



Corporate Criminal Liability In Environmental Crimes (A Case Study)

Hyronimus Rhiti^{1*}

¹ Law Study Program, Faculty of Law, Universitas Atma Jaya Yogyakarta

^{1*} hyronimus.rhiti@uajy.ac.id

Info Artikel

Masuk:

28 Nov 2023

Diterima:

02 Des 2023

Diterbitkan:

09 Des 2023

Keywords:

Corporate Crime,
Environment,
Sanctions

Abstract

Crimes against the environment in the form of environmental destruction can be committed by individuals or corporations. Business activities carried out by corporations often cause environmental damage, because corporate activities are primarily aimed at profit. This article was written using a normative legal research method with a case approach. The legal materials used in writing this article are primary legal materials and secondary legal materials. The results of this research are criminal liability for corporations that commit criminal acts as in Decision Number No. 133/Pid.B/2013/PN. Mbo is in the form of civil lawsuit sanctions for losses suffered by victims and criminal sanctions.

INTRODUCTION

The environment is an inseparable part of human life and all creatures living on earth. The environment is a gift from God Almighty which must be preserved and developed so that it can continue to be a source of life support for humans and other living creatures for the sake of continuity and improvement of the quality of life itself (Sonjaya, Heryanto, Mulyana, & Aridhayandi, 2020). The environment is all objects and conditions including humans and behavior, which is found in the space where humans exist and affects the survival and welfare of humans and living organisms other (Mulkan & Aprita, 2022).

Efforts to protect and manage the environment is an obligation for the State, government and all stakeholders in implementing sustainable development so that Indonesia's living environment can be maintained become a source and support of life for the Indonesian people and other living creatures.

Environmental problems are getting bigger, more widespread and more serious. Like a ball rolling snow, getting bigger and bigger. The problem is not just that local or translocal, but regional, national, transnational and global (Therik & Lino, 202). The impacts that occur on the environment not only related to one or two aspects, but the hooks are related according to nature an environment that has multiple chains of relationships that influence each other subsystem. If one aspect of the environment is affected by problems, then others various aspects will experience impacts or consequences as well (Azami & Kustanto, 2023).

Development always causes changes to the environment. Half of these changes have indeed been planned, but some have not. By the detailed plans are not yet solid, in fact there tends to be ongoing development activities experiencing changes that are no longer small scale, both regarding the breadth of activities and intensity. With facts like this it can be said to be a problem environmental problems that occur arise mostly because of the side effects of something development. Various kinds of industrial and technological activities that exist today if not accompanied by a good waste management program will make this possible water pollution occurs either directly or indirectly (Herlina, 2017).

Environmental damage today has reached dangerous levels human life and other creatures living on earth. Issues regarding impact Environmental damage that we often hear about is Global Warming or what is known also with the term "Global Warming". This issue has become a global discussion because the impact is not only felt in certain areas but throughout all corners of the earth. This has now become a concern for all humans. Global warming causes unpredictable seasons, extreme weather and natural disasters (Segera, 2015). It cannot be denied that a large part of the environmental damage is caused by human greed who wants to use as much natural wealth as possible without making improvements to the areas used. The perpetrators of the vandalism argued that this was done to improve the quality of life or for economic value higher, which will be obtained from environmental utilization. Destruction isn't it only carried out by individuals but often carried out by business entities, whether legal entity or non-legal entity or commonly known as term of corporation.

Corporations have an important role in this development, and many contribute primarily to development in the economic sector. However, it is not uncommon for corporations to their activities commit deviant or criminal acts. One form corporate crime is of great concern because of its continued development increasing is a form of corporate crime in the environmental sector (Rivanie, 2019).

Environmental crimes committed by a person or legal entity corporations often occur around the environment where we live without us realizing it, especially in an environment full of destructive companies surrounding environment. This is very detrimental to the surrounding community, because it will has negative impacts, such as causing many diseases attacked, not only that, the water and air were also polluted as a result of the company who commit violations and dispose of waste without filtering.

Environmental crimes do not only involve perpetrators from the public sector, government apparatus, but has also involved actors from the private sector in matters this is a corporation (Nurhasanah, Evelina, & Jannah, 2021). Imposing criminal sanctions on environmental polluters and destroyers side of the relationship between state and society is very necessary because of its purpose is to save society (social defense) and the environment from prohibited actions (verboden) and required actions or obligations (geboden) carried out by development actors.

METHOD

The type of research used in this research is normative juridical research. This type of research is carried out using data related to the title and laws and regulations related to the issues discussed (Jonaedi Efendi dan Johnny Ibrahim, 2018). The characteristic of the research is descriptive analysis, namely describing to provide data as accurately as possible, namely to describe the results of the data accepted based on data sources and also by analyzing related cases. The data collection technique is carried out in the following way: library research (Library Research). This method is by conducting research towards various written reading sources from scholars, namely theoretical books about law, legal magazines, legal journals and also lecture materials as well regulations regarding criminal acts. Field research (Field Research), namely by doing this, in this case the author immediately carried out a study on Moelaboh District Court by making decisions related to the title of the thesis is a case about criminal acts against the environment, namely the Decision No. 133/Pid.B/2013/PN.MBO. In this research, data analysis was carried out qualitatively emphasizes understanding problems in social life based on complex and detailed conditions of reality.

RESULT AND DISCUSSION

Regulation of Criminal Offenses In the national Criminal Code there is a principle of legality, which stated in Article 1 paragraph (1) of the Criminal Code, states that an act cannot be punished if there is no law that regulates it. The principle of legality is proof that regulation of criminal acts is very much needed in the criminal law system Indonesia. If there are no regulations regarding a criminal act, will not be able to provide justice for society.

The establishment of regulations regarding these criminal acts will be beneficial for law enforcement officials to classify the criminal acts, and make it easier for law enforcement officials to impose sanctions on perpetrators the crime. One example is at the investigation stage carried out by police and prosecutor's office. In an investigation, the police must determine and find a formulation of the criminal offense. Meanwhile, during the prosecution process, the prosecutor must see whether the act meets the elements as determined by law. This proves it that regulations regarding criminal acts are very necessary for enforcement justice.

Discussing our responsibility will focus on the word legal sanctions. The law is the whole rather than the individual regulations people in society are obliged to obey for violations of sanctions, still many more formulations of law. Punishments or sanctions adopted by criminal law differentiate criminal law from other parts of law. Punishment in criminal law is aimed at maintaining security and orderly social life (Fadlian, 2020).

This model of corporate criminal liability basically follows stages of corporate development that have been described previously. Position of orporations are the perpetrators of criminal acts and can be held accountable the development of criminal law knowledge consists of several types, namely: (Made et al., 2023)

1. Corporate Management as Responsible Creators and Managers Criminal
This accountability system is characterized by efforts to determine the nature of criminal act What corporations do is limited to individuals (natuurlijk person). Abou corporate management as creators and those responsible, then towards the management is given obligations that are actually corporate obligations. Managers who do not fulfill these obligations are threatened with criminal penalties. The basic idea is that the corporation itself cannot responsible for an offense, but it is always the management who commits it that offense. And therefore it is the management who is threatened with criminal charges and punished.
2. Corporations as Creators of Crime and Corporate Managers Criminally Responsible
In this system, the corporation is the creator and the administrator is appointed to do so responsible. This system is characterized by the recognition that arises than a criminal act can be committed by a union or business entity (corporation). However, this responsibility falls on the management of the legal entity. So what is seen as being done by the corporation is what the corporation does corporate equipment according to authority based on its articles of

association. Act crimes committed by corporations, in essence criminal acts are committed a certain person as the administrator and legal entity.

Determining a corporation as the maker can be done based on criteria for carrying out tasks and achieving the goals of a legal entity. A criminal act carried out by a corporation is an act of a person as a manager the legal entity. The nature of the act that makes it a criminal act is onpersonlijk.

3. Corporations as Creators of Criminal Acts and as Responsible Criminally.]

According to Muladi as quoted by Mahrus Ali, in the system this third responsibility has seen a shift in view, that corporations can be held accountable as makers, in addition to natural humans (natuurlijk persoon). So, the rejection of corporate punishment is based on doctrine "Societas delinquere non potest" has undergone changes by accepting the concept functional actors (functional daderschaap).

In Decision No. 113/Pid.B/2013/ PN. MBO criminal liability of the perpetrator corporations in burning land which causes environmental damage is stating the actions of the defendant Ir. Khamidin Yoesoef Bin Muhammad Yoesoef has been legally and convincingly proven guilty of committing a criminal act "Sustainable Living Environment". Imposing a crime against The defendant was therefore sentenced to imprisonment for 3 (three) years and a fine Rp. 3,000,000,000, - (three billion rupiah), Determine if the fine is not paid to be replaced by imprisonment for 5 (five) months.

CONCLUSION

Corporate employees can be given administrative sanctions, civil sanctions and criminal sanctions, but related to Decision no. 113/Pid.B/2013/ PN. MBO in combustion land that causes environmental damage is subject to criminal sanctions, namely stated that the actions of the defendant Ir.Khamidin Yoesoef Bin Muhammad Yoesoef had legally and convincingly proven guilty of committing an "Environmental crime Life is Lived Continuously." Imposing a crime against the Defendant by therefore, with a prison sentence of 3 (three) years and a fine of Rp. 3,000,000,000,- (three billion rupiah), Stipulating that if the fine is not paid, it will be replaced by imprisonment for 5 (five) months.

BIBLIOGRAPHY

- Azami, T., & Kustanto, A. (2023). PENCEMARAN, KERUSAKAN ALAM DAN CARA PENYELESAIANNYA DITINJAU DARI HUKUM LINGKUNGAN. *QISTIE*, 16(1). <https://doi.org/10.31942/jqi.v16i1.8383>
- Fadlian, A. (2020). Pertanggungjawaban Pidana Dalam Suatu Kerangka Teoritis. *Jurnal Hukum Positum*, 5(2).
- Herlina, N. (2017). PERMASALAHAN LINGKUNGAN HIDUP DAN PENEGAKAN HUKUM LINGKUNGAN DI INDONESIA. *Jurnal Ilmiah Galuh Justisi*, 3(2). <https://doi.org/10.25157/jigj.v3i2.93>
- Jonaedi Efendi dan Johnny Ibrahim. (2018). Metode penelitian hukum: normatif dan empiris / Jonaedi Efendi, Johnny Ibrahim. *Kencana*, 2(Hukum).
- Made, N., Ujianti, P., Hukum, F., Warmadewa, U., Indonesia, N., Sifat, T., & Hukum, M. (2023). Pertanggungjawaban pidana tanpa sifat melawan hukum dalam perspektif pembaharuan hukum pidana. *Jurnal Konstruksi Hukum Vol. 4 No 1 2023*, 4(1).
- Mulkan, H., & Aprita, S. (2022). SISTEM PENEGAKAN HUKUM LINGKUNGAN PIDANA DI INDONESIA. *Justicia Sains: Jurnal Ilmu Hukum*, 7(1). <https://doi.org/10.24967/jcs.v7i1.1645>
- Nurhasanah, S. R. P., Evelina, S., & Jannah, D. A. M. (2021). Rekonstruksi Sanksi Pidana Korporasi dalam Tindak Pidana Lingkungan Hidup Berparadigma Green Victimology. *Jurnal Hukum Lex Generalis*, 2(12). <https://doi.org/10.56370/jhl.v2i12.144>
- Rivanie, S. S. (2019). HUKUMAN PIDANA AKIBAT KERUSAKAN LINGKUNGAN YANG DILAKUKAN OLEH KORPORASI pada INDUSTRI TAMBANG. *Jurisprudentie : Jurusan Ilmu Hukum Fakultas Syariah Dan Hukum*, 6(2). <https://doi.org/10.24252/jurisprudentie.v6i2.9612>
- Segera, N. B. (2015). EDUCATION for SUSTAINABLE DEVELOPMENT (ESD) SEBUAH UPAYA MEWUJUDKAN KELESTARIAN LINGKUNGAN. *SOSIO DIDAKTIKA: Social Science Education Journal*, 2(1). <https://doi.org/10.15408/sd.v2i1.1349>
- Sonjaya, T., Heryanto, B., Mulyana, A., & Aridhayandi, M. R. (2020). Kebijakan Hukum Pidana dalam Upaya Penegakan Hukum Lingkungan berdasarkan Prinsip Pembangunan. *Lambung Mangkurat Law Journal*, 5(2). <https://doi.org/10.32801/lamlaj.v5i2.162>
- Therik, J. J., & Lino, M. M. (2021). Membangun Kesadaran Masyarakat Sebagai Upaya Pelestarian Lingkungan. *Jurnal Administrasi Publik*, 17(1).