



Civil liability and indigenous environmental justice in plantation expansion: Lessons from the Aru Islands, Indonesia

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Abstract

This study examines the application of civil liability principles for environmental damage caused by plantation expansion in the Aru Islands Regency and identifies the legal obstacles and solutions in its implementation. Using a socio-legal approach, this research integrates doctrinal analysis of environmental law with empirical findings derived from field interviews involving indigenous communities, local authorities, corporations, and environmental stakeholders. The findings reveal that although the legal framework particularly Law No. 32 of 2009 on Environmental Protection and Management and its amendments recognizes strict liability as a basis for holding corporations accountable, its implementation remains ineffective due to weak supervision, limited institutional capacity, evidentiary challenges in proving causation, and low legal awareness among affected communities. The study further demonstrates that environmental damage not only degrades ecological systems but also undermines indigenous land rights and socio-economic structures. Legal obstacles are exacerbated by regulatory inconsistencies, limited access to justice, and conflicting economic interests at the local level. This research proposes strengthening regulatory enforcement, enhancing community legal empowerment, improving intergovernmental coordination, and integrating local wisdom into environmental governance. These measures are essential to ensure effective civil liability enforcement and to achieve substantive environmental justice in regions affected by large-scale plantation expansion.

Keywords: Civil liability, environmental damage, plantation expansion

Introduction

In line with the development of the times, the development of community life has also progressed rapidly. This societal development is followed by legal development. One of the laws known in Indonesia is civil law. The enactment of civil law in Indonesia cannot be separated from the influence of liberal political forces in the Netherlands that attempted to bring about fundamental changes in the colonial legal order. This policy is known as conscious legal policy.

Civil law is the law that governs the interests between one individual citizen and another individual citizen. Civil law can be written or unwritten. Written civil law is civil law as regulated in the Civil Code. Unwritten civil law is customary law. Civil law also includes civil legal responsibility. In civil law, the result of an act that harms another person/party must be accounted for with compensation (compensation). A process of compensation liability is usually always linked to a specific cause that gives rise to the loss. This is due to the element of fault on the part of the perpetrator of the act.

Civil legal responsibility plays an important role in community life. This is because with the increasing role of companies in economic development, it will cause detrimental impacts on society due to irresponsible activities carried out by companies through various methods. One of these is environmental damage caused by the entry of various large companies. The impact of this environmental damage is also felt by indigenous communities in Aru Islands Regency.

The relationship of the Aru indigenous people with the forest, with the land, and with their environment can be seen as a unity. Gardening, hunting, and other livelihoods are tied to forest and sea territories. When forests and land are damaged, it automatically affects the entire life of the indigenous communities of Aru Islands Regency, directly or

indirectly. For example, the disruption of social and economic relations.

As a community dependent on natural resources, the people of Aru are accustomed to adapting to the seasons. During the east wind season (around May-October), residents go to sea to fish. Conversely, during the west wind season (around November-April), they move to land for farming and hunting. Based on statistics issued by the Central Statistics Agency (BPS) of Aru Islands Regency, the total population of this regency is 103,800 people (2023), with 63 percent being the workforce. The majority work in sectors connected to nature, such as fishermen, farmers, and cultivators. This is also why the people of Aru have rejected the entry of various extractive company permits in Aru for three decades. Especially corporations interested in altering the existing landscape and exploiting natural wealth.

Legal issues arising from the entry of corporations or companies in Aru Islands are primarily related to permits and natural resource exploitation activities that cause environmental damage. Aru Islands has witnessed various environmental and social conflicts due to natural resource exploitation by large companies. Since the 1990s, the Aru community has faced illegal exploitation of fishery resources by foreign vessels, which only stopped during the era of the Minister of Maritime Affairs and Fisheries, Susi Pudjiastuti, with the policy of banning foreign ships. In 2013, the massive #SaveAru movement emerged to reject the plan to convert 70% of Aru's land into a sugar cane plantation by PT Menara Group, which was eventually halted. However, similar plans continue to emerge. In 2018, the government launched the largest cattle farming project in Indonesia, covering 61,000 hectares in the southern part of Aru, which again drew public rejection. In the north, PT Wana Sejahtera Abadi's plan for forest exploitation on a concession area of 54,560 hectares also triggered a strong

reaction from residents, despite the permit being renewed in 2021.

Carbon trading initiatives have also emerged by PT Melchor Group Indonesia (MGI) with the project "Cendrawasih Aru Project" on an area of 191,955 hectares. Although it appears conservation-oriented, this project was rejected by the indigenous communities because it was considered to limit their access to natural resource management and renege on initial promises, such as community-based mangrove crab cultivation. Residents' concerns grew stronger due to the lack of socialization and the company's lack of transparency. This rejection reflects the deep unease of the community over the threat of losing their customary land and adat rights due to repeated land grabbing and tree grabbing policies. These conflicts underscore the need for more just and inclusive policy reforms for the local communities in Aru.

The development of environmental conflicts in Aru Islands Regency has not stopped in the previous period but continues into 2024. The indigenous communities of Aru have once again shown their resistance to various natural resource exploitation-based projects, while also bringing the issue to international forums as a form of advocacy for environmental protection and customary rights. This phenomenon confirms that pressure on the living space of indigenous communities is still ongoing in reality, both in local and global contexts. These collective actions reflect the suboptimal legal protection for indigenous communities amidst the expansion of economic interests based on natural resources.

The situation continued until 2025, where the Aru Islands were again faced with various large-scale projects such as plantations, forestry, and carbon trading schemes that potentially threatened environmental sustainability and the rights of indigenous communities. These projects often proceeded with minimal local community participation and a lack of transparency, thus giving rise to structural conflicts between the state, corporations, and indigenous communities. Indeed, international recognition of the Aru community's movement through #SaveAru further confirms that this conflict is still ongoing today, highlighting the urgency of strengthening legal responsibility, particularly in civil aspects, to guarantee environmental protection and justice for the affected communities.

These latest developments confirm that environmental conflicts in the Aru Islands Regency are not merely a matter of the past, but are currently ongoing and recurring. The tension between investment interests, environmental sustainability, and the protection of indigenous community rights indicates weaknesses in legal implementation and enforcement, especially within the framework of civil liability. This condition demands the strengthening of legal constructs that are not only normative but also capable of responding to empirical realities on the ground, thereby providing effective, just, and sustainable protection for the affected communities and the environment in the region.

Methods

This study employs a socio-legal research design that integrates doctrinal legal analysis with empirical inquiry. The doctrinal component examines statutory regulations, legal doctrines, and relevant literature to construct the normative framework governing civil liability for environmental damage. The empirical component complements this analysis by investigating the actual

environmental and social impacts of plantation expansion, including biodiversity loss, soil degradation, water pollution, and the erosion of indigenous land rights. The research is conducted in the Aru Islands Regency, a region selected due to its ecological significance and the intensity of conflicts arising from large-scale plantation expansion. The area represents a critical case where environmental protection, indigenous rights, and corporate interests intersect, allowing for an in-depth assessment of how civil liability mechanisms operate in practice.

The study draws on both primary and secondary data. Primary data are obtained through fieldwork using semi-structured interviews with key stakeholders, including indigenous communities, local authorities, corporate representatives, environmental NGOs, and legal practitioners. Secondary data are derived from legal texts, academic literature, and policy documents. A purposive sampling method is applied to ensure that respondents reflect the diversity of perspectives relevant to the issue. Data collection combines literature review and field interviews, enabling a comprehensive understanding of both normative and practical dimensions. All data are analyzed using a descriptive-analytical approach, involving systematic classification, interpretation, and evaluation of legal norms and empirical findings to generate a coherent assessment of civil liability in cases of environmental harm caused by plantation expansion.

Result and Discussion

a. Application of Civil Liability Principles Against Business Actors Causing Environmental Damage Due to Plantation Expansion in Aru Islands Regency

The environment is an element that influences and plays a significant role in the survival of beings within it. A good environment is not only viewed from humanity's ability to realize its desires to fulfill its basic needs, but also from humanity's role in maintaining its ecological balance so that it remains preserved. However, the impact of human behavior can be positive, benefiting human life, and negative, causing harm. Humans, not only humans experience its positive and negative impacts, other living beings also experience its impacts, so the impacts caused often become problems and even lead to various forms of environmental damage. Therefore, the party causing environmental damage must be held accountable, including in civil law aspects. Responsibility is the obligation to bear everything if something happens, one can be sued, blamed, and prosecuted. According to law, responsibility is a consequence of a person's freedom regarding their actions related to ethics or morals in performing an act. Then, accountability must have a basis, which is the thing that causes a legal right for someone to sue another person, as well as the thing that gives rise to another person's legal obligation to provide accountability.

In Civil Law, the term 'Unlawful Act' (PMH) is known. In Indonesia, lawsuits for pollution or environmental damage are filed based on PMH and are regulated in UUPPLH Article 87 paragraph (1), which states that 'every person responsible for a business and/or activity that commits an unlawful act in the form of pollution and/or environmental damage causing loss to others or the environment is obliged to pay compensation and/or take certain actions. According to civil law, the basis of accountability is divided into two types, namely fault and risk. Thus, there is accountability

based on fault (liability based on fault) and accountability without fault, known as liability without fault) known as risk liability or absolute liability (strict liability). The basic principle of accountability based on fault means that a person must be responsible because they committed a fault that harmed others. Conversely, the principle of risk liability is that the consumer/affected person and/or plaintiff is no longer obligated, but the producer/owner and/or defendant is directly responsible as a risk of their business.

In Indonesia, previously, regulations concerning the environment were stipulated in Law Number 23 of 1997 concerning Environmental Management and were perfected by the new Law Number 32 of 2009 concerning Environmental Protection and Management, and experienced changes to several articles contained in the Job Creation Law.

UUPLH is designed as a systematic and integrated effort undertaken to preserve the functions of the environment and prevent pollution and/or environmental damage, which includes planning, utilization, control, maintenance, supervision, and law enforcement. With the existence of this Law, it is hoped that it can prevent environmental damage, improve environmental quality, and provide a deterrent effect to perpetrators of violations that cause environmental damage.

The Environmental Protection and Management Law also aims to ensure that sustainable development efforts proceed smoothly and effectively, by considering the impacts on the environment. Therefore, Indonesia's environment must be protected and managed properly based on the principles of state responsibility, sustainability, and justice. In addition, environmental management must provide economic, social, and cultural benefits, carried out based on the precautionary principle, environmental democracy, decentralization, as well as recognition and respect for local wisdom and environmental wisdom. The function of civil accountability can be chosen from two sides, before the occurrence of loss and after the occurrence of loss. If viewed from the side before the occurrence of loss, accountability has a preventive function. There is a possibility that a person must be responsible, either based on an unlawful act (PMH) or strict liability which will encourage the person to act cautiously. Conversely, if someone will not be responsible for the results of their actions (theoretically called no liability), then they will lose the incentive to act cautiously. Under these conditions of no liability, the victim is the only party who must act cautiously.

Looking from the perspective after the loss has occurred, accountability functions to provide space for victims affected by the loss so that their losses can be compensated and to order those who caused the loss to the victim to compensate for that loss. In short, in the context of the environment, civil liability will provide a legal basis that obliges environmental destroyers, meaning those who cause damage that impacts the environment or surrounding people, to pay for the damages.

The application of the civil liability principle to business actors who cause environmental damage in Aru Islands Regency focuses on the obligation of business actors to be responsible for environmental impacts resulting from plantation expansion. In this context, environmental damage such as deforestation, loss of biodiversity, and ecosystem degradation become major issues that affect the lives of indigenous communities dependent on natural resources.

This responsibility is regulated by various regulations, including Law No. 32 of 2009 concerning Environmental Protection and Management (UUPLH) and its amendments in Law No. 6 of 2023 concerning Job Creation.

Article 87 of UUPLH emphasizes that business actors who commit unlawful acts are obliged to pay compensation and carry out environmental restoration. Such compensation includes damages suffered by the community or other parties due to unlawful environmental activities. This principle is reinforced by Article 88 of UUPLH, which adopts the principle of strict liability or absolute responsibility. Under this principle, business actors can be held accountable without needing to prove fault, especially if the activities undertaken are high-risk to the environment, such as large-scale plantation land clearing.

The Job Creation Law amended several provisions of UUPLH, particularly regarding the simplification of environmental permits. Although aimed at accelerating investment, the Job Creation Law still regulates the obligation of business actors to fulfill environmental documents such as the Environmental Impact Analysis and to carry out monitoring of the environmental impacts caused. If business actors violate these provisions, they remain legally responsible for restoring the damage that has occurred, as stipulated in Article 37C of the Job Creation Law.

Environmental damage due to plantation expansion in Aru Islands Regency is often caused by land clearing through burning or illegal logging. These activities not only damage forest ecosystems but also pollute water and soil, which are the main sources of life for local communities. Furthermore, plantation expansion often disregards the rights of indigenous communities to customary land, leading to social conflicts. In this regard, civil liability becomes an important mechanism to provide justice for the affected communities.

Civil lawsuit mechanisms in environmental damage cases can be pursued through several avenues. One is a class action lawsuit filed by groups of directly affected communities. Additionally, non-governmental organizations (NGOs) working in the environmental sector can file representative lawsuits. These lawsuits aim to seek compensation for the damages incurred and to compel business actors to carry out environmental restoration in accordance with applicable legal provisions.

The government plays a crucial role in supervising and enforcing laws against business actors who violate environmental regulations. In this regard, local governments and the Ministry of Environment and Forestry (KLHK) must ensure that business actors comply with environmental documents such as AMDAL. Weak supervision is often the main cause of environmental damage that is uncontrolled. Therefore, there needs to be strengthening of supervisory capacity at the regional level, especially in areas like Aru Islands Regency which has a vulnerable ecosystem.

Besides supervision, administrative law enforcement is also important to prevent business actors from committing greater violations. The government can impose sanctions in the form of fines, revocation of business permits, or temporary suspension of business activities. This step aims to provide a deterrent effect while encouraging business actors to comply with environmental regulations. In some cases, this administrative law enforcement can also be followed by civil or criminal lawsuits if the environmental damage that occurs is very severe.

In the context of Aru Islands Regency, empowering local communities is also key to ensuring the effective implementation of civil liability. Communities need to be educated about their environmental rights, including how to report violations and file lawsuits if necessary. Furthermore, the involvement of indigenous communities in the process of preparing and supervising environmental documents is also important to ensure that their interests are not overlooked in business activities.

Environmental recovery is the primary obligation of business actors who have caused damage. Forest rehabilitation, water quality restoration, and biodiversity conservation efforts must be carried out in accordance with applicable regulations. The government and the community need to strictly supervise the implementation of this recovery to ensure it complies with the standards set in Government Regulation No. 22 of 2021 concerning the Implementation of Environmental Protection and Management.

The application of the principle of civil liability to business actors who cause environmental damage in Aru Islands Regency requires synergy between the government, the community, and law enforcement. Existing regulations such as the UUPLH, the Job Creation Law, and their implementing regulations provide a strong legal basis to demand the responsibility of business actors. However, the successful application of this principle relies heavily on effective oversight, strict law enforcement, and the empowerment of local communities. With these measures, it is hoped that environmental damage can be minimized and environmental justice can be achieved.

b. Obstacles in the Implementation of Civil Liability for Environmental Damage Due to Plantation Expansion in Aru Islands Regency, and How to Solve the Legal Solution

The implementation of civil liability for environmental damage due to plantation expansion in Aru Islands Regency faces various obstacles, both in terms of regulations, law enforcement, and social and geographical conditions. One of the main obstacles is the weak supervision of business actors in fulfilling their obligations related to environmental documents, such as EIAs. In fact, this document is the main prerequisite to ensure that business activities are carried out by considering environmental aspects. When oversight of these documents is not optimal, violations of environmental standards often occur without meaningful consequences. Another obstacle arises from the lack of capacity of local governments to carry out comprehensive supervision. Aru Islands Regency, which consists of many islands, has complex geographical challenges, making it difficult for the government to monitor every plantation activity carried out by business actors. This condition is exacerbated by the lack of human resources and the budget allocated for environmental supervision in the area. As a result, business actors can easily ignore environmental obligations without worrying about legal action.

On the other hand, conflicts of interest between local governments and business actors are often an obstacle in the implementation of civil liability. Local governments, which may rely on investment from the plantation sector to support the local economy, tend to be reluctant to crack down on business actors despite violations. This creates a situation where economic interests take precedence over

environmental protection and the rights of local communities.

The lack of public access to information and legal mechanisms is also a significant obstacle. Indigenous peoples affected by environmental degradation often do not understand their legal rights, including the right to file civil lawsuits. In addition, complicated and expensive legal procedures make the public reluctant or even unable to prosecute business actors. This condition further exacerbates the inequality between business actors who have large resources and vulnerable local communities.

In terms of regulations, although Law No. 32 of 2009 concerning Environmental Protection and Management (UUPLH) and the Job Creation Law provide a legal basis for civil liability, its implementation still faces many obstacles. For example, the application of the principle of strict liability regulated in Article 88 of the UUPLH is often ineffective due to the lack of technical capacity of law enforcement officials to prove the causal relationship between business activities and environmental damage. Another obstacle is the lack of collaboration between the central government, local governments, and non-governmental institutions in dealing with the issue of environmental damage. Poor coordination often leads to policy overlap or even mutual responsibility between the parties involved. In the case of Aru Islands Regency, this situation led to a lack of concrete measures to deal with the environmental damage resulting from plantation expansion. The application of administrative and civil sanctions against business actors is also often ineffective. Sanctions such as administrative fines or environmental restorative orders are rarely followed by a monitoring mechanism that ensures business actors are fully compliant with these provisions. As a result, these sanctions do not provide a strong enough deterrent effect for business actors to change their behavior. In the context of indigenous peoples in the Aru Islands, another obstacle is injustice in the recognition of customary land rights. Plantation expansion is often carried out on land traditionally owned by local communities, but these rights are not formally recognized by law. This uncertainty causes communities to lose access to their natural resources, while business actors continue to carry out activities without considering social and environmental impacts.

To overcome these obstacles, comprehensive and implementable legal solutions are needed. One of the main steps is to strengthen supervision of business actors' compliance with environmental documents, such as AMDAL. Local governments need to work with the central government to increase surveillance capacity, including through the use of technologies such as satellite monitoring to detect environmentally damaging activities. In addition, the government must increase public access to information and legal mechanisms. Environmental law education programs for indigenous peoples in the Aru Islands can help them understand their rights and how to advocate for them. The provision of free legal aid through cooperation with legal aid institutions can also encourage people to claim their rights in civil proceedings.

Coordination between the central and regional governments needs to be improved to ensure that the environmental policies regulated in the UUPLH and the Job Creation Law can be implemented effectively. The central government can provide technical and financial support to local governments to overcome geographical and resource barriers in environmental monitoring.

In terms of law enforcement, there needs to be a stricter supervision mechanism for the implementation of administrative and civil sanctions. The government can set up an independent supervisory team tasked with monitoring whether business actors have fulfilled their obligations in restoring environmental damage. If violations continue to occur, heavier sanctions, such as revocation of business licenses, must be imposed.

The government also needs to ensure legal recognition of the rights of indigenous peoples to customary land. This step can be done through the acceleration of customary land certification or official recognition through local regulations. With this recognition, indigenous peoples will have a stronger legal basis to protect their lands from environmentally damaging plantation expansion. In the long term, it is important to integrate sustainability principles into plantation management policies. The government can develop incentives for business actors who implement environmentally friendly practices, such as sustainable agriculture or community-based forest management. These incentives can be in the form of tax reductions or easier access to funding.

Enforcement of the principle of civil liability requires courage from law enforcement officials to take action against business actors indiscriminately. The court also needs to ensure that the environmental litigation process is fair and transparent, so that the affected local communities can get justice. With these solutions, obstacles in the implementation of civil liability for environmental damage in Aru Islands Regency can be overcome gradually.

Conclusion

Based on the results of the research and discussion in the previous chapter, it can be concluded that:

1. The application of the principle of civil liability against business actors who cause environmental damage due to plantation expansion in Aru Islands Regency faces various challenges, including a lack of legal awareness among business actors, weak supervision and law enforcement by the government, and the difficulty of proving a causal relationship between plantation activities and environmental damage. The principle of strict liability in accordance with the Environmental Protection and Management Law should be the legal basis for claiming compensation without the need to prove elements of wrongdoing. For its effectiveness, it is necessary to strengthen the capacity of supervisory institutions, use more assertive legal instruments, and increase the role of indigenous peoples in reporting and monitoring business activities in the region.
2. Obstacles in the implementation of civil liability for environmental damage due to plantation expansion in Aru Islands Regency include weak law enforcement, limited public and business actors' understanding of environmental regulations, lack of coordination between related institutions, and technical obstacles in proving environmental losses in court. Legal solutions include strengthening environmental regulations by including stricter provisions on civil liability, increasing the capacity of law enforcement officials and communities to understand and apply environmental laws, and implementing local wisdom-based approaches to engage indigenous peoples in collaborative environmental monitoring and protection.

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