

CORPORATE RESPONSIBILITY FOR ENVIRONMENTAL DAMAGE CAUSED BY THE OPERATIONAL ACTIVITIES OF PLANTATION AND PALM OIL INDUSTRY COMPANIES IN WEST KALIMANTAN

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Abstract

Environmental Pollution is a serious problem that is currently being experienced by the community due to the large number of companies that carry out operational activities, especially in the plantation and palm oil industries. As one of the provinces with the largest number of oil palm planters, West Kalimantan is a place for entrepreneurs who make investments in the oil palm plantation and industry sector. However, many companies that start their business do not fully comply with the provisions regarding the implementation of environmental protection as stipulated in Article 74 paragraph (1) of Law Number 40 of 2007 concerning Limited Liability Companies which confirms that companies carrying out their business activities in the natural resources sector and/ or fields related to natural resources must carry out social and environmental responsibility. This study aims to explain the social and environmental responsibilities of plantation companies and palm oil mills in West Kalimantan Province and the efforts made to resolve environmental disputes due to environmental damage by companies. The research method uses descriptive qualitative. Data collection was carried out by observation and in-depth interviews. The withdrawal of informants was done on purpose. Data analysis used Miles and Huberman's interactive model which began with data collection, data reduction, data presentation and drawing conclusions. The results of the study show that environmental pollution is increasing due to the large number of companies that have not carried out their responsibility to maintain the environment and carry out procedures according to the regulations in force.

Keywords: *Environmental Damage; Corporate Responsibility; Factory Waste.*

I. INTRODUCTION

Indonesia is a paradise for companies wishing to invest, especially in the plantation and palm oil industry. Until now, the amount of land in Indonesia that has been turned into oil palm plantations, based on data from the Directorate General of Plantations, in 2022, the area of community oil palm plantations in

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Indonesia is 6,044,058 hectares and private oil palm plantations are 7,977,298 hectares.⁵

As one of the largest palm oil producers in Indonesia, West Kalimantan is one of the regions where currently the majority of the main business activities are carried out in the palm oil plantation and industry sector. Oil palm plantations in West Kalimantan are not only owned by individual communities, most are owned by companies, both private companies and State-Owned Enterprises (BUMN) and Regional-Owned Enterprises (BUMD). The number of plantation companies and palm oil mills in West Kalimantan Province in 2020 is 183 companies.

One of the triggers for the rapid growth of the palm oil plantations and industry is the high demand for vegetable oil in the global market and free trade policies. Free trade can further elevate the economic activity of a country. But on the other hand, free trade can also affect the environment due to consumption and production patterns that are not environmentally friendly where natural resources are exploited to support the production process; use and development of technology that is not environmentally friendly; pollution due to industrial waste; and trade in hazardous and toxic waste materials. Thus, free trade can exacerbate environmental problems if it is not accompanied by efforts to overcome market or policy failures which are the main causes of environmental problems.⁶

When environmental problems occur naturally from a natural process that does not cause a significant impact on the living environment system itself. Environment could recover himself and find a new balance so that it can naturally be restored to normal. But now, as the growth of population increase human needs, have an impact on the environment.⁷ However, the case is different if these environmental problems occur due to the influence of the continuous operation of a company. When environmental interests are ignored, the development carried out will damage and pollute the environment and destroy natural resources.⁸

Oil palm plantations hurt the ecosystem function of production forests or secondary forests.⁹ Land clearing and draining of peatlands in converting forest to

⁵Directorate General of Plantations, 2022, Statistical Of National Leading Estate Crops Commodity 2020-2022, Directorate General of Plantations Ministry of Agriculture of the Republic of Indonesia. p. 16

⁶Mella Ismelina FR, 2003, Issues of Environmental Law Enforcement in the Framework of Free Trade in the Era of Globalization, Pulpit Journal Volume XIX No. July 3 - September 2003: 227-242

⁷Susanto, Anthon F.; F Rahayu, Mella Ismelina.; Muliya, Liya Sukma, 2020, Law Community of "Tatar-Sunda": Preservation of Forests and Climate Change, Utopía y Praxis Latinoamericana, vol. 25, no. Esp.7, 2020, p.165

⁸Mella Ismelina Farma Rahayu, 2017, Sustainable Development in the Perspective of Sundanese Cultural Wisdom, Journal of Engineering and Applied Sciences 12 (18): 4657-4660, 2017 ISSN: 1816-949X, p. 4657

⁹Savilaakso, S., Garcia, C., Garcia-Ulloa, J., Ghazoul, J., Groom, M., Guariguata, M.R., Zrust, M. (2014). Systematic review of effects on biodiversity from oil palm production. Environmental Evidence, 3(1): 1-21. <https://doi.org/10.1186/2047-2382-3-4>

oil palm produce carbon dioxide emissions. Oil palm can indeed absorb carbon dioxide and oil potential to substitute fuels, but the use of biodiesel is still not able to compensate for the carbon emissions caused by forest conversion for oil palm plantations.¹⁰ On the other hand, chemical substances for fertilisers, pesticides, and insecticides are directly responsible for the decline in water quality and aquatic habitats.¹¹

Based on Article 74 paragraph (1) of Law Number 40 of 2007 concerning Limited Liability Companies, it is emphasized that companies that carry out their business activities in the field of natural resources and/or fields related to natural resources are obliged to carry out social and environmental responsibilities. The understanding of CSR generally revolves around three main points, namely CSR is: first, a voluntary role in which a company helps solve social and environmental problems, therefore companies have free will to do or not to do this role; Second, apart from being a profit institution, the company sets aside some of its profits for philanthropy with the aim of social empowerment and repair of environmental damage caused by exploration and exploitation. Third, CSR is a form of corporate obligation to care for and alleviate the ever-increasing humanitarian and environmental crises.

The next understanding of CSR is based on the idea that not only the government through the establishment of public policies, but also companies must be responsible for social problems. Businesses are encouraged to take a pro-active approach to sustainable development. The concept of CSR is also based on moral arguments. No single company lives in a vacuum and lives in isolation. Companies live in and with an environment. Companies can live and grow thanks to the community where the company lives, providing various public infrastructure for the life of the company, including in the form of roads, transportation, electricity, fire fighting, law and enforcement by law enforcers (police, prosecutors and judges). The quality of the environment and community behavior will determine the degree of public health. Furthermore, the degree of one's health will affect the quality of life and productivity which will ultimately affect one's well-being.¹²

Basically, the community must remain involved in the concept of CSR, which is the responsibility of the company. The role of the community certainly determines the success of the program that must be fulfilled by the company. Communities must have a role either at the level of planning or implementation.

¹⁰Manning, F.C., Kho, L.K., Hill, T.C., Cornulier, T., Teh, Y.A. (2019). Carbon emissions from oil palm plantations on peat soil. *Frontiers in Forests and Global Change*, 2: 37. <https://doi.org/10.3389/ffgc.2019.00037>

¹¹Darras, K.F., Corre, M.D., Formaglio, G., et al. (2019). Reducing fertilizer and avoiding herbicides in oil palm plantations—ecological and economic valuations. *Frontiers in Forests and Global Change*, 2: 65. <https://doi.org/10.3389/ffgc.2019.00065>

¹²Agnes Fitria Widiyanto, Saudin Yuniarno, Kuswanto, 2015, Groundwater Pollution Due to Industrial Waste and Household Waste, *Journal of Public Health*, Pack 10 (2) (2015) 246-254 , p. 247.

The community's role in environmental management involves individuals, community groups and environmental organizations (NGOs). In this case, the community can play a role in the decision-making process, such as evaluating the AMDAL, formulating environmental policies, developing a clean environment culture, counseling and guidance in the environmental field and in law enforcement.¹³

However, the problems that arise at this time are that many companies are ignoring their responsibilities and not even carrying out their responsibilities as they should. This can be seen from several cases that occurred in several districts in West Kalimantan, for example PT. Agro Nusa Investama (ANI), a subsidiary of Wilmar International and PT. Wana Hijau Semesta (WHS), a subsidiary of the Duta Palma group in Sambas Regency, PT. Agro Lestari Mandiri, a subsidiary of Sinar Mas and PT. Ladang Sawit Mas from the Bumitama Gunajaya Agro (BGA) group in Ketapang Regency and PT. PT Ichtar Gusti Pudi in Landak District.

The problems caused by these companies greatly impact the lives of the people around the company's location. Various efforts and complaints from the community are also often heard, but there is no desire or effort from the company to make restoration of the environmental damage caused. Even today, these companies are still operating and have not received strict sanctions from the local government. Of course, the absence of decisive action taken by the Government has caused a lot of disappointment from various parties, especially when looking at the impact caused by the factory's operational activities causing permanent environmental damage and the victims who feel the most impact are the surrounding communities who live in the area. In fact, the ideal development of environmental law is one that is able to create an equal relationship between humans and the environment.¹⁴

Based on what was previously described, this journal will analyze and discuss how companies are responsible for environmental damage caused by the operational activities of plantations and palm oil mills and what efforts are being made to resolve disputes over environmental damage due to plantation businesses and the palm oil industry. The method in the research process is through a qualitative approach which aims to analyze case studies which will be presented descriptively, to answer the problems that have been formulated above. According to Sugiyono, qualitative research methods are often called naturalistic research methods because the research is carried out under natural conditions, or as an enographic method, because initially this method was used more for research in the field of cultural anthropology, it is referred to as a qualitative method, because

¹³Mella Ismelina FR, 2003, Legal Aspects of Indigenous People's Participation in Environmental Management, ETHOS Volume I No. 1 January-June 2003, p. 2

¹⁴Mella Ismelina Farma Rahayu, Anthon F. Susanto, and Liya Sukma Muliya, 2014, Religious – Cosmic Environmental Law Empowerment Model As An Effort To Preserve Environmental Functions, Journal of Litigation Law, Volume 15 No. 1 April 2014, Pp.5

the data collected, and the analysis is more qualitative.¹⁵ Data collection was carried out by observation and in-depth interviews. Withdrawal of informants was carried out purposively. Data were analyzed using the Miles and Huberman interactive model which began with data collection, data reduction, data presentation and drawing conclusions.

II. DISCUSSION

Responsibility for Environmental Damage Caused by Operational Activities in the Palm Oil Plantation Business and Industry

There are more than 100 plantation companies and the palm oil industry in West Kalimantan.¹⁶The establishment of these companies is of course inseparable from the rich natural resources in West Kalimantan. These companies consist of large to small scale companies. According to Sutan Remy Sjahdeini, the meaning of a company in civil law is a company only in the form of a legal entity, while in criminal law it is not only a company, but both in the form of a legal entity and not a legal entity and also an organized collection and organized assets.¹⁷

The existence of a company is inseparable from responsibility, both social responsibility or what is often known as Corporate Social Responsibility (CSR) and legal responsibility. As for responsibility, according to Purbacaraka, it provides an understanding of legal responsibility originating or born for the use of facilities in the application of each person's ability to use and/or carry out their obligations.¹⁸ Meanwhile, corporate responsibility in the form of CSR is an obligation imposed on the company to fulfill the provisions in running its business. In Article 74 paragraph (1) of Law Number 40 of 2007 concerning Limited Liability Companies (UUPT) stipulates that "Companies that carry out business in the field of and/or concerned with natural resources are obliged to carry out social and environmental responsibilities". Furthermore, in Article 74 paragraph (2) UUPT stipulates that social and environmental responsibility is a company obligation that is budgeted for and calculated as the company's costs, the implementation of which is carried out with due observance of decency and fairness. If the company does not carry out its obligations, it will be subject to sanctions in accordance with the provisions of the legislation (Article 74 paragraph (3) UUPT). Law Number 32 of 2009 concerning Environmental Protection and Management (UUPPLH) has regulated corporate responsibility including civil liability, criminal responsibility, and

¹⁵Hendra Maujana, and Hanna Rahayu, "Effect of EU policies on Indonesian palm oil exports", *Journal ICCET* Vol. 8, No. 2, 2022, pp. 296-303 DOI: <https://doi.org/10.29210/020221377>

¹⁶Data of companies and the palm oil industry in West Kalimantan, <https://data.kalbarprov.go.id/> accessed 13th May 2023.

¹⁷Sjahdeini, Sutan Remy. (2017). *The Doctrine of Criminal Justice: Corporate Crime and its Ins and Outs*, 2nd Edition. Jakarta: Kencana, p. 39.

¹⁸Purbacaraka. (2010). *Regarding the Rule of Law*, Bandung: Citra Aditya, p. 37.

administrative responsibility. Civil liability arrangements for companies that cause environmental damage are regulated in Article 87 paragraph (1) UUPPLH which is categorized as an unlawful act in the sense of Article 1365 of the Civil Code in the form of environmental pollution and/or damage that causes harm to other people or the environment so that obliged to pay compensation and/or take certain actions. Humans will always need water in their daily lives, especially drinking water. Drinking water is a part of global water cycle which includes the functions of abiotics and biotics.¹² Water is the source of life and is considered as the most essential natural resource.¹⁹

This shows that corporate responsibility is something that should be carried out by all companies. But the fact is that there are lots of cases that have occurred, especially in West Kalimantan, which shows that many companies violate their obligations and don't even carry out environmental maintenance which actually causes environmental damage that impacts people's daily lives. An example of a case that occurred in West Kalimantan is a plantation company and the palm oil industry, namely PT. Agro Nusa Investama (ANI), a subsidiary of Wilmar International and PT. Wana Hijau Semesta (WHS), a subsidiary of the Duta Palma group in Sambas Regency which has caused water pollution on the banks of the Sambas River in Semanga Village, thereby poisoning fish and rice fields which are the source of food for the community.²⁰ In Ketapang Regency there is PT. Agro Lestari Mandiri, a subsidiary of Sinar Mas and PT. Ladang Sawit Mas from the Bumitama Gunajaya Agro (BGA) group which has caused a decrease in the quality and quantity of water in the Pawan River.²¹

In 2021 in Landak Regency, PT Ichtiar Gusti Pudi has been proven negligent in causing land and environmental damage due to land fires resulting in physical and chemical changes in the burning soil, the death of soil flora and fauna, subsidence of peat soil and changes in the physical, chemical and biological properties of the soil. In addition, there was news published in the Pontianak Tribune Online Media on May 10, 2021 regarding allegations of river pollution in Engkadu Village caused by PT Palma Bumi Lestari's waste so that the Landak Regency Environmental Service made quick observations in the field regarding indications of environmental pollution by PT Palma Bumi sustainable.²² The field observation activity began with a meeting at the PT

¹⁹Kumar Reddy and Lee, Water Pollution and Treatment Technologies, J Environ Anal Toxicol Volume 2 Issue 5 p. 103

²⁰<https://kruha.org/sungai-beracun-perlawanan-untuk-merebut-kembali-air-dari-perkebunan-kelapa-sawit-di-indonesia/> accessed 13th May 2023.

²¹*Ibid*

²²<http://dlh.landakkab.go.id/berita/menindak-lanjuti-pemberitaan-di-media-online-tentang-dugaan-pencemaran-sungai-di-desa-engkadu-yang-diakibatkan-oleh-limbah-pt-palma-bumi-lestari-dinas-lingkungan-hidup-kabupaten-landak-melakukan-observasi-cepat-di-lapangan> accessed 4 May 2023.

Palma Bumi Lestari Office which was attended by community representatives from Tapis Tambawang Hamlet, Engkadu Village, Ngabang District, along with the company and the Landak Regency Environmental Service to clarify the news in the online media. The follow-up of the meeting was to carry out efforts to check the waterways of the river and take water samples at several points suspected of being contaminated with good waste and conduct an analysis of water samples from these points in the PT Palma Bumi Lestari company laboratory and to report environmental issues that occurred to the Office. Landak District Environment.

These cases are examples of damage caused by the operational activities of plantation companies and the palm oil industry in West Kalimantan. There needs to be a settlement effort that must be made by plantation companies and the palm oil industry so as not to cause environmental damage. All cases of environmental damage and pollution caused by companies should not only focus on punishment or imposition of sanctions but should also focus on environmental restoration. The companies involved should make a recovery because they have polluted the environment. UUPLH has accommodated Recovery as stipulated in Article 54 which reads: (1) Everyone who pollutes and/or destroys the environment is obliged to restore environmental functions. (2) The restoration of environmental functions as referred to in paragraph (1) is carried out in stages: stopping sources of pollution and cleaning up pollutant elements, remediation, rehabilitation, restoration and or other methods that are in accordance with developments in science and technology.²³

Dispute Settlement Efforts Against Environmental Damage Due to Palm Oil Plantation and Industrial Business Activities

Indonesia faces extraordinary environmental challenges in global warming, pollution, loss of biodiversity, deforestation, agrarian conflicts and degradation of natural services.²⁴ The ecological crisis is getting worse every day, which is likely to worsen if the government has no serious effort to deal with it. The exploitation of natural resources will threaten the security of human life faster than the restoration of natural ecosystems.²⁵ In the Indonesian environmental regime, environmental crimes are only administrative, civil and criminal offences. Environmental crimes in Indonesia have led to ecocides, namely, a systematic and

²³Bachtiar Marbun, 2021, Jurnal Hukum Lingkungan, Tata Ruang, dan Agraria, Volume 1, Nomor 1, Oktober 2021, p.6-7.

²⁴Balogh, J.M., Jámbor, A. (2020). The environmental impacts of agricultural trade: A systematic literature review. *Sustainability*, 12(3): 1152. <https://doi.org/10.3390/su12031152>

²⁵Lubchenco, J. (1998). Entering the century of the environment: a new social contract for science. *Science*, 279(5350): 491-497. <https://doi.org/10.1126/science.279.5350.491>

massive crime against the Environment, having a broad and long-term impact and causing the peace and security of human life to be threatened.²⁶

Cases of pollution and environmental destruction are things that are actually very dangerous for the welfare of mankind. Especially if you look at the current pollution and environmental destruction carried out by companies engaged in various fields of activity, including plantation companies and their factories, many of which use chemical-based products that can increase the production of hazardous and toxic waste materials. Therefore, aspects of law enforcement are needed, and empowerment actions need to be maximized, especially in companies that damage and pollute the environment, one of which is by looking at the efforts that can be taken both by individuals and organizations with legal entities.

Efforts that can be taken in order to solve the problem of environmental damage are through litigation and non-litigation. In terms of litigation, companies that are proven to have polluted and damaged the environment can be given legal action in the form of sanctions as follows:

1) Administrative Sanctions

Administrative sanctions are the first legal action given to companies that pollute and destroy the environment. Administrative sanctions have an instrumental function, namely the prevention and control of prohibited acts and are primarily aimed at protecting interests guarded by the violated legal provisions. Environmental law enforcement can be done preventively. Preventive law enforcement means active supervision is carried out on compliance with regulations without direct events involving concrete events that raise suspicions that legal regulations have been violated. This effort can be carried out by monitoring and using supervisory powers. (Article 71 paragraph (1), (2) and (3), Article 72, Article 73, Article 74 paragraph (1), (2) and (3), Article 75 UUPPLH.

2) Civil Sanctions

Civil sanctions are the second legal action given to companies that pollute and destroy the environment. Based on article 84 of the UUPPLH it is explained that regarding the settlement of environmental disputes to sue for compensation and or environmental restoration costs, namely:

a) Settlement of environmental disputes out of court.

b) Settlement of environmental disputes through courts.

Settlement of environmental disputes outside the court according to Article 85 and Article 86 of the UUPPLH states that settlement of

²⁶Joko Setiyono and Aga Natalis, 2021, Ecocides as a Serious Human Rights Violation: A Study on the Case of River Pollution by the Palm Oil Industry in Indonesia, *International Journal of Sustainable Development and Planning*, Vol. 16, No. 8, December, 2021, p. 1465.

environmental disputes outside the court is held to reach an agreement regarding the form and amount of compensation and/regarding certain actions to ensure that negative impacts on the environment do not occur or recur. This is done voluntarily by interested parties, namely parties who are harmed and cause losses, related government agencies and can also involve parties who have concern for environmental management. Settlement through this method is carried out by means of environmental mediation, the legal consequences of environmental mediation are usually set forth by the parties in the form of a written mediation agreement which is considered legally binding as a contract subject to the provisions of the Civil Code.

Settlement of environmental disputes through courts according to Article 87 to Article 93 of the UUPH states that settlement of environmental disputes through courts is held to settle compensation, environmental restoration, absolute responsibility, grace period for filing lawsuits, government and regional government claims, rights community lawsuits, environmental organizations' lawsuits, administrative lawsuits.

- a) Compensation Any unlawful act in the form of pollution and environmental damage that causes harm to other people or the environment, obliges the person in charge of the business and/or business activity or the company to pay compensation and/or take certain actions. In addition to the burden of carrying out certain actions referred to by the judge can determine the payment of forced money for each day of delay in completing certain actions. The legal determination of this provision is the realization of a principle in environmental law called the polluter pays principle. Apart from being required to pay compensation, polluters or environmental damage can also be burdened by judges to take certain legal actions such as carrying out restoration of environmental pollution and damage.
- b) Absolute Responsibility The person responsible for a business and/or activity whose business creates a large and significant impact on the environment that uses hazardous and toxic materials, is absolutely responsible for the losses incurred without the need to prove elements of guilt.
- c) Deadline for Filing a Lawsuit The time limit for filing a lawsuit is calculated from the time the victim becomes aware of environmental pollution and/or damage. Expiration provisions do not apply to pollution and/or activities that use hazardous and toxic materials and/or produce hazardous and toxic waste.

- d) Claim Rights of the Government and Regional Governments Government agencies and local governments responsible for the environment have the authority to file claims for compensation and certain actions against businesses and/or activities that cause environmental pollution and/or damage resulting in environmental losses.
- e) Community Claim Rights The community has the right to file a class action lawsuit for its own interests and/or the interests of the community if it suffers losses due to environmental pollution and/or damage.
- f) Rights of Claims of Environmental Organizations In the context of carrying out the responsibility for protecting and managing the environment, environmental organizations have the right to file lawsuits in the interest of preserving environmental functions. The right to file a lawsuit is limited to demands to take certain actions without claims for compensation, except for real costs or expenses.
- g) Administrative Lawsuit Everyone can file a lawsuit against a State administrative decision if a State administrative agency or official issues an environmental permit. Business licenses that do not have an Amdal obligation and are not accompanied by Amdal documents and are not equipped with UKL-UPL documents for business actors or business activities.

3) Criminal Sanctions

Criminal sanctions are the last aspect of legal action. Criminal sanctions are given to companies that pollute and destroy the environment, have the function of educating companies regarding the actions committed, especially aimed at protecting the public interest which is guarded by the provisions of the law that have been violated. In addition, its function is also to prevent or hinder potential actors from carrying out irresponsible behavior towards the environment. To be able to impose criminal penalties for environmental cases in companies, regulations are also applied like other criminal cases, namely the principle of legality, meaning that it must be based on the law that existed at the time the act was committed and the mistake must be proven. Criminal provisions are listed in Article 97 to Article 120 of the UUPLH. One of the criminal provisions regulated in Article 98 of the UUPLH states:

- a) Any person who intentionally commits an act which results in exceeding the air quality standard, ambient quality standard, water quality standard, sea water quality standard, or environmental damage standard 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).

- b) If the act as referred to in paragraph (1) results in injury to a person and/or endangers human health, the criminal shall be punished with imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years and a fine of at least Rp. 4,000,000,000.00 (four billion rupiah) and a maximum of Rp. 12,000,000,000.00 (twelve billion rupiah).
- c) If the act referred to in paragraph (1) results in a person being seriously injured or dead, the penalty is imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp. 5,000,000,000.00 (five billion rupiah) and a maximum of Rp. 15,000,000,000.00 (fifteen billion rupiah).

If an environmental crime is committed on behalf of a business entity or company, criminal charges and criminal sanctions will be imposed on the business entity or the person giving the order to commit the crime or the person acting as the activity leader in the crime (Article 116 paragraph (1) and (2) UUPPLH). Criminal threats as stated in the articles of UUPPLH are imprisonment and fines. Apart from that, there are additional criminal or disciplinary measures against business entities in Article 119 UUPPLH in the form of:

- a) Deprivation of profits derived from criminal acts.
- b) Closure of all or part of the place of business and/or activity.
- c) Correction due to criminal acts.
- d) The obligation to do what is neglected without rights.
- e) Placement of the Company under guardianship for a maximum of 3 (three) years.

In addition to settlement through litigation, the Company can also seek non-litigation dispute resolution. This is done by means of mediation between residents who are directly affected by environmental damage and the company to find and discuss solutions that need to be carried out by the company in order to seek restoration of environmental damage, as well as make efforts so that the environmental damage that has been caused as well as they have a direct impact on the community, they can be held accountable for it on an ongoing basis, so that the community is not burdened and can get the rights they should have had before environmental damage occurred.

To clarify the responsibilities and efforts related to environmental pollution cases, we can look at an example of a case where the settlement of the case was carried out through litigation based on Supreme Court Decision Number 5/ Pid.Sus-LH/2021/ PN Nba which involved PT Ihtiar Gusti Pudi it was explained that the company had been legally proven to have committed a criminal act because its negligence resulted in exceeding ambient quality standards, water

quality standards, seawater quality standards or environmental damage standard criteria in accordance with Article 99 paragraph (1) in conjunction with Article 116 paragraph (1) letter A Republic of Indonesia Law Number 32 of 2009 concerning Environmental Protection and Management and is subject to a fine of Rp.1,000,000,000.- (one billion rupiah). Based on the decision, the company is only required to pay a fine to compensate for the loss without mentioning how the fine mechanism is aimed at environmental restoration.²⁷

In fact, the cost of the fine must be used to restore the environment back to normal, but not all environments can be restored to their original state before environmental pollution occurred. Environmental restoration efforts vary because they depend on the ecosystem and conditions of each area. So that if the company is unable to manage it then the government is responsible for restoring it.

Environmental damage caused by companies can actually be prevented from the start if proper and measurable preparation of an environmental impact analysis (AMDAL) and Strategic Environmental Assessment (KLHS) is carried out. To prevent environmental pollution, there are actually many techniques and methods applied, including physical methods (filtering; sedimentation; flotation/collection/collection; destruction; and filtration), chemical methods (precipitation techniques with chemicals, neutralization, sedimentation, redox reactions, chlorination). and biological methods (aerobic, anaerobic and facultative processes).²⁸

Industrial or plantation activities often ignore environmental sustainability and are only profit-oriented, tend to ignore social and environmental responsibilities to the people who live in the area where the company operates. Management efforts to reduce the impact of environmental damage due to the company's operational activities can utilize waste water through the Disposal Pool which functions as a reservoir for all waste generated from the palm oil production process and then utilized. in accordance with government regulations in the Decree of the State Minister for the Environment Number 29 of 2003 concerning Guidelines for Requirements and Procedures for Licensing the Utilization of Palm Oil Industrial Wastewater on Soil in Oil Palm Plantations.

By utilizing waste, it also prioritizes the return of function and quality of the environment which was damaged by industrial activities. Weaknesses in the regulatory system and weak supervision of environmental management have resulted in pollution and damage to the environment.

III. CONCLUSION

²⁷Decision of the Ngabang District Court Number 5/ Pid.Sus-LH/ 2021/ PN Nba dated 16 March 2021

²⁸Indang Dewata & Yun Hendri Danhas, 2018, Environmental Pollution, Depok: Rajawali Press, p.127-129

Based on the description above, it can be concluded that the large number of companies investing in West Kalimantan basically has positive and negative impacts. The positive impact is the increase in the economy of a region and the existence of jobs that help the surrounding community. But besides that, there are also negative impacts that cannot be avoided, namely environmental damage due to wastes originating from the company's operational activities. Until now there have been many cases that have arisen related to environmental damage caused by companies. However, there has been no firm action from the Government on cases that have occurred, causing environmental problems to date to be a very serious problem to be addressed. For this reason, it is necessary to have strict supervision by the Government, especially in the process of preparing environmental documents before issuing company licenses, so that what has been written must be carried out by all companies that are already operational.

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