



Law Enforcement on Environmental Pollution by Nickel Mining Companies

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Abstract

Introduction: Environmental pollution in Indonesia has largely not been fully resolved, which should be the full responsibility of the company. One of the cases of environmental pollution that occurred in North Konawe Regency, Southeast Sulawesi Province.

Purposes of the Research: The purpose of this research is to examine and analyze the responsibility of companies that commit environmental pollution and the form of law enforcement of companies that commit environmental pollution.

Methods of the Research: This type of research is normative juridical research, which is legal research whose object of study includes the provisions of legislation or also called literature law research. Literature law research is research that is carried out by examining literature materials or secondary data.

Results of the Research: The responsibility of PT. Virtue Dragon Nickel Industry (VDNI) which is suspected of environmental pollution that occurs includes preventive measures, waste management and recovery if environmental damage occurs, business actors are absolutely responsible. Civil Liability of PT. Virtue Dragon Nickel Industry (VDNI) includes installing waste management units so that waste is in accordance with the specified environmental quality standards, restoring environmental functions, increasing supervision and evaluation to anticipate the recurrence of negligence and carrying out moral responsibility to the environment by accelerating the process of restoring polluted river stream environments by carrying out routine cleaning of river flows so that waste residues that are polluted Exit into the river can quickly decompose. Civil law enforcement can be used as an instrument to hold PT. Virtue Dragon Nickel Industry (VDNI) which has been suspected of polluting the environment through a claim for compensation by the aggrieved party. Civil lawsuits can be filed on the basis of Unlawful Acts, where business actors are considered to have violated environmental rights and harmed other parties with their polluting actions.

Keywords: Law Enforcement; Environmental Pollution; Nike Mining.

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INTRODUCTION

The 1945 Constitution of the Republic of Indonesia, hereinafter abbreviated as the 1945 Constitution of the Republic of Indonesia, mandates the government, entrepreneurs, and all elements of society to protect and manage the environment and natural resources, in the implementation of environmental development and management in Indonesia.¹ Article 28 H paragraph (1) of the Constitution of the Republic of Indonesia 1945 states that everyone has the right to live a prosperous life in birth and mind, to live and get a good and healthy living environment and the right to health services. Furthermore, Article 33 paragraph (4) of the Constitution of the Republic of Indonesia 1945 states that the

¹ Helmi, *Hukum Perizinan Lingkungan Hidup*, (Jakarta: Sinar Grafika, 2012), p. 1.

national economy is organized on the basis of economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental insight, independence, and by maintaining the balance of progress and national economic unity. Based on the above provisions, a good and healthy living environment has been constitutionally guaranteed for all citizens. The implementation of integrated environmental management that will create harmony, harmony, and balance to achieve a good and healthy living environment.²

Article 1 paragraph (1) of Law Number 32 of 2009 concerning Environmental Protection and Management states that the environment is a spatial unity with all objects, powers, circumstances, and living things, including humans and their behavior, which affect nature itself, the survival of life, and the welfare of humans and other living beings. The living environment inhabited by humans must be a good and healthy living environment, free from pollution and destruction, so that humans can continue their lives in this world.

Everyone wants to have a clean, good and healthy living environment, clearly the constitution has guaranteed that everyone has the right to enjoy and have a healthy living environment equally. Legal certainty needs to be provided, therefore a legal umbrella is needed to provide limits on rights and obligations in environmental management to individuals or business actors.³ Article 1 number 14 of Law Number 32 of 2009 concerning Environmental Protection and Management which states that environmental pollution is the entry or inclusion of living things, substances, energy, and/or other components into the environment by human activities so that it exceeds the environmental quality standards that have been set. Positive and negative influences on living things can come from the environmental conditions themselves by the environment. However, the fundamental thing in the human process in carrying out the desires and needs in their lives can be the beginning of environmental pollution.

According to Wisnu Arya Wardhana, environmental pollution can have a detrimental effect on the environment, both directly and indirectly, for living beings. The impact of losses can be directly felt in a relatively short time, on the contrary, losses indirectly damage environmental conditions, thereby reducing the carrying capacity of nature for human survival.⁴ Companies that only prioritize the growth of industrialization and set aside losses that will arise because the company releases its responsibilities. The company has committed unlawful acts that must be dealt with firmly.⁵ Environmental pollution can be declared as an unlawful act if it has committed an act that harms another party, and the act violates the law and the public interest. Of course, every act that harms others, be it a person or a legal entity, must be held responsible for their actions. As stipulated in Article 87 paragraph (1) of Law Number 32 of 2009 concerning Environmental Protection and Management states: That every person in charge of a business or activity that commits unlawful acts in the form of pollution and/or destruction of the environment causing losses to others or the environment is obliged to pay compensation or commit certain acts.

It can be understood that there is a mandate in Article 87 paragraph (1) of Law Number 32 of 2009 concerning Environmental Protection and Management above which requires compensation and other acts to restore the environmental condition to the original by the

² Sunarso, S. *Hukum Pidana Lingkungan Hidup dan Strategi Penyelesaian Sengketa*. (Jakarta: Rineka Cipta, 2005), p. 47

³ Lilik Mulyadi, *Hukum Lingkungan*, (Jakarta: Intermasa, 2012), p. 89

⁴ Wisnu Arya Wardhana, *Dampak Pencemaran Lingkungan*, (Yogyakarta: Andi Offset, 1999) p. 150

⁵ Eman Rajagukguk, "Pembaharuan Hukum Memasuki PJPT Kedua Dalam Era Globalisasi", *Majalah Hukum dan Pembangunan* 6 (1993): 505-526, p. 519

polluters. Meanwhile, regarding unlawful acts regulated in Article 1365 of the Civil Code, it states: "Every act that violates the law and brings harm to others, obliges the person who caused the loss due to his fault to replace the loss." Article 145 paragraph (1) of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, states: The community directly affected by the activities of the Mining Business has the right: a) to obtain appropriate compensation due to errors in the business of Mining activities in accordance with the provisions of laws and regulations; and/or b) file a lawsuit through the court against losses due to mining business that violates the provisions.

Furthermore, Article 74 paragraphs (1, 2 and 3) of Law Number 40 of 2007 concerning Limited Liability Companies, states: 1) A Company that carries out its business activities in the field and/or related to natural resources is obliged to carry out Social and Environmental Responsibility; 2) Social and Environmental Responsibility as intended in paragraph (1) is the Company's obligation which is budgeted and calculated as the Company's costs which are carried out with pay attention to propriety and reasonableness; 3) Companies that do not carry out their obligations as intended in paragraph (1) are subject to sanctions in accordance with the provisions of laws and regulations. In reality, there are still companies that are negligent in paying attention to environmental impacts even though in Article 29H paragraph (1), Article 33 paragraph (4) of the Constitution of the Republic of Indonesia 1945, Article 87 paragraph (1) of Law Number 32 of 2009 concerning Environmental Protection and Management, Article 1365 of the Civil Code and Article 74 paragraph (1, 2 and 3) Law Number 40 of 2007 concerning Limited Liability Companies, has stipulated that there is compensation and return to the environment to the original due to the company's negligence in protecting the environment.

Environmental pollution in Indonesia has largely not been fully resolved, which should be the full responsibility of the company. One of the cases of environmental pollution that occurred in North Konawe Regency, Southeast Sulawesi Province. This precisely happened on the banks of the Motui river, Motui District, North Konawe Regency. In North Konawe Regency, there are around fifty (50) nickel mining companies that have the potential to pollute the environment. The nickel mining industry above is detrimental to the environment and the survival of coastal communities due to the impact of mining sedimentation. Several areas around the mining area have been damaged by pollution from the disposal of limbah, especially coral reefs that have been seriously damaged due to being submerged by mining sedimentation that damages the natural beauty and sustainability of marine life living in coral reef areas.⁶ PT. Virtue Dragon Nickel Industry (VDNI) is suspected of dumping the limbah of a nickel refining plant on the banks of the Motui river, Motui District, North Konawe Regency.⁷ In addition to the alleged pollution and the above companies are suspected of stockpiling at the mouth of the Motui river which resulted in the narrowing of the river estuary. The problem mentioned above, where PT. Virtue Dragon Nickel Industry (PT. VDNI) is suspected of polluting by disposing of the nickel refining plant on the banks of the Motui river, Motui District, North Konawe Regency, so that losses both to the environment and losses experienced by the people living around the mining area occur.

⁶ Berita lingkungan. Com, Sedimen Tambang Nikel Ancam Keberlanjutan Pariwisata Labengki dan Sombori, <https://beritalingkungan.com/2024/03/24/sedimen-tambang-nikel-ancam-keberlanjutan-pariwisata-labengki-dan-sombori/>.

⁷ PT Obsidian Stainless Steel (OSS) dan Virtue Dragon Nickel Industry (VDNI) diduga membuang limbah pabrik pemurnian nikel di bantaran sungai Motui <https://pikiranultra.com/pt-vdni-dan-pt-oss-disebut-cemari-sungai-motui-di-konawe-utara/>.

METHODS OF THE RESEARCH

This type of research is normative juridical research, which is legal research whose object of study includes the provisions of legislation or also called literature law research. Literature law research is research that is carried out by examining literature materials or secondary data.⁸ Thus, in this study, we will look for and find all the results/answers to the problems that have been systematically conceptualized above. The problem approaches used in this study are: statutory *approach*, and conceptual *approach*.⁹ The statute *approach* is carried out by examining all laws and regulations related to the legal issues being studied. The statute *approach* draws on laws and doctrines that develop in legal science, by studying the views and doctrines in legal science, the researcher will find ideas that give birth to legal understandings, legal concepts, and legal principles that are relevant to the issue being discussed.

RESULTS AND DISCUSSION

A. Liability of Companies that Pollute the Environment

Responsibility is based on actions or deeds as the embodiment of the essence of moral values as well as moral and religious values. Responsibility means that a person should not shy away when asked to explain his actions. Responsibility also includes understanding the reasons why a person is responsible for his or her actions. Responsibility in the legal dictionary can be understood as a necessity for a person or individual to carry out what has been obligated to him.¹⁰ Responsibility is articulated as something that cannot be separated from human beings as a subject of law, because it is with its role as a subject of law, human beings have rights and obligations, that is, responsibility cannot be separated from rights and obligations. According to the law, responsibility is the result of a person's freedom of behavior that has consequences that intersect with moral ethics in doing an act.¹¹ The concept of responsibility was also expressed by the initiator of pure legal theory, namely Hans Kelsen. According to Hans Kelsen, responsibility is related to obligations but not similar. It can be seen that an obligation is present when there is an order derived from a rule of law that regulates and gives obligations to the subject of law. Sanctions will apply to legal subjects if their obligations are not carried out. Everyone bears responsibility for every act and sanctions can be imposed for actions that are contrary to the rule of law.¹²

Based on this concept, it can be said that responsibility arises from the existence of a legal rule that gives obligations to legal subjects with the threat of sanctions if these obligations are not carried out. Such an obligation can be considered as a legitimate obligation, as there is a demand for law and order/regulation and the authorization given is also a support specified by the regulations. As a result, the liability obligations fulfilled by the legal subject are legal obligations.¹³ Laws and regulations have been enacted with the intention of protecting and compensating aggrieved parties from environmental pollution. In Indonesia, the basic concept of legal liability in Indonesia is as follows: a) Responsibility for the element

⁸ Seorjono Soekamto and Sri Mamuji, *Pengantar penelitian Hukum*, (Jakarta: UI Prees, 1986), p. 13.

⁹ Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Kencana Prenadia Media Grup, 2008), p. 93.

¹⁰ Andi Hamzah, *Kamus Hukum*, (Jakarta: Ghalia Indonesia, 2005), p. 27

¹¹ Soekidjo Notoatmojo, *Etika dan Hukum Kesehatan*, (Jakarta: Prestasi Pustaka, 2010), p. 48

¹² Hans Kelsen, *Teori Hukum Murni, Dasar-dasar Ilmu Hukum Normatif Sebagai Ilmu Hukum Empirik Deskriptif*, Alih Bahasa Soemardi, (Jakarta: Rimdi Press, 1995), p. 67

¹³ Vina Akfa Dyani, "Pertanggungjawaban Hukum dan Perlindungan Hukum Bagi Notaris dalam Membuat Party Acte", *Jurnal Lex Renaissance* 21 (2017), p. 166

of fault, this responsibility is born from the existence of error as stipulated in Article 1365 of the Civil Code; b) Responsibility for the element of fault, this responsibility is born due to the element of negligence in it, as contained in Article 1366 of the Civil Code; c) Absolute liability (without fault) in the very limited sense in Article 1367 of the Civil Code.

The principles of legal responsibility, in general, can be classified as follows:¹⁴ a) The principle of liability *based on fault*, the principle of liability based on fault *liability*, or *liability based on fault*. The explanation of liability based on faults in the Civil Code of this principle explicitly states that a person can only be held legally liable if there is an element of wrongdoing that he committed. In essence, the claim of liability does not depend on the existence or absence of a contractual relationship, but the existence of an unlawful act: a) The principle of *presumption of liability*, this principle states that basically the defendant is always considered responsible (*presumption of liability principle*), until he can prove his innocence. This principle can be understood that a person who becomes a defendant can avoid responsibility;¹⁵ b) The principle of presumption is not always responsible (*presumption of non liability*). The definition of this principle in the field of transportation law is very limited. This principle emphasizes that a person cannot be held directly responsible due to negligence or fault from the party that caused it. This principle can be understood that everyone is responsible for loss or damage to cabin baggage or hand baggage, which is usually carried and supervised by passengers (consumers) is the responsibility of the passenger and not the responsibility of the carrier (business actor); c) Principle of strict *liability*, This principle stipulates that fault is not a determining factor to declare a person must be responsible for his actions. However, there are exceptions that allow to be exempted from liability, for example in a force *majeure situation*, on the other hand, *absolute liability* is the principle of liability without fault and there are no exceptions. According to E. Suherman, *strict liability* is equated with *absolute liability* in this principle there is no possibility to free oneself from responsibility, unless the loss arises due to the fault of the aggrieved party himself. The responsibility is absolute;¹⁶ b) The *principle of limitation of liability* is *very beneficial to business actors due to the freedom of business actors to include clauses in the standard agreements they make and bind unilaterally only*. Legal liability is a term used in civil law to describe a person's liability for their illegal actions. The motivation behind this arrangement is to secure and provide remuneration to the distressed party.¹⁷

In general, there are two types of liability standards used in general regulations for solving environmental problems, in particular, namely the principle of *liability based on fault* and the principle of strict *liability*. The principle of *liability based on fault*, and certain actions that may give rise to some kind of responsibility for such actions must be compensated by finding some fault on the part of the perpetrator. This is known as the principle of *liability based on fault* based on an unlawful act in the field of Indonesian civil law. The general public regulatory framework regarding civil law is largely overshadowed by the *Common Law system*. This system says that if someone does something that is unlawful and harms others, the person who does it must pay the damages they cause, this principle is in line with what is stated in Article 1365 of the Civil Code which contains the following elements:¹⁸ a) There

¹⁴ Shidarta, *Hukum Perlindungan Konsumen Indonesia*, Edisi Revisi, (Jakarta: Gramedia Widiasarana Indonesia, 2006) p. 73-79

¹⁵ Suherman, *Masalah Tanggung Jawab Pada Charter Pesawat Udara Dan Beberapa Masalah Lain Dalam Bidang Penerbangan (Kumpulan Karangan)*, Cet. II. (Bandung: Alumnus, 1979), p. 21

¹⁶ *Ibid*, p. 23

¹⁷ Komariah, *Hukum Perdata*, (Malang: Universitas Muhammadiyah Malang, 2001) p. 12

¹⁸ Munir Fuady, *Perbuatan Melawan Hukum Pendekatan Kontemporer*, (Bandung: Citra Aditya Bakti, 2005) p. 10

is an act; b) Acts against the law; c) There is an element of offense; d) Acts causing loss; e) The existence of causes and consequences of actions and losses. That for the reason in the proof, it is difficult for people to prove that the environment they live in has been polluted due to the dependence of science and technology in measuring the number of dust particles that have crossed the threshold. It cannot be used as an excuse to discourage efforts to reduce or avoid the threat of pollution to environmental damage. Decision-making officials, including judges as state officials when faced with "scientific uncertainty," do not necessarily conclude that there are no consequences or no environmental damage. On the contrary, as a state official, decisions must be made in the interest of environmental protection or restoration *in dubio pro natura*, because environmental damage is latent (not immediately visible) and often cannot be irreversed.

According to Article 87 paragraph (1) of Law Number 32 of 2009 concerning Environmental Protection and Management, all business actors or parties who carry out an activity for actions that result in pollution or environmental damage that result in endangering the environment or parties who are obliged to make compensation and perform certain acts are required to carry it out.¹⁹ Based on the above article, it can be interpreted that all business actors or their company activities for their actions result in polluting the environment, for such actions must carry out a certain act. If prevention and countermeasures efforts have been in accordance with procedures and have not solved the problem as a whole, there must be policies and methods taken to deal with these environmental problems.

Certain acts or actions are intended to ensure that there will be no recurrence of environmental pollution. Certain actions are regulated in the Regulation of the Minister of Environment Number 7 of 2014 concerning Environmental Loss or Environmental Damage. In the guidelines for calculating environmental losses due to pollution or environmental damage. The person in charge of businesses and/or activities that commit unlawful acts in the form of pollution and/or environmental damage that causes losses to others or society and/or the environment or the state is obliged to take certain actions by restoring environmental functions. Civil law itself regulates compensation caused by unlawful acts can be in the form of:²⁰ a) There is compensation according to the nominal: The compensation system resulting from the act against is used when there is a serious impact, the serious impact does not have a visible effect on the aggrieved party, the aggrieved party is given a certain amount of money in accordance with the sense of justice without calculating how much loss is actually experienced. In this case, the compensation has been carried out by the company by giving a sum of money to people affected by environmental pollution. Of course, it is necessary to calculate the losses experienced by the community and how severe the level of environmental damage is so that the compensation is worthy of being given by the party who commits environmental pollution: a) Compensatory compensation: Compensatory compensation is the actual compensation because it looks at the condition of a person who is harmed by an act. Because of these losses, a person must spend money or cover the losses experienced, this is called actual compensation; b) Punitive compensation: Punishment here can be understood as a reward for an act done by a person who harms another person so that a person has to compensate for damages that exceed the

¹⁹ Angga La Ode dan Miracle Soplanit, "Penyelesaian Sengketa Lingkungan Hidup Menurut Undang-Undang Nomor 32 Tahun 2009 Tentang UUPPLH", *Lutur Law Journal* 1, no. 1 (2020), p. 9-14

²⁰ Munir Fuady, *Op.Cit.* p. 134-135

actual amount. The plaintiff or the general public who suffers losses must be able to show the existence of an element of error according to Article 1365 of the Civil Code, in the context of the rapid advancement of science and technology, relying on the possibility of error often makes it difficult to anticipate risks related to industrial development. The equivalent of this principle has its own dependency because of the limitation of liability based on fault for pollution or environmental destruction without being liable.

The principle of strict *liability*, in its development the principle of absolute responsibility or (*strict liability*) is known as one of the principles of absolute responsibility (*no fault liability or liability without fault*) where in literature it is known in the principle of responsibility without the necessity to prove the existence of error. Mistakes can occur in development, industrialization and progress anywhere and anytime will have positive and negative impacts. The positive impact will apply when the development benefits humans. Meanwhile, negative impacts will arise if risks that harm the community are born. The strict application of responsibility, or absolute responsibility, to those responsible for environmental pollution is one of the most important aspects in this case. The emergence of this principle of absolute responsibility is based on several reasons, as stated by J.E Krier, that in addition to proving that it is expensive for the victims, it is also not easy to prove the element of fault and tort in environmental cases.²¹

Absolute liability is a part of the deficiency that there is no need to worry about being shown by the offended party or the victim of natural contamination as a reason for the payment of compensation. According to J.E Krier, this aims to help the community as victims of environmental destruction who have suffered losses, to not have to bear the burden of proving the elements of the defendant's fault which are not easy to prove,²² In writing this thesis, it is the responsibility of companies that are suspected of polluting the environment (PT. VDNI) by disposing of the nickel refining plant on the banks of the Motui river, Motui District, North Konawe Regency, namely liability for the element of fault, (*liability without based on fault*) this responsibility is born because of the element of negligence in it, as contained in Article 1366 of the Civil Code.

Legal Responsibility According to Djojodirdjo, legal responsibility in the realm of public law is for example the responsibility of state administration and criminal law responsibility. Meanwhile, related to responsibility in the realm of private law, legal responsibility in civil law can be in the form of liability based on default and liability based on unlawful acts, with such an understanding, it can be affirmed that the legal responsibility of the government for various actions carried out within the framework of *bestuurzorg* must be distinguished in the legal field in which the government acts.²³ Civil legal liability can be filed on the basis of, namely: (i) the existence of an unlawful act as stipulated in Article 1365 of the Civil Code which basically determines that whoever commits an act that causes harm to another person obliges the wrong person because of his fault to compensate for the loss; and (ii) there is a default, namely not giving achievements at all, being late in giving achievements, performing achievements that have not been stipulated in the agreements made by one of the parties to the agreement as specified in the Civil Code. Another thing that needs to be emphasized is that the government's legal responsibility as a consequence of various actions

²¹ Siti Sundari Rangkuti, *Hukum Lingkungan dan Kebijaksanaan Lingkungan Dalam Proses Pembangunan Hukum Nasional Indonesia*, (Surabaya: Universitas AirLangga, 1996), p. 188

²² Koesnadi Hardjasoemantri, *Hukum Tata Lingkungan*, (Yogyakarta: Universitas Gadjah Mada, 2005), p. 386-387

²³ Salim HS, *Pengantar Hukum Perdata Tertulis (BW)*, (Jakarta: Sinar Grafika, 2008), p 45.

carried out in the framework of carrying out government functions that are within the scope of its authority has its own characteristics, namely within the limits of its authority.

Understanding the source and how to obtain the authority of government organs is the key word to be able to determine who is responsible for the government's legal actions, including in the field of civil law. This is critically emphasized by Ridwan HR, Civil legal liability arises due to the existence of an engagement that comes from an act that can cause harm to others because it is committed by an error in civil law which is referred to as the existence of an Unlawful Act) in which there is an element of this fault that gives rise to civil liability or also called civil liability. According to the law, responsibility is a consequence of a person's freedom about his actions related to ethics or morals in doing an act. Furthermore, according to Titik Quarter, liability must have a basis, namely what causes the emergence of a legal right for a person to sue another person as well as something that gives birth to the legal obligation of others to give him or her responsibility

According to civil law, the basis of liability is divided into two types, namely fault and risk, thus known as *liability without based on fault*.²⁴ Liability due to fault can be based on Articles 1365 to 1367 of the Civil Code regarding unlawful acts. If the victim who suffers a loss applies for compensation using the qualification of an unlawful act, then the elements of the unlawful act must be fulfilled and prove the fault of the business actor. The elements of unlawful acts that must be fulfilled as mentioned in Article 1365 of the Civil Code, include: These acts are unlawful acts, there are mistakes, there are losses, there are compensation. Liability based on fault is a subjective principle of responsibility, which is a responsibility determined by the behavior of business actors based on this theory, the negligence of business actors that results in losses to others is a determining factor for the right of the aggrieved person to file a lawsuit for compensation against the business actor. According to article 1365 of the Civil Code, what is meant by an unlawful act is an unlawful act committed by a person who, through his fault, has caused harm to others. Legal science recognizes 3 categories of unlawful acts, which are as follows:²⁵ a) Unlawful acts due to intentionality; b) Unlawful acts without fault (without elements of intentionality or negligence), and c) Unlawful acts due to negligence. The responsibility of companies that are suspected of polluting the environment (PT. Virtue Dragon Nickel Industry (VDNI) has a *liability based on fault* that requires the company to compensate for damages. The implementation of compensation that must be carried out by PT. Virtue Dragon Nickel Industry (VDNI) by providing a sum of money to people affected by environmental pollution should need to be calculated in-depth so that the compensation is commensurate with the actual environmental damage, as well as the environment must be repaired to the polluted environment.

B. Forms of Law Enforcement of Companies That Pollute the Environment

Law enforcement, according to Soerjono Soekanto, is a process in harmonizing the relationship of values described in intact rules and embodying attitudes of action as a series of elaboration of final stage values to create and maintain peace of association. Such a conception that has a philosophical basis requires further explanation, so that it will appear more concrete,²⁶ There are several factors that affect law enforcement, according to

²⁴ M. Yahya Harahap, *Hukum Acara Perdata*, (Jakarta: Sinar Grafika, 2013), p. 498

²⁵ Elyta Ras Ginting, *Hukum Hak Cipta Indonesia: Analisis Teori Dan Praktik*, (Bandung: Citra Aditya Bakti, 2012), p. 51-52

²⁶ Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum*, (Jakarta: Rajawali Press, 2012), p. 5

Lawrence M. Friedman, regarding the success or not of law enforcement depending on three elements of the legal system, namely, the *structure of law*, the *substance of the law*, and the *legal culture*. The realization of a country's legal system fundamentally places the legal culture in a higher position than others because it contains an abstract idea that is a value to regulate good and bad should be used as a juridical reference and *code of conduct* in the process of forming and enforcing the law. Various kinds of legal products that are born should be able to manifest the noble values owned by the community. If the legal culture is bad which consists of the entire community, then the substance that is formed will not be good, the legal structure born from the community will also be bad, and it will worsen the already bad legal culture. The result will spin in a broken wheel, because the worsening legal culture gives birth to a worse substance and legal structure.²⁷

Environmental law enforcement is the most important part of environmental law itself, because through law enforcement, it can be seen the level of compliance of the community and business actors in implementing applicable provisions and policies through instruments of supervision and the application of sanctions both administratively, civil sanctions, and criminal sanctions. That civil law enforcement used in environmental pollution actions for the actions of business actors for their activities causing losses to other parties is the party that must provide compensation. Commitment to pay losses in accordance with polluter pay guidelines made in environmental regulations.²⁸ The principle of polluters paying is enshrined in Article 87 of Law Number 32 of 2009 concerning Environmental Protection and Management is the realization of the principle of polluters paying in environmental law. In addition to being required to pay compensation as a form of sanction against the polluter, he can also be burdened by the judge to take certain actions.

One of the legal subjects with the status of a limited liability company certainly has the characteristics of limited liability for its shareholders, members of the board of directors and commissioners. According to Sri Redjeki Hartono, business entities or limited liability companies in general are highly preferred by the public because they have the ability to develop themselves, present capital capitalization, and have the potential to generate their own profits for their organizations and shareholders.²⁹ Company device Company device, namely employees, is a supporting component of a limited liability company to control its business operations. In order for the organization to run properly, a legal framework is needed to be able to support the company's body, a legal basis must exist, so that the company has a direction in accordance with the law in carrying out its operations.³⁰ The goal of the founders of the company is to seek the greatest profit with the smallest capital, in accordance with the previous and current regulations.³¹ The Company as a legal entity or *rechtspersoon* refers to Law Number 40 of 2007 concerning Limited Liability Companies there are elements of the company that must be fulfilled as follows.³² The elements of the company that must be fulfilled include: a) Capital partnership; b) Established on the basis of an agreement; c) Carrying out business activities; d) The establishment of the company through a legal process with government approval.

²⁷ Ismayawati A, "Pengaruh Budaya Hukum Terhadap Pembangunan Hukum di Indonesia Kritik Terhadap Lemahnya Budaya Hukum Di Indonesia", *Pranata Hukum* 6, no. 1 (2011), p. 60

²⁸ Muhammad Erwin, *Hukum Lingkungan dalam Sistem Kebijaksanaan Pembangunan Lingkungan Hidup*, (Bandung: Refika Aditama, 2009), p. 204-205

²⁹ Agus Budiarto, *Kedudukan Hukum dan Tanggung Jawab Pendirian Perseroan Terbatas*, (Jakarta: Ghalia Indonesia, 2002), p. 13

³⁰ Norman S. Pakpahan, "Perseroan Terbatas Sebagai Instrumen Kegiatan Ekonomi", *Jurnal Hukum Bisnis* 2, (1997), p. 73

³¹ Abdulkadir Muhammad, *Pengantar Hukum Korporasi Indonesia*, (Bandung: Citra Aditya Bakti, 1991), p. 70

³² M Yahya Harahap, *Hukum Perseroan Terbatas*, (Jakarta: Sinar Grafika, 2009), p. 33

In addition to the company's goal in seeking maximum profits, it ignores the interests of many parties where it is not allowed to be done by the company. The company in all its activities will have a negative impact on the community, and on stakeholders.³³ Corporate Social Responsibility (hereinafter abbreviated as CSR) is regulated in Article 74 paragraph (1) of Law Number 40 of 2007 concerning Limited Liability Companies which states that companies that carry out their business activities in fields related to natural resources are obliged to carry out social and environmental responsibility. This shows that CSR is an obligation for companies that want to carry out their business activities. Limited liability companies as legal entities that carry out their operations and are profit-oriented, are required to carry out CSR in accordance with the provisions of laws and regulations. There are 6 (six) pillars in the implementation of CSR, namely: 1) Community Development; 2) Economic strengthening; 3) The ability to maintain the harmony of the company with the Community; 4) Implementing good business governance; 5) Protect the environment; 6) It is two-way between the community and the company in absorbing aspirations. That the company is perceived as an institution that contributes a lot to society. The company can create jobs for the local community, providing health facilities. In reality, PT. Virtue Dragon Nickel Industry (VDNI) in carrying out CSR programs has not been able to fully provide its obligations to the community in terms of social, health, and environmental.

Based on public information that the assistance program is in the form of giving a number of sand, cement, and pebbles to mosque houses of worship around the company on this basis, the company has carried out social responsibility in accordance with Article 74 paragraph (1) of Law Number 40 of 2007 concerning Limited Liability Companies. One of the health service facility programs promised by PT. Virtue Dragon Nickel Industry (VDNI) to the public in 2024 has not been realized until now, indirectly PT. Virtue Dragon Nickel Industry (VDNI) has violated the provisions of Article 74 paragraph (1) of Law Number 40 of 2007 concerning Limited Liability Companies. The community is a victim of corporate business interests that pollute the living environment, it is important to enforce civil law to guarantee and protect those who have been harmed by the environment by emphasizing compensation efforts and restoring environmental functions. Law Number 32 of 2009 concerning Environmental Protection and Management has provided a path that can be taken if a dispute occurs or the community feels aggrieved by the company's actions in accordance with Article 84 paragraph (1) of Law Number 32 of 2009 concerning Environmental Protection and Management can be resolved with 2 (two) alternatives, namely through mechanisms outside the court and through the court. That the enforcement of civil law against PT. Virtue Dragon Nickel Industry (VDNI) has not been optimal due to the company's failure to fully fulfill its obligations to provide appropriate compensation and restore environmental functions in order to overcome environmental pollution, as hinted at by Article 87 paragraph (1) of Law Number 32 of 2009 concerning Environmental Protection and Management.

CONCLUSION

The responsibility of PT. Virtue Dragon Nickel Industry (VDNI) which is suspected of environmental pollution that occurs includes preventive measures, waste management and recovery if environmental damage occurs, business actors are absolutely responsible. Civil

³³ Teng Berlianty, "Tanggung Jawab Perusahaan Terhadap Pemenuhan Hak Masyarakat Sekitar Lokasi Tambang Pasca Kegiatan Tambang", *Jurnal Hukum, Kebijakan dan Globalisasi* 41, (2015), p. 194

Liability of PT. Virtue Dragon Nickel Industry (VDNI) includes installing waste management units so that waste is in accordance with the specified environmental quality standards, restoring environmental functions, increasing supervision and evaluation to anticipate the recurrence of negligence and carrying out moral responsibility to the environment by accelerating the process of restoring polluted river stream environments by carrying out routine cleaning of river flows so that waste residues that are polluted Exit into the river can quickly decompose. Civil law enforcement can be used as an instrument to hold PT. Virtue Dragon Nickel Industry (VDNI) which has been suspected of polluting the environment through a claim for compensation by the aggrieved party. Business actors who are proven to have committed pollution are obliged to compensate or recover damages in accordance with the provisions set by the court.

REFERENCES

- Abdulkadir Muhammad, *Pengantar Hukum Korporasi Indonesia*, Bandung: Citra Aditya Bakti, 1991.
- Agus Budiarto, *Kedudukan Hukum dan Tanggung Jawab Pendirian Perseroan Terbatas*, Jakarta: Ghalia Indonesia, 2002.
- Andi Hamzah, *Kamus Hukum*, Jakarta: Ghalia Indonesia, 2005.
- Angga La Ode dan Miracle Soplanit, "Penyelesaian Sengketa Lingkungan Hidup Menurut Undang-Undang Nomor 32 Tahun 2009 Tentang UUPPLH", *Lutur Law Journal* 1, no. 1 (2020).
- Berita lingkungan. Com, Sedimen Tambang Nikel Ancam Keberlanjutan Pariwisata Labengki dan Sombori, <https://beritalingkungan.com/2024/03/24/sedimen-tambang-nikel-ancam-keberlanjutan-pariwisata-labengki-dan-sombori/>.
- Elyta Ras Ginting, *Hukum Hak Cipta Indonesia: Analisis Teori Dan Praktik*, Bandung: Citra Aditya Bakti, 2012.
- Eman Rajagukguk, "Pembaharuan Hukum Memasuki PJPT Kedua Dalam Era Globalisasi", *Majalah Hukum dan Pembangunan* 6 (1993): 505-526.
- Hans Kelsen, *Teori Hukum Murni, Dasar-dasar Ilmu Hukum Normatif Sebagai Ilmu Hukum Empirik Deskriptif*, Alih Bahasa Soemardi, Jakarta: Rimdi Press, 1995.
- Helmi, *Hukum Perizinan Lingkungan Hidup*, Jakarta: Sinar Grafika, 2012.
- Ismayawati A, "Pengaruh Budaya Hukum Terhadap Pembangunan Hukum di Indonesia Kritik Terhadap Lemahnya Budaya Hukum Di Indonesia", *Pranata Hukum* 6, no. 1 (2011).
- Koesnadi Hardjasoemantri, *Hukum Tata Lingkungan*, Yogyakarta: Universitas Gadjah Mada, 2005.
- Komariah, *Hukum Perdata*, Malang: Universitas Muhammadiyah Malang, 2001.
- Lilik Mulyadi, *Hukum Lingkungan*, Jakarta: Intermasa, 2012.
- M Yahya Harahap, *Hukum Perseroan Terbatas*, Jakarta: Sinar Grafika, 2009.
- M. Yahya Harahap, *Hukum Acara Perdata*, Jakarta: Sinar Grafika, 2013.

- Muhammad Erwin, *Hukum Lingkungan dalam Sistem Kebijaksanaan Pembangunan Lingkungan Hidup*, Bandung: Refika Aditama, 2009.
- Munir Fuady, *Perbuatan Melawan Hukum Pendekatan Kontemporer*, Bandung: Citra Aditya Bakti, 2005.
- Norman S. Pakpahan, "Perseroan Terbatas Sebagai Instrumen Kegiatan Ekonomi", *Jurnal Hukum Bisnis* 2, (1997).
- PT Obsidian Stainless Steel (OSS) dan Virtue Dragon Nickel Industry (VDNI) diduga membuang limbah pabrik pemurnian nikel di bantaran sungai Motui <https://pikiransultra.com/pt-vdni-dan-pt-oss-disebut-cemari-sungai-motui-di-konawe-utara/>.
- Peter Mahmud Marzuki, *Penelitian Hukum*, Jakarta: Kencana Prenadia Media Grup, 2008.
- Salim HS, *Pengantar Hukum Perdata Tertulis (BW)*, Jakarta: Sinar Grafika, 2008.
- Seorjono Soekanto and Sri Mamuji, *Pengantar penelitian Hukum*, Jakarta: UI Prees, 1986.
- Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum*, Jakarta: Rajawali Press, 2012.
- Shidarta, *Hukum Perlindungan Konsumen Indonesia*, Edisi Revisi, Jakarta: Gramedia Widiasarana Indonesia, 2006.
- Siti Sundari Rangkuti, *Hukum Lingkungan dan Kebijaksanaan Lingkungan Dalam Proses Pembangunan Hukum Nasional Indonesia*, Surabaya: Universitas AirLangga, 1996.
- Soekidjo Notoatmojo, *Etika dan Hukum Kesehatan*, Jakarta: Prestasi Pustaka, 2010.
- Suherman, *Masalah Tanggung Jawab Pada Charter Pesawat Udara Dan Beberapa Masalah Lain Dalam Bidang Penerbangan (Kumpulan Karangan)*, Bandung: Alumni, 1979.
- Sunarso, S. *Hukum Pidana Lingkungan Hidup dan Strategi Penyelesaian Sengketa*. Jakarta: Rineka Cipta, 2005.
- Teng Berlianty, "Tanggung Jawab Perusahaan Terhadap Pemenuhan Hak Masyarakat Sekitar Lokasi Tambang Pasca Kegiatan Tambang", *Jurnal Hukum, Kebijakan dan Globalisasi* 41, (2015).
- Wisnu Arya Wardhana, *Dampak Pencemaran Lingkungan*, Yogyakarta: Andi Offset, 1999.
- Vina Akfa Dyani, "Pertanggungjawaban Hukum dan Perlindungan Hukum Bagi Notaris dalam Membuat Party Acte", *Jurnal Lex Renaissance* 2 1 (2017).

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