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Environmental Criminal Liability by Corporate Managers in Indonesia Viewed from the Perspective of Justice (Study of Decision Number 9/Pid.B/LH/2021/PN Sak)

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ABSTRACT: Law enforcement against environmental crimes by corporations in Indonesia still faces serious problems, especially related to legal certainty and justice in the criminal liability of corporate administrators. This problem is caused by a legal vacuum regarding the parameters of sanctions, both against the corporate entity and its management. This research aims to analyze law enforcement in cases of environmental crimes by corporate administrators and examine the parameters of criminal liability from the perspective of justice. The method used is normative juridical with a legislative approach and case studies, specifically the Decision of the Siak Sri Indrapura District Court Number 9/Pid.B/LH/2021/PN Sak. The results showed that the application of the law is still inconsistent, because technical guidelines such as the Minister of Environment Regulation Number 7 of 2014 are not binding so that these guidelines are not always used as a reference by judges. In addition, there is still a legal vacuum regarding fair parameters in imposing fines on corporate administrators, which raises serious questions about the fairness of its application. Therefore, it is necessary to revise regulations that establish clear and proportional sanction guidelines for corporate administrators to prevent disparities and ensure legal justice.

KEYWORDS: criminal liability, environment, corporate management, justice.

I. INTRODUCTION

Children are the nation's investment in realizing the ideals of independence as stated in the preamble of the 1945 Constitution. The definition of a child is a human being who is still young, for example 6 years old. This age is still general, it does not yet have a meaning that can be associated with juridical responsibility. Juridical responsibility means legal responsibility.

In a state of law, power is exercised based on laws designed to achieve justice. Law enforcement must be carried out as fairly as possible by applying strict sanctions in accordance with legal norms against perpetrators of crimes. The rule of law is formulated to provide consequences for anyone who violates it. Therefore, the rule of law is always related to the existence of sanctions applied by the state as a form of responsibility in carrying out its functions and authority in society. State power is required to be able to enforce the law fairly and precisely, because the law is the basis of every state action in order to realize the purpose of the law itself.[1] Crime continues to increase in Indonesia and globally, including corporate crime which is considered dangerous because it has the potential to cause large financial losses and casualties. Based on data from the Directory of Decisions of the Supreme Court of the Republic of Indonesia, in the last three years (2022-2024), there were dozens of criminal cases involving corporations in Indonesia, both in the realm of general and special crimes.[2]

In comparison, the Federal Bureau of Investigation (FBI) estimates that there are around 14,000 homicides that occur in the United States. Meanwhile, the number of deaths caused directly or indirectly by corporate crime reaches around 54,000. This condition encouraged a number of countries, including the UK, to respond seriously, one of which was by enacting the Law on Corporate Manslaughter in 2007.[3] Although the 1945 Constitution does not explicitly mention corporations as subjects of criminal

[1]Oksidelfa Yanto, 2020, *State of Law, Certainty, Justice and Legal Benefit in the Indonesian Criminal Justice System,* Bandung: Pustaka Reka Cipta, pp. 6-7.

[2]Directory of decisions, Supreme Court of the Republic of Indonesia, *https://putusan3.mahkamahagung.go.id/search.html?q=koorporasi&t_put=2023., accessed on* September 15, 2024, at 12.31 WIB.

[3]Russel Mokhiber, 2015, "*20 Things You Should Know About Corporate Crime",* the harvard law record, Accessed through http://hlrecord.org/2015/03/20-things-you-should-know-about-corporate-crime/, accessed on September 15, 2024, at 12.31 WIB.

law, the principle of the rule of law *(rechtsstaat)* emphasizes that every legal action, including those committed by legal entities, must be held accountable fairly before the law.

Currently, the Criminal Code (KUHP) does not explicitly state that corporations or legal entities are subjects of criminal law. This can be seen in Article 59 of the Criminal Code which states that "In cases where due to an offense, punishment is determined against the management, members of the management body or commissioners, the management, members of the management body or commissioners who apparently did not participate in committing the offense shall not be punished.[4] To overcome the legal vacuum in the Criminal Code related to law enforcement against criminal offenses committed by corporations, the government has issued a special regulation through *Supreme Court Regulation (Perma) Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations*. This regulation serves as a guideline for law enforcement officials in handling criminal cases involving corporations as perpetrators.

In environmental crimes by corporations, regulations related to this context are regulated in Law Number 32 of 2009 concerning Environmental Protection and Management (PPLH Law), then in Ministerial Regulation Number 7 of 2014 concerning *Environmental Losses Due to Pollution and/or Environmental Damage*. then in the decision of the chairman of the Supreme Court of the Republic of Indonesia number: 36/KMA/SK/II/2013. However, the regulation still has an empty space related to the parameters of criminal liability by the legal subject of the corporation against the management, which includes members of the management body or commissioners as mentioned in Article 59 of the Criminal Code. Therefore, there is no clear parameter in the liability of corporate legal subjects as a limitation for judges in imposing punishment.[5]

Limited Liability Company is one form of legal entity of a corporation. Law Number 40 Year 2007 on Limited Liability Companies, specifically Article 97 paragraph (3), states that the board of directors as the management of a persero can be held personally liable if their negligence in carrying out their duties causes losses to the company. Meanwhile, according to Supreme Court Regulation No. 13/2016 on Procedures for Handling Criminal Cases by Corporations, the management is defined as part of the corporation that carries out management functions in accordance with the articles of association or legal provisions, and represents the corporation. In fact, individuals who formally do not have decision-making authority but can factually influence or control corporate policies that lead to criminal acts are also categorized as administrators.[6]

The conviction of corporate management, in this case directors, can be seen in the Decision of the Siak Sri Indrapura District Court Number 9/Pid.B/LH/2021/PN Sak. In that case, the defendant was the President Director of PT Duta Swakarya Indah, a company engaged in plantations. The company was charged for setting fire to 3.2 hectares of land within the company's concession area. The law enforcement in this decision shows that it is the management of the corporation, namely the individual directors, not the corporate legal entity, who are sentenced. The judge imposed a fine of Rp1,000,000,000 to the President Director of PT Duta Swakarya Indah. In determining the amount of environmental losses, the panel of judges based its calculation on the Minister of Environment and Forestry Regulation (Permen LHK) Number 7 of 2014 concerning Environmental Losses Due to Pollution and/or Environmental Damage. However, from the perspective of justice and legal certainty, it is worth criticizing that until now there have been no clear parameters in Indonesian positive law regarding the limitations of criminal responsibility between corporate administrators and the corporate legal entity itself.[7]

However, can it be said to be fair if only individual directors are sentenced, even though the negligence occurred in their capacity as corporate managers and within the scope of corporate responsibility. Therefore, the author considers it important to further examine the criminal liability of corporate management in environmental crimes, especially from the perspective of justice. Below are examples of corporate criminal cases committed by Limited Liability Companies in the field of environment and corruption crimes reported based on the Directory of Decisions of the Supreme Court of the Republic of Indonesia to see more clearly the law enforcement related to Environmental Criminal Liability by Corporate Managers in Indonesia:[8]

[4]Kitab Undang-Undang Hukum Pidana, Article 59 KUHP.

[5] Ricki Rahmad Aulia Nasution, and Irwan Triadi, "Implementation of Environmental Impact Assessment (AMDAL) in Preventing Environmental Damage Based on Law No. 32 of 2009 concerning Environmental Protection and Management," *Cendekia: Journal of Law, Social and Humanities* 3.2 (2025), pp. 1119-1126.

[6]Supreme Court Regulation No. 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations.

[7] Ika Yanuar Margiyanti, and Irwan Triadi, "The Role of Environmental Law in Safeguarding Natural Resources for the Sustainability of Human Life," *Journal of Law and Social Politics* 2.3 (2024), pp. 179-187.

[8]Directory of Supreme Court Decisions of the Republic of Indonesia, https://putusan3.mahkamahagung.go.id/beranda.html, accessed on April 10, 2025, at 08.03 WIB.

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Criminal Case Verdicts of Corporations for Environmental Crimes:

Case Description Decision	Judge's Consideration:	Verdict:
Number: 2606/Pid.B/LH/2023/PN Sby PT EKA DWIKA PERKASA has timber forest products in the form of sawn timber contained in 3 (three) containers that are not equipped with a legal certificate of forest products and are known to come from illegal logging.	**Aggravating circumstances**: - Defendant I and Defendant II did not support government programs to prevent and limit damage to forests, forest areas and forest products; - The Defendants did not support the government program in an effort to secure and protect objects/targets in the form of forests, forest areas and forest products from threats and disturbances; - Defendant II DPO **Mitigating circumstances:** - The Defendants have never been convicted;	**Defendant I. PT Eka Dwika Perkasa, represented by Sri Genyo Bin Semi (deceased) Alias Mr. Genyo as administrator/authorizer** - Fine of IDR 10,000,000,000.00 - Additional punishment of company closure. **Second defendant Sri Genyo Bin Semi (deceased) Alias Mr. Genyo** - 6 years imprisonment - Fine of IDR 6,000,000,000.00 (if the fine is not paid, it shall be substituted with 6 months imprisonment).
Number 2607/Pid.B/LH/2023/PN Sby **PT GURAJA MANDIRI PERKASA**, represented by Deni Sipandan Anak Arung Sipandan, misused documents and took timber from an allegedly unlicensed area.	**Aggravating circumstances:** - Defendant I and Defendant II did not support government programs to prevent and limit damage to forests, forest areas and forest products; - The Defendants did not support the government program in an effort to secure and protect objects/targets in the form of forests, forest areas and forest products from threats and disturbances; - The second defendant is DPO. **Mitigating circumstances:** - The Defendants have never been convicted.	**Defendant I. PT Guraja Mandiri Perkasa, represented by Deni Sipandan Anak Arung Sipandan as manager/authorizer** - Fine of IDR 10,000,000,000.00 - additional punishment of company closure **Defendant II. PT Guraja Mandiri Perkasa** - 7 years imprisonment - fine of Rp6,000,000,000.00 (if the fine is not paid, it shall be substituted with 6 months imprisonment).
Number 89/Pid.Sus/2024/PN Srg **PT Datong Lightway International Technology** in its business activities produces waste and has carried out activities that are not in accordance with the SOP.	**Aggravating circumstances:** The Defendant's actions are contrary to the ideals of the Republic of Indonesia to create a clean and healthy environment; **Mitigating circumstances:** The defendant has been helping the local community by employing local residents and often contributing to the local community;	**PT Datong Lightway International Technology represented by** - Fine of Rp.100.000.000,- - provided that if the fine is not paid, the assets and **property of the corporation shall be confiscated.** - additional punishment or disciplinary action in the form of an obligation to repair the consequences of the criminal offense;
Number 31/Pid.B/LH/2023/PN Mre **PT LEMATANG COAL LESTARI** represented by ZAMBI bin DANAL carried out overburden activities and installed a pump house without having permission from the authorities.	**Aggravating circumstances:** did not have a permit from the competent authority and caused environmental damage in the amount of Rp776,371,200, - calculated based on **Permen 7/2014** **Mitigating circumstances:** - The accused behaved honestly - confessed to his actions. - have never committed a criminal offense and are making efforts to repair the environmental damage.	**PT LEMATANG COAL LESTARI, represented by ZAMBI Bin DANAL as the person in charge of operations.** - Fine of IDR 2,000,000,000.00 - If the fine is not paid, the **Corporation's property will be confiscated and auctioned** to pay the fine in accordance with applicable regulations.

Number 154/Pid.B/LH/2022/PN Mjl It was found that the borehole/pantek for water use for **PT Diamond International Indonesia's** cleaning process uses PDAM water and well water that is suspected to be unlicensed.	**Mitigating circumstances:** - The defendant has never been convicted / involved in legal problems that have entered the Court; - The Corporate Defendant already has a business license; - Defendant Corporation has many employees who depend on the company; - The defendant regretted his actions and promised not to reoffend; - Corporate defendant ready to take responsibility	**PT Diamond International Indonesia**, **represented by Fan Yuejie as** Admin **Manager.** - fine of IDR 1,000,000,000.00 - If the fine is not paid within 1 month from the date this decision becomes final, **his/her property may be confiscated by the prosecutor and auctioned** off to pay the fine;

Verdict in Corporate Criminal Case of Corruption

Case Description Decision	Judge's Consideration:	Verdict:
Decision Number: 7/Pid.Sus-TPK/2020/PN.Tte SAID SALIM ALMAHDALY Alias SALIM as the Juri Mudi of PT Aru Raharja has benefited from the deposit of compulsory sea vessel dues (IWKL) from the operator (shipping company) PT Bima Indah Halmahera.	The defendant fulfilled the element of harming state finances (BPKP North Maluku Audit No. 453/PW33/5/2019, December 17, 2019, Rp277,600,000). **Aggravating circumstances:** - contradicts the corruption eradication program; - including extraordinary crimes. (Extra Ordinary crime); **Mitigating circumstances:** - confessing to the act - restitution of state losses - has never been convicted - regretted his actions.	**SAID SALIM ALMAHDALY Alias SALIM as Helmsman at PT. Aru Raharja** - 3 years imprisonment - a fine of Rp.100,000,000.- berd. - If the fine is not paid, it shall be substituted with 3 months imprisonment;
Number: 32/Pid.Sus-TPK/2023/PN.Jkt Pst There were irregularities in several activities, including the procurement of fictitious materials for PT Misi Mulia Metrical (PT MMM). This activity involved the defendant who carried out the procurement in ways that were not in accordance with procedures.	The defendant has fulfilled the element of harming state finances Based on the BPKP RI audit, there is a loss of state finances based on BPKP Audit Report Number: PE.03/LHP-179/D501/2022 **Aggravating circumstances:** - does not support anti-corruption programs - no regrets **Mitigating circumstances:** - The defendant was polite - The defendant has family responsibilities; - The defendant has never been convicted;	**KRISTADI JULI HARDJANTO as the former General Manager (GM) of the Production Support Department for the period 2018 to 2020 PT. Waskita Beton Precast, Tbk.** imprisonment of 5 years and a fine of Rp.500,000,000, - provided that if the fine is not paid, it will be replaced by imprisonment for 4 months.
Number 31/Pid.Sus-TPK/2021/PN Srg PT DJAYA ABADI SORAYA has used Contract/SPK documents that were never budgeted in the Sumedang Regency APBD; manipulated balance sheet reports and project history lists and fabricated other documents.	**Aggravating circumstances:** - resulting in state losses (BPKP Banten Audit No. SR-58/PW30/5/2020, December 29, 2020); - enriching other parties - does not support the fight against corruption.	**PT DJAYA ABADI SORAYA) represented by Dheerandra Alteza Widjaya ALS. Dera Rana Febrian Bin Ade Suhyar as the President Director of PT Djaya Abadi Soraya.** A fine of Rp 300,000,000 (three hundred million rupiah) was imposed.

	Mitigating circumstances: - being polite in court - has never been convicted - have family dependents.	
Number: 57/Pid.Sus-TPK/2023/PN.Plg The defendant DEDEK PRANATA has personally controlled the plantation products and PT Sawit Menang Sejahtera represented by DEDEK PRANATA has never deposited the return of capital and working capital loans received from PT PMO.	the defendant has fulfilled the element of harming the state's finances/economy based on LHP BPK RI No. 30/LHP/XXI/12/2020); **Aggravating circumstances:** - does not support the corruption eradication program - troubling the community **Mitigating circumstances:** - has never been convicted - cooperative in trial - have family dependents	**Dedek Pranata as Director and Commissioner of PT Sawit Menang Sejahtera** - **6 years 8 months** imprisonment - **Fine in the amount of Rp200,000,000.00** - if the fine is not paid, it shall be substituted with **3 months imprisonment;** - additional fines in the amount of Rp7,640,607,469.71
Number: 24/Pid.Sus-TPK/2023/PN Jkt.Pst Has abused the opportunities and means available to him because of his position or position where the defendant John Erens Rengku Alias John Eren as director in making sales realization of PT Solusi Imaji Media.	**Aggravating circumstances:** - causing state losses of Rp16.5 billion (LHP BPKP No. PE.03.02/SR/S-1521/PW09/5.1/2022). - has been convicted in a case of embezzlement (Supreme Court Decision No. 742 K/PID/2016). - convoluted in providing information. **Mitigating circumstances:** - be polite in court - admitted his actions	**John Erens Rengku aka John Erens** - 8 years imprisonment - a fine of Rp.500.000.000,00 - If the fine is not paid, it will be replaced by 6 months imprisonment. - Fine of IDR16,500,000,000.00 (If not paid within 1 month, then the property will be confiscated and auctioned by the Prosecutor) / imprisonment for 5 (five) years).

Based on the analysis of five court decisions in environmental criminal cases by corporations in Indonesia, there are several important similarities and differences that can be drawn. The similarity is that all of these cases mention environmental damage or pollution caused by corporate actions, either directly or through their management. In all decisions, corporations are recognized as perpetrators of criminal acts, and criminal liability in general still refers to Supreme Court Regulation (PERMA) No. 13 of 2016 as the basis for the procedure for handling criminal cases by corporations. The main form of sanction imposed on corporations is also relatively uniform, namely fines.

However, a number of important differences were also found. First, the object of violation in each case varies with the amount of fines imposed varying greatly, from the lightest of Rp100 million (Serang District Court Decision) to up to Rp10 billion (Surabaya District Court Decision). Third, the legal subject that is sentenced also varies: there are decisions that only punish the corporation as in the case of PT Diamond, there are also decisions that punish the corporation and its management at the same time, and even impose additional punishment in the form of company closure. In contrast, in the Decision of the District Court of Siak Sri Indrapura Number 9/Pid.B/LH/2021/PN Sak, only the directors as the management of PT were sentenced without touching the corporation.

In addition, an aspect that is also interesting to observe is related to the application of environmental loss calculation parameters. In this case, the Minister of Environment Regulation No. 7/2014 on Environmental Losses Due to Pollution and/or Environmental Damage has actually provided technical and quantitative guidelines on how to assess ecological losses due to pollution or environmental damage. The regulation should be an objective reference for law enforcers in calculating the proportional amount of fines. However, based on the analysis of the decisions above, judicial practice shows that there is no consistent application.

Based on the five decisions analyzed, only some judges explicitly referred to this regulation, as seen in the District Court Decision in Muara Enim and in the District Court Decision in Siak. Meanwhile, in other cases, loss estimation was only mentioned in general terms without a detailed calculation method. Although Permen LHK No. 7 of 2014 has provided quantitative technical guidelines for calculating the amount of ecological losses, in addition to comparing several decisions in environmental criminal cases, the author also compares decisions related to corporate crimes in the field of corruption to analyze how judges consider imposing punishment on defendants.

This comparison aims to assess the consistency and suitability of the application of the principle of corporate criminal liability in both types of criminal offenses. Based on the decisions of corporate criminal offenses in the field of corruption that have been analyzed, it appears that the calculation of state financial losses generally refers to the results of audits conducted by the Supreme Audit Agency of the Republic of Indonesia (BPK RI) and/or the Financial and Development Supervisory Agency (BPKP). This is in line with the Constitutional Court Decision Number 31/PUU-X/2012, which states that BPK is the only institution constitutionally authorized to declare and determine the existence of state financial losses. However, other institutions such as BPKP are still allowed to calculate losses in the context of investigative audits or as evidence in the legal process, as long as the BPK officially declares the existence of state financial losses. Therefore, in corruption cases, the mechanism for imposing additional punishment in the form of restitution is highly dependent on the official audit of the state institution.

Unlike corporate criminal offenses in the field of environment that do not explicitly require audits by certain institutions, environmental cases only provide technical tools in the form of Permen LHK No. 7 of 2014 as quantitative guidelines that can be used by judges in estimating the amount of ecological loss. However, its use is advisory, not mandatory, resulting in inconsistencies between decisions, where not all judges refer to this regulation in imposing fines and if the judge does not refer to the Permen, the judge calculates using expert opinion or expert witness testimony, reports from technical agencies such as DLHK, BAPEDAL, or the Ministry of Environment and Forestry, as well as the judge's free judgment (discretion) based on the facts in the trial. But actually, there is still a legal vacuum, especially on the limit of fines (parameters) for imposing fines on corporate administrators. This is because, in Article 2 of Permen LHK No. 7 of 2014, although it is stated that "This Ministerial Regulation aims to provide guidelines for Central Environmental Agencies and/or Regional Environmental Agencies in determining environmental losses and calculating the amount of Environmental Losses," it does not regulate the size or limit of the minimum and maximum fines that can be imposed on corporate managers.[9]

The absence of this regulation creates legal uncertainty in practice, then this legal vacuum is strengthened by the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia Number 36/KMA/SK/II/2013 concerning the Application of Guidelines for Handling Environmental Cases. The decision emphasizes that environmental cases are complex and often involve *scientific evidence*, so *judges* are expected to be progressive and brave in applying the principles of environmental protection and management, including the *precautionary* principle and *judicial activism*.

The absence of normative standards regarding the limitation of criminal fines against corporate administrators provides discretion for judges in imposing sanctions. However, this discretion in practice has the potential to lead to non-uniformity of decisions and potentially create injustice. Based on this, the author formulates the problem, namely how is law enforcement against environmental crimes by corporate administrators in Indonesia? and how are the Parameters of Environmental Criminal Liability by Corporate Administrators viewed from the Perspective of Justice? With the research objectives, namely to Analyze Law Enforcement against Environmental Crimes by Corporate Managers in Indonesia and to Analyze Environmental Criminal Liability Parameters by Corporate Managers in terms of Justice Perspective.

II. RESEARCH METHODS

Method and methodology are two concepts that have different meanings. Method is defined as a systematic way or step used to carry out a job in order to achieve certain goals, while methodology is a study or science that discusses various methods, including principles, concepts, and approaches used in the implementation of a research or work.[10] From this understanding, it can be concluded that legal methodology is a study of the stages or procedures used in legal research methods. This research uses a normative juridical method, which is an approach focused on analyzing the application of norms or rules contained in positive law. [11]

The results of this research will be presented in descriptive form. Descriptive research aims to provide a detailed and accurate description of individuals, conditions, or certain phenomena that are the object of study.[12] which in this case is limited to Environmental Criminal Liability by Corporate Managers in Indonesia Viewed from a Justice Perspective (Study of Decision Number 9/Pid.B/LH/2021/PN Sak). The author uses the normative juridical method because it is suitable for analyzing applicable legal norms related to the criminal liability of corporate managers. This method focuses on the study of regulations, theories, and court decisions to assess the fairness of the application of law, without looking at empirical aspects. A descriptive approach was

[9] Handoyo Prasetyo, "Implementation Of Corporate Law Norms: Analysis Of The Element Of The No Losses To The State As An Announcement Of Corporate Criminal By State-Owned Enterprises," *Journal of Namibian Studies* 34 (2023), pp. 5138-5163.
[10]J. S. Badudu-Sutan Mohammad Zain, 1984, *General Dictionary of Indonesian Language*, Jakarta: Pustaka Sinar Harapan, p. 896.
[11]Johnny Ibrahim, 2008, *theory and methodology of normative legal research*, Malang: Banyumedia publishing, p, 295.
[12]Soerjono Soekanto, 2006, *Introduction to Legal Research,* Jakarta: UI press, p. 10.

chosen so that the research results are objective and systematic. In writing this legal research, the author uses 3 (three) research approaches, namely the *Statute Approach*, *Case Approach*, and Conceptual *Approach*.

In this research, the author applies a conceptual approach. This approach is used to examine and analyze legal provisions relevant to the issue under study. In examining the issue of Criminal Liability of Corporate Legal Subjects from the Perspective of Justice, the author traces various legal concepts both contained in laws and regulations as well as in the views of experts and developing legal doctrines. This approach also requires reference to legal principles derived from the thoughts of scholars or recognized legal theories.[13]

The author uses statutory, case, and conceptual approaches because the three complement each other in analyzing the criminal liability of corporate administrators. The statutory approach provides a normative basis, the case approach reveals the practice of applying the law in court, and the conceptual approach strengthens the analysis with theories and principles of justice. This combination makes the research more complete normatively, practically, and theoretically.

The type of research used in this study is prescriptive research, which is a form of research that aims to formulate recommendations or steps that should be taken in order to solve certain legal problems.[14] Prescriptive research is a type of research that aims to formulate suggestions or recommendations in dealing with certain problems, and produce new arguments, theories, or concepts as solutions to the issues studied. The prescriptive term indicates that the object of study in legal science focuses on the harmony between legal norms and legal principles, between legal regulations and legal norms, and between individual behavior and applicable legal norms.[15]

Normative or doctrinal legal research tends to view law as a prescriptive discipline, namely reviewing the law only from the aspect of existing norms. Because of this prescriptive nature, according to Soerjono Soekanto, the themes raised in this kind of research usually include legal principles, legal systematics, vertical and horizontal legal harmony, legal comparison, and legal history. The purpose of this analytical approach is to compile arguments underlying the research findings, where the arguments are used to provide a normative assessment of a legal fact or event, either in the form of right or wrong or what should apply according to the law.[16]

The author uses prescriptive research because he wants to not only explain legal problems normatively, but also provide argumentative legal solutions and recommendations. This approach allows the author to assess the application of the law in cases of environmental criminal liability by corporate administrators from the perspective of justice, as well as compile coherent legal prescriptions between norms, principles, and legal practices, in order to encourage legal reformulation in a more just and applicable direction.

III. DISCUSSION AND RESULT

A. Law Enforcement Against Environmental Crimes by Corporate Managers in Indonesia (Study of the Decision of the Siak Sri Indrapura District Court Dated May 20, 2021)

According to Deni Bram, law enforcement is the core of all life and legal activities, starting from legal planning, law formation, law enforcement, to legal evaluation. Basically, law enforcement is an interaction between various community behaviors that represent different interests within the framework of mutually agreed rules. Therefore, law enforcement is not just a process of applying the law as viewed by legalistic groups, but has a wider space because it involves the dimensions of human behavior.[17] Environmental law enforcement involves various aspects that are quite complex, with the aim of maintaining and creating an environment that can be enjoyed by all mankind without damaging the environment itself.[18]

Environmental criminal law enforcement is a series of actions aimed at maintaining the preservation and beauty of the environment, so that it can provide benefits for current and future generations. This process is very complex and faces many challenges and problems in its implementation.[19] Reporting from the Directory of Decisions of the Supreme Court of the Republic of Indonesia, in the span of the last 5 (five) years, there have been dozens of cases of violations related to environmental crimes involving corporations. One of them is the Decision of the Siak Sri Indrapura District Court Number 9/Pid.B/LH/2021/PN Sak, dated May 20, 2021, below:

[13]Peter Mahmud Marzuki, 2014, Legal Research, Jakarta: Kencana Prenada Media Group, p. 178.
[14]Soerjono Soekanto, 1986, *Introduction to Legal Research*, Jakarta: University of Indonesia, p. 15.
[15]Peter Mahmud Marzuki, 2014, Legal Research, Jakarta: Kencana Prenada Media Group, p. 42.
[16]Mukti Fajar ND and Yulianto Achmad, 2010, *Dualism of Normative and Empirical Legal Research*, Yogyakarta: Student Library pp. 183-184.
[17]Deni Bram, 2014, *Environmental Law*, Bekasi: Gramata Publishing, p.45.
[18]Joko Subagyo, 2002, *Environmental Law Problems and Countermeasures*, Jakarta: Rineka Cipta (Cet. III), p. 85.
[19]Syahrul Machmud, 2012, Indonesian *Environmental Law Enforcement*, Yogyakarta: Graha Ilmu, p. 102.

Environmental Criminal Liability by Corporate Managers in Indonesia Viewed from the Perspective of Justice (Study of Decision Number 9/Pid.B/LH/2021/PN Sak)

1. Chronology of the Decision of the Siak Sri Indrapura District Court Number 9/Pid.B/LH/2021/PN Sak, Dated May 20, 2021

The defendant Misno bin Kariorejo serves as Director of PT Duta Swakarya Indah (PT DSI) based on Notarial Deed Number 08 dated July 30, 2019. PT Duta Swakarya Indah is a company engaged in the cultivation of oil palm plantations, with head office in Jakarta and domiciled in Pekanbaru, Riau Province. The Company's oil palm plantation area is located in Koto Gasib District, Siak Regency, Riau Province. The composition of the Company's main management consists of Mr. Dharleis bin M. Syarif as President Director, Mr. Misno as Director, and Mrs. Meriyani as President Commissioner. In his position as Director, Defendant Misno is responsible for the operational management of the company, including the cultivation of oil palm plantations located in the Districts of Koto Gasib, Mempura, and Dayun, Siak Regency. PT DSI has a Plantation Business License covering an area of 8,000 hectares based on the Decree of the Regent of Siak No. KPTS.57/HK/2009. Land clearing is carried out by the land clearing method using heavy equipment, where felled trees and bushes are collected and left to dry on site.

As a result of this process, on January 26 to February 3, 2020, a fire occurred in Block H-19, Sengkemang Village, Koto Gasib Sub-district, which resulted in greenhouse gas emissions exceeding quality standards and causing environmental damage with a loss value of IDR 4.56 billion. The investigation showed that the fire control facilities owned by PT DSI were inadequate and did not comply with the provisions of the Minister of Agriculture Regulation No. 05/2018. Early warning and early detection systems were not functioning, firefighting personnel and equipment available were minimal, and access and communication systems at the fire site were poor. Suppression efforts were almost non-existent, so the fire spread and caused severe damage, including the accumulation of ash and charcoal and the destruction of the surface layer of peat soil 10-15 cm deep. Based on the results of the expert analysis, the fire was not caused solely by negligence, but showed an element of omission by the manager. The Defendant's actions are considered to have not fulfilled the principle of prudence in carrying out his duties as Director and contrary to the obligation to manage the company in good faith. For his actions, the Defendant Misno bin Kariorejo was found guilty of violating Article 99 paragraph (1) jo. Article 116 paragraph (1) letter b of Law No. 32 of 2009 concerning Environmental Protection and Management, and was sentenced to imprisonment for 1 year, a fine of Rp1,000,000,000 in lieu of 3 months imprisonment, and ordered to remain in detention.

2. Analysis of Legal Enforcement of the Decision of the Siak Sri Indrapura District Court Number 9/Pid.B/LH/2021/PN Sak, Dated May 20, 2021

The Panel of Judges, taking into account the legal facts mentioned above, directly chose the second alternative charge as stipulated in Article 99 paragraph (1) jo. Article 116 paragraph (1) letter b of Law of the Republic of Indonesia Number 32 of 2009 concerning Environmental Protection and Management, the elements of which are as follows:

a. Elements of Every Person

Considering that what is meant by "every person" in Article 1 paragraph 32 of Law Number 32 of 2009 on Environmental Protection and Management is an individual or business entity, whether incorporated or unincorporated. In the context of environmental criminal law, this term refers to parties who can be held liable for environmental crimes. The Panel of Judges considered that this element had been fulfilled, because during the trial, the Public Prosecutor had presented Misno bin Kariorejo as the Defendant. After being questioned, the identity of the Defendant was proven to be in accordance with that stated in the indictment, so there was no confusion as to who was meant to be the perpetrator. Thus, the element of "every person" has been proven legally and convincingly in the Defendant.[20]

b. Elements Due to Negligence Resulting in Exceedance of Ambient Air Quality Standards, Water Quality Standards, Sea Water Quality Standards, or Environmental Damage Standard Criteria

Based on the Decree of the Chief Justice of the Supreme Court Number 36/KMA/SK/II/2013, liability for environmental pollution or destruction can be divided into two main principles: negligence and strict liability. Negligence occurs when the perpetrator does not fulfill the necessary standard of care, thus causing environmental damage. Meanwhile, strict liability holds the perpetrator responsible for the damage caused, despite having made optimal prevention efforts.

Expert Prof. Dr. Alvi Syahrin, S.H., M.H., explained that negligence in the context of environmental law includes a lack of care or incompleteness in performing actions that should have been performed. The evaluation of negligence must be done normatively, by considering the standard of behavior expected of individuals in similar situations.

In the case of land fires, the company's responsibility is assessed under four conditions: from deliberate burning to inadequate suppression efforts. PT DSI, according to expert Bambang Hero Saharjo, did not provide adequate fire control facilities and infrastructure, which resulted in fires exceeding environmental quality standards.

[20] Handar Subhandi Bakhtiar, "Environmental Criminals: Types, Motivations and Solutions," *National Conference on Law Studies (NCOLS)*, Vol. 6. No. 1 (2024), pp. 307-322.

The direct consequences of these fires included the release of greenhouse gases that exceeded the threshold, indicating environmental pollution in the burned land. In addition, field findings show that the fires occurred in areas with logging scars, while suppression efforts were not optimized.

Thus, PT DSI's negligence in providing adequate facilities and infrastructure to prevent fires has caused the environmental quality standards to be exceeded, confirming the existence of criminal elements in this case.

c. Elements of the Person Who Gives the Order to Commit the Crime or the Person Who Acts as the Leader of the Activity in the Crime;

The defendant in this case has served as the Director of Operations of PT DSI since January 2019 based on Deed of Minutes of Meeting No. 08 dated July 30, 2019 drawn up by Notary Haji Indra Purnama, S.H. His duties include:

1) Manage company operations, including maintenance and harvest planning.
2) Oversee the operation of the farm budget run by the farm manager and supervised by the operations manager.
3) Served as Acting. Plantation Manager in charge of operational tools for fire suppression.

In this case, the defendant Misno bin Kariorejo, who served as Director of PT Duta Swakarya Indah (PT DSI), was found guilty of committing a criminal offense as "an order giver or activity leader, whose negligence caused a violation of ambient air quality standards, water quality standards, sea water quality standards, or standard criteria for environmental damage," as regulated in Article 99 paragraph (1) jo. Article 116 paragraph (1) letter b of Law of the Republic of Indonesia Number 32 of 2009 concerning Environmental Protection and Management.[21]

Article 99 Paragraph (1) states that any person whose negligence causes the exceedance of ambient air quality standards, water quality standards, sea water quality standards, or standard criteria for environmental damage, may be punished with imprisonment for a minimum of 1 (one) year and a maximum of 3 (three) years, and a fine of at least Rp1,000,000,000.00 (one billion rupiah) and a maximum of Rp3,000,000,000.00 (three billion rupiah). Article 116 Paragraph (1), If an environmental criminal offense is committed by, for, or on behalf of a business entity, criminal charges and criminal sanctions shall be imposed to:

1) Business entity; and/or
2) The person who gives the order to commit the criminal offense or the person who acts as the leader of the activities in the criminal offense.

Based on the description of the elements above, in fact the Criminal Penalty imposed by the judge in the above decision only punishes individuals, namely the Defendant Misno bin Kariorejo, who in his position as Director of PT DSI is in charge of giving orders in managing all operational activities of the company. This is based on the Minutes of Shareholders Number: 08, as stated in the Notarial Deed of H. Indra Purnama, S.H., dated July 30, 2019, which states that the defendant in carrying out his duties is responsible to the President Director of PT DSI. In addition, the panel of judges stated that the defendant had fulfilled the elements of the crime as stipulated in Article 99 paragraph (1) jo. Article 116 paragraph (1) letter b of Law Number 32 of 2009 concerning Environmental Protection and Management, with the following elements:

1) Any person (defendant as an individual with authority in the company).
2) Their negligence results in the exceedance of environmental quality standards, including ambient air quality standards, water quality standards, seawater quality standards, or environmental damage standard criteria.
3) The person who gives the order to commit the crime or the person who acts as a leader in the crime.

In terms of corporate management responsibility, if a manager realizes that his company is violating environmental law but does not take action to prevent it, then the manager can be held criminally liable. The Law on Limited Liability Companies (UU PT) also provides a legal basis related to the responsibilities of directors and commissioners in carrying out company management, including in the aspect of compliance with environmental provisions. This is emphasized in Article 97 paragraph (3) of the PT Law which states that "The Board of Directors is personally liable for the company's losses if they are guilty or negligent in carrying out their duties." [22]

If a corporate officer (board of directors) fails to ensure that the company complies with environmental regulations and as a result environmental pollution or damage occurs, then he or she can be held personally criminally liable. In order for a corporate board to be held criminally liable in an environmental case, the elements of an environmental crime must be proven. Based on Article 99 paragraph (1) of the Environmental Law, an environmental crime occurs if:[23] 1) There is an act that causes pollution and/or damage to the environment, 2) The act is committed intentionally or due to negligence. 3) The result of the act

[21]Article 99 paragraph (1) jo. Article 116 paragraph (1) letter b of Law of the Republic of Indonesia Number 32 of 2009 concerning Environmental Protection and Management.
[22]Article 97 paragraph (3), Law of the Republic of Indonesia Number 40 Year 2007 on Limited Liability Companies.
[23]Article 99 paragraph (1), Law Number 32 Year 2009 on Environmental Protection and Management.

is exceeding the predetermined environmental quality standards. If these three elements are met, then the management of the corporation can be held criminally liable.

In addition, in determining the legal subjects related to the criminal liability of corporate administrators in the Decision of the Siak Sri Indrapura District Court Number 9/Pid.B/LH/2021/PN Sak, Dated May 20, 2021, the judges paid attention to the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia Number: 36/KMA/SK/II/2013 concerning the Implementation of Guidelines for Handling Environmental Cases dated February 22, 2013, which explained that in determining the liability rule of parties suspected of committing environmental pollution and/or destruction, there are two things that are important to consider, namely negligence (Negligence Liability) and strict liability:

1) Negligence Liability in which the person who caused the damage is liable if he or she exercised substandard care or did not exercise due care;
2) *Strict liability*, in which case the party who caused the environmental damage is responsible for compensating for the damage caused by them. Here, the social costs must be borne by the perpetrator. To prevent the perpetrator from bearing large social costs, the perpetrator should take preventive measures. In this strict liability, the perpetrator must still be responsible even though they have optimally applied the precautionary principle.

Thus, the element of the existence of a person who gives orders to commit a criminal offense, or a person who acts as a leader in the criminal activity, has been proven to be fulfilled through the actions of the Defendant. In the applicable law in Indonesia, there are three main forms of criminal liability that can be imposed on the management of a corporation in the case of environmental crimes:

1) Imprisonment, Based on Article 99 paragraph (1) of the PPLH Law, corporate managers who are negligent in preventing environmental pollution can be sentenced to a minimum of 1 year and a maximum of 3 years in prison.
2) Criminal Fines, Corporate managers can also be subject to a minimum fine of Rp1 billion and a maximum of Rp3 billion as stipulated in Article 99 paragraph (1) of the PPLH Law.
3) Based on Article 119 of the PPLH Law, corporate managers who are found guilty can also be subject to additional punishment in the form of:
    a) Forfeiture of profits obtained from environmental crimes.
    b) Restoration of the environment due to pollution that has occurred.
    c) Revocation of business licenses for companies that systematically violate the rules.

In general, legal provisions in Indonesia stipulate that not only corporate entities can be held accountable, but also individuals who carry out corporate management. This is in line with the provisions in Article 20 paragraph (1) of Law Number 31 of 1999 as amended by Law Number 20 of 2001, as well as Article 23 paragraph (1) of the Regulation of the Supreme Court of the Republic of Indonesia Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations. Based on these regulations, criminal liability in the corporate context can be imposed only on the corporation, only on the management, or on both simultaneously. In the provisions of Article 1 paragraph (10) of the Regulation of the Supreme Court of the Republic of Indonesia Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations, it is stated that:[24] "Management" refers to an organ in a corporation that is tasked with carrying out the management of the company in accordance with the provisions of the articles of association or laws and regulations, and has the authority to represent the corporation.

This definition also includes individuals who although formally do not have decision-making authority, but factually can control, influence, or participate in determining the direction of corporate policy, including policies that lead to criminal acts, in other words, criminal responsibility for environmental crimes can be imposed not only on business entities as legal subjects, but also on individuals who hold leadership positions in the company, such as directors, commissioners, or officials who have the authority to make operational policies. Although in the structure of a Limited Liability Company (PT) regulated in Law Number 40 of 2007 concerning Limited Liability Companies, only 3 important organs of the company management are mentioned, consisting of the General Meeting of Shareholders (GMS), the Board of Directors, and the Board of Commissioners.[25]

In this decision, criminal sanctions were only given to individuals, namely the Directors of PT DSI. This shows that in the context of this case, only the individual management is held criminally liable, while the corporation as a legal entity is not directly subject to criminal sanctions. This raises questions related to justice, especially when only individuals are punished, namely the directors as part of the company's management structure. In the corporate system, directors have the obligation to carry out their duties in accordance with the articles of association and laws and regulations. However, criminal liability is

[24]Article 1 paragraph (10), Regulation of the Supreme Court of the Republic of Indonesia Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations

[25]Law of the Republic of Indonesia Number 40 of 2007 concerning Limited Liability Companies, p.6.

only imposed on the directors, while the corporation as a legal entity that indirectly continues to benefit from its activities is not punished. In addition, the amount of fines imposed by the judge does not necessarily reflect justice for the directors who are personally responsible because there are no definite parameters or limits to the imposition of fines.

In the Indonesian environmental criminal law system, the criminal liability of corporate managers still faces challenges, especially in the aspect of legal certainty. One of the issues that has emerged is the absence of clear parameters in the laws and regulations regarding the criminal limitations that can be imposed on corporate administrators. So far, the Supreme Court Regulation (PERMA) No. 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations has regulated that criminal responsibility can be imposed on both corporations and their management. However, the regulation does not explicitly stipulate the parameters of criminal imposition, especially regarding fines or fair forms of sanctions for corporate administrators. In this context, legal certainty related to clearer parameters in criminal arrangements for corporate managers in Indonesia. Clarity of rules regarding the limits of liability and sanctions that can be imposed will increase legal certainty and prevent injustice in its application.

The Decision of the District Court of Siak Sri Indrapura Number 9/Pid.B/LH/2021/PN Sak, Dated May 20, 2021, shows that criminal liability in environmental cases is imposed only on individuals, in this case the directors, who are responsible based on the power of attorney and articles of association of the company. This raises debates regarding aspects of justice and legal certainty, especially since the punishment is only imposed on the directors as part of the company's management structure, while the corporation as a legal entity that indirectly benefits from all company activities is not sanctioned. In the corporate system, directors have an obligation to carry out their duties in accordance with the articles of association and laws and regulations. However, the question arises whether it is fair if only the directors are held criminally liable, while the corporation as a legal entity that benefits from its activities is not always subject to punishment. In addition, the amount of fines imposed by the judge does not necessarily reflect justice for the directors who are personally responsible. This raises issues in the application of criminal liability, especially in the aspect of justice.

In environmental criminal law in Indonesia, the criminal liability of corporate managers still faces challenges, especially in the aspect of legal certainty. One of the main issues is the absence of clear parameters in the legislation regarding the criminal limitations that can be imposed on corporate administrators. So far, Supreme Court Regulation (PERMA) No. 13/2016 on Procedures for Handling Criminal Cases by Corporations has stipulated that criminal liability can be imposed on both the corporation and its management.[26] However, this regulation has not provided explicit guidelines regarding the parameters of criminal imposition, especially in determining the amount of fines or fair forms of sanctions for corporate administrators. this certainly creates legal uncertainty.

Legal certainty is a fundamental principle in the *civil law* legal system that demands clarity, regularity, and consistency in the application of law. This principle ensures that the law is predictable and reliable in regulating the behavior of individuals and legal entities, including corporations and their management. Legal certainty also ensures that every individual subject to the law understands their rights and obligations as well as the legal consequences of every action taken. Gustav Radbruch stated that legal certainty is one of the three main values in law, in addition to justice (*gerechtigkeit*) and expediency (*zwechmatigheid*). According to Radbruch, a good law must fulfill the element of certainty so as not to cause uncertainty in its application. Legal norms must be clear, without multiple interpretations, and stable so that they can be used as guidelines in the life of society and the state.

Lon L. Fuller in *The Morality of Law* formulates eight principles of legal certainty that must be met in a legal system, namely that the law must be general, announced to the public, not retroactive, and clearly formulated so as not to cause diverse interpretations. In addition, there should be no conflict between regulations in the legal system, and the law should not impose obligations beyond the capabilities of individuals or legal entities. Another principle is that the law should not be changed too often to remain stable, and should be applied consistently in practice to maintain its authority.[27] In the context of environmental crimes involving corporate administrators, legal certainty is a crucial factor to ensure that the sanctions imposed are in accordance with the principles of justice and proportionality.

Gustav Radbruch emphasized that legal certainty is "Scherkeit des Rechts selbst" (legal certainty about the law itself). According to him, there are four main aspects that must be fulfilled so that a law reflects legal certainty, namely:

1) The law must be positive, in the form of legislation (gesetzliches Recht);
2) The law must be based on facts (Tatsachen) and not merely subjective judgment by the judge;
3) facts in law must be formulated clearly to avoid misinterpretation and facilitate implementation; and

[26]Syahrul Machmud, Indonesian Environmental Law Enforcement (Yogyakarta: Graha Ilmu, 2012), p. 102.
[27]http://tesishukum.com/pengertian-asas-kepastian-hukum-menurut-para-ahli,diakses on January 15, 2017 at 13.05 WIB.

4) The law should not be changed frequently to keep it stable and predictable.[28]

In the Indonesian legal system, legal certainty in environmental crimes is closely related to the concept of *Rechtsstaat or* the state of law. As a state of law, Indonesia must ensure that every regulation has clarity and can be applied consistently. Therefore, strategic steps are needed to increase legal certainty in environmental criminal enforcement for corporate administrators. Some steps that can be taken include:

1) preparation of more detailed parameters regarding the category of involvement of the management in environmental crimes so that there is no excessive criminalization; and
2) Setting clearer standards in determining the amount of criminal sanctions in accordance with the level of guilt and involvement of the management.

Based on the review of legal certainty theory, Indonesia needs clearer parameters in imposing criminal penalties for corporate administrators. This is important so that the law can be applied fairly, consistently, and predictably, so as not to cause legal uncertainty. Below, the author analyzes 5 (five) environmental crime decisions and 5 (five) corruption crime decisions in Indonesia.

Below, an analysis of court decisions related to environmental crimes by corporations in Indonesia based on the Directory of Supreme Court Decisions[29] The author first examines court decisions in environmental criminal cases. The author examines the pattern of criminal convictions, the legal subjects held accountable (whether individual administrators or corporations as legal entities), and the judges' considerations in deciding the case. Through this approach, the author attempts to illustrate how the court constructs criminal liability for corporations and/or their management, and assesses whether the decision reflects the principles of justice and legal certainty.

3. Verdicts in Corporate Criminal Cases of Environmental Crimes

a. Decision of the District Court of Muara Enim Number 31/Pid.B/LH/2023/PN Mre, Dated April 11, 2023

The defendant PT Lematang Coal Lestari, represented by Zambi Bin Danal as the person in charge of operations, carried out overburden stripping activities in the IUP-OP area of PT Musi Prima Coal without permission, as well as installing pumps, box culverts, and pipes without permission, which caused significant environmental damage to river water quality and surrounding land. In his consideration, the judge considered the fulfillment of the elements of corporate liability based on the chronology of events, with severe considerations including not having an official permit in the utilization of land and water resources and environmental losses estimated in accordance with Ministerial Regulation 7 of 2014 concerning the Environment. However, mitigating factors such as honest attitude, cooperation during the trial, no previous criminal record, and environmental recovery efforts were also considered. Finally, the Defendant was found guilty based on Article 70 letter a jo Article 40 paragraph (3) of Law No. 17 of 2019 on Water Resources, Law No. 11 of 2020 on Job Creation (amendment to the Water Resources Law), and the Criminal Procedure Code. The verdict stated that the Defendant was fined Rp2,000,000,000.00; if not paid, the corporation's assets will be confiscated and auctioned in accordance with applicable laws and regulations.

b. Decision of the Serang District Court Number 89/Pid.Sus/2024/PN Srg, Dated April 29, 2024

PT Datong Lightway International Technology, represented by Andy Abas as Production Manager, has been proven legally and convincingly guilty of dumping around 100 tons of B3 slag waste without a permit behind the factory. This action violates the provisions of hazardous waste management as stipulated in Appendix IX of Government Regulation No. 22/2021, causes soil and water pollution, and potentially threatens the health of the surrounding community. In deciding this charge, the judge considered elements that included the fulfillment of corporate responsibility based on the chronology of events. Aggravating circumstances include contradicting the principles of a clean and healthy environment, while mitigating circumstances include the corporation's contribution in creating jobs and providing assistance to local residents. As a result, PT Datong Lightway International Technology was sentenced to a fine of IDR 100,000,000. If not paid, the assets and property of the corporation may be seized, while being subject to remedial action due to criminal acts in accordance with Law Number 32 of 2009 concerning Environmental Protection and Management which has been amended by Law Number 11 of 2020 concerning Job Creation, as well as other laws and regulations.

c. Decision of Surabaya District Court No. 2607/Pid.B/LH/2023/PN Sby, dated February 19, 2024.

In the trial, PT Guraja Mandiri Perkasa, represented by director Deni Sipandan Anak Arung Sipandan, was charged with converting illegal timber to legal status for sale. On December 3, 2022, officers found 27 containers of sawn timber, including those owned by PT Guraja, without legal documents (SKSHH-KO) and Deni Sipandan, director of PT Guraja Mandiri Perkasa, was involved in managing the timber and field operations. The judge considered that the elements of corporations and

[28]Achmad Ali, Revealing Legal Theory & Judicialprudence Including Legisprudence Volume I Initial Understanding, Kencana Prenada Media Group, Jakarta, 2010, p. 292-293.
[29]Syahrul Machmud, Indonesian Environmental Law Enforcement (Yogyakarta: Graha Ilmu, 2012), p. 102.

individuals were involved in the activity, imposing a sentence based on Article 83 paragraph (4) letter b of Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction, as amended by Law Number 6 of 2023, as well as Article 55 paragraph (1) to 1 of the Criminal Code, PERMA Number 13 of 2016, and Law Number 8 of 1981 concerning Criminal Procedure. PT Guraja Mandiri Perkasa, representing Deni Sipandan Anak Arung Sipandan, was sentenced to a fine of Rp10,000,000,000.00 and the closure of PT Eka Dwika Perkasa. Deni Sipandan, who was not present at the trial, was found guilty of the crime of transporting and possessing forest products without legal documents, sentenced to 7 years imprisonment, with a fine of Rp6,000,000,000.00 which can be replaced by 6 months imprisonment if not paid.

d. Decision of Surabaya District Court No. 2606/Pid.B/LH/2023/PN Sby, Dated February 19, 2024

In the trial, PT Eka Dwika Perkasa, represented by Sri Genyo Bin Semi (deceased) aka Pak Genyo as the director of the limited liability company, and Sri Genyo Bin Semi (deceased), the absent director of the limited liability company, were charged with committing a criminal offense by changing the status of illegal timber to ostensibly legal at BJTI Depot, Surabaya, on December 3, 2022. The Directorate of Environmental Prevention and Safeguards found three containers of timber belonging to PT Guraja Mandiri Perkasa without legal documents, with Deni Sipandan in charge of operations and timber delivery. The judge considered that PT Eka Dwika Perkasa and Sri Genyo had violated Article 94 paragraph (2) letter d of Law No. 18 of 2013 jo. Article 55 paragraph (1) to 1 Criminal Code, sentenced based on Article 83 paragraph (4) letter b of Law No. 18 of 2013 which has been amended by Law No. 6 of 2023, as well as Article 55 paragraph (1) to 1 Criminal Code, PERMA No. 13 of 2016, and Law No. 8 of 1981. PT Eka Dwika Perkasa was sentenced to a fine of Rp10,000,000,000 and closure of the company. Sri Genyo, who was not present at the trial, was found guilty of the crime of transporting and possessing forest products without legal documents, sentenced to 6 years imprisonment with a fine of Rp6,000,000,000.00 which can be replaced by 6 months imprisonment if not paid.

e. Decision No. 154/Pid.B/LH/2022/PN.Mjl, dated November 17, 2022

PT Diamond International Indonesia, a manufacturer of Puma brand shoes, was found guilty of using water resources without a valid permit from the West Java Governor for operations and toilets. An inspection by West Java Police and ESDM Region VII Cirebon on October 11, 2021 revealed that two of the three boreholes used did not have permits, violating Article 28 paragraph (3) of West Java Governor Regulation No. 97 of 2002 on groundwater management. The company then applied for permits which were obtained on August 2, 2022 and July 4, 2022 after the incident. In the trial, the judge considered that PT Diamond International Indonesia had violated Article 49 of Indonesian Law No. 17 of 2019 on Water Resources by intentionally using water resources without a business license. Although the company had applied for a license and regretted its actions, the judge decided to impose a fine of Rp1,000,000,000.00.

Based on the analysis of five court decisions in environmental criminal cases by corporations in Indonesia, there are several important similarities and differences that can be drawn. The similarity is that all of these cases mention environmental damage or pollution caused by corporate actions, either directly or through their management. In all decisions, corporations are recognized as perpetrators of criminal acts, and criminal liability in general still refers to Supreme Court Regulation (PERMA) No. 13 of 2016 as the basis for the procedure for handling criminal cases by corporations. The main form of sanction imposed on corporations is also relatively uniform, namely fines.

However, a number of important differences were also found. First, the object of violation in each case varied, ranging from water pollution, unauthorized utilization of water resources, illegal management of hazardous waste, to forest destruction through undocumented timber trade. Second, the amount of fines imposed in environmental criminal cases varies greatly. Third, the legal subjects sentenced also vary: there are decisions that only punish corporations, as in the case of PT Diamond; there are also decisions that punish corporations and their management at the same time, even accompanied by additional punishment in the form of company closure. In contrast, in the Decision of the Siak Sri Indrapura District Court Number 9/Pid.B/LH/2021/PN Sak, only the director, namely Misno bin Kariorejo, was sentenced, without touching on corporate criminal liability. This happened because the Defendant Misno, as the Director in charge of giving orders and organizing all operational activities of PT Duta Swakarya Indah (PT DSI), and has been proven negligent in carrying out his duties and responsibilities as stipulated in the Minutes of Shareholders. The Public Prosecutor in his indictment also only filed the Defendant Misno bin Kariorejo as a personal defendant, and did not include PT DSI as a legal subject that was also held criminally liable.

Although the facts at trial showed that the Defendant's actions were committed in his capacity as Director and for the benefit of the company, there were no charges or requests for criminal convictions against the legal entity PT Duta Swakarya Indah (PT DSI) itself. This shows that the focus of the prosecution was fully directed at the individual administrators. The Panel of Judges considered that the elements of corporate criminal liability had not been fully met. In fact, Article 116 paragraph (1) letter b of Law Number 32 of 2009 concerning Environmental Protection and Management expressly opens up space to impose criminal liability on corporations. However, there is no description in the decision stating that PT DSI meets the criteria as stipulated in Article 4 paragraph (2) of Supreme Court Regulation Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations to be made a subject of criminal law.

Instead, the focus of legal considerations was directed more towards the personal negligence of the Defendant Misno as an order giver or operational leader. This includes failure to meet environmental protection standards, not providing training for firefighters, and not equipping fire control facilities and infrastructure as mandated by applicable laws and regulations. An interesting aspect to look at is related to the application of environmental loss calculation parameters. In this case, the Minister of Environment Regulation No. 7/2014 on Environmental Losses Due to Pollution and/or Environmental Damage has actually provided technical and quantitative guidelines on how to assess ecological losses due to pollution or environmental damage.

The regulation should be an objective reference for law enforcers in calculating the proportional amount of fines. However, based on the analysis of the decisions above, judicial practice shows that there is no consistent application. Of the five decisions analyzed, only some judges explicitly referred to this regulation, as seen in the Decision of the District Court of Muara Enim and partly in the District Court of Siak. Meanwhile, in other cases, loss estimation was only mentioned in general terms without a detailed calculation method. Although Law No. 32/2009 on Environmental Protection and Management (UUPLH) has determined a general limit on the amount of criminal fines, this provision is only a general benchmark that applies to all legal subjects who commit environmental crimes. However, until now there has not been a definite and fair parameter that can be used as a reference in determining the amount of specific environmental losses.

In the Supreme Court Regulation (PERMA) Number 13 of 2016 only regulates the procedures for handling criminal cases by corporations, including the identification of legal subjects and perpetrators, and in the Minister of Environment Regulation Number 7 of 2014 concerning Environmental Losses Due to Pollution and / or Environmental Damage has provided quantitative technical guidelines for calculating the amount of ecological losses, these regulations are not normatively binding in the context of punishment. especially. Its position is more as an administrative guideline that can be used as a reference by law enforcement in the process of calculating environmental losses. moreover. Based on the statement of the Chief Justice of the Supreme Court, judges are encouraged to be progressive in determining the amount of loss and imposing punishment in environmental cases.

Therefore, in judicial practice, judges have the freedom to use other sources or bases of consideration in determining the amount of loss and imposing a fine. Based on the analysis of the above decisions, if the judge does not use the Environmental Protection Law in calculating the amount of loss to determine the imposition of a fine, the judge considers based on, among others:

a) Expert opinion or expert witness testimony in the environmental field that provides an estimation or assessment of impacts based on their professional knowledge and experience;
b) Reports from technical agencies, such as the Environmental Agency (DLHK), BAPEDAL, or the Ministry of Environment and Forestry (KLHK), which usually contain field findings and impact evaluations;
c) The judge's assessment is based on the facts of the trial, in the absence of an adequate technical report or calculation. In these circumstances, the judge uses judicial discretion to assess the loss qualitatively or quantitatively based on the evidence and facts revealed during the trial.

This non-attachment to a particular calculation method can lead to the potential for injustice. because it is based on the judge. In addition to comparing with several decisions in environmental criminal cases, the author also compares with decisions related to corporate criminal acts in the field of corruption to analyze how judges consider the imposition of punishment on defendants. This comparison aims to find common threads related to the application of the principle of corporate criminal liability in both types of criminal acts.

4. Verdict in Corporate Criminal Case of Corruption

a. Decision Number 57/Pid.Sus-TPK/2023/PN.Plg, Dated December 4, 2023

Dedek Pranata, who served as President Director, Shareholder, and President Commissioner of PT Sawit Menang Sejahtera (PT SMS) and President Director of PT Jasuma Equator (PT JE), along with other parties, is allegedly involved in corruption between 2010 and 2017 in a joint venture cooperation with PT Perkebunan Mitra Ogan (PT PMO) in Palembang. Dedek Pranata is accused of obtaining a profit of Rp32.79 billion by abusing his authority in the management of the company. The judge considered that his actions cost PT Perkebunan Mitra Ogan Rp32,770,033,115.00 according to the 2018 BPK RI audit report. Although Dedek Pranata has no previous criminal record and has family dependents, the judge sentenced him to 10 years in prison, a fine of Rp500,000,000 which can be replaced by 6 months imprisonment if not paid, and compensation of Rp7,640,000,000.

b. Decision Number 24/Pid.Sus-TPK/2023/PN Jkt.Pst, Dated July 20, 2023

John Erens Rengku alias John Erens, President Director of PT Solusi Imaji Media, together with Witness Sumino, were involved in corruption related to the distribution of Working Capital Loans by Bank DKI to PT Solusi Imaji Media in the 2013-2014 period. The loan was misused and not used as intended, resulting in state losses of Rp16.5 billion. The judge considered that this act involved elements of corruption, including abuse of authority and harm to state finances. Although John Erens behaved politely during the trial and admitted his actions, the judge sentenced him to 8 years in prison, a fine of

Rp500,000,000 which can be replaced by 6 months imprisonment if not paid, and restitution of Rp16,500,000,000. The sentence must be paid within one month; otherwise, the property will be confiscated and auctioned, with an additional 5 years imprisonment if the property is insufficient.

c. Decision Number 32/Pid.Sus-TPK/2023/PN Jkt.Pst, Dated August 14, 2023

Kristadi Juli Hardjanto, former General Manager of Production Support of PT Waskita Beton Precast, Tbk, was charged with corruption in the procurement of split stone material that benefited Hasnaeni/PT Misi Mulia Metrical by Rp17.58 billion and caused losses to the state. The judge considered the elements of the crime of corruption such as abuse of office to enrich others and harming state finances based on the BPKP audit. Although Kristadi Juli Hardjanto showed a polite attitude in the trial and had family responsibilities, he did not feel guilty for his actions. As a result, the judge sentenced him to 5 years imprisonment and a fine of Rp500,000,000, which can be replaced by 4 months imprisonment if not paid.

d. Decision Number 31/Pid.Sus-TPK/2021/PN Srg, Dated February 14, 2022

PT Djaya Abadi Soraya, represented by Dheerandra Alteza Widjaya alias Dera Rana Febrian, as President Director, was charged with corruption at Bank BJB Tangerang Branch in 2015-2016. Through their actions, they allegedly benefited several parties totaling Rp4.7 billion and caused losses to the state. The judge considered the elements of corruption such as abuse of office to enrich oneself or other parties, which can harm state finances. Although Dheerandra Alteza Widjaya showed a polite attitude during the trial, has never been convicted, and has family dependents, he was sentenced to 6 years in prison, a fine of IDR 300,000,000, which can be replaced by 3 months imprisonment if not paid, as well as the obligation to pay compensation of IDR 2,504,000,000.

e. Decision No. 7/Pid.Sus-TPK/2020/PN.Tte, dated November 12, 2020

Said Salim Almahdaly alias Salim, who served as a helmsman at PT Aru Raharja, was charged with abuse of authority at PT Jasa Raharja (Persero) Representative TK II Ternate between 2015 and April 2019. His actions were intended to benefit himself or other parties, which resulted in harm to state finances. The judge considered the chronology of events supporting these charges, including the audit results from the BPKP Representative of North Maluku Province which showed state losses of Rp277,600,000. Although Salim admitted his actions, returned the state losses, and had never been convicted, he was sentenced to 3 years imprisonment and a fine of Rp100,000,000, which can be replaced by 3 months imprisonment if not paid.

Based on the decisions of corporate criminal acts in the field of corruption that have been analyzed, it appears that the calculation of state financial losses generally refers to the results of audits conducted by the Supreme Audit Agency of the Republic of Indonesia (BPK RI) and / or the Financial and Development Supervisory Agency (BPKP). This is in line with the Constitutional Court Decision Number 31/PUU-X/2012, which states that BPK is the only institution constitutionally authorized to declare and determine the existence of state financial losses. However, other institutions such as BPKP are still allowed to calculate losses in the context of investigative audits or as evidence in the legal process, as long as the BPK officially declares the existence of state financial losses. Therefore, in corruption cases, the mechanism for imposing additional punishment in the form of restitution is highly dependent on the official audit of the state institution.

In contrast to corporate criminal offenses in the environmental sector, which do not explicitly require audits by certain institutions, but rather provide technical tools in the form of Regulation of the Minister of Environment of the Republic of Indonesia Number 7 of 2014 concerning Environmental Losses Due to Pollution and/or Environmental Damage. This regulation provides quantitative guidelines that can be used by judges in estimating the amount of ecological losses, but its use is advisory, not mandatory, resulting in inconsistencies between decisions, where not all judges refer to this regulation in imposing fines.

From this comparison, it can be concluded that in corruption crimes, the mechanism for imposing punishment, especially restitution, is more structured because it refers to a strong legal basis and explicitly determined authority, namely Article 18 of Law Number 31 Year 1999 jo. Law Number 20 Year 2001, with the determination of state losses by BPK. Meanwhile, in environmental crimes, although there is a technical instrument in the form of Minister of Environment and Forestry Regulation No. 7/2014, there is no binding provision that forces judges to use it as a reference in imposing fines, so the application tends to be flexible and not uniform. So far, if the judge does not refer to the regulation, the judge calculates the use:

a) Expert Opinion or Expert Witness Statement;
b) Reports from technical agencies such as DLHK, Bapedal, or the Ministry of Environment and Forestry;
c) The judge's free judgment (discretion) is based on the facts at trial.

But actually, there is still a legal vacuum, especially on the limit of fines (parameters) for imposing fines on corporate administrators. This is because, in Article 2 of Permen LHK No. 7 of 2014, although it is stated that "This Ministerial Regulation aims to provide guidelines for Central Environmental Agencies and/or Regional Environmental Agencies in determining environmental losses; and calculating the amount of Environmental Losses," it does not regulate the size or limit of minimum and maximum fines that can be imposed on corporate "administrators".

The issue of legal vacuum related to the minimum and maximum parameters of criminal punishment by corporate administrators is reinforced by the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia Number

36/KMA/SK/II/2013 on the Enforcement of Guidelines for Handling Environmental Cases, which states that in handling environmental cases, judges are expected to be progressive because environmental cases are complicated and often involve scientific evidence. Therefore, environmental judges are required to have the courage to apply the principles of environmental protection and management, such as the precautionary principle and conduct judicial activism, so the Supreme Court considers it necessary to compile and enforce the Guidelines for Handling Environmental Cases.

B. Parameters of Environmental Criminal Liability by Corporate Management from the Perspective of Justice (Decision of the Siak Sri Indrapura District Court Number 9/Pid.B/LH/2021/PN Sak, dated May 20, 2021)

Decision of the District Court of Siak Sri Indrapura Number 9/Pid.B/LH/2021/PN Sak sentencing Misno bin Kariorejo, as Director of PT Duta Swakarya Indah (PT DSI), for land fires that exceeded environmental quality standards. Based on Article 99 paragraph (1) jo. Article 116 paragraph (1) letter b of Law of the Republic of Indonesia Number 32 of 2009 concerning Environmental Protection and Management (PPLH Law), the defendant was sentenced to imprisonment for 1 (one) year and a fine of Rp1,000,000,000.00 (one billion rupiah) in lieu of 3 (three) months imprisonment. In this decision, the corporation PT DSI was not subject to direct criminal sanctions, while the director of the company was convicted for his negligence that resulted in environmental damage even though based on the facts of the trial, the environmental crime occurred in the context of corporate activities, which should also be held criminally liable. If PT DSI as a legal entity benefits from these activities or from the negligence of the management, then the corporation should also be subject to criminal sanctions.

This is important so that the imposition of punishment reflects fair proportionality to all parties involved. In this context, arrangements related to corporate liability in environmental crimes in Indonesia have been regulated in several legal instruments such as Law No. 32 of 2009 concerning Environmental Protection and Management (PPLH Law) Article 116 paragraph (1) of the PPLH Law clearly states that if environmental crimes are committed by, for, or on behalf of a business entity, then criminal charges and sanctions can be imposed on: a. The business entity itself; and/or, b. The person who gives the order or who acts as the leader of the activity. In the case of PT DSI, because the activities that caused the fire were carried out for and on behalf of the corporation, both the management (Misno bin Kariorejo) and PT DSI as a corporation can be subject to criminal charges. However, in the verdict, only the individual (management) was sentenced, while PT DSI was not touched, thus not fulfilling the explicit command of Article 116 of the PPLH Law.

Then in PERMA No. 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations Article 4 of PERMA No. 13/2016 states that corporations can be punished if: The corporation obtains benefits or benefits from criminal acts, the corporation allows criminal acts to occur, the corporation does not carry out prevention, supervision, or compliance with legal provisions. In this case, if PT DSI obtained direct benefits or did not conduct adequate supervision, the corporation should also be the subject of punishment, not just the management. This related regulation is also stipulated in Law No. 40 of 2007 concerning Limited Liability Companies (PT Law) Article 1 point 5 states that the board of directors is an organ of the company that is responsible for management. and followed by Article 92 and Article 97 of the PT Law explaining that the board of directors is responsible for management and for the company's losses if proven negligent in carrying out their duties. In this decision, the management (Director) was sentenced for negligence, in accordance with Article 97 of the PT Law. However, because the actions were carried out for and on behalf of the corporation, PT DSI as a legal entity should also be held accountable in accordance with the principle of collective responsibility in the Environmental Law and PERMA No. 13/2016.

From the analysis of the Decision of the Siak Sri Indrapura District Court Number 9/Pid.B/LH/2021/PN Sak and a number of other decisions, it can be concluded that there are three main patterns in the practice of punishment for environmental crimes committed by corporations. These patterns are in line with the arrangements in the Regulation of the Supreme Court of the Republic of Indonesia Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations, which provides guidelines on how criminal liability can be imposed on both corporations and their management. However, all environmental decisions punish corporations in accordance with Article 116 paragraph (1) letter b of Law Number 32 of 2009 concerning Environmental Protection and Management (UU PPLH), criminal sanctions can be imposed on business entities and/or persons who give orders to commit such criminal acts or persons who act as leaders of activities. The word "and/or" in the article emphasizes that the imposition of criminal sanctions can be addressed to the corporation, management, or both simultaneously, depending on their respective roles and involvement, except for the Decision of the Siak Sri Indrapura District Court Number 9/Pid.B/LH/2021/PN Sak which only imposes individual punishment on the directors as the management of the persero.

In the perspective of Justice Theory developed by John Rawls, there are two main principles that can be used as a basis in assessing whether a policy or legal decision on corporate crime has reflected justice, namely the principle of freedom and the principle of difference. Equal Basic Liberties Principle Every individual has the same right to the broadest possible basic freedom, as long as the freedom does not reduce the rights of others. In the context of law enforcement, this principle demands equal, fair and non-discriminatory legal treatment for every citizen, including corporate administrators, so that they get the same legal protection in the judicial process. Difference Principle Social or economic inequality can only be justified if it provides the greatest benefit to the most disadvantaged groups. In the criminal law framework, this principle requires the justice system to give

attention and fair treatment to individuals or legal subjects who are in a weaker position than structurally and economically stronger entities, such as corporations.

In the Decision of the Siak Sri Indrapura District Court Number 9/Pid.B/LH/2021/PN Sak, the judge imposed punishment only on the individual administrator, namely Misno bin Kariorejo, as Director of PT Duta Swakarya Indah (PT DSI), without imposing any criminal sanctions on the corporation PT DSI. In fact, the criminal act in the form of negligence that resulted in land fires and environmental pollution occurred in a series of company operational activities in accordance with the articles of association. Article 1 number 5 and Article 92 of the Law of the Republic of Indonesia Number 40 of 2007 concerning Limited Liability Companies stipulates that the board of directors is an organ of the company that is responsible for management for and on behalf of the company in accordance with the aims and objectives of the company as stated in the articles of association.[30] In fact, when the board of directors acts to deviate from these purposes and objectives, and causes environmental crimes to occur, the board of directors can be held personally liable because they have exceeded the limits of their authority (*ultra vires*) and violated the principle of fiduciary duty.

However, if the criminal offense is committed within the scope of the company's activities and / or for the benefit of the corporation, then the responsibility cannot be fully imposed on the management, this is in line with the Decision of the Siak Sri Indrapura District Court Number 9/Pid.B/LH/2021/PN Sak, based on legal facts, the directors are declared to have fulfilled the element of negligence and are not included in ultra vires, which means that the actions carried out are still within the scope of the authority of the position and the operational objectives of the company, but are carried out negligently or not carefully in accordance with the legal obligations and responsibilities of the position that should be.

Thus, negligence committed by the management is not a form of action that is beyond its legal authority (*ultra vires*), but rather a form of violation of formal legal management obligations. Personal or individual responsibility of the management can be carried out if the action is not based on regulation (Ultra Vires) and if it does not carry out fiduciary duty but has carried out the business judgment rule.[31] Therefore, the decision to only impose punishment on the management, while the corporation that also indirectly benefits is not subject to criminal liability, is potentially contrary to the principle of justice.

If associated with john rawl's theory of justice, Rawls' two principles of justice, First, in terms of the *Principle of Freedom*, there is inequality in legal treatment. The management as an individual must bear the entire criminal burden, even though it is only one part of the corporate responsibility structure. Meanwhile, corporations as legal entities that de facto obtain economic benefits from business activities that damage the environment are not subject to any liability. This is clearly contrary to the principle of equality before the law. Second, from the perspective of the *Principle of Difference*, this decision actually worsens the position of individual administrators as parties that are structurally weaker than corporations. When corporations are not subject to any sanctions, there is no guarantee that the legal system has guaranteed substantive justice for vulnerable parties in the structure of criminal responsibility. In addition, this kind of decision does not create a deterrent effect that should target corporate entities as business actors who benefit directly from unlawful environmental activities.

Furthermore, if indeed found guilty, there is still a legal vacuum in terms of limits or parameters for imposing fines on corporate administrators in environmental criminal cases. This can be seen in the Regulation of the Minister of Environment of the Republic of Indonesia Number 7 of 2014 concerning Environmental Losses Due to Pollution and/or Environmental Damage, specifically Article 2, which states that "This Ministerial Regulation aims to provide guidelines for Central Environmental Agencies and/or Regional Environmental Agencies in determining environmental losses; and calculating the amount of environmental losses."[32] However, this regulation does not contain provisions regarding the minimum and maximum fines that can be imposed on corporate administrators as personally responsible legal subjects.

The absence of this regulation creates legal uncertainty in practice, especially when judges have to determine the amount of criminal sanctions against administrators responsible for environmental crimes. This lacuna is reinforced by the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia Number 36/KMA/SK/II/2013 on the Enforcement of Guidelines for Handling Environmental Cases. The decision emphasizes that environmental cases are complex and often involve *scientific evidence*, so *judges* are expected to be progressive and dare to apply the principles of environmental protection and management, including the *precautionary* principle and *judicial activism*.[33]

In the absence of normative standards regarding the limitation of criminal fines against the management, judges have discretion in imposing sanctions, which in practice can lead to disparities between decisions. Therefore, it is important for policy makers to immediately fill this legal vacuum through regulations that provide certainty and justice in the imposition of punishment against

[30]Syahrul Machmud, Indonesian Environmental Law Enforcement (Yogyakarta: Graha Ilmu, 2012), p. 102.
[31]Handoyo Prasetyo, 2021, *Elaboration of Corporate Management Liability from Civil to Criminal* (3rd Edition), Jakarta: Publishing Unit of UPN Veteran Jakarta, p. 159.
[32]Syahrul Machmud, Indonesian Environmental Law Enforcement (Yogyakarta: Graha Ilmu, 2012), p. 102.
[33]*Ibid.*

corporate administrators in environmental cases. In order for the principle of justice to be applied better in environmental cases, there needs to be clear parameters in imposing criminal sanctions against corporate administrators. In determining the parameters, of course, the higher the position, the greater the responsibility. based on the Decision of the Siak Sri Indrapura District Court Number 9/Pid.B/LH/2021/PN Sak, dated May 20, 2021. in the organizational structure of PT DSI there is a president director, director, general director, deputy director. which finally the sentence was imposed on the defendant as director of PT Duta Swakarya Indah.

For now there is no standard form in the organizational structure of a corporation in the Limited Liability Company Law regulations. The UUPT only states that the corporate organs are the board of directors (management function), the board of commissioners (supervisory function) and the general meeting of shareholders (GMS), a corporate organ that has authority that is not given to the board of directors or the board of commissioners within the limits specified in the Limited Liability Company law and / or articles of association.[34] In the book Elaboration of Corporate Management Liability from Civil to Criminal, it explains that the levels of positions in the organizational structure are as follows:[35]

a) Board of Directors (Chief Executive Officer, President Director, President Director, Director).
b) Sales Division Head, Chief of Group Risk Management, General Manager).
c) AR Department Head, Head of Accounting and Taxation, Accounting and Finance Manager.
d) Traffic & Docs. Supervisor, Marketing Staff, Finance Staff, Production Staff, Accounting Staff.
e) Employee, Clerk, Laborer, Operator, Administrator.

The organizational structure provides a flow of information, instructions, orders, and all plans for corporate activities that flow from the highest to the lowest level in the corporate organization, allowing a group of people to work together to achieve the intended goal (corporation) more effectively and goal-directed.[36] Legal sanctions for directors and employees who are jointly and legally responsible with the corporation for criminal offenses committed by the corporation for criminal offenses committed by the corporation are only differentiated in the amount of the fine. for directors and employees, legal sanctions must also be in harmony with the legal sanctions imposed on the corporation. If the corporation can be sentenced to a fine, then the directors and employees are also sentenced to a fine. the corporation can also be sentenced to administrative punishment in the form of business closure, deprivation of certain profits, business closure, deprivation of certain profits, as well as directors and employees, can also be sentenced to administrative punishment in the form of termination of employment, or elimination of bonuses or reduction of wages.[37]

Legal sanctions in the form of fines for directors and employees can be given by taking into account the remuneration of the income of directors and employees for one year, consisting of twelve months' wages, one month's wage holiday allowance and bonuses (if any), in accordance with the calculation of the imposition of income tax calculated on the income of employees for one year.[38] The amount of remuneration reflects the hierarchy of positions in a corporation, where the higher a person's position, the greater the rights, authority and responsibilities attached to it. This increase in position is directly proportional to the amount of remuneration received, where the highest position in the company's management structure is occupied by directors, who have the greatest authority and responsibility in making strategic corporate decisions. Meanwhile, at the lowest level, employees who are also included in the corporate management category have more limited rights, authorities and responsibilities than those above them, which is in line with the smaller remuneration compared to those in higher positions.

Currently, the sanctioning system in environmental crimes still has a legal vacuum in determining the limit of fines and corporate responsibility. From the perspective of distributive and commutative justice, because there is no clear standard in determining the amount of fines and who should be responsible. There is no commutative justice, because decisions still vary and there is no legal certainty in determining penalties for administrators and corporations. Therefore, there needs to be clearer regulations regarding the parameters of sanctions, both in the form of fines, environmental restoration, and revocation of business licenses for companies that are proven to systematically damage the environment. In order for justice to be truly realized, the Supreme Court needs to establish stricter guidelines in determining sanctions against corporate administrators in environmental cases, in order to achieve complete justice.

[34]Handoyo Prasetyo, 2021, *Elaboration of Corporate Management Liability from Civil to Criminal* (3rd Edition), Jakarta: UPN Veteran Jakarta Publishing Unit, pp. 56.
[35]*Op. cit.* p. 55.
[36]Ibid, pp. 55-56
[37]Ibid, pp. 172-173
[38]Ibid, p. 173

CONCLUSIONS

Law enforcement against corporate managers in Indonesia, especially in cases of environmental crimes, shows that despite normative arrangements, its implementation still faces various challenges, especially related to legal certainty and justice which lies in the imposition of criminal fines, where although technical regulations such as the Minister of Environment Regulation Number 7 of 2014 provide quantitative guidelines for calculating environmental losses, their non-binding nature causes these guidelines to not always be used as a reference by judges, which leads to inconsistencies in the imposition of fines. This is very different from the imposition of fines in corruption cases which are clearer, because the calculation of losses and fines has been regulated more firmly and has a binding reference, such as the role of the Supreme Audit Agency (BPK) in calculating state losses.

Although technical regulations such as the Minister of Environment Regulation No. 7/2014 have provided quantitative guidelines for calculating environmental losses, there is still a legal vacuum related to clear parameters regarding the form, limits, and proportionality of criminal sanctions that can be imposed on corporate administrators. According to John Rawls, the imposition of criminal fines against corporate managers in environmental cases must ensure fair legal treatment and protection of structurally weaker parties by paying more attention to matters such as: position or position in the organizational structure, the size of annual income, and the level of involvement or role in decision making that causes environmental crimes to occur.

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