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Reorientation of Environmental Criminal Law Enforcement through the Formulation of Corporate Community Service Orders

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Abstract: *The importance of legal protection for the environment in Indonesia is a critical issue, as judicial decisions in environmental crime cases often fail to consider the environmental damage caused by offenders. This study identifies a research gap in the legal approach, which predominantly focuses on protecting human rights to a healthy environment while neglecting the inherent rights of the environment itself. The objective of this study is to explore the role of law in positioning the environment as a subject that deserves protection in environmental crime cases. Utilizing doctrinal legal research methodology, which examines law based on established doctrines, the study finds that environmental destruction is primarily viewed as a violation of human rights rather than a violation of the environment's own rights. The key findings suggest the necessity of a new formulation in environmental criminal law enforcement, one that is environmentally oriented. One such idea proposed is the "Community Service Orders" for corporations that commit environmental crimes, as a form of legal accountability that more inclusively addresses environmental harm.*

Keywords: *Environmental Criminal Law; Corporation; Community Service Order.*

INTRODUCTION

The elucidation of Article 2(b) of the Environmental Protection and Management Act (UU PPLH) states, "Every person bears responsibility towards future generations and towards others within the same generation by making efforts to preserve the carrying capacity of ecosystems and improve the quality of the environment." However, the reality is that environmental degradation is becoming increasingly alarming. According to research conducted by WALHI (Indonesian Forum for the Environment), an area of 159 million hectares has been allocated for extractive industry investments. Corporations legally control 82.91% of the land area and 29.75% of the marine area. Data from IPBES 2018 also indicate that Indonesia loses 680,000 hectares of forest annually, the highest rate in Southeast Asia. Additionally, data from the Ministry of Environment and Forestry (KLHK) shows that out of 105 rivers, 101 are moderately to heavily polluted. In the past 20 years, deforestation in Papua has reached 663,443 hectares, primarily for palm oil plantation development, covering

339,247 hectares. However, only 194,000 hectares have been planted with palm oil, leaving the rest in a damaged condition (WALHI, 2021).

Given the significant impact of environmental damage, protecting victims of environmental crimes has become imperative. The definition of victims in environmental crime cases depends on the approach used. The traditional approach views victims as limited to humans, focusing on threats or harm to human health and safety. This approach relies on traditional criminal law, which confines victims to humans. However, environmental harm should be examined from an ecological perspective, where environmental damage includes ecosystem degradation, species extinction, climate change, global warming, environmental pollution, and harm to animals (Ali, 2020).

Despite this, the environment, as a "silent victim," receives little attention in law enforcement processes, especially if the public prosecutor does not demand environmental restoration sanctions in their indictment, leading judges not to impose judgments beyond what is demanded. Therefore, positioning the environment as a subject, rather than an object, should be considered in resolving environmental crime cases. The environment as a victim of environmental crimes has often been overlooked, as attention generally focuses on individual or group victims in environmental conflicts.

Legal protection for the environment in Indonesia is still based on human interests, recognizing their right to a healthy environment. Environmental destruction is considered legally wrong because of its impact on human rights, not because it violates the rights of the environment itself (Usman, 2018). In contrast, environmental law experts in Canada have adopted the view that the environment has its own rights (environmental rights) (Siahaan, 2011). Ecuador has even granted nature the same legal status as human rights in its constitution, leading it to be called "the real green constitution."

Around the world, the concept of ecocracy has emerged (Faiz, 2016). In this regard, Jimly Assiddiqie argues that in the concept of ecocracy, the environment, like humans, is considered to have its own autonomy and sovereignty (Mubin, 2017). Just as in a democracy where the people are considered the holders of the highest sovereignty or power, natural environments are also viewed as having their own rights and sovereignty, similar to humans.

In Indonesia's environmental law, the "seeds" of ecocracy already exist and can be further developed. For example, Article 87(1) of the UU PPLH contains elements related to legal subjects suffering from pollution and environmental damage, including losses suffered by others and by the environment itself (Mubin, 2017).

The awareness of environmental rights has driven humans to fight for environmental justice. The principle of environmental justice represents a paradigm shift in environmental management from anthropocentrism to ecocentrism. Anthropocentrism is a paradigm that views humans as the center of the universe. Human interests are considered the most important in the ecosystem order and in all policies related to nature. The highest value is human interests. Consequently, the environment is positioned as an object, instrument, and means for fulfilling human needs and interests. In contrast, ecocentrism is a paradigm that views the natural ecosystem/environment as the center (Thamrin, 2013). The paradigm shift from anthropocentrism to ecocentrism redefines the idea that the essence of environmental rights is not the right to the environment but the rights inherent in the environment itself (Usman, 2018).

In resolving environmental cases, judicial decisions often fail to consider the environmental damage caused by environmental crime perpetrators. Environmental crimes are not only committed by individuals but also by corporations. Compared to the impact of environmental crimes committed by individuals, the impact of crimes committed by corporations is much greater. The losses are not only felt directly but also over an extended period. The immediate effects on society include financial losses, job loss, infertility,

disabilities, and even loss of life. The long-term consequences of such crimes include environmental destruction and health problems (Sjahdeini, 2017).

However, the current criminal sanctions for corporations do not adequately reflect the significant impact of environmental crimes committed by corporations. This can be seen in the criminal sanctions for corporations under the UU PPLH, which have a significant weakness, as the primary penalty that can be imposed on corporations is a fine.

Even when corporations are fined, regardless of the size of the fine, the money is not allocated for environmental restoration but is deposited into the state treasury as non-tax state revenue (PNBP). The range of fines is limited to 1-15 billion IDR, which is not proportional to the environmental and societal damage caused, as exemplified in the case of PT. Kalista Alam, where losses exceeded 350 billion IDR due to forest and land fires (Karhutla) (Saputro, 2021). Additionally, under the UU PPLH, environmental restoration sanctions are considered supplementary and facultative (not mandatory) (Ali, 2020).

This research differs from previous studies that discussed community social orders, such as the study by Iskandar Wibawa titled "Community Service Orders and Restitution as Alternatives to Imprisonment in Indonesian Criminal Law Reform." The difference lies in the formulation proposed in this research. In previous studies, community service orders were imposed on individual perpetrators as an alternative to imprisonment, with several options for implementation, including being a principal penalty that can be imperatively, alternatively, cumulatively, or alternatively-cumulatively threatened, or as formulated in the Draft Criminal Code (RUU KUHP), where community service orders are a principal penalty and restitution is a supplementary penalty. In contrast, this research proposes community service orders as one of the principal penalties for corporations that commit environmental crimes, to be formulated in the revision of the UU PPLH.

The research conducted by Emily M. Homer and George E. Higgins, titled "Community Service Sentencing for Corporations," examines the compatibility between the practice of imposing community service orders on corporations and the parameters established for corporate community service orders in the USSG (United States Sentencing Guidelines). In contrast, this study will explore the ideal formulation of community service orders for corporations in the future.

Based on comparisons with previous studies, it can be argued that this research offers novelty and is essential to undertake. Therefore, this study proposes the formulation of "Community Service Orders " for corporations that commit environmental crimes as a means of reorienting criminal law enforcement to be more environmentally focused. Specifically, this research will address the issues of how the current penal formulations for corporations that commit environmental crimes are structured and how to reorient environmental criminal law enforcement through the formulation of corporate community service orders.

METHOD

The type of research conducted in this study is doctrinal research, also commonly referred to as normative legal research (Iftitah, 2023). Doctrinal legal research involves the study of law that has been developed and conceptualized based on the doctrines adhered to by its conceptualizer and/or developer. The approaches used in this study include the statutory approach and the comparative approach to examine the norms related to community service orders in various countries (Soekanto & Mamudji, 2019). The specification of this research is descriptive-analytical, which aims to describe and analyze the existing issues. This type of research falls under the category of library research. The data for this study was obtained from literature sources, including legislation, books, official documents, publications, and research findings. The data was analyzed qualitatively by interpreting and constructing statements found in documents and legislation.

RESULTS AND DISCUSSION

Criminal Sanctions for Corporations as Perpetrators of Environmental Crimes

The formulation policy stage is the initial and foundational stage in the process of concretizing subsequent criminal law enforcement, namely the application and execution stages. This formulation stage is the most strategic as it provides the foundation, direction, substance, and limits of authority in law enforcement, which will be carried out by the judicial and executive authorities. The strategic position of this stage implies that weaknesses in the criminal law formulation policy will influence criminal law enforcement policy and crime prevention policy (Arief, 2005).

In this study, the author focuses on examining the formulation of criminal sanctions oriented towards environmental protection, particularly for corporate perpetrators of environmental crimes. This aligns with Munadjat Danusaputro's opinion, stating that: “One of the most effective tools for protecting the environment is law, specifically environmental protection law. These legal instruments should be able to overhaul the classic environmental law paradigm, which is more use-oriented and focused on retribution against perpetrators, into modern environmental law that is oriented towards the environment itself” (Usman, 2018).

A comparative study in various countries shows that the criminal sanctions that can be imposed on corporations vary, including fines or financial penalties such as prohibition from issuing cheques; confiscation of profits from the crime; takeovers; temporary or permanent closure of the premises used for the crime; temporary or permanent closure of the company; revocation of licenses, whether temporarily or permanently; administrative actions, such as placing the company under court-appointed management temporarily; public announcement of the court's decision; temporary prohibition from engaging in certain activities, such as temporary or permanent prohibition from contracting with the government or other public institutions; restoration orders, which may include an order to rectify what the corporation has neglected or to undo what the corporation has unlawfully done; mandatory management oversight, probation; and community service orders (Muladi & Sulistyani, 2015).

In the Indonesian National Penal Code (KUHP), the sanctions that can be imposed on corporations include both criminal penalties and actions. The primary penalties for corporations consist of fines, while additional penalties include: a) payment of compensation; b) rectification of the consequences of the crime; c) fulfillment of neglected obligations; d) fulfillment of customary obligations; e) financing of work training; f) confiscation of goods or profits obtained from the crime; g) public announcement of the court's decision; h) revocation of certain licenses; i) permanent prohibition from performing certain acts; j) closure of all or part of the corporation's place of business and/or activities; k) freezing of all or part of the corporation's business activities; and l) dissolution of the corporation.

Furthermore, the actions that can be imposed on a corporation include: a) takeover of the corporation; b) placing the corporation under supervision; and/or c) placing the corporation under guardianship. However, the National Penal Code does not contain provisions regarding environmental crimes or sanctions against corporations as perpetrators of environmental crimes, even though some laws outside the National Penal Code and special crime laws included in Book II of the National Penal Code exist.

Meanwhile, in several environmental laws, the criminal penalties for corporate offenders consist of primary penalties such as fines or increased fines by one-third. In addition to primary penalties, corporations may also face additional penalties, including: a) confiscation of profits obtained from the crime; b) closure of all or part of the business premises and/or activities; c) rectification of the consequences of the crime; d) restoration of environmental functions and/or other necessary actions; e) fulfillment of obligations neglected without rights; f) placing the company under guardianship for up to three years; g) confiscation of goods used in committing the crime; and/or h) payment of costs arising from the crime.

Currently, no Indonesian legislation regulates community service orders for corporations. The National Penal Code only regulates community service as a form of punishment for individuals. Although the General Provisions of Book One of the National Penal Code have provisions regarding community service, Article 187 of the National Penal Code states, "The provisions in Chapter I through Chapter V of Book One shall also apply to punishable acts under other legislation, unless otherwise specified by law." This article implies that legislation outside the National Penal Code may deviate from the General Provisions of Book One of the National Penal Code. Thus, this article justifies the regulation of community service orders for corporations in specific laws that deviate from the community service orders regulated in the General Provisions of Book One of the National Penal Code.

In terms of offense severity, in the National Penal Code, community service orders may be imposed on defendants convicted of crimes punishable by less than five years in prison, and the judge imposes a sentence of up to six months in prison or a fine of no more than Category II. However, according to Esther F.J.C van Ginneken, community service can also serve the retributive purpose of punishment for more serious offenses (Endri, 2021). While the purpose of community service orders aligns with the penalties for rectifying the consequences of crimes as regulated in Law No. 32 of 2009 on Environmental Protection and Management, both aim to repair environmental damage caused by criminal acts. However, these two forms of penalties differ in their execution.

The imposition of criminal sanctions for the remediation of environmental damage is often converted into a monetary amount for environmental restoration, or in practice, corporations merely hire vendors to carry out the environmental remediation. When such sanctions are converted into restoration costs, the funds are handed over to the prosecution office, which will then be used by the Ministry of Environment and Forestry (KLHK) for environmental restoration (Pandu, 2021). In contrast, in the case of community service orders imposed on corporations, the community service is carried out by corporate personnel, including both high-ranking executives and lower-level employees, particularly those within the Health, Safety, and Environment (HSE) department—a division within the company responsible for occupational health and safety, as well as environmental matters. Community service orders imposed on corporations that commit environmental crimes aim to restore or repair environmental damage. This means that environmental restoration as part of corporate community service is conducted using the corporation's personnel and financial resources.

However, the regulation of additional penalties in the form of remediation as stipulated in Law No. 32 of 2009 on Environmental Protection and Management (UU PPLH) remains unclear regarding what forms of remediation are included, the stages, duration, implementers, supervisors, and evaluators of the remediation, as well as the legal consequences if the remediation is not carried out. Moreover, the imposition of additional remediation penalties for criminal offenses is often converted into a nominal restoration cost rather than the development of a clear plan with defined indicators for the restoration (Jatna, 2021). From a criminal law perspective, remediation penalties under Article 119 of UU PPLH are considered additional penalties. As such, these penalties are facultative (not mandatory), and they cannot be imposed independently but must accompany a primary penalty.

Although fines are the primary penalty, even if a corporation is fined, regardless of the amount, the fine is not allocated for environmental restoration but is instead deposited into the state treasury as non-tax state revenue (PNBP).

If a corporation is subjected to an additional penalty in the form of the closure of its entire business operations, this essentially amounts to a death penalty for the corporation (“corporate death penalty”). Meanwhile, penalties involving “restrictions on corporate activities” have the same essence as imprisonment, hence the term “corporate imprisonment,”

which refers to the prohibition of a corporation from engaging in certain business sectors and other restrictions on its business activities (Pujiyono, 2019).

According to Yoshio Suzuki, both the corporate death penalty, whether imposed in whole or in part (corporate imprisonment), must be approached with great caution due to the broad impact of such a decision. The consequences of a corporate death penalty affect not only the guilty parties but also innocent parties such as employees, shareholders, and consumers (Pujiyono, 2019). Therefore, just as efforts are made to find alternatives to the death penalty and imprisonment for individual offenders (humans), sanctions such as license revocation/corporate closure ("corporate death penalty") and restrictions on corporate activities ("corporate imprisonment") should be considered as a last resort (the last resort). This aligns with the view of Siti Sundari Rangkuti, as quoted by Muladi and Barda Nawawi Arief, who suggest that further consideration be given to sanctions involving the cessation of corporate activities and similar measures, as these sanctions primarily affect the company's employees rather than its owners (Muladi & Arief, 2010).

Reorientation of Environmental Criminal Law Enforcement through the Formulation of Corporate Community Service Orders

Corporate community service orders are not a new concept in the United States. These penalties began to be implemented in 1991, coinciding with the enforcement of the United States Sentencing Guidelines (USSG) (Homer, 2021). Corporate community service is typically imposed as an additional penalty or as a condition of probation (as an alternative to fines) for corporations. This form of punishment is one of several sanction options aimed at remedying the harm caused by corporate criminal activities, in line with the general principles of corporate sentencing under the USSG (United States Sentencing Commission, 2018). In Chapter Eight of the United States Sentencing Guidelines, which addresses the Sentencing of Organizations, it is stated that... (United States Sentencing Commission, 2018):

> *"An organization can perform community service only by employing its resources or paying its employees or others to do so. Consequently, an order that an organization perform community service is essentially an indirect monetary sanction, and therefore generally less desirable than a direct monetary sanction. However, where the convicted organization possesses knowledge, facilities, or skills that uniquely qualify it to repair damage caused by the offense, community service directed at repairing damage may provide an efficient means of remedying harm caused."*

Under the USSG, an "organization" is defined as "a person other than an individual." This term encompasses corporations, partnerships, associations, joint-stock companies, unions, trusts, pension funds, unincorporated organizations, governments and their political subdivisions, as well as nonprofit organizations.

In line with the general principle of corporate sentencing outlined in the USSG, which aims to remedy the harm caused by criminal activities, the USSG provides several sanction options that can be imposed on corporations. These include restitution, community service, and notice to victims, with the following provisions:

1. 1. *A restitution order or an order of probation requiring restitution can be used to compensate identifiable victims of the offense.*
2. 2. *A remedial order or an order of probation requiring community service can be used to reduce or eliminate the harm threatened, or to repair the harm caused by the offense, when that harm or threatened harm would otherwise not be remedied.*
3. 3. *An order of notice to victims can be used to notify unidentified victims of the offense.*

In January 2017, the Northern District of California sentenced Pacific Gas and Electric Company (PG&E) to five years of probation for violations of the Natural Gas Pipeline Safety Act of 1968, following an explosion in San Bruno, California. As a condition of this probation, the judge mandated PG&E to perform 10,000 hours of community service, with

2,000 of those hours to be carried out by high-level personnel (U.S. Department of Justice, 2017).

Regarding the fundamental objectives of punishment, the 1980 National Criminal Law Reform Symposium report emphasizes that the identification of sentencing goals should be rooted in the "idea of balance" between two primary targets: "protection of society," including "protection of crime victims," and "protection/rehabilitation of offenders." Corporate community service orders embody this balance by serving as both a means of "offender rehabilitation" and "victim protection".

First, as an effort toward "offender rehabilitation," corporate community service demands that corporate executives, from high-level managers such as directors to lower-level employees, especially those in the Health, Safety, and Environment (HSE) department, directly engage in environmental restoration. This involvement allows the corporation to witness firsthand the environmental damage caused by their actions, fostering a sense of social responsibility among corporate personnel. This aligns with the primary goals of community service orders: rehabilitation, reeducation, and restoration. Community service is a sanction that carries an element of shame, as its execution is visible to the public. However, once completed, the corporation (offender) may feel relieved from the guilt of having performed a beneficial task that directly impacts the community and the environment.

Second, as an effort toward "victim protection," the victim in the context of environmental crimes is the environment itself. Therefore, sentencing for environmental crimes should also be oriented toward environmental restoration. The execution of corporate community service orders aims to repair environmental damage caused by the crime by utilizing corporate resources, including financial, human, and corporate facilities. In the context of restoration, community service is a means that facilitates the process of restoring conditions for all parties involved or affected by a crime, including the victim (the environment), the offender, the community, and the government (Jamilah, 2020).

To date, monetary fines have not been fully effective as a means of environmental protection. Despite the substantial amounts involved, these fines are not allocated for environmental restoration but are instead deposited into the state's treasury. Consequently, fines do not provide any tangible benefit or contribution to the effort of repairing environmental damage caused by crimes.

According to Muladi and Barda Nawawi Arief, the limitations of criminal sanctions in addressing social issues are particularly evident in environmental pollution cases. The current use of criminal sanctions primarily targets interests such as life, liberty, or property. While humans are the primary source of environmental pollution, the essence of environmental pollution lies in the disruption of harmony or balance within the human environment itself (Muladi & Arief, 2010). This perspective aligns with utilitarian theory or goal-oriented theory, which justifies punishment based on its purpose, namely the protection of society or the prevention of crime. The differences among various goal-oriented theories lie in how they achieve their objectives and their assessment of the usefulness of punishment (Kanter, 1982).

Utilitarian theory bases punishment on its intent or purpose, meaning it seeks the benefits of punishment (nut ven de straf) (Hikmawati, 2017). In this context, according to Richard S. Gruner, sanctions against corporations target three types of entities: surface (the corporate entity), internal (corporate personnel), and external (those harmed). The ideal sanction is one that can address these targets either partially or wholly, depending on the needs to achieve corporate sentencing goals (Gruner, 1993). Compared to fines, fines cannot target all three of these entities. Fines can reach the surface target, i.e., the corporate entity, but they fail to reach the internal and external targets, i.e., those who need to be deterred and the harmed community. This is because fines only require the corporation to pay a sum of money. In contrast, community service orders can reach the internal target. As previously explained, community service is carried out by corporate personnel, from high-level

executives (directors/managers) to lower-level employees. According to Gruner, when corporate personnel are required to perform arduous and humiliating tasks as part of community service, it can instill fear and deterrence in corporate personnel—something that cannot be achieved solely through fines.

Regarding external targets, the implementation of corporate community service orders is aimed at remedying the damage caused by criminal offenses, such as environmental restoration following illegal dumping, forest fires, illegal logging, or mining. The future formulation of corporate community service orders can be considered from three aspects: the type of penalty (strafsoort), the duration of the penalty (strafmaat), and the execution of the penalty (strafmodus), which are outlined as follows:

1. **Type of Penalty (Strafsoort)**

   In various countries, community service orders are either formulated as a type of penalty (strafsoort) or as a mode of execution (strafmodus). In the recently enacted Indonesian Criminal Code (KUHP), community service has been established as a type of penalty (strafsoort). However, despite being categorized as a type of penalty, it is not included in the formulation of specific crimes, so its application still relies on its execution as a mode of penalty (strafmodus). Under the KUHP, community service orders can only be imposed on individual offenders.

   In the United States, corporate community service is regulated under the United States Sentencing Guidelines (USSG). The USSG states, "Community service may be ordered as a condition of probation where such community service is reasonably designed to repair the harm caused by the offense." This means that corporate community service in the United States is only a method of executing a probationary sentence for corporations (strafmodus). The future formulation of corporate community service orders should establish it as a type of penalty (strafsoort), specifically as a primary penalty for corporations committing certain environmental crimes. It is crucial to formulate corporate community service as a type of penalty (strafsoort) to ensure that it is mandatory, can be imposed independently, and is not overlooked in law enforcement practices.

2. **Duration of Penalty (Strafmaat)**

   In Australia, the Australian Law Reform Commission (ALRC) recommends that community service orders be imposed for a maximum of six months as a general rule, extendable to three years if the size or complexity of the project requires it ("The Commission suggests a maximum of six months as a general rule, extendable to three years where the size or complexity of the project so requires"). Brent Fisse also suggests that community service projects should be completed within two years from the date of sentencing, unless the court orders otherwise ("a project of community service shall be performed within two years of the date of sentence unless the court orders otherwise") (Fisse, 1981). Based on these ideas, the duration of corporate community service orders for environmental crimes should be a maximum of two years.

3. **Execution of Penalty (Strafmodus)**

   The types of offenses that could warrant corporate community service orders are environmental crimes. Therefore, community service is carried out with the aim of restoring the environmental functions that have been polluted or damaged due to criminal activities. Regarding the supervision of community service orders, in the United Kingdom, probation officers are technically responsible for overseeing the implementation of community service orders. Probation officers are tasked with monitoring, including setting rehabilitation goals, providing guidance, advice, and counseling. In cases of violations during the execution of community service, probation officers may evaluate or revoke the community service order. Probation officers serve as liaisons at the community service work sites, discussing job details with the employer organizations, conducting regular site visits, monitoring the progress of the convicted individuals, and coordinating the work with

all parties throughout the service period. They are also responsible for providing supervision and support to site supervisors to ensure high-quality work standards and consistent achievements by the convicted individuals (Endri, 2021).

Site supervisors are responsible for monitoring the work of the convicted individuals in a group setting. They teach the convicted individuals the necessary work skills, help them learn how to comply with regulations and self-control at the worksite, and are required to submit reports on the progress of the convicted individuals. Thus, the relationship between probation officers and site supervisors is interrelated and forms a partnership (Endri, 2021). Based on this comparative study, the future formulation of corporate community service orders for environmental crimes in Indonesia suggests that supervisory duties be carried out by prosecutors, while mentoring and evaluation be conducted by the ministry responsible for environmental protection and management.

When imposing a community service order, the judge orders the corporation to prepare and submit a recovery plan document, approved by the community service supervisor, to the judge and the community service monitor. Corporate community service is carried out by corporate personnel, ranging from high-level executives/managers/directors to regular employees, in numbers adjusted to the needs while considering the continuity of the corporation's business. The selection of corporate personnel to carry out community service is made by either the judge or the corporation. In selecting the personnel to perform community service, priority must be given to those who ordered, committed, or acted as leaders in the criminal activity. If a large number of personnel is required to carry out community service and to maintain the continuity of the corporation's business, the corporation may, with the judge's approval and at its own expense, employ third parties while still requiring the personnel who ordered, committed, or acted as leaders in the criminal activity to participate.

Corporate community service orders are imposed for a maximum of two years. The daily duration of community service is set at a maximum of eight hours, taking into account the corporate personnel's engagement in other beneficial activities. Additionally, if the corporation, without valid reasons, fails to carry out all or part of the community service, the corporation is obligated to: a) repeat all or part of the community service, b) if the corporation fails to repeat all or part of the community service as specified in (a), it must pay double the environmental restoration costs, c) if the environmental restoration costs specified in (b) are not paid by the corporation, the corporation's assets or income may be seized and auctioned by the prosecutor to cover the unpaid restoration costs, d) if the corporation's assets or income are insufficient to cover the environmental restoration costs specified in (c), the corporation will be subject to a substitute penalty in the form of partial or total suspension of the corporation's business activities.

In the Environmental Protection and Management Law (UU PPLH), there are two types of environmental crimes: material crimes and formal crimes. Material environmental crimes are regulated under Articles 98 and 99 of the UU PPLH. According to the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia Number: 36/KMA/SK/II/2013 concerning the Implementation of Guidelines for Handling Environmental Cases, there are several key points to consider regarding material environmental crimes, including:

1. A crime is considered complete once it results in pollution and/or environmental damage.
2. Environmental pollution is proven by exceeding ambient quality standards (ambient air quality standards, seawater quality standards, and disturbance level standards).
3. Environmental damage is proven by violating environmental damage criteria.
4. The presence or absence of harm to humans or other living beings is not a material element that must be proven, but it serves as an aggravating factor.

Meanwhile, formal environmental crimes, particularly those involving violations of environmental quality standards, are regulated under Article 100, and the burning of land is

regulated under Article 108. Therefore, it is necessary to formulate that corporate community service orders may be imposed on corporations committing crimes as stipulated in these articles. In the future, formulation of community service orders for corporations committing environmental crimes should be regulated in the amendment to Law Number 32 of 2009 on Environmental Protection and Management within the framework of the Job Creation Law.

CONCLUSION

Corporate community service orders are not currently regulated under either the Indonesian National Criminal Code (KUHP) or environmental laws. The KUHP only provides for community service orders for individual offenders. Based on a comparative study, in the United States, corporate community service is regulated under the United States Sentencing Guidelines (USSG), where it can be imposed as an additional penalty or as a condition of probation (as an alternative to fines) for convicted corporations.

In the future, the formulation of community service orders for corporations committing environmental crimes in Indonesia should be established as a primary type of punishment (strafsoort). It is crucial to formulate these penalties as a primary sanction so that they can be imposed independently and are not overlooked in legal practice. The future formulation of corporate community service orders should be incorporated into amendments to the Environmental Protection and Management Law (UU PPLH) as a primary penalty for corporations and should be explicitly included in the offense definitions. The duration of corporate community service orders in the future should be set at a maximum of two years. The implementation of these penalties should aim to restore environmental functions harmed by criminal acts, thus achieving an environmentally oriented penal system.

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