

Strict Liability for Environmental Damage Post the Work Creation Law

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Abstract: This take a look at goals to research the discount of the meaning of the principle of strict liability inside the Omnibuslaw Act for you to have a great effect on environmental law enforcement in Indonesia. Environmental law enforcement will revert back to law enforcement within the past. The studies used is normative felony research, with a statute approach. The results of the take a look at suggest that the Omnibus regulation abolishes the element "without the want to show the element of mistakes". The blurring of norms on this regulation surely distances the meaning of the precept of strict legal responsibility. basically, strict liability is a idea that permits organizations to be charged with crook obligation as a result of the trends that arise. The effect of the abolition of the principle, particularly, the system of proving faults can be an increasing number of difficult in imposing environmental law, the extra environmental harm that occurs, the government and society ought to spend greater in proving errors that result in environmental harm, the court docket can be very rigid in giving selections in the event that they should be certain by way of the new norm in the omnibus law.
Keywords: Strict Liability; Environment; Omnibus Law.

1. Introduction

Problems and discussions accountability absolute (*strict liability*) to be one most interesting study . Problematics the then sticking out when presence Constitution Create Simplifying work more of 70 rules with details of 15 chapters, 174 articles , and 11 clusters with give impact on at least 79 laws that are in it consists of 1,203 articles Becomes one unity law in Indonesia in the southeast for make it easy current enter investment with reason for its creation field work new so that in processing design Constitution was greatly accelerated by the House of Representatives and the Central Government . Various The law was changed , including one of them is Constitution Protection and Management Environment live. ¹

Constitution Protection and Management Environment Life this Becomes polemic because exists reduction principle Responsibility Absolute (*Strict Liability*) later poured in one article in the law the . Principle Responsibility Absolute (*Strict Liability*) itself Becomes one enforcement law environment where element error where no need proven by the parties

¹ M Fahrni Al Amruzi, 'Upaya Penegakan Hukum Lingkungan Melalui Penerapan Asas Strict Liability', *Masalah-Masalah Hukum*, 40.4 (2011), 454–60.

plaintiff as base payment change loss.² The conditions this is *lex specialis* in lawsuit about deed violate law in general . The magnitude mark change possible loss charged to polluter or destroyer environment life according to chapter this could set until limit certain .³

law Protection and Management Environment Life No. 32 Year 2009, Chapter 88 about principle strict liability which no again detected or removed by Constitution Create work . it estimated will keep going Upgrade practice violation environment by perpetrator effort . Wrong only one deforestation scale big or deforestation scale big which change function use land from forest for stability ecosystem Becomes company giant which no care with analysis about impact environment (AMDAL). This because Omnibus law no enter principles principle *strict liability* .⁴

Enactment Law No. 11 of 2020 About Create Work or normal known with designation *Omnibus Law* against existence care and maintenance environment life is very questionable because principle strict *liability* contained in Law no. 32 of 2019 has deleted so that in the future action arbitrary a corporation in do follow violation to environment life will often happened,⁵ for one thing replacement land with method massive deforestation for the sake of interests and benefits a number of the beneficiary party.⁶ Reduction mean from principle *strict liability* in Constitution Omnibuslaw will give impact enough significant for enforcement law environment in Indonesia. Enforcement law environment will return fall back on enforcement law in the past . Polluters and destroyers environment will more difficult for asked accountability because must proven especially formerly mistakes made , meanwhile in proof error in law environment is very difficult thing because progress technology . Games oligarchic in scope taker Policy exacerbate enforcement law environment . Many regulations and articles in the Omnibus Law show that they are very laden interest for financier compared interest maintained environment .

² Nurfaika Ishak, Rahmad R Hasibuan, and Tri Suhendra Arbani, 'Bureaucratic and Political Collaboration Towards a Good Governance System', *Jurnal Bestuur*, 8.1 (2020) <<https://doi.org/10.20961/bestuur.42922>>.

³ Muamar and Anak Agung Sri Utari, 'Pengaruh Penghapusan Asas Strict Liability Dalam Undang-Undang Cipta Kerja Terhadap Masif Deforestasi Di Indonesia', *Kertha Negara*, 8.32 (2020), 1–12.

⁴ Henny Yunita Fitriani, 'Pertanggungjawaban Pidana Korporasi Dalam Tindak (Studi Kasus Pencemaran Lingkungan Oleh Pt . Rayon Utama', *Jurnal Pascasarjana Hukum UNS*, VIII.2 (2020), 64–73.

⁵ 'Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup', 2009.

⁶ (Marilang , 2021)

On the side another , temporary Indonesia experience decline specifically Settings from principle *strict liability* , other countries actually consistent and expanding object from the strict liability . this signify there is huge setback for enforcement law environment in Indonesia . The government and the People's Representative Council have should produce Policy or regulations are on the side management environment sustainable life. Investigation cases pollution and destruction detrimental environment riches natural must be accompanied with strong regulation. Beside it, on formation regulations, stakeholders Policy avoid yourself in conflict interest so that produce regulation is really in the interests environment .

Issue this be very important because with presence new regulations Becomes a ingredient debate about existence from draft *strict liability* in law environment . With deletion one element chapter can raises impact big for enforcement law environment in Indonesia . From various literature already many raised about draft *strict liability* and this article special study about blurring mean from strict liability in Omnibus Law Act .

2. Method

Research used is research law normative, with approach law (statute approach). Study this characteristic meaningful perspective give view about what should that is matter essential from study law. Source study law used form ingredient primary law like law Number 32 of 2009 concerning Protection and Management Environment Life , Act Number 11 of 2020 Concerning Create Work , Act Number 3 of 2020 concerning Mineral and Coal Mining as well a number of Constitution other related with environment life and materials law secondary form journals law , books , as well decision court . Analysis technique material made writer is a technique of deduction syllogism that is with method from rule law and and fact law pulled a conclusion .⁷

3. Results and Discussion

3.1 Development The Concept of Strict Liability in Indonesia

In Indonesia setting law about *strict liability* was first regulated in a Presidential Decree Republic of Indonesia No. 18 of 1978 concerning endorsement " *International Convention on*

⁷ Peter Mahmud Marzuki, *Metode Penelitian Hukum* (Jakarta: Kencana, 2017). Page. 54.

Civil Liability for Oil Pollution Damage” in Article 3 paragraph (1) which in essence as following :⁸

- a. *Polluter* (perpetrator in matter this owner) has burdened not quite enough answer moment incident that arise . Or when it turns out accident that is Suite incident , then emergence not quite enough answer is moment incident first .
- b. Every damage that occurs from accident , must be held accountable .
- c. With so , responsibility answer no base demands on nope error .

Next more clear again poured in Constitution Number 4 of 1982 Concerning Terms tree Management Environment Life which is follow carry on on Indonesia 's participation in Conference Environment Life world in Stockholm, Sweden . On the law this give provision about responsibility absolute (*strict liability*) listed in Article 21 which contains states :⁹

“ Deep a number of related activities type source power certain responsibility arise in a manner absolute on the destroyer and or pollutant at the time happening destruction and or pollution environment life that the arrangement arranged in regulation relevant legislation . ”

In explanation the 21st article state as following :

“ Responsibility absolute imposed in a manner selective on case to be set based on regulation legislation that can determine type and category activities to be affected by the provision in question . ”

Constitution this seen that government is very careful in apply principle responsibility absolute, that reversal burden proof on case environment life no easy for done and implemented gradually in accordance with developments at that time .¹⁰ Then in 1997, it happened renewal to regulation about environment life that is with promulgated Constitution Number 23 of 1997 concerning Management Environment live . About principle responsibility absolute (*strict liability*) is regulated in Article 35 which contents as following :

⁸ Rakhmat Nopliardy Nurul Listiyani, ‘Kajian Terhadap Uu Cipta Kerja Kluster Lingkungan Hidup Atas Dihapusnya Prinsip Strict Liability’, *AL-ULUM ILMU SOSIAL DAN HUMANIORA*, 6.2 (2020), 105–14.

⁹ Nila Amania, ‘Problematica Undang-Undang Cipta Kerja Sektor Lingkungan Hidup’, *Syariat*, 6.2 (2020), 210.

¹⁰ Siti Nurul Hidayah, ‘Keterwakilan Perempuan Dalam Politik’, *Detiknews.Com*, 2018.-Page. 65

(1) Person in charge business and/ or business activities and activities raises impact big and important to environment live , who uses ingredient dangerous and toxic , be responsible in a manner absolute on losses incurred , with obligation pay change make a loss in a manner direct and instantaneous at the moment happening pollution and/ or destruction environment live ;

(2) Person in charge business and/ or activity could released from obligation as referred to in paragraph (1) if the person concerned could prove that pollution and/ destruction environment life due to one of the reasons below this :

a. There is disaster natural or war

b. There is circumstances forced outside ability man

c. There is action party third cause happening pollution and/ or destruction environment life

Furthermore, in 2009 it happened again renewal against regulation about environment life that is with promulgated Constitution Number 32 of 2009 concerning Protection and Management Environment Life (UUPPLH) which is replacement on Constitution Number 23 of 1997 concerning Management Environment live . In Constitution Settings about principle absolute responsibility (*strict liability*) experienced change . this could seen through Article 88 which contains as following :¹¹

" Anyone whose actions , efforts and/ or activities use B3, produce and/ or manage B3 waste and/ or those that cause it threat are you serious to environment alive , responsible answer absolute on losses that occur throughout loss the caused by the person concerned

Responsibility absolute in Constitution this associated with related activities with ingredient dangerous and toxic (B3). In meaning every activities that use , produce and/ or manage B3 waste . Understanding ingredient dangerous and toxic (B3) regulated in Article 1 paragraph 21 whose contents as following :

" Ingredients next to dangerous and toxic abbreviated B3 is substance , energy , and/ or other components are due nature , concentration , and/ or amount , fine in a manner live nor no direct ,

¹¹ 'Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup'.

can defame and/ or damage environment live , and/ or endanger environment life , health as well as continuity life humans and creatures another life ”

Whereas understanding waste ingredient dangerous and toxic (B3) regulated in Article 1 paragraph 22 whose contents as following : “ *Waste ingredient dangerous and toxic ones next called B3 waste is remainder something business and/ or which activities contains B3.*”

In explanation Article 88 UUPPLH states that is meant with responsible absolute or *strict liability* is element error no need proven by the parties plaintiff as base payment change loss . However , parties plaintiff must prove losses experienced as consequence from deeds / activities (proving exists causality / relationship because result).¹²

Provision paragraph this is *lex specialis* in lawsuit about deed violate law in general . The magnitude mark change possible loss charged to polluter or destroyer environment life according to chapter this could set until limit certain . What is meant with " until limit time certain " is if according to determination regulation legislation determined must insurance for business and/ or related activities or has available environmental funds live . With exists provision about this *strict liability* bring profit for victim side ask accountability from perpetrator (*polluter*) because with development technology and needs moment this utilization resource natural will the more tall many people who are victims of pollution environment . Provision this also be warning to perpetrator processing business B3 waste to increase be careful and follow rule government .

Principle *Strict liability* appear from doctrines that have practiced in the Netherlands, England , the United States and in a number of convention International .¹³ by him that 3 insights emerge regarding strict liabilities , namely :

1. The principle of strict liability is understood as responsibility related proof overturned in court , as responsibility without notice exists element error ;
2. The principle of strict liability is understood as responsibility in a manner direct and instant without notice element error ;

¹² Septya Sri Rezeki, ‘Pertanggungjawaban Korporasi Terhadap Penerapan Prinsip Strict Liability Dalam Kasus Kerusakan Lingkungan Hidup’, *Al-Jinayah*, 1.1 (2015), 248.

¹³ Cedric M.J. Ryngaert and Duco W. Hora Siccama, ‘Ascertaining Customary International Law: An Inquiry into the Methods Used by Domestic Courts’, *Netherlands International Law Review*, 65.1 (2018), 1–25 <<https://doi.org/10.1007/s40802-018-0104-y>>.

3. The principle of strict liability is understood as responsibility absolute no limited . The amount of the loss insured no restricted depends proof .

Adhering countries system Anglo Saxon law , also started adhere principle *strict liability* in provisions positive law the criminal .¹⁴ *Strict liability* in matter this somebody that no there is fault (mens rea) for follow criminal certain . in England the principle of strict liability crimes apply only to characteristic actions violation light and not apply to characteristic violation heavy . However law crime in the United States enforce it to moral crimes , without notice is deed the done with on purpose or because negligence .

Two Anglo nations saxon the show exists expansion object that can asked accountability absolute . Application principle *strict liability* in Indonesia originated since 1982 , p the seen from existing regulations . at start from Constitution Number 10 of 1982 concerning Terms tree Management Environment Life , Act Number 10 of 1997 concerning Nuclear Energy , Law Number 10 of 1997 Management Environment Life , and the last in Act Number 32 of 2009 concerning management and protection environment live .¹⁵

On enforcement , enforcement draft *strict liability* in implementation permanent get obstacle among other things, simplicity device laws and instruments regulation legislation , . In such a position , then means law must complete , systematic and synchronous good in a manner vertical and horizontal. Then , law the environment that existed at the time this regulations it turns out characteristic partial , sectoral and scattered provisions criminal environment in various product legislation . From obstacles the just already enough heavy in enforcement law then plus oligarchic game environment with on purpose peel off favorable policy groups brand alone .¹⁶

In 2003 there decision court about *Strict liability* the first in Indonesia that apply *strict liability* for punish defendant . Decision Bandung District Court No. 49/ Pdt.G /2003/ PN.Bdg which was upheld by the High Court to finally win in Cassation the known as

¹⁴ Malvin Edi Darma and Ahmad Redi, 'Penerapan Asas Polluter Pay Principle Dan Strict Liability Terhadap Pelaku Pembakaran Hutan', *Jurnal Hukum Adigama*, 1.1 (2018), 1–27 <<https://doi.org/http://dx.doi.org/10.24912/adigama.v1i1.2236>>.

¹⁵ R Alhayan and J Leviza, 'Peranan Dan Kewenangan Pemerintah Provinsi Sumatera Utara Terkait Penerapan Asas Tanggung Jawab Mutlak (Strict Liability)', *Jurnal Hukum Samudra Keadilan*, 15.2 (2020), 223–36 <<https://www.ejurnalunsam.id/index.php/jhsk/article/view/2806>>.

¹⁶ Ahmad Gelora Mahardika, 'IMPLIKASI PENGHAPUSAN STRICT LIABILITY DALAM UNDANG-UNDANG CIPTA KERJA TERHADAP LINGKUNGAN HIDUP DI ERA SUSTAINABLE DEVELOPMENT GOALS _ Legacy_ Jurnal Hukum Dan Perundang-Undangan', *Legacy*, 2.1 (2022), 58.

Decision Mandalawangi . Decision both base on the new *strict liability* happened in the judgment South Jakarta District Court No.456/ Pdt.G -LH/2016/ PN.Jkt.Sel . Lawsuit Minister of the Environment Life and Forestry to PT. Waringin Agro Jaya won by Judges with punish change make a loss reached IDR 466 billion , (four hundred and six twenty six billion rupiahs).¹⁷

Though new found its application in two decision court , *strict liability* actually is kick powerful . Plaintiff not burdened complicated proof element error . There is causality Among losses incurred with deed the defendant enough capital for punish defendant . efficacy from this *strict liability* get confession from circles academics , activists environment , and the Ministry of the Environment Life and Forestry (KLHK). ICEL Researcher (Indonesian Center for Environmental Law), Fajri Fadhillah , explain that *strict liability* no burden plaintiff for proof element error . According to Dawn , load plaintiff more mild , only prove his actions *are abnormally dangerous* , and there are causality Among deed with losses incurred , *strict liability* can carried out . Only only in the republic of Indonesia still just occur gap between *das solen* and *das sein*, why because Very law nice and complete , in fact , no enforced in accordance with hope .

3.2 Conception Arrangement Principle Strict Liability in Law No. 32 of 2009 with Omnibus Law

On the Act Number 32 of 2009 concerning Protection and Management Environment Life in Article 88 is stated that :

" *Everyone whose actions , efforts , and/ or activities use ingredient dangerous and toxic , producing and/ or giving rise to threat are you serious to environment life responsible answer absolute on losses that occur without need proof element error* ".¹⁸

Chapter this basically Becomes instrument law to enforceability principle *strict liability* . Affirmation element the article that accountability absolute on loss without need proof element error Becomes a specter for companies that do violation but very difficult for proven

¹⁷ I D Roza, I Ibrahim, and F Nggeboe, 'Penerapan Asas Pertanggungjawaban Mutlak (Absolute Liability) Dalam Undang Undang Nomor 32 Tahun 2009 Terhadap Perusakan Dan Pencemaran Lingkungan ...', *Legalitas: Jurnal Hukum*, I (2017), 132–202 <<http://legalitas.unbari.ac.id/index.php/Legalitas/article/view/79%0Ahttp://legalitas.unbari.ac.id/index.php/Legalitas/article/download/79/67>>.

¹⁸ 'Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup'.

. Then birth Law No Number 11 of 2020 concerning Create Work or what is known in Indonesia as Constitution *Omnibus Law* Becomes sign that interest sector economy give carpet red going to destruction environment specifically liberate destructive party environment¹⁹.

this seen from Article 88 in Omnibus Law which abolishes element " *without need proof element error*". Blurring norm in regulation this precisely keep away mean from principle of strict liability. Basically *strict liability* Becomes concept that makes corporation could charged accountability criminal Becomes consequence on developments that occurred . Accountability the enter in category accountability without error (*liability without fault*). this means si maker already could convicted if has do deed as has been formulated in Constitution without look attitude he thought . Draft this also means as deviation from principle error , which is mentioned somebody no could convicted without exists error .²⁰

If concept the then maintained in enforcement law in Indonesia, then there is many weakness or possible gap used by the owners company that does damage environment to let go from noose law and accountability . As for the drawbacks from the *Fault Based Liability* namely :²¹

1. Consequence science and technology developments raises difficulty in predict risks that arise in something industrial activities
2. It's possible polluter or destroyer environment free from accountability civil if he could prove has do effort maximum prevention pollution through EIA approach with carry out plan management environment (RKL), plan monitoring environment (RPL) and approach management such as environmental audits (*Regulatory Compliance Audit or Environmental Management System*).

¹⁹ Tri Suhendra Arbani, 'Eksistensi Konvensi Sebagai Sumber Dan Praktek Ketatanegaraan Di Indonesia', *Jurnal Supremasi Hukum*, 5.1 (2016), 115–37.

²⁰ Bayu Haritia and Hartiwiningsih, 'Penerapan Asas Strict Liability Dalam Tindak Pidana Kebakaran Hutan Dan Lahan Yang Dilakukan Oleh Korporasi', *Recidive*, 8.2 (2019), 111–21.

²¹ Saivol Virdaus Emi Puasa Handayani, Zainal Arifin, 'Liability without Fault Dalam Penyelesaian Sengketa Lingkungan Hidup Di Indonesia', *Adhaper*, 4.2 (2018), 18.

3.3 Impact Deletion Principle Strict Liability Against massive Deforestation in Indonesia

Presence Constitution *Omnibus law* Becomes hope for government for attract investors to do so investing in Indonesia. ²² Foreign investment for doing business in Indonesia is considered as matter in Upgrade country 's economy and reduce unemployment . On the side the of course give matter good for the inner country reception tax as well as subtraction unemployment . ²³) That is good thing in development economy in the future come . However there is other aspects are also necessary noticed by the government specifically damage environment from effort mining . ²⁴

Mining data , to the end 2020 exists addition permission effort service mining (IUJP) of 691 IUJP in before . ²⁵On the other hand, there are also mines that don't have permission and reach more from 1000 's of locations in various area in Indonesia. Mining this no pay royalties and of course cause anxiety social and destructive environment . ²⁶

Not yet from birth Constitution Republic of Indonesia Number 3 of 2020 concerning About Mineral and Coal Mining which became controversy . Regulation it's very loaded interest corporation mining . As in article 169 letter A, art this arrange about extension contract works and agreements creation company coal mining without through auction . Second contract creation the given guarantee extension automatically 2 x 10 years without must reduce expansion territory . Whereas in Constitution previously arrange that Region should returned to each country finished contract and auction repeat . ²⁷ Chapter this loaded

²² R A S Hernawati and J T Suroso, 'Kepastian Hukum Dalam Hukum Investasi Di Indonesia Melalui Omnibus Law', *Jurnal Ilmiah MEA (Manajemen ...)*, 4.1 (2020), 392–408.

²³ Nandang Sutrisno and Sigar Aji Poerana, 'Reformasi Hukum Dan Realisasi Investasi Asing Pada Era Presiden Joko Widodo', *Undang: Jurnal Hukum*, 3.2 (2020), 237–66 <<https://doi.org/10.22437/ujh.3.2.237-266>>.

²⁴ Ade Risha Riswanti, Nyoman A. Martana, and I Nyoman Satyayudha Dananjaya, 'Tanggung Jawab Mutlak (Strict Liability) Dalam Penegakan Hukum Perdata Lingkungan Di Indonesia', *Kertha Wicara : Journal Ilmu Hukum*, 1.3 (2013), 1–5 <<https://ojs.unud.ac.id/index.php/kerthawicara/article/view/6100>>.

²⁵ Anisatul Umah, 'Ditengah Pandemi, Investasi Jasa Tambang Malah Melonjak', *CNN Indonesia*, 2021.

²⁶ Hanan Nugroho, 'Pandemi Covid-19: Tinjau Ulang Kebijakan Mengenai PETI (Pertambangan Tanpa Izin) Di Indonesia', *Jurnal Perencanaan Pembangunan: The Indonesian Journal of Development Planning*, 4.2 (2020), 117–25 <<https://doi.org/10.36574/jpp.v4i2.112>>.

²⁷ 'Perubahan Atas Undang-Undang Nomor 4 Tahun 2009 Tentang Pertambangan Mineral Dan Batubara', 2020.

will interest corporation big where smooth contract creation without there is a return auction process²⁸.

Various indication the start from deletion or blurring mean from *strict liability*, already give something clear facts that interest investment far more come first rather than quality from environment. Another fact shows that composer from Constitution *Omnibus Law* are the owners company mine. Notes from one organization environment life like Vehicle Environment Alive Indonesia (WALHI) and Greenpeace demonstrated fact that 57% members committee work and units Duty the Omnibus Law drafter is perpetrator effort. They have connection with business mines and energy dirty coal good live nor no direct.²⁹

reduction principle The *strict liability* is very giving impact outside usual for enforcement law environment in Indonesia. Application principle *strict liability* is very important to cases certain concerns endanger social or anti- social, dangerous safety public health and safety and morals. Cases pollution environment life, protection consumer as well as drugs forbidden is very likely case for applied *strict liability*. So *strict liability* is very tight relation with with provision certain and limited.³⁰

According to Constitution Number 32 of 2009, mechanism demand or sued change make a loss consequence pollution environment life through Court, explained in a manner systematic. Completion dispute or lawsuit change make a loss environment life through court started from exists lawsuit from feeling party harmed other parties are considered reason loss it. Inside knowledge law there are 2 (two) types not quite enough sue, that is not quite enough sue based on liability (*liability based on fault*) and responsibility sue no based on liability (*liability without fault*) or also called *strict liability*.

Loss consequence pollution environment no always looked clear. because that, witness expert could presented for explain about losses incurred, for example loss health, loss treasure object, loss aesthetics environment and losses in the field conservation

²⁸ Parman. Bm.; Markoni Nainggolan Markoni; Susetio, Wasis, 'Law Enforcement Analysis Against the Night Entertainment Business Owner During Covid-19 Pandemic', *Journal of Multidisciplinary Academic*, 05.Vol 5, No 2 (2021): Science, Engineering and Social Science Series (2021), 155–60 <<http://www.kemalapublisher.com/index.php/JoMA/article/view/566/559>>.

²⁹ Walhi, 'Siapa Sponsor Di Balik Satgas Dan Panja Omnibus Law?', *Walhi: Wahana Lingkungan Hidup Indonesia* (Jakarta, October 2020).

³⁰ Marilang.

environment . Witness experts are also common presented for explain total change loss consequence pollution environment consequence Ingredient dangerous and toxic (B3).

According to theory enforcement law at least there is three matter in application or enforcement law first is the law or the rules . Researcher will analyze problem the based theory put forward by Lawrence Mer Friedman. There is or no problem *strict liability* it 's set in regulation or law . Second are enforcement officers the law or implementation in matter this can executive , yes judicial can legislature . Third is the people . Now will we test one the first one by one is the rules . That according to Article 87 paragraph 1 of the Law Number 32 of 2009, written with clear problem must pay for destroyer environment live . Chapter that in a manner complete written : " Each guarantor answer business and/ or activities that do deed violate law form pollution and/ or destruction environment engendering life harm to another person or environment life must pay change loss and/ or do action certain .³¹

Application principle *strict liability* for request accountability criminal to corporations that do follow criminal environment no once applied in Indonesian law . Article 88 of the Law Number 32 of 2009 concerning Protection and Management Environment Life actually already could said contain principle *strict liability* " *Every person whose actions , efforts , and/ or activities use B3, produce and/ or manage B3 waste , and/ or which gives rise threat are you serious to environment life responsible answer absolute on losses that occur without need proof element mistake .*

When seen from existing elements in chapter the especially “ without need proof element error ” contains principle *strict liability* . However if look in explanation Article 88 UUPPLH which states that “what is meant with “ responsibility answer absolute ” or *strict liability* is element error no need proven by the parties plaintiff as base payment change loss . Provision paragraph this is *lex specialis* in lawsuit about deed violate law in general ”, then actually principle this only could applied in matter settlement dispute environment resolved through court through lawsuit civil .

³¹ Fikri Latukau, ‘Application of Strict Liability Principles in International and National Environmental Law Regarding the Marine Environment’, *Ilmu Hukum Kyadiren*, 3.1 (2021), 45–54.

LB Curzon outlines actualization and benefits principle *strict liability*. According to Curzon³² principle the needed because with :

1. Importance guarantee for obey regulations urgent certain required for well-being society ;
2. Proof of error is very difficult got on violations related regulations with welfare society ;
3. A high level of social harm is created from deeds it .

When Indonesia with on purpose blur mean *strict liability*, while other countries do think proceed with expand object from principle *strict liability* this . Expansion object from principle *strict liability* could seen like the one in America. Entered activities in the strict liability category in Anglo-American law , ie in the form of :

1. Activity effort producer management and transportation waste ingredient dangerous and toxic ;
2. Easy gas drift burnt in total large in urban areas ;
3. Installation nuclear ;
4. Drilling oil ;
5. Use machine peg pole large (*pile driving*) that causes vibration outside normal ; and
6. overflow .

Impact immediately then can arise from reduction principle *strict liability* in Indonesia with ratified the Omnibus Law , namely :

1. System proof error will the more difficult in enforcement law environment ;
2. The more much damage environment that occurs ;
3. Government and society must emit cost more in prove resulting error damage environment ;
4. Court it will be very stiff in give decision if must bound from norm new to the omnibus law .

³² St Ulfah, 'The Absolute Responsibility Principle in Environmental Environment System', *IOP Conference Series: Earth and Environmental Science*, 175.1 (2018) <<https://doi.org/10.1088/1755-1315/175/1/012036>>.

4. Conclusion

In Indonesia setting regulation approximately strict legal responsibility changed into first regulated in a Presidential Decree Republic of Indonesia about endorsement " worldwide conference on Civil liability for Oil pollution harm ". And thrive on regulation final with the promulgation in 2009 regarding safety and management surroundings live and the final then revised within the omnibus law. Omnibus law which abolishes detail " with out need proof element blunders ". Blurring norm in law this exactly preserve away suggest from precept of strict legal responsibility. essentially strict legal responsibility becomes idea that makes company should charged responsibility crook will become consequence on traits that passed off . duty the enter in category accountability without errors (legal responsibility with out fault). this manner si maker already may want to convicted if has do deed as has been formulated in constitution without appearance mindset he thought . Draft this also approach as deviation from principle mistakes, which is cited any individual no ought to convicted without exists error . impact without delay then can stand up from discount principle strict legal responsibility in Indonesia with ratified the Omnibus law , particularly , system proof blunders will the extra tough in enforcement law environment , an increasing number of plenty harm environmen, government and society ought to emit value more in prove ensuing error damage environment, court docket it is going to be very stiff in supply choice if need to certain from norm new to the omnibus law .

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