

IMPLEMENTATION OF ABSOLUTE LIABILITY IN ENVIRONMENTAL DISPUTE RESOLUTION IN THE PROTECTION AND MANAGEMENT FRAMEWORK IN INDONESIA

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Abstract

In forest and land fire cases, the focus of evidence is not solely directed at the perpetrator's intent or fault, but rather on the link between business activities and the occurrence of environmental damage that results in ecological and social losses. The purpose of this study is to analyze the regulations for resolving environmental disputes in Indonesia and to analyze the application of strict liability in resolving environmental disputes within the framework of protection and management in Indonesia. Based on the results of the study, it is known that the regulation of environmental dispute resolution in Indonesia has been comprehensively regulated in Law Number 32 of 2009 concerning Environmental Protection and Management through settlement mechanisms outside the courts (non-litigation) and through the courts (litigation). These regulations aim to provide legal protection to communities harmed by environmental pollution and/or damage and ensure the restoration of environmental functions. In addition to regulating individual lawsuits, the UUPPLH also recognizes class action lawsuits, the right to sue environmental organizations (legal standing), and the right to sue the government as instruments for enforcing environmental law oriented towards sustainable environmental protection. The application of strict liability in environmental dispute resolution strengthens environmental legal protection as specified in Article 88 of the Environmental Management Law (UUPPLH). This principle exempts victims from the obligation to prove fault on the part of the business actor and only requires the existence of losses and a link between the activity and the resulting environmental impact. The application of strict liability reflects the implementation of the polluter pays principle and the precautionary principle in Indonesian environmental law, thereby increasing the effectiveness of law enforcement and encouraging business actors to be more responsible in environmental management.

Keywords: Absolute Liability, Dispute Resolution, Environment

INTRODUCTION

In Indonesia, environmental issues are no longer viewed solely as ecological issues, but have evolved into legal, social, economic, political, and human rights issues. Environmental damage has multidimensional impacts that can disrupt the sustainability of community life. Forest and land fires, for example, not only damage ecosystems but also cause transboundary haze, disrupt public health, reduce air quality, hamper economic activity, and threaten the sustainability of biodiversity. Similarly, industrial waste pollution damages clean water sources and reduces the health of communities around industrial areas. These conditions demonstrate that the environment is an integral part of basic human rights that must be protected by the state (Siahaan, 2009).

The development of environmental law in Indonesia has experienced significant progress since the enactment of Law Number 32 of 2009 concerning Environmental Protection and Management. This law replaced Law Number 23 of 1997 and became a significant milestone in strengthening national environmental legal instruments. In this law, the state emphasizes the principles of preventing pollution and environmental damage, enforcing environmental law, public participation, and the responsibility of business actors for environmental losses. One important concept regulated in this law is the application of the principle of strict liability in resolving environmental disputes.

The principle of strict liability is a legal responsibility concept that imposes responsibility on business actors or parties causing environmental damage without the need to prove fault. In civil law in general, liability is based on fault, as reflected in Article 1365 of the Civil Code (*Burgerlijk Wetboek*). However, in environmental cases, proving fault is often very difficult because environmental damage is usually complex, involves high technology, has long-term impacts, and requires complex scientific evidence. Therefore, the concept of strict liability exists as a form of legal protection for victims of pollution and environmental damage (Danasaputro, 2010).

The regulation regarding absolute liability in Indonesian environmental law is explicitly stated in Article 88 of Law Number 32 of 2009 concerning Environmental Protection and Management, which states that any person whose actions, business, and/or activities use B3, produce and/or manage B3 waste, and/or pose a serious threat to the environment is absolutely responsible for any losses incurred without the need for proof of fault. This provision shows that Indonesian environmental law has adopted the principle of modern liability which aims to make it easier for victims to obtain environmental justice. The application of this principle is very relevant considering the many cases of environmental damage in Indonesia that have had a broad impact on society and the ecosystem.

Climate change is a global environmental issue that increasingly reinforces the urgency of implementing absolute liability in environmental law. Global warming caused by increased greenhouse gas emissions has resulted in rising global temperatures, changing weather patterns, flooding, drought, and an increased frequency of ecological disasters. Indonesia, a country with extensive tropical forests, faces serious challenges related to deforestation and forest fires. In this context, corporations engaging in high-risk activities for the environment must be held firmly accountable without burdening victims with difficult proof of wrongdoing.

Environmental damage in Indonesia shows an increasing trend along with the growth of extractive industries, large-scale plantations, mining, oil and gas, and development expansion, which often creates ecological pressure. Issues such as river pollution, forest and land fires, peatland destruction, air pollution, and biodiversity degradation demonstrate that a legal approach based on proof of fault (fault liability) is often insufficient to provide rapid and adequate environmental protection. In litigation practice, proving corporate fault is often a major obstacle due to the complex causal relationship between business actors' actions and

ecological damage. Therefore, Indonesian environmental law recognizes strict liability as a progressive legal mechanism to accelerate the remediation of environmental damage.

The normative basis of strict liability in Indonesia is regulated in Law Number 32 of 2009 concerning Environmental Protection and Management, specifically Article 88 which stipulates that any person or business entity whose actions use hazardous and toxic materials (B3), produce B3 waste, or pose a serious threat to the environment is strictly responsible for the losses incurred without the need to prove any element of fault. This norm has the philosophy that the environment is a public interest and a constitutional right of the community so that its protection should not be hampered by technical difficulties in proving it.

Academically, research on strict liability needs to be positioned not merely as a normative legal study, but as interdisciplinary research that generates recommendations for environmental science. Such research aims to formulate a post-verdict recovery model, standards for evaluating the success of environmental rehabilitation, indicators for the effectiveness of environmental decisions, and guidelines for post-final supervision. Thus, research should not stop at the question of "whether the company was punished" but rather expand to "how the environment is restored after the verdict is rendered." This approach aligns with developments in modern environmental studies that position law as an instrument of ecological restoration, not simply corporate punishment.

In the context of environmental science, this research can be directed towards producing recommendations in the form of guidelines for post-pollution area restoration, an environmental quality evaluation model based on quantitative indicators, and a system for monitoring corporate compliance with environmental court decisions. Therefore, the research subject needs to be clarified, for example, Legal Recovery and Ecological Recovery After a Final Decision Based on Strict Liability Analysis in Environmental Dispute Resolution in Indonesia. This subject is more focused because it places the court decision as the starting point of the analysis, not the end point.

The application of strict liability in such cases results not only in monetary payments but also in environmental restoration obligations. Implementation of the decision includes land rehabilitation, ecological restoration, vegetation restoration, monitoring of affected areas, and re-fire control. Therefore, environmental decisions ideally have two dimensions: legal recovery and ecological recovery. This means that after a company is found legally responsible, the state must ensure that the damaged area truly returns to its ecological function.

The environmental bias in Decision Number 588/Pdt/LH/2025/PT DKI is evident in the judges' orientation, which places environmental restoration as the primary goal of law enforcement. The panel of judges, instead of relying on a formalistic approach that requires a prior criminal decision, emphasized that civil environmental lawsuits can be filed independently if there is significant environmental damage. This stance demonstrates a commitment to environmental protection by providing a more expeditious and effective recovery.

Furthermore, the judge acknowledged the ecological and economic losses resulting from unauthorized mining activities in limited production forest areas, such as disruption to land function, water systems, and ecosystems. This ruling demonstrates that the environment is positioned as a legal interest that must be protected, not simply an economic object. By imposing joint and several liability on the defendants and requiring payment of environmental compensation, the court demonstrated the application of the strict liability and polluter pays principles, namely that polluters are responsible for the impacts they cause.

This bias is also reflected in the judge's approach, which prioritizes substantive justice over merely procedural ones. The judge used scientific evidence, documents, witnesses, and

experts to establish a causal link between the act and environmental damage. Therefore, this decision can be seen as a progressive stance on environmental issues, strengthening the function of civil lawsuits as an instrument for restoration, ecosystem protection, and the sustainable enforcement of environmental justice.

The application of strict liability is also closely related to the precautionary principle in international environmental law. This principle emphasizes that scientific uncertainty should not be used as a reason to delay preventive measures against potential serious or irreversible environmental damage. This principle is reflected in the 1992 Rio Declaration, which places environmental protection as a crucial component of sustainable development. Indonesia, as part of the international community, has adopted various principles of international environmental law into its national legal system, including the polluter pays principle and the principle of absolute liability (Sands, 2012). In the Indonesian context, the strengthening of this concept can be seen explicitly in Supreme Court Regulation of the Republic of Indonesia Number 1 of 2023 concerning Guidelines for Adjudicating Environmental Cases, specifically in Articles 38, 39, and 40, which serve as important judicial instruments in reinforcing the principle of environmental protection in the judicial system.

The issue of applying strict liability in resolving environmental disputes in Indonesia is inextricably linked to the recurring problem of forest and land fires (*karhutla*), which cause ecological damage, economic losses, public health problems, and even legal disputes between the state, communities, and corporations. The phenomenon of forest and land fires in Indonesia is no longer merely a technical issue of fire control, but has evolved into an environmental law issue that touches on aspects of state responsibility, corporate responsibility, protection of the community's right to a good and healthy environment, and the effectiveness of environmental law enforcement. In this context, the principle of strict liability becomes relevant for analysis because it offers a mechanism of accountability that does not solely rely on proving fault, but rather on the existence of activities that pose serious risks to the environment.

In fact, forest and land fires remain a serious problem in Indonesia, particularly in Sumatra and Kalimantan, with Riau Province being one of the most fire-prone areas due to the highly flammable and difficult-to-extinguish peatland. Local government data shows that forest and land fires in Riau recur almost annually, with varying degrees of damage, yet remain alarming. In mid-2025, the Regional Disaster Management Agency recorded that hundreds of hectares of land in Riau had burned, spread across various districts such as Kampar, Rokan Hulu, Bengkalis, and Pelalawan. These fires caused haze, ecosystem damage, disruption of community economic activities, and threats to public health due to air pollution.

Empirical evidence shows that forest and land fires in Riau have not only local impacts but also regional and even international dimensions, as the haze often crosses national borders. In 2025, the development of forest and land fires in Riau showed an increasing trend in the area burned, reaching nearly one thousand hectares in a short period of time. Disaster reports indicate several regions are experiencing a haze emergency due to peatland fires that are difficult to extinguish. The smoke from the fires not only disrupts public mobility but also impacts health, education, and transportation, and causes significant economic losses. This situation demonstrates that forest and land fires have become a serious threat to environmental sustainability and the protection of citizens' constitutional rights to a healthy environment.

From an environmental science perspective, environmental pollution and damage are changes in environmental conditions that exceed environmental quality standards and disrupt the balance of the ecosystem. Ecosystems inherently possess a natural capacity for self-regeneration (resilience), but excessive human activity often causes the environment to lose

its carrying capacity. Industrial activity that discharges waste into rivers, for example, can lead to decreased water quality, the death of aquatic life, and even public health problems. Similarly, land clearing by burning can lead to soil degradation, loss of biodiversity, and increased carbon emissions, all of which impact global climate change (Salim, 2010).

From an environmental law perspective, the problems that arise do not stop with the fires, but rather lie in how accountability mechanisms are applied to parties suspected of causing environmental damage, particularly corporations holding plantation, forestry, and land management permits. In many cases, proving fault in environmental disputes is often a major obstacle, requiring a complex evidentiary process involving intent, negligence, causality, and identification of perpetrators. In practice, corporations often seek cover by claiming that the fires were caused by natural factors, extreme weather, or the actions of third parties beyond the company's control. This situation slows down law enforcement and is often ineffective in providing environmental recovery and justice for affected communities.

This is where the principle of strict liability becomes urgent. In Indonesia's environmental legal regime, this principle is accommodated through Article 88 of the Environmental Management Law (UUPPLH), which essentially stipulates that any person or business entity that uses hazardous and toxic materials, produces B3 waste, or carries out activities that pose a serious threat to the environment is strictly liable for any losses incurred without the need for proof of fault. This regulation demonstrates a paradigm shift from liability based on fault to risk liability, namely liability based on the risk of activities to the environment. Thus, in forest and land fire cases, the focus of proof is not solely directed at the perpetrator's intent or fault, but on the relationship between business activities and the occurrence of environmental damage that results in ecological and social losses.

RESEARCH METHODS

The type of research in this paper is Normative Legal Research, namely a research approach that studies the influence of society on law, the extent to which the symptoms that exist in society can influence the law and vice versa and departs from the paradigm of empirical science. This research uses a normative legal research method with a conceptual approach, a statute approach, and a case approach, so it does not focus on respondents as in empirical research, but rather on legal materials, documents, and literature sources relevant to the object of study.

RESULT AND DISCUSSION

Research result

A. Environmental Dispute Resolution Regulations in Indonesia

Environmental dispute resolution is a crucial instrument in the environmental protection and management system. The existence of environmental dispute resolution mechanisms is not only intended to resolve conflicts arising from environmental pollution and/or damage, but also serves as a means to restore environmental quality that has been degraded by human activities. From a modern environmental law perspective, environmental dispute resolution is no longer solely oriented towards providing compensation to victims, but also emphasizes the aspect of restoring the function of the environment as a unified ecosystem that supports the lives of humans and other living things.

The environment is a system consisting of biological, non-biological, and socio-cultural elements that interact to form an ecological balance. According to Otto Soemarwoto (2008), the environment is the space occupied by living things, along with living and non-living things, that mutually influence the survival of humans and other organisms. Therefore, any environmental damage essentially not only causes economic losses but also threatens the sustainability of ecological functions that support the lives of current and future generations.

In the development of international environmental law, various principles have emerged that form the basis for the formation of environmental regulations in various countries, including Indonesia. These principles include sustainable development, the polluter pays principle, the precautionary principle, and intergenerational equity. These principles were later adopted in various national legal instruments governing environmental protection and management.

The constitutional basis for environmental protection in Indonesia is contained in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that everyone has the right to a good and healthy environment. Furthermore, Article 33 paragraph (4) of the 1945 Constitution emphasizes that the national economy is organized based on the principles of sustainability and environmental awareness. These provisions indicate that environmental protection is part of the constitutional rights of citizens and is also an obligation of the state to guarantee it. (Asshiddiqie, 2014).

The primary provisions for resolving environmental disputes are currently contained in Law No. 32 of 2009 concerning Environmental Protection and Management. This law replaces Law No. 23 of 1997 and strengthens various environmental legal instruments previously deemed ineffective in addressing cases of pollution and environmental damage.

According to Article 1, number 25 of Law Number 32 of 2009, an environmental dispute is a dispute between two or more parties arising from activities that have the potential to impact the environment and/or have impacted it. This definition indicates that environmental disputes can arise not only after environmental damage occurs, but also when there is a potential impact that could threaten environmental sustainability.

From an environmental science perspective, environmental disputes typically arise from changes in environmental quality resulting from human activities that exceed the environment's carrying capacity and capacity. Carrying capacity is the environment's ability to support human life and other living things, while carrying capacity is the environment's ability to absorb substances, energy, or other components that enter it without causing damage (Salim, 2010). If these two limits are exceeded, environmental degradation will occur, potentially leading to conflict between the community, the government, and business actors.

The UUPPLH regulates environmental dispute resolution through two main channels: non-litigation and litigation. Both mechanisms are offered as alternatives, allowing parties to choose the most effective route based on the specific nature of the dispute.

Article 84 paragraph (1) of the Environmental Management Law states that environmental dispute resolution can be pursued through the courts or outside the courts. This provision demonstrates recognition of the principle of the parties' freedom to determine the dispute resolution mechanism to be used. However, if efforts to resolve the dispute outside the courts are unsuccessful, the parties may file a lawsuit in court.

Out-of-court dispute resolution aims to reach an agreement on the form and amount of compensation and specific actions to ensure that negative impacts on the environment are not repeated. This mechanism can be implemented through negotiation, mediation, conciliation, or arbitration (Siahaan, 2014). From an environmental science perspective, dispute resolution through mediation has the advantage of enabling agreements to be reached that take ecological aspects into account more comprehensively than court decisions, which generally focus on legal aspects. Through mediation, the parties can formulate environmental restoration measures tailored to the characteristics of the affected ecosystem.

However, the effectiveness of out-of-court dispute resolution often faces various obstacles. One major obstacle is the imbalance in bargaining power between affected communities and companies with greater economic resources and access to information. This situation means that the mediation process does not always produce agreements that reflect substantive justice.

In addition to non-litigation channels, the Environmental Management Law (UUPPLH) also regulates dispute resolution through the courts. This mechanism is implemented through civil lawsuits filed by parties injured by environmental pollution or damage. These lawsuits can be in the form of demands for compensation or specific actions to restore the damaged environment.

Article 87 paragraph (1) of the UUPPLH states that every person responsible for a business and/or activity that commits an unlawful act in the form of pollution and/or damage to the environment that causes harm to other people or the environment is obliged to pay compensation and/or take certain actions. This provision emphasizes the application of the polluter pays principle in the Indonesian environmental law system.

The polluter pays principle is a fundamental principle in modern environmental law. This principle implies that the party causing pollution must bear all costs arising from the negative impacts. According to Takdir Rahmadi, this principle aims to encourage the internalization of environmental costs into production costs, thus providing businesses with an incentive to adopt more environmentally friendly technologies.

In practice, environmental lawsuits can be filed by various legal entities. First, individual lawsuits are filed by individuals who have suffered losses due to environmental pollution or damage. Second, class action lawsuits are filed by groups of people who share common facts and legal basis. Third, lawsuits by environmental organizations that meet certain requirements. Fourth, lawsuits by the government and local governments seeking environmental compensation. The existence of class actions is crucial in environmental law enforcement because most environmental cases involve a large number of victims. This mechanism eliminates the need for individuals to file lawsuits, making the judicial process more efficient and reducing litigation costs.

The UUPPLH also recognizes the legal standing of environmental organizations. Environmental organizations can file lawsuits in the interests of preserving environmental functions without having to prove direct harm. This regulation expands access to environmental justice. In the context of environmental science, recognizing the right to sue environmental organizations is crucial because environmental damage often has long-term impacts that are not easily quantified economically. Environmental organizations serve as representatives of ecological interests that are often not represented in conventional legal mechanisms.

The resolution of environmental disputes is also inseparable from the concept of sustainable development. This concept was first widely introduced in the 1987 Brundtland Report, which defined sustainable development as development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs.

Within the framework of sustainable development, environmental dispute resolution serves not only to resolve existing conflicts but also as a preventative measure to prevent development activities from causing detrimental ecological impacts. Therefore, judges adjudicating environmental disputes are required to consider ecological, social, and economic aspects in a balanced manner.

From an ecological perspective, environmental damage has different characteristics than ordinary civil damages. Environmental damage is often cumulative, cross-regional, and has long-term impacts. For example, river pollution from industrial waste not only harms communities near the pollution site but can also affect water quality, public health, biodiversity, and economic productivity downstream.

These characteristics make proving in environmental disputes more complex than in civil disputes in general. Therefore, modern environmental law has developed various specialized instruments to facilitate proving, including the application of the precautionary

principle and strict liability.

The existence of environmental dispute resolution mechanisms ultimately reflects the state's efforts to achieve environmental justice. Environmental justice not only demands the equitable distribution of environmental benefits and burdens but also ensures public participation in environmental decision-making and effective access to dispute resolution mechanisms.

Overall, environmental dispute resolution regulations in Indonesia have undergone significant development. The Environmental Management Law (UUPPLH) provides various legal instruments that enable communities to obtain protection for their rights to a good and healthy environment. However, the effectiveness of these regulations still faces various challenges, including limited law enforcement capacity, the complexity of scientific evidence, low environmental awareness, and the weak implementation of court decisions in environmental cases. Therefore, institutional strengthening, increased capacity of law enforcement officers, and the integration of environmental science into the dispute resolution process are needed to achieve sustainable environmental protection and management.

B. Implementation of Strict Liability in the Settlement of Environmental Disputes in the Framework of Environmental Protection and Management in Indonesia

The concept of strict liability is one of the most important developments in modern environmental law. The emergence of this principle stems from the realization that fault-based liability mechanisms are often unable to provide effective protection for victims of environmental pollution and damage. In many environmental cases, victims face difficulties in proving fault on the part of the business actor because the activities that cause pollution generally involve complex technology, complex industrial processes, and ecological impacts that only become apparent after a certain period of time. Therefore, modern environmental law has developed a concept of liability that no longer requires proof of fault, but rather simply requires proof of a link between the risky activity and the resulting loss.

From an environmental science perspective, environmental damage has different characteristics than ordinary civil damages. Environmental pollution often occurs cumulatively, has widespread impacts, crosses administrative boundaries, and can even affect various ecosystem components simultaneously. Environmental damage is also often irreversible, making it difficult to restore. Forest destruction, loss of biodiversity, river pollution by hazardous waste, and peatland fires are examples of environmental impacts that require enormous costs and a long time to restore. Therefore, an environmental legal liability system must be able to provide stronger protection than conventional civil law mechanisms (Hardjasoemantri, 2012).

Historically, the concept of strict liability developed from the famous English case of *Rylands v. Fletcher* in 1868. In that case, the court ruled that a person who stored a dangerous object on his land was liable for losses if the object escaped and caused damage to another party, even if there was no element of fault. This decision later became the basis for the development of the doctrine of strict liability, which is applied in various fields of law, including environmental law.

In the development of international law, the principle of absolute liability has gained widespread recognition through various international conventions governing environmental pollution resulting from high-risk activities. This principle is based on the assumption that those who profit economically from an activity must also bear the risks arising from that activity. Thus, environmental risks are not borne by the public as victims, but rather by the business actors engaging in hazardous activities.

In Indonesia, the application of the principle of absolute liability has a strong legal basis through Law Number 32 of 2009 concerning Environmental Protection and

Management. Article 88 of the UUPPLH states that any person whose actions, business, and/or activities use B3, produce and/or manage B3 waste, and/or pose a serious threat to the environment is absolutely responsible for any losses incurred without the need to prove fault.

This provision explicitly acknowledges the strict liability doctrine in the Indonesian legal system. Under this norm, victims of environmental pollution are no longer burdened with proving fault on the part of the business actor. Victims simply need to prove the existence of a loss and a causal relationship between the perpetrator's activities and the loss. The implementation of absolute responsibility in the UUPPLH cannot be separated from the goal of environmental protection. Environmental protection essentially aims to maintain the sustainability of environmental functions so that they can continue to support human life and other living things. According to Emil Salim, the environment has interrelated ecological, economic, social, and cultural functions, so that damage to one environmental component will affect the entire life system. Therefore, environmental law must provide an effective accountability mechanism for any activity that has the potential to pose a significant risk to the environment.

From a risk theory perspective, the party creating the risk must bear the legal consequences if the risk results in a loss. This theory serves as the philosophical basis for the application of strict liability. Business actors who use hazardous and toxic materials, operate high-risk industrial installations, or engage in natural resource exploitation activities derive economic benefits from these activities. Therefore, if these activities cause environmental pollution, the business actor is obligated to bear all resulting losses without needing to prove fault (Siahaan, 2014). The application of the principle of strict liability is also closely related to the polluter pays principle. This principle asserts that the costs arising from pollution must be borne by the party causing the pollution. In the context of environmental law, these costs include not only compensation to victims but also the costs of restoring the damaged environment. Thus, strict liability serves as an instrument for effectively realizing the polluter pays principle.

From an environmental perspective, the use of strict liability is highly relevant because the impacts of pollution are often unpredictable. For example, hazardous waste pollution can alter river water quality, reduce aquatic organism populations, disrupt the food chain, and cause health problems for communities that use the water. These impacts can persist for years and are often only discovered after the damage has reached a serious level. In such circumstances, proving fault becomes extremely difficult, making the application of strict liability a more effective solution to protect victims and the environment.

Furthermore, the application of strict liability is also in line with the precautionary principle. The precautionary principle requires any party engaging in risky activities to take preventative measures even if there is no scientific certainty regarding the possibility of environmental damage. In this context, strict liability serves as a legal incentive for businesses to implement high environmental safety standards because they know that any losses incurred will be their responsibility without the need for proof of fault. (Sands & Peel, 2018). In Indonesian judicial practice, the application of strict liability has begun to be seen in various environmental cases, particularly those related to forest and land fires. One notable case involves a government lawsuit against a plantation company whose land burned and caused widespread haze. In these cases, the courts generally held the company responsible for the environmental damage occurring in its concession area, even though the company argued it did not directly cause the burning. This approach demonstrates that courts are beginning to implement the principle of absolute liability as an instrument for environmental protection. Judges no longer focus on finding subjective fault, but rather assess whether there is a link between business activities and the resulting environmental damage. If such a link is proven, the business actor can be held accountable for all resulting impacts (Santosa, 2014).

Within the framework of environmental protection and management, the implementation of strict liability serves several strategic functions. First, it facilitates the provision of evidence for victims of environmental pollution. Difficulty in proving the truth is a major obstacle to environmental law enforcement, as most people lack access to the technical and scientific data necessary to prove the culpability of business actors. With strict liability, this obstacle can be minimized.

Second, increasing the effectiveness of environmental law enforcement. Businesses can no longer hide behind the excuse that they have complied with certain procedures or that they accidentally caused pollution. As long as their activities fall within the categories stipulated in Article 88 of the Environmental Management Law (UUPPLH) and cause environmental harm, they can still be held accountable.

Third, strengthen the preventive function of environmental law. The threat of absolute liability encourages businesses to raise environmental management standards, improve internal oversight systems, and develop environmentally safer technologies.

Fourth, accelerate the environmental recovery process. In many pollution cases, time is crucial, as the longer the damage is left untreated, the greater the cost of restoration. With an absolute liability mechanism, the process of determining responsibility can be carried out more quickly, allowing environmental recovery measures to be implemented promptly.

However, the implementation of strict liability in Indonesia still faces various challenges. One of the main challenges is differing interpretations of the scope of Article 88 of the Environmental Management Law (UUPPLH). In practice, there is still debate regarding the types of activities that can be categorized as posing a serious threat to the environment. These differing interpretations have the potential to create legal uncertainty in the application of the principle of strict liability.

Another challenge relates to proving a causal relationship. Although victims do not need to prove fault, they must still prove that the losses they suffered are related to the business actor's activities. In complex environmental cases, proving a causal relationship often requires in-depth scientific studies and the involvement of various experts from the fields of ecology, hydrology, toxicology, environmental health, and other disciplines.

From an environmental science perspective, proving causal relationships is crucial because the environment is a complex system. Environmental damage is often the result of the interaction of multiple factors occurring simultaneously. For example, declining river water quality can be caused by a combination of industrial waste, domestic sewage, soil erosion, and land-use changes. Therefore, identifying pollution sources requires a comprehensive scientific approach.

The application of strict liability must also be understood within the context of ecological justice. Ecological justice is not only oriented toward the interests of humans as direct victims of pollution, but also considers the ecological rights of the environment itself. The environment is viewed as a living system with intrinsic value, so environmental damage must be restored even if there are no direct human victims. This approach is increasingly relevant in addressing various global environmental challenges such as climate change, biodiversity loss, and ecosystem degradation.

Thus, absolute liability is not merely a civil law instrument, but also an environmental protection instrument with ecological, social, and economic functions. By applying this principle, the state seeks to ensure that the costs of environmental damage are not borne by the community or future generations, but rather by those who benefit from activities that give rise to environmental risks.

Based on the above description, it can be understood that the application of strict liability in resolving environmental disputes in Indonesia is a manifestation of the precautionary principle, the polluter pays principle, and the risk theory that have developed in

modern environmental law. The existence of Article 88 of the UUPPLH demonstrates the state's commitment to strengthening environmental protection through more effective accountability mechanisms. Although still facing various obstacles in its implementation, the principle of strict liability remains a very important instrument in realizing the goal of environmental protection and management that is sustainable, equitable, and oriented towards preserving ecological functions for current and future generations.

Discussion

The environment is one of the fundamental elements that determines the continuity of human life. The existence of a good and healthy environment is not only a biological human need, but has also developed into a constitutional right guaranteed by the state. In Indonesia, recognition of the right to a good and healthy environment is reflected in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to obtain a good and healthy environment. This provision shows that the environment is no longer viewed solely as an economic resource, but as part of human rights that must be protected by the state.

From a modern environmental law perspective, environmental protection is not only achieved through administrative and criminal instruments, but also through dispute resolution mechanisms aimed at providing legal protection to communities harmed by environmental pollution or damage. Environmental disputes fundamentally arise from clashes of interests between development activities and environmental conservation efforts. Development oriented toward economic growth often results in negative environmental impacts, including water, air, and soil pollution, ecosystem damage, and even biodiversity loss. These conditions ultimately give rise to legal conflicts that require effective and equitable resolution mechanisms.

According to Siti Sundari Rangkuti (2018), environmental law is essentially a set of norms aimed at regulating the relationship between humans and the environment to create a balance between development interests and environmental preservation. Therefore, environmental dispute resolution cannot be understood simply as a mechanism for resolving ordinary legal conflicts, but rather must be positioned as an instrument for maintaining the sustainability of environmental functions.

Regulations for environmental dispute resolution in Indonesia are specifically regulated in Law Number 32 of 2009 concerning Environmental Protection and Management. Article 1, number 25, states that an environmental dispute is a dispute between two or more parties arising from activities that have the potential to and/or have impacted the environment. This formulation indicates that environmental disputes have different characteristics from ordinary civil disputes because the object of the dispute relates to the impact on the environment as an ecological system.

In environmental science, the environment is understood as a spatial entity consisting of interacting objects, forces, conditions, and living things. According to Soerjani (2014), the environment is a complex and dynamic system, so damage to one component will affect other components. Therefore, resolving environmental disputes must consider not only legal aspects but also ecological, social, economic, and cultural aspects.

Normatively, Article 84 paragraph (1) of Law Number 32 of 2009 stipulates that environmental dispute resolution can be pursued through the courts or outside the courts. This provision shows that Indonesian environmental law adheres to a dual-track settlement system, namely providing the opportunity for parties to choose the dispute resolution mechanism they consider most effective. Non-litigation settlement is regulated in Article 85 of Law Number 32 of 2009. This provision emphasizes that non-litigation settlement of environmental

disputes is carried out to reach an agreement on the form and amount of compensation and certain actions to ensure that negative impacts on the environment will not occur or recur. This mechanism can be carried out through negotiation, mediation, conciliation, or arbitration.

From a dispute resolution theoretical perspective, non-litigation mechanisms have several advantages: they are faster, less expensive, and allow for the achievement of agreements that accommodate the interests of all parties. According to Nandang Sudrajat (2016), resolving environmental disputes through mediation offers a greater opportunity for environmental restoration because the parties can formulate a form of restoration that is appropriate to the characteristics of the environmental damage that has occurred.

However, the effectiveness of out-of-court dispute resolution often faces obstacles in the form of unequal bargaining power between communities and corporations. In many environmental pollution cases, communities are in a weaker position, both economically and in terms of technical information. As a result, the agreements reached do not always reflect substantive justice.

In addition to non-litigation mechanisms, Indonesian environmental law also regulates dispute resolution through the courts. Litigation is an important instrument when out-of-court settlements are unsuccessful or when the losses incurred are so great that a binding decision is required. Article 87 paragraph (1) of Law Number 32 of 2009 states that any person responsible for a business and/or activity who commits an unlawful act in the form of environmental pollution or damage that causes harm to other people or the environment is obliged to pay compensation and/or take certain actions.

These provisions demonstrate that Indonesian environmental law adopts the concept of environmental liability, which is legal responsibility for environmental damage. Unlike conventional civil law, which focuses on individual compensation for losses, liability in environmental law also encompasses the obligation to restore environmental functions.

In this context, Article 1365 of the Civil Code remains relevant as it serves as the basis for lawsuits for unlawful acts. However, Law Number 32 of 2009 provides more specific provisions (*lex specialis*) so that the requirements for proof and forms of accountability are tailored to the characteristics of environmental disputes.

One important development in Indonesian environmental law is the recognition of environmental organizations' right to sue, as stipulated in Article 92 of Law Number 32 of 2009. This provision authorizes environmental organizations to file lawsuits in the interests of preserving environmental functions. This regulation demonstrates an expansion of the concept of legal standing in Indonesian law.

According to Syahrul Machmud (2012), recognition of environmental organizations' right to sue is a concrete form of access to environmental justice. The environment, as a public interest, requires legal representation that does not always depend on individual harm.

Furthermore, Article 91 of Law Number 32 of 2009 also regulates class action lawsuits. This mechanism allows communities experiencing losses due to environmental pollution to file lawsuits collectively. This provision is crucial given that the impacts of environmental pollution are generally felt by a large number of people.

From the perspective of the legal protection theory put forward by Philipus M. Hadjon (2011), legal protection consists of preventive and repressive legal protection. Resolving environmental disputes through courts or out-of-court is a form of repressive legal protection aimed at resolving conflicts after environmental law violations have occurred.

Within the framework of sustainable development, environmental dispute resolution has a broader function than simply resolving legal conflicts. It also serves to maintain a balance between economic, social, and environmental interests. The principle of sustainable development requires that natural resources be utilized without compromising the ability of

future generations to meet their own needs (Akib, 2019).

Therefore, the success of resolving environmental disputes is not only measured by the amount of compensation given to victims, but also by the extent to which the mechanism is able to restore the function of the environment that has been damaged.

One important development in Indonesian environmental law is the implementation of the principle of strict liability. This principle emerged in response to the difficulty of proving the case in environmental cases, which generally involve complex technology and ecological impacts that are difficult to directly trace.

Theoretically, strict liability is a form of legal responsibility that does not require proof of fault. According to Munadjat Danusaputro, strict liability is a logical consequence of the increasing environmental risks caused by technological developments and modern industrialization.

The regulation of strict liability in Indonesian law is contained in Article 88 of Law Number 32 of 2009 which states that any person whose actions, business, and/or activities use B3, produce B3 waste, manage B3 waste, and/or cause serious threats to the environment is absolutely responsible for losses that occur without the need to prove the element of fault.

This norm deviates from the general principle of civil law, which requires an element of fault as stipulated in Article 1365 of the Civil Code. In the context of environmental disputes, lawmakers recognize that victims often have difficulty proving business actors' fault due to limited access to information and technical evidence.

According to Helmi (2013), the implementation of strict liability aims to provide more effective protection to victims of environmental pollution while simultaneously increasing corporate responsibility for the environmental impacts caused by their business activities. From an environmental science perspective, the implementation of strict liability has a strong ecological basis. Activities that use hazardous and toxic materials or produce hazardous waste pose significant risks to ecosystems. The resulting environmental damage is often cumulative, long-term, and difficult to reverse. Therefore, those who benefit from these activities must bear all the resulting risks.

The principle of absolute liability is also closely related to the polluter pays principle, which has become a fundamental principle in international environmental law. This principle stipulates that the party causing the pollution must bear the costs of environmental restoration and compensation to the victims.

In Indonesian judicial practice, the application of strict liability is often found in cases involving forest and land fires, industrial waste pollution, and environmental damage caused by extractive activities. Courts generally no longer emphasize proving fault, but rather the relationship between business activities and the resulting losses.

However, the implementation of strict liability still faces various challenges. One of these is differing interpretations of the meaning of "serious threat to the environment" as defined in Article 88 of Law Number 32 of 2009. Furthermore, proving a causal relationship between business activities and environmental losses still requires strong scientific evidence.

The implementation of strict liability is a crucial legal instrument for achieving effective environmental protection and management. This principle not only facilitates access to justice for victims but also encourages businesses to implement higher environmental protection standards. Thus, strict liability serves as both a preventative measure and a law enforcement tool, supporting sustainable development in Indonesia.

CONCLUSIONS

The regulation of environmental dispute resolution in Indonesia has been comprehensively regulated in Law Number 32 of 2009 concerning Environmental Protection and Management through settlement mechanisms outside the courts (non-litigation) and

through the courts (litigation). These regulations aim to provide legal protection to communities harmed by environmental pollution and/or damage and ensure the restoration of environmental functions. In addition to regulating individual lawsuits, the UUPPLH also recognizes class action lawsuits, the right to sue environmental organizations (legal standing), and the right to sue the government as instruments for enforcing environmental law oriented towards sustainable environmental protection.

The application of strict liability in resolving environmental disputes strengthens environmental legal protection as stipulated in Article 88 of the Environmental Management Law (UUPPLH). This principle exempts victims from the obligation to prove the fault of the business actor and only requires the existence of losses and a relationship between the activities carried out and the resulting environmental impact. The application of strict liability reflects the implementation of the polluter pays principle and the precautionary principle in Indonesian environmental law, thereby increasing the effectiveness of law enforcement and encouraging business actors to be more responsible in environmental management.

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