Law and Humanities Quarterly Reviews

Warlia, M., Munaf, Y., Susilo, E. I., Huda, N., & Thamrin, S. (2023). Implementation of the Strictliability Principle in Enforcement of Environmental Civil Case Laws and Settlement of Their Execution in Indonesia. *Law and Humanities Quarterly Reviews*, 2(1), 11-26.

ISSN 2827-9735

DOI: 10.31014/aior.1996.02.01.47

The online version of this article can be found at:
https://www.asianinstituteofresearch.org/

Published by:
The Asian Institute of Research

The Asian Institute of Research Law and Humanities Quarterly Reviews is a peer-reviewed International Journal of the Asian Institute of Research. The journal covers scholarly articles in the interdisciplinary fields of law and humanities, including constitutional and administrative law, criminal law, civil law, international law, linguistics, history, literature, performing art, philosophy, religion, visual arts, anthropology, culture, and ethics studies. The Law and Humanities Quarterly Reviews is an Open Access Journal that can be accessed and downloaded online for free. Thus, ensuring high visibility and increase of citations for all research articles published. The journal aims to facilitate scholarly work on recent theoretical and practical aspects of law.

ASIAN INSTITUTE OF RESEARCH
Connecting Scholars Worldwide

The Asian Institute of Research
Law and Humanities Quarterly Reviews
Vol.2, No.1, 2023: 11-26
ISSN 2827-9735

DOI: 10.31014/aior.1996.02.01.47

Implementation of the Strictliability Principle in Enforcement of Environmental Civil Case Laws and Settlement of Their Execution in Indonesia

Meni Warlia[1], Yusri Munaf[2], Efendi Ibnu Susilo[3], Ni'Matul Huda[4], Thamrin, S[5]

[1] Doctor Candidate, Doctoral of Law, Post Graduate Program, Universitas Islam Riau.
Email: meni_warlia@student.uir.ac.id
[2] Professor and Lecturer, Doctoral of Law, Post Graduate Program, Universitas Islam Riau.
Email: yusrimunaf@soc.uir.ac.id
[3] Associate Professor and Lecturer, Doctoral of Law, Post Graduate Program, Universitas Islam Riau.
Email: efendiibnususilo@law.uir.ac.id
[4] Professor and Lecturer, Doctoral of Law, Post Graduate Program, Universitas Islam Indonesia.
Email: nimatulhuda@law.uii.ac.id
[5] Professor and Lecturer, Doctoral of Law, Post Graduate Program, Universitas Islam Riau.
Email: thamrin@law.uir.ac.id

Abstract
Environmental degradation is a series of events from a decrease in environmental quality or a decrease in the carrying capacity of the environment caused by humans or caused by nature. In fact, environmental degradation will not only affect the degradation of the surrounding area or have an impact on direct victims, but will also affect other areas that still show the relationship of resource flows as we have witnessed together. This research is a doctrinal legal research that focuses more on primary and secondary legal materials. Research on doctrinal law itself can be carried out through an inventory of positive laws, tracing legal principles and doctrine, legal systematics, comparative law and legal history. The results of this study indicate that in environmental civil law cases, the combination of the concept of rule of law and the welfare state is very important, which consists of aspects of the rule of law and aspects of the legality of the concept of rule of law. The issue of social justice which is also the concept of a welfare state includes justice for the present generation as well as for future generations. Economic justice and state control rights over natural resources are very prominent factors in the form of the state's obligation to create general welfare and as much prosperity as possible for the people.

Keywords: Principle of Strictliability, Law Enforcement, Environmental Civil Case Law

1. Introduction

Environment and development are like two sides of a coin, environment and development are a unified whole that cannot be separated between the two. Development is a conscious effort made by humans with the aim of achieving a better life to fulfill human welfare. That is, it cannot be denied that the essence of development is

how to make future life better than today's life. In this regard, in the history of the development of environmental issues related to development began to be seriously debated around the 1970s, to be precise at the United Nation Conference on the Human Environment in Stockholm, Sweden in 1972. One of the conclusions at the conference was the importance of increasing standard for the quality of human life, because if the quality of human life decreases, then the environment in which they live will also decrease. This is known as environmental degradation.

Environmental degradation is a series of events from a decrease in environmental quality or a decrease in the carrying capacity of the environment caused by humans or caused by nature. In fact, environmental degradation will not only affect the degradation of the surrounding area or have an impact on direct victims, but will also affect other areas that still show the relationship of resource flows as we have witnessed together. The phenomenon of massive open exploitation of natural resources, in fact, has led to acts of destruction and annihilation of environmental ecosystems and sources of life. The current ecological depletion is caused more by directives of development that do not pay attention to the sustainability of the environment and the future of human generations to come.

In the Indonesian context, empirically related to the very high environmental damage caused by human activities can be read, one of which is from the data submitted by the North Luwu Environmental Service. The rate of deforestation reached 1.8 million hectares/year which resulted in 21% of Indonesia's 133 million hectares of forest being lost. Forest loss causes a decrease in environmental quality, increases natural disasters, and threatens the preservation of flora and fauna. 30% of the 2.5 million hectares of coral reefs in Indonesia were damaged. Damage to coral reefs increases the risk of disasters to coastal areas, threatens marine biodiversity, and reduces marine fishery production. The high air pollution, water pollution, soil pollution, and sea pollution in Indonesia. Even in 2010, the Citarum River was named the Most Polluted River in the World by the huffingtonpost.com website. The World Bank also places Jakarta as the city with the third highest pollutant after Beijing, New Delhi and Mexico City. Hundreds of rare and endangered Indonesian plants and animals. According to the IUCN Redlist, 76 Indonesian animal species and 127 plants are in the highest threatened status, namely Critically Endangered (Critical) status, and 205 animal species and 88 plant species are in the Endangered category, and 557 animal species and 256 plants are Vulnerable.

Long before that, in 2006, the academic text of the Environmental Bill presented data related to environmental damage in Indonesia caused by human activities. Fully quoted, the data in the bill explains that environmental degradation in Indonesia is generally caused by pollution and environmental destruction. In 2006, the increase in air and water pollutants was higher, including pollution from domestic waste and hazardous and toxic materials (B3). In the air sector, the results of air quality measurements in big cities such as Jakarta, Surabaya, Medan, Bandung, Jambi and Pekanbaru, show that air is in the good category for one year only about 22-62 days or 17%. Air pollutant levels in these cities are 37 times above the standards set by the World Health Organization (WHO). Industrial activity in Indonesia, based on data from the Ministry of Industry for 2006 as cited by the State Ministry for the Environment in 2007 produced 26,514,883 tons, 83 of which were spread across various industrial sectors. In the downstream chemical industry sector, 3,282,641 tonnes circulated, 21,066,246 tonnes in the upstream chemical industry, 1,742,996 tonnes in the metal and textile machinery industry (ILMTA), and 423 tonnes in the small and medium industry (IKM). Based on data from the Ministry of Forestry of the Republic of Indonesia for 2007, forest damage has reached 59.2 million hectares with a deforestation rate of around 1.19 million hectares/year. While the area of critical land also continued to increase, reaching 23.2 million hectares in 2000 and reaching around 74 million hectares in 2004 (not including the Provinces of Nangroe Aceh Darussalam, West Sumatra, Jambi, Bangka Belitung, DKI Jakarta, Banten, West Java, Gorontalo, and Central Sulawesi).

In a more specific aspect, related to the environment related to forest destruction, Dio Ashar Wicaksana wrote: Based on the results of the TGHK - RTRWP integrated map in 1999, for example, from an estimated natural forest area of around 120,353,104 ha, it is estimated that degradation has occurred up to 50 million ha (Haeruman, 2003). Interpretation of satellite imagery also corroborates the evidence of the damage. The rate of destruction of natural forests in 1985 - 1997 was recorded at 1.6 million ha per year, in 1997 - 2000 it was

recorded at 2.8 million ha per year, in 2000 - 2003 the rate of destruction was getting out of control (Purnama, 2003). As a result of the loss of 50 million ha of natural forest, Indonesia is estimated to have suffered a loss of IDR 30,000 trillion. Even in 2008 it was estimated that the area of degraded state land had increased by 77.8 million ha.

The paradigm that places the environment as an object of exploitation has brought fatal environmental damage and led to various natural disasters which are very detrimental. In the name of economic growth and development, business activities are carried out without regard to the environment so that various environmental damages continue to occur. In order to overcome development problems in relation to better maintaining the existence of the environment, the concept of sustainable development was born, as a development concept that aims to safeguard the environment and conserve resources for future generations. In that context, conserving and safeguarding natural resources for future generations is one of the key features that distinguishes sustainable development policies from traditional environmental policies, which also seek to internalize the externalities of environmental degradation.

In another text it is stated that sustainable development is a development process that optimizes the benefits of natural resources (SDA) and human resources (HR), by harmonizing natural resources with humans in development. The "World Commission on Environment and Development" (WCED) formulates "Sustainable Development" as "humanity has the ability to make development sustainable -- to ensure that it meets the needs of the present without compromising the ability of future generations to meet their own needs. The concept of sustainable development is not a concept that appears instantly, but is the result of a long process of debate between the need for development and awareness of the importance of environmental protection. The need for development and awareness of the importance of the environment as an international and national agenda is called the Sustainable Development Goals. Emil Salim explained that the Sustainable Development Goals rest on three pillars: (1) the social pillar, human development in the social sphere; (2) Economic pillar, economic development; (3) the pillars of the Environment, including biodiversity. And the three pillars are supported by the foundation of governance institutions. The three pillars and foundations of this institution rest on 17 Sustainable Development Goals which are broken down into 169 (one hundred and sixty-nine) targets and 241 (two hundred and forty one) indicators that influence each other. It can be seen in the pattern of the Sustainable Development Goals approach that economic development is carried out in the social context of society and all of this then boils down to the ecosystem scope of natural resources and the environment.

From the foregoing sustainable development can derive some of the core elements of sustainable development. These elements are elements of integration, sustainable use, intragenerational justice, and intergenerational justice. In relation to sustainable development, various policy instruments have been created in order to achieve sustainable development goals. The development commitment does not only focus on human development, but also on environmentally friendly economic development and environmental development. The SDGs place humans as central actors and connoisseurs of development outcomes that aim for human welfare or human wellbeing.

One of the many instruments for achieving sustainable development goals is to internalize the impact of economic activities on the environment through various regulations in the environmental sector. In the Indonesian context, various regulations in the environmental sector are issued, updated and continuously evaluated following developments in international environmental law. From a juridical perspective, legal provisions related to environmental issues in Indonesia are sufficient. It is said so because hierarchically, starting from the level of the Constitution, lower laws and regulations regarding the legal aspects related to the environment have been properly and adequately formulated. With regard to constitutional norms governing environmental issues, Pan Mohamad Faiz explained that there are two constitutional norms contained in the 1945 Constitution which regulate matters related to environmental issues.

Quoted in full, Pan Mohamad Faiz explained the following: After almost fifteen years after the last amendment to the 1945 Constitution in 2002, many parties have begun to pay attention to constitutional studies that touch environmental issues. Provisions resulting from the amendment have brought important meaning to the

availability of constitutional guarantees for environmental sustainability in Indonesia. Article 28H Paragraph (1) and Article 33 paragraph (4) of the 1945 Constitution are key provisions regarding the regulation of environmental norms in the Indonesian Constitution. In succession, the two Articles read as follows: Article 28H Paragraph (1): "Every person has the right to live in physical and spiritual prosperity, to have a place to live, and to get a good and healthy environment and has the right to obtain health services". Further in Article 33 Paragraph (4): "The national economy is organized based on economic democracy with the principles of togetherness, efficiency with justice, sustainability, environmental awareness, independence, and by maintaining a balance of progress and national economic unity".

From the lower regulatory aspect, namely regulations at the statutory level, there are three laws that regulate environmental issues. with the designation UULH 1982. Second, Law Number 23 of 1997 which replaced and repealed UULH 1982 and Third Law Number 32 of 2009 concerning Environmental Protection and Management (LN of 209 Number 140, abbreviated as UUPPLH) which replaced Law Number 23 of 1997 (UULH 1997) Takdir Rahmadi said that Indonesian environmental law developed apart from legislative developments such as through the promulgation of UULH 1982, UULH 1997 and UUPPLH 2009, it also developed through court decisions. There are at least two Court decisions which can be viewed as landmark decisions.

In connection with the development of modern environmental law, Indonesia has carried out various evaluations, synchronization and updating of the Environmental Law. In this regard, Takdir Rahmadi explained: UUPPLH 2009 as the main formal source of environmental law in Indonesia, in addition to containing legal provisions and legal instruments as contained in previous laws, namely UULH 1982 and UULH 1997, has also contained norms and new legal instruments. Several important new legal norms concern legal protection for anyone fighting for environmental rights, the authority of Civil Servant Investigators (PPNS) and the creation of new material offenses.

In Indonesia, environmental problems, both in the form of pollution and environmental destruction, are still occurring, and even tend to get worse, especially after the reformation era and regional autonomy. Law Number 32 of 2009 concerning Environmental Protection and Management (UU PPLH) itself was born as a result of the rise of cases related to the environment which are increasingly concerning. The large number of cases in the field of environmental law, both damage and pollution in Indonesia today require serious environmental law enforcement both administratively, criminally and civilly. Specifically related to enforcing environmental law through a civil law approach based on the provisions of Article 34 of Law Number 23 of 1997 concerning Environmental Management. According to this Article, a person who has environmental rights is a person who is a victim of environmental pollution and/or damage who suffers losses.

Empirically, even though UULH has been developing in a better direction, this has not reduced the occurrence of legal violations against UULH provisions. This can be seen from the large number of environmental cases reported by the Ministry of Environment and Forestry (KLHK) between 2015 and the end of 2020. The Ministry of Environment and Forestry managed to bring 567 cases to court. In addition, as many as 18 civil cases related to environmental and forestry crimes have also been filed in court. Several civil lawsuits filed by the Ministry of Environment and Forestry against a number of companies responsible for forest and land fires (karhutla) and illegal logging have been granted by the Supreme Court (MA) and have been inkracht with a compensation value for environmental restoration of around 19.8 trillion.

The Supreme Court itself is aware that environmental cases have certain characteristics that are different from other cases. Environmental matters are known for their complex nature because they require scientific evidence. Therefore, judges who handle environmental cases must also have knowledge related to the environment and have the courage to apply it. Judges, like humans in general, in making a decision are greatly influenced by other variables that develop in society, starting from the economy, politics, socio-culture to the existence of a growing public opinion.

In settling environmental cases, a judge who has environmental certification must be appointed. In this situation law enforcement officials are required to be able to think progressively and break away from mere rationalistic thoughts that hide behind limited understanding of environmental science. Various strategies will be carried out by owners of capital with economic interests in order to obtain a means of justification in every practice of pollution and environmental destruction that occurs. When a judge examines and adjudicates an environmental case, then at that time he is ensuring the proper process of organizing and enforcing environmental law. The role of judges is very important because they have the authority to carry out Judicial Activism (legal reasoning, legal argumentation, and legal rechtsvinding/finding law) on environmental lawsuits filed. Thus a quality decision is a decision that contains quality legal arguments and is based on legal theory and doctrine.

According to A. Sonny Keraf, until now the paradigm of sustainable development has not been widely implemented. The reasons are, first, that this paradigm is poorly understood as containing the working principles that determine and animate the entire development process. Second, the implementation of development still prioritizes economic growth. Thus there is still an imbalance between economic, social and environmental aspects. In practice, judges in dealing with environmental cases face choices between using the In Dubio Pro Reo principle or using the In Dubio Pro Natura principle. On the principle of in Dubio Pro Reo, when there is doubt in the judge's self that an error must be decided in favor of the Defendant. Meanwhile, on the contrary, on the In Dubio Pro Natura principle in environmental cases, the judge's belief must be interpreted when there is doubt in the judge that there is no fault of the Defendant (which is proven by having carried out all obligations properly), the judge must decide which is beneficial for the environment. The complexity of environmental cases causes that the proving process is often revealed not by the testimony of witnesses, but by other means of evidence that are scientific in nature (scientific evidence). Thus even though economically there are great benefits to be gained by allowing damage, this reason cannot be justified.

The state, through its three pillars of power, one of which is the judicial power, is also obliged to protect and manage the environment as mandated by Article 24 Paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states: "The judicial power is an independent power to administer justice in order to uphold the law and justice. The Supreme Court also continues to make efforts to certify environmental judges in order to increase the competence of judges so that enforcement of environmental and natural resource laws can run well. In handling environmental cases the judge's belief must be interpreted when there is doubt in the judge that there is no mistake in the Defendant's judge must decide which is beneficial for the environment. Thus the competence of judicial activism as a series of knowledge, skills and personality traits is expected to support and encourage judges to be able to find and explore legal values related to the environment that live in society in accordance with the principles and rule of law. However, judges' decisions in environmental cases do not always reveal considerations that show the use of the principles contained in environmental law.

Judges as executors of judicial power have an obligation to protect the environment. Law enforcement and justice carried out by judges in environmental cases they handle, apart from being based on the evidentiary process, must also be based on the principles contained in UUPPLH. Thus, as Article 5 Paragraph (1) of the Law on Judicial Power, judges are obliged to explore, follow and understand the values of law and justice that live in society. Judges should carry out Judicial Activism through legal discovery methods. The application of the principle of strict liability in consideration of judge's decisions should be the basis for efforts to protect the environment through law enforcement and justice carried out by judges in their decisions.

One of the obstacles faced is that Indonesian civil procedural law also does not recognize the existence of fast, brief or regular examination of cases as is applicable in criminal procedural law. The slow process of civil case trials generally has an impact on many things. In the context of environmental disputes, the delay in the trial process affects the magnitude of the burden of recovery efforts and the speed of recovery efforts that need to be carried out because environmental conditions are no longer the same as when environmental destruction/pollution occurred, but with the evidence provided to both parties, civil trials are indeed not allows it to be completed in a short time.

For example, the environmental condition of a forest that was burned this year will of course change its condition several years later when the environmental case/dispute is resolved and a decision with permanent force/incraht is obtained. Especially in citizen law suits, if the defendant is the government/local government and a court decision orders the defendant to take certain actions, the defendant's non-compliance is often found in carrying out the decision. The PPLH Law also does not stipulate sanctions if the Defendant does not carry out the decision and becomes a separate obstacle for the court to execute government officials/officials who do not carry out the decision.

In addition to the problem of applying the principles in the decision, there are also problems in the process of executing the judge's decision. Based on the PPLH Law, the forms of punishment for environmental civil dispute lawsuits are: (a) paying compensation; and (b) take certain related actions. This guideline also explains how judges can assess and ultimately decide on the form and amount of compensation, including how the method of calculating compensation, determining the party who must compensate and the form of determining certain obligations related to compensation. Unfortunately the PPLH Law does not specifically regulate the procedural law for the settlement of environmental civil disputes, so that the settlement is carried out based on the applicable procedural law, namely the HIR. In addition to the HIR, there are internal Supreme Court regulations that specifically regulate the settlement of environmental civil disputes in court, namely the Decree of the Chief Justice of the Supreme Court Number 36/KMA/SK/II/2013 concerning Enforcement of Guidelines for Handling Environmental Cases.

One form of implication of the absence of specific rules regarding the execution of environmental civil decisions is how to execute compensation bills or execute the obligations of certain parties to carry out certain actions, and the process of environmental restoration. Types of judgments in environmental cases can be in the form of orders to pay a sum of money as compensation for environmental damage, and also in the form of orders to carry out certain actions that can be valued in money in the form of environmental restoration. There are specific constraints in this regard. First, if the petitioner for execution is the Ministry of Environment and Forestry (KLHK), it will be difficult to reach an agreement through mediation, considering that the lawsuit was filed based on a research and calculation process carried out by independent experts, and therefore the KLHK feels it has no basis for authority to negotiate in the process. mediation. Second, the Ministry of Environment and Forestry also cannot accept compensation proposed in peace if the amount does not match the calculations of independent experts. This is because if the Ministry of Environment and Forestry approves compensation whose amount is not in accordance with the calculations of independent experts, it can be considered as a potential loss to the state.

Furthermore, in carrying out certain actions (namely environmental restoration) there are also no specific procedures/rules that govern it. The absence of specific rules confuses the court as the executor, namely how environmental restoration is carried out, what are the details of the costs and who is responsible for overseeing it, moreover environmental restoration is an activity that will take a long time or not be completed all at once. On the other hand, the confusion in the court executing certain actions suggests that the court is not serious about following up on the applicant's request for execution.

Another obstacle is that often executions cannot be carried out because there is no confiscated property as collateral due to the difficulty in accessing information regarding the Defendant's assets. Even though normatively, a plaintiff in an environmental civil case can file for collateral confiscation of assets owned by the company regarding the amount of the claim value. However, the HIR as a reference for civil procedural law in environmental civil disputes allows the confiscation of such collateral in the final decision, so that the plaintiff has never received guarantees regarding the Defendant's ability to carry out the decision from the start if the lawsuit is granted. On the other hand, the Plaintiff and the Court faced difficulties in finding and determining assets that could be confiscated as collateral. Due to the nature of the case which is based on civil settlement, it is difficult for the court to trace and disclose asset data in the relevant agencies.

As reported by Greenpeace Indonesia, a number of companies convicted of forest fires and damage failed to pay compensation of up to 18.9 (eighteen point nine) trillion rupiahs. Greenpeace said the amount came from claims

for compensation in 11 (eleven) cases related to companies that were found guilty of damaging the environment by courts since 2015, or since the establishment of the Directorate General of Law Enforcement of the Ministry of Environment and Forestry (KLHK). Ten of the eleven cases of government civil lawsuits require compensation of 2.7 (two point seven) trillion rupiahs related to forest fires between 2012-2015. While the eleventh civil case is the biggest case in terms of compensation reaching 16.2 (sixteen point two) trillion rupiahs related to illegal logging carried out since 2004 by the Merbau timber company Pelalawan Lestari. On paper, the compensation that should have been paid by a number of companies is of course very beneficial for both the state and society and of course the environment. On the other hand, civil lawsuits and compensation are claimed as part of the administrative sanctions used by the government to enforce the law and take preventive measures.

2. Research Method

This research is a doctrinal legal research that focuses more on primary and secondary legal materials. Research on doctrinal law itself can be carried out through an inventory of positive laws, tracing legal principles and doctrine, legal systematics, comparative law and legal history. As a practical normative science, normative legal science is directly related to legal practice which involves two main aspects, namely the formation of law and the application of law. Soerjono Soekanto and Sri Mamudji argue that normative legal research is done by conducting library research or secondary data.

The author in his dissertation presents 3 (three) legal issues and develops them from several approaches. This dissertation uses a statutory approach (law approach), contextual approach (conceptual approach), jurisprudence approach (case approach), comparative approach (comparative approach), empirical approach and historical approach (historical approach). In accordance with the nature of writing which is normative legal writing, the legal materials collected are more focused on primary and secondary legal materials. The legal material collected is in the form of primary legal material, namely statutory regulations that are binding in nature, namely the 1945 Constitution of the Republic of Indonesia, other relevant laws and regulations, judge's decisions in environmental cases. The secondary legal materials used are in the form of: documents or treatises on laws and regulations on the environment, research results, opinions of legal experts. Tertiary legal materials, in the form of: legal dictionaries, scientific journals in the field of law, articles from magazines, newspapers and websites (web-sites).

The collection of legal materials is done by studying literature by reading, studying, taking notes, making reviews of good materials in the form of library books including laws and regulations, books, dissertations and research results from previous researchers related to research, also by interviewing several related resource persons. While document studies are also carried out as an effort to collect legal materials which are carried out through written legal materials with content analysis training.

3. Results and Discussion

The principle of strict liability was applied for the first time in the Rylands vs Fletcher case in 1868 in England. Where the decision of the judge at the appeal level of The Court of Exchequer Chamber is jurisprudence which has developed into the basis of legal values not only in environmental aspects, but also for other issues which are very complicated when associated with the development of various lives, and are even used in criminal law. In this case, a person is considered to be immediately responsible as soon as pollution occurs if he uses super hazardous substances in carrying out his activities. In Indonesia, strict liability is also only applied to certain environmental cases. This means that strict liability is applied selectively. In fact, especially for cases of pollution and/or environmental damage caused by industrial activities, it should have been applicable from now on, it is necessary to apply the principle of absolute responsibility and a reverse proof system as a way to resolve cases of environmental pollution and/or damage caused by industrial activities. usually has a very large impact. Therefore, the process of collecting data also requires the use of technology and research which is very complex and complicated, and requires a very large amount of money. So it is very unfair and impossible if the people who are victims of industrial pollution are what is needed to resolve cases of environmental pollution and/or damage. Because of this, it is only natural that industrial circles that are suspected of committing acts that cause pollution and/or damage to the environment are burdened with proof.

The principle of absolute responsibility, namely that the plaintiff does not have the obligation to prove the existence of the defendant's fault or according to Mochtar Kusumaatmadja-the principle of absolute responsibility is a responsibility that views "mistake" as something that is absolutely irrelevant at issue, whether it actually exists or not. So, the element of guilt does not need to be proven by the plaintiff as a basis for paying compensation. Thus, the plaintiff's burden is lighter, only proving that his actions were dangerous, abnormal, and there is causality between his actions and the losses incurred.

The purpose of implementing the principle of absolute responsibility is to fulfill a sense of justice, align with the complexity of technological developments in natural resources and the environment and encourage high-risk business entities to internalize the social costs that may arise as a result of their activities. Strict liability is a type of civil liability that is not based on the defendant's fault. Strict liability means that the element of error does not need to be proven and the proof is instead borne by the defendant and he really does not pollute and/or damage the environment.

Thus, the things that need to be considered to determine the scope of strict liability are:
(1) The degree of risk, in this case the risk is considered high if it cannot be reached by conventional efforts according to existing technological capabilities.
(2) The degree of danger (the gravity of harm), in this case the danger is considered very difficult to prevent when it starts.
(3) The level of feasibility of preventive efforts (the appropriateness), in this case the person in charge must show maximum efforts to prevent the occurrence of consequences that cause losses to other parties.
(4) Consideration of the risks and benefits of the activity has been carried out adequately so that it can be estimated that the benefits obtained will be greater when compared to the costs that must be incurred to prevent the hazard from occurring.

Strict liability is a concept of civil liability in which the defendant does not require any mistakes made by himself, but has caused losses to the plaintiff. To be able to sue under the principle of strict liability, the plaintiff does not need to prove whether the company violated the law causing environmental damage or not. Based on the elucidation of Article 88 UUPPLH, every perpetrator of environmental destruction and/or pollution is absolutely responsible (strict liability) for damage and/or environmental pollution committed for his business activities, so that the plaintiff does not need to prove the elements of the defendant's fault as a basis for compensation payments.

The amount of compensation that can be charged to polluters and/or environmental destroyers can be determined up to a certain limit. In a sense, if according to the stipulation of laws and regulations it is determined that insurance is required for the business and/or activity concerned or if environmental funds are available.

1. The elucidation of Article 88 of the PPLH Law requires a minimum corporate asset value to be able to bear the burden of compensation in the event of a strict liability lawsuit. Therefore, the UUPPLH requires insurance with sufficient value to bear the burden of compensation if caught in a claim or strict liability suit, thus corporations that have direct contact with the environment are subject to a minimum asset requirement to run their business. It is appropriate that the application of the principle of strict liability is also balanced with preventive regulations regarding corporations whose business is related to the environment. That it often happens that corporations are not careful in managing the environment on the concession land they control.
2. In handling environmental disputes, there are several decisions that are landmark decisions related to decisions on environmental civil cases that have permanent legal force (inkracht van gewijsde), namely decisions stating that legal considerations use evidence with strict liability. This can be seen in several decisions on environmental civil cases as follows:
3. 1. PT Waimusi Agroindah, the proof of its lawsuit uses the principle of strict liability which in its decision states that the defendant is absolutely responsible (strict liability).
4. 2. PT Waringin Agro Jaya, the form of the lawsuit is an unlawful act with absolute liability (strict liability) which in its ruling states that this lawsuit uses evidence with the principle of strict liability.

5. 3. PT Ricky Kurniawan Kertapersada, the form of the lawsuit is an unlawful act with absolute liability (strict liability) and in the decision it is stated that the defendant is now being held absolutely responsible (strict liability).

Law enforcement must be carried out and always pay attention to the elements rather than the purpose of the law itself, namely, legal certainty, benefit and justice. This is intended to create order in social life. For example, "Whoever pollutes the environment must be punished." This provision applies to anyone who commits an act of environmental pollution, then there will be consequences for the polluter in the form of punishment. The pollutant here is not because he pollutes, not based on cause and effect, but because of a pre-existing regulation which prohibits the act of pollution. The important point that is desired in legal certainty is the sound of the law being implemented. Environmental laws are made with the aim of protecting the environment and providing benefits to society. These regulations are made for the benefit of society. Don't let the implementation of these regulations cause people to become restless.

According to Bagir Manan, law is the highest source (rule of law) in regulating and determining the mechanism of legal relations both between the state and society and between members or groups of people with one another. The rule of law in that sense can be interpreted that the principle of legality is the most important foundation in every action, be it carried out by individuals or groups.

The peak of this legalism can be observed in Krabbe's opinion which states that law has the highest authority. Almost in line with this thought is what Leon Duguit put forward. Law is an embodiment of the will of the state, but members of the state themselves are subject to the laws they make. In this constellation, it can be said that nothing can escape the law, even for those who make it.

Abdul Gani Abdullah said, to meet all legal needs in society, Article II of the Transitional Rules of the 1945 Constitution provides basic rules and is a constitutional bridge that gave birth to the Indonesian legal system with normative substance. The legal system consists of laws that are products of colonial legislation, customary law, Islamic law, and products of national legislation. Every legal formation according to the 1945 Constitution, however, still makes the four systems as material law.

In enforcing environmental law, justice must be considered. Nevertheless, law is not synonymous with justice, because law is general in nature, binding on everyone, and generalizing. On the other hand, justice is subjective, individualistic and not generalized. According to Sudikno Mertokusumo, "If law enforcement only pays attention to legal certainty, then other elements are sacrificed. Likewise, if what is considered is benefit, then legal certainty and justice are sacrificed, and so on. In enforcing environmental law, the elements of legal purposes are namely certainty, benefit, and fairness must be able to be compromised, must receive attention in a proportional, balanced manner, although in practice it is not easy to do so.

Mas Ahmad Santosa said that the purpose of enforcing environmental law is: "Compliance with the values for protecting the carrying capacity of ecosystems and environmental functions which are generally formalized into laws and regulations, including provisions governing waste or emission quality standards. The values are the value of protecting the carrying capacity of the ecosystem and environmental functions is not always embodied in the form of legislation as binding principles or binding norms. Not a few of these values are only in the form of principles (non-binding principles) contained in an international declaration (soft law) as well as the precautionary principles contained in the Rio Declaration (Principle 15). The effective implementation of the principles (non-binding principles) should ideally be preceded by their translation into operational norms that are binding However, efforts to translate the principles of n the on-binding is not always easy. Therefore, control is expected to be able to proactively translate or interpret these principles into court decisions."

Environmental law enforcement according to Notitie Handhaving Milieurecht (1981) is supervision and application or by threat, the use of administrative, criminal or civil instruments achieves the arrangement of legal provisions and regulations that apply generally and individually. Supervision (control) means government supervision to comply with the provision of regulations that are parallel to investigations in criminal law. In

addition to or before law enforcement, negotiations, persuasion and supervision are often held so that legal regulations or permit requirements are complied with. This is commonly called compliance (fulfillment). According to Andi Hamzah, because it is difficult to find a term in Indonesian that is equivalent to the term compliance (which includes negotiation, supervision, information, advice, and so on) as a preventive effort for violations of environmental law, it is better to interpret (environmental) law enforcement broadly. which includes both preventive (the same as compliance) and repressive (starting from investigations, investigations, up to the application of sanctions, both administrative and criminal law). Law enforcement which means broadly (covering preventive and repressive aspects). suitable with the condition of Indonesia, where elements of the government actively participate in increasing public legal awareness.

In enforcing environmental law, all forms of violations or crimes for perpetrators, whether committed by individuals or entities, are regulated in such a way, with preventive and repressive measures. For this repressive action there are several types of instruments that can be applied and their application depends on the need, which covers three areas of law namely administrative, criminal and civil.

Thus, environmental law enforcement is an effort to achieve compliance with regulations and requirements in general and individual applicable legal provisions, through supervision and application (or threats) of administrative, criminal and civil means. According to Subagyo, of the three forms of the instrument, there is no priority scale or is the first and last order, so if there is an assumption that a criminal act is the last punishment in application and if other actions do not solve the problem, this is not entirely true. In fact, this criminal act only resolved unilaterally, has not yet reached the sufferer, a group of people affected, in the form of restoration to its original state.

3.1. Environmental Law Enforcement Strategy

Efforts to save and manage the environment as well as the process of sustainable development is a process of renewal that requires capital in the form of new insights, attitudes and behaviors and is supported by new values and norms. This requires the role of law enforcers in monitoring environmental sustainability which can be realized in three actions. First, pre-emtive action. This action includes all efforts to anticipate all forms of possible environmental damage or pollution, by early detecting all correlative criminogenic factors, so that these factors do not cause police hazard or factual threats. Second, preventive action, covering all efforts to prevent environmental damage and/or pollution which is an act of violating environmental law. These preventive measures are mainly carried out by law enforcement officials, other government officials, as well as the community or community groups themselves. Third, repressive action, namely the action taken through the process of enforcing environmental criminal law by bringing the perpetrators of environmental destruction and pollution before the court.

3.2. Settlement Inside and Outside the Court

According to the provisions of Article 84 UUPPLH, environmental (civil) disputes can be resolved through court or out of court based on the voluntary choice of the parties concerned. If the effort outside the court chosen is not successful, then one or the parties can take the court route. Lawsuits through courts can only be pursued if efforts to resolve disputes outside the chosen court are declared unsuccessful by one or the parties to the dispute.

Settlement of environmental law enforcement disputes can be pursued through civil law channels out of court to reach an agreement regarding: (a) the form and amount of compensation; (b) recovery actions due to pollution and/or damage; (c) certain actions to ensure that pollution and/or damage will not be repeated; and/or (d) actions to prevent negative impacts on the environment. In the settlement of environmental disputes outside the court, the services of a mediator and/or arbitrator may be used to assist in resolving environmental disputes. Out of court dispute resolution does not apply to environmental crimes.

Article 88 UUPPLH regulates absolute responsibility (strict liability) for everyone whose actions, business and/or activities use hazardous and toxic materials (B3), produce and/or manage B3 waste, and/or pose a serious threat to the environment life is absolutely responsible for losses that occur without the need to prove an element of guilt.

Arnold H. Loewy in the book Criminal Law provides an explanation of strict liability as follows: "Strict liability occurs when a conviction can be obtained merely upon proof that the defendant perpetrated an act prohibited by statute and when proof by the defendant that the utmost care to prevent the act would be no defense. (Strict liability occurs if a crime can be imposed solely on the basis of proof that the defendant committed an act prohibited by law and if it is proven by the defendant that he has made every effort to prevent the act, it is not a defense.)"

The environment as a legal subject, such as natural resources, forests, water, air, flora, fauna, elephants, tigers, and cultural values such as objects of cultural heritage or customs cannot defend legal interests independently. Therefore, a "representative" is needed, which aims to protect legal interests for the environment. According to the UUPPLH, the representatives authorized to file a claim for compensation for environmental pollution and/or damage are the government and local government, the community, and environmental organizations.

Government agencies and local governments that are responsible for the environment have the authority to file claims for compensation and certain actions against business actors and/or activities that cause environmental pollution and/or damage resulting in losses to the environment. The community also has the right to file a lawsuit as a group representative for the interests of those concerned themselves and/or for the benefit of the community if they experience losses due to environmental pollution and/or damage. Claims can be filed if there are similarities in facts or events, legal basis, and types of lawsuits between group representatives and group members. Environmental organizations also have the right to file a lawsuit in the interest of preserving environmental functions. The right to file a lawsuit is limited to demands for certain actions without claims for compensation, except for real costs or expenses. An environmental organization can file a lawsuit if it meets the following requirements:
1. In the form of a legal entity;
2. Affirms in its articles of association that the organization was established for the purpose of preserving environmental functions;
3. Has carried out real activities in accordance with the articles of association for a minimum of 2 (two) years.

Civil lawsuits as a means of law enforcement can be carried out by both citizens and the government, as stated by Drupsteen that civil law can be used by both citizens and authorities to compel compliance with environmental requirements that are public law. However, the filing of civil lawsuits as a means of law enforcement by authorities or the government is limited to situations where administrative law enforcement is inadequate, so that in reality the use of civil lawsuits as a means of enforcing environmental law by government agencies in the Netherlands is very rare.

In the Netherlands, tort lawsuits can be used as a means of enforcing public law norms, such as violations of licensing or civil law provisions. Environmental law norms are part of public law norms. Law enforcement of environmental law norms is divided into three areas, namely: enforcement of prohibitive provisions in environmental laws and regulations, enforcement of provisions or requirements in permits, and enforcement of stipulations of sanctions.

Regarding the meaning of enforcing prohibitive provisions, it can be understood from Koeman's description that several environmental laws and regulations prohibit certain activities. For example, the prohibition to enter hazardous materials and the like into surface water (based on Article 1 paragraph (1) Wet verontreiniging oppervlaktewateren). Thus, violations of such prohibition provisions actually fall within the meaning of unlawful acts (onrechtmatige daad) within the meaning of Article 1401 BW.

Then regarding the meaning of enforcing licensing requirements, it can be understood from Koeman's explanation that actions that are contrary to the requirements, which are legally stipulated in an environmental permit, are considered illegal. This was clearly stated by the Supreme Court in its decision on Houthandel van Dam (H.R. 9 January 1981 NJ 1981, 227), in which the Supreme Court considered: Against the requirements legally set forth in the permit of the Nuisance Law in order to protect the interests of the surrounding population Article 1401 BW must be applied in real circumstances for which the prerequisites are stated, such a meaning is accepted because the norms of behavior are applied by central or regional legislators, violation of these norms is basically an unlawful act against the interests of the people for whom the norms are set.

As for the meaning of enforcing the determination of sanctions, it can be understood from Koeman's description, namely that civil law enforcement lawsuits can ultimately enforce compliance with public law sanction decisions. For example, in a situation after a decision to close a place of business, but the place of business continues to operate. Local residents and other interested parties can file lawsuits for unlawful acts, for example asking for a ban on carrying out these activities onwards.

Civil judges who examine lawsuits against generally accepted government decisions can test the decision with higher provisions or with the general principles of good governance. However, government decisions that can be examined by civil judges are generally accepted government decisions that are not or do not include laws in a formal sense. The Dutch Supreme Court (Hoge Raad) in its decision (HR. 16 May NJ 1987, 251) has emphasized the authority of civil judges to examine government decisions that are generally accepted, but not laws in a formal sense. The authority of civil judges to examine material government actions that have an impact on the environment is based on a decision by the High Court of The Hague (Hof, 4 February 1982, NJ 1982, 641).
From this understanding, Muhammad Akib further argues that, substantially, civil environmental law contains provisions relating to the fulfillment of the civil rights of individuals, groups of people, and civil legal entities in relation to a good and healthy environment. If these civil rights are harmed by one of the parties, for example due to environmental pollution or damage, then in an effort to protect the law the means of civil environmental law is used. Environmental protection for victims of environmental pollution and/or damage is provided by granting the plaintiff the right to file a lawsuit for compensation or environmental restoration measures against polluters.

The application of the principle of strict liability is often used in countries that adhere to the Common Law system. In Indonesia, which adheres to the Civil Law system, it is rare to apply the principle of strict liability. Likewise, in environmental cases handled by environmental judges, judges who are patterned by the civil law legal system will find it difficult to change their mindset to the habits of common law judges. This is what makes judges difficult and reluctant to apply the principle of strict liability.

Along with increasing awareness of environmental preservation and protection, the application of the principle of strict liability in environmental cases has begun to be reflected in Supreme Court decisions. In 2003, the first court decision in Indonesia began to apply the principle of strict liability to convict the Defendant. The Bandung District Court Decision Number 49/Pdt.G/2003/PN.Bdg which was upheld by the Bandung High Court and finally won in Cassation is known as the Mandalawangi Decision. The second decision which is based on the principle of strict liability has only occurred in the decision of the South Jakarta District Court Number 456/Pdt.G-LH/2016/PN.Jkt.Sel. Furthermore, the lawsuit of the Minister of Environment and Forestry against PT. Waringin Agro Jaya was won by the Judge by punishing him with compensation of up to IDR 466 (four hundred sixty six) billion. Likewise with the Supreme Court (MA) Decision in 2016 which sentenced PT. Merbau Pelalawan Lestari to pay a fine to the State in the amount of Rp. 16.2 (sixteen point two) trillion in relation to illegal logging cases that damage the environment. Through this decision the Supreme Court won the cassation filed by the Ministry of Environment and Forestry as well as annulled the decision of the Pekanbaru High Court Number 79/PDT/2014/PTR, November 28 2014 juncto Pekanbaru District Court Decision Number 157/Pdt.G/2013/PN Pbr. March 3, 2014.

However, it must be admitted that not all judges who handle environmental cases have the paradigm of environmental protection and preservation which is reflected in their decisions. One of the cases that attracted public attention, for example, was when the Panel of Judges at the Palembang District Court rejected a civil lawsuit by the Ministry of Environment and Forestry (KLHK) against PT Bumi Mekar Hijau (BMH) worth IDR 7.8 (seven point eight) trillion. This lawsuit was filed by the state over the burning of 20,000 (twenty thousand) hectares of acacia tree plantation forest land owned by PT. BMH in 2014 in Simpang Tiga Sakti District and Sungai Byuku District, OKI Regency. In its decision, the panel considered that the Plaintiff could not prove the existence of ecological losses, such as the calculation of loss of nutrients, loss of biodiversity, so that the act against the law could not be proven. The assembly also assessed that PT. BMH who suffered losses. Interestingly, the Palembang High Court, which annulled the Palembang District Court (PN) decision on December 30, 2015, rejected the civil lawsuit from the Ministry of Environment and Forestry (KLHK) against PT. Bumi Mekar Hijau (BMH) is related to a forest and land fire case covering an area of 20,000 (twenty thousand) hectares in Ogan Komering Ilir (OKI) Regency, South Sumatra.

The same thing also happened in the case of PT. Kalista Alam where the High Court of Banda Aceh in the decision of Case Number 80/PDT-LH/2018/PT.BNA, October 4 2018, has canceled the decision of the Meulaboh District Court Number 16/Pdt.6/2017/PN Mbo, regarding PT. Kalista Alam which is free from all lawsuits. The company that burned the Tripa Rawa peat forest to turn it into an oil palm plantation was still required to pay a fine of IDR 366 (three hundred sixty six) billion. This case began when the Ministry of Environment and Forestry (KLHK) filed a civil and criminal lawsuit against PT. Kalista Alam to the Meulaboh District Court, West Aceh District. Meulaboh District Court in decision No. 12/Pdt.G/2012/PN.MBO, sentenced PT. Kalista Alam was guilty and required to pay a fine of IDR 114 (one hundred billion in cash to the Ministry of Environment and Forestry through the state treasury account. Also, IDR 251,000,000,000.00 (two hundred fifty one billion rupiah) for environmental restoration of 1,000 (one thousand) hectares of Rawa Tripa peat forest which the company burned. The court also confiscated land, buildings and plants belonging to PT. Kallista Alam in Pulo Kruet Village, Darul Makmur District, covering an area of 5,769 (five thousand seven hundred and sixty nine) hectares. The Meulaboh District Court's decision was later upheld by the High Court's decision and Supreme Court.

PT. Kalista Alam, which did not accept the decision, sued the Ministry of Environment and Forestry, the Government of Indonesia, Cq, the Ministry of Agrarian Affairs/Spatial Planning/Head of BPN, Cq, the National Land Agency for the Aceh Provincial Office, and the Investment and One-Stop Service Office for Aceh Province, to the Meulaboh District Court. In the lawsuit, it was stated that the coordinates of the civil lawsuit listed by the Ministry of Environment and Forestry and the court decision were not in accordance with the field, or an error in objecto. The Meulaboh District Court on April 12 2018 granted PT. Kallista Alam and released the company from all lawsuits. The Ministry of Environment and Forestry then filed an appeal and the Banda Aceh High Court in the decision Case Number 80/PDT-LH/2018/PT.BNA annulled the decision of the Meulaboh District Court with Case Number 16/Pdt.G/2017/PN Mbo and PT Kalista Alam still had to pay a fine and land restoration costs.

Several interesting environmental decisions to be studied in this study, which have applied the principle of strict liability, include the Mandalawangi, Nasik Strait, PT Merbau Pelalawan Lestari cases. Meanwhile, those who have not applied the strict liability principle, for example PT. Bumi Mekar Hijau and PT. Kalista Alam. However, although several civil environmental decisions in their decisions the Judge has applied the principle of strict liability and the decision has also obtained permanent legal force, where according to the Director General of Law and Law of the Ministry of Environment and Forestry, the civil decision has been granted by the panel of judges with a score of 19.8 (nineteen point eight) trillion, but until now only approximately 250 (two hundred and fifty billion) have been successfully executed. The Director General of Legal Aid at the Ministry of Environment and Forestry explained to the environmental judge certification training that there are still many difficulties in executing environmental civil decisions, including the difficulty for the court to carry out executions, because the execution process requires a long time and requires an overview or systematic environmental restoration. This is what the Plaintiff has not submitted, in this case the Ministry of Environment and Forestry in the process of civil proceedings in court, there is also no collateral confiscation so it is difficult

for the Ministry of Environment and Forestry and the courts to confiscate the assets of the Defendants, which in this case are usually companies destroying the environment.

The concept of rule of law in Continental European countries is based on the concept of a rule of law put forward by Immanuel Kant, which is known as a liberal rule of law or a rule of law country in the narrow sense of the word "Nachtwakerstaat", because the state only functions to maintain security in the narrow sense. The concept of a rule of law state in a broad sense known as the Welfare State or walvarsataat was put forward by F.J. Stahl. With regard to the concept of the welfare state by P. de Haan, et all, in his book bestuurecht in desociale rechtsstaat, states "De moderne staat is neit allen rechsteaat in de negentiende eeuwse zin, maar ook verzorgingsstaat-of zo men wil-sociale rechtsstaat. Thus the task of the state in a welfare state is very broad, namely prioritizing the interests (in the sense of prosperity) of all its people. This is where it can be seen that Lemaire's main characteristic is "Bestuurzorg" (organizing public welfare), but the government's interference in all aspects of the life of its people must be limited by law so that it does not act arbitrarily.

4. Conclusion

The conclusions in this study indicate that there is a combination of the concepts of a rule of law and a welfare state. According to the authors in this study the most relevant aspects are the rule of law and the legality aspect of the rule of law concept. In addition, the availability of natural resources for the fulfillment of social welfare through development is related to the state's obligation to create general welfare. The issue of social justice which is also the concept of a welfare state includes justice for the present generation as well as for future generations. Economic justice and state control rights over natural resources are very prominent factors in the form of the state's obligation to create general welfare and as much prosperity as possible for the people.

A rule of law (rechtsstaat) is a country that places law as the basis of its power and the exercise of this power in all its forms is carried out under the rule of law. Meanwhile, the concept of a welfare state is that the state or government is not solely the guardian of security or public order, but is the main bearer of the responsibility for realizing social justice, general welfare and the greatest prosperity of the people. Welfare law state was born as a reaction to the failure of the classic rule of law concept and socialist rule of law state.

In the concept of a welfare state, the role of the state is in a strong and large position in creating public welfare and social justice. Such a conception of the state, in various literatures, is known as the social service state or agency of service. The concept of a modern rule of law state apart from requiring that every action by the state/government be based on law, the state/government is also entrusted with broad roles, duties and responsibilities for the welfare of society. According to Bagir Manan, the concept of a modern rule of law basically contains three main aspects, namely, political aspects, the concept of law itself and socio-economic aspects. From the political aspect, it includes the limitation of state power, from the legal aspect, it includes the supremacy of law, the principle of legality and the rule of law, while from the socio-economic aspect, it is social justice and general welfare.

References

A. Sonny Keraf, Environmental Ethics, Jakarta: Kompas, 2006) p. 165.
Achmad Ali, Unraveling the Law, (Jakarta: Gunung Agung, Jakarta, 2002) p. 3
Aharon Barak, Judge in Democracy, (Oxford and Princeton: Princeton University Press, 2006) p.4.
Ahmad Jazuli, Law Dynamics of the Environment and Natural Resources in the Framework of Sustainable Development (The Law Dynamics on the Environmental and Natural Resources in order to Sustainable Development). Rechtsvinding Journal, Vol. 4 No. 2, August 2015, p. 181. https://sustainabledevelopment.un.org/content/documents/5987our-common-future.pdf
Ahmad Zaenal Fanani, Thinking Philosophically in the Judge's Decision, Varia Judiciary Number 304 March 2011, page 3.
Andi Hamzah, Environmental Law Enforcement, Sinar Graphic, Jakarta, 2005, page 90.

Anita Afriana and Efa Laela Fakhriah, Inclusiveness of Environmental Law Enforcement through Absolute Responsibility: An Overview of Forest Fire Lawsuits in Indonesia, Journal of Civil Procedure Law Vol. 2 Number 2, 2016, p. 278

Armida Salsiah Alisjahbana, Endah Murniningtyas, Sustainable Development Goals in Indonesia: Concepts, Targets and Implementation Strategies. Cet. 2 – London; Padjadjaran, Press; 2018, p. i.

Coordinating Agency for the Environment At the UN General Assembly in 1972, all Conference decisions were ratified through UN General Assembly resolution No. 2997 (XXVII) on December 15, 1972.

Bagir Manan, Inter-Central and Regional Relations According to the 1945 Constitution, Jakarta, Sinar Harapan Library, 1994, page 38.

Bradley C. Canon, Defining the Dimensions of Judicial Activism, Judicature, Volume 66, Issue 6, December 1983, p. 239

Brian Galligan, Judicial Activism in Australia, in Kenneth M. Holland, editor, Judicial Activism in Comparative Perspective, (London: Macmillan, 1991) p. 71.

Christopher G. Buck, Judicial Activism in Gary L. Anderson and Kathryn G. Herr, editor, Encyclopedia of Activism and Social Justice, (California: SAGE Publication, 2007), p. 785.

Daniel Bodansky, Jutta Brunnee, and Ellen Hey (eds.), The Oxford Handbook of International Environmental Law (Oxford University Press, 2007), p. 619.

Didi Nazmi Yunus, Conception of the Law of the State, Angkasa Raya, Padang, 1992.hlm. 20

E. Utrecht, Introduction to Indonesian State Administrative Law, Tinta Mas Library, Surabaya, 1986, p. 29, emphasizes that "Bestuurzorg" is the duty of the Welfare State government, namely a modern legal state that shows the interests of all the people.

Gianfranco Poggi, The Development of the Modern State, Sociological Introduction, California: Stanford University Press, 1992, p. 126.

Green Growth Concepts and Definitions Working Paper, October 2014, p. 12.

Gustav Radbruch, Five Minutes of Legal Philosophy (1945), translated by Paulson and Stanley L. Paulson, Oxford Journal of Legal Studies, Vol. 26, No. 1, 2006, p 13–15.

Hamdani and Sutarto, Regional Autonomy in the Perspective of the Unitary State of the Republic of Indonesia, Solo, Penepen Mukti, 2002, p. 39.

Hamdi, Environmental Civil Case Court Solution for Immediate Restoration of Peatlands Damaged by Burning, Rayyana Communication, Jakarta, 2021, p.422.

Hamzah Hatrik, Corporate Responsibility Principles in Indonesian Criminal Law (Strict Liability and Vicarious Liability), Jakarta: PT Raja Grafindo Persada, 1996, p. 55

Haryadi, Prim, Development of Environmental Law Through Enforcement of Civil Law in Indonesia, Journal of the Constitution Volume 4 vol 14 Number 1 of 2017. Hal. 135.

Heddy Shri Ahimsa-Putra, Paradigm of Socio-Cultural Science "A View", Paper presented at the Public Lecture "Research Paradigm of Humanities Sciences" organized by the Linguistic Study Program, Graduate School, Indonesian University of Education, in Bandung, 7 December 2009, p. 11

https://dlh.luwuutarakab.go.id/berita/5/kerusakan-environmental-life-dan-pembebabnya.html accessed August 21, 2021. 14.05

https://www.greenpeace.org/indonesia/siaran-pers/1103/ganti-rugi-189-triliun-terkait-kases-kebakaran-dan-kerusakan-hutan-gagal-dipaid-senomor-corporation-government-harus- take-decisive-steps/ accessed on 9 July 2020

Imamulhadi, Environmental Law Enforcement Based on the Wisdom of Indigenous Peoples of the Archipelago, Unpad Press, Bandung, 2011, page 47.

Isma'il Nurdin and Sri Hartati, Social Research Methodology, (Surabaya: Media Friends of Scholars, 2019), p. 27

Jhony Ibrahim, Theory and Methodology of Normative Law Research, Malang, Bayu Media Publishing, 2006, p. 32.

Johnny Ibrahim, Theory and Methods of Normative Legal Research, (Malang: Bayumedia Publishing, 2005), p. 33

M. Yamin, Preparatory Manuscripts of the 1945 Constitution: Minutes of the BPUPKI/PPKI Session, Jakarta, Republic of Indonesia State Secretariat, 1959, p. 299.

Mas Ahmad Santosa, Application of the Principle of Absolute Responsibility (Strict Liability) in the Environmental Sector, ICEL, Jakarta, 1997, p., 23

Mas Ahmad Santosa, Application of the Principle of Absolute Responsibility (Strict Liability) in the Environmental Sector, ICEL, Jakarta , 1997, page, 23

Mochtar Kusumaatmadja-B. Arief Sidharta, Introduction to Law, Bandung, Alumni, 2000, p.88

Moh. Mahfud MD, Building Legal Politics, Upholding the Constitution, Jakarta, Rajawali Pres, 2010, p. 26.

Muhammad Akib, Global and National Perspective Environmental Law, Jakarta, Raja Grafindo Persada, 2014, page 7.

Muhammad Erwin, Legal Philosophy, (Jakarta: Raja Grafindo, 2012), p.123

Muhammad Tahir Azhary, Several Aspects of Constitutional Law Criminal Law and Islamic Law, Jakarta, Kencana Prenada Media Group, 2012, p. 234.

Mukhlish, Constitutional Ecology: Between Reconstruction, Investment Or Exploitation On Behalf Of The Republic Of Indonesia, Journal Of The Constitution, Volume 8, Number 3, June 2011, p. 163.

Muladi and Barda Nawawi Arief, Anthology of Criminal Law, Bandung: Alumni Publishers, 1992, p. 169

Munir Fuady, Modern State Law Theory (Rechstaat), Bandung, PT. Refika Aditama, 2011, p. 1-2.

P. De Haan, et all, Bestuurecht In de Socialerechstat, del, I, Ontwikkeling, Organisatie Instrumentarium Kluwer-Deventer, 2014, p. 150-160

Pan Mohamad Faiz, Dimensions of Judicial Activism in Constitutional Court Decisions, Journal of the Constitution, Volume 13, Number 2, June (Jakarta: MK 2016) p., 410

Peter Mahmud Marzuki, Legal Research, (Jakarta: Kencana Prenada Media Group, 2011), page 21

Ronny Hanitijo Soemitro, Legal and Jurimetric Research Methodology, Jakarta: Ghalia Indonesia, 1990, p. 11-12,

Salim HS, Introduction to Written Civil Law (KUHPerdata), Sinar Graphic, Jakarta, 2008, p. 45

Soemardi, General Theory of Law and the State: Fundamentals of Normative Law as Descriptive-Empirical Law, Bandung, Media Indonesia, 2010, p. 225.

Soerjono Soekanto and Sri Mamudji, Normative Legal Research A Brief Overview, (Jakarta: Rajawali Prss, 2004), p. 13-14.

Soetandyo Wignyosoebroto, Law and Methods of Study, in a Collection of Teaching Materials on Legal Research Methods, (Jakarta: FH UI,), pp. 228-246. See also Bambang Sunggono, Legal Research Methodology, (Jakarta: Rajawali Press, 2001), p. 43

Sudikno Mertokusumo, Know the Law, Liberty Publisher, Yogyakarta, 1999 p. 34.

Sukanda Husin, Indonesian Environmental Law Enforcement, Jakarta: Sinar Graphic, 2009, p. 105.

Syaiful Bahri Ruray, Legal Responsibility of Local Government in Management and Preservation of Environmental Functions, Bandung, Alumni, 2012, p. 27.

Terry Hutchinson, Researching and Writing in Law, (Sydney: Lawbook Co, 2002), p. 128; See also, Dyah Ochtorina and A'an Efendi, Legal Research, (Jakarta: Sinar Graphic, 2014), p. 26-27

The results of the preparatory work were perfected and ratified by UN General Assembly resolution No. 2849 (XXVI) on 20 December 1971. Preparations for this conference involved cooperation between countries and non-governmental organizations. The need for this world conference is increasingly felt by the existence of pollution called "black tides" due to the sinking of the tanker "Torrey Canyon" on the coasts of France, England and Belgium.

Wirjono Prodjodikoro, Principles of State and Political Science, PT. Eresco, Bandung Cet. 2nd, 1981, p. 37