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## The Dilemma of Administrative Sanctions in Legalizing Palm Oil Plantations in Indonesian Forest Areas

### Article

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### Abstract

Indonesia's shift from criminal to administrative sanctions in addressing illegal use of forest areas—stipulated under Articles 110A and 110B of Law No. 6 of 2023—aims to legalize approximately 3.3 million hectares of unlicensed oil palm plantations. This study evaluates the effectiveness of administrative sanctions in promoting legal compliance and environmental accountability. Employing a normative legal research method with a descriptive qualitative approach, the study examines statutory frameworks, case studies, and empirical data from the Ministry of Environment and Forestry (MoEF). Findings reveal that while administrative sanctions offer expedited enforcement and reduce judicial burdens, they risk becoming legal loopholes exploited by corporations. The limited number of sanctioned companies—only 49—and the total fines of IDR 175.5 billion are disproportionately low relative to the scale of ecological damage. Nevertheless, the research highlights the potential of a hybrid enforcement model—integrating administrative, criminal, and civil legal instruments—to enhance compliance and ecological justice. It underscores the urgency of robust oversight and the application of criminal sanctions in severe cases to uphold the constitutional right to a healthy environment.

**Keywords:** *Administrative sanctions; forest area; illegal.*

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## INTRODUCTION

Forests are crucial ecological assets that provide a wide range of environmental, social, and economic benefits. In Indonesia, forest protection is not only a matter of environmental conservation but also a constitutional obligation. Previous studies have highlighted significant challenges in enforcing environmental constitutional rights, including weak law enforcement, poor inter-agency coordination, and tensions between economic development and environmental

preservation<sup>1</sup>. The expansion of palm oil plantations has also emerged as a major driver of deforestation, often facilitated by legal loopholes and weak governance structures. However, much of the existing research focuses on sectoral policy conflicts or national-level enforcement, overlooking the deeper constitutional and legal dimensions of forest protection within Indonesia's decentralized governance framework. This study aims to address that gap by exploring how constitutional obligations are interpreted and implemented at both the central and local government levels. It argues that weak enforcement mechanisms and competing economic interests—particularly the palm oil industry—continue to undermine legal protections for forest areas.

The law provides legal guarantees for forests as a basis for the government to carry out its duties and responsibilities. Good forest governance cannot be separated from the principles of transparency, participation, accountability, and coordination that make forest and land management aimed at and must be utilised by the public to create welfare. Arrangements regarding forest management are conducted both internationally and nationally. From an international perspective, starting with the Sustainable Development Meeting as a result of the Earth Summit in Rio de Janeiro in 1992, which is contained in *Forest Principle 19*, which contains directions for the holistic development of forest resources for all elements of the ecosystem for sustainability.<sup>2</sup>

In Law Number 5 of 1960, there are several types of forests in Indonesia<sup>3</sup>. However, forest land in Indonesia is often the target of illegal use, especially for large-scale industrial activities such as palm oil plantations, so the aspect of law enforcement that must receive special and maximum attention is forest destruction.<sup>4</sup> In Indonesia, palm oil is used as biofuel within the country, although the policy regulating its use was first introduced in 2015 through the Regulation of the Ministry of Energy and Mineral Resources Number 12, which aims for a 20% blend (B20) for transportation and industry.<sup>5</sup> The growth of the palm oil plantation business is increasing alongside the demand for processed palm oil products in the business sector, which positively contributes to the advancement of the country's economy.<sup>6</sup>

If the forest area continues to decrease, it could lead to the extinction of various species, which in turn triggers an increase in greenhouse gases. Recent research has highlighted the issue of global warming, showing that Indonesia is one of the main contributors to climate change and is vulnerable to its impacts. Indonesia is the third-largest carbon emitter in the world, with a total of 2,563 MtCO<sub>2e</sub>, after the United States and China. High emissions have serious consequences, including an increase in average temperatures of about 0.3 degrees Celsius since 1990, and an

<sup>1</sup> Aris Susanto, Sapto Baralaska, and Aan Jaelani, 'Constitutional Rights and Environmental Protection in Indonesia from a Legal and Policy Perspective', *Jurnal Legisici*, 2.2 (2024), pp. 121–29, doi:10.62885/legisici.v2i2.484.

<sup>2</sup> Clearestha Nakita and Fatma Ulfatun Najicha, "Pengaruh Deforestasi Dan Upaya Menjaga Kelestarian Hutan Di Indonesia," *Ius Civile: Refleksi Penegakan Hukum Dan Keadilan* 6, no. 1 (2022): 92–103, p. 96, <https://doi.org/10.35308/jic.v6i1.4656>.

<sup>3</sup> Taufik Yahya and Fauzi Syam, 'Rethinking the Role of Indigenous Law Community in Managing Indigenous Forest in Jambi Province', *Jambe Law Journal*, 1.1 (2018), pp. 35–54, doi:10.22437/jlj.1.1.35-54.

<sup>4</sup> Anika Ni'matun Nisa, "Penegakan Hukum Terhadap Permasalahan Lingkungan Hidup Untuk Mewujudkan Pembangunan Berkelanjutan (Studi Kasus Kebakaran Hutan Di Indonesia)," *Jurnal Bina Mulia Hukum* 4, no. 2 (2020): 294–312, p. 300, <https://doi.org/10.23920/jbmh.v4i2.337>.

<sup>5</sup> Prisca Listiningrum and others, 'Juridical Analysis of Policy Concerning Oil Palm Estate Management in Indonesia', *Legality: Jurnal Ilmiah Hukum*, 29.1 (2021), pp. 16–26, doi:10.22219/ljih.v29i1.14376.

<sup>6</sup> Jamaluddin and others, 'Empowering Local Workers To Resolve Social Conflicts In West Aceh District's Palm Oil Sector', *Jurnal IUS Kajian Hukum Dan Keadilan*, 13.1 (2021), pp. 153–168, doi:<https://doi.org/10.29303/ius.v13i1.1637>.

increase in annual rainfall intensity of 2 to 3 per cent, which significantly increases the risk of flooding. Threats to food security due to climate change. Sea level rise can submerge productive areas in coastal areas, affecting the lives of coastal communities. Seawater warming has an impact on marine ecosystems, including coral reefs, and the presence of infectious diseases such as malaria and dengue fever is increasing.<sup>7</sup>

The core legal problem underlying this study is the shift in the Indonesian government's enforcement approach from criminal to administrative sanctions in response to the illegal use of forest areas, particularly by the palm oil industry. This raises questions about the consistency of environmental law enforcement, the potential for regulatory loopholes, and the capacity of administrative sanctions to provide a sufficient deterrent and promote ecological justice.

The government issued Law No. 18 of 2013 concerning the Prevention and Eradication of Forest Destruction. The application of Law 18/2013 can be seen in one of the cases of PT Kalista Alam, which was prosecuted by the government and found guilty by the Meulaboh District Court for burning peat forests in the Rawa Tripa. PT Kallista Alam was sentenced to pay compensation and land restoration costs of IDR 366 billion. The verdict stipulates that the defendant will be responsible for environmental restoration at a cost of Rp251,765,250,000, and the defendant must also pay economic damages of Rp114,303,419,000 as well as damages and case costs.<sup>8</sup> PT Kallista Alam filed various legal remedies, including reviews, to avoid the obligation to pay compensation and environmental restoration costs. However, these efforts did not yield results because the Meulaboh District Court granted PT Kallista Alam's request to postpone the execution of the decision, which until now has not been implemented. In the settlement of environmental disputes, both the civil and criminal realms, it takes a long time to decide with a permanent legal force. This condition delays the environmental restoration process, although environmental damage or pollution requires immediate remedial action to avoid a more severe impact.<sup>9</sup>

Even though ecological ethics, according to Leopold,<sup>10</sup> humans should be ethical towards the environment, soil, and other living things that can feel pain and everything that exists or lives in nature. The principle of realizing the existence of an environment that must be maintained is one of the demands of the theory that must be applied, namely apocentrism, in which every subject of law must fulfill the right to the environment.<sup>11</sup> WALHI<sup>12</sup> Emphasised that the conversion of forest

<sup>7</sup> Herpita Wahyuni and Suranto Suranto, "Dampak Deforestasi Hutan Skala Besar Terhadap Pemanasan Global Di Indonesia," *Jiip: Jurnal Ilmiah Ilmu Pemerintahan* 6, no. 1 (2021): 148–62, p. 153, <https://doi.org/10.14710/jiip.v6i1.10083>.

<sup>8</sup> Lisa Ikhsana and Nabilla Alya Rahmah, "Civil Lawsuit Cases of Forest and Land Fires PT Kalista Alam (Study of Meulaboh District Court Decision Number 12/PDT.G/2012/PN.MBO)," *Jurnal Scientia Indonesia* 7, no. 2 (2021): 185–200, p. 192, <https://doi.org/10.15294/jsi.v7i2.36152>.

<sup>9</sup> Muhammad Mutawalli Mukhlis, Maskun Maskun, and others, 'Regional Autonomy System: Delegation of Authority and Power of Regional Government in Indonesia in the Study of Fiqh Siyasa', *Al-Istinbath: Jurnal Hukum Islam*, 9.2 (2024), pp. 505–26, doi:10.29240/JHI.V9I2.9709.

<sup>10</sup> Priyaji Agung Pambudi et al., "Etika Tanah Aldo Leopold: Telaah Moral Atas Eksploitasi Dan Kewajiban Reklamasi Tambang Batu Bara," *Jurnal Ekologi, Masyarakat Dan Sains* 3, no. 2 (2022): 37–44, p. 39, <https://doi.org/10.55448/ems.v3i2.56>.

<sup>11</sup> Risno Tampilang, "Dualisme Ekosentrisme Dan Antroposentrisme: Sebuah Implikasi Teologis Kejadian 1-3 Dan Respon Terhadap Gerakan Ekofeminis Dalam Melihat Tindakan Eksploitasi Lingkungan," *Mello: Jurnal Mahasiswa Kristen* 4, no. 2 (2023): 18–36, p. 25, <https://ejournal-iakn-manado.ac.id/index.php/mello/article/view/1671>.

<sup>12</sup> Siska Adhariani and Afrizal, "Kelapa Sawit Dan Bencana Alam: Makna Sosiologis Diskursus Dampak Ekologis Ekspansi Sawit," *Society* 9, no. 1 (2021): 40–57, p. 44, <https://doi.org/10.33019/society.v9i1.286>.

lands into plantations has led to biodiversity loss and water pollution. These findings are supported by the ecocentric theory of Leopold, which advocates ethical responsibility towards nature. Such theoretical foundations justify a legal system that ensures environmental accountability not only through punitive means but also through restorative justice mechanisms. Obidzinski et al. highlighted that large-scale oil palm plantations have significantly contributed to deforestation and carbon emissions in Indonesia, so it is necessary to see the current law enforcement of forest area release in Indonesia.<sup>13</sup>

Based on these obstacles, the government issued a policy of Law Number 6 of 2023 concerning the Stipulation of Government Regulations instead of Law Number 2 of 2022 concerning Job Creation and its derivative regulations that prioritise the enforcement of administrative sanctions over criminal sanctions, as contained in Articles 110 A and 110 B. This implementation will be carried out by the government on 3.3 million hectares of palm oil plantations located in forest areas that will be legalised or whitened. The purpose of this shift should return to the nation's ideals. Considering the state's responsibility to the Indonesian nation as stated in Article 28 H Paragraph 1 of the 1945 Constitution of the Republic of Indonesia which states that everyone has the right to live a prosperous life in birth and mind, to live, and to get a good and healthy living environment and the right to receive health services.

This study aims to examine the effectiveness of administrative sanctions in restoring corporate compliance and ensuring environmental protection in Indonesia. It focuses on whether these sanctions can serve as a deterrent to environmental violations and support the state's duty under Article 28H of the 1945 Constitution to guarantee a healthy environment. By analysing the implementation of administrative sanctions after Law No. 6/2023, this research seeks to identify their role in promoting legal compliance, especially in cases involving the use of forest areas without permits.

## RESEARCH METHODS

This research employs a normative legal approach, integrating theoretical, legal, and regulatory perspectives to provide a comprehensive understanding of legislative changes and legal responsibilities related to environmental protection. The study primarily analyses legal norms and regulatory frameworks through descriptive-qualitative methods. Primary legal sources include relevant statutes, regulations, and judicial decisions, while secondary legal sources comprise scholarly literature, such as books, peer-reviewed journals, and official reports. The selection of sources is based on their relevance, credibility, and authority in the field of environmental and administrative law. The interpretative process involves systematic reading, comparison, and normative analysis of legal texts to identify principles, coherence, and legal implications. This method allows for an in-depth examination of how legal norms evolve and interact within the regulatory framework governing palm oil legalization.

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<sup>13</sup> Franklin Oniamba Mundala and others, 'Enhancing Water Cooperation in Africa: The Role and Challenges of International Law in Managing Transboundary Resources', *Syariah: Jurnal Hukum Dan Pemikiran*, 24.2 (2024), pp. 333–58.

## ANALYSIS AND DISCUSSION

Environmental problems in Indonesia are escalating, raising concerns over the state's commitment to fulfilling citizens' environmental rights as guaranteed in Article 28H paragraph (1) of the 1945 Constitution. Referring to the right to the environment, these are part of human rights. The fulfilment of environmental rights is still a problem, even though juridically, environmental rights have been regulated quite well in Indonesia. At the constitutional level, namely the 1945 Constitution, this right is listed in Article 28H paragraph (1), which is mentioned using the phrase “good and healthy living environment”. The relationship between the two will also be visible when placed within the framework of other human rights, such as the right to life and the right to health.<sup>14</sup>

Violations of environmental rights by corporations occur through various forms of activities that cause environmental damage<sup>15</sup>, such as burning forests and land, destructively clearing land, and disposing of waste that pollutes the environment and so on. In 2011, the United Nations Human Rights Council (UNHRC) ratified the United Nations Guiding Principles on Business and Human Rights (UNGPs). The UNGPs instrument carries three main pillars to present the commitment of the state and corporations/companies in dealing with the impact of human rights arising from business activities. The three pillars of UNGPs are, first, the state's obligation to protect, respect, and fulfill human rights and basic freedoms; second, the role of business companies as special organs of society that perform special functions, so that they must follow applicable regulations and respect human rights; and third, the need for rights and obligations that are by a proper and effective remedy when violated.

The Job Creation Law (Law No. 6/2023) revised various regulations to simplify procedures and improve investment, but it has been criticised for weakening environmental enforcement. However, with the issuance of Law No. 6/2023, which is an Omnibus Law on Job Creation, regulations have been simplified by revising and repealing several laws at once. This step aims to overcome the problem of overlapping regulations and the phenomenon of over-regulation. The Job Creation Law aims to create jobs. In this regard, the Job Creation Law emphasises the importance of adjusting rules to simplify, protect, and empower MSMEs; improve the investment ecosystem, accelerate national projects, and improve worker protection and welfare.<sup>16</sup> However, many argue that the Job Creation Law has several provisions with the potential to threaten environmental sustainability.<sup>17</sup> After the issuance of the Job Creation Law, regulations were considered to be more focused on the economic aspect and tended to weaken environmental law enforcement efforts.<sup>18</sup> Looking at

<sup>14</sup> Sodikin Sodikin Sodikin, “Perumusan Hak Atas Lingkungan Hidup Yang Baik Dan Sehat Dalam Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Serta Upaya Perlindungan Dan Pemenuhannya,” *Supremasi: Jurnal Hukum* 3, no. 2 (2021): 106–25, p. 111, <https://doi.org/10.36441/supremasi.v3i2.207>.

<sup>15</sup> M. Wildan Humaidi, Hariyanto Hariyanto, and Mabarroh Azizah, ‘Green Philanthropy: Islamic Activism on Indonesia’s Environmental Democracy’, *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan*, 24.2 (2024), pp. 167–91, doi:10.18326/ijtihad.v24i2.167-191.alms, and waqf, Islam is constructed as a philanthropic religion. The practice of philanthropy has been institutionalised as a religious social institution through the institution of *amil zakat*, *infaq*, and *sedekah* (LAZIS)

<sup>16</sup> Siti Kunarti and others, ‘The Legal Politics of Outsourcing and Its Implication for the Protection of Workers in Indonesia’, *Sriwijaya Law Review*, 8.1 (2024), p. 1, doi:10.28946/slrev.Vol8.Iss1.2750.pp1-19.

<sup>17</sup> Hario Danang and Ega Ramadayanti, “Menilai Kembali Politik Hukum Perlindungan Lingkungan Dalam Undang-Undang Cipta Kerja Untuk Mendukung Keberlanjutan Ekologis,” *Jurnal Hukum Lingkungan Indonesia* 7, no. 2 (2021), p. 298, <https://doi.org/10.38011/jhli.v7i2.313>.

<sup>18</sup> Prahesti Sekar Kumandhani, “Penegakan Hukum Lingkungan Hidup Oleh Pemerintah Daerah Dalam Kerangka Otonomi Daerah,” *Dharmasiasya: Jurnal Program Magister Hukum FHUI* 2, no. 3 (2022): 1441–56, p. 1453,

the analysis from FWI and GFW, Indonesia's forest cover has decreased by approximately 40% over the last 50 years. Much of this deforestation is caused by political and economic systems that view forest resources as a source of income that can be exploited for political and personal gain.<sup>19</sup> Therefore, it is necessary to examine how the government will implement administrative sanctions to suppress corporate compliance and save the environment by restoring the function of administrative sanctions enforcement.

The fulfilment of environmental rights in the framework of environmental justice is seen in Robert Kuehn's taxonomy of environmental justice.<sup>20</sup> On corrective justice which is associated with the enforcement of administrative sanctions against the illegal or unlicensed use of forest areas. Environmental justice as corrective justice is a form of justice that emphasizes the provision of sanctions, imposition of restoration obligations, or obligation to compensate those who cause losses to other parties.

The Indonesian government chose to prioritise administrative sanctions and not impose criminal sanctions on the legalization process of palm oil covering an area of 3.3 million hectares. This is a question of why the government chooses to impose administrative sanctions on every corporation that has built activities in forest areas without a permit. The enforcement of administrative sanctions against the illegal use of forested areas in the Job Creation Law is directed at prioritising compliance, environmental restoration, and administrative dispute resolution. The government's strategy was to provide opportunities for business actors to correct their mistakes through fines and land restoration. Enforcing administrative sanctions on 3.3 million hectares of problematic palm oil plantations can be considered more efficient in certain contexts, but their effectiveness depends on the sanctions.<sup>21</sup>

Articles 110 A and 110 B of Law Number 6 of 2023 concerning the Stipulation of Government Regulations instead of Law Number 2 of 2022 concerning Job Creation and its derivative rules that eliminate criminal sanctions and only apply administrative sanctions.

## Article 110A

1. Every Person who carries out business activities that have been established and has a Business License in the Forest Area before the enactment of this Law, who has not met the requirements by the provisions of laws and regulations in the forestry sector, must complete the requirements no later than November 2, 2023.
2. If every person who carries out business activities that have been built and has a Business License in the Forest Area does not complete the requirements within the period as intended in paragraph (1), they are subject to administrative sanctions in the form of:

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<https://scholarhub.ui.ac.id/dharmasisya/vol2/iss3/30>.

<sup>19</sup> S N Asih et al., "Ekspansi Perkebunan Kelapa Sawit Di Kawasan Hutan Indonesia Dan Potensi Konflik Hukum Pasca Penetapan Undang-Undang Cipta Kerja," *Istinbath* 20, no. 1 (2023), p. 61, <https://doi.org/10.32332/istinbath.v20i01.6392>.

<sup>20</sup> Muhamad Agil Aufa Afinnas, "Telaah Taksonomi Keadilan Lingkungan Dalam Pemenuhan Hak Atas Lingkungan," in *Prosiding Seminar Hukum Aktual Fakultas Hukum Universitas Islam Indonesia*, vol. 1, 2023, 47–61, p. 48.

<sup>21</sup> Muhammad Mutawalli Mukhlis, Georges Olemanu Lohalo, and others, 'Strengthening Presidential Institutions in Indonesia: A Policy Analysis for Governance Reform', *Al-Adalah: Jurnal Hukum Dan Politik Islam*, 10.1 (2025), pp. 24–43, doi:10.30863/AJMPI.V10I1.7571.

- a. Payment of administrative fines; and/or
  - b. Revocation of Business License.
3. Further provisions regarding the procedures for imposing administrative sanctions and procedures for non-tax state revenue derived from administrative fines as intended in paragraph (2) are regulated in Government Regulations.

### **Article 110B**

1. Any Person who commits a violation as intended in Article 17 paragraph (1) letter b, letter c, and/or letter e, and/or Article 17 paragraph (2) letter b, letter c, and/or letter e, or other activities in the Forest Area without having a Business License carried out before November 2, 2020 shall be subject to administrative sanctions,
  - a. temporary suspension of business activities;
  - b. payment of administrative fines; and/or
  - c. Government coercion.
2. If the violation as intended in paragraph (1) is committed by an individual residing in and/or around the Forest Area for at least 5 (five) years continuously with an area of at most 5 (five) hectares, it shall be exempted from administrative sanctions and resolved through the arrangement of the Forest Area.
3. Further provisions regarding the procedures for the imposition of administrative sanctions and procedures for non-tax state revenue derived from administrative fines, as intended in paragraph (1), are regulated in Government Regulations.

In 2023, the Ministry of Environment and Forestry reported that several companies complied with administrative sanctions and paid related fines, reflecting the partial effectiveness of the new regulatory framework. The amounts of PSDH and/or DR were calculated based on the area built and the potential of the stand listed in SK.661/MENLHK/SETJEN/KUM.1/6/2023. As for the sanction of administrative fines, 49 companies have been subject to administrative fines by Article 110B, with an IDR value of 175.5 billion that has been paid by eight companies.<sup>22</sup> The amount of administrative fines is calculated based on the extent of forest area violations, the duration of forest area violations and the fine rate from the percentage of profits/year listed in SK.815/MENLHK/SETJEN. KUM.1/7/2023.

In addition, there is a decree issued by the Ministry of Environment and Forestry which is intended for one corporation that does not obey or comply with administrative fines, so that it is given compulsory government sanctions. The government issued SK.37/MENLHK-PHLHK/PPSALHK/GKM.0/1/2023 regarding the application of coercive administrative sanctions to PT Ledo Lestari. This meaning gives the impression of a response to business actors who do not pay administrative fines, so government coercion is used as a sanction to encourage the execution of other sanctions.<sup>23</sup>

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<sup>22</sup> Riani Sanusi Putri, 'Pemutihan Lahan Sawit Ilegal Dipercepat, Target Rampung September 2024', *Tempo.Co*, 2024.

<sup>23</sup> Grita W Anindarini, "Setelah UU Cipta Kerja: Menelaah Efektivitas Sanksi Administratif Lingkungan Hidup," *Jakarta: Indonesian Center For Environmental Law*, 2020, p. 8.

Administrative sanctions are legal instruments that aim to quickly and effectively crack down on violations of environmental regulations without going through a court process that requires a long duration. The enforcement of these sanctions includes various actions, such as written warnings, freezing or revoking permits, and the imposition of administrative fines. The urgency lies in its ability to be, as follows:

1. It provides a deterrent effect by imposing strict sanctions that can deter other corporations from similar actions.
2. Encouraging corporate responsibility with actors is required to take concrete steps in repairing environmental damage.
3. Accelerating environmental recovery with administrative sanctions allows for a quick response to mitigate the impact of environmental damage.

Regarding other perspectives, the government, which focuses on enforcing administrative sanctions related to permits, makes the district attorney's office take the initiative to supervise and monitor palm oil corporations that have been operating for decades, because the prosecutor's office believes that there is a high possibility of criminal acts occurring. One of the cases that describes development activities in forest areas that are not licensed and hurt the state and the environment is the case of Surya Darmadi as the owner of PT Duta Palma Group related to the corruption case of an unlicensed oil palm plantation business in Riau Province in the 2004-2022 period which has received a cassation decision by the Supreme Court. The defendant is subject to Article 2 paragraph (1) *juncto* with Article 18 of RI Law Number 20 of 2001 concerning Amendments to RI Law Number 31 of 1999 concerning the Eradication of Corruption *Crimes juncto* Article 55 paragraph (1) 1 of the Criminal Code, which states that every person who unlawfully commits an act of enriching himself or another person or a corporation that can harm the state finances or the country's economy, sentenced to life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine of at least Rp. 200,000,000.00 (200 million rupiah), and a maximum of Rp. 1,000,000,000.00 (one billion rupiah).<sup>24</sup>

Second, the judge considered that the element of “committing an act of enriching oneself or another person or a corporation” was also proven. For 20 years, the defendant Surya Darmadi Company obtained illegal profits of Rp2,238,274,248,234 (two trillion two hundred and thirty-eight billion two hundred and thirty -four million two hundred and forty-eight thousand two hundred and thirty-four rupiah).<sup>25</sup> Third, the judge considered that the element of “harming the state finances or the state economy” had been proven based on evidence and the fact that the defendant Surya Darmadi had never carried out his responsibility in making payments to pay the Violation Fine. Forest Exploitation, Reforestation Funds, Forest Area Use, Forest Resource Provision, and Environmental Restoration Costs, so the state suffered a loss of Rp4,798,706,951,640.00. The defendant carried out an oil palm business in five subsidiaries, namely PT BBU, PT PAL, PT KAT, PT PS, and PT SS, illegally, resulting in environmental damage in the forest area. The country

<sup>24</sup> Rifdah Muflihah and Tri Salwa Nur Eida, “Analisis Yuridis Terhadap Penyerobotan Lahan Negara Yang Digunakan Sebagai Kebun Sawit Oleh Pihak Swasta Di Riau,” *Multilingual: Journal of Universal Studies* 4, no. 1 (2024): 274–88, p. 283, <https://ejournal.penerbitjurnal.com/index.php/multilingual/article/view/764>.

<sup>25</sup> Santi Pratama Angraini and others, ‘Menganalisis Kasus Korupsi: Surya Darmadi Diduga Terjerat Kasus Korupsi Penguasaan Lahan Sawit Terbesar’, *Causa: Jurnal Hukum Dan Kewarganegaraan*, 1.1 (2023), pp. 22–32, doi:10.3783/causa.v1i1.605.

suffers environmental losses due to recovery in restoring and reactivating the functions of the lost debt area.<sup>26</sup>

Four of the companies, listed in the Decree (MenLHK) Phase II, are included in the scheme of disclosure and whitening based on these two articles, which are cheaper than formal permit management. Surya Darmadi is included in Articles 110 A and 110 B because of the principle of legality contained in them. However, the prosecutor refused and only considered it as an attempt to whitewash, so Surya Darmadi was subject to criminal sanctions for illegal acts and land holding. The licensing problem in Indonesia is not only limited to this case, but also includes a complicated, expensive, and less transparent licensing bureaucracy, which often poses a risk of corruption, with bribes and gratuities often occurring to facilitate the issuance of permits without proper procedures.<sup>27</sup>

A prosecutor's concern is that the use of natural resources is often wrapped in cases of corruption, money laundering, smuggling, tax evasion, fraud, and violence.<sup>28</sup> According to data released by the Agrarian Reform Consortium/KPA in 2016, the plantation sector (including palm oil) still accounts for the three largest causes of horizontal and vertical conflicts. Both conflicts between residents who refuse and accept the entry of palm oil plantations and clashes that occur between the community and government officials due to the oil palm plantation licensing system. The expansion of palm oil is often carried out by *land grabbing*.<sup>29</sup>

In addition, reinforced by the findings of Transparency International Indonesia (TI-Indonesia),<sup>30</sup> Which is part of a global network of anti-corruption NGOs, only 26 out of 50 palm oil companies gave firm answers regarding their commitment to anti-corruption. Articles 110A and 110B created loopholes in the licensing system that allow the entry of undetected criminal acts. If this is not examined through the criminal approach of corruption and crimes related to pollution or environmental damage, and is only seen as an administrative violation, then the criminal acts committed by the corporation will be hidden, even though these actions are detrimental to the environment, society, and the state.<sup>31</sup> In its concept, ideal environmental law enforcement includes several elements, namely environmental law supervision, inspection, violation detection, environmental damage recovery, and action against violators.<sup>32</sup>

Based on this handling, corporations have the potential to get a deterrent effect many times, namely the provision of administrative sanctions for illegal actions in forest areas and criminal

<sup>26</sup> Anggraini and others.

<sup>27</sup> Mutiara Natalia Nikita Rogi, 'Penegakan Hukum Terhadap Perizinan Kawasan Hutan Lindung Danau Linouw Resort Di Kota Tomohon', *Lex Privatum*, 14.3 (2024).

<sup>28</sup> Felix Aglen Ndaru, "Limitasi Tindak Pidana Di Bidang Sumber Daya Alam Sebagai Tindak Pidana Asal Pencucian Uang Di Indonesia," *Jurnal Hukum Lingkungan Indonesia* 9, no. 2 (2023): 239–78, p. 241, <https://doi.org/10.38011/jhli.v9i2.532>.

<sup>29</sup> Mohammad Hasan Muazis, "Sengkarut Dan Ketumpulan Regulasi Penyelesaian Sawit Rakyat Dalam Kawasan Hutan," *Indonesian State Law Review (ISLRev)* 3, no. 1 (2020): 23–38, p. 27, <https://doi.org/10.15294/islrev.v3i1.48951>.

<sup>30</sup> A Bellicia and Ferdian Yazid, "Transparency In Corporate Reporting: Penilaian 50 Perusahaan Sawit Di Indonesia," *Report Paper*, 2023, p. 22, <https://transparansi.id/books/transparency-in-corporate-reporting-penilaian-50-perusahaan-sawit-di-indonesia/>.

<sup>31</sup> H Hariyanto, 'OFFICIAL RESPONSIBILITY AND PERSONAL RESPONSIBILITY IN THE CONTEXT OF STATE FINANCIAL LOSS', *Jurnal Dinamika Hukum*, 18.1 (2018), pp. 103–8, doi:10.20884/1.JDH.2018.18.1.1861.

<sup>32</sup> Sanggup Leonard Agustian, Fajar Sugianto, and Tomy Michael, 'Memidanakan Korporasi Dalam Kejahatan Lingkungan Hidup', *Rechtsidee Journal*, 7 (2020), doi:10.21070/jhr.2020.7.697.

supervision from the prosecutor's office.<sup>33</sup> If the verdict from the case brought by the prosecutor's office is not implemented by the corporation against the environmental restoration fine, the state will not lose all because it can still receive compensation through administrative sanctions, as until 2023, several illegal palm oil companies have met reforestation costs and administrative fines. According to Faure, as quoted by Andri G Wibisana, if the court declares not guilty criminally, there is still a possibility of being subject to administrative sanctions, so Faure stated that administrative sanctions tend not to require much cost and provide a deterrent *effect* for violators.<sup>34</sup>

The enforcement of administrative sanctions provides an efficient avenue to crack down on corporations in the form of coercive compliance, long-term supervision and evaluation. To further strengthen the analysis, it is essential to incorporate a comparative legal perspective. In Brazil, for instance, environmental violations involving forest use are addressed through a mix of administrative penalties and license suspensions, emphasising preventive enforcement. In contrast, Malaysia applies a stricter criminal approach, especially in illegal land conversions, with clear penal consequences. This comparison demonstrates that Indonesia adopts a middle-ground strategy between bureaucratic efficiency and substantive enforcement. Understanding these international practices can enrich Indonesia's legal framework by offering insights into more balanced and effective enforcement models. Granting legality to palm oil corporations that previously operated illegally is often a controversial topic. However, this step can be an effective strategy for the government to strengthen the supervision of corporate activities, particularly in environmental protection and management. Legality is not just a formal recognition, but also an entry point to set compliance standards and ensure that corporations are held accountable for the impact they cause.<sup>35</sup>

The existence of permit instruments held by corporations can be easily monitored by the government, as stated in Article 12 of PP 24/2021 related to field supervisors in imposing administrative sanctions. The release of forest areas will certainly be assessed administratively and appropriately based on the requirements to obtain environmental permits, including the fulfilment of boundaries, and the completion of AMDAL or UKL-UPL, which is very important for reading the environmental and forest conditions for targeted development. The role of AMDAL as the basis for issuing environmental permits has an impact on the prevention of environmental damage and pollution. The function of AMDAL is to prevent environmental damage and pollution. The EIA is a document that underlies the birth of a feasible or unfeasible recommendation for a business plan submitted by businesspeople, and will be used as the basis for evaluating the burden of environmental responsibility, if the business has a large and important impact on the environment.<sup>36</sup>

<sup>33</sup> Muhammad Ishar Helmi and others, 'Effectiveness of Criminal Offense Law Regarding Illegal Levies: Reforming Social Organizations within the Indonesian Legal Framework', *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 2024, pp. 411–30, doi:10.24090/volksgeist.v7i2.10882.insufficient transparency in financial transactions, and weak enforcement measures against organizations engaging in extortion. Actions taken by these organizations, such as coercing traders for illegal levies or soliciting donations, constitute criminal offenses under Article 368, paragraph (1)

<sup>34</sup> Hilda Swandani Prastiti, 'Menakar Efektivitas Pendekatan Penataan (Compliance Approach) Dan Pendekatan Penjeraan (Deterrence Approach) Dalam Penegakan Hukum Lingkungan', *Tanjungpura Law Journal*, 6.1 (2022), pp. 1–13, doi:10.26418/tlj.v6i1.45403.

<sup>35</sup> Muhammad Mutawalli Mukhlis, Paul Atagamen Aidonojie, and others, 'Democratic State Governance: The Urgency of Implementing Conventions in Constitutional Practices in Indonesia', *Fenomena*, 23.1 (2024), pp. 1–14, doi:https://doi.org/10.35719/fenomena.v23i1.155.

<sup>36</sup> Fiona Sallsabillah, "Hukum Lingkungan Dari Perspektif Hukum Kegiatan Bisnis," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 1, no. 1 (2020): 104–15, p. 110, https://doi.org/10.38035/jihhp.v1i1.

Legal recognition enhances oversight, ensuring that corporations comply with environmental standards and submit to monitoring mechanisms. Therefore, with legality, the government considers the following:

1. Legality has legal controls that allow the government to establish operational terms and conditions by environmental standards.
2. Legality expands the scope of supervision; corporations that are already legal are required to submit to a structured supervision and reporting mechanism.
3. Closing the gap between illegal activities and legality minimises the opportunity for corporations to avoid responsibility for environmental impact.

Therefore, it can be concluded that the licensing law does not stop at policy rules only, but also at the consistency of its implementation and supervision. This is because environmental problems are not interpreted as something caused by economic activities or technological developments, but rather as a matter of policy problems that manifest in their behaviour and supervision. In this case, environmental licensing laws can lead to fatal decisions rather than environmental sustainability. Licensing laws regarding the environment can be a preventive measure (environmental pollution, destruction and damage to the environment) and a repressive effort (government action against business actors).<sup>37</sup>

These findings contribute significantly to the discourse in legal science, particularly in the realm of environmental law and regulatory studies. In the Indonesian context, this research highlights the legal tension between developmental objectives and ecological sustainability within the forest governance regime. Globally, it reflects broader issues faced by developing countries that seek to harmonise environmental protection with economic imperatives. As such, this study not only enriches academic understanding in Indonesia but also provides relevant insights for comparative environmental law in jurisdictions like Thailand, Brazil, and the Democratic Republic of the Congo.

Administrative sanctions are aimed at the violator, so that the violator's act is stopped. The nature of *reparatory* means restoration of the original state. Meanwhile, criminal sanctions are aimed at violators by punishing them in the form of *nestapa* or the nature of *punishing condemnatory* sanctions. The procedure in law enforcement is administrative sanctions without having to go through a judicial process (*noncontentious*), meaning that the administrative body with its public authority carries out enforcement actions, while in criminal sanctions, the enforcement procedure is through the judicial process (*contentious*). In essence, administrative sanctions are said to be more effective than criminal sanctions because they do not need to go through the judicial process but are decided by administrative officials. Even according to Faure, as quoted by Andri G Wibisana, if the court declares not guilty criminally, there is still a possibility of being subject to administrative sanctions, so Faure states that administrative sanctions tend not to require much cost and provide a *deterrent effect*. For violators and administrative sanctions function as a restoration that restores the state of the environment before environmental damage occurs.

Maintaining administrative legal norms is a logical consequence of the authority granted by laws and regulations to government bodies, as follows:

1. Ensuring the enforcement of administrative legal norms;
2. As the implementation of government authority derived from the administrative law itself; and

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<sup>37</sup> Sallsabillah.

3. Without going through the intermediary of a third party (judiciary).

In addition, the character of the administrative sanctions includes the following:<sup>38</sup>

1. Administrative sanctions consider an act that causes interference with the order of administrative legal norms, as a violation.
2. Disturbances that arise because of violations of administrative legal norms can be addressed immediately by the administrative body.
3. Actions taken by administrative bodies to end disruption to the administrative legal norms can be in the form of restorative actions (*reparatoir - herstel*) and/or punitive actions (*condemnatoir - straf*).

Based on the nature of the violation, in determining the provision of compulsory government sanctions is determined.

1. For violations that are not substantial, the government should not use government coercion directly (*bestuurdwang*). Therefore, government organisations can still be legalised. In this case, the government orders citizens who violate the permits to immediately take care of them. If the citizen has been ordered to take care of his licensing but does not take care of the permitting, the government can apply coercive sanctions (*bestuurdwang*).
2. For substantial violations, the government can directly apply government coercion (*bestuurdwang*) for both substantial and non-substantial violations, and its determination must pay attention to the applicable legal provisions, both written and unwritten laws related to the licensing in question. These include the general principles of good governance, including the principle of legal certainty, the public interest, proportionality, careful action, motivation in decision-making, and justice and fairness.

Empirical studies such as Macrory's in Canada indicate that administrative sanctions can be more efficient and quicker to implement than criminal sanctions, supporting Indonesia's current preference for administrative enforcement. The study compared two provinces, Ontario and British Columbia. In Ontario, the available sanctions are criminal (fines), while in British Columbia, administrative sanctions (fines) have been introduced since 1979. The study found that, although the average amount of fines imposed, the amount of supervision that leads to the imposition of criminal fines in Ontario is only half the amount of administrative fines imposed in British Columbia. Meanwhile, the number of appeals against criminal sanctions is greater than that of legal remedies against administrative fines. The study also showed that it takes an average of 500 days from the time of the offence to the imposition of a criminal sanction by a court in Ontario, and only 70 days between the offence and the imposition of administrative sanctions in British Columbia.

The government has prioritised administrative sanctions over criminal sanctions by looking at several cases that are subject to criminal sanctions for the use of unlicensed forest areas. First, the criminal acts that have been enforced so far have been dominated by the Corruption Law and the Money Laundering Law, even though the forestry crimes that have occurred so far are permit violations, so the Prosecutor is sometimes confused about determining the imposition of criminal penalties. This can be seen in the example of the case of Darianus Lunggak Sitorus, with

<sup>38</sup> Alwiyah Sakti Ramdhon Syah Rakia et al., "Hakikat Ketentuan Transisional Dalam Pembentukan Peraturan Perundang-Undangan," *Amsir Law Journal* 3, no. 1 (2021): 30–38, p. 36, <https://doi.org/10.36746/alj.v3i1.44>.

the source of Decision No. 481/PID. B/2006/PN. JKT. PST, the defendant occupies/controls the state forest in the Padang Lawas production forest area located in Simangambat District (formerly Central Barumun District), South Tapanuli Regency, North Sumatra Province covering an area of  $\pm$  80,000 ha without permission from the Minister of Forestry, which causes state losses (Forestry Department) calculated to range from Rp. 390,255,216,000 – Rp. 410,140,512,000. In his demands, the Public Prosecutor prefers the Law on the Eradication of Corruption. In the case of Darianus Lunggak Sitorus, he described that government supervision was very slow because the criminal incident committed by Darianus Lunggak Sitorus had been going on for a long time without any environmental handling. After all, the punishment focused on punishing the perpetrators.

Second, the process of imposing criminal sanctions takes a very long time, so it is not fast to provide legal certainty for environmental recovery because of the damage that occurs. This can be seen from the case of the Adelin Decision, the unfinished permit case, which caused 119,802,393,040.00, who were also sentenced to corruption crimes. This case caused forest damage that occurred during the legal process, which took too long because the defendants did not stop appealing until they reached the review stage. This very long criminal legal process requires clear enough evidence to sanction perpetrators. In addition, there was one case of PT. Tesso Indah Estate Rantau Bakung, which case occurred from August to October 15, 2019, in the Indragiri Hulu Regency. This case caused the land to burn an area of 69.06 hectares, where the land is directly adjacent to the Protected Forest of the Kerumutan Nature Wildlife Sanctuary. In this case was still at the judicial process.<sup>39</sup> Criminal acts committed by corporations to environmental pollution are very difficult to understand. Although it is known, to prove it in court still faces legal problems because of difficulties in finding evidence based on the law and in determining who must be held responsible for the criminal acts committed by the corporation, the need to involve environmental experts starting from the beginning of the investigation to the end of the case, and the cost and time are not small.<sup>40</sup>

Third, the imposition of criminal sanctions cannot necessarily be executed directly to restore the environment because of the damage. The reality of the problem can be seen in decision No. 131/Pid.B/2013/PN. BDO, Decision No. 201/Pid.B/201/PT BNA is already in decision No. 155 K/PID. SUS/2015 with the Defendant PT. Kalista Alam. PT. Kalista Alam has experienced oil palm land fires and has been on fire several times. Kalista Alam could not extinguish the fire because it agency did not have a fire protection system. The fire swept the surface of the peatland with an average thickness of 5 to 10 cm, resulting in 1,000,000 m<sup>3</sup> being scorched and not burned, disrupting the balance of the burned land ecosystem.<sup>41</sup> The impact of fires, increasing the main greenhouse gases that affect the Earth's atmosphere, such as water vapour, carbon dioxide, methane, and nitrous monoxide, can be affected by palm oil production. Based on mapping and existing conditions,

<sup>39</sup> Olivia Anggie Johar, M Yusuf Daeng, and Tri Novitasari Manihuruk, "Pertanggungjawaban Pidana Pencemaran Dan Perusakan Lingkungan Hidup Akibat Pembakaran Hutan Dan Lahan Di Provinsi Riau," *Jurnal Hukum Respublica* 21, no. 2 (2022): 131–54, p. 142, <https://journal.unilak.ac.id/index.php/Respublica>.

<sup>40</sup> Cahyono, "Efektivitas Bentuk Pertanggungjawaban Pidana Bagi Korporasi Dalam Menanggulangi Kasus Perusakan Dan/Atau Pencemaran Lingkungan Hidup Berdasarkan UUPPLH," *Pengadilan Negeri Sleman*, 2024, p. 20, <https://pn-sleman.go.id/2024/04/17/efektivitas-bentuk-pertanggungjawaban-pidana-bagi-korporasi-dalam-menanggulangi-kasus-perusakan-dan-atau-pencemaran-lingkungan-hidup-berdasarkan-uupplh/>.

<sup>41</sup> Ridho Mubarak and Alvi Syahrin, 'Efektivitas Hukum Terhadap Pidana Tambahan Sebagai Upaya Pemulihan Lingkungan Akibat Kebakaran Lahan', *Jurnal Mercatoria*, 15.2 (2022), pp. 128–38, doi:10.31289/mercatoria.v15i2.8298.

Indonesia ranks third in the fastest deforestation rate in the world, after Brazil and the Congo. This demonstrates the importance of mapping and understanding how systems and policies operate in the context of land concessions.

The judge sentenced the company to restore the environment in the amount of Rp251,765,250,000 which was the result of the calculation of ecological losses (in the form of water storage, water management, erosion control, soil formation, nutrient recyclers, waste decomposers, biodiversity, genetic resources, carbon release, and carbon slide), and sentenced the defendant to pay compensation for Rp114,303,419,000. However, the company took legal action in 2019, 2020 and continues to make efforts to resist this decision to be free from claims for compensation and environmental restoration costs. This obstruction has become an obstacle to the initial process of decision implementation. In the dispute between the Ministry of Environment and Forestry of the Republic of Indonesia and PT Kallista Alam, even though the Supreme Court (MA) had rejected the Defendant's PK, the Chairman of the Meulaboh District Court continued to postpone the implementation of the decision. The reason for this postponement, according to the Chairman of the Meulaboh District Court, is that PT Kalista Alam filed a lawsuit against several government agencies that, according to him, needed to wait for the results of the trial. This can be an indication of the corporation's low compliance with recovery efforts for their actions of environmental damage. Although the demand for recovery was won by the Ministry of Environment and Forestry, until now, the verdict has not been implemented.<sup>42</sup>

Fourth, the enforcement of criminal sanctions fails to calculate the cost of environmental loss. In addition, decision no. 228/Pid.Sus/2013/PN.Plaintiff vs. Defendant PT. Adei Plantation and Industry, where the decision imposed a fine of Rp. 1,500,000,000, with the condition that if the fine is not paid off, the punishment will be replaced with imprisonment. The provision of criminal sanctions does not consider violations committed previously, even though the violations continue to be repeated.<sup>43</sup> In addition, a new case in 2024 from the verdict of the tin corruption case with a prison sentence of 6.5 years and a fine of one billion, which does not provide a sense of justice for the environmental damage that occurred. This decision is not proportional to state losses, which reached Rp 271 trillion. If the sanctions imposed are not firm and do not contain additional sanctions in the form of fines and freezing or revocation of business licenses, the author believes that corporations will never be deterred, because they still consider that such a judge's decision will not be worried or feared by corporations. After all, it will not cause significant losses to the company, and its business can still run.<sup>44</sup> From the results of these efforts, corporations can still make other efforts, including paying fines, without having to think about how to restore the environment that has been damaged by their actions, while the impact of environmental damage can occur for a very long period.

Fifth, criminal sanctions focus on punishing the violators. Palm oil problems in the environment can be seen in cases related to palm oil licensing that cause environmental damage and have an

<sup>42</sup> Maskun et al., "Analisis Putusan Pemulihan Lahan Gambut Akibat Aktivitas Pembakaran PT. Kalista Alam Di Kawasan Ekosistem Leuser.," *Jurist-Diction* 5, no. 3 (2022): 917–38, p. 920, <https://doi.org/10.20473/jd.v5i3.35782>.

<sup>43</sup> Rizki Zakariya, "Menyoal Aspek Pemidanaan Pada Kluster Lingkungan Di Undang-Undang Cipta Kerja Terhadap Arah Pembangunan Berkelanjutan," *LITRA: Jurnal Hukum Lingkungan, Tata Ruang, Dan Agraria* 1, no. 2 (2022): 153–70, p. 159, <https://doi.org/10.23920/litra.v1i2.589>.

<sup>44</sup> Hariyanto Hariyanto, "Risk-Based Business License and Problems Arising After The Job Creation ACT", *Jurnal IUS Kajian Hukum Dan Keadilan*, 10.2 (2022), pp. 354–66, doi:10.29303/IUS.V10I2.1082.

impact on the community. Local NGO reports show that almost all districts in Riau have oil palm land conflicts with the community. One of the cases in Riau is the PT. Adei Plantation and Industry caused a land fire,<sup>45</sup> In this case, the judge acquitted the defendant from PT. Adei Plantation & Industry were previously fined Rp. 1,500,000,000- (one billion five hundred million rupiah). The perpetrator was released because the crime committed by the corporation against environmental pollution was very difficult to understand. Although it is known that proving it in court still faces legal problems, it is difficult to find evidence based on the law, and it is difficult to determine who should be held responsible for the criminal acts committed by a corporation. The gases produced by the combustion are CO<sub>2</sub> (Carbon Dioxide), CH<sub>4</sub> (methane), NO<sub>x</sub> (Nitrogen Oxide), and CO (Carbon Monoxide), as well as dust particles that cause an increase in large emissions into the atmosphere which causes an increase in pollutants (pollutants) in the atmosphere which will ultimately harm the environment, both humans and other living organisms. Thick smoke and fog, which are air pollutants that have a very negative impact on human health, are produced by burning forests. Many people suffer from Respiratory Tract Infections (ARI) during this disaster. This haze also has an impact on transportation systems, both on land, sea and air, because it affects visibility.

Based on these cases, it provides an overview of the enforcement of excessive administrative sanctions. First, the efficiency of the legal process, namely, the administrative process, is faster than the enforcement of criminal or civil law, which takes longer in court. The cost of the process is lower, as it does not require complex court procedures such as seeking evidence. Second, the focus on corrections is that administrative sanctions, such as fines or the revocation of permits, are designed to encourage compliance, and not just punish. Owners of problematic oil palm land are allowed to correct violations, such as applying for permits or reforesting first. Third, reducing the burden on the legal system, namely the judicial system, is not burdened by millions of individual cases. Finally, state revenue, namely administrative fines, can be a significant source of state revenue if strictly implemented.

The government prioritises the provision of administrative sanctions, in essence, restoring the position of the concept of *ultimum remedium*, namely the existence of criminal and civil sanctions if violators do not comply with administrative sanctions. The existence of environmental law enforcement instruments that are linked to each other is an ideal strategy to achieve the fulfilment of Article 28 H of the 1945 Constitution of the Republic of Indonesia, paragraph (1), affirming that a good and healthy environment is the basic right of everyone. The use of criminal law as a final mechanism (*ultimum remedium*) when administrative sanctions are less effective is very important in strengthening the compliance of business actors and providing a deterrent effect. This is important considering that the impact of environmental damage is not only physical but also detrimental to future generations; therefore, the state needs to protect the interests of the people according to the mandate of Article 28H.

According to Hamdan,<sup>46</sup> if criminal sanctions are ignored, it is possible that potential polluters/destroyers do not carry out pollution/destruction. In other words the “*deterrent effect*” of other sanctions cannot be expected properly. In criminal sanctions, basic legal rules are prohibitive. Repressive criminal law enforcement aims to overcome environmental damage and/or pollution by

<sup>45</sup> Johar, Daeng, and Manihuruk. p. 134 & 152

<sup>46</sup> Oktaviani br Sipayung and Ismanyah Ismanyah, “Polluter Pays Principle Dalam Perspektif Hukum Pidana,” *UNES Law Review* 5, no. 4 (2023): 4031–38, p. 4036, <https://doi.org/10.31933/unesrev.v5i4>.

imposing sanctions on the perpetrators.<sup>47</sup> If the basic rules are violated intentionally (*dolus*) or due to forgetfulness (*culpa*), the enforcement of criminal sanctions cannot be ruled out, and there are no exceptions, because all forms of acts can be held accountable by the perpetrators of criminal acts (in the form of crimes or violations).<sup>48</sup>

Although in the mechanism, the provision of administrative sanctions still does not seem to be optimally aimed at restoring the environment and providing a great deterrent effect to corporations, at least the state does not lose it completely. Some environmental law thinkers agree that compliance with the law can be significantly reduced if the use of administrative sanctions, especially fines, is much lighter than criminal sanctions. Faure is concerned that this dependence causes late accountability for visible environmental hazards. However, corporations have always fought the law to be free from compensation and recovery costs. The criminal and civil enforcement channels that have been thus far do not provide a quick break, while environmental damage is worsening. The obstacle to using criminal and civil enforcement is the absence of technical guidelines to execute judgments and supervisors to enforce judgments so that they do not provide a good meaning for the environment. One of the breakthroughs that the government is trying to make in this palm oil problem is to provide legal opportunities so that the government can supervise corporations that carry out palm oil activities in forest areas. Another risk is that, if the government focuses too much on providing administrative legalization, it will make criminal acts from the actions of corporations escape, resulting in an imbalance in punishment and violations because the government focuses on administrative settlement.<sup>49</sup>

The prosecutor's role complements administrative enforcement by investigating potential criminal violations, as seen in the Surya Darmadi case. This synergy ensures comprehensive oversight in 2022, which supervised criminal acts committed by Surya Darmadi over the use of unlicensed forest areas. The Prosecutor's Office has the authority to investigate the indications of criminal acts based on the results of administrative supervision carried out by the relevant government agencies. If strong evidence is found, the legal process can add administrative violations and criminal cases. The synergy between the government that focuses on administrative sanctions and the prosecutor's office that supervises criminal aspects is an effective strategy to ensure that the process of legalising forest areas runs transparently and by law. With this collaboration, it is hoped that all forms of irregularities can be minimised so that the main goal of the legalization of forest areas, namely legal certainty and environmental sustainability, can be achieved.

The analysis underscores the need to balance regulatory efficiency with substantive environmental justice. While administrative sanctions offer procedural advantages and faster enforcement, they may fall short in addressing long-term ecological damage and ensuring accountability. This highlights a conceptual tension in environmental legal theory between streamlined enforcement and the deeper pursuit of justice for affected communities and ecosystems. Bridging this gap is

<sup>47</sup> Arvin Asta Nugraha, I Gusti Ayu Ketut Rachmi Handayani, and Fatma Ulfatun Najicha, 'Peran Hukum Lingkungan Dalam Mencegah Kerusakan Dan Pencemaran Lingkungan Hidup', *Jurnal Hukum To-Ra: Hukum Untuk Mengatur Dan Melindungi Masyarakat*, 7.2 (2021), pp. 283–98, doi:10.33541/tora.v12i3.1295.

<sup>48</sup> Firstnandiar Glica Aini Suniaprily and Khaidar Rohman, "Fungsi Kebijakan Hukum Perizinan Terhadap Upaya Pelestarian Lingkungan Hidup," *Jurnal Penelitian Serambi Hukum* 16, no. 01 (2023): 1–9, p. 6, <https://doi.org/10.59582/sh.v16i01.579>.

<sup>49</sup> Aminuddin Ilmar, Muhammad Mutawalli Mukhlis, and Rasyikah Md Khalid, 'Exploring SDGs Regulatory Frameworks and Regional Regulation for Climate Change Mitigation and Adaptive Resilience in Coastal Communities', *Jurnal IUS Kajian Hukum Dan Keadilan*, 12.3 (2024), pp. 572–87, doi:10.29303/ius.v12i3.1543.

crucial for Indonesia's legal system to evolve into a model that is both responsive and restorative, aligning with constitutional mandates and global sustainability goals.

## CONCLUSION

This study concludes that the transition from criminal to administrative sanctions in Indonesia's forest governance—particularly under Law No. 6 of 2023—offers greater procedural efficiency but poses a risk of weakening environmental accountability if not rigorously enforced. Although administrative sanctions are faster and less costly, they often result in penalties that are disproportionately minor relative to the environmental damage incurred. This imbalance creates potential legal loopholes that may be exploited by corporations. Nevertheless, when administrative sanctions are integrated with prosecutorial oversight and supported by criminal enforcement, as demonstrated in several landmark cases, they can form part of a hybrid enforcement model that improves compliance and promotes environmental restoration. To ensure that administrative sanctions function as an effective deterrent and uphold the constitutional right to a healthy environment, policymakers must strengthen their implementation through robust oversight, escalate to criminal prosecution when warranted, and prevent their misuse as a mechanism for corporate impunity.

## REFERENCES

- Adhariani, Siska, and Afrizal, 'Kelapa Sawit Dan Bencana Alam: Makna Sosiologis Diskursus Dampak Ekologis Ekspansi Sawit', *Society*, 9.1 (2021), pp. 40–57, doi:10.33019/society.v9i1.286
- Afinnas, Muhamad Agil Aufa, 'Telaah Taksonomi Keadilan Lingkungan Dalam Pemenuhan Hak Atas Lingkungan', in *Prosiding Seminar Hukum Aktual Fakultas Hukum Universitas Islam Indonesia*, 2023, 1, 47–61
- Agustian, Sanggup Leonard, Fajar Sugianto, and Tomy Michael, 'Memidanakan Korporasi Dalam Kejahatan Lingkungan Hidup', *Rechtsidee Journal*, 7 (2020), doi:10.21070/jihr.2020.7.697
- Anggraini, Santi Pratama, Lintang Sayyidina, Dewi Herliana Kharisma, and Ringga Umi Kalsum, 'Menganalisis Kasus Korupsi: Surya Darmadi Diduga Terjerat Kasus Korupsi Penguasaan Lahan Sawit Terbesar', *Causa: Jurnal Hukum Dan Kewarganegaraan*, 1.1 (2023), pp. 22–32, doi:10.3783/causa.v1i1.605
- Anindarini, Grita W, 'Setelah UU Cipta Kerja: Menelaah Efektivitas Sanksi Administratif Lingkungan Hidup', *Jakarta: Indonesian Center For Environmental Law*, 2020
- Asih, S N, R Andreas, R Yudhi, D Fajar, and B Alfian, 'Ekspansi Perkebunan Kelapa Sawit Di Kawasan Hutan Indonesia Dan Potensi Konflik Hukum Pasca Penetapan Undang-Undang Cipta Kerja', *Istinbath*, 20.1 (2023), doi:10.32332/istinbath.v20i01.6392
- Bellicia, A, and Ferdian Yazid, 'Transparency In Corporate Reporting: Penilaian 50 Perusahaan Sawit Di Indonesia', *Report Paper*, 2023
- Cahyono, 'Efektivitas Bentuk Pertanggungjawaban Pidana Bagi Korporasi Dalam Menanggulangi Kasus Perusakan Dan/Atau Pencemaran Lingkungan Hidup Berdasarkan UUPPLH', *Pengadilan Negeri Sleman*, 2024

- Danang, Hario, and Ega Ramadayanti, 'Menilai Kembali Politik Hukum Perlindungan Lingkungan Dalam Undang-Undang Cipta Kerja Untuk Mendukung Keberlanjutan Ekologis', *Jurnal Hukum Lingkungan Indonesia*, 7.2 (2021), doi:10.38011/jhli.v7i2.313
- Hariyanto, H, 'OFFICIAL RESPONSIBILITY AND PERSONAL RESPONSIBILITY IN THE CONTEXT OF STATE FINANCIAL LOSS', *Jurnal Dinamika Hukum*, 18.1 (2018), pp. 103–8, doi:10.20884/1.JDH.2018.18.1.1861
- Hariyanto, Hariyanto, 'Risk-Based Business License and Problems Arising After The Job Creation ACT', *Jurnal IUS Kajian Hukum Dan Keadilan*, 10.2 (2022), pp. 354–66, doi:10.29303/IUS.V10I2.1082
- Helmi, Muhammad Ishar, Pujiyono Pujiyono, Khamami Zada, Mara Sutan Rambe, and Mualimin Mochammad Sahid, 'Effectiveness of Criminal Offense Law Regarding Illegal Levies: Reforming Social Organizations within the Indonesian Legal Framework', *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 2024, pp. 411–30, doi:10.24090/volksgeist.v7i2.10882
- Humaidi, M. Wildan, Hariyanto Hariyanto, and Mabarroh Azizah, 'Green Philanthropy: Islamic Activism on Indonesia's Environmental Democracy', *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan*, 24.2 (2024), pp. 167–91, doi:10.18326/ijtihad.v24i2.167-191
- Ikhsana, Lisa, and Nabilla Alya Rahmah, 'Civil Lawsuit Cases of Forest and Land Fires PT Kalista Alam (Study of Meulaboh District Court Decision Number 12/PDT.G/2012/PN.MBO)', *Jurnal Scientia Indonesia*, 7.2 (2021), pp. 185–200, doi:10.15294/jsi.v7i2.36152
- Ilmar, Aminuddin, Muhammad Mutawalli Mukhlis, and Rasyikah Md Khalid, 'Exploring SDGs Regulatory Frameworks and Regional Regulation for Climate Change Mitigation and Adaptive Resilience in Coastal Communities', *Jurnal IUS Kajian Hukum Dan Keadilan*, 12.3 (2024), pp. 572–87, doi:10.29303/ius.v12i3.1543
- Jamaluddin, Marlia Sastro, Ramziati, Yusrizal, Sela Azkia, and Azhari Yahya, 'Empowering Local Workers To Resolve Social Conflicts In West Aceh District's Palm Oil Sector', *Jurnal IUS Kajian Hukum Dan Keadilan*, 13.1 (2021), pp. 153–168, doi:https://doi.org/10.29303/ius.v13i1.1637
- Johar, Olivia Anggie, M Yusuf Daeng, and Tri Novitasari Manihuruk, 'Pertanggungjawaban Pidana Pencemaran Dan Perusakan Lingkungan Hidup Akibat Pembakaran Hutan Dan Lahan Di Provinsi Riau', *Jurnal Hukum Respublica*, 21.2 (2022), pp. 131–54
- Kumandhani, Prahesti Sekar, 'Penegakan Hukum Lingkungan Hidup Oleh Pemerintah Daerah Dalam Kerangka Otonomi Daerah', *Dharmasiswa: Jurnal Program Magister Hukum FHUI*, 2.3 (2022), pp. 1441–56
- Kunarti, Siti, Nur Putri Hidayah, Hariyanto Hariyanto, and Muhammad Bahrul Ulum, 'The Legal Politics of Outsourcing and Its Implication for the Protection of Workers in Indonesia', *Sriwijaya Law Review*, 8.1 (2024), p. 1, doi:10.28946/slrev.Vol8.Iss1.2750.pp1-19
- Listiningrum, Prisca, Rizqi Bachtiar, Dararida Fandra Mahira, and Rumi Suwardiyati, 'Juridical Analysis of Policy Concerning Oil Palm Estate Management in Indonesia', *Legality: Jurnal Ilmiah Hukum*, 29.1 (2021), pp. 16–26, doi:10.22219/ljih.v29i1.14376
- Maskun, Hasbi Assidiq, Siti Nurhaliza Bachril, and Nurul Habaib Al-Mukarramah, 'Analisis Putusan Pemulihan Lahan Gambut Akibat Aktivitas Pembakaran PT. Kalista Alam Di Kawasan Ekosistem Leuser.', *Jurist-Diction*, 5.3 (2022), pp. 917–38, doi:10.20473/jd.v5i3.35782

- Muazis, Mohammad Hasan, 'Sengkarut Dan Ketumpulan Regulasi Penyelesaian Sawit Rakyat Dalam Kawasan Hutan', *Indonesian State Law Review (ISLRev)*, 3.1 (2020), pp. 23–38, doi:10.15294/islrev.v3i1.48951
- Mubarak, Ridho, and Alvi Syahrin, 'Efektivitas Hukum Terhadap Pidana Tambahan Sebagai Upaya Pemulihan Lingkungan Akibat Kebakaran Lahan', *Jurnal Mercatoria*, 15.2 (2022), pp. 128–38, doi:10.31289/mercatoria.v15i2.8298
- Muflihah, Rifdah, and Tri Salwa Nur Eida, 'Analisis Yuridis Terhadap Penyerobotan Lahan Negara Yang Digunakan Sebagai Kebun Sawit Oleh Pihak Swasta Di Riau', *Multilingual: Journal of Universal Studies*, 4.1 (2024), pp. 274–88
- Mukhlis, Muhammad Mutawalli, Paul Atagamen Aidonojie, Zulhilmi Paidi, and Muhammad Saleh Tajuddin, 'Democratic State Governance: The Urgency of Implementing Conventions in Constitutional Practices in Indonesia', *Fenomena*, 23.1 (2024), pp. 1–14, doi:https://doi.org/10.35719/fenomena.v23i1.155
- Mukhlis, Muhammad Mutawalli, Georges Olemanu Lohalo, Mirela Imširović, and Piaget Mpotu Balebo, 'Strengthening Presidential Institutions in Indonesia: A Policy Analysis for Governance Reform', *Al-Adalah: Jurnal Hukum Dan Politik Islam*, 10.1 (2025), pp. 24–43, doi:10.30863/AJMPL.V10I1.7571
- Mukhlis, Muhammad Mutawalli, Maskun Maskun, Muhammad Saleh Tajuddin, Jamal Aslan, Hariyanto Hariyanto, and Hotlan Samosir, 'Regional Autonomy System: Delegation of Authority and Power of Regional Government in Indonesia in the Study of Fiqh Siyasa', *Al-Istinbath: Jurnal Hukum Islam*, 9.2 (2024), pp. 505–26, doi:10.29240/JHI.V9I2.9709
- Mundala, Franklin Oniamba, Muhammad Mutawalli Mukhlis, Maskun Maskun, Ahmad Masum, Yusuf Ibrahim Arowosaiye, and Naswar Naswar, 'Enhancing Water Cooperation in Africa: The Role and Challenges of International Law in Managing Transboundary Resources', *Syariah: Jurnal Hukum Dan Pemikiran*, 24.2 (2024), pp. 333–58
- Nakita, Clearestha, and Fatma Ulfatun Najicha, 'Pengaruh Deforestasi Dan Upaya Menjaga Kelestarian Hutan Di Indonesia', *Ius Civile: Refleksi Penegakan Hukum Dan Keadilan*, 6.1 (2022), pp. 92–103, doi:10.35308/jic.v6i1.4656
- Ndaru, Felix Aglen, 'Limitasi Tindak Pidana Di Bidang Sumber Daya Alam Sebagai Tindak Pidana Asal Pencucian Uang Di Indonesia', *Jurnal Hukum Lingkungan Indonesia*, 9.2 (2023), pp. 239–78, doi:10.38011/jhli.v9i2.532
- Nisa, Anika Ni'matun, 'Penegakan Hukum Terhadap Permasalahan Lingkungan Hidup Untuk Mewujudkan Pembangunan Berkelanjutan (Studi Kasus Kebakaran Hutan Di Indonesia)', *Jurnal Bina Mulia Hukum*, 4.2 (2020), pp. 294–312, doi:10.23920/jbmh.v4i2.337
- Nugraha, Arvin Asta, I Gusti Ayu Ketut Rachmi Handayani, and Fatma Ulfatun Najicha, 'Peran Hukum Lingkungan Dalam Mencegah Kerusakan Dan Pencemaran Lingkungan Hidup', *Jurnal Hukum To-Ra: Hukum Untuk Mengatur Dan Melindungi Masyarakat*, 7.2 (2021), pp. 283–98, doi:10.33541/tora.v12i3.1295
- Pambudi, Priyaji Agung, Suyud Warno Utomo, Soemarno Witoro Soelarno, and Noverita Dian Takarina, 'Etika Tanah Aldo Leopold: Telaah Moral Atas Eksploitasi Dan Kewajiban Reklamasi Tambang Batu Bara', *Jurnal Ekologi, Masyarakat Dan Sains*, 3.2 (2022), pp. 37–44, doi:10.55448/ems.v3i2.56

- Prastiti, Hilda Swandani, 'Menakar Efektivitas Pendekatan Penaatan (Compliance Approach) Dan Pendekatan Penjeraan (Deterrence Approach) Dalam Penegakan Hukum Lingkungan', *Tanjungpura Law Journal*, 6.1 (2022), pp. 1–13, doi:10.26418/tlj.v6i1.45403
- Putri, Riani Sanusi, 'Pemutihan Lahan Sawit Ilegal Dipercepat, Target Rampung September 2024', *Tempo.Co*, 2024
- Rakia, Alwiyah Sakti Ramdhon Syah, Kristi Warista Simanjuntak, Wahab Aznul Hidayat, and Andi Darmawansya, 'Hakikat Ketentuan Transisional Dalam Pembentukan Peraturan Perundang-Undangan', *Amsir Law Journal*, 3.1 (2021), pp. 30–38, doi:10.36746/alj.v3i1.44
- Rogi, Mutiara Natalia Nikita, 'Penegakan Hukum Terhadap Perizinan Kawasan Hutan Lindung Danau Linouw Resort Di Kota Tomohon', *Lex Privatum*, 14.3 (2024)
- Sallsabillah, Fiona, 'Hukum Lingkungan Dari Perspektif Hukum Kegiatan Bisnis', *Jurnal Ilmu Hukum, Humaniora Dan Politik*, 1.1 (2020), pp. 104–15, doi:10.38035/jihhp.v1i1
- Sipayung, Oktaviani br, and Ismanyah Ismanyah, 'Polluter Pays Principle Dalam Perspektif Hukum Pidana', *UNES Law Review*, 5.4 (2023), pp. 4031–38, doi:10.31933/unesrev.v5i4
- Sodikin, Sodikin Sodikin, 'Perumusan Hak Atas Lingkungan Hidup Yang Baik Dan Sehat Dalam Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Serta Upaya Perlindungan Dan Pemenuhannya', *Supremasi: Jurnal Hukum*, 3.2 (2021), pp. 106–25, doi:10.36441/supremasi.v3i2.207
- Suniapriyly, Firstnandiar Glica Aini, and Khaidar Rohman, 'Fungsi Kebijakan Hukum Perizinan Terhadap Upaya Pelestarian Lingkungan Hidup', *Jurnal Penelitian Serambi Hukum*, 16.01 (2023), pp. 1–9, doi:10.59582/sh.v16i01.579
- Susanto, Aris, Sapto Baralaska, and Aan Jaelani, 'Constitutional Rights and Environmental Protection in Indonesia from a Legal and Policy Perspective', *Jurnal Legisci*, 2.2 (2024), pp. 121–29, doi:10.62885/legisci.v2i2.484
- Tampilang, Risno, 'Dualisme Ekosentrisme Dan Antroposentrisme: Sebuah Implikasi Teologis Kejadian 1-3 Dan Respon Terhadap Gerakan Ekofeminis Dalam Melihat Tindakan Eksploitasi Lingkungan', *Mello: Jurnal Mahasiswa Kristen*, 4.2 (2023), pp. 18–36
- Wahyuni, Herpita, and Suranto Suranto, 'Dampak Deforestasi Hutan Skala Besar Terhadap Pemanasan Global Di Indonesia', *Jiip: Jurnal Ilmiah Ilmu Pemerintahan*, 6.1 (2021), pp. 148–62, doi:10.14710/jiip.v6i1.10083
- Yahya, Taufik, and Fauzi Syam, 'Rethinking the Role of Indigenous Law Community in Managing Indigenous Forest in Jambi Province', *Jambe Law Journal*, 1.1 (2018), pp. 35–54, doi:10.22437/jlj.1.1.35-54
- Zakariya, Rizki, 'Menyoal Aspek Pemidanaan Pada Kluster Lingkungan Di Undang-Undang Cipta Kerja Terhadap Arah Pembangunan Berkelanjutan', *LITRA: Jurnal Hukum Lingkungan, Tata Ruang, Dan Agraria*, 1.2 (2022), pp. 153–70, doi:10.23920/litra.v1i2.589