

Corporate Responsibility for Environmental Damage from The Perspective of Unlawful Acts and Environmental Justice

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Abstract

The purpose of this study is to analyze the application of the principles of unlawful acts and environmental justice to companies, obstacles to law enforcement, and the monitoring and enforcement system related to environmental damage in Indonesia. Environmental damage caused by corporate activities is a global issue. Companies often ignore ecological impacts, threaten biodiversity, and harm surrounding communities, requiring strict law enforcement. Law enforcement against companies that damage the environment in Indonesia faces major obstacles, such as a lack of effective supervision, corruption, and political influence, which hinder corporate responsibility for environmental damage. This study offers a novel perspective by focusing on the legal responsibility of perpetrators of land damage, moving beyond previous research that primarily discussed the government's right to sue for unlawful acts. This study uses a normative juridical approach with analysis of legal regulations, principles of corporate responsibility, and environmental justice, using secondary data analyzed qualitatively. The results indicate that corporate responsibility for environmental damage from the perspective of unlawful acts and environmental justice in Indonesia still faces obstacles. Although regulations govern corporate responsibility, applying the principles is ineffective due to political influence, corruption, and weak monitoring. Strengthening regulatory institutions, implementing transparent reporting systems, and imposing stricter sanctions on companies damaging the environment are important steps to ensure justice. Developed countries can serve as models for improving Indonesia's law enforcement system.

Keywords: Corporate Responsibility; Environmental Damage; Unlawful Acts

1. INTRODUCTION

Environmental damage caused by corporate activities has become an increasingly deep and complex issue in various countries, including Indonesia. Industrial activities that do not consider environmental impacts often cause ongoing ecological damage, threaten biodiversity, and harm communities living around the operational area.¹ For example, the manufacturing, mining, energy, and plantation sectors are often the main actors in ecosystem damage. This environmental damage is not only limited to physical damage to nature, but also threatens the sustainability of the social and economic life of the surrounding community and human health. In many cases, large companies operating in Indonesia play a major role in the damage that occurs, where they often ignore environmental protection standards that have been set by national and international laws.² One of the most obvious examples is the damage caused by the expansion of palm oil plantations and illegal mining activities that have led to massive

¹ M Yusuf, "The Impact of Climate Change on Environmental Sustainability and Human Mortality," *Commune Journal* 10, no. 3 (2023): 160–90, <https://doi.org/10.3390/environments10100165>.

² Hilaire Tegan et al., "Mining Corruption and Environmental Degradation in Indonesia: Critical Legal Issues," *Bestuur* 9, no. 2 (2021): 90–100, <https://doi.org/10.20961/bestuur.v9i2.55219>.

deforestation, water and air pollution, and loss of biodiversity.³ These activities are at the forefront of the debate about the legal responsibility of companies for the environmental damage they cause.

In Indonesia, although there are various regulations regarding environmental protection, such as Law Number 32 of 2009 concerning Environmental Protection and Management, the implementation and enforcement of laws against companies that damage the environment are often ineffective.⁴ Many companies involved in environmental damage, such as PT Asiatic Persada and PT Timah, which, despite having violated legal provisions, are not always held accountable to the fullest extent. One of the main obstacles in law enforcement against these companies is the weakness in supervision carried out by related institutions. Inadequate supervision of company activities causes many environmental violations to go undetected, and when detected, the sanctions imposed often do not reflect the extent of the damage caused. In addition, political and economic factors often influence the law enforcement process, where companies with great economic power can use their influence to avoid appropriate punishment.

The application of the principle of unlawful acts (*onrechtmatige daad*) in the context of environmental damage should provide a clear basis for holding companies that damage the environment accountable. This principle requires companies that damage the environment, whether intentionally or through negligence, to be held accountable for the damage caused. However, in practice, the application of this principle in cases of environmental damage in Indonesia faces significant obstacles. For example, in the case of PT Asiatic Persada, which was involved in forest fires due to illegal land clearing, the application of sanctions commensurate with the damage caused was very limited.⁵ The forest fires caused by this land clearing not only destroyed natural habitats but also polluted the air, causing haze that affected public health and damaged biodiversity. Although this company should be held accountable for the damage caused, the law enforcement system in Indonesia is often hampered by weak supervision and indecisiveness in providing fair sanctions.

Likewise, in the case of PT Timah, the largest mining company in Indonesia, which has caused major ecological damage in the Bangka Belitung Islands Province. Unsustainable tin mining activities have damaged the marine ecosystem and surrounding waters, with hazardous waste such as lead and cadmium being dumped into the sea, polluting the waters and destroying coral reefs and important marine habitats.⁶ The impact of this damage is not only felt by the

³ Winahyu Erwiningsih, "Analyzing Drivers and Mitigation of Deforestation for Oil Palm Expansion in Indonesia, 2000-2020.," *International Journal of Sustainable Development & Planning* 18, no. 11 (2023), <https://doi.org/10.18280/ijstdp.181132>.

⁴ Syerra Felia and Fani Budi Kartika, "Tindak Pidana Illegal Logging Ditinjau Dari Perspektif Undang-Undang No 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup," *Jurnal Lex Justitia* 1, no. 2 (2019): 186-95, <https://doi.org/10.33476/ajl.v3i2.809>.

⁵ Fitria, "Penyelesaian Sengketa Perkebunan Antara Perusahaan Perkebunan Sawit PT. Asiatic Persada Dengan Suku Anak Dalam Batin IX Di Desa Bungku Kecamatan Bajubang Kabupaten Batanghari," *Jurnal Sains Sosio Humaniora* 3, no. 1 (2019): 15-30.

⁶ Febri Pirwanda and Budi H Pirngadie, "Dampak Kegiatan Tambang Timah Inkonvensional Terhadap Perubahan Guna Lahan Di Kabupaten Belitung," *Jurnal Planologi Unpas* 2, no. 3 (2015): 177-94.

ecosystem, but also by coastal communities who depend on marine products for their livelihoods. Although the company has caused significant damage, law enforcement against the company is also hampered by political and economic factors, as well as the large influence it has on the Indonesian economy. Although there are regulations prohibiting environmentally damaging mining, the sanctions imposed are often not strict enough to provide a deterrent effect for these large companies.

One of the biggest challenges in enforcing environmental law in Indonesia is the limited oversight and inability of government agencies to monitor corporate activities that risk causing environmental damage.⁷ In this regard, the Ministry of Environment and Forestry, which is responsible for overseeing and enforcing environmental laws, is often under-resourced, both in terms of trained manpower and the technology needed to conduct effective monitoring. In addition, corruption issues at the local and national levels also hamper law enforcement against companies that violate environmental regulations. Many companies have significant political and economic influence, so they can easily avoid sanctions or appropriate punishment for the environmental damage they cause.

In the international context, many developed countries, such as the United States and European countries, apply the principle of strict liability to companies that cause environmental damage. In these countries, companies that violate environmental regulations can be held accountable, even without having to prove negligence or malicious intent. These countries have a more transparent legal system and are stricter in enforcing environmental laws. The sanctions imposed on companies that damage the environment are also very large, including the obligation to repair the damage they have caused and pay appropriate fines. Therefore, Indonesia can learn from these countries to improve the existing environmental monitoring and law enforcement system, as well as strengthen sanctions against companies that damage the environment.

Barriers to law enforcement against companies that damage the environment in Indonesia can be reduced by strengthening the monitoring system, improving the integrity of law enforcement officers, and ensuring that the sanctions imposed reflect the magnitude of the damage caused. In addition, the community must be given the right to participate in the legal process related to environmental restoration, in order to ensure justice for those affected. The application of the principles of unlawful acts (*onrechtmatige daad*) and environmental justice must be carried out firmly and consistently to ensure that companies that cause environmental damage can be held accountable for the negative impacts they cause.⁸ With these steps, it is hoped that Indonesia can

⁷ Muhammad Ainurrahyid Al Fikri, "Implementation of Strict Liability by Companies in Cases of Environmental Damage in Indonesia: An Overview of State Administrative Law in Indonesia," *Indonesian State Law Review (ISLRev)* 5, no. 2 (2022): 41–52, <https://doi.org/10.15294/islrev.v5i2.47460>.

⁸ Ahmad Rizky Siregar, Wieke Dewi Suryandari, and Hono Sejati, "Urgency Of Implementing Article 1365 Of The Civil Code In Addressing Tortious Conduct In Electronic Transactions In Indonesia," *Journal Of World Science* 3, no. 11 (2024): 1519–30, <https://doi.org/10.58344/jws.v3i11.1235>.

create a stronger legal system in dealing with the problem of environmental damage caused by companies and achieve better environmental sustainability in the future.

As explained in a similar study on unlawful acts in the environmental sector by Widowaty (2022), which focuses on land fire cases involving PT. Jatim Raya Perkasa.⁹ In addition, Chandra (2023) also addresses a similar issue in his research, discussing corporate criminal liability for the illegal disposal of hazardous and toxic (B3) waste. The author emphasizes the importance of applying the principle of corporate responsibility within the context of criminal law to ensure that companies committing environmental violations can be held effectively accountable.¹⁰ Furthermore, Nurse's (2022) research also explores the challenges in enforcing laws against environmental crimes, particularly those involving corporations. The study highlights that many environmental offenses are not yet a top priority within the criminal justice system, despite their potential to cause widespread social harm and even mass casualties.¹¹

From the discussion above, it is known that Widowaty research on the government's right to sue in unlawful acts related to environmental damage, especially in the land fires of PT Jatim Raya Perkasa, has the advantage of focusing on the aspect of the government's right to sue, but is limited to the role of the state in dealing with environmental damage without discussing in depth the company's direct responsibility. Meanwhile, Chandra's research, which raises the criminal liability of companies for the disposal of hazardous waste, provides an important perspective on criminal law enforcement against companies, but does not explore the application of environmental justice principles in the restoration of damage. Nurse's research, which highlights the challenges in law enforcement against environmental crimes involving corporations, shows weaknesses in the criminal justice system's priority for environmental crimes, but does not provide systemic solutions related to more comprehensive remedial efforts. This research combines the principles of unlawful acts and environmental justice by prioritizing corporate responsibility in both compensation and environmental restoration, so that this becomes an innovation or novelty in this research.

This study aims to analyze the application of the principle of unlawful acts (*onrechtmatige daad*) and environmental justice to companies involved in environmental damage in Indonesia. As well as exploring the obstacles in law enforcement faced by law enforcement officers in dealing with companies that damage the environment. In addition, this study will examine the existing legal supervision and enforcement system in Indonesia related to corporate responsibility for environmental damage and provide recommendations for improving the existing legal

⁹ Yeni Widowaty, Berliant Pratiwi, and Izzy Al Kautsar, "Hak Gugat Pemerintah Terhadap Perbuatan Melawan Hukum Di Bidang Lingkungan Hidup," *Diversi Jurnal Hukum* 8, no. 1 (2022): 191–216, <https://doi.org/10.32503>.

¹⁰ Tofik Chandra and Bobur Sobirov, "Corporate Criminal Liability for Illegal Toxic and Hazardous Waste Dumping," *Lex Publica* 10, no. 1 (2023): 123–40, <https://doi.org/10.58829/lp.10.1.2023.123-140>.

¹¹ Angus Nurse, "Contemporary Perspectives on Environmental Enforcement," *International Journal of Offender Therapy and Comparative Criminology* 66, no. 4 (2022): 327–44, <https://doi.org/10.1177/0306624X20964037>.

supervision system, so that companies that cause environmental damage can be held accountable fairly and effectively.

2. METHOD

This study uses a normative legal research type because its main focus is to analyze legal regulations governing corporate responsibility for environmental damage, and to identify the principles underlying these regulations in the context of unlawful acts and environmental justice.¹² The approaches used include a legislative approach to analyze regulations and laws governing corporate responsibility for environmental damage, a conceptual approach to understand the principles of corporate responsibility in the context of environmental law, and the concept of environmental justice to examine the distribution of losses and responsibilities towards affected communities. This study uses secondary data consisting of primary legal materials, such as relevant laws and court decisions; secondary legal materials, such as literature, journals, scientific articles, and books that discuss the concepts of corporate responsibility, unlawful acts, and environmental justice; and tertiary legal materials, such as legal dictionaries, and indexes that support the analysis of primary and secondary legal materials. Data were collected through a literature study, which involved collecting legal documents, academic literature, and other reference sources relevant to this study, as well as document analysis that included legal interpretation and understanding of the principles of environmental justice and corporate responsibility. The data obtained were analyzed qualitatively to produce a deeper understanding of corporate legal responsibility for environmental damage and its application in the Indonesian legal system.

3. RESULTS AND DISCUSSION

3.1 Application of the Principle of Unlawful Acts (*Onrechtmatige Daad*) and Environmental Justice to Companies Involved in Environmental Damage

Environmental damage caused by corporate activities is becoming an increasingly pressing issue in the development of global environmental law. Companies that operate without considering environmental impacts often cause ongoing ecosystem damage, threaten biodiversity, and harm communities living around the area of operation. In this case, the legal system must be able to answer these challenges by applying principles that give companies clear responsibility for the damage they cause. One of the main principles that can be applied is the principle of unlawful acts (*onrechtmatige daad*), which regulates legal responsibility for actions that violate the law and cause harm to other parties, including the environment. In addition, the application of environmental justice is also important because it not only demands responsibility from companies but also ensures that environmental recovery and the losses caused by the damage are carried out fairly and equitably.

¹² Chandra Erick Manaek Pandapotan Lumban Gaol et al., “Analisis Yurisprudensi Gugatan Dan Pelanggaran Hukum Kerusakan Lingkungan Oleh Kegiatan Pertambangan,” *Jurnal Hukum To-Ra : Hukum Untuk Mengatur Dan Melindungi Masyarakat* 11, no. 1 (2025): 189–208, <https://doi.org/https://doi.org/10.55809/tora.v11i1.447>.

The principle of unlawful acts requires that any act that damages the environment and violates existing regulations must be subject to clear legal sanctions. In Indonesian civil law, Article 1365 of the Civil Code (KUHPperdata) explains that any act that violates the rights of others and causes losses must be replaced. This means that companies that are proven to have damaged the environment, either through negligence or deliberate actions, must be held responsible for the damage caused. However, the application of this principle under KUHPperdata is limited in cases of environmental violations by legal entities (corporations). While the principle can hold individuals liable, it does not comprehensively address the complexities of environmental harm caused by corporations, as it focuses primarily on private rights and damages without accounting for broader environmental impacts.

In contrast, regulations such as Law No. 32 of 2009 on Environmental Protection and Management (UU PPLH) provide a more targeted approach to corporate environmental liability, as they specifically address the duty of corporations to manage their environmental impact and the consequences for non-compliance. Moreover, the application of strict liability in environmental law, such as the provisions in UU PPLH, allows for corporate accountability even when negligence or malicious intent cannot be proven, which is a limitation of the general provisions of KUHPperdata. This more modern legal framework ensures that corporations are held accountable for environmental damage regardless of intent or fault, providing a stronger deterrent against environmental harm.

The application of the principle of unlawful acts can be illustrated through the case of PT Asiatic Persada, which was involved in massive deforestation and forest fires caused by land clearing for oil palm plantations. In this case, the company should be held responsible for the damage caused, either through financial compensation to the affected communities or environmental restoration efforts. Similarly, PT Timah, Indonesia's largest tin mining company, has caused significant marine pollution and damage to the coral reefs in the Bangka Belitung Islands. However, this case will be explored in more detail in the following section.

The implementation of environmental justice is an equally important aspect in cases of environmental damage caused by companies. Environmental justice is not only related to the provision of financial compensation but also to how environmental damage can be restored and how affected communities can benefit from the restoration. This concept of justice includes distributive justice, which requires that compensation for environmental damage be distributed fairly to all affected parties, as well as procedural justice, which gives communities the right to participate in the decision-making process related to environmental restoration. In the context of Indonesia, the principles of distributive and procedural justice are partially reflected in UU PPLH, particularly in Articles 66 and 69, which provide a framework for community participation in environmental decision-making and restoration efforts. However, the implementation of these principles has faced significant challenges, including limited community involvement and inadequate enforcement mechanisms.

One of the fundamental aspects in the implementation of environmental justice is how to ensure that affected communities have fair access to information and their rights in the recovery process. David Schlosberg, in his theory of environmental justice, emphasizes the importance of community access to information and participation in decision-making regarding potentially damaging environmental policies. In this case, communities living around areas affected by environmental damage, such as those that occurred at PT Asiatic Persada, have the right to know the impact of the company's activities and to receive clear information about the steps taken to restore environmental conditions. Environmental justice requires companies to not only restore the damage they have caused but also to provide opportunities for communities to be involved in the process, as part of efforts to maintain their rights to a healthy environment.

In addition, the application of the principle of unlawful acts and environmental justice in environmental damage must also consider strict sanctions against companies that commit violations. Administrative sanctions, such as revocation of permits or freezing of operations, can be given to companies that do not comply with environmental regulations. This is a form of sanction that can force companies to pay more attention to the environmental impact of their activities and be responsible for the damage caused. In addition, the application of strict liability in this case can also encourage companies to be more careful in carrying out their operations, because companies will still be held accountable even though there is no evidence of negligence or malicious intent. This concept is widely applied in developed countries, such as the United States and Europe, where companies that cause environmental damage are often required to pay large fines and restore the degraded environment.

The implementation of this principle in Indonesia, despite the existence of regulations governing corporate responsibility for environmental damage, still faces major challenges. One of the main challenges is that law enforcement is not yet strong enough and is often hampered by political and economic factors. Therefore, it is important to strengthen the supervision and law enforcement system in Indonesia, so

Environmental damage caused by large companies in Indonesia often faces serious obstacles in terms of adequate law enforcement. One example is PT Timah, which has been involved in several cases of environmental destruction related to its mining activities in the Bangka Belitung Islands Province.¹³ Offshore tin mining by this company has caused major damage to marine ecosystems, especially coral reefs, which are important habitats for marine biota. Mining waste containing heavy metals such as lead (Pb), cadmium (Cd), and chromium (Cr) has polluted the surrounding waters, exceeding the established environmental quality standards. As a result, seawater quality has declined significantly, and coral reef ecosystems and other habitats have been disrupted, which has impacted the lives of local fishermen and coastal communities who

¹³ Agustari and Azis Muslim, "Meminimalisasi Konflik Lingkungan Akibat Offshore Tin Mining (Studi Terhadap Implementasi Peraturan Daerah Rzw3K Di Bangka ...," *Jurnal Ekonomi Dan Kebijakan Publik* 14, no. 2 (2023): 181–202.

depend on the sea for their livelihoods.¹⁴ Although the company is involved in significant environmental destruction, law enforcement against it faces major obstacles, both in terms of existing regulations and in its implementation on the ground.

One of the main obstacles in law enforcement against PT Timah is the lack of effective supervision of the company's activities. In this case, supervision of company activities that cause environmental damage is often not optimal. This is related to the limited resources of supervisory institutions, such as the Ministry of Environment and Forestry (KLHK), which cannot always monitor and take firm action against companies that continuously damage the environment.¹⁵ On the other hand, the large number of large companies that have strong political and economic influence in Indonesia worsens this condition, because these companies are often able to lobby parties responsible for law enforcement to avoid heavier sanctions. In addition, corruption among law enforcement officials is also a factor that causes weak law enforcement, where companies with economic power can use their influence to protect their interests and reduce the legal responsibility they should face. In the case of PT Timah, despite much evidence showing severe environmental impacts, law enforcement against this company is often hampered by political and economic factors that influence the legal process.

Obstacles in law enforcement can also be found in the case of PT Asiatic Persada, which was involved in forest destruction for palm oil plantations that caused massive forest fires.¹⁶ The forest fires that occurred not only destroyed natural habitats but also polluted the air and affected the health of the surrounding community. Although there are regulations governing environmental protection, this company is often not held fully accountable. This is also related to the state's inability to address the problem of deforestation caused by the palm oil industry, which is one of the largest contributors to environmental damage in Indonesia. The law enforcement process against PT Asiatic Persada was also hampered by negligence in supervision and pressure from the economic sector that supports the sustainability of the operations of these large companies. As in the case of PT Timah, PT Asiatic Persada benefited from the inability of the existing legal and supervisory system to enforce regulations effectively. This was also influenced by the gap between existing laws and their implementation in the field, which caused environmental damage to worsen without adequate accountability from the company.

The application of the principle of unlawful acts (*onrechtmatige daad*) in this case should give clear responsibility to the company to pay compensation and restore environmental damage. However, the application of this principle in the case of PT Timah and PT Asiatic Persada encountered various obstacles in its implementation. One of the most significant obstacles is that

¹⁴ Ricca Affressia, Erny Poedjirahajoe, and Soewarno Hasanbahri, "Karakteristik Habitat Mangrove Di Sekitar Pertambangan Timah Lepas Pantai Kabupaten Bangka Selatan (Characteristic Of Mangrove Habitat Around Tin Offshore Mining in South Bangka Regency)," *Jurnal Manusia Dan Lingkungan* 24, no. 3 (2017): 131–40, <https://doi.org/10.22146/jml.22997>.

¹⁵ Imelda Hasibuan and Muhammad Japri, "Implementation Of Environmental Law In Sustainable Natural Resource Management," *Awang Long Law Review* 7, no. 1 (2024): 140–46.

¹⁶ Devon Dixon, "Indonesia's Palm Oil Expansion & Further Contribution to Economic Fragility."

the Indonesian legal system is not yet strong enough to ensure that every company that causes environmental damage can be held directly and effectively accountable. In many cases, large companies with great political influence can exploit loopholes in the law to avoid heavier sanctions or prosecution. In addition, the presence of corruption in the Indonesian justice system also worsens this condition, because many parties involved in the legal process can easily be influenced to slow down or even stop the legal process.

In other countries, despite similar challenges, the application of tort and environmental justice principles in developed countries is more often successful because of stronger and more transparent legal systems. In the United States, for example, strict liability allows companies involved in environmental damage to be held liable, even without having to prove negligence or malice.¹⁷ Legal systems in European countries also apply stricter regulations regarding corporate responsibility for environmental damage. In Sweden, for example, companies that damage the environment are not only required to pay very large fines but are also required to make reparations for the damage they have caused. In these countries, although large companies often have significant influence, strong and transparent legal systems allow for more effective law enforcement, with strong and adequate sanctions.

On the contrary, Indonesia still faces many obstacles in implementing these principles effectively. Although laws and regulations are in place, the implementation of the law is often hampered by a lack of supervisory resources, weaknesses in the judicial system, and an imbalance between economic and environmental interests.¹⁸ Therefore, to overcome these problems, it is important to strengthen environmental supervision, improve the judicial system, and reduce corrupt practices that hinder law enforcement. Other countries that have succeeded in enforcing environmental laws, such as the United States and European countries, can serve as models for Indonesia in creating a stronger and fairer legal system to address environmental damage caused by companies. With these steps, Indonesia is expected to create a more effective legal system in addressing environmental damage and ensuring that companies are held accountable for the damage they cause.

3.2 Supervision and Law Enforcement System in Responding to Corporate Responsibility Issues for Environmental Damage

Environmental degradation caused by corporate activities is an increasingly pressing issue in many countries, including Indonesia. Companies operating in sectors such as mining, plantations, energy, and manufacturing often ignore the environmental impacts of their operations. In many cases, the damage caused not only threatens the natural ecosystem, but also

¹⁷ Komang, Candrawati, and Kurniawan, "Strict Liability Principles Regulation on Corporate Crimes in Environmental Pollution & Strengthening Criminal Penalties in Indonesia."

¹⁸ Aris Susanto, Sapto Baralaska, and Aan Jaelani, "Constitutional Rights and Environmental Protection in Indonesia from a Legal and Policy Perspective," *Journal of Law Sciences(Legisci)* 2, no. 2 (2024): 121–29, <https://doi.org/10.62885/legisci.v2i2.484>.

negatively impacts the social and economic life of surrounding communities.¹⁹ The need for an effective monitoring and enforcement system is essential to ensure that companies that damage the environment are held accountable for their actions and make reparations for the damage they have caused.

However, despite the existence of various regulations governing corporate responsibility towards the environment, law enforcement in Indonesia still faces a number of obstacles. One of the main obstacles is the ineffectiveness of monitoring corporate activities that risk causing environmental damage.²⁰ This weak monitoring is caused by various factors, including limited resources owned by regulatory agencies, a lack of coordination between government agencies, and a lack of transparency and accountability in the monitoring process. In this case, companies are often able to avoid sanctions or penalties even though they are proven to have committed significant environmental damage. For example, many companies involved in deforestation or marine pollution are often only subject to low fines or even no firm action to repair the damage they have caused. This is due to the weakness of the existing monitoring system and the inability to enforce the law consistently and fairly.²¹

Therefore, greater efforts are needed to improve the existing monitoring system by strengthening institutions responsible for environmental protection, such as the Ministry of Environment and Forestry (KLHK).²² Increasing the capacity of these institutions can be done by increasing the number and quality of trained supervisors, as well as introducing better technology to monitor the environmental impacts of company activities. One such technological innovation could be the implementation of e-monitoring systems and real-time reporting platforms like SIMPEL, which are already being utilized by KLHK. In addition, it is important to strengthen reporting systems that are accessible to the public and involve them in the monitoring process. This is in line with the opinion of legal experts who state that transparency and public participation are the main keys to achieving effective environmental monitoring. David Schlosberg, an expert in environmental justice, argues that environmental justice includes the right of the public to access information about the environmental impacts caused by companies and to participate in the decision-making process regarding environmental policies.

Effective law enforcement against companies that damage the environment must also be accompanied by strict sanctions that are proportionate to the damage caused. In this case, strict liability can be applied, which requires companies to be responsible for environmental damage that occurs, even if there is no evidence of negligence or malicious intent on the part of the

¹⁹ Arif Rohman, Hartiwiningsih, and Muhammad Rustamaji, "Illegal Mining in Indonesia: Need for Robust Legislation and Enforcement," *Cogent Social Sciences* 10, no. 1 (2024): 1–14, <https://doi.org/10.1080/23311886.2024.2358158>.

²⁰ I A Pradnyandari Pidada and I Ketut Kasta Arya Wijaya, "The Concept of Liability Without Fault in Environmental Dispute Resolution in Indonesia," *Pemuliaan Keadilan* 2, no. 2 (2025): 23–30.

²¹ Resta Br Naibaho et al., "Analisis Peran Jaksa Dalam Penuntutan Kasus Pidana Lingkungan Di Indonesia," *Supremasi Jurnal Hukum* 07, no. 02 (2025): 141–59.

²² Kevin Leonardo, "Implementasi Sistem Pengawasan Oleh Polri Terhadap Kasus Pelanggaran Hukum Lingkungan Di Kota Batam," *Jurnal Lawnesia* 3, no. 2 (2024): 536–47.

company.²³ A legal system that applies this principle encourages companies to be more careful in carrying out their operational activities. However, in its implementation in Indonesia, the application of the principle of strict liability still faces many obstacles. One major obstacle to law enforcement in Indonesia is the existence of a strong network of political and economic influence, which often influences legal decisions and makes it difficult for companies to be held fully accountable. Although the country has strict regulations related to environmental damage, this influence often makes law enforcement inconsistent, with some companies receiving softer treatment than others.

A relevant case study to discuss this obstacle is PT Asiatic Persada, which was involved in forest fires in Kalimantan and Sumatra. The company used the land-burning method to clear land for oil palm plantations, which caused massive forest fires.²⁴ The impact of these fires was enormous, not only destroying the forest ecosystem but also polluting the air and affecting the health of the surrounding community. Although there is a lot of evidence that shows the company is responsible for the fires that occurred, the legal process against PT Asiatic Persada has been very slow. This is due to various factors, such as ineffective supervision, lack of clear evidence of the company's negligence, and the inability of law enforcement officers to apply sufficiently strict sanctions.

In addition, the PT Timah case also shows obstacles in law enforcement against companies that cause environmental damage. Tin mining activities by PT Timah have caused damage to the marine ecosystem and water pollution in the Bangka Belitung Islands Province.²⁵ Mining waste dumped into the sea contains heavy metals such as lead and cadmium, which pollute the waters and damage coral reefs. However, despite the enormous damage caused, the legal process against PT Timah has not gone smoothly. One of the main obstacles is the inability to clearly identify violations committed by the company, as well as weaknesses in the supervision of mining activities. In addition, this company has a large influence in the Indonesian economic sector, which also affects the law enforcement process against them.

These obstacles to law enforcement are not unique to Indonesia, but also to many other developing countries. In some countries, despite strict regulations on environmental protection, law enforcement against companies that damage the environment is often hampered by corruption, political influence, and the inability of regulatory agencies to carry out effective oversight.²⁶ For example, in Brazil, despite strict laws on forest and ecosystem protection, illegal deforestation by large companies remains rampant due to weak law enforcement and corruption

²³ Eva Kusuma Wardana et al., "Pertanggungjawaban Hukum Bagi Perusahaan Yang Membuang Air," *Jurnal Sosial Dan Humaniora* 1, no. 3 (2024): 430–41.

²⁴ Devon Dixon, "Indonesia's Palm Oil Expansion & Further Contribution to Economic Fragility."

²⁵ Sabungan Sibarani, "Tin Folk Mining in West Bangka District of Province of Bangka Belitung Island And the Impact on Life Environment," *American Journal of Engineering Research (AJER)* 6, no. 12 (2017): 344–48.

²⁶ Umami A'zizah Zahroh and Fatma Ulfatun Najicha, "Problems and Challenges on Environmental Law Enforcement in Indonesia: Amdal in the Context of Administrative Law," *Indonesian State Law Review (ISLRev)* 5, no. 2 (2022): 53–66, <https://doi.org/10.15294/islrev.v5i2.46511>.

at the local level. In addition, India also faces similar problems, where large companies involved in air and water pollution are often not held accountable due to the imbalance between economic interests and environmental sustainability.

In order to overcome the obstacles that hinder law enforcement against companies that damage the environment, it is essential to reform the existing monitoring and enforcement system. One of the main steps in improving this system is to strengthen the capacity of the regulatory bodies responsible for monitoring company activities. In Indonesia, institutions such as the Ministry of Environment and Forestry (MoEF) and the Environmental Agency (BLH) are often under-resourced, both in terms of the number of trained personnel and the technology used to carry out effective monitoring. Without adequate monitoring, many violations committed by companies, especially those related to environmental pollution, can go unnoticed. Therefore, one of the fundamental steps that needs to be taken is to strengthen the capacity of these regulatory bodies through increased budgets, training, and the use of more modern technology, such as satellite-based monitoring or real-time air and water monitoring systems.²⁷

Implementing a more transparent reporting system is also an important aspect that needs to be optimized. Companies operating in Indonesia, especially those at high risk of damaging the environment, should be required to periodically report the environmental impacts arising from their activities, as well as the steps taken to reduce these impacts. Transparency in this reporting will help improve corporate accountability and provide an opportunity for the public and regulatory bodies to assess whether companies are truly carrying out their responsibilities in accordance with existing regulations. Developed countries, such as the United States and the United Kingdom, have implemented transparent environmental reporting systems, where companies are required to disclose data on their emissions, resource use, and waste management.²⁸ This system allows third parties to evaluate the impacts caused by companies, and encourages companies to increase their efforts in maintaining environmental sustainability.

In addition, the application of stricter sanctions against companies proven to have damaged the environment is an equally important step in ensuring that law enforcement can run effectively.²⁹ Heavier sanctions, such as revocation of operating licenses, larger fines, and the obligation to carry out environmental restoration, must be applied consistently. In the European Union, countries such as Germany have implemented a system that allows companies that violate environmental regulations to be subject to very large fines and are required to make restitution for the damage they cause. The application of the principle of strict liability, which requires companies to be fully responsible for environmental damage even if there is no evidence of

²⁷ Waheb A. Jabbar et al., "Development of LoRaWAN-Based IoT System for Water Quality Monitoring in Rural Areas," *Expert Systems with Applications* 242 (2024): 1–18, <https://doi.org/10.1016/j.eswa.2023.122862>.

²⁸ Khairun Tumu, Keith Vorst, and Greg Curtzwiler, "Global Plastic Waste Recycling and Extended Producer Responsibility Laws," *Journal of Environmental Management* 348 (2023): 1–9, <https://doi.org/10.1016/j.jenvman.2023.119242>.

²⁹ Hermanus Way, Hadi Tuasikal, and Muh Akhdharisa Sj, "Policy Transformation and Law Enforcement in Natural Resources Management : Case Study of Excavation C in Sorong City," *Justisi* 11, no. 1 (2025): 268–80.

negligence or malicious intent, has put great pressure on companies to act carefully in any activities that have the potential to damage the environment.³⁰ The application of this principle is also followed by sanctions that are appropriate to the extent of the damage caused, as well as effective restoration of damaged ecosystems.

One of the main obstacles to law enforcement against companies that damage the environment is the large political and economic influence over legal decisions. Large companies with strong political and economic influence can often avoid punishment commensurate with the damage they cause. This is clearly seen in several cases in Indonesia, such as that of PT Asiatic Persada, which was involved in forest fires caused by land clearing for oil palm plantations. Although these forest fires damaged large ecosystems and threatened public health, the company was not subject to adequate sanctions, and law enforcement against them was very slow.³¹ The inability of the legal system to respond firmly to these large companies is largely due to the political influence they have. Large companies that dominate economic sectors often have strong ties to powerful parties, which makes law enforcement against them. This is a serious obstacle that must be overcome to ensure that environmental laws are applied fairly and consistently.

In other countries, especially those that have adopted the principle of strict liability, similar obstacles can also be found, even though they have succeeded in creating a more transparent and effective environmental law enforcement system.³² For example, in the United States, even though many large companies have strong political and economic influence, the application of the principle of strict liability and large sanctions has succeeded in pressuring companies to take full responsibility for the environmental damage they cause. Companies involved in air or water pollution cases, such as the Exxon Valdez and BP Oil Spill cases, are required to pay large fines that not only cover compensation to victims, but also the cost of restoring the degraded environment.³³ The strict law enforcement system in the US provides a good example for Indonesia to strengthen its existing legal system, although the challenges in law enforcement in Indonesia are still greater.

The weakness in law enforcement in Indonesia can also be influenced by the lack of transparency in the legal system and the lack of public participation in monitoring companies that damage the environment.³⁴ In this case, communities affected by environmental damage must be given the right to participate in the legal process related to environmental damage, to ensure that they are not only victims, but also have the opportunity to monitor and influence existing environmental policies. David Schlosberg, in his book on environmental justice,

³⁰ Al Fikri, "Implementation of Strict Liability by Companies in Cases of Environmental Damage in Indonesia: An Overview of State Administrative Law in Indonesia."

³¹ Devon Dixon, "Indonesia's Palm Oil Expansion & Further Contribution to Economic Fragility."

³² Elfi Nola Tumangger, Elita Rahmi, and Hartati, "Penegakan Prinsip Strict Liability Pada Kasus Hukum Lingkungan Di Indonesia," *Mendapo Journal of Administration Law* 5, no. 1 (2024): 69–91.

³³ Jabbar et al., "Development of LoRaWAN-Based IoT System for Water Quality Monitoring in Rural Areas."

³⁴ Ahmad Fitra Yuza, Zainal, and Halimah Abdul Manaf, "Deforestation Policy Governance In Indonesia," *CosmoGov: Jurnal Ilmu* ... 9, no. 1 (2023): 36–49, <https://doi.org/10.24198/cosmogov.v9i1.44778>.

emphasizes the importance of public participation in the decision-making process concerning policies that have the potential to cause environmental damage. The success of supervision depends not only on government institutions but also on the active involvement of the community in monitoring the implementation of environmental regulations and policies.

In this regard, Community-Based Monitoring Systems in countries such as Sweden have shown positive results. In Sweden, communities living around areas affected by environmental damage are given the right to object to projects that have the potential to damage the environment, and are given the opportunity to participate in the environmental impact assessment process. This ensures that companies are not only profiting themselves, but are also held accountable for any impacts they have on the community and the ecosystem.

For Indonesia, by strengthening the existing monitoring and law enforcement system, and increasing transparency in law enforcement, it is hoped that an effective mechanism can be created to deal with companies that damage the environment. This requires deep reforms in the Indonesian legal system, with a focus on increasing the capacity of supervisory institutions, stricter enforcement of sanctions, and increasing public participation in monitoring and reporting environmental violations. These steps will help create a more transparent, fair, and effective legal system in dealing with companies that damage the environment, so that Indonesia can achieve better environmental sustainability for the future.

4. CONCLUSION

This study confirms that although Indonesia has regulations governing corporate responsibility for environmental damage, the application of the principles of unlawful acts (*onrechtmatige daad*) and environmental justice remains ineffective due to significant obstacles such as political influence, corruption, and limited resources in supervisory institutions. The cases of PT. Asiatic Persada and PT. Timah illustrates how companies proven to cause major environmental harm often face slow and ineffective legal processes, mainly due to weak enforcement and inadequate violation detection. This study contributes a novel perspective by explicitly analyzing corporate accountability through the lens of unlawful acts and environmental justice, expanding beyond prior research focused predominantly on government litigation rights. To overcome these challenges, concrete recommendations include enhancing supervisory institutions' investigative capacity through targeted training and advanced technology, establishing mandatory transparent reporting accessible to the public, and enforcing clear, proportionate sanctions tied to environmental damage. Learning from developed countries such as the United States and Sweden, Indonesia should adopt comprehensive frameworks integrating public participation and strict liability principles to ensure effective corporate accountability. Implementing these measures will enable Indonesia to strengthen its environmental law enforcement and promote sustainable environmental management.

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