The Concept of Punishment for Environmental Crimes as an Effort for Sustainable Development in Indonesia

Maria Pricilia Silviana
Faculty of Law, Universitas Sebelas Maret, Surakarta, Jawa Tengah, Indonesia
Ir. Sutami Street, No. 36 Kentingan, Jebres, Surakarta, Jawa Tengah, Indonesia 57126
mariapricilias@student.uns.ac.id

Hartiwiningsih Hartiwiningsih
Faculty of Law, Universitas Sebelas Maret, Surakarta, Jawa Tengah, Indonesia
Ir. Sutami Street, No. 36 Kentingan, Jebres, Surakarta, Jawa Tengah, Indonesia 57126
hartiwiningsih@staff.uns.ac.id

Lego Karjoko
Faculty of Law, Universitas Sebelas Maret, Surakarta, Jawa Tengah, Indonesia
Ir. Sutami Street, No. 36 Kentingan, Jebres, Surakarta, Jawa Tengah, Indonesia 57126
legokarjoko@staff.uns.ac.id

***Abstract*—One of the causes of forest deforestation is the deliberate burning of forests and land by corporations to save costs and time to achieve greater profits. The environment damaged and polluted by forest and land fires must be restored so the next generations can enjoy it. Thus, development carried out in Indonesia must also pay attention to the next generation's interests. This research aims to determine the concept of punishment for environmental crimes as an effort for sustainable development. This research uses a doctrinal legal research method, a statutory approach, and a conceptual approach. Law Number 32 of 2009 adheres to a combined theory of punishment (Vereeniging theory), which combines absolute theory and relative theory, namely imprisonment and fines as a reflection of the absolute/retributive theory and sanctions for actions regulated as additional punishment as a reflection of the relative theory. The application of additional penalties in Article 119 of the PPLH Law, namely repairing the consequences of criminal acts and obligations to carry out work that is neglected without imperative/obligatory rights, is the right step to support sustainable development so that the development carried out does not damage the environment and can be enjoyed by future generations.**

***Keywords*— Environmental crimes; Forest fires; Punishment; Sustainable Development.**

I. Introduction

Indonesia has abundant natural resource potential, one of which is extensive forests. According to the Global Forest Resources Assessment Report, Indonesia has the second-largest protected forest area in the world after Brazil, with 51.7 million hectares.[1] Data from the Directorate General of Forestry Planning and Environmental Management, KLHK, in 2023 shows that the total forest area in Indonesia is 125,664,549.85 hectares, consisting of protected forests and production forests. However, this forest's area decreases yearly due to various causes.[2] Analysis by the World Resources Institute (WRI) and the University of Maryland based on satellite imagery observations shows that in 2023, Indonesia will experience deforestation of 292,374 hectares. This case places Indonesia fourth in the world in terms of deforestation. Auriga Nusantara, a non-governmental organization, reports that almost half of deforestation occurs in concession areas, including Industrial Plantation Forests (HTI) and Forest Concession Rights (HPH).

COUNTRY	LOST AREA OF PRIMARY FOREST (2020)
BRASIL	1.700.000 ha
REPUBLIK DEMOKRATIK KONGO	491.000 ha
BOLIVIA	277.000 ha
INDONESIA	270.000 ha
PERU	166.000 ha

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KOLOMBIA	166.000 ha
KAMERUN	100.000 ha
LAOS	89.700 ha
MALAYSIA	73.000 ha
MEKSIKO	68.400 ha
TOTAL DUNIA	4.210.000 ha

Table 1. Data on the rate of primary forest deforestation in several countries in 2020

The rate of deforestation of Indonesia's primary forests has shown a downward trend in recent years. Based on data from Global Forest Watch, the area of primary forest lost in Indonesia in 2020 was recorded at only 270 thousand hectares (ha), lower than the previous year, which reached 323.6 thousand ha.[3] However, Indonesia was still included in the list of 10 countries with the most considerable deforestation rate that year, occupying fourth position, flanked by Bolivia and Peru. Brazil became the country with the most significant rate of primary forest reduction in the world in 2020, with a loss of 1.7 million ha. In the second place, the Democratic Republic of Congo experienced a primary forest loss of 491 thousand ha. Bolivia, which is in third place, lost 277 thousand ha of primary forest. Peru, below Indonesia, experienced a loss of 166 thousand ha. Colombia is in sixth position with a primary forest loss of 166 thousand ha, the same as Peru.

Furthermore, Cameroon lost 100 thousand ha of primary forest. Laos and Malaysia each lost 89.7 thousand ha and 73 thousand ha of primary forest. Mexico recorded a loss of 68.4 thousand ha of primary forest. Overall, the reduction in primary forests in the world in 2020 reached 4.21 million ha, higher than the previous year, which amounted to 3.75 million ha. The most significant loss of primary forest land in recent years occurred in 2016, with a total of 6.13 million ha. Large forest fires in several countries cause this condition due to extended dry seasons and increasing air temperatures.

The leading causes of deforestation in Indonesia include transmigration, illegal logging, conversion of forests to plantation and agricultural land, and forest fires, which are often deliberately set to clear land.[4] Forest burning by companies is a serious problem because it causes huge losses and negative environmental impacts, such as decreasing biodiversity, ecological damage, increasing air temperatures, and air pollution due to smoke. Even though companies make economic contributions through taxes, job creation, and corporate social responsibility, the actions of forest burning carried out by corporations cause huge losses and give rise to the view that development and the environment are contradictory.[5] The importance of maintaining a balance between economic growth and environmental sustainability is a significant challenge.

Companies have an essential role in the economy, contributing through tax payments, job creation, and implementing corporate social responsibility (CSR).[6] Nevertheless, the detrimental behaviors of corporations, such as the deliberate burning of forests, result in significant environmental degradation. This behavior fosters the perception that economic progress and environmental sustainability are at odds with each other. To achieve a harmonious balance between economic growth and environmental sustainability, it is imperative to establish a strong legislative foundation and ensure its effective execution. The Environmental Protection and Management Law, enacted as Law Number 32 of 2009, serves as the principal legislative framework for safeguarding the environment in Indonesia. Article 2 governs the fundamental concepts and goals of safeguarding and overseeing the environment, encompassing the principles of sustainability and equilibrium. These principles underscore the significance of conserving the environment while concurrently promoting economic advancement. Article 69 explicitly forbids the act of burning land and woods, extending this prohibition to individuals as well as companies. Article 50 of Law Number 41 of 1999 concerning Forestry explicitly outlaws forest destruction operations, including forest burning. Any breaches of this provision will be subject to fines as stipulated in Article 78, demonstrating Indonesia's legal dedication to safeguarding forests. In order to enhance the regulation of duties and measures to prevent forest fires, Government Regulation Number 4 of 2001, which pertains to the management of environmental harm and pollution associated with forest and land fires, affirms the requirement to prevent and manage fires as stated in Article 2. Additionally, Article 4 outlines the responsibilities of companies in controlling forest fires within their designated areas. Furthermore, Presidential Regulation Number 59 of 2017 outlines the guidelines for attaining the Sustainable Development Goals (SDGs) in Indonesia. This law underscores the significance of achieving a harmonious equilibrium between economic progress and environmental sustainability, in accordance with the tenets of sustainable development..[7] Article 9 of Law Number 39 of 1999 on Human Rights ensures the right of every individual to a favorable and sustainable living environment, acknowledging that the environment is a fundamental aspect of human rights. It asserts that safeguarding the environment is an essential entitlement for the overall welfare of humanity. Law Number 5 of 1990, specifically Article 21 and Article 40, mandates the protection of conservation areas and natural habitats, and imposes penalties for any violations of these regulations. This legislation demonstrates a dedication to preserving biodiversity and ecosystems as an essential component of sustainable development.

With this legal basis, Indonesia seeks to balance economic growth and environmental sustainability, ensuring that development does not damage the ecosystem, which is the basis of life and people's welfare. Development that only prioritizes economic growth without considering the environmental impact does not guarantee sustainability. A damaged environment will hinder long-term economic growth. Sustainable development is a solution that guarantees economic prosperity and environmental sustainability for future generations. Sustainable Development Goals (SDGs) promote sustainable development by maintaining economic, social, and environmental prosperity. Therefore, criminal punishment for environmental crimes needs to support sustainable development in Indonesia. Based on this background, the author wants to examine further the concept of punishment for environmental crimes that supports sustainable development in Indonesia.

II. LITERATURE REVIEW

A. Punishment Theory

Punishment can be interpreted as the stage of determining and giving sanctions in criminal law. "criminal" is generally interpreted as law, while "sentencing" is interpreted as punishment. Soedarto said that the word punishment is synonymous with the word punishment. So, punishment comes from the bare words of the law, which can be interpreted as determining or deciding about the law. There are three theories of punishment, namely the Absolute theory and the theory of retaliation (Vergeldings theory), which emphasizes retaliation against people who have committed crimes.[8] This view fails to acknowledge the advantages of criminal punishment. Karl O. Cristiansen's retributive theory emphasizes many key aspects. Firstly, it asserts that the purpose of punishment is exclusively for retribution. Secondly, vengeance is considered the primary objective, with no consideration for other purposes such as the welfare of the people. A crime can only exist if there is a mistake. The penalty for the crime should be proportional to the mistake made by the person responsible. The punishment serves as a form of reproach and does not attempt to rectify, educate, or reintegrate the offender into society.

The second hypothesis is the relative or purpose theory (doel theory), which posits that crime is motivated not only by a desire for retribution but also by a goal of establishing societal order.[9] This view posits that the purpose of imposing punishment on criminals is not to seek revenge for the act, but rather to uphold and preserve public order. Muladi and Barda Nawawi Arief argue that crime serves purposes beyond mere retaliation or reimbursement for individuals who have engaged in illegal behavior, but rather has distinct and meaningful objectives.

The third theory is a synthesis theory, known as the Vereeniging theory, which emerged as a solution to the limitations of both absolute theory and relative theory, as neither has been able to yield adequate outcomes.[10] This flow is predicated on the objective of seeking retribution and upholding societal harmony in a cohesive manner. This integrated theory can be categorized into two components: one component emphasizes retaliatory measures, but within the boundaries of what is essential and adequate for the preservation of social order; the other component prioritizes the safeguarding of social order, while ensuring that the punishment inflicted upon the offender does not surpass the severity of their transgression.

Indonesia's legal framework for punishment encompasses multiple legislation that govern diverse criminal and environmental concerns. The Criminal Code (KUHP) serves as the principal legislative framework that encompasses a wide range of criminal offenses and their corresponding penalties.[11] In addition to the Criminal Code, legislation no. 8 of 1981, also known as the Criminal Procedure Law (KUHAP), governs the methods for implementing criminal legislation. This includes the processes of investigation, prosecution, and the implementation of court rulings. Law No. 32 of 2009, which deals with Environmental Protection and Management, explicitly outlaws the act of burning land and forests as a means of safeguarding the environment. This law serves as the legal foundation for penalizing individuals who engage in forest burning. Law no. 41 of 1999 on Forestry contains pertinent laws, such as Article 50, which forbids acts that lead to the destruction of forests, including burning, and Article 78, which imposes penalties on those responsible for forest damage. In addition, Law no. 5 of 1990 addresses the protection of conservation areas and natural habitats in Article 21. It also outlines the penalties for violations of the regulations pertaining to the conservation of biological natural resources and their ecosystems in Article 40.

Indonesia, being a conscientious participant in the global community, is obligated by numerous substantial treaties. The United Nations Convention Against Transnational Organized Crime (UNTOC) demonstrates international collaboration in the effort to combat and eliminate transnational organized crime.[12] The Convention on Biological Diversity (CBD) emphasizes the shared obligation of nations to safeguard biodiversity and promote the sustainable utilization of natural resources. The Paris Agreement is a significant global agreement on climate change that seeks to decrease the release of greenhouse gases and tackle the consequences of climate change, such as deforestation. Indonesia, as a member, is bound by certain international accords that emphasize the worldwide dedication to safeguarding the environment and promoting sustainability.

By establishing this legal foundation, it is possible to efficiently enforce penalties for environmental infractions both domestically and internationally, while also ensuring a harmonious relationship between economic development and environmental preservation. The notion of sustainable development is essential in safeguarding the environment from economic harm and guaranteeing that future generations can still reap its advantages.

B. Sustainable Development

Sustainable development is essential for effectively managing and utilizing resources to accomplish development objectives, including enhancing the societal and national quality of life. According to Otto Soemarwoto, a renowned Indonesian specialist in environmental law, development refers to a deliberate and organized endeavor aimed at efficiently managing resources.[12] This development must take into account three primary factors: economic, social, and environmental. Utilizing natural resources is permissible, provided that the preservation of the environment remains a paramount concern.

The notion of sustainable development is acknowledged in the 1945 Constitution. Article 28 H paragraph (1) of the 1945 Constitution highlights the entitlement of every individual to a favorable and salubrious living environment, which is an integral aspect of human rights. Article 33, paragraph (4) of the 1945 Constitution mandates that the national economy be structured according to the principles of economic democracy, with a focus on fairness and environmental sustainability. Jimly Asshiddiqie asserts that this system is a reflection of the Indonesian constitution, which acknowledges the supremacy of the people, the principle of legal governance, and environmental autonomy. These two articles provide evidence of the incorporation of sustainable development ideals in the 1945 Constitution. The Environmental Protection and Management Law Number 32 of 2009 (UU PPLH) also governs the concept of sustainable development.[13] This legislation provides a clear definition of sustainable development as a deliberate and organized endeavor that integrates environmental, social, and economic dimensions into development initiatives. The objective is to guarantee the preservation of the environment and the well-being, potential, welfare, and standard of living of both current and future generations.

Globally, numerous crucial accords and conventions enhance the legal foundation for sustainable development. The United Nations Framework Convention on Climate Change (UNFCCC) and The Paris Agreement exemplify the worldwide dedication to combat climate change through the reduction of greenhouse gas emissions and the preservation of the environment. The Convention on Biological Diversity (CBD) mandates nations to safeguard biodiversity and employ natural resources in a sustainable manner.[14] In addition, the Sustainable Development Goals (SDGs) adopted by the UN in 2015 provide a global framework for achieving sustainable development, including the goal of maintaining a balance between economic development and environmental sustainability.

With this legal basis, sustainable development will likely be implemented effectively. This concept is important to ensure that economic progress does not damage the environment and continues to benefit future generations. The principle of sustainable development is the key to integrating economic, social, and environmental aspects in every development strategy to achieve sustainable and fair prosperity for all.

III. METHOD

This study utilizes a normative juridical methodology, which is a meticulous and thorough approach, to examine the legal principles and laws that control the punishment of environmental offenses, namely forest and land fires, and its connection to sustainable development. This approach entails examining primary and secondary legal sources to have a comprehensive understanding of the research subject. The methodology employed is normative juridical, prioritizing the examination of statutory regulations, legal theory, and pertinent legal principles. It centers on the comprehensive examination of legal texts and literature pertaining to punishment. The legal sources utilized in this study encompass a range of primary and secondary legal documents. The primary legal elements consist of Law No. 32 of 2009, which deals with Environmental Protection and Management, Law No. 41 of 1999, which pertains to Forestry, the Criminal Code (KUHP), and other rules that are relevant to the management of environmental harm and the promotion of sustainable development. The examination of legal sources in this research is carried out with great attention to detail. Initially, data is acquired by assembling pertinent primary and secondary legal materials. Furthermore, legal writings undergo interpretation in order to comprehend the substance and purpose of the relevant regulations. Next, a comparison study is conducted by comparing existing laws and regulations with theories of punishment and principles of sustainable development. Next, a thorough assessment is conducted to determine the efficacy of laws and regulations in addressing criminal incidents of forest and land fires, while also promoting sustainable development. Ultimately, the analytical findings have been summarized, and suggestions have been given to improve pertinent laws and regulations. The complete strategy and methodology employed in this

research provide a significant contribution to the understanding of the notion of punishment for environmental crimes and its potential to enhance sustainable development in Indonesia.

IV. RESULT AND DISCUSSION

A. Concept of Punishment for Environmental Crimes in Indonesia

The protection orientation of each statutory regulation varies; we can determine this orientation by examining four aspects: statutory considerations, statutory principles, prohibited acts, and the types of sanctions regulated in the law. To see the protection orientation of the PPLH Law, we can find it in the preamble section of the law, namely[13]:

1. It is stated in Article 28 H of the 1945 Constitution of the Republic of Indonesia that every Indonesian citizen has the right to a good and healthy living environment.
2. The 1945 Constitution of the Republic of Indonesia mandates that national economic development should be conducted in accordance with the principles of sustainable and environmentally sound development.
3. The implementation of regional autonomy in the government of the Unitary State of the Republic of Indonesia has resulted in changes in the relationship and authority between the central government and regional governments, particularly in the area of environmental protection and management.
4. The deteriorating environmental quality poses a threat to the survival of humans and other living organisms, necessitating strict and consistent efforts from all stakeholders to protect and manage the environment.
5. The escalating global warming contributes to climate change, which further exacerbates the decline in environmental quality. Hence, it is imperative to safeguard and regulate the environment.
6. The Environmental Management Law Number 23 of 1997 should be revised in order to enhance legal assurance and safeguard the fundamental right of individuals to a favorable and healthy living environment.

This consideration shows that the purpose of establishing the PPLH Law is to regulate environmental management procedures based on ecosystem preservation and protect the environment from pollution and environmental damage caused by nature and humans.[15] The environment is a valuable resource for progress, so it is justifiable for it to require safeguarding from both human activities and government intervention. Development functions as a means to attain human well-being, although it also possesses the capacity to negatively impact the environment. Hence, it is imperative to alter the viewpoint on both aspects in order to resolve the conflict between the environment and development. National economic growth is implemented in accordance with principles of sustainable and environmentally responsible development. Sustainable development refers to a form of development that takes into account the capacity of future generations to meet their requirements, while also addressing the immediate demands of the present generation. The PPLH Law incorporates the coordination of development initiatives with environmental stewardship as a defining feature of sustainable development.

The principles underlying environmental protection and management are outlined in Article 2 of the UUPPLH. This article comprises 14 items, which encompass the principles of state responsibility, preservation and continuity, harmony and balance, integration, and benefit. The principles outlined include the principle of precaution, the principle of justice, the principle of ecoregions, the principle of biodiversity, the premise of polluter pays, the principle of participation, the principle of good governance, and the principle of regional autonomy. In addition, the PPLH Law governs two categories of penalties: criminal penalties, which encompass imprisonment and fines, and administrative penalties, specified in Articles 98 to 111, and from Article 113 to Articles 117 and 119.PPLH aims to achieve environmentally conscious management. The PPLH Law ensures legal certainty in the enforcement of environmental offenses to reduce criminal activities that lead to environmental pollution and damage. Furthermore, the PPLH Law governs two categories of sanctions: criminal sanctions, which include imprisonment and fines, and action sanctions outlined in Article 98 to Article 111, as well as Article 113 to Article 117 and Article 119.

Punishment can be defined as the procedure of ascertaining and enforcing penalties in the realm of criminal law. In theory, the theory of punishment will dictate the nature of the offense (transport), the degree or duration of the penalty (strafmaat), and the guidelines for carrying out the penalty (strafmodus). This view implies that the utilization of a specific theory of punishment has consequences for ascertaining these three factors. The PPLH Law stipulates other criminal consequences, such as imprisonment, fines, and action sanctions, which are imposed as supplementary penalties. Upon closer examination, the PPLH Law follows a comprehensive approach to punishment by incorporating both absolute and relative theories. The primary objective of this regulation is to achieve retribution and safeguard the legal framework of society.

The presence of prison sentences and fines is indicative of the philosophy of absolute or retributive punishment, which perceives punishment as a form of retaliation for errors made. This notion asserts that the wrongdoer must acknowledge and endure the consequences of their actions in response to the damages they have inflicted. The purpose of jails and fines imposed on individuals who commit environmental crimes is to serve as a deterrence. In addition, the presence of sanctions for actions that are regulated as supplementary penalties in Article 119 of the PPLH Law, such as compensating for the consequences of criminal acts and fulfilling neglected obligations, reflects the objective/relative theory. This theory sees punishment not as a form of revenge for the offender's errors, but as a method of attaining specific goals to safeguard society's well-being. This restoration, prompted by criminal activities, seeks to repair the environment that has been harmed by such acts, with the goal of returning it to its original state for human utilization. Nevertheless, the author argues that the absolute theory is reflected in other supplementary penalties, such as the seizure of illicitly acquired profits, the closure of business premises and activities, and the imposition of guardianship on the company for a maximum duration of three years. These penalties are intended to serve as a deterrent to individuals who engage in criminal acts.

The PPLH Law exhibits its commitment to a dual-track system by enforcing these penalties and measures. A double-track system refers to a criminal law system that incorporates both criminal sanctions (punishment) and action sanctions (treatment) on an equal footing. Criminal sanctions are imposed in response to an act that has already occurred, whereas action sanctions are more proactive and aimed at deterring the culprit before they do the crime. Assume that criminal penalties are centered around an individual's activities by inflicting suffering in order to discourage the person in question. In such circumstances, punishments are directed towards facilitating assistance in order to induce a transformation in the criminal. Therefore, the imposition of fines as a criminal penalty highlights the aspect of revenge. It is intentional infliction of anguish upon the wrongdoer. Meanwhile, punitive measures stem from the fundamental concept of safeguarding society and instructing or tending to offenders.

The PPLH Law governs a range of criminal consequences, such as incarceration, monetary penalties, and supplementary penalties for corporate entities. These penalties are appropriate measures for individuals who engage in criminal activities within the environmental domain. Imposing prison punishments and fines can effectively dissuade individuals who commit criminal crimes. Subsequently, by implementing punishments, it is anticipated that measures can be taken to reinstate the legal framework in society that has been breached.

B. Concept of Punishment for Environmental Crimes as an Effort for Sustainable Development in Indonesia

The Indonesian Constitution, known as the 1945 Constitution, serves as a fundamental basis for safeguarding a favorable and conducive living environment. It explicitly recognizes the right to a healthy living environment as a fundamental human right and constitutional entitlement for all Indonesian citizens. According to Article 28H, paragraph (1) of the 1945 Constitution, every individual has the right to a favorable and sustainable living environment, which is considered a fundamental human right.[16] Article 33, paragraph (4) of the 1945 Constitution emphasizes that the national economy should be structured according to the principles of sustainable development, taking into account environmental considerations. This regulation emphasizes the vital responsibility of the state, government, and all stakeholders in protecting and overseeing the environment while implementing sustainable development. Its goal is to ensure that the Indonesian environment continues to serve as a source of life and support for the Indonesian people and other living beings.

The notion of environmental protection and management is reinforced by Law Number 32 of 2009, which establishes regulations for various penalties for environmental crimes, including extra criminal consequences outlined in Article 119.[17] These supplementary penalties encompass compensations for the repercussions of unlawful activities and responsibilities to fulfill ignored tasks without entitlements. The implementation of these supplementary sanctions aims to prioritize the victim's interests, specifically the environment, in order to safeguard future generations from any adverse environmental consequences. Therefore, the implementation of these penalties promotes the achievement of sustainable development objectives, specifically the fulfillment of present requirements without compromising the well-being of future generations and the preservation of biodiversity.

Nevertheless, complications occur when punitive measures imposed for illegal actions and responsibilities to fulfill neglected duties without proper authorization are defined as supplementary discretionary punishments. Consequently, law enforcement personnel have the discretion to administer these sanctions inconsistently. Efforts to achieve sustainable development may be hindered if there is a requirement for additional penalties to be mandatory. Therefore, any individual who commits acts that result in environmental pollution and harm will always be obligated to rehabilitate environmental functions as stated in Article 54, paragraph (1) of the PPLH Law.

The PPLH Law includes sanctions that promote the concept of sustainable development, specifically additional penalties outlined in Article 119. These penalties consist of corrective measures for criminal offenses and obligations to rectify neglected work without proper authorization. The inclusion of these two sanctions as supplementary criminal penalties is understood as a recognition of and prioritization of the victim's interests in the criminal act, namely pertaining to the environment. By effectively enforcing these two supplementary sanctions, it is anticipated that the ecological harm caused by unlawful activities will not adversely affect future generations. Nevertheless, by imposing these two supplementary sanctions, the objective of sustainable development is to establish an optimal ecosystem capable of satisfying present-day necessities without compromising the well-being of future generations, while simultaneously preserving biodiversity, which can enhance human quality of life. Ensuring sustainability in the present and future. Nevertheless, the presence of corrective penalties arising from criminal offenses and the duty to fulfill neglected tasks without the rights specified as supplementary punishments contribute to the pursuit of sustainable development. Law enforcement officials are not obligated to administer this sanction because it is regulated as an additional penalty.

Researchers argue that additional punishment should involve reparation for the consequences of criminal conduct and requirements to fulfill neglected responsibilities that are legally mandated by the PPLH Law.[18] With the mandatory nomenclature in the PPLH Law, law enforcement officials will consistently apply these sanctions to cases that result in environmental pollution and damage. Moreover, it is regulated in Article 54 paragraph (1) of the PPLH Law, namely that every person who pollutes and destroys the environment is obliged to restore the function of the environment. In connection with the existence of additional punishment in the form of reparation as a result of criminal acts as regulated in Article 119 c of the PPLH Law, it is appropriate that additional punishment in the form of reparations for criminal acts is regulated as a penalty that must be imposed in line with Article 54 paragraph (1) of the PPLH Law.

According to L. Fuller, there are eight internal legal morals (eight principles of legality) that must be fulfilled by law, namely:

1. There are previously made regulations.
2. Regulations must be appropriately announced.
3. Regulations may not apply retroactively.
4. The public must understand the formulation of regulations (clear and detailed).
5. The law must be enforceable.
6. There must be no conflict between one regulation and another.
7. Rules should be kept the same (fixed).
8. Conformity between the actions of legal officials and the regulations made.

Based on these eight principles of legality, there is an inconsistency between Article 54 paragraph (1) of the PPLH Law, which requires every person who pollutes or damages the environment to carry out reparations, and Article 119 letter c of the PPLH Law, which regulates additional punishment in the form of reparations for criminal acts as facultative. This inconsistency shows that the principle of legality, which emphasizes that there should be no conflict between one regulation and another, needs to be fulfilled.

V. Conclusion

The Environmental Protection and Management Law (UU PPLH) in Indonesia is designed to establish guidelines for the management of the environment, with a focus on preserving ecosystems and safeguarding against pollution and harm. The introduction to the PPLH Law highlights the entitlement of each individual to a favorable and salubrious living environment, and the advancement of the country's economy should be grounded on the principles of sustainable development, taking into account the environment. The PPLH Law incorporates the principles of absolute and relative punishment in the implementation of criminal sanctions (imprisonment and fines) and action sanctions as supplementary penalties. This demonstrates the adoption of the double track system concept, which treats criminal sanctions and action sanctions equally. Criminal sanctions are reactive, while action sanctions are preventive. The Indonesian Constitution, particularly the 1945 Constitution, highlights the entitlement of every individual to a favorable and wholesome living environment, as well as the principle of sustainable development in the country's economy. The PPLH Law enhances this notion by imposing regulations on a range of penalties, which include supplementary fines in the form of restitution for criminal offenses and the requirement to fulfill ignored obligations. Nevertheless, the optional nature of additional punitive legislation can impede progress towards sustainable development if law enforcement agencies fail to regularly enforce them. Article 54, paragraph (1) of the PPLH Law mandates that further consequences, in the form of improvements and action duties, shall be imposed on those who cause environmental pollution or damage. These sanctions aim to ensure environmental restoration and contribute to the achievement of sustainable development goals.

REFERENCES

[1] S. Akhmaddhian, "Jurnal Bestuur," *J. Best.*, vol. 8, no. 2, pp. 129–138, 2020.

[2] A. K. Jaelani, I. G. A. K. R. Handayani, and L. Karjoko, "Executability of the constitutional court decision regarding grace period in the formulation of legislation," *Int. J. Adv. Sci. Technol.*, vol. 28, no. 15, pp. 816 – 823, 2019, [Online]. Available: https://www.scopus.com/inward/record.uri?eid=2-s2.0-85081906102&partnerID=40&md5=e0bc65b3212eb9684e7d06308bdd5379

[3] L. Juniyanti and R. O. P. Situmorang, "What causes deforestation and land cover change in Riau Province, Indonesia," *For. Policy Econ.*, vol. 153, p. 102999, 2023, doi: https://doi.org/10.1016/j.forpol.2023.102999.

[4] J. J. Ekaputri, M. Shahib, and A. Bari, "Perbandingan Regulasi Fly Ash sebagai Limbah B3 di Indonesia dan Beberapa Negara," *Media Komun. Tek. Sipil*, vol. 26, no. 2, pp. 150–162, 2020.

[5] R. O. Kusumaningtyas and J. Kalimanzila, "The Impact of Tax Incentive on Increase Foreign Direct Investment," *J. Sustain. Dev. Regul. Issues*, vol. 1, no. 2, pp. 51–63, 2023, doi: 10.53955/jsderi.v1i2.7.

[6] F. Hukum, U. S. Maret, O. Robbani, L. Karjoko, and F. U. Najicha, "Inkoherensi Persetujuan Penggunaan Kawasan Hutan Pada Kawasan Hutan Lindung Untuk Kegiatan Pertambangan Dengan Keadilan Ekologi Jurnal Discretie : Dasar Negara Republik Indonesia 1945 sangatlah pro lingkungan hidup juga menunjukkan pengimplementasian kons," vol. 2, no. 3, pp. 111–120, 2021.

[7] M. Lupascu *et al.*, "Climate-smart peatland management and the potential for synergies between food security and climate change objectives in Indonesia," *Glob. Environ. Chang.*, vol. 82, p. 102731, 2023, doi: https://doi.org/10.1016/j.gloenvcha.2023.102731.

[8] J. C. Gerson, "Restorative Justice and Alternative Systems," in *Encyclopedia of Violence, Peace, & Conflict (Third Edition)*, Third Edit., L. R. Kurtz, Ed., Oxford: Academic Press, 2022, pp. 125–136. doi: https://doi.org/10.1016/B978-0-12-820195-4.00161-8.

[9] J. Suh, "Human Rights and Corruption in Settling the Accounts of the Past: Transitional Justice Experiences from the Philippines, South Korea, and Indonesia," *Bijdr. tot taal-, land- en Volkenkd. / J. Humanit. Soc. Sci. Southeast Asia*, vol. 179, no. 1, pp. 61–89, 2023, doi: https://doi.org/10.1163/22134379-bja10049.

[10] Y. Arsyad *et al.*, "MENATA KEMBALI PRINSIP RESTORATIVE JUSTICE DALAM SISTEM PERADILAN PIDANA INDONESIA :," pp. 253–265.

[11] M. Pardede *et al.*, "Perspectives of sustainable development vs. law enforcement on damage, pollution and environmental conservation management in Indonesia," *J. Water Clim. Chang.*, vol. 14, no. 10, pp. 3770 – 3790, 2023, doi: 10.2166/wcc.2023.417.

[12] I. P. Sahramäki and T. T. Kankaanranta, "Regulatory voids in the prevention of environmental crime in Finland," *Eur. J. Criminol.*, vol. 20, no. 2, pp. 604 – 625, 2023, doi: 10.1177/14773708211020634.

[13] Sismawati and K. D. Anggraeny, "Law enforcement of forest and land fires in Rokan Hilir Regency of Riau Province," in *AIP Conference Proceedings*, S. M., P. Z.B., P. C.B.E., S. A., D. V.S., Y. F., and M. L., Eds., American Institute of Physics Inc., 2023. doi: 10.1063/5.0120357.

[14] V. Sevinç, "Analysis of the Relations Between Forestry Financial Supports and Forest Crimes," *Environ. Manage.*, vol. 71, no. 4, pp. 704 – 717, 2023, doi: 10.1007/s00267-022-01765-x.

[15] M. Ali, "Penal Proportionality in the Protection of Sustainable Food Agricultural Land Law," *Pakistan J. Criminol.*, vol. 16, no. 2, pp. 1019 – 1030, 2024, doi: 10.62271/pjc.16.2.1019.1030.

[16] Z. Lahabu, R. Mina, and A. U. Marzuki, "Kedudukan Persetujuan Lingkungan Terhadap Perizinan Berusaha Dalam Perlindungan Dan Pengelolaan Lingkungan Hidup," *J. Yustisiabel*, vol. 6, no. 1, p. 70, 2022, doi: 10.32529/yustisiabel.v6i1.1595.

[17] A. Fatanen, "Eksistensi Kewenangan Daerah Dalam PPLH," *ksistensi Kewenangan Drh. dalam Perlindungan dan Pengelolaan Lingkung. Hidup Pasca diterbitkannya Undang. Cipta Kerja*, vol. Vol.3, no. 1, pp. 1–7, 2020, doi: 10.15575/kh.v3i1.

[18] A. K. Jaelani, M. J. Hayat, R. D. Luthviati, S. Al-Fatih, and M. M. Mujib, "Green Tourism Regulation on Sustainable Development: Droning from Indonesia and China," *J. Indones. Leg. Stud.*, vol. 8, no. 2, pp. 663 – 706, 2023, doi: 10.15294/jils.v8i2.72210.