

Legal Liability by Companies for Environmental Pollution

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ABSTRACT

A healthy environment is the right of every human being and other living creature, but its sustainability is increasingly threatened by human activities and natural factors. Companies have a significant role and legal responsibility for environmental preservation. This study aims to analyze the forms of corporate legal responsibility for the environment and environmental pollution based on positive Indonesian law. The method used is normative legal research, with an analytical approach of laws and regulations, specifically Law Number 32 of 2009 concerning Environmental Protection and Management and other relevant regulations. The results of the study indicate that corporate legal responsibility is divided into three forms: preventive, compensatory, and rehabilitative. Preventive responsibility emphasizes efforts to prevent environmental damage through good management practices and compliance with regulations; compensatory responsibility includes the obligation to provide compensation to affected parties; while rehabilitative responsibility requires the restoration of damaged environmental conditions and the restoration of ecosystem functions. Law enforcement against environmental pollution is carried out through administrative, civil, and criminal sanctions, with criminal sanctions being applied as a last resort. Effective implementation of legal responsibilities not only protects the environment, but also increases corporate accountability, reduces legal risks, and supports environmental sustainability and community well-being.

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INTRODUCTION

A healthy environment is part of the right of every human being and the living things around him to be able to enjoy it without exception. To realize a good and healthy environment, the participation of all parties is needed in maintaining and preserving the environment. Nowadays, the existence of a clean and healthy environment is increasingly decreasing due to various factors. The first factor is the condition of the earth that is aging, while the other factor comes from human activities. Humans have a very significant role in preserving the environment, while at the same time shouldering the responsibility to empower and maintain the environment for the sustainability of the ecosystem. However, in practice, in order to meet the needs and satisfaction of life, humans are often the cause of environmental damage to fulfill personal interests without paying attention to the surrounding environmental conditions. Selfish attitude in controlling and utilizing nature for the sake of satisfaction alone encourages the excessive exploitation of natural resources (Abdul Karim, 2018).

Currently, it is increasingly realized that the sustainability of a clean and healthy environment is increasingly facing threats. Human activities themselves are the main cause of

environmental damage. For example, what has happened such as the practice of excessive exploitation of natural resources has triggered changes in temperature and rainfall patterns (Sufiyati & Chalim, 2017).

The increase in development activities has an impact on the environment, especially in the form of pollution and environmental damage (Supramono, 2013). One of the impacts of pollution that arises due to the increasing intensity of development is water pollution. This happens because waste generated from industrial activities is dumped into rivers or other water flow bodies, so that water quality becomes polluted (Wahidin, 2014). In addition to pollution of river water, pollution also occurs in the soil which basically arises as a result of human behavior that throws garbage, especially plastic waste, carelessly. Plastic is a type of waste that is very difficult to decompose naturally and takes a very long time to undergo the decomposition process, so its existence can reduce the quality and carrying capacity of the soil. In the long term, these conditions not only damage the structure of the soil, but also have the potential to interfere with the health of living things that depend on the soil as a medium of life.

In addition to soil pollution, air pollution is also a serious problem that originates from human activities, especially from motor vehicle emissions and smoke produced by the process of burning machinery and industrial activities. These emissions contain various harmful substances that can reduce air quality and negatively impact human health and ecosystem balance. Considering the large impact of environmental pollution on the sustainability of a clean and healthy environment, comprehensive and sustainable control measures are needed. These control efforts aim to prevent, overcome, and minimize the risk of pollution and environmental damage through effective legal instruments, policies, and supervision.

In the context of national legal policy, one of the instruments that is the main foundation in environmental management and protection is Law Number 32 of 2009 concerning Environmental Protection and Management. This law provides a comprehensive normative basis in environmental regulation in Indonesia, because it contains the principles of environmental protection and management, including the principle of responsibility, the principle of sustainability, and the principle of prudence, and is complemented by legal instruments in the form of permitting, supervision, and law enforcement mechanisms. Thus, the existence of the law strengthens the national environmental legal system and becomes an important foothold in realizing environmentally sound and sustainable development (Akib, 2014).

Previous studies have examined various aspects of environmental law and corporate responsibility. For instance, research by Muhammad Akib and Rikardo Simarmata emphasizes the importance of corporate accountability in environmental management and the role of legal instruments in ensuring compliance. Other studies highlight that corporate liability includes preventive, compensatory, and rehabilitative responsibilities, as well as the application of administrative, civil, and criminal sanctions (Naibaho, Berutu & Sitanggang, 2023; Candrawati & Kurniawan, 2025). The issue of strict liability in environmental cases has also attracted scholarly attention, particularly in relation to corporate accountability for ecological harm (Wibisana, 2019; Al Fikri, 2022; Mahardika, 2022). However, most existing studies tend to focus on normative descriptions of legal provisions or general discussions of environmental protection without providing a comprehensive analytical framework that integrates forms of responsibility with enforcement mechanisms in the context of Indonesian positive law.

Based on this condition, a research gap can be identified. There is still limited analysis that systematically examines the interrelationship between different forms of corporate legal responsibility (preventive, compensatory, and rehabilitative) and their practical implementation through environmental law enforcement mechanisms in Indonesia (Gunawan & Gultom, 2023; Wijaya, Santoso & Azhar, 2021). Studies on criminal enforcement of environmental law, such as those addressing the *ultimum remedium* principle, have noted that criminal sanctions must be positioned carefully within a broader enforcement hierarchy (Nathalina et al., 2021; Dewi & Syahrin, 2021; Adityo & Trisaka, 2022). In addition, prior research has not sufficiently explored how these forms of responsibility function collectively as an integrated system to address environmental pollution caused by corporate activities, including the role of corporate criminal liability doctrines such as vicarious liability (Kurniawan, Hapsari & Kukuh, 2022).

This study offers novelty by providing a more comprehensive and integrative analysis of corporate legal responsibility in environmental pollution cases based on Indonesian positive law. It not only categorizes corporate responsibilities into preventive, compensatory, and rehabilitative dimensions but also connects these responsibilities with legal enforcement instruments, including administrative, civil, and criminal sanctions. Comparative insights from other jurisdictions, such as China's ecological damage compensation programs (Chen et al., 2023; Wu et al., 2023) and Brazil's law enforcement lessons relevant to Indonesia (Tacconi, Rodrigues & Maryudi, 2019), further enrich the analytical framework. Furthermore, this research emphasizes the role of corporate responsibility as both a legal obligation and a strategic approach to risk management and sustainability (Zhang et al., 2024; Nurse, 2022).

The objectives of this study are to analyze the forms of corporate legal responsibility for environmental pollution based on Indonesian positive law, to examine the mechanisms of legal enforcement applied to corporations, and to evaluate how these responsibilities contribute to environmental protection and sustainability. The results of this study are expected to provide both theoretical and practical benefits. Theoretically, this research contributes to the development of environmental law studies, particularly in understanding corporate liability within the framework of Indonesian legal systems. Practically, the findings can serve as a reference for policymakers, law enforcers, and corporations in strengthening environmental governance, improving compliance, and minimizing environmental risks. In addition, this study is expected to enhance public awareness of the importance of corporate accountability in maintaining environmental sustainability and supporting community well-being.

METHOD

The type of research used in writing this journal is normative legal research, which is research that examines law from an internal perspective by placing legal norms as the main object of study (Diantha, 2016). In this study, various legal problems that have been identified are analyzed and described systematically, then associated with the relevant laws and regulations. The approach used aims to assess the consistency of norms, find the basis for legal argumentation, and provide a description of the legal issues discussed.

The laws and regulations that are the main reference are national laws and regulations that are included in the realm of positive law, especially Law Number 32 of 2009 concerning Environmental Protection and Management and other laws and regulations related to the

environment. Thus, this research relies on primary legal materials in the form of laws and regulations, which are then analyzed to answer the legal problems that have been formulated.

RESULT AND DISCUSSION

Forms of Corporate Legal Responsibility for the Environment

A company's legal responsibility for environmental damage is a crucial aspect in natural resource management as well as environmental protection. These responsibilities can be classified into several forms, namely preventive responsibility, compensation responsibility, and rehabilitation responsibility (Kurniawan, 2019).

Preventive responsibility emphasizes the company's obligation to take preventive measures to prevent environmental damage from occurring. These efforts include the implementation of good environmental management practices, the use of environmentally friendly technology, and compliance with applicable rules and regulations. One of the main legal bases for this preventive responsibility is Law Number 32 of 2009 concerning Environmental Protection and Management, which requires companies to ensure that every business activity does not have a negative impact on the environment and the surrounding community. Thus, preventive responsibility is not only a form of legal compliance, but also a company's proactive efforts in maintaining the sustainability of the ecosystem (Tarigan & Kurnia, 2020).

By applying the principle of prevention, the company not only plays a role in protecting the environment, but also significantly reduces legal risks as well as safeguarding the company's reputation from negative impacts that may arise from environmental damage caused by their operational activities. This approach shows that compliance with environmental regulations is also an effective risk management strategy (Sutrisno, 2017).

Furthermore, compensation responsibility emphasizes the company's obligation to provide compensation to parties affected by the environmental damage caused by their activities. This form of compensation includes the payment of fines or sanctions regulated by the government, as well as the provision of compensation to people who suffer losses due to pollution or damage to ecosystems. Thus, compensation liability serves not only as a mechanism for recovering losses, but also as an instrument to uphold justice and ensure corporate accountability for the environmental impact it causes (Simarmata, 2021).

Corporate legal responsibility is essential to ensure that the company is not only morally responsible, but also legally responsible for the impact that its operational activities cause. In this context, the company is expected to have a clear mechanism to handle compensation claims and establish transparent communication with the affected communities, so that the rights of affected residents can be fulfilled fairly and accountably.

Meanwhile, the responsibility for rehabilitation includes the obligation of companies to restore the environment that has been damaged by their activities. These responsibilities can include land rehabilitation, restoration of ecosystem functions, and restoration of degraded environmental quality. Companies are not only required to repair the damage that has already occurred, but are also expected to actively contribute to environmental restoration efforts in a sustainable manner. In its implementation, companies can work with the government, related institutions, and the community to design and run effective and measurable rehabilitation programs.

By understanding and implementing various forms of preventive legal responsibility, compensation, and rehabilitation, companies can be more proactive in protecting the environment and carrying out their obligations to the community. Compliance with these regulations not only enhances the company's reputation, but also makes a real contribution to environmental sustainability and the well-being of the surrounding community.

Corporate Responsibility for Environmental Pollution Based on Indonesia's Positive Law

The application of criminal law in dealing with environmental crimes is reflected in the formulation of sanctions regulated by applicable laws and regulations. Law Number 32 of 2009 concerning Environmental Protection and Management comprehensively regulates three types of sanctions, namely administrative sanctions, criminal sanctions, and civil sanctions as an instrument of law enforcement in the environmental sector.

In addition to regulating the types of sanctions, the law also emphasizes three stages of law enforcement that are carried out systematically. This stage begins with the enforcement of administrative laws, continues with the resolution of environmental disputes both through mechanisms outside the court and through litigation channels, and ends with an investigation of environmental crimes if criminal elements are found. From the perspective of criminal law theory, the application of criminal sanctions against perpetrators of environmental crimes is positioned as the ultimate *remedium*, which is the last resort after other legal instruments are ineffective. This understanding is based on the view that environmental management is in principle the responsibility of the government through administrative mechanisms, such as the issuance and supervision of permits by the competent agencies. If there is a violation of licensing provisions or administrative obligations, administrative sanctions will be imposed first. Furthermore, civil sanctions can also be taken in the form of the obligation to pay compensation or fines for material losses caused. Criminal sanctions are only imposed if administrative and civil sanctions are not able to provide a deterrent effect or are ineffective in stopping violations (Ozmy & Jarrell, 2021; Nurse, 2022).

Furthermore, the law also contains important reforms in the penal system, including by setting a minimum criminal threat other than the maximum, providing sanctions for violations of environmental quality standards, expanding evidence in the evidentiary process, regulating corporate criminal liability, and affirming the integration of criminal law enforcement in the environmental sector. This provision shows that there is a strengthening of repressive aspects in order to provide more effective protection for the environment (Wardana et al., 2024; Khan & Chang, 2018; Tumu, Vorst & Curtzweiler, 2023).

CONCLUSION

Based on the discussion, the company's legal responsibility towards the environment is an important aspect in the protection and management of natural resources. These responsibilities include three main forms, namely preventive, compensatory and rehabilitative responsibilities. Preventive responsibility emphasizes the company's obligation to prevent environmental damage through the implementation of good management practices, environmentally friendly technology, and compliance with regulations such as Law Number 32 of 2009 concerning Environmental Protection and Management. Compensation responsibility requires companies to provide compensation to affected parties due to environmental damage, while rehabilitation responsibility emphasizes the restoration of damaged environmental

conditions and the sustainable restoration of ecosystem functions. In the context of Indonesia's positive law, the enforcement of corporate responsibility for environmental pollution is regulated through administrative, civil, and criminal sanction mechanisms. Criminal sanctions are applied as the *ultimum remedium* if administrative and civil sanctions are ineffective. This law also regulates important aspects such as minimum and maximum criminal threats, corporate liability regulation, and integrated criminal law enforcement, thereby providing more effective legal protection for the environment. By understanding and implementing legal responsibilities in terms of prevention, compensation, and rehabilitation, as well as complying with positive legal provisions, companies can play a proactive role in maintaining environmental sustainability, minimizing legal risks, increasing accountability, and contributing to the well-being of the surrounding communities.

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