding to the main characteristics of this mechanism. Unfortunately, in Indonesia the disputants do not understand the concept of mediation which stresses on the parties' cooperation, thus this mechanism fails to provide the desired outcome.

In seeking justice, parties may also try to submit cases to Human Rights Court for community environmental

TABLE 1. The proposed Indonesian environmental court

| No | Name | Explanation | Sources |
|---|---|---|---|
| 1 | Environmental Court | *Pengadilan Lingkungan* (Environmental Court) | New Zealand Environmental Court (NZEC), Land and Environmental Court New South Wales (LECNSW) and researcher |
| 2 | Structure | Under the General Court, there are several subordinate courts. The case may be submitted to Appeal Court and to Supreme Court | NZEC, LECNSW, National Green Tribunal (NGT) of India and researcher |
| 3 | Jurisdiction | Civil and Criminal cases relating to environment | NZEC, LECNSW, NGT of India and researcher |
| 4 | Judges | 1-20 judges assisted by 1-to 20 environmental experts | NZEC, LECNSW, NGT of India and researcher |
| 5 | Locus standi | Any individual, lawyers, representative agent (corporation) or environmental NGOs | NZEC, LECNSW, NGT of India and researcher |
| 6 | ADR's technique | Mediation is encouraged but if the disputants fail to reach an agreement, they may submit the case before the District Court. | NZEC, LECNSW and researcher |
| 7 | Procedure | Any person, representative body and organisation can submit the application or by eCourt. | NZEC, LECNSW, NGT of India and researcher |
| 8 | Penalty | Imprisonment and fine | NZEC, LECNSW, NGT of India and researcher |
| 9 | Appeal | Court of Appeal | NZEC, LECNSW, NGT of India and researcher |

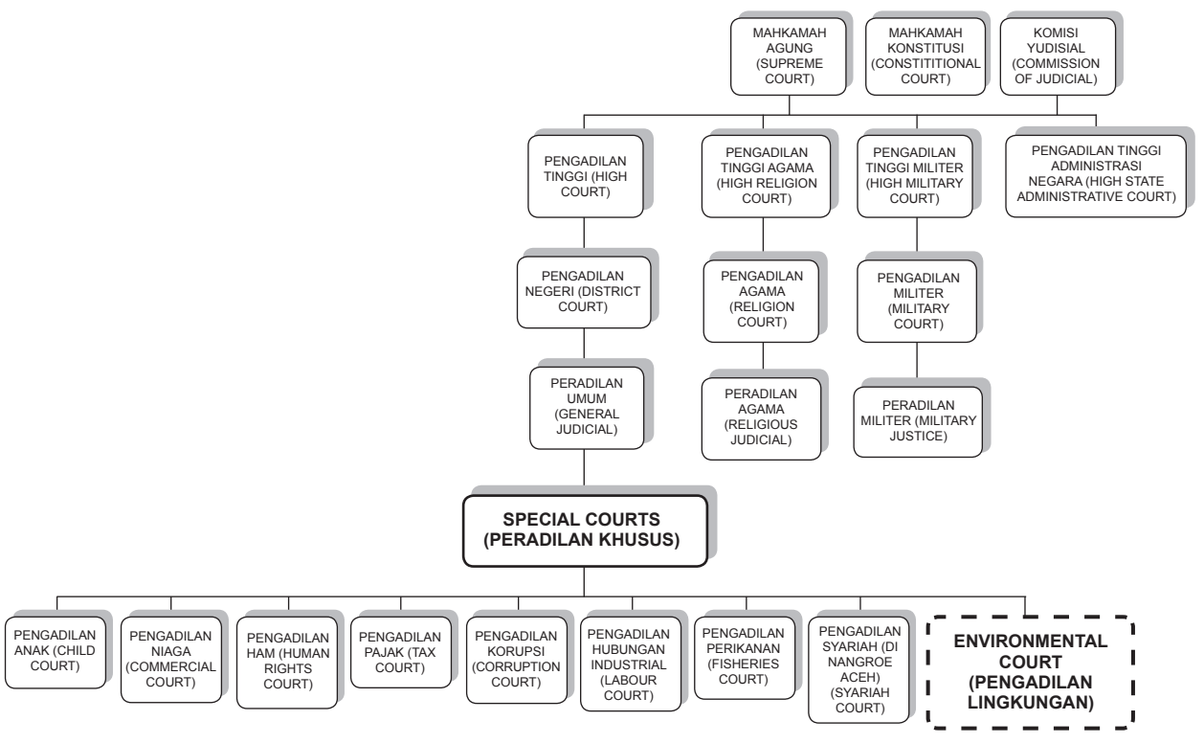


FIGURE 1. The placement of the proposed environmental court

disputes. This is because the right to a good and healthy environment, which is considered as part of human rights has been guaranteed in the 1945 Constitution and protected both in the Human Rights Law of 1999 No. 39 and the EMA 2009. Unfortunately, a closer look at the court's framework reveals that cases pertaining to environmental disputes do not come within the jurisdiction of Human Rights Court since it may only hear cases of serious human rights violation including genocide and crime against humanity. This court can only entertain such cases if the category of "serious human rights violation" as formulated in The 2000 Law No. 26 on Human Rights Court is expanded to include violations of environmental rights.

As such, it is recommended that an environmental court should be established in Indonesia. The jurisdiction of the environmental court will cover all matters arising from the violation of environmental law, whether it is issued by the central governments or municipal governments. Thus it will include civil, criminal and administrative matters. With regard to *locus standi*, it may be initiated individually by anyone, lawyers or agent. This proposed special environmental court shall sit under the General Court system, which would be similar to other established special courts. It could also be under the Administrative Court. If it is the former, the selection of the name for the special environmental court will be the same as other existing special courts. This means that the proposed court shall be the *Pengadilan Lingkungan*. However, if it is placed under the Administrative Court, despite the court being the appropriate court for solving environmental disputes, there will be lengthy administrative procedures to be followed before the evidence can be brought before the Court. In view of this, it is contended that placing an environmental court under the General Court is more suitable for there are already special courts created under the General Court system. This proposed court is to be adjudicated by judges who are legally trained with additional knowledge in environmental law and is assisted by those who have a background in environmental science who shall function as technical experts. In the interest of championing constitutional rights, environmental justice and legal certainty, the creation of an environmental court for Indonesia is the best solution. It is hoped that this proposed special environmental court will become a reality in the near future.

NOTES

1 Art. 9 (3) (LNRI 1999 No. 165).
2 Art. 7 (LNRI 2000 No. 208).
3 Art. 7 (LNRI 2000 No. 208).
4 Interview with Director Walhi *Eksekutif* Jakarta and the Food and Water Campaigner Manager, Walhi *Eksekutif* Jakarta on the 4th of Nov. 2013.
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15 LNRI 1998 No. 135.
16 LNRI 2004 No. 131.
17 LNRI I 2000 No. 208 and TLNRI No. 4026.
18 LNRI 2002 No. 27.
19 LNRI 2004 No. 118.
20 It is more urgent in the aftermath of environmental disasters in some parts of Indonesia, such as the Lapindo volcano mudflow in Sidoarjo, East Java as in the case Walhi *v Pt. Lapindo Berantas*. At the District Court of Central Jakara, Walhi was defeated (Decision No. 284/Pdt.G/2007/PN.Jak.Sel) as well as at the Appeal Court (Decision 383/Pdt/2008/PT.DKI, the pollution on Buyat bay (2007) and pollution caused by gold mining in Minahasa (2009) (Walhi, 'Catatatan Awal Tahun 2010,' Jakarta, Februari 2011).
21 Asril, "Pengadilan-Pengadilan Khusus di Indonesia," www.legalitas.org (1st of July 2013).
22 LNRI 2009 No. 5076.
23 Personal interview with Mrs. "E" and Mr. "R" in June 2013.
24 Personal interview with Mr. "P" the Director of Indonesian Legal Aids in Jakarta in January 2013.
25 Personal interview with Mr. "A N" director of WALHI on the 28 of May 2013.
26 In Indonesia, administrative law has been amended several times. The first law dealing this matter is the 1986 Law No. 5 on Administrative Court (LNRI 1986 No.77; TLNRI No. 3344) amended by the 2004 Law No. 9 on the Amendment of the 1986 Law No. 5 on State Administrative Court (LNRI 2004 No. 35; TLNRI No. 4380).
27 Mas Ahmad Santosa, et al., "Introduction: climate change risk, sources and government policies and measures," in. L. Richard QC, at al., (Ed), *Climate Change Liability: Transnational Law and Practice*, Cambridge University Press, 2011, p 178-207.
28 LNRI 2009 No. 160.
29 Art. 22 of the EMA 2009 mentions that every business and/or activities that have an important impact on the environment shall have the EIA.
30 LNRI 2012 No. 48.
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[33] Art. 11 (LNRI 2009 No. 140).
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