

Environmental Criminal Law Policy from the Perspective of Green Criminology in Indonesia

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ABSTRACT

Indonesia's environmental criminal law continues to rely on an anthropocentric framework that treats state authority and human economic interest as the primary legal subjects, while ecological harm itself remains under-recognized as an object of legal protection. This normative-juridical research examines the policy of environmental criminal law in Indonesia through the lens of green criminology, focusing on the regulatory shift introduced by the Job Creation Law (Law No. 11 of 2020, later reenacted as Law No. 6 of 2023), which converted several criminal provisions under Law No. 32 of 2009 on Environmental Protection and Management into administrative sanctions. Using statute, conceptual, and case approaches, this study analyzes primary and secondary legal materials, including five illustrative court decisions on illegal mining, illegal logging, and industrial pollution decided between 2020 and 2025. The findings indicate that the post-Job Creation Law regime weakens criminal deterrence against corporate environmental offenders, that corporate criminal liability remains inconsistently applied in judicial practice, and that green criminology's concepts of state-corporate crime and ecological justice expose structural gaps left unaddressed by the current framework. The article concludes that Indonesia's environmental criminal policy requires recalibration toward a green-criminology-informed model that reinstates criminal sanction as a genuine deterrent for serious and repeated corporate environmental harm, strengthens post-judgment execution, and integrates restorative and ecological justice principles.

Keywords: *green criminology; environmental crime; corporate liability*

ABSTRAK

Hukum pidana lingkungan di Indonesia masih bertumpu pada cara pandang antroposentris yang menempatkan kewenangan negara dan kepentingan ekonomi manusia sebagai subjek hukum utama, sementara kerusakan ekologis itu sendiri belum sepenuhnya diakui sebagai objek yang dilindungi hukum. Penelitian hukum normatif ini mengkaji kebijakan hukum pidana lingkungan Indonesia melalui perspektif green criminology, dengan fokus pada perubahan regulasi akibat Undang-Undang Cipta Kerja (UU No. 11 Tahun 2020, yang kemudian ditetapkan kembali melalui UU No. 6 Tahun 2023) yang mengonversi sejumlah ketentuan pidana dalam UU No. 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup menjadi sanksi administratif. Dengan

pendekatan perundang-undangan, konseptual, dan kasus, penelitian ini menganalisis bahan hukum primer dan sekunder, termasuk lima putusan pengadilan sebagai ilustrasi kasus pertambangan ilegal, illegal logging, dan pencemaran industri yang diputus pada rentang 2020-2025. Hasil penelitian menunjukkan bahwa rezim pascaUU Cipta Kerja melemahkan daya cegah pidana terhadap pelaku korporasi, penerapan pertanggungjawaban pidana korporasi masih inkonsisten dalam praktik peradilan, dan konsep state-corporate crime serta keadilan ekologis dalam green criminology mengungkap celah struktural yang belum terjawab oleh kerangka hukum yang berlaku. Artikel ini menyimpulkan bahwa kebijakan hukum pidana lingkungan Indonesia perlu direkonstruksi menuju model yang berbasis green criminology, yang mengembalikan fungsi pidana sebagai instrumen pencegahan yang nyata bagi kejahatan lingkungan korporasi yang serius dan berulang, memperkuat eksekusi putusan, dan mengintegrasikan prinsip keadilan restoratif dan ekologis.

Kata Kunci ; kejahatan lingkungan; pertanggungjawaban pidana korporasi

INTRODUCTION

Environmental degradation in Indonesia continues in various forms, from deforestation caused by illegal logging, to landscape destruction caused by unlicensed mining, to the pollution of water bodies and air by industrial waste. Although Indonesia has had Law Number 32 of 2009 on Environmental Protection and Management as an umbrella instrument regulating administrative, civil, and criminal sanctions for environmental violations, (Law No. 32 of 2009) enforcement practice on the ground still falls well short of being effective. This weakness, as recent studies note, stems from institutional fragmentation, limited sanctions, corrupt practices, and political-corporate relations that undermine environmental law enforcement across regions. (Pelengkahu:2025)

This structural weakness cannot be separated from the way Indonesian environmental criminal law has, from the outset, been built on an anthropocentric paradigm: one that places human beings at the center of legally protected interests while treating nature and ecosystems merely as objects or resources that may be exploited so long as human interests are not directly harmed. (Fatah Hidayatullah: 2025) This outlook shapes a construction of environmental crime that tends to focus on administrative breaches of permits and quality standards, rather than fully recognizing ecological harm itself as a standalone legal interest.

Criticism of this narrow approach emerged through the development of green criminology, a branch of criminology born out of dissatisfaction with a definition of crime that conventional criminal law confines to formal, legalistic boundaries. (Lynch & Stretesky, 2014: 12) Green criminology starts from the argument that large-scale ecological harm is frequently caused by corporate activity that is formally legal and state-permitted, a phenomenon Lynch and Stretesky describe as part of the treadmill of production, the systemic logic of capital accumulation that drives resource exploitation beyond ecological carrying capacity. (Lynch & Stretesky, 2014: 45) Within this framework, green criminology introduces the concept of state-corporate crime to

explain environmental harm arising from the symbiotic relationship between state agencies and corporations, including through deregulation and regulatory neglect. (South & Beirne, 2006: 8).

White further identifies three pillars of justice relevant to environmental law: environmental justice, concerned with the distribution of environmental burdens and benefits among people; ecological justice, which recognizes the right of ecosystems to remain intact independent of human interest; and species justice, which extends legal protection to non-human species. (White, 2008: 24). Together these three pillars provide an important analytical lens for assessing how far Indonesia's environmental criminal law policy truly protects ecological interests, rather than merely serving the state's administrative interests.

Normatively, the Environmental Protection and Management Law (hereinafter the EPML) does set out a fairly broad range of criminal sanctions, from Articles 98 and 99 on pollution and/or environmental damage to Article 102 on the unlicensed management of hazardous and toxic waste (B3). (Law No. 32 of 2009, Arts. 98-99) The direction of policy, however, changed significantly after the enactment of the Job Creation Law. A study by Wijaya, Yandriza, and Tenofrimer found that Law Number 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law removed the criminal threat for unlicensed B3 waste management under Article 102 of the EPML and replaced it with administrative sanctions alone, so that offending corporations now face only administrative consequences even where the resulting pollution is severe. (Wijaya, Yandriza, & Tenofrimer, 2024) This shift risks weakening the deterrent function of criminal law and reducing corporate accountability.

Prior studies have touched on several relevant aspects, though largely in isolation. Cahaya and colleagues, for instance, demonstrated quantitatively that the intensity of environmental law enforcement correlates negatively and significantly with the prevalence of ecological crime, while also strengthening victim protection from a green criminology perspective. (Cahaya et al., 2025) Pravifjayanto proposed reconstructing the system of corporate criminal liability along progressive-law lines, through a dual-mediation approach that combines restorative justice with formal sanctions. (Pravifjayanto, 2025) Harianja and colleagues identified corporate organizational complexity, weak inter-agency coordination, limited monitoring capacity, and the phenomenon of regulatory capture as the principal obstacles to establishing corporate accountability in illegal-logging-driven deforestation cases. (Harianja et al., 2026) A comparative study by Wijaya and Dzaki, examining Indonesia alongside Australia, further found that Indonesia's attribution model for corporate liability remains procedurally underdeveloped compared with jurisdictions that apply clearer organizational-fault standards. (Wijaya & Dzaki, 2023) Silitonga, for his part, mapped three models of corporate criminal liability: vicarious liability, strict liability, and the corporate culture model, and concluded that a hybrid approach is the most effective, albeit still within the context of transnational environmental crime. (Silitonga, 2026)

The novelty of this article, compared with the studies above, lies in bringing together three strands that have so far been examined separately: first, the post-Job Creation Law regulatory shift that decriminalizes a number of corporate environmental violations, as revealed by Wijaya,

Yandriza, and Tenofrimer (Wijaya, Yandriza, & Tenofrimer, 2024); second, the theoretical framework of green criminology on state-corporate crime and ecological justice, as developed by Lynch, Stretesky, White, and South (Lynch & Stretesky, 2014; White, 2008; South & Beirne, 2006); and third, the practice of corporate criminal liability in recent environmental court decisions from 2020 to 2025. Where Cahaya and colleagues' work stops at statistically demonstrating the correlation between enforcement and crime prevalence (Cahaya et al., 2025), and Harianja and colleagues' work focuses on the structural barriers to corporate accountability without linking them to the post-Job Creation Law shift in the sanctions regime (Harianja et al., 2026), this article situates all three within a single analytical framework in order to diagnose the gaps in Indonesia's environmental criminal law policy and to formulate policy recommendations grounded in a green criminology perspective.

Building on the discussion above, this research aims to analyze Indonesia's environmental criminal law policy from a green criminology perspective, to evaluate the construction of corporate criminal liability in law enforcement practice, and to formulate relevant policy recommendations. The research problem is identified through three questions: first, how has the paradigm of Indonesia's environmental criminal law policy shifted following the enactment of the Job Creation Law, viewed from a green criminology perspective? second, how is corporate criminal liability for environmental crime constructed in Indonesian law enforcement practice? and third, what green-criminology-based policy recommendations can strengthen Indonesia's environmental criminal law going forward? These three questions are examined through the normative-juridical method described in the following section.

LITERATURE REVIEW

The Paradigm of Environmental Law and Green Criminology

The discourse on environmental criminal law has increasingly shifted from a strictly anthropocentric paradigm toward ecocentric perspectives, a transition heavily theorized through the lens of green criminology. Hidayatullah (2025) critiques the prevailing anthropocentric framework, arguing that conventional law treats nature merely as an object whose value is negotiated for economic gain, rather than an entity possessing intrinsic worth. This narrow legal construction focuses on administrative breaches rather than recognizing ecological harm as a standalone legal interest. To address this limitation, green criminology emerged as a critical framework that transcends formal, legalistic boundaries of conventional criminal law. Lynch and Stretesky (2014) introduce the concept of the "treadmill of production," explaining how the systemic logic of capital accumulation drives resource exploitation beyond ecological carrying capacity, often resulting in large-scale ecological harm caused by formally legal, state-permitted corporate activities. Building on this, South and Beirne (2006) developed the concept of "state-corporate crime" to explain environmental harm arising from the symbiotic, often deregulatory, relationship between state agencies and corporations. Furthermore, White (2008) establishes three

pillars of justice essential for environmental law: environmental justice (distribution of burdens among humans), ecological justice (the right of ecosystems to remain intact), and species justice (protection of non-human species). Together, these theoretical foundations provide a critical lens for evaluating whether environmental policies genuinely protect ecological interests or merely serve state administrative and economic convenience.

Regulatory Shifts and the Decriminalization of Environmental Harm

In the context of Indonesia, the literature highlights a significant and concerning regulatory shift following the enactment of the Job Creation Law. Wijaya, Yandrizza, and Tenofrimer (2024) demonstrate that this legislation fundamentally altered the enforcement landscape by removing the criminal threat for unlicensed hazardous and toxic waste (B3) management under Article 102 of the Environmental Protection and Management Law (EPML), replacing it entirely with administrative sanctions. This decriminalization risks severely weakening the deterrent function of criminal law. Pelengkahu (2025) contextualizes this shift within broader structural weaknesses, noting that environmental law enforcement in Indonesia is further undermined by institutional fragmentation and strong political-corporate relations, which render administrative sanctions prone to inconsistent application. Cahaya et al. (2025) provide empirical reinforcement to this critique, showing that the intensity of environmental law enforcement correlates negatively with the prevalence of ecological crime. Consequently, the literature suggests that shifting from criminal to purely administrative sanctions for severe corporate violations exacerbates the risk of environmental degradation by removing the stigma and deterrence associated with criminal liability.

Corporate Criminal Liability and Structural Barriers

The construction and application of corporate criminal liability remain central themes in environmental legal scholarship. Silitonga (2026) maps three primary models of corporate criminal liability: vicarious liability, strict liability, and the corporate culture model, concluding that a hybrid approach is most effective for transnational environmental crimes. In the Indonesian context, the enactment of Law Number 1 of 2023 on the National Criminal Code formally recognizes corporations as subjects of criminal law. Arqon, Putri HS, and Rekmya (2026) propose a three-stage analytical model for post-Criminal Code corporate liability—attributing conduct, determining organizational fault, and calibrating sanctions—to ensure proportionality across regulatory regimes. However, translating these normative frameworks into practice faces severe structural obstacles. Harianja et al. (2026) identify corporate organizational complexity, weak inter-agency coordination, limited monitoring capacity, and regulatory capture as the principal barriers to establishing corporate accountability, often resulting in prosecutions that stop at field-level operators. This procedural underdevelopment is corroborated by Wijaya and Dzaki (2023), whose comparative study with Australia reveals that Indonesia's corporate-attribution doctrine lags behind jurisdictions with clearer organizational-fault standards, leaving victims without adequate redress.

Selective Enforcement, Execution Gaps, and Restorative Justice

The literature also heavily critiques the phenomenon of selective enforcement in environmental cases. White (2008) notes that legal systems tend to decisively punish small-scale, individually identifiable offenders while large-scale corporate crimes causing massive ecological damage evade robust criminal prosecution. This disparity is further exacerbated by post-judgment execution failures. Widyawati et al. (2026) conclude that the principal weak point in Indonesian environmental law enforcement occurs after the verdict, as fines, compliance orders, and recovery measures are frequently unexecuted due to regulatory disharmony and overlapping authority. Tustinaningsih and Akhmaddhian (2025) echo this, highlighting weak supervision and poor inter-agency coordination as factors that impede enforcement effectiveness even after a criminal conviction.

Amidst these enforcement gaps, restorative justice is frequently proposed as an alternative. Pravifjayanto (2025) suggests reconstructing corporate liability through a progressive-law approach combining restorative justice with formal sanctions. However, the application of restorative justice in environmental contexts requires careful calibration. Pardede and Santoso (2022) critically reflect on this concept, warning that restorative frameworks designed for conventional crimes require substantial adaptation for environmental cases. From a green criminology perspective, restorative justice must not become a mechanism for corporations to evade genuine criminal accountability. Ultimately, as Ilham (2025) and Rahmadi (2019) argue, as long as ecological harm is treated as a mere economic externality, criminal law's deterrent function will remain subordinate to economic interests.

Synthesis and Research Gap

Reviewing the existing literature reveals that while substantial research has been conducted on green criminology, regulatory shifts, and corporate liability in Indonesia, these aspects have largely been examined in isolation. Studies by Cahaya et al. (2025) and Harianja et al. (2026) effectively highlight enforcement and structural barriers but do not fully integrate them with the post-Job Creation Law decriminalization shift. Conversely, Wijaya, Yandrizza, and Tenofrimer (2024) analyze the regulatory shift but do not comprehensively map it against recent judicial practices and the theoretical depth of state-corporate crime. Therefore, a critical gap exists in synthesizing the post-Omnibus Law regulatory changes, the practical application of corporate criminal liability in recent court decisions (2020-2025), and the theoretical framework of green criminology into a single, cohesive analytical model. This article aims to fill that gap by providing a holistic evaluation of Indonesia's environmental criminal law policy through an integrated green criminology perspective.

METHOD

This research is a normative legal study (doctrinal legal research) that treats law as a system of norms examined through legal materials rather than through field data collection (Soekanto, 2014: 13). The inquiry is directed at the consistency and coherence of Indonesia's

environmental criminal law norms, particularly the changes brought about by the Job Creation Law, using a green criminology perspective as a critical lens for analyzing those norms (Ali, 2022: 24).

Three approaches are used. First, the statute approach, applied to examine the EPML, the Job Creation Law and its amendments, Government Regulation Number 22 of 2021 on the Implementation of Environmental Protection and Management (Government Regulation No. 22 of 2021), and the corporate criminal liability provisions in Law Number 1 of 2023 on the Criminal Code (the National Criminal Code). Second, the conceptual approach, used to situate green criminology concepts such as state-corporate crime, ecological justice, and green victimology within the context of Indonesian positive law. Third, the case approach, used to examine five court decisions on illegal mining, illegal logging, and an industrial-pollution lawsuit decided between 2020 and 2025, serving as illustrative material for how the norms operate in practice.

The primary legal materials in this research consist of the legislation listed above together with the relevant court decisions. Secondary legal materials include books, national and international scholarly journals, and prior research discussing green criminology and environmental criminal law. Tertiary legal materials, such as legal dictionaries and other supporting references, are used sparingly to clarify technical terms encountered in the discussion.

Legal materials were collected through library research, searching journal databases indexed by Sinta, Garuda, and Scopus, as well as official court-decision directories. The collected materials were then analyzed qualitatively and descriptively through grammatical and systematic interpretation of the norms, followed by prescriptive analysis to assess the norms' consistency with green criminology principles and to formulate policy recommendations. The decisions analyzed were selected purposively, based on the relevance of the offense type and the 2020-2025 time frame, rather than on statistical generalization; the findings in this article are therefore illustrative and analytical in nature, and are not intended as a quantitative representation of the entirety of Indonesia's environmental judicial practice.

RESEARCH RESULTS AND DISCUSSION

The Paradigm Shift in Environmental Criminal Law Policy after the Job Creation Law: A Green Criminology Reading

Before the Job Creation Law, the EPML treated criminal sanction as an important instrument, even though it remained subject to the ultimum remedium principle for certain quality-standard violations under Article 100 (Law No. 32 of 2009, Art. 100). Article 102 set out imprisonment and fines for business actors who managed B3 waste without a permit (Law No. 32 of 2009, Art. 102), making it one of the relatively strong punitive instruments for holding negligent corporations to account in hazardous-waste management.

A major change came with Law Number 11 of 2020 on Job Creation which, after being declared conditionally unconstitutional by the Constitutional Court, was revised through Government Regulation in Lieu of Law Number 2 of 2022 before finally being enacted as Law

Number 6 of 2023 (Law No. 11 of 2020; Law No. 6 of 2023). The amendment to Article 102 reflects a change in the way environmental violations are addressed, with greater reliance on administrative measures than on criminal punishment. Although administrative sanctions remain an important instrument of environmental law enforcement, their predominance may create difficulties in maintaining a sufficient deterrent effect, particularly in cases involving serious or repeated violations of B3 waste management requirements. From a green criminology perspective, such a regulatory shift raises a broader concern because environmental harm cannot be viewed solely as a breach of administrative obligations. Its consequences may extend to ecosystems, communities, and other living beings affected by environmental degradation. Accordingly, the effectiveness of environmental regulation should be assessed not only from the availability of administrative sanctions, but also from its ability to prevent ecological harm and establish meaningful corporate accountability. This suggests that environmental policy should differentiate between minor regulatory violations, which may appropriately be addressed through administrative measures, and serious or repeated conduct that causes substantial ecological harm and therefore requires a stronger criminal law response. Wijaya, Yandriza, and Tenofrimer's study specifically found that this change removed the criminal threat for unlicensed B3 waste violations under Article 102 of the EPML and replaced it solely with administrative sanctions (Wijaya, Yandriza, & Tenofrimer, 2024). Three negative consequences followed: a weakened deterrent effect on business actors; disrupted environmental recovery, owing to weaker corporate accountability and the loss of strict liability; and constrained monitoring capacity, owing to limited institutional resources (Wijaya, Yandriza, & Tenofrimer, 2024).

From a green criminology standpoint, this shift is a concrete manifestation of what is termed state-corporate crime: ecological harm arising not merely from individual violations, but from a state policy that structurally facilitates corporate interests at the expense of ecological ones (South & Beirne, 2006: 21). Removing criminal sanctions for B3 waste violations cannot be read as a neutral legal event; rather, it is a form of deregulation that, within the treadmill-of-production frame, eases corporate profit accumulation by shifting ecological costs onto communities and the environment (Lynch & Stretesky, 2014: 63).

In the same vein, Pelengkahu notes that weak environmental law enforcement in Indonesia also stems from fragmented institutions and strong corporate-political relationships, so that the administrative sanctions now replacing criminal ones are, in practice, prone to inconsistent application (Pelengkahu, 2025). Cahaya and colleagues reinforce this argument empirically, showing that enforcement intensity has a significant negative effect on the prevalence of ecological crime (Cahaya et al., 2025); this means that weaker enforcement intensity, including through decriminalization, is likely to increase rather than reduce the risk of environmental crime.

Hidayatullah's critique of environmental ethics locates the root of the problem in how law still treats nature as an object whose value can be negotiated for economic gain, rather than as an entity possessing intrinsic worth deserving protection (Hidayatullah, 2025). As long as this anthropocentric-economic paradigm persists, deregulatory policies such as those introduced

through the Job Creation Law will continue to be justified in the name of economic growth, even where they weaken ecological protection.

The Construction of Corporate Criminal Liability in Environmental Law Enforcement Practice

Normatively, Law Number 1 of 2023 on the National Criminal Code has confirmed corporations as subjects of criminal law through Articles 45 to 47, which provide that a criminal offense may be committed by a corporation through management acting for and on behalf of the corporation, or through a person who orders, controls, or beneficially owns the corporation while acting outside its formal structure (Law No. 1 of 2023, Arts. 45-47). Arqon, Putri HS, and Rekmya go further, proposing a three-stage analytical model for post-Criminal-Code corporate environmental liability: attribution of conduct, determination of organizational fault, and calibration of sanctions, a model that requires proof of the underlying offense while preserving proportionality across the criminal and environmental regulatory regimes (Arqon, Putri HS, & Rekmya, 2026). This construction is conceptually consistent with the corporate culture model that Silitonga identifies as one of three models of corporate criminal liability, alongside vicarious liability and strict liability (Silitonga, 2026).

Applying this framework to concrete environmental cases nonetheless faces structural obstacles. Harianja and colleagues, studying illegal logging and corporate crime, found that corporate organizational complexity, weak coordination among law enforcement agencies, limited monitoring capacity, and regulatory capture are the principal barriers to establishing corporate accountability, so that legal proceedings often stop at the level of field-level operators without reaching corporate decision-makers (Harianja et al., 2026). Pravifjayanto adds that many environmental violations that are in fact committed by corporations for economic gain remain difficult to prosecute, because Indonesia's system of corporate criminal liability is not yet fully restoration-oriented (Pravifjayanto, 2025).

This tendency is visible in a concrete case that can serve as an illustration. In an environmental pollution dispute involving a textile company in Pasuruan, East Java, the Ministry of Environment and Forestry chose to pursue a civil lawsuit under Article 87 paragraph (1) of the EPML, applying the strict liability principle, rather than pursuing the criminal route; the Surabaya District Court, through Decision Number 20/Pdt.G/LH/2024/PN Sby, ultimately ordered the company to pay Rp48,030,291,929.00 in damages to the state treasury for environmental recovery (Law No. 32 of 2009, Art. 87(1); Liputan6.com, 2024). While this choice of the civil route succeeded in placing recovery responsibility on the corporation, it also reflects how rarely the criminal route is taken against corporations, leaving the stigmatizing and deterrent function of criminal law incompletely realized against corporate offenders.

A similar imbalance appears in small- and medium-scale environmental offenses that, by contrast, tend to catch individual offenders. Putriani, Nur, and Tasyukur examined Decision Number 163/Pid.B/LH/2021/PN.Lsm, which sentenced an individual illegal miner in the jurisdiction of the Lhokseumawe District Court to four months' imprisonment and a fine of

Rp1,500,000.00, with the judges emphasizing a corrective-educational approach given the defendant's socio-economic circumstances (Putriani, Nur, & Tasyukur, 2025). A similar pattern appears in Dzalim, Madiong, and Zubaidah's study of Decision Number 249/Pid.B/LH/2023/PN Wtp on illegal logging in a limited production forest area, which resulted in a fine of Rp2,500,000.00 without imprisonment, since the forest damage was assessed as insignificant (Dzalim, Madiong, & Zubaidah, 2024). Business actors with far greater economic capacity, meanwhile, as examined by Ramandana in Decision Number 296/Pid.Sus/2021/PN Kdi concerning nickel mining without a valid Mining Business License (IUP), received only seven months' imprisonment and a fine of one billion rupiah, far below the maximum threat of ten years' imprisonment and a fine of Rp10,000,000,000.00 under the mineral and coal mining provisions (Ramandana, 2024; Law No. 3 of 2020).

These patterns illustrate what green criminology terms selective enforcement: a tendency of the legal system to punish small-scale, individually identifiable offenders decisively, while large-scale corporate crime that causes far more significant ecological damage remains difficult for criminal law to reach (White, 2008: 88). This gap is consistent with Wijaya and Dzaki's comparative finding that Indonesia's corporate-attribution doctrine still lags behind jurisdictions with clearer organizational-fault standards, leaving genuine victims of environmental crime (communities and ecosystems alike) without redress proportionate to the scale of harm corporate offenders cause (Wijaya & Dzaki, 2023).

Sanction Effectiveness and the Enforcement Gap in Environmental Judgments

The problem does not end once a verdict is handed down; it continues into the execution stage. Widyawati and colleagues, in a comparative study with Germany, Brazil, and the United States, concluded that the principal weak point in Indonesian environmental law enforcement occurs precisely after judgment, because fines, additional penalties, corporate compliance orders, and environmental recovery measures are frequently not effectively carried out in practice, owing to regulatory disharmony, overlapping institutional authority, and unclear procedures (Widyawati et al., 2026). This finding is echoed in the illegal gold-mining case examined by Tustinaningsih and Akhmaddhian, who highlight weak supervision, limited resources, and poor inter-agency coordination as factors that impede enforcement effectiveness even after a criminal verdict has been handed down (Tustinaningsih & Akhmaddhian, 2025).

Table 1. Examples of Court Decisions on Environmental Crime in Indonesia (2020-2025)

No	Decision / Case	Type of Violation	Legal Basis	Sanction
1	Lhokseumawe District Court Decision No. 163/Pid.B/LH/2021/	Illegal mining (unlicensed topsoil excavation)	Law No. 3/2020 jo. Law No. 4/2009	4 months' imprisonment, fine of Rp1,500,000.00

	PN.Lsm			
2	Watampone District Court Decision No. 249/Pid.B/LH/2023/PN Wtp	Illegal logging in a limited production forest area	Forestry / P3H Law	Fine of Rp2,500,000.00, no imprisonment
3	Kendari District Court Decision No. 296/Pid.Sus/2021/P N Kdi	Nickel mining without a Mining Business License (IUP)	Law No. 3/2020 jo. Law No. 4/2009	7 months' imprisonment, fine of Rp1,000,000,000.00
4	Mbojo District Court Decision No. 16/Pid.Sus/2024/PN Mbo	Illegal gold mining without a permit	Article 158, Law No. 3/2020	Imprisonment and fine per the verdict
5	Surabaya District Court Decision No. 20/Pdt.G/LH/2024/P N Sby	Industrial textile pollution (civil route)	Article 87(1), Law No. 32/2009	Damages of Rp48,030,291,929.00

Source: compiled from Putriani, Nur, and Tasyukur (2025); Dzalim, Mading, and Zubaidah (2024); Ramandana (2024); Tustinaningsih and Akhmaddhian (2025); and Liputan6.com (2024).

As Table 1 shows, the range of sanctions in Indonesian environmental criminal judicial practice between 2020 and 2025 reveals a stark disparity: both between the maximum statutory threat and the sentence actually imposed, and between the criminal route and the civil/administrative route taken against corporate offenders. This disparity confirms Lubis and colleagues' argument that Indonesian environmental law enforcement still faces a fundamental clash between economic interest and ecological justice, in which growth and investment considerations are frequently prioritized, weakening the political commitment needed to enforce sanctions consistently (Lubis et al., 2026).

Amid this gap, restorative justice is often proposed as a more recovery-oriented alternative for resolving environmental offenses, and Arqon, Putri HS, and Rekmya's three-stage attribution model offers one constructive path in that direction by tying sanction calibration to a proven organizational fault rather than to blanket criminal or administrative treatment (Arqon, Putri HS, & Rekmya, 2026), so that a restorative framework originally designed for conventional crime requires substantial adaptation before it can be applied adequately in the environmental context (Pardede & Santoso, 2022). From a green criminology perspective, this caution matters: restorative justice

should not become a shortcut for corporations to evade the criminal accountability they properly owe.

Green Criminology as a Basis for Reconstructing Environmental Criminal Law Policy

Building on the findings above, Indonesia's post-Job Creation Law environmental criminal law policy does not yet fully reflect green criminology principles, whether in recognizing ecological harm as a standalone legal interest (ecological justice) or in holding corporations accountable for harm structurally facilitated by state policy (state-corporate crime) (Lynch & Stretesky, 2014; White, 2008). Policy reconstruction should ideally strengthen criminal law's function as a genuine deterrent (*primum remedium*), specifically for corporate violations that cause serious and repeated ecological harm, without abandoning administrative sanctions for minor technical violations (Rahmadi, 2019: 210).

This strengthening needs to be underpinned by better institutional coordination among the Ministry of Environment and Forestry, the police, the prosecution service, and the courts, particularly at the execution stage, given that the principal weak point occurs precisely after judgment, as Widyawati and colleagues found (Hamzah, 2005: 96). The consistent application of strict liability, as reflected in the civil suit the Ministry of Environment and Forestry brought against the textile corporation in Pasuruan, should also be replicated in the criminal sphere, particularly for corporations that repeatedly commit similar violations (Widyawati et al., 2026).

The central argument here is that the weakness of Indonesia's environmental criminal law is not merely a technical-normative problem, but a paradigmatic one: so long as the law continues to treat ecological harm as an externality that can be compensated administratively, as the Job Creation Law's tendency suggests, the function of criminal law as an instrument for deterring corporate environmental crime will remain subordinate to economic interest (Ilham, 2025).

CONCLUSION

Based on the research and discussion above, Indonesia's environmental criminal law policy remains built on an anthropocentric paradigm that places economic interest and state administrative convenience above ecological interest itself. The changes brought by the Job Creation Law, particularly the removal of criminal sanction for unlicensed hazardous and toxic waste management under Article 102 of the EPML and its replacement with administrative sanction alone, have weakened criminal law's deterrent effect on corporations, consistent with green criminology's concept of state-corporate crime, which views such deregulation as a form of state-facilitated ecological harm. The construction of corporate criminal liability, although normatively confirmed through Articles 45 to 47 of Law Number 1 of 2023 on the National Criminal Code, still faces structural obstacles in practice: corporate organizational complexity, weak institutional coordination, and a tendency toward selective enforcement that catches small individual offenders far more often than large corporations, as shown by the court decisions from 2020 to 2025 examined in this research. This gap is compounded by weak post-judgment

execution, so that sanctions imposed by courts do not always translate into genuine environmental recovery. The green criminology perspective therefore makes clear that strengthening Indonesia's environmental criminal law cannot be achieved through normative amendment alone; it requires a paradigmatic reorientation that recognizes ecological harm as a standalone legal interest and that consistently strengthens corporate accountability, both at the prosecution stage and at the stage of judgment execution.

RECOMMENDATION

Based on this conclusion, the research offers several policy recommendations. First, the legislature should revisit the provisions of Law Number 6 of 2023 that converted certain criminal sanctions under the EPML into administrative ones, selectively reinstating criminal threat for B3 waste violations that are repeated or that cause serious ecological harm, so that the ultimum remedium principle does not become a shield allowing corporations to escape criminal accountability. Second, law enforcement officers (environmental civil servant investigators, police, and prosecutors alike) should strengthen their investigative capacity to reach corporate decision-makers, in line with the corporate criminal liability framework in Articles 45 to 47 of Law Number 1 of 2023 on the National Criminal Code, rather than prosecuting only field-level operators. Third, the Supreme Court and related institutions should build an integrated, cross-ministerial mechanism for monitoring the execution of environmental judgments, given that the principal weak point in Indonesian environmental law enforcement occurs at the post-judgment stage. Fourth, the application of restorative justice in environmental criminal cases should be strictly limited to small-scale violations committed in good faith, and should not be applied indiscriminately to large corporations that might exploit it as a shortcut around criminal accountability. Fifth, environmental criminal law policy going forward should explicitly adopt green criminology principles, including recognition of ecological justice and species justice, as a philosophical foundation for every future formulation or revision of environmental legislation.

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