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The Urgency of Judge's Legal Reasoning in Deciding on an Environmental Crime Case Based on an Ecocentric Approach (Review of Case Decision No. 640/PID.B/LH/2021/PT PBR)

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Abstract

Objective: This study aims to analyze how the legal reasoning of the Pekanbaru High Court Judge in Decision No. 640/PID.B/LH/2021/PT PBR, and at the same time reviewing decisions at the previous level and show how important the judge's legal reasoning is based on an ecocentric approach in deciding environmental crime cases.

Methods: This type of research is a normative law using statutory, case, and conceptual approaches.

Findings: The panel of judges of the Pekanbaru High Court granted the defendant's appeal, PT. Gandaerah Hendana because Article 98 paragraph (1) of the PPLH (Environmental Protection and Management) Law that the public prosecutor indicted is a material offense that must be linked to its formal elements (Article 108 of the PPLH Law). It differs from the opinion of the Rengat District Court panel of judges, which stated that because the meaning of "action" in Article 98 paragraph (1) of the PPLH Law is so broad, the action can be in any form as long as the consequences stipulated in the formulation of the offense occurred. The action in question does not only do prohibited things but also includes not carrying out legal obligations (omission offenses). Since the burned land is the defendant's right to cultivate area, PT. Gandaerah Hendana, the process of extinguishing the fire on the land is the responsibility of the defendant, PT. Gandaerah Hendana. In this regard, the ecocentric approach in judges' legal reasoning is urgent because, so far, the positivistic-formal and anthropocentric approaches have made judges only oriented to human interests. With an ecocentric approach, judges will pay attention to environmental sustainability when deciding the case being examined so that judges will produce outputs in the form of pro-environmentally oriented decisions.

	Benefits: The results of this study are expected to enrich references for academics and become input for law enforcers, especially judges, about the importance of legal reasoning based on an ecocentric approach in deciding environmental crime cases. ***Novelty:*** The discussion in this study will provide a perspective and explanation of how an ecocentric approach as the basis for legal reasoning for judges can create decisions and enforce environmental laws oriented towards the environment. **Keywords: Legal Reasoning, Environmental Crime, Ecocentric**

INTRODUCTION

Article 28 H of the 1945 Constitution of the Republic of Indonesia has mandated that "a good and healthy environment is a human right of every Indonesian citizen." The definition of the environment, according to Law Number 32 of 2009 concerning Protection and Management of the Environment (hereinafter referred to as UU PPLH/PPLH Law), is "the unity of space with all objects, forces, conditions, and living things, including humans and their behavior that affect nature itself, the continuity of life, and the welfare of humans and other living creatures." The phrase “including humans and their behavior that influence” reflects that in utilizing natural resources, humans must preserve environmental sustainability and continuity to maintain the survival of humans and other living creatures.

On the other side, one of the factors causing the overexploitation of natural resources is the economic factor. In this case, for example, in Indonesia, a developing country actively implementing development, the incessant development activities in the industrial sector undoubtedly result in a negative impact on the environment, which is increasingly inevitable (Daryani, 2020, p. 3). Therefore, it is necessary to protect the environment to achieve sustainability and environmental balance and human welfare as an integral part of the environment (Tani, 2017).

Environmental sustainability is an effort to preserve the quality and function of the environment. This effort is made so that the environment can still support the life needs of the current generation and future generations (Rosana, 2018, p. 157). It is formulated in the explanation of Article 2 letter b of the PPLH Law, which states that "everyone bears responsibility for future generations and each other in one generation by making efforts to preserve the carrying capacity of the ecosystem and improve the quality of the environment."

However, efforts to preserve environmental life are still getting less attention, especially in development activities and environmental law enforcement (Rochmani & Faozi, 2017, p. 376).

It can be seen in the decision on Case No. 640/PID.B/LH/2021/PT PBR, where the Pekanbaru High Court granted the appeal made by PT. Gandaerah Hendana in the case of a land fire in 2019 in Seluti Village, Lirik Sub-district, Indragiri Hulu Regency, Riau. PT. Gandaerah Hendana was a corporate defendant in a fire in his concession area controlled by the community. In that case, the Rengat District Court stated that the defendant PT. Gandaerah Hendana was found guilty of committing acts as stated in the first alternative indictment of the public prosecutor (Article 98 paragraph (1) in conjunction with Article 116 paragraph (1) letter a, in conjunction with Article 118 paragraph (1) in conjunction with Article 119 paragraph (1) of the PPLH Law). Then, the court of the first instance sentenced the company to a fine of IDR 8 billion. In addition, PT. Gandaerah Hendana was sentenced to additional punishment in the form of repairs due to criminal acts to restore 580 hectares of land damaged by fire by paying the state IDR 208,848,730,000. Based on the decision of the first instance court, PT. Gandaerah Hendana then appealed to the Pekanbaru High Court. The panel of judges at the High Court then granted the appeal and overturned the previous decision of the Rengat District Court (Tribun Pekanbaru, 2022).

In Decision Number 640/PID.B/LH/2021/PT PBR, the Pekanbaru High Court stated that the defendant PT. Gandaerah Hendanawas not legally and convincingly proven to have committed a criminal act, as stated in the Article charged by the public prosecutor. The decision caused opposition from environmental activists, especially WALHI Riau, because it referred to norms, and in the decision, there was an error in the application of the law by the Pekanbaru High Court judge. It was said that there was an error because in his indictment, the public prosecutor did not refer to a formal offense but a material one, which means that the public prosecutor questioned and emphasized the consequences of the land fire, i.e., the exceeding of quality standards to the occurrence of pollution and environmental damage, not on its actions (Walhi Riau, 2022).

In interpreting the element of "committing an action" in the formulation of Article 98 (1) of the PPLH Law, it is necessary to link it with all other elements because Article a quo is classified as a material crime, which is interpreted as an offense emphasizing the prohibition of consequences in criminal law theory. It means that the actions taken can be in the form of

anything as long as the consequences have occurred and are considered to fulfill the offense. When referring to commission and omission offenses, "committing an action" does not only mean doing prohibited things but also includes not carrying out legal obligations. Therefore, at the court of the first instance, the panel of judges at the Rengat District Court stated that the defendant PT. Gandaerah Hendana was proven guilty of committing the acts as charged by the public prosecutor.

However, when the defendant PT. Gandaerah Hendana filed an appeal, the Pekanbaru High Court panel of judges granted the appeal and overturned the previous decision of the Rengat District Court.

This reality is a portrait of criminal law enforcement in environmental cases, which is still far from the hopes and aspirations of the community. It is where the community's right to a good and healthy environment has received less attention from law enforcement officials. In this case, the impact arising from the fires of PT. Gandaerah Hendana, among others, are people affected by ARI (Acute Respiratory Infection), disruption of community activities and village government, disruption of transportation, and disruption of the learning and teaching system in schools. In addition, the impact on the environment itself is the occurrence of severe air pollution, environmental damage impacting hydrological conditions, and the destruction of peatlands.

When related to the legal system theory of Lawrence M. Friedman, the factors causing the failure of environmental protection efforts are the weakness of law enforcement factors (legal structures) and the legal culture of judges. The positivistic-formal approach makes judges the mouthpiece of the law, which only refers to the text of the law in understanding legal regulations and overrides the principles and basis of environmental law and solely uses an anthropocentric approach instead of an ecocentric approach (Spaltani, 2018, p. 99).

Anthropocentric itself is an approach or paradigm that views humans as the center of the universe system. Meanwhile, ecocentric regards natural ecosystems as the center (Thamrin, 2013, p. 61). The ecocentric approach also places all subjects in the universe (biotic and abiotic) as having value since they will be bound to each other in an ecosystem and become a correction to the anthropocentric approach that tends to destroy nature (KLHK, 2022).

In the context of environmental law management and enforcement, human error in the perspective of humans who consider themselves not part of the environmental unity makes them not realize that the impact of environmental damage oriented to human interests

(anthropocentric) will affect themselves (Satmaidi, 2015). Therefore, an ecocentric approach needs to be used by judges when deciding environmental crime cases to realize environmentally oriented law enforcement.

RESEARCH METHOD

This research is normative legal research, which puts the law as a building system of norms. The norm system built is about principles, norms, and rules from laws and regulations, court decisions, agreements, and doctrines (teachings) (ND & Achmad, 2017, p. 33). Therefore, this research used statutory, case, and conceptual approaches. The statutory approach was carried out by examining laws and regulations related to the research topic (Marzuki, 2016, p. 93). Among them were Law Number 32 of 2009 concerning Protection and Management of the Environment, Regulation of the Supreme Court Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations, Regulation of the Minister of Agriculture of the Republic of Indonesia Number 05/PERMENTAN/KB.410/1/ 2018 concerning Clearing and/or Processing of Plantation Land without Burning, and Government Regulation Number 4 of 2001 concerning Control of Environmental Damage and/or Pollution Related to Forest and/or Land Fires.

Then, the conceptual approach moves from the views and doctrines developing in the science of law to find ideas that give birth to relevant legal understandings, concepts, and principles as a basis for building a legal argument in solving legal issues faced (Marzuki, 2016, p. 93). In this study, the ecocentric environmental ethics theory is used as the basis for the judge's legal reasoning. Meanwhile, the case approach was performed by examining cases for which there have been decisions. In addition, this study not only analyzed the judge's considerations in Decision Number 640/PID.B/LH/2021/PT PBR but also examined the decision of the first instance court, i.e., Decision Number 256/Pid.Sus/PN Rgt. In using the case approach, the researchers need to understand the ratio decidendi, the legal reasoning used by the judge in his decision (Marzuki, 2016, p. 119).

FINDINGS AND DISCUSSION

A. Legal Reasoning of the High Court Judge in Decision No. 640/PID.B/LH/2021/PT PBR

Judges are one of the most critical judicial subsystems among judicial subsystems in environmental issues. Judges also play a significant role in promoting pro-environmental justice (Is, 2020, p. 325). The role of judges is realized through decisions that reflect the values of justice, especially environmental justice. In making decisions, judges need to do legal reasoning. The judge must first examine the facts, assess the facts/events, and relate them to the applicable law.

In addition, judges must carry out legal considerations containing legal arguments. Legal arguments are the basis or reasons for judges in the construction of legal considerations by judges (Prasetyo, 2021, p. 478). Legal arguments are also an indicator of the quality of a decision, and in legal efforts, both at the appeal and cassation level, the legal considerations made by judges are vital to be known by the litigants, including the judge who evaluates the decision to be given (Wardah & Sutiyoso, 2007).

In 2019, there was a land fire in the right-to-cultivate area of PT. Gandaerah Hendana in Seko Lubuk Tigo Village, Indragiri Hulu, Riau. Then, the public prosecutor charged PT. Gandaerah Hendana with alternative charges: Article 98 paragraph (1) in conjunction with Article 116 paragraph (1) letter a, in conjunction with Article 118 paragraph (1) in conjunction with Article 119 paragraph (1) of the PPLH Law in the first alternative indictment and Article 99 paragraph (1) in conjunction with Article 116 paragraph (1) letter a, in conjunction with Article 118 paragraph (1) in conjunction with Article 119 paragraph (1) of the PPLH Law in the second alternative indictment.

In the first instance court, the panel of judges of the Rengat District Court in its Decision Number 256/Pid.Sus/PN Rgt convicted the defendant PT. Gandaerah Hendana of having committed a criminal act “as a business entity by deliberately committing an act that resulted in exceeding the ambient air quality standards and the standard criteria for environmental damage,” as stated in the public prosecutor's first alternative indictment. The panel of judges also imposed a fine of IDR 8 billion and an additional penalty for repairs due to criminal acts to restore 580 hectares of damaged land by paying the state IDR 208,848,730,000.

One of the legal considerations of the panel of judges at the court of the first instance refers to the information given by the expert, Prof. Alvi Syahrin, S.H., M.S., in court (see Rengat District Court Decision Number 256/Pid.Sus/2021/PN Rgt). In essence, it is stated that in the formulation of Article 98, there is the phrase "committing an act," so it is necessary to know what (form) the act or the act is related to (with) since the meaning of the action is very

broad. Based on this information, the Rengat District Court panel of judges believed that because the meaning of "action" is so broad, it can be in any form as long as the consequences stipulated in the formulation of the offense do occur. Then, when referring to commission and omission offenses, the meaning of committing an act is not only doing prohibited things but also not carrying out legal obligations. In this case, the panel of judges considered that even though the company was not the perpetrator of the arson, the element of "deliberately committing an act" in this case could still be imposed on the corporation if the corporation did not prevent and deal with fire events that occurred in its business area.

Based on legal facts at trial, the land rights in the Seko Lubuk Tigo Village, Lirik Sub-district, Indragiri Hulu Regency, which were burned, were held by the defendant PT. Gandaerah Hendana based on the Certificate of Rights to Cultivate (SHGU) Number 16 dated December 5, 1997, belonging to the defendant PT. Gandaerah Hendana. Concerning land owned based on the cultivation rights granted, the defendant PT. Gandaerah Hendana has an obligation to prevent and deal with land fires in its business locations. Laws and regulations that impose obligations to prevent and control fires at their business locations include the PPLH Law, Government Regulation No. 4 of 2001 concerning Control of Environmental Damage and/or Pollution Related to Forest and/or Land Fires, and Regulation of the Minister of Agriculture of the Republic of Indonesia Number 05/PERMENTAN/KB.410/1/2018 concerning Clearing and/or Processing of Plantation Land without Burning.

In the trial process at the court of the first instance, the defendant PT. Gandaerah Hendana was found guilty and sentenced by the panel of judges of the Rengat District Court. However, based on the decision of the first instance court, PT. Gandaerah Hendana appealed to the Pekanbaru High Court. Then, the Pekanbaru High Court panel of judges granted the appeal and overturned the decision at the court of the first instance.

Formally, what the panel of judges of the High Court did was correct because, in accordance with Article 241, paragraph 1 of the Criminal Procedure Code, judges are free to decide cases based on their considerations, whether to strengthen or cancel the first instance court's decision by adjudicating themselves. However, because the criminal justice process aims to seek and find material truth, it is also necessary to examine the legal considerations of the panel of judges at the appellate level from the material aspect (Apeldoorn, 1978, p. 263).

In its decision, the Pekanbaru High Court panel of judges stated that the

defendant/comparator did not carry out the land burning, and no causal relationship was found between the land burning incident that resulted in environmental pollution and the defendant/comparator as a corporation. It was because the defendant/complainant never ordered his staff or a third party to commit the act of burning the land, and the defendant/complainant never enjoyed the benefits of the act of burning the land either before or after.

In addition, referring to the information given by Prof. Alvi Syahrin, S.H., M.S., as the expert presented by the defendant (see Decision Number 640/PID.B/LH/2021/PT PBR), Article 98 is a material offense that must be linked to its formal elements, i.e., as regulated in Article 108 jo Article 69 paragraph (1) letter h of the PPLH Law. It reads, "Everyone who burns land as referred to in Article 69 paragraph (1) letter h shall be punished with a minimum imprisonment of 3 (three) years and a maximum of 10 (ten) years and a minimum fine of IDR 3,000,000,000 (three billion rupiahs) and a maximum of IDR 10,000,000,000 (ten billion rupiahs)," jo. Article 69, paragraph (1) letter h reads, "Everyone is prohibited from h. clearing land by burning." Regarding the element of "committing an act" contained in Article 98, it was narrowed in this case, so it is interpreted as "the act of burning land."

In his legal considerations, the Pekanbaru High Court judge also essentially stated that in this case, what happened was not the burning of the land but the land of PT. Gandaerah Hendana caught fire, and the burning of the land was not the will or act of PT. Gandaerah Hendana. In addition, the occurrence of land fires at PT. Gandaerah Hendana did not provide benefits to PT. Gandaerah Hendana. Therefore, based on these legal considerations, the Pekanbaru High Court panel of judges concluded that if the elements stated in the formulation of the indicted Article were not met, PT. Gandaerah Hendana could not be held criminally responsible. Thus, the panel of judges of the Pekanbaru High Court granted the appeal from the defendant PT. Ganarea Hendana and annulled the Rengat District Court Decision Number 256/Pid.Sus/2021/PN Rgt.

Referring to the primary legal considerations of the panel of judges as mentioned above, the authors disagree with the panel of judges at the appellate level for the following reasons:

1. **The Pekanbaru High Court Panel of Judges Overrides the *Presumptio Justae Causa* or *Het Vermoden van Rechmatigheid* Principle.**

   This principle states that for legal certainty, every state administrative decision issued must be considered correct according to the law, as it can be implemented first

before being proven otherwise and declared by an administrative judge as a decision against the law (Blegur, 2022, p. 47). It means that as long as the state administrative decision (KTUN), i.e., the Certificate of Rights to Cultivate of the defendant PT. Gandaerah Hendana is not canceled; the KTUN (Rights to Cultivate) is still legally valid and can be implemented. Since the burned land is the work area (Rights to Cultivate) of PT Ganarea Hendana, the burned land remains the responsibility of PT. Gandaerah Hendana, and automatically, the process of extinguishing the fire is also its responsibility.

The land rights to the burned area are held by PT. Gandaerah Hendana based on the Certificate of Right to Cultivate (SHGU) Number 16 dated December 5, 1997, belonging to defendant PT. Gandaerah Hendana. It is also based on the Decree of the Minister of State for Agrarian Affairs/Head of National Land No: 92/HGU/BPN/97 dated August 6, 1997, concerning the granting of the right to cultivate land located in Indragiri Hulu Regency covering an area of 6,087 (six thousand eighty-seven) hectares. Thus, concerning land owned under the cultivation rights granted, PT. Gandaerah Hendana has an obligation to prevent and deal with land fires at its business locations. It is in accordance with the PPLH Law, Government Regulation Number 4 of 2001 concerning Control of Environmental Damage and/or Pollution Related to Forest and/or Land Fires, Regulation of the Minister of Agriculture of the Republic of Indonesia Number 05/PERMENTAN/KB.410/1/ 2018 concerning Clearing and/or Processing of Plantation Land without Burning, and listed in the Decree of the State Minister of Agrarian Affairs/Head of National Land No: 92/HGU/BPN/97 and the Environmental Impact Analysis (AMDAL) of the defendant PT. Gandaerah Hendana.

2. Community Control Does Not Remove Corporate Responsibility.

In his decision, the Pekanbaru High Court judge considered that "because in the location of the fire, there is still a dispute over ownership and within the community's control, according to the panel of judges, the responsibility for the forest fire lies with the community and not on the defendant who does not directly control the land because it is occupied by the community so that the defendant must be acquitted of all charges."

Based on the consideration of the panel of judges, the authors believe that unilateral actions not to consider the land whose rights are held by him based on being in control by

another party is not justified. If the defendant PT. Gandaerah Hendana considered that the land was no longer part of its land; for the assumption to be valid and correct according to law, it was an obligation for the defendant PT. Gandaerah Hendana to apply for a permit first to the giver of the right to release the rights it has obtained (enclave). It is as stated in the Decree of the State Minister of Agrarian Affairs/Head of the National Land Agency Number: 92/HGU/BPN/97 concerning the granting of rights to cultivate land located in Indragiri Hulu Regency, Riau Province, dated August 6, 1997, which underlies the granting of SHGU No. 16. In the third dictum, it states in letter e that "Every change in land use and any form of legal action that intends to transfer the right to cultivate plantation land, either wholly or partially, requires prior permission from the State Minister of Agrarian Affairs/Head of the National Land Agency cq. Deputy for Land Rights."

However, based on witness statements, since the issuance of the Rights to Cultivate in 1997, PT. Gandaerah Hendana did not propose an enclave and instead asked for control of the land. The defendant PT. Gandaerah Hendana once filed a state administrative lawsuit against the village head of Seko Lubuk Tigo to the Pekanbaru Administrative Court. The defendant filed a lawsuit because the village head of Seko Lubuk Tigo issued a Certificate of Compensation (object of dispute) at the same location as the area with Rights to Cultivate owned by the defendant.

The defendant PT. Gandaerah Hendana (as the plaintiff) felt aggrieved because it could not control, lost its rights, and could not use its Rights to Cultivate. In addition, the defendant had also paid the Land and Building Tax on Rights to Cultivate Number 16 every year. Then, in its decision, the Administrative Court did not accept the lawsuit because, in the object of the lawsuit, there was still a land ownership dispute, which was the district court's authority. Then, PT. Gandaerah Hendana also only proposed an enclave after the fire, arguing that it had only just learned about the TORA (land object for agrarian reform) program from the central government, and according to the panel of judges at the Rengat District Court, this reason was a fabricated one.

3. Material Offenses and Formal Offenses

In considering the legal decision, the panel of judges of the Pekanbaru High Court, as stated by Prof. Alvi Syahrin, S.H., M.S., essentially stated that Article 98 is a material

offense that must be linked to its formal elements, as regulated in Article 108 in conjunction with Article 69 paragraph (1) letter h of the PPLH Law. It reads, "Everyone who burns land as referred to in Article 69 paragraph (1) letter h shall be punished with a minimum imprisonment of 3 (three) years and a maximum of 10 (ten) years and a minimum fine of IDR 3,000,000,000 (three billion rupiah) and a maximum of IDR 10,000,000,000 (ten billion rupiahs)."

Looking at the judge's consideration, the authors argue that the judge's consideration is a mistake because if it refers to the offense charged by the prosecutor, it is not a formal offense but a material offense. The meaning of the phrase "committing an action," as referred to in Article 98 paragraph (1) of the PPLH Law, is so broad that it can take the form of anything, the most important of which is the consequences regulated in the formulation of a criminal offense. In material crimes, the essence of the prohibition is to cause the prohibited result. Due to the breadth of the action, "committing an action" means not only doing prohibited things but also not carrying out a legal obligation such as an omission offense (Hiariej, 2014, p. 137).

Then, whether PT. Gandaerah Hendana, the defendant who did not burn land in the area of its Rights to Cultivate, can be said to have "committed an act," fulfilling this element needs to be related to the consequences. For this reason, since the defendant is a corporation, to assess its guilt, it is necessary to fulfill at least one of the parameters specified in Article 4 paragraph (2) of the Supreme Court Regulation Number 13 of 2016, stating that corporations can be held criminally accountable and to assess their guilt on the following conditions:

a. The corporation may obtain profits or benefits from the crime, or the crime is committed for the benefit of the corporation,
b. Corporations allow criminal acts to occur, or
c. The corporation does not take the necessary steps to prevent a more significant impact and ensure compliance with applicable legal provisions to avoid the occurrence of criminal acts.

The word ***"or"*** in the Supreme Court Regulation above implies that the error assessment must not be proven entirely (cumulatively). For this reason, even though the company was not the perpetrator of the arson, the element of "deliberately committing an

act" in this case could still be imposed on the corporation if it did not prevent and deal with fire events at its business location. The authors also refer to expert testimony that there was a large fire in the area of PT. Gandaerah Hendana in 2016 and 2017 was not used as a lesson by the defendant to fulfill the facilities and infrastructure to prevent and extinguish fires in accordance with environmental documents. Therefore, according to experts, the occurrence of fires in 2019 was also a form of neglect.

Based on this, the laws and regulations that burden the obligation to prevent and control fires at their business locations include the PPLH Law, Government Regulation No. 4 of 2001, the Regulation of the Minister of Agriculture of the Republic of Indonesia Number: 05/PERMENTAN/KB.410/1/2018, and the Decree of the Minister of Agrarian Affairs, which became the basis for the granting of Rights to Cultivate Number 16, and contained in the Environmental Impact Analysis (AMDAL) document of the defendant, PT. Gandaerah Hendana.

Article 18 paragraph (1) stipulates that "Every person in charge of the business as referred to in Article 13 is responsible for the occurrence of forest and/or land fires at his business location and is obliged to immediately take action against forest and/or land fires at his business location." However, based on the facts obtained in the trial, when the fire occurred, the Seko Lubuk Tigo Village people were the first to put out the fire, which was then assisted by the firefighting team of PT. Mitra Kembang Selaras, Karlahut Integrated Task Force, Lirik Sub-district, and a week after the fire, it was assisted by a team of firefighters from PT. Gandaerah Hendana.

The facilities and infrastructure needed to prevent fires precisely and in detail are such as monitoring towers, reservoirs, fire-prone maps, and others, as regulated in the Regulation of the Minister of Agriculture of the Republic of Indonesia Number: 05/PERMENTAN/KB.410/1/2018 concerning Clearing and/or Processing of Plantation Land without Burning. However, from the examination results of the prevention of forest and land fires (Karhutla) at PT. Gandaerah Hendana in Seko Lubuk Tigo Village, Lirik Sub-district, Indragiri Hulu Regency, Riau Province, several findings were obtained. Among other things, there were no fire-prone signs at the fire location. At the time of the fire, at that location, there was no water reservoir, no fire monitoring tower, and the distance from the fire monitoring tower of the defendant PT. Gandaerah Hendana, closest to the location of the fire, was approximately two km. In addition, fire control patrol

activities were not carried out properly in the burned area. The defendant PT. Gandaerah Hendana also did not follow the company's SOP related to controlling land fires in the burned area, and the defendant PT. Gandaerah Hendana had a shortage of land fire control infrastructure, with details as stated in the decision.

The authors also disagree with the expert who stated that the imposition of Article 98 paragraph (1) of the PPLH Law must be linked to Article 108 and Article 69 paragraph (1) letter h of the PPLH Law. It is because the formulation of Article 98 paragraph (1) of the PPLH Law is not specified/mentioned explicitly and specifically regarding the form of action. The text and formulation of Article 98 paragraph (1) also do not refer to acts regulated in other articles (Article 108 and Article 69 paragraph (1)), so there is no need to prove and link it with those articles. It suggests that cases threatened with these articles are open to being submitted, either separately or jointly, even if they are against the same criminal event.

It differs from Article 108 of the PPLH Law, which explicitly refers to and mentions Article 69 paragraph (1) letter h because Article 108 of the PPLH Law is a formal offense that only emphasizes actions. Meanwhile, in material offenses, the emphasis is only on the consequences (Sari, 2019, p. 79). Since "committing an action" has a broad meaning, it is not only doing prohibited things but also not carrying out legal obligations as an omission offense, regardless of any form of action.

Moreover, judges are required to think logically and creatively. Legal logic or legal reasoning and legal argumentation are needed because legal understanding from this perspective seeks to find, uncover, test accuracy, and justify assumptions or hidden meanings in existing legal regulations or provisions based on the ability of the judge's reasoning (Utami & Sulistyawan, 2019, p. 33). For this reason, legal arguments should not be limited to literal meanings and logical propositions by ignoring the context and purpose of the law. Therefore, legal principles must be understood broadly (Weruin, 2017, p. 379).

Next is the impact as an element emphasized in material offenses. In connection with a quo case, based on the testimony of witnesses at the trial, the impacts of the land fires included exposing the community to ARI or respiratory problems, disrupting community activities and village government, and disrupting the teaching and learning

system in schools. In addition, there was a direct impact on the environment, i.e., air pollution and soil damage caused by exceeding quality standards.

It is consistent with the expert testimony, Prof. Dr. Ir. Bambang Hero Saharjo, M.Agr., at the trial (see Rengat District Court Decision Number 256/Pid.Sus/2021/PN Rgt). According to the definition of air pollution, as stated in the PPLH Law, "if greenhouse gases are originating from the location where the fire occurred is greater than the quality standard value or the quality standard criteria for air pollution, it can be ascertained that the greenhouse gases originating from fires in the area have polluted the environment." Then, according to calculations by Prof. Ir. Bambang Hero Saharjo, M.Agr., the greenhouse gases released during the fire in the Rights to Cultivate area of PT Ganarea Hendana were 1.566 tons of C; 548.1 tons of CO2; 5.70 tons of CH4; 2.52 tons of NOx; 7.016 tons of NH3; 5.81 tons of O3; 101.39 tons of CO; 121.8 tons of total particulate matter. It demonstrates that it has exceeded the tolerable quality standard.

Furthermore, according to Soil and Environmental Damage Expert Dr. Ir. Basuki Wasis, M.Sc., based on the samples studied, it was concluded that environmental damage had occurred due to fires in the Rights to Cultivate area of PT. Gandaerah Hendana in the form of soil and environmental damage as it has entered the standard criteria for damage, as stipulated in Government Regulation No. 4 of 2001. Those are the damage criteria for the parameter of species diversity and flora population and damage for the subsidence parameter, the criteria for damage to the parameter of species diversity and fauna/animal population of the soil, and the criteria for the parameters of pH, organic C, nitrogen, water content, bulk density, and soil porosity.

Given the impact and losses, according to the authors, it is appropriate if the panel of judges at the first instance court convicted and imposed a fine and additional penalty in the form of repairs for the criminal act against the defendant PT. Gandaerah Hendana, as the “polluter pays” principle regulated in the PPLH Law. However, unfortunately, in the decision of case **640/PID.B/LH/2021/PT PBR,** the panel of judges of the high court tended to ignore the losses and environmental damage. The legal arguments in consideration by the high court panel of judges also did not reflect the ecocentric values that should be adopted more in the content of the decision as part of the judge's critical considerations.

Ecocentrism is a version of ethical theory known as deep ecology (Keraf, 2002, p.

76). One of the ecocentrism theories is the basic principle of deep ecology, which recognizes that the environment is the same as humans who have the right to live and develop. Nature also has the right to be respected, not only because human life depends on nature but also because of the ontological fact that humans are an integral part of nature and members of an ecological community. In addition, respect for nature is born from the contextual relationship between humans and nature in the ecological community (Keraf, 2010, pp. 167-168).

Furthermore, adherents of the ecology-centered paradigm (ecocentrism) make nature the center so that all living things should be respected for their distinctive modes of being, for their own sake, not in terms of their benefits for humans. Therefore, the behavior of the state, especially in this context, is that judges as law enforcers must be in line with the needs of nature (Sulaeman & et al., 2021, p. 177). In this regard, judges' legal reasoning based on an ecocentric approach will produce an output in the form of a pro-environmentally oriented decision, i.e., a decision containing the imposition of criminal sanctions on perpetrators of environmental destruction. In this case, Decision Number 640/PID.B/LH/2021/PT PBR should have rejected the defendant's appeal and upheld the decision of the first instance court.

B. The Urgency of Judge's Legal Reasoning in Deciding Environmental Crime Cases Based on an Ecocentric Approach

Judges are the core implementers who functionally carry out judicial power, so their existence is dominant and important in law enforcement through their decisions. The basics of reasons formulated by the judge must be included in the considerations that support the decision as accountability to the community. Judges are also responsible for higher courts and jurisprudence so that decisions have authority and not because of certain judges who handed them down (Syamsudin & Ramadani, 2018, p. 101).

Moreover, law enforcement is a process of empirically implementing the law in society, which involves the ability of law enforcement to interpret the law. Legal meaning occurs when the law reviewer or law enforcer carries out the process of building legal arguments on the empirical reality that occurs. To build legal arguments, a law enforcer requires legal reasoning. Legal reasoning is also thinking, using, developing, or controlling

a problem in law by using reason. In addition, this legal reasoning is reasoning about the law, i.e., the search for "reasons" about the law or the basic search for how a judge decides a case or legal case, a lawyer argues for the law, and how a legal expert reasons the law. For this reason, a judge must have good abilities and skills to understand legal reasoning (Sulistyawan & Atmaja, 2021, p. 486).

Legal arguments should also not be limited to literal meanings and logical propositions by ignoring the context and purpose of the law. The purpose of the law in the context of environmental protection and management, as stated in Article 3 of the PPLH Law, is related explicitly to preserving environmental functions and ensuring the fulfillment of the right to the environment as part of human rights. It also should be understood that environmental pollution and/or destruction victims are vast. Natural (biological and non-biological) resources and circumstances and other living things also became victims of the incident. Therefore, placing the victim's position as a subject, no longer as an object, in resolving criminal cases is the time to be considered in dealing with environmental crime cases (Ali, 2022, p. 19).

The environment also has human rights that need to be protected, especially from the consequences of actions that destroy it (right of nature). The Global Alliance for the Rights of Nature (GARN) argues that the right of nature is a concept that claims that nature also has rights, not only humans. GARN continues that this right includes the right to exist, persist, and regenerate its vital cycles (Challe, 2021). Essentially, nature is also like humans, having limited durability if it is drained and/or used continuously without going through the right way. It can damage nature and impact humans (CELDF, 2016)

This awareness of the right of nature manifests a shift in the environmental protection and management approach from anthropocentrism to ecocentrism. Anthropocentrism is a paradigm that views humans as the center of the universe. Humans and their interests are considered the most decisive in the order of ecosystems and all policies taken concerning nature. The highest value is people and their interests. As a result, nature will only be positioned as an object, instrument, and means to fulfill human needs and interests. Meanwhile, ecocentrism is a paradigm that views the natural ecosystem/environment as the center (Sutoyo, 2014, p. 196). The right to a good and healthy environment will not be fulfilled if the environment is left damaged. Therefore, it is crucial to use the ecocentrism approach to protect the environment and achieve environmental justice.

In a report on the National Criminal Law Reform Symposium on August 28, 1980, held in Semarang, it was stated that "in accordance with the politics of criminal law, the purpose of punishment must be directed at protecting the community from crime and the balance and harmony of life in society by taking into account the interests of the community/state, victims, and perpetrators." (BPHN, 2015, p. 3)

Concerning the nature of the purpose of punishment as mandated in the symposium, the identification of the purpose of sentencing should start from a balance of two main objectives: "protection of society," including "victims of crime," and "protection/development of individual perpetrators of crime." "Victims of crime" in environmental cases are not only humans but also the environment since the environment is a target in environmental crimes. Hence, the environment should be one of the legal interests (*rechtsbelangen*) that must be protected, not only legal interests in the form of soul (*leven*), body (*lijf*), honor (*eer*), independence (*vrijheid*), and property (*vermogen*) (AR, 2012, p. 644)

With an ecocentric approach in legal reasoning, judges are urgent because, so far, the formal positivistic approach has made judges only limited to understanding the legal regulations contained in the statutory text and overriding the principles and basis of environmental law by solely using an anthropocentric and not ecocentric. For that, in the end, the perpetrators of vandalism are still free without being entangled in criminal law (Pambudi, 2021). It causes the decline in environmental quality to continue to occur and accumulate to become a real threat to the survival of current and future generations (Saputro, 2021, p. 1287)

According to the authors, the decision as the output produced by the judge is also very dependent on the input in the form of understanding and the approach used. It is because the problems and environmental crises that occur today, philosophically, are more caused by an error in the perspective/approach of humans about themselves and nature. For this reason, a re-awareness of ecological awareness is needed as an ecocentric approach that recognizes the unity, interrelation, and interdependence between humans, plants, animals, and the entire universe (Sutoyo, 2014, p. 205).

Further, the ecocentric approach understands that humans and nature are interdependent elements, so efforts to manage and protect the environment, including

environmental law enforcement, will pay attention to environmental sustainability for the survival of humans and other living creatures. As the deciding party, the judge is also one of the elements of the judiciary that plays the most role of the elements of the judiciary in environmental issues. In other words, judges have a significant role in realizing a pro-environmental judiciary. If judges ignore the environment in resolving environmental cases, justice for the community to get a good and healthy environment will not be achieved.

CONCLUSION

The reason the Pekanbaru High Court granted the appeal of the defendant PT. Gandaerah Hendana in Decision No. 640/PID.B/LH/2021/PT PBR is that the fire location was under the control of the community so that the responsibility for the occurrence of the forest fire lay with the community. In addition, the imposition of Article 98 paragraph (1) of the PPLH Law must be linked to Article 108 and Article 69 paragraph (1) letter h of the PPLH Law. However, in the authors' opinion, the judge's consideration was a mistake. The first reason is that the panel of judges overruled the principle of *presumptio justae causa* or *het vermoden van rechmatigheid*. Second, community control does not erase the company's responsibility, and third, the Article charged by the public prosecutor is not an article on a formal offense but an article on a material offense. In a material offense, the act committed can be in the form of anything as long as the consequences have occurred so that it is considered to fulfill the offense. In this regard, the judge's legal reasoning based on an ecocentric approach should result in a pro-environmental decision so that the decision should reject the defendant's appeal and strengthen the court's decision in the first instance.

Furthermore, judges have a significant role in realizing pro-environmental justice through their decisions. Decisions as outputs produced by judges are also greatly influenced by input in the form of understanding and the approach used. In particular, the problem of environmental damage today is philosophically more caused by an error in the way humans view themselves and nature, i.e., the perspective that humans are the center of the universe system (anthropocentric). Therefore, it is necessary to re-awareness of ecological awareness as an ecocentric approach, which views that the environment has rights like humans. With an ecocentric approach, judges will pay attention to environmental sustainability when deciding the examined case.

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