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Research Article

Examining the Model of Criminal Responsibility for Corporations Perpetrating Environmental Crimes

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ABSTRACT

Environmental crimes are predominantly the responsibility of individuals. However, corporations may also commit environmental offences, given their dependence on natural resources and the waste generated through production processes. This research project aims to analyse the formulation of corporate criminal liability provisions, as well as the patterns of corporate criminal accountability reflected in judicial decisions concerning environmental crimes. The research method is normative legal research using secondary data as the primary source, analysed qualitatively and descriptively. The results indicate that there is no uniform pattern of corporate criminal liability regulation in the environmental sector. Only two laws provide comprehensive regulatory frameworks: Law Number 5 of 1990, as amended by Law Number 32 of 2024, and Law Number 18 of 2013. Meanwhile, court decisions regarding corporate perpetrators of environmental crimes continue to be dominated by the criminalisation of individuals. Interestingly, over the past five years, court decisions in the environmental sector have increasingly criminalised corporations. This finding confirms that the current legal framework recognises corporations as perpetrators of criminal offences in the environmental sector.

Keywords: Corporations; Environment; Individual Responsibility; Corporate Criminal Liability.

A. INTRODUCTION

Social dynamics play a part in changing the legal system. The law and its institutions must adapt to the increasingly complex nature of criminal acts. While 'crime' was once synonymous with street crime, the concept of white-collar crime emerged over time. This term was first introduced by Edwin H. Sutherland in 1930 (Vago & Barkan, 2018); (Rahayu & Lukitasari, 2021). According to Lilik Mulyadi, this development reflects changes in the characteristics of perpetrators and crime patterns (Mulyadi, 2021). Sutherland Research documented the existence of this form of crime through a study of 70 large, reputable corporations which had amassed 980 criminal law violations between them, averaging 14 convictions each. The offences of false advertising, unfair labour practices, restraint of trade, price-fixing agreements, stock manipulation, copyright infringement and outright swindles were committed by perfectly respectable middle- and upper-middle-class executives (Vago & Barkan, 2018).

According to Sally S. Simpson, one of the criteria for defining an offence as white-collar crime is that it must be corporate crime (Simpson, 2019). Nicholas Lord and Michael Levi state that Sutherland was not alone in conceptualising corporate crime as a category of white-collar crime. Johann Miller also classified corporate crime as a form of white-collar crime, alongside malfeasance, professional crime and individual crime (Lord & Levi, 2025). Thus, corporate crime is part of the development of modern 'crime'.

Corporations are chartered to make profits and to limit potential losses. The pursuit of these goals may lead to decision making that goes against legal and ethical norms if those in charge do not exercise sound judgement or take moral responsibility for their actions (Drew-Griffiths, 2025). More importantly, the identification theory argues that corporations don’t have a mind of their own, but can be liable for crimes by attributing mens rea to them. The corporation is the decisions and mental states of the leading corporate officers (Amiati, Adhryansah, & Prihandono, 2024).

Corporations have become powerful global conglomerates since the colonial period (Villiers, 2023). With this growth of corporate power came persistent forms of corporate violence now. According to Samvel Varvastian and Felicity Kalunga (Varvastian & Kalunga, 2020), it is not uncommon for a subsidiary to be involved in environmental harm. This observation was made by Varvastian and Kalunga on the basis of Vedanta v. Lungowe, a case that dealt with the liability of an English parent company for environmental damage caused by its subsidiary in Zambia (Varvastian & Kalunga, 2020).

So now corporations are victims of criminal acts, not just humans. Pujiyono says that the existence of corporations has a strategic role as the pillars of the economy because corporations are able to provide jobs and fulfil the needs of society (Pujiyono, 2016). Corporate crime is often a product of organisational conditions that promote profit maximisation and market expansion. Corporate malfeasance is more likely to occur where the pursuit of economic gain is accompanied by poor law enforcement, ineffective control mechanisms and unethical organisational subcultures (Pujiyono, 2016).

Corporations have been extensively acknowledged as possible perpetrators of criminal offences and are thus capable of assuming criminal liability. In this context, the concept of corporate crime has moved from a focus on individual white-collar crime to an organisational view, in which corporate crime is defined as illegal activity carried out by organisations or by individuals acting on their behalf (van Baar, 2025)

Thus, the errors can manifest as a criminal conviction. In criminal law, regarding corporations, there are three systems for corporate responsibility as subjects of crime, namely (Sembiring & Pujiyono, 2020): a. The management of the corporation is responsible as a maker; b. The corporation is a maker, and its management is responsible; and c. The corporation is a maker and it is also responsible. The corporation as the maker and also the person responsible for the motivation must pay attention to the development of the corporation itself, i.e. that for certain offences it turns out that it is not enough to determine the management as a person who can be convicted.

The recognition of a corporation as a subject of criminal law opens up the possibility of its criminal liability and of the imposition of penal sanctions. The recognition of corporations as subjects of criminal responsibility is a deviation from the principle of societas delinquere non potest (Mukhlis R & Sipatuhar, 2024). However, a corporation's liability does not extend to all criminal offences. Some offences are intrinsically linked to human conduct and can only be committed by natural persons by their very nature.

So, such offences cannot be a basis for imposing criminal liability on a corporation (Muladi & Priyatno, 2013). Mahrus Ali et al. mention that corporate crime is always a functional action (functioneel daaderschap) and has the form of a participation offence (Ali et al., 2020).

According Ade Adhari et al., the mention of corporations as subjects of punishment is found in various laws, such as: Law Number 1 of 1953 concerning the Establishment of the Emergency Law concerning the Hoarding of Goods (Emergency Law Number 17 of 1951) as Law; Emergency Law Number 7 of 1955 concerning Investigation, Prosecution and Trial of Economic Crimes; Law Number 11 PNPS of 1963 concerning Criminal Acts of Subversion; Law Number 8 of 1999 concerning Consumer Protection; Law Number 8 of 1995 concerning Capital Markets; Law Number 5 of 1999 concerning Monopoly Practices and Unfair Business Competition; Law Number 3 of 2014 concerning Industry; Law Number 20 of 2014 concerning Standardization and Conformity Assessment; Law Number 21 of 2014 concerning Geothermal Energy; Law Number 28 of 2014 concerning Copyright; Law Number 33 of 2014 concerning Halal Product Guarantees; Law Number 39 of 2014 concerning Plantations; Law Number 40 of 2014 concerning Insurance; Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions; Law Number 5 of 2017 concerning the Advancement of Culture; Law Number 18 of 2017 concerning Protection of Indonesian Migrant Workers; and so forth (Adhari et al., 2024).

In fact, the recognition of corporate criminal liability was first introduced in Indonesia through Emergency Law Number 13 of 1950 on Emergency Loans . Article 11 in particular, although at that time it was not yet foreseen the imposition of criminal sanctions on corporations. The idea that corporations could be subjected to criminal punishment began to be more clearly articulated in Article 11 of Emergency Law No. 17 of 1951 on the Hoarding of Goods.

The 2010 conviction of PT Giri Jaladhi Wana was an important step forward in the enforcement of corporate criminal liability in Indonesia. Later decisions with PT Albasi Priangan Lestari, PT Indo Bharat Rayon, PT Nusa Konstruksi Enjinering, PT Natural Persada Mandiri and CV Aditamah Mandiri indicate progress of corporate criminal enforcement. The criminal law enforcement against corporations as perpetrators of criminal offences is still relatively slow and belated. This concern has been noted by Pujiyono who argues that the development of enforcement of corporate criminal liability has not kept pace with the increasing involvement of corporations in criminal activities. This condition is at odds with the expanding number of criminal acts committed by corporations. A small number of corporate cases are brought to the courts (Pujiyono, 2023). These are attributed to a lack of understanding on the part of law enforcement officials, the complexity of corporate investigations, difficulties in obtaining evidence and insufficient participation of victims. These limitations may be a barrier to the prosecution of corporate crime (Pujiyono, 2023).

Recent trends in the prosecution of environmental crimes show a slow evolution in the way courts view and handle corporate environmental crimes. Kakade and Haber say a company might deliberately do something misleading to avoid environmental regulations. For example, the Volkswagen diesel emissions scandal shows how economic benefits can be gained from manipulating regulatory requirements (Kakade & Haber, 2020). Peoples and Booth also state that the corporations are not exclusively responsible for environmental harm. They claim that environmental degradation is frequently the consequence of an interaction of corporate and state actions that may result directly or indirectly in the creation and perpetuation of environmental harm (Peoples & Both, 2022). The recognition of corporations as subjects of criminal liability has changed the face of modern criminal law particularly in the field of environment where criminal liability was confined to natural persons. But even with this change, corporations still go to court far less than people. Most of the corporations who commit crimes are still prosecuted as natural persons. Corporations are rarely mentioned as suspects or defendants (Syarifah dkk., 2020). Lembaga Kajian dan Advokasi Independensi Peradilan (LeIP) research found that companies were rarely named as suspects or defendants. Similarly, Hafrida, Retno Kusniati and Yulia Monita state that companies, not individuals, are often the perpetrators of environmental crimes concerning the destruction of forests.

But corporate wrongdoers seldom pay criminal penalties that can have any significant deterrent effect. Enforcement trends highlight the need for stronger criminal sanctions to enhance corporate accountability and reduce future environmental crimes (Hafrida, Kusniati, & Monita, 2022).

In its 2020 report, LeIP stated that, of environmental criminal cases adjudicated by the courts, 381 defendants were convicted: 365 were sentenced to imprisonment, 15 received fines, and 1 decision was affected by a technical error. Of these cases, only 10 involved corporate defendants (representing no more than 3 per cent). This is notable given that environmental offences are highly susceptible to corporate commission (Syarifah et al., 2020). Corporations depend upon natural resources in conducting economic activities and inevitably generate waste as a consequence of their production processes.

Empirical evidence suggests that criminal liability continues to be directed primarily at individuals rather than corporations. This tendency, according to Amrani, Elvani, and Suparno (2017), is related to the continued dominance of the natuurlijk persoon paradigm in the enforcement of environmental criminal law. Similarly, Diamantis and Laufer (2019) note that most corporate crimes are prosecuted against individual actors, rather than the corporate entity, and even when formally charged, convictions against corporations are relatively rare.

The failure to designate corporations as defendants or convicted parties in environmental criminal cases constitutes, in effect, a significant missed opportunity. Corporations generally possess a far greater capacity to pay fines than individual offenders. A similar position is advanced by Poonam Puri, who contends that corporations convicted of criminal offences are generally subject to monetary penalties (Puri, 2001). Nevertheless, Puri notes that the fine should be calibrated carefully and optimally to ensure that the sanction accurately reflects the corporation’s level of culpability and effectively deters future misconduct (Puri, 2001).

Financial penalties imposed upon corporations in environmental criminal cases may, in principle, be allocated towards the reconstruction or rehabilitation of damaged natural resources. Accordingly, a reconceptualization is required towards strengthening corporate criminal liability in respect of environmental offences. Criminal accountability in environmental law should not be confined to individual responsibility but must also extend to corporate entities.

Despite the growing body of literature on corporate criminal liability for environmental offences in Indonesia, existing studies predominantly adopt normative, conceptual, reconstructive, or single-case approaches.

Limited attention has therefore been given to the manner in which Indonesian courts attribute criminal responsibility to corporations in environmental crime cases.

Most studies on corporate criminal liability in Indonesia tend to be doctrinal studies. For example, Muhammad Ilham (2025) and Harefa and Nashir (2025) explore the statutory framework on corporate criminal liability for environmental offences, in particular the legislative provisions and legal principles. Their analyses provide an important doctrinal foundation but little explanation of how those principles are applied by the courts in environmental criminal cases. Another line of research deals with legal reform and individual judicial decisions. Pravifjayanto (2025) offers the reconstruction of Indonesian corporate criminal liability system from progressive law perspective and Rosmerry, River Hutajulu and Parningotan Malau (2025) analyse corporate liability through Decision Number 190/Pid.B/LH/2020/PN.Plw. Both studies provide valuable insights, however they do not address wider trends in judicial practice in environmental crime cases. The research of Winarsa, Rukmini and Takariawan (2022) discusses the implementation of environmental law against corporate offenders, in the case of pollution and environmental degradation in the river Citarum. The study recognises practical difficulties in enforcing environmental law. The study does not, however, examine how corporate criminal responsibility is determined by judges in practice. The corporate liability in the construction services and information and electronic transactions has been discussed by Agustina et al. (2023)and Rahayu and Lukitasari (2021).

Their results thus offer little guidance to the understanding of corporate criminal liability in cases of environmental crime. The existing literature does not explain how the Indonesian courts apply the corporate criminal liability in the environmental cases. There has been no systematic examination of a large body of judicial decisions to determine what liability models judges have adopted, or to evaluate the consistency of their application from case to case. This study fills this gap by analysing fifty Indonesian court judgments on environmental crimes. This study provides a more extensive empirical evaluation of judicial practice, as opposed to previous studies which were mainly focused on doctrinal analysis, legal reconstruction, or the study of individual cases. The analysis shows that from 50 judgments examined, 23 judgments lead to corporate convictions. This shows that the corporate prosecution is an increasingly important aspect of environmental law enforcement in Indonesia. This paper will examine the judicial reasoning and attribution of liability in those decisions to provide a more comprehensive understanding of the operation of corporate criminal liability under Indonesian environmental criminal law.

B. RESEARCH METHODS

The research method used in this study is a normative juridical research method which is library research or secondary data research, consisting of primary, secondary and tertiary legal materials (Soekanto, 2006). The case approach and the statute approach have been adopted since they are consistent with the nature of the research problem which deals with court decisions and statutory regulations. The court decisions used in this study are limited to environmental cases under the code “LH” with a total of 50 cases. The 50 environmental crime cases were selected through a random sampling technique.

The research is descriptive-analytical and prescriptive. The descriptive-analytical aspect is designed to analyse and describe the characteristics of the subjects and objects of research, as well as to illustrate the model of corporate criminal liability for environmental crimes. The research is prescriptive in nature because it formulates legal arguments about what should be according to the law based on the research findings (Fajar & Achmad, 2010). The main data used are secondary data, namely primary legal materials in the form of court decisions and statutory regulations and secondary legal materials, such as electronic journals, policy papers, seminar papers, reference books, and opinions of legal scholars (Soemitro, 1994).

The data was obtained by way of library research through the review of legislation, books, academic journals and internet based materials thus producing secondary data as the primary source of information. The data acquired were then analysed using qualitative approach. This approach is a systematic and consistent process of describing and interpreting the phenomena investigated (Soekanto, 2006).

C. RESULTS AND DISCUSSION

1. Formulation of Corporate Criminal Liability Provisions for Corporate Perpetrators of Environmental Offences under Positive Law

Principle 1 of the Stockholm Declaration emphasises the relationship of human beings and environment at a global scale. In Indonesia, the right to a healthy environment is specifically acknowledged as a human right in Article 28H(1) of the Constitution of the Republic of Indonesia . Thus, the State and all stakeholders have a constitutional obligation to carry out environmental protection and management in the context of sustainable development. Environmental degradation can be perceived as a threat to the fabric of civilisation and is a violation of human rights (Permadi, 2016). Here it is not the environment but human activity itself which poses the greatest threat to environmental sustainability.

"Environmental degradation remains a real threat to existing ecosystems. This degradation generally occurs in two forms i.e. environmental pollution and environmental destruction. Pollution is the introduction of living organisms, substances, energy or other components into the environment (Muhammad Erwin, 2019). On the other hand, destruction means changes in physical, chemical or biological characteristics exceeding the permissible levels of environmental damage.

The main law governing environmental protection in Indonesia is Law No. 32 of 2009 concerning Environmental Protection and Management (hereinafter the Environmental Protection and Management Law). The Law was later amended by Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation, and subsequently enacted as Law No. 6 of 2023. The Environmental Protection and Management Law provides the general framework for environmental protection and management. It is supplemented by a number of sector specific statutes containing more detailed regulatory provisions.

The Environmental Protection and Management Law states clearly that corporations can be criminally prosecuted for their actions. This recognition is reflected both in Point 6 of the General Elucidation and in Article 1(32). That notwithstanding, the statute does not use consistent terminology. The General Elucidation uses the term "corporations", while Articles 1(32), 116, 118, 119 and 120 use the term "business entity".

The explicit confirmation that corporations may be subjected to criminal liability under the Environmental Protection and Management Law is found in Article 116 (1). The formulation of Article 116 (1) regulates the corporation as a suspect, defendant, and potentially as a convicted party. Notably, the provision makes clear that the corporation is not the sole party capable of bearing criminal responsibility, as it also encompasses "any person who gives orders" or "any person acting as a leader" within the corporation.

Article 116 (1) (b) must be read together with Article 116 (2). The term "person giving orders" or "leader" of a corporation means persons who are in an employment relationship or in another relationship and act within the scope of the corporation's activities. Article 116 (2) explains the meaning of "employment relationship" by referring to Law No. 13 of 2003 on Manpower that states that an employment relationship is a relationship between an employer and a worker formed by an employment agreement that contains elements of work, wages, and authority. In this sense, a person who has an employment relation with a corporation has a clear legal position within the corporate structure.

Such legal standing is usually shown in the corporation's articles of association or bylaws or in an employment contract with remuneration or salary. By contrast, the phrase "other relationship" in Article 116(2) may be read as referring to persons who do not have a formal employment relationship with the corporation, but who nonetheless might be considered part of the corporation. For instance, a person who has a significant influence over a corporation, for example a shareholder in a limited liability company who actively directs the board of directors. Article 116 (2) of the Environmental Protection and Management Law provides that criminal sanctions are imposed on persons giving orders or exercising leadership in the commission of environmental offences, both individually and collectively (Pravifjayanto, 2025).

The Environmental Protection and Management Law establishes two models of criminal sanctions for environmental offences committed by corporations. One model applies where law enforcement authorities designate corporate management as the suspect or defendant. Under Article 117 of the Environmental Protection and Management Law, criminal proceedings are directed against the individual who issued the order or exercised leadership within the corporation. The provision increases both the term of imprisonment and the amount of the fine imposed on corporate management by one-third. The other model permits criminal proceedings to be brought directly against the corporation, acting as a business entity, where it is designated as the suspect or defendant.

According to Muhari Agus Santoso (2016) the wording and elucidation of Article 118 of Law No. 32 of 2009 on Environmental Protection and Management reflect the adoption of a vicarious liability model. Satya Marta Ruhiyat, Ismansyah, and Nani Mulyati likewise argue that both Indonesian legislation and judicial decisions reflect a tendency to adopt the theory of vicarious criminal liability in attributing criminal responsibility to corporations (Ruhiyat, Ismansyah, & Mulyati, 2019).

One of the oldest forms of liability is vicarious liability and it still operates in a wide range of jurisdictions and legal contexts (Bant & Faugno, 2023). According to Pravifjayanto, the system of corporate criminal liability under the Environmental Protection and Management Law is based on the doctrine of vicarious liability where the criminal responsibility is attributed to the corporate officers or directors who perform managerial functions as the corporation's "directing mind". When company employees commit an environmental offense, the perpetrator is considered to be the board of directors, not the employee who physically commits the offense offence (Pravifjayanto, 2025).

Concerning sanctions, the Environmental Protection and Management Law does not recognise an aggravated principal penalty for corporate offenders. Article 117 provides only for an enhancement of one-third in respect of imprisonment and fines imposed upon corporate management. The statute does not expressly regulate the principal form of punishment applicable to corporations, nor does Article 118 clarify this matter. The lack of rules with respect to principal penalties of corporations is a juridical anomaly, particularly in light of the fact that management is subject to aggravated penalties (by one-third). The omission of both principal penalties and corresponding aggravating provisions for corporations may therefore give rise to juridical defects. Paradoxically, the Environmental Protection and Management Law does provide for additional penalties or administrative measures applicable to corporations under Article 119. Cedric Michel found that the public generally supports harsher penalties for white-collar offenders. In the context of corporate crime, respondents favoured more severe sanctions for corporate offenders than for individual offenders. These findings suggest that the public considers stronger criminal sanctions against corporations to be justified, reflecting the broader social harm associated with corporate offending (Michel, 2021).

The corporate liability provisions of the Environmental Protection and Management Law are confined to Articles 116–120. A review of these provisions identifies several juridical weaknesses:

a. The absence of principal penalties applicable to corporations, notwithstanding the existence of additional penalties under Article 119.
b. The lack of criteria defining when an environmental offence may be attributed to a corporation. By contrast, other statutes provide such criteria, for example, Article 6(2) of Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering and Article 8(2) of Law No. 9 of 2013 on the Prevention and Eradication of Terrorism Financing.
c. The absence of explicit provisions identifying who is authorised to represent the corporation in judicial proceedings.
d. The absence of further regulation concerning the procedures for the execution of criminal sanctions against corporations.

Subsequent regulatory developments have broadened the legal framework governing environmental protection. Supreme Court Decrees No. 36/KMA/SK/II/2013 and No. 037/KMA/SK/III/2015, together with Minister of Environment and Forestry Regulation No. P.83/MENLHK/SETJEN/KUM.1/7/2018, recognise that environmental regulation extends beyond the Environmental Protection and Management Law to encompass a range of sector-specific statutes governing biodiversity conservation, oil and gas, plant cultivation systems, forestry, spatial planning, waste management, mineral and coal mining, forest destruction prevention, maritime affairs, and water resources.

The research findings demonstrate that each statute adopts a distinct regulatory style, whether in terminology (corporation, business entity, legal entity), identification of legal subjects, models of liability, or types of sanctions. Certain statutes explicitly provide for principal fines accompanied by aggravated penalties sometimes doubled or tripled well as additional sanctions such as revocation of licences, closure of business operations, suspension of activities, or even corporate dissolution. The biodiversity conservation and forest destruction prevention statutes are comparatively more comprehensive, as they regulate liability, additional sanctions, and certain procedural aspects. The regulatory framework nevertheless continues to exhibit significant deficiencies, particularly the absence of criteria for attributing corporate criminal liability under the conservation statute and the incomplete procedural framework governing corporate criminal proceedings under the forest destruction prevention statute.

Overall, the regulation of corporate liability across environmental sector legislation demonstrates considerable variation in both style and degree of comprehensiveness. Notably, the Environmental Protection and Management Law cannot yet be regarded as the most comprehensive regulatory instrument concerning, as it still exhibits several juridical shortcomings.

2. Patterns of Corporate Criminal Liability for Corporate Perpetrators of Environmental Offences in Judicial Decisions

Corporate criminal liability has been recognized as a fundamental tool for holding corporate power accountable under the law. Its core doctrines attribution, fault and sanction were largely developed in an era in which corporate activity was assumed to be relatively integrated, stable and territorially situated (Le Thi, 2026). The recognition of corporations as subjects of criminal liability in Indonesia has changed the material and procedural aspects of criminal law. Corporate criminal liability cannot be enforced through the conventional approach of individual offenders, because it needs a different legal and procedural framework (Priyatno & Kristian, 2018). Corporations are important engines for economic growth and development at the national and international levels. They might also do things that could harm the individual, society and the State (Aryaputra & Triwati, 2023).

The environmental legislation should not only limit criminal liability to natural persons, but it should acknowledge corporations as subjects of criminal liability (Tarigan & Saragih, 2024). The research indicates that 10 out of 12 environmental statutes have formally recognised corporations as legal subjects. However, not all of these ten statutes provide a comprehensive model of corporate criminal liability.

Based on data retrieved from the official website of the Supreme Court of Indonesia, at the time this study was conducted, there were 16,639 registered environmental cases (registry code "LH"). This research limits its analysis to 50 adjudicated decisions in environmental offences, encompassing judgments at first instance, appellate level, cassation, and judicial review. The findings demonstrate that environmental offences remain predominantly characterised by illegal mining, forest destruction, oil and gas offences, and environmental pollution.

From the 50 sampled decisions that have attained final and binding legal force (in kracht van gewijsde), the following conclusions may be drawn:

Tabel 1. Compilation of Court Decisions on Environmental Crimes

No	Category of Offence	Statute	Number of Cases
1.	Environmental Protection and Management	Law No. 32 of 2009 on Environmental Protection and Management	20
2.	Forest Destruction	Law No. 18 of 2013 on the Prevention and Eradication of Forest Destruction	11
3.	Oil and Gas	Law No. 22 of 2001 on Oil and Gas	7
4.	Mineral and Coal Mining	Law No. 4 of 2009 on Mineral and Coal Mining	6
5.	Forestry	Law No. 41 of 1999 on Forestry	2
6.	Plantations	Law No. 39 of 2014 on Plantations	2
7.	Conservation of Living Natural Resources and Their Ecosystems	Law No. 5 of 1990 on Conservation of Living Natural Resources and Their Ecosystems	2
	Total		50

Source: Processed by the author based on court decisions obtained from the Supreme Court Decisions Directory (https://putusan.mahkamahagung.go.id/)

Of the sampled decisions, 54 per cent imposed criminal sanctions upon natural persons (natuurlijk persoon), whereas 46 per cent imposed sanctions upon corporations.

Of the 23 cases in which the defendant was a corporation, the majority concerned environmental offences as regulated under Law No. 32 of 2009 on Environmental Protection and Management. Broadly speaking, the unlawful acts committed included: land burning; illegal dumping; operating without an environmental permit; and the unlawful management of hazardous and toxic waste (B3 waste). A comprehensive classification of environmental offences committed by corporations within the environmental sector is presented in the following table:

Tabel 2. Number of Environmental Sector Decisions Involving Convicted Corporations

No	Category of Offence	Statute	Number of Cases
1.	Environmental Protection and Management	Law No. 32 of 2009 on Environmental Protection and Management	15
2.	Forest Destruction	Law No. 18 of 2013 on the Prevention and Eradication of Forest Destruction	6
3.	Forestry	Law No. 41 of 1999 on Forestry	1
4.	Plantations	Law No. 39 of 2014 on Plantations	1
	Total		23

Source: Processed by the author based on court decisions obtained from the Supreme Court Decisions Directory (https://putusan.mahkamahagung.go.id/)

Of the 23 environmental cases in which corporations were convicted, three decisions designated both the corporation and its management as defendants, namely: Decision No. 2608/Pid.B/LH/2023/PN Sby (Defendant I: CV Wami Start; Defendant II: Peles Y.S. Makai); Decision No. 2609/Pid.B/LH/2023/PN Sby (Defendant I: CV Gefariel; Defendant II: Mei Lani Morin); and Decision No. 2160/Pid.B/LH/2023/PN Sby (Defendant I: CV Aditamah Mandiri; Defendant II: Amir bin Daeng Tata).

The designation of both the corporation and its management as suspects or defendants is, in principle, doctrinally sound. The liability framework constructed in several statutes permits the imposition of criminal sanctions upon the management, the corporation, or both concurrently. The designation of both the corporation and its management as suspects or defendants enables the liability system to operate comprehensively. Nevertheless, the law permits the court to impose criminal sanctions on only one party either the natural person or the corporation depending on the evidentiary findings and the judicial assessment in each case.

There is nothing in the law or theory to prevent the imposition of criminal sanctions on a corporation alone, but there are a number of practical difficulties with such an approach. It can, in particular, create a situation in which corporate managers who have committed, directed or instigated the offence in question are effectively shielded from personal criminal accountability. Corporate managers may thus continue to enjoy their personal liberty without being subject to direct criminal sanctions for unlawful conduct. The individual is also not subject to public scrutiny and media attention in the same way as the collective of the group, which helps to protect their personal reputation and social standing despite their involvement in the offence. However, corporate liability does not release directors completely from criminal liability as Agustina et al. First of all, the corporation's liability must be proven before the person who committed the wrongful act/negligence can be held criminally liable (Agustina et al., 2023).

The implementation of criminal law in the field of corporate crime should target both corporations and their management as suspects, defendants and, where appropriate, convicted parties. Effective implementation of this approach requires clear statutory provisions, as several statutes continue to regulate corporate criminal liability inconsistently, while others contain no liability framework at all. According to Sylvia Rich, decisions made within a corporation may also be regarded as those of the individuals who manage it. In this regard, corporate officers have a moral obligation to act in their official capacity, even though they may not bear the same obligation in their personal capacity despite possessing identical knowledge (Rich, 2024). This moral entanglement affects not only the moral status of the individual concerned but also that of the corporation itself (Rich, 2024). Rich argues that the moral status of corporate officers reflects that of the corporation. The argument is consistent with the identification theory, under which the acts and mental state of senior corporate officers are attributed to the corporation itself

The absence of clear criteria for determining whether criminal proceedings should be brought against the corporation, its management, or both undermines legal certainty. The problem becomes more pronounced when corporate managers are prosecuted solely on the basis of their formal position within the corporation rather than their actual involvement in the commission of the offence (Syarifah et al., 2020).

D. CONCLUSIONS

The results show that although corporations have been formally recognised as subjects of criminal liability under the Environmental Protection and Management Law and other environmental laws, the legal framework regulating corporate criminal liability is not complete. The main shortcomings are the absence of clear provisions on the main sanctions to be imposed on corporations, the lack of uniform criteria for the attribution of criminal liability to corporate bodies and the limited regulation of corporate representation in criminal proceedings. In practice, however, courts are increasingly willing to impose criminal sanctions directly on corporations. The growing number of convictions suggests a gradual shift from an anthropocentric paradigm of environmental law enforcement to one of corporate accountability. Yet regulatory gaps continue to impede the consistent enforcement of corporate criminal liability and provide corporate managers with opportunities to evade personal accountability via legal uncertainty. So it remains important to strengthen the normative framework on corporate criminal liability for the improvement of environmental law enforcement and corporate accountability in Indonesia.

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