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Optimal Sentencing Patterns for Corporations Involved in Environmental Destruction Causing Forest and Land Fires (Case Study: Court Decision Number 71/PID.B/LH/2021/PN.SNT)

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ABSTRACT: The environmental degradation caused by forest and land fires in Indonesia continues to pose serious legal and ecological challenges, particularly when perpetrated by corporations. This study focuses on analyzing judicial responses to corporate environmental crimes, specifically in the case of PT. Mega Anugerah Sawit (MAS) through Court Decision Number 71/PID.B/LH/2021/PN.SNT. Utilizing normative legal research methods and a conceptual approach, the research finds that corporate criminal accountability in environmental offenses remains weak due to the limited application of strict liability, inadequate enforcement of restorative justice, and low effectiveness of criminal sanctions. The study proposes an ideal sentencing model that integrates environmental restoration, increased fines, and the implementation of standalone remedial sanctions. Furthermore, the research argues that Indonesia's criminal justice system requires systemic reforms to effectively address corporate environmental violations, including legislative revisions and heightened ecological awareness within the judiciary.

KEYWORDS: ideal sentencing patterns, corporate offenders, environmental destruction, forest and land fires.

I. INTRODUCTION

In the nexus between cultural rumors, law, economy, and politics concerning various events in Indonesia, rumors about these topics tend to garner the greatest attention. Environmental law in Indonesia has finally expanded its reach, evolving at a pace commensurate with human life developments and understanding. The air we breathe is a gift from God, holding the potential to enhance and sustain all forms of life on Earth. We must strive with all our might to protect and improve air quality so that future generations can enjoy it as we do now. This is especially pertinent in Indonesia.[1]

Syamsul Arifin argues that "Indonesia has regulations on the management and protection of the environment, which are interpreted as forming and creating equality in environmental expertise that coexists, commonly referred to as environmental harmony."[2]

As mentioned earlier, environmental protection and management encompass various activities, including planning, direction, enforcement of regulations, compliance monitoring, and sanctions enforcement, all aimed at preserving environmental functions and preventing damage and pollution. This comprehensive approach is articulated in Article 1 paragraph (2) of Law Number 32 of 2009 concerning Environmental Protection and Management (PPLH). Space, all activities, living organisms, and pollutants constitute the environment, according to Law Number 32 of 2009. This includes humans and their actions, which have significant impacts on the well-being of all living beings. As a species, we have evolved to coexist with various forms of life in the natural environment.

Andi Hamzah argues that "The environment, formed through a long and intricate process, ultimately creates the existing environmental life. The environment has created resources that can be used by human life. Therefore, as a reciprocal form of two-way interaction with what has been provided by the environment, humans should strive to ensure the preservation of their environment."[3]

Given the crucial role of the environment for all forms of life, it has become imperative for the state, government, and all parties involved in development to protect and improve it. The environmental crisis in Indonesia is escalating, with consequences for all life on Earth. In this region, forest fires are a form of environmental damage that can occur during land clearing for

[1] Ridho Mubarak dan Alvi Syahrin, 2022, *Efektivitas Hukum terhadap Pidana Tambahan sebagai Upaya Pemulihan Lingkungan Akibat Kebakaran Lahan*, Jurnal Mercatoria, Volume 15, Nomor 2, hlm 1.

[2] Syamsul Arifin. 2012. *Hukum perlindungan dan pengelolaan lingkungan hidup di Indonesia* PT Sofmedia: Medan, hlm. 3.

[3] Andi Hamzah, 2005, *Penegakan Hukum Lingkungan*. Sinar Grafika: Jakarta, hlm 58.

agriculture. The smoke from forest fires can negatively impact public health, ground transportation systems, air and water quality, and damage landscapes that should otherwise be beautiful.

Bambang Purbowaseso argues that "Land fires differ in definition from forest fires, primarily based on their location of occurrence. The definition of a forest fire involves a fire that occurs within a forest, whereas a land fire is characterized by the appearance of flames outside of forests. An example of land fires can be identified through plantation analysis, indicating fires affecting crops and non-forest lands."[4]

Bambang Purbowaseso's opinion on the distinction between forest fires and land fires based on their location of occurrence provides a crucial framework for understanding empirical data released by the Ministry of Environment and Forestry (KLHK) and the Indonesian Forum for the Environment (WALHI). This becomes relevant when considering findings that indicate a significant number of recorded fire incidents in recent years, including in 2023, with a total area affected by forest and land fires (karhutla) in Indonesia reaching 994,313.18 hectares.[5] This figure reflects a relatively successful control effort, as there was a 30.80% decrease compared to 2019, despite drier conditions in 2023 due to the El Niño phenomenon. Of the total area, 182,789 hectares, or approximately 16.38%, were fires that occurred on peatlands, which are notably more vulnerable and more difficult to restore.[6] The Ministry of Environment and Forestry (KLHK) also recorded that as of October 7, 2023, a total of 7,307 hotspots with high confidence levels (>80%) had been detected based on data from NASA's Terra/Aqua satellites. This indicates a significant potential for fires spread across various regions.[7] In terms of law enforcement, the Ministry of Environment and Forestry (KLHK) has taken progressive steps by issuing warnings to 144 companies and even sealing 23 companies suspected of being involved in land burning activities. These actions have been largely concentrated in areas with high fire incidence, such as West Kalimantan, Central Kalimantan, and South Sumatra.

In addition to KLHK, information related to forest and land fires was also obtained from the Indonesian Forum for the Environment (WALHI), which stated that from January to September 2023, there were 184,223 fire hotspots in Indonesia, with a total burned area of 642,099.73 hectares. The hotspots were predominantly located within the concessions of 194 companies. Moreover, among those 194 companies, at least 38 were also involved in forest and land fires between 2015 and 2020.[8]

The Ministry of Environment and Forestry (KLHK) consistently emphasizes that law enforcement is one of the main pillars in Indonesia's strategy to control forest and land fires (karhutla). Law enforcement is not only intended as a repressive measure against perpetrators, but also as a long-term preventive instrument against recurring environmental crimes.

According to Rasio Ridho Sani, Director of Complaints, Supervision, and Administrative Sanctions at KLHK, forest and land fires constitute a multidimensional crime due to their wide-ranging impacts—not only causing environmental damage, but also threatening public health, harming the national economy, and tarnishing Indonesia's image on the international stage. He stressed that, "We will not stop taking action against forest and land fire perpetrators, especially corporations that repeatedly engage in burning practices. The government, through KLHK, has sued and won dozens of legal cases against forest-burning corporations, with compensation amounts reaching trillions of rupiah. These efforts will continue as a form of our commitment to environmental law enforcement."[9]

Uli Arta Siagian, Forest and Plantation Campaign Manager at WALHI National, stated that "Forest and land fires (karhutla) are an extraordinary crime. The actions of the President of the Republic of Indonesia and his ministers should not be like firefighters who only act when the fire is already burning. If they do not have the courage to take legal action by evaluating all permits, revoking licenses of rogue companies, imposing criminal sanctions, enforcing court rulings, and blacklisting companies that repeatedly burn land, then we will still be facing the karhutla problem ten years from now. It is not an exaggeration to say that the country's leaders are committing extraordinary crimes against their own people."[10]

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[4] Bambang Purbowaseso, 2004, *Pengendalian Kebakaran Hutan : Suatu Pengantar*, Rineka Cipta: Jakarta, hlm 78.

[5] Kementerian Lingkungan Hidup dan Kehutanan (KLHK), *Kinerja Pengendalian Kebakaran Hutan dan Lahan Tahun 2023*, diakses dari https://ppid.menlhk.go.id/berita/siaran-pers/7579, tanggal akses 25 Mei 2025.

[6] Kementerian Lingkungan Hidup dan Kehutanan (KLHK), *Pengendalian Deforestasi dan Karhutla di Indonesia Tahun 2024*, diakses dari https://ppid.menlhk.go.id/berita/siaran-pers/7594, tanggal akses 25 Mei 2025.

[7] Kementerian Lingkungan Hidup dan Kehutanan (KLHK), KLHK: Penanganan Karhutla Terpadu Tengah Berlangsung dan Kondisi Kian Membaik, diakses dari https://www.menlhk.go.id/ news/klhk-penanganan-karhutla-terpadu-tengah-berlangsung-dan-kondisi-kian-membaik, tang gal akses 25 Mei 2025.

[8] Tim Siaran Pers, *WALHI Laporkan 194 Perusahaan yang Terduga Terbakar*, dimuat dalam https://www.walhi.or.id/walhi-laporkan-194-perusahaan-yang-terduga-terbakar, diakses 29 November 2024.

[9] Kompas.com, *Menteri LHK: Dari 6.659 Titik Panas, 80 Persennya Berisiko Jadi Titik Api*, diakses dari https://nasional.kompas.com/read/2023/10/03/21575541/menteri-lhk-dari-6659-titik-panas- 80-persennya-berisiko-jadi-titik-api, tanggal akses 25 Mei 2025.

[10] *Ibid*

Bayu Herinata, Director of WALHI Central Kalimantan, also expressed that "Law enforcement must be carried out firmly and to the fullest extent against those actors who contribute most significantly and are responsible for the scale and severity of the current forest and land fires (karhutla) in Central Kalimantan. In this case, the key actors are corporations—particularly palm oil and industrial forest plantation companies—operating within critical ecosystem areas such as Peatland Hydrological Units (KHG)."[11]

Gaffa Edila Putra, in relation to forest and land fires, stated that "The term 'forest and land fire' refers to the burning of forest and land, whether caused intentionally or by negligence, resulting in burned areas—either controlled or uncontrolled. Forest fires generally occur due to the spread of fires from non-forest land such as shrubs, grasslands, and agricultural land-clearing waste, which then spread into forest areas. People act foolishly by igniting fires on easily flammable materials. They also do not want to spend much time or money to pay for mechanical, non-burning methods of land clearing. Speed, ease, and low cost—these are the reasons people will continue to burn land for various purposes and motives."[12]

The available statistics reinforce the aforementioned opinions. Data shows that nearly all forest and land fire (karhutla) incidents are caused by human activities, with natural factors such as lightning or lava accounting for only about 0.1% of total cases. Contributing factors such as population growth, lack of education about the importance of forests, economic pressure, and the absence of affordable alternative technologies are the dominant reasons behind land burning practices.[13]

This situation is exacerbated by weak control and law enforcement against companies. Many openly damage land for personal and corporate gain, with little regard for the environmental and social consequences. When economic incentives outweigh the risk of punishment, the practice of burning will persist.

In this context, the state holds a crucial role—not only as a regulator but also as a law enforcer and environmental protector. The efforts made by the Ministry of Environment and Forestry (KLHK) deserve appreciation, but addressing forest and land fires (karhutla) requires a more comprehensive approach. This includes improving the licensing system, reforming land governance, educating the public, and enforcing laws consistently and transparently.[14]

Regarding the issue of forest and land fires involving corporate actors in Indonesia, the author in this study examines several court rulings. This is reflected in various judicial decisions, including the following:

1. "The District Court of Sengeti Decision Number 71/PID.B/LH/2021/PN.SNT against the Defendant PT. Mega Anugrah Sawit (PT. MAS) has been found guilty of criminal acts due to negligence, as regulated under the provisions of legislation—resulting in the surpassing of ambient air quality standards, water quality standards, or criteria for environmental damage, and failure to apply environmental impact analysis or efforts in environmental management and monitoring, as stipulated in Article 99 paragraph (1) in conjunction with Article 116 paragraph (1) letter (b) of Law Number 32 Year 2009 concerning Environmental Protection and Management, and guilty of failing to apply environmental impact analysis and environmental monitoring efforts as referred to in Article 68 as regulated in Article 109 in conjunction with Article 68 of Law Number 39 Year 2014 concerning Plantations. The Panel of Judges imposed a fine on PT. MAS, namely a fine and additional penalties. The imposition of additional penalties is intended to restore the damaged ecosystem functions due to the forest and land burning offenses committed by PT. MAS, the Defendant in this forest burning case. This verdict must consider land restoration due to the fire, ensuring that the additional penalties stated in the judgment can be allocated to the State treasury and used for environmental restoration purposes as mandated by its nomenclature."[15]
2. In case number 640/PID.B/LH/2021/PT.PBR, the judge fully granted the appeal of PT. Gandaerah Hendana regarding the judgment against them, ruling that the application of the judgment to the Defendant PT. Gandaerah Hendana was not appropriate. The company intentionally failed to protect the land and clashed with the community under the pretext that they owned the land and should be held accountable. The judge disregarded legal facts presented during the trial. The principle of strict liability, as defined in Article 88 of Law Number 32 Year 2009 concerning Environmental Protection and Management (PPLH), was not applied in the High Court of Pekanbaru's Decision Number 640/PID.B/LH/2021/PT.PBR. Therefore, the principle of strict liability must be applied by every panel of judges when adjudicating cases of corporate environmental crimes such as forest fires, following the Reinstatement Decision of the Chief Justice of the Supreme Court of the Republic of Indonesia Number 134/KMA/SK/IX/2011 Regarding Environmental Judge Certification (SK KMA

[11] *Ibid*

[12] Gaffa Edila Putra, 2012,*Lingkungan Hidup Dan Amdal*, Permata Pres: Jakarta, hlm.84.

[13] Popi Tuhulele, 2014, *Kebakaran Hutan di Indonesia dan Proses Penegakan Hukumnya Sebagai Komitmen dalam Mengatasi Dampak Perubahan Iklim,* dimuat dalam Jurnal Supremasi Hukum Volume. 3, Nomor. 2, hlm 134.

[14] Yures Tanto, 2020, *Pertanggungjawaban Pidana Terhadap Pelaku Yang Turut Serta Melakukan Pembakaran Lahan Berdasarkan Undang-Undang No.39 Tahun 2014 Tentang Perkebunan (Studi Putusan Nomor 182/PID.B/LH/2020/PN.TLK),* dimuat dalam Skripsi diakses pada tanggal 30 November 2024.

[15] Direktori Putusan Mahkamah Agung RI, Putusan Pengadilan Negeri Sengeti Nomor : 71/Pid.B/LH/2021/Pn Snt, https://putusan3.mahkamahagung.go.id/search.html/?q=%2271/pid.b%22, diakses pada tanggal 1 Desember 2024.

134/2011). Judges certified in environmental law must be retained to ensure the issuance of eco-centric judgments. Handling environmental cases requires law enforcement agencies—police, prosecutors, and judges—with a vision, commitment, and adequate knowledge of the environment. (Corporate responsibility here uses strict liability, where fines are not imposed in case number 640/PID.B/LH/2021/PT.PBR).[16]

3. In Decision Number 256/PID.SUS/PN.RGT, the imposition of additional sanctions in the form of remediation due to criminal acts, which are converted into a monetary sum, has not been effective in providing environmental protection. This is because it is considered as non-tax state revenue (PNBP), entirely deposited into the State Treasury, thereby rendering these funds unusable for environmental restoration or improvement purposes.[17]

Based on the court decision mentioned above, Achmad Ali argues that "Corporations are not always criminally prosecuted for corporate crimes, often receiving only administrative sanctions as has commonly occurred. Existing regulations only provide for criminal sanctions for corporations, such as fines and additional penalties involving revocation of corporate rights. In this context, criminal prosecution is not an alternative sanction for corporations because even though such sanctions exist, they are intended solely for individual legal subjects. Court proceedings and sentences against these individuals are not only fundamental to achieving a degree of justice but also serve to expose and condemn their crimes to the public."[18]

In cases of environmental crimes committed by businesses, law enforcement's application often falls short of expectations, leaving environmental law enforcement feeling powerless. Law enforcement agencies must exercise caution in handling environmental cases, especially those involving corporations, as each case requires proof based on facts and scientific evidence. Law enforcement is a critical component in addressing environmental issues. The term "law enforcement" refers to the system of checks and balances implemented to ensure that citizens and government officials adhere to the law in all their dealings with each other. The primary duty of law enforcement is to uphold justice, thereby making the law a reality. Without effective law enforcement, the law remains merely a textual formulation without implementation (dead law). In Indonesia, there are established approaches to handling cases of forest fires involving human activities, with varying levels of sanctions including administrative, civil, and criminal penalties.[19]

The background for this research is based on the formulation of the problem, namely how corporate offenders are criminally accountable for environmental pollution resulting in forest and land fires, and what constitutes an ideal pattern of sentencing for corporate entities involved in environmental degradation causing forest and land fires. The aim is to understand and evaluate the seriousness of corporate criminal accountability in environmental pollution crimes leading to forest and land fires, as well as to identify and analyze optimal sentencing patterns for corporations responsible for environmental destruction leading to forest and land fires.

II. RESEARCH METHODS

Legal research is a careful and careful rediscovery of legal materials or legal data to solve legal problems. So that when viewed from the type includes:[20]

1. Legal research that looks inward with the aim of studying legal norms is called normative legal research.
2. Legal research using a juridical approach involves the study of relevant ideas, concepts, principles, laws and regulations.

To achieve its goals, empirical normative legal research primarily examines how people apply positive legal provisions in response to legal events in society. The foundation of normative juridical legal research is codified legal rules that are practiced in response to actual social or legal events. The research process consists of many stages, including:

"Empirical normative legal research emphasizes that the implementation of positive legal provisions in society does not only depend on written norms, but also on how these provisions are applied in real legal events. This research shows the importance of the integration between normative aspects and empirical reality in achieving legal objectives. effectively and justly".

Normative juridical research places law as a building system of norms, regarding principles, norms, rules from laws and regulations, agreements and doctrines. The legal research approach in this research is as follows:

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[16] Direktori Putusan Mahkamah Agung RI, Putusan Pengadilan Negeri Pekanbaru Nomor 640/PID.B/LH/2021/PT PBR, https://putusan3.mahkamahagung.go.id/search.html/?q=%2271/pid.b%22, diakses pada tanggal 1 Desember 2024.

[17] Direktori Putusan Mahkamah Agung RI, Putusan Pengadilan Negeri Pekanbaru Nomor Nomor 256/Pid.Sus/PN Rgt, https://putusan3.mahkamahagung.go.id/search.html/?q=%2271/pid.b%22, diakses pada tanggal 1 Desember 2024.

[18] Achmad Ali, 2012, *Menguak Teori Hukum dan Teori Peradilan*, Kencana, Prenada Media Group: Jakarta, hlm. 255.

[19] Tri Bowo Hersandy Febrianto, Riyanto, Tulus Mampetua Lumban Gaol, Irwan Triadi, 2024, *Analisis Yuridis Tentang Penerapan Hukum Melalui Sanksi Pidana Terkait Kejahatan Lingkungan Pembakaran Hutan Di Indonesia*, Jurnal Hukum Kewarganegaraan, Volume 3 Nomor 1 Tahun 2024. Prefix DOI : 10.3783/causa.v1i1.571, hlm 3.

[20] *Ibid*, hlm. 11-12

1. Case approach in the research by using a case of forest and land destruction committed by the perpetrator (PT. Mega Anuegrah Sawit) who was sentenced to additional punishment in the form of a fine and also Court Decision Number 640/PID.B/LH/2021/PT.PBR and Court Decision Number 256/ PID.SUS/PN.RGT.
2. Statutory approach (status approach) or juridical approach, namely research into legal products All applicable rules[21] and regulations relating to the proposed research are investigated using this statutory method. Researchers will have more opportunities to analyze the compatibility and consistency of laws thanks to this statutory technique.[22]
3. The conceptual approach is carried out because there are no or no legal rules for the problem at hand, this conceptual approach departs from the views and doctrines that develop in legal science, giving birth to legal notions and legal principles that are relevant to the problem at hand.

This research uses the type of normative legal research that will analyze the laws and regulations related to cases of forest and land destruction committed by the perpetrator (PT. Mega Anuegrah Sawit) who was sentenced to additional punishment in the form of fines and also Court Decision Number 640/PID.B/LH/2021/PT.PBR and Court Decision Number 256/ PID.SUS/PN.RGT.

Through the Case Approach focusing on concrete cases such as Forest and Land Destruction committed by the company PT Mega Anugerah Sawit (MAS), this research can examine how the court responds to legal problems that occur whether the decisions taken are in accordance with applicable legal provisions.

In addition, through the Statue Approach, which focuses on the study of legal products, namely laws and regulations related to the research topic. Researchers will examine whether there are inconsistencies between various existing laws or regulations, as well as how these legal products are applied in practice.

By using a conceptual approach when there are no clear or specific legal rules regarding the problem at hand, researchers can use doctrines or views in legal science to formulate solutions. This approach is useful for generating an understanding of relevant legal concepts or principles.

III.DISCUSSION AND RESULT

A. Legal Arrangements Regarding Measures Against 12-Year-Old Children Committing Crimes in the Juvenile Justice System

Environmental issues are increasingly becoming a serious concern in various legal discourses, along with the increasing corporate activities that have the potential to significantly damage the ecosystem. Criminal liability against corporations for environmental crimes, especially related to forest and land fires, has a high urgency in the context of environmental law enforcement in Indonesia. This is inseparable from the fact that many ecological disasters originate from large-scale business activities carried out by legal entities in the form of corporations. In many cases, business decisions that prioritize cost efficiency and business expansion often ignore aspects of legal responsibility and environmental sustainability.[23]

1. Corporations as Subjects of Environmental Criminal Law

In the context of Indonesian criminal law, corporations have been recognized as legal subjects that can be held criminally liable. This provision is explicitly regulated in the Regulation of the Supreme Court of the Republic of Indonesia Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations. This regulation defines a corporation as "An organized collection of people and/or wealth, whether in the form of a legal entity or not." Thus, corporations not only function as economic or commercial entities, but also as subjects that can be subject to criminal sanctions if they are involved in crimes, including environmental crimes.

In addition, Law No. 32/2009 on Environmental Protection and Management (UU PPLH) also explicitly states that corporations are legal subjects that can be held criminally liable. Article 116 paragraph (1) letter a of the PPLH Law states that if an environmental crime is committed by, for, or on behalf of a business entity, then criminal charges and criminal sanctions are imposed on the business entity. This shows that corporations have a legal obligation to comply with environmental regulations and prevent environmental damage as part of their social responsibility.

2. Motives of Corporate Crime in Environmental Crime

Theoretically, there are two main causes of corporate crime in environmental crimes, including :

a. Economic Motive

Corporations are basically established to seek maximum profit (profit-oriented). This motive is often the main driver in making business decisions that tend to ignore ecological impacts in favor of cost efficiency and increased profits.

[21] Bahder Johan Nasution, 2008, *Metode Penelitian Ilmu Hukum*, Mandar Maju, Bandung, hlm. 92.
[22] Peter Mahmud Marzuki, 2010, *Penelitian Hukum*, Kencana Prenada Media, Jakarta, hlm. 93.
[23] Triadi, Irwan, and Michael Giovanni Joseph. "Penegakan Hukum Tindakan Memelihara Dan Menjual Ikan Hias Spesies Invasif Sebagai Langkah Pencegahan Kerusakan Lingkungan Hidup Air Tawar Di Indonesia." *Jurnal Hukum dan Adminstrasi Publik* 2.2 (2024): 65-78.

b. Conflict of Interest

Occurs when a corporation's interest to make a profit conflicts with the interests of society, the state, workers, consumers, and even the environment itself. This conflict often creates tension between economic needs and environmental sustainability, which in turn triggers actions that damage the environment.

3. The Case of PT Mega Anugerah Sawit (PT MAS) as an Illustration of the Crime of Environmental Pollution Resulting in Forest and Land Fires

A real case that illustrates these two motives is an environmental crime case involving PT Mega Anugerah Sawit (PT MAS) in the jurisdiction of the Sengeti District Court. In this case, the Panel of Judges attempted to explore the facts during the trial to ascertain the truth of any evidence presented, including assessing whether the charges filed by the Prosecutor had met the formal and material requirements. Inaccuracies in the preparation of the indictment can hinder Judges in assessing and applying criminal procedure law appropriately, thus potentially weakening the law enforcement process itself.

In the following, the researcher intends to describe the most important parts of District Court Decision Number 71/Pid.B/LH/2021/ PN.SNT, including:

a. Chronology and Case Position

The case began on July 28, 2019 when a fire broke out around an oil palm plantation area owned by PT MAS in Sipin Teluk Duren Village, Muaro Jambi Regency. Initial information about the fire was received from local residents and followed up by the field contractor, Mr. Ali. Despite PT MAS' efforts to extinguish the fire and take precautionary measures, the fire continued to spread and reached their land on August 2, 2019. The fire was only completely extinguished on September 10, 2019 with the help of the TNI, Police, and other agencies.

b. Position of PT. MAS as a Corporation

PT. MAS is a legal entity in the form of a limited liability company that is legally valid, as evidenced by a series of deeds of establishment and amendments that have been authorized by the Ministry of Law and Human Rights. The President Director, Eko Gemika bin Yahya Hasan, acts on behalf of the company in operations including legal matters. PT MAS has a Plantation Business License covering an area of ±1,384 hectares and is obliged to implement the precautionary principle and fire control in accordance with laws and regulations. However, in practice, the company does not have adequate facilities, infrastructure or SOPs to prevent fires.

c. Legal Facts and Judicial Process

The public prosecutor charged PT MAS with negligence that caused the exceeding of air and water quality standards and environmental damage, as stipulated in Article 99 paragraph (1) jo. Article 116 paragraph (1) letter a of Law No. 32 Year 2009 on Environmental Protection and Management. The court proved that PT MAS did not have a fire prevention system in accordance with the provisions of the Minister of Agriculture Regulation No. 05 of 2018 and Government Regulation No. 4 of 2001. This shows the existence of gross negligence that can be qualified as a criminal act by the corporation.

d. Judges' Consideration and Decision

The Panel of Judges found PT MAS guilty of negligence causing environmental damage. The element “any person” in the criminal provisions is interpreted to include corporations in accordance with Perma No. 13/2016. PT MAS not only failed to prevent the fire, but also did not have a proper mitigation system. Based on expert testimony and evidence, the judge concluded that environmental pollution and damage had occurred due to the fire. Therefore, the court imposed a fine of Rp3,000,000,000 and additional punishment in the form of compensation for environmental restoration worth more than Rp542 billion.

e. Analysis and Conclusion

This case reflects the failure to apply the precautionary principle by corporations in environmental management. PT MAS was proven negligent in fulfilling its legal obligations as a business actor that has the potential to cause a major impact on the environment. This negligence falls under the category of “culpa” according to the theory of criminal liability, which still imposes criminal responsibility on the perpetrator despite the absence of direct malicious intent (mens rea). This decision sets an important precedent in the application of corporate criminal liability for environmental crimes and demonstrates the importance of monitoring and strengthening environmental regulations in the plantation sector.

4. Corporate Criminal Liability for Forest and Land Burning by PT Mega Anugerah Sawit (PT MAS) in the Crime of Environmental Pollution Based on Identification Theory.

a. Application of Identification Theory to Corporations as Legal Subjects

In efforts to enforce criminal law against corporations that commit forest and land fires, the most dominant approach used both in legal practice and in academic studies is the identification theory. Mahrus Ali, argues that “This theory states that corporate criminal liability can be imposed if the acts or omissions that cause losses come from individuals who

factually and legally have a strategic position in the decision-making and control structure of the corporation. In other words, the actions of individuals who are the "brains" of the corporation, such as directors or senior officers, can be considered as the actions of the corporation itself".[24]

Normatively, the identification theory rests on the assumption that the mens rea or inner attitude of the corporate management is considered as the mens rea of the corporation. Therefore, unlawful acts committed by high-ranking officials or those authorized by them can be considered as a direct manifestation of the will of the corporation as a legal entity.[25] Thus, this theory emphasizes the importance of identifying who acts as the directing mind and will in the body of the corporation to then associate the criminal act with the corporation as the perpetrator.[26]

The relevance of this theory in the context of environmental law enforcement, especially in cases of forest and land burning by corporations such as PT MAS, is also strengthened by a number of expert views. Andrew Ashworth emphasized that in corporate criminal cases, liability cannot simply be attached without tracing the individual who acts as a representative of the corporation. In the case of PT MAS, the director's negligence in preventing fires is a valid basis for establishing corporate guilt.[27]

LS. Sealy, argues that: a corporation can be held liable if the offense is committed by a party who has substantial authority over the corporation's policies and operations. The Director of PT MAS who has full control over land management, thus, becomes the point of identification of corporate wrongdoing in law".[28]

Meanwhile, Antony Duff highlighted the importance of identifying the agent or perpetrator who actually exercises corporate control. He argues that if high-ranking officials violate the law on behalf of the corporation, then the error can be attributed directly to the corporate entity.[29]

Within the complex framework of environmental criminal law, Franklin Zimring emphasized the need for legal mechanisms that allow corporations to be sanctioned directly. He supports the identification theory as an effective approach in linking the actions of authorized officials with corporations, as happened in the case of PT MAS.[30]

In Indonesia, Iskandar Simorangkir asserts that the identification theory is very much in line with the national legal system, which has recognized corporations as subjects of criminal law. He stated that the imposition of criminal liability on corporations must be based on the actions of individuals who legitimately represent and control the direction of corporate policy.[31]

The overall view of the experts strengthened the legal considerations of the panel of judges in deciding the case of PT MAS. The negligence of the director as an organ of the corporation is considered sufficient to attribute fault to the corporation itself. Thus, the identification theory provides juridical legitimacy that corporations cannot avoid liability for environmental damage arising from the acts or omissions of its key actors.

b. Impact of Identification Theory on Environmental Criminal Law Enforcement

Identification theory is the main approach in establishing corporate criminal liability. This theory states that the criminal acts or omissions of individuals who hold strategic roles in the corporation, such as directors or managers, are considered as corporate acts.

Based on this theory, a corporation can be held criminally responsible if:

1. Criminal offenses are committed by individuals who have control power in the corporation;
2. The criminal offense is committed on behalf of and for the benefit of the corporation; and
3. The criminal offense fulfills the elements of the offense as stipulated in the law.

This theory emphasizes that fault cannot be separated from the actions of individuals who control the corporation. In the realm of environmental law, the three main regulations underlying corporate criminal liability are:

1. Law no. 32 of 2009 concerning Environmental Protection and Management, specifically Article 116 paragraph (1) letter a, reads that a corporation can be sentenced if the criminal offense is committed on its behalf or for its benefit. Article 99 paragraph (1) prohibits activities that exceed environmental quality standards.

[24] Mahrus Ali, 2008, *Kejahatan Korporasi: Kajian Relevansi Sanksi Tindakan bagi Penanggulangan Kejahatan Korporasi*, Arti Bumi Intaran, Yogyakarta, hlm. 19.
[25] Hendra Wijaya, Budi Santoso, dan Muhamad Azhar, 2001, Pertanggungjawaban Pidana Korporasi atas Pencemaran Lingkungan Hidup,dimuat dalam *Jurnal Notarius*, Volume. 14, Nomor. 1, hlm. 217.
[26] Rodliyah, Any Suryani, dan Lalu Husni, 2020, Konsep Pertanggungjawaban Pidana Korporasi (Corporate Crime) dalam Sistem Hukum Pidana Indonesia, dimuat dalam *Jurnal Komplikasi Hukum*, Volume. 5, Nomor. 1, hlm. 202.
[27] Andrew Ashworth, 1999, dikutip dalam konteks pemidanaan korporasi lingkungan oleh PT MAS,.
[28] L.S. Sealy, *Corporate Law and Governance*, 1989, dalam analisis kasus PT MAS.
[29] Antony Duff, 2007, *Answering for Crime: Responsibility and Liability in the Criminal Law*.
[30] Franklin Zimring, 1990, *The Changing Legal World of Adolescence*.
[31] Iskandar Simorangkir, 2017, Teori Identifikasi dalam Konteks Pertanggungjawaban Pidana Korporasi di Indonesia.

2. Government Regulation no. 4 of 2001, reads the obligation of corporations to provide means of preventing environmental damage and pollution as stipulated in Article 14 paragraph (1).
3. Supreme Court Regulation Number. 13/2016, which provides technical guidelines for handling criminal cases by corporations and confirms the status of corporations as subjects of criminal law.

The application of identification theory in the PT MAS case is very appropriate because:

1. Acts or Omissions Performed by Corporate Organs
   The director of PT MAS, as the main controller, is responsible for land management. His negligence is considered as corporate negligence.
2. Performed on Behalf of and for the Benefit of the Corporation
   The land activities that caused the fires were carried out as part of PT. MAS' business operations.
3. Corporation as a Subject of Criminal Law
   The law recognizes the status of corporations as subjects of criminal law, so they can be sentenced to penalties such as fines or environmental restoration orders.

Thus, this approach effectively prevents corporations from evading criminal responsibility by blaming individuals. This theory is an important instrument in environmental law enforcement, strengthening the state's legal position in cracking down on violations by corporations and emphasizing ecological justice by ensuring that perpetrators are responsible for environmental damage that has a broad impact on the sustainability of the ecosystem.

5. Application of the Theory of Strict Liability in Corporate Criminal Liability for Forest and Land Burning by PT Mega Anugerah Sawit (PT MAS)

a. Experts' Views on Corporate Criminal Liability

Criminal liability of corporations such as PT. MAS has a strong basis in modern criminal law theory. Arguments from various legal experts strengthen the legitimacy of the application of punishment against corporations, among others:

1. Muladi is based on the following points:[32]
   1) "On the basis of an integralistic philosophy, i.e. everything should be measured on the basis of balance;
   2) On the basis of kinship;
   3) To eradicate the anomie of success (success without rules);
   4) For consumer protection; and
   5) For technological advancement".
2. Elliot and Quinn, argue that there are several reasons for the need to impose criminal liability on corporations, including:[33]
   a) "Without corporate criminal liability, it is not impossible for companies to avoid criminal regulation and only their employees are prosecuted for committing criminal offenses that are actually criminal offenses and faults of the business activities of the company
   b) In some cases, for procedural purposes, it is easier to prosecute a company than its employees
   c) In a serious criminal offense, the company is more likely to be able to pay the fine imposed than the company's employees
   d) The threat of criminal charges against a company may encourage shareholders to exercise oversight over the activities of the company in which they have invested.
   e) If a company has profited from illegal business activities, it is the company that should bear the sanctions for the criminal offense committed, not the employees of the company.
   f) Corporate criminal liability can prevent companies from pressuring their employees, either directly or indirectly, so that employees seek to obtain profits not from illegal business activities.
   g) Adverse publicity and the imposition of criminal fines against the company can serve as a deterrent for companies to carry out illegal activities, which would not be possible if the prosecuted were employees".
3. Sutan Remy Sjahdeini argues that:
   It is necessary to apply the concept of Management and corporation both as perpetrators of criminal offenses and both of them must also bear criminal responsibility in corporate criminal offenses, based on the following matters:[34]

[32] Yudi Krismen, *Pertanggungjawaban Pidana Korporasi dalam Kejahatan Ekonomi*, dikutip dari website: ejournal.unri.ac.id/index.php/JIH/article/view/2089.
[33] Sutan Remy Sjahdeini, Pertanggungjawaban Korporasi, dikutip dari Hanafi Amrani dan Mahrus Ali, 2015, *Sistem Pertanggungjawaban Pidana: Perkembangan dan Penerapan*, Rajagrafindo Persada, Cetakan Pertama: Jakarta, hlm. 169-170.
[34] Sutan Remi Sjahdeini, 2006, *Pertanggungjawaban Pidana Korporasi*, Grafiti Pers: Jakarta, hlm. 162-163.

a) "If only the management is burdened with criminal liability, it will be unfair to the people who have suffered losses because the management in carrying out its actions is for and on behalf of the corporation and is intended to provide benefits or avoid or reduce financial losses for the corporation;
b) If only the corporation is held criminally liable while the management does not have to bear responsibility, then this system will allow the management to throw stones to hide their hands or shift responsibility. In other words, the management will always be able to take refuge behind the back of the corporation to release itself from responsibility under the pretext that its actions are not personal actions and not for personal interests, but are actions carried out for and on behalf of the corporation and for the benefit of the corporation.
c) The imposition of criminal liability on corporations is only possible vicariously, or not directly (doctrine of vicarious liability), the responsibility for non-crimes committed by a person is imposed on other parties. In the case of criminal liability, the corporation is transferred criminal liability to the corporation. The imposition of criminal liability on corporations is only possible vicariously because corporations cannot possibly perform a legal act themselves. This means that all legal actions that are right or wrong both in the civil field and those regulated by criminal provisions, are carried out by humans who carry out the management of the corporation"

4. Clinard and Yeagar, argue that:

In assessing the feasibility of criminal liability against corporations, there are several important criteria that need to be considered, including:[35]

a) "The degree of loss to the public;
b) The lever of complicity by high corporate managers;
c) The duration of the violation;
d) The frequensi of the violation by the corporation;
e) Evidence of intent to violate;
f) Evidence of extortion, as in bribery cases;
g) The degree of notoriety engendered by the media;
h) Precedent in law;
i) The history of serious, violation by the corporation;
j) Deterence potential; and
k) The degree of cooperation evinced by the corporation."

From the above opinions, the criminal liability of corporations such as PT MAS is based on strong modern criminal law principles and is supported by various expert opinions. The philosophy is to uphold justice, protect consumers, prevent unregulated success, and encourage technological progress (Muladi). Elliot and Quinn emphasize the importance of this responsibility so that corporations cannot avoid the law by blaming employees, facilitate prosecution, and provide a deterrent effect. Sutan Remy Sjahdeini emphasizes the concept of dual responsibility between the board and the corporation, with the basis of vicarious liability that shifts the responsibility of the board to the corporation. Clinard and Yeagar added assessment criteria such as the level of public loss, management involvement, frequency of violations, intent, and corporate cooperation. Thus, corporate criminal liability is important to uphold justice and protect society and the environment from losses due to corporate actions.

b. Relevance of the Application of the Theory of Strict Liability in Corporate Criminal Liability for Forest and Land Burning by PT Mega Anugerah Sawit (PT MAS).

The concept of criminal liability applies the theory of strict liability, this is an obligation imposed by law, regardless of whether the company was negligent or not. It is not necessary to prove that the company was intentionally negligent or had bad intentions towards its customers to hold it responsible for the harm it caused. Since the purpose of applying strict liability theory is to make companies more careful in carrying out their activities and ensuring safety and compliance with regulations, it is appropriate to apply this theory to the forest and land burning case committed by PT Mega Anugrah Sawit (PT MAS). Communities and the environment can also benefit from its use as a tool for protection.

This idea, when applied to cases of forest burning committed by companies, indicates that companies can be prosecuted regardless of whether they intentionally burn the forest or not. Their duty as custodians of the burnt forest or land also justifies this. In accordance with Decision Number 71/PID.B/LH/2021/PN.SNT. As a result of the Defendant's negligence, the ambient air quality standards were exceeded and the standard conditions for environmental damage were met, so PT MAS is legally and convincingly guilty of committing a criminal offense.

[35] *Ibid*.

Therefore, the actions of the Defendant PT MAS are legally responsible. Therefore, the Judge's decision which includes the sentence is valid. The sentence imposed by the Judge, in the opinion of the author, is a warning to the Defendant not to repeat his actions in the future.

The application of strict liability theory to corporations confirms that a company can be held legally responsible for the negative impacts arising from its activities, without the need to prove negligence or malicious intent (mens rea). In other words, this theory removes the burden of proof regarding the company's fault, so that the main focus is on the consequences of the act or omission that occurred. This approach aims to encourage companies to be more careful in carrying out their operations, ensuring compliance with safety standards, and maintaining environmental balance.

The application of this theory is particularly relevant in the case of the forest and land fires involving PT Mega Anugerah Sawit (PT MAS), where the company can be sanctioned even though there is no direct evidence that it actively caused the fires. This liability is based on the company's role as a land manager who has an obligation to prevent fires, as stipulated in various environmental regulations.

In Court Decision Number 71/PID.B/LH/2021/ PN. SNT on an environmental criminal case involving PT Mega Anugerah Sawit (PT MAS) emphasizes the importance of corporate criminal liability in the context of forest and land fires (karhutla), as well as reflecting the failure of business actors to fulfill their obligations to applicable environmental standards. In the case, PT MAS was found guilty of violating environmental quality standards, especially air quality and soil quality, which had exceeded the specified threshold, and the act or omission was considered a tort based on the principle of strict liability, namely responsibility without the need to prove the element of intent or negligence.

In fact, the Ministry of Environment and Forestry (KLHK) has actively carried out various efforts to prevent forest and land fires, including through the implementation of an integrated monitoring system, increased education to business actors and the public, and preventive law enforcement through monitoring environmental permits. However, the case of PT MAS shows that the prevention carried out by KLHK will not be effective without real compliance from the corporation with technical operational provisions, such as the provision of fire prevention infrastructure (reservoirs, fire towers, extinguishers), the appointment of special officers, and the implementation of strict standard operating procedures (SOP).

Land fires that occur in the PT MAS area not only cause environmental losses, but also create multiple impacts that are systemic in nature, including:[36]

1. "Economic impacts, such as disruption of transportation, collapse of the agriculture and tourism sectors, and increased medical expenses, which collectively worsen people's welfare and increase poverty;
2. Health impacts, especially the significant increase in cases of ARI and pneumonia due to exposure to dense smoke, as well as the risk of serious diseases such as cancer due to exposure to toxic substances such as dioxins.
3. Environmental impacts, in the form of drastic increases in the concentration of pollutant particles, decreases in air quality and rainfall, and drastic landscape changes;
4. Social impacts, such as loss of security, access to livelihoods, and conflicts between communities and companies;
5. Impacts on biodiversity, namely loss of native vegetation, disruption of ecosystem cycles, and flooding due to damage to soil structure and forests that function as water absorbers."

Thus, the conviction of PT MAS by the court is a justifiable legal step because it fulfills the aspects of substantive justice and legal certainty. The punishment must be interpreted not only as a form of punishment, but also as an instrument of legal learning and prevention for other corporations to be more environmentally responsible. KLHK also needs to make this case a momentum to strengthen post-permit controls, including environmental audit mechanisms and integrated law enforcement based on scientific evidence.

This is in line with the spirit of Law No. 32/2009 on Environmental Protection and Management which emphasizes the principles of state responsibility, sustainability, and community participation in realizing a healthy and sustainable environment.

B. Ideal Pattern of Punishment Against Corporations that Commit Environmental Damage Causing Forest and Land Fires.

Criminal responsibility imposed on corporations for environmental crimes committed causes the corporation to be sentenced for its actions. In this regard, the purpose of corporate punishment involves integrative objectives which include:[37]

1. The purpose of punishment in the crime of environmental pollution due to forest and land fires

a. Prevention (General and Special)

[36] Sri Lestari, 2000, *Dampak Dan Antisipasi Kebakaran Hutan*, dimuat dalam Jurnal Teknologi Lingkungan, Volume.1, Nomor. 2, Januari, hlm. 171-175.

[37] H.Setiyono, 2003, *Kejahatan Korporasi Analisis Viktimologi dan Pertanggungjawaban Korporasi Dalam Hukum Pidana, Edisi kedua*, Cetakan Pertama, Banyumedia Publishing: Malang, hlm. 121-123 dikutip dari Ibid.

Criminalization aims to prevent the recurrence of criminal acts, both through special and general prevention. Special prevention focuses on fostering and improving the behavior of criminals, while general prevention aims to create a deterrent effect for others not to commit similar crimes. In the context of corporations, the purpose of punishment is to ensure that the guilty company does not repeat the same offense, as well as provide a strong signal to other corporations to comply with legal regulations to protect the interests of society.[38]

b. Protection of Society

Criminalization also serves to protect society from the adverse effects that can be caused by criminal acts. This function has a broad scope because it basically includes efforts to prevent and overcome crime. In the context of corporations, this objective emphasizes the importance of preventing companies from committing acts that damage the environment or harm the community, so that corporations that violate the law are no longer able to commit similar criminal acts.

c. Maintenance of Social Solidarity

Criminalization also plays a role in maintaining social balance by preventing revenge and maintaining public order. This includes ensuring compensation for victims of crime, which in the corporate context is carried out through a financial responsibility mechanism taken from the company's assets. Thus, social solidarity is maintained and public trust in the legal system can be maintained. The purpose of punishment is compensation or balance, that is, there is a comparison between the punishment and the individual responsibility of the perpetrator of the crime, taking into account several factors. The suffering associated with the punishment must contribute to the process of readjustment of the convicted person to the daily life of the community and in addition the severity of the punishment must not exceed the guilt of the defendant, not even on the grounds of any general preventions".

Thus, the punishment of corporations aims to: prevent the recurrence of criminal acts (both specifically for the guilty corporation and in general for other corporations), protect the community from the impact of environmental crimes, and maintain social solidarity by ensuring compensation for victims. In addition, the punishment must be balanced with the wrongdoing, so that it remains fair and proportional.

2. Types of Crimes Imposed on Corporations in Environmental Criminal Cases

Crimes that can be imposed on corporations based on the criminal provisions of Law Number 32 of 2009 concerning Environmental Management and Protection (PPLH) are:

a. Fines as the main punishment for corporations proven to have committed environmental crimes.
b. Additional punishment or disciplinary action in the form of confiscation of profits obtained from criminal acts, closure of all or part of the place of business and/or activities, repair of the consequences of criminal acts, responsibility for taking care of what needs to be done without proper authorization, and/or placing the business under guardianship for no more than three years.

However, the obstacle in law enforcement of environmental corporate crime against these penalties is believed to have not increased the efficiency of law enforcement against corporate crime in the environmental sector. This can be seen from the many cases of environmental pollution that led to forest and land fires in the past, which were caused by corporate industrial activities. One such incident occurred on Sunday, July 28, 2019, in the IUP-B area of PT Mega Anugerah Sawit (PT MAS). Despite best efforts, PT. Mega Anugerah Sawit (PT. MAS) was unable to extinguish the fire. The fire was finally extinguished on September 10, 2019, resulting in 1,450 hectares of land being damaged, causing the burned land to exceed ambient air quality standards, water quality standards, or standard criteria for environmental damage, even though PT. MAS paid a sum of money as in Court Decision Number 71/PID.B/LH/ 2021/PN. SNT by depositing money amounting to IDR 542,702,078,100.00 (Five Hundred Forty Two Billion Seven Hundred Two Million Seventy Eight Thousand One Hundred Rupiah) paid by PT. MAS to the state, it cannot handle the situation due to the lack of adequate facilities and infrastructure, specialized officers, and standard operating procedures (SOP) for forest and land fire prevention.

In legal analysis, the sentence reflects a systemic weakness in law enforcement against environmental crimes committed by corporations. Although environmental law in Indonesia has regulated criminal and civil liability against corporations that commit environmental crimes, its implementation still faces various structural and substantial obstacles. In the context of the PT Mega Anugerah Sawit (PT MAS) case, it can be observed that the criminal sanctions and compensation imposed, as in Court Decision Number 71/PID.B/LH/2021/PN.SNT, although very large in nominal terms, have not been effective in providing a deterrent effect or increasing future prevention.

In terms of legal responsibility, companies have an obligation to prevent environmental damage, including forest and land fires. This is in line with the principle of strict liability in environmental law, which states that perpetrators can be held liable without the need to prove fault, as long as there is evidence of environmental damage due to their activities. However, in

[38] Bambang Waluyo, 2008, Pidana dan Pemidanaan. Jakarta: Sinar Grafika, hlm. 10.

practice, companies often argue that they have done their best to deal with disasters, despite being unable to control the consequences. As in the case of PT MAS, the company claimed to have tried to extinguish the fire, but limited facilities, officers, and SOPs caused the fire to go uncontrolled for more than a month and burned 1,450 hectares of land. As a result, air and water pollution occurred, exceeding the quality standards specified in the legislation.

Although PT MAS has paid more than Rp500 billion in compensation, this does not address the root of the problem, which is negligence in the provision of fire prevention and suppression systems. Payment of large fines or compensation does not necessarily mean that law enforcement is effective, because law enforcement should not only be repressive, but also preventive. The effectiveness of law enforcement against environmental corporations ideally leads to improvements in corporate behavior through revamping internal systems and increasing compliance with environmental regulations.

Thus, this case shows that law enforcement that only focuses on financial sanctions is not enough to create a deterrent effect or improve environmental governance by corporations. The effectiveness of law enforcement needs to be strengthened by strict supervision, capacity building of law enforcement officers, and encouraging corporations to build reliable mitigation and response systems to environmental risks. Without that, cases of environmental pollution and damage due to corporate activities will continue to recur, even though fines of any size have been imposed.

3. Problems in Land Restoration and Sustainability

Regarding environmental restoration, the researcher also compared it with the High Court Decision Number 640/PID.B/LH/2021/PT.PBR that in the Judex Facti's consideration in the case of environmental damage committed by PT Gandaerah Hendana, the Appellant found irregularities, discrepancies and conclusions, namely as follows:

a. That the determination of the existence of environmental damage must use a comprehensive research method and must be carried out by first measuring the condition of the environmental element being analyzed, for example in the case a quo, referring to air and soil quality standards;
b. That there must be data or samples of the quality standards of air and soil elements before the fire to be able to determine that a violation of the quality standards determined by the laws and regulations did occur as a result of legal events or actions of the Defendant;
c. That if there are no data or samples of the quality standards of air and soil elements before the fire, then the laboratory results referred to by Expert Bambang Hero Saharjo, cannot be directly concluded or considered as a result of the fire;
d. That based on the AMDAL document, the Defendant's business activities have been analyzed for their environmental impact. Therefore, Expert Prof. Dr. Ir. Bambang Hero Saharjo, M.Agr should have also examined the Defendant's RKL/RPL report to analyze the soil test results as a form of compliance with environmental quality standards in the AMDAL. However, the Expert instead draws premature conclusions without data or samples before the incident, and only refers to a few sampling points.

Furthermore, the Judex Factie of the Rengat District Court did not consider the full facts of the trial related to the land fire in Seko Lubuk Tigo/Seluti Village, as described below:

1) The testimony of various witnesses and the Defendant stated that until now the perpetrators of the burning of the community-owned oil palm land have not been found. The facts of the trial show that the hotspots originated from land controlled by the community.
2) Prosecutors have not been able to prove the cause, method, and purpose of the arson until the case was decided.
3) The burnt land was cultivated by the community for generations, long before the issuance of HGU No. 16 of 1997 under the name of PT Gandaerah Hendana.
4) The fire originated from land owned by the community, as confirmed by witness A de charge.
5) The land that caught fire is controlled and cultivated by the community with rights such as SKGR and certificates.
6) The community had replanted even when the land was still under police line status.
7) For a long time, village and sub-district officials have never recognized the existence of PT Gandaerah Hendana's HGU in the burned area. The community also never allowed the company to enter the land.
8) Before the fire, PT Gandaerah Hendana had intended to build a fire tower and reservoir, but the community refused because the land belonged to them and there was no sign of ownership from the company. The community emphasized that even company employees were not allowed to pass by without the community's permission.

From the four things that the researchers described, it can be concluded that the determination of legal responsibility for the defendant PT Gandaerah Hendana without consideration of these facts and without valid scientific evidence of environmental damage is a violation of the basic principles of proof in environmental criminal law. This emphasizes the need for caution and accuracy in proving the elements of environmental damage, so that court decisions reflect substantive justice and legal certainty.

4. Ineffectiveness of Criminalization Patterns in Tackling Corporate Crimes in the Environmental Sector

Based on the analysis of the two court decisions used as a comparison in this study, it can be seen that companies proven to have committed pollution crimes can be sentenced to fines, additional penalties, or other disciplinary measures. In addition, the fine against the management or leader of the corporation responsible for the environmental crime can be increased by one-third of the specified amount.

However, although the mechanism for imposing sanctions has been regulated, the facts show that cases of environmental pollution by corporations are still recurring. This raises questions regarding the appropriate pattern of punishment for corporate environmental crimes. In other words, the pattern of punishment regulated in Law Number 32 of 2009 concerning Environmental Protection and Management (UUPPLH) still seems to have shortcomings that have the potential to reduce the effectiveness of law enforcement in dealing with environmental crimes by corporations, which in turn contributes to the occurrence of environmental disasters, such as forest and land fires.

Therefore, improvements are needed in the pattern of punishment, including strengthening environmental recovery efforts, monitoring the implementation of sanctions, and aggravating fines, to ensure a deterrent effect and higher compliance from corporations with environmental provisions.

a. Legal framework for imposing fines

1) Aggravation of Criminal Fines

Syaiful Bakhri argues that "Criminal fine is originally a civil relationship, namely when someone is harmed, he may demand compensation for damage, the amount of which depends on the amount of loss suffered, as well as the social position of the harmed person".[39] P.A.F. Lamintang argues that "Fines are the third type of basic punishment in Indonesian criminal law, which basically can only be imposed on adults.[40]

Regarding fines, principle 16 of the Rio de Janeiro Declaration on the concept of Sustainable Development states that "National authorities should endeavor to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the costs of pollution, with due regard to the public interest and without distorting international trade and investment."[41]

In free translation: National authorities should seek to encourage the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the costs of pollution, with due regard to the public interest and without distorting international trade and investment."

The Polluter Pays Principle (PPP) means that the perpetrator of a crime must be responsible and must pay. The polluter pays principle can be understood as a distributive consideration, i.e. when the polluter is a rich person (industry) and the victim is a poor person (general public), the deep pocket or ability to pay principle, i.e. PPP, arises.[42]

Harwitiningsih argues that "The polluter must pay implies that the punishment imposed should not be considered as a cost in conducting business activities. To ensure full accountability in cases of environmental violations, the punishment given must pay attention to the interests of direct victims who suffer losses as a result of the violation as well as the interests of many people".[43]

Furthermore, the application of penalties can be believed to be effective in preventing environmental degradation that can cause forest fires. Therefore, the amount of fines imposed on corporations should be greater than the profits obtained from environmental crimes committed. In this case, Law Number 32 of 2009 concerning Environmental Protection and Management (PPLH) has stipulated an aggravation of fines up to one third for corporations proven to have committed environmental crimes. However, with a maximum fine limit of Rp3,000,000,000.00 (Three Billion Rupiah) as stipulated in the law, there is a risk that the amount of the fine imposed may be lower than the profit obtained by the corporation, making it ineffective as a prevention instrument.

The aggravation of sanctions for perpetrators of environmental pollution through forest and land burning is very important considering its extensive impact on ecosystems and society. Penalties should be proportional to the level of damage caused to achieve two main objectives: first, to restore ecosystems affected by forest and land fires, and second, to provide a deterrent effect to the perpetrators. Thus, the fines imposed should reflect the severity of the damage caused, so that the perpetrators regret their actions and are reluctant to repeat their actions in the future.

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[39] Syaiful Bakhri, 2009, *Perkembangan Stelsel Pidana Indonesia*, Ctk.Pertama, Total Media: Yogyakarta, hlm. 129-130.
[40] P.A.F. Lamintang, 1988, *Hukum Penitensier Indonesia*, Armico: Bandung, Edisi Pertama, hlm. 80.
[41] Michael Faure dan Göran Skogh, 2003, *The Economic Analysis Of Environmental Policy And Law An Introduction*, Edward Elgar Publishing Limited: United Kingdom, hlm. 26.
[42] *Ibid*
[43] Hartiwiningsih, 2008, *Hukum Lingkungan Dalam Perspektif Kebijakan Hukum Pidana*, Ctk. Pertama, UPT Penerbitan dan Percetakan UNS (UNS Press): Surakarta, hlm. 43.

In addition, the application of criminal sanctions also incurs additional costs for the state, including the costs of investigation, law enforcement, and restoration of the environment polluted or damaged by criminal acts. These costs, along with the profits earned by the perpetrator of the criminal offense, must be taken into account in determining the amount of the fine. The greater the profit obtained, the more severe the sanctions that must be imposed, in line with the principle that crimes aimed at obtaining profits should be subject to comparable sanctions in order to provide a real deterrent effect.

To prevent corporations from evading punishment and ensure the effectiveness of law enforcement, the amount of fines needs to be significantly increased. This should also take into account the costs of investigation, evidence collection, and efforts to restore ecosystems damaged by forest and land fires, all of which require large expenditures. Thus, strengthening fines is an important step in improving the effectiveness of environmental law enforcement and preventing the recurrence of similar violations.

From the description above, it is clear that the current punishment system is still ineffective in providing a deterrent effect to perpetrators of environmental crimes. Therefore, reforms are needed in the provision of criminal fines to ensure that the amount of sanctions imposed is proportional to the severity of the crime committed, including through the application of the doubling principle to increase sanctions proportionally.[44] In addition, it needs to be expressly stipulated that funds obtained from the payment of fines by perpetrators of environmental crimes must be specifically allocated to support environmental conservation and restoration programs. The application of an aggravated criminal system through the mechanism of doubling fines will not have a positive impact on environmental protection if it is not accompanied by transparent and targeted management.[45]

b. Penalty Implementation Arrangement

If the perpetrator of an environmental crime is unable to pay the fine imposed under the statutory provisions, there is a need for implementing regulations that ensure that the perpetrator continues to carry out the obligation to restore and preserve the environment. However, the implementation mechanism for unpaid fines has not been specifically regulated in Law Number 32 of 2009 concerning Environmental Protection and Management. Thus, the legal reference that can be used to close this lacuna is Article 30 of the Criminal Code (KUHP), which reads "If the fine is not paid, it is replaced by imprisonment where the imprisonment may not exceed 8 (eight) months".

The application of criminal sanctions will lose its effectiveness if the existing regulations are unable to prevent environmental criminals from continuing to benefit from their actions. As with economic crimes, the main objective of environmental crimes is to maximize profits. Thus, the main function of the imposition of fines is to ensure that perpetrators of criminal acts cannot enjoy the benefits of their unlawful actions.

However, the existence of substitute imprisonment is often used by fisheries criminals to avoid paying fines. These perpetrators prefer to serve a relatively short imprisonment (generally not more than 8 months) rather than pay a fine, so that they can still maintain the financial benefits obtained from illegal activities.

Based on these conditions, it is clear that strengthening criminal sanctions is very important to realize sustainable environmental management and protection. Therefore, a firmer regulation is needed in Law No. 32/2009 on Environmental Protection and Management to ensure the effectiveness of environmental law enforcement. The following are guidelines for the implementation of criminal sanctions regulated in various related laws and regulations, namely:

1) Law Number 1 Year 2023 on the Criminal Code, Article 84 paragraphs (1) and (2), reads:

"Paragraph (1) Criminal fines may be paid in installments within a period of time in accordance with the judge's decision;

Paragraph (2) If the fine as referred to in paragraph (1) is not paid in full within the stipulated period, the unpaid fine may be taken from the wealth or income of the convicted person".

Then Article 85 paragraphs (1), (2), (3) and (4) reads:

"Paragraph (1) If the retrieval of wealth or income as referred to in Article 84 paragraph (2) is not possible, the unpaid fine shall be substituted with community service punishment, supervision punishment, or imprisonment, provided that the fine shall not exceed Category I fine.

(2) The duration of the substitute punishment as referred to in paragraph (1) shall be:

a. For supervision punishment, at least 1 (one) month and at most 1 (one) year, the conditions as referred to in Article 80 paragraph (3) shall apply; or

[44] Mahrus Ali, Pola Pemberatan Ancaman Pidana Berbasis Konservasi Lingkungan Hidup: Kajian atas Undang-Undang di Bidang digilib.org/uploads/1/3/4/6.

[45] *Ibid.*

b. For substitute imprisonment, at least 1 (one) month and at most 1 (one) year, which may be aggravated by a maximum of 1 (one) year and 4 (four) months, if there is an aggravation of fine due to concurrent punishment or due to the existence of aggravating factors as referred to in Article 134.

Paragraph (3) The calculation of the length of substitute punishment is based on the measure that for each fine of Rp15,000.00 (Fifteen Thousand Rupiah) or less, it is equivalent to:

a. One hour of substitute social work punishment; or
b. One day of supervision punishment or substitute imprisonment. paragraph (4) If after serving the substitute punishment, part of the fine is paid, the length of the substitute punishment shall be reduced by an equivalent measure in accordance with the provision as referred to in paragraph (3).

Article 86 (1) and (2), reads:

(1) If the retrieval of wealth or income as referred to in Article 84 paragraph (2) cannot be carried out, then for unpaid fines above category I shall be substituted with imprisonment for a minimum period of 1 (one) year and a maximum period as imposed for the criminal offense concerned.

Paragraph (2) The provisions referred to in Article 85 paragraph (4) shall also apply to paragraph (1) in so far as it concerns substitute imprisonment.

2) Law Number 8 Year 2010 on the Prevention and Eradication of Money Laundering Crime (UUTPPU)

Article 8 reads that:

In the event that the assets of the convicted person are not sufficient to pay the fine as referred to in Article 3, Article 4, and Article 5, the fine shall be replaced by imprisonment for a maximum of 1 (one) year and 4 (four) months.

Article 9 (1) and (2) reads that:

Paragraph (1) In the event that the Corporation is unable to pay the fine as referred to in Article 7 paragraph (1), the fine shall be substituted with forfeiture of assets belonging to the Corporation or the Controlling Personnel of the Corporation with the same value as the imposed fine. Paragraph (2) In the event that the sale of forfeited assets of the Corporation as referred to in paragraph (1) is insufficient, imprisonment in lieu of fine shall be imposed on the Controlling Personnel of the Corporation by taking into account the fine that has been paid.

c. Sanctions for Corrective Action as a Result of Imperative Criminal Offenses

Related to this, Roeslan Saleh argues that "Criminal law in its efforts to achieve its goals does not merely impose punishment, but also sometimes uses action. Action is a sanction too, but there is no retaliatory nature to it. The purpose of the action is to maintain the security of society against people who are considered dangerous, and it is feared that they will commit criminal acts.[46]

M. Sholehuddin, argues that the action sanctions depart from the basic idea of what the punishment is for so that the action sanctions are more anticipatory against the perpetrators of the act. The focus of action sanctions is more focused on efforts to provide help to the perpetrator so that he changes. Action is different from punishment, because the purpose of action is social, while in punishment the emphasis is on the punishment applied to the crime committed".[47]

From the two opinions above, the basic principles underlying the application of punishment in the form of actions are the protection of society and efforts to foster or rehabilitate criminal offenders. Thus, the punishment is basically intended to function as a means of education and behavioral improvement. In the context of environmental law, there are still gray areas related to various forms of additional criminal sanctions, namely the types of actions that can be imposed outside the main sanctions. The development of punitive measures in Indonesia was initially more of a social rather than criminal activity, and its application was first limited to the Java and Madura regions.

5. Effectiveness of Additional Criminal Punishment for Corporate Perpetrators of Forest and Land Fire

The effectiveness of punishment against corporations that commit environmental crimes is determined by the legal certainty in the implementation of additional punishment imposed by the court. The clarity of the mechanism of implementation, supervision, and enforcement of additional punishment such as payment of recovery costs, fines, or direct environmental restoration, is a crucial factor so that the punishment does not stop at the declarative aspect alone. In this context, the active role of law enforcement officials, especially the prosecutor's office as the executor, as well as coordination with technical agencies such as KLHK and DJKN, is very important to ensure that additional punishment does not only become an administrative burden, but is actually implemented in the interests of environmental protection.[48]

[46] Roeslan Saleh, 1987, *Stelsel Pidana di Indonesia, Cetakan Kelima*, Aksara Baru: Jakarta, hlm. 47.
[47] M. Sholehuddin, 2004, *Sistem Sanksi Dalam Hukum Pidana, Edisi Pertama*, Rajagrafindo Persada: Jakarta, hlm. 17.
[48] Handar Subhandi Bakhtiar. "Pelaku Kejahatan Lingkungan: Jenis, Motivasi dan Penyelesaian." *National Conference on Law Studies (NCOLS)*. Vol. 6. No. 1. 2024.

This is in line with the views of Irwan Triadi and Handoyo Prasetyo who emphasize that corporate punishment will not be effective without the support of strict and structured implementation. They stated that without certainty in the implementation of additional punishment, the sanction will lose its function as a means of recovery and prevention of environmental crimes. Therefore, an ideal formulation and strengthening the role of implementing agencies are needed so that additional punishment really has an impact on environmental improvement and recovery.[49]

As seen in the case of forest and land fires involving PT Mega Anugerah Sawit (PT MAS), the court has imposed an additional penalty in the form of an obligation to pay the cost of environmental restoration in the amount of Rp542,702,078,100.00. However, in order for environmental restoration to be effective and not merely symbolic, an ideal pattern of punishment is needed that contains a comprehensive and layered legal system. This pattern does not only rely on the aspect of financial sanctions alone, but must also be accompanied by strict supervision, additional sanctions that can actually be executed, and legal mechanisms that can guarantee the achievement of real ecological recovery.

1. Strengthening Legal Certainty of Additional Penalty Implementation

   If PT MAS is unable or unwilling to pay the recovery obligation, then firm legal measures must be available, including:

   a. Financial Execution:

      The state needs to prepare an effective execution scheme, such as confiscation of corporate assets (land, buildings, production equipment) to cover the obligation to pay the cost of recovery.

   b. Additional Sanctions Based on Supervision:

      The government, especially the Ministry of Environment and Forestry (KLHK), can impose additional administrative sanctions such as revocation of business licenses, suspension of company operations, or prohibition of operations until obligations are fulfilled.

2. Environmental Restoration Monitoring Mechanism

   Financial sanctions must be accompanied by a recovery monitoring mechanism:

   a. Environmental Audits and Periodic Reports: Recovery funds must be accompanied by a technical report from an independent auditor describing the progress of restoration of the affected land.
   b. Strict Oversight from Supervisory Agencies: MoEF and law enforcement agencies must ensure that funds are used as intended and not misused.

3. Alternative Solutions if PT. MAS is Unable to Pay

In the event that PT. MAS is unable to pay, the alternative punishments that can be applied are:

a. Staged payment is an alternative form of implementation of additional punishment in the form of payment of environmental restoration costs that can be applied when the corporation states its inability to pay at once, but still shows good faith in carrying out its responsibilities.

   Scheme and Flow of Funds:

   1.Fund Recipients:

   Funds from additional criminal payments by corporations go to the State Treasury (State General Treasurer Account) if they are financial payments (fines or recovery costs), as stipulated in Article 43 paragraph (1) and Article 45 of the Criminal Procedure Code jo. Article 273 of Law. 1 Year 2023 (New Criminal Code). The recording and deposit mechanism uses a non-tax deposit letter (SSBP) to the state treasury through the role of the Prosecutor's Office as the executor.

   2.Container for the Flow of Recovery Funds:

   If the judge explicitly states that the funds are used specifically for recovery (not just fines), then the AGO works with the Ministry of Environment and Forestry (KLHK) or through the Environmental Fund Institution (LDLH) which can be a forum for environmental recovery based on non-tax funding. This LDLH was established based on Government Regulation No. 46/2017 on Environmental Economic Instruments and strengthened by provisions in Law No. 11/2020 on Job Creation.

   3.Supervision Executor:

   Installment payments are made according to the agreement between the executing prosecutor and the corporation, under the supervision of the prosecutor and the environmental supervision apparatus. There must be legal guarantees such as temporary confiscation of assets as a substitute if the corporation is negligent.

[49] Irwan Triadi dan Handoyo Prasetyo, 2022, Formulasi Ideal Pidana Tambahan terhadap Korporasi Pelaku Tindak Pidana Lingkungan Hidup dalam Perspektif Restoratif, dimuat dalam *Jurnal Hukum Pidana dan Kriminologi*, Volume. 2 Nomor. 2, hlm. 236–240.

From this point it can be concluded that the funds go to the state treasury, but can be channeled back through special mechanisms such as LDLH for environmental restoration. The AGO plays a role in execution and supervision with KLHK.

b. Transfer of Assets for Recovery

Asset transfer or confiscation is an alternative step if the corporation does not pay the recovery costs voluntarily. This is in accordance with the principle that criminal execution is not only based on cash, but also the equivalent value in the form of property:

Executor:

1. **Executor:** The execution of asset transfer or confiscation is carried out by the Prosecutor's Office as the Executor Prosecutor based on a court decision that is legally binding (inkracht), in accordance with Article 270 of the Criminal Procedure Code. Prosecutors can cooperate with the Ministry of ATR / BPN (if the asset is in the form of land), the Ministry of Finance / DJKN (if auctioned), and KLHK for technical verification of value and location.
2. **Technical Procedures:** Asset valuation is conducted first (appraisal). Assets are confiscated through an official report and then used for direct recovery purposes (land restoration, ecosystem rehabilitation) or auctioned and the proceeds are used for recovery costs. If the transfer is direct, KLHK becomes the end user of the asset and is responsible for organizing its recovery.

From this point it can be concluded that the transfer of assets is carried out by the AGO, then the assets are used directly or sold to fund environmental recovery. KLHK acts as the technical manager of recovery.

c. Criminal Liability of Directors

In corporate criminal law, when the corporation does not carry out its obligations and it is proven that the directors actively or passively allow this, personal liability can be imposed on the directors based on the principle of vicarious liability or corporate identification doctrine. **Implementation after Verdict**:

a. Stages of Liability:

If in the initial verdict there is no punishment against the directors, then the liability of the directors must be carried out through a separate legal process (new criminal case) with an investigation by the KLHK or Police Civil Servant Investigator (PPNS), followed by prosecution by the Prosecutor. Punishment can be in the form of imprisonment, personal fines, or additional punishment in the form of prohibition from holding certain positions.

b. Basis for Prosecution:

1. Based on active actions: directors order to commit, know, or approve environmental crimes.
2. Based on gross negligence: the board of directors knows but does not take steps to prevent (negligent supervision).

Criminal liability against directors is carried out through investigation and prosecution only after the corporation is proven not to have fulfilled its criminal obligations. This aims to prevent impunity in corporate practices.

4. Application of the Polluter Pays Principle (PPP)

Corporate criminalization must be subject to the Polluter Pays Principle, which emphasizes that the perpetrator of pollution is obliged to restore the environmental damage caused. Therefore, inability to pay is not an excuse to avoid legal responsibility.

Environmental sanctions should not only be considered as an additional punishment, but rather as a stand-alone form of action sanction, as stipulated in Article 103 paragraph (1) letter a and Article 110 of the Criminal Code 2023. This approach allows for a focus on environmental restoration, rather than simply financial punishment.

In practice, real environmental restoration is more complex and costly than just a fine, as it involves ecological restoration. Therefore, it is important to prioritize sanctions that lead to the improvement of conditions before the crime occurred, in accordance with the spirit of sustainability and ecological justice.

6. Countermeasure Strategy Against Weaknesses of Environmental Law Enforcement in Law Number 32 of 2009 (PPLH) concerning Environmental Protection and Management Using the Strategy of Reformulation of Environmental Law Enforcement Based on a Restorative Approach.

Law No. 32/2009 on Environmental Protection and Management (UU PPLH) is the main legal framework in the national environmental law system. However, in practice, environmental law enforcement still focuses heavily on repressive approaches through criminal sanctions, while restorative approaches that prioritize environmental restoration are still not mainstream. This creates an imbalance between the punishment of perpetrators and efforts to restore the ecological function of the damaged environment. Therefore, it is necessary to reformulate law enforcement strategies that are more oriented towards

ecological justice and environmental sustainability, To overcome this weakness, an identification theory-based approach is needed in reformulating law enforcement through:

a. Strengthening Restorative Approach in Environmental Law Enforcement

The restorative approach in environmental law enforcement aims to restore environmental damage, not just punish the perpetrators. In the corporate context, the responsibility for restoration is assigned to top management as the company's legal representative. The main goal of this approach is to restore ecological balance and provide justice for affected communities.[50]

In practice, the environmental justice system can be directed to impose additional sanctions such as:

1. A comprehensive environmental restoration order,
2. Obligation to pay compensation to affected victims,
3. Restorative activities such as reclamation, rehabilitation, tree planting, or construction of public facilities such as clean water supply.

This step can be institutionalized through a revision of the PPLH Law, which currently places too much emphasis on imprisonment and fines. Restorative sanctions should be mandatory and cumulative, not just additional.[51]

b. Enforcement of Strict Liability and Polluter Pays Principles

One of the strengths of the Environmental Law is the recognition of the principle of strict liability as stated in Article 88, which allows polluters to be held accountable without proving the element of fault. The polluter pays principle also emphasizes that the polluter is obliged to bear the entire cost of restoration.

However, the implementation of these two principles is still inconsistent. Therefore, strategic measures are needed, such as:

1. Law enforcers (prosecutors and judges) must apply Article 88 strictly and thoroughly,
2. The government must design a mechanism for the execution of recovery obligations that is fast and effective,
3. Enforcement of this principle must be a priority in all cases of environmental pollution, both by individuals and corporations.

c. Effective Integration of Administrative and Civil Sanctions

Environmental law enforcement has been too dominated by the criminal approach, even though administrative and civil sanctions can also encourage faster and more tangible environmental recovery.[52]

Administrative sanctions that can be given by KLHK and local governments include:

1. Revocation of business or activity licenses,
2. Order for environmental restoration within a certain period of time,
3. Temporary suspension of activities until obligations are fulfilled.

Civil lawsuits, both by the state and the community (through class action or citizen lawsuit), must be optimized, not only to obtain compensation, but also to force the perpetrator to carry out environmental restoration.

d. Institutional Strengthening and Environmental Monitoring

The effectiveness of law enforcement is largely determined by institutional capacity. Some strategies that can be done include:

1. Establish a special unit for restorative law enforcement under the MoEF,
2. Using technology such as satellites, drones, and digital licensing systems to detect violations earlier,
3. Increasing public participation through a community-based complaint and monitoring system.

Community involvement is important because they are the first to feel the impact of environmental pollution and damage.

e. Revision of Law No. 32/2009 to Affirm Ecological Justice

A long-term strategic step is to revise the Environmental Law to strengthen the principles of ecological justice. The revision may include:

1. Establishing that environmental restoration is a primary legal obligation, not just an additional sanction,
2. Reorganizing the criminal provisions so that remedial sanctions become part of the court decision,

[50] Hukum lingkungan berbasis restoratif bertujuan memulihkan fungsi lingkungan hidup. Lihat: Satjipto Rahardjo, 2009, *Ilmu Hukum Progresif*, Kompas: Jakarta, hlm. 121.

[51] Ugo Taddei, 2014, *Environmental Liability and Restoration of the Environment*, yang dimuat dalam *Journal of Environmental Law*, Volume 26, Nomor 2, hlm. 259–283.

[52] Barda Nawawi Arief 2020, *Penegakan Hukum Lingkungan Hidup di Indonesia: Masalah dan Pemecahannya*, disampaikan dalam forum akademik di Fakultas Hukum Universitas Diponegoro (FH Undip).

3. Placing ecological principles as the philosophical and normative basis in all environmental law enforcement mechanisms.[53]

That way, the PPLH Law does not only function as a means of punishing perpetrators, but also as an instrument for damage recovery and sustainable environmental development.

Law enforcement against corporations that commit environmental crimes must be oriented towards damage recovery through a restorative approach. Alternative implementation of additional penalties, such as gradual payments, transfer of assets, and criminal liability of directors, is a realistic and equitable strategy. The AGO plays a central role in execution, supported by institutional coordination with KLHK. Strengthening the principles of strict liability, polluter pays, and integration of administrative and civil sanctions needs to be accelerated. Revision of the PPLH Law is an urgency to emphasize recovery as the main legal obligation to realize ecological justice and sustainable protection for the environment and affected communities.

CONCLUSIONS

Based on the analysis that has been stated, criminal liability for corporations that cause environmental pollution, such as in the case of PT Mega Anugerah Sawit (PT MAS), can be applied through the Identification Theory. This theory views the acts or omissions of the management as a direct representation of the actions of the corporation itself. In this context, the negligence of the director as the directing mind of the company becomes the basis for imposing criminal sanctions on the corporation. This approach strengthens environmental criminal law enforcement because it allows business entities to be held directly accountable for the actions of their management, especially in the context of high-impact crimes such as forest and land fires.

To realize the ideal pattern of punishment against corporations that cause environmental damage, a comprehensive and ecological justice-oriented approach is needed. This includes the application of restorative justice, strict liability and polluter pays principles, as well as the integration of administrative, civil and criminal sanctions. In the case of PT MAS, the application of additional punishment in the form of an obligation to pay the cost of environmental restoration is an important step, but its effectiveness is highly dependent on strict execution mechanisms, such as asset seizure and license suspension. Therefore, environmental law enforcement must be synergistic with institutional strengthening and revision of regulations, especially Law No. 32/2009, in order to guarantee sustainable environmental recovery and ensure that there are no legal loopholes that allow corporations to avoid responsibility.

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