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STRATEGIES FOR PREVENTING CORPORATE CRIMES IN THE MINING AND ENERGY SECTORS THROUGH ENVIRONMENTAL CRIMINAL LAW POLICIES

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Abstract

The state of corporations in the mining and energy sectors indicates a worrying trend, where the focus on maximum profits often overshadows the principles of environmental sustainability and compliance with applicable regulations. This study aims to determine strategies for preventing corporate crime in the mining and energy sectors through environmental criminal law policies. This study uses qualitative research. The research method used is library research. Collecting and analyzing data from secondary sources such as books, journals, laws, and other literature. The results show that prevention strategies must include internal compliance programs, progressive criminalization, strengthening of supervision and law enforcement, and synergy between criminal, administrative, and economic instruments. With these various strategies, it is hoped that corporate crime in the mining and energy sectors can be minimized, and corporations can carry out their roles responsibly towards the environment and society.

Keywords: Criminal Acts Corporations Environmental Criminal Law Policy

INTRODUCTION

The process of industrialization in the context of globalization has made corporations the main actors in the dynamics of the national economy. In addition to serving as the main driver of economic growth, corporations also bear substantial social and environmental responsibilities. The process of industrialization in the context of globalization has made corporations the main actors in the dynamics of the national economy. In addition to serving as the main driver of economic growth, corporations also bear substantial social and environmental responsibilities (Ali & Anggono, 2021). In Indonesia, the mining and energy sector is a major contributor to the Gross Domestic Product (GDP) and state revenue. However, despite this significant economic contribution, the sector also faces serious challenges, including environmental damage and corporate law violations that harm the state and the wider community.

The state of corporations in the mining and energy sectors indicates a worrying trend, where the focus on maximizing profits often overshadows the principles of environmental sustainability and compliance with applicable regulations(Erwin, 2020). The practice of irresponsible exploitation of natural resources, including land clearing without adequate permits, water and soil pollution from mining waste, and reclamation that does not meet standards, has developed into a structural problem that is difficult to overcome (Hiariej, 2020). This situation is exacerbated by a lack of oversight and enforcement against corporations that commit violations.

Corporate crimes in the mining and energy sectors exhibit unique characteristics that distinguish them from conventional crimes. First, their impact is widespread and long-lasting, not only damaging the environment but also endangering the lives of current and future generations (Rahmadi, 2020).Second, perpetrators often involve complex networks that include company leaders, employees, and public officials who facilitate these violations. Third, sophisticated and covert methods of operation behind the legal legitimacy of corporations make the process of proving and prosecuting these crimes extremely difficult and complex (Rangkuti, 2021).

The losses suffered by the state as a result of corporate crime in the mining and energy sectors go beyond the economic dimension and include ecological and social aspects. From an economic perspective, the state loses potential non-tax state revenue (PNBP) due to royalty avoidance practices, production data manipulation, and transfer pricing.

The losses suffered by the state as a result of corporate crime in the mining and energy sectors go beyond the economic dimension and include ecological and social aspects. From an economic perspective, the state loses potential non-tax state revenue (PNBP) due to royalty avoidance practices, production data manipulation, and transfer pricing (Rahardjo, 2021). From an ecological perspective, the cost of restoring damaged environments requires a huge budget and a long time. Meanwhile, from a social perspective, local communities lose access to natural resources, experience health problems, and face prolonged social conflicts.

To address these issues, Indonesia has established a comprehensive environmental criminal law framework through Law No. 32 of 2009 on Environmental Protection and Management (UUPPLH). This law integrates international environmental law principles, such as strict liability, vicarious liability, and corporate criminal liability, which enable corporations to be held criminally liable for environmental damage (Sriwidodo, 2022). In addition, the 2009 Environmental Protection and Management Law stipulates stricter criminal sanctions, including additional penalties such as confiscation of profits, closure of business operations, and the obligation to restore the environment.

However, the implementation of Law No. 32 of 2009 concerning Environmental Protection and Management (UUPPLH) in law enforcement practice still faces various challenges. First, difficulties in proving elements of corporate fault and corporate criminal liability, which are still subjects of debate in the Indonesian criminal justice system. Second, the limited capacity of law enforcement officials to handle complex cases related to corporate crimes in the environmental sector. Third, the lack of coordination between law enforcement agencies and supervisory institutions in the mining and energy sectors. Fourth, the sanctions imposed on offending corporations are often disproportionate to the losses incurred, thus failing to create an effective deterrent effect.

Outside of Law Number 32 of 2009 concerning Environmental Protection and Management (UUPPLH), provisions regarding corporate criminal liability are also regulated in various sectoral laws and regulations. Law No. 3 of 2020 concerning Amendments to Law No. 4 of 2009 concerning Mineral and Coal Mining stipulates criminal sanctions for corporations that commit licensing violations and illegal mining activities (Santosa & Wibisana, 2021).

Although various criminal law instruments are available to regulate corporate accountability, their effectiveness in preventing corporate crime in the mining and energy sectors has not yet reached an optimal level. A repressive approach through criminal law enforcement alone is not sufficient to address these structural and systemic problems. Therefore, a comprehensive prevention strategy is needed through criminal policy that covers preventive and restorative aspects, not just repressive ones.

Effective environmental criminal law policies must integrate various approaches, ranging from strengthening environmental regulations and standards, improving monitoring and law enforcement capacities, reforming corporate criminal liability systems, to public involvement in the monitoring process (Syahrin, 2013). The challenge ahead is how to develop an environmental criminal justice system that can effectively prevent corporate crime while promoting responsible and sustainable business practices in the mining and energy sectors. This requires synergy between criminal justice policies, sectoral regulations, oversight mechanisms, and public participation in corporate oversight (Arief, 2018).

METHOD

This study uses qualitative research. Qualitative research is conducted using phenomenon data, which can only be explained narratively and cannot be proven quantitatively. Qualitative research builds theory from data and adds more information to it until the data becomes saturated (Cahyono, 2021).This study applies the library research method. Library research is a research approach that involves collecting and analyzing data from secondary sources, such as books, journals, laws and regulations, and other literature. This approach does not involve direct interaction with the research object in the field. In addition, library research can contribute to building a theoretical framework related to the issue being studied through an in-depth review of various book references and previous similar research results.

The author chose to apply the literature research method in this study based on several main reasons. First, data sources are not always available in the field; sometimes, data can only be obtained from written documents, such as newspapers, books, and other literature. Second, literature research is necessary to understand new phenomena that are not yet fully understood, allowing the author to develop ideas to overcome problems that arise after understanding these phenomena. Third, data from the literature can still provide answers to the researcher's questions, because

researchers can utilize information that has been collected by others, such as in books, scientific reports, and previous research results. Determining the topic, searching, collecting, organizing, and analyzing library data are part of the process (Hartiwiningsih, 2016). The purpose of this article is to identify prevention strategies used to prevent individuals or corporations from committing environmental crimes, namely environmental destruction, through environmental criminal law policies. It is hoped that this research can serve as reading material and a starting point for further research by other researchers.

RESULTS AND DISCUSSION

A. Definition of Corporation

Etymologically, the term “corporation” (in Dutch: corporatie, English: corporation, German: corporation) comes from the Latin word “corporatio”. The word “corporare” itself is rooted in “corpus,” which means ‘body’ in Indonesian, with the connotation of giving form to a body or embodying. Therefore, “corporation” can be understood as the result of the process of forming a body, namely an entity that is treated as a person, a legal entity created by humans, which is different from a human body that is formed naturally.

Terminologically, according to Yan Pramadya Puspa, a corporation is defined as an entity that is treated as an individual and has legal entity status. In this context, a corporation or company refers to a group or organization that is legally treated as a person (persona). This legal entity functions as a subject of rights and obligations, and has the ability to file lawsuits or be sued in court (Haryono, et al., 2024).

Corporations have been recognized as organized associations bound by law that have rights and obligations in the business world since centuries ago. Initially, corporations served as a mechanism for collaboration among individuals with capital to achieve mutual profits, and were not as complex and exclusive as modern corporations are today. However, corporations often have negative impacts, including environmental pollution, exploitation of natural resources, unfair competition, tax manipulation, oppression of workers, production of goods that are harmful to consumers, and fraud against customers. Therefore, environmental preservation has become a crucial issue in this era of globalization (Ilham, 2025).

The emergence of corporate crime can be explained as part of human efforts to meet increasingly complex needs as social situations and conditions develop. These needs ultimately conflict with the dynamics of competition among businesses (corporations) in pursuit of maximum profits. This competition is an inevitable phenomenon, encouraging corporations to engage in criminal practices in order to gain a competitive advantage. Corporations involved in such crimes, with significant increases in revenue, eventually become trapped in a cycle of greed that triggers them to commit crimes in a structured manner. The emergence of corporate crime can be explained as part of human efforts to meet increasingly complex needs in line with developments in social situations and conditions. These needs ultimately conflict with the dynamics of competition among business actors (corporations) in pursuit of maximum profits. This competition is an inevitable phenomenon, prompting corporations to engage in criminal practices in order to gain a competitive advantage. Corporations involved in such crimes, with significant increases in revenue, eventually became trapped in a cycle of greed that triggered them to commit crimes in a structured manner (Syahrin & Akib, 2021).

B. Efforts to Prevent Corporate Crime in the Mining and Energy Sector Through Environmental Criminal Law Policy

Corporate crimes in the mining and energy sectors have unique characteristics that distinguish them from conventional crimes. The resulting impacts tend to be massive, systematic, and often long-term, making them difficult to remedy. Common examples of negative impacts include water pollution from mining waste, forest and land degradation, and air pollution (Wibisana, 2020).Therefore, a comprehensive prevention strategy is needed through environmental criminal law policies that are not only repressive, but also preventive and restorative. Such policies must be able to establish a system that encourages corporations to comply with environmental regulations from the planning stage to post-operation. Therefore, a comprehensive prevention strategy is needed through environmental criminal law policies that are not only repressive but also preventive and restorative. Such policies must be able to establish a system that encourages corporations to comply with environmental regulations from the planning stage to post-operation.

Indonesia has an extensive legal system for environmental protection and management, starting with Law Law No. 32 of 2009 concerning Environmental

Protection and Management (UUPPLH), as well as Law No. 4 of 2009 concerning Mineral and Coal Mining, which was later amended to Law No. 3 of 2020 concerning Amendments to the Law on Mineral and Coal Mining. In conducting mining operations, corporations are required to conduct environmental impact studies, develop reclamation and post-mining plans, and follow the principles of good mining practice. However, the success of these regulations is highly dependent on their implementation and enforcement in the field, which still faces many structural and cultural obstacles.

Corporate crime prevention strategies require a comprehensive approach, combining legal, administrative, and economic dimensions.

1. First, strengthening the role of prevention can be achieved through the implementation of compliance programs that must be applied by every company operating in the mining and energy sectors (Indonesia, 2020, UU No. 3 Tahun 2020). This compliance program must include the establishment of a special unit tasked with monitoring environmental compliance, a routine internal audit system, training for all levels of management and employees on environmental regulations, and an internal reporting mechanism (whistleblowing system) that protects whistleblowers from retaliation. Companies that implement effective compliance programs may be given incentives, such as reduced penalties in the event of violations, as a form of recognition of the company's commitment.
2. Second, the implementation of progressive and balanced criminal sanctions is a crucial component of prevention strategies. These sanctions are not merely punitive in nature, but must also serve as a means of education and rehabilitation (Indonesia, 2009, UU No. 32 Tahun 2009). In addition to criminal fines, the amount of which must be commensurate with the profits gained or losses caused, additional sanctions may be imposed, such as the obligation to repair environmental damage, public disclosure of court decisions, revocation of operating licenses, or even dissolution of the company for very serious violations. This progressive punishment system is expected to create a more effective deterrent effect on companies and encourage voluntary compliance with environmental regulations.
3. Third, strengthening oversight and law enforcement capabilities is a key factor in the success of prevention strategies. The government must increase the

capacity of supervisory agencies such as the Ministry of Environment and Forestry, the Ministry of Energy and Mineral Resources, and local governments to monitor and assess corporate activities (Indonesia, 2009, UU No. 4 Tahun 2009). Monitoring can be carried out through real-time online monitoring systems for key environmental indicators, scheduled spot checks, and environmental audits by independent parties. In addition, the establishment of a special law enforcement unit that understands the nature of environmental crimes and has full authority to conduct investigations is also very important.

Although criminal law is very important, prevention strategies cannot rely solely on criminal instruments. For a more comprehensive approach, criminal instruments must be combined with administrative and economic instruments. Corporations can only operate with strict permits, clear environmental quality standards, and strict administrative sanctions. A transparent and accountable licensing system, together with a public dispute process involving the community, can ensure that only companies that are capable and dedicated to the environment can operate.

To prevent corporate crime in the mining and energy sectors, public participation is essential. Including the right of environmental organizations to file public interest lawsuits and representative lawsuits, the Environmental Protection and Management Law facilitates public participation in environmental monitoring and law enforcement.

DISCUSSION

In the context of this study, the author has conducted a literature review related to the topic under review. The findings from the literature review that are relevant to this study are as follows:

1. (Pravifjayanto, 2025) The main objective of this study is to examine the criminal liability system for corporations as perpetrators of environmental crimes and to draft criminal law norms that can guarantee justice for the community. This study shows that, although Law No. 32 of 2009 concerning Environmental Protection and Management regulates environmental protection in Indonesia, in practice, violations by corporations motivated by economic gain still often occur. Therefore, this study encourages the renewal of a stricter and more advanced corporate criminal liability system, incorporating elements of prevention through a restorative justice approach in handling environmental cases involving corporations. This research is particularly important because it

emphasizes corporate criminal liability in environmental crimes, which is a crucial aspect of mining and energy activities. The proposed progressive legal approach provides new insights for designing prevention strategies that are not only punitive but also preventive, thereby aligning with effective environmental criminal law policies.

2. (Winarsa, Rukmini, & Takariawan, 2022) This study focuses on analyzing the implementation of environmental criminal liability imposed on corporations under Indonesian law, as well as measures to address environmental crimes committed by corporations. This study uses a concrete case study, namely pollution and damage in the Citarum River Basin, as an illustration of environmental problems caused by corporate activities. The results of the study show that Law Number 32 of 2009 concerning Environmental Protection and Management has recognized corporations as legal entities that can be held criminally liable. However, in practice, there are various obstacles in enforcing the law against corporations that commit such crimes, such as the absence of corporations being subject to criminal sanctions in the case of pollution in the Citarum River Basin, even though the impact of environmental damage is extensive. This study identifies shortcomings in the law enforcement approach that is not yet fully effective in tackling environmental crimes by corporations. This research provides empirical data on the challenges in applying criminal law enforcement against corporations in the field of natural resources and the environment. Findings on the differences between legal regulations and their implementation are crucial for designing more effective prevention strategies through environmental criminal law policies, particularly in the mining and energy sectors, which have characteristics similar to the Citarum River Basin pollution case.

CONCLUSION

In its development, corporations not only have a positive impact on economic development, but also have the potential to cause significant environmental damage, especially in the mining and energy sectors. Corporate crimes in these sectors are systematic, have long-term impacts, and are often difficult to remedy, such as environmental pollution, ecosystem damage, and excessive exploitation of resources.

Preventing corporate crime requires a comprehensive approach to environmental criminal law that is not only repressive, but also preventive and restorative. Although Indonesia already has adequate regulations, their implementation and enforcement still face many obstacles, both structural and cultural. Therefore, prevention strategies must include internal compliance programs, progressive criminalization, strengthened supervision and law enforcement, and synergy between criminal, administrative, and economic instruments.

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