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# CORPORATE RESPONSIBILITY TO CLAIM ISSUED FROM ENVIRONMENTAL ORGANIZATION

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**Abstract:**
The number of environmental cases and its consequences, which occur in various parts of the world including Indonesia proves that corporations can be involved directly or indirectly in pollution and environmental destruction. Those cases basically violate the law that resulted in losses for the sake of the people and the state. By looking at the symptoms of the pollution and destruction of the environment as well as violations of the law that can be done by the corporation as mentioned above, it is clear to say that the corporation acts has a very broad negative impact on every part of people's lives that is not only be the subject of civil law, but also be the subject in criminal law. In this context, they can be prosecuted and sentenced or criminal liability for criminal acts that have occurred.
Keywords: Coorporate Responsibility, Issued Claim, Environmental Organization

## 1. Introduction

The Law No. 32 of 2009 on the Protection and Management of the Environment (hereinafter abbreviated the Law PPLH) in its explanatory emphasizes the Indonesian environment must be protected and well managed under the principles of state responsibility, the principle of sustainability, and fairness. In addition, environmental management must be able to provide economic expediency, social, and cultural development that is based on the precautionary principle, environmental democracy, decentralization, and the recognition and appreciation of local knowledge and wisdom of the environment.

Protection and environmental management demands the development of an integrated system such as a national policy. The protection and management of the environment should be implemented in strict accordance with the principles and consequences from the center area to the local area. The use of natural resources must be harmonious, and balanced with environmental functions. As a consequence, policies, plans, and/or development programs must be inspired by the obligation to undertake environmental preservation and realize the goal of sustainable development.[422]

The fact shows that the development in Indonesia is not only producing products that are beneficial to human life, but also has caused environmental problems. Global environmental problems is actually not an entirely new thing, although recently received serious attention in almost all countries started around 1970 particular after the holding of the United Nations Conference on the Human Environment in Stockholm, Sweden in 1972.[423]

In the era of the 1950s, many major cities in the world such as Los Angeles had experience environmental problems in the form of smoke-fog from vehicle exhaust gases and factories. The smoke and fog enveloped the city for many days and caused detrimental to health, especially respiratory and damage crops. In end of 1953 in Japan, there was terrible disease in Minamata Bay due to methylmercury poisoning and cadmium, hereinafter known as "Minamata disease". The disease was caused by the consumption of fish contaminated by methylmercury sourced from waste containing mercury (Hg) of several chemical plant dumped into the Minamata Bay.[424] Similar disease occurred back in 1964-1965, which afflicted the population of fishermen and their families who live around the island Nigata was located in the northern Japan Sea Coast, Tokyo. Then, the "explosion" of three similar disease occurred in 1973 in Goshonoura, Amakusa Islands were faced with the Minamata Bay. Moreover, in the 1960s in Japan, there was disease caused by metal poisoning cadmium (Cd) from mining companies zinc (Zn) belongs Mikioki Corporation in Toyama Prefecture, which was then known as Itai-itai disease.[425]

[422] The explanatory of the Law PPLH.
[423] Muhammad Akib, *Environmenatl Law in Global and National Perspectives*, PT. Raja Grafika Persada, Jakarta, 2014, p. 5.
[424] Otto Soemarwoto, *Ecology, Environment and Development*, Djambatan, Jakarta, 1991, p. 10.
[425] Ibid. p. 5.

 

Between 1984-1987, then, there had been a crisis or an environmental case that swept the world. For example, drought in Africa, India and Latin America, as well as floods swept across Asia, parts of Africa and the Andes in Latin America. Those environmental cases had suffered millions of people. Leakage pesticide factory in Bhopal, India killed more than 2,000 people and injured and caused blindness in more than 200,000 people. Liquefied gas tank explosion in Mexico City had killed 1,000 people and made thousands of people homeless. There was also the explosion of the Chernobyl nuclear reactor in Russia that has sent nuclear dust across Europe and increased the risk of cancer in humans. Another case was agricultural chemicals, solvents and mercury spilled into the River Rhine when there was a fire at a warehouse in Switzerland and killed millions of fish as well as contaminated the drinking water in the Republic of Germany and the Netherlands.[426]

In the regional of Association of Southeast Asian Nation (ASEAN), environmental problems occur among others in Sarawak, Malaysia when the area is attacked outbreak of malaria. To combat malaria, DDT is used but some of the other animals that are not a target of spraying such as lizards and cats also die. The extinction of cats are soaring rat population, which in turn transmit bubonic plague.[427] Other environmental problems that often occur in the ASEAN region, among others, is illegal logging and air pollution caused by fires or forest fires that interfere with neighboring countries, such as Malaysia and Singapore.

Similarly in Indonesia, environmental problems are also not new. National environmental problems such as pollution and environmental destruction in its development continues to occur and even tends to get worse, especially after the era of reform and regional autonomy. Some environmental cases to reach the court such as bird of paradise case in Irian Jaya (1984), soy and pig waste case in Sidoarjo, East Java (1989), the case of PT Inti Utama Indorayon in North Sumatra (1989), and the case of PT Sarana Surya Sakti in Surabaya (1991). There are some cases that occurred in the era of local autonomy like the case pollution Seputih Way in Central Lampung (2002), cases of trafficking of Wildlife in South Sumatra and Lampung (2003), and the Buyat Bay pollution case by PT Newmont Minahasa Raya (2004), a case PT Freeport (2005-2006), and a case of hot mud in Sidoarjo (PT Lapindo Brantas) that have occurred since 2006. Nevertheless, the structure and substance of the weaknesses of existing law, such cases in solving many who do not meet expectations.[428]

The number of environmental cases and its consequences, which occur in various parts of the world including Indonesia proves that corporations can be involved directly or indirectly in pollution and environmental destruction. Those cases basically violate the law that resulted in losses for the sake of the people and the state. By looking at the symptoms of the pollution and destruction of the environment as well as violations of the law that can be done by the corporation as mentioned above, it is clear to say that the corporation acts has a very broad negative impact on every part of people's lives that is not only be the subject of civil law, but also be the subject in criminal law. In this context, they can be prosecuted and sentenced or criminal liability for criminal acts that have occurred. In general, a criminal offense can only be done by a human or a private person. Therefore the criminal law so far only know the person or group of people as subjects of law or in other word as perpetrators of a crime. This can be seen in the formulation of the articles of the Criminal Code which starts with the word "Whoever", which is generally intended or referring to people or humans.

In Indonesia, the corporation has known as the subject of criminal law since 1951. It is contained in the Law Act No. 17 of 1951 concerning stockpiling goods,, which now is no longer valid under the Government Regulation in Lieu No. 8 of 1962. It became known widely in 1955 when the Government released the Law No. 7 of 1955 on Economic Crime. Therefore, since in 1955, the corporations as a subject of law can be prosecuted and sentenced to criminal sanctions. Regarding corporate responsibility in criminal law is generally accepted as a principle of law. Long enough people have different opinions about the legal basis of corporate accountability. In the end of discussion however, it has been generally recognized that corporations can be in criminal law without seeking further legal basis. To prosecute it, it is only to questione whether there is enough rights and responsibilities recognized by law available to the corporations.[429]

Corporate responsibility for environmental crime in the Law PPLH is provided in Article 116, Article 117, Article 118, and Article 119. functionalizing the criminal law to tackle the problem of pollution and environmental destruction due to development is realized through the formulation of criminal sanctions. As we know, the environmental criminal law can be useful, not only determined by criminal sanctions, but also by the

[426] Bambang Sumantri, *We are Together in the Future*, Gramedia, Jakarta, 1988, p. 4.
[427] N.H.T. Siahaan, *Ecological Development and Environmental Law*, Erlangga, Jakarta, 1987, p. 4.
[428] Ibid. p. 7.
[429] M. Hamdan, *a Criminal Act of Environmetal Pollution*, CV. Mandar Maju, Bandung, 2000, p. 65.

 

applicable concept of criminal liability. The concept of criminal responsibility is important because the problem of pollution and environmental destruction can occur (sourced) from corporate activity in which involved a lot of people with different levels of duties and responsibilities of the job. It is necessary therefore to develop the concept of corporate responsibility.[430] Corporate responsibility for pollution and environmental destruction in the Law PPLH include administrative responsibilities, civil liability, and criminal liability.

The pollution and destruction of the environment continues to increase in line with the increased activities of the corporation in developing a business because it does not carry out its responsibilities in accordance with the principles of environmentally sustainable development in the management of natural resources. Natural resources in Indonesia is abundant either as renewable natural resources or as not renewable natural resorces. Not renewable natural resorces such as oil and gas, gold, copper, silver, coal and others are controlled by the state and used for the welfare of the people. The focus of the article then is to discuss the responsibility of the organization to suit the environment.

**2. Liability Lawsuit Against Environmental Organization**

According to Article 92 paragraph (1) of the Law PPLH determines that within the framework of the implementation of environmental responsibility and environmental management, environmental organizations have the right to bring a lawsuit in the interests of environmental functions. The environmental organizations are authorized by the Law PPLH to file a lawsuit to the court. The right to sue environmental organization is one part of the legal standings which develops many parts of the world.

In the lawsuit environment is often questioned about the authority of the litigants in the case of contamination have special properties, namely their ecological importance regarding the preservation of natural resources. Threats affecting wildlife resources or protected forest measures such as requiring corporations induce power to litigants in the interest of ecological and public interest. Elephants, tigers, rare trees, objects of cultural heritage cases can not bring in court. Facing this situation then, the role of Non Governmental Organization (NGO) or a real environmental organizations engaged in environmental conservation is essential to the lawsuit. Traditional civil law doctrine adheres to the principle of no lawsuit without legal interest, which only allows the authority to sue on the basis of interests and legal relationship with the defendant and cause harm. [431]

Article 102 RR (Reglement op de Rechtsvordering) adheres to the principle of "no lawsuit without legal relationship" which requires the existence of the violated rights of others or conflicts of interest of two or more people.[432] In relation to environmental interests as the interests of the general application of the principle of the environmental lawsuit needs to be reviewed.

According to article 65 paragraph (1) of the Law PPLH, everyone is entitled to a good environment and healthy living as part of human rights. Article 1 number 32 the Law PPLH is also formulated that every person is an individual or business entity whether incorporated or unincorporated. It means that the existence and role of NGOs or environmental organizations as a manifestation of a group of people or legal entities is admitted.

NGOs perform infront of the court is based on an assumption that the NGO is a guardian of the environment. This opinion departs from the theory raised by Professor Cristoper Stone, where in his article that is widely known in North America, entitled Should Have Standing Tress. In his theory, it gives the legal right to the natural objects. According to Stone, forest, sea, or river is a natural object worthy of legal rights and is not wise if deemed contrary merely because it is inanimative (unable to speak). In the legal world itself has since long recognized the legal rights of inanimative object, such as the individual, the state, and minors. For legal advice, power or guardian acting on behalf of their legal interests. Right to sue environmental organization governed by Article 92 of the Law PPLH is given to fullfil responsibility of the implementation and management of environmental protection. So, the organization has the right to file a lawsuit to the court in the interests of environment conservation.[433]

[430] Alvi Syahrin, *Some Issues of Criminal Environmental Law*, PT. Sofimedia, Medan, p. 8.

[431] Christopher D. Stone, Should Tree Have Standing? Toward Legal Right for Natural Objects, *Southern California Law Review*, Vol. 45, 1971, p. 450.

[432] See Siti Sundari Rangkuti, *Environmental Law and National Environmental Policies*, Airlangga University Press, Surabaya, 2005.

[433] See http://www.elsam.or.id, diakses 10 Oktober 2014.

 

To be able to file a lawsuit to court, environmental organization must meet the following requirements:[434]

a. A legal entity,
b. Affirmed in their statutes that the organization is founded for the sake of environment conservation, and
c. Has been carrying out concrete activities in accordance with its articles of association for a minimum of two (2) years.

This means that not all NGOs can file a lawsuit to the court, but the only environmental organization that meets the requirements as stipulated in Article 92 paragraph (3) of the Law PPLH.

Requirements of environmental organizations have to be legal entities. This means that as a legal entities the organization has its own wealth separately with a wealth founder and board. A clear organizational wealth will be used for the benefit of current activities in order to achieve its objectives. The environmental organizations position are not only for profit corporation, but also for non-profit institutions or social oriented activities. The organizations then can become a legal entity after the deed environmental organizations authorized by the government and published in the Official Gazette.

An organization can be called environmental organizations if they show deed and approval of legal entities from the Minister of Justice and Human Rights and its the Official Gazette. The organization in their statutes load that the establishment of organizations for the benefit of environmental conservation. Then to be able to file a lawsuit to the court a minimum of two years conducting manifestly done in the community. This grace period so that environmental organizations have the experience of plunging into the community and know with certainty the existence of the events that occur and what is the actual problem.

In line with its right to file a lawsuit, NGOs as environmental organizations act to represent the public interest and for the benefit of natural resources. Therefore, NGOs can not file a claim for compensation since not as an injured party (victim) and can only demand a cost or real expenditures. NGOs can only sue a defendant to perform certain actions in the form of precaution and prevention of pollution and/or damage and the restoration of environmental functions in order to guarantee that it will not happen or recurrence of negative impacts on the environment. For example, in a case between WALHI as plaintiff against PT Freeport Indonesia Company as a defendant in the case of the waste rock dumps into Lake Wanagon. This case are decided by the South Jakarta District Court dated August 28, 2001 No. 459 / Pdt.G / 2000 / PN.Jak.Sel. The plaintiff demanded in the letter of complaint, namely:[435]

1. To receive and in favor of the plaintiff in its entirety.
2. To declare that the Defendant had committed an unlawful act.
3. To order the Defendant to file for a public apology by placing ads on tort that has been done, with editorial determined by the plaintiff at least 10 national public daily such as Kompas, Media Indonesia, Republika, Jakarta Post, Bisnis Indonesia, Rakyat Merdeka, Merdeka, Headline News, Sinar Pagi, Jawa Pos, the two local public daily e.g. the Cendrawasih Pos and Tifa Papua. Each whole a full page for one week in a row; at least 10 national magazines, among others, namely Tempo, Justice Forum, SWA, Economic News, Cash; at least 5 international magazines, among others, namely Time Financial Times, Far Eastern, Economic Review, Newsweek, Asia Week, TFA Economist; three international daily, the International Herald Tribunes, Newyork Times, USA Today, Washington Post, which each whole one full page for one month in a row; at least six television electronic media, namely TVRI, SCTV, RCTI, Indosiar, ANTEVE, and TPI; international television electronic media, namely CNN, CNBC, BBC, BLOOMBERG, REUTERS TV, each of which was broadcast during prime time (Prime Time) for one week in a row, and at least 10 radio electronic media that the overall time slot at least 5 times in a day with a duration of 1 minute for 10 consecutive days, no later than 7 days after the issuance of the decision that has been finalized in this case.
4. To order the Defendant to pay the money forced (dwangsom) of US $ 100,000.00 (one hundred thousand US dollars) for each late run decision in this decision, with interest in accordance with the prevailing bank rate in Indonesia, starting from this decision finalized.
5. To declare the verdict in this case can be implemented first, although there are efforts to verzet, appeal, and cassation.

[434] See Article 92 paragraph (3) the Law PPLH.
[435] Gatot Supramono, op.cit. pp. 81-83.

 

6. To order the Defendant to pay the entire cost of the case until this decision has permanent legal force.

Of the demands of the plaintiffs after the case being heard, the South Jakarta District Court ruled on the injunction as follows:[436]

⇒ Accept the plaintiff's claim in part.
⇒ Declare that the defendant PT FREEPORT INDONESIA COMPANY has committed an unlawful act by a declaration has been given with respect to the sliding of overburden in the lake Wanagon Irian Jaya.
⇒ Order the defendant to do their utmost to minimize the risk of landslides overburden are dumped into the lake Wanagon and its effort as much as possible to minimize the overburden of waste consisting of Hazardous and Toxic Materials (B3) to achieve water quality standards for lakes and rivers. Rejected the lawsuit plaintiffs apart and rest.
⇒ Charging the defendant to pay the court fee of Rp 209.000.00 (two hundred and ninety thousand dollars).

Consider to the demands of the plaintiff and the ruling of the South Jakarta District Court above, its desicions did not mention about compensation. The plaintiff did not sue for damages to the defendant but demands apology which was announced in mass media. While the court decision was essentially about improving the environment with the defendant ordered to reduce the risk of occurrence of sliding and pressing the B3 waste so that water quality can be improved. This ruling was in accordance with the provisions of Article 92 Paragraph (1) of the Law PPLH due to the interest of environmental functions even in the lawsuit the plaintiff is not required.

Right to sue environmental organization whose purpose is to demand the restoration of environmental functions, but if the lawsuit is granted a court decision as an order and not to punish. As a result, the decision will be difficult to be executed and especially the contents of the court order (dictum) in the form of action to implement something that is common. Therefore, the right to sue an environmental organization has no effect on the provision of a deterrent effect to the perpetrators and givers policy. Right to sue environmental organization should not mean that environmental groups can sue for damages against corporations that make pollution and destruction of the environment for the benefit of the organization through the courts.

In addition to the settlement of environmental disputes resolved in court, it is also known as dispute resolution outside the court. There are several forms of dispute resolution outside the court environment such as through Alternative Dispute Resolution (APS) or Alternative Dispute Resolution Mechanism (ADRM) or alternative dispute resolution (ADR), which is in the form of mediation or conciliation. [437] the dispute resolution outside the court in the foreign literature is referred to as ADR. Equivalent term ADR in Indonesian literature is the choice of dispute resolution (CDR), or ADRM.

To enrich knowledge and also as a comparison, it is necessary to understand the forms of ADR that are known in the United States and Canada such as negotiation, conciliation, mediation, arbitration, and fact-finding.[438] In order to be able to be distinguished from each other, the definition of the forms of ADR are presented, as followings:[439]

a. Negotiation is a dispute resolution in which the interests of the different parties negotiate directly, without the mediation or help others. The parties held a bargain on forms of dispute resolution.
b. Conciliation is a dispute resolution where the parties ask for help from other neutral parties to assist the disputing parties in finding a form of dispute resolution.
c. Mediation is a way of resolving disputes where the parties ask for help from other neutral parties to assist the disputing parties in finding a form of dispute resolution. The third party does not have the authority to take a decision, but only authorized to provide assistance or suggestions related to matters of procedural and substantial. Thus, the final decision remains in the hands of the parties to the dispute.
d. Arbitration is a way of resolving disputes where the parties ask to other neutral parties to obtain the dispute.

[436] Ibid. p. 83.
[437] Syahrul Machmud, op.cit, p.125.
[438] Goldberg Stephen et.al, *Dispute Resolution*, Little Brown, Boston, 1983, p. 8.
[439] Takdir Rahmadi, op.cit, pp. 287-288.

 

e. Fact-finding is a way of resolving disputes where the parties submit their dispute to the other parties which usually consists of experts to find the facts relating to the dispute. The fact finder has the authority to give recommendations on how to dispute settlement is concerned.

According to Simkin, however, there is no different between conciliation, mediation, and fact-finding conceptually. According to Simkin, in a broader sense, the definition of conciliation and mediation also includes a fact-finding. The main differences can be seen only between mediation with arbitration. In mediation, a mediator does not have the authority to make decisions to resolve disputes. In contrast, in the arbitration process, an arbitrator has the authority to make decisions in order to resolve the dispute subject. [440]

Forms of ADR as mentioned above basically has been known in the context of international law and labor law. However, in the context of ADR, only mediation has newly applied in the context of the environment since 1973 in the United States. Therefore, it becomes the subject of environmental mediation feasibility study between academia and the legal profession.[441] The attention of academia and the legal profession to mediation had increased since the success of Cormick and Mc Carty as a mediator to resolve the dispute the environment.[442] The mediation process had also been used to resolve cases of Storm King in 1980. This success had encouraged the growing popularity of the use of mediation to solve environmental disputes. This is the time to apply the term environmental mediation (mediation environment).[443]

Environmental disputes is actually not only limited to disputes arising out of the events of pollution or environmental destruction, but also it includes the disputes that occur because of the plans of the government's policy in the field of utilization and land use, use of forest products, logging, power plant development plan, the reservoir development plan, and the development plan of high voltage overhead line. Economic activities such as the establishment of a factory, the determination of the location of waste disposal, construction of reservoirs, taking minerals and forest products could harm the interests of a group in society that can lead to environmental disputes. Threats to the rights and legitimate interests of a group in society also means that it can disrupt the social environment of the community. Environmental dispute revolves around the interests or losses that are economic such as lost or threatened livelihoods and quality of degeneration or economic value of the rights of material and also relates to the interests of non-economic nature. For example, disruption of health, recreational activities, beauty, and environmental hygiene.

From the involved parties side, environmental disputes are not always disputes between members of the community on the one hand and the corporation on the other hand. It also clashes between members of society on the one hand with corporations and government officials in other hand. This phenomena can be seen from the experience of countries such as the United States and Canada. The government officials are sometimes involved in the dispute in its capacity as a defendant because of its role as a party to grant permits for its activities that have a negative impact. The type first of environmental dispute can be said as civil purely, whereas the second type patterned is administrative.[444] Environmental dispute resolution, particularly with regard to compensation is mostly done outside the court. This is because of constraints of burden of proof in environmental cases especially in Indonesia is very rigid and formalistic.

The dispute settlement outside the court is also accomadated in Article 84 paragraph (3) the Law PPLH. It confirms that the lawsuit through the courts can only be reached if efforts to resolve the dispute out of court which have been declared unsuccessful by one or more of the parties to the dispute. It means that the government wants the cases related to the environment resolved in consensus between the two parties. In general cases related to environmental pollution or environmental destruction and compensation, there are corporations that allegedly have polluted or damaged the environment and those who felt the victims of pollution or destruction that has been done by the corporation. Therefore, the dispute resolution outside the court is considered to provide a solution in the settlement between the parties to the dispute in a good way. There is understanding and awareness of the corporation who is alleged to have polluted the environment to provide proper compensation to

[440] W.E. Simkin, *Mediation and Dynamics of Collective Bargaining*, Bureau of National Press, Washington DC, 1971, pp.25-29.
[441] Bacow and Wheeler, *Environmental Dispute Resolution*, Plennum Press, New York, 1984, p.10.
[442] G.W. Cormick and L.K. Patton, *Environmental Mediation: Defining the Process through Experience in Environmental Mediation the Search for Consensus*, Colorado Westview Press, Colorado, 1980, p. 78.
[443] Takdir rahmadi, op.cit, pp.288-289.
[444] Ibid. p. 289.

 

the victims of pollution that has plagued his health. This method is considered very good. The regulation of it can be seen in Article 85 the Law PPLH which determines:

(1). Settlement of environmental disputes out of court made to reach agreement on:

a.The form and amount of compensation.

b.Recovery action due to pollution and or destruction.

c.Specific action to ensure there is no repeat of pollution and/or destruction, and or

d. Measures to prevent negative impacts on the environment.

(2). Settlement of disputes outside the courts do not apply to environmental crime as stipulated in this law.

(3). In a neighborhood dispute resolution out of court can use services of mediator and / or arbitrator to help resolve an environmental dispute.

Environmental dispute resolution outside the court under the Article 85 of the Law PPLH held to reach an agreement on the shape and magnitude of compensation and/or remedial action as a result of pollution and destruction or specific measures to ensure that there is no repeat of contamination or destruction and action to prevent the negative impact on the environment. Specific action is an effort to restore environmental functions with due regard to the values that live in the community. However, settlement of disputes outside the courts is limited to things beyond criminal offenses and does not apply to environmental crime as stipulated in the Law PPLH.

Environmental dispute resolution outside the court as mandated by Article 85 paragraph (3) of the Law PPLH can use the services of a mediator and/or arbitrator to help resolve an environmental dispute. The Environmental dispute resolution out of court can be through a neutral third party or through the agency of environmental dispute resolution. The legal basis of service provider environment disputes is the Government Regulation No. 54 Year 2000 concerning Governmental Dispute Resolution Service Provider of the Environment in the Outer Court.

Article 86 the Law PPLH determines:

(1) The public (society) can establish a dispute settlement service providers of the environment which is free and impartial.

(2) The Government and local government can facilitate the establishment of a dispute settlement service provider environment which is free and impartial.

Thus, Article 86 the Law PPLH give freedom to the people to establish a dispute settlement service providers of the environmental independently and the government can facilitate it. The Function of dispute settlement service providers of the environment according to the Regulation No. 54 Year 2000 is to provide dispute resolution services with the assistance of arbitrator or mediator or other third parties. The implementation of the regulation can be seen in some cases, such as:

⇒ Completion of conflict between PT Riau Andalan Pulp and Paper (RAPP) and community Lubuk Jering in District Siak. This case proceeds for 2 years and did not produce an agreement in September 2008.

⇒ Completion of a conflict between PT Musim Mas and village Kesuma communities in District Pelalawan.

⇒ Completion of Conflicts between Riau PT Citra Sarana (Wilmar Group) and indigenous peoples of Kenegerian Pangean in District of Singinggi Kuantai.

⇒ Completion conflict between PT. Sorcerer Aneka Yasa (Duta Palma Group) and villagers of Kuala Cenaku in District of Indragiri Hulu.

From some form of dispute resolution involving the role of environmental agencies as mentioned above, all involving the corporation as the party alleged to have committed the pollution and destruction of the environment in the operations and the local communities who are victims of pollution and destruction that has been done by the corporation.

Article 24 of the Regulation No. 54 of 2004 mentioned above confirms that an agreement in the environmental dispute resolution is done outside the courts through the institute for dispute resolution service provider should contain about the form and amount of compensation and the specific actions that ensure the non-recurrence of negative impacts on the environment. The compensation from the suspected corporation is suspected either intentionally or unintentionally should be givern by the corporation to the victims. In general, people who become victims of pollution or destruction of the environment will feel the effects of pollution in the long term, and the effect on the decrease in the quality of their lives. Therefore, it is only fair that they are compensated,

 

although their quality of life are not fully restored. Another form of to return the quality of environment outside compensation is remedy and rehabilitation. Those forms basically can be found in the Law PPLH and the Regulation No. 54 year 2000.

the environmental dispute resolution through the courts or out of court in essence is a demanding corporate civil liability to pay compensation and restoration of function of the environment due to pollution and environmental destruction in the operations. However, fulfillment of civil liability does not close corporate criminal responsibility for pollution and environmental destruction.

## 3. Conclusion

Based on the discussion and explanation above, it can be concluded that the responsibility for environmental organizations claim refer on both the Law PPLH and the Government Regulation No. 54 of 2004. In addition, the responsibility for a lawsuit can lead disputes that it is possible to accomplish both litigation and non-litigation. In the context of the non-litigation, the disputes can be completed either in the form of compensation and rehabilitation for environmental damage and/or contamination.

## References

Bacow and Wheeler, *Environmental Dispute Resolution*, Plennum Press, New York, 1984.

Christopher D. Stone, Should Tree Have Standing? Toward Legal Right for Natural Objects, *Southern California Law Review*, Vol. 45, 1971.

G.W. Cormick and L.K. Patton, *Environmental Mediation: Defining the Process through Experience in Environmental Mediation the Search for Consensus*, Colorado Westview Press, Colorado, 1980.

Goldberg Stephen et.al, *Dispute Resolution*, Little Brown, Boston, 1983.

M. Hamdan, *a Criminal Act of Environmetal Pollution*, CV. Mandar Maju, Bandung, 2000.

Muhammad Akib, *Environmenatl Law in Global and National Perspectives*, PT. Raja Grafika Persada, Jakarta, 2014.

N.H.T. Siahaan, *Ecological Development and Environmental Law*, Erlangga, Jakarta, 1987.

Rangkuti, Siti Sundari, *Environmental Law and National Environmental Policies*, Airlangga University Press, Surabaya, 2005.

Soemarwoto, Otto ,*Ecology, Environment and Development*, Djambatan, Jakarta, 1991.

Syahrin, Alvi, *Some Issues of Criminal Environmental Law*, PT. Sofimedia, Medan.

Sumantri, Bambang, *We are Together in the Future*, Gramedia, Jakarta, 1988.

W.E. Simkin, *Mediation and Dynamics of Collective Bargaining*, Bureau of National Press, Washington DC, 1971.

http://www.elsam.or.id, diakses 10 Oktober 2014.

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