
Criminal Liability for Corporations in Handling Environmental Damage in the Cisalada River (Case Study at PT QL Agrofood)

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Abstract

Environmental destruction by corporations often presents significant legal challenges, especially in establishing criminal liability. This article examines the aspects of criminal liability that can be applied to PT QL Agrofood in the case of environmental pollution and destruction in the Cisalada River. Based on this case study, an in-depth analysis of relevant environmental regulations and law enforcement mechanisms is conducted, particularly in relation to Law Number 32 of 2009 concerning Environmental Protection and Management and other relevant regulations. The main focus of this research is to assess whether Indonesia's legal structure is effective enough in reaching and taking action against corporations responsible for environmental destruction. The results show the impact on corporations and communities close to PT QL Agrofood, as well as efforts in environmental protection and management. Using normative and empirical approaches, this article recommends improvements to regulations that can strengthen the principle of criminal liability for corporations in cases of environmental pollution.

INTRODUCTION

The environment is an essential part in ensuring the sustainability of living things including humans, so preserving the environment can also be said to preserve all living things on earth. If the environment is damaged, the existence of living things is threatened, including humans in it. Paul defines environment as one of the names that is important and needs to be considered. We are all in the Environment and there are various living and non-living things in the Environment (Paul & Aithal, 2020).

According to Article 1 of Law No. 23/1997 on Environmental Management, the environment is the unity of space with all objects, forces, conditions, and living things, including humans and their behaviour, which have an impact on the continuity of life and the welfare of humans and other living things. Environmental issues are becoming more and more of a concern as time goes by.

Not only at the regional level, but also at the national level, even throughout the world, environmental protection and management have become important issues that require serious attention. This is evidenced by the existence of the Law on Environmental Protection and Management, which is followed by the laws of each country. For example, Law No. 23 of 1997 on Environmental Management in Indonesia and The National Environmental Policy Act of 1969 (NEPA), also known as the National Environmental Policy Bill, exist in the United States.

The company is a business organ established by humans that aims to get as much profit as possible and as little loss as possible, it is no longer aligned today, the company is not only

required to seek profit in any way, especially by damaging the environment, of course it is prohibited and as much as possible avoided. The role of companies in Indonesia today is also required in running their business must preserve the environment. Indonesia is a state of law that provides a legal basis related to environmental protection and management, especially regulating so that the organs, for example the Company, as much as possible can avoid pollution and environmental damage so that rules are made to regulate this.

Every company or activity is required to comply with all existing regulations regarding environmental protection and management, as stipulated in Law Number 23 Year 1997 on Environmental Protection and Management. This regulation stipulates that every company and every individual is required to preserve the environment, control pollution and damage, and ensure that the environment remains healthy.

The Cisalada Watershed is part of the tributaries that flow and contribute to the Citarum main stream. The Cisalada watershed is located between Mande Village and Murnisari Village in Mande Sub-district, Cianjur Regency. The area of Mande village and Murnisari village which has dry and hilly land is a potential place for the development of broiler farms, arid areas and road access that can be crossed make the reason why many livestock entrepreneurs make the area where they build livestock companies, one of which is PT QL Agrofood.

The livestock company PT QL Agrofood built a broiler farm in Mande village and Murnisari village in 2019 where the land built by the company was a hill which was then converted (cut end fill) into a farm, the evidence is close to the Cisalada river basin, so that in the process of building the farm it is therefore suspected of damaging the environment, especially the Cisalada river basin which narrowed as a result of the construction of the farm, as for the problems that arise, namely: How is criminal liability for corporations in handling environmental damage to the Cisalada River? And how is the impact of environmental damage to the Cisalada river flow on the surrounding community where the PT QL Agrofood company stands?

RESEARCH METHODOLOGY

The method used in this research is by using the normative juridical analysis method, a method that studies and examines legal principles on the provisions of environmental law and corporations, as well as existing literature on library data. This research is descriptive analysis, because this paper provides an overview of the object under study, namely the provisions of environmental law and corporations in the context of corporate legal liability in handling environmental damage to the Cisalada River. Data collection techniques use library research, namely through literature studies conducted at the Suryakencana University Master of Laws library and obtaining data via the internet (online) and using field research techniques, namely data collection by conducting interviews with company management specifically with the Human Resources and General Affair (HRGA) Department and with the general public around the company and other related agencies.

RESULTS AND DISCUSSION

1. Corporate Legal Liability for Environmental Damage in the Cisalada River Basin

In addition to humans, legal subjects in environmental crimes also include legal entities, one of which is a corporation. Environmental crimes often occur around the settlements of the cisalada river, apart from the large amount of garbage, there is also destruction of the river flow, changing the size of the river due to the presence of corporations around the cisalada river, An interesting thing happens when corporations or companies that are indicated or proven to violate the rules through environmental pollution and destruction are subject to liability. The burden of responsibility is aimed at business actors who cause pollution and environmental damage. To be subject to criminal liability, there must be an element of intent (*opzet*) or negligence (*culpa*). This liability is a result that must be accepted for actions that have been taken against the environment (Jadda & Anggara, 2021).

Sopian and Sri Rahayu stated that the application of environmental law is very useful for human survival. "The reciprocal relationship between humans and the environment requires a set of rules that govern attitudes and human behaviour towards the environment, environmental law. According to Drupsteen, environmental law (*milieurecht*) is in a broad sense. Moenadjat Danusaputro divided Environmental law is divided into two kinds, namely utilization-oriented modern environmental law (Use-Oriented Law). Modern environmental law are rules and norms to regulate human behaviour with the aim of protecting the environment from damage and quality reduction to ensure its sustainability can still be used continuously by generations now and generations to come." Modern environmental law consists of rules and norms that aim to regulate human behaviour to protect the environment from damage and degradation, so that its sustainability can be maintained and continue to be used by current and future generations (Sopian & Pudjiastuti, 2021).

Amanda Perry defines a created corporation as an entity into which investors can place their capital, and from which the investors can derive their share of the profits, but which will protect those 'shareholders' from the full extent of the financial liabilities arising from the corporation's activities (Perry-Kessarlis, 2010). In the Indonesian legal system the corporation is a legal subject so that the imposition of legal liability for the corporation is carried out against the corporation itself or the organs of the corporation in this case the directors or human beings as the driving force of the corporation (Alhakim & Soponyono, 2019). In the current era of free trade, it must be a concern, because in this era corporations can run anything to get the maximum profit, including by taking unlawful actions (Kosanke, 2019).

Capital investment or investment comes from the word invest which means to plant, invest or invest money (Ibrahim, 2004). Investment is a term that is often used both in everyday business activities and in the language of legislation. In the business world, the term "investment" is more popular, while "capital investment" is more commonly used in the context of legislation. Even so, both terms have the same meaning so they are often used *interchangeably* (Supancana, 2006). Investors are the most important part of efforts to move the wheels of the economy of a region, especially in the era of modernity as part of today's industrial revolution, the presence of investors who own capital is expected to invest in Indonesia can absorb productive labour and be able to have a major impact on the national

economy (M. Rendi Aridhayandi, Muhammad Isa, Eka Pranajaya, Sahrul Munir, M. Ibrohim Iskandar DZ, Sopiannudin, 2019).

The status of a Limited Liability Company (PT) as a legal entity is expressly stated in the Law on Limited Liability Companies. This is different from the arrangements in Articles 36 to 56 of the Commercial Code (Wetboek van Koophandel/WvK), which do not explicitly state that a Limited Liability Company is a legal entity. However, through the provisions of the WvK, it can be interpreted that the WvK recognises Limited Liability Companies as part of legal entities (Marsella, 2016; Yani & Mansur, 2020).

The affirmation that a Limited Liability Company is a legal entity can be found in Article 40 paragraph (2), Article 43, and Article 45 paragraph (1) of the Commercial Code (WvK). Based on these provisions, a Limited Liability Company fulfils the elements of a legal entity, namely having assets that are separate from the assets of members or management, having objectives that are different from the objectives of members or management, having its own interests, and having a regular organisational structure (organ) (Man S. Sastrawidjaja, 2012).

According to Adrian Sutedi, a Limited Liability Company is a type of company established to conduct business with capital divided into shares, where each shareholder owns a share in the company. As a legal entity, the company is seen as a collection or association of capital because its capital consists of tradable shares, so that changes in ownership can be made without dissolving the company (Supriyatin & Herlina, 2020; Sutendi, 2015). In carrying out its business activities, the existence of a Limited Liability Company cannot be separated from the influence of the environment as a space where humans and other living things interact.

The environment that includes reciprocal and interdependent relationships in the ecosystem is an important essence in the sustainability of life. Therefore, the business activities of Limited Liability Companies must consider environmental sustainability to maintain the balance of the ecosystem and support the survival of humans and other living things (Hamid, 2016). The problem in the environment that can be encountered is finding solutions to ensure and make the earth and the surrounding nature a habitable space. Therefore, actions that can pollute the environment are actions that can kill life (Hakim, 2020).

Ethics in the environment is an absolute aspect that cannot be ignored, as it is closely related to environmental sustainability and balance. The absence of ethics in environmental management can create imbalances and damage that are not in line with expectations for a healthy and sustainable environment. To overcome this, the concept of environmentally sound development emerged, which was born from awareness of environmental issues and strengthened by the existence of environmental law as a stand-alone concept (Pitaloka, 2021).

The role of humans as environmental managers is a major factor in realising environmentally sound development, because active and continuous interaction between humans and the environment has a significant impact on the sustainability of the ecosystem. One of the implementations of this environmental ethics and awareness is the implementation of Environmental Impact Assessment (AMDAL) before a company can obtain a business licence. AMDAL serves as a tool to map and prevent potential negative impacts on the environment due to an activity, such as a chicken farming business, that could cause significant changes to the surrounding ecosystem. Thus, the application of environmental ethics and the

implementation of AMDAL are strategic steps in maintaining the balance of nature and supporting sustainable development.

Humans are the most noble living creatures because humans are the only living creatures that have reason. So that automatically because of that glory humans can be said to be an ecosystem, including humans. For this reason, there must be attention and regulation to prevent damage and pollution in the environment. Therefore, all development that will be built later must pay attention and think about the risks for the long term so that it does not affect the environment and can maintain the environment that will come to be even better (Sutedi, 2010).

Cornel Woll states that the firm is an essential element of modern life, especially after the industrial revolution in the UK which drastically accelerated world change. He also argues that the firm is a major player in the economy, whose life cycle is determined by market dynamics. A company can experience collapse or bankruptcy, either due to the inability to compete in the market or as a result of legal sanctions. Penalties for corporate crime, such as revocation of a business licence or huge fines, can have the same effect as forcing a company out of the market. According to the Organisation's Sentencing Guidelines, the severity of sanctions should be proportionate to the seriousness of the offence, the wrongdoing committed, as well as the company's history of violations. In serious criminal cases, enforcement against the company is not only aimed at providing a deterrent effect but also at ensuring justice for the aggrieved community (Woll, 2022).

In line with the importance of corporate responsibility, Indonesian law also emphasises environmental protection through Environmental Impact Assessment (AMDAL). The AMDAL regulation was first introduced through Law No. 4 of 1987 on the Basic Provisions of Environmental Management, which required environmental impact assessments as a condition of business licensing. This regulation was later updated through Law Number 32 of 2009 on Environmental Protection and Management, followed by Government Regulation Number 27 of 1999, and refined through Government Regulation Number 27 of 2012. AMDAL is now a crucial document prior to the issuance of an environmental licence, ensuring that operating companies not only follow market rules but also take responsibility for their impacts on the environment. This integration of market compliance and environmental protection reflects the importance of balancing economic growth and sustainability (Woll, 2022).

The applicable Environmental Protection and Management Law is a formal offence, which means that a violation of administrative law is also considered a violation of criminal law. Of the various theories of corporate criminal liability that exist, there is no one particular theory that is firmly adopted, such as direct liability, identification theory, vicarious liability, or strict liability (Sopian & Pudjiastuti, 2021).

The corporation located close to the Cisalada River is PT QL Agrofood. PT QL Agrofood is a foreign capital company that conducts business cooperation with domestic investors (Joint-Venture), headquartered at Jl Raya Bandung Xjalan lama Cianjur. PT QL Agrofood is a subsidiary of QL Resources Berhad led by Chia Song Kooi, which was originally a local livestock trader who became a regional agrofood. Today, PT QL Agrofood is Asia's largest egg producer and surimi producer, as well as venturing into the palm oil sector including plantation milling and clean energy biomass.

QL Agrofood was established in 1987, with its origins dating back to 1970, when Chia Song Kun, and his brother harvested coral calcium from dead mollusks on a remote beach near their village which they sold to a local feed mill. The success of this humble business led Chia Song Kun to expand his product range and open new branches in Malaysia. PT QL Agrofood's vision is to become a globally recognised agro company of choice, and its mission is to create nutritious products from agro resources that benefit everyone.

After establishing the core business in the livestock business the company began to grow close to expansion, which brought the difference to food products for human consumption. Currently PT QL Agrofood is engaged in 3 (three) sectors, integrated animal husbandry including chicken farming, livestock trading and customer brands; seafood products such as surimi and processed fish and customer brands; and oil palm plantation companies, such as milling, plantation and biomass clean energy. Since 2010, PT QL Agrofood has invested in a replication model business strategy that involves the deployment of technology, capital and management expertise to populated Asian markets, particularly Indonesia, where the country is a new growth provider.

The company PT QL Agrofood has an integrated farm, namely in the broiler breeding sector and layer breeding, which is located in several places in Cianjur such as the area of Kp Nambo Mande Village Mande District and Kp Citespong Jamali Village Mande District with a total population of around one million chickens in the maintenance period. Layer breeding in Cikalong, Sukaluyu and Haurwangi locations with a total population of 1.5 million chickens.

PT QL Agrofood today has implemented an integrated business model where farms and slaughterhouses and other supporting materials have been integrated into an interconnected unit, such as the poultry slaughterhouse located in Cikalongkulon which functions as a collection of chickens from two locations, both in Mande and Citespong, both of which will end up in the poultry slaughterhouse, for further production processes to separate the parts according to the criteria required by consumers.

PT QL Agrofood in the use of labour focuses on the use of the workforce around the place of business production, it can be seen where almost 80% (eighty percent) of the workforce at PT QL Agrofood uses local labour and only in certain positions uses foreign workers (TKA), this indicates that PT QL Agrofood's commitment to help move the economy in the region is not only looking for large profits with large profits but also as much as possible can benefit all parties.

PT QL Agrofood is a foreign investment company that is part of QL Resources Bhd (QLR), a Malaysian company. Established in 2010, the company was originally named Trimitra and focused on trading poultry products, such as chicken eggs, chicken DOC, broiler chickens, and chicken feed. After the joint venture, PT QL Agrofood has grown rapidly despite its relatively young age, and is now one of the major players in the poultry industry in Indonesia, especially in the management of integrated chicken farms.

However, like any other company, PT QL Agrofood is also subject to environmental law regulations in Indonesia. Law No. 32/2009 on Environmental Protection and Management expressly regulates sanctions for legal entities proven to have committed environmental pollution. There are three types of sanctions that can be imposed, namely administrative, civil, and criminal sanctions. Administrative sanctions are regulated in Article 76 to Article 83,

which authorises the minister, governor, or regent/mayor to impose sanctions on business actors or activities that violate environmental permits. The types of administrative sanctions include written warnings, government coercion, suspension of environmental permits, and revocation of environmental permits.

Article 81, for example, states that business actors who do not comply with government coercion may be subject to fines for delays in the implementation of such sanctions. Furthermore, Article 97 stipulates that serious violations of this provision can be categorised as criminal offences, with sanctions in the form of imprisonment and fines (Umboh, 2020). Thus, the existence of these sanctions aims to ensure that every business entity, including PT QL Agrofood, carries out its operational activities in an environmentally responsible manner. This is an important step in creating a balance between the development of the poultry industry and environmental sustainability in Indonesia, as stipulated in the applicable environmental regulations.

The criminal liability system for perpetrators of environmental crimes (EPLH) is expressly regulated in Law No. 32/2009 on Environmental Protection and Management. This regulation outlines the mechanism of legal liability for perpetrators of EPLH, both individuals and corporations, through legislative policies that include legal subjects that can be held accountable as well as mechanisms for prosecution and punishment.

Based on Article 1 point 32 of Law No. 32 Year 2009, the legal subject in the case of TPLH includes "every person," which is defined as individuals and business entities, whether incorporated or not. Thus, corporations such as PT QL Agrofood can also be legal subjects in environmental offence cases. Article 116 further stipulates that if a criminal offence is committed by a corporation, then criminal liability can be imposed on the business entity itself and/or the individual who gave the order or led the criminal offence.

In practice, if the criminal offence is committed by individuals working under the corporation, either through employment or other relationships, criminal sanctions can be imposed on the order giver or leader of the business entity, whether the criminal offence is committed alone or jointly. This provision does not only focus on the individual perpetrator but also emphasises the legal responsibility of the corporation as an entity. This legal approach is in line with the main objective of Law No. 32/2009, which is to provide a deterrent effect to offenders while ensuring that all parties are responsible for environmental sustainability. With this integration of legal principles, environmental regulation in Indonesia seeks to maintain ecosystem sustainability amidst the dynamics of industrial and economic development, creating a balance between business sector progress and protection (Johar, Olivia Anggie Daeng, M. Yusuf Tri, 2022).

Punishment is the imposition of sanctions on parties who are proven to have violated the applicable rules, which are considered to disrupt social stability. Punishment can only be given if there are rules governing what behaviour is or is not permissible, and the violation of these rules is the basis for punishment. The main issue in punishment is the implementation of moral justice, because there are elements of coercion, reduction of pleasure, restriction of personal rights, and even injury. The purpose of punishment is to restore social justice that has been disrupted due to norm violations (Johar, Olivia Anggie Daeng, M. Yusuf Tri, 2022; Usmita, 2019). Punishment of corporations must fulfil an integrative approach, namely as a

means of general prevention, protection of society, maintenance of social solidarity, and compensation for violations (Priyatno & Kristian, 2020).

In the corporate context, PT QL Agrofood is an example of the impact of corporate activities on the environment. The company's construction, located close to the Cisalada River, has been proven to cause damage to the river ecosystem. During the construction process, soil and rocks fell into the river, resulting in the narrowing and silting of the river. These changes have resulted in the disruption of the Cisalada River's water flow, especially during the rainy season, where high rainfall intensity causes flooding that submerges neighbouring houses.

In response to the flooding, PT QL Agrofood took a number of steps to manage the situation and respond to community grievances. Firstly, the company coordinated with local government officials, including the village government and the police, to help accommodate residents' complaints and keep the situation conducive. This step aims to avoid potential anarchist actions while supporting an orderly administrative process, by utilising data on affected residents owned by the village government. Second, the company provided compensation to the affected residents. PT QL Agrofood realises that this flood disaster is not wanted by anyone, but as a party proven to cause environmental damage, the company is responsible for its impact. Compensation of Rp. 3,000,000 per house was given to each survivor, according to the results of the joint deliberation of the affected residents, the local government, and the company.

This case demonstrates the importance of corporate accountability in maintaining a balance between economic development and environmental protection. The corrective actions taken are not only aimed at defusing the situation, but also demonstrate the company's commitment to fulfilling its social and environmental responsibilities as part of its operational sustainability.

2. The Impact of Environmental Damage To The Cisalada River Flow On The Surrounding Community Where The PT QL Agrofood Company Stands

Before starting its operations, every company is required to obtain a business licence from the government. One of the main requirements in issuing this licence is the preparation of an Environmental Impact Assessment (AMDAL) document. The AMDAL aims not only as an administrative prerequisite but also as a comprehensive guide that describes the potential impact of a company's activities on the surrounding environment. This document includes various information, such as the type of business, land area, development plan, and the company's commitment to preserve the environment and prevent pollution.

As a company engaged in the livestock sector, PT QL Agrofood has a business unit located around the Cisalada River. However, the development activities carried out by this company have had a negative impact on the environment. The Cisalada River, which previously had a large capacity, experienced a significant narrowing due to material in the form of rocks and backfill soil from construction projects in the area around the hill where the company operates. This caused the width of the river to shrink dramatically, reducing its capacity. As a result, during heavy rains and water deliveries from upstream, the river often overflows and causes floods that damage houses, rice fields and plantations owned by residents.

In addition to the impact on the river, PT QL Agrofood is also accused of seriously polluting the environment. Production waste, including chicken manure and hazardous waste, was reportedly discharged directly into the Citarum River, damaging the aquatic ecosystem. The pollution has had far-reaching impacts, including health problems for more than 100 residents suffering from respiratory illnesses, disruption to the economic activities of neighbouring communities, and threats to the sustainability of the river ecosystem. Ironically, residents who report or protest the company's activities often face intimidation, adding to their vulnerability in fighting for the right to a clean and healthy environment.

This case shows the importance of law enforcement related to AMDAL and environmental protection. AMDAL documents should be a binding reference for companies to ensure that their operations do not damage the ecosystem and do not cause negative impacts on neighbouring communities. Such violations must be dealt with firmly through the application of administrative, civil, and criminal sanctions as stipulated in Law No. 32/2009 on Environmental Protection and Management, to prevent further environmental damage and protect community rights (Aliansi Mahasiswa dan Masyarakat Peduli Lingkungan Cianjur, 2015).

Based on the provisions in Article 492 of the Government Regulation of the Republic of Indonesia Number 22 of 2021 concerning Environmental Implementation and Management, the Minister, Governor, or Regent/Mayor is required to apply administrative sanctions to business entities that violate environmental licensing provisions. This is also reinforced in Article 505, which states that administrative sanctions must be applied if a violation of a business licence or government approval is found during supervision. For example, PT QL Agrofood, which built its business unit around the Citalada River, needs to pay attention to regulations related to river utilisation. Law No. 17/2019 on Water Resources stipulates that everyone is prohibited from carrying out activities that can disrupt the condition of water systems or cause damage to water sources, pollution, and interference with water preservation efforts (Article 25). Therefore, PT QL Agrofood is required to obtain permits from relevant agencies, such as the Minister, Governor, or Regent/Mayor, to conduct activities in or around rivers. This is in accordance with the provisions in Government Regulation No. 38/2011 on Rivers, which requires any activity that may affect the flow or condition of a river to obtain an official permit.

On the other hand, the presence of PT QL Agrofood has a positive impact on the surrounding community. One of them is the opening of employment opportunities. In the production process, the company requires labour, the majority of which comes from the surrounding community, starting from the security level to the supervisor. This has a direct impact on increasing the purchasing power of the community, because the income earned by the workers is used for shopping at stalls around the company. In addition, the company also contributes to the Village Original Revenue (PAD). Mande Village and Murnisari Village, where PT QL Agrofood operates, receive income from company taxes paid annually, each amounting to IDR 15,000,000 per village. This income helps the villages with financial management and development.

In addition, the company also participates in social programmes, such as organising compensation for orphans and elderly people. This programme was initiated by the village

government in collaboration with PT QL Agrofood. Every month, the company provides compensation to orphans and the elderly, with the handover being done together with the village government. This programme not only provides social benefits to the community, but also strengthens the relationship between the company and the local residents, creating a sense of mutual support and respect, which in turn helps create security and comfort in the neighbourhood. All of this is expected to maintain the conduciveness that supports the company's productivity.

CONCLUSION AND SUGGESTION

The Cisalada River, which flows in the Mande and Murnisari areas of Cianjur Regency, is now home to several companies, including PT QL Agrofood, which operates in the livestock sector. The construction of these companies on the river has caused damage to the river, characterised by the narrowing of the flow under the company area. As a result, this has triggered catastrophic flooding that inundates local settlements and farmlands. In response, law enforcement actions by the relevant agencies, including the imposition of government coercion, had a deterrent effect on the company, which then provided compensation of IDR 3,000,000 to each flood-affected house. Legal liability for companies that damage the Cisalada River is very important to protect the ecosystem around the river. This can be achieved through a legal approach that involves various instruments, ranging from the police, environmental services, to the community who actively supervise and ensure that companies do not damage the environment. Strict law enforcement against companies proven to violate regulations or even damage the environment is needed to provide a deterrent effect, while preventing the recurrence of similar violations in the future.

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