Journal of Innovative and Creativity
Journal Homepage: https://joecy.org/index.php/joecy
e-mail: journaljoecy@gmail.com

Faculty of Education
University of Pahlawan Tuanku Tambusai
ISSN 2776-771X (Online)
ISSN 2962-570X (Printed)
6 (2) 2026, Page: 26940-26945

Legal Certainty of Corporate Responsibility That Causes Environmental Damage: A Study of the Implementation of Criminal Law Enforcement

Suci Ramadani[1], Sumarno[2], Bima Lumbanbatu[3], Sagita Purnomo[4], Haris Habibi[5]
Email : suciramadani@dosen.pancabudi.ac.id[1], sumarno@dosen.pancabudi.ac.id[2], bimamarbun64@gmail.com[3], sagitapurnomo@gmail.com[4], harishabibi19@gmail.com[5]

[1,2,3,4,5] **Program Studi Magister Ilmu Hukum**
Universitas Pembangunan Pancabudi, Medan

Published: May , 2026

ABSTRACT

This research aims to examine in depth the certainty and legal accountability for environmental damage caused by corporate activities, as well as discuss the challenges and obstacles in enforcing criminal sanctions against corporations. This research method is normative juridical with a descriptive-analytical approach to discuss existing legal problems based on laws and regulations and legal norms that apply in society. The results of this study show that the certainty and legal accountability for environmental damage caused by corporate activities in Indonesia have been regulated in Law Number 32 of 2009 concerning Environmental Protection and Management. Corporations as *artificial persons* can only carry out legal acts through the intermediary of their representatives, so that criminal sanctions in the form of imprisonment are imposed on the management or directors, while corporations as legal entities can only be subject to sanctions in the form of fines and administrative sanctions. The policy of enforcing sanctions against corporations that destroy the environment is implemented through penal and non-penal approaches. The penal approach is realized through the enforcement of criminal law based on the provisions of the Criminal Code and Law Number 32 of 2009 concerning PPLH. Meanwhile, non-penalties are carried out through the application *of the principles of Good Corporate Governance* in the company's internal governance, and the implementation of *the Corporate Social Responsibility* (CSR) program.

Keywords: Criminal Law, Corporate Crime, Environment, White Collar Crime

© The Author(s). 2021 Open Access This article is licensed under a Creative Commons Atibution 4.0 International License, which permits use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons licence, and indicate if changes were made. The images or other third party material in this article are included in the article's Creative Commons licence, unless indicated otherwise in a credit line to the material. To view a copy of this licence, visit http://creativecommons.org/licenses/by/4.0

INTRODUCTION

Good and healthy environmental conditions are the human rights of every citizen as mandated by Article 28H of the Constitution of the Republic of Indonesia, but along with population growth, the massive development of industries and plantations causes the sustainability of the ecosystem to be increasingly threatened (Fadli, 2025). In the modern era, like today, large-scale exploitation of nature is very rampant, carried out by legal entities (corporations). Land clearing for housing, plantations, and mining exploration is a corporate activity that contributes greatly to environmental damage (Socalina, 2024).

Based on data from the Corruption Eradication Commission (KPK) until 2025, it is recorded that forest damage in Indonesia has reached 608,299 hectares with an estimated state loss of Rp175 trillion**.** These losses come from various corporate activities such as illegal logging, forest conversion, and abuse of forestry business licenses (detiknews, 2025). Meanwhile, *Greenpeace*'s report on the court decision related to forest and land fires shows that at least 11 companies were found guilty and required to pay compensation and environmental restoration costs totaling Rp18.9 trillion (Greenpeace, 2019).

The Indonesian Forum for the Environment (WALHI) reported 47 corporations to the Attorney General's Office for alleged environmental destruction in 17 provinces. The report stated that the state's estimated losses reached Rp 437 trillion. The existence of the report indicates the impact of natural resource exploitation that has lasted for decades (UGM, 2025).

Indonesia has various regulations in environmental protection, especially in protecting forest ecosystems, such as Law Number 32 of 2009 concerning environmental protection and management, and Law Number 41 of 1999 concerning forestry. This law has regulated criminal sanctions against persons or entities that commit environmental destruction or pollution. However, criminal law enforcement, especially against corporations, still cannot be carried out optimally.

The problem is not only in law enforcement against corporate crimes, but also in the certainty in determining the form of accountability (sanctions) against corporations as perpetrators of environmental crimes. In many cases, it is difficult to determine which party should be liable, whether the legal entity is an entity, a corporate administrator, or another related party. This creates legal uncertainty that has the potential to hinder the process of law enforcement and environmental restoration (Ariadica, 2021).

That, from a legal perspective, corporations are not only seen as legal subjects who have rights, but also obligations, including the obligation not to damage the environment. Therefore, a legal system is needed that is able to provide certainty regarding corporate accountability mechanisms, both civil, criminal, and administrative (Satria, 2017).

There is a gap between corporate criminal law *in abstracto* and law enforcement *in concreto due to the* imperfect formal legal arrangement of the mechanism for criminalizing corporations as perpetrators of crimes holistically. As a result, the implementation of corporate criminal liability enforcement is running in a fragmentary manner, causing inconsistencies in the implementation of the accountability model, as well as disparities in punishment and criminal liability for corporations (Socalina, 2024).

In addition, conflicts of interest, economic and political pressure are the main obstacles in the enforcement of criminal law against corporations that destroy the environment. The government and law enforcement tend to prioritize the aspect of compensation for environmental restoration rather than applying criminal sanctions. This condition illustrates that the enforcement of criminal law against corporations for environmental damage is still not running optimally (Arman et al., 2021).

RESEARCH METHODS

This research method is normative juridical, which analyzes legal regulations, jurisprudence, and norms that apply in society. The descriptive-analytical approach is used to collect data systematically, factually, and accurately on legal issues based on applicable legal norms, followed by analysis in accordance with laws and regulations. Data collection is carried out through literature studies, including laws and regulations, government regulations, village regulations, books, scientific papers, journals, and supporting materials such as magazines, newspapers, and articles (Triono Eddy, 2025).

DISCUSSION

Certainty and legal accountability for environmental damage caused by corporate activities

One of the main factors causing the rampant environmental damage and pollution by corporations is the weak enforcement of criminal laws (sanctions). Corporate crime belongs to the category *of high-level crime* that is carried out in an organized manner with careful planning, involving elite interests, so that it is quite difficult to act on them. In addition, a corporation is an abstract legal subject or legal entity that does not have a physical body like a person, so it cannot be sentenced to corporal punishment (imprisonment) (Wardana, 2015).

A Limited Liability Company is an independent legal subject with a separate existence from its shareholders. The Company has an organ (Board of Directors) as a representative. Unlike humans, corporations are *artificial persons*, which can only carry out legal acts with the intermediary of their representatives (Khairil Andi Syahrir, 2022). As a legal entity and by law, the Board of Directors is tasked with representing the corporation both in and out of court. Corporations that commit crimes are not easy to prosecute because corporate crimes contain elements of *deceit*, *misrepresentation*, *concealment of facts*, *manipulation*, *breach of trust*, and illegal *circumvention*, so that it is not only detrimental to individuals but also to the wider community (Jimmy Tawalujan, 2021). There are several corporate accountability systems, including:

a. The corporate management, as the maker and manager, is responsible.
b. The corporation is a responsible maker and administrator.
c. The corporation is both the maker and also as the person in charge.

d. The management and the corporation are the perpetrators of the crime, and both are responsible (Agustina, 2024).

The types of sanctions that can be imposed on corporations are generally divided into three, namely: administrative sanctions in the form of reprimands to revocation of business licenses, civil sanctions (compensation), and criminal sanctions (Alfianda et al., 2024). In Law Number 32 of 2009 concerning Environmental Protection and Management, these three types of sanctions are regulated in several articles, including:

a. Administrative Sanctions Article 76 Paragraphs (1 and 2)
   1) Ministers, governors, or regents/mayors apply administrative sanctions to the person in charge of business and/or activities if violations of environmental permits are found in supervision;
   2) Administrative sanctions consist of: written reprimands, government coercion, freezing of environmental permits, or revocation of environmental permits.
b. Civil Sanctions Article 88
   Any person whose actions, efforts, and/or activities use B3, produce and/or manage B3 waste, and/or who poses a serious threat to the environment is absolutely responsible for losses incurred without the need to prove elements of wrongdoing.
c. Criminal Sanctions Articles 97 to 119
   Regulates a maximum prison sentence of 15 years and a maximum fine of Rp15,000,000,000.00 (fifteen billion rupiah) against a person or legal entity who commits environmental damage and pollution to the point of causing serious injury or death.

Based on the provisions of Article 116 of the PPLH Law, it is stated that if an environmental crime is committed by, for, or on behalf of a business entity, criminal charges and criminal sanctions are imposed on: business entities; and/or persons who give orders to commit such criminal acts or persons who act as leaders of activities in the criminal act (Wijaya, 2021). Article 118 of the PPLH Law states that for criminal acts as referred to in Article 116, Paragraph (1) letter a, criminal sanctions are imposed on business entities represented by administrators who are authorized to represent inside and outside the court in accordance with laws and regulations as functional actors (Manuhara, 2017).

Article 45, Paragraph 1 of Law Number 1 of 2023 concerning the Criminal Code states that a corporation is the subject of a criminal act, meaning that a legal entity can be held accountable for criminal acts committed by its management or members. Criminal acts by corporations are criminal acts committed by administrators who have functional positions in the organizational structure of the corporation or persons based on employment relationships or based on other relationships who act on behalf of and for the benefit of the corporation, within the scope of the business or activities of the corporation, either individually or jointly (Edi Kristianta Tarigan, 2026).

In addition to the provisions of the articles mentioned above, legal certainty in terms of liability for corporate criminal sanctions is also regulated in the provisions of Article 98 of Law Number 40 of 2007 concerning Limited Liability Companies. The Board of Directors states that it represents the company both inside and outside the court (Setyarini et al., 2020). Thus, certainty and legal liability for environmental damage caused by corporate activities are charged to the Board of Directors as a representative of the company and/or the authorized person for it. Meanwhile, corporations as perpetrators of environmental destruction can be subject to criminal sanctions, fines, compensation for environmental restoration, and administrative sanctions (freezing to revocation of business licenses) (Asri, 2014).

Sebagai contoh dalam kasus kebakaran hutan dan lahan di Provinsi Aceh oleh PT. Kalista Alam, dijatuhi sanksi membayar denda sebesar Rp. 366 Miliar Untuk memulihkan ekosistem akibat kebakaran tersebut. Sementara itu, Direktur PT. Kalista Alam juga dikenakan hukuman denda sebesar Rp. 3 Miliar (Based on the Decision of the Supreme Court of the Republic of Indonesia Number:1554 K/Pid.Sus/2015).

Policies in the Enforcement of Sanctions Against Corporations That Damage the Environment

Criminal law enforcement against corporate crimes lies in material and formal law. In Indonesia, the corporate criminal regulation is spread across various laws such as the Environment Law, the Corruption Law, the Terrorism Law, the Anti-Corruption Law, and others, thus causing uncertainty and overlap. The technical obstacles to law enforcement are also quite significant, especially in terms of evidence and

human resources. Proving corporate crimes requires the existence of *mens rea* or the involvement of internal structures to be very difficult because corporations are legal entities with a separation between management, so mistakes made by management or employees cannot always automatically be used as a basis for corporate criminalization (Pratama et al., 2023).

In addition to legal and technical factors, the issue of economic/business influence and political intervention is also an obstacle and challenge in cracking down on corporate crime. This condition is increasingly complex with a culture of inconsistent law enforcement, the lack of corporate criminal jurisprudence, and the regulation of sanctions spread across many subsidiary laws, so that corporate criminalization still cannot be applied optimally (Verdinan, 2024).

The direction of political law in overcoming corporate responsibility for environmental damage in the form of penal and non-penal policies. However, its effectiveness is highly dependent on the consistency of law enforcement, the integrity of the apparatus, and corporate awareness. Therefore, it is necessary to strengthen policy implementation so that environmental protection can be realized in real terms (Sallsabillah, 2021).

One of the penal policies has been implemented in the Regulation of the Supreme Court of the Republic of Indonesia (Perma) Number: 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations, as a technical guide for law enforcement officials (police, prosecutors, judges) in examining and deciding criminal cases committed by corporations. This regulation provides legal certainty regarding the mechanism for summons, examinations, and corporate criminal liability (Adi Fajar Winarsa et al., 2022).

In addition, Law Number 32 of 2009 concerning Environmental Protection and Management, starting from Articles 97 to 119, regulates a maximum prison sentence of 15 years and a maximum fine of Rp15,000,000,000.00 (fifteen billion rupiah) against persons or legal entities who commit environmental destruction and pollution resulting in serious injury or death (Santoso, 2018). Legal policies against corporations for environmental damage must uphold the principle of *strict liability* or absolute responsibility, especially for business activities that are high-risk to the environment. Through this principle, corporations can be held accountable without having to prove the elements of their fault, thus simplifying the evidentiary process in environmental law enforcement (Effendi et al., 2023).

Meanwhile, non-penal policy is an approach outside of criminal law that focuses on efforts to prevent, supervise, and restore the environment through administrative, civil, and economic instruments (Nugroho Wahyu, 2017). This policy is realized through mechanisms such as environmental licensing (EIA), environmental supervision and audit, as well as the application of administrative sanctions in the form of reprimands, administrative fines, and revocation of business licenses. Non-penalties also include increasing public participation in supervising, class action, and providing economic incentives for corporations that comply with environmental regulations (Khairina et al., 2020).

The implementation of the principles *of Good Corporate Governance* (GCG) and *Corporate Social Responsibility* (CSR) emphasizes that corporations are not only profit-oriented but must also pay attention to environmental sustainability aspects. GCG can be implemented through strong supervisory structure mechanisms, such as directors, commissioners, and audit committees, which require companies to comply with environmental regulations as well as prevent decision-making that harms the environment for short-term gains (Farihah et al., 2012).

Meanwhile, CSR is implemented through various environment-based programs, such as restoration, waste management, conservation, and community education, which encourage companies to proactively prevent environmental damage, rather than just dealing with the impact after the damage has occurred. Thus, corporations are expected to be able to prioritize ethical, transparent, responsible, and sustainable principles in business management. This can ultimately minimize and overcome business practices that are detrimental and damaging to the environment (Munir et al., 2019).

CONCLUSION

Legal certainty and accountability for environmental damage caused by corporate activities in Indonesia have been regulated in Law Number 32 of 2009 concerning Environmental Protection and Management. This law applies the principle of *strict liability* and regulates administrative, civil, and criminal sanctions, with a maximum penalty of 15 years in prison and a maximum fine of Rp15,000,000,000.00.

Corporations as *artificial persons* can only carry out legal acts through the intermediary of their representatives, so that criminal sanctions in the form of imprisonment are imposed on the management or directors, while corporations as legal entities can only be subject to sanctions in the form of fines and administrative sanctions, as reflected in the case of PT Kalista Alam.

The policy of enforcing sanctions against corporations that destroy the environment is implemented through penal and non-penal approaches. The penal approach is realized through the enforcement of criminal law based on the provisions of the Criminal Code and Law Number 32 of 2009 concerning Environmental Protection and Management. Meanwhile, a non-penal approach is carried out through the application of *the principles of Good Corporate Governance* in the company's internal governance, the implementation of *Corporate Social Responsibility* (CSR) programs such as environmental rehabilitation and maintenance, and community involvement in supervision and reporting on alleged pollution or environmental damage by corporations.

REFERENCES

Adi Fajar Winarsa, P., Rukmini, M., & Takariawan, A. (2022). Implementasi Penegakan Hukum Terhadap Pelaku Tindak Pidana Lingkungan Hidup Oleh Korporasi (Studi Tentang Pencemaran Dan Perusakan Yang Terjadi Di Sungai Citarum). *Jurnal Poros Hukum Padjadjaran*, *4*(1), 162. https://doi.org/10.23920/jphp.v4i1.1066

Agustina. (2024). *Bingkai Hukum Jasa Konstruksi (Masalah Poluler dan Konsep Keadilan Holistik Sebagai Paradigma Kepastian Hukum)*. UMSU Pers.

Alfianda, R., Risardi, M., Kamisan, Amin, M., Sarioda, Maulida, R., & Albayani, A. Z. (2024). Tindak Pidana Korupsi dan Pertanggungjawaban Korporasi. *Wathan: Jurnal Ilmu Sosial Dan Humaniora*, *1*(1), 64–75. https://doi.org/10.28946/sc.v29i2.1961

Ariadica, A. A. (2021). Reposisi Kebijakan Pemulihan Lingkungan Hidup Terhadap Penambangan Ilegal Galian C. *Hukum Responsif*, *12*(2), 82. https://doi.org/10.33603/responsif.v12i1.5027

Arman, Z., & Riyanda, R. (2021). Administrative Penal Law Dalam Penegakan Hukum Lingkungan Berdasarkan Undang-Undang Cipta Kerja. *Jurnal Hukum Samudra Keadilan*, *17*(2), 241–252.

Asri, A. (2014). Doktrin Piercing the Corporate Veil Dalam Pertanggung Jawaban Direksi Perseroan Terbatas. *Jurnal Ilmiah Hukum Dirgantara*, *8*(1), 79–92. https://doi.org/10.35968/jh.v8i1.138

Edi Kristianta Tarigan. (2026). Tinjauan Yuridis Perbandingan KUHP Lama Dan KUHP Baru. *Majalah Ilmiah Warta Dharmawangsa*, *18*(3), 590–604. https://doi.org/https://doi.org/10.46576/wdw.v18i3.4449

Effendi, S. M., Suarda, I. G. W., & Nugroho, F. M. (2023). Formulasi Pidana Penutupan Korporasi Atas Delik Lingkungan Hidup. *Veritas et Justitia*, *9*(1), 138–163. https://doi.org/10.25123/vej.v9i1.6123

Fadli, M. (2025). Konstitusi Hijau: Hak Atas Lingkungan Sehat Sebagai Bagian Dari Hak Asasi Dalam UUD 1945. *Rewang Rencang : Jurnal Hukum Lex Generalis*, *6*(12), 1–16. https://doi.org/https://doi.org/10.56370/jhlg.v6i12.2089

Farihah, L., & Femi, A. (2012). Prinsip Kehati-hatian dan Kerugian Potensial dalam Perkara Tata Usaha Negara Terkait Lingkungan Hidup. *Jurnal Yudisial*, *5*(3), 241–260.

Jimmy Tawalujan. (2021). Pertanggungjawaban Korporasi terhadap Korban Kejahatan. *JURNAL RECTUM: Tinjauan Yuridis Penanganan Tindak Pidana*, *3*(1), 100–113. http://www.albayan.ae

Khairil Andi Syahrir. (2022). Pembaharuan Metode Pembuktian Subjek Hukum Korporasi sebagai Pelaku Tindak Pidana Korupsi. *Timou Tou Law Review*, *1*(1), 33. https://ejournal.unsrat.ac.id/index.php/tumoutou/article/view/43633

Khairina, E., & Purnomo. (2020). Sustainable Development Goals: Kebijakan Berwawasan Lingkungan Guna Menjaga Ketahanan Lingkungan Di Kabupaten Bantul Daerah Istimewa Yogyakarta. *Jurnal Ketahanan Nasional*, *26*(2), 162. https://doi.org/10.22146/jkn.52969

Manuhara, W. (2017). Audit Lingkungan: Pengungkapan Isu Lingkungan Dalam Laporan Keuangan Auditan. *Jurnal Akuntansi & Investasi*, *1*(2), 85–92.

Munir, M., & Saraswati. (2019). Study Kelayakan Bisnis Dalam Aspek Lingkungan Hidup. *LABATILA: Jurnal Ilmu Ekonomi Islam*, *3*(2), 160. https://doi.org/https://doi.org/10.33507/lab.v4i01

Nugroho Wahyu. (2017). Rekonstruksi Teori Hukum Pembangunan Kedalam Pembentukan Perundang-Undangan Lingkungan Hidup Dan Sumber Daya Alam Pasca Reformasi Dalam Bangunan Negara

Hukum. *Jurnal Legislasi Indonesia*, *14*(4), 369–382.
Pratama, T. A. H., Ali, M., & Airlangga, U. (2023). Korporasi Sebagai Subyek Hukum dalam Tindak Pidana Lingkungan Hidup. *Al-Manhaj : Jurnal Hukum Dan Pranata Sosial Islam*, *5*(1), 611–620. https://doi.org/10.37680/almanhaj.v5i1.2672
Sallsabillah, F. (2021). Hukum Lingkungan Dari Perspektif Hukum Kegiatan Bisnis. *Jurnal Ilmu Hukum, Humaniora Dan Politik*, *1*(1), 104–115. https://doi.org/10.38035/jihhp.v1i1.633
Santoso, I. B. (2018). Penerapan Asas Ultimum Remedium Dalam Penegakan Hukum Pidana Lingkungan Hidup. *UBELAJ*, *3*(1), 15–22. https://doi.org/https://doi.org/10.33369/ubelaj.3.1.15-22
Satria, H. (2017). Penerapan Pidana Tambahan Dalam Pertanggungjawaban Pidana Korporasi Pada Tindak Pidana Lingkungan Hidup. *Jurnal Yudisial*, *10*(2), 155. https://doi.org/10.29123/jy.v10i2.18
Setyarini, D. M., Mahendrawati, N. L., & Arini, D. G. D. (2020). Pertanggungjawaban Direksi Perseroan Terbatas Yang Melakukan Perbuatan Melawan Hukum. *Jurnal Analogi Hukum*, *2*(1), 12–16. https://doi.org/10.22225/ah.2.1.1608.12-16
Socalina, E. (2024). Determinan Kerusakan Lingkungan Di Negara Organisasi Kerjasama Islam (OKI) (Studi Environmental Kuznets Curve). *Jurnal Ekonomi & Pendidikan*, *21*(1), 20–28. https://doi.org/https://doi.org/10.21831/jep.v21i1.71195
Triono Eddy, A. (2025). Ecological Crisis and Human Security : A Legal Analysis of the Exploitation of the Sei Ular River. *Khazanah Hukum*, *7*(2), 140–155. https://doi.org/10.15575/kh.v7i2.
Verdinan. (2024). *Politik Hukum Tindak Pidana Lingkungan Hidup*. UMSU Press.
Wardana. (2015). Tanggungjawab Korporasi dalam Pencemaran Lingkungan Hidup. *Risalah Hukum*, *1*(2), 20–25. https://e-journal.fh.unmul.ac.id/index.php/risalah/article/view/115
Wijaya, H. (2021). Pertanggungjawaban Pidana Korporasi Atas Pencemaran Lingkungan Hidup. *Notarius*, *14*(1), 217. https://doi.org/10.14710/nts.v14i1.38863
https://news.detik.com/berita/d-8285786/kpk-ungkap-potensi-kerugian-negara-dari-sektor-hutan-capai-rp-175-triliun?utm_source=chatgpt.com
https://www.greenpeace.org/indonesia/siaran-pers/1103/ganti-rugi-189-triliun-terkait-kasus-kebakaran-dan-kerusakan-hutan-gagal-dibayar-sejumlah-perusahaan-pemerintah-harus-mengambil-langkah-tegas/?utm_source=chatgpt.com
https://ugm.ac.id/id/berita/soal-47-korporasi-dilaporkan-rusak-lingkungan-pakar-ugm-dorong-prinsip-kesadaran-baru-dalam-pengelolaan-sda/