

Civil Liability for Pertamina Hulu Rokan Limited Liability Company Proven to Commit Environmental Pollution Based on Law Number 32 of 2009 concerning Environmental Protection and Management

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ABSTRACT

The problems and discussions of strict liability are one of the most interesting studies. The method in this study is qualitative research. Data collection techniques in this study, namely Observation (Observation), and Documentation. The data analysis techniques used are data reduction, data presentation, and conclusions or verification. Based on the results of the study, the responsibility carried out by PT. Pertamina Hulu Rokan Ganggang against industrial waste pollution to the community confirms the commitment of the judiciary to enforce environmental law, provide a deterrent effect to perpetrators of environmental pollution/damage, and ensure environmental restoration and protection of the community's rights to a good and healthy environment. Civil liability of PT. Pertamina Hulu Rokan related to environmental pollution needs to be enforced firmly in accordance with Law Number 32 of 2009.

INTRODUCTION

Rapid economic development in recent decades in Indonesia has contributed significantly to the progress of the nation, but on the other hand has also resulted in negative impacts on the environment. Industrial activities, plantations, and infrastructure development often ignore aspects of environmental protection, resulting in pollution and damage to ecosystems. In this context, legal liability for business actors, especially for limited liability companies (hereinafter abbreviated as PT), becomes very important. Various cases of environmental pollution involving companies show the complexity in determining liability. A limited liability company, as a legal entity that has its own assets and responsibilities, can be faced with civil claims due to the pollution it causes.

However, the understanding of this liability mechanism still needs to be explored more deeply, including in terms of the impact of sanctions received by the company and the remedial measures needed to improve the state of the polluted environment. This research aims to analyze the civil liability for limited liability companies involved in environmental pollution, as well as evaluate the relevance and effectiveness of Law No. 32/2009 in addressing the issue. Through a better understanding of this aspect of the law, it is hoped to create greater awareness among entrepreneurs to integrate sustainability principles in their business practices, as well as encourage stricter law enforcement against environmental violations.

The importance of environmental protection, this thesis becomes relevant as a contribution to legal thinking that is expected to bring positive consequences, both for society, the environment, and sustainable economic growth. Environmental management is an integrated effort in preserving the function of the environment because it involves all components that exist in nature and affect the sustainability of living things around it, according to Law Number 32 of 2009 concerning Environmental Protection and Management (hereinafter abbreviated as UUPPLH) Article 1 paragraph (1), the environment is a unitary space of all objects, forces, conditions, living things, including humans and their behavior, which affects nature itself, the continuity of life and the welfare of humans and other living things. When looking at the environmental conditions that are very important for the sustainability of living things, the state and all stakeholders should be obliged to protect and manage the environment in the implementation of sustainable development so that the Indonesian environment can be a source and life support for the Indonesian people and other living things around.

Industrial waste disposal is a problem that needs to be addressed properly and quickly, especially if the waste contains certain chemical compounds as hazardous and toxic materials. Regulations regarding the disposal of B3 waste have been regulated in depth in the legislation. Starting from the prohibition of hazardous and toxic waste dumping as stipulated in Article 60 of Law Number 32 Year 2009 to criminal sanctions if the perpetrator practices hazardous and toxic waste dumping as stipulated in Article 104 of Law Number 32 Year 2009.

LITERATURE REVIEW

Prinsip Strict Liability dan Polluter Pays Principle

The principle of strict liability based on the provisions of Article 88 of Law No. 32 of 2009 is reaffirmed in the provisions of Article 51 paragraph (1) of Government Regulation Number: 4 of 2001 concerning Control of Pollution and Environmental Damage Related to Forest and Land Fires. In addition, it is also regulated in the Decree of the Chief Justice of the Supreme Court Number: 36/KMA.SK/II/2013 concerning the Enforcement of Guidelines for Handling Environmental Cases of the Chief Justice of the Supreme Court of the Republic of Indonesia.

The theory of legal responsibility is a theory that analyzes the responsibility of legal subjects or actors who have committed unlawful acts or criminal acts to bear costs or losses or carry out punishment for their mistakes or negligence. In the Indonesian language, the word responsibility means the state of being obliged to bear everything (if anything happens, you can be sued, blamed, imprisoned, and so on). Menanggung is defined as willing to bear the cost (take care of, maintain), guarantee, express a state of willingness to carry out obligations.

Etymologically, responsibility is the obligation to do everything or the function of accepting burdens as a result of one's own or other parties' actions. Meanwhile, the definition of responsibility according to the Big Indonesian Dictionary is a condition of being obliged to bear everything (if something happens, it can be sued, blamed, imprisoned and so on). According to the legal dictionary, there are 2 (two) terms of responsibility, namely liability (the state of being liable) and responsibility (the state or fact of being responsible).

Concept of Responsibility

Responsibility, in the legal dictionary there are two terms, namely liability (pointing to legal responsibility, namely accountability due to mistakes made by legal subjects) and responsibility (pointing to political responsibility). The theory of responsibility emphasizes the meaning of responsibility that is born from the provisions of the Laws and Regulations so that the theory of responsibility is interpreted in the sense of liability. Responsibility is a situation where a person is obliged to bear all his actions if something happens that is not desirable can be sued, blamed or prosecuted.

The Presumption of Nonliability

This principle is the opposite of the second principle. The presumption of nonliability is only recognized in a very limited scope of consumer transactions, and such limitations are usually justified by common sense. An example of the application of this principle is the law of transportation, where loss or damage to cabin baggage or hand baggage that is usually carried and supervised by the passenger (consumer) is the responsibility of the passenger. In this case, the carrier (business actor) cannot be held liable.

Legal Basis for Ecological Compensation and Environmental Restoration (Article 87 of Law No. 32/2009)

Corporate crime in the field of environment is a form of corporate deviation in conducting its business activities that have an impact on environmental damage. This behavior has brought many losses in the fields of material, health, and life safety, as well as in the social field. One of the cases of environmental pollution and/or destruction committed by corporations is the case of PT Pertamina Hulu Rokan pollution.

Civil Liability Mechanism According to Law No. 32/2009

The presence of law in society is to integrate and coordinate interests that usually conflict with each other. Therefore, the law must be able to integrate it so that conflicts of interest can be minimized.

METHODOLOGY

The method in this research is qualitative research. Data collection techniques in this study, namely Observation (Observation), and Documentation. The data analysis techniques used are data reduction, data presentation, and conclusions or verification.

RESEARCH RESULT

Civil Liability of PT Pertamina Hulu Rokan as the Actor of Pollution Due to Disposal of Hazardous and Toxic Waste that Pollutes the Environment

The issue of environmental management policy is something that clashes with the concept of development in a region. The concept of development must basically consider environmental aspects in a formal legal manner as outlined in the regulation of the environmental law. However, the regulation that is used as the basis for enforcing the management and protection and utilization of the environment is contained in Article 33 paragraph (3) of the 1945 Constitution which is used as a constitutional basis has pushed the legal policy/legal politics of environmental management towards the exploitation of natural resources for the sake of development so that it becomes a fundamental homework for sustainability and national development. al includes Protecting the territory of the Unitary State of the Republic of Indonesia from pollution and/or damage to the environment; Ensuring safety, health and human life.

Government Regulation (PP) Number 22 of 2021 concerning the Implementation of Environmental Protection and Management was passed by the President of the Republic of Indonesia and came into force on February 2, 2021. This Government Regulation realizes the mandate of Law Number 11 of 2020 concerning Job Creation regarding the implementation of new rules for Environmental Protection and Management. Back again to the regulations that have been determined that it is regulated and accounted for by the Company, not obliged to be transferred to the Community.

Obstacles in Environmental Pollution Liability Associated with Law Number 32 of 2009 concerning Environmental Protection and Management

The Obligation of PT Pertamina Hulu Rokan to Restore Environmental Conditions to Their Original State. In terms of mining waste management by PT Pertamina Hulu Rokan, there is a growing suspicion in the community that the company simply dumps hazardous and toxic waste on community land. This needs to be proven and investigated, because if you look at the pollution that occurs due to the negligence of the company, causing damage to the land and not optimal for seedlings on community-owned land, it seems to show what the community has suspected so far.

The government should not only ask the company, as if it does not understand the laws and regulations that apply when companies pollute the environment. The government must act decisively, in terms of pollution on community land, the company's EIA should be reviewed because the company does not have the ability to manage its waste. At least it can be seen the suitability between the Amdal study and the current situation, which may be due to the increase in production which is always directly proportional to the production of waste. Or, perhaps the company does not want to spend the appropriate costs for waste management, so that by directly discharging into the river it can reduce waste management costs.

Legal protection for people affected by environmental pollution regulated in Law No. 32/2009 is an important step in ensuring people's right to a good and healthy environment. Communities have the right to report pollution, file civil suits, and obtain legal protection from the government. However, challenges in implementation and law enforcement must be overcome so that people can truly benefit from this law. By improving law enforcement capacity, educating the public, and creating an enabling environment for environmental champions, we can ensure that the right to a good and healthy environment is realized for all.

CONCLUSIONS AND RECOMMENDATIONS

1. Based on the analysis that has been conducted, it can be concluded that PT Pertamina Hulu Rokan has significant civil liability for environmental pollution caused by hazardous and toxic waste disposal. Law No. 32/2009 on Environmental Protection and Management provides a strong legal basis to hold companies liable in pollution cases. Article 87 paragraph (1) of the UUPPLH emphasizes the obligation of the person in charge of the business to pay compensation and carry out environmental recovery actions, which in this case must be applied to PT Pertamina Hulu Rokan.
2. Bangkinang District Court Decision No. 86/Pdt.G/LH/2023/PN Bkn shows that the court recognizes the company's civil responsibility for the impacts of pollution. This reflects the legal commitment to protect the environment and communities from the negative impacts caused by industrial activities. In addition, there are barriers to the implementation of these responsibilities, including a lack of community understanding of their rights, as well as challenges in effective monitoring and enforcement.
3. It is recommended that PT Pertamina Hulu Rokan and other companies in the oil and gas sector increase their legal awareness of their responsibilities towards the environment. Training and socialization on UUPPLH and the sanctions that can be imposed should be a routine program implemented by companies and commit to effective environmental remediation actions as part of their responsibilities. This will not only repair the damage that has been done but will also improve the company's reputation in the eyes of the public.

ADVANCED RESEARCH

Suggested for future research Government agencies, especially the Ministry of Environment and Forestry, need to strengthen monitoring mechanisms for companies that have the potential to pollute. This can be done by increasing the number of supervisory officers and improving the reporting system and follow-up on reported violations and law enforcement against environmental violations must be carried out firmly and consistently. Sanctions given to violators must reflect the severity of the impact on the environment and society and Multi-Party collaboration or Cooperation between the government, communities and companies is very important in addressing environmental pollution problems.

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