

Criminal Responsibility Of Perpetrators Of Environmental Damage By Burning Land As A Purpose Of Clearing New Land In The Bakow Sungai Kepenghuluan, Rokan Hilir Regency (Study Of Decision NO. 251/PID.B/LH/2024/PN-RHL)

Kuncoro¹⁾, Sriono²⁾, Nimrot Siahaan³⁾
^{1,2,3)}Faculty of Law, University of Labuhanbatu

*Corresponding Author
Email: sriono.mkn@gmail.com

Abstract

This study aims to find out and understand the Criminal Liability of Perpetrators of Environmental Destruction by Burning Land as the Purpose of Opening New Land in the Kepenghuluan Sungai Bakau Regency, Rokan Hilir Regency based on Decision Number. 251 / PID.B / LH / 2024 / PN-RHL. The type of research used is Normative Legal Research. Discussion Results: Criminal Liability of Perpetrators of Environmental Destruction by Burning Land as the Purpose of Opening New Land in the Kepenghuluan Sungai Bakau Regency, Rokan Hilir Regency based on Decision Number. 251 / PID.B / LH / 2024 / PN-RHL, namely the defendant was sentenced to imprisonment for 1 (one) year and 6 (six) months and a fine of Rp1,000,000,000.00 (one billion rupiah) with the provision that if the fine is not paid, it will be replaced with imprisonment for 1 (one) month and pay court costs of Rp5,000.00 (five thousand rupiah). Criminal threats according to the formulation of Article 98 Paragraph (1) and 99 Paragraph (1): Article 98 paragraph (1) formulates: "Any person who intentionally commits an act that results in exceeding ambient air quality standards, water quality standards, sea water quality standards, or environmental damage criteria, shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 10 (ten) years and a fine of at least IDR 3,000,000,000.00 (three billion rupiah) and a maximum of IDR 10,000,000,000.00 (ten billion rupiah)..". Furthermore, Article 99 paragraph (1) states: "Any person who, due to his/her negligence, causes ambient air quality standards, water quality standards, sea water quality standards, or environmental damage criteria to be exceeded, shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 3 (three) years and a fine of at least IDR 1,000,000,000.00 (one billion rupiah) and a maximum of IDR 3,000,000,000.00 (three billion rupiah)."

Keywords: Criminal Liability, Perpetrators, Environmental Destruction, Burning Land to Clear New Land

INTRODUCTION

Human life and behavior today are diverse. Starting from positive behavior to behavior that leads to negative activities have been done by humans (Tampongangoy et al., 2022). A sense of concern for others is not something new that should be discussed. However, (Silalahi, 2021) a sense of concern for the environment is something that needs to be discussed. This is because humans live side by side with the environment (Andros & Djajaputera, 2024). A good environment is created because of a great sense of responsibility that is present in some people, and a bad environment, (Nomor et al., 2024) a damaged environment because of the lack of a sense of responsibility in managing and maintaining it.

(Adifa et al., 2022) Every human being innovates both themselves and their environment. Humans innovate with the environment by carrying out activities in land management. Land that is managed with the aim of developing talents in agriculture, plantations and others. One of the things that the author is currently researching is the activities of people in clearing land for agricultural/plantation purposes. This activity from several certain points of view is common as an activity of a farmer. Even this activity has a positive purpose to fill empty land with the specified plants. However, this activity is often misused by a handful of people for practical activities and does not require much cost, but causes harm to others (Sulhin & Sirivunnabood, 2018).

The activity of opening new land for farmers through forest burning clearly violates the provisions of the law, (Tampongangoy et al., 2022) even the perpetrators can be threatened with imprisonment. Although this has been regulated by law, even accompanied by the threat of criminal penalties for the perpetrators, it does not deter people from committing the same act in the future. This can be seen from the many cases that ensnare many perpetrators in committing similar acts, namely burning land for certain interests by damaging the environment (Sus & Unr, 2020).

(Irvan Tri Harnanda (dalam Zeithml., 2021) As previously mentioned, environmental protection and management are regulated in Law Number 32 of 2009 concerning Environmental Protection and Management. With several incidents that have occurred related to environmental destruction even occurring until now, it is deemed necessary to conduct a study entitled "Criminal Liability of Perpetrators of Environmental Destruction by Burning Land for the Purpose of Opening New Land in the Bakau River Basin, Rokan Hilir Regency (Decision Study Number. 251/PID.B/LH/2024/PN-RHL).

Based on the description above, the author formulates the problem of how is the Criminal Liability of Perpetrators of Environmental Destruction by Burning Land for the Purpose of Opening New Land in the Bakau River Basin, Rokan Hilir Regency (Decision Study Number. 251/PID.B/LH/2024/PN-RHL)?

RESEARCH METHODS

The type of research used is normative legal research, namely legal research conducted by examining library materials or secondary data. The approach used is a case study approach and a legislative approach. This study uses primary and secondary legal materials. The primary legal materials used are Law Number 32 of 2009 concerning Environmental Protection and Management and secondary legal entities used in the form of books, legal journals that are very relevant to this study. Data collection is carried out through literature studies to be further analyzed using descriptive analysis methods. Descriptive analysis is a form of research data analysis to test the generalization of research results based on one sample.

RESULT AND DISCUSSION

Definition of Environment

(Johar et al., 2022) The environment is the condition of nature and its contents which influence each other. Otto Soemarwoto stated: The environment is the sum of all objects and conditions that are in a place and influence each other. Theoretically, space is not limited by quantity. Like the sun and stars. Furthermore, Emil Salim defines the environment as objects, conditions, circumstances and influences that are in a space and affect life including humans. This definition has a broad meaning. If simplified with limitations and factors that can be reached by humans, these factors include nature, politics, economics, social conditions.

Based on CHAPTER I General Provisions Article 1 number 1 In Law Number 32 of 2009 concerning Protection and Management of the Environment, the Environment is defined as a unity of space with all objects, power, conditions, and living creatures, including humans and their behavior, which affect nature itself, the continuity of life, and the welfare of humans and other living creatures. Furthermore, number 2 states that: Protection and management of the environment are systematic and integrated efforts made to preserve the function of the environment and prevent pollution and/or damage to the environment which includes planning,

utilization, control, maintenance, supervision, and law enforcement. Meanwhile, preservation of environmental functions based on number 6 is a series of efforts to maintain the continuity of the carrying capacity and environmental capacity (Wardana, 2023).

Environmental preservation is very important for the sake of maintaining the ecosystem and maintaining good natural resources in the environment. Efforts in environmental protection and management are systematic and integrated efforts carried out with the aim of preserving environmental functions and preventing environmental pollution and/or damage which include planning, utilization, control, maintenance, supervision, and law enforcement.

Any attempt to damage the environment by burning land as a way for someone to open new land in a place is a criminal act. This act clearly violates the legal rules on environmental protection and management.

(Nurmalasari et al., 2024) Excessive environmental exploitation can have a negative impact on the environment. Environmental exploitation carried out by burning land for the purpose of opening new land is very unfortunate, because the act of burning the land makes the environment polluted with the emergence of smoke that interferes with the air and respiratory system, causing destruction to the surrounding plants and even the soil and water that accompanies it. Burning land by damaging the environment is a practical activity and is widely used by people today because the method is simple and does not take a long time. However, the burning event will have a negative impact on several things related to it. Even the side effects of environmental damage by burning will require a very long recovery for the environment to become better again.

Criminal Liability of Perpetrators of Environmental Destruction by Burning Land for the Purpose of Opening New Land in the Bakau River Basin, Rokan Hilir Regency based on Decision Number. 251/PID.B/LH/2024/PN-RHL.

Case Position

This case began on Tuesday, February 27, 2024 at around 08.00 WIB, the defendant left home to work spraying grass on community land approximately 1 (one) kilometer from the defendant's house, then at around 10.30 WIB the defendant took a break from spraying and immediately went to the land belonging to the defendant's parents which was approximately 1.5 (one point five) kilometers from the location where the defendant was working to spray the land to burn the land. After it was burned and clean, the defendant planned to plant oil palm trees on the land. Then on Tuesday, February 27, 2024 at around 11.00 WIB at Jalan Kampung Aman RT 011 RW 003 Kepenghuluan Sungai Bakau, Sinaboi District, Rokan Hilir Regency, Riau Province, the defendant collected dry leaves and piled the leaves on a pile of dry wood, then took the defendant's lighter and burned the leaves until they burned, then the defendant moved to 4 (four) locations and burned the dry leaves that were piled with wood until they burned in the same way at each location until the fire grew bigger which resulted in a forest fire.

On Tuesday, February 27, 2024 at around 12.00 WIB, the Sinaboi Police Chief ordered the Sinaboi Police Opsnal Team to check regarding information about forest and land fires on Jalan Kampung Aman RT 011 RW 003 Kepenghuluan Sungai Bakau, Sinaboi District, Rokan Hilir Regency, Riau Province, Then the Sinaboi Police Opsnal Team on behalf of Witness Ranjo, Witness Kriswanto and witness Aan Efandi met with witness Jhon Wesli Sitinjak and also saw. The defendant came out of the burned land area, then witness Ranjo called the defendant and asked "WHOSE LAND IS THIS BURNING?" then the defendant answered "YES THIS IS MY LAND SIR", then witness Ranjo asked again "WHO BURNT IT?" hearing this, the Sinaboi Police Opsnal Team immediately secured the defendant and Witness Ranjo asked again "WHAT DID YOU BURNT IT WITH?" The defendant answered, "USE A TOaster, SIR", then after securing the defendant, Witness Aan Efandi took the coordinates of the location where the land was burned using the Avenza Maps application and obtained the coordinates 2°11'32.7" Lat,

100°56'44.6" Long and also took 3 (three) used logs of wood and 1 (one) lighter that the defendant used to burn the land.

Based on the expert statement of SYAFRUDDIN PERWIRA NEGARA from the results of plotting coordinates on the map attached to the Decree of the Minister of Forestry Number 903/ MENLHK/SETJEN/PLA.2/12/2016 dated December 7, 2016 concerning the forest area of Riau Province, the coordinate point 2°11'32.7" Lat, 100°56'44.6" Long is in the production forest area. Furthermore, based on the Expert Statement of PROF. DR. Ir, BAMBANG HERO SAHARJO, as a result of the fire carried out by the defendant, 3.375 tons of carbon were released; 1.118125 tons of CO₂; 0.122 tons of CH₄; 0.0054 tons of NO_x; 0.015 tons of NH₃; 0.0125 tons of O₃ and 0.22 tons of CO and 0.2625 particles. Greenhouse gases released during the fire have exceeded the threshold for pollution, meaning that the gases produced during the burning have polluted the environment in and around the burned land. In addition, the burned peat cannot be restored because it has been damaged. In order to restore peatland damaged by the 1.5 ha land fire by providing compost, as well as the costs that must be incurred to restore the lost ecological factors, a cost of IDR 2,036,413,724 is required, calculated based on the Regulation of the Minister of Environment No. 7 of 2014. So that the Defendant's actions as regulated and threatened with Criminal are considered to have violated Article 108 Jo Article 69 Paragraph (1) letter h of the Republic of Indonesia Law Number 32 of 2009 concerning Environmental Protection and Management as Amended by paragraph 3 of Article 22 of Law Number 06 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law.

Requirements:

1. Declaring that the defendant JUANDA MONANG SIMBOLON alias SIMBOLON alias SIBIRONG has been proven legally and convincingly guilty of committing a criminal act "due to negligence resulting in exceeding water quality standards, sea water quality standards or environmental damage criteria" in violation of Article 99 paragraph (1) of Law of the Republic of Indonesia Number 32 of 2009 concerning Environmental Protection and Management as referred to in the Public Prosecutor's Fourth Indictment.
2. Sentencing the defendant to 2 (two) years in prison, minus the time spent in detention, with an order that the defendant remain in detention, and a fine of Rp. 1,000,000,000 (one billion rupiah), subsidiary to 6 (six) months in prison in lieu of the fine.
3. Stating evidence in the form of:
 - 3 (three) pieces of burnt wood
 - 1 (one) lighter

To judge:

1. Declaring that the Defendant Juanda Monang Simbolon alias Simbolon alias Birong, as mentioned above, has been proven legally and convincingly guilty of committing a criminal act because his negligence resulted in exceeding the standard criteria for environmental damage, as stated in the fourth indictment;
2. Sentencing the Defendant to imprisonment for 1 (one) year and 6 (six) months and a fine of Rp. 1,000,000,000.00 (one billion rupiah) with the provision that if the fine is not paid, it will be replaced with imprisonment for 1 (one) month;
3. Determine that the period of arrest and detention that the Defendant has served is deducted entirely from the sentence that has been imposed;
4. Determine that the Defendant remains in detention;
5. Establishing evidence in the form of:
 - 3 (three) pieces of burnt wood;
 - 1 (one) match (matchstick);
 - Destroyed;

6. Charge the Defendant with paying court costs amounting to Rp. 5,000.00 (five thousand rupiah);

Case Analysis:

The Defendant's actions as regulated and threatened with criminal penalties violate Article 99 Paragraph (1) of the Republic of Indonesia Law No. 32 of 2009 concerning Environmental Protection and Management, the elements of which are as follows:

1. Each person;

The word "every person" is related to the legal subject or more specifically indicates who the person is who can be held responsible for the act/incident that is accused or at least regarding who the person is who must be made a defendant in this case; Considering that the element of every person is fulfilled sufficiently with the existence of a legal subject who is brought to trial and whether he is later proven guilty or not proven guilty or there is a justification or excuse for himself and his actions, this will be proven in the trial; Considering that specifically what is meant by "every Supreme Court of the Republic of Indonesia person" in Law Number 32 of 2009 concerning Environmental Protection and Management is an individual or business entity, whether a legal entity or not; Considering that the legal subject brought before the Public Prosecutor in this trial must be ensured whether or not there is an error against the person brought before the trial (error in persona) with what is contained in the Public Prosecutor's indictment; that the legal subject submitted to the trial by the Public Prosecutor because he was accused of committing a criminal act in the aquo case is an individual, namely the Defendant named Ngatmin alias Min bin the late. Tukiman who has confirmed his identity as stated in the Public Prosecutor's indictment; Considering that based on the description above, the Panel of Judges is of the opinion that the identity of the legal subject mentioned in the Public Prosecutor's indictment lies in the Defendant Ngatmin alias Min bin the late. Tukiman is not in another person, so that there is no error in persona, so that based on these considerations, the Panel of Judges believes that the element of "every person" in the defendant's actions has been fulfilled.

2. Due to negligence resulting in exceeding ambient air quality standards, water quality standards, sea water quality standards, or environmental damage criteria;

The phrase due to "negligence" is intended as an act that occurs due to his fault or negligence or lack of caution, which in criminal law is often referred to as the crime of culpa. Mistakes or negligence or culpa according to legal science have 2 (two) requirements, namely:

- The perpetrator committed an act carelessly or without vigilance;
- The perpetrator must be able to imagine the consequences that arise from his actions which were carried out carelessly.

So to determine an error or negligence can also be seen from the actions of the perpetrator in making efforts to prevent the emergence of a consequence. Article 99 paragraph (1) of Law Number 32 of 2009 concerning Environmental Protection and Management based on the Decree of the Chief Justice of the Republic of Indonesia Number 36/KMA/SK/II/2013 concerning the Implementation of Guidelines for Handling Environmental Cases, the type is classified as a material crime. Material crimes in criminal law theory are generally interpreted as crimes whose emphasis is on the prohibition of consequences. This means that the act committed can be anything as long as the consequences have occurred, it is considered to fulfill the crime.

Inforest fire cases, it is necessary to provide a legal assessment of whether the Defendant's actions have fulfilled the sub-element "due to his negligence", then the Panel of Judges needs to first consider the sub-element exceeded, whether the ambient air

quality standard, water quality standard, sea water quality standard, or environmental damage criteria which are the result of said negligence, in this sub-element there is a conjunction "or" so that it is alternative, which means that to prove this sub-element, not all criteria must be met, but if one of the criteria has been met then this sub-element has been met.

Ambient air quality standards based on the explanation of Article 20 paragraph (1) letter d of Law Number 32 of 2009 concerning Environmental Protection and Management are measurements of the limits or levels of substances, energy, and/or components that should be present, and/or pollutant elements whose presence is tolerated in ambient air. Meanwhile, water quality standards based on the explanation of Article 20 paragraph (1) letter a of Law Number 32 of 2009 concerning Environmental Protection and Management are measurements of the limits or levels of living creatures, substances or components that exist or should exist, and/or pollutant elements whose presence is tolerated in water, while what is meant by seawater quality standards based on the explanation of Article 20 paragraph (1) letter c of Law Number 32 of 2009 concerning Environmental Protection and Management are measurements of the limits or levels of living creatures, substances, energy or components that exist or should exist and/or pollutant elements whose presence is tolerated in seawater.

To find out the standard criteria for environmental damage, we can look at Article 1 number 15 of Law Number 32 of 2009 concerning Environmental Protection and Management, which defines the standard criteria as a measure of the limits of changes in the physical, chemical and/or biological properties of the environment that can be tolerated by the environment in order to maintain its function.

As for the Criminal Threats according to the formulation of Article 98 Paragraph (1) and 99 Paragraph (1), we can see as follows:

Article 98 paragraph (1) states: "Any person who intentionally commits an act that results in exceeding ambient air quality standards, water quality standards, sea water quality standards, or environmental damage criteria, shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 10 (ten) years and a fine of at least IDR 3,000,000,000.00 (three billion rupiah) and a maximum of IDR 10,000,000,000.00 (ten billion rupiah)."

Article 99 paragraph (1) states: "Any person who, due to his negligence, causes ambient air quality standards, water quality standards, sea water quality standards or environmental damage criteria to be exceeded, shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 3 (three) years and a fine of at least IDR 1,000,000,000.00 (one billion rupiah) and a maximum of IDR 3,000,000,000.00 (three billion rupiah)."

CONCLUSION

Criminal Liability of Perpetrators of Environmental Destruction by Burning Land for the Purpose of Opening New Land in the Kepenghuluan Sungai Bakau Regency of Rokan Hilir based on Decision Number. 251 / PID.B / LH / 2024 / PN-RHL, namely the defendant was sentenced to imprisonment for 1 (one) year and 6 (six) months and a fine of Rp1,000,000,000.00 (one billion rupiah) with the provision that if the fine is not paid, it will be replaced with imprisonment for 1 (one) month and pay court costs of Rp5,000.00 (five thousand rupiah).

Criminal threats according to the formulation of Article 98 Paragraph (1) and 99 Paragraph (1): Article 98 paragraph (1) formulates: "Any person who intentionally commits an act that results in exceeding the ambient air quality standards, water quality standards, seawater quality standards, or environmental damage criteria, shall be punished with imprisonment for a

minimum of 3 (three) years and a maximum of 10 (ten) years and a fine of at least Rp. 3,000,000,000.00 (three billion rupiah) and a maximum of Rp. 10,000,000,000.00 (ten billion rupiah)." Furthermore, Article 99 paragraph (1) states: "Any person who due to his negligence causes the ambient air quality standards, water quality standards, seawater quality standards, or environmental damage criteria to be exceeded, shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 3 (three) years and a fine of at least Rp. 1,000,000,000.00 (one billion rupiah) and a maximum of Rp. 3,000,000,000.00 (three billion rupiah)."

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