

ABSTRAK

PENERAPAN PRINSIP STRICT LIABILITY DALAM PENYELESAIAN SENGKETA LINGKUNGSAN HIDUP

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Penyelesaian sengketa lingkungan hidup saat ini kembali menggunakan prinsip *Liability based on Fault* yang membuat penggugat harus membuktikan unsur kesalahan dari tergugat. Penghapusan prinsip *Strict Liability* sebagaimana diatur dalam Pasal 88 Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup membawa perubahan signifikan dalam proses penyelesaian sengketa lingkungan hidup.

Tujuan penelitian ini adalah untuk mengetahui urgensi penerapan prinsip *Strict Liability* dan menganalisis implikasi hukum penghapusan prinsip *Strict Liability* sebagai upaya penyelesaian sengketa lingkungan hidup. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan perundang-undangan (*statue approach*), pendekatan konseptual (*conceptual approach*), serta pendekatan perbandingan (*comparative approach*).

Hasil penelitian menunjukkan bahwa urgensi penerapan prinsip *Strict Liability* adalah untuk memberikan jaminan kepastian hukum terhadap keberlanjutan lingkungan hidup. Selain itu, dengan adanya prinsip *Strict Liability* maka akan meminimalisasi biaya dalam penyelesaian sengketa lingkungan hidup. Namun demikian, alih-alih mencapai tujuan mulia tersebut, saat ini prinsip *Strict Liability* justru diperlemah dalam Pasal 88 Undang-Undang Cipta Kerja yang berimplikasi terhadap kesulitan proses pembuktian unsur kesalahan dalam penyelesaian sengketa lingkungan hidup di Indonesia. Selain itu, pelemahan tersebut menyebabkan terjadinya penyimpangan politik hukum keadilan lingkungan, serta menyebabkan terjadinya inkonsistensi kebijakan dalam penyelesaian sengketa lingkungan hidup di Indonesia.

Kata Kunci: Penegakan Hukum, Sengketa Lingkungan Hidup, *Strict Liability*

ABSTRACT**APPLICATION OF STRICT LIABILITY PRINCIPLES IN ENVIRONMENTAL DISPUTE RESOLUTION****By****RODRIKSON ALPIAN MEDLIMO**

Settlement of environmental disputes currently uses the principle of Liability based on Fault, which requires the plaintiff to prove elements of fault on the part of the defendant. The elimination of the Strict Liability principle as regulated in Article 88 of Law Number 32 of 2009 concerning Environmental Protection and Management has brought significant changes to the process of resolving environmental disputes.

The aim of this research is to determine the urgency of implementing the Strict Liability principle and to analyze the legal implications of eliminating the Strict Liability principle as an effort to resolve environmental disputes. This research uses normative legal research methods with a statutory approach, a conceptual approach and a comparative approach.

The research results show that the urgency of implementing the Strict Liability principle is to provide legal certainty regarding environmental sustainability. Apart from that, the existence of the Strict Liability principle will minimize costs in resolving environmental disputes. However, instead of achieving this noble goal, currently the principle of Strict Liability is actually being weakened in Article 88 of the Job Creation Law, which has implications for the difficulty of the process of proving elements of error in resolving environmental disputes in Indonesia. In addition, this weakening has led to political deviations from environmental justice law, as well as causing policy inconsistencies in resolving environmental disputes in Indonesia.

Keywords: Environmental Disputes, Law Enforcement, Strict Liability