Implementation of criminal sanctions against plantation corporation for environmental pollution

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Abstract. Environmental problems that occur are increasing every year, both water and air pollution. Not only human activities in the household but also due to industrial activities. One of them is in the plantation sector. Poor management of waste in the plantation industry causes environmental pollution. People who live around the plantation area are very disadvantaged. So, in this case, criminal law gives sanctions to the plantation industry corporation for deterrent effects. The problem in this study is criminal penalties against plantation companies do environmental pollution. The research method used in this study is normative juridical. This research is descriptive-analytical, which is expected to obtain a detailed and systematic description to answer the problem. The results of the study show that the sanctions given to the perpetrators of criminal acts of environmental pollution must be in the form of strict law enforcement. So that criminal law becomes the foremost law in expressing legal issues.

1. Introduction
Indonesia is a country rich in natural resources with the longest coastline in the world and has the second-largest forest area after Brazil. Abundant wealth is beneficial to the prosperity of the people. Therefore, the government views natural resources as valuable for the country's economic growth. Various policies were made by the Indonesian government to legitimize the activities of utilizing the wealth of natural resources. The government, through the State-Owned Enterprises and Private Entrepreneurs, plays a role in managing natural resources [1]. The plantation is one of the economic, ecological, and socio-subsectors that has a role in national development. Following Law Number 18th the Year 2004 Concerning Plantations, economically plantations function to improve the prosperity and welfare of the people and strengthen regional and national economic structures. Ecologically, to increase soil and water conservation, carbon sinks, oxygen supply, and buffer protected areas. Socially, culture functions as the glue and unifier of the nation [2].

In the National Development Plan, the government has developed a development strategy that aims to improve the welfare of the people, increase and maintain economic growth, increase employment opportunities, equalize income, eradicate poverty, and convert natural resources and the environment. Therefore, the agricultural sector is sectors to achieve it [3]. Oil palm plantations are plantations that are useful as producers of cooking oil, industrial oil, and fuel. The Oil Palm Tree consists of two species such as Elaeis guineensis and Elaeis oleifera which are useful for commercial agriculture in the production of palm oil [4,5]. Plantation companies are business entities that are incorporated as per the Indonesian law and domiciled in the territory of Indonesia. The purpose of plantations according to
Law Number 18 of 2004 concerning Plantations is to increase community income, increase state revenue and foreign exchange, provide employment, increase productivity, add value and competitiveness, meet consumption needs and raw materials for domestic industries, and optimize sustainable natural resources. Oil palm plantations are increasingly threatening biodiversity, pushing hundreds of thousands of animal species to the brink of extinction, releasing carbon emissions into the atmosphere, and violating human rights [6]. Damage to forest land, plantations, has an impact on the environment, institutions, and political aspects related to accessibility and biodiversity of forest resources. Criminal act Burning of land, forest, and plantations by corporations to open new land by destroying the habitat around. it is a form of criminal activity that cannot be tolerated anymore, because of the impact of the act detrimental to environmental damage and other ecosystems, and can damage the health of the surrounding environment Public [7].

One of the environmental damage from oil palm plantations is palm oil waste. Palm oil waste is the remnants of oil palm products that are not included in the main product or are a by-product of the palm oil processing in the form of solid waste or liquid waste. Palm oil solid waste can be in the form of empty bunches, shells, and fiber. Almost all palm oil mills in Indonesia still use the wet milling method, so it requires a lot of water in the milling process. This has an impact on increasing palm oil liquid waste as a waste or side effect of palm oil processing production activities. For every ton of crude oil produced from palm oil will produce 2.5 tons of liquid waste. Palm oil wastewater has the potential as an environmental pollutant because it contains Chemical Oxygen Demand (COD), Biochemical Oxygen Demand (BOD), and high suspended solids so that it can reduce the fertility of water [8]. If palm oil waste management is carried out properly by oil palm companies, then the positive effect on palm oil industry waste management such as:

1.1. Liquid waste
Palm Oil Mill With good management will provide benefits as a source of nutrition for plants, maintain soil moisture, and become a source of biogas energy.

1.2. Empty fruit bunches
Good management of empty beds will be useful as a source of nutrition for plants, as mulch, can improve soil structure. Besides that, the empty blank can also be used to make eco panel. Utilization of Palm Empty Bunch Powder into nanoparticles can produce new materials [8,9].

1.3. Compost
Compost is useful as a source of nutrition for plants, as mulch, can improve soil structure. In the form of compost, it will be easier to decompose and nutrient availability [10].

1.4. Fly ash
Ash serves as a source of K and can increase soil pH. Palm Oil Boiler Ash is useful as an alternative material in the automotive industry [11,12].

In the practice of developing the oil palm industry, the negative impact continues to be more serious because it is not only in the conversion forest area but also in producing forest areas, to forests that have high biodiversity [13]. An example of a case of waste pollution in the Surabaya District Court's decision no. 3628 / pid.b / 2011 / pn.sby In this decision, the Defendant is a representative of a company that is proven to be legitimately dumping industrial waste into the environment media without a permit causing river pollution. For this reason, the Panel of Judges sentenced the defendant to an 8-month prison term and a fine 10 IDR million on the condition of agreeing. Example of a claim for compensation in a Tanjung Pinang District Court decision number: 26 / pdt.g / 2009 / pn.tpi. This lawsuit is the group's representative towards quarry mining, and piling which, results in pollution of seawater, and marine ecosystems as well as causing the death of fish, and marine habitats. The Panel of Judges decided the act was against the law and caused material and immaterial damages. The Panel of Judges granted the suit and ordered Defendant I, Defendant II and Defendant III to pay
compensation jointly to each of the Plaintiffs in the amount of 2.88 IDR billion, and added to the immaterial loss of 5 IDR billion, the total compensation that must be paid by the defendant is 10.76 IDR billion [14]. Environmental damage caused by palm oil waste management is not good. It requires strict laws and laws that prioritize the values of environmental protection and management. Palm oil companies must comply with applicable laws in Indonesia related to the management of palm oil waste. Law enforcement officials must punish the company which has fulfilled the elements in Indonesian criminal law. In this case, criminal law makes premium remedium in environmental issues related to palm oil waste management. Criminal law strives to provide a deterrent effect for companies not to commit such acts and serves as an example for other oil palm companies not to do the same. So that oil palm plantation companies in the future must manage oil palm waste properly to achieve a healthy environment.

Actions in environmental wastewater management are as follows: 1) Waste management must reach the level that meets the quality standards of waste, environmental quality standards, both water, soil, and air, 2) Develop waste quality standards for types of industries and activities that do not yet have quality standards 3) Develop and implement a discharge permit based on waste quality standards by including a penalty system and incentives to encourage waste water minimization, 4) Include local environmental quality protection objectives and environmental carrying capacity principles in the development of disposal permits, 5) Organizing pollution control that relies on the strength of a culture of shame with the media and environmental compliance rating, 6) Increase the scope of the project, based on the number of rivers and the type of pollution, the river that passes through urban and industrial areas, 7) Providing technical and management assistance to waste management and production control activities, 8) Encourage manufacturers to produce high-tech pollution control equipment licensed from major manufactures [15].

2. Methods
Based on the formulation of the problem in compiling this study, the type of research is normative or doctrinal legal research. Approach using a statute approach. Statute approach examines all laws and regulations relating to legal issues that occur. A legislative approach is an approach using legislation and regulation. The secondary data used in this study include primary legal material is a regulatory document that is binding and stipulated by the competent authority. Secondary legal materials are relevant documents. Tertiary legal materials are all documents that contain concepts and information statements. Data collection techniques by library research and conducting interviews directly with informants. The results of the assessment are then systematically summarized as the essence of the results of the study document study. The purpose of documentation techniques is to look for conceptions, theories, opinions. Processing, analysis, and construction of data on normative legal research are carried out by analyzing legal rules.

3. Results and discussion

3.1. Management of hazardous and toxic waste material based on Indonesian laws and regulations
In essence, environmental management in Indonesia aims to realize the welfare of all the people of Indonesia, such as sustainable development and environmentally friendly [16]. Pollution is a condition in which a substance or energy is introduced into an environment by human activities or by natural processes themselves in such concentrations that it causes changes in the intended conditions which cause the environment to not function as before in the sense of health, well-being, and biological safety [16,17]. Waste of organic origin is rich in plant nutrients. Composting the waste produced from the palm oil mill can be a good practice as it helps in recycling useful plant nutrients [17]. The impact of waste pollution that is not well managed in the form of pollution of soil, water and air, and flooding. Waste management aims to prevent, overcome environmental pollution, restore environmental quality and improve environmental functions. According to the provisions of Article 58 of Law Number 32, the Year 2009 Regarding Environmental Protection and Management states that: a) Every person who
enters the territory of the Unitary Republic of Indonesia, produces, transports, distributes, stores, utilizes, disposes of, processes, and stockpiles B3 is required to conduct B3 management. b) The Government Regulation further explains the provisions regarding B3 management as referred to in paragraph 1.

According to the provisions of Article 59 of Law Number 32, the Year 2009 Concerning Environmental Protection and Management that: 1) Every person who produces B3 waste is required to manage B3 waste; 2) In the case of B3 as in Article 58 paragraph (1) has expired, its management follows the provisions of B3 waste management; 3) In the case that each person is unable to do B3 waste management himself, the management is left to the other party; 4) B3 waste management must obtain a permit from the Minister, governor, or regent / mayor by their authority; 5) The minister, governor, or regent/mayor must state environmental requirements; 6) Announcement of the decision to grant a permit is mandatory; 7) Government regulations regulate further Provisions regarding the management of B3 waste.

Based on these provisions, the Republic of Indonesia Government Regulation number 101 of 2014 concerning the management of hazardous and toxic materials regarding the Management of Hazardous and Toxic Waste. In a general explanation, the Government Regulation states that industrial development on a party will produce goods that are beneficial to the welfare of people's lives, and on the other hand the industry also produces waste. The role of the government in overseeing the cross-border movement of B3 waste is at the Basel Convention dated July 12, 1993, with KEPPRES No. 61 of 1993. The hierarchy of B3 waste management aims to make the B3 waste from production units as little as possible by making efforts to reduce materials, substitute materials, regulate operational activities and use clean technology.

3.2. Implementation of criminal sanctions against corporations for criminal acts on environmental pollution in oil palm plantations

Companies generally act as corporate criminals with actions that are contrary to applicable criminal law. One form of crime that occurs in various countries is a crime against the environment [18]. Criminal sanctions are the last aspect of legal action. The application of criminal sanctions is carried out against companies that pollute and destroy the environment. Besides, its function is also to prevent or hinder potential actors from engaging in behavior that is not responsible for the environment. To reduce the increasing pollution in agro-industrial, it is necessary to design and combine the characteristics of the industry [19]. Strict responsibility can assist in prevention-oriented environmental law enforcement. Firm responsibility can change the behavior of potential offenders to be more careful in carrying out their activities [20].

Corporate and personal liability plays a role in ensuring accountability. The issue is how to make a corporation or corporate management accountable for corporate criminal acts [21]. To be able to impose a criminal for an environmental case on a company, regulations also apply like other criminal cases such as the principle of legality. Criminal provisions are listed in Articles 97 through 120 of Law Number 32 the Year 2009 concerning Environmental Protection and Management. Based on these events there are several criminal threats against environmental polluters according to the Environmental Protection and Management Act. If the company intentionally disposes of waste, then criminal under Article 60 jo. Article 104 of the Law on Environmental Protection and Management.

In addition to crimes due to waste disposal, there are several other penalties such as: 1) If environmental pollution occurs because the company intentionally committed an act (for example disposing of waste), that results in exceeding ambient air quality standards, water quality standards, seawater quality standards, or environmental damage criteria, which results in people dying then they are threatened with the criminal; If the environmental pollution occurs because the company is negligent so that it results in exceeding ambient air quality standards, water quality standards, seawater quality standards, or environmental damage, which results in people dying, they are subject to criminal penalties.
The form of accountability mechanism contained in the formulation of PERMA No. 13 of 2016 Article 1 No. 8 that a criminal offense by a corporation is a criminal offense whose criminal liability lies with the corporation by the law governing the corporation. Article 3 PERMA No. 13 of 2016 that a criminal offense by a corporation is a criminal offense by a person based on a working relationship, or other relationships, both individually and jointly acting for and on behalf of the Corporation inside and outside the corporate environment. The formulation of liability in Article 4 paragraph (1) explains that the corporation can be held liable in accordance with the criminal provisions of the corporation in the laws governing the corporation; (4) In imposing a criminal offense against a corporation, the Judge may assess corporate wrongdoings as referred to in paragraph (1) including: 1) Corporations can benefit from this crime; 2) Corporations allow criminal acts to occur; or 3) The corporation does not take steps to prevent impact and ensure compliance with applicable legal provisions to avoid the occurrence of criminal acts.

Corporate criminal offenses based on article 23, such as: 1) A judge can impose a crime against a corporation or management; 2) Judges impose a criminal offense as referred to in paragraph (1) based on each of the laws governing criminal threats against corporations and / or; 3) Criminal offenses against corporations and/or management as referred to in paragraph (1) do not rule out the possibility of criminal convictions against other perpetrators who, based on the provisions of the law, are proven to be involved in such criminal acts. Regarding criminal punishment in more detail regulated in article 25 such as: 1) The judge convicts the corporation of the principal and / or additional crimes; 2) principal crimes that can be imposed on corporations as referred to in paragraph (1) are criminal fines; 3) Additional crimes are imposed on corporations by statutory provisions.

The form of accountability for environmental corporate criminal acts based on PERMA No. 13 of 2016 Article 4: 1) Corporations are liable for criminal liability by the provisions of corporate crime in laws governing corporations; 2) In convicting a corporation, the Judge can assess the Corporation's mistake as referred to in paragraph (1) such as : a) Corporations can benefit from the crime is carried out for the benefit of the corporation; b) Corporations allow criminal acts to occur; c) The corporation does not take steps to prevent impact and ensure compliance with legal provisions to avoid criminal acts.

4. Conclusions and recommendations
Environmental law is the overall regulations governing people's behavior about what should be done to the environment, the implementation of these regulations can be imposed with a sanction by the authorities. Firm action by law enforcers on corporations that commit crimes in oil palm waste pollution has a deterrent effect. The impact of pollution on palm oil waste by corporations results in damage to the surrounding environmental ecosystem and is detrimental to the people who live in the area. So that the palm oil plantation corporation is legally responsible both and immediately carries out environmental recovery for the pollution of palm oil waste that is not good. That the management of palm oil waste is good by the corporation so that the results can be managed and utilized for the needs of living things.

The awareness of oil palm plantation companies towards the management of palm oil waste is very much needed through collaboration with the government and law enforcement officials in conducting education on environmental law and education on good management of palm oil waste for the sake of the continuation of human life to come.

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