

## **Towards Green Economy By Strengthening Supervision Of Business Activities**

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### **Abstract**

This Paper underscores the fundamental right of individuals to live in a healthy environment, as guaranteed by the 1945 Constitution of Indonesia. Highlights the growing global environmental challenges, including species extinction, climate change, and pollution, specifically focusing on the Indonesian context. Attention to the intricate relationship between economic activities and environmental degradation, advocating for a shift towards environmentally friendly practices. Employs a normative juridical methodology to analyze the existing legal framework related to environmental monitoring in Indonesia. Scrutinizes the state's environmental control responsibilities and emphasizes the need for enhanced environmental supervision. In the results and discussions section, the Paper explores the state's responsibilities in environmental control, underscores the importance of administrative and criminal sanctions in environmental oversight, and advocates for stringent penalties to discourage non-compliance. The study's findings aim to contribute to the ongoing discourse on environmental protection and sustainable development, emphasizing the urgency of proactive measures to address environmental challenges and promote Indonesia's healthier and more sustainable future.

**KEYWORDS:** *Green Economy; Strengthening Supervision;  
Business Activities*



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## Introduction

Every person has the right to live and has the right to defend his or her life and existence and to obtain a good and healthy environment; this is mandated in Articles 28A and 28H Paragraph (1) of the 1945 Constitution (1945 Constitution) as a human right. A good and healthy environment must continue to be maintained because damage to the environment can cause various negative impacts, such as loss of biodiversity and decreased quality of air, land, and water, ultimately interfering with humans' right to live and maintain their lives.<sup>1</sup>

A good and healthy environment is important for the survival of all creatures, including humans <sup>2</sup>, and must not be set aside for any interests, including industrial interests. However, in developing countries (including Indonesia), the negative impact of industrial processes on the environment still needs to be reduced. Even the old problems, namely deforestation and land quality degradation, still need to be solved; new problems have emerged, namely greenhouse gas emissions, air pollution, water pollution, waste, desertification, and chemical pollution.<sup>3</sup>

From the data released by the IUCN Red List in 2021, it is stated that globally, the number of animals that are threatened with extinction is increasing day by day. In the last ten years, the number of endangered animals has increased by 49%. The increase was around 1.4% to 8.9% annually, and the highest increase occurred in 2020, which was 8.9%. The increase in endangered animals is due to various factors, including habitat destruction, climate change, industrial and agricultural pollution, dams on

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<sup>1</sup> Akhirul Akhirul et al., "Dampak Negatif Pertumbuhan Penduduk Terhadap Lingkungan Dan Upaya Mengatasinya," *Jurnal Kependudukan Dan Pembangunan Lingkungan 1*, no. 3 (2020): 76–84.

<sup>2</sup> Hayu Prabowo, Lembaga Pemuliaan Lingkungan Hidup, and Sumber Daya Alam, "Dari Masjid Makmurkan *Bumi*," *Lembaga Pemuliaan Lingkungan Hidup Dan Sumber Daya Alam Majelis Ulama Indonesia*, 2017.

<sup>3</sup> Singh Ahuti, "Industrial Growth and Environmental Degradation," *International Education and Research Journal 1*, no. 5 (2015): 5–7.

rivers for irrigation and hydroelectric power, forest degradation, and logging.<sup>4</sup>

Based on data from the IUCN until October 4, 2022, in Indonesia, 1,217 animal species are threatened with extinction. From this data, 366 fish species are threatened with extinction. Animals without backbones or invertebrates, as many as 331 species; mammals, as many as 212 species; and as many as 161 species of birds Reptiles include as many as 77 species. 42 species of soft-bodied animals or mollusks and 28 species of amphibians. Moreover, there are 977 plants that are endangered in Indonesia.<sup>5</sup>

From a human health standpoint, the WHO says that the climate crisis, an environmental problem, is humanity's biggest health threat. Every year, more than 13 million deaths worldwide are estimated to be due to preventable environmental problems. Political, social, and business decisions made by humans can lead to climate and health crises. So that more than 90% of people breathe air polluted by burning fossil fuels, the wider and faster the spread of mosquito-borne diseases because the earth is getting warmer, causing extreme weather, land degradation, and water scarcity that affect human health.<sup>6</sup>

The detrimental consequences of climate change and global warming are increasingly impacting the quality of human life. This phenomenon arises due to increasing economic activity, which decreases environmental quality and shows a strong link between a country's economic development

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<sup>4</sup> Yosepha Pusparisa, "Spesies Hewan Terancam Punah Naik 49% Dalam Satu Dekade Terakhir," Katadata.co.id, 2021, <https://databoks.katadata.co.id/datapublish/2021/08/06/spesies-hewan-terancam-punah-naik-49-dalam-satu-dekade-terakhir>.

<sup>5</sup> Shilvina Widi, "Sebanyak 1.217 Spesies Hewan Terancam Punah Di Indonesia," DataIndonesia.id, 2022, <https://dataindonesia.id/ragam/detail/sebanyak-1217-spesien-hewan-terancam-punah-di-indonesia>.

<sup>6</sup> WHO, "World Health Day 2022," World Health Organization in Indonesia, 2022, <https://www.who.int/indonesia/news/campaign/world-health-day-2022>.

and environmental damage.<sup>7</sup> This is in line with what was said by Heri Sukendar, who stated that economic activity is one of the main factors that pollute and damage the environment.<sup>8</sup>

However, this does not mean that economic activity always harms the environment. There are many examples of economic activities that can be carried out in an environmentally friendly and sustainable way, such as producing renewable energy and using recyclable raw materials.<sup>9</sup> Through implementing ecologically responsible business practices, economic activities can contribute positively to the environment and encourage sustainable economic growth.<sup>10</sup> So, in this case, it is important to consider environmental impacts in making economic decisions and encourage companies to implement environmentally friendly business practices.<sup>11</sup> Thus, economic activity can be a positive factor that strengthens the environment and promotes sustainability.

Therefore, intensive monitoring of economic activities is very important because economic activities can have a major impact on the environment <sup>12</sup>.

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<sup>7</sup> Rafael Alvarado and Elisa Toledo, "Environmental Degradation and Economic Growth: Evidence for a Developing Country," *Environment, Development and Sustainability* 19 (2017): 1205–18.

<sup>8</sup> Heri Sukendar W, "Hubungan Antara Kelestarian Ekonomi Dan Lingkungan: Suatu Kajian Literatur," *Binus Business Review* 4, no. 2 (November 29, 2013): 841, <https://doi.org/10.21512/bbr.v4i2.1400>.

<sup>9</sup> Muhammad Taufiqurrohman and Maulana Yusuf, "Pemanfaatan Energi Terbarukan Dalam Pengolahan Daur Ulang Limbah," *Jurnal MENTARI: Manajemen, Pendidikan Dan Teknologi Informasi* 1, no. 1 (2022): 46–57.

<sup>10</sup> Aloysius Hari Kristianto, "Sustainable Development Goals (SDGs) Dalam Konsep Green Economy Untuk Pertumbuhan Ekonomi Berkualitas Berbasis Ekologi," *Business, Economics and Entrepreneurship* 2, no. 1 (2020): 27–38.

<sup>11</sup> Khoirunisa Wahida and Hoirul Uyun, "Tatanan Indonesia Dalam Mewujudkan Pertumbuhan Ekonomi Berkelanjutan Melalui Green Economy," *Harmoni: Jurnal Ilmu Komunikasi Dan Sosial* 1, no. 2 (2023): 14–26.

<sup>12</sup> Liang Li et al., "Green Innovation and Business Sustainability: New Evidence from Energy Intensive Industry in China," *International Journal of Environmental Research and Public Health* 17, no. 21 (October 26, 2020): 7826, <https://doi.org/10.3390/ijerph17217826>.

Intensive supervision can prevent negative impacts on the environment and ensure that sustainable green economy activities can be carried out, such as:

1. Prevent environmental pollution;
2. Prevent environmental damage;
3. Prevent excessive use of natural resources.

The United Nations defines a green economy as something that is resource-efficient, socially inclusive, and low-carbon, whose concept is to combine aspects of economic growth with environmental protection and sustainable development. This concept carries the idea that a sustainable economy can be generated by changing production and consumption systems to be more environmentally friendly. The green economy focuses on environmental friendliness, resource efficiency, the mitigation of greenhouse gas emissions, and the recovery and reuse of materials. A green economy aims to achieve sustainable economic growth, reduce negative impacts on the environment, and improve human well-being.<sup>13</sup>

Supervision must become part of business policies and practices so that economic activities can run sustainably, are environmentally responsible, do not damage the environment, and are beneficial to human welfare.<sup>14</sup> With good environmental monitoring, companies can continue to operate effectively and efficiently while protecting the environment and surrounding communities from the negative impacts of economic activities.<sup>15</sup>

Monitoring the environment is crucial to ensuring the environment and natural resources can be protected and utilized properly. For this reason,

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<sup>13</sup> WHO, loc.cit.

<sup>14</sup> Francesco Gangi et al., "Sustainable Development and Corporate Governance in the Financial System: Are Environmentally Friendly Banks Less Risky?," *Corporate Social Responsibility and Environmental Management* 26, no. 3 (May 12, 2019): 529–47, <https://doi.org/10.1002/csr.1699>.

<sup>15</sup> Péter Batáry et al., "The Role of Agri-environment Schemes in Conservation and Environmental Management," *Conservation Biology* 29, no. 4 (August 21, 2015): 1006–16, <https://doi.org/10.1111/cobi.12536>.

environmental monitoring must be strengthened and made necessary, including:

1. Clear and effective environmental regulations to ensure that those who supervise and those who are supervised carry out their obligations
2. There are strict and quite harsh sanctions for violators.

This paper presents an analysis of the importance of strengthening environmental supervision in Indonesia, which, according to the author, is currently weak in its implementation because sanctions for officials who violate environmental control are not strict, especially for Environmental Supervisors who are given responsibilities, powers, duties, and rights. Fully monitor and/or enforce environmental laws. Especially after the PERPU for Job Creation was ratified as a law 6/2023 (Job Creation Law), as well as amending Law 32/2009 (PPLH Law), the aim of which is to provide licensing facilities in investment to absorb the widest possible workforce <sup>16</sup>.

Permits, as stipulated in Article 10 Paragraph (2) of the Work Creation Law, refer to the approvals granted by either the Central Government or Regional Governments. These approvals are necessary prerequisites that Business Actors must satisfy before to engaging in their respective business operations. Business actors are prohibited from engaging in their business activities without obtaining authorisation from either the Central Government or the Regional Government.

## Method

This study employs a normative juridical methodology, which involves analyzing relevant laws, regulations, and literature pertaining to the enhancement of environmental monitoring. The objective of this study is to

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<sup>16</sup> Nandang Sutrisno and Sigar Aji Poerana, "Reformasi Hukum Dan Realisasi Investasi Asing Pada Era Presiden Joko Widodo," *Undang: Jurnal Hukum* 3, no. 2 (December 1, 2020): 237–66, <https://doi.org/10.22437/ujh.3.2.237-266>.

examine the degree of state accountability in environmental regulation and to identify and evaluate penalties in the enforcement of environmental oversight. It is imperative to prevent the enactment of the Job Creation Law from initiating an ecological catastrophe in Indonesia, mostly stemming from inadequate oversight of permitted corporate operations. Hence, this study will examine the governmental accountability in environmental monitoring and the penalties imposed on individuals or entities found to be non-compliant with environmental oversight.

## **Result and Discussions**

### ***The state's responsibility in environmental control***

The State's responsibility for environmental control is very important because a healthy and good environment is a human right that must be protected and maintained by the State.<sup>17</sup> Thus, the State has an important role in environmental monitoring because it has the power and resources to ensure the environment is properly maintained and preserved.

Acknowledgment from the State that a healthy and good and environment is a human right is contained in the Constitution of the Republic of Indonesia, namely in Article 28H Paragraph (1) of the 1945 Constitution, which states that "Every person has the right to live in physical and spiritual prosperity, have a place to live, get a good and healthy environment, and have the right to obtain health services." That means that the right to obtain a healthy and good environment receives constitutional protection, a robust foundation exists for individuals to advocate for the preservation of their environment, ensuring its continued health and quality. Moreover, this foundation serves as a basis for individuals to assert

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<sup>17</sup> Rofi Wahanisa and Septhian Eka Adiyatma, "Konsepsi Asas Kelestarian Dan Keberlanjutan Dalam Perlindungan Dan Pengelolaan Lingkungan Hidup Dalam Nilai Pancasila," *Bina Hukum Lingkungan* 6, no. 1 (2021): 95–120, <https://www.bhl-jurnal.or.id/index.php/bhl/article/view/bhl.v6n1.6>.

their entitlement to these rights and demand that the State fulfill its obligations in this regard.<sup>18</sup>

As a form of responsibility to realize that everyone has a healthy and good environment, the State passed the PPLH Law, which the Job Creation Law later amended. It recognizes a healthy and good environment as a human right in Article 65 Paragraph (1), which reads, "Every person has the right to a good and healthy environment as part of human rights". That shows the State's commitment to protecting human rights related to the environment and providing protection, regulation, and supervision of a healthy and good environment.

The PPLH Law additionally prioritizes national economic development, which is implemented in accordance with the principles of sustainable and environmentally responsible development, which is the mandate of Article 33 Paragraph (4) of the 1945 Constitution, as the main idea of making this law. Thus, national economic development must be carried out with due observance of sustainable and environmentally sound development principles. These principles include the efficient use of natural resources, reducing waste and emissions, preserving biodiversity, and paying attention to the social and environmental impacts of every economic activity by providing long-term benefits to society.

The PPLH Law makes "state responsibility" one of the principles of implementing environmental protection and management, and in its explanation, it states that the principle of "state responsibility" is:

1. There is a guarantee from the state that utilizing natural resources is for the welfare of the people's lives, both present and future.
2. Citizens' rights to a good and healthy environment from the state are guaranteed.

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<sup>18</sup> Zainal Arifin et al., *Hukum Lingkungan (Tinjauan Pidana, Perdata Dan Administrasi)* (Yogyakarta: Global Press, 2021).



3. The state must prevent the exploitation of natural resources that cause environmental pollution and/or damage.

Of course, the principle of "state responsibility" must be carried out as well as possible through effective and fair law enforcement. Law enforcement is a process that aims to ensure legal norms are properly implemented in the lives of society and the state. In a broader sense, all legal subjects are involved in the law enforcement process in every legal relationship. In a narrower view, law enforcement is defined as efforts by law enforcement officials to ensure that the rule of law is implemented properly and that law enforcement officials are allowed to use physical force if necessary.<sup>19</sup>

As a functional legal field (*functioneel rechtsgebied*), the PPLH Law provides three law enforcement instruments, namely administrative, civil, and criminal law enforcement instruments. Among the three, the administrative law enforcement instrument is considered the most important law enforcement effort because it focuses more on preventing pollution and environmental damage.<sup>20</sup> As a functional legal field (*functioneel rechtsgebied*), the PPLH Law provides three law enforcement instruments, namely administrative, civil, and criminal law enforcement instruments. Among the three, the administrative law enforcement instrument is considered the most important law enforcement effort because it focuses more on preventing pollution and environmental damage. By providing three different environmental law enforcement instruments, the PPLH Law can ensure that environmental violations are subject to criminal sanctions, administrative sanctions, and victim compensation. It is hoped that using appropriate law enforcement instruments will increase the effectiveness of environmental protection and

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<sup>19</sup> Jimly Asshiddiqie, "Penegakan Hukum," 2012, [http://www.jimly.com/makalah/namafile/56/Penegakan\\_Hukum.pdf](http://www.jimly.com/makalah/namafile/56/Penegakan_Hukum.pdf).

<sup>20</sup> Sukanda Husin, *Penegakan Hukum Lingkungan*, ed. Tarmizi, Edisi Revi (Jakarta Timur: Sinar Grafika, 2009).

encourage public awareness to pay attention to and improve environmental conditions.

Environmental monitoring is one of the elements of the administrative environmental law enforcement instrument. That is in line with J.B.J.M. Ten Berge, who states that law enforcement in the administrative environment consists of supervision and sanctions. Supervision is a preventive measure to prevent violations from occurring. Sanctions are a repressive measure to force compliance <sup>21</sup>. According to Siti Sundari Rangkuti, preventive law enforcement is a form of active supervision of compliance with legal regulations without waiting for concrete legal violations to occur. In preventive law enforcement, several instruments are used, such as counseling, monitoring, and supervision through sampling or stopping machines. The main law enforcers in preventive law enforcement are government officials who have the authority to grant permits and prevent environmental pollution by conducting supervision.<sup>22</sup>

Implementing environmental law enforcement through administrative environmental legal instruments is also the first and main step in achieving compliance. The first step means that if administrative environmental legal instruments can be implemented and enforced, there will be no real environmental problems. The main step in enforcing environmental law is not to punish polluters or environmental destroyers but to prevent and restore the quality and capacity of the environment.<sup>23</sup>

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<sup>21</sup> Aditia Syapriillah, "Penegakan Hukum Administrasi Lingkungan Melalui Instrumen Pengawasan," *Bina Hukum Lingkungan* 1, no. 1 (October 24, 2016): 103, <https://doi.org/10.24970/jbhl.v1n1.8>.

<sup>22</sup> Siti Sundari Rangkuti, *Hukum Lingkungan Dan Kebijakan Lingkungan Nasional*, Empat (Surabaya: Airlangga University Press, 2015).

<sup>23</sup> Nurul Listiyani et al., "Penegakan Hukum Administrasi Lingkungan Melalui Instrumen Pengawasan: Rekonstruksi Materi Muatan Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup," *Al-Adl : Jurnal Hukum* 12, no. 1 (2020): 117, <https://ojs.uniska-bjm.ac.id/index.php/aldli/article/view/2650>.

Administrative law enforcement in the environmental field has several strategic advantages compared to civil and criminal law enforcement:

1. Administrative law enforcement can be used as a preventive tool.
2. Administrative law enforcement is more cost-efficient than criminal and civil law enforcement because the costs for field surveillance and laboratory testing in administrative law enforcement are lower than the costs for collecting evidence, conducting field investigations, and recruiting witness experts in criminal and civil cases.
3. Administrative law enforcement is better able to invite public participation, which starts with the licensing process, compliance monitoring, and participation in filing objections and asking administrative officials to impose sanctions.<sup>24</sup>

In the PPLH Law, amended with the Job Creation Law, enforcement of administrative environmental laws, especially supervision of the compliance of persons in charge of businesses and/or activities as the responsibility of the State, is carried out by the Central Government or Regional Governments. That is regulated in Article 71 Paragraph (1), which states that "The Central Government or Regional Government supervises the obedience of those in charge of business and/or activities to the provisions stipulated in the laws and regulations in the field of Environmental Protection and Management", and in Paragraph (2) it is also stated that the supervision can be delegated to the official/technical agency responsible for Environmental Protection and Management.

Supervision of the obedience of those responsible for a business and/or activity must be carried out by the Central Government or Regional Government. That is confirmed in Article 72, which states that "The Central Government or Regional Government in accordance with their authority and based on norms, standards, procedures and criteria established by The

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<sup>24</sup> Mas Achmad Santosa, *Good Governance Dan Hukum Lingkungan* (Jakarta: ICEL, 2001).

Central Government is obligated to supervise the compliance of those in charge of businesses and/or activities with Business Permits, or approvals from the Central Government or Regional Governments". Article 73 also states that the Minister who administers government affairs in the field of Environmental Protection and Management can carry out supervision if it is deemed that a serious violation has occurred in the field of Environmental Protection and Management based on norms, standards, procedures, and criteria set by the Central Government. This compliance is supervised by granting Business Permits to business actors who have fulfilled the administrative requirements to start and run their businesses and/or activities. In state administration law, there is a principle that officials who have the authority to give approval or permits must monitor the implementation of activities that have been given approval or permits.<sup>25</sup>

Supervision is carried out to ensure that the activities carried out by business actors or parties that have been given approval or permits comply with the provisions of the applicable laws and regulations. If, during supervision, a violation of statutory provisions is found, the official who has the authority to give approval or permission must immediately take action to stop the activity or impose sanctions under the applicable provisions. Thus, supervision becomes a very important task and is the main responsibility of officials with the authority to give approval or permits under administrative law. Supervision that is carried out properly can prevent violations of statutory provisions and environmental damage that can harm the community.

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<sup>25</sup> Nurul Listiyani et al., loc.cit.

### ***Sanctions in the implementation of environmental supervision***

Legal rules are established to provide guidance on what behavior is permissible or prohibited, and those who violate these rules are subject to sanctions. According to Amnesty International, sanctions are “alle maatregelen, such as juridische straffen en disciplinaire straffen, waarmee negatief wordt gereageerd op ongewenst gedrag.”<sup>26</sup> That means sanctions are all actions, in the form of legal sanctions and disciplinary sanctions, that respond negatively to inappropriate behavior. Utrecht defines "sanctions as a result of an action or a reaction from another party, be it a human or a social institution for a human action." Utrecht defines "sanctions as a result of an action or a reaction from another party, be it a human or a social institution for a human action." Utrecht defines "sanctions as a result of an action or a reaction from another party, be it a human or a social institution for a human action".<sup>27</sup> It can be concluded that sanctions are actions or punishments given by society or authorized institutions due to violations or inappropriate behavior, whether it violates established laws, norms, or regulations.

Sanctions in implementing environmental supervision can be applied to those in charge of businesses and/or activities as administrative sanctions due to disobedience to the regulations stipulated in the Business Licensing or Government Approval and laws and regulations in Environmental Protection and Management. They can also be given to Environmental Monitoring Officials as criminal sanctions if they intentionally not supervise in charge of business and/or activities compliance.

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<sup>26</sup> Amnesty International, “Sancties,” Ensie, 2015, <https://www.ensie.nl/amnesty-international/sancties>.

<sup>27</sup> Ernst Utrecht and Moh Saleh Djidang, *Pengantar Dalam Hukum Indonesia* (Jakarta: Ihtiar Baru, 2013).

### ***Administrative Sanctions against those in charge of Businesses and/or Activities***

According to JJ. Oosternbrink Administrative sanctions are penalties that occur due to the relationship between the government and society. These are imposed without needing a third-party intermediary (judiciary power), but can be imposed directly by the executive.<sup>28</sup>

The implementation of administrative sanctions is part of enforcing environmental administrative law. Environmental administration law enforcement are preventive and repressive. Preventive administrative environmental law enforcement is carried out through supervision, and repressive law enforcement is done through administrative sanctions. Supervise and apply administrative sanctions for administrative actions to achieve public compliance with environmental laws and norms.<sup>29</sup>

Administrative sanctions can be applied by the Central Government or Regional Government when violations or disobedience are found under supervision. Based on Article 82C of the Job Creation Perpu and Article 508 PP PPPLH, administrative sanctions consist of written warnings, government coercion, administrative fines, suspension of business licenses, and/or revocation of business licenses. This sanction is a repressive measure to overcome environmental problems caused by human activities due to the issuance of environmental permits.<sup>30</sup>

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<sup>28</sup> Yonnawati Yonnawati, "Penegakan Hukum Sanksi Administrasi Terhadap Pelanggaran Perizinan," *Jurnal Hukum Malahayati* 3, no. 1 (May 1, 2022): 88–101, <https://doi.org/10.33024/jhm.v3i1.7132>.

<sup>29</sup> Bachrul Amiq, *Hukum Lingkungan, Sanksi Administrasi Dalam Penegakan Hukum Lingkungan*, 1st ed. (Yogyakarta: Laksbang Grafika, 2013).

<sup>30</sup> Nurul Listiyani et.al., "Penormaan Pengawasan Izin Lingkungan Dalam Pencegahan Pencemaran Dan Kerusakan Lingkungan Hidup Dalam Eksploitasi Sumber Daya Alam," *Jurnal Media Hukum* 25, no. 2 (2018): 218, <https://doi.org/10.18196/jmh.2018.0116.217-227>.

### ***Criminal Sanctions for Environmental Monitoring Officials***

As a preventive measure, supervision can prevent pollution and environmental damage by imposing administrative sanctions in the event of disobedience by those in charge of businesses and/or activities. If it is not monitored, there will likely be violations of applicable laws and norms, which can result in pollution or environmental damage. Of course, the costs of recovery are very high. Therefore, business and/or activity compliance supervision must be carried out effectively, continuously, and integrated. In addition, supervision must be carried out appropriately and in accordance with applicable regulations to prevent actions that are not in accordance with applicable laws and norms.

The PPLH Law, amended by the Job Creation Law in Article 72, requires the Central Government or Regional Government to supervise businesses and/or activities in compliance with Business Permits or with the approval of the Central Government or Regional Government. According to Article 71 Paragraph (2), the obligation to supervise can be delegated to the official or technical agency responsible for Environmental Protection and Management.

The PPLH Law, amended by the Job Creation Law, there is only 1 (one) article related to sanctions given to authorized officials who do not carry out supervision, namely in Article 112, which reads, "Every an authorized official who deliberately does not supervise the compliance of those in charge of a business and/or activity with laws and regulations and Business Licensing or the approval of the Central Government or Regional Government as referred to in Article 72 which results in Environmental Pollution and/or Environmental Damage which resulting in loss of human life shall be subject to imprisonment for a maximum of 1 (one) year or a fine of a maximum of Rp. 500,000,000.00 (five hundred million rupiahs)."

Compared with criminal sanctions in other laws related to the environment, Article 112, which results in the loss of human life, is considered very light. For example, Article 308 Paragraph (1-3) of Law Number 1 of 2023 concerning the Book of Laws. The Criminal Law Act reads:

1. Every person who commits an act that causes a fire, explosion, or flood, thereby endangering public security for people or property, shall be punished with a maximum imprisonment of 9 (nine) years.
2. If the act as intended in paragraph (1) results in serious injury to another person, he will be punished with imprisonment for a maximum of 12 (twelve) years.
3. If the act as intended in paragraph (1) results in the death of a person, he shall be punished with imprisonment for a maximum of 15 (fifteen) years.

If analyzed further, the criminal sanctions in Article 112 can be concluded as follows.:

1. An authorized official who deliberately does not supervise the compliance of those in charge of business and/or activities resulting in Environmental Pollution and/or Environmental Damage can only be punished if said environmental pollution or damage results in the loss of human life. That means an authorized official cannot be punished if he deliberately does not carry out his obligations, namely environmental monitoring, but does not result in loss of human life.
2. The threat of criminal sanction is imprisonment for a maximum of 1 (one) year or a fine of up to Rp. 500,000,000.00 (five hundred million rupiahs) against an authorized official who intentionally does not supervise the compliance of those in charge of a business and/or activity that results in the loss of



human life is a very light criminal sanction compared to the consequences.

3. If the authorized official is found guilty and given a maximum criminal sanction of 1 year in prison, then the authorized official can still return to work as a Civil Servant. According to Article 87 of Law Number 5 of 2014 concerning State Civil Apparatus and Article 250 of Government Regulation Number 11 of 2017 concerning Management of Civil Servants, dismissal of Civil Servants with respect or dishonor can only be carried out if they commit a crime with a criminal penalty of a minimum imprisonment of 2 (two) years.

Criminal sanctions against guilty people, according to criminal law, are generally based on the convict's past actions and/or for the benefit of the future. If it is based on past actions, the purpose of punishment is retaliation. However, if it is oriented to future interests, then the purpose of punishment is to prevent criminal acts. As stated by Mochtar Kusumaatmadja, the purpose of punishment in Continental European Law can generally be divided into two theories, namely the absolute theory of retaliation, compensation, or retribution. And relative theory that aims to influence people's behavior in order to protect society.<sup>31</sup>

The objective of punishment in the absolute theory is not just retaliation. However, it has a more than ideal goal, which is related to demonstrating the application of the law against those who violate or restore the balance of disrupted social forces or the suffering of the victim <sup>32</sup>. Therefore, the punishment for authorized officials who deliberately do not monitor compliance with the person in charge of business and/or activities in Article 112 of the PPLH Law as amended by the Job Creation Law must

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<sup>31</sup> Sudarto, *Kapita Selekta Hukum Pidana* (Bandung: Alumni, 1986).

<sup>32</sup> Jan Remmelink, *Hukum Pidana Komentar Atas Pasal-Pasal Terpenting Dari Kitab Undang-Undang Hukum Pidana Belanda Dan Padanannya Dalam Kitab Undang-Undang Hukum Pidana Indonesia*, 14th ed. (Jakarta: Gramedia Pustaka Utama, 2003).

be expanded to represent all victims of the impact of environmental pollution or damage, namely those whose health is disturbed, injured severe and loss of life. Meanwhile, punishment, according to relative theory in principle, must be oriented towards efforts to prevent convicts (special prevention) from the possibility of repeating crimes in the future, as well as preventing the wider community (general prevention) from the possibility of committing crimes, both crimes that have been committed and crimes that have not been committed. Moreover, all the orientations of punishment are toward creating and maintaining order in people's lives <sup>33</sup>. So, the criminal sanctions in Article 112 of the PPLH Law as amended by the Job Creation Law must be increased by imprisonment for at least 2 (two) years to prevent the possibility that the offending official can repeat the action.

## Conclusion

Supervision of the obedience of those responsible for a business and/or activity must be carried out by the Central Government or Regional Governments to ensure that the activities carried out by business actors or parties who have been given approval or permits comply with the provisions of the applicable laws and regulations. If, during supervision, a violation is found, then the authorized official can take action to stop the activity or impose sanctions by applicable regulations. Thus, supervision becomes a very important task and is the main responsibility of the authorized official. Oversight in the PPLH Law, which the Job Creation Law has amended, must be strengthened by the threat of more severe criminal sanctions for authorized officials who deliberately do not carry out their obligations so that demonstrations of the application of the law between those who violate it and the suffering of the victims can be ideal, and close opportunities for the authorized official to repeat his actions.

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<sup>33</sup> Rahmanuddin Tomalili, *Hukum Pidana*, 1st ed. (Sleman: Deepublish, 2019).

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