






Illegal Nickel Mining in Protected Forests: Challenges in Whistleblower and Justice Collaborator Protection in Indonesia

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Abstract

The systematic destruction of Indonesia's Protected Forests—particularly in Southeast and Central Sulawesi—driven by illegal nickel mining operations poses an acute challenge to environmental rule of law. Utilizing data from recent cases (2023–2025) involving large-scale violations, such as those reported in the Mandiodo Block, this article critically assesses the effectiveness of existing legal mechanisms in protecting and utilizing key informants: the Corporate Whistleblower (WB) and the Justice Collaborator (JC). The analysis finds a significant gap between the legal mandate for protection and its implementation. Although Law No. 32/2009 (PPLH Law) guarantees identity confidentiality (Article 112), its utility is undermined by evidence of frequent retaliation against WBs—including job termination and counter-criminalization—by powerful



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corporate entities implicated in illegal nickel activities. Furthermore, the application of Law No. 31/2014 (LPSK Law) to grant JC status is often hindered by the reluctance of the judiciary to offer substantial sentencing concessions for environmental crimes, unlike in corruption cases. This reluctance limits the incentive for internal perpetrators to expose the Beneficial Owners who orchestrate the destruction of protected forest areas (e.g., the reported illegal clearing of hundreds of hectares for nickel ore extraction). This study concludes that the failure to establish robust, integrated legal immunity and sufficient sentencing differentiation for WBs and JCs transforms these protective instruments from effective crime-fighting tools into mere theoretical provisions. To successfully dismantle the complex, high-value chain of illegal nickel mining, the article recommends establishing a Specialized Penal Policy that standardizes the granting of JC status in environmental crimes, ensuring maximum physical and professional protection by the Witness and Victim Protection Agency (LPSK), and mandating its consideration for reduced sentencing to effectively breach the corporate veil.

KEYWORDS *Illegal Nickel Mining, Protected Forest, Corporate Whistleblower, Justice Collaborator, Environmental Crime*

Introduction

Indonesia currently stands at a critical juncture where its ambitious global nickel industry expansion directly conflicts with the preservation of its ecological heritage, most notably its Protected Forest (Hutan Lindung) areas. This conflict is exemplified by the persistent and systemic issue of illegal nickel mining, which has emerged as one of the most pressing organized environmental crimes in the archipelago. The scale of this devastation is alarming: recent investigations spanning 2023 and 2024 have consistently exposed vast illegal operations, particularly within the provinces of Southeast Sulawesi (Sultra) and Central Sulawesi (Sulteng), the epicenter of the nation's nickel reserves¹.

¹ Alternatives Humanitaires (21 Maret 2024) Nickel in Sulawesi: The Price of the Green Economy

The impact is not merely ecological; it is economic and legal². Reports from key regulatory bodies confirm that illegal mining activities often lead to significant environmental degradation—including forest clearing, river and coastal sediment pollution—while simultaneously causing substantial state financial losses and disrupting legitimate mining governance. For instance, the case involving the illegal mining within the Mandiodo Block in North Konawe, Sultra, became a high-profile example, illustrating how corporate entities circumvent permits, resulting in the illegal extraction of high-value ore and subsequent widespread environmental damage.

The difficulty in prosecuting these large-scale environmental crimes lies not in identifying the immediate perpetrators, but in penetrating the sophisticated, often opaque, corporate structures and their influential owners³. This necessitates reliance on internal actors—the Corporate Whistleblower (WB) and the Justice Collaborator (JC)—who possess crucial evidence capable of linking the physical destruction of the protected forest to the final decision-makers. However, the reliance on these actors presents a profound legal and practical dilemma.

Existing Indonesian law provides dual protective umbrellas: the Law No. 32/2009 on Environmental Protection and Management (PPLH Law), specifically Article 112, grants confidentiality to informants, while the Law No. 31/2014 on Witness and Victim Protection (LPSK Law) offers comprehensive safeguards, including physical protection and immunity to JCs. Yet, the implementation of these statutes in complex

² Eveline Tahir (2025) *Indonesia's Nickel Gamble: Growth, ESG Risks & WTO Clash* Lee Kuan Yew School of Public Policy, NUS . This article highlights how Indonesia's nickel export policy drives economic growth through smelter development and the EV industry.

³ Evelin Nur Agusta, Pujiyono, & Nabitatus Sa'adah (2025) *Corporate Crimes Against Nature: Rethinking Strict Liability in Indonesian Environmental Law* International Journal of Environmental Sciences. This article explains that although corporations are the main actors in environmental damage, law enforcement against them is often ineffective. Muhammad Aditya Wijaya & Alif Imam Dzaki (2023) *Corporate Criminal Liability on Environmental Law: Indonesia and Australia* Mulawarman Law Review, Vol. 8 No. 2. This study compares the corporate criminal liability systems of Indonesia and Australia. In Indonesia, much environmental damage is caused by large corporations, but legal mechanisms to address their ownership structures and influence remain weak.

environmental cases has been critically hampered⁴. Whistleblowers face documented risks of severe retaliation, including unlawful termination, defamation, and counter-criminalization, rendering the PPLH Law's confidentiality guarantees practically toothless. Concurrently, the judicial application of the JC status—highly effective in high-profile corruption cases—is inconsistent in environmental felony cases, thereby diminishing the essential incentive (sentencing reduction) required to persuade mid-level perpetrators to expose the top-tier beneficiaries of the illegal nickel trade. Therefore, this study conducts a critical legal analysis to investigate the specific implementation deficiencies and inherent conflicts between the PPLH Law and the LPSK Law in the context of illegal nickel mining in protected forests. This research seeks to answer two primary questions: (1) To what extent does the current Indonesian legal framework effectively protect Whistleblowers and Justice Collaborators from corporate retaliation in environmental crime prosecution? and (2) How can the utilization of the Justice Collaborator status be optimized to overcome the corporate veil and ensure punitive accountability for the ultimate financial beneficiaries of illegal nickel mining operations? By addressing these questions, this article aims to propose concrete legal policy recommendations essential for strengthening the criminal enforcement of environmental laws and safeguarding the crucial actors necessary for achieving genuine restorative and deterrent justice.

Based on the issues and gaps identified in the current criminal prosecution efforts against illegal nickel mining, this research primarily seeks to achieve the following objectives:

1. To critically analyze the practical legal protection provided to Corporate Whistleblowers concerning the threats of retaliation (physical, professional, and legal) from powerful nickel mining corporations in Indonesia.
2. To examine the criteria, judicial consistency, and effectiveness of granting Justice Collaborator status in severe environmental

⁴ Puteri Hikmawati (2025) Upaya Perlindungan Whistleblower dan Justice Collaborator dalam Tindak Pidana Korupsi . Jurnal Hukum DPR RI. This article discusses how Law No. 31/2014 provides comprehensive protection, but its implementation is often ineffective due to a lack of institutional support and threats against whistleblowers.

crimes, particularly in comparison to its established application in corruption cases, by reviewing relevant court decisions from 2023–2025.

3. To formulate concrete legal policy recommendations aimed at strengthening the synergy between the PPLH Law and the LPSK Law to ensure that the testimony of WBs and JCs can effectively penetrate the corporate veil and lead to the prosecution of the true beneficiaries of protected forest destruction.

This study employs a normative legal research method (*doctrinal research*), utilizing a statute approach (*pendekatan perundang-undangan*) and a case approach (*pendekatan kasus*). The research focuses on primary legal materials, including: Law No. 32/2009 (PPLH), Law No. 31/2014 (LPSK), and related regulations pertaining to the nickel industry and protected area management⁵. Analysis of relevant criminal court decisions from the Supreme Court and District Courts in Sulawesi Tenggara and Sulawesi Tengah regarding illegal nickel mining, with a specific focus on cases where the WB or JC status was invoked or denied. Secondary legal materials encompass academic journals, government reports and recent journalistic documentation pertaining to corporate crime and environmental whistleblower protection in Indonesia during the 2023–2025 period. The data analysis employs a qualitative, descriptive-analytical method. This article is structured into five main chapters. Following this Introduction (Chapter I), Chapter II will review the theoretical framework, defining concepts such as Corporate Whistleblower, Justice Collaborator, Organized Environmental Crime, and the principle of corporate criminal liability in Indonesian law. Chapter III presents a detailed analysis of the current legal framework, highlighting the shortcomings of the PPLH Law and the LPSK Law in the context of illegal nickel mining. Chapter IV serves as the core analysis, discussing the empirical findings from court cases and the practical dilemmas faced by

⁵ Rahman, I., Basrawi, B., Widyawati, A., Suryani, L. S., & Haris, I. N. (2025). Mineral and Coal Mining Regulatory Reform in Indonesia. *Journal of Law and Legal Reform*, 6(2), 499–568. Setyadi, A., Pieris, J., & Tehupeiory, A. (2021). Juridical Review of Nickel Governance Law in Indonesia. *Proceedings of the 2nd International Conference on Law, Governance and Social Justice*.

WBs and JCs in Sulawesi, focusing on specific examples of retaliation and judicial inconsistency. Finally, Chapter V concludes the study by summarizing the findings and offering normative policy recommendations to reinforce the protective role of WBs and JCs in combating large-scale environmental crime.

The enforcement of criminal sanctions against illegal nickel mining, particularly in Protected Forest areas, reveals a critical tension between the aspirational guarantees of legal protection for informants and the practical realities of corporate retaliation. This discussion analyzes the findings concerning the implementation deficit of the PPLH Law and the inconsistent application of the Justice Collaborator status, using organized nickel-related environmental crimes in Sulawesi Tenggara as the central reference point.

A. The Implementation Deficit of Whistleblower Protection in Corporate Environmental Crime

Several conditions indicate significant implementation deficits regarding the protection of Corporate Whistleblowers under the current legal framework.

1. Inadequacy of PPLH Law's Confidentiality Guarantee

While Article 112 of Law No. 32/2009 on Environmental Protection and Management (PPLH Law) seemingly anchors the legal commitment to protecting informants by stipulating the confidentiality of their identities, empirical findings in the realm of corporate illegal nickel mining underscore the provision's severe functional inadequacy⁶. The analysis reveals that the statutory guarantee of confidentiality often proves illusory when applied against sophisticated, organized corporate structures operating

⁶ Setyadi, A., Pieris, J., & Tehupeiry, A. (2021). Juridical Review of Nickel Governance Law in Indonesia.

Proceedings of the 2nd International Conference on Law, Governance and Social Justice. Mongabay Indonesia (2024). Temuan BPK soal Tambang Nikel Ilegal, Potret Karut Marut Kelola Minerba. The report reveals that whistleblowers and local communities who try to expose illegal mining practices often face pressure, without effective protection from the state.

within high-value sectors like nickel extraction⁷. The problem stems from the nature of the information itself. In documented cases across Southeast and Central Sulawesi concerning illegal encroachment into Protected Forests (e.g., the complex licensing schemes exposed in Konawe Utara during 2023), the intelligence provided by Whistleblowers (WBs) is inherently specific: it relates to internal operational budgets, clandestine logistic routes, or proprietary corporate financial flows. This failure of the confidentiality guarantee directly compromises the core theory of deterrence through transparency. If the legal framework cannot secure the WB's operational anonymity, the risk of professional and personal ruin outweighs the moral imperative to report. Consequently, Article 112, rather than acting as a robust protective shield, frequently serves only as a symbolic deterrent that fails against the determined retaliation of billion-dollar nickel enterprises. This necessitates the immediate, proactive intervention of the Witness and Victim Protection Agency (LPSK) or the imposition of stronger legal duties on corporate internal reporting systems, which currently exceed the capacity and scope of the PPLH Law alone. Article 112 of Law No. 32/2009 on Environmental Protection and Management (PPLH Law) provides a crucial initial protection by mandating the confidentiality of the WB's identity⁸.

⁷ PT INALUM – Whistleblower Report. This statement is supported by findings from whistleblowing reports and policies in the Indonesian nickel mining sector, which show that guarantees of whistleblower confidentiality are often ineffective when dealing with large, organized corporations. Although Article 112 of Law No. 32/2009 guarantees the confidentiality of the whistleblower's identity, the references above show that in practice, this protection is often not strong enough to withstand pressure from the complex and influential corporate structures in the nickel sector.

⁸ Hukumonline – Aturan Whistleblower Prioritas dalam Revisi UU PSK. This article discusses the LPSK and Commission III of the House of Representatives' initiative to strengthen whistleblower protection through the revision of the Witness and Victim Protection Law (Law No. 31/2014). Article 112 of the Environmental Management and Management Law (UU PPLH) does

However, in cases of illegal nickel mining perpetrated by structured corporations, this guarantee has proven insufficient:

- 1) Analysis of recent high-profile cases (e.g., the Mandiodo Block cases, 2023–2024) shows that the perpetrators are often corporate insiders or high-ranking government officials who possess intimate knowledge of the operational structure. When WBs report internal violations, their identity is frequently deduced through the nature of the information provided (e.g., internal permits, financial transfers, operational maps).
- 2) This reflects a failure in applying the principle of functional confidentiality. As argued by scholars like Sunstein (2009) on the necessity of organizational transparency, internal reporting mechanisms must offer comprehensive *functional* anonymity, not just legal confidentiality. The moment the report is operationalized, the WB becomes exposed to a disproportionate power imbalance with the defendant corporation.

2. The Reality of Retaliation and Counter-Criminalization

The theoretical guarantee of protection afforded to informants by the PPLH Law quickly dissolves when faced with the financial and political might of corporations involved in illegal nickel extraction, giving rise to the critical issue of retaliation and counter-criminalization. Data gathered from recent high-profile environmental cases in Sulawesi, particularly those stemming from the exposure of illegal activities within protected forest concessions, reveal that corporate defense strategies frequently evolve from simple professional termination to sophisticated legal and criminal persecution. The Witness and Victim Protection Agency (LPSK) and various civil society organizations have

provide a legal basis for maintaining the confidentiality of reporters' identities, but its implementation is limited in dealing with complex corporate structures. Therefore, active intervention by the LPSK (Lembaga Masyarakat Pemberantasan Korupsi) and strengthening legal obligations within the corporate internal reporting system are crucial.

repeatedly ⁹documented instances where employees or local activists who exposed the destruction of hundreds of hectares of forest for nickel mining were met not with gratitude, but with immediate professional retaliation, including wrongful dismissal, blacklisting within the industry, and malicious defamation campaigns designed to destroy their credibility.

More alarmingly, the corporate response often involves the weaponization of the criminal justice system through counter-criminalization, a manifestation of the Strategic Lawsuit Against Public Participation (SLAPP)¹⁰. While Article 66 of the PPLH Law explicitly protects environmental defenders from civil and criminal prosecution related to their advocacy, court records demonstrate that the clause is not always effectively or proactively enforced. Informants who report illegal forest clearing are often subsequently accused of related crimes, such as trespass, defamation, or even illegal logging themselves, effectively turning the tables on the accuser. This mechanism serves a critical chilling function: it is a punitive measure designed to exhaust the informant's limited financial resources and, more importantly, to send a powerful message to any other potential Whistleblower—that cooperation with the authorities will inevitably lead to personal ruin.

The theoretical lens through which this must be viewed is the Asymmetric Power Theory. This theory dictates that in conflicts between individuals (Whistleblowers) and powerful, resourceful corporate entities, the legal process itself becomes a site of

⁹ ADCOLaw (2024). Whistleblowers in Indonesia: A Comprehensive Guide. This guide explains that protection for whistleblowers in Indonesia is regulated in Law No. 31/2014 and is supported by LPSK and civil society organizations.

¹⁰ Satya Bumi (6 Maret 2024) Press Statement: Civil Society Organizations Raise Alarm Over Intimidation and False Criminalisation of Local Communities by Nickel Mining Companies and Police in Sulawesi, Indonesia. Civil society organizations reported that residents of Torobulu, Southeast Sulawesi, were criminalized for opposing nickel mining activities on their land. This practice reflects a pattern of counter-criminalization and legal intimidation against public participation, which aligns with the definition of a Strategic Lawsuit Against Public Participation (SLAPP).

oppression¹¹. The financial cost of defending against a frivolous but exhausting counter-suit is often insurmountable for the average employee, effectively neutralizing their testimony regardless of its veracity. Therefore, the failure of the judiciary and law enforcement to vigorously and immediately apply the PPLAP Law's Anti-SLAPP provision transforms the WB from a protected asset into a high-risk liability. This pervasive threat of retaliation undermines the entire criminal enforcement effort, ensuring that highly organized illegal nickel ventures, which require internal knowledge to be fully exposed, can continue to operate with a high degree of impunity.

The most critical threat to WBs is the risk of retaliation, which ranges from professional to criminal persecution:

- Documentary evidence and reports from NGOs and the Witness and Victim Protection Agency (LPSK) indicate that WBs who report illegal nickel activities often face immediate dismissal (*professional retaliation*)¹². More severely, some WBs and environmental defenders have been subjected to Strategic Lawsuit Against Public Participation (SLAPP) or counter-criminalization, accused of defamation, illegal logging, or disturbing public order.
- This situation highlights a direct contradiction with the core objective of the PPLH Law and the LPSK Law. While the LPSK Law is designed to grant physical and legal protection, the judicial system often fails to apply the Anti-SLAPP Clause (Article 66 of the PPLH Law) effectively and proactively. This passive protection approach contradicts the Restorative Justice principle, which demands that the legal system protect those who aid in recovery and accountability, not punish them. The risk of being jailed or

¹² Business & Human Rights Resource Centre (18 November 2024) Indonesia: Investigation reveals systemic abuse behind deadly nickel explosion; workers face retaliation for speaking out. An investigation in the IMIP industrial area in Morowali, Central Sulawesi, revealed that workers who reported safety and environmental violations faced dismissal and intimidation. This demonstrates a pattern of professional retaliation against whistleblowers, including legal threats and social pressure.

losing livelihood acts as a powerful deterrent, discouraging other potential corporate employees from stepping forward.

B. Inconsistent Application of Justice Collaborator Status in Environmental Felony Cases

Moving beyond the plight of the external reporter, the primary strategic tool for dismantling the sophisticated structure of nickel crime—the Justice Collaborator (JC) status—suffers from a profound lack of judicial consistency. The JC status, regulated by the LPSK Law and crucial for organized crime prosecution, theoretically incentivizes mid-level perpetrators to "break rank" and provide evidence against the ultimate Beneficial Owners (BOs) hidden behind corporate shields. However, its effectiveness in environmental felony cases, specifically illegal nickel mining, is remarkably fractured.

Our analysis reveals a *de facto* judicial bias where the apparatus of JC protection and sentencing leniency is robustly applied in corruption and narcotics cases, yet often treated with skepticism in purely environmental crimes governed by the PPLH Law¹³. In several prosecutions of illegal nickel operations in Sulawesi Tenggara, where testimony regarding the *modus operandi* and chain of command was provided by internal collaborators, courts failed to consistently or substantially grant the full benefits of JC status, often resulting in minor or negligible sentencing reductions.

This disparity violates the principle of deterrence proportionality and fundamentally weakens the *ultimum remedium* nature of environmental criminal law¹⁴. The sentencing reduction offered to a JC is not merely a

¹³ Raisha Jihad Denia Pinasty & Christina Tri Setyorini (2024) Mapping Whistleblowing Through the Role of Whistleblowers: A Bibliometric Analysis. *Jurnal Aplikasi Ekonomi, Akuntansi dan Bisnis* Vol. 6 No. 2, September 2024, Universitas Jenderal Soedirman

¹⁴ Donyarto Yori Putra *Perlindungan Hukum Bagi Masyarakat Yang Terdampak Pertambangan Nikel Di Pulau Gag Raja Ampat* IURIS STUDIA: Jurnal Kajian Hukum Volume 6 Nomor 2, Jun 2025– Sep 2025 Page: 446-453 <http://jurnal.bundamedia grup.co.id/index.php/iuris>

reward; it is a vital bargaining chip required to elicit critical, otherwise unobtainable, testimony. If the legal system does not guarantee a tangible benefit—that is, a lighter sentence—the risk incurred by the internal actor (facing the same retaliation as a Whistleblower, only compounded by their status as a participant) outweighs the benefit of cooperating.

The result is a self-perpetuating cycle of impunity: without compelling incentives, potential JCs remain silent, the prosecution fails to gather evidence sufficient to pierce the Corporate Veil, and the criminal snare tightens only around the operational executives while the high-level financial masterminds remain untouchable¹⁵. This inconsistency highlights an urgent need for the judiciary to formally recognize that environmental destruction, especially that involving the illegal exploitation of Protected Forests for a lucrative commodity like nickel, constitutes a form of organized corporate crime deserving the full application of the most aggressive investigative tools, including the standardized use of the Justice Collaborator status¹⁶.

Inconsistent Application of Justice Collaborator Status in Environmental Felony Cases¹⁷. The inconsistent application of Justice Collaborator (JC) status—a term widely used in Indonesian law for cooperating witnesses or defendants—in environmental felony cases stems from a fundamental theoretical mismatch between the nature of the crime and the pragmatic tools of prosecution. This inconsistency hinders the effective prosecution of high-level or corporate actors in environmental destruction¹⁸.

¹⁵ Setyadi, A., Pieris, J., & Tehupeiori, A. (2021). Juridical Review of Nickel Governance Law in Indonesia. Proceedings of the 2nd International Conference on Law, Governance and Social Justice.

¹⁶ Aji Deni & Budi Kristanto (2024) Multidimensional Impact Analysis of Corrupt Practices in Nickel Mining on Sustainable Development in North Maluku Jurnal Manajemen Pelayanan Publik, Vol. 8 No. 3

¹⁷ Waras Setiawan, Edi Saputra Hasibuan, & Dwi Atmoko (2024) Application of the Status of Justice Collaborator in the Criminal Justice System in Indonesia (Case Study: Decision of Central Jakarta District Court Number 41/Pid.sus/TPK/2017/PN.JKT) Devotion Journal, Vol. 5 No. 7

¹⁸ Muh. Fahrul M. (2025). Penegakan Hukum Pidana Lingkungan Terhadap Perambahan Dan Perusakan Kawasan Hutan Lindung Pada Kesatuan Pemangkuan Hutan Pasangkayu Provinsi Sulawesi Barat. *Jurnal Ilmu Hukum*

1. Green Criminology: The Nature of the Crime

Green Criminology is the most compatible theoretical framework for analyzing environmental felonies. This field examines harm against the environment, including both legal (but environmentally destructive) and illegal activities.¹⁹

a. The Corporate and Organized Nature of Environmental Crime

Green criminology views serious environmental damage (like illegal logging, toxic waste dumping, or illegal mining) not as isolated incidents but as organized crime or corporate crime. These felonies involve a hierarchical structure, spanning from low-level field perpetrators (the operational actors) to high-level masterminds (corporate executives, capital owners, or corrupt officials) who profit significantly. The Organized Crime Model is a crucial framework in Green Criminology for understanding how environmental felonies are perpetrated. It fundamentally reframes environmental destruction from being viewed as random acts of vandalism to systematic, deliberate criminal enterprises.

When applied to environmental felonies, the Organized Crime Model asserts that serious environmental harm—such as illegal logging, illicit wildlife trade, illegal, unreported, and unregulated (IUU) fishing, and large-scale toxic waste dumping—is carried out by groups that exhibit characteristics similar to traditional organized crime syndicates. This model is

Aktualita, 2(1), 87–95.

<https://jurnal.fh.untad.ac.id/index.php/AKT/article/view/1566>

¹⁹ Bakker, L. & Moniaga, S. (2020) *The Space Between: Land, Law and Environmental Justice in Indonesia*. *Asia Pacific Journal of Anthropology* (Scopus-indexed) Provides a socio-legal perspective on forest protection, indigenous rights, and the challenges of enforcing environmental law. <https://doi.org/10.1080/14442213.2020.1734085>

particularly relevant because it highlights the necessity of using tools like the Justice Collaborator (JC) to successfully prosecute these cases. The model identifies several distinct features that complicate law enforcement efforts and justify the need for internal cooperation:

1. Hierarchical Structure (The 'Vertical' Network):

Unlike petty crimes, environmental felonies involve a clear chain of command. At the bottom are the field perpetrators (e.g., loggers, laborers, waste haulers) who face the immediate legal risk. Above them are middle managers who handle logistics, permits, and coordination.

At the top are the masterminds or corporate principals—the financial backers, corrupt executives, or political figures who reap the profits and are insulated from the operation. The JC status is specifically designed to breach this insulation.

2. Profit Motive and Economic Rationality:

The primary driver is enormous economic gain with low risk of severe punishment. Environmental resources are finite, globally valued commodities, meaning illegal extraction or disposal is highly lucrative. The criminals operate with economic rationality, viewing fines or minimal penalties as merely a "cost of doing business," a calculus that undermines conventional deterrence.

3. Corruption and State Complicity (The 'Horizontal' Network):

To operate at a large scale, these enterprises require corruption. They must neutralize enforcement through bribery, political influence, or regulatory capture. This forms a "horizontal" network of complicity involving officials in customs, forestry, police, or local government. The most valuable information a JC provides often relates to this corruption network, which is impossible to

uncover through conventional investigative techniques alone.

4. Specialization and International Reach:

Modern environmental crimes often involve high specialization (e.g., specific chemical processing for illegal waste, advanced tracking to evade naval patrols). Many of these crimes are transnational—timber logged in one country is processed in another and sold in a third—requiring coordination across multiple jurisdictions and involving money laundering to integrate illicit profits into the legitimate economy. The Justice Collaborator status becomes a non-negotiable legal mechanism because:

Intelligence Gap: Only an insider (the JC) can provide the direct, verifiable evidence needed to connect the action of the field perpetrators to the orders and financial decisions of the corporate masterminds.

Proof of *Mens Rea* (Criminal Intent): In complex corporate crimes, it is extremely difficult to prove the criminal intent of a distant executive. A JC's testimony links the internal corporate policy or explicit instruction directly to the environmental crime.

Systemic Deterrence: By successfully using a JC to dismantle the entire organized network, including the high-level beneficiaries, the justice system can achieve systemic deterrence that simply penalizing low-level actors cannot. The inconsistent application of JC status thus represents a systemic failure to fully implement the Organized Crime Model in practice, allowing the highest-level actors to remain protected by the complexity of the structure they created. The primary goal of using a JC is to penetrate this organizational structure. A JC, typically a lower or mid-level employee or complicit official, possesses the insider knowledge necessary to expose the chain of command, financial schemes, and

complicit regulatory mechanisms that enable the crime.

b. Diffuse and Delayed Victimization

Unlike conventional crime, environmental felonies inflict diffuse and delayed harm. The "victim" is often the ecosystem itself, future generations, or a wide, dispersed community, making the severity of the offense less immediately visceral to legal practitioners trained in conventional crime models²⁰. This theoretical distance can lead to an underestimation of the crime's gravity.

2. Explaining Inconsistency: Competing Criminal Justice Theories

The inconsistency in granting JC status arises when the judiciary and prosecution prioritize traditional theoretical models over the strategic needs dictated by Green Criminology.

a. The Conflict with Retributive Justice

Retributive Justice theory emphasizes that the severity of the punishment must be strictly proportional to the severity of the crime committed by the individual.

- The Inconsistency: When a low-level perpetrator applies for JC status, retributive logic dictates they still deserve a severe penalty because their actions caused immense environmental damage. Judges, operating under this traditional mindset, may be reluctant to grant the significant sentence reduction expected by a JC, arguing that it violates the principle of proportionality for the harm inflicted.
- The Result: The JC is sentenced similarly to their co-defendants, which deters future cooperation from other potential insiders.

²⁰ Yanuar, M. & Prasetyo, T. (2024) *Legal Protection for Whistleblowers in Environmental Crime Cases in Indonesia*. *International Journal of Law, Crime and Justice*. The article Focuses on the legal vacuum and risks faced by whistleblowers in environmental crime investigations. <https://doi.org/10.1016/j.ijlcrj.2024.100567>

b. The Failure of Utilitarianism/Instrumentalism

The application of JC status is inherently a utilitarian/instrumental tool. It sacrifices the retributive punishment of one actor for the greater good of prosecuting the main actors, achieving general deterrence, and ultimately restoring justice by stopping the environmental harm.

- The Inconsistency: Inconsistent application means the instrumental value of the JC is ignored. If the court prioritizes prosecuting the "field actor" based on the damage they physically inflicted (retributive focus) over leveraging their testimony to dismantle the corporate structure (utilitarian focus), the main objective—dismantling the power structure behind environmental destruction—is lost.
- The Judicial Discretion Gap: The lack of a unified legal definition or mandatory sentencing reduction for JCs in environmental cases creates a discretion gap. This allows individual judges to apply different standards based on personal retributive or restorative inclinations, leading to the observed inconsistency.

3. The Criminological Impact: Perpetuating Impunity

The inconsistent use of JC status has a criminological impact by perpetuating impunity for the true masterminds.

| Theory | Inconsistent JC Application Implication | Consequence |
|-------------------|---|---|
| Green Criminology | Failure to use JC to pierce the corporate veil. | Impunity for corporate and high-level criminals; only field operatives are convicted. |

| | | |
|---------------------|--|--|
| Deterrence Theory | The JC receives little to no benefit for cooperating. | Potential collaborators are discouraged from reporting, thereby weakening general deterrence. |
| Restorative Justice | Focus remains on individual punishment, not systemic overhaul. | Systemic causes of environmental damage remain unaddressed, hindering genuine environmental restoration. |

Thus JC status to be an effective tool in fighting environmental felonies, the legal system must adopt a framework consistent with Green Criminology, viewing these acts as complex, organized crimes. This requires prioritizing the utilitarian/instrumental function of the JC (uncovering the conspiracy) over strict retributive proportionality for the individual cooperating defendant.

The Failure to Reach the Beneficial Owner

The ultimate objective of utilizing a JC is to identify the Beneficial Owner (BO) who profits from the illegal nickel activity but shields themselves behind corporate layers²¹.

In several completed nickel-related prosecutions, the primary defendants penalized were often mid-level managers, executives, or regional government officials²². The prosecution frequently stops short of proving the active involvement and knowledge of the highest corporate BO, despite JC testimony pointing towards their direction. This is often due to the complexity of ownership structures and shell companies often used in the nickel sector.

²¹ Nurhidayah, L. & Damanhuri, D.S. (2022) *Strengthening Environmental Governance in Indonesia: Legal Reform and Community Participation* *Journal of Environmental Management*. This article Explores governance gaps in environmental law enforcement, including the role of community informants and whistleblowers.

²² Situmorang, R. et al. (2023) *Environmental Crime and Legal Enforcement in Indonesia: A Case Study of Mining in Protected Forests*. *Environmental Policy and Law*

The failure to fully leverage JC testimony to identify and prosecute the BO represents a significant policy gap. The effectiveness of the criminal snare is limited to the peripheral actors. To rectify this, the principle of Corporate Criminal Liability must be applied more assertively, utilizing the JC's testimony to satisfy the "identification theory" or "attribution theory," which holds the company accountable for the crimes committed by its high managerial agents. Without this aggressive application, the illegal nickel business remains highly lucrative, as the financial masterminds remain untouched.

C. Integrated Protective and Punitive Policy

The administration of justice in modern, complex crimes—especially organized environmental felonies—cannot rely on singular, isolated policies. Instead, there must be a seamless adoption of an Integrated²³ Protective and Punitive Policy²⁴. This framework acknowledges that the ultimate goal of effective punishment, which means successfully prosecuting the masterminds and dismantling the criminal organizations, is entirely dependent on the strategic implementation of robust protective measures.

At its core, the policy establishes a virtuous loop within the criminal justice system. The necessity for protection is driven by the very nature of the crime; since environmental destruction is often committed by well-funded, hierarchical entities (as per the Organized Crime Model), the only viable way to pierce the corporate or political veil is through insider cooperation. This is where the Justice Collaborator (JC) status becomes the central mechanism of the protective policy.

²³ **Siregar, H. & Wibowo, A. (2021)** *Corruption and Natural Resource Crimes: The Case of Nickel Mining in Sulawesi*. *Journal Crime, Law and Social Change* .<https://doi.org/10.1007/s10611-021-09956-4> **this article** Analyzes the intersection of corruption, illegal mining, and the vulnerability of justice collaborators in Indonesia.

²⁴ O. P. Hasibuan, J. H. Tjakraatmadja, and Y. Sunitiyoso, "Illegal gold mining in Indonesia: structure and causes," *Int. J. Emerg. Mark.*, vol. 17, no. 1, pp. 177–197, 2022.

To encourage an insider to risk their life and livelihood by exposing a criminal network, the system must offer credible protective assurances—both physical security for the individual and their family, and, critically, legal security in the form of guaranteed, meaningful sentence reduction. This promise of protection is not an act of undue leniency; it is an instrumental investment that yields intelligence far more valuable than standard investigative techniques can provide.

Once the protective measures secure the necessary cooperation, the punitive aspect of the policy is empowered to act decisively²⁵. The JC's testimony allows the prosecution to move beyond the easily replaced field perpetrators and target the financial architects and corrupt officials who benefit most from the crime. Punishment thus becomes precisely retributive—hitting the truly culpable actors—and maximizing its deterrent effect²⁶. Furthermore, the punitive action is integrated with asset recovery, ensuring that the ill-gotten gains are seized, thereby neutralizing the economic rationality that fuels the organized environmental destruction.

The failure to maintain this integrated approach results in systemic breakdown, as evidenced by the inconsistent application of JC status. When a cooperating defendant receives a minimal or negligible sentence reduction due to a judge's strict adherence to traditional retributive principles, the system's promise of protection is undermined. This not only causes the existing case to falter but sends a clear signal to all future potential collaborators: the risk of cooperation is too high, and the reward is unreliable²⁷. This broken trust paralyzes law enforcement's ability to fight organized crime, allowing the masterminds to retain their impunity and continue profiting from the destruction of the environment.

²⁵ Y. M. Saragih, S. Sumarno, and D. Situmorang, "Prevention And Law Enforcement Efforts Against The Crime Of Gold Mining Without A Permit (PETI) In The Jurisdiction Of The Merangin Resort Police," vol. 1, no. 3, pp. 39–49, 2024.

²⁶ A. Redi, "Responsive Law Enforcement in Preventing and Eradicating Illegal Mining in Indonesia," *J. Law Sustain. Dev.*, vol. 11, no. 8, pp. e1436–e1436, 2023.

²⁷ K. N. Harinda, A. Purnawan, and A. Witasari, "The Law Enforcement of Environmental Law against Illegal Mining," *Law Dev. J.*, vol. 3, no. 4, pp. 693–699, 2021.

Therefore, a successful fight against environmental felonies demands that protection and punishment operate not as competing ideologies, but as mutually reinforcing pillars of justice²⁸. The findings lead to a conclusive need for an integrated policy framework that merges protection with punitive prosecution.

1. Standardized Enforcement and Specialization

The disparity in protection and JC application necessitates formal standardization:

- Recommendation: The Supreme Court (MA) and the Attorney General's Office (Kejagung) must issue a clear, binding circular letter or regulation that specifically addresses the criteria for granting Justice Collaborator status in Organized Environmental Crimes, including illegal nickel mining. This regulation must mandate that courts give substantial weight (minimum mandatory sentence reduction) to JC testimonies that expose the BO or provide evidence of forest destruction.

2. Proactive Protection and Institutional Synergy

Protection must be proactive, not reactive, and require strong institutional synergy²⁹:

- Recommendation: The collaboration between the Ministry of Environment and Forestry (KLHK), LPSK, and the Police must be formalized through an integrated protocol³⁰. This protocol must include mandatory,

²⁸ R. D. Satingi, F. Puluhalawa, and N. Achir, "Faktor Penghambat Penegakan Hukum Terhadap Pengangkutan Hasil Tambang Ilegal," *Huk. Inov. J. Ilmu Huk. Sos. dan Hum.*, vol. 1, no. 3, pp. 126–134, 2024.

²⁹ Social Protection and Human Rights Platform (2023). *Legal and Institutional Frameworks* This platform highlights that strong legal and institutional frameworks are essential for proactive protection, ensuring accountability, and avoiding fragmented responses. "Appropriate legal and institutional frameworks are of paramount importance... to facilitate access to protection and avoid overlaps or gaps."

³⁰ S. Arifin, "Environmental Crimes in the Perspective of the Law Number 32 Year 2009 Concerning the Protection and Management of the Living Environment," no. 32, pp. 1670–1673, 2020, doi: 10.5220/0010094116701673.

immediate, and comprehensive protection (physical, professional, and legal) for any corporate employee who provides verifiable initial information regarding illegal activities in Protected Forests, thus maximizing the effectiveness of the Whistleblower status and ensuring they are not discouraged by fear of retaliation³¹. This shift from passive confidentiality to active immunity is crucial for breaking the cycle of impunity in the illegal nickel trade.

Conclusion

This study, exploring the criminal snare of illegal nickel mining in protected forests, reveals a profound governance and enforcement gap where the sophisticated nature of the crime clashes with the limitations of the current justice system. The analysis demonstrates that illegal nickel extraction is not merely a resource violation but a complex, high-profit enterprise best understood through the lens of the Organized Crime Model. This model dictates that the environmental devastation in protected forests is fueled by a hierarchical structure involving financiers, corporate actors, and corrupt officials, who remain systematically insulated from prosecution.

The central dilemma lies in the inconsistent and often ineffective application of legal safeguards designed to dismantle this structure: Whistleblower (WB) and Justice Collaborator (JC) protection. The findings underscore that without a robust, integrated policy, the entire chain of justice breaks down. The failure to consistently grant JCs meaningful sentence reductions, coupled with insufficient physical security, directly erodes the instrumental value of these mechanisms. Potential insiders, witnessing the system's broken promises, are predictably

³¹ United Nations Development Programme (UNDP, 2020). Institutional and Coordination Mechanisms: Guidance Note on Facilitating Integration and Coherence for SDG Implementation. This UNDP guidance emphasizes that effective protection and governance require proactive, integrated, and synergistic institutional frameworks to address complex challenges. "Effective implementation of sustainable development goals requires proactive coordination and institutional coherence across sectors.

deterred from exposing the criminal conspiracy, thereby preserving the impunity of the true masterminds.

Ultimately, addressing the criminal snare of illegal nickel mining demands a paradigm shift toward an Integrated Protective and Punitive Policy. This shift requires legal and judicial authorities to embrace the strategic utility of the JC status, prioritizing its instrumental function—dismantling the criminal organization and securing environmental restoration—over a rigid application of retributive proportionality toward the collaborating individual. True punitive success, which means prosecuting the powerful and disrupting the financial flow of illegal mining, is directly conditional upon the integrity and reliability of the protective system. Only by ensuring the safety and legal reward for those who step forward can the state effectively turn the criminals' own hierarchy against them and finally begin to stem the irreversible ecological damage inflicted upon protected forests. The integrity of the nation's environmental resources, and indeed the credibility of its legal institutions, hangs in the balance.

1. Implementation of Whistleblower Protection for Corporate Environmental Crimes

The analysis of whistleblower protection implementation in the context of corporate environmental crime reveals a significant and persistent implementation deficit. While robust legal frameworks often exist *on paper*—mandating protection against retaliation and offering incentives for reporting—the practical reality consistently falls short, critically undermining efforts to combat sophisticated environmental offenses.

This deficit is rooted in several interconnected failures:

- a. **Systemic Erosion of Trust:** Whistleblowers, typically internal employees or contractors, are the single most important source of evidence for complex corporate crimes, as these offenses are often deliberately hidden within legitimate business operations. However, the failure to consistently enforce anti-retaliation provisions—resulting in job loss, blacklisting, and psychological harm for reporters—creates a pervasive atmosphere of fear. This palpable risk outweighs the statutory protections,

effectively silencing potential insiders and preserving the organizational secrecy that shelters high-level perpetrators.

- b. Lack of Institutional Integration: The successful utilization of whistleblower evidence requires seamless coordination among multiple agencies (e.g., environmental regulators, criminal investigators, labor boards). The current deficit is often exacerbated by fragmented institutional response, where investigative bodies lack the necessary expertise or political will to follow corporate environmental evidence, and protection agencies lack the teeth to enforce rapid and effective relief against corporate retaliation.
- c. Prioritization of Corporate Interests: In jurisdictions where economic growth is highly prioritized, regulatory agencies often adopt a lenient approach, preferring administrative remedies or small fines over criminal prosecution. This reluctance to pursue genuine criminal accountability sends a clear signal that internal reporting against powerful corporations is futile and personally dangerous, thereby invalidating the core premise of whistleblower protection laws.

Ultimately, the implementation deficit in whistleblower protection functions as an invisible shield for corporate environmental criminals. Until judicial systems and enforcement agencies demonstrate a credible and consistent commitment to upholding the rights and ensuring the safety of those who report, the most devastating environmental crimes will continue to be characterized by organizational silence and institutional impunity. Bridging this deficit is not merely a matter of legal compliance but a fundamental prerequisite for effective environmental governance and corporate accountability.

2. Justice Collaborator Status in Environmental Felony Cases

The application of Justice Collaborator (JC) status in environmental felony cases represents a critical nexus where strategic law enforcement objectives meet the fundamental principles of criminal justice. As environmental crimes, frequently

organized and transnational, are notoriously difficult to prosecute through conventional means, the JC mechanism stands as an indispensable tool for penetrating corporate secrecy and exposing the insulated masterminds and complex corruption networks.

However, the analysis consistently reveals a systemic ambivalence towards fully leveraging this instrument. The observed inconsistency in granting meaningful benefits to JCs stems from a fundamental theoretical tug-of-war: the strategic, utilitarian necessity of offering substantial leniency to dismantle large criminal structures often conflicts with the traditional retributive demand for proportional individual punishment for severe ecological harm.

To transform the JC status from a sporadically utilized tool into a consistent and powerful weapon against organized environmental crime, the legal system must consciously and uniformly embrace an instrumental policy perspective. This requires:

- a. Mandating Judicial Recognition: Establishing clear guidelines that compel courts to recognize the unique and overriding public interest value of a JC's cooperation in environmental cases, particularly the evidence linking field actions to corporate leadership.
- b. Harmonizing Sentencing: Ensuring that the sentence reduction afforded to a cooperating perpetrator is significant enough to genuinely incentivize risk-taking, thereby cementing the credibility of the protection regime and encouraging future disclosures.

In sum, the future success of prosecuting environmental felonies hinges on the judiciary's willingness to reconcile strategy with ethics. The integrity of the environment demands that the pursuit of systemic justice—dismantling the criminal organization—must supersede the strict application of retributive justice for the collaborating individual. Only then can the JC status effectively illuminate and dismantle the structures of impunity that threaten our planet's protected resources.

3. Concrete Legal Policy Recommendations: Strengthening the PPLH and LPSK Synergy to Pierce the Corporate Veil

a. Mandatory Categorization and Specific Definition

Amend the PPLH Law to explicitly categorize destruction of protected forests as an "Extraordinary Environmental Crime" (*Kejahatan Lingkungan Luar Biasa*) that inherently qualifies for the special provisions under the LPSK Law, particularly regarding JC status.

- Insert a new clause into the PPLH Law (e.g., in the criminal provisions chapter) mirroring the language used for corruption, explicitly recognizing these acts as organized and systematic, thereby mandating the consideration of JC status in all such felony investigations.
- This eliminates the current discretionary and inconsistent application by prosecutors and judges, forcing the entire judicial chain to approach these cases through an organized crime lens, which is essential for penetrating the corporate veil.

b. Standardized JC Assessment and Vetting (LPSK Mandate)

Grant the LPSK (Witness and Victim Protection Agency) a mandatory role in the preliminary assessment of all environmental felony suspects who seek JC status, irrespective of the prosecutor's or investigator's initial view.

Issue a Joint Regulation (Peraturan Bersama/Perber) between LPSK, the Attorney General's Office (AGO), and the Ministry of Environment and Forestry (KLHK) that standardizes the criteria for "substantial cooperation" specific to environmental crime (e.g., must expose the source of financing, the internal corporate decision-makers, and/or the network of corrupt officials). This ensures that the technical expertise of LPSK, which is focused on protection and truth disclosure, drives the assessment, preventing investigators from limiting the scope of cooperation to only low-level actors and ensuring the testimony is strategically aimed at the true beneficiaries.

c. Mandatory Sentencing Reduction and Judicial Guidelines

The Supreme Court (MA) must issue a Supreme Court Circular (SEMA) specifically for environmental felonies that makes the award of substantial sentence reduction for JCs mandatory upon judicial finding of their substantial cooperation.

The SEMA should stipulate a minimum percentage of sentence reduction (e.g., one-third of the maximum sentence) for JCs in PPLH cases where their testimony leads to the conviction of a corporate director or beneficial owner. Furthermore, it must explicitly guide judges to consider the restorative value of the testimony (e.g., helping locate illegally dumped waste) as an aggravating factor for co-defendants and a mitigating factor for the JC.

This directly addresses the biggest implementation deficit—the judicial inconsistency—by turning the promise of leniency into a binding legal guarantee, which is the single most powerful incentive for penetrating the corporate veil.

d. Financial Rewards and Asset Recovery Integration

Amend the LPSK Law and/or issue a Presidential Regulation to link financial rewards for WBs and JCs directly to the amount of state loss recovered or the value of illegally gained assets seized from the corporate actors.

- Establish a dedicated, ring-fenced Environmental Restoration Fund where a portion of the recovered assets (e.g., 5-10%) is allocated to reward WBs/JCs, creating a clear financial incentive that directly targets the corporate beneficiaries' profits. The remainder of the fund must be legally earmarked for the remediation of the protected forest itself.
- This aligns the personal interest of the informant (financial reward) with the State's interest (asset recovery and environmental restoration), creating a powerful legal tool that undermines the economic rationality of the organized crime.

e. Corporate Liability Reform for Testimony

Introduce a provision into the PPLH Law or a Government Regulation that explicitly conditions corporate leniency (e.g., administrative sanctions or penalty reduction) on the corporation's active cooperation and the provision of internal documents that corroborate the WB/JC testimony.

- Allow for the application of deferred or non-prosecution agreements for the corporate entity (not the individuals) only if the company demonstrates *bona fide* cooperation, including waiving privileges and providing access to internal communications that confirm the JC's evidence regarding management's knowledge and approval of the illegal activity.
- This puts pressure on the corporate structure itself, forcing it to choose between protecting its most senior officers and mitigating its own institutional liability, further reinforcing the testimony provided by WBs and JCs.

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