

# STATE RESPONSIBILITY IN CONDUCTING FOREST REFORESTATION BASED ON COURT-IMPOSED FINES AGAINST COMPANIES THAT COMMIT FOREST BURNING

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**Abstract:** *This paper aims to examine the responsibility of the state in carrying out forest reforestation based on court decisions imposing fines on companies that engage in forest burning. The research adopts a normative legal method, using a conceptual approach and a case approach. The study is evaluative in nature, meaning that it sets certain expectations regarding the state's responsibility in implementing forest reforestation based on court-imposed fines, which are then assessed through evaluation. The state has an obligation to prevent, control, and restore environmental damage, including transboundary environmental harm. Although companies are the primary perpetrators, the state bears derivative responsibility to ensure that environmental restoration is conducted in accordance with global environmental law standards. The polluter pays principle must be integrated with the principle of state responsibility in environmental law, requiring the state to guarantee the effective enforcement of court decisions for the benefit of the environment and affected communities.*

**Keywords:** *Responsibility, State, Forest Reforestation, Polluter Pays Principle.*

## Introduction

Forest reforestation following fires caused by corporate negligence or intentional acts represents a concrete form of state responsibility in carrying out the constitutional mandate to protect the environment and to manage natural resources for both present and future generations. Within the framework of international law, the International Law Commission (ILC) has affirmed that states have an obligation to prevent, control, and remedy transboundary environmental damage. Therefore, although corporations are the primary actors, the state retains a derivative responsibility to ensure that environmental recovery is carried out in accordance with global environmental law standards (Birnie, Patricia W., Alan E. Boyle, and Catherine Redgwell, 2019: 147).

Furthermore, Indonesian courts have imposed fines on companies involved in forest and land fires. However, problems arise when the enforcement of these court decisions is not matched by concrete reforestation efforts on the ground. In many cases, funds collected from fines are transferred to the state treasury without strict monitoring mechanisms, resulting in the failure to achieve ecological restoration objectives. This is where the polluter pays principle must be integrated with the principle of state responsibility in environmental law, under which the state is obliged to ensure the effectiveness of court decisions in the interest of environmental protection and affected communities (Sands, Philippe, and Jacqueline Peel, 2018: 245).

In this context, state responsibility is not merely administrative, but also legal and moral in nature. Administratively, the state is required to establish institutional mechanisms capable of channeling corporate fines into reforestation programs. Legally, the state is bound by international commitments as reflected in the Rio Declaration on Environment and Development

of 1992, particularly Principle 13, which emphasizes the need for effective domestic regulations concerning compensation for environmental damage. Meanwhile, from a moral perspective, the state has an obligation to its people to restore the ecological functions of forests as a source of life and as a means of disaster mitigation.

The polluter pays principle is one of the fundamental principles of international environmental law adopted to ensure ecological justice and legal certainty in environmental restoration. This principle requires environmental polluters to bear the costs of restoration or rehabilitation resulting from their actions. However, in the context of developing countries such as Indonesia, the implementation of this principle cannot be limited solely to the imposition of financial sanctions in the form of fines by the courts. It also necessitates an active role of the state in ensuring that such fines are effectively allocated for reforestation and ecosystem restoration purposes.

International academic studies indicate that the successful implementation of the polluter pays principle is strongly influenced by the capacity of the state to enforce regulations and manage restoration funds. For example, studies on environmental policy in China have found that the state's failure to ensure transparency in the use of fine revenues resulted in low reforestation rates and recurring environmental degradation (Zhang, Kun-Min, and Zong-Guo Wen, 2008: 1249–1261). These findings provide important lessons for Indonesia, demonstrating that court decisions imposing fines on forest-burning companies must be followed by earmarking mechanisms to ensure that the funds are used specifically for reforestation, rather than being absorbed into general state revenues.

Moreover, the role of the state in reforestation cannot be separated from a restorative justice approach. Environmental law enforcement should not only aim to create a deterrent effect for perpetrators, but also to restore environmental conditions as close as possible to their original state. This perspective aligns with analyses emphasizing that environmental protection is an integral part of human rights, and therefore the state must not neglect its obligation to ensure the success of reforestation as a form of restoring the public's right to a healthy environment (Boyd, David R., 2012: 3–14).

The state's responsibility to conduct reforestation based on court-imposed fines can thus be understood as a form of synergy between the polluter pays principle and the constitutional obligations of the state. The state acts as a regulator, facilitator, and supervisor to ensure that fine revenues are genuinely used to repair forest damage. The implementation of the polluter pays principle without active state involvement risks reducing fines to mere legal formalities without producing tangible ecological benefits. Therefore, within the framework of national environmental law development, strengthening accountability mechanisms for the use of corporate fines in reforestation efforts is an urgent necessity to ensure environmental sustainability in Indonesia.

### **Literature Review**

Forests support the majority of global terrestrial biodiversity and contribute to the livelihoods of billions of people (Austin Himes et al., 2023: 473). Globally, forests provide essential goods and services that are vital to human well-being. These include a wide range of products, such as fruits, timber, fuel, and fodder, as well as ecosystem services like pollination, hydrological regulation, and carbon sequestration, which support millions of livelihoods (Miller & Hajjar, 2020: 1).

In addition, recent research reports have synthesized and presented available scientific evidence on the role of forests and tree-based systems in alleviating and ultimately eradicating

poverty (Miller et al., 2022: 1). However, these benefits, along with many others, are increasingly threatened by various challenges.

One of the most serious threats to global prosperity and well-being is ecological degradation, particularly forest destruction. Significant pressure has been placed on ecosystems due to the growing human demand for natural resources, leading to severe environmental problems (Udeagha & Muchapondwa, 2023: 1638).

According to Lailan Syaufina, one of the most pressing environmental issues in Indonesia over the past several decades has been forest fires, which occur almost annually across various islands (Syaufina, 2018: 109). Indonesia possesses the second-largest forest area in the world after Brazil (Nugroho et al., 2022: 1). Unfortunately, Indonesia's forest area continues to decline each year. Tsujino et al. report that Indonesia is among the countries experiencing the greatest loss of primary forests over the past 15 years (Tsujino et al., 2016: 335). The main causes of this decline are forest fires and forest land conversion for plantations and other non-agricultural uses (Aminah et al., 2020: 1).

### Method

The type of research used in this study is normative legal research, because the object of analysis is legal science and therefore must be examined from a legal perspective. The determination of the research method departs from the nature of the legal event under study. If the legal event has already occurred (past) or is expected to occur in the future (potentially), then the appropriate method is normative legal research. However, if the legal event is currently taking place, empirical legal research should be applied (Ramlan, Tengku Erwinsyahbana, and Surya Perdana, 2023: 87). Accordingly, this research adopts a normative legal research method, as the legal event has already occurred, and the study seeks to examine the government's responsibility in carrying out forest reforestation based on court decisions imposing fines.

The approaches employed are the conceptual approach and the case approach. Through the conceptual approach, the researcher examines doctrines, theories, and legal norms related to the transfer of state responsibility to conduct reforestation based on court-imposed fines. Meanwhile, the case approach is used to analyze court decisions that impose compensation or fines on companies for forest burning, where such compensation is deposited into the state treasury. In practice, however, the state often does not carry out reforestation based on these court decisions.

This research is exploratory in nature. Exploratory research is conducted when knowledge regarding the phenomenon under investigation is still very limited or even nonexistent, and it aims to obtain preliminary data. The selection of exploratory legal research in this study is intended to obtain initial data and understanding regarding the transfer of state responsibility to carry out reforestation based on fines imposed by court decisions.

### Result and Discussion

State responsibility for reforestation following court-imposed fines must be viewed as a constitutional obligation, an international obligation, and a moral obligation. The state must not delegate all responsibility to market mechanisms or rely solely on corporate goodwill. Instead, the state must actively intervene through legal instruments, institutional frameworks, and public policies to ensure that every unit of fine paid by corporations is effectively transformed into trees, rehabilitated land, and restored ecosystems.

The responsibility of the state in conducting forest reforestation based on court-imposed fines against companies engaged in forest burning can be analyzed as follows:

### **A. The Polluter Pays Principle Applied to Companies Engaged in Forest Burning**

The Polluter Pays Principle (PPP) is one of the fundamental principles of international environmental law and has also been adopted within the Indonesian legal system. This principle affirms that any party causing environmental pollution or damage is obliged to bear the costs of environmental restoration and to compensate for the harm caused. Its application extends beyond criminal liability to include administrative and civil responsibility.

Normatively, the implementation of the polluter pays principle in Indonesia can be found in Article 88 of Law Number 32 of 2009 on Environmental Protection and Management. This provision establishes the doctrine of strict liability, whereby business actors or responsible parties whose activities cause environmental pollution and/or damage are held automatically liable. Consequently, companies proven to have engaged in forest burning cannot evade responsibility by arguing the absence of fault, as liability arises immediately upon the occurrence of environmental damage.

However, criticism has emerged regarding the effectiveness of this principle. Companies found responsible for forest fires often resort to prolonged litigation strategies to delay or avoid the payment of compensation. In addition, weak law enforcement has resulted in the burden of environmental restoration frequently falling on the state rather than the polluters themselves. This situation demonstrates that the polluter pays principle often remains a normative legal concept rather than a strong deterrent mechanism for corporate misconduct.

Therefore, the polluter pays principle should not function solely as a post-damage punitive measure but must also be integrated into preventive mechanisms through environmental permits, strict supervision, and risk-based environmental levies. Through such integration, corporations will be encouraged to cultivate a culture of compliance and to recognize environmental costs as unavoidable consequences of business operations.

Conceptually, the polluter pays principle has been recognized as an international legal standard since its introduction by the OECD in 1972. Over time, it has been understood as an instrument of distributive justice, emphasizing that parties benefiting economically from certain activities must also bear the environmental burdens generated by those activities (Sands, P., Peel, J., Fabra, A., & MacKenzie, R., 2018: 234). This principle is not only applied in developed countries but also serves as the foundation of environmental regulation in developing states. For instance, China has implemented an eco-compensation scheme requiring companies responsible for land and forest burning to finance environmental rehabilitation, resulting in a significant reduction in repeated violations (Zhang, B., Bi, J., & Wang, P., 2008: 1323).

Nevertheless, the implementation of this principle in Indonesia faces serious challenges. First, weak execution of court judgments has caused many companies that have been found legally liable to delay or avoid payment of fines and compensation. Data from the Ministry of Environment and Forestry indicate that, as of 2020, several companies convicted of forest burning had yet to comply with court decisions due to administrative and political obstacles. Second, the lack of transparency in the management of fine-related funds undermines the effectiveness of reforestation efforts and increases the risk of budget misuse (Jodoin, S., & Mason-Case, S., 2016: 32).

### **B. Enforcement Of Court-Imposed Fines Against Companies Engaged In Forest Burning**

The enforcement of court-imposed fines against companies responsible for forest burning in Indonesia continues to present serious challenges. Normatively, the legal framework is already in place through Law Number 32 of 2009 on Environmental Protection and Management and Law Number 41 of 1999 on Forestry, both of which clearly provide a legal basis for judges to impose criminal fines as well as obligations for environmental restoration. However, at the

implementation level, there is often a significant gap between the court's ruling and its realization in practice.

Several court decisions have imposed substantial fines on companies proven to have engaged in forest and land burning. For example, in the case of **PT Sumber Sawit Sejahtera**, the court ordered the company to pay principal fines and environmental restoration costs amounting to more than IDR 38 billion. Such rulings should serve as concrete evidence of the state's commitment to enforcing environmental law and creating a deterrent effect for corporate offenders (Misran, 2022: 190). Nevertheless, even after these decisions have obtained permanent legal force (*inkracht*), the actual payment of fines and the implementation of environmental restoration are often delayed or remain unrealized due to the absence of clear execution mechanisms.

The first major obstacle arises from the lack of detailed implementing regulations that clearly designate which institution is responsible for executing court-imposed fines. Legal research indicates that although the operative parts of court decisions are explicit, there are no technical procedures to ensure that fines are actually paid or that restoration obligations are carried out. As a result, execution often depends on the initiative of specific institutions, particularly the Ministry of Environment and Forestry, which in practice faces limitations in capacity and inter-agency coordination (Harison, 2021: 45).

Delays in execution are further exacerbated by conflicting interests between environmental law enforcement and investment considerations. The government is often perceived as reluctant to take firm action out of concern that strict enforcement may negatively affect the investment climate or employment opportunities. However, such permissive attitudes ultimately undermine the authority of the law and encourage other companies to repeat similar practices without fear of serious consequences (House of Representatives Research Center of Indonesia, 2018: 12).

As a consequence, court verdicts that should function as a primary instrument of environmental law enforcement lose their coercive power. The deterrent effect on corporations becomes weak, ecosystem damage remains unrecovered, and the burden of environmental restoration ultimately falls on the state and affected communities. This situation creates a paradox: on the one hand, Indonesia's environmental laws are relatively progressive on paper; on the other hand, their implementation is constrained by structural and political weaknesses.

### **C. State Responsibility in Conducting Forest Reforestation Based on Court-Imposed Fines Against Companies Engaged in Forest Burning**

State responsibility in conducting forest reforestation following court decisions imposing fines on forest-burning companies constitutes a critical issue in environmental law. Fundamentally, the state has a constitutional obligation to guarantee citizens' rights to a good and healthy environment, as stipulated in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia. This right requires the state not only to act as a regulator but also as an active agent in ecological restoration when damage occurs due to corporate misconduct.

Court decisions imposing fines on forest-burning companies serve as initial instruments of restoration. However, in reality, the execution of fines often encounters obstacles, ranging from technical difficulties to weak legal mechanisms linking fines to reforestation funds (Indonesian Parliament, 2018: 5). If fines merely enter the state treasury without specific allocation for forest restoration, citizens' constitutional rights to a healthy environment remain unfulfilled.

Law No. 32 of 2009 on Environmental Protection and Management explicitly mandates that environmental offenders undertake restoration measures. Judges may even impose additional criminal sanctions in the form of remedial actions (Article 119). In practice, however, companies frequently fail to fulfill these obligations due to financial, political, or supervisory weaknesses.

In such circumstances, the state bears a residual obligation to ensure that restoration is carried out; otherwise, the state itself may be deemed negligent in fulfilling its constitutional duties.

The challenges involved are complex. First, regulatory gaps persist regarding mechanisms for utilizing fines as reforestation funds (Indonesian Parliament, 2018: 7). Second, the government faces technical capacity constraints in implementing reforestation, including limitations in budget, human resources, and technology. Third, land tenure issues in burned areas often give rise to conflicting claims. Fourth, weak transparency in public fund management increases the risk of corruption and undermines the effectiveness of reforestation programs.

To address these challenges, concrete strategic measures are required. The state must establish specific regulations mandating that part or all environmental fines be directly allocated to ecosystem restoration funds. In addition, the application of strict liability must be strengthened to ensure that corporate accountability is not hindered by evidentiary difficulties (Birnie, Boyle, and Redgwell, 2009: 147). Through this approach, corporations remain legally responsible, while the state ensures that environmental recovery proceeds even when offenders fail to fulfill their obligations.

Ultimately, the state's responsibility to carry out reforestation based on court-imposed fines against companies responsible for forest fires is not merely a legal issue, but also a moral and political one. The state must act as a guarantor of ecological justice, ensuring that forest degradation is not passed on to future generations, but instead restored through firm, transparent, and sustainability-oriented policies. The responsibility of the state to conduct forest reforestation following court decisions imposing fines on forest-burning companies constitutes an important issue within Indonesia's environmental law framework. To date, court rulings that impose fines on companies are often perceived as the final stage of dispute resolution. However, if enforcement stops at financial punishment alone, the primary objective of environmental law namely, the restoration of damaged ecosystems remains unfulfilled. The state must not merely act as a recipient of fines, but must actively ensure environmental recovery, particularly through effective reforestation programs.

### Conclusion

Based on the discussion above, it can be concluded that the state's responsibility in carrying out reforestation does not end with the collection of fines from companies. It also includes supervision, enforcement of court decisions, and the proper use of fine revenues for forest restoration. In other words, fines paid by companies should function as instruments of environmental justice, not merely as sources of state revenue. If the state fails to channel these funds toward environmental rehabilitation, court decisions lose their substantive meaning for ecosystem sustainability and the protection of affected communities.

The state's responsibility to conduct reforestation based on court-imposed fines can be understood as a sequential process. It begins with a court ruling that imposes fines on companies responsible for forest burning. The state is then obliged to ensure that the fines are fully paid and recorded as state revenue. The next stage concerns fund management, which should not be limited to general non-tax state revenue, but must be specifically allocated to forest and land rehabilitation programs.

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