International Journal of Latest Research in Humanities and Social Science (IJLRHSS)
Volume 07 - Issue 05, 2024
www.ijlrhss.com || PP. 248-256

The Legal Policy on the Regulation of Sanctions for Illegal Logging Crimes in Indonesia

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Abstract: Illegal logging is the highest forest destruction crime compared to other forest destruction crimes such as environmental damage, forest and land fires, forest encroachment, pollution, and wild plants and animals during the last decade in Indonesia. Based on this phenomenon, this research aims to determine the legal policy regarding sanction arrangements for criminal offenses in Indonesia. The findings show that the regulation of sanctions for the criminal offense of Illegal logging in Indonesia does not yet reflect justice because the content that regulates the criminal offense of illegal logging still creates legal uncertainty. This will then affect law enforcement efforts related to the criminal act of illegal logging, namely related to prosecution and imposition of criminal sanctions on perpetrators of illegal logging. Furthermore, the Revision of Law Number 11 of 2020 on Job Creation goes beyond philosophical and juridical considerations, which emphasize the importance of a conducive investment climate by improving the licensing process and not removing or changing provisions in the Law Number 41 of 1998 on Forestry, Law Number 18 of 2013 on the Prevention and Eradication of Forest Destruction and Law Number 32 of 2009 on the Environmental Protection and Management. The revision of the Job Creation Law fulfills the lex posterior derogate legi priori principle. However, it also contradicts the principle of lex specialist derogate legigeneralis because it discusses more general matters than specific provisions on forestry. Consequently, this contradiction will create injustice in the implementation of law enforcement efforts and the imposition of sanctions in Indonesia.

Keywords: Legal Policy, Sanctions, Criminal Offence of Illegal Logging.

1. Introduction

The fourth paragraph of the Preamble to the 1945 Constitution clearly states that the Indonesian state government was formed to protect the entire nation, and homeland of Indonesia and promote the general welfare. It implies that the state protects all aspects of national and state life in Indonesia. One of which is related to the state's protection of forest preservation as an asset of the Indonesian nation.

Forestry management activities have been realized in connection with the sustainable use of Indonesia's forests as a national asset. As a result, it is anticipated that these activities will significantly contribute to the prosperity of the populace sustainably. This aligns with the 1945 Indonesian Constitution of the Republic of Indonesia, Article 33 section (3), regulating Indonesia's natural resources affairs. This article is the only clause that states the elements of natural resources such as the word "the land", "the waters," and "the natural resources". As mentioned in Article 33 section (3) of the 1945 Constitution states, "Earth, water and natural resources contained therein are controlled by the state and used maximally for the welfare of the people." The aspect of the welfare of the people in managing nature in Indonesia is an essential factor. In this case, it is the aim of state control over the land, water, and natural resources contained therein as intended in Article 33 paragraph (3) of the 1945 Constitution.

The legitimization of the control of natural resources by the state as stated in the constitution shows that the Indonesian nation pays special attention to environmental sustainability. Therefore, it provides prosperity for the community. The welfare of the people must also be understood as part of the constitution's recognition of the human rights inherent in every human being towards the environment around them. In this regard, the 1945 Indonesian Constitution, namely 28 H of the 1945 Constitution states, "Every person shall have the right to live in physical and spiritual prosperity, to have a home and to enjoy a good and healthy environment and shall have the right to obtain medical care." This arrangement shows that the right to a good and healthy environment constitutes a constitutional right of the Indonesian people. It means that to ensure and realize the fulfillment of a good and healthy environment, the protection and utilization of forests as part of the current environment must be able to be implemented to realize community welfare.

The Forestry Law No. 41/1999 governs regulation connected with forestry. Utilizing and protecting forests for common prosperity is the main objective of the Forestry Law. In response to that matter, the Forestry Law prohibits activities classified as actions that endanger forests. These include burning forests, mining for forest products without permission, transporting forest products without valid documentation, damaging infrastructure used to protect forests, and using or occupying a portion of a forest area without the Minister's approval. Even though legal regulations govern the protection and use of forests and even criminal threats are imposed, violations still occur. Massive exploitation in the forestry sector, especially timber utilization, has led to legal violations committed by those who utilize the forest, where the majority of large capitalized companies are the players behind the case.

The legal fact is that forest loss will remain high in 2021. According to new data from the University of Maryland on Global Forest Watch, the tropics lost 11.1 million hectares of tree cover in 2021. The emphasis is on the loss of 3.75 million hectares of tropical primary rainforest, which is equivalent to ten football pitches for each minute and is an important area for biodiversity and carbon storage. In 2021, the loss of tropical primary forests will emit 2.5 gigatons of carbon dioxide. Additionally, it is equivalent to India's annual emissions from fossil fuels.

The historical loss of forests has continued in the last two decades. According to Global Forest Data Watch, Indonesia had 93.8 million hectares of primary forest land in 2001. This is more than half of Indonesia's land area. However, during the period 2002-2020, Indonesia has lost around 9.75 million ha of primary forest land. This condition caused Indonesia to lose 36% of its tree cover during the same period. In 2020, Indonesia lost 270 thousand ha of primary forest land. This was equivalent to a carbon emission contribution of 208 metric tons (mt).

The destruction of Indonesia's tropical forests is very worrying. As realeased in Global Forest Watch (2022) from 2001 to 2021, 96% of tree cover loss occurred in areas where deforestation was the leading cause of tree cover loss In Indonesia. Over the last ten years, forest destruction in Indonesia has reached two million hectares per year. Intentional and unintentional fires are one of the causes of deforestation of primary forest land in Indonesia. Expansion of oil palm plantations, expansion of community agricultural land on the edge of the forest, and exploration of mining land are the causes of the erosion of primary forest land.

Illegal logging is one of the practices that devastate forests. It is said that Indonesia is already in a state of forest emergency due to the impact of this devastation of the forests on extreme weather fluctuations. Paradoxically, many people are involved in this illegal logging business, and it's done methodically planned. Not only does illegal logging happen in industrial areas, but it also happens in national parks and protected forest areas.

The highest number of cases handled by the Ministry of Environment and Forestry between 2015 and 2021 was illegal. According to Yazid Nurhuda, Director of Criminal Law Enforcement, Ministry of the Environment and Forestry, when it comes to environmental harm, forest and land fires, forest encroachment, pollution, and the extinction of wild plants and animals, the case of illegal logging is more serious than other crimes. Thirty instances of unlawful logging in various locations were reported between January and April 2021. As stated in Kompas.id (2021) Considering all the cases handled from 2015 to 2020, which comes to 497 cases, unlawful logging reached 124 cases in the temporary year.

The case of illegal logging crimes in Indonesia deserves to be studied from a philosophical, legal and sociological perspective. This happens because if legal politics does not force its implementation, then existing regulations will have an impact on natural resources, the economy, and even human resources. Nature is Indonesia's strength. Therefore, researching this issue is very important in law enforcement to prevent illegal logging which causes damage to local forests for many researchers.

Initial problems faced by law enforcers in eradicating illegals Logging is because it is Illegal Logging is a category of well-organized crime. It means some are called Actors Intellectual and Material actors. The perpetrators of this material sometimes come from workers who are given wages to carry out illegal logging activities from companies who want to cheat only for their personal or company interests. It is difficult to enforce fair laws to eradicate the criminal offense of illegal logging is because only workers. In this case, the ordinary workers are subject to legal action, while intellectual actors and capital owners can escape from the law.

Law Number 41 of 1999 juncto Law Number 19 of 2004 on Forestry, hereinafter referred to as the Forestry Law, apparently cannot deter perpetrators because of its administrative position. penal law with an approach based on the principle of subsidiarity, namely that criminal law functions as the ultimate remedium. Due to this flaw, several articles from the Forestry Law were withdrawn and regulated separately in Law Number 18 of 2013 on Prevention and Eradication of Forest Destruction resulting in a transition from administrative penal law to criminals' law, and criminal law functions as the prime remedium.

The ratio leges for regulating criminal offense of illegal logging in the Prevention and Eradication of

Forest Destruction Law is because the Forestry Law is unable to provide a deterrent effect for perpetrators because of its position as administrative law, so criminal law functions as the ultimate remedium even though there has been a change in the form of illegal logging crime from conventional crime to organized crime and it has had a tremendous impact so that it is necessary to change the function of criminal law to primum remedium.

Law Number 18 of 2013 on Prevention and Eradication of Forest Destruction focuses on eradicating forest destruction carried out in an organized manner, namely activities carried out by a structured group, consisting of two or more people, and who act together at a certain time with the aim of carrying out forest destruction but does not include community groups who practice traditional cultivation. According to the explanation of Law Number 19 of 2013 the exceptions to conventional farming activities are given to people who have lived for generations in the forest area and have carried out farming activities by following the rotation tradition established by their group.

The imposition of criminal sanctions on corporations that have been proven to have carried out illegal logging in the use of forest products is hoped that the threat of criminal sanctions can prevent criminal acts of forest destruction employing illegal logging by corporations and their management. Besides that, it is an effort to enforce the law, especially criminal law, to provide a deterrent effect for corporations and their management as perpetrators of acts and for other corporations so that they do not commit the same criminal offense.

Based on the idea that criminal law is the body of legislation that governs transgressions and crimes against the public interest, there is a focus on using it to punish firms engaged in illegal logging. The defence of society is the goal of criminal law. Julie (2009 Everyone in the organization will live in peace and safety if they are scared to do evil things for fear of being punished.

The application, as mentioned earlier, penalty criminal, certainly depends on position, from the goal of the law ,whichis to establish justice to uphold the equality or balance principle. Muladi said that the conditions for optimal use of criminal witnesses must include the following conditions:

According to most members of society, these prohibited acts are considered dangerous and essential to society.

The application of criminal witnesses to prohibited acts is consistent with the objectives of punishment.

Eradicating these acts will not hinder or impede desired community behavior.

This behavior can be understood in a way that is impartial and non-discriminatory.

Arrangement through the criminal law process will not give the impression of making things worse, either qualitatively or quantitatively.

There are no reasonable options for the criminal witness to deal with this behavior. Based on [1] the principles of corporate liability in Indonesia are not regulated in general criminal law but is spread in special criminal law (the principle of corporate responsibility is not recognized in its natural biological connotation (natuurlijke person).

According to Barda Nawawi Arief, a criminal science expert, it is said that there are considerations in giving criminal sanctions to a person or corporation, including :

Determining sanctions in criminal legislation is not just a technical matter of the legislation but is an inseparable part of the substance or material of the legislation. This means that the issues of penalization, depenalization, criminalization, and decriminalization must be understood comprehensively with all aspects of the issue of legal substance regarding legislative policy. This issue needs serious attention considering criminal law's various limitations and capabilities in tackling crime. Moreover, there is often a tendency in legislative policy products that criminal law is almost always used to frighten or safeguard various kinds of crimes that might arise in various fields.

As one of the central problems in criminal politics, criminal law sanctions should be carried out through a rational approach, because if not, it will lead to"The Crisis of Over Criminal Law". The importance of this rational approach has been widely stated by criminal law and criminology experts, including: GP. Hoefnagels, Karl. O. Christiansen, J. Andenaes , Mc . Grath WT and W. Clifford .

The policy problem of determining the type of sanctions in criminal law cannot be separated from the problem of determining the goals to be achieved in punishment. In other words, the formulation of criminal objectives aims to distinguish and measure the extent to which the types of sanctions, whether in the form of "criminals" or "actions" that have been determined at the legislative policy stage, can achieve the objectives effectively. Even though the sanctions for each form of crime are different, all sanctions determined in criminal law must still be oriented towards the purpose of the punishment.

The imposition, application or enforcement of criminal sanctions against an individual or a corporation can be understood based on the viewpoints previously stated. In this situation, the application of criminal sanctions against companies caught committing illegal logging in the utilization of forest products is the next step. The threat of criminal sanctions is expected to deter the occurrence of forest destruction crimes committed by companies and their management who commit illegal logging. Furthermore, legal enforcement, especially

criminal law, is an effort to provide a deterrent effect for corporations that commit criminal acts as well as for other corporations. The criminal law is a rule of law that regulates offenses and crimes against the public interest. [2] said that criminal law aims to protect society. If people are afraid of committing criminal acts or fear of being punished, then all of society would be peaceful and safe.

In the upcoming development arrangement, it is known that on November 2, 2020, the Jokowi government has promulgated Law Number 11 of 2020 on Job Creation. The regulation was formed as a form of policy to harmonize and synchronize the hyper-regulatory crisis in Indonesia. Other than it also aim to revive the economy to attract investment, jobs, and business competitiveness.

Concerning living environments and substance The Job Creation Law is known to have deregulated several regulations, including those about criminal penalties for organised and structured groups that engage in illegal logging, forest fires, and deforestation. These regulations then give rise to issues with inconsistencies between the law's provisions and other statutory regulations that may cause environmental injustice.

Law enforcement officials may face legal uncertainty when attempting to enforce the environmental justice-based Illegal Logging law following the passage of the Job Creation Law, which amended, added, and removed several articles from the Prevention and Eradication of Forest Destruction Law. It will present a chance to quicken the destruction of peat, deforestation, and natural forest cutting. In addition, because a corporation can only be punished by paying a fine, it will be protected from legal action.

The existence of the Job Creation Law by amending and revoking criminal regulations for criminal offenses of forest destruction, including illegal logging, has gone beyond subjects that should be limited according to the philosophical and juridical basis of the Job Creation Law. This gives rise to legal problems, namely legal conflicts that give rise to legal uncertainty and environmental injustice which must be immediately addressed. The existence of these legal conflicts raises problems related to the legal politics desired by the State in looking at the issue of law enforcement efforts against illegal logging in Indonesia. As an official legal policy desired and determined by the State, the State is obliged to have firm choices in determining the choice of sanctions for illegal logging practices. From the perspective of achieving legal objectives, the direction of firmness of choice which is based on the fulfillment of legal certainty efforts must be carried out as a form of achieving regulations that fulfill a sense of justice towards the community regarding the fulfillment of existing environmental rights.

Achieving legal objectives based on fulfilling a sense of justice is in line with the constitutional arrangements regulated under Article 33 of the 1945 Constitution. However, the desire to achieve this has become a problem if it relates to conflicting arrangements that have been carried out based on existing statutory regulations. This means that more research is required to fully understand the legal policy of the State concerning the regulation of sanctions for the illegal logging in Indonesia, which is predicated on upholding the ideal of environmental justice for society.

2. Methodology

This research aimed to determine the legal policy regarding sanction arrangements for criminal offenses in Indonesia. In this case, the methods included in normative juridical research to analyze the legal rules governing sanctions against criminal offenses of illegal logging in Indonesia. The approaches used were consist of conceptual, statutory, comparative, and philosophical.

Furthermore, the legal materials included in this study are divided into three categories: basic, secondary, and tertiary. They were all connected to the legal policy that governs the sanction for the criminal offenses of illegal logging. This entire body of legal material was gathered through a literature review. Then all the legal materials gathered from the literature review are systematically organized for discussion and qualitative analysis without the use of statistical data to address the issues raised.

3. Finding and Discussion

The presence of Job Creation Law as an Omnibus law revises and revokes several articles in the Forestry Law, Law on Prevention and Eradication of Forest Destruction, and Law on Environmental Protection and Management, which includes deregulation of criminal provisions on forest destruction and illegal logging. This has resulted in legal contradictions between Article 37 number 20 of the Job Creation Law with Article 36 number 19 and Article 37 numbers 12-17 in the Job Creation Law, causing legal problems in law enforcement against forestry-related crimes including illegal logging crimes that increasingly threaten environmental sustainability in Indonesia. On the other hand, decriminalization as regulated in Article 37 number 20 of the Job Creation Law creates injustice because structured and organized actors who carry out deforestation and illegal logging are not punished and are only subject to administrative sanctions. The disharmony between the articles mentioned above creates legal uncertainty in the prosecution and imposition of criminal sanctions on perpetrators of forest destruction, including illegal logging.

The decriminalization of crimes related to the environment is governed by Article 22, Point 32 of the Job Creation Law. Logging into the forest without authorization or in violation of the law is one of the most common activities. Illegal logging transforms the physical characteristics of the living biological environment, which in turn damages the living environment. Activities that constitute criminal acts are listed in Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction, Article 98 paragraph (1) and Article 99 paragraph (1) criminal provisions.

The Omnibus Law approach to the Job Creation Law is to prioritize the principle of lex posterior derogate legi priori followed by "closing provisions" to repeal regulations that are going to be repealed. The Omnibus Law will override the principle of lex specialist derogate legigeneralis because Omnibus Law regulates more generally. The existence of the Job Creation Law as an omnibus law revokes several provisions of articles such as; 1) in the Forestry Law, 2) the Prevention Law and 3) the Eradication of Forest Destruction and the Environmental Protection and Management Law. This regulation does fulfill the principle of lex posterior derogate legi priori. However, in reality, it contradicts the principle of lex specialist derogate legigeneralis. This happens because the Job Creation Law discusses more of these things. General than the Forestry Law and the Environmental Protection and Management Law, which specifically discuss forestry.

Article 33 of the 1945 Constitution as the basis for natural resource management, Law Number 11 of 2020 on Job Creation aims to improve the investment ecosystem, and the acceleration of national strategic projects has the potential to conflict with Article 33 of the 1945 Constitution which aims to law enforcement in the forestry sector, the aim of which is to preserve the environment and maximize the prosperity of the people, requires a progressive and responsive formulation in law enforcement by law enforcers by prioritizing environmental justice in handling environmental crimes, including illegal logging, especially in law enforcement based on the Forestry Law, the Prevention and Eradication of Forest Destruction Law and the Environmental Protection and Management Law, some of the articles contained therein are the application of environmental justice to provide legal certainty in efforts to prevent and destroy forests, which have been changed and deleted. after the establishment of the Job Creation Law which aims to improve the investment ecosystem and accelerate national strategic projects.

Even though there are administrative sanctions, environmental restoration obligations are not regulated by the Job Creation Law and its derivative government regulations. This shows that forests are not only seen as a resource, but rather a sustainable life support system in forest areas because equating sustainability due to regulatory conflicts with sustainability resulting from violations will lead to the whitewashing of criminals in the natural resources sector. The context of amnesty is in settlement by simply paying administrative sanctions. This has given rise to a polemic, because based on previous provisions, violations of the continuity of business or activities in forest areas like this can already be subject to criminal sanctions. However, the Job Creation Law provides flexibility for resolution with administrative sanctions. This can trigger the possibility of violators releasing legal responsibility and being able to repeat their actions.

The Job Creation Law, which amended, added, and removed several articles from the Forestry Law, the Prevention and Eradication of Forest Destruction Law, and the Environmental Protection and Management Law, presents a challenge to environmental justice when it comes to enforcing the illegal logging laws. This could leave law enforcement officers uncertain about their legal standing when attempting to enforce the law. This is dependent on environmental justice. Deforestation, peat degradation, and natural forest clearing will all be accelerated as a result. Additionally, businesses will be free from the law because the only way to fulfil a sentence is to pay a fine.

Based on the provisions of Article 6, in paragraph (1) of the Law on the Establishment of Legislative Regulations, the content of Article 37 number 20 of the Job Creation Law and Article 22 number 32 of the Job Creation Law violates the principle of Justice, Principles Similarity Position in Law and Government, Principles Legal Order and Certainty, Principles Balance, Harmony, and Alignment. The implementation Article 37 number 20 and Article 22 number 32 of the Job Creation Law Work causes conflict with several laws such as; the Environmental Protection and Management Law, the Prevention and Eradication of Forest Destruction Law, and the Forestry Law, by decriminalising some activities, such as planting without a licence. The Central Government's efforts in the forest area that have occurred over the years are in the form of; transferring and receiving entrusted plantation products that operate in the forest area without a permit. Purchasing, marketing, and processing plantation products from plantation origins starting from plantation stages within unlicensed forest areas are examples of efforts that must be carried out by the central government. Besides that, another related example is conducting other activities in the nearby forest without permission from the Central Government. However, prior to the enactment of the Job Creation Law, there were efforts made by the government. This is highly contradictory to the Forestry Law, the Law on Prevention and Eradication of Forest Destruction, and the Law on Environmental Protection and Management which all regulate illegal logging, including by corporations, and make violations of their provisions as illegal.

The Job Creation Law's foundational elements can be examined. The concept is that one of the key elements in putting national development into practice is the fulfilment of the right to a decent life through work and living. This helps to build Indonesian society overall as well as Indonesian humanity. To attain a successful, just, equitable, good, and materially and spiritually prosperous society grounded in Pancasila and the Republic of Indonesia's 1945 Constitution There are three legal issues that is first, various governing law investment and MSEs do not in accordance with developments over time and development need public; second, There is disharmonization or overlapping overlap between Constitution One with others related arrangement investment so that with exists various Constitution the it turns out become reason problem ultimately the complexity of the business process in Indonesia become become inhibitor creation field; third, the regulations no adequate enactment weak. Third problem intended can classified as problem law. The problem Then is problem law related to the Constitution in large numbers. Therefore, formation policy Job Creation Law must be done through Legislation omnibus law. As released in the academic paper [3] Constitution Omnibus reflect an integration, codification regulation where objective to make it effective application regulation.

Based on the philosophical and legal foundations that emphasize the importance of climate investment, the Job Creation Law should be to concentrate on one area namely; the way to create climate-friendly investment by simplifying the licensing process, rather than disabling or amending other unnecessary provisions. Climate-friendly investments and environmentally-unfriendly investments are interconnected. For instance, decriminalizing those who destroy forests would be detrimental to the Indonesian nation and state. Indonesia welcomes investors who believe they can positively impact the country's development. However, it is closed to people and businesses that use any tactics including illegal logging to maximize profits at the expense of the environment and human welfare. The existence of the Job Creation Law by amending and revoking the regulation of criminal acts of forest destruction including illegal logging has exceeded the subject that should be limited based on the philosophical and juridical foundations of the Job Creation Law. This issue leads to conflicting laws, ambiguous laws, and unfair laws, this law must be resolved immediately to overcome environmental problems.

Principle certainty law will put aside decriminalization carried out by the Job Creation Law based on interests' economy and convenience investment simply, sacrificing right on healthy environment as guaranteed constitution. Principle certainty the law will too presenting policy law criminal illegal logging by corporations as primum remedium, not only limited criminal fine, but also criminal prison.

The need to use criminal sanctions is primum remedium because when the use of criminal sanctions becomes secondary or ultimate remedium In solving the problem of environmental pollution, it has given rise to several weaknesses, including:

In general, the civil case process takes quite a long time, because it is very likely that the polluter will delay the trial or execution by filing an appeal or cassation, while the pollution continues.The recovery period is difficult to do immediately, it takes quite a long time. By not applying criminal sanctions, there is no deterrence effect of other sanctions cannot be expected to be good, administrative sanctions can result in the closure of industrial companies which also has consequences for workers, increasing unemployment and causing other dangers and crime vulnerabilities.

Law enforcement in the environmental sector according to Keith Hawkin, as quoted by Koesnadi Hardjasoemantri, that environmental law enforcement can basically be seen from two systems or strategies which are characterized by improving regulations and providing a penalty style. Therefore, it is a necessity that criminal provisions are included in environmental regulations so that environmental law enforcement can run effectively.

The implementation of national development must be pro -environmental or protect the environment in accordance with the principles of sustainable development. [4] explains that it ensures the survival and maintenance of the environmental carrying capacity for the lives of future generations. There are pro-environmental policy elements, as [4] said that the 1945 Constitution is one of the green constitutions in the world, although the shades of green are still very thin. [4] stated this further: "Even though the environment has been stated in Environmental Protection and Management Law, it is closely related to the Trade, Industry Law, even with the Cooperative Law only. The Environmental Law will be defeated in practice. Even though pro-environmental policy elements have been mandated in the 1945 Constitution and outlined in legislation related to environmental protection and management, the Government often commits environmental injustice, for example, in administrative conflict resolution regarding criminal offense of illegal logging carriout by corporations according to the Job Creation Law. Corporations as legal subjects for criminal acts of illegal logging should apply the primum principle Remedium is not only a fine but also a prison sentence like the crime of illegal logging by individuals, bearing in mind that criminal acts by corporations have a much wider scope and much greater impact of loss than criminal acts by individuals. Decriminalization of the criminal offense of illegal logging by corporations creates injustice if corporations can only be subject to fines while individuals can

be subject to imprisonment when committing the same crime.

It is crucial to address environmental injustice, which is a common occurrence in Indonesia as previously said, given the rapidly evolving democratic landscape in many nations, including Indonesia. As [5] once observed, "justice must be fought for," the concept of environmental justice has evolved from appearing abstract to something that actually needs to be battled for. According to The change agenda for environmental justice will not be possible without significant and broad political power, involving various important elements or components in society, and of course supported by intellectuals who are committed to reform by positioning the environment in the mainstream. The global environmental crisis that we are experiencing today actually originates from fundamental philosophical errors in humans' understanding or perspective regarding themselves, nature, and humans in the entire ecosystem, which is known as worldview which is taken from the German word weltanschauung which means perspective or view of the world. In turn, this wrong perspective gives birth to wrong behavior towards nature. Humans mistakenly view nature and place themselves in the context of the universe, as Albert Schweitzer expressed, "The biggest mistake of all ethics so far is that they only talk about the relationship between humans and humans." This is the beginning of an environmental disaster and therefore, its improvement must also involve improving human perspective and behavior in interacting, both with nature and with other humans in the entire ecosystem. Environmental issues are moral issues, so solving environmental problems cannot be approached only in a partial technical way.

Emil Salim said, "Environmental ethics determines aspects that influence human relations with the environment." According to Arne Naess, the only solution to address the current environmental problem is for people to drastically alter their attitudes towards and interactions with the natural world. There needs to be a shift in lifestyle that considers both the culture of society at large and the needs of individual persons. Based on [5] this implies that to help humans engage with the universe in novel ways, environmental ethics are required. Ethics is a moral philosophy, or science that discusses and critically examines moral right and wrong issues about how to act in concrete situations. Errors in human thought patterns and patterns of action in responding to nature and managing various energies and materials which in it has brought about the greatest human tragedy in the form of a continuous environmental crisis. Since the industrial revolution with massive factories and technological equipment growing rapidly, exploitation and destruction of natural entities such as species, individuals and ecosystems has occurred. This shocked people and raised awareness of green movements and understanding of environmental ethics from an environmental philosophy perspective. Environmental philosophy is a new philosophy proposed by Henryk Skolimowski in Eco-Philosophy: Designing New Tactics for Living. Which according to [5] it considers the relationship between one individual and another and also with their environment, as a comparison with contemporary philosophy resulting from modernism. Human perspectives and interaction behavior, both with nature and with other humans in the entire ecosystem, already exist in traditional or societal society.

According to [5] environmental problems are moral problems of human behavior. Therefore, ethics and morality are needed to overcome this problem. The management of natural resources and the environment is seen as an operational technical activity with the aim of fulfilling human needs and all the forms of material development. Marfai argues that the denial of the paradigm and philosophy of ethics and morality in the management and utilization of natural resources and the environment has justified all forms of human activities. Besides, [6] said these activities have caused negative impacts and more damage to natural resources and the environment. Problems of resource management and utilization natural resources and the environment are not merely operational technical issues, but need to be based on ethics and morals. Utilization of natural resources and the environment is not a form of exploitation of nature under the pretext that all existing resources on earth are provided and used as much as possible to fulfill human needs and human life. As explained by [7] environmental morality prioritizes mutual respect and appreciation for the various existing environmental components in a proportional and balanced manner. It means that every component related to the environment and ecosystem has certain values and benefits. Therefore, it should not be violated to avoid inequality and environmental crises. This philosophical understanding of environmental morality is necessary about utilizing existing natural resources.

The utilization of natural resources to fulfill human needs is not only seen from the perspective of fulfilling material needs and physical development but also from the need for a better quality of life in a broad sense. The morality of the environment provides an opportunity for the balance of rights and obligations of each component in the ecosystem as well as the environment to respect others and function synergistically. Environmental morality also provides space and respect for interactions between, humans and other environmental components. Moreover, it also emphasizes the mindset and behavior of humans in managing natural resources and the environment.

The environmental justice concept, functionally and experimentally linked to sustainable development, it is based on the Fifth Precept of Pancasila. A development that addresses the needs of the present without

compromising the ability of future generations to address their own needs is called as sustainable development. Black Law Dictionary determines social justice as, "Justice under moral principles, such as that all people are equal". It is not an individual moral issue, but rather a social issue that deals with impersonal structural issues. Meaning, the implementation of social justice is not determined by the good and bad will of certain individuals, but depends on the existing power structures in society, such as economic, political, and cultural structures. Social justice demands that the social benefits available in society are distributed in such a way that they reach the most disadvantaged members of society. The intended meaning of social justice cannot be separated from its relational nature. As explained by Amartya Sen the constellation of the types of justice involves 2 (two) approaches, namely:

Transcendental approach (transcendental institutionalism): Identification of justice is by searching for and establishing fair social characteristics to then form a social institution or institution that is capable of upholding moral principles.

Reality comparison approach (realization focused comparison): The efforts made by this approach to formulate the meaning of justice are not by formulating social characteristics and forming social institutions. By conducting this approach, [8] said that justice can be seen in terms of reality, namely the unjust condition of society, so that justice is an effort to dismantle or change this unjust order.

To represent the content of environmental justice that fulfills the meaning of social justice, fair social characteristics are needed. Just social characteristics can be fulfilled through the application of the principles of international environmental law. The integration of global environmental law principles into Indonesian national law was adopted through two mechanisms: first, through international ratification law instruments in the environmental sector; second, through direct adoption by including these principles in Indonesia's national environmental legislation.

The 1945 Constitution is the constitution's supremacy and the legislation hierarchy in a legal system that contains consequences. Consequently, all existing and future legislative provisions, including changes to statutory provisions, must be sourced from the provisions in the 1945 Constitution. Based on [9]) explanation that the aim is to ensure conformity with norms as a unified legal system. According to Koesnadi Hardjasoemantri , the basic principle that underlies the development and protection of life in Indonesia is contained in the Preamble to the 1945 Constitution in the 4th paragraph which reads: Subsequent thereto, to form a Government of the State of Indonesia which shall protect the whole Indonesian nation and the entire native land of Indonesia and to advance the public welfare, to educate the life of the nation, and to participate in the execution of world order which is by virtue of freedom, perpetual peace and social justice, therefore the National Independence of Indonesia shall be composed in a Constitution of the State of Indonesia".

The provisions that emphasize the state's obligation and the government's obligation is indeed need to protect the entire nation and the homeland of Indonesia from the environment. The context of the entire Indonesian nation is defined as environmental human resources, which defines humans as a socio-system. Meanwhile, the entire Indonesian nation is interpreted as a physical component that constitutes the biotic community and the abiotic community. The explanation of the government's duties as stated in the Preamble to the 1945 Constitution can also be found in Article 33 of the 1945 Constitution, which states that, "the land", "the waters," and "the natural resources". As stated by [9], [10] in Article 33 section (3) of the 1945 Constitution states, "Earth, water and natural resources contained therein are controlled by the state and used maximally for the welfare of the people". Article 33 Paragraph 3 of the 1945 Constitution indicates the government's duty to protect the entire Indonesian nation, including the environment. In this context, it is clearly and unequivocally stated that the contract exists between public rights (the state) and private rights (citizens) in utilizing the environment, including the resources therein. In other words, the state is obliged to manage nature in Indonesia is an essential factor that is the aim of state control over the land, water and natural resources contained therein as intended in Article 33 paragraph (3) of the 1945 Constitution.

In the Preamble to the 1945 Constitution, paragraph 4 and Article 33 Paragraph (3) of the 1945 Constitution, one can find a concrete explanation of the provisions of Article 33 Paragraph (4) of the 1945 Constitution and Article 28 H Paragraph (1) of the 1945 Constitution. Article 33 paragraph (4) of the 1945 Constitution States that; "The national economy shall be conducted by economic democracy under the principles of togetherness, efficiency with justice, sustainability, environment insight, autonomy, as well as by safeguarding the balance of progress and national economic unity". Article 33 paragraph (4) of the 1945 Constitution seeks to integrate economic development with issues of democracy, solidarity, efficiency, justice, sustainability and other environmental principles. Article 33 Paragraph (4) of the 1945 Constitution is still written in general language, requiring further elaboration in the form of lower regulations interpretation from the court. Article 28 H Paragraph (1) of the 1945 Constitution further states that, every person is entitled to live prosperous physically and spiritually, to have a place to reside, and to acquire a good and healthy living environment as well as be entitled to obtain health cares". Article 28 H Paragraph (1) of the 1945 Constitution

expressly states Indonesia's recognition of environmental rights as part of Indonesian society's basic rights (human rights). According to [4] the existence of Article 28 H Paragraph (1) of the 1945 Constitution is to show that the constitutionalization of the environment aims to ensure that there are no longer any policies and statutory regulations under the 1945 Constitution that conflict with the 1945 Constitution which is already pro-environment. The existence of Article 33 Paragraph (4) of the 1945 Constitution and Article 28 H Paragraph (1) which is pro-environment is called green constitution by [4]

There are two main reasons why the constitutional concept and green economy are crucial to be understood and considered by all components of the people in Indonesia. The first is that sustainability conditions must lay and reinforce the conceptual foundation regarding environmental issues and environmentally sound sustainable development. The second is that the 1945 Constitution, as the supreme law of the state, basically contains basic ideas about environmental sovereignty and ecocracy, whose values can be equated with the concepts of democracy and nomocracy. Nature is interpreted and recognized as having its own sovereignty. Hence, in relation to humans as sovereign beings, so the nature must also be sovereign. This is referred to as the principle of environmental sovereignty contained in the 1945 Constitution.

The existence of the Job Creation Law, which aims to improve the investment ecosystem and accelerate national strategic projects is potentially against the Article 33 of the 1945 Constitution. In which it is stated that the article aims to enforce the law in the forestry sector to preserve the environment and maximize the prosperity of the people. Hence, to provide legal certainty in efforts to prevent corporate illegal logging, law enforcement of corporate illegal logging needs to be carried out progressively and responsively by prioritizing environmental justice based on the politics of criminal law. Criminal sanctions are the main means to achieve this goal. For this reason, after the enactment of the Job Creation Law, it was amended and removed to improve the investment environment and accelerate national strategic initiatives.

4. Conclusion

The sanctions for the crime of illegal logging in Indonesia do not yet reflect justice because the content material that regulates the crime of illegal logging still creates legal uncertainty, which will then affect law enforcement efforts related to the crime of illegal logging, namely related to prosecution and imposition of criminal sanctions against perpetrators of illegal logging crimes. Moreover, the Revision of Law Number 11 of 2020 on Job Creation goes beyond philosophical and juridical considerations that emphasize the importance of a conducive investment climate by improving the licensing process, and does not amend the provisions in some laws, such as: 1) Law Number 41 of 1998 on Forestry, 2) Law Number 18 of 2013 on Prevention and Eradication of Forest Destruction, and 3) Law Number 32 of 2009 on Environmental Protection and Management. The revised Job Creation Law (UU Cipta Kerja) does fulfill the principle of lex posterior derogate legi priori. However, the Law also contradicts the principle of lex specialist derogate legigeneralis upon its implementation. This is because it discusses more general matters compared to the specific provisions on forestry. Such conflict will give rise to injustice in implementing law enforcement efforts and imposing sanctions in Indonesia. The conclusion suggests a review of the material contained in the Job Creation Law that regulates the crime of illegal logging, in order to harmonize and synchronize with laws that specifically regulate the environment and forestry.

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