Legal Reconstruction of Environmental Crimes Within the Legal Framework of Corruption Eradication

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Abstract. Article 33 of the 1945 Constitution of the Republic of Indonesia mandates that the land, water, and natural resources contained therein are controlled by the State and used for the greatest prosperity of the people. This mandate has been violated by oligarchs and irresponsible individuals who exploit the environment. The Directorate General of General Courts of the Supreme Court, through its January 2025 Infographic, shows statistical data on environmental crimes filed with the Supreme Court in 2024 totaling 1,443 cases. Law enforcement cannot be used as a deterrent or shock therapy factor, due to the qualification of the act as an environmental crime. Based on research results using the normative jurisdiction approach method and the use of secondary data, the current construction of environmental crime qualifications is separate from the construction of corruption. The provisions of Article 14 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption Crimes provide an opportunity to reconstruct the qualifications of environmental crimes into criminal acts of corruption. The reconstruction of the crime in Law Number 32 of 2009 concerning Environmental Protection and Management by amending and adding norms in Article 97 and adding new norms after Article 165 of Law Number 4 of 2009 in conjunction with Law Number 2 of 2025 concerning Mineral and Coal Mining, with norms stating that violations of the provisions of the norms in the two a quo laws constitute criminal acts of corruption. The implications of this reconstruction include philosophical, sociological, and legal implications, so that it can be used as a shock therapy factor and a deterrent for perpetrators of criminal acts.
Keyword: Reconstruction, Environmental Crimes, Corruption Crimes.

1 Introduction

The 1945 Constitution of the Republic of Indonesia mandates in its preamble that the purpose of the Indonesian government is essentially to realize the welfare and protection of its citizens through national development, by optimizing human resources, natural resources, and man-made resources. National development policies, in the form of regulatory policies, provide direction, guidance, and a legal basis for policy actions, programs, and development activities. The development process requires facilities and infrastructure in the form of regulatory policies and infrastructure. The government's inability to allocate a budget to development programs and activities due to its limited resources necessitates financing through investors, which are inherently hedonistic [1]. Carelessness in the use of such financing will result in the government being tied to the funders or investors, who essentially constitute an oligarchy. Negative transactions will accompany the oligarchy's role in national development programs, such as gratuities and bribery of state/regional officials and law enforcement officials, weakening oversight in the form of monitoring and evaluation, and ultimately leading to the exploitation of human and natural resources [2].

The destruction of human minds, souls, and minds goes hand in hand with the destruction of the natural environment. Empirically, mining sector development has had an impact on human groups (indigenous communities) and the natural environment, as occurred in December 2025 in the provinces of Nagroe Aceh Darussalam, West Sumatra, and other areas, with flash floods that destroyed the ecosystem and killed hundreds of people. Law Number

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32 of 2009 concerning Environmental Protection and Management defines environmental crimes, including exceeding water, seawater, or air quality standards, or environmental damage standards, endangering human health, managing waste without a permit, burning land, not having an environmental permit, issuing a permit without an environmental impact analysis (EIA), and carrying out activities without an environmental permit [3]. The criminal sanctions for environmental crimes are cumulative, namely imprisonment and a fine.

In addition to principal criminal sanctions, the law also provides for the imposition of additional penalties on business entities as stipulated in Article 119. These additional measures are designed to ensure not only punishment but also restoration and accountability for the consequences of corporate wrongdoing. Such penalties may include the confiscation of profits obtained from criminal activities, thereby eliminating the economic benefits derived from unlawful conduct. The court may also order the closure of all or part of the company's business premises or activities as a preventive measure to halt further violations.

Furthermore, corporations may be required to remediate the consequences arising from the crime, reflecting the restorative orientation of environmental law enforcement. The law also imposes obligations on business entities to fulfill duties that were unlawfully neglected, reinforcing compliance with regulatory standards. In more severe circumstances, the company may be placed under guardianship for a period of up to three years, enabling direct supervision to ensure adherence to legal obligations. These additional sanctions demonstrate that corporate liability in environmental offenses extends beyond punitive measures, emphasizing recovery, compliance, and the protection of public and environmental interests.

In connection with the threat of criminal sanctions in environmental law being quite low compared to the threat of criminal sanctions for corruption crimes, so that it has implications for the inability to use shock therapy and deterrence in criminal politics, it is necessary to reconstruct the norms in Law Number 32 of 2009 concerning Environmental Protection and Management and Law Number 4 of 2009 in conjunction with Law Number 2 of 2025 concerning Mineral and Coal Mining.

2 Method

This research uses a juridical ecology approach, using secondary data as a source to construct norms to be formulated in the revised concept of Law Number 32 of 2009 concerning Environmental Protection and Management [4]. Qualitative data analysis will strengthen the new norms formulated in the a quo Law [5].

3 Result and Discussion

3.1 Existing Environmental Management

Law Number 32 of 2009 concerning Environmental Protection and Management serves as a pillar for the arrangement and control of environmental management to prevent environmental quality and quantity decline. The sociological basis for the enactment of the a quo Law is that the declining environmental quality has threatened the survival of humans and other living creatures, necessitating serious and consistent environmental protection and management by all stakeholders. Law Number 4 of 2009, most recently amended by Law Number 2 of 2025 concerning Mineral and Coal Mining, was enacted to provide tangible added value to national economic growth and sustainable regional development [6]. However, in reality, both a quo laws have failed to realize the sociological basis for their enactment. Government licensing policies have even exacerbated permanent environmental damage, further exacerbated by the lack of authority and role of Regional Governments in environmental, mineral, and coal development development and supervision.

Financial Note of the 2024 State Budget Draft, Indonesia's State Budget is only Rp2,637.2 trillion and the State debt of approximately Rp8,000 trillion is not to repair environmental damage, even only to build road infrastructure and others which apparently provide smoothness for oligarchs and irresponsible parties to transport the results of environmental exploitation [7]. The environmental impacts caused are getting worse with massive deforestation, In WALHI's records the granting of Mining Business Permits (IUP) has controlled an area of 11,190,193.7016 hectares of land, of which threatening forest cover areas of 4,593,341.77 hectares (1,127,905.90) hectares in primary dryland forests, 3,013,688.16 hectares in secondary dryland forests, 451,747.71 hectares in plantation forests) with coal and gold mining being the largest contributor to Mining Business Permits in the world [8]. The legalization of forest destruction through permits in the forestry sector has been ongoing for a long time and continues to be maintained, despite the undeniable fact of forest destruction. Environmental crimes occur, as criminal statistics at the Supreme

Court in 2024 show there were 1,443 environmental crimes, including the most common cases of mineral and coal mining (748 cases), logging (300 cases), and natural resource conservation (149 cases), as well as environmental pollution, forest fires, changes in natural spatial areas, hazardous and toxic waste, and damage to coral reefs and mangrove forests. The impacts of environmental crimes include damage to the environmental ecosystem (through floods, landslides, wildlife extinction, smoke, waste) and violations of the human rights of indigenous peoples, as well as violations of the mandate of Article 33 of the 1945 Constitution of the Republic of Indonesia.

3.2 Construction of Environmental Crimes

The elements of a crime constitute the most fundamental components of criminal norms that determine the classification of an act as a criminal offense and enable the imposition of accountability. These elements are characterized as detailed, rigid, and concrete, meaning that the formulation of a criminal act must clearly identify indicators of conduct, cannot be subject to arbitrary interpretation, and must reflect real and observable circumstances [9]. Consequently, the construction of criminal liability requires a naturalistic approach grounded in facts that can be perceived and verified, ensuring legal certainty in determining whether an act fulfills the criteria of a criminal offense [10].

Within the context of environmental law, criminal qualifications are primarily regulated under Law Number 32 of 2009 concerning Environmental Protection and Management, as well as Law Number 4 of 2009 concerning Mineral and Coal Mining as most recently amended by Law Number 2 of 2025. These legal frameworks establish that environmental crimes may be committed by individuals or corporate entities and are generally predicated upon intentional fault [11]. The scope of punishable actions is broad and encompasses conduct such as exceeding environmental quality standards; causing harm to human beings or ecosystems in physical, psychological, social, or economic dimensions; unlawfully releasing genetically engineered products; mismanaging hazardous waste; disposing of waste without authorization; importing hazardous materials; burning land; and conducting business activities without proper environmental permits [12]. Furthermore, liability extends to administrative and supervisory misconduct, including issuing permits without environmental assessments, failing to supervise compliance, providing false information, obstructing enforcement processes, or neglecting coercive measures mandated by law [13].

In the mining sector, criminal liability similarly arises from activities conducted without proper licensing or in violation of licensing conditions, such as unauthorized exploration or production, false reporting by license holders, handling mineral resources without lawful entitlement, or interfering with legitimate mining operations [14]. Even public officials who issue mining permits contrary to statutory provisions may incur criminal responsibility. This comprehensive formulation demonstrates that environmental and mining crimes are not limited to direct ecological harm but also encompass procedural violations that undermine governance and regulatory oversight.

Sanctions for such offenses include imprisonment, fines, and administrative measures, as well as government coercion and obligations to compensate losses or bear costs arising from environmental and mining damage. These enforcement mechanisms reflect the principle that environmental harm is inseparable from state loss, given that land, water, and natural resources are constitutionally controlled by the state pursuant to Article 33 of the 1945 Constitution of the Republic of Indonesia. Therefore, protecting the environment through criminal law enforcement is not merely a matter of regulating individual conduct but constitutes the fulfillment of constitutional mandates to safeguard national resources and public welfare.

Environmental crimes have an extraordinary negative impact on the environmental ecosystem, including damage to the terrestrial environment, damage to botanical nature, damage to the animal environment, damage to the human environment, damage to the social environment, damage to the climate, and losses to state finances. Therefore, environmental crimes are considered extraordinary crimes of a special nature. Environmental crimes are not considered a special crime. The number of environmental crimes has a growing trend, with statistics from the Supreme Court regarding cassation cases reaching 71 in 2023 and 104 in 2024.

3.3 Identification of Environmental Crimes and Corruption

Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 on the Eradication of Corruption recognizes corruption as an offense producing severe detrimental consequences and categorizes it as an extraordinary crime [15]. The prevalence of corruption continues to increase, as reflected in Supreme Court data recording 778 cassation cases in 2023 and 837 cases in 2024. The constituent elements of these offenses demonstrate parallels with those contained in Law Number 32 of 2009 on Environmental Protection and Management and Law Number 4 of 2009 in conjunction with Law Number 2 of 2025 on Mineral and Coal Mining, particularly regarding the legal subject, the presence of

intent, and the unlawful conduct involved [16]. Corrupt practices may manifest through diverse forms of conduct, including activities related to environmental and mining violations, with sanctions generally applicable except for capital punishment and restitution of state losses [17]. The relationship between environmental crime and corruption can be examined through their shared classification as extraordinary and specialized offenses; although corruption is addressed in Articles 603–606 of Law Number 1 of 2023 concerning the Criminal Code, this regulation does not negate its status as a special crime. Empirical observations indicate that enforcement against environmental violations predominantly relies on environmental and mining statutes, while application of anti-corruption legislation remains limited and its legal justification often debatable. Article 14 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 provides that violations of statutory provisions explicitly designated as corruption offenses are subject to the anti-corruption legal framework. Neither the Environmental Law nor the Mineral and Coal Mining Law contains provisions qualifying violations as corruption offenses. Consequently, based on Article 14 of the anti-corruption legislation, environmental violations cannot presently be prosecuted under that framework, and environmental and mining crimes remain legally autonomous offenses.

3.4 Reconstruction of Environmental Crimes

Reconstruction has the same meaning as reform and reformulation, or renewal. This means rebuilding something that already exists with the aim of achieving effective implementation/enforcement. In this case, reconstruction of environmental crimes means rebuilding the norms contained in the Environmental Law and the Mineral and Coal Mining Law into effective norms for corruption crimes in enforcing both laws, ensuring certainty and justice [18]. Empirically, law enforcement for environmental crimes and mineral and coal mining is implemented under the Environmental Law or the Mineral and Coal Mining Law, and sometimes the Corruption Eradication Law, creating legal uncertainty and injustice [19]. Muhamad Yamin stated that criminal law reform must be pursued with a policy- and value-oriented approach. The policy approach as a policy in preventing and dealing with criminal acts (criminal politics) and the value approach is oriented towards reviewing the values contained substantively which include philosophical values, sociological values and juridical values [20].

Article 97 of Law Number 32 of 2009 concerning Environmental Protection and Management stipulates that criminal acts under this law constitute crimes [21]. The Environmental Law does not regulate environmental crimes as corruption. Similarly, Law Number 4 of 2009, in conjunction with Law Number 2 of 2025, does not define mineral and coal mining crimes as corruption. These two laws cannot be used as a legal basis for determining environmental crimes and mineral and coal mining as corruption [22].

Three considerations underpin the determination of environmental offenses and mineral and coal mining violations as forms of corruption. First, from a philosophical perspective, such offenses may be regarded as extraordinary and specialized crimes due to their broad humanitarian consequences and complex characteristics. Protection of the environment is understood as a divine mandate from Allah Subhanallah wa Ta'ala intended to safeguard human welfare and promote equality and social justice, thereby positioning environmental destruction and mining-related violations as inconsistent with the foundational values of Pancasila. Second, in sociological terms, the directive contained in Article 33 of the 1945 Constitution of the Republic of Indonesia must be translated into governmental policies and programs that secure public welfare and protection through criminal policy measures. One such policy approach involves regulatory reform through reconstruction of Law Number 32 of 2009 on Environmental Protection and Management and Law Number 4 of 2009 in conjunction with Law Number 2 of 2025 on Mineral and Coal Mining by introducing or revising provisions that classify offenses under these statutes as corruption-related crimes. Third, from a juridical standpoint, the reconstruction of the two statutes constitutes an effort to establish clearer direction, guidance, and legal foundations enabling law enforcement authorities to address environmental and mining violations within the framework of corruption offenses.

The proposed reconstruction entails reformulating Article 97 of Law Number 32 of 2009 concerning Environmental Protection and Management, which presently declares that offenses regulated under the statute constitute crimes, by redefining the norm so that such offenses are categorized as corruption-related criminal acts, and by inserting a new provision following Article 165 of Law Number 4 of 2009 in conjunction with Law Number 2 of 2025 stating that offenses governed by the statute are corruption-related crimes. The philosophical implication of this reconstruction, through alignment with anti-corruption regulation, lies in applying Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 on Corruption Eradication to environmental and mineral and coal mining offenses in order to strengthen legal certainty and substantive justice. The sociological implication indicates that legislative transformation reflects the evolution of societal conditions, consistent with the maxim "ubi ius ibi societas," meaning that law is inseparable from social life and forms an essential component of communal reality. Accordingly,

legal reform represents a crucial instrument for combating corruption and rebuilding public confidence in legal institutions and enforcement mechanisms. The juridical implication of the reconstruction includes the application of elements relating to legal subjects, conduct, and penal sanctions for environmental and mining offenses within the framework of corruption crimes, alongside the possibility of imposing supplementary penalties as provided under anti-corruption legislation.

4 Conclusion

The identification of the elements of environmental crimes and corruption crimes demonstrates similarities or equivalence. For effective law enforcement, this identification provides a strong basis for reconstructing environmental crimes into corruption crimes. This reconstruction of Article 97 of the Environmental Law, and the addition of a new norm after Article 165 of the Mineral and Coal Mining Law, specifically the norm that defines criminal acts as corruption, will have philosophical, sociological, and legal implications.

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