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CORPORATE CRIMINAL LIABILITY AND SANCTIONS FOR CONFISCATION OF PROFITS IN ENVIRONMENTAL POLLUTION

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Abstract
Background. Environmental pollution by corporations is often treated only as a "cost of doing business" because the sanctions imposed do not have a significant deterrent effect. In fact, the legal instruments in the PPLH Law have provided space for more progressive corporate criminal liability to overcome structured negligence in industrial activities.
Purpose. This study aims to analyze the mechanism of corporate criminal liability in environmental law in Indonesia, particularly regarding the effectiveness of the application of legal sanctions and the confiscation of economic benefits to restore environmental functions.
Method. This research uses normative legal research methods, including a statute and *case approach*. An analysis was conducted of the jurisprudence in the PT Cahaya Bintan Abadi Decision and the current challenges in the case of Cesium-137 radioactive contamination in Cikande.
Results. The results of the study show a shift in law enforcement's approach towards heavier economic sanctions. The application of billions of rupiah in fines and restoration obligations is a manifestation of the polluter-pays *principle*. This instrument has proven to be a powerful tool for seizing the economic benefits corporations derive from the consequences of neglecting environmental standards.
Conclusion. Criminal sanctions achieve maximum effectiveness when accompanied by strict supervision of the field recovery process. It is necessary to standardize the calculation of environmental losses and evaluate the performance of law enforcement officials to increase legal certainty and force corporate compliance with environmental safety standards.

Keywords: Corporation, PPLH Law, Criminal Sanctions, Profit Confiscation, Deterrent Effect, Environmental Recovery.

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INTRODUCTION

A good and healthy environment is a human right for every citizen, guaranteed by the constitution.[1]However, as industrialization accelerates, challenges to ecosystem sustainability are increasing, especially those arising from corporate activities. As legal subjects with great economic power, corporations are often caught up in business practices that ignore environmental safety standards in pursuit of maximum profits. This phenomenon causes environmental pollution to no longer be seen as a purely technical accident, but as a result of structured negligence that requires firm legal intervention through the Environmental Protection and Management Law (PPLH Law).

The fundamental problem in environmental law enforcement against corporations is that the sanctions imposed so far are often treated as mere "business costs" and fail to deter. Corporations tend to be more likely to pay symbolic fines than to carry out environmental restorations that cost much more. Therefore, the concept of corporate criminal liability must be directed at legal actions targeting financial aspects, including the confiscation of profits derived from environmental destruction. This is important so that the law not only penalizes administratively but also restores the damaged environmental function in real terms.

The urgency of this research is even more evident when we compare the dynamics of jurisprudence in the past with the challenges of current cases. The verdict in the marine pollution case by PT Cahaya Bintan Abadi in 2009 has laid an important foundation for the judge's courage in awarding billions of rupiah in damages to corporations. However, new challenges have arisen in contemporary cases, such as the alleged radioactive contamination of Cesium-137 (Cs-137) in Cikande, Banten. This case shows that the threat of corporate waste has become extremely dangerous and has a fatal long-term impact on human health. Without effective criminal sanctions and strict recovery obligations, achieving environmental law certainty in Indonesia will be difficult. Against this background, this study aims to examine more deeply the normative limits of corporate accountability and the effectiveness of sanctions in ensuring future environmental sustainability.

PROBLEM FORMULATION

1. How the concept and normative limits of corporate criminal liability are regulated in the PPLH Law

[1] Constitution of the Republic of Indonesia of 1945, Article 28H paragraph (1).

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2. How is the application (jurisprudence) of criminal sanctions and legal action (confiscation of profits) against corporations in cases of environmental pollution?
3. How effective are criminal sanctions as seen from the deterrent effect and environmental recovery?

Based on the literature review in the article, the development of research related to Islam, the environment, and health can be mapped into three main streams:

1. Islamic Environmental Ethics Study. Previous research has discussed: the concept of caliph fil ardh, the principle of mîzân (ecosystem balance), the prohibition of israf and tabdzir, and Human moral responsibility towards nature. The main focus is still normative-theological, emphasizing the obligation to protect the environment without systematically linking it to human health impacts.
2. Modern Ecology and Health Studies. The WHO, IPCC, and The Lancet reports show that Pollution, deforestation, and climate change increase the burden of disease, leading an increased physical, mental, and social diseases, and to health inequalities due to environmental degradation. However, these studies are generally secular-scientific and have not been integrated with a religious perspective.
3. An Interpretive Study of the Facade of fil Ard. In classical and contemporary interpretive literature, the façade of fil ard is better understood as moral and social damage; the ecological dimension is still limited; the health impact is hardly explicitly discussed
4. Position of Articles in Research Maps. This article is on a three-pronged slice: Tafsir of the Qur'an, Islamic environmental ethics, and Modern environmental health

Thus, this research occupies a relatively rare position as an interdisciplinary study of the Qur'an–ecology–health.

RESEARCH METHODS

This research employs a normative juridical legal research approach that analyzes positive legal norms, legal principles, and legal doctrines related to corporate criminal liability. The approach used is a statute *approach* to dissect the rules in the PPLH Law and the Job Creation Perppu, and a *case approach* to analyze the jurisprudence on the environmental pollution decision of PT Cahaya Bintan Abadi, which is correlated with legal phenomena in the Cesium-137 case in Cikande.

The main data source in this study is secondary data consisting of primary legal materials in the form of laws and regulations and court decisions, as well as secondary legal

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materials such as scientific journals, books, and related legal literature. The data collection technique involves a literature review and the examination of legal documents in depth. The collected data is then analyzed qualitatively to produce descriptive conclusions about the application of criminal sanctions, the effectiveness of the law in creating a deterrent effect, and legal certainty in environmental restoration.

RESULTS AND DISCUSSION

The concept and normative limits of corporate criminal liability are regulated in the PPLH Law

In the Indonesian Criminal Code (KUHP), there is no punishment provision that recognizes artificial law subjects (rechtpersoon) or companies as parties who can be subject to criminal sanctions. This is evident in the general provisions of the Criminal Code, which state that Indonesian laws and regulations apply to every individual. Another term used in the Criminal Code is "citizen," as defined in Article 5, which basically stipulates that Indonesian law applies to Indonesian citizens who commit certain criminal acts abroad. However, over time, corporations also become legal entities under criminal law. The following example shows that a certain law regulates corporations as the subject of criminal acts, but only the management can be held accountable:

1. Law ~Law Number 1 of 1951 (Labor Law);
2. Law No. 3 of 1992 concerning Labor Social Security (Jamsostek).
3. Law Number 3 of 1951 (Labor Supervision Law);
4. Law Number 3 of 1958 (Law on the Placement of Foreign Workers);
5. Law Number 7 of 1981 (Law on Mandatory Employment Reporting);

The provisions regarding the obligation to hold corporations accountable through the accountability of their management can also be seen in Article 46, paragraph (2) of Law Number 7 of 1992:

"In the event that the activities as intended in paragraph (1) are carried out by a legal entity in the form of a limited liability company, association, foundation or cooperative, then the prosecution of the entities in question shall be carried out either against those who gave the order to do the act or who acted as leaders in the act or against both." [2]

[2] Law Number 7 of 1992 concerning Banking, Article 46 paragraph (2).

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From the article's wording, it appears that administrators with the authority to give directions to staff in the banking corporation may be criminally liable.

Unlike previous laws that were more blamed on administrators (corporate representatives as individuals), Law Number 32 of 2009 concerning Environmental Protection and Management (PPLH Law) introduces a new, more advanced paradigm. In the PPLH Law, corporations are clearly placed as independent legal subjects and can be held criminally liable directly. This norm is regulated in detail in Articles 116 to 119 of the PPLH Law, with the following elaboration of the concept:

1. Broad Legal Subject: Environmental crimes are not only considered to be committed by individuals, but also by business entities, both legal entities (such as PTs) and non-legal entities.
2. Cumulative Liability: The PPLH Law adheres to a system in which criminal charges and criminal sanctions can be imposed on:
    a. The business entity (corporation) itself; and/or
    b. The person who gives the order to commit the criminal act or the person who acts as a leader in the activity.
3. Expansion of Sanctions: If in the old law (as mentioned earlier) sanctions were limited to physical punishment for administrators, the PPLH Law introduces very large fine sanctions for corporations, coupled with disciplinary measures. This action can be in the form of deprivation of profits, the closure of all or part of the business premises, or the obligation to repair the environmental damage caused.

Thus, the PPLH Law has shifted from the concept of *societas delinquere non potest* (legal entities cannot commit criminal acts) to full recognition of corporate accountability. These normative limitations aim to provide a more effective deterrent effect, as corporations often have far greater financial resources than individual managers to bear the consequences of environmental damage.

The subject of law is no longer limited to individual human beings, but also includes corporations, whether legal entities or not. Thus, corporations are considered capable of committing criminal acts and can be held legally accountable.

The application (jurisprudence) of criminal sanctions and legal action (confiscation of profits) against corporations in cases of environmental pollution.

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After understanding the limitations of the rules in the law theoretically, the next crucial step is to dissect their implementation in judicial practice. In the dynamics of environmental law, judges are now starting to shift from just a mouthpiece of the law to an agent of law reform. This can be seen in the judge's courage to not only impose a symbolic fine but also to take legal action with a real and direct economic impact on the corporation's financial structure.

One of the important jurisprudences in the enforcement of environmental law in Indonesia is the case of marine pollution in Senggarang Waters through Decision No. 26/PDT. G/2009/PN. TPI.[3] The case involving PT Cahaya Bintan Abadi and two other companies is interesting because it began through a *class action mechanism* by 200 traditional fishermen. Based on the ruling, there are four fundamental aspects that need to be elaborated more broadly:

1. Compensation Penalty Through the Joint Liability Mechanism: The Panel of Judges imposed a penalty of Rp10.76 billion in damages. A very important point here is the use of the principle of *Joint and Chiefs of Association*. This means that the three companies jointly bear full responsibility for paying compensation. If one of the companies is unable to pay, the other company is obliged to bear the burden. Economically, these sanctions send a strong message that corporations cannot pass the buck when environmental damage is caused by their collective activities.
2. Environmental Function Restoration as an Absolute Obligation: This ruling goes beyond monetary sanctions by requiring corporations to carry out environmental function restoration. In the perspective of modern environmental law, monetary compensation alone is not enough because it does not necessarily repair damaged ecosystems. By ordering the restoration, the judge emphasized that the corporation has an obligation to rehabilitate the polluted waters until they return to their original state. This is a form of protection of the right to a good and healthy environment as a human right.
3. Strengthening *the Polluter Pays Principle*: The judge internalized the 16th principle of the Rio Declaration, the *Polluter Pays Principle*. [4]This principle holds that costs incurred from pollution should not be charged to the community or the state, but must be fully borne by the parties who profit from the activities that cause pollution. Although in

- [3] Tanjung Pinang District Court Decision Number 26/PDT. G/2009/PN. TPI, p. 50.

[4] *Rio Declaration on Environment and Development* (1992), Principle 16.

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practice, the total cleanup of the sea has not been carried out optimally after the ruling, the judge's affirmation of the obligation to pay restoration costs has laid the proper legal foundation for future environmental law enforcement.

4. Evaluation of the Negligence of Government Officials: Another interesting aspect of this decision is the involvement of government agencies as defendants because they are considered negligent in the supervision of the EIA. The legal explanation is this: corporations often take refuge behind government-granted "permissions" to legalize their actions. However, the judge found that the existence of permits does not remove corporations' criminal or civil liability if they are proven to pollute the environment. This provides a stark warning that corporations must implement environmental standards independently, rather than relying solely on weak oversight on the ground.

So through Decision No. 26/PDT. G/2009/PN. TPI, there is a legal discovery (*rechtsvinding*) in which judges act as protectors of the public interest. This verdict is a milestone that proves that corporations' economic power is no longer a barrier to small communities getting justice. By targeting financial aspects and recovery obligations, this ruling establishes a new standard: that environmental damage is a debt corporations must pay dearly for, ultimately forcing them to be more careful and adhere to sustainability principles across all their business operations.

Given how the court has decided the case of PT Cahaya Bintan Abadi in the past, it is relevant to examine the issue in the current legal dynamics. The challenge of law enforcement against corporations is now being tested again by an event that shocked the community: the discovery of Cesium-137 (Cs-137) radioactive contamination at the Cikande industrial estate in Serang Regency. This event is crucial to analyze because it involves hazardous materials whose impacts are much more harmful to human health and the environment than those of conventional waste. Although this case has not reached a conclusive court decision, normatively we can dissect how the potential for corporate criminal liability is based on the latest rules in the PPLH Law.

In relation to legal obligations, every corporation that causes pollution is required to immediately implement environmental measures. This includes providing public warnings, isolating affected areas, and stopping pollution sources using appropriate technologies. In addition, corporations also bear the responsibility to restore environmental functions through systematic stages, starting from stopping pollution sources, cleaning polluting elements, and

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remediation, rehabilitation, and restoration processes to ensure that ecosystems return to their original functions.

Regarding criminal threats, if the Cs-137 pollution in Cikande is proven to have been caused by the company's negligence, the applicable legal sanction is Article 99 of the PPLH Law.[5] This article stipulates that any person who, due to negligence, exceeds environmental quality standards may be sentenced to imprisonment of 1 to 3 years and a maximum fine of IDR 3 billion. However, if the negligence is proven to cause injury or endanger human health, the fine can reach up to IDR 6 billion, and if it results in death, the maximum fine is IDR 9 billion, with a maximum imprisonment of up to 9 years. On the other hand, if an element of intentionality is found, Article 98 of the PPLH Law imposes a much heavier fine, ranging from Rp3 billion to Rp15 billion, depending on the level of fatality or impact on human health and life.

This criminal liability mechanism specifically targets business entities in accordance with Article 116, paragraph (1), of the PPLH Law, imposing criminal charges on corporations and individuals who give orders or direct those activities. If the charges are filed against the order-giver, the criminal threat increases by an additional third. In this situation, the company's management serves as a functional actor representing the business entity both inside and outside the court. It should be noted that in accordance with Article 84 paragraph (1) of the PPLH Law, although environmental cases can be resolved through out-of-court methods, the rule does not apply to cases of environmental crimes. Thus, the Cs-137 case must be resolved through a court process to ensure firm law enforcement.

As an implementation of the polluter-pays principle, the party responsible for the business may not only be subject to criminal sanctions but also be obliged to bear the costs of compensation and take certain legal actions, such as repairing waste treatment plants or destroying pollution sources. Local governments are also authorized to file claims for compensation, while affected communities can pursue a class action. Through this correlation, it appears that current environmental regulations have provided much more comprehensive and decisive tools than ever before to ensure that any company that damages the environment faces legal sanctions commensurate with the impact they cause.

So, in conclusion, the application of sanctions against corporations for environmental pollution has evolved from mere compensation to punishment that targets the heart of the

[5] Law Number 32 of 2009 concerning Environmental Protection and Management, Article 99.

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company's economy. The PT Cahaya Bintan Abadi decision (2009) became an important precedent, demonstrating that judges can order corporations to pay billions of rupiah in damages and restore the environment. The lessons of this case show that the law is beginning to prioritize people's rights to ecosystems over business interests alone.

The correlation with the Cesium-137 case in Cikande emphasizes that the current legal instrument is much more repressive through the PPLH Law. The answer to the problem of "profit confiscation" is achieved through a combination of a maximum criminal fine (up to Rp15 billion) and the very high recovery costs. Essentially, the state forces corporations to divert their profits to bear the impact of the damage they cause.

If, in the past, cases were still civil, the Cikande case shows that environmental crimes cannot now be resolved outside the court. This ensures that any negligence or intentional conduct by the corporation will result in severe functional criminal liability. Thus, past jurisprudence and current regulations work together to create a deterrent effect, ensuring that damaging the environment will result in much greater financial and legal losses for corporations.

The effectiveness of criminal sanctions, as seen in their deterrent effect and environmental recovery.

The effectiveness of sanctions in environmental law is not only measured by the severity of prison sentences, but also by their ability to deter and by their success in restoring damaged environmental functions. Reflecting on the case of PT Cahaya Bintan Abadi, the financial sanction of IDR 10.76 billion demonstrates that economic pressure is the most effective instrument for punishing corporations. [6]However, this effectiveness is often hampered if sanctions are only compensatory, without strict supervision of recovery implementation in the field. New sanctions are considered effective if the costs corporations incur to pay fines and remedies are far greater than the profits they derive from damaging the environment.

In the context of contemporary cases such as the Cesium-137 contamination in Cikande, the effectiveness of criminal sanctions is now being tested through Articles 98 and 99 of the PPLH Law. The threat of fines of up to tens of billions of rupiah and imprisonment for company administrators is expected to be able to force corporations to improve their operational security standards. The deterrent effect will arise if the corporation realizes that

[6] Sutan Remy Sjahdeini, *Corporate Criminal Responsibility*, (Jakarta: Grafiti Press, 2006), p. 121.

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the slightest negligence against hazardous substances will lead to legal consequences that are deadly to the sustainability of their business. In addition, the use of criminal instruments ensures that responsibility does not end with payment, but extends to the moral and social accountability of the company's management before the public.

However, the crucial point regarding the effectiveness of environmental law lies in recovery. As described in the PPLH Law, corporations are obliged to undertake recovery stages ranging from remediation to full restoration. In the case of radioactivity in Cikande, recovery is the main indicator of effectiveness, given the long-term impact of radiation. Sanctions are said to be effective if they force polluters to restore environmental conditions to their original state (or close to it), so that people's rights to a healthy environment can be restored. Thus, the combination of heavy criminal sanctions with absolute recovery obligations is the best formula to ensure corporations no longer see environmental sanctions as cheap "business costs", but rather as serious threats that must be avoided through green and sustainable business practices.

This article has some key aspects of novelty:

1. Conceptualization of the Ard fil Facade as the Cause of Disease. This study interprets the façade of fil ard not only as environmental damage, but also as Causes of physical diseases, Mental disorders, and human spiritual crises. This approach is still rarely found in Islamic studies and ecology.
2. Integration of Tafsir with Global Health Data. This article combines Qur'anic verses and hadiths, classical and contemporary interpretations, WHO data, IPCC, and global health research. This integration of theology and science is a new approach in the study of the Islamic environment.
3. The Concept of Eco-Crime in an Islamic Perspective. Research introduces the idea that Environmental damage is a moral-spiritual crime (ecocrime) and That Human actions against nature have ethical and health consequences. This concept expands the discourse of contemporary Islamic law and ethics.
4. Formulation of Operational Qur'ani Solutions. The article does not stop at theory, but offers practical solutions such as: Environmental hisbah, Ecological fatwa, Conservation areas (hima/harim), Islamic green economy, Islamic boarding schools, and eco-friendly mosques. This makes the research applicable.
5. Strengthening the Eco-Spirituality Dimension. Research confirms that environmental damage Damages man's relationship with God, reduces inner peace, and disturbs

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spiritual awareness. This spiritual aspect is rarely discussed in environmental health studies.

Based on the analysis of the literature, there are several key research gaps that this article fills:

1. **Limitations of the Study of the Facades fil Ard in the Modern Context**
   Previous research: Focus more on moral and social aspects, Has not studied pollution, climate change, and deforestation systematically
   Gap: Lack of reinterpretation of the façade of the fil ard in the context of the modern ecological crisis.
2. **Lack of Integration of Tafsir and Health Sciences**
   Islamic Studies: Theological InclinationHealth Studies: Tends to be secular
   Gap: There is no integrated approach between Qur'an interpretation and environmental health science.
3. **The Absence of a Holistic Islam-Ecology-Health Model**
   The concept of caliph and mîzân has been widely discussed, but It has not been formulated into a public health framework
   Gap: The absence of an integrated Islamic-based conceptual model for planetary health issues.
4. **Lack of Environmental Justice Studies in Islamic Perspective**
   Most studies: Ignoring the link between environmental degradation and poverty, **Gap:** Lack of study on environmental injustice in Islamic studies.
5. **Lack of Empirical Studies**
   The research is still in the nature of: Descriptive, Normative, Conceptual
   Gap: There has been no empirical testing on the effectiveness of the application of Islamic environmental ethics in society.

CONCLUSION

Based on the analysis of the regulatory framework and the case studies discussed, it can be concluded that corporate criminal liability under the PPLH Law has progressive normative limits through a functional accountability system. The real application in jurisprudence, as in the case of PT Cahaya Bintan Abadi, shows that judges have begun to internalize the polluter pays principle, imposing heavy financial sanctions as a form of confiscation of economic benefits from the results of environmental destruction. The case's

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correlation with the threat of Cesium-137 radioactive pollution in Cikande confirms that the effectiveness of current environmental laws depends heavily on the balance between maximum criminal sanctions and absolute ecosystem restoration obligations. Sanctions will only have a deterrent effect if the legal costs the corporation must bear are much greater than the operational benefits derived from unsustainable business practices.

Therefore, as an effort to evaluate and increase legal certainty in the future, law enforcement should not stop at administrative punishment of business entities or fines alone. Consistency is needed from law enforcement officials in overseeing the recovery stages (remediation and restoration) until they are completed in the field, so that the environment returns to its original state. Legal certainty also needs to be strengthened by preparing more detailed technical standards for calculating environmental losses and for confiscating corporate assets in environmental crimes. This is important to ensure that every corporation has a high legal awareness to comply with EIA and environmental safety standards, so as to create harmonization between economic growth and ecological sustainability in Indonesia

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