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Juridical review of criminal acts of environmental destruction that occurred in the tele forest, samosir regency

Sigar P. Berutu[1], Mazmur Septian Rumapea[2]
[1,2]Faculty of Law, Prima University of Indonesia, Indonesia

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ABSTRACT

This study aims to examine the environmental crimes that occurred in the forest area of Tele, Samosir Regency, with the background of the problem of how the regulation of criminal acts of environmental destruction is based on Law No. 32 of 2009; how efforts to overcome environmental crimes are based on Law No. 32 of 2009; and how the legal policy on environmental crimes is based on the decision of the District Court Number: 28/PID.SUS/PN.Blg. The research method used in writing this thesis is descriptive. The analysis leads to normative juridical material, namely another legal material. This research is an answer to the background of problems related to environmental crimes that occurred in the Tele forest, Samosir Regency.

ABSTRACT

Penelitian ini bertujuan untuk mengkaji tindak pidana lingkungan hidup yang terjadi di daerah hutan Tele Kabupaten Samosir dengan latar belakang masalah mengenai bagaimana pengaturan terhadap tindak pidana perusakan lingkungan hidup berdasarkan Undang-Undang Nomor 32 Tahun 2009, bagaiamana upaya penanggulangan tindak pidana lingkungan hidup berdasarkan Undang-Undang Nomor 32 Tahun 2009, dan bagaiamana kebijakan hukum terhadap tindak pidana lingkungan hidup berdasarkan putusan Pengadilan Negeri Nomor : 28/PID.SUS/PN.Blg. Metode Penelitian yang digunakan dalam penulisan skripsi ini adalah bersifat deskriftif analisis mengarah kepada yuridis normatif, yaitu suatu bahan hukum lain. Penelitian ini merupakan suatu jawaban atas latar belakang masalah yang terkait akan tindak pidana lingkungan hidup yang terjadi di hutan Tele Kabupaten Samosir.

Corresponding Author:

Sigar P. Berutu
Universitas Prima Indonesia
Jalan Sikambing No. 50 D, Sekip, Medan Petisah, Kota Medan
Email:sigarpberutu@unprimdn.ac.id

I. INTRODUCTION

The environment is a set of physical and biological factors that directly affect the existence, growth, development, and reproduction of organisms. Habitat is the unity of space with all objects, forces, states, and living beings, including humans, as well as their behavior that affects the survival and well-being of humans, humans, and other creatures. The physical environment includes objects and forces, the biological environment includes humans, animals, and plants, the social environment includes humans and their behavior, and the institutional environment includes the environment Institutions formed by living societies are a single unit of space with all objects and forces. , conditions, and creatures, which include humans and whose behavior affects the survival and well-being of humans and other living beings. The physical environment includes objects and

forces, the biological environment includes humans, animals, and plants, the social environment includes humans and their behavior, and the institutional environment includes organizations created by society (BumiKita. 2019). S.J. Mc Naughton and Larry L Wolf describe all external factors of biological and physical properties that directly affect the life, growth, development, and reproduction of organisms as an illustration of the importance of the environment (Siahaan. 2004).

Humans are only part of the environment, but such behavior will affect the survival and well-being of humans and other living things/organisms, including animals, without damaging, polluting, or threatening the environment. Man can only live and survive through the presence of plants, and creatures. On the other hand, nature, plants, and other creatures can live without humans, perhaps even longer. Because humans are destroying the environment. Human beings must try with all their might and effort so that a healthy and harmonious environment is maintained and even improved for a better and better day. The damage has already occurred, it must be repaired before things get worse. One of the efforts is to socialize and appeal to the community to care for and maintain a good, healthy, and sustainable living environment. For this reason, it is necessary to create a synchronous set of legal regulations, accompanied by proper application and enforcement with competent, honest enforcement officers, and placing the public interest above the interests of your group.

Indonesia is a developing country with a large area and rich in natural resources. Over time, there was a lot of uncontrolled damage to nature, the main cause of which was the growth of the industry to boost the country's economy. One of the problems is uncontrolled logging, which is environmental destruction. The amount of deforestation in Indonesia is in the daily news and this is certainly a big problem for the Indonesian nation because deforestation will cause many disasters that will be faced in the future such as floods and landslides. Because the forest has the function of absorbing water to prevent flooding and buffering the soil to prevent landslides.

North Sumatra is one of the provinces in Indonesia that has a myriad of environmental destruction problems. One of the problems is logging to change its function to plantations or other interests. The forest area in Samosir Regency, North Sumatra Province is a very beautiful stretch of forest that needs to be maintained and preserved to provide natural support and luck for the wider community, where the forest functions as an irrigation arrangement for Lake Toba in the middle of the forest and maintains the continuity of agricultural land, in general, the forest and land in Samosir to live a beautiful environment. But the forest area has now seen its damage and is no longer beautiful. This was recognized by the central government through the Strenght Community Based Forest Watershed Management (SCBFWM) program, they said that the forest area or forest on the outskirts of Lake Toba is already vulnerable, caused by illegal logging and undirected land use, thus causing forest sustainability and Lake Toba sustainability to be damaged, as well as the Tele forest located in the Daily District of Samosir Regency (Manurung. 2019).

The case that occurred in the Tele forest area was the destruction of 800 hectares of forest carried out by PT. Gorga Duma Sari is a company engaged in horticultural cultivation and animal husbandry. As a continuation of this case and also an effort by the government to crack down on Environmental Crimes in the Tele forest of Samosir Regency, the owner of PT. Gorga Duma Sari was sentenced to 4.6 years in prison and a fine of 5 billion Rupiah or 1-year subsidy at the Balige District Court (Tigor. 2015).

Environmental law enforcement is an important element in efforts to achieve the goal of why the State of Indonesia was born. The purpose of the State as stated in the preamble to the 1945 Constitution, that goal is to protect the entire Indonesian nation and all Indonesian bloodshed, promote the general welfare, educate the nation's life, and participate in carrying out world order

based on independence, lasting peace, and social justice. This is the background of this thesis discussing the problem of environmental crimes entitled "Juridical Review of Environmental Crimes That Occur in the Tele Forest of Samosir Regency (Case Review Number.28/Pid.Sus/2015/PN.Blg)". This study aims to review how legal arrangements and countermeasures are related to Environmental Crimes Based on Law Number 32 of 2009, as well as to analyze Judge Decisions regarding Environmental Crimes (Case Review No. 28/Pid.Sus/2015/Pn. Blg).

II. RESEARCH METHODS

The nature or type of research used in completing this research is descriptive analysis leading to normative juridical research, namely a study conducted or appointed only in written regulations or other legal materials. The secondary data obtained from library research aims to obtain concepts, theories, and information as well as conceptual thinking from predecessor research in the form of laws and regulations and other scientific works. With this method, data is collected through literature materials, several books, magazines, documents, and other theoretical sources, and the results of this research as a basis for solving the subject matter in this study.

All data obtained and collected will then be reviewed and analyzed. Analysis of qualitative data is carried out by selecting articles containing legal rules governing environmental crimes and available legal tools. The data analyzed qualitatively will be put forward in the form of a systematic description by explaining the relationship between various types of data, then all data are selected and processed then analyzed descriptively so that in addition to describing and expressing answers to the problems posed, it is hoped that it will provide solutions to the problems in this study.

The theory used in this study is the theory of criminal liability that has emerged since the time of the French revolution, a person is not only responsible for the criminal acts he committed, but the actions of others can also be accounted for because at that time the punishment was not only limited to the perpetrator himself but also imposed on the family or friends of the perpetrator even though they did not commit a criminal act. The sentences imposed on or the type of conduct vary greatly due to the absolute authority of a judge to determine the form and amount of punishment. However, after the French revolution, criminal liability was based on the philosophical basis of freedom of will called the theory of traditionalism (mashable taqlid), freedom of will meant that a person could be held criminally responsible based on knowledge and choice, according to this theory a person who at a certain age can separate and distinguish which ones are said good deeds and which are not good (A.Yafie, A. Sukaraja & M.A. Suma. 2018).

III. RESULTS AND DISCUSSION

1. Regulation of Environmental Crimes Law Based on Law Number 32 of 2009

Law Number 32 of 2009 consists of 17 chapters and 127 articles that regulate more thoroughly the protection and management of the environment (hereinafter abbreviated as UUPPLH). The fundamental difference between Law Number 23 of 1997 concerning Environmental Management (hereinafter abbreviated as UUPLH) and this Law is the strengthening contained in this Law on the principles of environmental protection and management which is based on good governance because in every process of formulation and application of instruments for the prevention of pollution and/or damage to the environment as well as countermeasures and law enforcement Require the integration of aspects of transparency, participation, accountability, and fairness.

The regulation on criminal sanctions is not much difference in how the forms of criminal acts in Law Number 32 of 2009 concerning Environmental Protection and Management compared to law Number 23 of 1999 concerning Environmental Management are still criminal acts divided into material and material offenses. Only Law Number 32 of 2009 regulates more articles of criminal sanctions when compared to Law Number 23 of 1997. In Law Number 23 of 1997, there are only six articles outlining the issue of criminal sanctions for environmental crimes (Article 41 to Article 46). Meanwhile, in Law Number 32 of 2009, there are 19 Articles (Article 97 to Article 115). If observed and contrasted with the regulation of the Article on criminal sanctions against environmental crimes in the UUPPLH in more detail the types of environmental crimes, for example, there are provisions for environmental quality standards, regulated in a separate article on the inclusion of Hazardous and Toxic Materials waste (hereinafter abbreviated as B3), land burning problems, and the preparation of AMDAL without a certificate will be subject to criminal sanctions. Or in other words, the detailed regulation of criminal sanctions is in several articles (Khawarizmi. 2011).

The thing that distinguishes it from UUPLH and UUPPLH is the criminal sanctions of fines which are no longer in the matter of millions of rupiah but are raised to the standard of billions of rupiah. In the new law, the issue of criminal liability for corporations is also regulated, which can then be imposed on the governing so that the criminal act of environmental pollution is realized, without regard to the occurrence of the crime jointly (vide: Article 116 paragraph 2). Different arrangements can also be observed in the role of the prosecutor who can coordinate with the responsible agencies in the field of life protection to carry out executions in carrying out additional criminal or orderly acts (vide: Article 119 and Article 120).

Environmental pollution according to Article 1 number 14 of Law Number 32 of 2009 concerning Environmental Protection and Management is the entry or inclusion of living things, substances, energy, and or other components into the environment by human activities so that it exceeds the environmental quality standards that have been set. Article 53 paragraph 1 of Law Number 32 of 2009, explains that basically everyone who pollutes and or destroys the environment is obliged to overcome pollution and or damage and restore the environment. The countermeasures of environmental damage and or damage are carried out by: 1) Provision of warning information on pollution and or environmental damage to the public, 2)Isolation of pollution and or environmental damage, 3)Termination of sources of pollution and or environmental damage, as well as, 4)Another way that corresponds to the development of science and technology.

Meanwhile, the restoration of environmental functions is carried out in stages, namely; 1)Termination of pollution sources and cleaning of polluting elements, 2)Remediation (efforts to restore environmental pollution to improve the quality of the environment), 3)Rehabilitation (recovery and restoration efforts, environmental functions, and benefits including efforts to prevent land damage, provide protection, and improve ecosystems), 4)Restoration (restoration efforts to make the environment and its parts function again as before), and 5) Another way that corresponds to the development of science and technology.

Companies that cause pollution and or destruction of the environment must overcome pollution, besides that, the company is also obliged to recover pollution that occurs in the environment. A violation of the provisions contained in the law is a crime. A criminal act in the field of environmental protection and management is any act that is threatened with punishment as a crime or violation by the criminal provisions contained in the environmental protection and management law. One example of a criminal act, in this case, is any person who violates wastewater standards, emission quality standards, or nuisance quality standards a criminal case, with a maximum imprisonment of 3 years and a maximum fine of Rp.3,000,000,000. This provision

is contained in article 100 paragraph 1 of Law Number 32 of 2009 concerning environmental protection and management.

2. Efforts to Overcome Environmental Crimes Based on Law Number 32 of 2009

Since the issuance of UUPPLH 2009 which replaced Law No. 23 of 1997 (hereinafter referred to as UUPPLH 1997), the function as the parent law of umbrella provisions is attached to UUPPLH 2009. UUPPLH brings fundamental changes in environmental management arrangements in Indonesia (Satmaidi. 2011) If you look closely, there are some regulatory differences between UUPPLH 1997 and UUPPLH 2009.

First, UUPPLH 1997 formulates criminal acts as actions that result in pollution and/or destruction of the environment (as regulated in Article 41), while UUPPLH 2009 formulates criminal acts, namely as actions that result in exceeding ambient air quality standards, water quality standards, seawater quality standards, or standard criteria for environmental damage (as regulated in Article 98). Second, UUPPLH 1997 formulated criminal with maximum criminality, while UUPPLH 2009 formulated criminal with minimum and maximum. Third, UUPPLH 2009 regulates matters that are not regulated in the 1997 UUPPLH, including punishment for violations of quality standards (as regulated in Article 100), expansion of evidence, integration of criminal law enforcement, and regulation of corporate crimes.

The explanation of UUPPLH 2009 also explains the fundamental difference with UUPPLH 1997 is the strengthening contained in this Law on the principles of environmental protection and management which is based on good governance because in every process of formulating and implementing instruments for preventing pollution and/or damage to the environment as well as overcoming and enforcing and enforcing laws must integrate aspects of transparency, participation, accountability, & fairness.

UUPPLH, in its general explanation, views criminal law as a last resort for certain criminal acts, while for other criminal acts regulated other than Article 100 of the UUPPLH, the principle of ultimum remedium does not apply, which applies the principle of premium remedium (prioritizing the implementation of criminal law enforcement). The principle of Ultimum Remedium places criminal law enforcement as the last legal option (Salman Luthan et al., 2009). The dependence on the application of criminal law is leaned on the state of administrative sanctions that have been imposed not complied with, or violations committed more than once. The threat of punishment is not equal to or less severe than the maximum criminal limit regulated in the Criminal Code, especially in Articles 97 to 115 of the 2009 UUPPLH it is still possible / allowed to be a lighter sentence. This has confused the enforcement of environmental criminal law, especially in the judge's decision to prosecute the perpetrator (deterrence effect). Environmental law enforcement in Indonesia includes compliance and enforcement (Daud Silalahi et al., 1994). Environmental law enforcement in a broad sense, that is, includes preventive and repressive. The definition of preventive is the same as compliance which includes negotiation, supervision, lighting, and advice), while repressive includes investigation, and investigation of the application of both administrative and criminal sanctions (D.A.S. Dewi et al., 2012). Enforcement of environmental management laws is currently still difficult to do because of the difficulty of proving and determining the standard criteria for environmental damage (Sutrisno et al., 2011). Efforts to enforce environmental law through criminal law are how the three main problems in criminal law are outlined in laws that more or less have a role to carry out social engineering (social engineering),(N.S.P. Jaya et al., 2005) which includes the formulation of criminal acts, criminal liability, and sanctions (sanction) both criminal and orderly. The purpose is not only a tool of order, environmental law also contains the

purpose of community renewal (social engineering). Law as a tool of social engineering is very important in environmental law (Helmi et al., 2011).

Environmental crimes are regulated in Chapter XV, which consists of 23 articles, starting from Article 97 to Article 120 of the UUPPLH. Article 97 states, that the offense referred to in Chapter XV is a crime. Thus, crimes against the environment are set out in the chapter. In addition to UUPPLH, crimes against the environment are also regulated in the Criminal Code (KUHP), for example in Article 187, Article 188, Article 202, Article 203, Article 502, and Article 503 of the Criminal Code. Crimes against the environment are also contained in laws and regulations outside the Criminal Code and outside the UUPLH. For example (among others) in Article 52 paragraph (1) of Law No. 5 of 1960 concerning the Basic Regulation of Agrarian Principles / UUPA; Article 31 of Law No. 11 of 1967 concerning Mining; Article 11 of Law No. 1 of 1973 concerning the Continental Foundation of Indonesia; Article 15 of Law No. 11 of 1974 concerning Irrigation; Article 16 paragraph (1) of Law No. 5 of 1983 concerning Indonesia's Exclusive Economic Zone (EEZ); Article 27 of Law No. 5 of 1984 Ten-tang Industry; Article 24 of Law No. 9 of 1985 concerning Fisheries; Article 40 of Law No. 5 of 1990 concerning the Conservation of Biological Natural Resources and their Ecosystems; Article 78 of Law No. 41 of 1999 concerning Forestry; and Article 94 paragraphs (1) and (2) jo. Article 95 paragraphs (1) and (2) of Law No. 7 of 2004 concerning Water Resources.

Environmental crimes or crimes are contained in various laws and regulations other than UUPLH and the Criminal Code. Therefore, the carefulness of law enforcement, especially investigators, public prosecutors, and judges is very necessary for finding laws and regulations related to environmental crimes in various kinds of laws and regulations. In other words, which legislation will be used, depends on what resources the environmental crime is committed on. Environmental protection and management is essentially the application of ecological principles in human activities to and or those with environmental dimensions (M. Y. Wahid. 2011).

The description in this section only highlights normatively the environmental crimes that have been regulated in the Criminal Code Bill. A more in-depth analysis will be outlined in the next section. There are several records of the formulation of environmental crimes in the Criminal Code Bill. The term environmental pollution and destruction is listed in Book I of the Criminal Code Bill, in the Chapter on the Definition of Terms. Article 192 specifies that environmental pollution is the entry or inclusion of living things, substances, energy, and other components into the environment by human activities so that their quality drops to a certain level which causes the environment to be unable to function by its designation. Then, Article 200 specifies that an environmental destruction is an act that causes direct or indirect changes to its physical and/or biological properties that result in the environment no longer functioning in support of sustainable development.

These two senses include the word environment many times but it is not found what is meant by the environment. In terms of formulation and scope of understanding, there are several records. First, the formulation of article 200 is quite confusing because in the end it is called the term sustainable development is the goal of restoring the functioning of the environment. Thus, this article places sustainable development as the underlying paradigm for the reason why environmental destruction is prohibited by the Criminal Code Bill. However, this concept is still under debate, mainly because its perspective is still strongly supported by development. Sustainable development is the idea of preserving the environment to support and legitimize the development of capitalist economic growth so that what is preserved is the development and growth of the capitalist economy itself. The two scopes of environmental crimes are regulated in Book II Chapter VIII articles 384 to 390 of the Criminal Code Bill. The arrangement falls under the chapter on criminal acts that endanger the public interest of people, health, goods, and the environment of

life. In this arrangement, generic crimes are included, namely pollution and destruction of the environment (Articles 384 and 385) which are pure crimes. However, the Criminal Code Bill has not included articles of crime and types of crimes related to the use and management of natural resources such as contained in the Mining Law, Oil and Gas Law, Water Resources Law, Forestry Law, Biological Natural Resources Conservation Law and its Ecosystem, Basic Agrarian Law, Plantation Law. According to Barda Nawawi, the reason for the inclusion of several criminal acts related to the utilization and management of natural resources is that these crimes fall into the category of administrative-trasi crimes, not generic crimes. If these types of criminal acts are forced into the Criminal Code Bill, this codification will be so thick that it will be inefficient for a criminal code (B.N. Arief et al., 2007).

The size of the population and its high growth rate are the most critical factors in environmental problems. Both the challenges of both population and high population growth rates are being overcome by development and industrialization. The main purpose of industrialization is to accelerate the fulfillment of the availability of all human needs. The negative impact of industrialization in the form of environmental pollution has an impact on decreasing the quality of human life. Development and environmental issues are like two sides of a coin that cannot be separated. The Indonesian government has implemented the concept of sustainable development in its medium-term national development plan (RPJMN 2015 – 2019) with one of the policies related to natural resources and the environment is the green economy, namely improving the management and utilization of sustainable natural resources by balancing utilization and sustainability. Environmental aspects have become one of the focal points in the concept of sustainable development in Indonesia and achieving these development goals requires a clear picture of the conditions and problems that occur in the environment so that environmental management can be implemented optimally. The government in its efforts to realize a just and prosperous state life launched an environmentally sound development program, also known as sustainable development. This program is an effort to improve the quality of life while still paying attention to environmental factors. Efforts to preserve the environment must be carried out by the entire community, not just the government. No matter how much the government does in preserving the environment, it will be useless if it is not balanced with the efforts of the community. Society needs to be aware of the dangers of not preserving the environment for its life. Thus there will be clear actions for the preservation of the environment.

3. Analysis of Judges' Decisions on Environmental Crimes (Case Review No. 28/Pid.Sus/2015/Pn.Blg)

The judge in examining and decides a case based on the indictment filed by the Public Prosecutor. An indictment is an important basis of criminal procedural law because it is based on the matters contained in the indictment. Thus the accused can only be convicted if he has been proven to have committed the offenses mentioned in the indictment. If the accused is found to have committed a crime but is not named in the indictment then he cannot be convicted. The definition of an indictment letter according to Harum M. Husein is a letter dated and signed by the public prosecutor containing a description of the identity of the defendant, the formulation of the criminal act charged combined with the elements of the criminal act as formulated in the provisions concerned, accompanied by a description of the time and place of the criminal act committed by the defendant, which letter is the basis and scope of the examination at the court hearing.

Meanwhile, according to M. Yahya Harahap, the letter of the indictment is interpreted by legal experts, in the form of the definition of a letter or deed containing the formulation of the criminal act charged to the defendant, the formulation of which is withdrawn and concluded from the results of the investigation examination is connected with the formulation of the article of the

criminal act violated and charged to the defendant, and the indictment letter is the basis for the examination for the judge in the trial court.

If the judge finds the formulation of the indictment deviates from the results of the investigation examination, it may declare the indictment "unacceptable" because the content of the indictment formulation is "vague or obscure libel". After all, the content of the formulation of the indictment letter is not complex and does not confirm the reality of the criminal activity found in the investigation examination with what is outlined in the indictment. If the court accepts the transfer of the case file, it must carefully examine whether the proposed indictment does not deviate from the results of the investigation examination and whether or not the formulation of the indictment with the results of the investigation examination can be known to the judge by testing the formulation of the indictment letter with the minutes of the examination. Based on the judgment, the Public Prosecutor in making the indictment is appropriate because it meets the formal and material requirements. The requirements for the indictment to contain the defendant's full identity include full name, place of residence, gender, nationality, place of residence, religion, and occupation.

Furthermore, the judge in deciding the case must make consideration, where the consideration is obtained from the facts revealed in the trial both derived from the testimony of witnesses, the testimony of the accused, expert testimony, evidence of letters, and evidence submitted to the Court. To certify whether the defendant is proven to be a criminal offense or not, the subjective and objective conditions must be met as the article is charged. Based on the evidence and evidence submitted the Court that there are several pieces of evidence submitted to the Court that prove that the perpetrator has committed a criminal act of environmental destruction which results in exceeding ambient air quality standards, seawater quality standards, or standard criteria for environmental damage. The evidence is in the form of witness statements, expert testimony, defendant's testimony and is supported by evidence submitted by the Court.

Evidence is very important in the criminal justice process, both tangible evidence and intangible evidence, both movable and immovable goods. The evidence was used to substantiate the judge's conviction. Wirjodo divides the items that can be confiscated in criminal cases, namely the goods that are the target of the criminal act and the evidence created by the criminal act and the goods that are in its place, the items that can be from the way of the criminal act and the goods for comparison. As in article 184 paragraph (1) of the Criminal Procedure Code, there are 5 pieces of evidence, namely as follows: Witness testimony, Expert description, Letter, Instructions, and Defendant's statement.

Thus that the judge in sentencing the sentence must be accompanied by two pieces of evidence and supplemented by the judge's conviction. So the judge in deciding this case has fulfilled the minimum evidence contained in article 183 of the Criminal Procedure Code which reads "the judge shall not sentence a person unless by at least two valid pieces of evidence he obtains a conviction that a criminal act occurred and that the guilty defendant committed it".

As in the judge's verdict, the judge sentenced him to imprisonment for 4 (four) years and 6 (six) months and a fine of Rp.5,000,000,000.00 (five billion rupiahs) provided that if he does not pay the fine, it will be replaced with a sentence of confinement for 1 (one) year. Imprisonment and fines imposed by judges are appropriate because they do not exceed the minimum limit and maximum limit that has been set as contained in article 98 of Law Number 32 of 2009 concerning Environmental Protection and Management. I as the author consider this judge's decision to be correct because in the verdict the judge also added criminal to PT Gorga Duma Sari to repair environmental damage in the 400-hectare location permit area by the prosecutor's demands

regulated in article 118 jo 119 of Law Number 32 of 2009 concerning Environmental Management and Protection. The judge held that the application of criminal sanctions is not only individually accountable to the defendant as a Director of PT. GDS acts as an order giver to carry out criminal activities or as a leader of activities in the criminal act but also deserves to be accounted for by the business entity in case PT. GDS is a business entity that has the status of a legal entity that also enjoys the benefits of the defendant's actions.

Because a corporation is a creation of law, that is, the granting of status as a legal subject to a body, in addition to a legal subject in the form of a natural human being. Thus a legal entity can carry out or carry out a legal action. The granting of the status of a special legal subject in the form of a legal entity, in its development can occur because, for example, to make it easier to determine who should be responsible among those gathered in the body, namely juridically constructed by appointing a legal entity as the responsible subject. Sue Titus Reid, said that at first people did not accept corporate liability in criminal cases. It is said that corporations do not have human feelings so they cannot make mistakes (Sue Titus Reid et al., 1995). Convict Jonni Sihotang had become DPO due to the absence of a summons for execution made by the Attorney General's Office, which was summoned by each to appear on June 31, 2017. Then because he was not present, he was called again on August 4, 2017, and August 11, 2017. Because he was not present, the Attorney General's Office through a letter of August 22, 20017 requested assistance to the Kejatisu to conduct a search and arrest (T-14). So on September 4, 2017, he finally handed himself over to the Attorney General of Samosir.

IV. CONCLUSION

Criminal acts of environmental destruction that result in exceeding ambient air quality standards, water quality standards, seawater quality standards, or standard criteria for environmental damage are entangled with article 98 of Law Number 32 of 2009 concerning Environmental Protection and Management. With a maximum prison sentence of 3 (three) years and a maximum of 10 (ten) years and a fine of at least Rp3,000,000,000.00 (three billion rupiah) and a maximum of Rp10,000,000,000.00 (ten billion rupiahs). In tackling environmental crimes, the first thing that must be known is what factors cause the occurrence of the crime, then the application of legal policies that have been regulated in Law Number 32 of 2009 so that it can be carried out properly by all elements concerned. In addition to the Government and environmental law enforcement, the community must also support environmental mitigation because no matter how much the government does to preserve the environment, it will be useless if it is not balanced with the efforts of the community. The application of criminal sanctions is not only accounted for by the defendant, by article 118 jo 119 of Law Number 32 of 2009 concerning Environmental Management and Protection explaining that business entities may be subject to additional criminal sanctions or orderly actions in the form of (a) deprivation of profits obtained from criminal acts, (b) closure of all or part of business premises and/or business activities, (c) reparations resulting from criminal offenses, (d) the obligation to do what was neglected without rights, and (d) the placement of the company under custody for a maximum of 3 (three) years. In this case, the panel of judges sentenced the additional criminal to point c which is where PT. GDS must repair environmental damage in the 400-acre site permit area by prosecutorial demands.

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