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Unlawful Acts as an Instrument of Accountability in Natural Resources Management

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Abstract

Natural resource management in Indonesia is still faced with environmental damage, conflicts of interest, and weak legal accountability, where administrative compliance is often used as legitimacy even though the activities carried out have significant ecological and social impacts. This article formulates the problem of how the concept of Unlawful acts can be reconstructed to function as an instrument of accountability in natural resource management, as well as bridging civil law and state administrative law in enforcing legal responsibility for environmental damage. This study concludes that Unlawful acts can no longer be interpreted narrowly as a violation of written norms that cause individual harm, but must be understood substantively as a violation of the principles of environmental protection, ecological justice, and people's rights to a good and healthy environment. Administrative permits cannot be used as absolute legitimacy if business activities are proven to cause damage to natural resources. Unlawful acts functions as an instrument of accountability that is substantive, preventive, corrective, and as a control of power. Therefore, it is recommended to strengthen the progressive interpretation of Unlawful acts by the courts and harmonize regulations across legal regimes so that Unlawful acts can effectively realize fair, responsible, and sustainable natural resource governance.

Keywords: *Unlawful Acts, Accountability; Natural Resources; Environment; Governance*



A. Introduction

Natural resources are an important foundation in national development because they are directly related to community welfare, environmental stability, and the fulfillment of the rights of future generations. Constitutionally, Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia emphasizes that the earth, water, and natural resources contained therein are controlled by the state and used as much as possible for the prosperity of the people, which contains the state's obligation to ensure responsible, just, and sustainable management of natural resources.¹ However, natural resource management practices in Indonesia often contradict this ideal, which is reflected in the phenomenon of environmental damage, agrarian conflicts, indigenous land grabbing, and marginalization of local communities due to abuse of authority, weak supervision, and orientation solely on economic interests.²

The early period of 2026 is a particularly relevant moment in this context, when the government took the administrative step of revoking the licenses of dozens of mining, forestry and other strategic sector companies in a number of provinces in response to ecological damage and natural disasters allegedly exacerbated by economically unaccountable economic activities.³ This policy reflects the government's efforts to strengthen legal accountability in natural resource governance through administrative instruments, while also showing the limitations of other instruments that have been used.

In the practice of natural resources law enforcement, criminal law and state administrative law have been the main instruments to deal with environmental violations. Criminal law is used to crack down on perpetrators of destruction and pollution, while administrative law provides sanctions in the form of revocation of permits, administrative fines, and restrictions on business activities. Despite their important positions, these two regimes have often not been effective in providing

¹ Luthfi Ius Budiasto, Al Sentot Sudarwanto, and Hari Purwadi, Natural Resources Management and Agrarian Justice Prospects in Indonesia: Law and Policy Studies, *Proceedings of the National Seminar of the Doctoral Program in Law*, University of Muhammadiyah Surakarta (2025).

² Auzaan Qasthary et al., Legal Problems in Sustainable Natural Resources Governance, *MIKHAYLA: Journal of Advanced Research*, Volume 2 Number 2 (2025), p. 129-137, <https://ejournal.sagita.or.id/index.php/mikhayla>

³ *Indonesia Revokes Environmental Permits for Dozens of Firms Amid Ecological Damage*, Financial Times, January 2026, <https://www.ft.com/content/ec2b7ece-c50a-4780-bb97-bd68d40834ac?>

recovery for widespread ecological and social losses.⁴ Empirical evidence shows that the reporting of dozens of corporations to law enforcement officials by civil society institutions as alleged environmental violations shows an increasing demand for corporate accountability, but the legal process has not been able to achieve full recovery for community and environmental losses.⁵

In addition, the issue of inequality in natural resource governance remains in the spotlight, especially related to the position of indigenous and local peoples in the licensing and decision-making process. Recent academic studies show that overlapping land claims, regulatory fragmentation, and less transparent administrative practices undermine accountability and threaten the rights of indigenous peoples, even though the rights of indigenous peoples are normatively recognized in various national legal instruments.⁶ This reality underscores the structural challenges in the Indonesian legal system to bring effective accountability in natural resource management.

In this context, civil law, especially through the concept of unlawful acts (*onrechtmatige daad*) as stipulated in Article 1365 of the Civil Code, becomes relevant as an alternative or complementary accountability instrument. This instrument provides a juridical basis for the aggrieved party to demand accountability and compensation for actions that violate the law and cause losses, including in the context of the environment and natural resource management that are not administratively or ecologically accountable.⁷ The principle of strict liability in Law Number 32 of 2009 concerning Environmental Protection and Management, which requires accountability without proof of error in several categorizations of high-risk activities, further

⁴ Adinda Aulia, JURIDICAL STUDY OF THE POLITICS OF NATURAL RESOURCE CONSERVATION LAW IN INDONESIA, *Culture: Journal of Law, Social, and Humanities*, Vol. 2, No. 6 (May 2024): 234-242. DOI: 10.572349/kultura.v2i6.1566.

⁵ WALHI Reports 47 Corporations for Environmental Damage, UGM Experts Call for New Awareness in SDA Governance, Universitas Gadjah Mada, 2025, <https://ugm.ac.id/id/berita/soal-47-korporasi-dilaporkan-rusak-lingkungan-pakar-ugm-dorong-prinsip-kesadaran-baru-dalam-pengelolaan-sda/>

⁶ A Junaedi Karso, "Natural Resources Governance and the Vulnerability of Indigenous Communities in Indonesia," *Frontiers*, no. November (2025), <https://doi.org/10.3389/fpos.2025.1601480>.

⁷ Muzakkir Abubakar, "RIGHT TO FILE A LAWSUIT IN ENVIRONMENTAL DISPUTES," *Canun Journal of Legal Sciences* 21, no. 1 (2019): 93-108, <https://doi.org/https://doi.org/10.24815/kanun.v21i1.12766>.

strengthens the position of civil law in the accountability system of natural resource management.⁸

The paradigm shift in global and national environmental law also shows a push to expand the recognition of ecological and social harm as a form of harm that stands alone in the legal system. This opens up opportunities to expand the concept of Unlawful Acts to accommodate not only individual material and immaterial losses, but also collective, ecological, and structural losses that are the direct impact of unaccountable natural resources management practices.⁹

However, the use of the concept of unlawful acts as an instrument of accountability in natural resource management still faces various challenges, both in terms of proving legal elements, integration with environmental law norms and state administrative laws, and harmonization with the rights of indigenous and local peoples. Therefore, a conceptual and empirical study of the role of unlawful acts as an accountability instrument is very important to formulate a more comprehensive, effective, and fair legal framework in ensuring environmental protection and community interests.

Based on this description, this article aims to analyze unlawful acts as an instrument of accountability in natural resource management, focusing on the mechanism of legal accountability to governments and corporations for ecological and social losses and the challenges of their implementation within Indonesia's national legal framework.

B. The Concept of Unlawful Acts in Civil Law

Unlawful Acts are one of the fundamental institutions in Indonesian civil law that function as the basis for accountability for every act that causes losses to other parties. Normatively, the concept of unlawful acts is formulated in Article 1365 of the Civil Code which states that "every unlawful act that brings harm to another person, obliges

⁸Law Number 32 of 2009 concerning Environmental Protection and Management; "The Principle of Absolute Responsibility Due to Unlawful acts in Environmental Pollution Disputes," *Media Legal Indonesia* (2024).

⁹ Yenny Widowaty et al., "The Government's Right to Sue against Unlawful acts in the Environmental Sector," *Diversi: Legal Journal* 8, no. 1 (2022).

the person who, through his fault, publishes the loss, to compensate for the loss."¹⁰ This provision emphasizes that Unlawful acts contains four main elements, namely the existence of an act, the act is against the law, the existence of an error, and the existence of a loss that has a causal relationship with the act.

Initially, the meaning of "unlawful" in Article 1365 of the Civil Code was interpreted narrowly, namely only limited to acts that explicitly violate the written law. This interpretation comes from a classical view that places law as a purely written norm. However, the development of judicial doctrine and practice later expanded this meaning. An important turning point came through the decision of the Dutch Hoge Raad in the case of *Lindenbaum v. Cohen* in 1919, which stated that unlawful acts do not only include violations of the law, but also include acts that are contrary to the subjective rights of others, the legal obligations of the perpetrators, morality, and the principles of propriety, prudence, and order in public relations.¹¹

Lindenbaum v. Cohen has a great influence on the Indonesian civil law system, considering that the Civil Code that applies in Indonesia adopts the Dutch legal system. Since then, the concept of unlawful acts has been widely and dynamically understood, so that it is no longer limited to violations of written norms, but also includes violations of unwritten norms that live in society. Subekti emphasized that an act can be categorized as unlawful if the act is contrary to the rights of others, the legal obligations of the perpetrator, morality, or propriety in society.¹²

A similar view was also expressed by R. Setiawan, who stated that the element of "unlawful" in unlawful acts must be understood as an open *concept*, thus allowing judges to assess contextually whether an act should be seen as contrary to legal values and a sense of justice in society.¹³ Thus, Unlawful acts becomes a flexible and adaptive legal instrument for social, economic, and environmental developments.

In addition to the element of Unlawful Acts, Article 1365 of the Civil Code also requires the existence of an element of guilt (*schuld*). This mistake can be intentional (*dolus*) or negligence (*culpa*). However, in the development of modern law, especially in environmental law, the element of error is not always an absolute prerequisite. The

¹⁰ Civil Code, Article 1365.

¹¹ Supreme Court, *Lindenbaum v. Cohen*, Judgment 31 January 1919, NJ 1919, 161.

¹² Subekti, *Principles of Civil Law* (Jakarta: Intermasa, 2003), p. 135.

¹³ R. Setiawan, *Principles of the Law of the Alliance* (Bandung: Binacipta, 1999), p. 82

principle of strict liability or absolute responsibility allows the perpetrator to be held accountable without the need to prove fault, as long as it is proven that there are acts and losses caused.¹⁴ Although this principle originated in the environmental law regime, it conceptually enriched the construction of unlawful acts in civil law.

In modern developments, unlawful acts is no longer understood solely as a mechanism for resolving private disputes between individuals, but also as a corrective instrument for economic activities that cause social and ecological impacts. In the environmental context, unlawful acts can serve as a means of accountability because it allows for claims for losses that go beyond personal interests, including public and ecological losses. Therefore, the construction of unlawful acts in natural resources disputes needs to be placed within the framework of public interest protection, not just the recovery of individual losses.

Mariam Darus Badruzaman explained that unlawful acts functions as a corrective mechanism against legal vacuums and limitations of written norms. Through unlawful acts, civil law can respond to various forms of adverse acts even though they are not expressly prohibited by law.¹⁵ This makes unlawful acts an important instrument to uphold substantive justice in society.

Furthermore, Munir Fuady emphasized that unlawful acts is not only related to the protection of individual interests, but can also be used to protect collective interests and public interests. According to him, in the modern context, Unlawful acts must be understood as the basis for legal accountability for any actions that harm the interests of the wider community, including ecological losses due to irresponsible management of natural resources.¹⁶

In relation to natural resource management, the expansion of the meaning of Unlawful acts is very relevant. Activities of exploitation of natural resources that violate the principles of prudence, sustainability, and ecological justice can be qualified as unlawful acts, even if they have obtained administrative permits. Administrative permits do not automatically remove the unlawful nature of an act if in its implementation it causes losses to the community and the environment. This view is

¹⁴ Mas Achmad Santosa, *Good Governance and Environmental Law* (Jakarta: ICEL, 2001), p. 247.

¹⁵ Mariam Darus Badruzaman, *Aneka Hukum Bisnis* (Bandung: Alumni, 2005), p. 58.

¹⁶ Munir Fuady, *Unlawful Acts: A Contemporary Approach* (Bandung: Citra Aditya Bakti, 2013), pp. 6–8.

in line with the doctrine that civil law has autonomy relative to administrative law, so the existence of permits does not preclude the possibility of civil liability.¹⁷

Thus, the concept of unlawful acts in civil law not only serves as the basis for claims for compensation between individuals, but also has great potential as an instrument of accountability in natural resource management. Its open and flexible nature allows unlawful acts to reach out to acts that are detrimental to ecological and social interests, while bridging private and public interests. Therefore, in the context of this article, unlawful acts is understood not only as a classical institution of civil law, but as a strategic means to build legal responsibility and accountability in the equitable and sustainable management of natural resources.

1. Expanding the Meaning of Unlawful Acts in the Context of Environment and Natural Resources

The development of environmental law has encouraged the expansion of the meaning of unlawful acts in civil law. If classically Unlawful acts is understood as an act that causes harm to individual interests, then in the context of the environment and natural resource management, unlawful acts has experienced a shift in orientation towards the protection of public interests and ecological interests. This expansion is in line with the character of the environment as a *common concern*, the damage of which is not only detrimental to certain individuals, but also to the wider community and future generations.¹⁸

Takdir Rahmadi emphasized that environmental law contains both public and private dimensions at the same time. The public dimension is reflected in the state's authority to regulate, supervise, and impose administrative and criminal sanctions, while the private dimension emerges through a civil liability mechanism for environmental damage.¹⁹ In this context, Unlawful acts serves as a bridge between private interests and public interests, as it allows people to demand accountability for acts that damage the environment even if they do not directly violate certain individual rights.

¹⁷ Takdir Rahmadi, *Environmental Law in Indonesia* (Jakarta: Raja Grafindo Persada, 2015), p. 173.

¹⁸ Philippe Sands, *Principles of International Environmental Law*, 2nd ed. (Cambridge: Cambridge University Press, 2003), p. 252.

¹⁹ Takdir Rahmadi, *Op., Cit.*, p. 45

The expansion of the meaning of unlawful acts in environmental law is also influenced by the recognition of ecological loss as a form of independent loss. Ecological losses cannot always be reduced to individual economic losses, but rather include the destruction of the function of the environment as a support system for life. Forest destruction, river pollution, or degradation of coastal ecosystems, for example, have collective and long-term impacts. Therefore, the concept of loss in unlawful acts must be interpreted broadly to be able to reach the ecological dimension.²⁰

Munir Fuady stated that in modern developments, unlawful acts no longer functions solely as a means of protecting personal interests, but also as an instrument to protect social interests and public interests.²¹ In the context of natural resources, this means that any act that damages the environment, deprives communities of access to livelihoods, or disrupts the balance of ecosystems can qualify as unlawful acts, although it is not always possible to identify individual victims directly.

Law Number 32 of 2009 concerning Environmental Protection and Management strengthens this expansion by recognizing the right of the community to obtain a good and healthy environment, as well as providing a legal basis for civil lawsuits for environmental pollution and destruction.²² This law also expressly introduces the principle of strict liability, especially for activities that use hazardous and toxic materials or pose a serious threat to the environment.²³ This principle shows that in environmental cases, the element of fault is not always the main prerequisite, so the concept of unlawful acts has been modified to adapt to the characteristics of ecological loss.

Mas Achmad Santosa explained that the application of strict liability in environmental law reflects the need for a more effective accountability mechanism, considering that proving elements of error is often difficult to do in cases of complex environmental damage and involving high technology.²⁴ Thus,

²⁰ *Ibid.*, p. 261.

²¹ Munir Fuady, *Op., Cit.*, p. 20

²² Law Number 32 of 2009 concerning Environmental Protection and Management, Article 65.

²³ *Ibid.*, Article 88

²⁴ Mas Achmad Santosa, *Op., Cit.*, p. 247

the expansion of Unlawful acts in the context of the environment is not only conceptual, but also functional, namely to ensure the effectiveness of law enforcement and environmental restoration.

The application of strict liability in environmental disputes is relevant because the character of ecological damage is often complex, cumulative, and difficult to prove causally directly by the victim. An overly heavy burden of proof on society will lead to injustice, especially when the perpetrator has greater resources to dispute the loss. With strict liability, the focus of proof shifts from fault to the fact that there are high-risk activities and losses occur. This shift shows that environmental civil law serves as a corrective instrument against structural inequality between corporations and society.

In addition, the expansion of the meaning of Unlawful acts is also reflected in the recognition of the right to sue various legal subjects, not only direct victims. The government, environmental organizations, and the community can file lawsuits on the basis of unlawful acts to protect environmental interests. Yenny Widowaty emphasized that the government's right to sue in environmental cases is a form of state responsibility to maintain environmental sustainability as a public interest.²⁵ With this mechanism, unlawful acts transforms into an instrument of structural accountability, not just an instrument for resolving private disputes.

In the context of natural resource management, the expansion of Unlawful acts is also related to the *precautionary principle* and the principle of sustainable development. Any natural resource management action that ignores the potential risk of environmental damage and social impact can be seen as an unlawful act, even if it has been administratively permitted. Administrative permits cannot be used as legitimacy to justify actions that are substantively detrimental to the environment and society. This view confirms that unlawful acts has autonomy relative to administrative law.²⁶

²⁵ Yenny Widowaty et al., *op., cit.*

²⁶ Takdir Rahmadi, *Op., Cit.*, p. 173

Mariam Darus Badruzaman emphasized that the function of unlawful acts in civil law is to fill legal gaps and ensure substantive justice.²⁷ In environmental and natural resource matters, this function is becoming increasingly important because not all forms of ecological damage and loss have been explicitly anticipated by laws and regulations. Through unlawful acts, judges have the space to progressively assess whether an act is contrary to the propriety, prudence, and sense of ecological justice that lives in society.

Thus, the expansion of the meaning of unlawful acts in the context of the environment and natural resources confirms the transformation of unlawful acts from an instrument of protection of individual interests to an instrument of public and ecological accountability. Unlawful acts no longer only functions to recover private losses, but also to enforce legal responsibility for sustainable, fair, and responsible natural resource management for current and future generations.

2. Accountability in Natural Resource Management: Legal and Governance Perspectives

Accountability is one of the fundamental principles in the implementation of the state of law and good governance. In the context of natural resource management, accountability means that every policy, decision, and action related to the use of natural resources must be legally and morally and socially accountable to the community. Accountability is not only oriented towards procedural compliance with laws and regulations, but also on ensuring that natural resource management is carried out in a fair, transparent, and sustainable manner to protect the interests of the public and future generations.²⁸

UNDP defines accountability as the obligation of decision-makers, both in the public and private sectors, to account for their actions, decisions, and policies to those affected by those affected.²⁹ Within this framework, accountability cannot be separated from the principles of transparency, participation, and law enforcement. These three principles form a unit that determines the quality of natural resource governance. Without strong accountability, natural resource

²⁷ Mariam Darus Badruzaman., *Op., Cit.*, p. 58

²⁸ World Bank, *Governance and Development* (Washington, DC: World Bank, 1992), p. 7.

²⁹ United Nations Development Programme (UNDP), *Governance for Sustainable Human Development* (New York: UNDP, 1997), p. 9.

management tends to be vulnerable to abuse of authority, conflicts of interest, and exploitative practices that are detrimental to the environment and society.

In Indonesian law, the principle of accountability in the management of natural resources has a constitutional basis in Article 33 paragraph (3) of the 1945 Constitution which affirms state control over natural resources for the greatest possible prosperity of the people. The meaning of "controlled by the state" cannot be understood solely as ownership, but rather as a constitutional mandate to regulate, manage, manage, supervise, and control the responsible use of natural resources.³⁰ Therefore, the state acts as a public trustee who bears the obligation of accountability to the people for every policy and action in natural resource management.

Jimly Asshiddiqie emphasized that in the modern legal state, the concept of state accountability is not only political, but also juridical in nature.³¹ This means that any government action that violates the law or harms the community can be held accountable through legal mechanisms, both in the public law and civil law regimes. In the context of natural resource management, this means that the state is not above the law, but is subject to the principle of equality before the law, so that it can be held accountable if it is negligent or abuses its authority.

From the perspective of state administrative law, accountability is realized through the government's obligation to issue permits legally, rationally, and based on the principle of prudence. Every administrative decision in the field of natural resources must meet the general principles of good governance (AUPB), such as the principle of legality, the principle of prudence, the principle of openness, the principle of proportionality, and the principle of accountability.³² Violations of these principles not only have implications for the nullity or invalidity of administrative decisions, but can also be grounds for demanding legal liability for the losses caused.

³⁰ Bagir Manan, *The Growth and Development of the Constitution of a Country* (Bandung: Mandar Maju, 1995), p. 112.

³¹ Jimly Asshiddiqie, *Introduction to Constitutional Law* (Jakarta: Rajawali Pers, 2014), p. 345.

³² Philipus M. Hadjon et al., *Introduction to Indonesian Administrative Law* (Yogyakarta: Gadjah Mada University Press, 2011), p. 92.

Indroharto stated that state administrative decisions issued without regard to the interests of the community and the environment are a form of abuse of authority (*detournement de pouvoir*) or arbitrary actions (*willekeur*).³³ In the context of natural resource management, this abuse of authority often occurs in the form of issuing business licenses that ignore the carrying capacity of the environment, do not involve community participation, or ignore the rights of indigenous peoples. This condition shows that administrative accountability alone is not enough, so a broader accountability mechanism is needed, including through civil law instruments.

From the point of view of civil law, accountability is realized through the concept of liability. Every party who, due to his Unlawful Acts, causes losses to others or to the environment, is obliged to bear the responsibility to recover the losses. Munir Fuady emphasized that the concept of liability in Unlawful acts has corrective and preventive dimensions at the same time, namely repairing the losses that have occurred and preventing the recurrence of similar acts in the future.³⁴ In the context of natural resources, this preventive dimension is very important because environmental damage is often irreversible.

Accountability in natural resource management is also closely related to the role of corporations. Corporations as the main actors in the exploitation of natural resources are not only economically responsible, but also legally and socially. The concept of corporate environmental responsibility emphasizes that corporations are obliged to ensure that all their business activities do not have a negative impact on the environment and society.³⁵ If this obligation is violated, the corporation can be held accountable either through criminal, administrative, or civil mechanisms, including through lawsuits for unlawful acts.

In addition to the government and corporations, the community also plays an important role in building accountability in natural resource management. Law Number 32 of 2009 gives the right to the community to participate in environmental protection and management, as well as to file a lawsuit in the event

³³ Indroharto, *Efforts to Understand the Law on State Administrative Courts*, Book I (Jakarta: Pustaka Sinar Harapan, 2000), p. 168.

³⁴ Munir Fuady, *Op., Cit.*, p. 12

³⁵ Peter Newell, *Corporate Environmental Responsibility* (London: Earthscan, 2005), p. 3.

of pollution or destruction of the environment. Thus, accountability is not only vertical (government to the people), but also horizontal, through social control and public participation.

With reference to this framework, accountability in natural resource management should be understood as a multidimensional concept that includes the accountability of the state, corporations, and other actors to the law, society, and the environment. Accountability is not enough to be realized through administrative compliance or the imposition of criminal sanctions alone, but must also be integrated with the civil liability mechanism through the concept of unlawful acts. Through this integration, unlawful acts can serve as an instrument to ensure that any violations of the principles of sustainability, prudence, and ecological justice actually lead to real and effective legal accountability.

3. Unlawful Acts as an Instrument of Accountability in Natural Resources Management

Unlawful acts have strategic potential as an instrument of accountability in natural resource management, because of its open norm characteristics and its function that focuses on accountability for losses. In contrast to penalty-oriented criminal law, as well as administrative law that emphasizes procedural compliance and formal legality, unlawful acts focuses on recovering losses and returning the state as close to its original condition as possible (*restitutio in integrum*).³⁶ In the context of natural resource management, this orientation becomes very relevant because the losses caused are not only individual, but also collective and ecological.

In natural resources disputes, unlawful acts can be positioned as an accountability instrument that has three main functions. First, the corrective function through the recovery of losses and compensation for ecological and social damage. Second, the preventive function due to the threat of civil lawsuits can encourage business actors to apply the principle of prudence, including in waste management, land clearing, and natural resource exploitation activities. Third, the structural function because Unlawful acts can be used to substantively test natural

³⁶ Subekti, *Op., Cit.*, p. 148.

resource management practices that administratively appear legal, but factually cause environmental damage and violation of community rights.

Conceptually, unlawful acts can be positioned as a substantive control mechanism for government and corporate actions in natural resource management. Every action that formally meets the administrative requirements is not necessarily free from civil unlawfulness, if in its implementation it causes losses to the community or damages the environment. Takdir Rahmadi emphasized that the existence of an administrative permit does not automatically remove civil liability if the activities carried out are proven to cause pollution or environmental destruction.³⁷ This shows that unlawful acts functions as a test tool for accountability for the substance of policies and actions, not just for the aspect of legal formality.

From the perspective of state accountability, unlawful acts opens up space for the application of the concept of state liability. The state as the holder of the constitutional mandate to control and manage natural resources is responsible for every policy and action that results in losses to society and the environment. Jimly Asshiddiqie stated that in a modern legal state, the state can be held civil liable if it neglects to carry out its legal obligations or abuses its authority.³⁸ In this context, unlawful acts serves as a means to hold the state accountable for failure to carry out the functions of regulation, supervision, and environmental protection.

In addition to the state, corporations as the main actors in the exploitation of natural resources are also legal subjects that can be held accountable through unlawful acts. Munir Fuady emphasized that corporations can be held liable for any acts that violate the law and cause losses, including environmental and social losses.³⁹ Thus, unlawful acts is an important instrument to ensure that natural resources-based economic activities are not only subject to profit considerations, but also to the principles of social and ecological responsibility.

In environmental law practice, the function of unlawful acts as an accountability instrument is further strengthened by the recognition of ecological

³⁷ Takdir Rahmadi, *loc. cit.*

³⁸ Jimly Asshiddiqie, *Op., Cit., p. 347*

³⁹ Munir Fuady, *Op., Cit., p. 21*

losses. Ecological losses cannot always be measured directly in the form of material losses, but concern the damage to the function of the environment as a buffer system for life. Mas Achmad Santosa explained that ecological losses are public losses that demand a special accountability mechanism, including through unlawful acts-based civil lawsuits.⁴⁰ By including ecological losses as part of the lawsuitable losses, unlawful acts transforms into a more comprehensive accountability instrument.

Unlawful acts also has a preventive function in natural resource management. The threat of compensation demands and environmental restoration obligations encourage governments and corporations to be more careful in formulating policies and carrying out business activities. R. Setiawan emphasized that the purpose of unlawful acts is not only to repair the losses that have occurred, but also to prevent the recurrence of harmful acts in the future.⁴¹ In the context of natural resources, this preventive function is very important given that many environmental damage is completely irreversible.

Furthermore, unlawful acts allows for the construction of accountability that is horizontal and vertical at the same time. Vertically, unlawful acts allows the community to demand state accountability for policies or negligence in natural resource management. Horizontally, unlawful acts allows the community or community group to sue corporations or private parties who commit acts that harm the environment and their source of livelihood. Yenny Widowaty emphasized that the unlawful acts based civil lawsuit mechanism is a concrete form of community participation in environmental protection.⁴²

Within the framework of Indonesian environmental law, unlawful acts also synergizes with the principle of strict liability as stipulated in Article 88 of Law Number 32 of 2009 concerning Environmental Protection and Management. This principle emphasizes that business actors are responsible for the losses incurred without the need to prove the element of fault. The synergy between unlawful acts

⁴⁰ Mas Achmad Santosa, *Op., Cit.*, p. 251

⁴¹ R. Setiawan, *Op., Cit.*, p. 86

⁴² Yenny Widowaty et al., *op., cit.*

and strict liability strengthens the position of civil law as an effective accountability instrument, especially for high-risk business activities.

Thus, unlawful acts can be understood as an accountability instrument that has three main dimensions in natural resource management. First, the corrective dimension, which is to recover losses that have occurred through compensation and environmental restoration. Second, the preventive dimension, which is to prevent future violations through a deterrent effect and increased prudence. Third, the structural dimension, namely building an accountability system that places the state and corporations as legal subjects subject to the principles of ecological justice and the rule of law.

Through these three dimensions, unlawful acts are no longer just a classic institution of civil law, but are transformed into strategic instruments in building accountability in just, transparent, and sustainable natural resource management. unlawful acts is a bridge between civil law interests and public law goals, as well as a means to ensure that natural resource management is truly directed to the greatest possible prosperity of the people and environmental sustainability.

C. Analysis of Court Decisions Related to Unlawful Acts in Natural Resources Disputes

Analysis of court decisions is an important part to show how the concept of Unlawful acts does not only stop at the normative and theoretical level, but is also operationalized in judicial practice. Through court rulings, it can be seen to what extent unlawful acts really functions as an instrument of accountability in the management of natural resources, both to corporations and to the state as the holder of the mandate to control natural resources. The court decision is a concrete indicator of the judge's courage in interpreting unlawful acts progressively for the protection of the environment and the interests of the community.⁴³

One of the decisions that is often used as a reference in the context of unlawful acts and the environment is the case of forest and land fires involving corporations. In various rulings, courts have affirmed that burning forests and land that results in

⁴³ Sudikno Mertokusumo, *Legal Discovery: An Introduction* (Yogyakarta: Liberty, 2009), p. 45.

ecological damage can qualify as an unlawful act, even if the perpetrator argues that he already has a business license. Administrative permits cannot be used as legitimacy to justify actions that factually damage the environment and harm society. This view affirms the relative autonomy of civil law over administrative law.

The North Jakarta District Court's decision in the case of the Ministry of Environment and Forestry against PT Waringin Agro Jaya (2016) is an important example. In this case, the defendant was declared to have committed unlawful acts because he neglected to prevent and deal with forest fires in his concession area, causing extensive environmental damage. The court sentenced the defendant to pay damages and carry out environmental restoration. This ruling shows that unlawful acts can be used as an instrument to demand corporate accountability for ecological damage, while affirming the recognition of environmental losses as losses that can be assessed and sued civilly.⁴⁴

In the decision, the panel of judges not only assessed the aspect of error in the classical sense, but also applied the principles of prudence and absolute responsibility. Thus, proof no longer relies entirely on intentionality or negligence, but on the causal relationship between business activities and environmental damage. This reflects the integration of the concept of unlawful acts with the principle of strict liability in environmental law.

Another relevant example is the case of the Ministry of Environment and Forestry against PT Bumi Mekar Hijau. Although the government's lawsuit was initially dismissed, the case sparked widespread debate over ecological loss and corporate liability standards for proving environmental damage. In subsequent developments, through other rulings in similar cases, courts began to be more progressive in recognizing ecological losses as real losses that can be held accountable.⁴⁵ This case

⁴⁴ North Jakarta District Court Decision Number 108/Pdt.G/2015/PN. Jkt.Utr (Ministry of Environment and Forestry against PT Waringin Agro Jaya). <https://putusan3.mahkamahagung.go.id/direktori/putusan/d012eba461fd83e91c09209f5fb186fb.html>

⁴⁵ Palembang District Court Decision Number 24/Pdt.G/2015/PN.Plg (Ministry of Environment and Forestry against PT Bumi Mekar Hijau). <https://putusan3.mahkamahagung.go.id/direktori/putusan/0eefbd16fb31db1936f732586efd2047.html>

shows that unlawful acts in natural resources disputes is dynamic and continues to develop through judicial practice.

In terms of state accountability, there are also decisions that open up room for government accountability for negligence in the supervision and control of natural resources-based business activities. The government can be seen as committing unlawful acts if it is proven to be negligent in carrying out its legal obligations to protect the environment and society. Yenny Widowaty emphasized that the lawsuit against the government on the basis of unlawful acts is a concrete form of the concept of state liability in Indonesian environmental law.

Furthermore, the analysis of these decisions shows that unlawful acts functions as an accountability instrument in three main aspects. First, substantive accountability, which is testing the real impact of an activity on the environment and society, rather than just formal compliance with permits. Second, corrective accountability, which is the obligation of the perpetrator to pay compensation and carry out environmental restoration. Third, preventive accountability, namely the creation of a deterrent effect so that business actors and the government are more careful in managing natural resources.

Court rulings also show a paradigm shift from an anthropocentric approach to an ecocentric approach. Environmental loss is no longer understood solely as a loss to individual humans, but also as a loss to the environment as an entity that has intrinsic value. This shift strengthens unlawful acts's position as an instrument of ecological accountability.

Thus, the analysis of the court's decision shows that unlawful acts have developed into effective legal instruments in enforcing accountability in natural resource management. Although there are still differences in verdicts and evidentiary challenges, the trend in judicial practice shows a growing recognition of corporate and state responsibility for environmental damage. This also confirms that unlawful acts has great potential to become the main pillar in the natural resources legal accountability system in Indonesia.

D. Conclusion

This article argues that the concept of unlawful acts has undergone a significant transformation from a purely private liability mechanism into a public accountability instrument within natural resource management. Unlawful acts can no longer be narrowly construed as mere violations of written norms accompanied by subjective fault, but must be understood as a legal mechanism for assessing responsibility based on the substantive impacts of conduct on the environment and society. In this context, unlawfulness encompasses breaches of environmental protection principles, ecological justice, and the public's right to a good and healthy environment, while also functioning as a bridge between civil law and state administrative law both as a basis for civil claims for compensation and environmental restoration, and as a corrective response to failures in administrative governance, including state negligence in regulation, supervision, and control.

Normative analysis and judicial practice demonstrate a progressive approach by Indonesian courts, particularly in environmental cases, recognizing ecological damage as a legally cognizable loss and rejecting the notion that administrative permits constitute absolute legitimacy exempting actors from civil liability. This conceptual reconstruction positions unlawful acts as an accountability instrument with substantive, preventive, corrective, and power-controlling functions. Within this framework, unlawful acts have the potential to serve as a central pillar of the legal accountability system for natural resource management in Indonesia, safeguarding not only individual interests but also the public interest and environmental sustainability, and contributing to transparent, responsible, and ecologically just governance in accordance with constitutional mandates and the principles of sustainable development.

E. Recommendations

The enhancement of unlawful acts as an instrument of accountability in the governance of natural resources requires a reconceptualization that situates such acts not merely as a means of resolving private legal disputes, but as an essential element of the environmental protection regime and the advancement of the public interest. This approach demands consistency in judicial reasoning through a substantive

interpretation of unlawfulness, whereby ecological and social consequences constitute the primary criteria for legal assessment, rather than exclusive reliance on formal administrative compliance. In parallel, the legislature and executive authorities should strengthen and harmonize the regulatory framework by expressly incorporating principles of environmental law into the civil law domain, particularly with respect to unlawful acts, while providing clearer standards on ecological loss, mechanisms for assessing environmental damage, and obligations of restoration to ensure legal certainty. Furthermore, the effectiveness of enforcement depends upon the enhanced capacity of judicial and legal actors, necessitating continuous, interdisciplinary training to address the technical and scientific complexities inherent in natural resource disputes. Access to justice must also be broadened through procedural mechanisms that favor affected communities, including the application of strict liability and, where appropriate, the reversal of the burden of proof to mitigate structural inequalities between the public, corporations, and the state. The state should likewise exercise its authority to initiate unlawful acts claims against perpetrators of environmental harm as an affirmation of its role as guardian of the public interest. Finally, sustained academic and empirical inquiry is required to ensure that unlawful acts develop as a dynamic and effective accountability mechanism capable of responding to the practical challenges of achieving equitable, sustainable, and responsible natural resource governance.

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