

The Principle Of Strict Liability In Legal Responsibility For Environmental Pollution: A Conceptual Analysis

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Abstract.

The principle of strict liability is a legal concept that emphasizes absolute responsibility without the need to prove the element of fault. In the context of environmental law, this principle has an important position as the basis for law enforcement against perpetrators of environmental pollution and destruction. This article aims to conduct a conceptual study of the application of the principle of strict liability in the Indonesian environmental law system, especially within the framework of Law Number 32 of 2009 concerning Environmental Protection and Management (UU PPLH). Through a normative approach, this article analyzes the philosophical, legal, and practical basis of the principle and identifies challenges in its implementation. This study concludes that the principle of strict liability is an important instrument but faces obstacles in the practice of environmental law enforcement in Indonesia.

Keywords: *Strict Liability; environmental law; absolute responsibility; environmental pollution and PPLH Law.*

I. INTRODUCTION

The development of industrial intensification and high development needs have had a serious impact on the quality of the global environment, including in Indonesia. In the field of environmental law, the principle of strict liability—absolute responsibility without the need to prove fault—is considered an important instrument to improve environmental protection and facilitate law enforcement against polluters. This principle emphasizes that actors with high-risk activities must bear the consequences, without having to prove intent or negligence. There are several things that are serious and significant factors that contribute to the pollution of the actor's ecosystem which originates from the carelessness and lack of community responsibility for understanding the importance of maintaining the ecosystem (Rahayu & Priaardanto., 2023). In various cases related to environmental issues, industrial activities are usually the most significant entities as the main factors contributing to the degradation of ecosystem quality in certain areas or community environments (Ningrum and Mella Ismelina., 2024). In Indonesia, the implementation of strict liability has been accommodated in Article 88 of Law No. 32/2009 concerning Environmental Protection and Management (UUPPLH), as well as various court decisions that emphasize absolute responsibility in handling environmental damage. For example, in the case of peatland burning involving PT Kallista Alam, the judge used this principle to impose compensation and an environmental restoration order. However, the development of legislation and legal interpretation has shown serious contradictions and challenges. A study by Wongkar (2024) noted that the application of the principle of strict liability in court often experiences conceptual ambiguity and variations in decisions, resulting in inconsistent enforcement.

This is reinforced by Arfandy & Suryasaladin (2023), who show that although this principle minimizes the burden of proof on victims, the phrase "without the need to prove the element of fault" in the UUPPLH and the Job Creation Law sometimes leaves interpretative space that is detrimental to victims. Furthermore, research by Al Fikri et al. (2022) highlights that the application of strict liability by corporations in practice provides strong support to affected communities, especially in cases of environmental damage by large companies. However, there is still a need to strengthen the constitutional and legal framework through technical regulations so that this principle can be implemented effectively at the operational level. Based on the description above, this article aims to conduct a conceptual study of the principle of strict liability in Indonesian environmental law—covering: 1) the philosophical and legal foundations of the principle; 2) the growth and challenges of its implementation; and 3) recommendations for strengthening institutions, technical regulations, and public awareness. The normative-doctrinal approach is

used to evaluate the legal and argumentative aspects so that it is expected to produce a strong theoretical perspective in supporting environmental law enforcement.

II. RESULT AND DISCUSSION

a. Philosophical & Legal Foundations of the Strict Liability Principle

From a legal philosophy perspective, strict liability is based on the principle of distributive and ecological justice that places the burden of recovery on the perpetrator of the damage, not on the victim. This principle is considered crucial in high-risk situations such as pollution because the roots of environmental damage are difficult to reverse and the symptoms are often hidden. Legally, the application of this principle in Indonesia is regulated in Article 88 of Law No. 32/2009 (PPLH Law) which frees victims from the obligation to prove the perpetrator's fault. The Supreme Court even emphasized this through PERMA No. 1/2023, which explicitly states that the element of fault is not needed in claiming environmental compensation. A normative study by Al Fikri et al. (2022) shows that the development of environmental regulations and domestic jurisprudence increasingly emphasizes the position of strict liability as a legal basis in the form of absolute obligations of perpetrators for environmental damage.

b. Growth and Implementation Challenges

The growth of strict liability implementation in Indonesia is reflected in various court decisions, such as the cases of PT Kallista Alam and PT Waimusi Agroindah, which involved peatland burning and the imposition of compensation sanctions based on the principle of no need to prove the element of fault. However, real challenges have also emerged, especially after the Job Creation Law (2020) removed the phrase "no need to prove the element of fault" from the PPLH Law. This forces victims to prove negligence again, increasing the burden of the civil process and harming the affected parties. Wongkar (2024) also revealed inconsistent interpretations in court: some judges still require fault, while others adhere to absolute interpretations, creating legal uncertainty.

c. Recommendation

1. Institutional Strengthening & Technical Regulations

- The revision of the PPLH Law and its implementing regulations need to reaffirm the position of strict liability. PERMA No. 1/2023 must be used as a mandatory reference in all environmental disputes in court.
- The preparation of technical guidelines on the form and value of compensation, evaluation standards, and proof of concrete losses will clarify practices in court.

2. Capacity Building of Apparatus & Judges

- Intensive training on the no-fault principle, proof of causality, and application of PERMA for law enforcement officers and environmental judges is considered necessary.

3. Public Awareness & Community Participation

- Socialization of the principle of strict liability through environmental law education, public forums, and literacy so that the public understands their rights to claim compensation.

4. Multilevel & Corporate Collaboration

- Cross-agency coordination (KLHK, judiciary, Ministry of Law and Human Rights) and company involvement in risk resolution mechanisms through internal supervision and self-reporting.

This form of collaboration has proven effective in international contexts, such as the EU's Environmental Liability Directive which combines the polluter pays and precautionary principles.

d. Implementation of Strict Liability in Environmental Law in Indonesia

The principle of strict liability is accommodated in Article 88 of the Environmental Management Law. This provision states that anyone whose business activities cause environmental pollution and/or damage is required to bear compensation and/or take certain actions, without the need for proof of fault. This strengthens the position of the victim and accelerates the process of resolving environmental disputes. However, in practice, the enforcement of this article still faces various obstacles.

III. CONCLUSION

The application of the strict liability principle has a strong philosophical and legal foundation as a tool to ensure ecological justice and facilitate the procurement of compensation for victims of pollution. However, regulatory challenges (one of which is the deviation in the Job Creation Law) and inconsistent enforcement in the courts still threaten its effectiveness. With the strengthening of technical regulations, the capacity of law enforcement, and increasing public awareness, this principle can be implemented more firmly and consistently, in line with international environmental law standards.

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