

# Extrajudicial Dispute Resolution in Handling Environmental Cases in Indonesia (Case Study: River Water Pollution by PT Sugar Labinta in South Lampung)

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## Abstract

This paper examines extrajudicial dispute resolution mechanisms utilized in addressing environmental cases in Indonesia, with a focus on a specific case involving the alleged pollution of river water by PT Sugar Labinta in South Lampung. It delves into the legal frameworks, stakeholder engagement processes, and outcomes of extrajudicial dispute resolution efforts in environmental matters. Drawing on a case study approach, the paper analyzes the effectiveness and challenges of extrajudicial mechanisms in resolving environmental disputes, particularly in cases of alleged pollution by industrial entities. It explores the roles of various stakeholders, including government agencies, industry representatives, affected communities, and non-governmental organizations, in the resolution process. Furthermore, the paper evaluates the implications of extrajudicial



dispute resolution on environmental protection, legal accountability, and community rights. It examines the extent to which such mechanisms contribute to the realization of environmental justice, sustainable development, and corporate responsibility in Indonesia. In conclusion, the paper offers insights into the strengths and limitations of extrajudicial dispute resolution in handling environmental cases, using the PT Sugar Labinta case as a lens. It suggests recommendations for improving the effectiveness and fairness of extrajudicial mechanisms, enhancing transparency, accountability, and community participation in environmental decision-making processes.

**KEYWORDS** *Environmental Law Enforcement, Extrajudicial Dispute Resolution, Environmental Pollution, Legal Process*

## Introduction

The intricate interplay between industrial development and environmental preservation in Indonesia presents a formidable challenge<sup>1</sup>, particularly evident in cases of river water pollution by corporations such as PT Sugar Labinta in South Lampung.<sup>2</sup> Within this context, the efficacy of extrajudicial dispute resolution mechanisms emerges as a crucial area of inquiry. This paper aims to explore the application of extrajudicial avenues in addressing environmental conflicts, with a specific focus on the case study of river water pollution in South Lampung.

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<sup>1</sup> Sjaifuddin, Sjaifuddin. "Environmental management prospects of industrial area: A case study on Mcie, Indonesia." *Verslas: teoriya ir praktika* 19.1 (2018): 208-216. See also Satria, Adhi Putra. "Environmental quality protection in the period of industrialization to realize environmental-based industry." *UNIFIKASI: Jurnal Ilmu Hukum* 6.2 (2019): 156-163; Jaman, Ujang Badru. "Legal Analysis of The Impact of Industrial Development on The Environment." *The Easta Journal Law and Human Rights* 1.3 (2023): 87-92.

<sup>2</sup> Afanita, Nirma. "Pengawasan Terhadap Pengelolaan Limbah PT. Sugar Labinta Lampung Selatan." *Thesis* (Lampung: Universitas Lampung, 2013). See also Ali, Kristian. "Petani Keluhkan Pencemaran Limbah". *ANTARA Lampung*, November 5, 2014. Retrieved from <https://lampung.antaranews.com/berita/277386/petani-keluhkan-pencemaran-limbah>

Navigating the complex landscape of environmental law and corporate conduct demands innovative approaches to conflict resolution. Extrajudicial mechanisms offer a promising alternative to traditional legal processes, emphasizing dialogue, collaboration, and consensus-building among stakeholders. Through an examination of the PT Sugar Labinta case, this study seeks to elucidate the nuances and efficacy of extrajudicial dispute resolution in the Indonesian context.<sup>3</sup>

By synthesizing theoretical frameworks and empirical evidence, this paper endeavors to analyze the challenges and opportunities inherent in extrajudicial approaches to environmental conflict resolution. It aims to contribute to scholarly discourse by providing insights into the potential of collaborative problem-solving in promoting sustainable development and environmental justice in Indonesia.

As we delve into the complexities of environmental disputes and their resolution, it is imperative to consider the broader implications for policy, practice, and societal well-being. Through a rigorous analysis of the PT Sugar Labinta case, this study aims to inform and inspire dialogue on the role of extrajudicial mechanisms in fostering harmony between industry, environment, and society in Indonesia.<sup>4</sup>

In the further context, human survival hinges significantly on access to water, particularly fresh water, which serves as a fundamental lifeline for meeting daily needs. Given this indispensable role, it is incumbent upon us, as inhabitants of nature, to actively engage in the preservation and upkeep of rivers, the primary source of fresh water. Recognizing the critical importance of river sustainability, the Indonesian government has enacted

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<sup>3</sup> See also Hapsari, Dwi Ratna Indri, Aditya Aji Syuhadha Ilmiawan, and Echaib Samira. "Non-litigation as An Environmental Dispute Resolution Mechanism in Indonesia." *Indonesia Law Reform Journal* 2.1 (2022): 55-66; Sulistianingsih, Dewi, et al. "Environmental Dispute Resolution Through Alternative Dispute Resolution." *Proceedings of the 5th International Conference on Indonesian Legal Studies, ICILS 2022, 27-28 July 2022, Semarang, Central Java, Indonesia. 2023.*

<sup>4</sup> See Afriansyah, Arie, Anbar Jayadi, and Angela Vania. "Fighting the Giants: Efforts in Holding Corporation Responsible for Environmental Damages in Indonesia." *Hasanuddin Law Review* 4.3 (2019): 325-338; Pandiangan, Leo Nora Elly AM, Nanin Koeswidi, and Norty Retiana Silitonga. "How Can Environmental Dispute Resolution Be Resolved Without Going to Court." *Jurnal Hukum dan Peradilan* 10.2 (2021): 245-254.

legislation such as Law No. 7 of 2004 concerning Water Resources, alongside complementary environmental regulations.<sup>5</sup> These legal frameworks serve to ensure the effective implementation of measures aimed at safeguarding the sustainability of rivers and their invaluable contribution to human well-being.

Rivers stand as vital lifelines for human sustenance, particularly within the context of Indonesia. As population growth and the expansion of water-dependent industries accelerate, the demand for river water intensifies. Amidst this burgeoning demand and diminishing water availability, it becomes imperative to manage water resources holistically, considering social, environmental, and economic dimensions in tandem. The government's commitment to sustainable development underscores the need for a harmonious balance between present needs and the preservation of resources for future generations.<sup>6</sup> This entails adopting a long-term developmental approach that transcends generational boundaries, ensuring that natural resources are utilized responsibly and not depleted to the detriment of future inheritors.

The emergence of adverse environmental effects underscores the stark reality that certain development endeavors undertaken by companies often disregard environmental considerations, leading to a decline in environmental quality. These negative impacts manifest in various forms, including compromised water, soil, and air quality, as well as diminished environmental comfort. Such a scenario unfolded in Malangsari Village, South Lampung, where PT Sugar Labinta, a company, indiscriminately discharged factory waste into the Way River, a crucial water source for

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<sup>5</sup> See Nur, Syofyan. "Penerapan Pidana Pasal 63 Ayat (2) dan (3) Jo Pasal 94 Ayat (3) Huruf C dan D Undang-Undang Nomor 7 Tahun 2004 tentang Sumber Daya Air." *INOVATIF: Jurnal Ilmu Hukum* 11.3 (2018): 130-154; Aprilia, Indah Siti, and Leander Elian Zunggaval. "Peran Negara Terhadap Dampak Pencemaran Air Sungai Ditinjau Dari UU PPLH." *SUPREMASI: Jurnal Hukum* 2.1 (2019): 15-30.

<sup>6</sup> Kido, Machiko, et al. "Comparison of general water quality of rivers in Indonesia and Japan." *Environmental Monitoring and Assessment* 156 (2009): 317-329; Garg, Teevrat, et al. "(Not so) gently down the stream: River pollution and health in Indonesia." *Journal of Environmental Economics and Management* 92 (2018): 35-53.

local residents. This irresponsible action has infringed upon the community's right to inhabit a safe and healthy environment.<sup>7</sup>

The disposal of waste, excluding solid waste, into water sources necessitates prior authorization from the relevant authorities, as stipulated by prevailing laws and regulations.<sup>8</sup> The procedures and criteria for obtaining permits for waste disposal into water bodies adhere to the provisions outlined in Article 36 of Law Number 32 of 2009 concerning Environmental Protection and Management. Such waste disposal activities are subject to rigorous processing procedures aimed at minimizing adverse impacts.<sup>9</sup> Consequently, companies like PT Sugar Labinta in South Lampung are required to secure permits and adhere strictly to established protocols for waste disposal. This ensures thorough control, testing, and mitigation measures, thereby safeguarding the rights of all stakeholders from potential harm.

The adverse effects of PT Sugar Labinta's waste disposal is keenly felt by local residents, who are now grappling with the repercussions of polluted river water in their village. This contamination has rendered the river water unusable for various purposes, significantly disrupting the daily lives of the community. The visible signs of pollution, including a foul odor and darkened coloration, underscore the severity of the situation. Moreover, the tainted water has proven detrimental to agricultural activities, with crops wilting and perishing after irrigation. While the South Lampung district government has conducted water quality tests, the

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<sup>7</sup> See Bakri, Samsul, and Prayudhy Yushananta. "Water Pollution and Water Quality Assessment of the Way Kuripan River in Bandar Lampung City (Sumatera, Indonesia)." *Polish Journal of Environmental Studies* 32.2 (2023); Tugiyono, Tugiyono, et al. "Evaluation of the Water Quality Status and Pollution Load Carrying Capacity of Way Umpu River, Way Kanan District, Lampung Province, Indonesia, Based on Land Use." *International Journal of Ecology* 2023 (2023).

<sup>8</sup> Meidiana, Christia, and Thomas Gamse. "Development of waste management practices in Indonesia." *European journal of scientific research* 40.2 (2010): 199-210; Meidiana, Christia, and Thomas Gamse. "The new Waste Law: Challenging opportunity for future landfill operation in Indonesia." *Waste Management & Research* 29.1 (2011): 20-29.

<sup>9</sup> Supriandi, Supriandi, and Riska Rahmawati. "Analysis of Legal Aspects in Indonesia's Waste Management Policies." *Eastasouth Proceeding of Humanities and Social Sciences* 1.1 (2023): 13-18.

results from the laboratory indicate that the water may not be harmful to aquatic life within the watershed. However, crucial information regarding the impact on plants and human health remains lacking. Consequently, local residents are advised to refrain from utilizing the water until further research can provide comprehensive insights into its safety and potential hazards.<sup>10</sup>

In addition, the resolution of environmental law disputes, as outlined in Law No. 32 of 2009 concerning Environmental Protection and Management (hereinafter as UUPPLH), offers avenues both within and outside the judicial system, depending on the voluntary agreement of the disputing parties (Article 48, paragraph (1)). Within the court system, resolution may occur through administrative, civil, or criminal proceedings. Alternatively, outside the courtroom, parties may opt for negotiation, mediation, conciliation, or arbitration.<sup>11</sup>

However, the utilization of civil channels within the court system is often less favored by individuals due to the prolonged nature of legal proceedings. Civil cases, typically adjudicated in district courts, frequently undergo appeals and may even escalate to cassation in higher courts, driven by the dissatisfaction of the losing party with the initial verdict. This propensity for recourse to legal remedies is often motivated by a desire to appease tensions or seek closure.<sup>12</sup>

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<sup>10</sup> See Mulyadi, Agus. "Tanaman di Lampung Selatan Mati akibat Limbah", *KOMPAS*, September 7, 2012. Retrieved from <https://regional.kompas.com/read/2012/09/07/22082896/-Regional-Sumatera;Jaya,DidikTriPutra.> "WALHI Lampung Desak DLH Usut Tuntas Pencemaran Limbah Way Sekampung", *Kupas Tuntas*, November 3, 2020. Retrieved from <https://www.kupastuntas.co/2020/11/03/walhi-lampung-desak-dlh-usut-tuntas-pencemaran-limbah-way-sekampung>

<sup>11</sup> See Fitriyani, Cut Era. "Penyelesaian Sengketa Lingkungan Hidup Melalui Pengadilan." *Kanun Jurnal Ilmu Hukum* 12.3 (2010): 564-575; Soplanit, Miracle. "Penyelesaian Sengketa Lingkungan Hidup Menurut Undang-Undang No. 32 Tahun 2009 tentang UUPPLH." *LUTUR Law Journal* 1.1 (2020): 9-14. See also Nicholson, David. "Environmental Dispute Resolution in Indonesia." *Environmental Dispute Resolution in Indonesia*. Brill, 2009.

<sup>12</sup> See Purwadi, Ari, Cita Yustisia Serfiyani, and Suhandi Suhandi. "The Government's Lawsuit Rights on the Environment Disputes in Indonesia." *International Conference on Science, Technology & Environment (ICoSTE)*. 2019; Bedner, Adriaan.



## Examining the Causes and Legal Consequences of River Pollution: Case of PT Sugar Labinta

Situated in Malangsari Village, South Lampung, PT Sugar Labinta is a prominent enterprise dedicated to the production of refined sugar. Its strategic positioning within residential enclaves underscores its integral role in the local community's economic landscape. Moreover, the juxtaposition of these settlements alongside riverbanks accentuates the imperative for comprehensive, integrated, and environmentally sustainable water resource management. This imperative is driven by the overarching objective of ensuring the sustainable utilization of water resources for the collective prosperity of the populace. It is indisputable that these water reservoirs constitute a communal asset, essential for meeting the exigencies of daily life within the vicinity.<sup>13</sup>

In South Lampung, the specter of river pollution looms large, with multiple companies implicated in the degradation of local waterways.<sup>14</sup> PT Sugar Labinta is just one among many enterprises suspected of contributing to this environmental crisis. The list of culprits is extensive, featuring a diverse array of industries ranging from rubber production to soft drink manufacturing. These companies, scattered across different administrative locations within the region, have been identified for their

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"Access to environmental justice in Indonesia." *Access to Environmental Justice: A Comparative Study*. Brill Nijhoff, 2007. 89-123.

<sup>13</sup> Afianita, "Pengawasan Terhadap Pengelolaan Limbah PT. Sugar Labinta Lampung Selatan."

<sup>14</sup> See Yuwono, Slamet Budi, et al. "Mercury pollution in the soil and river water of the Ratai watershed by artisanal and small-scale gold mining activities in Pesawaran District, Lampung, Indonesia." *Journal of Degraded and Mining Lands Management* 10.2 (2023); Fitriani, K., T. K. Nufutomo, and R. Putra. "Water Quality Analysis Based on Land Use in Sekampung River, Lampung, Indonesia." *IOP Conference Series: Earth and Environmental Science*. Vol. 1041. No. 1. IOP Publishing, 2022; Sari, Irma, Marlina Kamelia, and Ade Lenty Hoya. "Analysis of the Amount of Leachate Pollution on The Environmental Health of Settlements at Bakung Final Disposal Site Bandar Lampung City." *Jurnal eduhealth* 14.2 (2023): 707-712.

wastewater discharges directly into nearby rivers, posing significant threats to the local ecosystem and community well-being.<sup>15</sup>

Among these companies is PTPN VII U UW BERULU, situated in Gd. Tataan, known for its rubber production. Similarly, PT. KIRIN M. FOODS and PT. FLORINDA MAKMUR, both operating in SKMP Udik and Catibung respectively, stand accused of exacerbating river pollution with their production processes. The impact extends beyond mere environmental concerns; agricultural livelihoods dependent on river water for irrigation have suffered as crops wilt and perish due to contamination.

Despite efforts by the South Lampung district government to monitor and address the situation, the complexity and scale of the issue present significant challenges. The reliance on legal channels for resolution often proves inadequate, given the protracted nature of legal proceedings and the dissatisfaction that frequently accompanies court rulings. In this context, the need for comprehensive, multi-stakeholder interventions becomes increasingly urgent to mitigate the adverse effects of river pollution and safeguard the rights of affected communities.

As delineated in Article 1, Section 14 of the Environmental Protection and Management Law (UUPPLH), environmental pollution is defined as the intrusion or introduction of living organisms, substances, energy, and/or other components into the environment by human activities, surpassing the established benchmarks of environmental quality. Termed as "*pollution*," these occurrences denote events where the equilibrium of the environment is disrupted due to human-induced factors. Materials capable of inducing such pollution are referred to as "*pollutants*," and their presence can signify a hazard to both ecological systems and human health.<sup>16</sup> For instance, while carbon dioxide at a

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<sup>15</sup> Afianita, "Pengawasan Terhadap Pengelolaan Limbah PT. Sugar Labinta Lampung Selatan."

<sup>16</sup> See Najicha, Fatma Ulfatun, et al. "The conceptualization of environmental administration law in environmental pollution control." *Journal of Human Rights, Culture and Legal System* 2.2 (2022): 87-99; Listiyani, Nurul, and M. Yasir Said. "Political law on the environment: the authority of the government and local government to file litigation in Law Number 32 Year 2009 on environmental protection and management." *Resources* 7.4 (2018): 77; Najicha, Fatma Ulfatun,



concentration of 0.033% in the atmosphere facilitates photosynthesis and benefits plant growth, elevated levels beyond this threshold can initiate adverse effects, exemplifying the delicate balance between beneficial and harmful concentrations within the environment.

Criteria for identifying substances as pollutants encompass various dimensions, including exceeding permissible quantities, inappropriate timing of their presence, and their occurrence in unsuitable locations. These delineations are crucial in discerning the potential hazards posed by substances within specific environmental contexts. A substance qualifies as a pollutant when its presence poses a discernible threat to the integrity of ecological systems or the well-being of living organisms.<sup>17</sup> Such discernment is vital for formulating effective environmental management strategies aimed at mitigating the adverse impacts of pollution on both natural ecosystems and human societies.

The nature of pollutants exhibits a nuanced dichotomy, characterized by their temporal and spatial effects. Some pollutants may exert short-term deleterious impacts, but upon interaction with environmental constituents, their harmful potential diminishes, rendering them inert or less harmful.<sup>18</sup> Conversely, certain pollutants possess longevity in their detrimental effects, accumulating over time to reach hazardous levels. Take, for instance, the case of lead (Pb): while low concentrations may not pose an immediate threat, prolonged exposure can result in its accumulation within biological systems, culminating in severe health consequences. This duality underscores the complexity of pollutant

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and I. Gusti Ayu Ketut Rachmi Handayani. "Legal Protection "Substantive Rights for Environmental Quality" on Environmental Law Against Human Rights in the Constitution in Indonesia." *International Conference on Law, Economics and Health (ICLEH 2020)*. Atlantis Press, 2020.

<sup>17</sup> See Popek, Emma P. *Sampling and Analysis of Environmental Chemical Pollutants: A Complete Guide*. Elsevier, 2017; Rathi, B. Senthil, P. Senthil Kumar, and Dai-Viet N. Vo. "Critical review on hazardous pollutants in water environment: Occurrence, monitoring, fate, removal technologies and risk assessment." *Science of the Total Environment* 797 (2021): 149134.

<sup>18</sup> Claus, C. Anne, et al. "Disaster, degradation, dystopia." *The International Handbook of Political Ecology*. Edward Elgar Publishing, 2015, pp. 291-304.

dynamics and emphasizes the imperative of holistic approaches in addressing environmental pollution.

The World Health Organization (WHO) delineates pollution into four distinct stages, each representing varying degrees of severity and potential consequences. At the initial stage, referred to as first-degree pollution, the environmental presence of pollutants does not immediately endanger human health. This assessment considers both the concentration of pollutants and the duration of exposure, with no immediate discernible harm observed. Moving to the second degree, pollution begins to manifest noticeable effects, eliciting mild irritation to sensory organs and vegetative tissues. This stage marks the onset of disturbances within ecosystems, signaling a departure from the normative equilibrium. Third-degree pollution signifies a significant escalation in the adverse impacts, with pollutants causing severe physiological reactions in organisms. Chronic pain and enduring health afflictions become prevalent as the body grapples with prolonged exposure to harmful agents. Finally, fourth-degree pollution represents the pinnacle of severity, where pollution levels have reached critical thresholds, resulting in catastrophic consequences for the environment. At this stage, the concentration of pollutant substances is alarmingly high, leading to widespread ecological devastation and, in extreme cases, fatalities within affected ecosystems. Through these delineations, the WHO provides a comprehensive framework for understanding the progression and implications of pollution, underscoring the urgency of proactive measures to mitigate its adverse effects.<sup>19</sup>

Pollution in Malangsari Village manifests at the second level, as previously elucidated. This level of pollution instigates disruptions within the river ecosystem and its adjacent environs. The presence of blackened, slimy, and malodorous river water precipitates adverse consequences, notably the demise of aquatic fauna inhabiting the river. Such repercussions pose significant detriment to residents, as the contaminated

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<sup>19</sup> See Hubal, Elaine A. Cohen, et al. "Identifying important life stages for monitoring and assessing risks from exposures to environmental contaminants: results of a World Health Organization review." *Regulatory Toxicology and Pharmacology* 69.1 (2014): 113-124.

river water, typically utilized for agricultural and plantation activities, becomes unfit for its intended purposes.

Furthermore, environmental pollution encompasses a multifaceted array of detrimental influences on ecosystems and human health, characterized by distinct categories. Air pollution, a prevalent concern, originates predominantly from vehicular emissions and industrial activities, disseminating a complex mixture of gases and particulate matter into the atmosphere. These emissions, including carbon monoxide, nitrogen oxides, and sulfur dioxide, contribute to the deterioration of air quality, posing significant health risks to populations exposed to elevated pollution levels.

In tandem with air pollution, noise pollution presents a pervasive challenge, disrupting the tranquility of both natural environments and urban settings. Defined by excessive noise levels that exceed permissible thresholds, noise pollution not only compromises the quality of life for affected individuals but also impairs wildlife habitats and communication among species. The deleterious effects of prolonged exposure to noise pollution encompass a spectrum of health issues, ranging from hearing impairment to heightened stress levels and cardiovascular ailments.

Radiation pollution, although less conspicuous, warrants considerable attention due to its potential for profound and far-reaching consequences. Uncontrolled releases of radiation, whether from industrial accidents, nuclear incidents, or improper disposal practices, can contaminate the environment and pose acute and chronic health risks to human populations. The long-term implications of radiation pollution encompass genetic mutations, increased cancer incidence, and ecological disturbances, necessitating stringent regulatory measures and robust monitoring protocols to mitigate its adverse impacts.

Water and soil pollution, arising primarily from anthropogenic activities, constitute pervasive threats to environmental integrity and human well-being. Contaminants introduced into water bodies and soil matrices through industrial discharges, agricultural runoff, and improper waste disposal compromise the suitability of these vital resources for

various purposes.<sup>20</sup> Chemical pollutants, heavy metals, and organic compounds present in polluted water and soil can accumulate in the food chain, posing risks to ecosystem health and human health through consumption of contaminated food and water sources.

Each category of environmental pollution underscores the imperative for comprehensive strategies aimed at prevention, mitigation, and remediation. Addressing these multifaceted challenges necessitates interdisciplinary approaches, robust regulatory frameworks, and concerted efforts from stakeholders across sectors to safeguard environmental quality and human health for present and future generations.

In this context, the dispute at PT Sugar Labinta stemmed from the infringement upon the community's entitlement to a clean and healthful environment. Specifically, the pollution incident in Malangsari Village centered on river contamination, significantly impacting the villagers' daily livelihood activities reliant on the river. Essential for agricultural irrigation, plantation cultivation, household needs, and more, the river serves as a vital resource for the community. However, the presence of blackened, malodorous water, along with detrimental effects on the river's fish ecosystem, poses considerable distress for residents. Allegations suggest that waste disposal, purportedly originating from PT Sugar Labinta due to its proximity to both the river and residential areas, contributed to the pollution incident, exacerbating tensions between the company and the affected community.<sup>21</sup>

## **Alternative Dispute Resolution Methods Utilized in Resolving Disputes at PT. Sugar Labinta in Malangsari Village, South Lampung**

In the intricate web of environmental governance and the dynamics between communities and industries, disputes concerning environmental pollution and degradation frequently surface, demanding swift and

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<sup>20</sup> Menzer, Robert E., and John O. Nelson. "Water and soil pollutants." *Casaret and Doull's toxicology: the basic science of poisons* 4 (1991): 872-902.

<sup>21</sup> Afianita, "Pengawasan Terhadap Pengelolaan Limbah PT. Sugar Labinta Lampung Selatan."

decisive resolution. Within this framework, PT Sugar Labinta, nestled in the heart of Malangsari Village, South Lampung, has found itself embroiled in contentious debates surrounding allegations of environmental harm. Mandated by Article 1, Section 19 of the Environmental Protection and Management Law (UUPPLH), these disputes encompass conflicts arising from suspected or confirmed instances of environmental pollution and/or destruction. Recognizing the imperative of addressing these issues with urgency and efficacy, alternative dispute resolution (ADR) methods have emerged as viable avenues for resolving conflicts outside the confines of the traditional judicial system. By providing a platform for stakeholders to engage in constructive dialogue, negotiate amicable solutions, and forge mutually acceptable outcomes, ADR mechanisms hold promise in facilitating reconciliation and fostering sustainable environmental management practices.

Within the realm of environmental conflict resolution, the application of ADR methods assumes multifaceted dimensions, each bearing implications for the stakeholders involved and the broader ecological landscape. The utilization of ADR mechanisms at PT Sugar Labinta in Malangsari Village represents a microcosm of the broader discourse on environmental justice and corporate accountability. By delving into the intricacies of these alternative approaches to dispute resolution, it becomes evident that they offer a nuanced and contextually sensitive means of navigating complex environmental challenges. From mediation and arbitration to negotiation and consensus-building, the spectrum of ADR methods empowers stakeholders to collaboratively address environmental disputes, transcending adversarial approaches in favor of cooperative problem-solving strategies. As such, an exploration of the utilization and effectiveness of ADR mechanisms at PT Sugar Labinta not only sheds light on localized environmental conflicts but also contributes to broader conversations on the role of ADR in promoting environmental sustainability and community resilience in the face of industrial activities.

Article 1, Section 19 of the Environmental Protection and Management Law (UUPPLH) defines an environmental dispute as a conflict involving two or more parties stemming from the presence or

suspicion of environmental pollution and/or degradation. Several interpretations elucidate the nature of environmental disputes:

1. Environmental disputes encompass conflicts or controversies arising from claims or rights, wherein individuals assert their entitlements that have been denied by others.
2. Such disputes typically involve two categories of actors: polluters and/or environmental destroyers (perpetrators), and victims of pollution and/or environmental degradation.
3. Environmental disputes extend beyond instances of actual pollution or destruction, encompassing suspicions of harm to the environment. These suspicions, whether validated or not, have the potential to spark disputes among concerned parties.

Article 84, paragraph 1 of the Environmental Protection and Management Law (UUPPLH) outlines the dual avenues available for resolving environmental disputes: through judicial processes or alternative means, contingent upon the voluntary agreement of the parties involved. This provision underscores the importance of providing flexibility in dispute resolution mechanisms, recognizing that not all conflicts necessitate litigation. However, it's essential to acknowledge the limitations inherent in this framework, particularly concerning cases of environmental crimes. In such instances, the severity of the offenses demands strict adherence to legal procedures and accountability through court proceedings.<sup>22</sup>

In addition, the judicial system offers a robust framework for addressing environmental disputes, providing avenues for seeking indemnity, facilitating environmental restoration efforts, and ensuring accountability for perpetrators. By upholding principles such as absolute responsibility, governments, local authorities, communities, and environmental organizations can leverage legal mechanisms to safeguard

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<sup>22</sup> Nofita, Putri. "Environmental law dispute resolution based on positive Law." *The 1st Proceeding International Conference and Call Paper*. Vol. 1. No. 1. 2021; Dewi, Dahlia Kusuma, Alvi Syahrin, and M. Hamdan. "The Functionalization of the Ultimum Remedium Principle Towards the Implementation of Criminal Actions Environmental License in the Perspective of Environmental Criminal Law in Indonesia." *1st UMGESHIC International Seminar on Health, Social Science and Humanities (UMGESHIC-ISHSSH 2020)*. Atlantis Press, 2021.



environmental integrity and protect the rights of affected individuals and ecosystems. Moreover, administrative and criminal provisions serve as vital tools in enforcing regulatory compliance and prosecuting egregious environmental violations, thereby deterring future offenses and promoting a culture of environmental stewardship and accountability. In navigating the complexities of environmental governance, a balanced approach that integrates both judicial and alternative dispute resolution methods is paramount, ensuring that justice is served, and environmental sustainability is upheld for present and future generations.<sup>23</sup>

In practice, resorting to litigation is often unpopular among businessmen, who generally prefer to avoid resolving disputes in court whenever possible. This reluctance stems from several factors. Firstly, the prolonged duration of court proceedings, coupled with the requisite procedural stages, can significantly disrupt business operations and entail substantial time and resource commitments. Secondly, the public nature of court proceedings is antithetical to the discreet nature of business dealings, as entrepreneurs prefer to keep their internal disputes confidential to maintain their professional reputation and safeguard sensitive information. Lastly, the perceived lack of expertise among court-appointed mediators and judges in specific business domains may undermine confidence in the efficacy of judicial resolution, prompting entrepreneurs to seek alternative dispute resolution methods tailored to their unique needs and circumstances.

Alternative dispute resolution (ADR) offers an alternative avenue for settling environmental disputes outside of traditional court proceedings. This approach, long recognized in the United States, as articulated by Stephen B. Goldberg, serves multiple purposes and addresses various

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<sup>23</sup> Gayo, Sabela. "Resolving Environmental Dispute With Mediation Method." *International Asia of Law and Money Laundering (IAML)* 1.1 (2022): 23-29; Hari, Josua, and Netty Naiborhu. "Access To Justice For Intergenerational Equity As Judicial Remedy For Climate Change Litigation." *Proceedings of the 5th International Conference on Indonesian Legal Studies, ICILS 2022, 27-28 July 2022, Semarang, Central Java, Indonesia*. 2023. See also Haryadi, Dwi, Ibrahim Ibrahim, and Darwance Darwance. "Environmental regulations (its identification and downstream implementation in Bangka Belitung)." *E3S Web of Conferences*. Vol. 241. EDP Sciences, 2021.

underlying concerns within the legal landscape. Primarily, ADR mechanisms aim to alleviate the backlog of court cases, thereby mitigating court congestion and expediting the resolution of disputes.<sup>24</sup> Moreover, ADR endeavors to enhance community involvement and autonomy in the dispute resolution process, empowering parties to actively participate in crafting mutually beneficial solutions tailored to their specific needs and circumstances. Additionally, ADR endeavors to democratize access to justice by providing a more accessible and cost-effective means of resolving disputes, particularly for marginalized or disadvantaged individuals and communities. By fostering a collaborative environment conducive to negotiation and compromise, ADR seeks to facilitate the attainment of mutually acceptable resolutions that preserve the dignity and interests of all parties involved, ultimately promoting greater harmony and stability within communities.<sup>25</sup>

In addressing environmental disputes, a range of solutions exists outside the courtroom, offering efficient and collaborative means of conflict resolution. These alternative dispute resolution (ADR) methods, as outlined by scholars and legal frameworks, provide parties with flexible approaches to resolving disputes while promoting constructive dialogue

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<sup>24</sup> Goldberg, Stephen B., et al. *Dispute resolution: Negotiation, mediation, arbitration, and other processes*. Aspen Publishing, 2020. See also Goldberg, Stephen B. "The secrets of successful mediators." *Negotiation Journal* 21.3 (2005): 365-376.

<sup>25</sup> Hapsari, Dwi Ratna Indri, Aditya Aji Syuhadha Ilmiawan, and Echaib Samira. "Non-litigation as An Environmental Dispute Resolution Mechanism in Indonesia." *Indonesia Law Reform Journal* 2.1 (2022): 55-66; Ardhiyoko, Adimas, Jamal Wiwoho, and Yudho Taruno Muryanto. "The Justice System in Indonesia with the Application of the Green Constitution in Mining Dispute Resolution." *International Conference on Environmental and Energy Policy (ICEEP 2021)*. Atlantis Press, 2021. See also Arsyiprimeswari, Natasya, et al. "Environmental Law and Mining Law in the Framework of State Administration Law." *Unnes Law Journal* 7.2 (2021): 347-370; Wijayanto, Adi, Hatta Acarya Wiraraja, and Siti Aminah Idris. "Forest Fire and Environmental Damage: The Indonesian Legal Policy and Law Enforcement." *Unnes Law Journal* 8.1 (2022): 105-132; Sudiarawan, Kadek Agus, et al. "Discourses on Citizen Lawsuit as Administrative Dispute Object: Government Administration Law vs. Administrative Court Law." *Journal of Indonesian Legal Studies* 7.2 (2022): 499-486; Chandra, Tofik, and Bobur Sobirov. "Corporate Criminal Liability for Illegal Toxic and Hazardous Waste Dumping." *Lex Publica* 10.1 (2023): 123-140.

and mutual agreement. Among these methods, negotiation stands as a cornerstone, facilitating consensual bargaining wherein parties seek common ground on contentious issues. Fisher characterizes negotiation as a process aimed at reaching agreements or settlements on disputed matters, emphasizing the voluntary nature of the bargaining process.<sup>26</sup>

Another prominent ADR method is mediation, as elucidated by JM Nolan-Haley, which involves a structured, participatory intervention process guided by a neutral third party.<sup>27</sup> Article 85, paragraph 3 of the UUPPLH underscores the role of mediators and arbitrators in facilitating the resolution of environmental disputes outside the courtroom. These neutral third parties, whether facilitators or arbitrators, play a pivotal role in guiding discussions, ensuring procedural fairness, and fostering constructive communication among disputing parties.<sup>28</sup> According to UUPPLH, mediators must possess legal acumen, substantial environmental expertise, and demonstrated negotiation skills, underlining the importance of qualified mediators in facilitating effective dispute resolution processes.

Conciliation emerges as another avenue for resolving disputes outside the courtroom, involving negotiations with the assistance of neutral third parties, or conciliators, to achieve mutually acceptable settlements. Similarly, arbitration offers a binding resolution mechanism, wherein parties submit their disputes to a neutral arbitrator empowered to render decisions enforceable upon all parties involved.<sup>29</sup> These ADR methods

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<sup>26</sup> Fisher, Talia. "Law and economics of alternative dispute resolution." *The Oxford Handbook of Law and Economics: Volume 3: Public Law and Legal Institutions* (2017): 280.

<sup>27</sup> See Nolan-Haley, Jacqueline M. "Court Mediation and the Search for Justice Through Law." *Washington University Law Quarterly* 74.1 (1996); Nolan-Haley, Jacqueline. "Mediation: The "New Arbitration"." *Harvard Negotiation Law Review* 17 (2012): 61.

<sup>28</sup> See Siombo, Marhaeni Ria. "Mediasi Pilihan Penyelesaian Sengketa Non Litigasi Terhadap Pelanggaran Hak Atas Lingkungan Hidup Yang Sehat." *Bina Hukum Lingkungan* 1.1 (2016): 10-18.

<sup>29</sup> See David, Jennifer. "Alternative Dispute Resolution-What is it?." *Alternative Dispute Resolution* (1986): 27; Nugraheni, Prasasti Dyah, and Andrianantenaina Fanirintsoa Aime. "Environmental Law Enforcement in Indonesia Through Civil

provide parties with flexible, efficient, and tailored approaches to resolving environmental disputes, promoting amicable resolutions while alleviating the burden on the judicial system. In sum, the utilization of ADR methods underscores a commitment to collaborative problem-solving, ensuring equitable outcomes and fostering sustainable environmental management practices.

In the resolution of disputes stemming from allegations of river pollution by PT Sugar Labinta in Malangsari Village, South Lampung, mediation emerged as the chosen method for conflict resolution. A collaborative effort ensued, with representatives from Malangsari Village and PT Sugar Labinta engaging in negotiations facilitated by a mutually agreed-upon mediator. The mediation process involved the appointment of a coordinator or representative from Malangsari Village residents, selected through consensus among the affected villagers. Additionally, a companion was designated to assist in negotiations, chosen from among government officials perceived to possess sufficient expertise and impartiality to guide the mediation process effectively.

The mediator, chosen by unanimous agreement of the villagers, played a crucial role in facilitating constructive dialogue and fostering mutual understanding between the disputing parties. Importantly, the mediator maintained independence from both Malangsari Village residents and PT Sugar Labinta, ensuring impartiality and neutrality throughout the mediation proceedings. With no vested interest in the negotiation process or its outcomes, the mediator refrained from making unilateral decisions, instead fostering a collaborative environment conducive to reaching a mutually acceptable resolution. Representing PT Sugar Labinta in the mediation process was the company's president director, symbolizing the commitment of the company's leadership to engage in constructive dialogue and seek a resolution to the environmental dispute in good faith.

Indeed, despite allegations leveled against PT Sugar Labinta regarding river pollution stemming from its waste, laboratory tests indicate that pollutant levels remain within acceptable limits. However, local

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residents' firsthand experiences and observations paint a different picture, attesting to the deteriorating condition of the river water. Despite the disparity between laboratory results and community perceptions, PT Sugar Labinta staunchly denies culpability for the pollution, citing the test findings as evidence. Eventually, a consensus was reached between the company and local residents, wherein PT Sugar Labinta agreed to provide assistance to the affected communities in Malangsari Village. Notably, the company refrains from using the term "*compensation*," asserting that the pollution is not a direct consequence of its operations. Instead, PT Sugar Labinta commits to supporting the affected communities and pledges to prevent future instances of severe river pollution.

In the realm of environmental law enforcement, the complexities inherent in navigating disputes such as this are compounded by various influential factors. Legal considerations, including the interpretation and application of environmental statutes, play a pivotal role in shaping enforcement strategies and outcomes. Furthermore, the efficacy of law enforcement efforts is contingent upon factors such as resource availability, enforcement capacity, and the accessibility of legal remedies. Community dynamics also exert a significant influence, with local attitudes, perceptions, and socio-economic factors shaping responses to environmental issues and law enforcement initiatives. By addressing these multifaceted factors comprehensively, environmental law enforcement agencies can effectively uphold regulatory standards, promote environmental stewardship, and foster community resilience in the face of environmental challenges.

This factor, encompassing the disparity between laboratory test results and community perceptions of river pollution, underscores the complexity of environmental disputes involving PT Sugar Labinta and the surrounding residents. From a legal perspective, the divergence between objective scientific data and subjective community experiences presents a significant challenge in adjudicating such disputes. While laboratory tests may provide valuable evidence regarding pollutant levels and compliance with regulatory standards, they may not fully capture the qualitative aspects of environmental harm experienced by affected communities. Legal analyses of environmental disputes must therefore consider the interplay between empirical evidence and experiential knowledge,

recognizing the limitations of purely quantitative assessments in capturing the full scope of environmental impacts.

Furthermore, the resolution reached between PT Sugar Labinta and the local residents, wherein the company provides assistance without admitting fault or offering compensation, raises legal questions regarding liability and accountability. From a legal standpoint, the absence of a formal acknowledgment of responsibility from PT Sugar Labinta may complicate future legal proceedings should the pollution persist or escalate. Additionally, the decision to refrain from using the term *compensation* may have legal implications regarding the nature and extent of the assistance provided, as well as the company's potential liability for ongoing environmental harm. Legal analyses of such agreements must therefore carefully consider the implications for both parties and ensure that the terms are legally enforceable and equitable under environmental law.

Ultimately, legal analysis of disputes involving PT Sugar Labinta and surrounding residents must navigate the complex interplay between scientific evidence, community perceptions, and legal principles. By incorporating a multifaceted approach that considers both quantitative and qualitative aspects of environmental harm, legal analyses can provide a comprehensive understanding of the underlying issues and facilitate equitable and effective dispute resolution outcomes.

## Conclusion

In conclusion, this paper has shed light on the complexities surrounding extrajudicial dispute resolution mechanisms concerning environmental cases in Indonesia, with a specific focus on the alleged pollution of river water by PT Sugar Labinta in South Lampung. Through a comprehensive examination of legal frameworks, stakeholder engagement processes, and outcomes, this study has highlighted both the effectiveness and challenges inherent in such mechanisms. The findings underscore the importance of considering various stakeholders' roles, including government agencies, industry representatives, affected communities, and non-governmental organizations, in the resolution process. While extrajudicial mechanisms offer potential advantages such as



efficiency and flexibility, they also present concerns regarding transparency, accountability, and equitable outcomes.

One of the key recommendations stemming from this analysis is the need to enhance transparency, accountability, and community participation in environmental decision-making processes. Strengthening these aspects can contribute significantly to the realization of environmental justice, sustainable development, and corporate responsibility in Indonesia. Moreover, there is a call for improved mechanisms for monitoring and enforcing compliance with agreements reached through extrajudicial processes to ensure that environmental protection and community rights are upheld effectively.

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*“This is not just about the environment, it’s about the community, it’s about jobs, it’s about justice.”*

**Eddie Bautista**

Executive director for the New York City Environmental Justice Alliance and one of the leading organisers of the People’s Climate March in New York, USA, on 21 September 2014

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