Legal analysis on application of strict liability in oil palm plantation fire cases in Indonesia

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Abstract. Forest fire cases become the main issue in Indonesia in the period of 2015-2019. The impacts resulted by the land and forest fires are extraordinary, not only affecting the people of Indonesia, but it has also spread to disrupt the activities of the community in Singapore, Malaysia and Thailand. The community is also infuriated by the occurrence of forest and land fires continuing from year to year. The public negative opinion is then aimed to the oil palm companies considered as the main cause of the fire occurrence. The community considers that the oil palm companies are still burning in order to clear the land. Therefore, is it true that the oil palm companies are the ones to be responsible for the fire as the community believe and can the strict liability principle be applied if fires occur in their areas?

Keywords: strict liability, palm oil, fire case, environmental law

1. Introduction

Forest fires seem to be an annual tradition occurrence in Indonesia. Based on the Data of the Ministry of Environment and Forestry, the extent of forest and land fire in 2015 is 2,611,411 hectares, in 2016 is 438,363 hectares, in 2017 is 165,484 hectares, in 2018 is 510,564 hectares, and in 2019 is 857,755 hectares [1]. The oil palm plantations are made the “scapegoat” causing the fire and considered the largest contributors of land fire in Indonesia. Whereas the biggest forest and land fires occur outside the companies’ concessions reaching 60-75 % from the burned area, in particular in the national parks or forest areas not guarded by the authorized agency. The data of Global Forest Watch (GFW) shows that the forest and land fires in 2019 outside the concession reach 68 % and in the oil palm areas are 11 %.

The Indonesian Oil palm Entrepreneur Association (GAPKI) states that the land fire in the oil palm areas is not caused by deliberate burning of land but due to the fire from outside. According to GAPKI data, the fires taking place in the plantations of oil palm companies are in the planted areas. How could the companies deliberately burned down the plantation on which the oil palms have been
planted, that is the argument of GAPKI. Based on the Data of Research Team of Palm Oil Agribusiness Strategic Policy Institute (PASPI) it is stated that in the Provinces of East Kalimantan, Central Sulawesi, South and West Sulawesi where the Provinces intensively clear the land, the extent of forest fires is exactly relatively small compared to the provinces of oil palm centre having been developed for a long time.

Several oil palm companies are sued by the Ministry of Environment and Forestry in court. Based on data of the Ministry of Environment and Forestry, there are at least 9 (nine) civil cases having become final and binding and 8 (eight) cases being in the trial process. 9 (nine) cases that have become final and binding are among others PT. Kallista Alam, PT. Jatim Jaya Perkasa, PT. Waringin Agro Jaya, PT. Waimusi Agroindah, PT. Bumi Mekar Hijau (Industrial Forest company), PT. Surya Panen Subur, PT. Nasional Sago Prima (company Business License for Utilization of Non-Timber Forest Products of Sago Plantation Forest), PT. Ricky Kurniawan Kertapersada, and PT. Palmina Utama. While 8 (eight) cases currently underway are among others the cases of PT. Agro Tumbuh Gemilang Abadi, PT. Kaswari Unggul, PT. Kalimantan Lestari Mandiri, PT. Arjuna Utama Sawit, PT. Rambang Agro Jaya, PT. Sari Asri Rejeki Indonesia, PT. Pranaindah Gembilang and PT. Asia Palm Lestari.

Provisions of Article 88 of Law No. 32 of 2009 on Environmental Protection and Management stating "Every person whose actions, businesses and / or activities use B3, produce and / or manage B3 and / or lead to a serious threat to the environment shall be absolutely responsible for the losses that occur without proving the elements of fault ", is used as the legal basis by the Ministry of Environment and Forestry to file a lawsuit to the oil palm companies whose areas are burned under the principle of strict liability.

In this paper we will discuss the history of applying the strict liability and whether the strict liability can be applied to the land fire in oil palm plantation. In this paper, it will also be analysed whether the application of the law in a number of civil court decisions of oil palm fire using the principle of strict liability is appropriate or not.

2. Concept of Strict Liability

2.1. Strict Liability

Normally an act is said as an act against the law, if the perpetrator is guilty of such act, and causes a loss to the victim. The liability with the obligation to provide compensation is due to the fault of the perpetrator causing a loss to another person [2]. Our civil law system adhering to the liability based on fault regulated in Article 1365 of the Civil Code states that any action violating the law bringing a loss to another person, obliges the person who, due to his fault, has caused that loss to compensate such loss. The principle of responsibility based on fault is based on the adage that there shall be no liability without fault [3].

Actually, the law also recognizes what is called by liability without fault or what is often referred to as "absolute liability" (strict liability). In the field of Civil Law, the principle of Strict Liability is one of the types of Civil Liability. That which is meant by Strict Liability is a legal responsibility imposed to the perpetrator of an act against the law regardless of whether the person concerned in committing the act has an element of fault or not [4]. In this case the perpetrator can be held legally liable, even though in committing the act he neither does it intentionally nor does it contain the element of neglect, carelessness, or impropriety.

2.2. History of Strict Liability

The concept of strict liability is a new thing in the Indonesian legal system, even generally in countries inheriting the Continental European legal system, except in terms of violation, because in fact this concept initially only exists in the common law system [5]. At least the development of this strict liability theory began in 1868. When a case occurred in England, Rylands versus Fletcher, this theory was introduced for the first time. In this case, the perpetrators of an act against the law, namely the
factory owners in Lancashire, built a water reservoir on their land. The water came out of the place where it was kept and flowed flooding through a place, then to a mine that was not so far from the victim’s place. The construction of the water reservoir was carried out by a freelance contractor, in which no annexation was found in this case, because the flood was not directly or immediate took place [6].

After that this doctrine was introduced in various laws in England, namely in the Civil Aviation Act (1949), the Nuclear Installations Act (1959/1965) and the Animal Act (1971. In the United States “Strict Liability” doctrine was introduced, namely in the River and Harbours Appropriation Act (1899), the Price Anderson Act (1957), the Trans Alaska Pipeline Authorization Act (1973), Comprehensive Environmental Response Compensation and Liability Act (CERCLA 1980/1986/1994) and Clean Water Act (CWA). Other countries such as France include a general clause in Article 1384 of the Civil Code; also in the Netherlands it is formulated in Article 175 paragraph (1), Article 176 paragraph (1) and Article 177 paragraph (1) BW. In Germany, strict liability is found in the laws and regulations for transportation, water pollution, construction and operation of nuclear power plant installations; in Sweden, the Environmental Protection Act imposes the principle of strict liability for environmental pollution that is substantial in nature (general regulation), but is supplemented by specific laws and regulations governing strict liability in the Law on Nuclear Power Plant Risk, Sea Pollution by Oil Spills [7].

2.3. Strict Liability in Laws and Regulations

Several provisions of our laws and regulations of strict liability are Law No. 32 of 2009 on Environmental Protection and Management, Law Number 5 of 1983 on Exclusive Economic Zones of Indonesia, Law Number 10 of 1997 on Nuclear Power and Presidential Decree Number 18 of 1978 on Ratification of International Convention on Civil Liability for Oil Pollution Damage.

Regulation on strict liability is regulated in Article 88 of Law No. 32 of 2009 stating:
"Every person whose actions, businesses and / or activities use B3, produce and / or manage B3 and / or lead to a serious threat to the environment shall be absolutely responsible for the losses that occur without proving the element of fault"

Then the Elucidation of Article 88:
"That which is meant by "absolute responsibility" or strict liability is that the element of fault does not need to be proven by the plaintiff as the basis for the payment of compensation. The provisions of this paragraph are lex specialis in lawsuits on an act violating the law in general. The amount of compensation that can be charged to environmental polluters or destroyers according to this Article can be determined up to a certain limit. That which is meant by "up to a certain time limit" is if according to the stipulation of laws and regulations the insurance requirement is determined for the business and / or activity concerned or an environmental fund shall be already available."

In the Decision of the Supreme Court No. 36/KMA/SK/II/2013 on the Enforcement of Environmental Case Handling Guidelines it is stated:
"The burden of verification in the application of principle of strict liability:
- In these procedures, the plaintiff does not need to prove the presence of element of fault. The plaintiff can be released from the liability if the loss or damage occurs due to the act of another party;
- Verification under the principle of strict liability must be requested by the plaintiff and contained in the plaintiff’s sue letter;
- Strict Liability is not an inverse verification. Verification is not for his fault. Although all efforts have been made pursuant to the laws and regulations to avoid the occurrence of environmental pollution and/ or damage, he must still be liable.
- The plaintiff can submit a plea by proving that:
  - He does not use, produce B3 and is not proved to cause any serious threat;
The damage or pollution is not caused by his activities but caused by a third party or force majeure (based on the literature and judicial practice in the countries of Common Law).

Law No. 5 of 1983 adheres to the principle of strict liability in relation to pollution of the marine environment and/or destruction of natural resources in the ZEE of Indonesia. Article 11 paragraph (1) of Law No. 5 of 1983 states: “Without prejudice to the provisions of Article 8 and bearing in mind the certain maximum compensation limit, anyone in the Exclusive Economic Zones of Indonesia causing pollution to the marine environment and/or destruction of natural resources, shall bear the strict liability and pay for the costs of rehabilitation of such marine environment and/or natural resources immediately and in a sufficient amount.” The form, type and amount of losses arising as the consequence of marine environmental pollution and/or destruction of natural resources shall be determined based on the results of ecological research.

Article 11 of Law No. 5 of 1983 adheres to the principle of “strict liability” applicable in the case of marine pollution and/or destruction of natural resources in the ZEE of Indonesia under the terms that there is a certain maximum compensation limit (ceiling). In addition, it is likely, due to certain things, to be exempted from such strict liability, namely in terms of the occurrence of natural event (act of God) and an act or negligence committed by a third party (act of strangers).

This principle of strict liability is also observed by Law No. 10 of 1997 related to the nuclear accident causing losses to a third party. Article 28 of Law No. 10 of 1997 states that: “Nuclear installation entrepreneur shall be responsible for nuclear losses suffered by a third party caused by nuclear accidents occurring in such nuclear installation”. Further explanation of Article 28 of Law no. 10 states: “In principle, in the event of a nuclear accident, responsibility shall be borne only by one party, namely the nuclear installation entrepreneur. Thus, no other party can be held accountable other than the nuclear installation entrepreneur.”

In the system of strict liability, in order to receive compensation, a third party suffering a nuclear loss shall not be imposed by the verification of the presence or absence of fault of the nuclear installation entrepreneur. To avoid compensation to fall to a party not entitled to it, it would be sufficient for a third party to present a valid proof that the loss is caused by a nuclear accident. Then, Article 32 of Law No. 10 of 1997 states that the principle of strict liability can be exempted from cases of nuclear accidents, because the nuclear accidents occur as a direct consequence of dispute or international or non-international armed conflict and natural disaster at an extraordinary level.

The International Convention on Civil Liability for Oil Pollution Damage is the result of international trial of the Legal Conference on Marine Pollution Damage in Brussels dated 29th November 1969, in which the Indonesian Government participated in signing such Convention then ratified by the President under the Presidential Decree Number 18 of 1978. This Convention contains regulation of civil liability towards marine pollution by oil. By the approval of Indonesia to this “Civil Liability Convention” (CLC), 1969, actually in Indonesia a radical change has taken place in the determination of accountability concerning the issue of compensation legally [8].

3. Analysis of Application of Strict Liability in Several Cases of Land Fire

3.1. Case of the Ministry of Environment and Forestry Against PT. Waringin Agro Jaya

The Ministry of Environment and Forestry's lawsuit directed against PT. Waringin Agro Jaya, was registered in the District Court of South Jakarta under Case registration No. 456/Pdt.G-LH/2016/PN.Jkt.Sel. This lawsuit is based on the hotspot data successfully detected in July 2015 until October 2015 period to ensure that the detected hotspots are in the burned-out plots and occurring only in certain periods and blocks. The results of the MODIS Terra-Aqua hotspot data analysis confirm that the detected hotspots are the true hotspots, which means that fires have indeed taken place in the areas of oil palm plantations of the Defendant strengthened by the verification results in the field. The fired do not only occur on the land on which oil palm have been planted with oil palm but also occurs on the land not planted with oil palm (shrubs, with dominant vegetation in the form of gelam trees). The
oil palm trees burned in the areas of the oil palm plantation owned by the Defendant still bear fruits with sand with the extent of burned area in the oil palm plantation belonging to the Defendant of 1,626.53 Ha.

Furthermore, in the lawsuit it is stated that the burning of oil palm plantations did not cause any harm to the Defendant at all, but exactly provided the economic benefits for the Defendant. By the burning of the land, the Defendant does not need to spend any cost for the purchase of lime used to increase the pH of peat and the costs of fertilizer procurement and fertilizing because they have been replaced by the presence of ash and charcoal from the fires, and the costs of procuring / purchasing pesticides to prevent the threat of pest attacks and diseases. The Defendant is also benefited because it will clearly cut the operational costs such as labour costs, fuel, and other costs required if land clearing is done by way of Land Clearing Without Burning (“PLTB”) in accordance with applicable laws and regulations. The burning of land will also benefit in terms of time because the process of “clearing” the land becomes faster so that it can be planted immediately and easily worked on.

Such lawsuit is partly approved by the District Court of South Jakarta under Verdict Number 456/Pdt.G-LH/2016/PN.Jkt.Sel., dated 7th February 2017. The court’s ruling states to approve the Plaintiff’s lawsuit in part. The court stated to declare this lawsuit using the verification with the principle of strict liability and to punish the Defendant to pay material compensation in cash to the Plaintiff through the State Treasury account amounting to Rp.173,468,991,700.00 (one hundred seventy-three billion four hundred sixty-eight million nine hundred ninety-one thousand and seven hundred rupiahs) and to punish the Defendant to take the act of environmental restoration towards the burned land of 1,626.53 hectares so that it can function again accordingly at the cost Rp.293,000,000,000.00 (two hundred and ninety-three billion rupiahs) [9].

As for the judges considerations stating that the evidence is with the principle of strict liability: 
"Considering that as having been considered above and the truth of which is recognized that the fires occurring on the Defendant's land were caused by human action by nature causing fires on the Defendant's land so that the Defendant as the administrator of the burned land must be responsible for the environmental damage regardless of whether the Defendant has made a fault or not because the damage to the environment can pose a serious threat to the survival of animals and plants and humans around the burned land (Strict liability);

Considering, however, from the testimonies of witnesses brought before the trial explaining that around the Defendant's land from year to year there are always fire, whereas the Defendant despite experiencing fires on his land at all times does not prepare itself optimally to deal with the fires because an early warning system to anticipate fire on the Defendant's land is not done properly and the facilities provided to deal with the fire are not adequately provided compared to the extent of land under the Defendant's responsibility so that the Defendant is less careful in dealing with the dry season having the potency for the occurrence of land fire;

Considering, that since the Defendant must be responsible for the environmental damage as elucidated in the above consideration, the Defendant shall be required to pay compensation to the state as a result of responsibility that is on the Defendant and in addition the Defendant is required to take action to restore the already-polluted environment.”

The decision was confirmed by the Jakarta High Court under Verdict Number 492/PDT/2017/PT DKI dated November 2, 2017 and also in the cassation level in the Verdict of the Supreme Court No. 1561 K/Pdt/2018 [10], [11]. For this decision, PT. Waringin Agro Jaya filed a Review and was rejected by the Supreme Court, as the Verdict No. 805 PK/PDT/2019 dated 30th October 2019.

3.2. Case of the Minister of Environment against PT. Surya Panen Subur
That initially the lawsuit filed by the Ministry of Environment against PT. Surya Panen Subur was declared inadmissible by the District Court of South Jakarta under Verdict Number 700/Pdt.G/2013/PN.Jkt.Sel. dated September 25, 2014. The court ruling stated to approve the Defendant’s exception in part and to declare the Plaintiff’s lawsuit is lack of party and obscure.
As for the consideration for the Verdict of the District Court of South Jakarta is as follows: Considering, that examining the Plaintiff’s lawsuit in the a quo case, the Panel of Judges has considered that the title of allegation in point 4 is: The Defendant has intentionally allowed fires happening on the land belonging to it, but in the elucidation of its allegation it was associated with the act of burning the land for land clearing and it also elucidated the act of allowing the forest fires on the plantation areas belonging to it, likewise the Plaintiff has postulated that the fires have caused the damage of 1200 hectares of peat land without detailing the extent of each period of fire, other than that the extent of the burned areas postulated by the Plaintiff is 1,200 hectares that is not synchronous with the details of the burned planted areas of 517.03 hectares and the unplanted but already stacking areas of 666.23 hectares so that the total area burned is 1,183.26 hectares. That likewise in the allegation of the lawsuit it does not appear that whether the difference between 1,200-1,183.26 that is 16.74 hectares are also burned or not, such thing is not elucidated by the Plaintiff but the Plaintiff has claimed that the fires have resulted in the damage of peat land of 1,200 hectares, such thing has also caused the Plaintiff’s request to become obscure because the claim for compensation and the action to restore the burned land are calculated from such extent of 1,200 hectares [12].

Such Decision was annulled by the High Court of Jakarta under the Decision Number 796/PDT/2014/PT.DKI dated 28th January 2015 initially stating that the lawsuit was not accepted, being changed into to reject the lawsuit in whole [13]. Later a cassation was filed by the Minister of Environment, and was rejected by the Supreme Court under the Verdict No. 2905K/Pdt/2015, dated 29th February 2016, the ruling of which is to reject the cassation of the Petitioner of Cassation the Minister Of Environment of The Republic Indonesia [14].

Since it does not satisfy with the Cassation Decision, the Minister of Environment filed a Review in the Supreme Court with Verdict No. 690 PK/Pdt/2018 as follows: to approve the request of Review of the Applicant of Review the Minister of Environment of The Republic of Indonesia and to approve the Plaintiff’s lawsuit in part. Supreme Court stating to declare the Defendant has committed an act against the law and to punish the Defendant to pay material compensation in cash to the Plaintiff through the State Treasure account amounting to Rp.136,864,142,800.00 (one hundred thirty-six billion eight hundred sixty-four million one hundred forty-two thousand and eight hundred rupiahs) and to punish the Defendant to take action of environmental restoration on the burned land of 1,200 hectares at the cost of Rp.302,154,300,000.00 (three hundred two billion one hundred fifty-four thousand and three hundred rupiahs) so that the land can be re-functioned accordingly pursuant to the applicable laws and regulations [15].

Whereas the consideration of judges in the Decision of Review consisting of Prof. Dr. Takdir Rahmadi, S.H., LL.M, Dr. Yakup Ginting, S.H., C.N., M.Kn, and Dr.H. Panji Widagdo, S.H., M.H. as follows:

“That the Indonesian legal system today besides recognizing liability based on fault as formulated the Article 1365 of the Civil Code also recognizes liability without an element of fault as stipulated in Article 88 of Law Number 32 Year 2009 on Environmental Protection and Management;

That the Defendant shall bear the civil liability even though the Defendant has a Business License because the Business License cannot abolish the civil liability if it is proven that the Defendant has violated the law. Article 69 paragraph (1) of Law Number 32 of 2009 on Environmental Protection and Management prohibits land clearing by burning. Likewise, Article 26 of Law Number 18 of 2004 on Plantation in conjunction with Article 56 of Law Number 39 of 2004 prohibits plantation business administrator from opening or processing land by burning;

That from the facts in the field, based on the testimonies of the Witnesses brought by the Plaintiff, it is known that there is an element of allowing fire to occur because the fire has given benefit to the Defendant. Furthermore, if it is connected with the provisions of Article 88 of Law Number 32 Year 2009 on Environmental Protection and Management that business activities posing "a serious threat to the environment” shall be strictly liable for the losses taking place without the need to prove the element of fault. The fire occurring within the activity area of the Defendant can be categorized as “a serious threat to the environment” so that the Defendant can be subject to the strict liability with the
consideration that the areas of peat land and peat forest have the significant ecological functions for human life in the present and future, among others, as the protectors of the water system, the lungs of the earth and the habitat for flora and fauna as the creation of God Almighty who also have the right to live and be protected.”

3.3. Analysis of Application of Strict Liability

Strict liability is a concept that is still new in Indonesia, causing a temporary interpretation of the community towards this, both experts and practitioners, especially among law enforcers and judges, not yet solid enough, are still groping about this [16], [17]. There is a stigma from the community that if there is land fire in an oil palm plantation, the company must be convicted, resulting in the judicial power to follow the mainstream of community thought, without using the right legal logic.

Among them, forest or land fire occurs due to activities or actions of the community or a certain individual who is then blamed and charged based on the strict liability to companies whose areas of activity become the spread of forest and land fires as those happening in the Civil Case of PT. Waringin Agro Jaya and PT. Surya Panen Subur. Against those who are subsequently prosecuted in a civil manner for pollution or damage to the environment or the forest, shall also be deemed responsible for "the actions of others who have nothing to do with them". Of course, this creates injustice from the legal perspective.

The provisions in Article 88 of Law No. 32 of 2009 are applied to plantation companies whose areas are burned, due to any reason. These companies are deemed responsible for the consequences arising on the basis of strict liability, even though it is not part of their business activities. The fire does not originate from the activities of the companies, and the company's efforts to extinguish the fire, are not taken into consideration. In short, they are deemed to be strictly liable for it.

The law enforcement of land fire cases should be carried out proportionally and professionally by looking at facts and events in field. If indeed the burned area is caused from outside and there is no element of intent to burn the land, then the parties should be released from the snare of the law and instead obtain the legal protection. Moreover, the companies have the good intention to follow the Standard Operating Procedures (SOP) by trying hard to extinguish the fire in their areas. In the judicial system in Indonesia, the only one who evaluates the evidence is the judge. In contrast to the Anglo Saxon justice system in common law country, where in addition to judges who assess the legal aspect, there are also juries that assess the facts aspect [18].

The provisions in Article 88 specifically the present of a phrase "to pose a serious threat to the environment" results in a debate related to what types of businesses pose a serious threat to the environment. In its lawsuit, the Ministry of Environment states that oil palm plantations are included in activities posing a serious threat to the environment because they are included in the activities required to have an Environmental Impact Analysis (AMDAL). Shall all activities that are required to have an AMDAL be categorized as activities that pose a serious threat to the environment, so that they can be subject to the strict liability? Could the activities of oil palm plantations of cultivating the land, planting, fertilizing, caring and harvesting be said as the activities that pose a serious threat to the environment?

In the Regulation of Minister of the Environment and Forestry Number P.38 of 2019 on Types of Business Plans and/or Activities that Required to Have Analysis Concerning Environmental Impact Analysis (AMDAL). The regulation explains the AMDAL classification with categories A, B and C. The Category A of AMDAL constitutes the AMDAL with the scope of very-complicated Business plans and/or activities, location of Business plans and/or Activities that are very sensitive and require very-complicated environmental feature condition data. The Category B of AMDAL is the AMDAL that in the scope of Business and/or Activity plans is quite complicated, the location of Business and/or Activity plans is quite sensitive and requires quite-complicated environmental feature condition data. The Category C of AMDAL is the AMDAL that in the scope of Business Plan and/or Activity is not complicated; the sensitivity of the location of Business plan and/or Activity is less and does not require complicated environmental feature condition data.
Several types of activities included into the Category A of AMDAL are among others Reclamation of Coastal Areas and Small Islands, Rare earth metal mining on small islands <100 km² carried out openly, Construction of Railroad Tracks, with or without Station buildings, Cement industry integrated with clinker production units, Shipyard industry with the graving dock system, Propellant, ammunition and explosive industries, Dam construction, Construction of subway / underpass, tunnel, flyover and bridge and Operation of nuclear reactors.

There needs to be a common understanding, related to the interpretation of strict liability whether it can be applied to all mandatory AMDAL activities. If we look at the historical and development of strict liability which is only limited to activities having large and very serious impacts, the application of strict liability should not be applied to all mandatory AMDAL activities. If viewed from the level of seriousness or large impact on the environment, then strict liability can be applied to AMDAL mandatory business activities with category A.

Oil palm plantations which fall under the mandatory business activities of category C of AMDAL, should not be applied with the principle of strict liability. The principle of strict liability can be applied to oil palm plantations, if there are provisions in the laws and regulations allowing the company to burn, and the burning activity causes severe environmental damage. If the company is only a victim of land fire burning the productive oil palm trees, then the principle of strict liability cannot be applied. In addition, there is another argument saying that oil palm plantations in peat areas are vulnerable to the occurrence and are included in the activities of "posing a serious threat to the environment". Based on the statistical data, forest and land fires in 2019 cover 857,756 hectares, 630,451 hectares in mineral land and 227,304 hectares in peat land. This means that peat land fire is only 26.5% from the total area of forest and land fire.

Based on the facts in the field, the fire occurring in the area of oil palm plantations is a disaster and the fire came from outside. The lawsuit in a Court which accused oil palm companies had deliberately allowed the fire to destroy the oil palm plantations as a claim without basis and strong evidence even seems unreasonable. It is not possible for the palm oil companies to deliberately allow the fire burning the oil palm plants having been planted at a high cost. Instead of fulfilling the principles of austerity and prudence and accuracy of targets, these efforts are actually very reckless and careless and indicate certain pressures requiring the legal process continues to run or to be deemed appearing as "working" even though it is not supported by sufficient evidence. This situation is very contrary to our joint efforts to create law enforcement and a good investment climate in Indonesia.

4. Conclusion
The application of strict liability should be done correctly, so that the application is truly in accordance with the intention, and should not be interpreted carelessly. Those who have run their businesses properly, but are still affected and become the victims of forest and land fires, shall remain to be protected and treated fairly. The interpretation of the principle of strict liability perfunctorily and only uses the formula of "basically if there is a fire, then he must be responsible" of the law enforcers, of course, has an impact on the fault of applying the law causing injustice and uncertainty in the business world in Indonesia.

References
[1] Kementerian Lingkungan Hidup dan Kehutanan. 2019. Rekapitulasi Luas Kebakaran Hutan dan Lahan (Ha) Per Provinsi di Indonesia Tahun 2015-2019. accessed 25 Oktober 2019 http://sipongi.menlhk.go.id.
[2] Salim, H. 2008. Pengantar Hukum Perdata Tertulis (BW). Jakarta: Sinar Grafika.
[3] Siahaan, N.H.T. 1987. Ekologi Pembangunan Dan Hukum Tata Lingkungan. Jakarta: Erlangga.
[4] Sjahdeini, S.R. 2007. Pertanggungjawaban Pidana Korporasi. Jakarta: PT.Grafiti Pers.
[5] Hardjosoemantri, K. 2012. Hukum Tata Lingkungan. Yogyakarta: Universitas Gajah Mada Press.
[6] Fuady, M. 2013. Perbuatan Melawan Hukum Pendekatan Kontemporer. Bandung: Citra Aditya Bakti.

[7] Santosa, M.A. 1995. Perkembangan Legal Standing Dalam Gugatan Lingkungan. Jakarta: Indonesia Center For Environmental Law.

[8] Rangkuti, S.S. 1996. Hukum Lingkungan dan Kebijaksanaan Lingkungan Nasional. Surabaya: Airlangga University Press.

[9] Verdict of the District Court of South Jakarta No. 456/Pdt.G-LH/2016/ PN.Jkt.Sel

[10] Verdict of the Jakarta High Court No. 492/PDT/2017/PT DKI

[11] Verdict of the Supreme Court No. 1561 K/Pdt/2018

[12] Verdict of the District Court of South Jakarta No. 700/Pdt.G/2013/PN.Jkt.Sel

[13] Verdict of the Jakarta High Court No. 796/PDT/2014/PT.DKI

[14] Verdict of the Supreme Court No. 2905 K/Pdt/2015

[15] Verdict of the Supreme Court No. 690 PK/Pdt/2018

[16] Sjahdeini, S.R. 2007. Pertanggungjawaban Pidana Korporasi. Jakarta: PT.Grafiti Pers.

[17] Huda, C. 2008. Dari Tiada Pidana Tanpa Kesalahan Menuju Kepada Tiada Pertanggungjawaban Pidana Tanpa Kesalahan. Jakarta: Kencana.

[18] Ali, A. and Heryani, W. 2012. Asas-Asas Hukum Pembuktian Perdata. Jakarta: Kencana.