

# THE APPLICATION OF DISTRIBUTOR RESPONSIBILITY IN TRANSBOUNDARY HAZE POLLUTION CASES IN RIAU BASED ON DISTRIBUTIVE JUSTICE AND ETHICS

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**Abstract:** Forest and land fires not only cause losses to the country of origin where the fire occurred, but also have an impact on other countries in the form of transboundary smoke pollution. The occurrence of transboundary smoke pollution that causes disruption to the environment of other countries is an act that is contrary to the principles of international law, especially those governing international environmental law. This research examines the worst forest and land fires that occurred in Riau. This research uses a doctrinal approach with consideration of research targets in the form of laws and regulations by examining the accuracy of arrangements, relations between norms and testing the norm system. The research approach analyzes legal theory, jurisprudence, and legal philosophy, and does not avoid the use of certain facts as support in research analysis. In this approach, the author analyzes the distributor's responsibility in the case of transboundary haze pollution in Riau. The result is that the parties responsible in the case of transboundary air pollution or Transboundary Haze Pollution in addition to the polluter, namely palm oil companies in Riau, also involve the state, in this case the Indonesian government as the party authorized to grant licenses and supervise the business licenses that have been issued, as well as being responsible as a contributor, namely the state of Singapore because of its financing to companies that cause air pollution in Riau. As well as making financiers, namely banks, one of the distributors in cross-border pollution in accordance with the polluter pays principle, which is the main principle that the polluter must be the payer.

**Keywords:** *Environmental Law; Polluter Pays Principle; Transboundary; Haze Pollution,*

## 1. Introduction

The environment is one of the important components in human life. In addition to being a place to live, the environment is also a provider of natural resources that fulfill human needs. One of the environment is forests that must be maintained. The environment is a place where it should be preserved. The environment is a very important place for human life, between individuals with one another, and between countries with one another. "When environmental issues arise into a major conflict between countries, it will certainly disrupt the bilateral and diplomatic relations of the country."<sup>1</sup>

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<sup>1</sup> Asdar, Asdar. "Transboundary Haze Pollution Di Malaysia Dan Singapura Akibat Kebakaran Hutan Di Provinsi Riau Ditinjau Dari Hukum Lingkungan Internasional." *Legal Opinion* 4 (2016): Pg. 1

Air pollution due to haze (hereafter referred to as smoke pollution) from the forest and land fires has been ongoing for many years in the Southeast Asia Region. This haze pollution has become a dangerous threat not only in the local area of a country, but also transnationally (across national borders), due to the light nature of the smoke that can easily spread from one place to another. In Southeast Asia, haze pollution is largely caused by uncontrolled forest and land fires (hereafter referred to as *karhutia*) from the Indonesia region. In this case, dominant factor causing forest and land fires in Indonesia is the human element.

The open burning method used by residents and companies for land conversion is an example of how human factors contribute greatly to forest and land fires that cause haze pollution. When people or companies convert land by burning they do not have effective methods on how to tackle/extinguish the fire, just hoping that the fire will be extinguished by rain. As a result, when the rains have not fallen due to seasonal changes, the fires grow out of control and cause forest and land fires and haze pollution.

Haze pollution that occurs periodically during the dry season has actually begun to occur since the 1970s, but countries in the *Southeast Asian* region that are members of the *Association of Southeast Asian Nations (ASEAN)* only realised the problem of haze pollution that crossed national borders in the region in the 1990s,<sup>2</sup> because “in the periode 1994-1995 the forest and land fires that caused haze pollution reached an unprecedented level, in a large area and high intensity.”<sup>3</sup>

Haze pollution cannot be ignored and must be addressed. This realization prompted ASEAN to take initiatives and steps to enhance co-operation at regional, sub-regional and national levels in a coordinated manner in policy-making efforts on transboundary haze pollution issues by drafting the ASEAN Cooperation Plan on Transboundary Pollution (ACPTP) in 1995.<sup>4</sup> “The plan covers procedures and mechanisms for cooperation in the prevention and control of transboundary haze pollution.”<sup>5</sup>

Forest fires are an annual disaster in Indonesia. The areas prone to forest fires are Sumatra and Kalimantan.

“The worst forest and land fires in Indonesia occurred in 1997 in Riau and 1983 in Kalimantan. Large forest fires occur in peat areas, which leave many peat craters, one of which is Riau Province which has experienced large fires in 1997 and 2015 (based on research conducted by Afid et al, on Temporal Analysis of Forest and Land Fires in Indonesia in 1997 and 2015 (Case Study of Riau Province)).”<sup>6</sup>

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<sup>2</sup> Penjelasan Umum Undang-undang Nomor 26 Tahun 2014 tentang Pengesahan ASEAN Agreement on Transboundary Haze.

<sup>3</sup> Angelika Heil and Johan Goldammer, “Smoke-Haze Pollution: A Review of the 1997 Episode in Southeast Asia,” *Regional Environmental Change* 2 (2001): 24–37.

<sup>4</sup> Penjelasan Umum Undang-undang Nomor 26 Tahun 2014 tentang Pengesahan ASEAN Agreement on Transboundary Haze

<sup>5</sup> Heil and Goldammer, “Smoke-Haze Pollution: A Review of the 1997 Episode in Southeast Asia.”

<sup>6</sup> Afid Nurkholis et al., “Analisis Temporal Kebakaran Hutan Dan Lahan Di Indonesia Tahun 1997 Dan 2015 (Studi Kasus Provinsi Riau),” 2018.

Forest and land fires that occur in Indonesia are caused by company activities in clearing land by burning forests for plantation purposes and saving costs. The advantage for the company is that the company does not need to spend more on operational equipment during these activities. This is a form of poor natural resource governance. Starting from the governance of plantations to forestry. This condition is also exacerbated by the licensing of land clearing on peatlands that are flammable and difficult to extinguish when a fire occurs. Although now there is Riau Province Regional Regulation No.1 of 2019 concerning Technical Guidelines for Forest and or Land Fire Management, and in the regulation it is not explicitly explained that land establishment is carried out by burning with various requirements, this is different from the Central Kalimantan Governor Regulation No. 15 of 2010 which clearly regulates it, but the Riau Regional Regulation in article 21 regulates the arrangement of peatlands which need coordination with the Regional Government and Article 22 paragraph 4 for the implementation of forest fire management must coordinate with surrounding landowners. From this explanation, it can be said that land clearing on peatlands is still carried out, which is likely to be burned.

Apart from creating peat craters, forest fires create more air pollution. The effect of the fires have caused air pollution to reach neighbouring Singapore and Malaysia. Both countries suffered losses due to the haze, which affected the economy, tourism and health. This forest fire case has also become an international case because the air pollution has reached other countries. In this case, legal responsibility can be borne by several parties based on the principles of international law ratified by Indonesia.

The responsibility of distributors in the case of *transboundary haze pollution* in Riau, namely forest and land fires caused by oil palm land clearing that is not based on RSPO ( *Roundtable on Sustainable Palm Oil* ) principles and criteria that environmental impact assessment plans and pollution prevention are absolute assessments in the RSPO, ethically the responsibility of polluters is not only to the perpetrators and licensors but also there are responsibilities of beneficiaries, including the capital provider, namely the Bank. This paper will examine two things, first, the responsibility of distributors in the case of *transboundary haze pollution* in Riau, second, how distribution justice and ethics towards environmental justice are related to transboundary haze pollution in Riau.

## 2. Method

This research uses a doctrinal approach with consideration of research targets in the form of laws and regulations by examining the accuracy of arrangement, the relations between norms and testing the norm system at the application level, or depth of research. This approach reaches to analyze legal theory, jurisprudence, and legal philosophy. And does not avoid the use of certain facts as support in research analysis. In this approach, the author analyzes the distributor's liability in the case of *transboundary haze pollution* in Riau.

## 3. Analysis or Discussion

Environmental justice is not a concept that has multiple definitions. Collin sees environmental justice primarily in terms of the equitable distribution of

environmental rights and benefits across race, class and income. By Collin, procedural aspects such as public participation in decision-making are considered to be included in the substantive rights that are part of this distributive justice. Meanwhile, others consider environmental justice to include not only distributive aspects, but also procedural aspects. This can be seen, for example, from the views of Arcioni and Mitchell, as cited by Millner, “who state that in addition to the distribution aspect, environmental justice is also related to public opportunities to participate in decision-making related to environmental management.”<sup>7</sup>

There are five basic elements of environmental justice, which include:

- 1) “the right of individuals to be protected from pollution;
- 2) a preference for pollution prevention;
- 3) a shift in the burden of proof to those who pollute or dischargers or to those who do not provide equal protection to minority groups;
- 4) evidence of discrimination in the environmental context is no longer measured by intent to discriminate, but by disparate impacts and statistical evidence of those disparities;
- 5) disparities in risk sharing are addressed by targeted action and resources.”<sup>8</sup>

Distributive justice is closely linked to sustainable development for three reasons, namely: First, the environment is a resource that must be distributed fairly; Second, justice is functional for sustainability; and Third, sustainability also requires justice for the environment itself. Fourth, that sustainability is also a necessary condition for justice. Distributive justice demands a reduction in environmental risk, rather than a redistribution of environmental risk. In addition, environmental justice also calls for equitable distribution of benefits from current environmental protection and management efforts.

The function of environmental justice is the fulfillment of everyone's right to obtain or enjoy a good and healthy environmental quality, cross-border air pollution not only has an impact on diseases arising from smoke but also diplomatic relations with affected countries such as Singapore and Malaysia, international law which is essentially only soft law, oil palm plantations are initially very profitable from various parties but instead of that land clearing by burning triggers transboundary haze pollution where distribution, benefits and risks become unequal and produce environmental injustice.

### **Polluter Pays Principle**

The polluter pays principle is a principle that is often enunciated in international declarations that later entered into international conventions and became a principle of international environmental law. “The first international instrument to refer to the polluter pays principle was the 1872 Organisation for

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<sup>7</sup> Felicity Millner, “Access to Environmental Justice,” *Deakin L. Rev.* 16 (2011): 189.

<sup>8</sup> Andri Gunawan Wibisana, “Keadilan Dalam Satu (Intra) Generasi: Sebuah Pengantar Berdasarkan Taksonomi Keadilan Lingkungan,” *Mimbar Hukum-Fakultas Hukum Universitas Gadjah Mada* 29, no. 2 (2017): 292–307.

Economic Co-operation and Development (OECD),”<sup>9</sup> an international economic organization established by 34 countries in 1961, which aims to stimulate economic development and world trade. It supports the polluter pays principle to allocate the costs of pollution prevention and control measures to promote rational management of environmental resources and avoid distortions in international trade and investment. The recommendation contains a definition of the polluter pays principle that obliges polluters to bear the necessary costs of measures taken by public authorities to maintain the environment in an acceptable condition, or in other words, that the costs of carrying out these measures should reflect the price of goods and services that have caused pollution during their production and consumption.

It has become an international obligation for Indonesia to comply with international environmental law in connection with the development of sea transportation and petroleum. This is in line with the objectivist view that considers the existence and enactment of international law regardless of the will of the state. This view considers international law and national law as a unitary legal device. The consequence of the objectivist view is the application of the polluter pays principle as the unity of the international and national legal systems as monism which is based on the idea of unity in all laws governing human life. International law and national law are two parts of a larger whole, namely the law governing human life. This polluter pays principle emphasizes the economic aspect rather than the legal aspect because it regulates the policy of calculating the value of damage and its distinction. Simons in *Het beginsel 'de vervuiler betaalt' en de Nota Milieu beffingen*, it is said that the polluter pays principle which originates from economics is based on the idea that the polluter is merely someone who pollutes which he should be able to avoid. Similarly, legal norms in the form of prohibitions and licensing requirements aim to prevent pollution that could have been avoided.

The polluter pays principle is the principle of allocating costs from entrepreneurs for potential pollution caused, especially in environmental utilization. The justification is that the utilization of the environment for economic activities (production factors), should not be charged to parties who do not participate in enjoying the benefits of business activities. That based on the main principle is “the polluter must be the payer” the category of polluter is all parties involved in the occurrence of air pollution across state borders, the investor is also a beneficiary, it will also become the legal subject of the polluter.”<sup>10</sup>

The polluter pays principle from a legal point of view must be normalized through clear arrangements. Some things that require regulation related to this principle are its affirmation as a principle of legal liability in environmental cases, especially environmental disputes from the side of civil law. As part of the civil law system, “the determination of compensation should be based not only on how much human loss but also include the value of environmental economic valuation, so that

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<sup>9</sup> Dewa Gede Sudika Mangku, “Pelanggaran Terhadap Hak Kekebalan Diplomatik (Studi Kasus Penyadapan Kedutaan Besar Republik Indonesia (KBRI) Di Yangon Myanmar Berdasarkan Konvensi Wina 1961),” *Perspektif* 15, no. 3 (2010): 226–61.

<sup>10</sup> Muhamad Muhdar, “Eksistensi Polluter Pays Principle Dalam Pengaturan Hukum Lingkungan Di Indonesia,” *Mimbar Hukum-Fakultas Hukum Universitas Gadjah Mada* 21, no. 1 (2009): 67–80.

what is expected is a form of protection of human interests and at the same time protecting environmental sustainability.”<sup>11</sup>

### **3.1. Distributor Liability In Transboundary Haze Pollution Case In Riau.**

Responsibility according to the Indonesia general dictionary is the state of being obliged to bear everything. Obligated to bear, bear responsibility, bear everything, or give responsibility and bear the consequences. Legal responsibility is human awareness of intentional behavior or actions. Responsibility also means acting as a manifestation of awareness of one's obligations.

Ridwan Halim defines legal responsibility as a further consequence of the implementation of a role, whether that role is a right and obligation or power. In general, legal responsibility is defined as an obligation to do something or behave in a certain way that does not deviate from existing regulations. Meanwhile, Purbacaraka argues that legal responsibility originates or is born from the use of facilities in the application of each person's ability to exercise rights or and carry out their obligations. Furthermore, it is asserted that every implementation of obligations and every use of rights, whether carried out inadequately or adequately, basically must still be accompanied by accountability, as well as the exercise of power.

Wetlands International states that based on available facts, “almost all forest fires in Indonesia are caused by human activities, whether intentional or unintentional, and there is no evidence of naturally occurring fires.”<sup>12</sup> Herry Purnomo, a researcher at the Center for International Forstry Research, said that many people profit from the fires. He found that land is often deliberately burned to claim ownership. This is what happened in Riau. After the fires were extinguished, it was not long before the burnt land was filled with rows of oil palm trees.<sup>13</sup> Thus we can say that what actually happened was forest and land burning. One of the purposes of forest and land burning is to clear land for plantations.

The most prominent impact of forest and land fires is the of haze that severely disrupts public health and the river, land, sea and air transportation systems. Sectorally, the impact of these fires includes the transportation, health, economic, ecological and social sectors, including the nation's image in the eyes of neighboring countries and the world. The haze that occurred in several regions in Indonesia itself reached across neighbouring countries, one of which was Malaysia and Singapore. The impact directly received by the community ranges from respiratory problems to paralysing community activities due to haze, “this is based on the haze resulting from forest fires in Indonesia from year to year is increasingly familiar as an annual agenda for neighbouring countries and this is accompanied by the economic impact resulting from the haze.”<sup>14</sup> Haze is not a new case in Indonesia, it has been decades

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<sup>11</sup> Muhdar.

<sup>12</sup> Iwan Tri Cahyo Wibisono, Labueni Siboro, and I Nyoman N Suryadiputra, *Panduan Rehabilitasi Dan Teknik Silvikultur Di Lahan Gambut* (Wetlands international, 2005).

<sup>13</sup> Greenpeace Indonesia. “Greenpeace Mengekspos Hutan Gambut Terbakar yang Ditanami Kelapa Sawit”, 2015 <http://www.greenpeace.org/seasia/id/press/releases/Greenpeace-mengeksposhutan-gambut-terbakar-yang-ditanami-kelapa-sawit>

<sup>14</sup> Deni Bram, “Pertanggungjawaban Indonesia Terhadap Pencemaran Kabut Asap Di Kawasan ASEAN (Pendekatan Economic Analysis of Law),” *Jurnal Hukum & Pembangunan* 40, no. 4 (2017): 470–87.

since the issue of haze has always been a conversation that requires the government to handle quickly and precisely to overcome this problem so as not to cause other extraordinary impacts.

The environmental problems that often occur in Indonesia have brought a series of other ecosystems in a widespread manner, not only at the local level, region, island or all parts of the country, but the environmental problems have expanded transnationally, namely at the regional and global levels. It has become a very popular and urgent international issue. Environmental protection is seen as a common interest that can be realized if there is cooperation between countries in the global and regional scope. The importance of cooperation between countries in environmental protection is also contained in Principle 27 of the Rio Declaration, namely:

*States and people shall cooperate in good faith and in spirit of partnership in the fulfillment of principles embodied in this declaration and the development of international law in the field of sustainable development*

“International legal instruments governing transboundary pollution use a global approach, an approach that prioritizes common interests”<sup>15</sup> One of the recommendations of the United Nation Conference on the Environment which deals with environmental issues called the Governing Council for the Environment Programme, the task of UN agencies, in the field of the environment, is to provides advice, and develops techniques and means to take into account environmental considerations.

To overcome global problems, international environmental law has principles that can be used as a legal basis for solving these problems, namely:

1. “The principle of state sovereignty;
2. The principle of common heritage of mankind;
3. Principle of common concern of mankind;
4. The Principle of obligation not to cause environmental harm;
5. The Principle of state responsibility;
6. Principle of intergenerational equity;
7. Principle of common but differentiated responsibility;
8. The precautionary principle;
9. The principle of prevention;
10. The principle of duty to access environmental impacts;
11. The principle of subsidiarity;
12. The principle of good neighborliness and the duty to cooperate;
13. The principle of the duty to provide prior notification and to consult in good faith;
14. Duty not to discriminate regarding environmental harms;
15. Principle of equal right of access to justice (Equal ringht of access to justice);

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<sup>15</sup> Ida Bagus Wyasa Putra, *Hukum Lingkungan Internasional: Perspektif Bisnis Internasional* (Refika Aditama, 2003).

16. The polluter and user pays principle.”<sup>16</sup>

Air pollution caused by forest fires in Riau contradicts the principles of international environmental law and violates the Environmental Protection and Management Law and the Forestry Law. In the principles of international environmental law, there is the principle that it is prohibited to conduct or allow activities that can harm other countries, as well as the principle of good neighbourliness that the territorial sovereignty of a country should not be disturbed by other countries.

In the case of transboundary air pollution, the *polluter pays principle* applies, which requires the polluter to pay and be responsible for any environmental damage caused by their activities. This principle assesses legal events from the consequences caused, namely the harm caused by air pollution. The state can apply this principle to the perpetrators who caused the air pollution. In the *Absolute Obligation of Prevention* principle, the state is also required to take preventive action to prevent pollution. In this case, the government issued the PPLH Law which requires the government to organize its government affairs in the field of environmental protection and management which aims to protect the territory of the Unitary State of the Republic of Indonesia from environmental pollution and damage.

The state also has a supervisory function, through the Environmental Law the government can not only issue environmental permits and business licenses, but is also authorized to supervise compliance with licensing, and compliance with laws and regulations. The Indonesian government as the party that gives permission for business actors to run their business, should provide location permits that are in accordance with business activities and consider the carrying capacity of the environment and the socio-economic community. So as not to cause severe environmental damage and pollution.

International law is usually *soft law*, not regulating how to enforce the law on transnational companies, but only in the form of principles and obligations of transnational companies to maintain environmental integrity. However, in international law, it is said that if a transnational company violates this obligation when it is active in the recipient country, it must be subject to the regulation of the recipient country, so that the law enforcement mechanism is through national legal arrangements.

State responsibility arises based on actions or activities carried out within the territory of a state or under the supervision of the state that have a negative impact on the environment regardless of national borders. State responsibility in international environmental law, especially the issue of transboundary haze pollution. The forms of state responsibility are regulated in the articles of the International Law Commission draft. Forms of compensation can be in the form of:

- a) *Restitution*: The obligation to restore the aggrieved state to its original state
- b) *Compensation*: Obligation of compensation in the form of material or money

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<sup>16</sup> Sri Azora Kumala Sari, “Pencemaran Lintas Batas Akibat Kebakaran Hutan: Suatu Perspektif Dari Ekologi Dan Hukum Lingkungan Internasional,” *Skripsi Departemen Hukum Internasional, Fakultas Hukum Universitas Sumatera Utara*, 2008.



c) *Satisfaction*: Resentment, formal apology

Legislation governing environmental law, environmental legal liability consists of administrative, civil and criminal. Violations of environmental law are clearly stated in the PPLH Law and its derivative regulations. However, national environmental law enforcement still does not accommodate justice in terms of environmental law protection and management in Indonesia. So that the legal responsibility carried out by the Indonesian government in practice does not fully adopt the principles of international environmental law. However, the application of sanctions as a form of international legal liability in the ASEAN agreement on transboundary haze pollution is only in the form of assessments against countries that cause pollution. So that the substance of the transboundary air pollution agreement is also weak to be able to carry out environmental law enforcement.

In this case, contributors from the victim or victim category as the aggrieved party are also taken into consideration to carry out legal liability. National banks and the World Bank as financiers and beneficiaries who finance HGU companies that burn land causing land fires as legal subjects who are also responsible. Liability for transboundary haze pollution that causes pollution only targets the licensor as the state and the corporation as the licensee, but the position of the capital provider, namely the National Banks and the World Bank, is also the same as the beneficiary, financing of companies that carry out land clearing that is not RSPO standard is also a reference for providing capital, the Bank does not have a public policy to prohibit land clearing and fire bans, but the principle of prudence that is always upheld in every decision-making on providing capital related to natural sustainability should be an aspect of the Capital Provider in making a capital grant contract.

### **3.2. Distributional justice and ethics towards environmental justice in relation to Distributor Polluters of transboundary haze pollution in Riau**

Young made the earliest direct and forceful challenge to theories of justice based solely on issues of distribution, criticizing those theories for focusing overwhelmingly on schemes of distribution, while ignoring the social context in which unjust distributions exist.<sup>17</sup> Simply put, Young insisted that distributional patterns happen for a reason, and the reality of domination and oppression must be taken as the starting point for any thorough and pragmatic theory of justice. Young argues that while theories of distributive justice offer models and procedures by which distribution may be improved, none of them thoroughly examine the social, cultural, symbolic, and institutional conditions underlying poor distributions in the first place. The critique is not simply one against the various models of distributive justice, but of the way distributive theories simply take goods as static, rather than due to the outcome of various social and institutional relations. The claim here is straightforward: 'While distributional issues are crucial to a satisfactory conclusion of justice, it is a mistake to reduce social justice to distribution'. In moving towards justice, issues of distribution are essential but incomplete. Injustice is not solely based on inequitable distribution or, more to the point, there are key reasons why

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<sup>17</sup> Iris Marion Young, *Justice and the Politics of Difference* (Princeton University Press, 1990).

some people get more than others<sup>18</sup> (theories of justice based solely on distributional issues, criticize such theories for focusing heavily on distributional schemes, while ignoring the social context in which there is unfair distribution. Simply put, that patterns of distribution occur for a reason, and the reality of domination and oppression should be taken as the starting point for a thorough and pragmatic theory of justice. Young argues that while distributive justice theories offer models and procedures by which distribution can be improved, none of them thoroughly examine the social, cultural, symbolic, and institutional conditions underlying distributional poverty in the first place. The critique is not only one of the various models of distributive justice, but of the way distributive theory simply takes goods as static, rather than as the result of various social and institutional relations. The claim here is straightforward: 'While distributional issues are crucial to a satisfactory conclusion of justice, it is a mistake to reduce social justice to distribution. In moving towards justice, distributional issues are crucial but incomplete. Injustice is not solely based on unfair distribution or, rather, there are underlying reasons why some people get more than others.

The Rio de Janeiro Declaration is also the second UN conference on the environment after the first UN conference on the environment in Stockholm Sweden in 1972. The Rio de Janeiro Declaration sets out a series of principles as guidelines for the future, such as human rights to development, and human responsibility for the preservation of the shared environment. Cases of forest and land fires that occur in Indonesia are caused by human activities in the production and expansion of land by burning land, which can be concluded that these activities have caused losses to other countries, especially Malaysia and Singapore. "What is interesting in this case is that some of the perpetrators of forest fires in Indonesia are companies from Malaysia and Singapore."<sup>19</sup>

Greenpeace Indonesia found that "there are at least four groups of companies with offices in Malaysia and Singapore associated with forest fires that spread haze in the Southeast Asian region. They are IOI, Genting, Kuala Lumpur Kepong and Bukitana."<sup>20</sup> Although most of the forest fires occurred in Indonesia, addressing this issue is not only Indonesia's responsibility. From the 2019 forest fires, there has been an increase in complaints of respiratory and eye diseases in Singapore and Malaysia since September. Indonesia's National Disaster Management Agency (BNPB) announced in September that nearly one million people were diagnosed with acute respiratory infections in haze-affected areas, with children and the elderly being the most vulnerable groups.

Categories of Distributor Polluters in transboundary haze pollution in Riau include

- a) The Permit Grantor is the State

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<sup>18</sup> David Schlosberg, *Defining Environmental Justice: Theories, Movements, and Nature* (OUP Oxford, 2007).

<sup>19</sup> Nisrina Bilqis, "Analisis Dampak Kasus Kebakaran Hutan Di Indonesia Terhadap Hubungan Diplomatik Indonesia Dengan Malaysia Dan Singapura," *Gorontalo Journal of Government and Political Studies* 3, no. 2 (2020): 55–69.

<sup>20</sup> Greenpeace Indonesia, "KTT ASEAN Kesempatan Para Pemimpin Menghentikan Masalah Kabut Asap Karhutla Lintas Batas," [greenpeace.org](https://www.greenpeace.org/indonesia/siaran-pers/4128/ktt-asean-kesempatan-para-pemimpin-menghentikan-masalah-kabut-asap-karhutla-lintas-batas/), 2019, <https://www.greenpeace.org/indonesia/siaran-pers/4128/ktt-asean-kesempatan-para-pemimpin-menghentikan-masalah-kabut-asap-karhutla-lintas-batas/>.

- b) The Licensee is a Corporation or Company in the field of Plantation
- c) Financiers as Beneficiaries, namely Banks

It cannot be denied that the licensor and licensee are the main actors in transboundary haze pollution but no less crucial is the role of the Bank in providing capital.

#### **4. Conclusion**

Forest and land fires that occur in Indonesia are caused by the activities of companies in clearing land by burning forests for plantation purposes to save costs. The advantage for companies is that they do not need to spend more money on operational equipment during these activities. In addition to creating peat craters, forest fires create more air pollution. The effect has caused air pollution to reach neighboring Singapore and Malaysia. Such is the case in Riau Province. In this case, legal responsibility can be borne by several parties based on the principles of international law ratified by Indonesia.

Distributor liability in the case of transboundary haze pollution in Riau, namely forest and land fires caused by oil palm land clearing that is not based on RSPO principles and criteria that environmental impact assessment plans and pollution prevention are absolute assessments in the RSPO, ethically The responsibility of polluters is not only to the perpetrators and licensors but there are also responsibilities of beneficiaries, including the capital provider, namely the Bank. Categories of Distributor Polluters in transboundary haze pollution in Riau include; a) The licensor is the State, b) The Licensee is a Corporation or Company in the field of Plantation; c) Financiers as Beneficiaries, namely Banks. It cannot be denied that the licensor and licensee are the main actors in transboundary haze pollution but no less crucial is the role of the Bank in providing capital.

So the parties responsible in the case of transboundary air pollution or Transboundary Haze Pollution in addition to the polluters, namely palm oil companies in Riau, also involve the state, in this case the Indonesian government as the party authorized to grant licenses and supervise the business licenses that have been issued, as well as being responsible as a contributor, namely the state of Singapore because of its financing to companies that pollute air in Riau. As well as making financiers, namely banks, as one of the distributors in cross-border pollution in accordance with the polluter pays principle which is the main principle that the polluter must be the payer.

So that cross-border air pollution that occurs in Riau not only has an impact on diseases that arise due to smoke but also diplomatic relations with affected countries such as Singapore and Malaysia, international law which is essentially only soft law, oil palm plantations are initially very profitable from various parties but instead of that land clearing by burning triggers transboundary haze pollution which distribution, benefits and risks become unequal and produce environmental injustice.

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**Conflict of Interest Statement:** The author(s) declares that the research was conducted in the absence of any commercial or financial relationship that could be construed as a potential conflict of interest.

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