Questioning the Sentencing Aspects of the Environmental Cluster in the Employment Law on the Direction of Sustainable Development

Rizki Zakariya(✉)

Corruption Eradication Commission of the Republic of Indonesia, Jakarta, Indonesia
rizkizakariya5@gmail.com

Abstract. The promulgation of Law Number 11 of 2020 concerning Job Creation has caused various problems, especially related to criminal acts in environmental clusters. This has implications for the potential for not achieving sustainable development as proclaimed in Presidential Regulation Number 59 of 2017. The results of this study indicate that the problems of criminalizing environmental clusters in the Job Creation Law include suboptimal environmental criminal law enforcement, overlapping penalties, threats of disproportionate punishment, obscuring absolute liability norms, and corporate crime. This has the potential to reduce the compliance of business actors and environmental protection because there is no deterrent effect for environmental criminals and the general public. Therefore, it is necessary to make efforts to strengthen the direction of sustainable development in punishment, including by optimizing environmental criminal law enforcement, revising the Job Creation Law by changing or removing problematic articles, and strengthening environmental supervision.

Keywords: Criminalization · Environmental Clusters · Job Creation Laws · Sustainable Development

1 Introduction

The ratification of Law No. 11 of 2020 concerning job creation (called the Job Creation Law) on November 2, 2020 has drawn various public objections. The refusal is at least on two matters, namely the formation and substance of the regulation. In the aspect of formation, the Job Creation Law has problems, ranging from neglecting public participation; access to difficult draft laws; cutting the stages of formation in the discussion process; and changing materials.

Then in the aspect of regulatory substance, especially regarding the environment, there are also problems. Through Article 19 of the Job Creation Law, additions and changes were made to the existing regulations in Law Number 32 of 2009 concerning Environmental Protection and Management (UU PPLH). The changes start from the preparation and function of environmental impact analysis (AMDAL), reducing the role

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of the community in decision-making, removing environmental permits, and changing the types and functions of criminal sanctions.

Criminalization of actions in environmental clusters is one of the things regulated in the Job Creation Law. The character of environmental criminal law in the Job Creation Law is related to administrative law. This is because criminal law is placed under three special criteria. *First, ultimum remedium*, namely, criminal law as a last resort if other legal systems do not function to enforce the law. *Second,* the formulation of the types of criminal sanctions is threatened alternatively. *Third,* the nature of criminal sanctions in substitution of the application of other sanctions.

However, there are problems with criminal arrangements in the Job Creation Act. The problem lies in at least three things. First, the provisions of administrative law and criminal law overlap. So there tends to be conflict from one setting to another. Second, the threat of punishment that is not proportional to the criminal impact of the act committed. Third, the lack of harmonization with previous legal arrangements has led to disparities in the threat of punishment. These three things are problems that exist in the criminalization of the Job Creation Act.

The issue of punishment has implications for the direction and achievement of sustainable development goals in Indonesia. The World Summit on Sustainable Development in 2002 stated that there are three (3) main plans for sustainable development, including eradicating poverty, changing consumption and production patterns, and protecting and managing natural resources. Also, the government of Indonesia uses Presidential Regulation Number 59 of 2017 about the Implementation of Achieving Sustainable Development Goals to help achieve this goal. Research related to this topic has been carried out by at least 3 previous researchers. *First,* Andri G. Wibisana. According to him, the criminal sanctions in the Job Creation Law are unclear because they regulate corporate criminal threats through imprisonment. In addition, the imposition of criminal sanctions if you do not pay a fine is not in accordance with the *ultimum remedium principle. Second,* Narendra Jatna. According to him, additional criminal sanctions for environmental cases in the form of repairs due to criminal acts will not be changed by the Job Creation Act. However, there needs to be a government regulation that regulates the execution of environmental decisions. *Third, Traction Energy Asia.* In his study, it was stated that punitive administrative sanctions are more optimal than criminal sanctions because they are more preventive in nature, the standard of proof is low, and the cost of applying sanctions is cheaper.

Based on the previous research, it is known that there are 2 differences between the author's research and *First,* the author does not compare administrative or criminal sanctions in environmental cases, but rather the impact of these penalties on sustainable development in Indonesia. *Second*, the author does not analyze the execution or suitability of the application of the *ultimum remedium principle* in the Job Creation Law but questions the criminal arrangements in the Act.

Based on this background, the formulation of the problem in this study is as follows:

1. What is the impact of punishment on environmental clusters in the Job Creation Act on the direction of sustainable development?
2. What are the efforts to strengthen the impact of punishment on environmental clusters in the Job Creation Act to achieve sustainable development goals?

2 Legal Materials and Methods

2.1 Types of Research

Descriptive qualitative research is the research method used in this study. Furthermore, the researchers used a case approach and a legal approach. The case approach is to analyze cases that are related to environmental law problems that are currently developing. The statutory approach is aimed at analyzing the laws and regulations that have relevance to the material being studied.

Furthermore, qualitative research in question is a method to examine the condition of a group of people or society, and then a description is carried out, or a description of the facts or phenomena that are being studied systematically, honestly, and accurately.

2.2 Data Types and Sources

There are three types of sources of data used in this study. The three types of legal materials used as the data source are:

1. Primary Legal Material

   The approach tajen in this research is the legal approach. The laws and regulations referred to in this study include:

   a. The 1945 Constitution;
   b. Law Number 26 of 2007 concerning Spatial Planning; Law Number 32 of 2009 concerning Environmental Protection and Management;
   c. Law Number 12 of 2011 concerning the Establishment of Legislation;
   d. Law Number 11 of 2020 concerning Job Creation;
   e. Presidential Regulation of the Republic of Indonesia Number 59 of 2017 concerning Implementation of the Achievement of Sustainable Development Goals; and
   f. Presidential Regulation Number 59 of 2017 concerning Implementation of the Achievement of Sustainable Development Goals.

2. Secondary Legal Material

   The author uses supporting legal materials, namely findings or reports in books, journals, scientific works, annual reports, and so on. This includes legal, theoretical, and doctrinal views.

3. Tertiary Law Material

   This study also uses tertiary legal materials, namely the KBBI, index results related to the object of research, and other sources that strengthen the author's analysis.

2.3 Data Collection Technique

There are four (four) stages of data collection. *The first* edit, namely re-examination of the data found, in particular the relations with the object of research, *Second, coding*, which

is a special recording of the data found, starts from the name of the data, the source, and the copyright selector. *Third,* reconstruct, namely, rearrange the data sequentially and fulfill the framework of thought. And *fourth*, the system of research materials, namely the sorting and placement of research data according to structured needs.

2.4 Processing and Analysis of Data

Data analysis was carried out after the data and materials were collected. The analysis is carried out in order to provide an in-depth understanding of the data obtained until it is presented as a finding. The approach in the analysis is qualitative, namely in the form of a string of sentences, not numbers. The existence of numbers in this study is only a means to describe the conditions being analyzed.

3 Result and Discussion

3.1 Sentencing

According to Bambang Waluyo (2004), the definition of punishment is defined as *sentencing* or punishment. The sentence was given based on a valid law and through a judicial process until it was finally declared legally proven and guilty of committing the alleged act. Thus, punishment is different from crime, which only talks about punishment and is not related to the sentencing process.

Based on the objectives, there are 3 theories of punishment. *First,* the absolute/retributive/vengeance theory (*lex talionis*). According to this theory, the person who commits a crime must accept punishment as a consequence for doing so (retaliation).

Second, relative/objective (*utilitarian*) theory. Based on this theory, the imposition of punishment must be based on a specific purpose and not just as retaliation. The intended purpose is to improve (rehabilitate) the condition of the perpetrator so that he becomes better and does not commit similar acts in the future. In addition, punishment is also given as a preventive measure so that the general public does not commit similar acts. Then the other goal is so that the community gets protection from crimes committed by perpetrators that will harm them.

Third, the combined theory. According to this theory, the purpose of punishment is a combination of absolute and relative theories. Thus, punishment is given for four purposes: retaliation, to make the perpetrator suffer; preventive, to prevent the occurrence of criminal acts; rehabilitation of perpetrators; and protecting society.

3.2 Sustainable Development

The definition of sustainable development, according to the United Nations *Brundtland Report* (1987), is a development process (land, city, business, community, and so on) with the principle of meeting the needs of the present without compromising the fulfillment of the needs of future generations.

Meanwhile, according to Haris (2000), sustainable development can be understood by 3 things. *First,* economic sustainability means being able to produce goods and

services. *Second,* environmental sustainability. This is achieved with a stable resource maintenance system, avoiding over-exploitation and the functioning of the environmental absorption function. *Third,* social sustainability, which means having a system that ensures equality and access to social services like health care, education, gender equality, and political accountability.

Furthermore, in terms of objectives, according to Sutamihardja (2004), sustainable development is carried out to realize six things, including: distribution of benefits from intergenerational development (*intergenerational equity*); safeguarding the preservation of natural resources and the environment (*safeguarding*); management of natural resources solely for the benefit of equitable distribution of benefits of sustainable natural resources between generations; maintaining sustainable community welfare; maintaining the long-term benefits of natural resource management; and maintaining the quality of human life between generations.

3.3 The Impact of Criminalization on Environmental Clusters in the Job Creation Act on the Direction of Sustainable Development Environmental Law Enforcement in Indonesia

Everyone has the right to a good and healthy living environment. This is as confirmed in Article 28H paragraph (1) of the 1945 Constitution (UUD 1945). Then the constitution also mandates the protection of the environment by the state, as confirmed through Article 33 paragraph (1) of the 1945 Constitution. In order to guarantee the rights of citizens and obligations of the state, the government takes steps in the context of protecting the Indonesian environment, one of which is through criminal arrangements. in Law Number 32 of 2009 concerning Environmental Protection and Management (UU PPLH). Environmental criminal arrangements are intended for two things. *First,* the protection of human and environmental interests This is because humans cannot enjoy their wealth, objects, and health if good environmental quality is not met. Then, *second*, give fear to potential polluters. This is because criminals have severe penalties, namely imprisonment, fines, environmental restoration orders, and even announcements in the mass media of the polluters.

However, even though it has been regulated in the PPLH Law, efforts to enforce environmental criminal law are currently not running optimally. This is as stated by the Chairman of the State Administration Chamber of the Supreme Court of the Republic of Indonesia, Dr. Supandi, SH, M. Hum., who stated that a common obstacle encountered in solving environmental cases is the difficulty of proving them in court. Meanwhile, according to the Director General of Environmental and Forestry Law Enforcement, Ministry of Environment and Forestry, Dr. Ratio Ridho Sani, S.Si., M.Com., MPM, stated that the obstacle to enforcing environmental law was the difficulty of executing the decision.

According to *Greenpeace data*, from 2015 to 2019, there were 239 companies that received 258 administrative sanctions for their environmental violations. The sanctions consist of 121 government coercion, 115 warning letters, and 17 revocations of permits. The choice of using administrative law enforcement mechanisms is preferred, according to the Minister of Environment and Forestry, Siti Nurbaya Bakar, because it has a deterrent effect. In addition, the Ministry can sue the company in a civil manner if the

administrative sanctions given are not implemented or provide a deterrent effect. Then, 50 companies were also sued by the Ministry of Environment and Forestry (KLHK) for cases of forest fires. However, only 19 companies were actually sued by the Ministry, and 9 of them have already received decisions. so that the 9 companies are subject to compensation of Rp. 3.15 trillion. However, only one company, namely PT Bumi Mekar Hijau, has paid the compensation.

Furthermore, throughout 2020, the government carried out environmental criminal law enforcement against 137 individuals and 2 companies. The trend of criminal entanglement targeting these individuals is increasing, and there are fewer corporations. This is similar to what happened in Riau, where 64 farmers were named suspects by the police from August 2018 to September 2019, while in Central Kalimantan, 35 farmers were ensnared until December 2019. This shows that there is a choice of law enforcement to focus on individuals rather than corporations. Law enforcers are also slow in handling cases that are complained of by the public regarding environmental violations. This is similar to what was done by the NGO Jikalahari, who criticized the police for not going to establish PT. Arara Abadi as a suspect for forest fires in community areas, which have been reported since August 4, 2020.

Based on this, Greenpeace stated that in practice, law enforcement is given severe sanctions (suspension suspension, lawsuits, and punishment). However, this step does not guarantee that the company will take steps to prevent fires from occurring in its territory. In addition, in imposing sanctions, the government does not take into account the violations that have been committed previously, so that violations will continue to be committed. In terms of handling cases, law enforcement is slow to respond to reports of environmental violations. This has implications for the lack of a deterrent effect from the sanctions given.

3.4 Sustainable Development in Indonesia

The achievement of sustainable development goals is an effort made by the government. This is important because, through sustainable development, the economic and social life of the community, the quality of the environment, and inclusive development can be maintained to improve the quality of life from one generation to the next. One indicator of achieving sustainable development is the environmental quality index. The environmental quality index is a description or indication that gives conclusions about the condition and quality of the environment in a certain space and period.

However, the index tends to fluctuate every year, even decrease, Indonesian Environmental Quality Index data compiled by the Indonesian Ministry of Environment and Forestry, it is known that Indonesia's environmental quality in 2019 decreased from 2018. Furthermore, the Government stated that Indonesia's forest cover was reduced by 50% (93.4 million ha) in 2017, it is even estimated that only 38% (71.4 million ha) will remain in 2045 of the original total forest area of 188 million ha.[1] This is due to the rate of deforestation that is difficult to contain, thus causing the depletion of Indonesia's forests.

[1] Rencana Pembangunan Jangka Menengah Nasional 2020–2024: Indonesia Berpenghasilan Menengah-Tinggi yang Sejahtera, Adil, dan Berkesinambungan, hlm. 38.

In addition, a significant decrease occurred in the water quality index, which decreased by 20 points in 2019 compared to 2018. The government stated that the rapid rate of deforestation had an impact on raw water scarcity, especially on islands with low forest cover, such as Java, Bali, and Nusa Tenggara. This is based on data that shows that in 2000 the water crisis in Indonesian society reached 6% and is expected to increase to 9.6% in 2045. Therefore, it is necessary to take action to prevent the deforestation rate to improve Indonesia's environment and achieve sustainable development goals.

3.5 Criminalization of Environmental Clusters in the Job Creation Act

Sentencing can be interpreted as punishment. According to Wirdjono Prodjodikoro, the existence of punishment has two purposes. *First,* to frighten many people (*general preventive*) so as not to commit a crime or certain people who have committed a crime so as not to repeat their actions (*special preventive*). *Second,* to educate or improve people to be better.

Based on this goal, Law Number 11 of 2020 concerning Job Creation (called the Job Creation Law) has regulated punishment in its regulation. Moreover, environmental punishment has been previously regulated in Law Number 32 of 2009 concerning Environmental Protection and Management. However, the environmental penalties contained in the Job Creation Law has several problems, so that they have an impact on the achievement of sustainable development goals, especially on indicators of environmental protection in Indonesia. The problems in question include:

First, criminal law overlaps with the administration. This is through changes in the regulation on spatial planning (Law Number 26 of 2007 concerning Spatial Planning (called the Spatial Planning Law), which is an important instrument in realizing sustainable development. In which Article 62 of the Spatial Planning Law states:

"Everyone who violates the provisions as referred to in Article 61, will be subject to administrative sanctions."

The arrangement in the article through Article 17 number 30 of the Job Creation Law is amended so that it reads:

"Everyone who does not comply with the spatial planning plan that has been determined which results in changes to the function of the space as referred to in Article 61 is subject to administrative sanctions."

Furthermore, Article 61 which is referred to reads:

"In the use of space, everyone is obliged to:

a. comply with the spatial plan that has been determined;
b. Utilize the space in accordance with the spatial plan;
c. comply with the provisions stipulated in the requirements for the suitability of spatial utilization activities; and
d. provide access to areas which by the provisions of laws and regulations are declared as public property."

Based on the amendment to Article 62 of the Spatial Planning Law in the Job Creation Law, the imposition of administrative sanctions is a violation of the entire amendment to Article 61 of the Spatial Planning Law because it does not mention the specific letter

that is violated. This overlaps with criminal threats through amendments to Article 70 of the Spatial Planning Law in Article 17 Number 33 of the Job Creation Law, which reads:

"Everyone who uses space that is not in accordance with the spatial plan of the competent authority as referred to in Article 61 letter b which results in a change in the function of the space shall be sentenced to a maximum imprisonment of 3 (three) years and a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah)."

Criminal threats for violating the amendments to Article 61 letter c of the Spatial Planning Law are also regulated in the amendments to Article 71 of the Spatial Planning Law, as well as violations of the amendments to Article 61 letter d of the Spatial Planning Law are subject to criminal sanctions in the amendments to Article 72 of the Spatial Planning Law.

This shows an overlapping threat of punishment for violating Article 61 of the Spatial Planning Law. On the one hand, the entirety of Article 61 of the Spatial Planning Law for its violation is threatened by the administration in the amendment of Article 62 of the Spatial Planning Law; on the other hand, it is punishable by punishment in the amendment of Article 70 of the Spatial Planning Law; amendments to Article 71 of the Spatial Planning Law; and amendments to Article 72 of the Spatial Planning Law. This condition makes it hard to know if breaking Article 61 leads to administrative or criminal punishment.

Second, the threat of punishment is not proportional to the impact of the act. The Job Creation Law adds Article 82B to the PPLH Law, which essentially formulates actions that are subject to administrative sanctions, including: paragraph (1) business approval, or approval of the Central Government or Regional Government, and/or violating the provisions of laws and regulations in the field of protection and management environment. Negligent actions that result in environmental pollution and/or destruction. And paragraph (3) exceeds ambient air quality standards, water quality standards, sea water quality standards, or environmental damage standard criteria that are not in accordance with Business Licensing by negligence. According to the author, the three acts are not appropriate to be subject to administrative sanctions but criminal ones. This is because the impact of this act is not only detrimental to the approver but also to the wider community around the business location, causing health problems and damage to the environmental ecosystem. The punishment of such acts is also in accordance with the criminal objective of ensuring the protection of the rights of the community in general, in this case the right to a healthy living environment, as guaranteed in Article 28H paragraph (1) of the 1945 Constitution. In addition, the imposition of administrative sanctions cannot also be imposed. The act directly restores environmental conditions as well as the rights of the people who have been violated by the act. This is because the execution of the punishment must wait for a government regulation first, as stated in Article 19 number 32 of the Job Creation Law, which adds Article 82C paragraph (2) of the PPLH Law. Even though until now there has been no government regulation issued from the mandate of the law, with the number reaching 42 government regulations, this makes it difficult for law enforcers to carry out administrative sanctions against violators.

Third, the obscuration of absolute liability norms (*strict liability*). Article 88 of the PPLH Law states: "Everyone whose actions, business, and/or activities use B3, generates

and/or manages B3 waste, and/or poses a serious threat to the environment, is absolutely responsible for the losses that occur without the need to prove the element of fault."

The article is amended through Article 22 number 33 of the Copyright Work Law so that it reads as follows:

"Every person whose actions, business and/or activities use 83, generates and/or manages 83 waste, and/or poses a serious threat to the environment is absolutely responsible for the losses that occur from his business and/or activities."

Based on this comparison, it is known that the reduction and obfuscation of Article 88 of the PPLH Law is accomplished by eliminating elements without the need for proof of guilt at trial. This will certainly complicate the operation of law enforcement or the public whose rights have been violated to sue the perpetrators of the offense, who must prove the element of guilt, whether intentional or negligent in their actions. In addition, the disappearance will also threaten the sustainability and environmental conditions, along with the development of various modus operandi of perpetrators of violations, so that it seems that there is no impact on their business operations. Even though these actions are clearly detrimental to the community, they are difficult to ensnare by law enforcement or the community.

Fourth, the reduction of corporate criminal liability. Administrative sanctions as referred to in Article 76 do not relieve the person in charge of the business and/or activity from responsibility for recovery and punishment." Based on the article, the administrative mechanism does not abolish or obstruct criminal law enforcement. However, in the Employment Creation Act, the concept is simplified so that the administrative law enforcement mechanism is used first, and if that is ineffective, the criminal law mechanism is used. The indicator is not optimal enforcement of administrative law, namely if administrative fines are not paid. This condition creates problems because the criminal arrangement only carries a threat of imprisonment without a fine. Punishment without a fine is a form of reducing corporate criminal liability. Furthermore, law enforcement will only target directors or staff regarding violations, while corporations will continue to run their business freely for their violations. These four things are problematic in law enforcement and criminalizing environmental clusters in the Job Creation Law.

Fifth, the process of forming the Job Creation Law is not in accordance with the principles of the formation of laws and regulations. Based on Article 5 letter g of Law Number 12 of 2011 concerning the Establishment of Legislations (UU 12/2011), the formation of laws and regulations must be based on the principle of openness. In this case, from planning, drafting, discussing, ratifying or determining to promulgation, it is required to be transparent and open. so that the general public can have a say in the creation of the relevant legislation.

However, openness and public participation in the formation of the Job Creation Law did not work. This is what the Constitutional Court said in its decision number 91/PUU-XVIII/2020:

"That in addition to the fulfillment of the formalities of all the stages above, another problem that must be considered and fulfilled in the formation of the law is public participation."

Therefore, in its decision, the Constitutional Court stated that the Job Creation Law was conditionally unconstitutional. If no correction is made for 2 years since the decision was declared, then it is declared unconstitutional forever.

3.6 Implications of Law Enforcement and Criminal Issues for Sustainable Development

This problem has implications for the potential of not achieving sustainable development goals in Indonesia. This is due to several things through the following analysis. *First,* there is no deterrent effect for violators. Law enforcement, especially criminal law, has the aim of creating a deterrent effect or fear for violators. In addition to giving fear to the wider community, they also have the potential to do the same thing. However, this is difficult to achieve due to the problems of environmental law enforcement through various changes to the sanctions mechanism from the regulations in the Job Creation Law. Where the threat of punishment imposed is not proportional to the act committed. PT. Bumi Mekar Hijau and PT. Waringin Agro Jaya is an example of the non-optimal deterrent effect in law enforcement for land burning violations today. The two companies received administrative sanctions for their actions to burn land in 2015. Previously, the companies had also committed a variety of environmental violations, including land burning. The situation of not having a deterrent effect is increasing with the reduction of various criminal and administrative arrangements in the environmental cluster of the Job Creation Law, making it vulnerable to various violations by other companies.

Second, environmental recovery is not running optimally. Violation of the environment regulated in the PPLH Law causes environmental conditions to be polluted and disrupts the health of the general public. Therefore, it is necessary to take steps to restore environmental conditions so that these impacts do not harm the community more. However, this does not work optimally with the existence of the Job Creation Act because administrative and criminal rules overlap, corporate responsibility is reduced, and the concept of absolute liability (*strict liability*) is obscured. This has effects on the environmental restoration measures that people who break the law have to take. These conditions, especially the growing number of ways people break the law, make it hard to prove and punish people.

Third, environmental monitoring is not optimal. Environmental supervision is an important matter in the regulation of the PPLH Law so that business actors in carrying out their business comply with environmental permits and statutory provisions. However, in its current implementation, environmental supervision has problems, namely the disproportionate number of environmental supervisory officers (PPLH) in all regions of Indonesia compared to the number of business activities that continue to develop rapidly. Then there is the lack of data or compliance history of business actors for the basis for supervision and decision-making by PPLH, as well as the non-optimal management of environmental information systems and accountability of supervision. The current problems are exacerbated by various reductions in the Job Creation Act, which has 2 problems related to environmental supervision, including:

1. The expansion of the parties authorized to carry out environmental supervision, namely the Central Government and Regional Governments. The regulation regarding supervision is further regulated through a government regulation, which has a lower hierarchy than the law, making it vulnerable to creating legal uncertainty and new bureaucratic obstacles.
2. The annulment of environmental permits is replaced with environmental approvals and approvals from the Central Government and Regional Governments. This change raises problems regarding the institutions authorized to supervise the environment, particularly in coordination, compliance with business actors, and the effectiveness of the sentences imposed. Due to problems in environmental monitoring today and after the Job Creation Law, the vulnerability of violations to the environment is getting higher. Furthermore, it has an impact on not achieving sustainable development goals, especially in environmental protection.

Fourth is not achieving the economic target (investment) because of the large environmental threat. Consideration of letter d of the Job Creation Law, the birth of the Job Creation Law, namely to improve the investment ecosystem in Indonesia. However, the goal of increasing investment has the potential to be difficult to realize, given the magnitude of the environmental threat and various changes in job creation laws that are contrary to international investment *best practice standards.* Where the regulation on the job creation law ignores efforts to preserve and protect the environment, as the goal of the *Sustainable Development Goals* (SDG's). In addition, the provisions in the Job Creation Law also weaken environmental protection efforts, thereby increasing reputational, operational, regulatory, and climate risks for foreign companies operating in Indonesia. Therefore, the regulation of the Job Creation Act causes the attractiveness of investment in Indonesia to decline.

Fifth, not achieve a good environmental quality index in the future. One of the indicators of achieving sustainable development is the environmental quality index, which increases every year. However, with the law enforcement regulation of the Job Creation Law, the index has the potential to be difficult to increase, and even decrease. This is due to the absence of corporate criminal arrangements for violators as well as the lack of a deterrent effect in sentencing. These five things are the impact of the problems of punishment and law enforcement in the Job Creation Law on the direction of sustainable development in Indonesia.

3.7 Efforts to Strengthen Criminalization in Environmental Clusters in the Job Creation Act Towaeds the Achievement of Sustainable Development Directions

Regarding the problem of punishment in environmental clusters in the Job Creation Act, it affects the direction and achievement of sustainable development goals in Indonesia. Therefore, it is necessary to make efforts to strengthen the punishment and law enforcement of environmental clusters in the Job Creation Law. This is done by making several efforts, as follows.

3.8 Revision of the Job Creation Act

Amendment to the law is an effort that can be made in overcoming the problems of punishment and law enforcement on environmental clusters in the Job Creation Law. Where this action is accommodated in Law Number 12 of 2011 concerning the Establishment of Legislation as amended by Law Number 15 of 2019. In addition, changes must also be made based on the Decision of the Constitutional Court Number 91/PUU-XVIII/2020. The substance of the changes, in particular, is carried out on 3 (three) things.

First, the abolition of amendments to Article 62 of the Spatial Planning Law regarding the imposition of administrative sanctions for violators of Article 61. The abolition was carried out because Article 62 overlaps with criminal arrangements for violations of Article 61, through amendments to Article 70 of the Spatial Planning Law, Article 71 of the Spatial Planning Law, and Article 72 of the Spatial Planning Law. So, with the abolition of the amendment to Article 62 of the Spatial Planning Law, a criminal mechanism is adopted in the event of a violation of Article 61. In addition, it has an impact on the legal certainty of the justice seekers and law enforcers who deal with the unity of the legal mechanism adopted.

Second, the imposition of criminal sanctions for violations of Article 82B of the PPLH Law, which was added to the Job Creation Law. At present, the article outlines 3 actions that result in pollution, quality standards, and environmental protection being subject to administrative sanctions. The imposition of administrative sanctions is not appropriate, so it will be more appropriate to be subject to criminal sanctions to create a deterrent effect and according to the character of his actions that are detrimental to the general public at large.

Third, the inclusion of a phrase without the need to prove an element of error in the concept of absolute liability in the amendment to Article 88 of the PPLH Law through Article 22 number 33 of the Job Creation Law. This is because it emphasizes the concept of absolute responsibility in the law enforcement process for environmental violations committed, which in theory does not require proof of guilt. In addition, it provides access for the community to sue for the suffering they experience due to environmental violations in their area. In addition, it makes it easier for law enforcement to ensnare and prove environmental violations committed by business actors effectively and quickly. These three things are substances that need to be changed in the Job Creation Law if you want to optimize the criminalization of environmental clusters in job creation in order to achieve the goals of sustainable development in Indonesia.

3.9 Strengthening Environmental Control

Environmental supervision has an important role in ensuring that business actors comply with environmental permits and statutory provisions. Therefore, it is necessary to strengthen environmental monitoring efforts, especially by PPLH. Moreover, in practice, there are currently problems, so the monitoring efforts are not optimal. Efforts to strengthen environmental supervision can be done in several ways.

*First***,** optimize PPLH capacity through a merit system. This is done by making technical arrangements for PPLH as functional officials and career guarantees in carrying

out their duties. so that PPLH will continue to compete to carry out their duties optimally and to obtain various facilities in their position legally.

Second, supervision based on clear and accountable rules, policies, strategies, and programs.They need documents or information that are easily accessible for supervisors, business actors, and the public that outline the monitoring strategy, the consequences of violations, and how to report or take action effectively. With this accountability, the potential for fraud, false information, bribery or corruption, and even no follow-up on reports can be avoided.

Third, information on monitoring results that is easily accessible, up-to-date, accountable, and integrated for PPLH It is impossible to carry out surveillance without obtaining and managing information. So, with this information, it can be used as the basis for imposing sanctions, and PPLH will then carry out more effective supervision. China is a country that implements modern information-based environmental surveillance because it uses big data in processing environmental monitoring information. Utilization of this technology is carried out to obtain information that is not overlapping, repetitive, irrelevant, and complementary. This good example should be applied in Indonesia with the various problems of existing supervision. These three things are efforts made in strengthening environmental supervision. so that, with optimal monitoring mechanisms, potential environmental violations can be prevented as early as possible. Furthermore, ensuring the implementation of sustainable development goals in Indonesia is a must.

4 Conclusion and Suggestion

Two conclusions can be drawn from the above description. *First,* the urgency of questioning the impact of punishment on environmental clusters in the Job Creation Law on the direction of sustainable development for several reasons, including environmental law enforcement (administrative, civil, and criminal), which has not been running optimally. This is due to the difficulty of proving at trial, the difficulty of executing decisions, sanctions that do not take into account previous violations, and the responsiveness of law enforcement in handling complaints of environmental violations. Then, the environmental quality index in Indonesia tends to go down. This is because of various unstoppable rates of deforestation, which cut Indonesia's forest area to only 50% in 2017, and the raw water crisis for the community. This condition is exacerbated by the regulation of the Environmental Cluster Job Creation Act, which has problems, especially in sentencing and law enforcement. These include: the overlapping of criminal and administrative rules; the threat of punishment that is not proportional to the impact of the act; the blurring of the norm of absolute liability (*strict liability*); the reduction of corporate criminal liability; and the absence of openness and public participation in its formation. The existence of these problems has implications for not achieving sustainable development goals in Indonesia because there is no deterrent effect on environmental violators, environmental recovery does not run optimally, environmental monitoring is not optimal, investment targets are not achieved in line with the threat to environmental protection, and the quality index is not achieved. Good environment in the future.

Second, efforts are being made to strengthen punishment in environmental clusters of the Job Creation Law to achieve sustainable development through several things,

including the revision of the Job Creation Law, in particular through the abolition of amendments to Article 62 of the Spatial Planning Law; the imposition of criminal sanctions for violations of Article 82B of the PPLH Law, which was added in the Job Creation Law; and the inclusion of the phrase without the need to prove the element of error in absolute accountability in the amendment to Article 88 of the PPLH Law.

Then it is necessary to strengthen environmental supervision, including by optimizing PPLH capacity through a merit system; environmental supervision based on clear and accountable rules, policies, strategies, and programs; and information on supervision that is easily accessible, up-to-date, accountable, and integrated for PPLH. Through these efforts, it is hoped that sustainable development can be optimally achieved in the future.