JILPR Vol. 8, No. 1 October 2026
Journal of Indonesia Law & Policy Review 2715-498X

CORPORATE CRIMINAL LIABILITY RELATED TO ENVIRONMENTAL POLLUTION AND DAMAGE

Hendy[1*], Irawan Harahap[2], Miftahul Haq[3]
Master of Laws Postgraduate Program, Lancang Kuning University, Indonesia[1,2,3]
hendy.owyang81@gmail.com[1], irawan.hrp@gmail.com[2], haq1980.mh@unilak.ac.id[3]

Abstract

This research aims to examine the legal framework governing environmental protection in corporate business activities in Indonesia and analyze corporate criminal liability for environmental pollution and destruction. Using a sociological legal research method, the study finds that environmental protection is primarily regulated under Law Number 32 of 2009 concerning Environmental Protection and Management, as amended by Law Number 6 of 2023, and Law Number 1 of 2023 concerning the Criminal Code. These regulations require corporations to comply with environmental standards, obtain the necessary environmental approvals, manage waste responsibly, and prevent environmental damage. However, implementation remains challenging due to weak supervision, regulatory non-compliance, limited law enforcement, and inadequate environmental restoration. Furthermore, corporations may be held criminally liable for environmental offenses, including individuals who order, direct, or participate in such violations. Nevertheless, establishing corporate criminal liability requires sufficient evidence of the criminal act, its connection to corporate activities, corporate culpability, and the involvement of management or decision-makers. Therefore, effective environmental protection requires consistent supervision, firm law enforcement, appropriate sanctions, and corporate responsibility for environmental restoration.

Keywords: Criminal Liability, Corporation, Environment

INTRODUCTION

The environment is an inseparable part of human life, so that environmental protection is an important aspect in implementing development. Everyone has the right to obtain a good and healthy environment as guaranteed in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia. In implementing development activities and business activities, corporations have an important role in encouraging economic growth. However, business activities that do not pay attention to environmental protection obligations can cause pollution and/or environmental damage that has an impact on society and the sustainability of the ecosystem. Environmental pollution and/or destruction can occur as a result of corporate activities, particularly those engaged in production, plantations, mining, forestry, industry, or other business activities. Legal issues arise when environmental crimes are not solely the result of an individual's personal actions, but are related to the activities, policies, orders, inaction, or interests of the company. Criminal liability should not only be directed at the individual directly committing the act, but should also consider the corporation's position as a party benefiting from the crime.

Developments in criminal law have recognized that corporations can be subjects of criminal law. According to Mardjono Reksodiputro (2014), the development of corporate criminal liability is related to the fact that certain crimes are no longer committed solely by individuals, but can also be committed through organizations with structure, authority, resources, and economic interests. Therefore, a criminal liability approach that focuses solely on individual perpetrators is not always able to address all the issues that arise in crimes committed through or for the benefit of corporations (Kristian, 2018).

Regulations regarding corporate liability in environmental crimes are actually recognized in Law Number 32 of 2009 concerning Environmental Protection and Management. Article 116 stipulates that if an environmental crime is committed by, for, or on behalf of a business entity, criminal charges and criminal sanctions can be imposed on the business entity and/or the person giving the order to commit the crime or the person acting as an activity in the crime. This provision shows that business entities can be placed as parties that can be held criminally responsible, so that environmental law enforcement is not only directed at individual perpetrators. This issue has become increasingly important following the enactment of Law Number 1 of 2023 concerning the Criminal Code on January 2, 2026. The National Criminal Code explicitly positions corporations as subjects of criminal acts through Article 45. Furthermore, Article 46 regulates criminal acts committed by managers who hold functional positions within the corporate organizational structure or individuals who, based on employment or other relationships, act for and on behalf of the corporation. These regulations strengthen the position of corporations in the national criminal accountability system.

Article 48 of Law Number 1 of 2023 concerning the Criminal Code provides the basis for circumstances that can be the basis for corporate criminal liability, including if the crime is committed within the scope of the corporation's business or activities, provides unlawful benefits to the corporation, is accepted as corporate policy, the corporation does not take the necessary steps to prevent the crime from occurring, or the corporation allows the crime to occur. This regulation has strong relevance in cases of environmental pollution and/or destruction because criminal acts can occur not only due to the actions of an employee, but also due to company policy or the company's failure to carry out supervision and prevention. In practice, the problem arises when individuals on the ground are held most easily accountable, while corporations profiting from these activities are not always held accountable. However, if pollution occurs because a company fails to provide adequate waste management, neglects oversight obligations, issues specific orders to workers, or allows violations to persist to maintain corporate profits, there is reason to believe the corporation is complicit in the crime.

According to Barda Nawawi Arief (2024), corporate criminal liability is necessary because, in the development of economic and social life, corporations can become perpetrators of criminal acts with greater capacity and impact than crimes committed by individuals. Corporate

accountability is not only intended to impose punishment but also as a preventative measure, encouraging corporations to build better oversight and legal compliance systems.

In environmental matters, the need to provide a deterrent effect to corporations is increasingly important because the effects of environmental pollution or destruction can be long-term. Environmental damage cannot always be reversed simply by imposing criminal penalties on workers or individuals in the field. If a company can continue to operate and profit after an individual perpetrator has been convicted, such criminal penalties may not effectively pressure the corporation to improve environmental governance.

Law Number 32 of 2009 concerning Environmental Protection and Management actually provides for various sanctions that can be imposed on business entities. Article 119 allows for additional criminal penalties or disciplinary action against business entities in the form of confiscation of profits obtained from criminal acts, closure of all or part of the business premises and/or activities, remedial measures resulting from criminal acts, obligations to carry out unauthorized derelictions, and placement of the company under guardianship for a maximum of three years. Thus, the goal of environmental law enforcement is not only to punish individuals, but can also be directed at corporations as entities with economic and organizational capabilities.

Updates to national criminal law and criminal procedure also have consequences for the handling of corporate cases. Law Number 20 of 2025 concerning the Criminal Procedure Code, which came into effect on January 2, 2026, provides regulations regarding the handling of criminal cases committed by corporations. This change is crucial because corporate accountability requires not only a material legal basis but also a law enforcement mechanism that allows investigators, public prosecutors, and courts to identify and prove the relationship between individual actions and corporate interests and responsibilities (Arief, 2024).

Changes to the national criminal law system since the enactment of the new Criminal Code have also provided a new perspective in handling corporate cases. The National Criminal Code not only recognizes corporations as subjects of criminal acts but also establishes a basis for accountability that allows for prosecution of corporations, their management, or both, in accordance with the construction of the case. This is important in environmental cases because pollution or damage caused by corporate activities cannot always be simply separated between individual culpability and corporate interests. In addition to substantive criminal law, aspects of procedural law have also been updated through Law Number 20 of 2025 concerning the Criminal Procedure Code, which came into effect on January 2, 2026, replacing Law Number 8 of 1981. The new Criminal Procedure Code specifically accommodates the handling of corporate cases and introduces a Deferred Prosecution Agreement mechanism that can only be applied to criminal acts by corporations. This mechanism is aimed, among other things, at improving legal compliance and recovering losses resulting from criminal acts.

The primary legal basis for this research is Law Number 32 of 2009 concerning Environmental Protection and Management, as amended, including through Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law. These changes require careful analysis because business licensing provisions and several environmental provisions have undergone adjustments. Government Regulation in Lieu of Law Number 2 of 2022 is inappropriately positioned as the sole law currently in effect, as it has been enacted into law through Law Number 6 of 2023.

Specifically, Article 69 paragraph (1) letter a of the Environmental Management and Management Law prohibits acts that result in environmental pollution and/or damage. This provision must be read in conjunction with relevant criminal articles, including Article 98 and Article 99 concerning acts that result in exceeding the quality standards or criteria for environmental damage under conditions determined by law. For criminal acts committed by or on behalf of a business entity, Article 116 is an important basis because it opens up the possibility of prosecution against the business entity and/or the person who gives the order or acts as the leader of the criminal activity. Furthermore, Article 118 regulates the business entity as a functional

actor represented by authorized management, while Article 119 provides for the possibility of additional criminal or disciplinary action against the business entity.

Despite the legal framework in place, the research challenge remains how to demonstrate the relationship between environmental actions, corporate policies, corporate profits, and criminally responsible wrongdoing. Not every pollution automatically constitutes criminal corporate wrongdoing. Law enforcement must identify the prohibited act, the elements of the offense charged, the relationship of the act to the business entity's activities, and the parties legally liable. Corporate liability also needs to be distinguished from civil liability for compensation and environmental restoration, as the basis and objectives of the two forms of liability are not entirely the same.

To clarify the problem, the research can use the PT Kalista Alam case as the object of decision study. In the criminal case, PT Kalista Alam was found guilty through a series of Decisions of the Meulaboh District Court Number 131/Pid.B/2013/PN.MBO, the Banda Aceh High Court Decision Number 201/Pid/2014/PT BNA, and the Supreme Court Decision Number 1554 K/Pid.Sus/2015. These decisions are important examples of corporate criminalization in environmental cases and can be used as a starting point for studying the application of criminal liability of business entities.

The main problem that then arises is how to determine whether environmental pollution and/or destruction committed by individuals can also be accounted for by corporations (Muladi & Priyatno, 2010). This determination requires proof of the relationship between the perpetrator and the company, the perpetrator's position within the corporate structure, the company's interests, the profits obtained, company policies, orders from authorized parties, and whether or not the company has made efforts to prevent the crime.

In law enforcement practice, it is necessary to distinguish between individuals who directly commit acts and corporations that enable, order, profit from, accept policies, or condone such acts. If only perpetrators are prosecuted, while the companies that benefit from them remain untouched, the purpose of criminal penalties, which are to provide a deterrent effect and prevent recurrence of criminal acts, is suboptimal. Conversely, if corporate criminal liability is implemented appropriately, criminal penalties serve not only to punish perpetrators but also to encourage changes in corporate governance so that business activities are conducted with due regard for environmental protection obligations.

Law enforcement against crimes of environmental pollution and/or destruction should not stop at holding individuals accountable. If the crime is committed within the scope of corporate activities and generates profits, or occurs due to corporate policy or negligence, the company must also be held accountable under applicable criminal law. This approach is necessary to ensure that criminal penalties can act as a deterrent to corporations and encourage them to conduct their business activities with due regard for environmental protection obligations. The formulation of the problem in this research is as follows: 1. How are environmental protection legal regulations related to corporate business activities in Indonesia? 2. What is the criminal responsibility of corporations regarding environmental pollution and destruction?

RESEARCH METHODS

This study employs a normative legal research approach, examining written legal norms, legal principles, doctrines, and regulations related to corporate criminal liability for environmental pollution and destruction. This study focuses on analyzing the suitability and relationship between legal provisions governing environmental crimes and corporate criminal liability.

The approach used includes a statutory approach to examine related legal provisions, particularly Law Number 32 of 2009 concerning Environmental Protection and Management and its amendments, Law Number 1 of 2023 concerning the Criminal Code, Government Regulation Number 22 of 2021, and PERMA Number 13 of 2016. Furthermore, a conceptual approach is used to examine the concept of criminal liability, corporations as subjects of criminal law, errors,

and the accountability of managers. An analytical approach is used to examine the relationship, meaning, and suitability of legal norms governing corporate criminal liability in environmental crimes.

The sources of legal materials used are secondary data, which consist of primary legal materials in the form of relevant laws and court decisions, secondary legal materials in the form of books, scientific journals, research results, and expert opinions, as well as tertiary legal materials in the form of legal dictionaries, the Big Indonesian Dictionary, and other reference sources. The technique for collecting legal materials is carried out through library research by inventorying, identifying, classifying and reviewing various legal materials related to the research object. The analysis of legal materials is carried out qualitatively and juridically, namely by interpreting and connecting relevant legal provisions, principles and doctrines to obtain legal arguments regarding corporate criminal liability in cases of environmental pollution and destruction. Drawing conclusions using the deductive method, namely drawing conclusions from general legal provisions and principles towards specific problems regarding corporate criminal liability for environmental pollution and destruction.

RESULT AND DISCUSSION

A. Legal Regulations on Environmental Protection Linked to Corporate Business Activities in Indonesia

The environment is a vital part of human life, playing a strategic role in ensuring the continued well-being of both present and future generations. The environment provides a variety of natural resources that are utilized to meet human needs, such as land, water, air, forests, minerals, and other natural resources. The utilization of these resources is also a key factor in driving economic growth and national development. Throughout its development, corporate business activities have played a significant role in driving the Indonesian economy through industrial, mining, plantation, forestry, energy, trade, and various other business sectors. However, corporate activities that disregard environmental balance can lead to ecosystem damage, water pollution, air pollution, land degradation, forest and land fires, and various other environmental problems.

Corporate business activities are fundamentally part of the right to conduct economic activities and generate profits. However, this right cannot be exercised freely without regard for the interests of society and environmental sustainability. Every corporation has a responsibility to ensure that all its business activities are carried out in accordance with statutory provisions. This responsibility relates not only to fulfilling administrative obligations in obtaining business permits, but also includes the obligation to prevent pollution, control environmental damage, manage waste, carry out environmental restoration, and be accountable for any actions that result in environmental damage.

Environmental issues involving corporations often have different characteristics than legal violations committed by individuals. Corporate business activities generally involve interconnected organizational structures, management, labor, capital, technology, and production processes. Consequently, environmental pollution or damage can occur due to management decisions, company policies, negligent supervision, operational cost savings that ignore environmental standards, or the actions of parties working for and on behalf of the corporation. In such circumstances, legal accountability is not solely directed at workers or technical implementers in the field but needs to be traced back to the corporation as a business entity and to those with decision-making authority.

Indonesia has a constitutional basis that guarantees environmental protection. Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy environment. This provision places a good and healthy environment as part of the constitutional rights of citizens. Furthermore, Article 33 paragraphs (3) and (4) of the 1945 Constitution emphasizes that control of natural resources by the state must be directed towards the

greatest possible prosperity of the people and be organized based on the principles of a sustainable and environmentally conscious economy.

This constitutional basis demonstrates that economic development cannot be separated from the obligation to preserve the environment. The state has an obligation to regulate, supervise, and enforce laws against business activities that have the potential to cause pollution or environmental damage. Conversely, corporations, as economic actors, are obligated to conduct their businesses in accordance with the principles of environmental protection and management. Therefore, the economic profits obtained by corporations cannot be used as an excuse to ignore the public interest in a healthy environment.

The main regulations regarding environmental protection in Indonesia are contained in Law Number 32 of 2009 concerning Environmental Protection and Management, as amended, specifically through Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law. These regulations are then further elaborated through Government Regulation Number 22 of 2021 concerning the Implementation of Environmental Protection and Management. These provisions form the legal framework governing environmental planning, utilization, control, maintenance, supervision, and law enforcement, including the obligations of business actors in carrying out their business activities.

Despite the availability of legal regulations, environmental protection still faces challenges in its implementation. One frequently encountered issue is the gap between the legal obligations that corporations are expected to fulfill and the actual business practices that occur on the ground. While environmental documents may be fulfilled administratively, environmental management and monitoring may not be consistently implemented. Similarly, the existence of environmental approvals does not necessarily guarantee that a business activity is free from pollution or environmental damage. The problem becomes even more complex when oversight is suboptimal, proving causal relationships is difficult, or law enforcement is unable to reach corporations as the parties that benefit economically from these business activities.

Environmental protection is a series of legal measures undertaken to maintain environmental quality, prevent pollution, control damage, and ensure the sustainability of environmental functions. From a legal perspective, environmental protection is not only defined as a prohibition against actions that damage nature, but also encompasses the obligations of the state, society, and business actors to carry out planned and responsible environmental management. Therefore, environmental law has both preventive and repressive functions. The preventive function is aimed at preventing pollution before business activities are carried out, while the repressive function is used to impose legal consequences on those who commit violations.

Takdir Rahmadi (2015) explains that environmental law is the totality of regulations governing human behavior toward the environment, both directly and indirectly, with the aim of protecting and managing the environment so that it continues to provide benefits for human life and other living creatures. This understanding shows that environmental law is not only oriented toward protecting natural resources, but also regulates the relationship between development interests, human activities, and ecosystem sustainability.

Environmental protection regulations in Indonesia are based on several legal principles that serve as guidelines for the implementation of corporate business activities. First, the principle of state responsibility, which states that the state has an obligation to ensure that natural resources are utilized for the benefit of the community while maintaining environmental sustainability. Second, the principle of sustainability and continuity, which states that every development activity must consider the environment's ability to support the lives of current and future generations. Third, the precautionary principle, which states that every activity with the potential to cause environmental impacts must consider the potential risks that may occur, even if a level of scientific certainty is not yet fully available (Siahaan, 2004).

Fourth, the polluter pays principle, which states that those who cause pollution or

environmental damage must bear the costs arising from their actions, including the costs of environmental mitigation and restoration. Fifth, the principle of community participation, which states that communities have the right to obtain information, provide input, raise objections, and monitor business activities that have the potential to affect the environment in which they live. Sixth, the principle of intergenerational justice, which states that the use of natural resources in the present must not eliminate the right of future generations to enjoy a good and healthy environment.

These principles play a crucial role in limiting corporate economic activity. Companies must not only focus on increasing production and profits, but also consider the environmental carrying capacity and carrying capacity. If business activities generate waste, emissions, or changes in environmental conditions, corporations must ensure that these impacts are controlled according to established environmental standards. Thus, environmental protection principles become an integral part of corporate governance, not simply an additional obligation after a company has made a profit (Erwin, 2008).

These principles are also reflected in Article 2 of Law Number 32 of 2009 concerning Environmental Protection and Management. These provisions include the principles of state responsibility, sustainability and continuity, harmony and balance, integration, benefits, prudence, justice, ecoregions, biodiversity, the polluter pays, participation, local wisdom, good governance, and regional autonomy. These principles serve as the basis for determining whether a business activity has been carried out in accordance with environmental responsibilities. Legal regulations governing environmental protection for corporate business activities in Indonesia are established through several levels of legislation. The highest legal basis is found in the 1945 Constitution, specifically Article 28H paragraph (1) and Article 33 paragraphs (3) and (4). These constitutional provisions direct that the use of natural resources must be carried out with due regard for the community's right to a good and healthy environment and the principles of sustainable development.

Furthermore, Law Number 32 of 2009 serves as the primary basis for regulating environmental protection and management. This law regulates the rights and obligations of the community, the obligations of business actors, instruments for pollution prevention, supervision, dispute resolution, environmental restoration, and administrative, civil, and criminal sanctions. This law has been amended by Law Number 6 of 2023, so its implementation must take into account the revised provisions. In relation to business activities, Article 67 of Law Number 32 of 2009 requires every person to maintain the sustainability of environmental functions and control environmental pollution and/or damage. Article 68 specifically requires every person conducting business to provide environmental information that is true, accurate, open, and timely, maintain the sustainability of environmental functions, and comply with environmental quality standards and environmental damage criteria. These provisions form the basis for corporations having legal obligations that must be carried out throughout the course of business activities, not only when applying for permits. Government Regulation Number 22 of 2021 concerning the Implementation of Environmental Protection and Management is a crucial implementing regulation because it provides more technical details regarding environmental approvals, water, air, and sea quality management, environmental damage control, hazardous and toxic waste management, supervision, and the imposition of administrative sanctions. This regulation ensures that corporate obligations extend beyond planning documents and must be implemented through concrete environmental management and monitoring activities.

The first obligation is to fulfill environmental requirements before undertaking any business activity. Under the applicable licensing system, business actors are required to meet basic requirements in the form of environmental approval according to the risk level and characteristics of their business activities. Environmental approval is obtained through an environmental impact analysis (AMDAL) assessment mechanism, as well as through the examination and approval of Environmental Management Efforts and Environmental Monitoring Efforts (UKL-UPL) in accordance with the criteria stipulated by law. Meanwhile, activities that

do not require an AMDAL or UKL-UPL may be required to fulfill an Environmental Management and Monitoring Commitment Statement (SPPL) (Helmi, 2012).

The Environmental Impact Assessment (EIA) plays a crucial role as a tool for identifying and estimating the significant impacts of a business plan on the environment. Through EIA, corporations can identify potential environmental changes, determine preventative measures, and formulate management and monitoring measures. Meanwhile, the Environmental Management and Environmental Impact Assessment (UKL-UPL) serves as a standard for managing and monitoring activities not required by EIA. Therefore, the preparation of environmental documents should not be viewed merely as an administrative requirement for obtaining government approval, but rather as an operational guideline for conducting business activities.

The second obligation is to implement waste management and pollution control. Corporations that generate waste from their production processes must manage it in accordance with the waste's characteristics and applicable regulations. Hazardous and toxic waste, or B3 waste, requires special handling because it has the potential to pose a danger to human health and the environment. This management includes storage, collection, transportation, utilization, processing, and disposal in accordance with applicable technical regulations. Companies are also required to ensure that wastewater discharge and emissions do not exceed established quality standards. The third obligation is to conduct regular environmental monitoring. Monitoring is necessary to determine whether a company's operational activities meet its environmental standards. For example, industrial companies that discharge wastewater must conduct wastewater quality testing in accordance with regulations and ensure the results meet quality standards. Plantation companies must pay attention to land management, water source protection, and fire prevention. Meanwhile, mining companies are required to pay attention to overburden management, acid mine drainage, reclamation, and post-mining activities in accordance with applicable sectoral regulations. The fourth obligation is to provide environmental information openly and accurately. Information regarding waste management, monitoring results, and the impacts of business activities is crucial for both the government and the public. Corporations are not permitted to conceal pollution data, manipulate laboratory test results, or provide reports that do not reflect the actual situation. Transparency is necessary for effective oversight and for the public to understand the environmental risks posed by business activities in their area. The fifth obligation is to prevent and recover from environmental pollution or damage. Corporations must have response measures in place for chemical leaks, oil spills, river pollution, land degradation, or other events that could potentially harm the environment. Once pollution has occurred, companies must not only stop the source of pollution but also take mitigation and recovery measures appropriate to the extent of the damage caused. Recovery can include environmental cleanup, rehabilitation, restoration, or other actions necessary to restore environmental function (Rahmadi, 2015).

These obligations demonstrate the ongoing nature of corporate environmental responsibility. Companies must consider environmental aspects from investment planning, facility construction, production processes, and byproduct management to the termination of business activities. If these obligations are only met at the initial stage and their implementation is neglected throughout the company's operations, the goal of environmental protection will not be achieved.

Corporate legal liability is the legal consequence a company must accept if its business activities violate environmental protection and management regulations. This liability is necessary because corporations can derive economic benefits from activities that simultaneously cause harm to society and the environment. Therefore, the law should not impose liability solely on employees who carry out direct actions, if those actions are related to company policy, management decisions, or corporate interests. In Indonesian environmental law, corporate liability can be divided into three forms: administrative, civil, and criminal. These three forms have different characteristics, objectives, and enforcement mechanisms, but they can complement each other according to statutory provisions.

1. Administrative accountability

Administrative accountability is a form of law enforcement carried out by the government against corporations that fail to fulfill environmental obligations as stipulated in environmental agreements, business permits, or other statutory provisions. Administrative sanctions aim to stop violations, restore compliance, and prevent broader environmental impacts. Administrative sanctions under environmental protection regulations include written warnings, government coercion, administrative fines, suspension of business permits, and revocation of business permits in accordance with applicable regulations. For example, companies found to have failed to manage wastewater in accordance with requirements may be subject to administrative action by authorized officials. If violations are not corrected, enforcement action can be escalated based on the severity of the violation and applicable legal provisions (Helmi, 2012). The imposition of administrative sanctions is crucial because it allows the government to take corrective action without having to wait for greater environmental damage to occur. However, administrative sanctions should not stop at issuing warning letters. The government must ensure that corporations genuinely improve their environmental management systems, fulfill their remedial obligations, and refrain from repeating similar violations.

2. Civil liability

Civil liability relates to the obligation of a corporation to provide compensation and/or take certain actions due to pollution or environmental damage caused by its business activities. The main legal basis for this liability is contained in Article 87 of Law Number 32 of 2009. This provision requires every person responsible for a business and/or activity that commits an unlawful act in the form of pollution and/or environmental damage that causes harm to other people or the environment to pay compensation and/or take certain actions. Civil liability can be pursued through lawsuits by the affected community, the government, or environmental organizations, based on applicable legal requirements. In practice, the resulting losses are not limited to direct economic losses but can also include environmental restoration costs, loss of livelihoods, health disruptions, and ecosystem damage that impacts the interests of the wider community. One of the important principles in environmental civil liability is strict liability. Article 88 of Law Number 32 of 2009, as amended, regulates strict liability for activities that use hazardous materials (B3), produce and/or manage hazardous waste, and/or pose a serious threat to the environment. This principle places responsibility for losses without the need for proof of fault. However, its application must still take into account the legal elements and requirements specified in the provision. The application of strict liability is important because proving fault in environmental cases often faces technical and scientific difficulties. For example, river pollution suspected of being caused by industrial activity may require water quality testing, identification of the source of the pollution, analysis of the relationship between the activity and the impact, and calculation of remediation costs. Through the principle of strict liability, the law protects victims and the environment by not making proof of fault a primary requirement for its application.

3. Criminal liability

Criminal liability is a form of law enforcement against corporations that commit environmental crimes. Unlike administrative and civil sanctions, which emphasize compliance and restitution, criminal law aims to punish actions that meet the elements of a crime. Criminal enforcement is especially necessary for actions that cause serious environmental pollution or damage, are committed intentionally or negligently, or meet other criminal provisions in statutory regulations. Law Number 32 of 2009 regulates various environmental crimes. Article 98 regulates acts committed intentionally that result in exceeding environmental quality standards or environmental damage criteria as formulated in the provision. Article 99 regulates acts due to negligence that result in exceeding

environmental quality standards or environmental damage criteria. These two provisions demonstrate that environmental criminal law extends not only to intentional acts but also to acts resulting from negligence. Corporate criminal liability is also regulated in Article 116 of Law Number 32 of 2009. This provision provides the basis for prosecuting a business entity if an environmental crime is committed by, for, or on behalf of the business entity. Liability can also be imposed on individuals who give orders or act as leaders in the criminal activity. This regulation is important to avoid situations where a company profits from a crime but only field workers are held accountable. Article 117 further regulates the increased penalties for those who give orders or lead criminal acts if the crime is committed by or on behalf of a business entity. Meanwhile, Article 119 regulates additional penalties or disciplinary measures against business entities, including confiscation of profits obtained from the crime, closure of all or part of the business premises, reparations for the consequences of the crime, obligations to carry out what was neglected without authorization, and placing the company under guardianship in accordance with applicable provisions.

Thus, corporate criminal liability is not only directed at punishing management but can also affect the business entity as a legal entity. This is crucial because individual punishment alone may not necessarily stop patterns of violations stemming from corporate policies or operational systems. Law enforcement must be able to identify responsible parties and ensure that corporations no longer profit from environmentally damaging actions. Corporations have the status of subjects of criminal law because corporate activities can be carried out through organizational decisions and the actions of individuals working for them. In the context of environmental crimes, the corporation's status as a legal subject is crucial for addressing violations committed within the corporate structure. Pollution does not always occur due to the actions of an employee; it can also be caused by management decisions that consciously ignore environmental management obligations to reduce operational costs.

Law Number 1 of 2023 concerning the Criminal Code provides general provisions regarding corporate criminal liability. Article 45 affirms that corporations are subject to criminal acts, including limited liability companies, foundations, cooperatives, state-owned enterprises, regionally-owned enterprises, and other forms of business entities and associations as stipulated. Articles 46 and 47 regulate corporate crimes committed by managers or persons acting for and on behalf of the corporation, including those giving orders, controlling parties, or beneficial owners who are outside the organizational structure but may control the corporation. This regulation broadens the understanding of who can be held accountable. In an environmental pollution case, investigators need not simply examine machine operators or waste management personnel. The investigation should also focus on company policies, authority structures, oversight reports, management decisions, environmental management budgets, and the profits the company derives from unlawful activities. Supreme Court Regulation No. 13 of 2016 also provides guidelines for determining corporate culpability. The assessment can take into account whether the corporation profited or benefited from the crime, whether the crime was allowed to occur, whether the corporation failed to take preventative measures, and whether the corporation failed to ensure compliance with laws and regulations. With this approach, corporate criminal liability can be applied more comprehensively and not limited to the physical perpetrators of the pollution.

However, criminal charges against corporations must still be based on proving the elements of the crime and the relationship between the act and the corporation. Not every occurrence of pollution near a company's premises automatically proves that company is the perpetrator. Law enforcement officials must gather relevant evidence, such as laboratory results, expert testimony, operational documents, activity records, witness statements, and other evidence demonstrating the connection between the corporation's activities and the resulting consequences. Government oversight is a key instrument for ensuring that environmental obligations imposed on corporations are actually implemented. Oversight is necessary because the existence of environmental approvals and business permits does not guarantee that all company operations are in accordance with regulations. Therefore, the government must conduct inspections periodically

and at any time if there are reports or suspicions of environmental pollution and damage (Machmud, 2012).

Legal protection for the public is also reflected in provisions regarding the right to sue. Communities experiencing losses due to environmental pollution or damage can file lawsuits through available mechanisms. The government also has the authority to file lawsuits against businesses that pollute or damage the environment in the interest of preserving environmental functions. In addition to individual lawsuits, environmental law recognizes class action lawsuits. This mechanism allows a group of people with similar facts or legal grounds and experiencing similar losses to file a lawsuit through a group representative. This mechanism is important because pollution by a corporation can impact many people simultaneously.

Environmental organizations can also file lawsuits in the interests of preserving environmental functions based on the requirements stipulated in Article 92 of Law Number 32 of 2009. This right to sue is not intended to demand compensation for the interests of the organization, but rather to demand certain actions for the sake of preserving the environment. Community protection must also take into account the provisions of Article 66 of Law Number 32 of 2009 concerning the protection of those who fight for the right to a good and healthy environment. This provision relates to the prohibition of retaliation against the community, reporters, witnesses, experts, and environmental activists who participate in environmental protection efforts. This protection is strengthened by Constitutional Court Decision Number 119/PUU-XXIII/2025 which provides constitutional meaning to the Explanation of Article 66. Thus, the community may not be intimidated or criminalized solely for expressing objections and fighting for environmental protection through legitimate means.

Although Indonesia has a legal framework for environmental protection, its implementation still faces several challenges. The first issue relates to corporate compliance with environmental approvals. In practice, companies may fulfill administrative requirements, but their environmental management obligations do not comply with the approved documents. This situation can arise due to weak internal oversight, limited waste management budgets, inadequate technology, or company policies that prioritize cost efficiency over environmental safety. The second issue relates to government oversight. The number of companies to be monitored, the size of their operational areas, limited human resources, testing facilities, and technical oversight capabilities can all hinder the identification of violations. Inconsistent oversight can potentially create room for corporations to repeat violations without adequate legal action. The third issue relates to proving environmental pollution and damage. In environmental cases, proving the truth often requires specialized expertise to identify the source of the pollution, measure the extent of the damage, and determine the causal relationship between a company's activities and the resulting losses. For example, if a river is polluted, it is necessary to examine the water quality, the characteristics of the pollutants, the location of waste disposal, and the possibility of other sources of pollution. Without adequate scientific support, law enforcement may struggle to prove the elements of a violation. The fourth issue is determining who is responsible within the corporate structure. Companies have organizational structures that include directors, commissioners, operational managers, department heads, and technical staff. Under certain circumstances, acts of pollution can be committed by employees, but this is based on policies or orders from superiors. Therefore, law enforcement must be able to identify who gave the orders, who has the authority to control the activities, and whether the actions were carried out in the company's best interest. The fifth issue relates to environmental restoration. Sanctions against corporations do not always immediately restore the environment to its original condition. Soil and water pollution and ecosystem damage can take a long time and be costly to reverse. In fact, some environmental damage has long-term impacts that cannot be completely reversed. Therefore, law enforcement must prioritize environmental restoration as a key component of corporate accountability. The sixth issue is the potential imbalance between economic interests and environmental protection. Under certain circumstances, investment and job creation can be used as justification for easing business activities. However, ease of doing business should not

eliminate the obligation to comply with environmental protection standards. The government must ensure that simplifying permits does not translate into a reduction in environmental responsibility. These problems show that the success of environmental protection is not only determined by the completeness of regulations, but also by the quality of supervision, the integrity of law enforcement officers, corporate compliance, community involvement, and the consistency of the application of sanctions (Rahmadi, 2015).

The relationship between corporate business activities and environmental protection is fundamentally a relationship between economic interests and the public interest. Corporations require legal certainty, ease of doing business, and investment protection. Meanwhile, the public needs assurance that business activities do not cause environmental damage and do not diminish their right to a good and healthy environment. These two interests should not be viewed as conflicting but rather should be harmonized through consistent regulation and legal enforcement (Soekanto, 2014).

From an administrative law perspective, environmental approvals and business permits serve as control instruments to prevent arbitrary corporate activities. The government has the authority to determine requirements, conduct oversight, and impose sanctions on businesses that fail to comply. Thus, the freedom to conduct business activities remains within legal boundaries aimed at protecting the interests of the public and the environment.

Based on the above discussion, it can be concluded that the legal regulations regarding environmental protection for corporate business activities in Indonesia have a clear constitutional and legal basis. Article 28H paragraph (1) and Article 33 of the 1945 Constitution provide the basis that a good and healthy environment is a public right that must be guaranteed by the state. Furthermore, Law Number 32 of 2009 concerning Environmental Protection and Management, as amended by Law Number 6 of 2023, serves as the main basis for regulating obligations, prohibitions, supervision, and legal accountability for business activities that cause environmental pollution and damage. These regulations are strengthened by Government Regulation Number 22 of 2021 and other legal provisions relating to corporate accountability.

Corporations, as economic actors, have an obligation to protect and manage the environment from the planning stage through to the end of operations. These obligations include fulfilling environmental approvals, implementing AMDAL (Environmental Impact Assessment) or UKL-UPL (Environmental Management and Environmental Management) in accordance with regulations, waste management, pollution control, environmental quality monitoring, information disclosure, and remediation in the event of environmental damage. Therefore, compliance with environmental law is not merely an administrative requirement for conducting business but rather a legal responsibility that must be carried out continuously.

Legal accountability for corporations polluting or damaging the environment can be enforced through three instruments: administrative sanctions, civil liability, and criminal liability. Administrative sanctions aim to stop violations and restore compliance, civil liability aims to provide compensation and environmental restoration, while criminal liability aims to impose penalties for actions that meet the elements of a crime. Regulations regarding corporate liability also allow law enforcement to reach business entities, managers, those giving orders, and those with control, in accordance with applicable regulations (Soekanto, 2014). However, the implementation of environmental protection still faces obstacles such as weak oversight, corporate non-compliance, limited evidence, difficulties in determining responsibility, and suboptimal environmental recovery. These issues demonstrate that existing laws and regulations are insufficient without effective oversight and consistent law enforcement. Therefore, environmental protection must be directed at balancing investment interests, economic growth, community rights, and the sustainability of natural resources.

B. Corporate Criminal Liability for Environmental Pollution and Damage

The development of corporate business activities has contributed to economic growth, job creation, increased investment, and national and regional revenues. However, behind these

economic benefits, there are environmental risks that must be considered. Production activities that are not accompanied by proper waste management, the discharge of hazardous materials into rivers, land clearing without regard for environmental regulations, and mining activities without impact management can result in ecosystem damage and a decline in environmental quality. These impacts are felt not only by communities surrounding business locations but can also extend to other areas and affect the lives of future generations.

Environmental pollution and destruction issues involving corporations have unique characteristics because these actions are often related to work systems, company policies, management decisions, and the economic interests of the business entity. In certain circumstances, environmental violations are not solely committed by workers in the field, but can stem from management decisions that ignore environmental management obligations to reduce operational costs or increase company profits. This situation raises legal questions about who should be held accountable when an environmental crime occurs within the framework of a corporation's business activities.

Corporate criminal liability is important because corporations not only serve as a vehicle for economic activity but are also legal entities capable of committing acts through their organs, managers, and individuals working for and on their behalf. If an environmental crime is committed within the scope of a business activity and benefits the company, accountability should not be solely borne by the technical implementers in the field. Business entities and decision-making authorities must be examined for their involvement, authority, and the relationship between their actions and the crime.

Constitutionally, environmental protection is based on Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that everyone has the right to a good and healthy environment. This provision places environmental quality as part of the constitutional rights of the people. Furthermore, Article 33 paragraphs (3) and (4) of the 1945 Constitution provide the basis that the use of natural resources must be directed towards the greatest prosperity of the people and carried out with due regard to the principles of sustainability and environmental insight.

Further regulations are contained in Law Number 32 of 2009 concerning Environmental Protection and Management, which has been amended through Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law. This law provides the legal basis for prohibiting environmental pollution and destruction, the obligations of business actors, supervision, dispute resolution, and criminal liability for business entities and responsible parties within corporations.

In addition to specific provisions in environmental law, corporate criminal liability is also based on Law Number 1 of 2023 concerning the Criminal Code, which came into effect on January 2, 2026. The National Criminal Code expressly recognizes corporations as subjects of criminal acts and regulates the basis for corporate criminal liability. This provision strengthens the Indonesian criminal law system in addressing crimes committed by organizations or business entities.

Despite the legal basis, the application of criminal liability to corporations still faces various challenges. Proving environmental crimes requires scientific and technological support, laboratory testing, expert testimony, and tracing the relationship between company activities and their impacts. Furthermore, complex corporate organizational structures can make it difficult to determine who gives orders, who exercises control, and who benefits from the crime. If law enforcement is directed solely at field workers without examining company policies, corporate criminal liability will not fully achieve its intended goal.

Another issue is how to determine the nature of corporate culpability when environmental pollution or destruction occurs due to negligent oversight, disregard for operational standards, or company policies that disregard legal obligations. Criminal law must be able to distinguish between individual actions outside the company's interests and those committed within the scope of corporate activities. This determination is necessary to ensure that criminal liability is not

imposed arbitrarily but still protects society and the environment.

This position means that corporations cannot use the pretext of not being human to avoid criminal liability. Corporations do not physically act like humans, but their will and policies are expressed through individuals with authority within the organizational structure. Therefore, the actions of managers, those giving orders, those in control, or employees acting in the company's best interests can be used to assess the corporation's involvement in a crime. In cases of environmental pollution and destruction, the role of corporations as subjects of criminal law is necessary because the impacts of business activities often involve the production process and overall company policies. For example, a company that consistently discharges industrial waste without proper processing cannot simply absolve itself of responsibility by claiming that the discharge was carried out by field officers. Law enforcement must investigate whether the actions were based on orders, policies, negligence, or supervisory negligence that can be attributed to the corporation. Thus, recognizing corporations as subjects of criminal law is an instrument to ensure that business entities committing crimes can be held accountable. This regulation also provides protection to the public so that losses resulting from business activities are not solely borne by the victim, but rather become the responsibility of any party legally proven to have committed the crime.

The regulation of corporate criminal liability in environmental cases has a constitutional basis, laws, and implementing regulations. The constitutional basis is found in Article 28H paragraph (1) of the 1945 Constitution, which guarantees the right of every person to a good and healthy environment. This provision serves as the basis for ensuring that every economic activity must take into account the community's right to a decent environment. Specific provisions are contained in Law Number 32 of 2009 concerning Environmental Protection and Management, as amended by Law Number 6 of 2023. This law regulates various forms of prohibited acts, including acts that result in environmental pollution and destruction. Furthermore, the law regulates the liability of business entities if environmental crimes are committed by, for, or on behalf of the business entity.

Important provisions regarding corporate criminal liability are contained in Article 116 of Law Number 32 of 2009. This article stipulates that if an environmental crime is committed by, for, or on behalf of a business entity, criminal charges and criminal sanctions can be imposed on the business entity and/or the person who gives the order to commit the crime or the person who acts as the leader of the activities in the crime. These provisions demonstrate that Indonesian environmental law recognizes criminal liability for corporations, as well as the possibility of liability for managers or activity leaders. Therefore, business entities are not always the only parties held accountable. Individuals who play a role in the commission of a crime can also be prosecuted if the elements of responsibility are met.

Furthermore, Article 117 regulates the increased criminal threat against those who give orders or lead criminal acts as referred to in Article 116 paragraph (1) letter b, namely imprisonment and a fine increased by one third. This regulation shows that parties who have the authority to give orders or lead criminal activities cannot hide behind their formal position in the company. Article 118 stipulates that if criminal sanctions are imposed on a business entity, the business entity shall be represented by a manager authorized to represent it in and out of court in accordance with the provisions of laws and regulations as a functional actor. Meanwhile, Article 119 stipulates additional penalties or disciplinary measures against the business entity, including confiscation of profits obtained from criminal acts, closure of all or part of the business premises, repairs resulting from criminal acts, the obligation to carry out something that was neglected without authority, and placing the company under guardianship for a maximum of three years.

In addition to these specific provisions, Law Number 1 of 2023 concerning the Criminal Code provides general provisions regarding criminal acts by corporations. Articles 46 and 47 outline the parties who can commit crimes within the corporate sphere, including managers holding functional positions, persons acting for and on behalf of the corporation, those giving orders, those holding control, and beneficial owners who are outside the organizational structure

but may control the corporation.

Article 48 of the National Criminal Code provides the basis for assessing corporate liability, including if the crime falls within the scope of the corporation's business or activities, benefits the corporation unlawfully, is accepted as corporate policy, the corporation fails to take necessary preventive measures, or the corporation allows the crime to occur. This provision is relevant in assessing whether environmental pollution or destruction is an act that can be linked to the company's policies and interests.

In addition, Supreme Court Regulation No. 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations provides guidelines for law enforcement officials and courts in handling criminal cases involving corporate perpetrators. Article 4 of the regulation provides several criteria for assessing corporate culpability, including whether the corporation obtained profits or benefits from the crime, whether the corporation allowed the crime to occur, and whether the corporation failed to take preventative measures and ensure compliance with the law. With these provisions, the Indonesian legal system provides a basis for holding corporations criminally liable for environmental pollution and destruction. Its application must still take into account the relationship between specific environmental criminal provisions and the general provisions on corporate criminal liability in the National Criminal Code.

Environmental pollution and destruction are two forms of action that have different characteristics, but both can result in disruption of environmental functions and cause harm to society. Environmental pollution is basically related to the entry or introduction of living creatures, substances, energy, and/or other components into the environment due to human activities so that they exceed the established environmental quality standards. Meanwhile, environmental destruction is related to actions that cause direct or indirect changes to the physical, chemical, and/or biological properties of the environment so that they exceed the standard criteria for environmental damage. In corporate business activities, pollution can occur through the discharge of industrial wastewater into rivers without proper treatment, the release of emissions into the air that exceed quality standards, and the uncontrolled disposal of hazardous and toxic materials. These activities can lead to a decline in water, air, and soil quality, as well as endanger the health of humans and other living things.

Meanwhile, environmental damage can occur through illegal land clearing, mining activities that ignore damage control, illegal deforestation, and other actions that alter ecosystem conditions. Environmental damage can lead to loss of area function, habitat destruction, erosion, flooding, and a reduction in nature's ability to sustain life. From a criminal law perspective, not all negative impacts of business activities automatically constitute a crime. Law enforcement must first determine whether the act meets the elements of a criminal offense as defined in the law. Evidence must consider the type of act, the consequences, the environmental standards violated, the nature of the offense, and the relationship between the act and the responsible party. Some relevant criminal provisions in Law Number 32 of 2009 include the following (Candra, 2021):

1. **Pollution and environmental destruction due to intentional acts**

   Article 98 stipulates criminal offenses for any person who intentionally commits an act that results in exceeding ambient air quality standards, water quality standards, seawater quality standards, or environmental damage criteria as defined in the aforementioned provisions. This provision serves as the basis for action against acts committed intentionally and resulting in exceeding environmental standards stipulated by law.

   In a corporate context, the element of intent can be a significant issue when a company is aware of a pollution risk but continues to operate activities that result in exceeding quality standards. For example, company management may receive a report that a wastewater treatment plant is malfunctioning but proceed with production without making necessary repairs. This circumstance can be considered evidence, as long as all elements of the crime can be proven.

2. Environmental pollution and destruction due to negligence

Article 99 regulates acts that, through negligence, result in exceeding environmental quality standards or environmental damage criteria. This provision is important because pollution is not always caused by a direct intention to damage the environment, but can occur due to a lack of supervision, inadequate maintenance of waste treatment facilities, or a disregard for environmental safety procedures.

In corporate activities, negligence can involve management's failure to ensure a proper waste management system, failure to conduct regular inspections of treatment plants, or failure to take action upon learning of potential pollution. However, such negligence must still be proven based on the elements of a criminal offense and the accountability of the parties being investigated.

3. Management of B3 waste without complying with the provisions

Hazardous and toxic waste management is a crucial part of industrial and other business activities. B3 waste can have serious impacts if stored, transported, utilized, processed, or disposed of without complying with applicable regulations. Therefore, corporations managing B3 waste are required to comply with technical requirements and environmental laws.

Criminal provisions regarding B3 waste management and dumping are regulated in Articles 102 to 104 of Law Number 32 of 2009, in a formulation that must be read in conjunction with amendments to related laws and regulations. In applying these provisions, investigators must identify the nature of the offense and the appropriate criminal provisions based on the applicable legal formulation.

4. Land clearing by burning

Land clearing by burning can cause forest and land fires, air pollution, health problems, and ecosystem damage. If the act meets the elements of a criminal offense and can be linked to a corporation, criminal liability can be imposed in accordance with statutory provisions. In such cases, evidence must trace land ownership, operational activities, company policies, the parties carrying out the burning, and the relationship between the act and the corporation's interests.

These four forms of conduct demonstrate that environmental crimes by corporations can occur through a variety of business activities. Therefore, law enforcement must be conducted by considering the characteristics of the company's activities and the elements of the crime specifically stipulated in the law.

Corporate criminal liability cannot be separated from the development of theories explaining the relationship between individual actions and corporate entities. These theories are used to determine when a human action can be considered a corporate act and when a corporate entity can be held criminally responsible (Sjahdeini, 2007).

a. Identification theory
b. Vicarious liability theory
c. Responsibility theory based on corporate culture or policy
d. Direct corporate liability theory

In the Indonesian legal system, this approach can be understood through the provisions of Article 48 of the National Criminal Code and Article 4 of PERMA Number 13 of 2016. These two provisions provide a basis for assessing the relationship between criminal acts, benefits received by corporations, company policies, and preventive measures that should be taken.

These four theories demonstrate that corporate criminal liability is not sufficient simply to prove the employee's actions. Law enforcement must assess the relationship between those actions and the company's organizational structure, policies, interests, and oversight system. The choice of theory and its application must be aligned with the criminal provisions underlying the prosecution.

In cases of environmental pollution and destruction, determining who is responsible is a crucial part of the law enforcement process. Corporations have organizational structures that involve various parties, from shareholders and directors to commissioners, managers, department heads, and operational workers. Not all of these parties are automatically held criminally liable simply because they have a relationship with the company. Article 116 of Law Number 32 of 2009 provides the basis for liability for business entities and/or individuals who give orders or act as leaders of criminal activities. This regulation demonstrates that the law distinguishes between business entities as entities and individuals who play a role in carrying out criminal acts.

Therefore, proving environmental crimes committed by corporations must be conducted comprehensively, combining scientific evidence with evidence related to the company's organization. This approach is necessary so that law enforcement can not only prove environmental damage but also determine who is legally responsible for the act. Criminal sanctions against corporations aim to impose legal consequences for criminal acts and prevent recurrence. Unlike humans, corporations cannot be subject to physical imprisonment. Therefore, the form of sanctions against business entities is tailored to the characteristics of corporations as legal entities. In Law Number 32 of 2009, provisions regarding criminal penalties against business entities are regulated, among others, in Articles 116 to 119. Sanctions can be imposed on business entities and/or managers or activity leaders who are responsible in accordance with the provisions.

A criminal fine is one form of sanction that can be imposed on a corporation. This penalty aims to impose an economic burden on the criminal act. The amount of the fine must be determined based on the applicable criminal provisions and the evidence presented in court. The imposition of fines must take into account the characteristics of the corporation and should not be simply a cost considered part of business activities. In addition to fines, Article 119 of Law Number 32 of 2009 allows for additional penalties or disciplinary action in the form of confiscation of profits obtained from the crime. This provision is important because companies should not continue to enjoy profits obtained through activities that violate environmental laws. The closure of all or part of a business and/or activity may also be imposed under these provisions. This sanction can be used to stop activities that are the source of criminal activity or to prevent recurrence of environmental pollution and destruction.

Furthermore, business entities may be required to make reparations for criminal acts. This action is directly related to environmental restoration, such as waste management, cleanup of pollution sites, land rehabilitation, or other actions as required by the reparation requirements and court rulings. Article 119 also regulates the possibility of being obliged to do what was neglected without rights and placing the company under guardianship for a maximum of three years. These two actions show that sanctions against corporations are not only intended to punish, but also to improve the situation and ensure that companies carry out legal obligations.

In addition to these specific criminal provisions, the National Criminal Code regulates criminal penalties for corporations through general provisions regarding the types of crimes and actions applicable to corporations. Its application must be aligned with specific provisions in environmental law, particularly taking into account the principles of criminal law, transitional provisions, and regulations applicable to the crime committed. Thus, corporate criminalization must strike a balance between punishment, deterrence, and remediation. Sanctions imposed must have legal consequences for the company while ensuring that environmental damage is not left unaddressed.

Corporate criminal liability in cases of environmental pollution and destruction must be understood as an instrument to ensure that economic activities are not carried out at the expense of public interests and environmental sustainability. Corporations have the right to conduct business activities, but this right must be accompanied by an obligation to comply with environmental standards and be accountable for any criminal acts committed within the scope of their business activities (Roup, 2017).

When analyzed based on the theory of corporate criminal liability, there is a relationship

between individual actions, company policies, and the benefits derived from the business entity. When workers illegally dump waste within the company's operations, investigators must examine whether the actions were carried out on orders, accepted as company policy, or condoned by management with oversight authority. This assessment is necessary to determine whether the corporation and/or the individuals responsible can be charged with a crime.

From a criminal law perspective, the application of Article 116 of Law Number 32 of 2009 demonstrates that a business entity can be held accountable if an environmental crime is committed by, for, or on behalf of the business entity. This provision provides law enforcement with the opportunity to reach companies that benefit from the crime. Meanwhile, Articles 45 to 50 of the National Criminal Code strengthen the basis for corporate accountability by regulating the subjects of criminal acts, parties who can commit crimes within the corporate sphere, and conditions that can form the basis for accountability.

From a law enforcement perspective, Soerjono Soekanto's theory can be used to analyze factors influencing the successful implementation of corporate criminal liability. These factors include laws or regulations, law enforcement, facilities, society, and culture. These five factors are interrelated in determining the effectiveness of environmental case handling. Regulations governing corporate liability will not be implemented optimally if investigators' capabilities are limited, scientific evidence is inadequate, government oversight is weak, and corporate compliance has not become part of the organizational culture.

From a public protection perspective, corporate criminal liability should be aimed at ensuring that the public does not bear the brunt of unlawful business activities. Water, air, and soil pollution can impact people's health, livelihoods, and quality of life. Therefore, law enforcement must consider the interests of victims and the need for environmental restoration, not simply resolve cases through the imposition of fines.

A concern that requires attention is the possibility of companies treating fine payments as a deductible expense in their business activities. If sanctions are not accompanied by remedial measures and oversight, there is a risk that companies will lack sufficient incentive to improve their operational systems. Therefore, criminal fines should be applied in conjunction with other available instruments, including confiscation of profits, closure of activities, and reparations for the consequences of criminal acts in accordance with statutory provisions (Lestari, 2023).

Thus, corporate criminal liability must be applied comprehensively, taking into account the relationship between the perpetrator's actions, the company's policies, the profits obtained, the nature of the violation, and the impact on the environment. Law enforcement must not stop at identifying perpetrators on the ground but must also be able to identify corporate responsibility and those who exercise control over unlawful activities. This approach is necessary to provide legal certainty, justice for the community, and protect environmental sustainability.

CONCLUSIONS

Indonesia are regulated through various statutory provisions, particularly Law Number 32 of 2009 concerning Environmental Protection and Management, as amended by Law Number 6 of 2023, and its implementing regulations. These regulations require every corporation to conduct business activities with due regard for environmental sustainability, fulfill environmental licensing or approval requirements, manage waste, and prevent environmental pollution and damage. Although the legal framework is in place, its implementation still faces various challenges, such as weak supervision, non-compliance with environmental obligations, limited law enforcement, and less than optimal environmental recovery resulting from business activities. Therefore, environmental protection cannot simply rely on the existence of regulations, but must be accompanied by consistent supervision, enforcement of administrative, civil, and criminal sanctions, and corporate responsibility to restore the impacted environment.

Corporate Criminal Liability Regarding Environmental Pollution and Damage that can be held criminally responsible if its business activities cause environmental pollution or damage that meets the elements of a criminal act as regulated in laws and regulations. This responsibility can

not only be imposed on the corporation as a business entity, but can also extend to the party giving the order or leading the criminal act, in accordance with applicable legal provisions. The regulation of corporate criminal liability in Law Number 32 of 2009 concerning Environmental Protection and Management, as amended, as well as the general provisions in Law Number 1 of 2023 concerning the Criminal Code, provides a legal basis for taking action against corporations that commit environmental crimes. However, its application requires careful proof regarding the criminal act, the relationship of the act to corporate activities, corporate errors, and the involvement of management or parties with authority in decision-making.

The government needs to increase oversight of corporate business activities from the planning, implementation, and post-operational stages, including ensuring compliance with environmental documentation and obligations. Law enforcement must be firm and proportional against corporations that violate environmental protection provisions, regardless of business size or ownership.

Criminal sanctions against corporations should not only focus on fines, but also include environmental restoration, confiscation of profits derived from criminal acts, termination of certain business activities, and other legally permitted actions. Corporations need to establish internal compliance and environmental oversight systems to ensure that all business activities are conducted in accordance with legal provisions.

REFERENCES

Abdul Roup. (2017). Pertanggungjawaban Pidana Koorporasi Lingkungan Hidup Pasca Peraturan Mahkamah Agung No. 13 Tahun 2016. *Justitia Jurnal Hukum*, 1(2).

Aditya Wahyu Saputro, Rayhan Andyara Milono, dan Shafira Anna Medina. (2021). Pertanggungjawaban Pidana Korporasi oleh Pengurus dalam Kasus Karhutla Karena Unknown Cause: Perspektif Ekonomi dan Lingkungan. *Jurnal Hukum Lex Generalis*, 2(12).

Anak Agung Gede Duwira Hadi Santosa. (2021). Pertanggungjawaban Pidana Korporasi terhadap Pencemaran Lingkungan (Suatu Perbandingan UU PPLH dengan Omnibus Law Kluster Lingkungan Hidup). *Jurnal Komunikasi Hukum*, 7(1).

Arief, B. N. (2024). *Bunga rampai kebijakan hukum pidana: Perkembangan penyusunan konsep KUHP baru*. Kencana.

Budhi Rahmadi, Dwi Sulistyoningrum, Muhammad Rafi Adrian Syahputra, Syukron Abdul Kadir, dan Roni Sulistyanto Luhukay. (2026). Pertanggungjawaban Pidana Korporasi dalam Tindak Pidana Lingkungan Hidup: Tinjauan Normatif dan Perspektif Pembaruan Hukum. *Jurnal Ilmiah Multidisiplin*, 5(9).

Candra, S. (2021). *Perumusan ketentuan pidana dalam hukum pidana administratif*. Prenada Media Group.

Derry Hadi Rakhmadiar. (2023). Pertanggungjawaban Pidana Direktur Utama Korporasi Atas Kegiatan Usaha Bahan Kimia yang Menimbulkan Pencemaran Lingkungan Hidup Ditinjau dari Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup. *Al Qodiri: Jurnal Pendidikan, Sosial dan Keagamaan*, 21(2).

Erwin, M. (2008). *Hukum lingkungan dalam sistem kebijaksanaan pembangunan lingkungan hidup*. Refika Aditama.

Hariman Satria. (2018). Environmental Pollution: Assessing the Criminal Liability of Corporations. *Hasanuddin Law Review*, 4(2),.

Helmi. (2012). *Hukum perizinan lingkungan hidup*. Sinar Grafika.

Hendra Wijaya, Budi Santoso, dan Muhamad Azhar. (2021). Pertanggungjawaban Pidana Korporasi Atas Pencemaran Lingkungan Hidup. *Notarius*, 14(1).

Idi Amin. (2018). Pertanggungjawaban Korporasi dalam Tindak Pidana Lingkungan Hidup. *Jurnal IUS: Kajian Hukum dan Keadilan*, 6(2).

Kadek Dicky Candra Mahendra, I Nyoman Gede Sugiartha, dan Luh Putu Suryani. (2021). Pertanggungjawaban Pidana Korporasi terhadap Pencemaran Lingkungan Hidup Ditinjau dari Undang-Undang Cipta Kerja. *Jurnal Interpretasi Hukum*, 2(3).

Kristian. (2018). *Sistem pertanggungjawaban pidana korporasi dalam perkara tindak pidana korupsi pasca terbitnya PERMA RI No. 13 Tahun 2016*. Sinar Grafika.

Lestari, E. S. (2023). *Pertanggungjawaban pidana korporasi dalam perkara tindak pidana lingkungan hidup*. Cipta Prima Nusantara.

Machmud, S. (2012). *Penegakan hukum lingkungan Indonesia: Penegakan hukum administrasi, hukum perdata, dan hukum pidana menurut Undang-Undang No. 32 Tahun 2009*. Graha Ilmu.

Mahkamah Konstitusi Republik Indonesia. (2025). *Putusan Nomor 119/PUU-XXIII/2025 mengenai pengujian Penjelasan Pasal 66 Undang-Undang Nomor 32 Tahun 2009*.

Martua Muda Daulay. (2023). Kebijakan Hukum Terkait Korporasi yang Terlibat Pencemaran Lingkungan. *Notarius*, 2(1).

Muladi, & Priyatno, D. (2010). *Pertanggungjawaban pidana korporasi*. Kencana.

Nurlaily, N. Y., dan A. Supriyo. (2022). Pertanggungjawaban Korporasi dalam Kasus Pencemaran Lingkungan Hidup. *Media of Law and Sharia*, 3(3).

Nuzul Qur'aini Mardiya. (2018). Pengaturan Pertanggungjawaban Korporasi dalam Tindak Pidana Lingkungan Hidup. *Jurnal Hukum dan Peradilan*, 7(3).

Nyimas Enny Fitriya Wardhany. (2022). Pertanggungjawaban Pidana Korporasi dalam Kebakaran Hutan yang Menyebabkan Kerusakan Lingkungan. *Legalitas: Jurnal Hukum*, 14(1).

Peraturan Mahkamah Agung Nomor 13 Tahun 2016 tentang Tata Cara Penanganan Perkara Tindak Pidana oleh Korporasi. (2016).

Peraturan Pemerintah Nomor 22 Tahun 2021 tentang Penyelenggaraan Perlindungan dan Pengelolaan Lingkungan Hidup. (2021).

Rahmadi, T. (2015). *Hukum lingkungan di Indonesia*. Rajawali Pers.

Reksodiputro, M. (2014). *Kemajuan pembangunan ekonomi dan kejahatan*. Pusat Pelayanan Keadilan dan Pengabdian Hukum Universitas Indonesia.

Reza Fadhli. (2019). Pertanggungjawaban Pidana Korporasi dalam Tindak Pidana Kebakaran Hutan dan Lahan. *Lex Renaissance*, 3(2).

Rony Andre Christian Naldo dan Mesdiana Purba. (2018). Pertanggungjawaban Mutlak Korporasi Sebab Kebakaran Lahan Mengakibatkan Pencemaran/Kerusakan Lingkungan Hidup. *Jurnal Ilmiah Penegakan Hukum*, 5(1).

Roup, A. (2017). Pertanggungjawaban pidana korporasi lingkungan hidup pasca Peraturan Mahkamah Agung Nomor 13 Tahun 2016. *Justitia: Jurnal Hukum*, *1*(2).

Safaruddin Harefa dan Muhammad Alvin Nashir. (2025). Pertanggungjawaban Pidana Korporasi dalam Kasus Tindak Pidana Lingkungan Hidup di Indonesia. *ADIL: Jurnal Hukum*, 16(1).

Satria Iman Kurnianda dan Ricky Oktadinata. (2026). Rekonstruksi Pertanggungjawaban Pidana Korporasi atas Kerusakan Lingkungan dalam Sistem Hukum Pidana Indonesia. *Jurnal Hukum, Politik dan Ilmu Sosial*, 5(3).

Siahaan, N. H. T. (2004). *Hukum lingkungan dan ekologi pembangunan*. Erlangga.

Sitti Arkanul Pascahyati Rahim, Hambali Thalib, dan Muhammad Rinaldy Bima. (2021). Pertanggungjawaban Pidana terhadap Korporasi yang Melakukan Tindak Pidana Lingkungan Hidup. *Journal of Lex Generalis*, 2(2). https://doi.org/10.52103/jlg.v2i2.336.

Sjahdeini, S. R. (2007). *Pertanggungjawaban pidana korporasi*. Grafiti Pers.

Soekanto, S. (2014). *Faktor-faktor yang mempengaruhi penegakan hukum*. Rajawali Pers.

Syarif Nurhidayat dan Arif Rusman Sutiana. (2018). Pertanggungjawaban Pidana Korporasi pada Pembakaran Lahan Berdasarkan Teori Strict Liability: Kasus PT Surya Panen Subur. *Undang: Jurnal Hukum*, 1(1).

Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana. (2023).

Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan

Hidup sebagaimana telah diubah melalui Undang-Undang Nomor 6 Tahun 2023. (2009).

Yeni Widowaty. (2012). Pertanggungjawaban Pidana Korporasi terhadap Korban dalam Kasus Tindak Pidana Lingkungan Hidup. *Jurnal Yudisial*, 5(2).