

The Principle of Fault In Absolute Responsibility For Environmental Crimes (Study of Decision Number 107/PDT.G/LH/2019/PN JMB)

Fitria Wildasari ^{1*}, Tongat¹

¹Faculty of Law, University of Muhammadiyah Malang, Indonesia

*Corresponding Author Email: wildasarifitria1@gmail.com

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ABSTRACT

The environment holds an important position in the Indonesian legal system as stipulated in Article 28H paragraph (1) and Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia, which guarantees the right to a good and healthy environment. However, the increasing number of corporate activities that cause environmental pollution and damage raises fundamental issues related to criminal liability. Classical criminal law adheres to the principle of fault (*mens rea*), namely that a person can only be punished if they have intent (*dolus*) or negligence (*culpa*). The application of this principle becomes problematic when the perpetrator is a corporation that does not have an inner will like humans. To address this, Law Number 32 of 2009 concerning Environmental Protection and Management introduced the principle of strict liability, which allows for criminal punishment without proving the element of fault if environmental pollution or damage is proven to have occurred. This study analyzes the application of the principle of fault and the principle of strict liability in the Jambi District Court Decision Number 107/Pdt.G/LH/2019/PN Jmb using a juridical-normative method with a statutory and case approach. The study's findings indicate that the application of strict liability in the decision reflects a paradigm shift in environmental criminal law from a fault-based model to a system of accountability oriented toward ecological protection. While this principle strengthens the victim's position and the effectiveness of environmental law, it has also generated debate because it potentially undermines the principle of *geen straf zonder schuld* (no crime without fault).

Keywords: Principle of Fault, Absolute Liability, Corporation

1. INTRODUCTION

Indonesia is a country that recognizes the universal value of human rights, (Wardana, 2007) However, Indonesia not only guarantees human rights for its citizens, but also guarantees human rights for the environment. This is clearly illustrated in Article 33 Paragraph (4) which states that:

"The national economy is organized based on economic democracy with the principles of togetherness, fair efficiency, sustainability, environmental awareness, independence, and by maintaining a balance between progress and national economic unity."

This article illustrates that the environment is a crucial aspect of national economic development. According to this article, maintaining the national economy is also based on environmental



awareness. In its efforts to protect the environment, the state must protect, respect, and fulfill the fundamental rights of its citizens. One of the rights held by citizens is the right to a good and healthy environment. The guarantee of protection of the right to a good and healthy environment is regulated in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which reads:

"Everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy living environment, and has the right to receive health services." (Iskandar, 2011)

Then, Jimly Asshidiqie, a constitutional expert, stated that the constitutionalization of norms in these articles reflects that the 1945 Constitution of the Republic of Indonesia has a green constitutional nuance (Green Constitution) which is committed to providing protection for human rights to the environment.

The government has enacted environmental regulations in the form of laws. The current environmental regulations are regulated by Law Number 32 of 2009 concerning Environmental Protection and Management (hereinafter referred to as the PPLH Law). This law revokes and replaces several laws that previously served as the basis for the environment, namely Law Number 23 of 1997 concerning Environmental Management and Law Number 23 of 1997 concerning Environmental Management. The environment, as one of the determinants of the life support system and also a source of prosperity for the people, tends to decline in its condition, therefore its existence must be optimally maintained, its carrying capacity must be maintained wisely, openly, professionally, and responsibly. (Asshidiqie, 2009)

However, in practice, fundamental problems arise in determining the form of corporate criminal liability in the environmental sector. Classical criminal law is based on the principle of fault (*mens rea*), namely that a person can only be punished if proven to have committed a mistake, either intentionally (*dolus*) or negligently (*culpa*). Meanwhile, corporations as legal entities do not have wills or intentions like humans, making the application of the principle of fault to legal entities problematic. This condition has led to the development of the concept of criminal liability without fault, known as the principle of absolute liability (strict liability). This principle allows perpetrators, especially corporations, to be held responsible for environmental damage without having to prove fault, as long as their actions have a negative impact on the environment.

The application of the principle of absolute responsibility is an important legal breakthrough in the context of environmental protection, because it places environmental interests above proving individual fault. This also aims to strengthen the effectiveness of environmental



laws, which are often difficult to enforce due to limited evidence of fault in corporate crimes. However, the application of the principle of strict liability in criminal law often generates controversy, primarily because it is considered to conflict with the principle of fault, a fundamental principle of universal Indonesian criminal law. (Rhiti, 2015) One important case that reflects the application of the principle of absolute liability in the context of environmental law is the Jambi District Court Decision Number 107/Pdt.G/LH/2019/PN Jmb. This case began with a peatland fire in a company's plantation area, which resulted in ecosystem damage and loss of biodiversity. Based on the examination results, the panel of judges deemed the damage serious and irreversible, thus meeting the criteria for a serious threat to the environment as referred to in Article 1 number 34 of the PPLH Law.

This ruling marks a significant development in environmental litigation in Indonesia. On the one hand, the application of strict liability strengthens environmental protection by facilitating the presentation of evidence for plaintiffs, particularly in cases involving large corporations. (Rhiti, 2015) However, on the other hand, this has sparked legal debate because it is considered to have the potential to shift the fundamental principle of criminal law, namely the principle of fault (*mens rea*), which has long been the moral and philosophical foundation of the criminal responsibility system. (Eryarifa, 2022) The tension between these two principles reflects the dynamics of criminal law reform that adapt to the needs of ecological protection and substantive justice for society.

Thus, the Jambi District Court Decision Number 107/Pdt.G/LH/2019/PN Jmb is a concrete representation of the application of the principle of absolute liability in environmental law, challenging the dominance of the principle of fault in Indonesian criminal law. This study is crucial for understanding how the principle of fault can be synergized or even corrected in the context of environmental crimes involving corporations. Normatively, this requires an in-depth analysis of the limits of the application of the principle of strict liability so as not to obscure the values of justice and legal certainty that are the main pillars of the national criminal law system.

Formulation of the problem

Based on the background description above, the problem formulation used is as follows:

1. How is the concept of the principle of fault (*mens rea*) regulated and applied in corporate criminal liability for environmental crimes according to Indonesian positive law?
2. How does the application of the principle of absolute responsibility (strict liability) in the Jambi District Court Decision Number 107/Pdt.G/LH/2019/PN Jmb affect the principle of criminal responsibility based on the principle of fault?



2. RESEARCH METHODS

The writing method used is juridical-normative, Research that focuses on written law is studied from various aspects such as theoretical, philosophical, comparative, structure or composition, consistency, general explanations and explanations for each article, formality and binding force of a law and the language used is legal language, so we can conclude that normative legal research has a broad scope and has as its object the doctrine, principles and principles of law. (Marzuki, 2007) Approach used in this study is Statute Approach and Case Approach. The type of legal material used is secondary data using legal materials. primary, secondary, and tertiary. The analysis technique in this study uses a deductive mindset, which aims to test hypotheses or theories with data, requiring a detailed and clear design, complete with the variables to be studied, particularly regarding the development of the application of criminal law sanctions that are more effective in handling absolute liability in environmental cases.

3. RESULTS AND DISCUSSION

The Concept of the Principle of Fault (Mens Rea) in Corporate Criminal Liability for Environmental Crimes According to Indonesian Positive Law

Corporate or limited liability company crimes can also be categorized as transnational crimes of an organized nature. (Nugroho, 2023) This is said because corporate crime involves a systematic system and highly conducive elements. It's said to involve a systematic system because of the existence of a very solid criminal group, whether through ethnic ties, political interests, or other interests, with a clear code of ethics. (Manullang, 2020) The urgency of regulating criminal liability for corporations in carrying out their business activities needs to be carried out as a system to integrate business and social interests of society, so as to create an orderly state. Thus, the regulation of criminal liability for corporations can prevent mistakes in the future, in other words, the regulation of criminal liability for corporations is a means or effort to prevent crime and criminal law can do its job in determining the procedures that must be implemented. (Puspaningrum, 2011) Regulations on criminal liability and the imposition of criminal penalties on corporations in their business activities need to be regulated as a preventive measure, however, if the regulations in question are still violated by corporations for their own interests, then the sanctions imposed on the corporation must look at the benefits of the punishment which not only look at the interests of the corporation itself but must further look at the interests of the wider community.



Due to the progress that has occurred in the fields of finance, economics, and trade, especially in the era of globalization and the development of organized crime, both domestic and transnational, the subject of criminal law cannot be limited only to humans in nature, but also includes corporations, namely organized groups of people and/or wealth, whether they are legal entities or not. In this case, corporations can be used as a means to commit crimes and can also obtain profits from a crime. (Harkrisnowo, 2019) By adopting the concept that Corporations are subjects of Criminal Acts, this means that Corporations, whether as legal entities or not, are considered capable of committing Criminal Acts and can be held accountable under criminal law. In addition, it is still possible for criminal liability to be borne jointly by the Corporation and its managers who have functional positions within the Corporation, or only the managers can be held accountable under criminal law. (Susanti, 2017)

In this regard, the principle of fault (*mens rea*) is a fundamental principle in criminal law that affirms that there is no crime without fault (*geen straf zonder schuld*). This principle implies that a person can only be held criminally responsible if there is an element of fault, whether in the form of intent (*dolus*) or negligence (*culpa*). (Hakim, 2019) In the context of classical criminal law, this principle is rooted in the moral view that punishment is a form of rebuke for acts committed with free will and consciousness. However, when the subject of criminal law is no longer limited to humans, but also includes corporations as legal entities, a conceptual debate arises regarding how the principle of fault can be applied to entities that lack the will and consciousness of humans.

Indonesian positive law has recognized corporations as subjects of criminal law, as stipulated in Article 116 paragraph (1) of Law Number 32 of 2009 concerning Environmental Protection and Management (UU PPLH), which states that if environmental crimes are committed by, for, or on behalf of a business entity, then criminal charges and sanctions can be imposed on the business entity and/or its management. This provision broadens the scope of criminal law subjects and marks a modern development in Indonesian criminal law. However, the main problem that arises is how to place the element of fault (*mens rea*) in the structure of corporate criminal liability. In practice, corporate fault is often identified through collective fault or organ fault—namely, actions, policies, or omissions of managers, directors, or employees that are deemed to reflect the will of the corporation itself.

An analysis of the principle of fault in the corporate context indicates a shift from moral fault to functional fault. This means that the measure of fault is no longer determined by the subjective intent of the individual perpetrator, but by the failure of the company's internal control system to prevent environmental crimes. In environmental crimes, the dominant form of fault is



usually corporate negligence, for example, failing to conduct supervision, not having a fire risk mitigation system, or ignoring waste management obligations. Therefore, enforcement of the principle of fault in this context is not always oriented towards will, but rather on the institutional responsibility inherent in the corporate organizational structure. This approach is theoretically known as the identification doctrine and the doctrine of vicarious liability, which allow the fault of individuals within a corporation to be attributed to the corporation as a legal entity. (Muladi, 1984)

However, the application of the principle of fault to corporations in environmental crimes often faces obstacles in proving. The difficulty of proving a causal relationship between corporate actions and environmental damage makes the principle of fault less effective in achieving the goals of environmental law, namely ecological restoration and protection. Therefore, Indonesian positive law accommodates an alternative principle in the form of strict liability as stipulated in Article 88 of the Environmental Management Law. The application of this principle practically eliminates the need to prove the element of fault, suffices to prove that the corporate activity caused environmental pollution or damage. Thus, strict liability becomes a legal solution to the limitations of the application of the principle of fault in complex environmental cases.

However, from a purely criminal law perspective, the application of strict liability raises normative debate because it has the potential to shift the moral foundation of the principle of fault. Ideally, criminal law should function not merely as an administrative instrument but also as a means of upholding justice based on individual responsibility. (Saleh, 1983) In this case, the principle of fault must remain the fundamental principle of criminal liability, but with an adaptive approach to corporate characteristics. In other words, *mens rea* should not be understood psychologically, but institutionally, namely in the form of systemic negligence or corporate policies that fail to maintain environmental due diligence standards. This approach aligns with the precautionary principle in environmental law, which requires companies to take every possible precaution against potential ecological damage.

Application of the Principle of Absolute Liability (Strict Liability) in the Decision of the Jambi District Court Number 107/Pdt.G/LH/2019/PN Jmb Regarding the Principle of Criminal Responsibility Based on the Principle of Fault

The theory of corporate criminal liability in environmental crimes is an important pillar in modern law enforcement, especially when it relates to the major impact caused by corporate activities on environmental damage. (Muchtar, 2015) Initially, in classical criminal law, legal subjects who could be held criminally responsible were limited to humans as individuals (*natuurlijk persoon*). However, developments in the era and the increasing complexity of business



activities have led to the recognition of legal entities (rechtspersoon) as legal subjects who can be punished, including in environmental cases. This theory of criminal liability focuses on errors, whether they stem from intent (dolus) or negligence (culpa). In the corporate context, these errors can arise from two perspectives: directly due to the corporation's failure to fulfill its legal obligations, or indirectly through the concept of vicarious liability, where the corporation is responsible for the actions of employees or managers carried out within the scope of their duties that harm the environment. (Hakim, 2019)

When linked to Article 88 of Law Number 32 of 2009 concerning Environmental Protection and Management (UUPLH), it is clearly stated that every person responsible for a business and/or activity is obliged to be absolutely responsible for any pollution and/or environmental damage that occurs. This article adheres to the principle of strict liability, which means that responsibility remains attached without the need for proof of fault. This means that even if a corporation claims no ill intent or has made careful efforts, as long as its activities are proven to cause environmental damage, they are still obliged to repair and restore the damage caused. This becomes increasingly relevant when considering that in business practices, including in the mining sector, many actions or omissions that cause damage occur on a large scale, where the main perpetrators behind it are not just individuals, but corporate policies or decisions.

The application of the principle of strict liability in Jambi District Court Decision Number 107/Pdt.G/LH/2019/PN Jmb indicates a paradigm shift in Indonesian environmental law from the traditional mens rea-based criminal law model to a more objective system of responsibility. In this case, the panel of judges considered that land damage and environmental pollution due to forest and land fires that occurred in the company's concession area constituted a serious violation of the corporation's legal obligation to protect and manage the environment responsibly. The judge emphasized that the company's legal responsibility does not depend on proving the element of fault (mens rea), but rather on the objective fact that its actions or omissions caused environmental damage.

The judge's considerations in this decision explicitly refer to Article 88 of Law Number 32 of 2009 concerning the Environmental Management Law which states that: "Any person whose actions, business, and/or activities use hazardous and toxic materials, produce, and/or manage hazardous and toxic waste, and pose a serious threat to the environment is absolutely responsible for the losses that occur without the need to prove the element of fault." Based on this provision, the judge concluded that absolute liability serves as an exception to the principle of fault (mens rea) and serves to strengthen the effectiveness of environmental law enforcement. The judge



emphasized that this principle aims to facilitate the public or government in seeking compensation for environmental damage without the burden of complex proof regarding corporate intent or negligence.

Critically, the application of strict liability in this decision demonstrates the courage of the Indonesian judiciary to prioritize the environmental protection principle over the classical dogma of criminal law that is oriented towards individual error. (Brahmantiyo Rasyidi, 2023) The judge argued that in the context of widespread and systemic environmental crimes, proving the mens rea element is often ineffective because complex corporate organizational structures can obscure individual responsibility. Therefore, the principle of absolute liability is seen as a form of ecological justice, where the legal focus shifts from the perpetrator to the consequences (result-oriented). This approach is in line with Supreme Court Regulation (KKMA) Number 36 of 2013, which provides guidance that in environmental lawsuits, plaintiffs do not need to prove fault; it is sufficient to show that the defendant's activities caused environmental pollution or damage.

However, the application of strict liability without considering the principle of fault creates legal problems in the national criminal law system. Theoretically, the principle of fault is the main foundation of criminal liability as stated in Article 1 paragraph (1) of the Criminal Code (KUHP), which contains the principle of no crime without fault (*geen straf zonder schuld*). Thus, although Article 88 of the Environmental Management Law provides a legal basis for absolute liability, dogmatically there still needs to be limits so that the application of this principle does not negate the values of substantive justice. The judge in his consideration recognized this and emphasized that strict liability only applies in the context of environmental and administrative civil cases, while in the criminal realm, the principle of fault remains the main principle for determining individual fault. In other words, the application of strict liability in the *a quo* case does not completely eliminate the principle of mens rea, but places it as a complementary principle in the effort to achieve a balance between legal certainty and ecological justice.

4. CONCLUSION

The principle of fault in corporate criminal liability for environmental crimes under Indonesian positive law has not been abolished, but has undergone a conceptual transformation. This principle shifted from a classical understanding based on individual intent to a modern understanding based on institutional responsibility and environmental management systems. This principle was then complemented by the application of strict liability as a form of special responsibility (*lex specialis*) to strengthen the effectiveness of environmental law enforcement.



This balance between the principle of fault and the principle of absolute responsibility is key to ensuring that environmental criminal law does not lose its moral legitimacy, while remaining effective in protecting the right to a good and healthy environment for all Indonesians. The Jambi District Court Decision No. 107/Pdt.G/LH/2019/PN Jmb reflects the progressive and adaptive application of law to the complexity of corporate crimes in the environmental sector. The panel of judges successfully interpreted Article 88 of the Environmental Management Law teleologically, namely by placing environmental protection as the primary objective (the ultimate goal) of the environmental law system. Therefore, even though the application of the principle of absolute responsibility appears to deviate from the principle of fault, substantively this decision actually strengthens the position of environmental law as an instrument for protecting human rights and ecological justice.

Suggestion

1. The government needs to clarify the concept of the principle of fault (*mens rea*) in corporate criminal liability so that it can be adapted to the characteristics of legal entities without eliminating moral values and justice in criminal law.
2. Law enforcers need to create guidelines for the application of the principle of strict liability that are firm and proportional so that its use does not negate the principle of fault, but remains effective in protecting the right to a good and healthy environment as guaranteed by the constitution.

REFERENCE

- Asshidiqie, J. (2009). *Green Constitutions: Nuansa Hijau Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*. Jakarta: Raja Grafindo.
- Brahmantiyo Rasyidi, G. N. (2023). *Asas Pertanggungjawaban Mutlak dalam Penuntutan Tindak Pidana Lingkungan oleh Korporasi*. *Jurnal Humaniora: Jurnal Hukum dan Ilmu Sosial*, Vol. 1, No. 2, 40–52.
- Eryarifa, S. (2022). *Asas Strict Liability dalam Pertanggungjawaban Pidana Korporasi Pada Tindak Pidana Lingkungan Hidup*. *Jurnal MAHUPAS*, Vol. 1, No. 2, 101–114.
- Hakim, L. (2019). *Asas-asas Hukum Pidana: Buku Ajar Bagi Mahasiswa*. Yogyakarta: Deepublish.
- Hakim, L. (2019). *Implementasi Teori Dualistis Hukum Pidana Di Dalam Rancangan Kitab Undang-Undang Hukum Pidana*. *Jurnal Kertha Bhayangkara*, Vol. 13, No. 1, 1–15.



- Harkrisnowo, H. (2019). *Redefinisi Pidana Dan Pemidanaan Korporasi Dalam Perspektif Rancangan Undang-Undang Kitab Undang-Undang Hukum Pidana*. *Jurnal Legislasi Indonesia*, Vol. 16, No. 4, 411–417.
- Iskandar. (2011). *Konsepsi dan Pengaturan Hak Atas Lingkungan Hidup yang Baik dan Sehat (Kajian Perspektif Hak Asasi Manusia dalam Pengelolaan Lingkungan Hidup)*. Bengkulu: Universitas Bengkulu.
- Manullang. (2020). *Pertanggungjawaban Pidana Korupsi*.
- Marzuki, P. M. (2007). *Penelitian Hukum*. Jakarta: Kencana.
- Muchtar, M. (2015). *Perlindungan dan Pengelolaan Lingkungan Hidup*. Jakarta: Prestasi Pustaka.
- Muladi, B. N. (1984). *Teori-Teori dan Kebijakan Pidana*. Bandung: Alumni.
- Nugroho, R. (2023). *Pertanggungjawaban Pidana Terhadap Tindakan Korporasi Atas Ancaman Kepada Debitur Dalam Penagihan Pinjaman Online*. *Jurnal Lex Crimen*, Vol. XII, No. 2, 1–18.
- Puspaningrum. (2011). *Tanggung Jawab Organ Perseroan Terbatas (PT) dalam Kepailitan*. *Jurnal Wacana Hukum*, Vol. 10, No. 2, 23499.
- Rhiti, H. (2015). *Tanggungjawab Mutlak dalam Penyelesaian Sengketa Lingkungan Hidup*. *Jurnal Justitia et Pax*, Vol. 3, No. 2, 25–40.
- Saleh, R. (1983). *Perbuatan Pidana dan Pertanggungjawaban Pidana: Dua Pengertian Dasar dalam Hukum Pidana*. Jakarta: Aksara Baru.
- Susanti, Z. A. (2017). *Analisis Terhadap Korporasi Sebagai Subyek Hukum di Dalam Undang-Undang No. 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup*. *UIR Law Review*, Vol. 1, No. 2, 148–160.
- Wardana, A. (2007). *Perusakan Lingkungan Sebagai Pelanggaran HAM*. Jakarta.

