

# Urgency of Liability Insurance against Environmental Damage; Impact of Development and Use of Advanced Technology

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## **Abstract.**

The development and development of the use of technology in an industry also has a negative impact on the environment. For example, the case of PT Merbau Pelalawan Lestari who was sentenced to pay a fine to the State of Rp. 16.2 Trillion because it has been proven to do illegal logging that damages the environment. Another case is the British company, Britist Petroleum, which suffered an offshore well explosion and because of this the total loss reached Rp. 1,194 Trillion. Repressive government actions for the above cases are by prosecuting and making decisions in favor of the interests of the environment and the interests of the local community. It will be a new problem if, the court ruling cannot be immediately executed, on the other hand environmental damage must be quickly restored. Finally, the State must act by providing assistance in the handling and recovery of damaged environments, such as the Lapindo mudflow case, Sidoarjo, East Java, Indonesia. In addition to repressive measures, the government has obliged industrial companies in certain fields to cooperate with insurance companies in terms of preventing environmental damage that may arise intentionally or unintentionally. But in practice insurance companies also experienced several obstacles related to the implementation of the agreement, monitoring up to payment of compensation. This is the focus of this research. So that it is hoped that the insurance company will get a formulation in making insurance agreements until the implementation of compensation payments. To answer this issue, researchers used doctrinal research methods; where this approach will still be guided by legislation and also legal concepts that have been made by legal experts and have been widely applied.

**Keywords:***Insurance; Living environment; Industrial Company.*

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## **I. Background**

An environment is an ecosystem that consists of various subsystems, in which there are various aspects, including social, cultural, economic and geographical aspects. To preserve the sustainability of all these aspects, guidance, supervision and development are needed by various parties, namely the government, businesspeople and the local community. This is done so that

human life is balanced so that people can enjoy their lives well and properly [1].

Demands related to environmental protection in general and specifically are increasingly high with the birth of the 1982 Nairobi Declaration initiated by the United Nations Environment Program (UNEP). Furthermore, the discussion about the environment was also outlined in the Tokyo Declaration of 1987. Through this Tokyo Declaration, the terminology concept of sustainable

development began to be known. So that on June 3-14, 1992, the organization of the United Nations Conference on Environment and Development (UNCED) confirmed the "environment" and "development" segments in a large spectrum called "sustainable development" [2]. To achieve sustainable development certainly must have environmental insights; where this should be the main requirement so that development is expected to continue.

Development carried out by a country or an area certainly in one time will have a positive or negative impact. For example, development in the mining sector; where it has provided many benefits for the welfare of a community, but on the other hand it also causes various environmental damage and pollution [3]. Not only in the mining sector, many other fields that also have the potential to make environmental damage become higher such as the industrial sector in general, nuclear, tourism, housing and so on. To prevent this, the government must be more careful and careful in providing business licenses for businesspeople, especially those who are related to the environment.

The existence of stringent environmental pressures causes government agencies around the world to strengthen environmental laws and regulations to deal with degradation [4]. Instruments related to environmental policy in Indonesia have been accommodated with several rules such as Law No. 32 of 2009 concerning Environmental Protection and Management (UUPLH), Government Regulation No. 46 of 2017 concerning Environmental Economic Instruments (PP No. 46/2017) and Government Regulation No. 27 of 2012 concerning Environmental Permits called AMDAL. The legislation made by the

Government regarding the environment is a form of repressive action to preserve the environment. Through these rules, it is expected that the business actor is able to be socially and environmentally responsible regarding the business he does; it means not only focus on business profits but also "care" about the environment around it. Based on Indonesia's 2010-2014 Medium-Term Development Plan which supports to reduce carbon emissions, each industry sector must implement sustainable development into their policies and programs [5].

One form of protection for the environment regulated in the UUPLH and PP No. 46/2017 also includes third parties, namely insurance companies. UUPLH and PP No. 46/2017 has mandated the government and regional governments to develop and implement environmental insurance in order to preserve environmental functions. But until now environmental insurance that has been tried to be developed in Indonesia since 1996, has not been able to run optimally [6]. This matter will be examined more closely in this study; that is why environmental insurance cannot run optimally in Indonesia.

## **II. Environmental Pollution Due to Advanced Development and Technology Impacts**

Environmental pollution is divided into 3 types, namely water pollution, soil pollution and air pollution. Water pollution can be caused from water pollutants, such as industrial waste, household waste and agricultural waste such as fertilizer. Soil pollution can be caused by activities that are not properly managed, waste leakage from industrial and hospital wastes, as well as oil, chemical and waste stacks. While air pollution occurs from burning fuel in

motorized vehicles and factory exhaust gases [7].

Pollution caused by industry usually has an effect that is greater than the pollution produced by individuals or households. Thus, repressive prevention is required which must be fulfilled by industrial businesses if they want to open their businesses. The legal system in Indonesia has accommodated environmental pollution risks in 2 matters, namely the fulfillment of the Environmental Impact Analysis (AMDAL) and the participation of industrial businesses as insured in environmental insurance.

The concept of Environmental Impact Analysis (EIA) is an activity carried out to identify, predict, interpret and communicate related to the influence of an activity plan on the environment around it [8]. So that in every business permit submission, this AMDAL must be fulfilled first. The AMDAL concept is studying the impact of development on the environment and the environmental impact on development also based on the ecological concept between living things and their environment, for example the size of the population, the area of impact spread, the intensity and duration of the impact, the number of environmental components to be affected, the cumulative nature of the impact, reversal or irreversibility of the impact, and other criteria that are in accordance with the development of science and technology [9].

Furthermore, the criteria for businesses or activities that are potentially affected and must be equipped with AMDAL are changes in land and landscape forms, exploitation of natural resources, processes and activities that potentially lead to pollution and environmental damage, introduction of plant

species, species of animals and species microorganisms, the manufacture and use of biological and non-biological materials, activities that have a high risk and affect state security, the application of technology that is estimated to have great potential affects the environment [9].

### **III. Constraints in the Development of Environmental Insurances in Indonesia**

Until now the development of environmental insurance has not gone well in Indonesia. This happens because of several reasons, namely internal factors and external factors. For internal factors, the factors that occur in the management of the insurance company itself. For example, PT AsuransiJasa Tania Tbk (ASJT) faced various business constraints during 2015. The constraints faced by PT ASJT, one of which was gross premium income that did not grow (down 1%), this was due to a decrease in premiums from several corporate customers due to cost efficiency policy. This has an impact on the insurance premium budget paid. Another obstacle is the cancellation of several policies due to uncollected premiums and a decrease in investment returns from last year by 6% from Rp. 6.24 billion to Rp. 5.87 billion [10]. This makes the insurance company management not going well so that it is worried when there is an insurance claim filed from the insured, the insurance company (guarantor) cannot afford the compensation. In addition, when compared with life insurance or other insurance, environmental insurance has a scope that is not sufficiently broad or limited so that the quantity of the insured is not too much.

The external factor that makes environmental insurance not going well is that there are still many industrial companies that are not aware

of the importance of environmental insurance. On the other hand, a number of laws and regulations in Indonesia have required businesses to take part in environmental insurance, in order to ensure the preservation of the environment around their place of business. However, the regulation does not get maximum supervision by the government or local government. In several environmental regulations, not all business sectors are required to participate in environmental insurance, even though all industrial activities or other fields have the potential to produce pollution. In addition, there is no minimum provision (either from statutory regulations or from the insurance company itself) related to the nominal premium and compensation for an impact of pollution that might occur in an area. These calculations should have been seen in the AMDAL and the ERA (Ecological Risk Assessment) can measure the possibility of negative environmental impacts.

#### **IV. Conclusions and Recommendations**

Environmental insurance has not been too popular in overcoming environmental problems over pollution caused by business actors in the industrial sector or other fields. On the other hand the government with the provisions that have been in the UUPH and PP No. 46/2017 has required companies engaged in certain fields to become insured in environmental insurance. But the obedience of a company and non-optimal supervision make the company or business actor not fulfill these obligations. So far, a lot of environmental pollution has been neglected and is detrimental to the local community. In the end to overcome this, the government or local government must take action by taking part in the State Expenditure Budget / Regional Expenditures Budget to

overcome or minimize the pollution. This adds to state losses, where compensation for the pollution should be borne in part by an insurance company (environmental insurance).

Suggestions can be given is to provide a clear scope and make the procedure for determining the number of estimates of environmental risk can be done through scientific analysis models that have developed very advanced and are standard in current science and technology. The environmental risk analysis model can be seen through EIA and ERA. Through this model, it can be estimated how far the scope of environmental insurance can be reached by insurance services in Indonesia. This can be a guideline in determining the estimated amount of compensation and the amount of the insurance policy price as the basis for the responsibility of the insurance company.

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