

CHAPTER I

INTRODUCTION

1.1 Background

Environmental Pollution ranks as one of the most pressing issues that Southeast Asia faces. In 2017, the World Health Organization recorded that 99% of the regions population lived in areas where the pollution exceeded safe air standards.¹ The transboundary haze pollution is Southeast Asia's most prominent environmental crisis and one which the region is most susceptible to.² What constitutes haze is that of a natural climatic condition in which visibility is affected but in Southeast Asia, the term has been used to describe 'sufficient smoke, dust, moisture, and vapor suspended in air to impair visibility.'³ This haze releases large amounts of carbon into the atmosphere, introducing harmful materials into the environment that endangers human health, living resources, and the ecosystem and the environment as a whole. This serious and persevering problem originates primarily in Indonesia, where peat and forest fires caused by use of indiscriminate fire and slash-and-burn practices to clear land for agriculture has resulted in smoke from these fires

¹ Fadhil Muhammad Firdaus, Beth Elliott and Daniel Ibanez, "Southeast Asian Cities Have Some of the Most Polluted Air in the World. El Niño Is Making it Worse," <https://www.wri.org/insights/air-pollution-southeast-asia-cities-jakarta-el-nino>, accessed 24 July 2024

² Helena Varkkey, *The Haze Problem in Southeast Asia*, (Routledge: Taylor & Francis Group, 2016), Chapter I

³ ASEAN Secretariat, "Information on Fire and Haze," <https://asean.org/speechandstatement/information-on-fire-and-haze/>, accessed 24 July 2024

becoming uncontrollable and spreading to the rest of the country, and from then on to the rest of the region.⁴

Whilst the problem is nothing new, in-fact the first instance dating back to 1972,⁵ the need for industrialization has worsened the situation and has contributed to haze events being much more severe than they were in the past.⁶ The first ever true haze crisis in the region would begin in 1997. The source of the crisis came from massive man made fires in Sumatra and Kalimantan which quickly spread to a point where the government was unable to prevent and control it. These fires released 2.5 million metric tonnes of carbon dioxide into the air with its worst effects being felt in Indonesia. It was declared a ‘national calamity’ by the government as provinces declared a state of emergency, schools were shut down, tens of millions sustained health problems causing hospitals to be overwhelmed, areas were closed off due to the heat, and visibility being impaired so much that fatal crashes on air and sea were attributed to them.⁷

The effects of the haze did not stop in Indonesia, it became what is now known as ‘transboundary haze pollution’ when it carried across national boundaries into Indonesia’s closest neighbors, Malaysia and Singapore. Both

⁴ Jerger, David B., Jr, "Indonesia's Role in Realizing the Goals of ASEAN's Agreement on Transboundary Haze Pollution." *Sustainable Development Law & Policy*, Vol. 14, No.1 (2014), p.35.

⁵ Lee Min Kok. "Haze in Singapore: A problem dating back 40 years," <https://www.straitstimes.com/singapore/environment/haze-in-singapore-a-problem-dating-back-40-years>, accessed 24 July 2024

⁶ M.A. Kasmu. "The Southeast Asian haze crisis: lesson to be learned." *Transactions on Ecology and the Environment* Vol. 64 (2003), p. 1267

⁷ Helena Varkkey, *Op. Cit.*, Chapter I

of these nations suffered serious damage from the Haze. Malaysia declared it 'the most serious haze occurrence in Malaysian history,' with Sarawak declaring a state of emergency for ten days and local economic sectors such as tourism and fisheries suffering the worst financial losses. It was as severe in Singapore, which suffered heavy losses to their economy due to the haze's negative impact on business, tourism, and citizen health.⁸ In total, the 1997 crisis cost Southeast Asia \$9 Billion in damages.⁹

Whilst hopes that the haze may be mitigated with the advent of the 2002 ASEAN Agreement on Transboundary Haze (AATHP),¹⁰ the issue has so far continued to persist and the fires are reported to return almost every year.¹¹ The effects of the haze are not the same every year, but particularly severe instances occurred in 2015, 2019, and most recently in 2023. The 2015 haze crisis was considered the gravest among them and in fact was considered to be even worse than the 1997 crisis,¹² with it being linked to 100,300

⁸ *Ibid*

⁹ John O' Callaghan. "Singapore, Malaysia face economic hit from prolonged smog." <https://www.reuters.com/article/business/environment/singapore-malaysia-face-economic-hit-from-prolonged-smog-idUSBRE95N0BS/>, accessed 24 July 2024

¹⁰ Lauren Mai, "Extinguishing a Point of Contention: Examining Transboundary Haze in Southeast Asia." <https://thediplomat.com/2023/11/extinguishing-a-point-of-contention-examining-transboundary-haze-in-southeast-asia/>, accessed 24 July 2024

¹¹ Pizaro Gozali Idrus, "As haze pervades, Indonesia targets corporations for agricultural fires." <https://www.benarnews.org/english/news/indonesian/haze-fire-indonesia-10052023141707.html>, accessed 24 July 2024

¹² ABC News Australia, "Indonesian fires sending haze across south-east Asia could become worst on record, NASA warns" <https://www.abc.net.au/news/2015-10-02/indonesia-forest-fires-could-become-worst-on-record-nasa-warns/6824460>, accessed 24 July 2024

premature deaths in the region and costing upwards of \$47 Billion dollars in damages.¹³ The 2019 crisis burned 857,756 hectares of peat and mineral soil in Indonesia, an area 12 times the size of the entire state of Singapore.¹⁴ The event also caused almost a million Indonesian to suffer from respiratory illness and six provinces in Sumatra and Kalimantan declared a state of emergency. The most recent event occurred in 2023 after years of reduced haze caused by COVID-19 precautions.¹⁵ Whilst not considered a full blown crisis to the extent of previous events, it nevertheless shows troubling signs that haze will return to becoming something of a normal event in the region.¹⁶

Much blame has been reasonably put towards Indonesia as they seem to always be the source of the haze-producing fires in the region year after year. This track record is only further emphasized by the fact that in 2011, Indonesia was ranked the third largest emitter of carbon dioxide, only behind the United States and China.¹⁷ As the source of the majority of the haze,

¹³ Shannon N Kopplitz *et al.* “Public health impacts of the severe haze in Equatorial Asia in September–October 2015: demonstration of a new framework for informing fire management strategies to reduce downwind smoke exposure” *Environmental Research Letters* (2016), p.7.; Francis Chan, “\$47b? Indonesia counts costs of haze” <https://www.straitstimes.com/asia/47b-indonesia-counts-costs-of-haze>, accessed 24 July 2024

¹⁴ Greenpeace Southeast Asia, “ASEAN Haze 2019: The Battle of Liability,” https://www.greenpeace.org/southeastasia/press/3221/asean-haze-2019-the-battle-of-liability/#_ftn17, accessed 24 July 2024

¹⁵ Lauren Mai, “Extinguishing a Point of Contention: Examining Transboundary Haze in Southeast Asia”, <https://www.csis.org/blogs/new-perspectives-asia/extinguishing-point-contention-examining-transboundary-haze-southeast>, accessed 24 July 2024

¹⁶ Muhammad Hatta, “Firefighters battle peatland fires on Indonesia’s Sumatra island,” <https://apnews.com/article/indonesia-sumatra-fires-2bdb7b034e99361434ddc7a9de50c4fd>, accessed 24 July 2024

¹⁷ Helena Varkkey, *Op. Cit.*, Chapter I

Indonesia is also the country that is most impacted by these events. The consequences of these fires are shown in Indonesia through large-scale destruction of bushlands and forests, polluted waterways, agricultural degradation, illnesses caused by declining air quality and an overall decrease in biodiversity, especially loss of habitat for endangered animals such as the orangutan.¹⁸ The fires cost Indonesia billions of dollars every time they occur and cause disruptions in other economic sectors of the country.¹⁹ The largest source of these fires have been found to be from areas with the most human activity, i.e. from commercial plantation activity.²⁰

To that end, corporations have been identified to play the main role in causing these fires, with clear links being found between the fires and the commercial oil palm plantations that have sprung up in the region.²¹ These plantations have contributed up to 80% of the haze in the region,²² caused due mostly in part to corporations using fire to rapidly clear out land for commercial use as well as purposely burning land to force locals to sell.²³ Due to their practices, haze events have occurred on an almost annual basis.

Efforts have been made to combat and sanction the corporations responsible for causing these fires. In the epicenter of Indonesia, the

¹⁸ *ibid*, Chapter I

¹⁹ Reuters, "World Bank says Indonesia forest fires cost \$5.2 billion in economic losses," <https://www.reuters.com/article/us-indonesia-environment/world-bank-says-indonesiaforest-fires-cost-5-2-billion-in-economic-losses-idUSKBN1YF0EJ/>, accessed 24 July 2024

²⁰ Helena Varkkey, *Op. Cit.*, Chapter II

²¹ *Ibid*, Chapter I

²² *Ibid*

²³ M.A. Kasmu, *op. cit.*, p. 1264

environment ministry has taken legal action against corporations, using administrative, civil and even criminal sanctions against them as well as revoking the licenses of land concessions for corporations suspected of causing these fires.²⁴ However, considering that haze has continued to persist, they have been ineffective in stopping corporations from their burning practices. In Indonesia, from 2015 to 2018 only a few dozen palm oil groups that had the largest areas of burned land received any serious civil or administrative sanctions and none of the 10 palm oil concessions in Indonesia which had the largest total burnt area between that same period in time received any serious sanction either.²⁵ Even more recent efforts by the Indonesian government have not come to fruition as corporations simply have not paid their fines.²⁶ Even other countries such as Malaysia have been hesitant to tackle these corporations head on and have even expressed concerns over Indonesia revoking licenses for Malaysian-owned concessions.²⁷ As a result, the fires go largely unchecked and proliferates the haze returning every year to the region.

²⁴BBC News. "Company licenses to be revoked over Indonesia haze," <https://www.bbc.com/news/world-asia-35153050>, accessed 25 July 2024

²⁵ Greenpeace Southeast Asia. "Indonesian Forest Fires Crisis: Palm oil and pulp companies with largest burned land areas are going unpunished," <https://www.greenpeace.org/southeastasia/publication/3106/3106/>, accessed 25 July 2024

²⁶ Lauren Mai, *loc. cit.*

²⁷ Greenpeace Southeast Asia, "ASEAN Haze 2019: The Battle of Liability," https://www.greenpeace.org/southeastasia/press/3221/asean-haze-2019-the-battle-of-liability/#_ftn17, accessed 24 July 2024

Corporations act with virtual impunity from any criminal or even civil sanction which lets them abuse their corporate powers at the expense of others. Corporations involved within the palm oil sector have been readily expanding their operations into areas owned by rural villages and small communities, causing conflict between plantations and the local populace.²⁸ The palm oil corporations have taken away these lands from the villagers, without adequate consultation with the residents nor adequate compensation for the loss of their land and occupation. The impunity that these corporations receive makes it extremely difficult for members of the communities to protest against them as they are in constant threat from harassment, intimidation, and prosecution from the local police.

Thus, without much pushback from the local community and lack of supervision from law enforcement agencies, palm oil corporations end up not following domestic law in their operations,²⁹ which has contributed to overall environmental degradation of the concession areas through the clearing of the forests and forested peatlands,³⁰ which plays a major factor in the increase of emissions of greenhouse gasses into the atmosphere and eventually, the occurrence of another haze event.

²⁸ Human Rights Watch, "Indonesia: Expanding Palm Oil Operations Bring Harm," <https://www.hrw.org/news/2021/06/03/indonesia-expanding-palm-oil-operations-bring-harm>, accessed 24 July 2024

²⁹ Human Rights Watch, "*Why Our Land?*" *Oil Palm Expansion in Indonesia Risks Peatlands and Livelihoods*", (United States of America: Human Rights Watch, 2021), p. 29; 33

³⁰ *Greenpeace, op.cit* 27.

These problems can be traced back to the actual decision-making of Indonesia's domestic courts when handling criminal cases involving haze-producing corporations. The Indonesian government, specifically the Ministry of Environment has taken all available legal action against rogue palm oil corporation,³¹ but the rate of success in deterring future crimes has so far been lackluster. This failure of success can be attributed to how domestic courts rule on these issues with their decisions. Forestry crimes have been documented to be the largest share of corporate criminal environmental cases, and yet there exists unclear parameters as how to properly prosecute corporations, as the reasoning of past judicial decisions have been unclear whether responsibility should be given to the corporations or the management of the corporation itself, causing legal certainty issues as to how prosecutions should be conducted.³²

This issue can be traced back to Indonesia's primary law that governs environmental protection; Law No. 32 Year 2009 Concerning Environmental Protection and Management ["EPMA"]. Article 116(1) of EPMA states that when an environmental crime has been committed by, for or on behalf of a business entity, sanctions can be imposed on: a) the business entity, or b) the person ordering the crime or person acting as the leader of the committed

³¹ BBC News. "Company licenses to be revoked over Indonesia haze," <https://www.bbc.com/news/world-asia-35153050>, accessed 25 July 2024.

³² Indonesia Center for Environmental Law, *"Assessment Report On Court Decisions On Environmental Cases"*, (Indonesia: Indonesia Center for Environmental Law, 2021), p. 41

crime.³³ Article 118 further provides that to crimes referred to in Article 116(1)(a), the penalty shall be applied against the business entity in the form of a criminal sanction and the corporation will be represented in court proceedings by an authorized representative of the business entity.³⁴

Different interpretations of these articles by the Indonesian courts have been subject to confusion and uncertainty regarding environmental crimes over the past decades. Interpretations have varied in the courts whereby corporate liability is mistaken for individual criminal liability of the officer or *vice versa*, and where the corporation's faults were attributed to an officer of the company without ever properly charging them or without considering the officer's actual role and connection with the crime.³⁵ This coupled with the fact that it has been unclear also as to what legal provisions should be applied in cases of forest or land burning has only further complicated matters when dealing with environmental crimes, especially one as prominent as the haze crisis. As a result, this has led to inadequate sentences being imposed on corporations, which only seeks to encourage the proliferation of criminal actions.

Furthermore, the decisions by the courts have left a lot to be desired, as many of the judges' rulings have not used their full powers of *ratio*

³³ Article 116 (1) Law No. 32 Year 2009 concerning Environmental Protection and Management

³⁴ Article 118 Law No. 32 Year 2009 concerning Environmental Protection and Management

³⁵ Andri G. Wibisana, Michael G. Faure, And Raisya Majory, "Error In Personam: Confusion In Indonesia's Environmental Corporate Criminal Liability," Criminal Law Forum (2021), 32 (2), (2021), p. 252 - 256

decidendi; the reasoning behind their decisions and the subsequent concrete decision have done little to deter future crimes from being committed.³⁶ The EPMA allows for criminal sanctions to be levied against persons who do harm against the environment, including corporations. Article 98(1) of EPMA imposes sanctions of fines ranging from Rp. 3-10 Billion dollars or imprisonment of three to ten years.³⁷ Furthermore, Article 119 of EPMA also addressed criminal sanctions specific to corporations. These include, confiscation of profits obtained from the crime; closure of all or part of the business premises and/or activities; to conduct repairs for damages caused by the crime; obligation to perform actions that were neglected without authority; and/or placing the company under guardianship for a maximum of 3 (three) years.³⁸ Despite the ability for courts to apply these punishments when sanctioning a corporation, these additional sanctions are rarely ever utilized,³⁹ with most criminal cases only ever imposing fines on the corporations, with even that being much smaller than the maximum amount allows. This creates an attitude amongst corporations that they may continue with their illegal burning activities and only merely have to pay a small fine if they are ever

³⁶ A.L. Goodhart, "The Ratio Decidendi of a Case," *The Modern Law Review* (1959), p. 118

³⁷ Article 98(1), Law No. 32 Year 2009 Concerning Environmental Protection and Management

³⁸ Article 119(a-e), Law No. 32 Year 2009 Concerning Environmental Protection and Management

³⁹ Indonesia Center for Environmental Law, *op. cit.*, p. 38

prosecuted, and even then corporations have also been reported to never actually pay the compensation that they had been ordered to give.⁴⁰

To illustrate the problems and consequences of inadequate court rulings, this thesis provides two famous case examples, PT. Kalista Alam and PT. Adei Industry & Plantation.⁴¹ PT. Kalista Alam is a notorious palm oil producer that operates in the Aceh Leuser ecosystem, home to thousands of Orangutans.⁴² They have caused much destruction to the Tripa Peatlands area in this ecosystem, burning much of the peat forests in the region to make way for their palm oil plantations. These burning practices culminated in 2012, when the fires spread out of control.

On Friday, March 23, 2012 fire broke in one of PT. Kallista plantations spread to other areas of the plantation and burned them, lasting until March 27, 2012.⁴³ The fire reoccured on Sunday, June 17 2012 until June 24 2012, which covered an area of 8 hectares.⁴⁴ In both instances, PT. Kallista Alam did not attempt to make efforts to extinguish the fires.⁴⁵ These fires soon raged

⁴⁰ Greenpeace. "Indonesia Forest Fires Crisis: Palm Oil and pulp companies with largest burned land areas are going unpunished," <https://www.greenpeace.org/southeastasia/publication/3106/3106/>, 24 July 2024

⁴¹ Republic Indonesia v. PT Kallista Alam (Supreme Court Cassation) [2015], Decision No. 1554 K/Pid.Sus/2015; Republic of Indonesia v. PT Adei Plantation & Industry (Supreme Court Cassation) [2015], Decision No. 2042 K/Pid/Sus/2015

⁴² Hans Nicholas Jong, "Burn now, pay later: Fines trickle in from Indonesia's crackdown on forest fires," <https://news.mongabay.com/2023/11/burn-now-pay-later-fines-trickle-in-from-indonesias-crackdown-on-forest-fires/>, 17 December 2024

⁴³ Republic Indonesia v. PT Kallista Alam (Supreme Court Cassation) [2015], Decision No. 1554 K/Pid.Sus/2015

⁴⁴ *Ibid*, p. 3

⁴⁵ *Ibid*

throughout the Tripa swamp, displacing the local communities and endangering the habitat of the critically endangered orangutans.⁴⁶

It turned out that PT. Kallista Alam did not have a system in controlling/preventing fires. Namely, they did not have adequate fire fighting equipment, did not have firefighters who received training/skills in the field of fire control within their concessions, did not have easy access to their plantations for quick mobilization, and did not have officers who carried out the the task of monitoring and supervising the land for possible fires.⁴⁷ The burning resulted in serious air pollution, releasing large amounts of greenhouse gasses and carbon dioxide into the atmosphere,⁴⁸ contributing to the 2012 haze event in Sumatra which shrouded major cities and spilt over to neighboring states as well.⁴⁹ PT. Kallista Alam received major public attention and was processed through three legal actions in the criminal, administrative law, and civil law actions.⁵⁰ Criminal proceedings were launched against PT. Kallista Alam, and culminated in a 2015 decision in the Supreme Court of

⁴⁶ Rainforest Action Network, “Raging Fires in Indonesia Displacing Communities and Pushing Orangutans to the Edge of Extinction,” https://www.ran.org/the-understory/raging_fires_in_indonesia_displacing_communities_and_pushing_orangutans_to_edge_of_extinction/?_gl=1*14895s*_up*MQ..*_ga*MTY3ODk5NDI0MS4xNzI2NDk1MTI0*_ga_5DXDCWR1WZ*MTcyNjQ5NTEyMi4xLjAuMTcyNjQ5NTEyMi4wLjAuMA, accessed 17 December 2024

⁴⁷ *Ibid*

⁴⁸ *Ibid*, p. 6

⁴⁹ Liz Gooch, “Malaysia Haze Points to a Regional Problem”, <https://www.nytimes.com/2012/06/24/world/asia/smoky-haze-over-malaysia-signals-a-regional-problem.html>, accessed 17 December 2024

⁵⁰ Simon Butt & Tim Lindsey, *Indonesian Law*, (United Kingdom: Oxford University Press, 2016), p. 265

Indonesia, which found them guilty and sanctioned them 3 Billion Rupiah in fines.

Additional sentences were imposed on PT. Kallista Alam, with the Supreme Court ordering them to pay a record at the time compensation fee of 366 Billion Rupiah (\$30 Million Dollars).⁵¹ However due to the corporations aggressive legal strategy of appeals, the fine remained unpaid for several years after the ruling, and PT. Kallista Alam continued their illegal business practices for years to come.⁵² This can come down to the weak ruling given by the criminal actions taken against PT. Kallista Alam. Despite the fact that they could have imposed harsher penalties against the corporation, they had only elected to give monetary fines. While a substantial amount, it was not enough to deter them from recommitting their crimes and thus, the corporation continued on with their legal fight without facing any serious repercussions all while continuing with their harmful practices.⁵³

Another such case happened the year after in 2013, PT Adei Plantation & Industry, a subsidiary of Malaysian multinational corporation Kuala Lumpur Kepong (KLK), was alleged to have committed illegal burning on land intended for palm oil production in the Bengkalis regency in Riau

⁵¹ Hans Nicholas Jong, *loc. cit.*

⁵² Rainforest Action Network, “Years after Conviction, Palm Oil Producers Refuse to Pay Fines or Restore Leuser Rainforest Damage,” <https://www.ran.org/leuser-watch/rogue-palm-oil-producers-refuse-to-pay-fines/>

⁵³ *Ibid*

province.⁵⁴ PT Adei had conducted burning activities for land clearing for the establishment of palm oil plantations,⁵⁵ specifically near the Jiat River, which the corporation wanted to expand into.⁵⁶ On June 17, 2013, due to land burning actions of the corporation, the area surrounding the Jiat River caught on fire which quickly spread across the rest of the palm oil plantation, burning through productive plants by 19 June 2013 due to the fact that that PT Adei did not make any attempt to extinguish the fires.⁵⁷ The fires became a hotspot and released large amounts of smoke, greenhouse gases and carbon dioxide into the atmosphere,⁵⁸ which caused haze to spread and disrupt local, regional, national and international stability.⁵⁹ These events caused the 2013 Southeast Asian Haze Crisis, which caused major disruptions to everyday life.⁶⁰

The Supreme Court ruled in 2016 that the Corporation upheld this ruling and deemed that the fine for the corporation should be Rp. 1.500.000.000, an additional fine of Rp. 15.141.826.779 for restoration costs, which could be substituted with a five month prison sentence and additional for the director of the corporation Tan Kei Yoong should they not be able to pay the fine.⁶¹ Despite the fees and prison time, this would not be the last

⁵⁴ Republic of Indonesia v. PT Adei Plantation & Industry (Supreme Court Cassation) [2015], Decision No. 2042 K/Pid/Sus/2015

⁵⁵ *Ibid*, p. 12

⁵⁶ *Ibid*, p. 10-11

⁵⁷ *Ibid*, p. 7

⁵⁸ *Ibid*, p. 11

⁵⁹ *Ibid*, p. 32

⁶⁰ BBC News, "Singapore Haze hits record high from Indonesia fires." <https://www.bbc.com/news/world-asia-22998592>

⁶¹ ABC News Australia, *op. cit.*, p. 96

criminal case regarding forest burning that PT. Adei Plantation would be involved in, as they were brought to Court as recent as 2020 for another case regarding illegal burning.⁶² This only shows that previous actions have done little to make them cease their illegal activities.

In fact, these weak decisions in turn cause a very weak deterrent effect, as it would not have a strong preventive effect on future crimes. The main point of “punishment is before all things deterrent, and the chief end of the law of crime is to make the evil doer an example and a warning to all who are like-minded with him.”⁶³ By not utilizing the full powers of the sanctions, the example that the courts show to other evil-doers is that they may still get away with their crimes, with only having to pay a certain amount of compensation, and then its “business as usual.” Yet even then, these corporations still don’t pay up.

Thus, this thesis aims to assess and analyze the PT. Kallista Alam and PT. Adei Plantation cases and see how the decision of these courts became ineffective and virtually allowed the two respective corporations to continue their illegal activity. It focuses particularly on the reasoning the court’s went through and the sanctions that they ended up implementing, with the goal of providing clarification on how to best apply the large scope of criminal

⁶² Pengadilan Negeri Pelalawan, “Sidang Lanjutan Kebakaran Hutan dan Lahan PT Adei Plantation and Industry.” <https://pn-pelalawan.go.id/sidang-lanjutan-kebakaran-hutan-dan-lahan-pt-adei-plantation-and-industry/>

⁶³ John C. Ball, “*The Deterrence Concept in Criminology and Law*,” *The Journal of Criminal Law, Criminology, and Political Science*, p. 348

sanctions vested to them by laws such as the EPMA in cases against corporations involved with the Haze crises.

1.2 Formulation of Issues

In accordance to the topic of this thesis, this paper attempts to discuss, and elaborate on the following questions:

1. What is the legal framework in Indonesia regarding corporate liability for environmental pollution, specifically in cases involving haze?
2. How do Indonesian courts, particularly the Supreme Court in the cases of PT. Kalista Alam and PT. Adei Plantation interpret and apply legal norms concerning corporate environmental pollution in their judgments?

1.3 Research Purposes

Responding to the comprehensive questions proposed above, this thesis namely attempts:

1. To provide a comprehensive understanding of the laws, regulations, and legal instruments in Indonesia that define corporate liability for environmental pollution, particularly in cases of haze. This includes examining national laws, regulatory agencies' roles, and enforcement mechanisms.

2. To investigate the legal principles and equity considerations that influence the courts' decision in pollution cases, identifying patterns in how legal norms are applied and how corporations are held liable.

1.4 Research Benefits

1. Theoretical Benefits

This thesis aims to fill in the existing gaps in both literature and law as to how Indonesia's corporate criminal liability standard for environmental crimes should operate, in the hopes that it might contribute to discussions on legal reform in this country.

2. Practical Benefits

For Practical Benefit, this thesis hopes to provide a better understanding on what Corporate Criminal Liability, how best it should be applied in Indonesia, and how a more comprehensive legal framework for corporate liability will also enhance enforcement efforts against corporations involved in environmental harm. It aims to ensure corporations are held accountable and effectively penalized for their crimes.

1.5 Framework of Writing

This thesis is structured into five chapters, which will be briefly highlighted as follows:

CHAPTER I: INTRODUCTION

This chapter presents the main ideas and goals of the thesis, offering an overview of the current problems that face efforts to penalize corporations effectively. This section highlights the significance of this problem especially to how it affects prosecution of corporations involved in the spread of Haze in the country.

CHAPTER II: LITERATURE REVIEW

This section provides a thorough examination of the current body of literature on how the Haze has affected the environment, specific Indonesian laws on the environment and examples of different modes of corporate criminal liability which exist in other jurisdictions. It will look particularly on existing theories and literature of corporate criminal liability and how each theory has been applied.

CHAPTER III: RESEARCH METHOD

This section outlines the research methods used in the study. The text explores the process of choosing case studies, employing data collection methods such as interviews and document analysis, and utilizing an analytical framework to understand the obtained results. Additionally, it emphasizes the standards for

guaranteeing the accuracy and consistency of the research.

CHAPTER IV: DISCUSSION & ANALYSIS

This chapter will evaluate the existing gaps in Indonesia's corporate criminal liability framework for environmental crimes, identifying weaknesses and inconsistencies and using case examples to further elucidate the idea. It will then propose a unified standard for corporate criminal liability in order to address these gaps and improve the overall effectiveness of environmental prosecution. The analysis will also explore the practical implications of implementing this new standard, including how it will enhance enforcement and its potential impact on corporate behavior and the environment at large.

CHAPTER V: CONCLUSION & RECOMMENDATION

Based on the analysis, this chapter will consolidate the primary discoveries of the thesis and give a brief summary of the thesis itself.