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CRIMINAL LIABILITY FOR NEGLIGENT FOREST FIRES IN BROMO NATIONAL PARK

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Abstract: *Forest fires in conservation areas present complex legal challenges, particularly in determining criminal liability for parties who do not directly cause the physical act but exercise control over risk-generating activities. The forest fire incident in Bromo Tengger Semeru National Park in 2023 highlights the need to re-examine the application of negligence-based liability within environmental criminal law. This study aims to analyze the juridical basis of criminal liability for negligence in forest fire cases, with a particular focus on the responsibility of activity organizers in conservation areas. The research employs a normative legal method using statutory and conceptual approaches, supported by primary and secondary legal materials that are analyzed qualitatively through a descriptive-analytical technique. The findings indicate that forest fire offenses constitute material offenses, requiring the occurrence of environmental harm as a constitutive element, thereby emphasizing the importance of establishing a causal relationship between negligent conduct and the resulting damage. Furthermore, criminal liability may be imposed on responsible parties who possess the authority to control activities, provided that elements such as duty of care, foreseeability of risk, capacity to prevent harm, and failure to take reasonable preventive measures are proven. This study concludes that the imposition of criminal liability in the Bromo case remains grounded in the principle of culpability rather than strict liability, reinforcing the doctrine of geen straf zonder schuld while expanding its application to functionally responsible actors in environmental contexts*.

Keywords: *Criminal Liability; Negligence; Forest Fire; Environmental Law; Bromo National Park*

I. INTRODUCTION

As a state governed by law, Indonesia places legal principles at the core of its national governance, including the obligation to protect public interests and to ensure sustainable environmental management. Forests occupy a central position in this arrangement: they maintain ecological balance while supporting social welfare and economic development, so their protection cannot be left solely to market mechanisms or private interests, but is structured through a legal

framework that emphasizes sustainability and accountability.[1] Within this framework, national parks hold a strategic position: they are designated to preserve biodiversity and maintain ecosystem stability, and the law accordingly imposes a higher standard of protection and precaution on any human activity conducted within them.[2]

Within environmental law, forest fires are among the most demanding forms of ecological harm because their consequences extend across ecosystems, local communities, and economic sectors. Prior studies have shown that Indonesian regulation distinguishes between forest burning committed intentionally and harm caused through negligence, attaching criminal liability to both forms of conduct, and that liability generally requires proof of either intent (*dolus*) or negligence (*culpa*). Scholarship has contributed substantially to clarifying this framework by examining fault as the foundation of criminal responsibility, the enforcement of forest fire offenses against corporate actors, and the role of strict liability in environmental accountability.[3] These studies have concentrated, however, on direct perpetrators who physically cause the fire. Less attention has been given to persons who do not personally perform the act that triggers the harm, yet organize, direct, or benefit from the activity that generates the risk, even though forest fire cases frequently present such multi-actor configurations.

The forest fire in Bromo Tengger Semeru National Park (TNBTS) in September 2023 provides a concrete context for this inquiry. The fire originated from flares used during a commercial pre-wedding photoshoot in the park's savanna and spread rapidly under dry seasonal conditions, damaging the savanna ecosystem.[4] A distinctive feature of the case lies in the orientation of the proceedings: criminal liability was directed at the event organizer as the party responsible for the activity, not at the individual who physically ignited the flare. The case thus illustrates a shift from physical perpetration toward functional responsibility for risk-generating activities in conservation areas. This configuration raises doctrinal questions that

[1] M. A. Syahputra & E. I. Israhadi, "Dynamics of Legal Certainty in Forest Area Management Between Economic Utilization and Environmental Sustainability," Majelis: Jurnal Hukum Indonesia, Vol. 2, No. 3 (2025), p. 126–137.

[2] L. Yustitianingtyas, L. Y. E. Pratiwi, A. D. Irawan, D. Stansyah, & S. Arifin, "Environmental Law Policy in Indonesia: Challenges and Sustainable Justice," IOP Conference Series: Earth and Environmental Science, Vol. 1473, No. 1 (2025), p. 012046.

[3] N. K. A. Sari & A. Gunadi, "Corporations As Legal Subjects In Environmental Crimes," Journal La Sociale, Vol. 5, No. 5 (2024), p. 1230–1239; S. Sopiyanto, T. Y. Chandra, & M. Ismed, "Pertanggungjawaban Pidana Korporasi Pelaku Tindak Pidana Pembakaran Hutan dan Lahan untuk Kepentingan Perkebunan Sawit di Indonesia," SINERGI: Jurnal Riset Ilmiah, Vol. 1, No. 8 (2024), p. 575–584.

[4] E. Hadiwijoyo, "Pola Kebakaran Hutan di Areal Konservasi Studi Kasus di Taman Nasional Bromo Tengger Semeru," Journal of Tropical Silviculture, Vol. 14, No. 2 (2023), p. 114–118; N. A. N. Sidik, Y. Sumiyati, & M. I. Abidin, "Penanggulangan Kerusakan Savana Gunung Bromo sebagai Kawasan Taman Nasional Akibat Penyelenggaraan Kegiatan Prewedding Menurut Peraturan Perundang-undangan tentang Pengendalian Kerusakan Hutan pada Taman Nasional," Bandung Conference Series: Law Studies, Vol. 4, No. 2 (2024), p. 874–879.

reach beyond a single case. On what normative basis can criminal liability be attributed to a person who did not perform the physical act of ignition? Which elements must be established to show that such a person acted negligently? How should causation be understood when the harm results from an interaction between an immediate act, environmental conditions, and a failure of supervision? These questions concern the coherence of criminal liability in environmental law and its fidelity to the principle of fault.[5]

Scholarship on corporate criminal liability for negligent forest burning and on judicial decision-making in forest fire litigation has laid important groundwork for answering these questions.[6][7] The standards governing the attribution of negligence-based liability to functionally responsible actors, including the interpretation of foreseeability, control, and duty of care in ecologically sensitive areas, have nonetheless not yet been consolidated into a single analytical structure. This article takes up that task.

Accordingly, this study analyzes the juridical basis of criminal liability for negligence in forest fire cases, focusing on the responsibility of activity organizers in conservation areas. Its contribution is threefold. First, it clarifies the structure of forest fire offenses as material offenses, in which environmental harm is a constitutive element and causation becomes the analytical center of gravity. Second, it articulates duty of care, breach, foreseeability, and causal contribution as an operational framework for assessing the conduct of responsible parties. Third, it examines, through the Bromo case, whether attributing liability to functionally responsible actors remains consistent with *geen straf zonder schuld*, without recourse to strict liability. The article proceeds in four sections. The second section describes the research method. The third analyzes the statutory framework of forest fire offenses, the doctrine of negligence, the role of causation, the attribution of liability to the responsible party in the Bromo case, and the implications for enforcement. The fourth presents the conclusions.

II. RESEARCH METHODS

This study employs normative legal research, which examines law as a system of norms and evaluates the consistency, coherence, and applicability of legal provisions in relation to a concrete problem: the attribution of criminal liability for

[5] H. L. Fraser & N. P. Suzor, "Locating Fault for AI Harms: A Systems Theory of Foreseeability, Reasonable Care and Causal Responsibility in the AI Value Chain," Law, Innovation and Technology, Vol. 17, No. 1 (2025), p. 103–138; Y. Gao, "The Structural Logic and Criminal Application of the Theory of Supervisory Negligence," Journal of Law, Psychology, and Communication Studies, Vol. 1, No. 1 (2025), p. 180–198.

[6] N. N. A. R. Ganitri, I. N. G. Sugiartha, & I. K. R. Setiabudhi, "Corporate Criminal Liability for Criminal Negligence of Forest and Land Fire Causes: Decision Study: Number 71/Pid B/LH/2021/PN Snt," Journal of Court and Justice, Vol. 3, No. 2 (2024), p. 1–13.

[7] E. Purwanto, R. Sjarief, & M. Z. Saleh, "Legal Dynamics in Environmental Accountability: A Case Study of Forest Fire Litigation in Indonesia," International Journal of Environmental Impacts, Vol. 7, No. 1 (2024), p. 25–30.

negligence in forest fire cases where the person held responsible did not perform the physical act causing the harm. A statutory approach surveys the instruments governing forestry, environmental management, and conservation areas; a conceptual approach examines the doctrines constructing criminal liability, including culpability, negligence (*culpa*), causation, and functional perpetration.

The primary legal materials are the statutes directly regulating the subject matter: Law No. 41 of 1999 on Forestry, Law No. 32 of 2009 on Environmental Protection and Management, Law No. 5 of 1990 on the Conservation of Living Resources and Their Ecosystems, Government Regulation No. 4 of 2001 on the Control of Forest Damage and/or Forest Fires, and the Criminal Code provisions on negligence. The September 2023 TNBTS fire and the ensuing proceedings serve as the focal case, reconstructed from publicly documented records and published analyses. Secondary materials include scholarly articles, textbooks, and previous research on environmental criminal law, negligence, and corporate criminal liability, used to map the doctrinal landscape and situate this study's findings within the broader scholarly conversation.

All materials are analyzed qualitatively through a descriptive-analytical technique, complemented by prescriptive argumentation, in three steps: first, the statutory provisions are examined to establish the structural character of forest fire offenses; second, the doctrinal elements of negligence are specified with sufficient precision to apply to the conduct of responsible parties; third, the resulting framework is applied to the Bromo case to assess whether the organizer's liability can be justified within the principle of culpability. The scope is deliberately doctrinal. The study does not evaluate the evidentiary record or the proportionality of the sentence, and it does not claim to describe enforcement practice in general; its claims are confined to the normative structure of the offense and the conditions under which the liability of responsible parties can coherently be attributed.

III. ANALYSIS AND DISCUSSION

a. The Statutory Framework of Forest Fire Offenses in Indonesian Law

Indonesian law addresses forest fires through statutes operating at different levels of specificity. Law No. 41 of 1999 on Forestry contains the core provisions: Article 97 criminalizes intentional forest destruction and damage, including through fire, while Article 99 paragraph (1) criminalizes negligent conduct causing forest destruction or fire, with imprisonment of up to five years and a fine of up to IDR five billion. The two provisions form a gradation of culpability, attaching different regimes to intentional and negligent conduct while treating both as punishable. Government Regulation No. 4 of 2001 complements them with preventive obligations for owners, permit holders, and activity organizers.

Law No. 32 of 2009 on Environmental Protection and Management adds a second layer: Article 108 criminalizes negligent conduct causing environmental pollution or destruction, with imprisonment of up to three years and/or a fine of up to IDR three billion, while administrative instruments, including written orders to cease activities or mitigate damage, address ongoing risk. The design reflects a dual-track model of accountability: administrative instruments manage risk, while criminal law responds to culpable conduct that has produced or endangered concrete harm.[8]

For conservation areas, Law No. 5 of 1990 on the Conservation of Living Resources and Their Ecosystems provides the specific regime. National parks are designated for the preservation of biodiversity and ecosystems; activities are permitted only in defined utilization zones and remain subject to conservation requirements. Commercial activities such as photography services therefore proceed within a regulatory environment that already signals an elevated standard of care, and the decision to protect these areas comprehensively reinforces the expectation that organizers will anticipate risks the environment itself can amplify.

The structural feature most relevant here is the consequence-oriented character of these provisions. Forest fire offenses are material offenses: the destruction or damage of the forest ecosystem is a constitutive element of the crime, so liability depends on the materialization of harm to legally protected interests, not on the performance of a prohibited act alone. Prosecution must therefore prove both that the harm occurred and that it is attributable to the accused, and the assessment of negligence cannot be separated from the gravity and foreseeability of the potential consequences.

A recurring question is whether strict liability should complement this fault-based architecture. Article 88 of Law No. 32 of 2009 adopts strict liability, but its operation is generally understood within civil liability and administrative instruments, where it strengthens remediation without proof of fault.[9] Proposals to extend strict liability into corporate criminal liability for environmental offenses have been advanced,[10] yet the position developed here is that the fault-based framework remains the

[8] A. M. Zaenudin, K. Kristiawanto, & M. Maryano, "Criminal Law Enforcement Against Perpetrators of Environmental Pollution in The Criminal Justice System in Indonesia," Policy Law Notary and Regulatory Issues (POLRI), Vol. 4, No. 2 (2025), p. 191–210.

[9] M. A. A. Fikri, "Implementation of Strict Liability by Companies in Cases of Environmental Damage in Indonesia: An Overview of State Administrative Law in Indonesia," Indonesian State Law Review (ISLRev), Vol. 5, No. 2 (2022), p. 41–52.

[10] M. F. Ikhsan, A. R. Adyan, & H. Hatrik, "Opportunities for Implementing the Principle of Strict Liability as a Basis for Corporate Criminal Responsibility in Environmental Offenses," Bengkoelen Justice: Jurnal Ilmu Hukum, Vol. 13, No. 2 (2023), p. 228–243; F. S. Siagian, M. Saragih, F. M. Silaban, & S. Firouzfar, "Implementation of Straight Liability and Liability Based on Fault Concepts in Environmentally Sound Economic Development in Indonesia," Journal of Mujaddid Nusantara, Vol. 1, No. 2 (2024), p. 87–100.

appropriate basis for criminal liability in forest fire cases: it preserves the connection between punishment and blameworthiness while remaining capable of reaching functionally responsible actors, as the following sections seek to show. Taken together, these provisions establish a coherent foundation: a gradation of culpability, a consequence-oriented offense structure, preventive obligations for organizers, and a separation between fault-based criminal liability and risk-based administrative accountability. What remains is to specify how negligence operates in multi-actor configurations.

b. Negligence as the Doctrinal Basis of Criminal Liability

Indonesian criminal law rests on the principle of culpability, expressed in the maxim *geen straf zonder schuld*: punishment presupposes a blameworthy relationship between the offender and the prohibited result. Negligence is not simply the absence of intent (*dolus*); it has its own normative structure (*culpa*): the actor violates an objective standard of care attached to the activity, and the violation is blameworthy because the actor was capable of conforming to the standard and the harm was foreseeable. Comparative scholarship converges on the same reading of negligence as a substantive ground of liability rather than a residual category.

Four elements structure the analysis: the existence of a duty of care, its breach, the foreseeability of the harm, and the causal contribution of the negligent conduct to the result. The duty's content derives from statutes, regulations, technical standards, and the circumstances of the activity. Breach is established when conduct falls short of the standard; foreseeability connects breach to blame, since only risks a reasonable person in the actor's position would have recognized justify the reproach of negligence; and causal contribution connects the breach to the material result required by a material offense.[11] The elements operate cumulatively, and the failure of any one precludes liability based on negligence.

The standard of care is objective but not abstract; it is calibrated to the activity. Persons organizing commercial activities are expected to possess, or obtain, the competence to assess the risks such activities create, much as professionals are assessed against what a reasonably competent practitioner would have done in the same situation. Applied to activities in natural environments, the question is whether a reasonably careful organizer, familiar with the area and the season, would have recognized and addressed the risk.

[11] A. Giannini & J. Kwik, "Negligence Failures and Negligence Fixes: A Comparative Analysis of Criminal Regulation of AI and Autonomous Vehicles," Criminal Law Forum, Vol. 34, No. 1 (2023), p. 43–85; C. Mustafa, "A Cross-Jurisdictional Exploration of Inadvertent Negligence in Legal Theory and Practice," Jurnal Hukum dan Peradilan, Vol. 14, No. 1 (2025), p. 131–160; A. Y. Pratama, A. I. Fardiansyah, & S. Riski, "Analisis Pertanggungjawaban Pidana terhadap Kelalaian Tenaga Kesehatan yang Menyebabkan Kematian Pasien," Jurnal Multidisiplin Ilmu Akademik, Vol. 2, No. 5 (2025), p. 342–349.

Conservation areas sharpen this calibration. Their designated status and the regulatory expectations attached to them define a higher baseline of care than ordinary land use. In the TNBTS savanna, dry vegetation, seasonal drought, and wind exposure made the fire risk attendant on open flames plainly foreseeable during the dry season. Foreseeability here does not require predicting a specific course of events; it requires recognizing that the activity could ignite a fire with extensive and difficult-to-control consequences. That recognition is precisely what the elevated protective status of the area demands from those who organize activities within it.

The use of flares under these conditions was therefore a risk-creating activity in the doctrinal sense: its danger exceeded the level the lawful order tolerates without special precautions. This grounds the duty of care in whoever undertakes the activity, and it also defines that duty in negative terms: refraining from the activity absent safeguards is itself a form of risk management available to the organizer, which makes the omission a culpable choice rather than a mere misfortune. Negligence thus operates as an independent and substantive basis of liability in forest fire cases. What must be established is not that the responsible party intended the fire or performed any physical act, but that the party breached a duty of care defined by the risk-creating character of the activity and its ecological context. How such a breach connects to the material result is the question to which the analysis now turns.

c. Forest Fire Offenses as Material Offenses and the Requirement of Causation

The distinction between formal and material offenses determines the analytical center of gravity in forest fire cases. Forest fire offenses are material: the crime is complete only when the prohibited result occurs, and the destruction the fire causes is the legally relevant harm. Conduct that produces no such harm may trigger administrative consequences, but not the completed offense.[12] In consequence, the result organizes the entire assessment of the case.

The material character elevates causation to a constitutive requirement. Prosecution must establish that the negligent conduct satisfies two thresholds: factual causation, meaning the harm would not have occurred as and when it did without the conduct, and normative qualification, meaning the law regards the conduct as an adequate and blameworthy cause of the result. In doctrine, the normative stage is often articulated as the objective imputation of the result: the harm must be the realization of the very risk that made the conduct negligent, so that it falls within the scope of the danger the duty of care was meant to prevent. Scholarship on causal attribution emphasizes that this normative stage is where the

[12] A. Belov, "Forest Fires as a Criminal Phenomenon," Law. Safety. Emergency Situations, No. 3 (2023), p. 61–68.

legal question is actually decided, separating contributions that are merely factual from those that are legally attributable.

Forest fire cases are typically multi-actor: an immediate actor performs the physical act, environmental conditions amplify the harm, and one or more persons organize or supervise the activity. In such configurations, causation is better understood as a network of contributions than as a single chain: each participant's contribution is assessed according to the risk that participant introduced or failed to control and the control available to them. On this view, a failure of supervision is a legally relevant cause when it allowed the pathway through which the immediate risk materialized into harm, a mode of reasoning consistent with approaches to fault allocation in complex activity chains developed in comparative scholarship.

The evidentiary dimension deserves separate attention. Judicial practice in forest fire cases has developed around demonstrating the origin and spread of the fire, the extent of ecological damage, and the accused's conduct in relation to preventive obligations, while judicial reasoning in environmental cases has increasingly accommodated ecological considerations in assessing harm and sanctions.[13] Courts accordingly treat causation and harm as matters requiring concrete, case-specific demonstration.

Two conclusions follow for the Bromo case. First, attributing liability to the responsible party was justifiable only if the proceedings demonstrated both the occurrence of environmental harm and a legally sufficient connection between that harm and the failure of supervision attributed to the organizer. Second, the material structure of the offense protects defendants from liability by association: organizing an activity in which a fire occurs is not, by itself, criminal. The causal requirement disciplines the extension of liability to functionally responsible actors.

d. Attribution of Criminal Liability to the Responsible Party in the Bromo Case

The proceedings following the September 2023 fire oriented criminal liability toward the event organizer as the responsible party for the photoshoot, not toward the individual who ignited the flare. As documented in analyses of the case, the organizer occupied the position through which the activity was planned, priced, scheduled, and conducted, including the selection of the savanna location and the decision to proceed during the dry season. Its doctrinal justification therefore requires an account of how negligence-based liability can attach to a person whose contribution to the harm is organizational.

[13] D. X. L. Jara, "El Problema del Nexo Ontológico en la Atribución de Responsabilidad Penal en el Ecuador," Iuris Dictio, No. 36 (2025), p. 11; A. Jiwanti & E. Soponyono, "The Urgency of Judge's Legal Reasoning in Deciding on an Environmental Crime Case Based on an Ecocentric Approach," Jurnal Jurisprudence, Vol. 12, No. 1 (2022), p. 71–91.

Indonesian doctrine offers such an account through functional perpetration (*functioneel daderschap*), under which a person is treated as the perpetrator when, without performing the definitional act personally, that person controls the conditions under which the act occurs. Although developed for cases where the act is performed by another person subject to the accused's direction, its rationale is general: the decisive criterion is control over the causal course of events, not physical performance. An organizer who determines whether, when, where, and how a risk-creating activity proceeds exercises control of precisely this kind, and scholarship on corporate criminal liability has applied comparable reasoning to directors and managers whose control over organizational conditions connects them to offenses committed in business activities.[14]

The same conclusion is supported by the doctrine of supervisory negligence, developed in comparative scholarship for actors responsible for the conduct of others and the safety of processes under their direction.[15] It attaches where the supervisor had a duty to oversee the activity, the capacity to intervene, and the means to recognize an emerging risk, and failed to act on them. In commercial activities in conservation areas, the organizer is the paradigmatic supervising actor: the role exists to manage the activity so that it conforms to legal and safety requirements.

Applied to the Bromo case, these instruments yield a structured assessment. The organizer's control extended to the elements most relevant to the risk: the choice of an open savanna location within a national park, scheduling the activity in the dry season, including pyrotechnic equipment, and the absence of precautions at the site. Each lies within the ordinary competence of an activity organizer and none requires expertise beyond what organizing a commercial activity in a protected area presupposes. The liability attributed to the organizer was thus grounded in decisions and omissions within the organizer's own sphere of responsibility, not in the conduct of another person that the organizer merely failed to foresee.

The conditions under which negligence-based liability can be attributed to a responsible party are cumulative, and their operational content in the Bromo context is summarized in Table 1, which translates the doctrinal elements into indicators that can be assessed in concrete cases.

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[14] Carwan & S. I. Lestari, "Pertanggungjawaban Pidana Korporasi dan Pengurusnya dalam Penegakan Kerusakan Lingkungan Hidup akibat Limbah B3," Syntax Idea, Vol. 5, No. 11 (2023), p. 2130–2145; N. K. A. Sari dan A. Gunadi, "Corporations As Legal Subjects In Environmental Crimes," Journal La Sociale, Vol. 5, No. 5 (2024), p. 1230–1239.

[15] Y. Gao, "The Structural Logic and Criminal Application of the Theory of Supervisory Negligence," Journal of Law, Psychology, and Communication Studies, Vol. 1, No. 1 (2025), p. 180–198.

Table 1. Cumulative Conditions of Negligence-Based Liability of the Responsible Party and Their Operational Indicators

Element	Normative Rationale	Application in the Bromo Case
Legal duty of care and supervision	Forestry, environmental, and conservation statutes impose preventive obligations on activity organizers	The organizer planned and facilitated a commercial photoshoot inside a national park during the dry season
Functional control over the activity	Position-based authority to determine, restrict, or stop the activity	The organizer determined the location, schedule, equipment, and conduct of the activity
Foreseeability of the harm	Objective assessment based on ecological and seasonal conditions	Dry savanna vegetation, seasonal drought, and wind exposure made the fire risk evident
Omission of reasonable preventive measures	Failure to adopt precautions proportionate to the known risk	The activity proceeded without precautionary measures proportionate to the known risk
Causal contribution to the harm	Legally sufficient connection between the omission and the material result	The fire spread from the activity site into the surrounding savanna ecosystem

Three features of this framework deserve emphasis. The conditions are cumulative, so the absence of any one defeats liability, protecting responsible parties from being held accountable merely because an accident occurred in the course of their activity. The framework is fault-based throughout: each condition articulates a dimension of blameworthiness, from the existence of a duty to the failure to discharge it. And it requires no proof of intent: it operates entirely within the doctrinal space of negligence, creating no new offense and departing from no statutory definition.

The distinction between this fault-based attribution and strict liability is fundamental. Strict liability dispenses with proof of fault and grounds responsibility in the actor's position as manager of a risk source; its recognized function is to strengthen remediation in civil and administrative settings, and its extension into criminal liability for environmental offenses remains debated.[16] The Bromo proceedings show that criminal law can reach functionally responsible actors without abandoning the constraint of blameworthiness: what justified liability was not the organizer's position as such, but the breach of the duty of care attached to that position.

[16] P. Hanum, R. Ika Pratiwi, I. Doly Indra Utama, Y. Muslim, & M. Ismelina Farma Rahayu, "The Principle of Strict Liability in Legal Responsibility for Environmental Pollution: A Conceptual Analysis," International Journal of Educational Research & Social Sciences, Vol. 6, No. 2 (2025), p. 259–261.

The case also illuminates the relationship between individual and corporate liability. Where a corporation conducts the activity, criminal liability may attach both to the corporation as a legal subject and to the persons exercising functional control within it,[17] with scholarship developing criteria such as the person's position in the organization and the connection between the offense and the corporation's activities. The Bromo case, organized by a non-corporate actor, shows that the functional framework operates independently of the corporate form: what matters is control over the risk-creating activity, not the legal personality through which it is conducted.

The analysis therefore supports a measured conclusion: the attribution of liability in the Bromo case is best understood as the ordinary application of negligence doctrine to a configuration in which control over a risk-creating activity was concentrated in the hands of an organizer. This reading preserves the principle of culpability and avoids two extremes: treating the outcome as a departure from fault-based liability, and treating the organizer's position as a basis of responsibility irrespective of fault.

e. Implications for Environmental Criminal Law Enforcement in Conservation Areas

The framework carries practical implications for activities in conservation areas. Organizers of commercial activities, including photography services, event management, and tourism facilitation, should integrate risk assessment into their operations: evaluating seasonal and weather conditions, identifying prohibited or high-risk equipment, securing the required permits and observing area-specific conditions, and preparing emergency measures proportionate to the risk. These obligations operationalize the preventive duties in Government Regulation No. 4 of 2001 and the conservation requirements of Law No. 5 of 1990, and they serve the organizer's own interest, since the criminal assessment of negligence turns on the precautions that were available and omitted.

For enforcement authorities, the framework underlines consistency and legal certainty. Liability of responsible parties should be assessed through the cumulative conditions above, on the basis of evidence rather than the gravity of the outcome alone; uniform standards for assessing duty, control, foreseeability, and omission would support equal treatment of comparable cases and reinforce the legitimacy of enforcement in conservation areas.[18] The perception that liability follows the most

[17] S. Alawiyah, B. Waluyo, & I. Triadi, "Criminal Liability of Corporate Shareholders in Environmental Crimes," International Journal of Social Science and Human Research, Vol. 8, No. 4 (2025); N. K. A. Sari & A. Gunadi, "Corporations As Legal Subjects In Environmental Crimes," Journal La Sociale, Vol. 5, No. 5 (2024), p. 1230–1239.

[18] Hanipah, B. Kadaryanto, & I. Harahap, "Pertimbangan Hukum Hakim dalam Putusan Perkara dalam Kebakaran Hutan dan Lahan," The Juris, Vol. 8, No. 2 (2024), p. 517–533; A. Wijayanto, H. A.

visible or most solvent actor, rather than the actor whose breach contributed to the harm, would otherwise weaken deterrence and public confidence.

Judicial practice has a corresponding role. Reasoning in forest fire cases benefits from explicit treatment of foreseeability and the content of the duty of care, since these determine whether attribution to a responsible party satisfies the principle of culpability. Integrating ecological considerations into the assessment of harm and sanctions, which Indonesian courts have begun to develop, aligns the criminal response with the character of environmental offenses and the restorative orientation of environmental law.[19]

The entry into force of the new Criminal Code in early 2026 preserves the relevance of this analysis. The new Code retains negligence as a form of fault, maintains offenses for harm caused through negligence, and consolidates corporate criminal liability. The framework articulated here is therefore not tied to the previous code: assessing responsible parties under the new provisions will continue to require demonstrating duty, breach, foreseeability, and causal contribution.

Finally, the limits of this analysis should be acknowledged. The study is doctrinal and rests on a single case; its framework describes the conditions under which liability can coherently be attributed, not how often they are satisfied in practice. Empirical research on enforcement patterns in conservation areas, sanctions in comparable cases, and organizers' compliance behavior would test and refine the framework. Such research, combined with the doctrinal clarity sought here, would contribute to a more consistent and adaptive practice of environmental criminal law enforcement in Indonesia.

IV. CONCLUSION

This study demonstrates that the imposition of criminal liability on responsible parties in forest fire cases is determined by the ability to establish, on the basis of the elements of negligence, both the breach of a duty of care and its causal connection to the harm. Forest fire offenses are material offenses in which environmental damage is the constitutive element, and the standard of care is calibrated to context: in ecologically vulnerable conservation areas, the foreseeable combination of dry vegetation, seasonal drought, and wind exposure imposes a heightened duty on those who organize activities within them. Liability is

Wiraraja, & S. A. Idris, "Forest Fire and Environmental Damage: The Indonesian Legal Policy and Law Enforcement," Unnes Law Journal, Vol. 8, No. 1 (2022), p. 105–132.

[19] N. N. A. R. Ganitri, I. N. G. Sugiartha, & I. K. R. Setiabudhi, "Corporate Criminal Liability for Criminal Negligence of Forest and Land Fire Causes: Decision Study Number 71/Pid B/LH/2021/PN Snt," Journal of Court and Justice, Vol. 3, No. 2 (2024), p. 1–13; R. Saputra, A. Usada, & M. S. Islam, "Ecological Justice in Environmental Criminal Sanctions for Corporations in Indonesia: Problems and Solution," Journal of Law, Environmental and Justice, Vol. 2, No. 1 (2024), p. 1–17.

determined by whether the failure to fulfill that duty can be connected to the harm, not by the mere occurrence of an accident within the activity.

Furthermore, criminal liability may be attributed to responsible parties without direct physical involvement in the act that ignites the fire, provided four cumulative conditions are established: the existence of a legal duty to supervise and prevent harm, the actual capacity to control the risk-generating activity, the foreseeability of the danger under objective conditions, and the omission of reasonable preventive measures connected to the fire. Functional perpetration and supervisory negligence provide the doctrinal basis for this attribution, and their application in the Bromo case shows that criminal law can reach functionally responsible actors while remaining grounded in culpability. The case therefore does not depart from *geen straf zonder schuld*; it illustrates the principle's capacity to accommodate organizational responsibility in environmental contexts.

The findings also carry practical implications: risk assessment and preventive safeguards should become standard operational practice for activities in conservation areas, enforcement should proceed through transparent and uniform application of the cumulative conditions, and judicial reasoning should articulate the elements of negligence explicitly. Further research on enforcement practice in other environmental contexts involving multi-actor dynamics would consolidate this framework into a consistent foundation for environmental criminal law enforcement in Indonesia.

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