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Original Article

Criminal Law Enforcement Against Perpetrators of Environmental Pollution in The Criminal Justice System in Indonesia

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Abstract

This study aims to analyze the effectiveness of criminal law in addressing environmental pollution in Indonesia and to explore the concept of an ideal environmental criminal law enforcement framework for the future. This study applies a normative legal research method to obtain relevant data concerning the issues under investigation. The data used in this research come from secondary data sources and tertiary legal materials. Additionally, primary data are utilized to support the legal materials obtained from secondary sources. The data analysis is conducted using a qualitative juridical analysis method. This research employs John Rawls' theory of justice and the theory of law enforcement. The findings of this study indicate that, despite efforts to enforce criminal law against environmental polluters, the sanctions imposed often fail to create the expected deterrent effect. Law enforcement still encounters challenges, such as conflicts between economic interests and environmental protection, weak legal culture, as well as limitations in infrastructure and evidence gathering. To enhance its effectiveness, a more comprehensive approach is required, integrating restorative and preventive approaches along with the application of the principle of distributive justice. The restorative approach focuses on victim and environmental recovery through alternative dispute resolution mechanisms, while the preventive approach, through administrative supervision, aims to prevent violations from occurring. Additionally, strengthening legal awareness through public education and enhancing collaboration among law enforcement agencies, such as the Ministry of Environment, the police, and the prosecutor's office, are essential steps in establishing a more effective and just environmental criminal law enforcement system.

Keywords: Criminal Law Enforcement, Environmental Pollution, Criminal Justice System, Environmental Governance.

1. Introduction

The natural environment in Indonesia is a gift from God Almighty to the nation and its people. As a blessing from Him, this environment must be preserved and developed to continue functioning as a resource and a support system for the lives of the Indonesian people and other living beings, ensuring sustainability and the improvement of quality of life (Mulkan & Aprita, 2022). The environment includes three main elements, namely: (1) nature with its material elements such as soil, rocks, heat energy, temperature, air, and water; (2) biological elements including animals and plants; humans with their culture such as customs and social behavior (Haryadi, 2024).

Natural resources in Indonesia are not evenly distributed, while development needs continue to increase, risking environmental pollution and damage. If not managed properly, this condition can reduce the carrying capacity and capacity of the environment, which in turn has social impacts. Therefore, environmental protection must be based on state responsibility,

sustainability, and justice, and provide economic, social, and cultural benefits while respecting local wisdom. Law No. 32/2009 regulates the enforcement of environmental criminal law with a minimum penalty, expansion of evidentiary instruments, and the application of criminal sanctions against violations of environmental quality standards and crimes committed by corporations. However, criminal law remains the last step (*ultimum remedium*) after administrative enforcement is ineffective, especially in violations of wastewater quality standards, emissions, and environmental disturbances.

Enforcement of environmental criminal law in Indonesia still faces challenges, such as in the case of illegal waste management in Limo Village, Depok City. The MoEF Investigation Team named J (58) as a suspect for alleged environmental pollution due to the illegal landfill that caused health and environmental problems, including bad odors and increased cases of ARI. The perpetrator is punishable by up to 10 years in prison and a fine of Rp10 billion according to Law Number 32 of 2009, as well as additional sanctions under Law Number 18 of 2008. Despite strict regulations, the effectiveness of law enforcement remains a challenge to prevent similar cases. An imbalance in waste management can trigger serious impacts on the environment, as well as affect the social and economic conditions of a country. Problems that will arise from waste include the loss of aesthetic value in the environment, in the form of soil, water and air pollution (Athosra et al., 2024).

Law Number 32 of 2009 concerning Environmental Protection and Management has undergone significant changes with the enactment of Law Number 11 of 2020 concerning Job Creation (Job Creation Law). One of the changes that has raised attention is the sanction scheme in environmental law enforcement which previously placed criminal and civil in sequence has now changed, where administrative sanctions are applied first, making criminal law the *ultimum remedium*. This is regulated in the new provision of Article 21 of the Job Creation Law which amends Articles 82A, 82B, and 82C of Law Number 32 Year 2009. Criminalization now only applies if environmental pollution or destruction has a direct impact on public health, safety, or security, which risks weakening environmental protection. This step is considered a setback in environmental law enforcement, considering that international standards encourage the use of criminal law as the *primum remedium*, as has been applied in the previous Law Number 32 of 2009 (Pulungan, 2022). In addition, the Job Creation Law also led to a shift in the concept of strict liability, which almost changed the definition of absolute liability to fault-based liability. This has the potential to reduce the sense of justice for the community (Pambudhi & Ramadayanti, 2021).

Justice in the eco-justice perspective includes three aspects of justice, namely environmental justice which highlights the impact of environmental damage on humans, ecological justice which focuses on the impact on ecosystems (Fazlurrohman et al., 2024), including flora and fauna, and species justice which places animals and plants as harmed parties due to exploitation or environmental destruction (Salim et al., 2022).

To achieve environmental justice, law enforcement is needed, which conceptually law enforcement can be interpreted as an effort to harmonize the relationship between values that have been outlined in solid rules and realized in real action. This process includes the realization of values in action as the final stage to create, maintain, and maintain order and harmony in social life (Soekanto, 2008). The function of law as the protection of various human interests must be implemented. The implementation of the law can be carried out in normal, peaceful conditions and even due to violations of the law. The law that has been violated must be enforced again. Through this law enforcement, the law will become real (Mertokusumo, 2019).

In the process of enforcing environmental criminal law, law enforcement officials, including police, prosecutors, and judges, must adhere to the principle of in *dubio pro natura*, which prioritizes the protection of the environment when there is doubt in the legal process (Afandi et al., 2022).

This research discusses court rulings related to environmental pollution crimes. First, in the Cikarang District Court Decision No. 143/Pid.Sus/2023/PN Ckr, Anton bin Ajum was sentenced to 8 years in prison and fined IDR 3 billion for air, water, and environmental pollution caused by household waste disposal. Second, Cikarang District Court Decision No. 390/Pid.B/LH/2019/PN Ckr, upheld by the Appeal Decision No. 266/PID.B/LH/2019/PT BDG and the Supreme Court Decision No. 1185 K/Pid.Sus-LH/2020, sentenced Sony Hasiholan to 6 months in prison and a fine of IDR 10 million for unauthorized waste dumping, a ruling that was reinforced through the cassation level. Third, PT. Lamgabe Mulia Perkasa, in Cikarang District Court Decision No. 389/Pid.B/LH/2019/PN Ckr, was found guilty of unauthorized waste dumping, fined IDR 70 million, and required to undertake environmental restoration.

Several previous studies share similarities with this research. Haluanto Ginting, in his thesis Juridical Analysis of Criminal Law Enforcement Against Environmental Polluters, examined criminal law regulations concerning environmental pollution offenders and their enforcement in North Sumatra, including obstacles in Case No. 3093/Pid.Sus/2014/PN.Mdn. Meanwhile, Yahyanto, in his thesis Environmental Criminal Law Enforcement, investigated the enforcement of environmental law against corporations following the enactment of Law No. 32 of 2009 in Kolaka Regency, along with the challenges faced by law enforcement authorities. Additionally, Andini Wiranti, in her thesis Implementation of Criminal Sanctions Against Corporations in Environmental Crimes, discussed the application of criminal sanctions against corporations and the factors influencing the imposition of penalties on environmental crime perpetrators.

Although previous studies have explored similar themes, this research differs from prior studies in terms of approach, research methods, and legal theories used as analytical tools. In this study, the researcher aims to analyze criminal law enforcement against environmental polluters within Indonesia's criminal justice system. Based on the discussion above, the researcher is interested in conducting this thesis research titled “Criminal Law Enforcement Against Perpetrators of Environmental Pollution in The Criminal Justice System in Indonesia.” This study aims to analyze criminal law enforcement against environmental polluters in Indonesia’s criminal justice system and examine the concept of an ideal criminal law enforcement framework for future implementation.

2. Methods

The research method used in this study is the normative juridical method, which focuses on analyzing literature sources or secondary data to identify legal rules, principles, and doctrines relevant to the issues being examined. To achieve the research objectives, several approaches are employed, including the statute approach, which analyzes related regulations to assess their consistency and effectiveness; the conceptual approach, which examines legal doctrines and theories to understand the underlying concepts of legal issues; the case approach, which reviews jurisprudence to understand how laws are applied in real cases; and the comparative approach, which compares legal systems from different jurisdictions to find insights for legal development.

This study utilizes primary, secondary, and tertiary legal materials. Primary legal materials include relevant laws and regulations, such as the 1945 Constitution, the Criminal Procedure Code (KUHAP), the Waste Management Law, and the Environmental Protection and Management Law. Secondary legal materials consist of books, journals, and academic opinions that support legal analysis, while tertiary legal materials include dictionaries, encyclopedias, and indexes used as supplementary sources.

The collection of legal materials is conducted through library research, which involves inventorying relevant regulations and literature, classifying sources into primary and secondary legal materials, and conducting an in-depth analysis of information related to the research problem. The analysis of legal materials in this study is carried out using legal interpretation methods, including grammatical interpretation, which focuses on the meaning of words and language structure in regulations; systematic interpretation, which connects legal norms within the broader legal system; and teleological interpretation, which examines the purpose of regulations to assess their effectiveness in environmental protection. Through these approaches and analytical techniques, this study aims to provide legal arguments and concepts that can serve as a guideline for resolving legal issues related to criminal law enforcement against environmental polluters in Indonesia.

3. Results and Discussion

3.1. Forms of Criminal Law Enforcement against Perpetrators of Environmental Pollution in the Indonesian Criminal Justice System

3.1.1. Environmental Criminal Law Enforcement Policy in the Legislation

The link between economic forces that invest their interests in the environment and the social and customary rights of people who depend on the sustainability of the environment, the role of the state mediates between the two through policies that are considered by some environmental experts and observers to not fully guarantee justice. On the other hand, the government benefits from the environment by involving the private sector in managing the environment, bringing in taxes and substantial state revenues.

Therefore, the pattern of these relationships gave rise to a paradigm of thinking related to state development related to the environment. Where the developmentalism mindset that considers economic growth to be a reference in the success of state development (Husin, 2020), On the contrary, the higher the economic growth and the more rapid the development, the greater the potential for environmental damage and pollution.

The limitations of criminal law in dealing with environmental crimes and problems in the environmental field have long been highlighted by M.G. Faure, J.C. Audijk, and D. Scaffmaister. They argue that both from the aspect of environmental law enforcement and in the historical context of criminal law, this approach is less effective. From an environmental law perspective, it is clear that the use of criminal law to regulate environmental issues has significant limitations. In addition, criminal law itself is not specifically designed to enforce environmental regulations (Schaffmeister & Moeliono, 1994).

The main objective of criminal law enforcement is to provide a guarantee of protection for victims and society in general. In the context of environmental law, environmental protection and management are based on various principles, including responsibility, sustainability, harmony and balance, integration, benefit, prudence, justice, ecoregion, biodiversity, polluter pays principle, participatory, local wisdom, as well as good governance

and regional autonomy. These principles form the basis of the theory of environmental criminality applied in criminal policy and penal policy (Haryadi, 2024).

Law Number 32 of 2009 on Environmental Protection and Management provides broader and more in-depth regulations compared to Law Number 23 of 1997 on Environmental Management. Law Number 32 of 2009 covers various aspects, including addressing environmental pollution and destruction, mechanisms for resolution, and the types of sanctions and penalties that can be imposed. Additionally, amendments and the removal of certain articles in Law Number 32 of 2009 were made to align with more relevant legal developments. These changes are regulated under Article 21 of Law Number 6 of 2023 concerning the enactment of Government Regulation in Lieu of Law (Perpu) Number 2 of 2022 on Job Creation into law.

The resolution of environmental criminal cases can be pursued through two mechanisms: litigative, which takes place in court, and non-litigative, which occurs outside the court. Article 84, paragraph (1) of Law Number 32 of 2009 states that environmental dispute resolution can be conducted either through the court or outside the court. Meanwhile, paragraph (2) of the same article emphasizes that non-litigative resolution is voluntary. This means that if one party refuses to settle the dispute outside the court, the case can proceed as a civil lawsuit.

Unlike civil law, environmental criminal law does not allow for out-of-court settlements. Article 58 paragraph (2) of Law No. 32/2009 states that environmental criminal offenses can only be resolved through litigative mechanisms. In other words, violations of environmental law that are criminal in nature must be processed through the court and cannot be resolved non-litigiously.

The acts included in the category of environmental crimes are regulated in Chapter XV of Law Number 32 of 2009 concerning Environmental Protection and Management, which regulates criminal sanctions in Article 97 to Article 120, making it the law with the largest number of articles in the history of environmental regulation in Indonesia. Article 97 explicitly states that the criminal offenses regulated in this law fall under the category of crimes.

Several types of environmental crimes regulated in Law No. 32/2009 include aspects of intentionality, negligence, and administrative violations. Intentional material environmental crimes (Article 98) are subject to severe sanctions if they result in environmental pollution or endanger human health, with imprisonment of up to 15 years and a maximum fine of Rp15 billion. Meanwhile, criminal offenses resulting from negligence (Article 99) are also subject to sanctions, although less severe than intentional acts. Formal environmental crimes (Articles 100-101) include violations of emission quality standards, wastewater, and the unauthorized release of genetically modified products. In addition, there are special provisions regarding hazardous waste (Articles 102-103) and unauthorized waste disposal (Articles 104-107), where perpetrators are liable to up to 15 years in prison and a maximum fine of IDR15 billion. Deliberate land burning (Article 108) and activities without an environmental permit (Article 109) are also strictly sanctioned. Officials who issue environmental permits without an Environmental Impact Assessment (AMDAL) or an Environmental Management and Monitoring Effort (UKL-UPL) (Article 111) or who are negligent in supervision (Article 112) are subject to criminal penalties. In addition, providing false information (Article 113), non-compliance with government coercion (Article 114), and obstructing environmental supervisors and civil investigators (PPNS) (Article 115) are also regulated criminal offenses. Finally, this law also includes corporate criminal offenses that emphasize the liability of business entities for environmental pollution and destruction.

Based on Article 116, if an environmental crime is committed by, for, or on behalf of a business entity, then criminal charges and sanctions can be imposed on:

a. The business entity itself; and/or
b. The party who gives orders or acts as a leader in the criminal offense.

If the violation is committed by an individual acting within the scope of work of the business entity, then criminal sanctions shall be imposed on the order giver or activity leader, regardless of whether the violation is committed individually or collectively.

Article 117 states that if criminal charges are filed against the order giver or leader as referred to in Article 116 paragraph (1) letter b, then the criminal sanctions imposed will be aggravated by one-third of the general provisions. Article 118 stipulates that business entities found guilty will be subject to criminal sanctions and represented by authorized administrators in and out of court in accordance with statutory regulations.

Under Article 119, business entities found guilty of committing a criminal offense may be subject to additional penalties. These sanctions include confiscation of profits from criminal acts, closure of all or part of the place of business/activity, and the obligation to repair the impact caused by criminal acts. In addition, business entities may also be required to perform actions that were previously neglected or placed under guardianship for a maximum of three years.

Article 120 stipulates that in the execution of these additional penalties, the prosecutor must coordinate with the agency responsible for environmental protection and management. If the sanction is in the form of guardianship, then the government has the authority to manage the business entity until the court decision is legally binding.

Doctrines that can be used in environmental criminal liability, namely:

a. Strict liability is a concept of criminal liability that does not require proof of fault. In this doctrine, a person can be sentenced if proven to have committed an act prohibited by law, without the need to prove intent or negligence. This principle contradicts the mens rea doctrine, which states that an act cannot be considered a criminal offense in the absence of fault (Arief, 2010). Thus, in certain cases, it is sufficient to prove that an act has caused environmental damage for the perpetrator to be sanctioned, without considering whether the act was committed intentionally or due to negligence.
b. Vicarious liability is a doctrine that allows criminal liability to be transferred to a corporation, by adhering to the principle that a person can be held accountable for the actions of another party. This doctrine is commonly applied in the work environment or position, such as in the relationship between employers and employees. Thus, individuals who do not directly commit criminal offenses or have no personal fault can still be held legally responsible. This approach refers to criminal liability imposed on employers, companies or business owners for unlawful acts committed by their employees or subordinates in the course of company activities that cause environmental damage.

In addition to Law Number 32 of 2009 on Environmental Protection and Management, regulations related to environmental pollution are also found in Law Number 18 of 2008 on Waste Management. Article 40, paragraph (1) states that waste managers who unlawfully and intentionally conduct waste management activities without adhering to norms, standards, procedures, or criteria that may cause public health hazards, security disturbances, environmental pollution, and/or environmental destruction are subject to imprisonment of at least four (4) years and up to ten (10) years, as well as a fine ranging from IDR 100,000,000 (one hundred million rupiahs) to IDR 5,000,000,000 (five billion rupiahs).

Regarding negligence in waste management, Article 41, paragraph (1) stipulates that waste managers who, due to negligence, carry out waste management activities without considering norms, standards, procedures, or criteria that may result in public health hazards, security disturbances, environmental pollution, and/or environmental destruction are subject to imprisonment of up to three (3) years and a maximum fine of IDR 100,000,000 (one hundred million rupiahs). Additionally, Article 42 addresses corporate liability in waste-related offenses.

Law Number 32 of 2009 on Environmental Protection and Management has an administrative nature and contains numerous criminal provisions based on the principle of *ultimum remedium*, meaning that criminal sanctions are applied as a last resort after administrative and civil measures have been exhausted. Tawang (2020) argues that criminal law enforcement in this context still adheres to the principle of *ultimum remedium*. However, Article 84 paragraph (2) of Law Number 32 Year 2009 opens the possibility of not fully applying this principle.

In line with this, Packer (1968) stated that punishment is a necessary but lamentable form of social control. It is lamentable because it inflicts suffering in the name of goals whose achievement is a matter of chance. Similarly, Gross also argues that the punishment imposed is regrettable but still a necessity. Therefore, the imposition of punishment must have a strong justification and clear basis (Gross, 1979).

Mediating between the normative provisions and the views of the two experts, the penal policy in environmental criminal law should include two stages. First, in the enactment process, despite certain risks, the principles of *presumptio iures de jure* and *ignorantia juris non excusat* still apply. However, the application of this principle often causes state employees in the administrative field to neglect the function of environmental supervision. As a result, failure in prevention efforts can exacerbate environmental crimes, endanger the public, and increase the accumulation of environmental cases in criminal courts. Second, settlement through administrative mechanisms must be prioritized before the criminal approach. This can be realized through a policy of limiting acts on a certain scale, with administrative sanctions that provide benefits for the public interest. Thus, criminal measures are only applied as a last resort after the administrative mechanism is implemented (Haryadi, 2024).

The application of criminal law in environmental cases therefore requires a cautious approach. In his paper delivered at a meeting of the Environmental Law Society in the Netherlands, Van De Bunt outlined some guidelines in determining the use of administrative instruments, criminal law instruments, or a combination of both. According to Muhjad (2015) There are three main criteria in the application of criminal law. Normative criteria emphasize that criminal law only applies to offenses with high ethical negative value that are considered highly reprehensible in society. Indicators include recidivism, serious offense level, and serious environmental impact. Instrumental criteria are pragmatic, considering the main objective of law enforcement. If deterrent effect is prioritized, then criminal law is more appropriate, whereas if environmental restoration or condition improvement is prioritized, administrative instruments are more appropriate.

In addition, criminal law instruments are more relevant if administrative officials are reluctant to act or are even involved in the violation. Conversely, if law enforcement officials such as the police or prosecutors do not take the initiative to follow up on cases, then administrative instruments may be a more effective alternative.

Another consideration is the efficiency of the legal process. If administrative procedures are considered too long and complicated, criminal law can be a faster solution. Conversely, if proof in criminal law is too difficult, then administrative sanctions are easier to apply. In some

cases, widespread attention from the mass media can encourage the use of criminal law, especially if there are allegations of official involvement in environmental violations. However, if prosecutors tend to set aside cases based on the principle of opportunity, then administrative instruments are more recommended.

This opportunistic criterion applies when administrative sanctions are ineffective, for example, if the offender has gone bankrupt and can no longer be subjected to administrative sanctions such as administrative coercion or penalty payments (*dwangsom*). In such situations, criminal law enforcement becomes a more appropriate option. On the other hand, if environmental law enforcement is not a priority for prosecutors, the application of criminal law may be more emphasized. However, these considerations are not absolute and can be combined with other factors. In some cases, administrative sanctions and criminal law enforcement may be applied simultaneously, depending on the legal policy adopted by the government.

Law enforcement in the environmental sector through court decisions has a close relationship with the factors that influence the effectiveness of law enforcement. One of the main factors is the legal structure, which includes the role of judicial institutions and the authority of judges in giving decisions in resolving environmental cases or disputes (Nainggolan, 2021).

In repressive environmental law enforcement efforts, criminal sanctions are imposed as a form of legal action. In other words, the environmental criminal law enforcement process includes stages such as investigation, prosecution, and sanctioning. However, the main emphasis lies on the role of the District Court as the last bastion in imposing criminal sanctions.

Other criminal offenses regulated in Law No. 32/2009 on Environmental Protection and Management apply the *premium remedium* principle. In this principle, criminal sanctions are used as the main instrument because the act in question is categorized as an extraordinary crime. Conversely, in the *ultimum remedium* concept, criminal sanctions are placed as a last resort that is only used if law enforcement mechanisms in other fields do not work effectively. The effectiveness of the application of environmental criminal sanctions is assessed from the achievement of the expected goals. Essentially, environmental law aims to ensure that natural resources, such as land, water, air, and others, can still be utilized sustainably by individuals and communities in order to achieve maximum welfare and prosperity.

The process of enforcing criminal law is a series of legal processes starting from the process of investigation, investigation, prosecution, and court. Therefore, environmental criminal law enforcement is subject to Law Number 8 of 1981 concerning Criminal Procedure Law (KUHAP), as in Article 106 of KUHAP Investigators who know, receive reports or complaints about the occurrence of an event that should be suspected of being a criminal offense are required to immediately take the necessary investigative actions. In addition, the mechanism for enforcing environmental criminal law also refers to the provisions in Supreme Court Regulation Number 1 of 2023 concerning Guidelines for Adjudicating Environmental Cases.

Article 94 and Article 95 of Law Number 32/2009 on Environmental Protection and Management stipulate that in addition to investigators from the Indonesian National Police, there are certain civil servants in government agencies who have duties and responsibilities in the field of environmental protection and management. These employees are authorized as investigators in accordance with the provisions in the Criminal Procedure Law to investigate criminal offenses related to the environment. In carrying out their duties, investigators from among civil servants have a number of authorities, including examining the truth of reports or

information relating to environmental crimes, as well as examining every person suspected of committing such violations. They also have the right to request information and evidence from related parties and to examine books, records, and other documents related to criminal acts in the field of environmental protection and management. In addition, civil servant investigators can conduct inspections at certain places suspected of storing evidence, confiscate goods resulting from violations, and request expert assistance in the investigation process. Furthermore, they are authorized to stop the investigation, enter certain places to take photos or make audio-visual recordings, conduct searches of bodies, clothes, rooms, or other places suspected of being the location of criminal acts, as well as arrest and detain perpetrators of environmental criminal acts.

In the process of arrest and detention, civil servant investigators (PPNS) cooperate with investigators from the Indonesian National Police. When PPNS conducts an investigation, they are required to notify police investigators, who then provide support to facilitate the investigative process. Additionally, PPNS must inform the public prosecutor about the commencement of the investigation, with a copy sent to the police. Once the investigation is complete, the results are submitted to the public prosecutor for further action.

To enforce the law against perpetrators of environmental crimes, synergy between PPNS, the police, and the prosecutor's office is essential within an integrated law enforcement mechanism under the coordination of the Minister. The success of environmental and forestry law enforcement relies on a collaborative working system. Integrated law enforcement enhances deterrence and criminal accountability by allowing investigators from various sectors to work on the same case using different laws. This approach encourages the application of multiple legal provisions, thereby maximizing criminal sanctions against offenders. Integrated law enforcement is mandated in Article 95 of Law Number 32 of 2009 on Environmental Protection and Management, as well as Constitutional Court Decision Number 18/PUU-XII/2014, which requires coordinated criminal law enforcement between PPNS, the police, and the prosecutor's office under the Minister of Environment and Forestry.

To carry out investigations of environmental crimes, a legal reference serves as a guideline and ensures legal certainty for PPNS in the investigation process, namely Minister of Environment Regulation Number 11 of 2012 concerning Guidelines for Criminal Investigations in the Field of Environmental Protection and Management.

In the process of law enforcement of environmental criminal cases, Article 96 of Law Number 32 of 2009 concerning Environmental Protection and Management stipulates that valid evidence includes various types in accordance with legal provisions. The evidence includes witness testimony, which is a statement from an individual who knows or directly experiences events related to the case; expert testimony, which is an opinion or analysis from an expert in the environmental field who provides an explanation based on his expertise; and letters, which include official or written documents that can support evidence in the case. In addition, there are also evidence in the form of clues, which are facts or circumstances that can strengthen the allegations of environmental criminal acts; testimony of the defendant, which is a statement given by the suspect or defendant regarding the case he faces; and other evidence which includes all types of evidence regulated in the applicable laws and regulations.

Criminal law enforcement in the environmental sector is basically an effort to enforce criminal provisions in environmental law. In its implementation, aspects of substance, institutional authority, and procedures applied generally follow the provisions of environmental law, unless there are things that have not been specifically regulated.

The investigation process in environmental criminal cases is basically similar to investigations in other criminal offenses. The investigation begins with the requirement of

collecting at least two valid evidences as stipulated in Article 184 of KUHAP. This is because environmental crimes are not included in the category of special crimes, such as corruption, economic crimes, subversion, or human rights violations. However, in handling it, investigators involve environmental experts as stipulated in Article 120 of the Criminal Procedure Code. Broadly speaking, the stages of investigation of environmental criminal cases refer to the provisions in Articles 102 to 136 of the Criminal Procedure Code and consist of the following stages:

a. Investigation, which involves gathering preliminary evidence to clarify the case and serve as the basis for conducting an examination at the crime scene (TKP).
b. Enforcement, which includes summoning relevant parties, carrying out arrests and detentions, if necessary, as well as conducting searches and seizures of evidence. Additionally, sealing buildings, equipment, or locations related to environmental pollution or destruction may also be carried out.
c. Examination, which involves interrogating suspects, witnesses, and experts, including laboratory analysis to strengthen evidence.
d. Case Resolution and Submission, which is the final stage where the investigation report is submitted to the Public Prosecutor for further processing.

Obstacles in law enforcement against environmental protection and pollution (Rende, 2018) :

a. Lack of Public Awareness Regarding Environmental Law
b. Challenges in Evidence Gathering
c. Law Enforcement Infrastructure Issues
d. Poor Legal Culture

3.1.2. Law Enforcement Practices on Environmental Pollution Cases (Case Study)

1) Criminal case of environmental pollution of unlicensed waste disposal site in Cikarang District Court Number 143/Pid.Sus/2023/PN Ckr

The verdict in the criminal case of environmental pollution at the Cikarang District Court Number 143/Pid.Sus/2023/PN Ckr has not fully reflected the objectives of environmental law, protecting the interests of the community and preserving the environment. Although the defendant Anton Bin Ajum was sentenced to six years in prison and a fine of IDR 3,000,000,000, the verdict did not include a concrete order for the restoration of the polluted environment due to illegal waste disposal. In fact, the main principle in environmental law is the application of the polluter pays principle, where the perpetrator of pollution should be obliged to repair the damage that has been caused, for example through the rehabilitation of the CBL River banks and the treatment of waste that remains behind. Without this obligation, the impact of pollution on the environment and public health risks continuing without a clear solution.

In addition, this decision does not provide an optimal deterrent effect in the context of preventing future environmental pollution. The criminal sanctions imposed only focus on imprisonment and fines without considering concrete remedial measures for the impacts of pollution that have occurred. This shows that the aspect of environmental restoration is still a weak point in environmental law enforcement in Indonesia. The Panel of Judges should have considered the application of additional punishment in the form of environmental restoration obligations as part of the verdict, as stipulated in Supreme Court Regulation (Perma) No. 1 of 2022 concerning Procedures for Settlement of Environmental Cases. This regulation emphasizes that in environmental cases, judges can order environmental restoration as part of the verdict to ensure the sustainability of polluted ecosystems. Without a concrete order to

clean up the waste piles and restore the condition of the ecosystem, this decision tends to only be repressive, not a solution in solving environmental pollution problems in the area.

2) Criminal Case of Environmental Pollution Storage of B3 Waste Without Permit at the Cikarang District Court Number 390/Pid.B/LH/2019/PN Ckr, which was strengthened at the appeal level Number 266/PID.B/LH/2019/PT BDG and Cassation Number 1185 K/Pid.Sus-LH/2020

The verdict in a criminal case of environmental pollution related to the storage of B3 waste without a permit at the Cikarang District Court Number 390/Pid.B/LH/2019/PN Ckr shows that the objectives of environmental law to protect the interests of the community and preserve the environment have not been fully achieved. The sentence of six months in prison with a one-year probationary period and a fine of Rp10 million for the defendant Sony Hasiholan at the first level is considered too light compared to the impact of the pollution caused. Hazardous waste disposed of without a permit, such as expired soda, used oil drums, and medical waste, contains hazardous materials that can pollute soil and water, as well as potentially pose health risks to the surrounding community. However, this verdict did not order the defendant to carry out environmental restoration, so that the pollution that had occurred did not get a concrete solution. In fact, in accordance with the principles of environmental law, in addition to imposing criminal penalties, the perpetrators of pollution should be obliged to improve the environmental conditions that have been damaged.

In the appeal verdict No. 266/PID.B/LH/2019/PT BDG, the Bandung High Court aggravated the sentence by removing the probation period, so that the defendant must effectively serve six months in prison, although the fine remains at Rp10 million. This shows that appellate judges consider the need for a deterrent effect for perpetrators of environmental pollution. However, this sentence is still considered not proportional to the environmental impact caused. At the cassation stage with Number 1185 K/Pid.Sus-LH/2020, the Supreme Court rejected the cassation request from the defendant and the Public Prosecutor, emphasizing that the appeal decision was in accordance with the legal facts and considerations. Although there was an increase in punishment from the first decision to the appeal decision, the cassation decision still did not contain an order for environmental restoration by the defendant. This reflects the lack of implementation of Supreme Court Regulation (Perma) No. 1 of 2022 which regulates the procedures for resolving environmental cases more comprehensively, including aspects of restoring polluted ecosystems. Therefore, in the future, a more progressive legal approach is needed so that it is not only repressive, but also solution-oriented in maintaining the balance of the ecosystem and the community's right to a clean and healthy environment.

3) Criminal Case of Environmental Pollution in the Decision of the Cikarang District Court Number 389/Pid.B/LH/2019/PN Ckr.

The verdict in the environmental pollution criminal case against PT Lamgabe Mulia Perkasa with Number 389/Pid.B/LH/2019/PN Ckr shows that the punishment imposed is still far from expectations in upholding environmental justice. The Panel of Judges did find the company guilty of disposing B3 waste without a permit and imposed a fine of Rp70 million as well as environmental remediation obligations. However, this fine is relatively small compared to the impact of the pollution. In the context of environmental law, there should be a greater emphasis on aspects of corporate liability with more severe penalties, including administrative sanctions such as revocation of business licenses or higher fines to provide a deterrent effect. In addition, this decision also does not reflect the provisions in Supreme Court Regulation (Perma) No. 1 of 2022, which emphasizes the importance of environmental

restoration and more effective punishment of corporations as perpetrators of environmental crimes.

In addition to the low fine sanction, this decision also shows that the application of the polluter pays principle as stipulated in Supreme Court Regulation No. 1 of 2022 governing corporate criminal liability is not yet optimal. Although there are orders for companies to carry out environmental improvements, without a strict supervision mechanism, environmental restoration may only be a formality. In addition to fines, judges should also set compensation obligations for affected communities and environmental restoration costs proportional to the level of pollution that occurs. Perma No. 1 Year 2022 also emphasizes that the punishment of corporations must consider the broad impact caused and the benefits obtained from the crime. Therefore, in the future, it is necessary to apply this regulation more strictly so that the main objectives of environmental law that is protecting the interests of the community and preserving the environment, can be truly achieved.

3.1.3. Environmental Criminal Law Enforcement Systems in Other Countries

1) United States

The environmental criminal enforcement system in the United States is conducted through a criminal law enforcement program administered by the Environmental Protection Agency (EPA). The program targets individuals and corporations convicted of serious environmental crimes by providing a range of support to federal, state and local prosecutors. This includes collecting and providing evidence for legal proceedings, environmental forensic analysis and technical evaluations, digital evidence recovery and analysis, and legal advice to EPA, U.S. Attorneys, and the Department of Justice. The program was first established in 1982 and received full law enforcement authority from Congress in 1988. Today, the program involves special agents, investigators, forensic scientists, technicians, attorneys, and support staff.

One of the main units in environmental law enforcement is the Environmental Crimes Section (ECS), which is tasked with handling criminal cases against individuals and companies that violate environmental protection, worker safety, and animal welfare regulations. ECS operates in all 94 federal judicial districts, provides training for prosecutors and other investigators, and works closely with the Law and Policy Section of the Environment and Natural Resources Division (ENRD) to formulate policies and regulations. ECS also works closely with Assistant U.S. Attorneys and investigators from agencies such as the EPA, Federal Bureau of Investigation (FBI), and Fish and Wildlife Service to prosecute violations of environmental laws. Some of the key laws used in environmental law enforcement include the Endangered Species Act, Migratory Bird Treaty Act, Clean Air Act, Clean Water Act, Animal Welfare Act, and Lacey Act. Through strong coordination between various agencies and the application of advanced forensic technology, the environmental criminal law enforcement system in the United States seeks to ensure that perpetrators of environmental crimes receive strict sanctions to protect the environment and public health.

2) China

China's environmental criminal enforcement system is based on an integrated supervision approach involving various government agencies as well as litigation mechanisms covering both civil and criminal aspects. Environmental protection regulatory authorities have the authority to conduct direct inspections of companies or individuals suspected of pollution, where they are required to provide truthful reports and relevant information. During investigations, officers are required to present surveillance certificates and record all findings to support subsequent legal proceedings.

Environmental litigation in China falls into two main categories, namely civil and criminal. In civil litigation, pollution victims can file a lawsuit to obtain damages and stop the act of pollution. In addition, China's legal system allows certain bodies or organizations, including procuratorates, to file public interest lawsuits against environmental polluters. In criminal cases, the procuratorate acts on behalf of the state to prosecute environmental offenders. Courts can also accommodate incidental civil suits in criminal cases to ensure environmental restoration and compensation for affected parties.

China's courts play a central role in enforcing environmental laws, including conducting criminal trials for environmental crimes, determining the criminal liability of perpetrators, and resolving environmental civil and administrative disputes. In some cases, courts also play a role in mediation to promote faster and more effective settlements. In addition, the government has the authority to file lawsuits for compensation for environmental damage, reflecting the state's commitment to ensuring legal environmental protection. Through this system, China seeks to create a more stringent legal mechanism to crack down on environmental pollution and encourage compliance with environmental regulations.

3) India

The environmental criminal law enforcement system in India is based on the 42nd Amendment of 1976, which added Articles 48A and 51A(g), mandating the state and citizens to protect the environment. Several key laws, such as the Environmental Protection Act 1986, the Water (Prevention and Control of Pollution) Act 1974, and the Air (Prevention and Control of Pollution) Act 1981, serve as the foundation of environmental regulations. However, the latest amendment through the Jan Vishwas (Amendment of Provisions) Act 2023 has reduced criminal penalties for environmental violations, raising concerns about the effectiveness of law enforcement. Various institutions are involved in environmental regulation and enforcement, including the Ministry of Environment, Forest, and Climate Change (MoEFCC), the Central Pollution Control Board (CPCB), and the National Green Tribunal (NGT), which has the authority to impose sanctions and compensation on violators (Dutta & Mukherjee, 2024).

Environmental criminal law enforcement in Indonesia, the United States, India, and China has different characteristics based on law enforcement theory that includes legal substance, legal structure, and legal culture approaches. In Indonesia, environmental criminal law enforcement still faces various challenges, especially in the aspects of enforcement and compliance. Despite having regulations such as Law No. 32/2009 on Environmental Protection and Management, implementation is still weak due to the low effectiveness of law enforcement, limited resources, and the influence of political and economic interests. Criminal sanctions often do not provide a deterrent effect because they are mostly imposed in the form of administrative fines rather than custodial sentences.

In contrast, in the United States, environmental criminal law enforcement is more stringent with the support of a strong legal system. The Environmental Protection Agency (EPA) has broad authority to monitor, prosecute and bring violators to justice. Environmental law in the US uses a strict liability approach, which means companies or individuals can be sanctioned even if there is no element of intent in the violation. In addition, an independent judicial system and the existence of citizen suits-where the public can sue environmental violators-make law enforcement more effective.

In India, environmental criminal law enforcement faces complex challenges due to rapid industrialization and high population density. The National Green Tribunal (NGT) acts as a specialized judicial body that handles environmental disputes. Although regulations such as The Environment (Protection) Act 1986 are in place, implementation is often hampered by

corruption and weak oversight. Many environmental pollution cases end up with minor sanctions or out-of-court settlements, resulting in less than optimal preventive impact.

Meanwhile, China has taken an increasingly strict approach to environmental criminal law in recent years. The government implements harsh legal policies with severe criminal penalties for environmental offenders, including the death penalty in certain cases. Law enforcement in China is heavily influenced by a top-down approach, where environmental policies are strictly enforced by the central government. However, despite serious efforts to improve environmental quality, transparency and accountability in the law enforcement process remain a challenge, mainly due to the judicial system that is still influenced by political control.

From this comparison, it can be concluded that the effectiveness of environmental criminal law enforcement is strongly influenced by institutional factors, legal systems, and legal culture in each country. The United States shows stronger law enforcement with an approach based on legal certainty and public participation, while Indonesia, India, and China still face challenges in ensuring environmental laws can be applied consistently and provide a deterrent effect for violators.

3.2. Concept of Ideal Criminal Law Enforcement against Perpetrators of Environmental Pollution in the Future

3.2.1. Restorative and Preventive Approaches in Environmental Criminal Law Enforcement

1) Restorative Approach

The main approach in restorative justice emphasizes recovery for victims affected by crime. This can take the form of compensation, a reconciliation process, involvement of the perpetrator in community service, or other forms of agreement. In its application, restorative justice-based law must be neutral, impartial, and not used arbitrarily. This principle emphasizes that the law must be based on the truth in accordance with applicable statutory provisions, and prioritize balance and equality of rights in various aspects of life (Haryadi, 2024).

In the current discourse on environmental criminal law enforcement, the restorative justice approach and its methods have begun to receive attention, especially when associated with various key factors such as the role of corporations, community involvement, and environmental restoration efforts. This approach is considered to have great potential and can be an alternative in the application of environmental criminal law by prioritizing mechanisms outside the penal track, so as to optimize the recovery process for the impact of environmental crimes that occur (Pardede & Santoso, 2022). Brian J. Preston argues that restorative justice approaches need to be able to recognize and acknowledge those affected by environmental crimes as the main target of future policies. This recognition includes individuals, community groups, important assets in the community, future generations, and elements of the ecosystem other than humans. Prameswari stated that the restorative justice approach emphasizes the active involvement of the community in expressing the needs that need to be restored and plays a role in overseeing the implementation of the agreement that has been made.

Law Number 32 of 2009 concerning Environmental Protection and Management in Article 84 regulates two channels for resolving environmental disputes, namely through the court and out of court. Out-of-court settlement allows the parties to choose a mechanism that suits their interests. Article 85 stipulates that non-litigation settlement of environmental disputes aims to reach an agreement regarding compensation, restoration of damage, prevention of pollution, and measures so that violations do not recur. This settlement reflects

the principle of restorative justice by providing space for the perpetrator and the community to deliberate without the need to go through court proceedings. However, Article 85 paragraph (2) emphasizes that non-litigation pathways do not apply to environmental crimes, so criminal cases must be resolved through the courts. This potentially contradicts the *ultimum remedium* principle, which requires criminal law as the last option after administrative and civil remedies have failed. As a result, all environmental offenses that have criminal elements must be processed legally, without alternative resolution options, which may limit flexibility in environmental law enforcement (Pardede & Santoso, 2022). This becomes irrelevant if you look at one of the objectives of punishment that refers to the purpose of the drafting of Law Number 32 of 2009 concerning environmental protection and management, namely Article 3 letter c which guarantees the continuity of life of living things and the preservation of ecosystems (Pardede & Santoso, 2022).

Although Law No. 32/2009 on environmental protection and management does not accommodate the restorative justice approach, the restorative justice approach will be very helpful to ensure the continuity of life of living beings and the preservation of ecosystems. ensure the continuity of life of living beings and the preservation of ecosystems.

According to Zehr and Tews, the application of restorative justice is not an attempt to override the role of the criminal justice system or other formal law enforcement. Instead, this approach aims to resolve cases by emphasizing the recovery of the negative impacts caused by the crime, as well as restoring the relationship between the victim and the offender to its original state. Thus, the victim has the opportunity to accept responsibility and apology from the perpetrator. Meanwhile, Widowaty and Fitriani argue that the application of restorative justice in environmental criminal cases in Indonesia can provide legal protection for people affected by environmental pollution or destruction by corporations. This is due to the limitations of the environmental criminal justice system in providing adequate compensation, so that out-of-court settlements often provide more satisfaction for both parties, both victims and perpetrators.

Although the restorative justice approach in environmental criminal cases can be used, but for its application and implementation there are several problems, namely:

a. The restorative justice approach focuses more on resolving disputes outside of formal justice channels. However, the challenge that arises is the lack of mechanisms to ensure the implementation of agreements reached in the restorative process.
b. In non-litigation settlement of environmental disputes, there is a potential imbalance in power relations. In practice, parties with stronger positions and greater resources tend to dominate and can influence the outcome of restorative efforts in their own interests.
c. The characteristics of the environment as an object of recovery in restorative justice have a high level of complexity. Therefore, a comprehensive, structured and sustainable recovery approach is needed to ensure the environment can return to its proper function.
d. The limited competence and professional expertise of the parties handling the settlement through the restorative approach is an obstacle to its effective implementation.
e. In Indonesia, the application of restorative justice is still constrained by the criminal provisions in Law No. 32/2009 on Environmental Protection and Management which tend to be retributive and prioritize the principle of *primum remedium* as the main step in environmental law enforcement.
f. Not all forms of environmental restoration can be categorized as part of restorative justice, as this approach has certain criteria and principles that must be met.

2) Preventive Approach

Supervision in the administrative realm serves as a preventive effort in environmental law enforcement. The purpose of the application of supervision and administrative sanctions is to ensure community compliance with environmental law regulations that are administrative in nature (Amiq, 2013).

A crucial step in ensuring regulatory compliance is to apply environmental law through administrative mechanisms. This approach is often considered the first stage in achieving compliance, because if environmental administrative law instruments are effectively managed and enforced, there is no need for an actual environmental judicial process. In general, the main objective of environmental law enforcement is not merely to sanction acts of environmental pollution or destruction, but rather to prevent environmental degradation and restore its quality and carrying capacity (Samhan, 2024).

Compared to criminal and civil law instruments, the application of administrative-based environmental law in the law enforcement process has a number of advantages that cannot be ignored. Mas Ahmad Santosa suggests several benefits of this approach, including:

a. Preventive strategies in administrative law enforcement in the environmental sector can still be further developed.
b. Administrative approaches that are more preventative in nature tend to be more cost-efficient than criminal or civil legal channels.
c. Administrative law enforcement costs include field surveillance as well as periodic laboratory testing, which is lower in terms of expenditure compared to the process of gathering evidence, field investigations, and the use of expert witnesses to prove causation in criminal and civil cases.

Environmental supervision based on Article 71 of Law Number 32 of 2009 concerning Environmental Protection and Management is carried out by the Minister, Governor or Regent/Mayor to find out, ensure, and determine the level of compliance of the person in charge of the business and/or activity with the provisions stipulated in the environmental permit and laws and regulations in the field of environmental protection and management. In achieving efficiency and effectiveness, environmental supervision is carried out by environmental supervisory officials and regional environmental supervisory officials (Laode & Wibisana, 2019). Environmental supervision or monitoring shows that the government is serious about enforcing environmental laws and regulations. In addition, supervision also aims to foster the person in charge of the business and/or activity and as an implementation of the principle of accuracy before the application of administrative sanctions.

3.2.3. Application of John Rawls' Theory of Justice in the Concept of Ideal Punishment

1) Principles of Distributive Justice and Environmental Improvement

The theory of justice pioneered by John Rawls explores the simple idea that distributive justice aims to compensate individuals for their misfortunes. Some people are born with good fortune, while others experience bad luck. Therefore, it is the responsibility of society understood as a collective whole to change the distribution of luck and misfortune that arises from the unpredictable lottery of human life. Some people are fortunate to be born into wealthy families, in a favorable social environment, or with traits such as charm, intelligence, perseverance, and so on. These people tend to be more successful in the economic market as well as in other important aspects throughout their lives. However, there are also people who are, as they say, born to lose. The principle of distributive justice stipulates that those who are fortunate should transfer some or all of the gains they make due to their good fortune to those who are less fortunate. In A Theory of Justice, Rawls proposes a way to distinguish between

misfortunes that society is responsible for and misfortunes that it is not by distinguishing between deep inequalities and shallow inequalities. Deep inequalities relate to inequalities in the basic structure of society (Arneson, 2010).

Environmental justice and the fulfillment of environmental rights are interrelated. The relationship between environmental justice and environmental rights lies at both conceptual and practical levels. Environmental injustice can take the form of the reality of environmental pollution or damage due to violations of legal provisions as well as the result of weak law enforcement to protect the community when their environmental rights are violated. Distributive injustice is evident from the unequal distribution of benefits or environmental impacts from natural resource utilization activities. Negative environmental impacts are felt more by people who have less access to utilize natural resources, even people who are classified as vulnerable (Afinnas, 2023).

In Indonesia, distributive injustice is reflected in the unequal distribution of natural resource benefits. In terms of the distribution of natural resource benefits, inequality can be caused by the competing interests of the actors involved, namely the community, the private sector, and the state.

The application of the principle of distributive justice in environmental criminal law has a deep relevance in an effort to achieve a balance between the interests of individuals, society, and the environment. This principle emphasizes that the burdens and benefits of natural resource utilization must be distributed fairly, so that there are no imbalances that harm certain groups, especially vulnerable communities who are often victims of environmental pollution and degradation. In the context of environmental criminal law, the main purpose of applying sanctions is not only as a form of retribution against lawbreakers, but also as a mechanism to realize distributive justice. This is in line with the ideas of John Rawls who emphasized that the distribution of resources and risks must pay attention to the conditions of the most disadvantaged groups in society.

Environmental injustice often comes in the form of unequal distribution of benefits and negative impacts from environmental exploitation. Community groups that have limited access to resources often have to bear the burden of environmental pollution and damage, while more fortunate parties enjoy the resulting economic benefits. Therefore, environmental criminal law has an important role in upholding distributive justice through sanctions that are not only repressive, but also corrective and restorative. The imposition of sanctions such as imprisonment, fines, environmental restoration, and compensation aims to ensure that parties responsible for environmental pollution or destruction are not only punished, but also required to restore environmental conditions to a better state. Thus, environmental criminal law does not only function as a law enforcement instrument, but also as a tool to ensure ecological balance and protection of the right to a decent environment for all levels of society.

2) Balance between Community Rights and Offender Responsibilities

Environmental pollution is a form of violation of human rights as stated in Article 28H of the 1945 Constitution. The government has an obligation to protect these rights, as affirmed in Article 28I paragraph (4) of the 1945 Constitution. In addition, Article 65 of Law No. 32/2009 on Environmental Protection and Management explicitly states that every individual has the right to a good and healthy environment as part of human rights. Thus, any action that causes environmental pollution, such as pollution due to hazardous and toxic waste (B3), can be categorized as a violation of human rights (Meimunah et al., 2024).

When human rights violations occur due to environmental pollution, the state is obliged to be present and provide protection to the affected community. One of the steps that can be

taken in the context of such protection is to ensure the restoration of victims' rights, including through a mechanism for providing compensation for parties harmed by pollution.

In the modern criminal justice system, attention is not only focused on the interests of the perpetrator, but also on the protection of victims' rights. Victims of certain criminal offenses are entitled to protection and compensation in the form of restitution. Although various laws and regulations have recognized the victim's right to restitution, the technical aspects regarding the mechanism for applying for this right are still not regulated in detail in the existing laws.

Government Regulation No. 43/2017 on the Implementation of Restitution for Children who are Victims of Crime, as well as Article 31 paragraph (4) of Government Regulation No. 7/2018 which has been updated through Government Regulation No. 35/2020, states that further provisions regarding the procedure for applying for restitution will be determined through regulations issued by the Supreme Court. As a follow-up to these provisions, the Supreme Court then issued Supreme Court Regulation (Perma) Number 1 of 2022 which specifically regulates the procedures for examining requests for restitution. Article 4 of this regulation states that victims have the right to restitution, which includes several forms of compensation, such as:

a. Compensation for loss of wealth or income;
b. Compensation, both material and immaterial, for suffering that is directly related to the criminal offense he/she experienced;
c. Medical and/or psychological treatment costs; and
d. Reimbursement of other losses arising from criminal acts, including basic transportation costs, lawyer's fees, and other legal fees.

Environmental justice as part of social justice demands maximum efforts to improve people's welfare, which can only be achieved if each individual can live a decent life as a human being. In this context, people's well-being depends on equitable access to resources and the ability to meet their basic needs. When linked to the fulfillment of the right to the environment, this is in line with Bryant's thinking which asserts that environmental justice relates to norms, policies, culture, rules, customs, and decisions that aim to sustain the life of a community (Afinnas, 2023). Tangible forms of support include the creation of a safe, healthy and productive environment where people can interact well. In addition, environmental justice includes the provision of decent housing, adequate health facilities, quality education and recreation facilities, and an environment free from discrimination, violence and poverty. In addition, aspects of environmental justice also include employment opportunities with decent wages and democratic mechanisms that allow all parties to participate in decision-making related to environmental policies.

4. Conclusion

Criminal law enforcement against environmental pollution in Indonesia still faces various obstacles even though it has been regulated in Law Number 32 of 2009. The main challenges stem from the tug-of-war between economic interests and environmental protection, lack of public understanding, and weaknesses in the application of the law. In practice, sanctions given to violators often do not have a deterrent effect. Factors such as weak legal culture, limited infrastructure, and difficulty of proof are the main obstacles to the effectiveness of law enforcement.

To improve the effectiveness of environmental criminal law enforcement in Indonesia, a more comprehensive approach is needed, including legal socialization, strengthening

enforcement infrastructure, and inter-agency collaboration. The application of strict and consistent sanctions is also expected to provide a deterrent effect for violators. In the future, criminal law enforcement against environmental pollution must integrate restorative and preventive approaches with John Rawls' principle of distributive justice. The restorative approach focuses on restoring victims and the environment through dialogue and dispute resolution outside formal judicial channels, despite challenges such as power imbalances and the complexity of recovery. Meanwhile, the preventive approach through administrative supervision aims to prevent violations before they occur, making it more efficient and reducing the burden on the justice system. The principle of distributive justice emphasizes that the benefits and burdens of natural resource exploitation should be shared fairly, especially to protect vulnerable groups that are often affected by pollution. With a combination of restorative, preventive, and distributive justice approaches, environmental criminal law is expected to be able to maintain ecological balance and protect people's rights to a healthy environment.

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