

Issuance of Business License as a Criminogenic Factor of Environmental Crimes by Corporations

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Abstract: Walhi's presentation is related to Ragnhild Sollund's views, which are from the perspective of green critical criminology. Environmental damage cannot be seen as simply as depleting forests that are cut down and burned. Companies whose permits have expired leave and neglect mining sites with environmental conditions that become damaged. Excavations form recesses in the middle of which there is a pool of water. However, humans and other creatures are also disturbed because their habitats and land are damaged or even extinct because of actions carried out by corporations. Hence, victims are no longer individual but widespread. This article analyses the issuance of permits from authorized officials as an entry point for corporations to exploit natural resources and their contents. To prevent more destructive environmental damage, imposing criminal responsibility on permit-making officials as perpetrators of criminal acts of corruption is necessary so that they are careful and not careless in issuing permits to corporations.

1. Introduction

The occurrence of environmental damage because of illegal logging, forest burning, and development of the palm oil industry carried out by companies and corporations has reduced natural resources and damaged the environment. Based on data from the Forum for the Environment (Walhi), the environmental conditions in Indonesia are severe. Forests in Kalimantan and Papua continue to experience exploitation and destruction by corporations, such as deforestation, converted into extractive industries. Extractive industrial activities that exploit nature not only impact shrinking forests functioning as absorbers of carbon dioxide emissions but also exacerbate the rate of global warming and threaten the livelihoods of tens of millions of Indigenous people.

Research conducted by WALHI proves that extractive industry investment permits covered 159 million hectares of land. The land area legally controlled by corporations is 82.91%, while the sea area is 29.75% of the total 159 million hectares. Walhi's presentation is related to Ragnhild Sollund's views, which are from the perspective of green critical criminology. Sollund is a Professor of Criminology in the Department of Criminology and Sociology of Law at the University of Oslo, Norway¹ stating green critical criminology is crucial and urgent in dealing with crime and

¹ Ragnhild Sollund, "Green Criminology: Its Foundation in Critical Criminology and the Way Forward," *The Howard Journal of Crime and Justice* 60, no. 3 (September 1, 2021): 304-22, <https://doi.org/10.1111/hojo.12421>.

the negative impacts of the environment in a world marked by natural crises and extinction. His article "Green Criminology: Its Foundation in Critical Criminology and the Way Forward" shows the relationship or combination between critical criminology and green criminology, such as green criminology, which also refers to critical criminology.

In this context, Kimberly L. Barrett² adds that green criminology or environmentally friendly criminology refers to a perspective in criminology generally devoted to studying crimes against and damage to the natural environment. Environmental damage in various regions in Indonesia is a terrible and worrying tragedy. One factor is that various disasters (such as floods, landslides, haze, et cetera), often accused of being natural disasters, are essentially man-made disasters resulting from corporate crime. This phenomenon is related to research results from WALHI from 2013 to 2019, which uncovered that 25 tycoons have been controlling the oil palm land in Indonesia.³

This palm oil conglomerate controls 12.3 million hectares of the total forest area and has received permits for 5.8 million hectares that are now oil palm plantations. According to Walhi, in Indonesia, 50-70 million indigenous people live and depend on forests for their livelihoods. When forests are destroyed and controlled by corporations, cases of conflict in the regions will also increase, in addition to worsening rates of global warming. According to Walhi, the government should respect the rights of indigenous peoples and protect them from corporate crime rather than providing various conveniences to the conglomerates. Walhi released another report from Auriga Nusantara,⁴ Which is no less worrying. The report explains that during President Joko Widodo's administration and in the last 20 years, deforestation in Papua covered an area of 663,443 hectares, 71 percent of which occurred from 2011 to 2019. The most significant contributor to deforestation was the opening of oil palm plantations covering an area of 339,247 hectares. However, from the search results, only 194,000 hectares have been planted with oil palm, while the rest are in damaged condition.

From the previous research, we can conclude that environmental damage cannot be separated from granting permission as an entry point for corporations to exploit natural resources. In this connection, JATAM (Mining Advocate Network)⁵ Highlights the environmental damage in the Southeast Sulawesi region resulting from the proliferation of nickel mining permits. This is clear evidence of neglect in granting permits that do not account for the environmental carrying capacity. According to JATAM, the government tends to see mining from an economic perspective, ignoring the social, economic, and cultural impacts on local communities.

Natural damage in many in Southeast Sulawesi (Sultra), as written by Kompas on November 6, 2017, is irrefutable evidence of the impact of environmental damage. Green lands were damaged

² Kimberly L. Barrett and Rachelle F. Marshall, "Theory and Green Criminology," *Oxford Research Encyclopedia of Criminology and Criminal Justice*, May 22, 2023, <https://doi.org/10.1093/acrefore/9780190264079.013.745>.

³ WALHI, 'Environmental Conditions in Indonesia amidst the Issue of Global Warming', 25 August 2021, <https://www.walhi.or.id/kondisi-lingkungan-hidup-di-indonesia-di-tengah-isu-pemanasan-global>.

⁴ History and legal entity, Auriga Nusantara is the name used as a replacement for the Silvagama Foundation which was founded on November 12 2009 with the motto a meaningful part of ecosystem. This motto humbly recognizes the many elements in an ecosystem but wants to be a meaningful element in it. The Silvagama Foundation received approval from the Ministry of Law and Human Rights on April 27 2020. National political dynamics and the desire to be more inclusive were the main reasons for changing the name of the Silvagama Foundation to Auriga Nusantara. This change was carried out on May 26 2014 through Notary Rini M. Dahliani, SH with Deed of Amendment No. 02, which subsequently received approval from the Ministry of Law and Human Rights through Minister of Law and Human Rights Decree No. AHU-60.AH.01.05.Year 2014 on 23 July 2014. Auriga Nusantara is a foundation legal entity, and is subject to regulations regarding foundations in Indonesia, <https://auriga.or.id/history?lang=id>

⁵ JATAM, 'Mining Permits on Sale, Environmental Impacts Sidelined', 7 November 2017, <https://www.jatam.org/izin-pertambangan-diobral-dampak-lingkungan-dikesampingkan>.

by heavy equipment and became red and barren. Several hills also looked pockmarked. Companies whose permits have expired leave and neglect mining sites with environmental conditions that become damaged. Excavations form recesses in the middle of which there is a pool of water.

Regarding granting mining and palm oil permits, the Ministry of Environment and Forestry (KLHK) has corroborated a statement by Nunu Anugrah, Head of the KLHK Public Relations Bureau, dated January 27, 2021. Released by Kompas.com,⁶ The statement revealed that between 1984 and 2020, 7.3 million hectares of forest area were released. Seven hundred forty-six permits, covering an area of 6.7 million hectares, or more than 91 percent, were granted before President Jokowi's era.

Meanwhile, during President Jokowi's administration, from October 2014 to 2020, there were permits for 113 units covering an area of more than 600,000 hectares. Twenty-two locations with an area of more than 218,000 hectares have received approval in principle for release between 2012-2014. "Thus, more than 91 percent of forest area releases, or an area of more than 6.7 million hectares, over the last 36 years came from the era before President Jokowi and Minister Siti Nurbaya took office." Because of this, the issue of licensing sales during President Jokowi's administration was denied by the Head of the KLHK Public Relations Bureau, saying that the information was invalid and needed to be straightened out.

However, previously, Coordinator of the Mining Advocacy Network (Jatam) Merah Johansyah responded to the claims of the Head of the Presidential Staff Office (KSP) Moeldoko, who said that President Joko Widodo's government was not selling new permits to open mines and oil palm plantations. However, Merah Johansyah refuted Moeldoko's claim by presenting data processed from the Forest Area Borrow-to-Use Information System (SIPPKH) on the Ministry of Environment and Forestry (KLHK) website. The data shows that from 2016 to 2020, there were 592 Forest Area Borrow-to-Use Permits (IPPKH) units. In Michael A. Long's view,⁷ from a critical criminology perspective, a diverse field of criminological theory and research questions how inequalities and power relationships shape who commits a crime, why someone commits a crime, what constitutes a crime, and how the criminal justice system responds to crime.

Question Michael A. Long This can be related to the issuance of mining permits to corporations because it is related to corrupt relationships between officials who issue permits and corporations. Starting from such a relationship, corporations will enjoy bureaucratic conveniences in the context of the smooth exploitation of natural resources to obtain greater profits. Therefore, a "red thread" or relationship exists between granting mining permits and environmental damage. In this article, we will discuss the issuing of permits to corporations, its negative impact on the environment, and other losses to society and other living creatures.

2. Method

This study uses normative legal research (juridical normative) with a statute, case, and conceptual approach. This study aims to analyze the role of officials in issuing permits as an entry

⁶ Nicholas Ryan and Diamanty Meiliana, 'Allegations of Mining Permit Sale in Jokowi Era Denied, Here's KLHK Data', *KOMPAS.Com*, 27 January 2021, <https://nasional.kompas.com/read/2021/01/27/15173151/tudingan-obral-izin-tambang-di-era-jokowi-dibantah-ini-data-klhk>.

⁷ Michael A. Long, "Critical Criminology," *The Encyclopedia of Crime and Punishment*, December 28, 2015, 1-7, <https://doi.org/10.1002/9781118519639.wbecpx148>.

point for corporations to exploit natural resources, as well as the possibility of implementing criminal liability against permit-issuing officials involved in corruption. Data collected from various sources will be analyzed qualitatively. The analysis process is carried out by identifying legal norms governing the issuance of permits and the criminal liability of officials, as well as evaluating the gap between legal rules and practices in the field. This analysis aims to comprehensively understand the need to implement criminal liability against corrupt officials, especially in environmental protection.

3. Issuance of Permits and Damage to The Environment by Corporations

Walhi, early in 2023, launched an environmental review with the title “Leading Beyond the Tracks” as a critique of current government policy and an invitation for environmental and social movements in Indonesia to formulate a resolution offer and become a common agenda. First, the legislative system should be improved in favor of environmental restoration, upholding human rights and democracy. Second, law enforcement should be brought into the environmental and natural resources sector. Environmental crimes and unlawful acts committed by corporations, which cause crises and conflicts in society, are manifestations of weak law enforcement processes. Third, the Archipelago economy can be used to restore the environment, restore people’s rights, and reduce inequality in welfare access. Fourth, create an Archipelago Economic Ecosystem expected to become a unified and connected system, supporting the Nusantara Economic value chain, namely, production, distribution, consumption, and conservation, carried out by the People’s Management Area production model. Fifth, the Ecology Academy was built to continue the archipelago’s traditions and wealth of local knowledge. Walhi does not position the Ecology Academy as a tool for knowledge commercialization. These discoveries will later be used as material for knowledge disseminated to guide the people.

According to Walhi, if Indonesia wants to restore the function of the environment, then the Archipelago Economy is the way out. The Indonesian economy will fundamentally answer the two major crises at the moment, namely the crisis of inequality in welfare and the ecological crisis. Meanwhile, the sustainability development goals (SDGs) the government is promoting cannot be expected to become Indonesia’s economic path yet and cannot address Indonesia’s two main crises.

According to Walhi, the archipelago economy⁸ The concept is comparable to “people’s economy,” a term first introduced by Mohammad Hatta. People’s economy, or grass-roots economy, is a derivative of the doctrine of People’s Sovereignty (Article 1 Paragraph 2 of the 1945 Constitution), so it embodies tangible and concrete ideals. The people’s economy is broader through the triple-co concept (co-ownership, co-determination, and co-responsibility) from the lower levels of society who participate in share ownership in large businesses. According to Walhi, criticism of the Indonesian economy for using the trickle-down effect is the correct approach. Even though this concept has yet to be popular among the public, it is worth considering as an alternative offer.

Indeed, corporate growth in Indonesia will never subside, in line with the government’s desire to encourage investment by offering all conveniences in licensing. But this will come with

⁸ Boy Jerry Even Sembiring, Tanti Budi Suryani, and Bagas Yusuf Kausan, *Archipelago Economy: Offering Solutions to Restore Indonesia* (WALHI, 2021), [https://www.walhi.or.id/uploads/buku/WALHI%20-%20Ekonomi%20Nusantara%20\(Tawaran%20Solusi%20Pulihkan%20Indonesia\).pdf](https://www.walhi.or.id/uploads/buku/WALHI%20-%20Ekonomi%20Nusantara%20(Tawaran%20Solusi%20Pulihkan%20Indonesia).pdf).

consequences, especially the decline in environmental quality and the loss of community land that corporations control with government-granted permissions. Therefore, granting this permit is an entry point for corporations to exploit Indonesia's natural resources.

Various crimes committed by corporations are closely related to corporate growth. Therefore, a corrupt relationship between the corporation and the licensing party must exist. In this context, Dionysios Spinellis, in his writing on the Crime of Politicians in Office, distinguishes between Top-Hat Criminals and White-collar Criminals.⁹ White-collar Criminals are typically related to business activities in the private sector, while Top Hat Criminals are related to public officials who hold and use political authority. According to Spinellis, the actions carried out by White-collar Criminals are indirect and depend on their financial position and influence over the people in power. However, it is direct for public officials because their actions relate to their political position.

Spinellis further stated that in recent years, more than ever before, people in political positions have been charged with committing crimes related to the use of their duties. In some cases, they have been found guilty. These events occurred in a handful of countries with different political and social systems, such as Western democracies (capitalist), authoritarian regimes, former socialist countries, and third-world countries with varying government systems. The crimes committed also vary, ranging from high treason, violations of the constitution, murder of political rivals or other forms of murder, kidnapping, abuse of power, illegal wiretapping of telephone conversations, spying on political rivals, unlawful detentions, economic scandals, embezzlement of public money, misuse of insider information, bribery, et cetera. The existence of a corrupt relationship between Top Hat Criminals and White-collar Criminals opens the door to bureaucratic convenience enjoyed by White-collar Criminals. Therefore, when it comes to obtaining business permits to exploit natural resources, it will be easy to obtain.

Per Spinellis' view, Marshall B. Clinard and Yeager¹⁰ stated that the perpetrator who issued the permit was a politician or government official. His crimes are called occupational crimes (crimes related to position or work). The issuance of permits to corporations is a justification for corporations to exploit natural resources.¹¹ He provides a systematic review and analysis of the optics of green criminology. He gives examples of crimes against the environment, ranging from toxic waste, logging, wildlife smuggling, and the use and transport of ozone-depleting substances to illegal logging, fishing, and water pollution¹² And violence against animals. Robe White further emphasizes that several intersecting dimensions need consideration in any specific environmental crime case analysis.

This includes consideration of who the victim is (human or nonhuman), where the negative impact is (from global to local level), the primary location where the damage is visible (artificial or natural environment), and the duration of the adverse impact analysis (immediate and delayed consequences). In the cases occurring, the issues of movement, space, time, and adverse impacts

⁹ "International Review of Penal Law: XVth International Congress of Penal Law, Resolutions, Rio De Janeiro, Brazil, September 4-10, 1994 | Office of Justice Programs," n.d., <https://ojp.gov/ncjrs/virtual-library/abstracts/international-review-penal-law-xvth-international-congress-penal>.

¹⁰ Marshall B. Clinard and Peter C. Yeager, "Corporate Crime," *Michigan Law Review* 80, no. 4 (March 1, 1982): 978, <https://doi.org/10.2307/1288268>.

¹¹ Rob White, *Crimes Against Nature*, Willan eBooks, 2013, <https://doi.org/10.4324/9781315880723>.

¹² Rob White, *Crimes Against Nature*, Willan eBooks, 2013, <https://doi.org/10.4324/9781315880723>.

are mixed and interrelated. The specific nature of the environmental damage depends on who is harmed, when, and where. The consequences of environmental damage, continued by Robe White, can be specific and general in their concrete manifestations. In other words, the distribution of adverse impacts can be 'universal' and 'differential.' It is precisely this dual nature that should encourage governments to take action to address these problems.

Regarding who will be harmed, as asked by Robe White, thoughts will be focused on those impacted by environmental destruction. Namely, as stated by the Central Statistics Agency (BPS)¹³ The smoke haze caused by forest and land fires (karhutla) was one of the causes of many flight cancellations in Indonesia in September 2023. Deputy for Distribution and Services Statistics at BPS Pudji Ismartini said the number of passengers decreased monthly in domestic air transportation, international air transportation modes, and domestic sea transportation.

The description of this example shows that the occurrence of forest fires not only impacts the damage to the environment itself and humans but also harms airlines. For example, my experience when I was flying from Jakarta to Pangkal Pinang, the plane delayed its departure several times because it was still waiting for information from Depati Amir Airport, Pangkal Pinang. However, after the plane was allowed to depart and about to land, Depati Amir Airport was covered in fog and smoke. The plane turned several times but could not land. Finally, the pilot announced that the plane could not land at Pinang airport and that it turned to Jakarta. The next day, we flew back to the base of Pinang.

They were returning to the description put forward by Robe White, namely, who were the victims? Victims in this context are no longer individuals, but their dimensions have expanded in the aviation aspect I have demonstrated. First, airlines that have to fly back to the base of Pinang carrying the same passengers will incur double the fuel costs. Second, passengers must stay at a hotel around Banda in Jakarta because they must return to the airport the next day to fly to Pangkal Pinang. Even they are uncertain about flying because they are still waiting for information from the destination airport, resulting in lost time and money. Not to mention the postponed meetings with partners as well as the anxiety experienced by passengers. Is it all the responsibility of the corporation? Of course, it was not because they claimed it was a natural disaster.

This does not even account for complaints from neighboring countries. Malaysia¹⁴ Malaysia asked Indonesia to immediately take action regarding their country's worsening air quality due to Sumatra and Kalimantan forest fires. Malaysia's Ministry of the Environment confirmed that air quality has recently reached unhealthy levels in several areas. Kuala Lumpur blamed the fires on Indonesia even though the Indonesian Ministry of Environment and Forestry denied detecting any smoke crossing its border into Malaysia.

Another piece of evidence is the negative impact of the palm oil industry.¹⁵ Several activities have an impact, including road construction, cut and fill, preparation of planting areas, and factory

¹³ Tim, "BPS Sebut Banyak Penerbangan Batal Karena Asap Kebakaran Hutan," *Ekonomi*, November 1, 2023, <https://www.cnnindonesia.com/ekonomi/20231101133820-92-1018626/bps-sebut-banyak-penerbangan-batal-karena-asap-kebakaran-hutan>.

¹⁴ CNBC Indonesia, 'Malaysia Asks Indonesia to Take Responsibility: Haze Is Not an Ordinary Thing', 6 October 2023, <https://www.cnbcindonesia.com/news/20231006081703-4-478371/malaysia-minta-tanggung-jawab-ri-kabut-asap-bukan-hal-biasa>.

¹⁵ Yeeri Badrun and Mubarak, 'Impact of the Palm Oil Plantation Industry on the Global Environment', *Center for Environmental Research, University of Riau*, 2010, 174, <https://repository.unri.ac.id/bitstream/handle/123456789/8950/DAMPAK%20INDUSTRI%20%20PERKEBUNAN%20%20KELAPA%20PALM%20TERHADAP%20ENVIRONMENT%20GLOBAL.pdf?sequence=3&isAllowed=y>.

construction. All of these activities will have consequences, including an influence on soil quality, reduced ability of the soil to retain rain, loss/extinction of plants, animals, and microorganisms that maintain the balance of the ecosystem in the area, loss of areas used for maintaining air humidity and soil, loss of tall plants that keep tropical areas getting too hot, and the clearing of large areas of land affects the microclimate, which ultimately influences global climate change.

Next, as stated by the Regional Disaster Management Agency (BPBD) of the Bogor Regency Government,¹⁶ disasters hit several regions in Indonesia. The causal factors can be natural factors as well as human factors. However, the mention of it due to human factors conveyed by Bogor Regency Government Regional Disaster Management Agency is not quite right. Based on the results of research conducted by Eko Priyo Purnomo,¹⁷ in most cases, what he calls 'supporting actors' lead to "land clearing," "paid," "employed," and companies. This means that "supporting actors' are paid by companies or landowners to clear new land. In this case, 'supporting actors' are classified as "freelancers." This is due to the economic pressure of freelance workers and pressure from companies (the upper-level economy), so casual daily workers prefer the instant method of cutting and burning land. Companies and corporations use other people's hands to burn forests, with the aim being that the corporation is not accused of being the perpetrator of the arson.

However, the BPBD Bogor Regency Government admits that natural damage, which is very detrimental to humans, both economically and socially, and can even cause loss of life, is caused by corporations. Therefore, according to BPBD, what needs to be paid attention to is: 1) Global Warming is a catastrophic depletion of the ozone layer caused by increased carbon dioxide and depletion of oxygen. Carbon dioxide is increasing due to deforestation, forest burning, and excessive use of coal. 2) Pollution occurs due to careless disposal of factory waste. Factory waste will affect the air environment with smoke and the water environment by being discharged into rivers, which will pollute and affect the health of residents around the factory, causing respiratory problems. 3) Forest fires can have fatal effects on oxygen supplies. Additionally, the flora and fauna in the forest will be increasingly threatened with extinction. Forest fires occur due to hot weather and burning land to build factories. 4) Landslides are disasters that cause soil erosion by rainwater. This is due to the lack of water absorption by trees, resulting in erosion. The primary cause of landslides is illegal logging without proper reforestation. 5) Floods are disasters caused by obstructing water absorption and river flow so that water overflows onto land. Apart from high rainfall, the lack of human awareness of environmental cleanliness has led to mountains of rubbish in river flows.

The occurrence of victims due to natural damage can no longer be determined only using victim analysis in the classical sense. According to Sahetapy, the historical journey related to the victims' problems takes quite a long time. After two major world wars with so many victims, the United Nations (UN), on December 11, 1985, produced a Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. Furthermore, it was argued that the victimization paradigm is not only related to crime in the classical sense but also concerns other acts outside the field of criminal law. Abuse of power indicates that the act of abusing power can also be carried out by legitimate power. That means that having power does not in itself mean having the truth. So,

¹⁶ BPBD Kab. Bogor, 'The Impact of Natural Damage on Life', 26 August 2022, <https://bpbd.bogorkab.go.id/dampak-kerusakan-alam-bagi-kehidupan>.

¹⁷ S Purnomo, 'Sleman Regent Decree No. 32.5/Kep.KDH/A/2020 Concerning Sleman Regency Tourism Villages in 2020', 2020.

people can be sacrificed for the interests of rulers or groups in power without paying attention or heeding or respecting legal and moral norms.

This abuse of power continues to occur in the economic sector (economic abuse of power), as stated in the 6th UN Congress on the Prevention of Crime and the Treatment of Offenders, held in Caracas, Venezuela, in 1980. One of the considerations stated in its 7th Resolution on Prevention of the Abuse of Power¹⁸ is that the abuse of economic and political power causes huge material and social losses, damages financial and social development, and disrupts the quality of life of the world's people.

Thus, victims in this context are no longer individual but abstract victims. As an example,¹⁹ during the haze disaster in Kalimantan and Sumatra some time ago, flight schedules were disrupted, causing anxiety among passengers. Meetings already scheduled had to be canceled due to planes being unable to fly or landing issues forcing returns to airports. Of course, such incidents also harm airline companies.

Based on this example, and as written by Sahetapy,²⁰ Understanding victimization means understanding the problems of victims in the new paradigm. This is true not only of victims in the classical sense but also in the context of other dimensions. Among them are victims of abuse of power.

Due to the impact caused by corporate crime in the field of natural resources, the XVth International Congress of Penal Law, held in Rio de Janeiro,²¹ 4-10 September 1994 reminded of the increasing risks to present and future generations' health and the environment of which they are part posed by industrial and similar activities. It also addressed world concerns regarding environmental degradation caused by committing crimes against the environment contrary to national and international law. Additionally, it discussed the latest developments regarding recognizing crimes against the environment in national criminal law, environmental protection law, international conventions, recommendations, and resolutions.

To address these problems, Congress participants agreed to consider Council of Europe Resolution 77(28) on the Contribution of Criminal Law to Environmental Protection, Recommendation 88(18) on Corporate Liability for Offenses, Resolution No.1 of European Ministers of Justice adopted at their Conference in Istanbul in 1990, and the Council of Europe's ongoing efforts towards the development of a European Convention on environmental protection through criminal law. In addition, paying attention to United Nations General Assembly Resolution Number 45/121 of 1990 (which adopted the Resolution on environmental protection through criminal law proposed by the Eighth UN Congress on the Prevention of Crime and the Treatment of Violators), United Nations Economic and Social Council resolutions 1993/32 and June 1994, and the preparatory documents for the upcoming Ninth UN Congress on the Prevention of Crime and the Treatment of Offenders in the agenda item "Action against national and transnational economic and organized crime and the role of crime in the field of environmental protection."

¹⁸ United Nations, 'Resolution 7, Prevention of the Abuse of Power: Considering That Abuse of Economic and Political Power Causes Great Material and Social Harm, Undermine Economic and Social Development and Impair the Quality of Life of People throughout the World' (The Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Caracas: United Nations, 1980), 10.

¹⁹ M. Arief Amrullah, 'Corporations and Exploitation of Natural Resources' (the Third Criminal Law and Criminology Training by MAHUPIKI and Unlam Faculty of Law, Rattan Inn Banjarmasin, 2016), 63.

²⁰ Sahetapy et. al., *An Anthology of Victimology*, v-vi.

²¹ International Association of Penal Law, 'Resolutions of The Congresses of The International Association of Penal Law (1926 - 2004)', ed. José Luis De La Cuesta, n.d., 119-21, <https://www.penal.org/sites/default/files/files/RICPL.pdf>.

4. Responsibilities of Mining Permit Issuers in Preventing Damage to The Environment

Remember that the entry point for environmental crime in the natural resources sector occurs during licensing. Violations of licensing include carrying and tamping capacity, which has a significant environmental impact.²² It was further stated that “the impact of this environmental crime is massive, but there has been no systemic effort to curb it. In overcoming this, synergy and collaboration are needed, especially to control space utilization; apart from that, the mining itself can be checked to see whether it exceeds the permitted area.”

Imposing criminal liability on officials who issue permits illicitly is a form of control to ensure greater vigilance among those responsible for this task. This ensures that officials will not issue a permit if it has a negative impact on the environment. For this reason, the Corruption Eradication Commission (KPK) links permit providers to criminal acts of corruption.²³ The KPK’s efforts are all in agreement.²⁴

One type of corruption is bribery,²⁵ which covers promises, offers, or giving of benefits that should not be appropriate to influence the actions or decisions of a public official. Bribery occurs not only with public officials but can also include members of the public who serve on government commissions. Bribery can consist of money, shares, sexual services or other gifts, gifts, entertainment, work, promises, et cetera. The profits obtained by corrupt officials can be direct or indirect. It is indirect if the gift is conveyed through the official’s friends, family, associations, campaign funds, or others. The recipients of bribes in the public sector are politicians, lawmakers, law enforcers, judges, or other groups of civil servants.

In the opinion of the Pavokat Group²⁶, Experts in Counter-Corruption, Integrity, and Compliance²⁷, bribery can occur anywhere in government departments, procurement processes, or companies trying to enter new markets or win contracts.

Organized crime gangs may bribe law enforcement officials or wherever money, goods, favors, or other things change hands fall outside normal, legal, and accepted methods to obtain necessary action. Bribery occurs for two main reasons, namely 1) Bribery from the supply side, which

²² Pradipta Pandu, ‘Licensing Is the Entryway for Environmental Crime and Corruption in the Natural Resources Sector’, *Kompas.id*, 8 September 2022, <https://www.kompas.id/baca/humaniora/2022/09/08/perizinan-jadi-pintu-besar-kejahatan-lingkungan-dan-kowisata-besar-source-daya-alam>.

²³ Indonesia’s Corruption Eradication Commission (KPK) Public Relations Bureau, ‘KPK Name a Suspect in Mining Business Licensing Corruption in Tanah Bumbu, Press Release’, 28 July 2022, <https://www.kpk.go.id/id/berita/siaran-pers/2673-tetangkat-tersangka-kokerja-perizinan-usaha-pertambangan-di-tanah-bumbu>.

²⁴ The use of the term public authority limits corruption to the public sector, however, because corruption can also be carried out by the private sector, many scholars see the use of the definition of corruption in a broader sense so that it also includes the private sector.

²⁵ OECD, ‘What Are Bribery and Corruption?’ (OECD, 2013), <https://www.oecdilibrary.org/docserver/9789264205376-3-en.pdf?expires=1711274314&id=en&accname=guest&checksum=8D703C8426CEE77A2ACE203AFE9FA576>.

²⁶ Pavokat Group, ‘Types of Corruption and Corrupt Activities’, n.d., <https://pavocat.com/corruption-and-corrupt-activities>.

²⁷ PAVOCAT is a specialist international counter-corruption consultancy and is part of the PAVOCAT GROUP of counter-corruption companies. We were formed in 2019 by bringing together an elite group of leading [counter-corruption experts](#), to be the world’s first and only full-spectrum counter-corruption service provider. We can address and resolve any corruption problems a client may have from start to finish, because all of our team have decades of experience in this field at the highest level. Our unmatched expertise and experience across all counter-corruption disciplines – from prevention and protection through to investigation and resolution – together with our comprehensive and integrated range of services, makes us the international counter-corruption consultancy of choice for governments, businesses and individuals. Headquartered in central London, we work for clients across the globe, <https://pavocat.com/counter-corruption>.

refers to the person or organization who asks for the bribe. This could take the form of companies offering to pay bribes to enter new markets or win contracts. Or it could be someone in an organization who offers a bribe without the organization's knowledge for their gain. 2) Bribery from request refers to the person or organization who requests or receives a bribe. It could be that government officials ask for money to ensure a company or individual wins a contract. Bribery requires both parties to engage in corruption, and neither organization has robust anti-bribery processes to combat corruption. Alternatively, an organization may decide that bribery at the corporate level is acceptable and part of doing business.

KPK's determination to "target" the licensing officials with articles related to the Eradication of Corruption is regulated in Article 12 Letter A, Article 12 Letter C of Law No. 20 of 2001, and Article 3 of Law No. 31 of 1999. Article 12 letter a Law no. 20 of 2001 determines that civil servants or state officials who receive gifts or promises, even though it is known or reasonably suspected that the gift or promise was given to encourage them to do or not do something in their position, which is contrary to their obligations. Furthermore, Article 12 letter c Law no. 20 of 2001 concerning Amendments to Law no. 31 of 1999 determines that civil servants or state administrators who, to benefit themselves or others unlawfully or by abusing their power, force someone to give something pay, or receive payment at a discount, or to do something for themselves. Then, Article 3 Law Number 31 of 1999, as amended by Law No. 20 of 2001, determines every person, to benefit himself or another person or a corporation, abuses the authority, opportunities, or facilities available to him because of his position or position which can harm the state's finances or the state's economy.

These articles are related to each other, so they are consistent in enforcing the law to prevent or minimize the occurrence of corrupt relationships between officials giving permits and corporations requiring permits. This follows what was written by Faiqoh Nur Azizah,²⁸ Licensing issues and criminal acts of corruption are very closely related. Corruption here is defined as fraud and irregularity in the financial sector. Still, it can also be an act of an official who violates the law by using his position to gain an advantage contrary to his obligations. According to Faiqoh Nur Azizah, a Juris Polis Institute for Law and Public Policy researcher, mining management has a significant role in many people's lives. Additionally, mining management has economic value to provide added value to national economic growth and sustainable regional development. Because of its vital nature, a precise legal instrument is needed through a mining business permit.

Nur Azizah emphasized that permits are the instrument most widely used in administering the government in state administrative law. The purpose of the permit itself is to control the actions and behavior of the community under the government's supervision. An administrative official issues a permit for a prohibited action regulated in statutory regulations for reasons of public interest. The government must grant mining permits at the center and regions to realize orderly administrative government procedures.

In such a context, licensing is a source of environmental damage, so controlling licensing becomes important to mitigate further damage. As written by Gregory Simmons, Mark Vardy, and Rochelle Stevenson,²⁹ in their analysis of environmental damage from the perspective of Green Criminology, illegal behavior is defined as behavior regulated in the Criminal Code (KUHP) or

²⁸ Faiqah Nur Azizah, "Konsep Penyalahgunaan Wewenang Dalam Penerbitan Izin Usaha Pertambangan (IUP) Sebagai Tindak Pidana Korupsi," *ADALAH* 6, no. 4 (June 26, 2022): 31-44, <https://doi.org/10.15408/adalah.v6i4.26808>.

²⁹ Gregory Simmons, Mark Vardy, and Rochelle Stevenson, "13.1 What Is Green Criminology?," Pressbooks, March 1, 2023, <https://kpu.pressbooks.pub/introcrim/chapter/13-1-what-is-green-criminology>.

prohibited by statutory regulations such as the Environmental Protection Law. According to Simmons et al., Green Criminology examines law violations, who breaks the law, and how the justice system responds to these violations. Green Criminology is a critical perspective and draws attention to the role of power in determining laws and who is deemed to have violated those laws.

To prevent environmental damage, the Corruption Eradication Commission burdens licensing officials to be criminally responsible for their actions that cause corporations to damage the environment. Lynch has indirectly responded to the KPK's steps, as quoted by Simmons et al., that environmental damage is not only the role of power in crimes against the environment but also how these crimes have a disproportionate impact on individuals based on race, class, and gender. Species and nature are based on the Green Criminology theory, which expands the idea of victims to include animals such as fish and insects and the environment.

5. Conclusion

Environmental damage caused by corporations' crimes cannot be separated from granting permits from authorized officials in this field because having a permit is an entry point for corporations to exploit natural resources. Various disasters, such as floods, landslides, haze, et cetera, are often confused with natural disasters. To overcome this problem, according to the Corruption Eradication Commission, the permit-granting official can be subject to articles in the Law on the Eradication of Corruption Crimes. The aim is to be careful, selective, and not haphazard in issuing permits. Permits are the first step for corporations to start exploitation activities in the future, apart from holding criminal responsibility for officials who are careless in issuing permits to corporations. It is also necessary to regulate licensing issues properly to prevent environmental damage.

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