

Original Article

Principle of Ecological Restorative Justice in Corporate Environmental Crimes Policies

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Abstract

Environmental crimes pose a significant threat to ecological integrity and public welfare. However, law enforcement utilising retributive justice often fails to address the root causes of environmental damage caused by corporations. Therefore, alternative law enforcement efforts are necessary for more effective outcomes. This research aims to determine the effectiveness of current law enforcement against corporate environmental crimes in Indonesia, examine environmental crime enforcement in other countries, and identify an integrative environmental law enforcement policy model that incorporates the restorative justice approach in handling corporate environmental crimes. This study employs a normative legal research method with three approaches: statutory, conceptual, and comparative. This study finds that, first, law enforcement against corporate environmental crimes in Indonesia remains ineffective due to the difficulties in proving corporate liability, weak coordination and capacity among law enforcement agencies, and low levels of corporate compliance and transparency. Second, compared to Indonesia, Australia, specifically Victoria, has established a more comprehensive restorative justice framework through the Environment Protection Act 2017, whereas New South Wales still relies on judicial practice without an explicit restorative legal basis. Third, Indonesia needs to adopt an ecological restorative justice model that places environmental restoration, community participation, independent oversight, and stringent sanctions at the core of corporate criminal liability to truly realise ecological justice. Therefore, it is necessary to formulate law enforcement policies that incorporate ecological restorative justice principles, prioritising environmental restoration. Corporations should face sanctions and be required to restore damage in a tangible, measurable way, with independent oversight.

Keywords: Crimes; Environmental; Justice; Policy; Restorative;

Introduction

Environmental crimes constitute a severe threat to ecological resilience and human well-being. These offences encompass a multitude of illegal activities, ranging from illegal logging via forest burning and the trafficking of protected wildlife to pollution and unauthorised waste disposal. Such practices not only devastate ecosystems and deplete vital natural resources but also precipitate social and economic issues, even disrupting the cultural fabric of communities, particularly among the most vulnerable and marginalised groups.¹ One of the primary factors contributing to this environmental degradation is corporate activity. As entities that interact with both society and the environment, corporations ought to shoulder ethical responsibilities toward these stakeholders. However, many companies have yet to



¹ Indah Fhadilah, Livvy Asyafira and Asmak Ul Hosnah, 'Restorative Justice and Environmental Crime: Exploring New Models for Addressing Harm to the Environment and Communities', *Enigma in Law*, 3.1 (2025), 14–27 <<https://doi.org/10.61996/law.v3i1.84>>.

demonstrate a genuine commitment to mitigating or remediating the damage from their operations.²

Environmental crimes contravene prevailing environmental regulations and cause detrimental impacts on the natural world.³ Corporate non-compliance with environmental rules not only jeopardises public health and safety but also inflicts profound damage upon ecosystems.⁴ Although numerous regulations have been enacted to govern corporate environmental responsibility, the imposition of criminal sanctions for such violations continues to exhibit significant shortcomings, whether in terms of effectiveness, consistency in law enforcement, or equitable application.⁵ In practice, various environmental offences persistently emerge, with corporate activities playing as the primary catalyst. According to a report by the Indonesian Forum for Environment (*Wahana Lingkungan Hidup Indonesia* or WALHI), in 2025, 47 corporations had been reported to the Attorney General's Office for alleged environmental destruction across 17 provinces. The report estimates a state financial loss of IDR 437 trillion. The emergence of such reports underscores the profound consequences of natural resource exploitation that has persisted for decades.⁶

One of the corporate environmental crimes that inflicts profound environmental damage, and pollution is land clearing through deliberate burning. Forest burning for land clearance is predominantly perpetrated by corporations as it is more lucrative, incurs substantially lower costs than mechanical clearing methods, and is significantly faster. It is these operational expenses that corporations seek to suppress to minimise production costs, thereby blatantly disregarding sustainability and imperilling the environment. This deliberate land burning threatens to destroy the forest's ecological functions and precipitates transboundary haze disasters, inflicting severe social and health harms on communities.⁷ This phenomenon aligns with the underlying motivation of environmental offenders, which is predicated on a cost-benefit calculus. The perpetrators' orientation in committing prohibited acts is driven exclusively by the pursuit of maximising economic profit.⁸ The formulation of corporate liability concerning environmental crimes is, in fact, already stipulated within various legal frameworks. Notable among these are Law Number 32 of 2009 concerning Environmental Protection and Management (*Undang-Undang Pengelolaan dan Perlindungan Lingkungan Hidup* or UU PPLH) and the Criminal Code (*Kitab Undang-Undang Hukum Pidana* or KUHP), which govern the criminal offence of burning, resulting in environmental degradation. Under the UU PPLH, the prescribed sanctions include imprisonment and fines ranging from 3 to 10 billion rupiah.⁹

² Muhammad Nadeem, 'Corporate Governance and Supplemental Environmental Projects: A Restorative Justice Approach', *Journal of Business Ethics*, 173.2 (2021), 261–80 <<https://doi.org/10.1007/s10551-020-04561-x>>.

³ Angus Nurse, 'Contemporary Perspectives on Environmental Enforcement', *International Journal of Offender Therapy and Comparative Criminology*, 66.4 (2022), 327–44 <<https://doi.org/10.1177/0306624X20964037>>.

⁴ Zulaikha Mokhtar, Steven Kenway and Irdyanti Mat Nashir, 'Challenges for Compliance with Industrial Effluent Regulations—An Industry Perspective', *Challenges*, 16.1 (2024), 1 <<https://doi.org/10.3390/challe16010001>>.

⁵ Robert E. Worden, Christopher J. Harris and MoonSun Kim, 'Disciplinary Sanctions for Police Misconduct: An Empirical Analysis of Sanction Severity', *Police Quarterly*, 27.1 (2024), 80–108 <<https://doi.org/10.1177/10986111231174831>>.

⁶ Retno Dewi Pulung Sari and others, 'State Financial Losses as a Result of Environmental Damage', *Journal of Human Rights, Culture and Legal System*, 4.1 (2024), 121–48 <<https://doi.org/10.53955/jhcls.v4i1.136>>.

⁷ Hartiwingsih and others, 'Optimization of Criminal Sanctions against Corporations in Restoring Environmental Functions: An Ecological Justice Study', *IOP Conference Series: Earth and Environmental Science*, 1537.1 (2025), 012065 <<https://doi.org/10.1088/1755-1315/1537/1/012065>>.

⁸ Feri Satria Wicaksana Effendy and Adrian Nailariq, 'Deferred Prosecution Agreement: The Economic Approach and Legal Expediency in the Settlement of Environmental Crimes', *IOP Conference Series: Earth and Environmental Science*, 1537.1 (2025), 012014 <<https://doi.org/10.1088/1755-1315/1537/1/012014>>.

⁹ Alief Sugiarto S., 'The Principle of Legality in Corporate Criminal Liability for Environmental Crimes in Indonesia', *Golden Ratio of Law and Social Policy Review*, 5.1 (2025), 181–89 <<https://doi.org/10.52970/grlspr.v5i1.1724>>.



One of the primary challenges in enforcing the law against environmental crimes, specifically corporate forest and land fires, is the complexity of the evidentiary aspect. Consequently, judicial enforcement efforts frequently yield relatively lenient sentences or, quite often, the acquittal of the perpetrators.¹⁰ Furthermore, the judicial process is exceedingly protracted. This is exemplified by the forest and land burning case involving PT Adei Plantation, as documented in Decision No. 228/Pid.Sus/2013/PN.Plw; Decision No. 286/PID.SUS/2014/PT.PBR; and Supreme Court Decision No. 2042 K/Pid.Sus/2015. In the PT Adei Plantation case, the total duration of the trial process from its initial registration at the District Court to the final ruling by the Supreme Court spanned 812 days. This extensive timeframe did not even account for the period during which the crime occurred, the investigation and inquiry phases, and the execution of the verdict. Meanwhile, environmental pollution or degradation persists if not addressed or remediated immediately.¹¹ Additionally, the capacity constraints of overcrowded prisons further underscore the punitive system's ineffectiveness.¹² This protracted judicial process is also accompanied by the imposition of additional criminal sanctions that remain unoriented toward restoration, owing to the ineffective application of remedial sanctions resulting from the offence.¹³ Furthermore, the remedial sanctions for environmental crimes stipulated in Article 119, letter c of the UU PPLH have not been optimally implemented due to several factors. These sanctions fail to consider the non-human victims of environmental crimes and remain overly narrow, limiting liability to the corporation itself.¹⁴

The ineffectiveness of its application stems from the fact that remedial sanctions for criminal acts are categorised as additional penalties. Consequently, these additional penalties cannot be imposed independently without being accompanied by the principal penalties, namely imprisonment and fines.¹⁵ Furthermore, the imposition of additional penalties is fundamentally discretionary. While these penalties may be imposed in circumstances specified by the law, doing so is not mandatory. The existence of additional penalties as an alternative sanction impedes the implementation of environmental conservation. This is because remedial sanctions resulting from criminal acts are not consistently imposed upon perpetrators of environmental crimes. In reality, their existence constitutes a sanction that should be prioritised for implementation, as their form entails actions aimed directly at repairing and/or restoring the environment to its original state prior to the commission of the crime, thereby actualizing environmental conservation.¹⁶ Therefore, in imposing sentences, judges should not focus solely on the punitive aspect but must also consider environmental protection interests by applying the principle of *in dubio pro natura*.¹⁷ The

¹⁰ Adi Wijayanto, Hatta Acarya Wiraraja and Siti Aminah Idris, 'Forest Fire and Environmental Damage: The Indonesian Legal Policy and Law Enforcement', *Unnes Law Journal*, 8.1 (2022), 105–32 <<https://doi.org/10.15294/ulj.v8i1.37360>>.

¹¹ Maskun Maskun and others, 'The Dilemma of Administrative Sanctions in Legalizing Palm Oil Plantations in Indonesian Forest Areas', *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 8.1 (2025), 171–90 <<https://doi.org/10.24090/volksgeist.v8i1.13114>>.

¹² Dominique Moran, Jacob A. Jordaan and Phil I. Jones, 'Toxic Prisons? Local Environmental Quality and the Wellbeing of Incarcerated Populations', *Land*, 13.2 (2024), 223 <<https://doi.org/10.3390/land13020223>>.

¹³ Marta Conde and others, 'Slow Justice and Other Unexpected Consequences of Litigation in Environmental Conflicts', *Global Environmental Change*, 83 (2023), 102762 <<https://doi.org/10.1016/j.gloenvcha.2023.102762>>.

¹⁴ Mahrus Ali and others, 'Punishment without Culpability in Environmental Offences', *Cogent Social Sciences*, 8.1 (2022) <<https://doi.org/10.1080/23311886.2022.2120475>>.

¹⁵ Anis Widyawati and others, 'Urgency of the Legal Structure Reformation for Law in Execution of Criminal Sanctions', *Lex Scientia Law Review*, 6.2 (2022), 327–58 <<https://doi.org/10.15294/lesrev.v6i2.58131>>.

¹⁶ Liping Wang and others, 'Nonlinear Effects of Environmental Costs on Dual Performance of Enterprises and Credit Regulation Mechanism: A Dynamic Empirical Study Based on Chinese Heavily Polluting Enterprises', *Sage Open*, 16.1 (2026) <<https://doi.org/10.1177/21582440251412213>>.

¹⁷ Ridwan Arifin and Siti Hafsyah Idris, 'In Dubio Pro Natura: In Doubt, Should the Environment Be a Priority? A Discourse of Environmental Justice in Indonesia', *Jambe Law Journal*, 6.2 (2023), 143–84 <<https://doi.org/10.22437/jlj.6.2.143-184>>.



application of this principle becomes highly relevant when the impacts of environmental crimes have tangibly inflicted harm upon both humans and ecosystems, ensuring that sentencing serves not merely to augment state revenue, but rather to guarantee the execution of environmental protection and restoration.¹⁸ In this context, the principle of *in dubio pro natura* aligns with the restorative justice paradigm; both approaches de-emphasise purely punitive sentencing, positioning ecosystem restoration as the paramount priority and ensuring that any evidentiary doubt is interpreted in favour of environmental sustainability.¹⁹

In recent years, substantial interest has emerged regarding restorative justice as an alternative framework for addressing environmental crimes. Restorative justice constitutes a set of practices that positions the needs of the affected parties as the first priority, while continuing to demand accountability from the perpetrators for their actions. This approach emphasises the significance of remediating the damage, fostering dialogue among the involved parties, and prioritising community participation in the resolution process.²⁰ In the context of environmental crimes, the application of restorative justice remains in a developmental phase. Although not yet fully mature, this approach possesses immense potential to serve as a sustainable mechanism for upholding justice and restoring the environment. In this regard, it can be understood that restorative justice represents an endeavour to uphold ecological justice, aligning with modern environmental law principles that establish restoration as the primary form of perpetrator accountability for environmental damage and crimes going beyond the mere imposition of imprisonment or financial penalties.²¹

Restorative justice is a policy considered novel and sectoral in nature within the Indonesian criminal justice system.²² Nevertheless, this policy is in accordance and aligns with the UN declaration adopted in 2000, which encompasses essential principles regarding the use of restorative justice programs in criminal matters (United Nations Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters). The concept of restorative justice was also reaffirmed at the 11th UN Congress held in Bangkok in 2005 concerning crime prevention and criminal justice (Eleventh United Nations Congress on Crime Prevention and Criminal Justice). Paragraph 32 of the Bangkok Declaration, under the heading “Synergies and Responses”, explicitly mentions “Strategic Alliances in Crime Prevention and Criminal Justice”. In practice, the concept of restorative justice has been applied in several cases, including the Capital Market Law violations committed by PT Bank Lippo Tbk., the Bank Indonesia Liquidity (BLBI) case, and cases involving Merrill Lynch and the Monsanto Company. Fundamentally, the restorative justice approach in criminal cases has begun to be accommodated. Paradigmatically, there has been a shift in criminal law enforcement from a retributive to a restorative justice foundation. However, this paradigmatic shift from retributive to restorative justice does not apply to, nor encompass, all types of criminal cases.²³

¹⁸ Jainendra Kumar Sharma, ‘Ecological and Environmental Crimes: A Threat to Sustainable Development’ (Springer, Cham, 2025), pp. 55–88 <https://doi.org/10.1007/978-3-031-96432-9_4>.

¹⁹ Alvaro Augusto Sanabria-Rangel, ‘Environment as a Victim: Overcoming the Human-Centric Paradigm of Rights’, *Revista de La Facultad de Derecho de México*, 74.290 (2024), 5–36 <<https://doi.org/10.22201/fder.24488933e.2024.290.89299>>.

²⁰ Pete Wallis, *Understanding Restorative Justice* (Policy Press, 2014) <<https://doi.org/10.51952/9781447317456>>.

²¹ Brunilda Pali, Miranda Forsyth and Felicity Tepper, ‘The Palgrave Handbook of Environmental Restorative Justice’, *The Palgrave Handbook of Environmental Restorative Justice*, 2022, 1–706 <<https://doi.org/10.1007/978-3-031-04223-2>>.

²² Nurul Putri Awaliah Nasution, Fathul Hamdani and Ana Fauzia, ‘The Concept of Restorative Justice in Handling Crimes in the Criminal Justice System’, *European Journal of Law and Political Science*, 1.5 (2022), 32–41 <<https://doi.org/10.24018/ejpolitics.2022.1.5.37>>.

²³ Lindsay Fulham and others, ‘The Effectiveness of Restorative Justice Programs: A Meta-Analysis of Recidivism and Other Relevant Outcomes’, *Criminology & Criminal Justice*, 25.5 (2025), 1486–1512 <<https://doi.org/10.1177/17488958231215228>>.



The restorative justice paradigm on environmental crimes has also been implemented in several countries, notably Australia. In Australia, two state jurisdictions are of particular interest: Victoria and New South Wales. In Victoria, restorative justice mechanisms in environmental law enforcement are explicitly governed by the Environment Protection Act 2017. While in New South Wales, the mechanism of restorative justice conferencing in environmental cases currently lacks an explicit legal foundation within the Protection of the Environment Operations Act 1997 (NSW).²⁴ Its execution relies upon the initiative of the involved parties and internal court guidelines, most notably through the Practice Note Class 5 Proceedings administered by the NSW Land and Environment Court.²⁵ Australia has applied restorative justice in various environmental crime cases, exemplified by the OneSteel Recycling case in Laverton North. A massive fire, ignited by undetected used batteries, exposed the company's negligence in fire risk management and material handling. Consequently, the company was convicted to have violated the Environment Protection Act 1970 (Vic) and was brought before the Sunshine Magistrates' Court. Although OneSteel pleaded guilty, the court maintained that the corporation should have instituted a more robust waste prevention and management system. Rather than levying a conventional fine, EPA Victoria petitioned for the company to finance an environmental project.²⁶ Based on these premises, an urgency arises to optimise the paradigm shift in corporate environmental crime enforcement, transitioning from a foundation of retributive justice toward ecological restorative justice.

Several scholars have investigated various approaches to handling corporate environmental crimes; however, these studies generally lean towards normative and repressive approaches, emphasising the punitive aspect without profoundly examining the dimensions of environmental restoration and substantive justice for affected communities through a restorative justice lens. Research by Xinrui Zhang and Jiashu Zhang posits that the application of restorative justice has reportedly introduced pivotal transformations within the environmental criminal justice system in China. Nevertheless, empirical findings indicate significant limitations in substantiating these normative claims, rendering robust defences of jurisprudential analyses of restorative justice practices in Chinese environmental cases difficult.²⁷ Angus Nurse asserts that environmental crimes (and environmental degradation) frequently engender long-term and irreversible consequences. Therefore, there is a necessity for efforts to optimise the effectiveness of the justice system in addressing environmental offenders and the damage they cause.²⁸ While Jize Jiang and Zhifeng Chen indicate that the implementation of restorative justice in Chinese environmental crime cases utilises a state-led and coordinated network of community organisations and residents (including environmental victim groups) to account for victim welfare, offender responsibilities, and public engagement.²⁹ Chiara Perini affirms that restorative justice is beneficial for effective damage repair, proving suitable for restoring the environment in both

²⁴ Rachel Killean and Elizabeth Newton, 'From Ecocide to Ecocentrism: Conceptualising Environmental Victimhood at the International Criminal Court', *International Review of Victimology*, 31.2 (2025), 238–64 <<https://doi.org/10.1177/02697580241269426>>.

²⁵ Brian J. Preston and Kate Butler, 'Appropriate Dispute Resolution of Investor–State Disputes in Natural Resources, Energy and Environmental Cases', *Journal of Energy & Natural Resources Law*, 43.1 (2025), 67–101 <<https://doi.org/10.1080/02646811.2024.2385851>>.

²⁶ Fatma Ayu Jati Putri and Jasurbek Rustamovich, 'The Impact of Land Reform Policies on the Sustainable Management of Natural Resources in Local Communities', *Journal of Human Rights, Culture and Legal System*, 4.2 (2024), 510–37 <<https://doi.org/https://doi.org/10.53955/jhcls.v4i2.197>>.

²⁷ Xinrui Zhang and Jiashu Zhang, 'The Application of Restorative Justice in China's Environmental Crime: An Evolutionary Game Perspective', *Crime, Law and Social Change*, 82.3 (2024), 717–50 <<https://doi.org/10.1007/s10611-024-10165-7>>.

²⁸ Nurse.

²⁹ Jize Jiang and Zhifeng Chen, 'Victim Welfare, Social Harmony, and State Interests: Implementing Restorative Justice in Chinese Environmental Criminal Justice', *Asian Journal of Criminology*, 18.2 (2023), 171–88 <<https://doi.org/10.1007/s11417-022-09376-5>>.



objective and value-based, relational senses.³⁰ Furthermore, research by Erfan Babakhani states that restorative justice applied to environmental crimes constitutes a form of justice that delivers environmental revitalisation and reparation. This novel vision endeavours to provide judicial actors with insights into the role of restorative policies in restoring or sustaining ecological functions to promote human rights, environmental sustainability, and the alleviation of social suffering.³¹

This study addresses this lacuna by proposing policy reforms for legal enforcement against corporate environmental crimes through restorative justice.³² The urgency of this research stems from three primary threats posed by corporate environmental crimes. *First*, the threat to ecosystem sustainability and environmental carrying capacity resulting from massive and protracted ecological destruction. *Second*, the threat to the rights of communities, particularly local populations and vulnerable groups, who endure health, social, and economic harms from environmental pollution and degradation. *Third*, the threat to the authority and efficacy of environmental law itself, as reflected in the feeble state of corporate accountability and suboptimal environmental restoration within law enforcement practices. Taking these conditions into consideration, this research introduces scholarly novelty through three main contributions. *First*, this study develops a conceptual framework for the enforcement of corporate environmental crimes predicated on the integration of restorative justice. *Second*, it critically analyses the deficiencies of the retributive approach to environmental law enforcement by offering an alternative model oriented toward environmental restoration and substantive justice. *Third*, this research formulates applicable and sustainable policy recommendations for adjudicating corporate environmental crimes within the Indonesian legal system. In alignment with these contributions, this research is directed at answering three primary research questions: first, what is the current efficacy of law enforcement against corporate environmental crimes in Indonesia?; second, how is environmental crime enforcement conducted in other jurisdictions?; and third, how can an integrative environmental law enforcement policy model incorporating restorative justice approaches to adjudicate corporate environmental crimes be formulated to guarantee environmental restoration and public protection.³³

Method

This study employs a normative approach, utilizing statutory, conceptual, and comparative approaches.³⁴ The normative legal research utilized in this study aims to examine the application or implementation of positive law provisions (legislation) concerning corporate environmental crimes, observing them factually within the context of legal events that have transpired. This method is employed to assess and ascertain whether the application of existing legislation is sufficiently efficient and effective in resolving disputes pertaining to corporate environmental criminal acts. The conceptual approach is utilised to analyse the theoretical concepts and constructs of restorative justice as an

³⁰ Chiara Perini, 'Restorative Justice and Environmental Criminal Law: A Virtuous Interplay', in *The Palgrave Handbook of Environmental Restorative Justice* (Cham: Springer International Publishing, 2022), pp. 51–74 <https://doi.org/10.1007/978-3-031-04223-2_3>.

³¹ Erfan Babakhani, 'On the Effectiveness of Restorative Justice in the Ecocide Crime', *Vilnius University Open Series*, 2023, 7–15 <<https://doi.org/10.15388/PhDStudentsConference.2023.1>>.

³² Hamidah Abdurrachman, Achmad Irwan Hamzani and Joko Mariyono, 'Environmental Crime and Law Enforcement in Indonesia: Some Reflections on Counterproductive Approaches', *Environmental Policy and Law*, 51.6 (2021), 409–16 <<https://doi.org/10.3233/EPL-210024>>.

³³ Ali Masyhar and Silas Oghenemaro Emovwodo, 'Techno-Prevention in Counterterrorism: Between Countering Crime and Human Rights Protection', *Journal of Human Rights, Culture and Legal System*, 3.3 (2023), 625–55 <<https://doi.org/10.53955/jhcls.v3i3.176>>.

³⁴ Lidia Br Tarigan, Yuanita C. Rogaleli and Ferry W.F. Waangsir, 'Community Participation in Waste Management', *International Journal of Public Health Science*, 9.2 (2020), 115–20 <<https://doi.org/10.11591/ijphs.v9i2.20380>>.



alternative paradigm for addressing corporate environmental crimes.³⁵ Furthermore, the comparative approach utilises Australia as a comparative benchmark against Indonesia concerning restorative justice policies for the handling of corporate environmental offences. The data sources encompass primary legal materials, such as national legislation and relevant international conventions or regulations, as well as secondary legal materials, including scientific journals, books, and other research findings that substantiate the analysis.³⁶

Results and Discussions

Challenges in the Law Enforcement of Corporate Environmental Crimes in Indonesia

Corporate criminal liability as a legal entity remains a subject of protracted debate. A substantial number of scholars and practitioners reject the notion that a non-physical, abstract corporation can be deemed capable of committing a criminal offence or possessing the requisite malicious intent to be held criminally liable.³⁷ Presenting a corporation “physically” within a courtroom as a defendant undeniably poses a distinct challenge. In both common law and civil law traditions, it remains profoundly difficult to attribute the prohibited act (*actus reus*) and substantiate the element of fault or malicious intent (*mens rea*) to an intangible legal subject such as a corporation.³⁸ Although numerous regulations have established a legal framework imposing criminal sanctions on corporations, judicial practice has followed a divergent trajectory. Criminal courts remain decidedly cautious, and often reluctant, to apply corporate criminal provisions progressively. Consequently, the volume of criminal cases implicating corporations is exceedingly limited; thus, jurisprudence pertaining to corporate crimes remains remarkably scarce.³⁹ Even if a corporation is acknowledged as a legal subject capable of committing a criminal act, the subsequent predicament lies in determining the nature of its culpability and criminal liability. Although corporations can normatively be subjected to criminal penalties, the execution of such measures invariably necessitates the substantiation of fault attributable to the entity, alongside the corporation's capacity to bear accountability. Should these two requisite elements -culpability and liability fail to be proven or fulfilled, the corporation cannot be subjected to criminal sanctions.⁴⁰

In the context of environmental crimes, such as forest burning perpetrated by companies within the plantation sector or resulting from human negligence, these acts can be prosecuted under various prevailing legal provisions.⁴¹ One such provision is Article 50 of Law Number 41 of 1999 *juncto* Law Number 19 of 2004 concerning Forestry, which governs forest and environmental management. Furthermore, forest burning violates the stipulations set forth in Article 11 of Government Regulation Number 4 of 2001, as well as Articles 187

³⁵ Anila Robbani, Raffy Arnanda Faturrohman and Ahmad Hananul Amin, ‘Optimization of Income Tax Revenue in Land and Building Rights Transfer Transactions’, *Journal of Justice Dialectical*, 2.1 (2024), 28–42 <<https://doi.org/10.70720/jjd.v2i2.38>>.

³⁶ Abdul Kadir Jaelani, Anila Rabbani and Muhammad Jihadul Hayat, ‘Land Reform Policy in Determining Abandoned Land for Halal Tourism Destination Management Based on Fiqh Siyasa’, *El-Mashlahah*, 14.1 (2024), 211–38 <<https://doi.org/10.23971/el-mashlahah.v14i1.8051>>.

³⁷ Stephanie Anne Deutsch and Erin O’Brien, ‘Child Torture Victimization: Review of Criminal Statutes and Medico-Legal Issues’, *Child Abuse & Neglect*, 151 (2024), 106750 <<https://doi.org/10.1016/j.chiabu.2024.106750>>.

³⁸ Elizabeth Webster and others, “‘Court Can Happen Anywhere’: Courtroom Workgroup Members’ Perceptions of the Challenges and Opportunities of a Transformed Workplace’, *Criminal Justice and Behavior*, 50.11 (2023), 1737–56 <<https://doi.org/10.1177/00938548231196574>>.

³⁹ Han Qin and Li Chen, ‘Virtual Justice, or Justice Virtually: Navigating the Challenges in China’s Adoption of Virtual Criminal Justice’, *Computer Law & Security Review*, 56 (2025), 106112 <<https://doi.org/10.1016/j.clsr.2025.106112>>.

⁴⁰ Meredith Rossner and David Tait, ‘Presence and Participation in a Virtual Court’, *Criminology & Criminal Justice*, 23.1 (2023), 135–57 <<https://doi.org/10.1177/17488958211017372>>.

⁴¹ Dahliani Dahliani and Hadi Tuasikal, ‘Corporate Responsibility for Environmental Damage from The Perspective of Unlawful Acts and Environmental Justice’, *Jurnal Ius Constituendum*, 10.2 (2025), 265–81 <<https://doi.org/10.26623/jic.v10i2.12020>>.



and 188 of the Criminal Code (KUHP), which regulate the criminal act of burning that results in environmental degradation.⁴² Nevertheless, the current state of law enforcement against corporate environmental crimes in Indonesia reveals several fundamental issues. Although the regulatory framework acknowledges corporations as subjects of criminal law, law enforcement practices remain predominantly weak and have yet to reflect substantive justice.⁴³ Law enforcement agencies frequently encounter difficulties in prosecuting corporations as legal entities; consequently, criminal liability is disproportionately imposed upon specific individuals, such as directors or field managers, without addressing the overarching corporate structure and policies. This is exemplified in the judicial decision in the forest and land burning case involving PT Adei Plantation and Industry.⁴⁴

In 2013, this corporation was allegedly implicated in forest fires that precipitated widespread haze and environmental degradation in Sumatra. These fires garnered significant attention from various stakeholders, encompassing the government, non-governmental organisations (NGOs), and the international community. PT ADEI Plantation & Industry was accused of failing to implement adequate preventive measures to avert fires within their concession area, which subsequently culminated in legal proceedings initiated by the Ministry of Environment and Forestry (*Kementerian Lingkungan Hidup dan Kehutanan* or KLHK). In 2015, the Palembang District Court found PT ADEI Plantation & Industry guilty of negligence in land management that resulted in the forest fires. The verdict encompassed a substantial fine alongside an obligation for the corporation to conduct environmental rehabilitation. However, the corporation lodged an appeal with the Palembang High Court, which subsequently upheld the District Court's verdict, with several modifications to the fine and rehabilitation obligations. Ultimately, PT ADEI Plantation & Industry filed a cassation appeal to the Supreme Court, which, on August 5, 2015, issued Decision Number 2042 K/Pid.Sus/2015. This ruling once again affirmed the lower courts' decisions, with several supplementary considerations, and reaffirmed the corporation's liability for the ensuing environmental destruction.⁴⁵

However, law enforcement in this case encountered significant impediments, underscoring its ineffectiveness. The judicial proceedings were exceedingly protracted, and the execution of the additional penalty, namely, the remedial action for the criminal offence, continues to face hurdles due to the absence of governing technical guidelines. In the PT Adei Plantation case, the additional penalty entailed the restoration of 4 hectares of fire-damaged land by applying compost, amounting to IDR 15,141,826,779.325 (Fifteen Billion One Hundred Forty-One Million Eight Hundred Twenty-Six Thousand Seven Hundred Seventy-Nine Rupiah and Three Hundred Twenty-Five Cents). The execution of this process could not be carried out, resulting in an outstanding obligation. Consequently, the Pelalawan District Prosecutor's Office adopted an alternative measure: the convicted entity, PT Adei Plantation and Industry, deposited the aforementioned remedial costs into the escrow account of the Pelalawan District Prosecutor's Office. This interim step was taken while awaiting the KLHK to form a team tasked with executing the restoration of PT Adei Plantation's damaged land, drafting the Terms of Reference (ToR), and detailing the

⁴² Tri Nurmega Oktarina and Anisa Yulianti, 'The Role of Women in Sustainable Development and Environmental Protection: A Discourse of Ecofeminism in Indonesia', *Indonesian Journal of Environmental Law and Sustainable Development*, 1.2 (2022), 107–38 <<https://doi.org/10.15294/ijel.v1i2.40180>>.

⁴³ Dita Veronika and Bianglala Asmarasari, 'Corporate Seizure Related to Corruption and Money Laundering in Indonesia: Issues and Problems in Law Enforcement', *Indonesian Journal of Crime and Criminal Justice*, 1.2 (2025), 230–51 <<https://doi.org/10.62264/ijccj.v1i2.146>>.

⁴⁴ Oleh M. Omelchuk and others, 'RETRACTED: Analysis of the Activities of Law Enforcement Authorities in the Field of Combating Crime and Corruption Offences', *Journal of Money Laundering Control*, 25.3 (2022), 700–716 <<https://doi.org/10.1108/JMLC-07-2021-0073>>.

⁴⁵ Carla Xelena Antunez, Rachel Nakeisha Darmadji and Zefanya Queenta Mangundihardjo, 'Reinforcing Corporate Accountability in Indonesian Environmental Law: A Dialectical Examination of Strict Liability and Criminal Sanctions', *Law Review*, 2025 <<https://doi.org/10.19166/lr.v24i1.9675>>.



utilisation of funds, which will potentially be formalised into a Ministerial Regulation. Concurrently, the Deputy Attorney General for General Crimes, acting as the executor, must establish the technical management mechanism for the land restoration costs disbursed by the convicted corporation. Enforcing environmental legal norms does not necessarily mandate criminal law enforcement aimed solely at punishment; rather, implementing environmental law should primarily be directed toward restoring environmental sustainability to its original state. This is precisely why the UU PPLH prioritizes administrative and civil law enforcement over criminal law, considering that these two legal instruments facilitate the application of sanctions oriented toward environmental restoration.⁴⁶

This case underscores the prevailing ineffectiveness of the current law enforcement of corporate environmental crimes. Criminal law enforcement directed at corporate perpetrators of environmental offences confronts various fundamental impediments. *First*, concerning legal substance, environmental regulations, including the 2009 UU PPLH and several implementing regulations, mandate the obligation of environmental restoration by the polluter as a form of additional sanction. However, its application frequently proves ineffective because the restoration funding mechanism operates suboptimally.⁴⁷ Environmental losses are generally converted into Non-Tax State Revenues (PNBP) and remitted to the state treasury; as a result, they are not directly allocated to ecological restoration programs. Furthermore, provisions governing restorative actions are frequently non-operational and arduous to enforce, resulting in environmental degradation remaining inadequately addressed. This situation is exacerbated by ambiguities in the implementation standards for restorative actions and the lax enforcement of judicial verdicts mandating corrective measures.⁴⁸ *Second*, regarding the legal structure, institutional deficiencies present a distinct challenge. Coordination among law enforcement agencies, such as the Police, the Prosecutor's Office, and the Civil Servant Investigators of the KLHK (PPNS KLHK) remains fragmented. Concurrently, disparities in human resource capacity, budgetary constraints, and inadequate equipment quality significantly impede both investigative and prosecutorial proceedings.⁴⁹ Economic and political pressures from major corporations occasionally compromise the independence of law enforcement personnel, thereby creating avenues for intervention, collusion, or compromises that undermine legal enforcement. Moreover, the intricacies of scientific evidentiary requirements in environmental cases are not invariably comprehended by the authorities, leading to suboptimal case management. A judicial system that leans heavily toward formalism and lacks adaptability to scientific evidence further decelerates the legal process and risks yielding verdicts that fail to accurately reflect the gravity of the perpetrated crimes. *Third*, the factor of legal culture exerts a profound influence. Corporate compliance with environmental regulations remains deficient, and awareness concerning social responsibility and sustainability principles has yet to become deeply ingrained. Inadequate governmental oversight further exacerbates this predicament. Meanwhile, civil society and NGOs intrinsically possess substantial potential to monitor polluting practices; however, restricted access to information, minimal

⁴⁶ Ward Berenschot and Nisrina Saraswati, 'Discourses of Land Conflicts in Indonesia', *Development and Change*, 55.6 (2024), 1182–1205 <<https://doi.org/10.1111/dech.12865>>.

⁴⁷ Ward Berenschot and Ahmad Dhiaulhaq, 'The Production of Rightlessness: Palm Oil Companies and Land Dispossession in Indonesia', *Globalizations*, 22.8 (2025), 1377–95 <<https://doi.org/10.1080/14747731.2023.2253657>>.

⁴⁸ Jia Wang and Linhui Yu, 'Environmental Regulation and Fiscal Revenue Growth: Is It Win–Win or Win–Lose?—Evidence of a Multi-Tasking Performance Evaluation System in China', *Sustainability*, 16.5 (2024), 1872 <<https://doi.org/10.3390/su16051872>>.

⁴⁹ Jatna Supriatna and Ralph Lenz, 'LEGISLATION AND ENVIRONMENTAL LAW ENFORCEMENT', in *Sustainable Environmental Management* (Cham: Springer Nature Switzerland, 2025), pp. 539–62 <https://doi.org/10.1007/978-3-031-76642-8_20>.



transparency, and limited avenues for public participation severely curtail the efficacy of external oversight.⁵⁰

The amalgamation of the three dimensions, legal substance, structure, and culture, demonstrates that environmental law enforcement against corporations remains profoundly ineffective. Overall, this condition allows corporate environmental violations to run rampant, while the ensuing ecological degradation and social detriments remain inadequately resolved. The predominantly retributive-based law enforcement has proven incapable of generating a deterrent effect or guaranteeing environmental restoration. Lenient judicial verdicts, and even the acquittal of perpetrators, expose a glaring disparity between the objectives of environmental protection and on-the-ground legal practices. Consequently, law enforcement reform is imperative, necessitating a paradigm shift toward a more corrective and preventive approach. One such avenue is the implementation of restorative justice, which posits ecological restoration and the fulfilment of affected communities' rights as its paramount objectives. This approach is anticipated to compel corporations to assume active responsibility in remediating damages, rehabilitating environmental functions, and providing equitable compensation to the public.⁵¹

The Regulatory Model for Corporate Environmental Crimes in Australia

The implementation of ecological restorative justice in addressing environmental crimes in Australia can be analysed by comparing two state jurisdictions: Victoria and New South Wales.⁵² In Victoria, restorative justice mechanisms within environmental law enforcement are explicitly governed by the Environment Protection Act 2017. The competent authority, the Environment Protection Authority (EPA) Victoria, is an independent body initially established under the Environment Protection Act 1970 (Vic) and whose mandate was subsequently strengthened by the 2017 legislation. EPA Victoria primarily functions as a regulator, with responsibilities ranging from issuing permits and managing waste to establishing environmental quality standards.⁵³ Furthermore, the EPA possesses the authority to conduct oversight and law enforcement through inspections, monitoring, the investigation of violations, the imposition of administrative sanctions, and the prosecution of cases in court. Beyond these repressive functions, EPA Victoria also fulfils a pivotal role in prevention and the enhancement of compliance. Section 25 of the Environment Protection Act 2017 mandates that every person, whether an individual or a corporation, take reasonably practicable steps to avert the risk of environmental pollution or degradation. Additionally, the EPA receives public reports and conducts public education regarding environmental impacts and prevailing legal obligations.⁵⁴

In Victoria, Section 332 of the EPA grants the court the authority to order an offender to carry out a specified project aimed at restoring or enhancing the environment for the public benefit, even in the absence of a direct nexus between the project and the committed offence. The court may also compel the perpetrator to make a financial contribution to a specified party or organization to support environmental rehabilitation or enhancement

⁵⁰ Afrizal and Ward Berenschot, 'Land-Use Change Conflicts and Anti-Corporate Activism in Indonesia: A Review Essay', *Journal of East Asian Studies*, 22.2 (2022), 333–56 <<https://doi.org/10.1017/jea.2022.12>>.

⁵¹ Lila Juniyanti and others, 'Understanding the Driving Forces and Actors of Land Change Due to Forestry and Agricultural Practices in Sumatra and Kalimantan: A Systematic Review', *Land*, 10.5 (2021), 463 <<https://doi.org/10.3390/land10050463>>.

⁵² Mark Hamilton, 'Restorative Justice Conferencing in an Environmental Offending Context: The Role of Legislation', *Asia Pacific Journal of Environmental Law*, 25.1 (2022), 51–76 <<https://doi.org/10.4337/apjel.2022.01.03>>.

⁵³ Mark Hamilton, 'Restorative Justice Conferencing: A Vehicle for Repairing Harm Emanating from Lawful but Awful Activity', in *Green Criminology and the Law* (Cham: Springer International Publishing, 2022), pp. 361–86 <https://doi.org/10.1007/978-3-030-82412-9_16>.

⁵⁴ Daye Gang, Maggie Kirkman and Bebe Loff, "'Obviously It's for the Victim to Decide": Restorative Justice for Sexual and Family Violence From the Perspective of Second-Wave Anti-Rape Activists', *Violence Against Women*, 30.12–13 (2024), 3187–3210 <<https://doi.org/10.1177/10778012231174353>>.



programs for the public interest.⁵⁵ These financial contributions can be led into the Restorative Project Account (RPA), a specialised account administered by EPA Victoria. This account is utilised to fund environmental restoration projects mandated by the court as part of the sanctions for the transgression.⁵⁶ Provisions regarding the establishment and management of the RPA are further elucidated in Section 447 of the EPA, which designates this account as a constituent of the Environment Protection Fund. This environmental fund was established by statute to support environmental protection objectives in Victoria and comprises several sub-accounts, including the RPA. Through this mechanism, it is ensured that any financial contribution mandated by the court under Section 332, as well as other statutory sources, is exclusively allocated for ecological restoration activities and the fulfilment of the public interest.⁵⁷

The OneSteel Recycling case in Laverton North serves as a paradigm for the application of restorative justice within environmental law enforcement in Victoria. A massive fire, ignited by undetected spent batteries, exposed the corporation's negligence in fire risk management and materials handling; consequently, the entity was deemed in violation of the Environment Protection Act 1970 (Vic) and brought before the Sunshine Magistrates' Court. Although OneSteel pleaded guilty, the court maintained that the corporation ought to have implemented a more robust waste prevention and management system. Instead of imposing a conventional fine, EPA Victoria petitioned for the corporation to finance an environmental project.⁵⁸ The court subsequently mandated a contribution of AUD 35,000 toward the Greening the Pipeline project, alongside AUD 15,000 for legal costs, with the funds channelled through the Restorative Project Account as an integral component of the environmental restoration mechanism. The magnitude of OneSteel's contribution was not determined by a normative formula; rather, it was established through judicial discretion under Section 67AC of the EPA 1970 (Vic), following a comprehensive consideration of the EPA's proposals, the requisites of the rehabilitation project, and the corporation's financial capacity.⁵⁹ This provision aligns with Section 336 of the Environment Protection Act 2017, which permits the court to adjourn criminal or civil proceedings to accommodate the execution of restorative justice and to weigh the outcomes of said processes when imposing sanctions. This mechanism broadens the participation of relevant stakeholders, encompassing affected communities and environmental organisations. The application of restorative orders in the OneSteel case demonstrates that environmental law enforcement in Victoria does not rely solely on punitive fines; instead, it emphasises tangible contributions to ecological restoration and the public interest, thereby reflecting a definitive shift toward the ecological justice paradigm.⁶⁰

⁵⁵ Miranda Forsyth and Felicity Tepper, 'Environmental Enforceable Undertakings: An Innovative Tool to Repair and Prevent Environmental Harm', *Journal of Environmental Law*, 36.3 (2024), 385–411 <<https://doi.org/10.1093/jel/eqae021>>.

⁵⁶ Yazid Nurhuda, 'Penal Benefit-Based Construction System on Indonesian Environmental Criminal Law Settlement Policy According to Environmental Rule of Law Paradigm', in *Proceedings of the 1st Bramijaya International Conference on Business and Law (BICoBL 2022)* (Malang: Atlantis Press, 2023), pp. 3–13 <https://doi.org/10.2991/978-94-6463-214-9_2>.

⁵⁷ Khathutshelo Vincent Mphaga and others, 'Short-Term vs. Long-Term: A Critical Review of Indoor Radon Measurement Techniques', *Sensors*, 24.14 (2024), 4575 <<https://doi.org/10.3390/s24144575>>.

⁵⁸ L M Shirley and others, 'Unwrapping Victoria's General Environmental Duty to Plastics Communities: Synthetic Statutes', *Alternative Law Journal*, 47.3 (2022), 204–10 <<https://doi.org/10.1177/1037969X22111596>>.

⁵⁹ Paul K. Lambert and others, 'Evaluating the Impacts of Surface Roughness and Microstructure on the Size Effect in Two Additively Manufactured Stainless Steels', *Materials & Design*, 246 (2024), 113346 <<https://doi.org/10.1016/j.matdes.2024.113346>>.

⁶⁰ Mark Hamilton, 'The Potential of Alternatives to Environmental Prosecution', in *The Palgrave Handbook of Environmental Policy and Law* (Palgrave Macmillan, Cham, 2025), pp. 421–40 <https://doi.org/10.1007/978-3-031-55387-5_5>.



Meanwhile, in New South Wales, Australia, the mechanism for restorative justice conferences in environmental cases lacks an explicit legal basis under the Protection of the Environment Operations Act 1997. Its implementation relies on the initiative of the parties and internal court guidelines, particularly through the Practice Note Class 5 Proceedings issued by the NSW Land and Environment court. This court has specialised jurisdiction over serious environmental offences, which are typically prosecuted by the Environment Protection Authority. Although not expressly regulated in statute, Practice Note Class 5 requires that when a defendant enters a guilty plea, both the prosecutor and the defendant must inform the court of any plan to undertake a restorative justice process.⁶¹ In addition, Section 250 (1) of the Protection of the Environment Operations Act 1997 grants the court the authority to impose restorative-oriented sanctions, such as environmental rehabilitation activities, conservation projects, and public notification orders. However, this authority has yet to be integrated into a comprehensive restorative framework.⁶²

The implementation of restorative justice has begun to manifest in two landmark cases: *Williams v. Garrett* (2007) and *Clarence Valley Council* (2018), both of which concerned violations of Aboriginal cultural heritage. In both instances, the court stayed legal proceedings to facilitate restorative conferences between the offenders and the affected Aboriginal communities.⁶³ These conferences culminated in concrete agreements, including long-term cooperation, community compensation, environmental restoration programs, and cultural education initiatives.⁶⁴ Restorative justice conferences offer benefits that formal criminal sentencing cannot achieve, such as providing a platform for Aboriginal people to convey cultural values, fostering dialogue between offenders and victims, and establishing sustainable prevention plans. Furthermore, judges considered the outcomes of these processes as mitigating factors in sentencing. The *Clarence Valley Council* case demonstrates that mere fines are ineffective in preventing recidivism, positioning the restorative approach as a more constructive alternative, even for public entities.⁶⁵

Despite its evolving practice, two fundamental weaknesses significantly hinder the implementation of ecological restorative justice in sentencing environmental offences within New South Wales.⁶⁶ *First*, the New South Wales regulatory framework lacks a clear legal basis for conducting restorative justice conferences, including mechanisms to stay court proceedings to facilitate such processes.⁶⁷ *Second*, neither the Crimes (Sentencing Procedure) Act 1999 nor the Protection of the Environment Operations Act 1997 (NSW) contains explicit legislative provisions supporting restorative justice in environmental cases.⁶⁸ There is no statutory mandate or authorisation for courts, including the Land and Environment

⁶¹ Xiulin Qi, Xiang Liang and Ziting Wang, 'Environmental Courts and Green Development: Evidence from China', *The Journal of Development Studies*, 2026, 1–20 <<https://doi.org/10.1080/00220388.2025.2601589>>.

⁶² Forsyth and Tepper.

⁶³ Nikki Chamberlain and Michael Legg, 'Do Mass Tort Negligence Class Actions Adequately Compensate Victims and Effectively Deter Tortfeasor Wrongdoing?', *Laws*, 14.5 (2025), 71 <<https://doi.org/10.3390/laws14050071>>.

⁶⁴ Olivier Boiral, Iñaki Heras-Saizarbitoria and Marie-Christine Brotherton, 'Sustainability Management and Social License to Operate in the Extractive Industry: The Cross-cultural Gap with Indigenous Communities', *Sustainable Development*, 31.1 (2023), 125–37 <<https://doi.org/10.1002/sd.2378>>.

⁶⁵ Neil Dawson and others, 'Protected Areas and the Neglected Contribution of Indigenous Peoples and Local Communities: Struggles for Environmental Justice in the Caatinga Dry Forest', *People and Nature*, 5.6 (2023), 1739–55 <<https://doi.org/10.1002/pan3.10288>>.

⁶⁶ Rob White, 'Environmental Harms and Innovative Justice', in *Research Handbook on Environmental Crimes and Criminal Enforcement* (Edward Elgar Publishing, 2024), pp. 128–45 <<https://doi.org/10.4337/9781035309511.00015>>.

⁶⁷ Yan Zhang, 'Dancing With Restorative Justice: Chinese Legal Professionals and Their Motivational Postures', *Regulation & Governance*, 20.1 (2026), 289–302 <<https://doi.org/10.1111/rego.70093>>.

⁶⁸ Rob White, 'Environmental Crime, Ecological Expertise and Specialist Environment Courts', in *Green Criminology and the Law* (Cham: Springer International Publishing, 2022), pp. 61–84 <https://doi.org/10.1007/978-3-030-82412-9_4>.



Court, to formally consider the outcomes of restorative processes during sentencing. Consequently, the remediation of environmental damage has been positioned as a sanction that the court can legally impose in the criminal sentencing process. Since the enactment of the Protection of the Environment Operations Act 1997 (NSW), the NSW Land and Environment Court has consistently exercised this authority by issuing restoration orders in various environmental criminal cases.⁶⁹ Furthermore, although the statutes do not explicitly regulate restorative conference mechanisms, the court retains the discretionary power to consider restorative outcomes, such as environmental projects, community compensation, or public apologies, as mitigating factors in sentencing.⁷⁰ This indicates that restorative justice in NSW is developing normatively through restoration orders and discretionarily through judicial sentencing.⁷¹

Restorative Justice within the Law Enforcement Framework of Corporate Environmental Crimes in Indonesia

Based on data from the Ministry of Immigration and Correctional Affairs, as of 2025, Indonesian correctional facilities are significantly overburdened, with occupancy rates far exceeding ideal capacity. According to official data on inmates and capacity, the total prison population in Indonesia has reached 275,633 individuals, whereas the designated capacity is only intended for 146,260. With this stark discrepancy, the national overcrowding rate currently stands at 89%. The Indonesian criminal justice system has resulted in heavy caseloads and severely congested prisons, a condition that reflects the failure of a purely punitive, retributive approach.⁷² This method of law enforcement imposes a substantial financial burden on the state and fosters conflict, riots, and an increased vulnerability to disease transmission within correctional institutions. Consequently, the restorative justice approach is viewed as a new paradigm in law enforcement. Beyond serving as an alternative to alleviate prison overcrowding, this approach is employed to address the rising volume of legal cases, the imbalance between the number of law enforcement personnel and case growth, and the escalating costs of legal proceedings. In various countries, restorative justice is implemented as a response to the limitations of the conventional criminal justice system, which is deemed ineffective. In Indonesia, the implementation of restorative justice is guided by the substantive requirements set out in several criminal case-handling guidelines.⁷³

Table 1. Material Requirements for the Implementation of Restorative Justice in Several Guidelines for Handling Criminal Cases in Indonesia

Legal Basis	Material Requirements
Regulation of the National Police Chief No. 6 of 2019 on Criminal Investigation	<ol style="list-style-type: none"> 1. The case does not cause public unrest or community objection. 2. The case does not trigger social conflict. 3. All relevant parties agree, express no objection, and waive their right to pursue legal action.

⁶⁹ Rupert Legg and Jason Prior, ‘Toxic Torts as Compensation: Legal Geographies of Environmental Contamination Litigation’, *Geographical Research*, 61.2 (2023), 234–47 <<https://doi.org/10.1111/1745-5871.12578>>.

⁷⁰ Brooke Dellavedova, ‘The Role and Impact of Environmental Class Actions in Australia’, *Asia Pacific Journal of Environmental Law*, 24.1 (2021), 6–40 <<https://doi.org/10.4337/apjel.2021.01.01>>.

⁷¹ Rupert Legg, ‘A Legal Geography of the Regulation of Contaminated Land in Williamtown, New South Wales’, *Geographical Research*, 59.2 (2021), 242–54 <<https://doi.org/10.1111/1745-5871.12443>>.

⁷² Fery Kurniawan and others, ‘Vulnerability Assessment of Small Islands to Tourism: The Case of the Marine Tourism Park of the Gili Matra Islands, Indonesia’, *Global Ecology and Conservation*, 6 (2016), 308–26 <<https://doi.org/10.1016/j.gecco.2016.04.001>>.

⁷³ Aji Kurnia Dermawan and Mustakim Mustakim, ‘The Dilemma of Restorative Justice in the Case of Plantation Land Fires’, *Journal of Law, Politic and Humanities*, 4.6 (2024), 1895–1905 <<https://doi.org/10.38035/jlph.v4i6.568>>.



	<ol style="list-style-type: none"> 4. Limiting principles: (a) the offender's culpability is relatively minor (gap-based wrongdoing and the offender is not a recidivist); (b) the criminal act remains within the scope of investigation and inquiry.
Regulation of the Attorney General No. 15 of 2020 on Termination of Prosecution Based on Restorative Justice	<ol style="list-style-type: none"> 1. The case does not cause public unrest and/or community rejection. 2. The case does not create social conflict. 3. The case does not have the potential to divide the nation. 4. The case does not involve radicalism or separatism.
Decree of the Director General of the General Judiciary, Supreme Court No. 1691/DJU/SK/PS.00/12/2020 on Guidelines for Restorative Justice Implementation	<ol style="list-style-type: none"> 1. The suspect is a first-time offender. 2. The offence is punishable only by a fine or imprisonment of no more than 5 years. 3. The value of the evidence or losses incurred does not exceed IDR 2.5 million. 4. Restoration to the original state has been carried out by the suspect, unless otherwise agreed. 5. A peace agreement has been reached between victim and suspect; 6. The community responds positively. Exceptions: a. Crimes against state security, dignity of the President/Vice President, friendly nations and their heads of state, public order, and morality; b. Crimes with mandatory minimum sentences; c. Narcotics crimes; d. Environmental crimes; e. Crimes committed by corporations
Regulation of the National Police No. 8 of 2021 on Restorative Justice-Based Crime Handling	<ol style="list-style-type: none"> 1. Minor offences listed in Articles 364, 373, 379, 384, 407, and 482 of the Criminal Code, punishable by up to 3 months' imprisonment or fines up to IDR 2.5 million. 2. Cases involving women facing the law. 3. Child-related cases. 4. Narcotics cases limited to addicts, abusers, victims of abuse, drug dependence, and narcotics possession for one-day use.

Source: Processed by the Author

In the development of environmental criminal law enforcement, the concept of restorative justice and its accompanying methods have become increasingly prominent when linked to key factors such as corporate roles, community involvement, and the necessity of environmental remediation.⁷⁴ This approach is perceived as a potential alternative law enforcement mechanism that emphasises non-penal strategies, aiming to maximise the

⁷⁴ Jiang and Chen.



restoration process for environmental damage caused by criminal acts.⁷⁵ Preston, in his writings, posits various projections regarding the application of restorative justice in environmental cases. He asserts that the restorative approach is relevant across all stages of the environmental criminal justice process, from pre-adjudication and sentencing to the post-conviction phase.⁷⁶ Restorative mechanisms can serve both as an alternative to imprisonment and as a supplementary obligation in a case. Preston's projections demonstrate an alignment between the objectives of environmental law enforcement and the resolution model offered by restorative justice.⁷⁷ Since the essence of restorative justice lies in empowerment, participation, and victim restoration, identifying the victim is a crucial element in the effectiveness of the restorative process. In the context of environmental crimes, the recognition of victims must encompass not only individuals but also community groups, vital communal assets, future generations, and non-human environmental elements. This broad scope of victims indicates that restorative justice must be capable of capturing the ecological and social complexities resulting from environmental offences.⁷⁸

The application of restorative justice in corporate environmental crimes requires identifiable victims, whether they be individuals, communities, or the environment itself, represented by the state or affected populations.⁷⁹ In the Indonesian context, the involvement of the government and the community is crucial in representing environmental interests and articulating collective losses that are often unaccommodated in conventional judicial processes. The most relevant form of participation is a partnership between the state and the community in determining restoration measures that align with ecological and social needs.⁸⁰ For restorative justice in environmental offences to be effective, clear normative regulations are required concerning the forms and procedures of restoration, the timeframe for fulfilling restoration obligations, and the legal consequences of non-compliance.⁸¹ Environmental restoration must be formulated in proportion to the degree of damage, the interests of affected communities, and objective scientific assessments, while maintaining space for the recognition of local values and indigenous wisdom. In cases where the offender fails to fulfil restoration obligations, stringent sanction mechanisms are necessary to ensure that restorative agreements possess both coercive power and juridical legitimacy.⁸²

Therefore, it is necessary to formulate an ideal policy for implementing restorative justice within the law-enforcement framework for corporate environmental crimes. *First*, the ecological restoration paradigm must be strengthened. This policy must be built upon ecological restoration as the primary objective. In the context of environmental law, the

⁷⁵ Daniela Bolívar, Liliana Guerra and Felipe Martínez, 'Socio-Environmental Harms in Chile Under the Restorative Justice Lens: The Role of the State', in *The Palgrave Handbook of Environmental Restorative Justice* (Cham: Springer International Publishing, 2022), pp. 563–91 <https://doi.org/10.1007/978-3-031-04223-2_22>.

⁷⁶ Max Lacey-Barnacle and others, 'Reframing Green Prosperity: Integrating Sustainability and Just Transitions into Community Wealth Building', *Environmental Innovation and Societal Transitions*, 59 (2026), 101077 <<https://doi.org/10.1016/j.eist.2025.101077>>.

⁷⁷ Qian Sun, 'Judicial Responses to Climate Change Under China's "Dual Carbon" Goals: Structures, Challenges, and Implications for the Eco-Environmental Code', in *Springer* (Springer Singapore, 2025), pp. 241–67 <https://doi.org/10.1007/978-981-96-9211-8_11>.

⁷⁸ Masahiro Suzuki, 'Victim Recovery in Restorative Justice: A Theoretical Framework', *Criminal Justice and Behavior*, 50.12 (2023), 1893–1908 <<https://doi.org/10.1177/00938548231206828>>.

⁷⁹ Jiang and Chen.

⁸⁰ Nombulelo Kitsepile Ngulube, Hirokazu Tatano and Subhajyoti Samaddar, 'Toward Participatory Participation: A Community Perspective on Effective Engagement in Post-Disaster Recovery and Reconstruction', *Community Development*, 55.6 (2024), 895–915 <<https://doi.org/10.1080/15575330.2024.2382169>>.

⁸¹ Abdul Kadir Jaelani, Reza Octavia Kusumaningtyas and Asron Orsantinutsakul, 'The Model of Mining Environment Restoration Regulation Based on Sustainable Development Goals', *Legality : Jurnal Ilmiah Hukum*, 30.1 (2022), 131–46 <<https://doi.org/10.22219/ljih.v30i1.20764>>.

⁸² Viniece Jennings and others, 'Place-Based Conservation in Coastal and Marine Ecosystems: The Importance of Engagement with Underrepresented Communities', *Sustainability*, 16.22 (2024), 9965 <<https://doi.org/10.3390/su16229965>>.



concept of restorative justice does not merely focus on repairing the relationship between the offender and human victims; more fundamentally, it positions the restoration of the ecosystem at the centre of criminal sentencing.⁸³ Environmental damage caused by corporate activities is often long-term, intergenerational, and disruptive to the sustainability of ecological functions. Consequently, law enforcement policies must be directed toward ensuring standardized and measurable environmental restoration, encompassing the recovery of soil, water, and air quality, biodiversity, and all impacted ecological functions. This approach asserts that restorative justice in environmental crimes is insufficient if it only achieves social peace; it must guarantee the realisation of tangible, measurable, and sustainable ecological restoration.⁸⁴

Second, to ensure its effectiveness, the principles of restorative justice must be integrated into all stages of law enforcement, from the investigation process to the execution of judgments.⁸⁵ At the pre-adjudication stage, investigators should be granted clearer and more decisive authority to impose emergency ecological restoration measures, particularly when environmental damage poses ongoing risks to public health or ecosystems.⁸⁶ At the adjudication stage, prosecutors and judges must incorporate ecological restoration plans into both the prosecution's demands and the court's final ruling, ensuring that environmental remediation is no longer optional but a mandatory legal obligation for corporations.⁸⁷ Furthermore, at the post-adjudication stage, it is necessary to establish an independent oversight body for environmental restoration. This institution would be tasked with monitoring the implementation of restoration efforts, periodically evaluating progress, and imposing additional sanctions if the corporation fails to meet the established restoration standards.⁸⁸ This integration ensures that restorative justice does not remain a mere conceptual framework but evolves into an effective law enforcement mechanism truly oriented toward ecological recovery.⁸⁹

Third, there should be a mechanism for public participation in environmental restoration. Within this framework, the role of the public, particularly communities directly affected by corporate activities, must be integral to the formulation and implementation of restoration processes.⁹⁰ Such involvement includes participation in restorative dialogue forums to determine the forms of restoration most suited to local ecological and social needs, as well as participation in field supervision to ensure that the restoration process is conducted

⁸³ An Cliquet and others, 'Upscaling Ecological Restoration: Toward a New Legal Principle and Protocol on Ecological Restoration in International Law', *Restoration Ecology*, 30.4 (2022) <<https://doi.org/10.1111/rec.13560>>.

⁸⁴ Tao Liu and others, 'Environmental Laws and Ecological Restoration Projects Enhancing Ecosystem Services in China: A Meta-Analysis', *Journal of Environmental Management*, 327 (2023), 116810 <<https://doi.org/10.1016/j.jenvman.2022.116810>>.

⁸⁵ Muhammad Firdaus, Chryshnanda Dwilaksana and Muhammad Daffa Auliarizky Onielda, 'Shifting Polri's Law Enforcement Strategy: Restorative Justice for Public Trust', *Jurnal Media Hukum*, 30.2 (2023), 153–70 <<https://doi.org/10.18196/jmh.v30i2.18628>>.

⁸⁶ Hanna Anisimova and others, 'Criminal Law Protection as a Component of Environmental Security: A Modern Dimension', *Environmental Research, Engineering and Management*, 80.4 (2024), 127–39 <<https://doi.org/10.5755/j01.erem.80.4.37791>>.

⁸⁷ Haoran Gao and Tenglong Lin, 'How to Compensate Forest Ecosystem Services Through Restorative Justice: An Analysis Based on Typical Cases in China', *Forests*, 16.8 (2025), 1254 <<https://doi.org/10.3390/f16081254>>.

⁸⁸ Annette Hübschle and Jade Lindley, 'Blue Crimes and Ocean Harmscapes: Strategies for Tackling Transnational Maritime Environmental Crimes in the Global South', *Frontiers in Conservation Science*, 5 (2024) <<https://doi.org/10.3389/fcsc.2024.1448316>>.

⁸⁹ Halikulov Komoliddin, 'The Role and Importance of Courts in Environmental Protection', *International Journal of Law And Criminology*, 4.1 (2024), 71–76 <<https://doi.org/10.37547/ijlc/Volume04Issue01-13>>.

⁹⁰ Homa Bahmani and Wei Zhang, 'A Conceptual Framework for Integrated Management of Disasters Recovery Projects', *Natural Hazards*, 113.2 (2022), 859–85 <<https://doi.org/10.1007/s11069-022-05328-5>>.



transparently, accountably, and in accordance with established standards.⁹¹ Furthermore, communities have the right to benefit from community-based ecological compensation programs, such as capacity-building, green economic empowerment, and the development of environmental infrastructure that supports the sustainability of ecosystems in their regions. This participatory model ensures that environmental restoration is not merely oriented toward formal corporate compliance but also delivers substantive justice for both the community and the ecosystem.⁹²

Ultimately, the restorative justice paradigm and the regulatory framework within UU PPLH demonstrate that strengthening corporate criminal liability in Indonesia should be directed toward a law enforcement model oriented at ecological justice. This approach is not intended to negate corporate sentencing, but rather to complement it with measurable restoration obligations as a form of concrete responsibility for the damage caused.⁹³ In this sense, the sentences imposed are not merely retributive but also encompass a restorative dimension that ensures ecosystem recovery is effective, sustainable, and beneficial to the affected communities. This model reflects a more substantive form of justice, as it does not stop at punishment but strives to restore ecological functions, improve environmental quality, and prevent the recurrence of corporate environmental crimes.⁹⁴

Conclusion

This study concluded that, *first*, law enforcement against corporate environmental crimes in Indonesia remains ineffective due to difficulties in proving fault and criminal liability for non-physical entities, leading courts to be cautious and often targeting individuals rather than the corporate structure. In practice, weak coordination among law enforcement agencies, a lack of technical capacity, and obstacles to the execution of restoration sanctions have resulted in environmental damage remaining unaddressed. Furthermore, a low culture of corporate compliance, a lack of transparency, and limited public participation aggravate these enforcement inefficiencies. *Second*, compared with the Indonesian model, the regulation of corporate environmental crimes in Australia shows that Victoria has established a comprehensive restorative legal framework through the Environment Protection Act 2017, which includes judicial authority to mandate ecological restoration and to channel corporate contributions into a Restorative Project Account. Conversely, New South Wales lacks an explicit legal basis for restorative justice conferences, causing the mechanism to evolve through judicial practice and judicial discretion, with an emphasis on restoration orders as the primary sanction in environmental cases. *Third*, restorative justice in the enforcement of corporate environmental crimes in Indonesia is considered essential as a response to the stagnation of the conventional punitive system, which is overcrowded, costly, and less capable of restoring ecological damage. Consequently, a model is required that places environmental restoration, community participation, and corporate accountability at the core of the resolution. To be effective, this approach should be ideally supported by a clear normative framework, integration across all stages of law enforcement, an independent

⁹¹ Angelo Jonas Imperiale and Frank Vanclay, 'Re-designing Social Impact Assessment to Enhance Community Resilience for Disaster Risk Reduction, Climate Action and Sustainable Development', *Sustainable Development*, 32.2 (2024), 1571–87 <<https://doi.org/10.1002/sd.2690>>.

⁹² Riccardo Trevisan, Emilio Ghiani and Fabrizio Pilo, 'Renewable Energy Communities in Positive Energy Districts: A Governance and Realisation Framework in Compliance with the Italian Regulation', *Smart Cities*, 6.1 (2023), 563–85 <<https://doi.org/10.3390/smartcities6010026>>.

⁹³ Anis Mashdurohatun and others, 'Rethinking Palm Oil Plastic Regulations for Sustainable and Ecological Justice', *Journal of Human Rights, Culture and Legal System*, 5.2 (2025), 500–530 <<https://doi.org/10.53955/JHCLS.V5I2.681>>.

⁹⁴ Krishna Ray and others, 'Ecological Restoration at Pilot-Scale Employing Site-Specific Rationales for Small-Patch Degraded Mangroves in Indian Sundarbans', *Scientific Reports*, 14.1 (2024), 12952 <<https://doi.org/10.1038/s41598-024-63281-8>>.



restoration oversight mechanism, and stringent sanctions for non-compliance with restoration obligations to ensure that ecological justice is truly achieved.

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