


Legal Responsibility of Companies That are Negligent in Managing Waste Which Causes Environmental Damage

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Article Info	ABSTRACT
<p>Keywords: Legal Responsibility, Company, Waste, Environment</p>	<p>The increasing number of companies in Indonesia will have an impact on economic growth and job creation in Indonesia. However, along with this growth, companies, especially in the industrial sector, will also produce waste as a result of the production process. There are still many companies that still neglect to manage their waste, which can cause damage to the surrounding environment. This research aims to analyze the legal responsibility of companies that are negligent in waste management, causing environmental damage. This research uses a normative legal approach. The results of this research reveal that based on the Environmental Protection Law, environmental crimes are defined as crimes, with corporate legal responsibility divided into three types, namely according to civil, criminal and administrative law. In a civil context, companies must pay compensation due to the environmental impacts they cause. Article 87 stipulates that those responsible for businesses and/or activities that violate environmental law are obliged to pay compensation. Articles 116 to 118 state that environmental crimes involve business entities and individuals who can be subject to criminal sanctions. In addition, the Law also regulates administrative sanctions, such as fines or suspension of permits, to ensure compliance with environmental provisions. Overall, this Law provides a strong foundation for corporate legal accountability, involving civil, criminal and administrative aspects.</p>
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INTRODUCTION

A company is an economic entity that is the stage for the production of goods or services (Fitriani, 2017). Within a company, various factors of production such as labor, capital, natural resources, and entrepreneurship come together and interact to create products or services that can meet society's needs. The production process is designed with the aim of achieving profit or profit as a result of selling the products or services produced (Sadiman, 2011).

As an institution or organization, companies have an important role in moving the wheels of the economy. This role is not only limited to creating products or services, but also involves efficient management, strategic decision making, and interaction with the market (Dirdjosisworo, 1997). Companies can come from various economic sectors, such as manufacturing industry, services, trade, and so on. With a company, society can gain access

to various goods and services needed, while the company itself can develop and survive by gaining profits from its production activities (Indrawati et al, 2021).

Companies, especially in the industrial sector, play a central and strategic role in directing the economic growth of a region. The significant contribution from the industrial sector is the main driver in determining the income level of people in an area (Salsabila & Riandini, 2019). The existence of industry not only creates jobs, but also triggers economic structural changes, drives trade activities, and creates added value that can improve people's welfare (Adha, 2020).

The economic transformation from agrarian to industrial marks the evolution of a society towards greater economic progress. Industry or manufacturing has become a more sophisticated and sustainable option, shifting dependence on the agricultural sector (Kurniati, 2015). With industry, society can be involved in more diverse and technology-oriented activities, thereby increasing the skills and competitiveness of the workforce. The importance of the industrial sector is not only visible in the national context, but also at the global level (Widiansyah, 2017). In the Indonesian context, industrial development has made a major contribution to the country's economy. Industrial expansion provides opportunities for economic diversification, increasing the added value of domestic products, and increasing competitiveness in international markets (Sono et al, 2023).

Industry, as an important pillar in economic development, also has a significant negative impact on the environment. Increasing industrial production on a large scale often results in increasing waste volumes, contributing to serious problems such as air pollution, water pollution and over-exploitation of natural resources (Hutabarat et al, 2021). Industrial waste, which sometimes contains hazardous substances and pollutants, carries serious risks to the environment and human health. Water pollution by liquid and solid waste can damage water and soil quality, endanger aquatic organisms, and threaten the health of humans who depend on these water sources (Akhmaddhian & Hanipah, 2021).

Not only that, air pollution resulting from industrial activities, such as greenhouse gas emissions and particulates, is an important contributor to global climate change and threatens human health. This condition shows that even though industry provides an economic boost, its ecological responsibility to the environment must be taken seriously (Erawaty, 2011). Efforts to manage waste, limit pollution, and improve industrial practices are crucial in securing environmental sustainability for future generations. Synergy between government, companies and society in designing sustainable solutions will be the key to achieving harmony between industrial progress and environmental preservation (Dwita & Zamroni, 2021).

In reality, in the context of waste management, there are still many companies that are trapped in the profit paradigm alone without integrating environmental responsibility. Some companies may be more inclined to ignore the negative impacts resulting from their industrial activities, with the main focus on achieving maximum profits (Ambarwati, 2013). This attitude is not only detrimental to the environment, but also creates long-term risks to the sustainability of the company itself. Ignorance of waste management can result in the accumulation of hazardous waste which is detrimental to the ecosystem and surrounding

communities (Octaviyanda, 2023). Failure to implement green practices and effective waste management policies can create lasting negative impacts, including water, land and air pollution. Ultimately, this can harm the company's image, increase legal risks, and can even cause a decrease in consumer support (Kurnia, 2017).

The 1945 Constitution of the Republic of Indonesia firmly states that a good and healthy living environment is not only a human right, but also a constitutional right that must be guaranteed for every Indonesian citizen. In line with human rights principles, this understanding underlines the importance of environmental protection and management as an integral part of sustainable development in Indonesia (Yusa & Hermanto, 2018). As a consequence, the state, government and all stakeholders have a moral and constitutional obligation to carry out efforts to protect and manage the environment (Usman, 2018).

Law of the Republic of Indonesia no. 32 of 2009 concerning Environmental Protection and Management emphasizes the principle of full responsibility for every industry and business entity regarding the management of waste resulting from their activities (Sigarlaki, 2015). This law reflects the awareness that industrial development must be carried out in a sustainable and environmentally responsible manner . As a legal basis, Law no. 32 of 2009 encourages companies to adopt environmentally friendly waste management practices. Industry is expected to design efficient waste management systems, including sorting, processing and overall waste management. This includes an emphasis on preventing waste formation, recycling, and processing methods that do not harm the environment (Masruroh, 2021).

In addition, the law also stipulates an obligation for industries to report their waste management activities to the competent authorities. This creates transparency and accountability in industry practices, enabling monitoring and evaluation by relevant parties, including government and society (Hidayat et al, 2021). By affirming full responsibility for waste management, this Law provides a strong legal foundation to encourage companies towards sustainable business practices. This is in line with the vision of sustainable development which not only takes into account economic growth, but also considers social and environmental impacts, making a positive contribution to society and ensuring ecological balance for future generations.

METHOD

In legal research, it is mandatory to use a research method to make it easier to prepare. Legal research carried out by examining library materials or secondary data can be called normative legal research or library legal research (Soekanto, 2007). This research is Normative Juridical in nature, because it is based on certain methods, systematics and thinking with the aim of studying one or several particular legal phenomena and analyzing them. The legal material obtained by the author is analyzed using qualitative analysis and then presented descriptively, namely by explaining, describing and describing the problems and their solutions related to the problem formulation created. The types of legal materials used in this research are primary legal materials and secondary legal materials. Primary Legal Material consisting of Legislative Regulations relating to the issues discussed.

Secondary Legal Materials which consist of other reference materials which contain information that supports the writing of this thesis, such as law books, articles, writings, scientific works, the internet, and so on.

RESULTS AND DISCUSSION

Legal responsibility is a consequence that arises from the implementation of a person's actions or roles in the context of rights, obligations and powers. Essentially, legal responsibility reflects the obligation to act or behave in accordance with applicable legal provisions. This covers all aspects of daily life, both in carrying out rights and obligations, as well as using the power they have. The importance of legal responsibility is strengthened by the understanding that every action, whether within the framework of rights or obligations, carries consequences that must be borne by the individual or entity concerned.

Purbacaraka's view regarding legal responsibility emphasizes that the emergence of this responsibility is related to the use of facilities in implementing an individual's ability to exercise rights or carry out obligations. In this context, it is important to recognize that the implementation of obligations, the exercise of rights, and the exercise of power, whether carried out adequately or inadequately, remain side by side with responsibility. Therefore, legal responsibility is the foundation underlying integrity, justice and sustainability in society. By understanding and internalizing the concept of legal responsibility, it is hoped that every individual or entity can contribute positively to building a just and sustainable legal order.

Within the framework of a general overview of companies, this term is often recognized in the context of economic law, especially in the Commercial Code (KUHD) and legislation outside the KUHD. Interestingly, although the KUHD refers to the term company, the official definition of the word is not explicitly explained in it. However, to understand the meaning of a company, we can refer to Article 1 of Law No.3 of 1982 concerning Mandatory Company Registration (UWDP).

Article 1 letter (b) UWDP provides a fairly comprehensive formulation regarding the definition of a company. According to the UWDP, a company is "any form of business that carries out any type of business that is permanent and ongoing, and is established, operates and is domiciled within the territory of Indonesia for the purpose of obtaining profit or gain." In other words, a company is identified as a business entity that carries out business activities continuously and sustainably, with the main aim of achieving profit or profit. Companies can take various forms of business and must operate continuously. Apart from that, its presence must be localized in Indonesia, and the main focus is to gain profits. This definition provides a clear framework regarding the characteristics of an entity that can be called a company in the context of Indonesian law.

Based on Law no. 32 of 2009, environmental pollution is defined as the act of introducing living things, substances, energy or other components into the environment by human activities, thereby exceeding established environmental quality standards. To

prevent environmental pollution caused by various industrial activities and human activities, control is needed through establishing environmental quality standards.

Environmental quality standards refer to quantitative and qualitative standards or limits for living things, substances, energy or certain components that exist in the living environment. This quality standard sets maximum levels or certain limits for pollutant elements that can be present in certain resources, making them environmental elements. In other words, environmental quality standards function as a control measure that helps protect the sustainability of the environment from negative impacts due to human activities. The application of environmental quality standards aims to prevent, reduce or control environmental pollution. These standards may include parameters such as the concentration of pollutants in water, air, soil, or other relevant parameters.

Article 97 of Law Number 32 of 2009 concerning Environmental Protection and Management stipulates that environmental criminal acts are considered crimes, and as a consequence, criminal responsibility can be imposed on organs within the corporation. This provision is emphasized with the intention of preventing companies from taking personal protective measures and abdicating their responsibilities by shifting the burden to their workers.

By categorizing environmental crimes as crimes, the Law sends a strong signal that any violation of environmental provisions can not only harm the environment, but is also considered an attack on the interests of society. Furthermore, by stipulating that criminal responsibility can be imposed on corporate organs, this law directs the principle that every corporate entity must be held accountable for its actions at the legal level.

The emphasis on corporate responsibility in the context of environmental crime aims to encourage companies to adopt more sustainable and environmentally responsible practices. Therefore, company leaders cannot avoid responsibility for environmental violations, and it is hoped that this policy will encourage the implementation of environmentally friendly business practices and a commitment to natural sustainability. Apart from that, this step also provides protection to the community and the environment from negative impacts that could arise due to unsustainable business activities.

The provisions regulated in Law Number 32 of 2009 concerning Environmental Protection and Management as a whole lead to the qualification of corporate legal liability, which involves civil, criminal and administrative aspects. In a civil context, companies are responsible for the impacts they have on the environment and their citizens, which can result in claims for compensation or restitution related to damage caused by the company's activities. Article 1 point (5) PERMEN No. 13 of 2011 concerning Compensation for Environmental Pollution and/or Damage provides a specific definition related to the concept of compensation in the context of environmental pollution and/or damage. Compensation is defined as costs that must be borne by the person responsible for the activity and/or business as a result of environmental pollution and/or damage. In this context, the concept of compensation covers various aspects of costs that may arise, including the costs of restoration, rehabilitation and compensation for environmental impacts arising from these activities.

This definition reflects the principles of social and legal responsibility for business actors or activities that cause negative impacts on the environment. Therefore, the person responsible for the activity or business is expected to be responsible for the restoration and rehabilitation of the environment affected by his activities. Compensation can also include compensation for economic losses and social impacts that may be experienced by the community or affected parties.

Article 87 paragraph (1) Law no. 32 of 2009 concerning Environmental Protection and Management provides clear provisions regarding the responsibility of businesses and/or activities that commit unlawful acts in the form of pollution and/or destruction of the environment. If the action causes harm to other people or the environment, the person responsible is obliged to pay compensation and/or take certain actions. In the context of civil law, the concept of compensation resulting from unlawful acts is regulated in detail.

Unlawful acts, according to Article 1365 of the Civil Code, refer to any act that violates the law and causes harm to other people. In this case, if an unlawful act is committed intentionally or unintentionally, the consequence is that losses arise which must be compensated by the party whose fault the loss was caused. Therefore, the principle of civil liability mandates that the party who commits an unlawful act has the obligation to pay compensation as an effort to return the losses incurred as a result of his or her actions. The concept of unlawful acts, according to Article 1365 BW, includes acts that violate the law, morality, public interest and propriety. Thus, when a violation of environmental law occurs, the party responsible is obliged to compensate in accordance with civil law principles, in line with efforts to protect the rights and interests of the community and the environment affected.

Furthermore, in criminal matters, this Law establishes environmental crimes as crimes, allowing law enforcement to bring companies and individuals involved in environmental law violations to justice. This creates a strong legal basis for emphasizing that violations of environmental norms can carry criminal consequences for companies. A person/business entity (corporation) that commits a criminal act is obliged to be held accountable for its actions. UUPPLH has regulated criminal liability for companies that damage or pollute the environment, as explained in the articles below.

Article 116 paragraph (1) of the Environmental Protection and Management Law outlines criminal responsibility in cases of environmental crimes involving business entities. In this context, criminal charges and criminal sanctions can be imposed on the business entity itself or on the individual who gave the order or was the leader in carrying out the criminal act. Thus, parties involved in activities or orders that result in environmental crimes can be criminally punished.

Furthermore, Article 117 provides confirmation regarding punishment for those giving orders or leaders of criminal acts, as intended in Article 116 paragraph (1) letter b. The criminal threat imposed includes imprisonment and a fine, which is increased by one third of the appropriate criminal threat. This provision shows the continued commitment of legislators in providing strict and burdensome sanctions to individuals who give orders or lead the implementation of environmental crimes.

Article 118 then details that for criminal acts as intended in Article 116 paragraph (1) letter a, criminal sanctions are applied to business entities represented by management who have the authority to represent them inside and outside the court in accordance with statutory regulations. This confirms that business entities have legal and criminal responsibility for actions carried out under their auspices, and authorized management can be considered as functional actors responsible for environmental crimes that occur. Thus, this Law ensures that there is accountability and strict sanctions against business entities and individuals involved in environmental crimes.

No less important, this law also regulates aspects of administrative responsibility, which can result in administrative sanctions against companies that do not comply with environmental provisions. These sanctions can take the form of fines, license suspension, or other administrative actions determined by the authorities. The Environmental Protection and Management Law regulates the administrative responsibilities of a company.

In the Environmental Protection and Management Law, provisions regarding the administrative responsibility of a company have been regulated in detail through a number of articles, namely Article 76, Article 77, Article 78, and Article 79. These articles provide the legal basis for the application of administrative sanctions by Ministers, governors, or regents/mayors against those responsible for businesses and/or activities involved in violations of environmental permits.

Article 76 paragraph (1) mandates that the Minister, governor or regent/mayor can apply administrative sanctions if during supervision a violation of an environmental permit is found. The types of administrative sanctions that can be applied, as described in paragraph (2) of Article 76, include written warnings, government coercion, freezing of environmental permits, or revocation of environmental permits.

Article 77 gives the Minister the authority to apply administrative sanctions if a regional government is deemed to have deliberately not implemented administrative sanctions for serious violations in the field of environmental protection and management.

However, it should be remembered that the administrative sanctions applied, as stated in Article 78 paragraph (1), do not exempt the person responsible for the business and/or activity from recovery and criminal responsibility. This shows that administrative sanctions do not replace legal responsibility for the environmental impacts caused by the violation.

Furthermore, Article 79 states that the imposition of administrative sanctions in the form of freezing or revoking environmental permits is carried out if the person responsible for the business and/or activity does not carry out government coercion. Thus, these sanctions function as a pressure tool to ensure the implementation of government coercion for compliance with environmental provisions.

Overall, this Law establishes a strict and firm framework in the application of administrative sanctions, creating control and supervision mechanisms to ensure that business actors or activities that violate environmental provisions are held administratively, remedially and criminally responsible. This responsibility can be imposed if there has been

a decision that has permanent legal force by a court or other relevant official/body and/or there has been an agreement for civil liability.

CONCLUSION

Law Number 32 of 2009 concerning Environmental Protection and Management (UU PPLH) in Indonesia has very detailed provisions regarding the responsibilities and sanctions imposed on companies or business entities involved in environmental crimes. The PPLH Law provides a strong legal basis for taking firm action against violations of environmental provisions by providing various sanctions, both in criminal, civil and administrative forms. In the context of environmental crimes involving business entities, the PPLH Law states that criminal sanctions can be imposed on the business entity itself or on individuals who give orders or are leaders in the implementation of the criminal act. Administrative sanctions which include written warnings, government coercion, freezing of environmental permits, and revocation of environmental permits are important tools in enforcing compliance with environmental provisions. In addition, this law gives the central government the authority to apply administrative sanctions if local governments are deemed not serious in responding to serious environmental violations. The imposition of administrative sanctions also does not absolve those responsible for businesses and/or activities from recovery and criminal responsibility, demonstrating a holistic approach in responding to negative impacts on the environment. All of these regulations reflect the Indonesian government's commitment to realizing sustainable development and environmental protection. The sanctions imposed are preventive, restorative and punitive, providing a strong legal basis for maintaining a balance between economic development and environmental preservation. In addition, it is hoped that the implementation of these sanctions will have a deterrent effect on business actors to comply with environmental standards and norms for the sake of ecosystem sustainability and community welfare.

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