



CIVIL LIABILITY OF COMPANIES THAT COMMIT FOREST DESTRUCTION FROM THE PERSPECTIVE OF ENVIRONMENTAL LAW IN INDONESIA

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Article Info	Abstract
Article History Received : 2024-09-03 Revised: 2024-09-05 Published: 2024-10-01 Keywords: Civil Liability; Forest Damage; Companies	<i>This study examines the civil liability of companies that damage forests from the perspective of Indonesian environmental law. The main focus of the study is to evaluate how effective the implementation of the principle of liability in the context of environmental protection, especially through strict liability mechanisms. This study uses a normative legal approach with secondary legal materials and primary legal materials as data sources. Data collection techniques are carried out through literature and documentation studies and qualitative analysis using a descriptive approach. The results of the study indicate that the implementation of strict liability can improve corporate accountability; however, to clarify the accountability mechanism and improve public access to justice, the legal system still needs to be changed.</i>

I. INTRODUCTION

One sector that plays a very large role in creating the economic wealth of a region is industry. The main factor that influences the economy of a region is the existence of industry, which determines the level of income of the people in the region. This industry encourages the shift of society from an agrarian economy that relies on processing agricultural products as their livelihood to a more advanced economic sector, such as industry or manufacturing. The development of industry today has greatly helped the Indonesian economy. On the other hand, with the growth of industry, industrial waste and exploitation of resources are increasing, this also has an impact on the environment (Efendi et al., 2020).

In addition to having a positive impact, the existence of industry also has a negative impact because economic activities in it produce waste. Waste is the residue produced by the disposal of garbage or chemicals from factories. Industrial waste is a problem that is of concern to the community and government, especially because of the increasing growth of industry every year. Waste can cause disease, fetal defects, death, and even the termination of a person's life path (Nurlaily & Supriyo, 2022).

Forest destruction in Indonesia has reached a very alarming level and is one of the most crucial environmental issues today. The rate of

deforestation in Indonesia continues to increase as a result of unsustainable exploitation of natural resources, such as land clearing for palm oil plantations, mining, and forest fires, according to data from the Ministry of Environment and Forestry (KLHK). This phenomenon has a direct impact on ecosystem damage, biodiversity loss, climate change, and economic and social losses felt by communities around the world, both locally and internationally.

Forest riots are often caused by corporate activities. This is due to lack of supervision, misuse of business permits, and business actions that ignore the environment for financial gain. Nevertheless, forests, which are the heart of the world, play an important role in maintaining the balance of the environment. The law is strategically responsible for ensuring justice for the injured parties and reparation of damage.

In addition to their carbon sinks, forests are important habitats for biodiversity and sources of livelihood for many communities. However, improper exploitation of forests, such as burning for agriculture or plantations, has caused significant ecological damage. The civil liability of companies involved in forest destruction should be further investigated in this context.

One type of corporate violation that causes environmental damage is environmental corporate crime. This behavior has caused many material, health, and safety losses, as well as

social(Pradana, 2019). Any unlawful act will be responsible for the amount of loss suffered by others. The development of legal thought, especially in jurisprudence, shows that an act does not only include acts that are contrary to the law or the rights of others, but also any act that is contrary to social ethics, both in personal relationships and with the property of others. Environmental conflicts and the communities that become victims arise in response to various environmental problems. In their efforts to protect their rights, the community demands the enforcement of environmental law(Damanik, 2023).

According to data collected from various online sources, law enforcement carried out by the Ministry of Environment and Forestry (KLHK) in the 2020-2024 period resulted in 9,415 complaint reports.(Ministry of Environment and Forestry of the Republic of Indonesia, 2024). Considering the number of existing law enforcement, this shows that people in Indonesia do a lot of business, both individuals and corporations. Business is a business activity carried out regularly and continuously by individuals with the ultimate goal of making a profit. Palm oil plantations are one of the corporate businesses in Indonesia that are closely related to the environment. Various methods are used to profit from this business activity, although they also damage the environment. Because they damage the environment, many corporations must pay compensation. One way to get compensation from a corporation is to file a lawsuit for Unlawful Acts. This lawsuit can be filed by the government, local government (province, district, or city), community, or environmental organization. The court decision must expressly determine compensation for environmental losses.(Damanik, 2023).

Law Number 32 of 2009 concerning Environmental Protection and Management provides a strong legal basis for holding parties responsible for causing environmental damage. Civil liability is one type of such liability. As stipulated in the Environmental Protection and Management Law, the principle of absolute liability or strict liability allows for the claim of compensation against a company without having to prove any element of fault. In addition, environmental groups and communities have the right to file civil lawsuits through legal standing and class action lawsuit mechanisms.(Ministry of Energy and Mineral Resources, 2009).

However, in practice, the application of civil liability to companies that damage forests still faces many obstacles such as the difficulty of providing evidence in environmental cases, weak law enforcement, where perpetrators of destruction often do not receive sanctions commensurate with the damage caused and the unpreparedness of legal and regulatory instruments in providing effective ecological recovery.

This condition raises fundamental questions about the ability of civil law to protect and improve the environment. Are the current measures sufficient to punish companies that damage the environment? How does civil liability in Indonesia refer to the principle of the polluter pays, or the polluter pays?

The purpose of this study is to evaluate the various types of civil liability that can be imposed on companies that damage forests and to evaluate how effective environmental law is in upholding environmental and social justice. This study is expected to contribute to the development of better legal policies for resolving environmental disputes using case study methodology and environmental law.

This research is intended to help governments, law enforcement, and civil society enforce civil laws to hold companies accountable. This research also helps restore the environment and prevent further forest destruction in the future.

II. RESEARCH METHODS

This study uses a normative legal approach by analyzing laws and regulations, legal principles, and theories related to civil liability in cases of forest damage, complemented by a case approach through a study of court decisions. The data used are secondary data, consisting of primary legal materials (PPLH Law, Forestry Law, Civil Code, and court decisions), secondary legal materials (books, journals, and research reports), and tertiary legal materials (dictionaries and expert opinions). Data collection techniques are carried out through literature and documentation studies, with qualitative analysis using a descriptive-analytical approach to evaluate the effectiveness of the implementation of civil law and identify existing obstacles.

III. RESULTS AND DISCUSSION

A. Overview of Legal Regulations Relating to Civil Liability

In Indonesian law, civil liability refers to a person's obligation to compensate for losses or damages caused by an unlawful or illegal act. The Civil Code (KUHPerdata), which is the primary legal basis for civil liability, regulates this concept. Here are some legal regulations related to civil liability:

1) Article 1365 of the Civil Code (Unlawful Acts)

Article 1365 of the Civil Code (KUHPerdata) regulates unlawful acts (PMH), which are defined as acts that violate the law and cause harm to others, so that the perpetrator must compensate for the loss. In order to file a lawsuit, the following four conditions must be met:

- a) There is an unlawful act
- b) There was an error made by the perpetrator, either intentionally or due to negligence.
- c) There are losses, both material and immaterial
- d) There is a causal relationship between the act and the loss suffered by the victim. If one of these conditions is not met, the court can reject the lawsuit. In addition, the Civil Code regulates other unlawful acts, such as unlawful acts without fault and negligence (JDIH Aceh Province, 2023).

2) Article 88 of Law No. 32 of 2009 (Strict Liability).

Article 88 of Law No. 32 of 2009 concerning Environmental Protection and Management regulates strict liability for parties carrying out activities that have the potential to pollute the environment. This article states that any person or legal entity carrying out activities that can cause environmental pollution or damage is strictly liable for the losses incurred, without the need to prove any fault or negligence. This means that the perpetrators of these activities are required to compensate for the losses experienced by other parties due to pollution or damage caused by their activities, even though they have taken preventive measures. This principle aims to provide better protection for the environment and society, as well as encourage business actors to be more responsible in managing natural resources and the

environmental impacts of their activities. (BPK Regulation Database, 2014).

3) Law No. 41 of 1999 concerning Forestry and its derivative regulations.

Law No. 41 of 1999 on Forestry is an important regulation governing forest resource management in Indonesia. This law stipulates that forests are divided into two main categories: state forests and private forests, but in practice, state control of forests often ignores the rights of indigenous peoples who have managed forests for generations. In subsequent developments, several derivative regulations and government regulations, including Government Regulation in Lieu of Law (Perpu) No. 1 of 2004, provide legal certainty for companies that have obtained permits before the law came into effect, which often results in conflicts with the rights of local communities. In addition, the Constitutional Court's decision also emphasizes the need for community participation in determining forest areas to ensure the fulfillment of citizens' constitutional rights related to a good environment. Overall, Law No. 41 of 1999 and its derivative regulations reflect the challenges in fair and sustainable forest management in Indonesia, as well as the need to integrate local community perspectives into forestry policies. (Kristianto, 2014).

In addition, there are environmental law principles that are applied in accountability, namely:

1) Polluter Pays Principle

The Polluter Pays principle is an important concept in environmental law that emphasizes that the party causing the pollution must bear the costs of addressing the negative impacts caused. In the context of Indonesian law, this principle is regulated in Article 87 of Law No. 32 of 2009 concerning Environmental Protection and Management, which states that business actors who pollute the environment are required to allocate funds for environmental restoration and repair activities that have been polluted. The application of this principle aims to encourage corporate social responsibility and ensure that the costs of preventing and controlling pollution are borne by the polluter, not by the community or government. In addition, this principle is also stated in the 1992 Rio Declaration, which emphasizes the importance of internalizing environmental costs in economic activities. Thus, the Polluter Pays principle serves as a tool to achieve environmental justice and encourage

sustainable practices in natural resource management.(Kurnia et al., 2023).

2) Legal Principles of Strict Liability

The principle of strict liability law in Indonesia is regulated in Article 88 of Law No. 32 of 2009 concerning Environmental Protection and Management. This principle states that every individual or legal entity that carries out activities that use hazardous and toxic materials (B3), produces, or manages B3 waste, as well as other activities that can pose a serious threat to the environment, is absolutely responsible for the losses that occur without the need to prove any element of fault. In other words, the perpetrator does not need to show that they have made a mistake or negligence to be held accountable. This aims to provide better protection for the community and the environment, as well as encourage business actors to be more careful in carrying out activities that have the potential to damage the environment. The concept of strict liability is considered important in the context of environmental law because it can simplify the process of claiming compensation for victims of pollution, considering that they do not need to prove a causal relationship between the perpetrator's actions and the losses experienced.(Eryarifa, 2022).

3) Principles of Environmental Justice.

The Principle of Environmental Justice is a concept that emphasizes the importance of fair distribution of natural resources and environmental impacts, as well as the protection of the rights of communities and future generations. This principle includes several aspects, such as distributive justice, which ensures that the benefits and burdens of natural resource use are shared fairly among all groups in society; intergenerational justice, which recognizes the obligation to protect the environment for the benefit of future generations; and procedural justice, which ensures the participation of all groups in society, especially the marginalized, in decision-making related to the environment. In addition, this principle also includes compensatory justice, which provides compensation to individuals or communities negatively affected by industrial or development activities.(Purwendah, 2019).

In the context of economic evaluation, the principle of environmental justice requires modification to include non-monetary factors and to consider low discounts so that future environmental benefits are valued more highly. The *Minors Oposa v. Factoran Jr.* decision is an

important example of the recognition of intergenerational rights of claim, where children today have the right to protect the environment for the benefit of future generations. Thus, the principle of environmental justice is at the heart of sustainable development, ensuring that the needs of the present generation do not compromise the ability of future generations to meet their own needs.(Pambudhi & Ramadayanti, 2020).

B. Case Study on Civil Liability for Companies Destroying Forests

Case studies related to civil liability of forest destroying companies in Indonesia cover various legal aspects that regulate corporate responsibility for environmental damage due to forest and land fires. One significant example is the case of PT. National Sago Prima (NSP) which was involved in forest fires in Kepulauan Meranti Regency, Riau Province. Where the forest and/or land fires covered 3,000 Ha in PT. NSP's concession area in Kepulauan Meranti Regency, Riau Province.

A lawsuit against PT National Sago Prima (NSP) was initiated after widespread forest fires in Riau in 2015 caused environmental and public health damage. In early October 2015, PT NSP became the subject of a tort lawsuit by the Ministry of Environment and Forestry (KLHK). KLHK accused the company of three violations, namely causing environmental damage, operating without an Environmental Impact Assessment (AMDAL), and not having adequate fire prevention equipment. During the trial, PT NSP admitted that there were fires, but they denied that they had committed arson or negligence in handling the fires.

The lawsuit filed by the community against PT. National Sago Prima (NSP) related to land fires occurred after the company was accused of being responsible for widespread forest fires in its concession area in the Meranti Islands Regency, Riau. The Ministry of Environment and Forestry (KLHK) filed the lawsuit in 2015, demanding compensation of Rp 1.07 trillion for the damage caused by the fires that burned around 3,000 hectares of land.

During the trial, witnesses said that PT NSP did not take sufficient fire prevention measures, such as not having a fire watchtower or a prohibition sign. PT NSP was found negligent on August 11, 2018, and was ordered to pay compensation of around IDR 1.04 trillion.

However, the Jakarta High Court overturned this decision by stating that the KLHK lawsuit was inadmissible. The KLHK then filed an appeal to the Supreme Court. On December 17, 2018, the Supreme Court again ordered PT NSP to pay compensation of IDR 319,168,422,500 for ecological losses and IDR 753,745,500,000 for environmental restoration costs. Article 88 of Law No. 32 of 2009 concerning Environmental Protection and Management stipulates the principle of strict liability, which means that any person or legal entity that carries out activities that can pose a serious threat to the environment is strictly responsible for the losses that occur without the need to prove fault. On August 11, 2016, the Ministry of Environment and Forestry won a lawsuit against PT. National Sago Prima (NSP) for forest and land fires amounting to Rp. 1.07 trillion at the South Jakarta District Court.

In addition, Article 87 of Law No. 32 of 2009 stipulates that the person responsible for a business that damages the environment or pollutes it is obliged to pay compensation. Although there is a court ruling, there are still problems in implementing it to force the company to pay for losses and environmental recovery costs. This is because there is no clear implementation system. This case shows how important strict law enforcement and regulation are to ensure that businesses are responsible for the impacts they have on the environment. It also shows how important it is to strengthen the system to implement court decisions to protect the environment.

The form of accountability given to PT National Sago Prima (NSP) related to land fires includes criminal consequences and environmental recovery. PT NSP was fined Rp. 1.07 trillion for negligence that caused environmental damage, according to the decision of the Bengkalis District Court Number: SP. 45 /HUMAS/PP/HMS.3/8/2016. The company must complete fire prevention and control facilities in accordance with the regulations set by the Environmental Agency of the Meranti Islands Regency within one year in addition to being fined (Ministry of Environment and Forestry, 2016).

The panel of judges ruled that PT NSP was responsible for the fires on its concession land, both due to the company's actions and other external factors. The judges took into account Law No. 32 of 2009 concerning Environmental Protection and Management, which stipulates that any individual or organization can be held

accountable for actions that violate environmental law. Although there were differences of opinion among the member judges, this decision is seen as a step forward towards law enforcement against corporations involved in forest burning.

The ruling remains in effect after the Supreme Court rejected PT NSP's last legal attempt for a judicial review (PK) on December 16, 2020. This case shows how important law enforcement is to protect the environment and hold companies accountable for the damage they cause.

C. Obstacles in the Implementation of Civil Liability

In Indonesia, the obstacles to implementing civil liability can be divided into several categories, such as those related to law, society, and practice. First, the legal aspect includes the unclear regulations governing civil liability, especially in environmental matters. For example, although there are laws governing corporate liability and environmental protection, their implementation is often hampered by overlapping regulations and a lack of consistent law enforcement.

Second, the social element is associated with low public awareness of their rights in the context of civil liability. Many people are unaware that they have the right to file a lawsuit for losses suffered by the actions of other parties, including companies. Lack of access to legal services and information makes the situation worse.

Third, the practical aspects of the litigation process itself include things like the long time it takes to resolve a case in court and the high cost of filing a lawsuit. Lengthy court processes often discourage people from pursuing their lawsuits, especially if the outcome is uncertain. In addition, there are also challenges in terms of evidence and proof, where the plaintiff must be able to show a causal relationship between the defendant's actions and the losses suffered. (Santiana Siboro & Sri Hadiningrum, 2024).

Overall, these barriers create major obstacles to the implementation of civil liability in Indonesia, negatively impacting the ability of the legal system to protect individual and environmental rights.

An analysis of how effective civil liability is in rehabilitating forest degradation in Indonesia shows that there are many problems and difficulties that hinder its implementation. First, although there are laws regulating civil liability,

such as Law No. 32 of 2009 on Environmental Protection and Management, its implementation is often hampered by ambiguity and inconsistent enforcement. For example, many cases of forest degradation do not reach the courts because there is no evidence or the community cannot obtain legal services.

Second, there is the issue of how effective sanctions are for individuals who violate them. Sanctions often have no deterrent effect, and businesses found to be damaging the environment can often avoid liability by using experienced lawyers to appeal or review court decisions.(Junus, 2014).

Third, corruption among government officials contributes to weak law enforcement in the forestry sector. Corruption can lead to inappropriate permits being issued and large companies ignoring violations of the law. In addition, law enforcement institutions have few human resources (HR) and facilities.

Fourth, community participation in the law enforcement process is very low. Overall, although there is a legal framework that supports civil liability in the restoration of forest damage, these difficulties indicate that its implementation in the field is still far from what is expected. To improve civil liability, better coordination between the central and regional governments, increased capacity of law enforcement personnel, and increased public awareness of their rights in terms of environmental protection are needed.(Aryana, 2021).

Here are some solutions and recommendations to increase the effectiveness of civil liability in rehabilitating forest damage in Indonesia:

1. Recommendations for improving regulations and law enforcement related to civil liability, such as:
 - a) Strengthening the Capacity of Law Enforcement
 - b) Stricter, faster and more consistent enforcement of sanctions against companies.
2. Simplification of the Litigation Process.
 - a) Promote reforms in the court system to expedite the litigation process for environmental cases. A special court for environmental cases could be considered to increase efficiency.
 - b) Providing legal aid for people who want to file a lawsuit but do not have the financial resources. This

can be done through legal aid institutions or cooperation with non-governmental organizations. Empowering communities and environmental institutions in filing civil lawsuits (class action/legal standing).

3. Increasing public awareness by conducting or forming education and outreach programs and strengthening civil society organizations.
4. Encourage the implementation of Corporate Social Responsibility (CSR) as an effort to prevent forest damage.
5. Collaboration between Government and Community: Encourage collaboration between government, community, and the private sector in forest resource management. This includes developing policies that involve local community participation.

By implementing these solutions and suggestions, it is estimated that civil liability will be more effective in restoring forest damage, providing better protection for communities and the environment in Indonesia.

IV. CONCLUSIONS AND RECOMMENDATIONS

From the perspective of environmental law in Indonesia, civil liability for companies that destroy forests shows that the application of the principle of liability, especially through strict mechanisms, can increase corporate accountability in cases of forest fires. This study found that, although there are laws that regulate corporate liability, such as Law No. 32 of 2009 concerning Environmental Protection and Management, as well as the principles of polluter pays and strict liability, which require perpetrators of damage to compensate for losses and restore the environment without the need to prove fault. Through an analysis of cases such as the lawsuit of the Ministry of Environment and Forestry (KLHK) against PT National Sago Prima (NSP), this study emphasizes the importance of implementing strict liability, which allows the defendant to be held accountable without the need to prove fault. This is in line with the principle of environmental justice, which requires companies to be held accountable for the adverse impacts of their actions, regardless of whether they are done with intent or without intent. To ensure legal justice and environmental sustainability, liability includes payment of

compensation and restoration of damaged ecosystem conditions. However, to implement it, there are challenges such as weak law enforcement, difficulty in enforcing effective sanctions and ambiguity about the elements of unlawful acts. Therefore, it is necessary to strengthen the judicial system, community lawsuit mechanisms, and corporate transparency.

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