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*RESEARCH ARTICLE*

# RECONSTRUCTION OF ENVIRONMENTAL DISPUTES SETTLEMENT BY LITIGATION BASED ON JUSTICE VALUE

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## Abstract

In Indonesia the settlement of environmental disputes by means of mediation, is an appropriate step and can fulfill the principle of justice by both disputing parties, and this is also not enough there also how when agreements that have permanent legal force are still being denied by employers or parties those who damage the environment. This needs the consistency of the government as law enforcement officers so that victims affected by environmental damage get legal guarantees and legal certainty to be able to live and live well and healthy. Therefore, in this study the authors formulated the problem studied to what are the weaknesses in resolving environmental disputes by current litigation and how the reconstruction of environmental dispute settlement by means of litigation based on fair values. The study was done using the constructivism paradigm and the type of research is a qualitative study with a socio-legal approach.Research shows that the weaknesses are caused by the nature of litigation itself which is a lawsuit over a conflict that is actualized to replace the actual conflict, where the parties face each other and provide different arguments to make a decision of two conflicting interests. This litigation is formal in nature and subject to procedural law, then the judge gives a decision that cannot be intervened by the two disputing parties, the process is long and protracted to get a decision, so it takes a long time, is expensive and will cause tensions and tensions hostility can occur. The main function of the law is ultimately to uphold justice and the law not only in the form of laws but also customary laws of local communities which are not written so in carrying out their duties as law enforcement, the police, prosecutors, and courts not only enforce the sound of the text contained in the book the law, but must pay attention to the habits and customs of the local community. Therefore a legal reconstruction is needed in Article 64 of Law No. 32 of 2009, in the form of physical and social recovery which is the authority of the Government and Regional Government.



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## Introduction:-

Environmental pollution and damage are important topics in the process of industrialization in Indonesia, entrepreneurs often forget their obligations to protect and preserve the environment, including protecting the abiotic environment, as well as their culture and culture. This is often due to a classic reason, that it costs more to manage waste properly and properly, so that it is reluctant to implement it and feels ignored.

No different from the problems that had become a tranding topic in a number of mass media in mid-2016, for decades the case of river pollution from industrial waste along the coast of Semarang City, for example, has become a scourge for residents around the area, especially residents residing lived near the river of Tapak Village, Tugu Rejo Village, Tugu Village of Semarang City. The river is known by the local residents as Sungai Tapak, according to the river residents who are affected by waste or polluted by waste, besides being turbid it also smells bad, other effects of river pollution cause irritation to the skin, the body feels itchiness and produces small spots.

Waste that pollutes the Tapak river and other nearby rivers is the responsibility of several companies operating in the area. Disputes between citizens and companies in the process of resolution were mediated by the regional government in the Field of Handling Environmental Disputes and Restoring the Quality of the Semarang City Environment Agency. The method chosen for resolving environmental disputes is by means of mediation or Alternative Dispute Resolution (ADR), from the process agreed between the two parties namely the company will build artesian wells as compensation for affected residents, while compensation such as plants, ponds , fish and others are calculated later.

The example of the case above shows that non-litigation settlement with mediation model is more effective than by court or litigation considering that the affected community sues in court, takes a long time, compensation is not clear, while the affected environment continues to run , as the need for clean water is really needed by the residents, so it is necessary to find a solution by handling environmental solutions quickly, precisely, cheaply and effectively that can be accepted by all residents who feel disadvantaged.

Settlement of environmental disputes outside the court or non-litigation by mediation, is one way that can bring the parties to obtain justice and in this case has been regulated in Law Number 32 Year 2009 concerning Environmental Protection and Management, especially in Article 84 letter (I) states that "Settlement of the environment can be reached through the court or outside the court". From this basis, the community can choose to settle the environment, and settle environmental disputes by means of non-litigation (mediation) is an appropriate step in environmental resolution compared to litigation. Mediation is a way to resolve environmental disputes that can directly respond to problems and how the losses caused by environmental pollution.

Mediation is one type of Alternative Dispute Resolution, mediation is the process of resolving disputes between two or more parties through negotiations or by utilizing the help of other parties that are neutral as a mediator (mediator) whose task is to provide procedural or substantial assistance to seek resolution which is acceptable to the parties.

Alternative Dispute Resolution in Indonesia is known as Alternative Dispute Resolution (APS). Alternative Dispute Resolution emerged as a social justice solution in Indonesia by presenting alternative dispute or problem resolution processes in a simple, fast and low cost (non court). Alternative Dispute Resolution itself has been regulated in Article 76 (1) jo. Article 89 (4) of Law no. 39 of 1999 concerning Human Rights.

**Referring to the provisions of Law No. 30 of 1999 concerning Arbitration, especially in Article 1 number (10) and Alternative Dispute Resolution, there are several forms of Alternative Dispute Resolution that can be chosen by the parties to the dispute, including:**

1. Consultation, namely efforts to resolve disputes by soliciting input from parties believed to be able to provide solutions based on their knowledge and experience and can facilitate dispute resolution to reach a common goal.
2. Negotiations, namely efforts to resolve disputes between parties by dealing directly with negotiations independently.
3. Mediation, which is a process of resolving disputes between two or more parties through negotiations or by means of consensus with the help of other parties as mediators or mediators.
4. Conciliation, namely efforts to resolve disputes carried out by involving a third party that is neutral, or
5. Expert judgment.

**The advantage of this Alternative Dispute Resolution (ADR) are :**

1. Guaranteed confidentiality of the parties,
2. Avoiding delays caused by procedural and administrative matters.
3. The parties may choose a third party who, according to their belief, has sufficient knowledge and experience and background on the disputed problem to be honest and fair.
4. The parties can make legal choices to resolve the problem and the process and place of administration.
5. ADR Decisions are decisions that bind the parties and through simple or direct procedures (procedures) can be implemented.

Seeing some of the reasons above, the settlement of environmental disputes by mediation is an appropriate step and can fulfill the principle of justice. Considering that the settlement of the environmental segment by means of mediation can provide space or bargaining power to those who feel aggrieved, so that both parties can determine the choice or compensation for compensation to be made. Currently environmental issues are indeed a concern of the public, because entrepreneurs tend to pay less attention to the impacts caused by industrial processes that can damage the environment and ecosystems as well as human survival. Environmental damage can be from waste disposal, inadequate sanitation, as well as industries that do not carry out Environmental Management Plans (RKL).

If environmental disputes or disputes occur due to pollution or environmental damage, the resolution is far from the expectations of the community. Especially if the settlement is through a court or is (litigation), with a long process, time that can not be determined, so that the community or the injured party feels unprotected. Seeing this, there appears to be a lack of justice or inequality in legal protection, especially regarding the resolution of environmental disputes feel protected and not protracted to wait for the trial process. Mainly the protection of people's rights to obtain a good and healthy environment.

A good and healthy environment is a basic right for everyone. The Environmental Protection and Management Law was created and implemented in order to realize quality and sustainable development. Sustainable development is a conscious and planned effort that integrates environmental, social and economic aspects in a development strategy to ensure environmental integrity and the safety, capability and quality of life of present and future generations.

Seeing some of the reasons above, then the settlement of environmental disputes by means of mediation, is an appropriate step and can fulfill the principle of justice by both parties in dispute, and this is also not enough there also how when agreements that have legal force still this is still denied by employers or parties who damage the environment. This needs the consistency of the government as law enforcement officers so that victims affected by environmental damage get legal guarantees and legal certainty to be able to live and live well and healthy. Therefore, in this study the authors formulated the problem as follows:

1. What are the weaknesses of Indonesian Law in in resolving environmental disputes by litigation Currently ?
2. How is the reconstruction of the law of environment dispute resolution based on justice value?

## Method of Research:-

The paradigm that is used in the research this is the paradigm of constructivism which is the antithesis of the understanding that lay observation and objectivity in finding a reality or science knowledge. Paradigm also looked at the science of social as an analysis of systematic against Socially Meaningful Action through observation directly and in detail to the problem analyzed.

The research in writing this dissertation is a qualitative research . Writing aims to provide a description of a society or a certain group of people or a description of a symptom or between two or more symptoms.

Approach ( approach) the research is to use the approach of Socio-Legal , which is based on the norms of law and the theory of the existing legal enforceability of a sociological viewpoint as interpretation or interpretation .

**As for the source of research used in this study are :**

1. Primary Data, is data obtained from information and information from respondents directly obtained through interviews and literature studies.
2. Secondary Data, is an indirect source that is able to provide additional and reinforcement of research data. Sources of secondary data in the form of: Primary Legal Material and Secondary Legal Materials and Tertiary Legal Material.

In this study , researchers used data collection techniques, namely literature study, interviews and documentation. In this study, the researcher is a key instrument that is the researcher himself who plans, collects, and interprets the data. Qualitative data analysis is the process of searching for, and systematically compiling data obtained from interviews, field notes and documentation by organizing data into categories, describing it into units, synthesizing, compiling into patterns, selecting important names and what will be studied and make conclusions.

## Research Result and Discussion:-

**Weaknesses Of Indonesian Law In In Resolving Environmental Disputes By Litigation Currently**

In every development process, it can never be separated from what called the release of land rights. Because mining is under the earth's layer, even though there is a person / legal entity's right to land (for example, ownership rights), according to Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles or what is often referred to as the principal agrarian law, he is obliged to expand other parties who have the right to link with the Agrarian Law, to carry out exploration and exploitation. Losses suffered as a result of this use, the deliberation of compensation compensation. This also applies to holders of land rights around or adjacent to the mine, if he suffer losses.

As explained earlier that natural resources are one of the important inputs in any production activity both in the industrial sector (factory), in the agricultural sector, and in the service sector. All activities in the three sectors provide outputs in the form of goods and services to meet human needs. In other words, natural resources must be extracted to meet human needs. More and more population, moreover accompanied by an increase in living standards as reflected in an increase in income per capita, will require more and more goods and services to be provided and in turn will be extracted and more natural resources will be used.

On the other hand, increasing production activities aside from producing more satisfying means of goods and services also result in environmental pollution (pollution). This environmental pollution has a negative impact on human health, so that it will mean suppressing the welfare of human life. Pollution due to production activities through the manufacturing industry and agriculture, especially will be felt very much on land, air, water. With the deteriorating quality of land, air, water, the higher the cost of mitigation and the more severe the achievement of the development goals of a nation to live more prosperously and materially and non-materially longer in this world.

From the description above if related to legal phenomena that occur in the community such as the Land dispute in Rembang, it can be interpreted that the final outcome of the legal settlement of the object of the dispute, it turns out that the Supreme Court won the community members who are members of the Kendeng Mountains Concerned Community Network (JMPPK) Rembang, where Joko Prianto is the initiator. The results also directly canceled the Central Java Governor Decree Number 660.1 / 17 of 2012, dated June 7, 2012, concerning Environmental Permit for Mining Activities by PT Semen Gresik (Persero) Tbk, in Rembang Regency, Central Java Province, so that de jure PT. Semen Gresik (Persero) Tbk does not have the authority to conduct mining in Gunem District. Even according to the applicable laws, the exact mining area in the villages of Kajar and Pasucen is still a CAT which according to some experts is a protected area, so it is not allowed for mining activities.

The aspects as explained above make it clear that the decisions taken through litigation, especially in disputes involving the government and the community, mostly only ended juridically, less relying on sociological and philosophical truths, as Gustav Radbruch said:

"people not only want to see justice created by law and their interests served by law, but they also want that in society there are rules that guarantee certainty in their relations with each other."

Thus, the law is demanded to fulfill various works which Gustaf Radbruch calls the 3 (three) basic values of the law. The three basic values include the basic value of Justice, the basic value of Use or Benefits and the basic value of Certainty. These three basic values have their own legal basis. The basic value of Justice, the validity of its validity is philosophically. The basic value of the validity of the application is sociologically and the basic value of the validity of the validity is legally.

Even though these three are the basic values of law, between them there can be tension with each other. The tension is understandable because all three contain demands that differ from each other, and have the potential for conflict. If taken as an example of legal certainty, as a value it immediately shifts the values of justice and usefulness to the

side. According to Radbruch, if there is a tension between these basic values, we must use the basis or principle of priority where the first priority always falls on the value of justice, then the value of usefulness or usefulness and finally legal certainty. This shows that Radbruch places the value of justice as more important than the value of expediency and the value of legal certainty and places the value of legal certainty below the value of expediency.

Seen from the perspective of Chamblis & Seidman's theory, the sanctioning implementers only look at legal norms directed at citizens and norms directed at them. The law enforcers do not pay attention to habits in society. Viewed from the standpoint of theory in deciding cases as stated by Algra and Van Duyvendijk, the law enforcers are based on the theory of legal positivism, so that the priority in deciding cases is legal certainty. Weaknesses of this kind are indicative of the resolution of environmental disputes by litigation at this time, which seems to be quite lacking justice.

Seeing some of these cases, the resolution of the disputes of litigation by litigation contains many weaknesses besides complicated and convoluted processes, to obtain compensation is very difficult, therefore a breakthrough is needed to be able to resolve environmental disputes in a manner that is easy, fast and compensation can be accepted by all parties, especially those in dispute.

**Reconstruction Of The Law Of Environment Dispute Resolution Based On Justice Value**

Integration of environmental management in all development activities that have an impact on the environment as a whole has been sought by the establishment of responsible institutions in the field of environmental management both at the central and regional levels.

Referring to Koesnadi Hardjasoemantri's indication above, the authority possessed by the Rembang Regency Environmental Agency can be regarded as the state's right to control and regulate natural resources as the main points of people's prosperity giving the state authority to:

1. Regulates the designation, development, use, reuse, recycling, supply, management and control of resources,
2. Regulate legal actions and legal relations between people and or other legal subjects to resources,
3. Manage environmental taxes and charges.

Article 3 of the Law on Environmental Management also states that: Environmental management carried out under the principles of state responsibility, the principle of sustainability and the principle of benefits aims to realize sustainable development that is environmentally sound in the context of the development of Indonesian people as a whole and the development of all Indonesian people who believe and fear God Almighty.

In the context of the country's commitment to provide protection for environmental sustainability, both flora and fauna, the Government of the Republic of Indonesia issued Government Regulation No. 34 of 2002, concerning Forest Management and Preparation of Forest Management Plans, Forest Monitoring and Use of Forest Areas. Furthermore, as an element of implementing forest management as one of the enormous assets of the Indonesian state, the Government issued Government Regulation No. 30/2003 concerning the State Forestry Public Corporation (Perum Perhutani). Through Government Regulation No. 30/2003 above, Perum Perhutani legally has duties and functions in forest management so that the wealth can be used optimally to hereditary, which is summarized in the concept of sustainable development (sustainable).

The basic conception of environmental management is therefore not only the authority of the Environmental Agency, but also involves the authority of other state agencies at a more macro level, such as Perhutani, specifically for the management and supervision of the forest environment. However, regardless of who is the implementer and organizer of environmental management, there is a common mission and goal that in environmental management must include the concept of sustainable (sustainable). In a sense, the management and supervision of the environment must consider the use and utilization of biological resources which are meant not for the current generation, but also heed the utility aspects for future generations. Thus, the entry of the Gresik cement factory into the Gunem subdistrict area, has actually been calculated beforehand with related parties, which are not only the Government of Rembang Regency and other vertical agencies, but have also gone through an AMDAL process that can be accounted for and in accordance with the principles of sustainable development.

This phenomenon is in accordance with the information from the district head of Gunem as:"The essence of environmental problems is maintaining a harmonious relationship between humans and the environment,

development causes changes both from the natural environment and social environment. Therefore it is very important that efforts are made to ensure that environmental change in Gunem District does not disturb the balance of relations between humans and the environment. This has been attempted by the Government of Rembang Regency, in order to safeguard investment interests while at the same time without sacrificing the wants and needs of the Gunem community.".

The above conditions can be interpreted that the natural environment that we have is a gift from God Almighty, therefore as a good people and citizens of Gunem District, must manage, utilize and maintain natural resources to advance public welfare as mandated in the Act Basic Law 1945. In order to achieve happiness in life based on Pancasila, it is necessary to carry out sustainable development that is environmentally sound based on an integrated and comprehensive national policy that takes into account the needs of present and future generations. This is so that environmental management remains a source and support for the people and people of Indonesia and other living creatures for the sake of survival and improving the quality of life itself. Herein lies the link between the urgency of populist public policy and the principles of human rights that must still be upheld, and in order to realize the determination of the Rembang Regency government to improve the welfare of its people.

In the context of integrated environmental management, the authority of the Environmental Agency directly often overlaps with the authority possessed by other agencies or institutions. Overlapping that has occurred so far in the implementation of environmental management in the Regency of Rembang, usually occurs with parties whose operational areas intersect with the space and land that the Environmental Agency is working on, such as: Public Works, Trade, State Electricity Company, and Perum Perhutani, etc. With this overlapping, it will certainly disrupt the performance of the Environment Agency implementing its policies in the field.Because of the heavy workload developed by the Environment Agency, both those related to technical and operational aspects in the field, the direct participation of the community in environmental management is highly awaited. It is based that so far the case of pollution and environmental destruction as stated in Article 1 number 12 of Law No. 23 of 1997 is caused by human activity, so that in Article 34 paragraph (1) it is stated that:Every act violates the law in the form of pollution and / or environmental damage that causes harm to other people or the environment, requiring the person in charge of the business and / or activity to pay compensation and / or take certain actions.

From Article 34 paragraph 1 it is clear that the perpetrators of environmental pollution and damage are burdened with the obligation to compensate the person whose environment is polluted and damaged, in addition to that the actor must pay to the government (cq BLH), in order to guarantee that there will be no recurrence or impact. negative to the environment that has been polluted. While the amount of compensation and the cost of recovery depends on the agreement of the team formed by the government consisting of sufferers or their proxies, the polluter or their attorneys and the government.

The concept of public policy as above was finally socialized jointly by the Rembang Regency Government and the management of Gresik cement, that the presence of the Semen Gresik factory would later function positively for the development and improvement of the welfare of the Gunem community, and instead not for the degenerative purpose of environmental quality already in the Gunem region . The legal umbrella regarding violations that may arise by the management of Gresik cement has also been socialized early on to the people affected by the construction of cement, both in terms of criminal and related compensation to residents affected by the eviction of the Gresik cement construction project in Gunem.

Management and preservation of life is our shared responsibility, the government in this case the Rembang Regency Environmental Agency (BLH) must always develop awareness of the Gunem community about the importance of a good environment. In addition, in the management and preservation of the environment, NGOs also participate, namely groups of people formed on their own will and desire, in the midst of the community whose objectives and activities are in the environmental field, in addition to the private sector's role in the company sector. This is related to Law Number 40 of 2007 concerning Limited Liability Companies, where in Article 178 it is stated that each Limited Liability Company (PT) is required to perform the function and role of Corporate Social Responsibility (CSR). BLH hopes to be able to bind partners (management of the Semen Gresik factory in Gunem), especially in controlling environmental problems in Rembang Regency, is very large in addition to also having a strong legal basis.

The positive expectations that can be obtained by the existence of a guarantee of sustainability in the form of CSR can be used by related parties to persuade the community to give up their land and land to be compensated by the management of Gresik cement. The Environment Agency with its database can provide input to corporate as well as the Gunem community so that later CSR activities that it does can provide useful and efficient results for the recovery of the environment that was previously threatened with damage. This authority is only limited to mediation and facilitators, because financial resources are fully managed and held by the corporation. On this side, BLH as a competent agency in environmental management in Rembang Regency, only has very limited financial resources, so that in this case the functions and roles of mediation and facilitators are more highlighted. The main hope is that the partnership effort that takes place between BLH and corporate can benefit the community and create a sustainable environmental balance.

Various environmental damage basically has been damaged during the process of industrialization and development in all fields. This environmental damage is a logical consequence of the emergence of a renewal and improvement of the quality of humans in order to meet their needs. Environmental damage must have occurred thoroughly in line with human development in the world in meeting human needs leading to better conditions. But keep in mind that the damage to the environment of human resources and natural resources will certainly hamper the capitalist process itself. This is certainly a consequence of the threatened supply of raw materials, raw materials and power sources that support a development program. This is similar to what was expressed by Brown Weiss that in general there were three actions of the previous generation which were very detrimental to future generations in the environmental sector, namely:First, excessive consumption of quality resources, making future generations have to pay more to be able to consume the same natural resources,Second, the use of natural resources which is currently not known to have the best benefits in excess, is very detrimental to future generations because they have to pay inefficiency in the use of these natural resources by past and present generations. Third, the use of natural resources to the utmost by past and present generations prevent future generations from having a high diversity of natural resources.

In order to determine a government order for the management and supervision of development and environmentally sound, the government has formed an effort to manage and supervise empirical phenomena about it and this is certainly done by taking into account several dimensions including the political, economic and socio-cultural dimensions. The political dimension certainly refers to the basis and political products that will give birth to various actions and a number of regulations and laws relating to environmental monitoring and management. The economic dimension will provide optimal support if development is based on ecological principles. The socio-cultural dimension is related to population, social change and social phenomena in the efforts of environmental supervision and management. These three dimensions are certainly analyzed in the context of environmental monitoring and management.

All aspects contained in the political, economic and socio-cultural dimensions will be used as reference material to be discussed in depth so that it can be seen how support from the political, economic and socio-cultural dimensions of environmental supervision and management. This is very necessary because the three dimensions are already in effect and operate in various forms of community life. In addition, each dimension has a guideline that can be used in procedures in the economic system and in the culture of the community.

**General guidelines for environmental management and environmental monitoring efforts function are as follows:**

1. Reference in preparing technical guidelines for environmental management efforts and environmental monitoring efforts for sectoral ministries / government agencies;
2. Reference to the preparation of environmental management efforts and environmental monitoring efforts for the proponent if the technical guidelines for environmental management efforts and environmental monitoring efforts have not been published;
3. Instruments for binding to the initiator to carry out environmental management and monitoring.

Guidelines for environmental management efforts and environmental monitoring efforts are something that is needed as an instrument in overcoming issues related to sustainable development. A view that environmental management is for the preservation of environmental functions and a view that the environment is for human welfare.

Based on the description above, the reconstruction of the settlement of environmental disputes by means of justice based litigation is to give new meaning to the provisions in Article 64 of Law No. 32/2009, in the form of obligations of the Government and Regional Governments to restore the environment from the effects of damage and pollution namely:

Intergenerational justice. This is an idea that the understanding of the current generation must be fair in doing and utilizing natural resources because the natural resources that exist today are a precedent for future generations to be used by future generations. This situation certainly requires the community to be able to maintain the legacy (inheritance) in the form of natural resources for the next generation

The principle of justice in one generation. This principle is a principle that talks about justice among one or a generation, including success in meeting basic needs or there is no gap between individuals and groups in society about fulfilling the quality of life. This principle is certainly closely related to phenomena that occur in society such as:

1. The burden of environmental problems is borne together;
2. Poverty that results from an environmental degradation;
3. Environmental protection efforts can affect certain sectors of society, but on the other hand benefit other sectors; and
4. Not all community members have equal access to influence the decision-making process that impacts the environment.

The principle of self-prevention implies that if there is a threat of environmental damage that cannot be recovered, there is no reason to prevent damage to the environment;

The principle of protection of biodiversity and germplasm. The biodiversity and germplasm that we have provides and is a source of human welfare.

Internalization of environmental costs and incentive mechanisms that support the emphasis of principles that go to a place where the use of natural resources is a reaction from a tendency of market impetus.

To realize this sustainable development, the government certainly hopes for the support and participation of the community in the success of environmentally sustainable development efforts, especially the administrative process of environmental licensing and AMDAL as an instrument for preventing environmental pollution. This principle certainly has been poured in the form of legal products so that it becomes an obligation that must be obeyed by everyone in Indonesia.

Article 10 of Law Number 23 Year 1997 concerning Environmental Management which states that the government is obliged to foster and develop public awareness of responsibilities in environmental management through counseling, guidance, education, and research on the environment. The explanation of the existence of the aforementioned article is education to realize and develop community environmental awareness through formal education starting from kindergarten / elementary school to university through non-formal education.

The government implements environmental education in the context of efforts to manage and monitor environmental means that awareness, care about the environment with all its problems and with the knowledge of skills, attitudes and motivations and commitment to work together individually and collectively to solve problems and maintain the preservation of environmental functions .

**By paying attention to these objectives, the things that must be done by the government in conducting the environmental education process are:**

1. Provide opportunities for each individual to gain a basic understanding of the environment, its problems and human responsibilities in an effort to preserve environmental functions.
2. Assist the community in developing the skills needed to manage, maintain and preserve environmental functions and solve environmental problems.
3. Foster awareness and sensitivity to the environment and its problems through counseling individuals or communities about appropriate value systems, strong sensitivity to environmental concerns and motivation to

actively participate in the preservation of environmental functions and prevention of environmental damage.

## Conclusion:-

The weakness in resolving environmental disputes by litigation is that litigation is a conflict claim that is actualized to replace the actual conflict, where the parties face each other and provide different arguments to make a decision of two conflicting interests. This litigation is formal in nature and subject to procedural law, then the judge gives a decision that cannot be intervened by the two disputing parties, the process is long and protracted to get a decision, so it takes a long time, is expensive and will cause tensions and tensions hostility can occur. The main function of the law is ultimately to uphold justice and the law not only in the form of laws but also customary laws of local communities which are not written so in carrying out their duties as law enforcement, the police, prosecutors, and courts not only enforce the sound of the text contained in the book the law, but must pay attention to the habits and customs of the local community. Good intentions of the management of PT. Semen Gresik was officially stated which also affirmed that with the reputation carried by PT. Semen Indonesia today, would be impossible if this company came all the way to Rembang just to provide systemic suffering to the Gunem community, in fact its existence in Rembang would be able to improve the welfare of the Rembang community in general, and the Gunem community in particular, related to the large number manpower recruited by the management of PT. Semen Indonesia. With the meeting point between PT. Semen Gresik and the community facilitated by the Government of Rembang Regency, the perception developed in the Gunem community is very conducive to the development of PT. Semen Gresik in Gunem District.

Reconstruction of the settlement of environmental disputes by means of litigation based on fair value is to build a new meaning of environmental recovery due to pollution and environmental damage as regulated in Article 64 of Law No. 32 of 2009, in the form of physical and social recovery which is the authority of the Government and Regional Government.

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