Kertha Patrika
P-ISSN 0215-899X E-ISSN 2579-9487

Justice in Handling Environmental Crimes by Corporations: A Legal Philosophical Review of Postponement of Prosecution

Nadya Karunia Normayunita[1], Rahadi Wasi Bintoro[2], Sri Wahyu Handayani[3], Jared Ivory[4]

[1]Master's program in law, Jenderal Soedirman University, Indonesia, E-mail: nadyakarunia14@gmail.com
[2] Master's program in law, Jenderal Soedirman University, Indonesia, E-mail: rahadi.bintoro@unsoed.ac.id
[3] Master's program in law, Jenderal Soedirman University, Indonesia, E-mail: sri.handayani@unsoed.ac.id
[4]Charles Darwin University, Australia, E-mail: j.ivory@cdu.edu.au

Article Info
Submitted:21-04-2026
Accepted:29-07-2026
Published:30-08-2026

Keywords:
Ecological Justice; Corporate Criminal Liability; Deferred Prosecution Agreement; Environmental Criminal Law; Sustainable Development

Abstract
Corporate environmental crimes present unique legal challenges because the resulting harm extends beyond economic loss to include ecological degradation and long-term impacts on future generations. The enactment of Law Number 20 of 2025 introducing the Deferred Prosecution Agreement (DPA) marks a significant shift in Indonesia's criminal justice system toward restorative justice by allowing prosecutors to suspend or terminate criminal prosecution against corporations that fulfil specified obligations. However, the compatibility of this mechanism with the philosophical objectives of environmental criminal law remains insufficiently explored. This study aims to critically examine the application of DPA in corporate environmental crimes from the perspectives of legal philosophy, restorative justice, distributive justice, and ecological justice. The research employs normative legal research using statutory and conceptual approaches. Legal materials were collected through library research and analysed using qualitative doctrinal analysis. The findings indicate that although DPA promotes procedural efficiency, accelerates environmental restoration, and strengthens corporate compliance, its application to environmental crimes raises significant normative concerns because financial compensation cannot always restore irreversible ecological damage or adequately protect the rights of future generations. Furthermore, the absence of clear statutory limitations on the application of DPA risks weakening the deterrent function of criminal law and creating moral hazards for corporate offenders. This study argues that DPA should not be applied uniformly to all corporate environmental crimes but should be limited to cases where environmental recovery remains genuinely achievable. Severe environmental offences causing irreversible ecological harm should remain subject to ordinary

criminal prosecution to ensure proportional accountability, ecological sustainability, and substantive justice. The study contributes to the development of Indonesian environmental criminal law by integrating restorative justice with distributive justice, ecological justice, and intergenerational justice in evaluating corporate criminal responsibility.

Kata kunci:
Keadilan Ekologis; Pertanggungjawaban Pidana Korporasi; Hukum Pidana Lingkungan; Pembangunan Berkelanjutan; Keadilan Antargenerasi.

Corresponding Author:
Nadya Karunia Normayunita, E-mail: nadyakarunia14@gmail.com

DOI:
https://doi.org/10.24843/KP.2026.v48.i02.p04

Abstrak

Kejahatan lingkungan yang dilakukan oleh korporasi menimbulkan karakteristik hukum yang berbeda dengan tindak pidana pada umumnya karena kerugian yang ditimbulkan tidak hanya berupa kerugian ekonomi, tetapi juga mencakup kerusakan ekologi dan dampak jangka panjang terhadap generasi mendatang. Berlakunya Undang-Undang Nomor 20 Tahun 2025 yang mengatur Deferred Prosecution Agreement (DPA) menandai perubahan penting dalam sistem peradilan pidana Indonesia menuju pendekatan keadilan restoratif dengan memberikan kewenangan kepada penuntut umum untuk menunda atau menghentikan penuntutan terhadap korporasi yang memenuhi persyaratan tertentu. Namun demikian, kesesuaian mekanisme tersebut dengan tujuan filosofis hukum pidana lingkungan masih belum banyak dikaji. Penelitian ini bertujuan menganalisis secara kritis penerapan DPA terhadap kejahatan lingkungan korporasi berdasarkan perspektif filsafat hukum, keadilan restoratif, keadilan distributif, dan keadilan ekologis. Penelitian menggunakan metode penelitian hukum normatif dengan pendekatan perundang-undangan dan pendekatan konseptual. Bahan hukum dikumpulkan melalui studi kepustakaan dan dianalisis secara kualitatif dengan metode analisis doktrinal. Hasil penelitian menunjukkan bahwa meskipun DPA mampu meningkatkan efisiensi proses peradilan, mempercepat pemulihan lingkungan, dan mendorong kepatuhan korporasi, penerapannya terhadap kejahatan lingkungan masih menimbulkan persoalan normatif karena pembayaran kompensasi tidak selalu mampu memulihkan kerusakan ekologi yang bersifat permanen maupun melindungi kepentingan generasi mendatang. Selain itu, tidak adanya pembatasan yang tegas mengenai penerapan DPA terhadap kejahatan lingkungan berpotensi melemahkan fungsi pencegahan hukum pidana dan menimbulkan moral hazard bagi korporasi. Oleh karena itu, penelitian ini berpendapat bahwa DPA tidak seharusnya diterapkan secara umum terhadap seluruh kejahatan lingkungan korporasi, melainkan dibatasi pada perkara yang kerusakan lingkungannya masih dapat dipulihkan. Adapun kejahatan lingkungan yang menimbulkan kerusakan ekologis berat atau tidak dapat dipulihkan tetap harus diselesaikan melalui proses peradilan pidana guna menjamin akuntabilitas korporasi, keberlanjutan lingkungan, dan terwujudnya keadilan substantif. Penelitian ini memberikan kontribusi terhadap pengembangan hukum pidana lingkungan di Indonesia melalui integrasi konsep keadilan restoratif, keadilan distributif, keadilan ekologis, dan keadilan antargenerasi dalam menilai pertanggungjawaban pidana korporasi.

.

1. Introduction

Indonesia possesses abundant renewable and non-renewable natural resources that constitute an essential foundation for national development and public welfare. Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia mandates that land, water, and natural resources shall be controlled by the State and utilized for the greatest prosperity of the people. This constitutional mandate reflects not only an economic objective but also a legal obligation to ensure that the exploitation of natural resources is conducted in accordance with the principles of justice, sustainability, and environmental protection. Consequently, environmental governance in Indonesia is expected to balance economic development with the preservation of ecological functions for present and future generations.[1]

To implement these constitutional principles, Indonesia enacted Law Number 32 of 2009 concerning Environmental Protection and Management, as amended by Law Number 6 of 2023 on Job Creation. The legislation establishes a comprehensive framework for environmental planning, utilization, supervision, restoration, and law enforcement. Nevertheless, environmental degradation caused by corporate activities continues to increase despite the existence of these regulatory instruments. Illegal mining, unlawful logging, peatland fires, and excessive exploitation of natural resources remain recurring problems that cause severe ecological damage and significant economic and social losses for affected communities. These environmental harms frequently extend beyond immediate victims and threaten the rights of future generations to enjoy the same natural resources.

Corporate environmental crimes differ fundamentally from ordinary criminal offences because the consequences are collective, long-term, and often irreversible. Environmental destruction affects not only individuals who directly suffer economic losses but also ecosystems that require substantial time and financial resources for recovery. Accordingly, environmental crimes raise broader questions concerning distributive justice, intergenerational equity, and ecological sustainability. Compensation alone may be insufficient because many environmental losses cannot be fully restored through monetary payment. Therefore, legal responses to corporate environmental crimes require a balance between environmental restoration, corporate accountability, deterrence, and the protection of public interests.

The enactment of Law Number 20 of 2025 concerning the Indonesian Criminal Procedure Code introduces a significant reform through the Deferred Prosecution Agreement (DPA), a mechanism allowing prosecutors to suspend or terminate criminal prosecution against corporate offenders provided that the corporation fulfills specific obligations, including compensation, restitution,

[1] K.E.S. Manik, *Pengelolaan Lingkungan Hidup* (Jakarta: Kencana Prenada Media, 2016), hlm. 43.

compliance programs, or other corrective measures. This mechanism reflects Indonesia's broader shift from a predominantly retributive model of criminal justice toward restorative justice, emphasizing recovery of losses rather than punishment alone. Although such an approach potentially accelerates compensation and environmental restoration, it simultaneously raises fundamental questions regarding whether environmental crimes which often generate irreversible ecological harm should be resolved without criminal conviction. [2]

Previous studies have generally examined the Deferred Prosecution Agreement as an alternative mechanism to improve procedural efficiency, accelerate the recovery of state losses, and encourage corporate compliance. Other studies specifically discuss DPA in relation to restorative justice in environmental cases. However, these studies predominantly focus on the procedural implementation and practical benefits of DPA without critically evaluating its compatibility with broader theories of justice. In particular, limited attention has been devoted to examining whether the application of DPA adequately reflects distributive justice, ecological justice, and intergenerational justice in the context of environmental crimes committed by corporations. Consequently, an important normative gap remains regarding whether restorative justice alone provides sufficient legitimacy for exempting corporations from criminal prosecution when environmental harm extends beyond immediate economic losses. [3]

This article addresses that gap by critically analysing the implementation of Deferred Prosecution Agreements for corporate environmental crimes through the perspectives of legal philosophy, restorative justice, and ecological justice. Rather than merely examining the procedural legality of DPA, this study evaluates whether the mechanism appropriately balances environmental recovery with the fundamental objectives of criminal punishment, including deterrence, accountability, and the protection of collective environmental rights. The article argues that although DPA contributes to efficient compensation and environmental restoration, its application in environmental crimes should remain subject to strict limitations because ecological damage frequently affects future generations and public interests that cannot be adequately protected through restorative measures alone. Accordingly, this research contributes to the ongoing discourse on Indonesian criminal law reform by proposing a more balanced framework that integrates restorative justice with ecological justice and proportional criminal accountability.

---

[2] T. Andana Harris Pratama, Muhammad Ali, and Fadil, "Korporasi Sebagai Subyek Hukum Dalam Tindak Pidana Lingkungan Hidup," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 1 (2023): 611–20.

[3] Muhammad Arafat, "Paradigma Pemidanaan Baru Dalam KUHP 2023: Alternatif Sanksi Dan Transformasi Sistem Peradilan Pidana Indonesia," *JIH: Jurnal Ilmu Hukum* 2, no. 1 (2025): 33–46.

2. Research Methods

The research method used is normative research with a legislative and conceptual approach. In the legislative approach, a study will be conducted on the National Criminal Code, the Criminal Procedure Code, and the Environmental Protection and Management Law related to the handling of environmental crimes committed by corporations from the perspective of legal philosophy and restorative justice. In this study, a conceptual approach will also be used. The conceptual approach is an approach that uses various theories and opinions from legal experts. In this study, the theory of justice proposed by Aristotle and the theory of restorative justice applied in Indonesian positive criminal law will be used. These secondary data sources will be collected through a literature study method and then analyzed qualitatively and evaluatively with the aim of critiquing the application of the postponement of prosecution regulated in Law No. 20 of 2025 for environmental crimes committed by corporations.

3. Result and Discussion

3.1. Restorative Justice from the Perspective of Legal Philosophy and Natural Resource Management

Environmental crimes committed by corporations present distinctive legal characteristics that fundamentally differentiate them from conventional criminal offences against individuals or property. Unlike ordinary crimes, environmental offences often produce irreversible ecological degradation, threaten biodiversity, reduce the availability of natural resources, and generate long-term consequences extending beyond present victims to future generations. Consequently, resolving corporate environmental crimes cannot merely rely on traditional criminal law paradigms that focus either on punishment or financial compensation. Instead, these crimes require a broader philosophical framework capable of balancing environmental restoration, corporate accountability, and intergenerational justice. In this context, the implementation of Deferred Prosecution Agreements (DPA) under the Indonesian Criminal Procedure Code should be examined not only from the perspective of procedural efficiency but also through the lenses of legal philosophy, restorative justice, distributive justice, and ecological justice. Such an approach enables a more comprehensive assessment of whether DPA genuinely fulfils the objectives of environmental criminal law or merely provides an alternative mechanism for corporations to avoid criminal responsibility. [4]

The philosophical foundation of restorative justice can be traced to Aristotle's conception of corrective justice, which emphasizes restoring the injured party to the position they occupied before the wrongful act occurred. According to Aristotle, justice is achieved when legal institutions restore the imbalance created by unlawful conduct through proportional correction rather than excessive retaliation. Corrective justice

[4] Hyronimus Rhiti, *Filsafat Hukum Edisi Lengkap (Dari Klasik Ke Postmodernisme)* (Yogyakarta: Universitas Atma Jaya, 2015).

therefore focuses on repairing harm suffered by victims instead of merely imposing suffering upon offenders. This philosophical approach significantly influences the modern concept of restorative justice adopted in Indonesia's criminal justice reform, particularly following the enactment of Law Number 1 of 2023 concerning the National Criminal Code. The objectives of punishment under Article 51 demonstrate that Indonesian criminal law no longer places retribution as the sole objective of sentencing but instead prioritizes conflict resolution, restoration of social harmony, rehabilitation of offenders, and protection of society. This transformation reflects a progressive understanding that criminal law should generate substantive justice rather than merely inflict punishment. [5]

However, the application of restorative justice to environmental crimes committed by corporations presents unique philosophical challenges. Unlike ordinary criminal cases involving identifiable victims, environmental crimes affect multiple legal interests simultaneously. Environmental destruction causes direct ecological damage while indirectly harming local communities through pollution, health risks, loss of livelihoods, and reduced access to natural resources. Furthermore, environmental degradation frequently extends beyond the present generation, affecting individuals who have no opportunity to participate in contemporary legal proceedings. Consequently, the restoration envisioned under restorative justice becomes considerably more complex because financial compensation cannot fully recover destroyed ecosystems, extinct biodiversity, or environmental functions that require decades to regenerate. Therefore, applying restorative justice to corporate environmental crimes requires broader philosophical considerations than those applicable to conventional criminal offences.

This limitation becomes more apparent when restorative justice is examined alongside Aristotle's concept of distributive justice. Whereas corrective justice seeks to repair individual losses, distributive justice concerns the fair allocation of benefits and burdens within society. In the environmental context, distributive justice requires natural resources to be managed equitably so that both present and future generations enjoy equal opportunities to benefit from ecological wealth. This principle corresponds closely with Article 33 paragraph (3) of the 1945 Constitution, which provides that natural resources shall be controlled by the State and utilized for the greatest prosperity of the people. Accordingly, environmental governance should not merely facilitate economic development but must also preserve ecological sustainability for future generations. When corporations excessively exploit forests, rivers, minerals, or other natural resources solely for private profit, they effectively monopolize resources that constitutionally belong to society as a whole. Such conduct violates distributive justice because environmental benefits become concentrated within corporate interests while environmental burdens are disproportionately borne by surrounding communities and future generations.

The limitations of distributive justice alone have encouraged the emergence of ecological justice as a more comprehensive philosophical framework for environmental law. Ecological justice recognizes that the environment possesses intrinsic value

[5] Bonnarty Steven Silalahi et al., "Perspektif Keadilan Menurut Aristoteles Dan Implikasinya Dalam Etika Bisnis," *Innovative: Journal Of Social Science Research* 3, no. 4 (2023): 1937–46.

independent of its economic utility to humans. Under this perspective, forests, rivers, biodiversity, and ecosystems constitute legal interests deserving protection irrespective of their immediate financial value. Consequently, environmental restoration cannot simply be measured through monetary compensation because ecological systems perform irreplaceable environmental functions, including climate regulation, biodiversity preservation, and maintenance of ecosystem balance. From this perspective, justice is achieved only when legal mechanisms ensure the recovery of ecological functions alongside compensation for affected communities. Therefore, ecological justice expands the objectives of restorative justice by requiring restoration not only of human welfare but also of environmental integrity itself. [6]

The relevance of ecological justice becomes increasingly significant when viewed through the principle of sustainable development embodied in Indonesian environmental legislation. Article 1 paragraph (3) of the Environmental Protection and Management Law defines sustainable development as an integrated effort to balance environmental, social, and economic interests in order to safeguard the welfare of present and future generations. This provision demonstrates that Indonesian environmental law already incorporates an intergenerational perspective within its normative framework. Consequently, environmental criminal law should not merely resolve disputes between corporations and current victims but should also preserve environmental resources for individuals who will depend upon them in the future. Environmental restoration therefore represents not only compensation for present losses but also a constitutional obligation to protect ecological sustainability. [7]

This intergenerational dimension can be further strengthened through John Rawls' theory of justice as fairness. Rawls argues that legal institutions should be designed behind a "veil of ignorance," where decision-makers do not know their future social position and therefore create rules that protect all members of society fairly. Applied to environmental criminal law, this theory suggests that legislators should formulate legal mechanisms as if they themselves could belong to future generations inheriting degraded environmental conditions. From such a perspective, legal rules allowing corporations to avoid criminal prosecution solely by paying compensation may inadequately protect those future generations who cannot participate in present legal processes but will nevertheless bear the consequences of irreversible ecological damage. Thus, procedural efficiency should never outweigh the constitutional responsibility to preserve environmental sustainability for those who have yet to be born.[8]

Similarly, Hans Jonas' Principle of Responsibility provides another important philosophical justification for strengthening corporate accountability in environmental crimes. Jonas argues that technological and industrial progress creates unprecedented risks capable of threatening the existence of future humanity. Consequently, modern

[6] Hyronimus Rhiti, "Rekonstruksi Keadilan Ekologis Berbasis Rights of Nature Dalam Perspektif FIlsafat Hukum Lingkungan," *Sol Justicia* 8, no. 2 (2025): 1–9.

[7] Muhammad Andri Gunawan Wibisana, "Kejahatan Lingkungan Oleh Korporasi: Mencari Bentuk Pertanggungjawaban Korporasi Dan Pemimpin/Pengurus Korporasi Untuk Kejahatan Lingkungan Di Indonesia?," *Jurnal Hukum & Pembangunan Masyarakat* 46, no. 2 (2016): 149–95.

[8] Muslim, "Kejahatan Korporasi Dan Pertanggungjawaban Pidana Lingkungan Hidup," *Jurnal Eksekusi* 3, no. 2 (2021): 82–101.

legal systems must expand ethical responsibility beyond present interests and incorporate long-term environmental protection into legal decision-making. Corporate environmental crimes clearly illustrate the concerns raised by Jonas because industrial exploitation frequently produces ecological consequences extending far beyond immediate economic gains. Accordingly, legal mechanisms such as the Deferred Prosecution Agreement should not merely evaluate whether corporations compensate existing victims but must also assess whether environmental restoration genuinely eliminates long-term ecological risks. If environmental recovery remains uncertain or irreversible damage has already occurred, criminal accountability continues to possess an essential preventive function that cannot be replaced solely through restorative measures.[9]

Accordingly, the philosophical analysis demonstrates that restorative justice remains an important component of Indonesian criminal law reform, particularly because it prioritizes compensation, environmental restoration, and reconciliation over purely punitive sanctions. Nevertheless, restorative justice cannot operate in isolation when addressing corporate environmental crimes.[10] Environmental offences simultaneously implicate corrective justice through victim compensation, distributive justice through the equitable utilization of natural resources, ecological justice through ecosystem restoration, and intergenerational justice through the protection of future generations. Consequently, evaluating the legality of Deferred Prosecution Agreements solely on the basis of restorative justice provides an incomplete assessment of environmental criminal policy. Instead, DPA should be interpreted within a broader philosophical framework that balances recovery, deterrence, ecological sustainability, and constitutional obligations to preserve environmental resources. Such an integrated approach ensures that Indonesian environmental criminal law remains consistent with the principles of justice, sustainable development, and long-term environmental protection while preventing restorative mechanisms from inadvertently weakening corporate criminal accountability. [11]

3.2. Deferred Prosecution as an Implementation of Restorative Justice in Environmental Crimes by Corporations

The enactment of Law Number 20 of 2025 concerning the Indonesian Criminal Procedure Code introduces a significant reform in Indonesian criminal procedure through the Deferred Prosecution Agreement (DPA). Unlike the previous criminal justice framework, which generally required every criminal case to proceed through prosecution and judicial examination, the DPA authorizes public prosecutors to postpone or terminate criminal prosecution against corporate offenders provided that the corporation fulfils specific obligations stipulated in the agreement. These obligations include compensation for victims, implementation of compliance

[9] Dudung Hamidi and Elfrida Ratnawati Gultom, "Pertanggungjawaban Pidana Korporasi Pada KJPP Menurut Undang-Undang Nomor 1 Tahun 2023," *UNES Law Review* 5, no. 4 (2023): 2207–21.

[10] Novy Yandari Nurlaily and Agus Supriyo, "Pertanggungjawaban Korporasi Dalam Kasus Pencemaran Lingkungan Hidup," *Media of Law and Sharia* 3, no. 3 (2022): 255–69.

[11] Dedy Chandra Sihombing et al., "Penguatan Kewenangan Jaksa Selaku Dominus Litis Sebagai Upaya Optimalisasi Penegakan Hukum Pidana Berorientasi Keadilan Restoratif," *Loeus: Jurnal Konsep Ilmu Hukum* 3, no. 2 (2023): 63–75.

programs, cooperation with law enforcement authorities, and other corrective measures considered necessary by prosecutors. The principal objective of this mechanism is to improve legal compliance, accelerate recovery of losses, and enhance the efficiency of criminal justice administration. Conceptually, the DPA represents the institutionalization of restorative justice within Indonesian criminal procedure by emphasizing recovery rather than conviction as the primary indicator of successful law enforcement. [12]

From the perspective of restorative justice, the introduction of the DPA offers several important advantages. Environmental crimes frequently involve highly complex scientific evidence, prolonged investigations, and substantial litigation costs. Establishing a causal relationship between corporate activities and environmental degradation often requires multidisciplinary expert testimony concerning pollution, ecological damage, toxicology, and environmental engineering. Consequently, criminal proceedings may continue for several years before reaching a final judgment. During this period, environmental restoration is frequently delayed, while affected communities continue to suffer economic and ecological losses. The DPA seeks to overcome these practical limitations by enabling corporations to provide immediate compensation and commence environmental restoration without waiting for lengthy judicial proceedings. Therefore, the mechanism potentially accelerates environmental recovery while simultaneously reducing the burden imposed upon prosecutors and courts. [13]

Nevertheless, procedural efficiency should not become the sole indicator of justice in environmental criminal law. Environmental crimes possess characteristics fundamentally different from conventional corporate offences such as fraud, bribery, or financial misconduct. While economic crimes generally produce measurable financial losses that can be compensated through restitution, environmental crimes often generate irreversible ecological damage that cannot be fully repaired through monetary compensation. Forest destruction, biodiversity loss, contamination of groundwater, and ecosystem degradation may require decades to recover and, in certain circumstances, cannot be restored at all. Consequently, evaluating corporate accountability exclusively through financial compensation risks reducing environmental protection to an economic transaction. Such an approach may undermine the intrinsic value of ecological systems recognized within the philosophy of ecological justice.[14]

This concern becomes more evident when the Indonesian DPA framework is examined through comparative legal analysis. The Deferred Prosecution Agreement originally developed within the United States as a prosecutorial mechanism primarily addressing corporate economic crimes, including fraud, corruption, and financial misconduct. The

[12] Valerie Zhou, "Deferred Prosecution Agreement Dalam Hukum Pidana Korporasi Lingkungan: Instrumen Alternatif Penegakan Hukum Untuk Pembangunan Berkelanjutan," *Rio Law Jurnal* 6, no. 2 (2025): 1074–86.

[13] Budi Setiawan, "Pertanggungjawaban Korporasi Dalam Tindak Pidana Investasi Illegal," *Jurnal Hukum Bisnis Dan Korporasi* 12, no. 2 (2023): 167–85.

[14] Hussein Alaydrus, "Penerapan Deferred Prosecution Agreement (DPA) Sebagai Alternatif Penegakan Hukum Pada Tindak Pidana Korporasi Di Indonesia," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 5 (2025): 8035–50.

principal objective was to recover financial losses while encouraging corporate compliance without unnecessarily disrupting legitimate business activities. Similarly, the United Kingdom introduced the DPA under the **Crime and Courts Act 2013**, limiting its application primarily to economic offences committed by corporations, including bribery, fraud, and related financial crimes. Environmental offences generally remain subject to ordinary criminal prosecution because environmental harm is regarded as involving substantial public interests extending beyond private economic loss. The comparative experience of both jurisdictions demonstrates that DPA was never designed principally to resolve environmental crimes producing irreversible ecological consequences.

Indonesia, however, adopts a broader formulation that potentially allows DPA to be applied to all categories of corporate crime, including environmental offences. Such a legislative approach undoubtedly reflects the Indonesian commitment to restorative justice. Nevertheless, the absence of explicit statutory limitations distinguishing environmental crimes from other corporate offences raises important normative concerns. Article 328 of the Criminal Procedure Code does not differentiate between crimes causing purely economic losses and crimes resulting in ecological destruction affecting public interests and future generations. Consequently, prosecutors possess broad discretion to negotiate deferred prosecution even where environmental damage may be exceptionally severe. From the perspective of criminal policy, this legislative design risks undermining the deterrent function traditionally associated with environmental criminal law.

The weakening of deterrence constitutes one of the most significant criticisms of applying DPA to corporate environmental crimes. Criminal punishment serves not only to respond to unlawful conduct but also to prevent future offences through both specific and general deterrence. If corporations recognize that criminal prosecution can ultimately be avoided by paying compensation or implementing compliance programs, financial sanctions may gradually become incorporated into ordinary business calculations rather than functioning as genuine criminal punishment. Large corporations possessing substantial financial resources may perceive compensation payments merely as operational costs associated with profitable but unlawful environmental exploitation. Such circumstances create a moral hazard whereby economic incentives continue to favour environmentally harmful activities despite formal legal compliance. Consequently, the preventive objective of criminal law risks being substantially weakened.

Furthermore, environmental crimes frequently affect collective legal interests rather than individual victims alone. Rivers, forests, coastal ecosystems, biodiversity, and atmospheric quality constitute common goods whose benefits are shared by society as a whole. Damage inflicted upon these environmental resources therefore cannot be equated with private disputes capable of resolution solely through negotiation between offenders and victims. Ecological justice requires that criminal law protect the environment as an autonomous legal interest possessing intrinsic value independent of immediate human economic interests. Accordingly, environmental restoration should complement rather than replace criminal accountability. Restorative justice remains valuable because it facilitates rapid environmental recovery, yet such recovery should

not automatically extinguish criminal liability where serious ecological destruction has occurred.

The Indonesian National Criminal Code already provides a balanced framework capable of integrating restorative objectives with proportional punishment. In addition to fines, corporations may be subjected to additional sanctions including compensation, restoration of environmental damage, implementation of neglected legal obligations, prohibition of certain business activities, suspension of operations, and even dissolution in particularly serious cases. These sanctions demonstrate that environmental restoration and criminal punishment are not mutually exclusive objectives. Rather, both mechanisms may operate simultaneously to ensure comprehensive environmental protection. Consequently, the existence of DPA should not be interpreted as replacing criminal punishment entirely but instead as an exceptional mechanism applicable only where environmental restoration remains realistically achievable and public interests are not seriously jeopardized.

Accordingly, this study argues that the implementation of Deferred Prosecution Agreements in corporate environmental crimes should be subject to stricter legal limitations than those currently provided under Indonesian law. Legislators should distinguish environmental offences causing reversible damage from those resulting in irreversible ecological destruction. DPA may appropriately apply where environmental restoration can genuinely return ecosystems to their previous condition and where corporate cooperation substantially benefits affected communities. Conversely, environmental crimes producing extensive, irreversible, or intergenerational ecological harm should remain subject to full criminal prosecution because the objectives of deterrence, ecological justice, and constitutional environmental protection cannot be adequately fulfilled through restorative measures alone. Such differentiation would establish a more balanced criminal justice policy by integrating restorative justice with ecological justice while preserving the fundamental accountability expected of corporations whose activities threaten Indonesia's environmental sustainability.

4. Conclusion

This study demonstrates that the implementation of the Deferred Prosecution Agreement (DPA) under Law Number 20 of 2025 represents a significant transformation in Indonesia's criminal justice policy by institutionalizing restorative justice within corporate criminal liability. The mechanism seeks to accelerate the recovery of losses, encourage corporate compliance, and improve the efficiency of criminal proceedings by allowing prosecutors to postpone or terminate prosecution when corporations fulfil specific obligations. From the perspective of restorative justice, the DPA offers important practical advantages because it enables faster compensation for victims and promotes environmental restoration without requiring lengthy judicial proceedings. These objectives are consistent with the broader reform of Indonesian criminal law, which increasingly emphasizes recovery, reconciliation, and social balance rather than punishment alone.

However, this research finds that applying the DPA to corporate environmental crimes raises significant philosophical and normative concerns. Environmental crimes differ fundamentally from ordinary corporate offences because the resulting harm extends

beyond measurable economic losses to include ecological degradation, biodiversity destruction, and long-term impacts on future generations. Consequently, evaluating environmental accountability solely through restorative justice provides an incomplete framework for achieving substantive justice. Analysis based on Aristotle's distributive justice, ecological justice, and intergenerational responsibility demonstrates that environmental restoration cannot always be equated with financial compensation. Certain forms of ecological damage are irreversible or require decades to recover, making it impossible for compensation alone to restore the constitutional rights of present and future generations to enjoy a healthy environment.

This study further argues that the current formulation of Article 328 of the Indonesian Criminal Procedure Code does not sufficiently distinguish environmental crimes from other categories of corporate offences. The absence of explicit limitations regarding the application of DPA creates the potential for serious environmental crimes to be resolved without full criminal accountability, thereby weakening the deterrent function of criminal law. Comparative analysis also indicates that jurisdictions such as the United Kingdom and the United States primarily utilize deferred prosecution mechanisms for economic and financial crimes rather than for environmental offences involving substantial public interests. Accordingly, Indonesia should adopt a more restrictive approach by recognizing the unique characteristics of environmental crimes and ensuring that restorative mechanisms do not undermine ecological protection or public confidence in environmental law enforcement.

The principal contribution of this article lies in integrating restorative justice with distributive justice, ecological justice, and intergenerational justice to evaluate the legitimacy of Deferred Prosecution Agreements in environmental criminal law. Rather than rejecting restorative justice, this study proposes a balanced criminal policy in which environmental restoration and criminal accountability operate complementarily rather than substitutively. Deferred Prosecution Agreements should therefore be applied only to environmental offences where ecological recovery remains genuinely achievable and where public interests are not seriously compromised. Conversely, environmental crimes causing irreversible or extensive ecological damage should remain subject to ordinary criminal prosecution and proportional criminal sanctions. Such an approach better reflects the constitutional principles of sustainable development, environmental protection, and justice while preserving both the restorative objectives of criminal law reform and the deterrent function necessary to prevent future corporate environmental crimes.

Reference:

Book

Manik, K.E.S. *Pengelolaan Lingkungan Hidup*. Jakarta: Kencana Prenada Media, 2016.

Rhiti, Hyronimus. *Filsafat Hukum Edisi Lengkap (Dari Klasik Ke Postmodernisme)*. Yogyakarta: Universitas Atma Jaya, 2015.

Journal

Alaydrus, Hussein. "Penerapan Deferred Prosecution Agreement (DPA) Sebagai Alternatif Penegakan Hukum Pada Tindak Pidana Korporasi Di Indonesia." *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 5 (2025): 8035–50.

Arafat, Muhammad. "Paradigma Pemidanaan Baru Dalam KUHP 2023: Alternatif Sanksi Dan Transformasi Sistem Peradilan Pidana Indonesia." *JIH: Jurnal Ilmu Hukum* 2, no. 1 (2025): 33–46.

Hamidi, Dudung, and Elfrida Ratnawati Gultom. "Pertanggungjawaban Pidana Korporasi Pada KJPP Menurut Undang-Undang Nomor 1 Tahun 2023." *UNES Law Review* 5, no. 4 (2023): 2207–21.

Muslim. "Kejahatan Korporasi Dan Pertanggungjawaban Pidana Lingkungan Hidup." *Jurnal Eksekusi* 3, no. 2 (2021): 82–101.

Nurlaily, Novy Yandari, and Agus Supriyo. "Pertanggungjawaban Korporasi Dalam Kasus Pencemaran Lingkungan Hidup." *Media of Law and Sharia* 3, no. 3 (2022): 255–69.

Pratama, T. Andana Harris, Muhammad Ali, and Fadil. "Korporasi Sebagai Subyek Hukum Dalam Tindak Pidana Lingkungan Hidup." *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 1 (2023): 611–20.

Rhiti, Hyronimus. "Rekonstruksi Keadilan Ekologis Berbasis Rights of Nature Dalam Perspektif FIlsafat Hukum Lingkungan." *Sol Justicia* 8, no. 2 (2025): 1–9.

Setiawan, Budi. "Pertanggungjawaban Korporasi Dalam Tindak Pidana Investasi Illegal." *Jurnal Hukum Bisnis Dan Korporasi* 12, no. 2 (2023): 167–85.

Sihombing, Dedy Chandra, Alvi Syahrin, Madiasa Ablisar, and Mahmud Mulyadi. "Penguatan Kewenangan Jaksa Selaku Dominus Litis Sebagai Upaya Optimalisasi Penegakan Hukum Pidana Berorientasi Keadilan Restoratif." *Loeus: Jurnal Konsep Ilmu Hukum* 3, no. 2 (2023): 63–75.

Silalahi, Bonnarty Steven, Delbert Lauren, Eveline, Glbert Hans Aldrich, and Winnie Willys. "Perspektif Keadilan Menurut Aristoteles Dan Implikasinya Dalam Etika Bisnis." *Innovative: Journal Of Social Science Research* 3, no. 4 (2023): 1937–46.

Wibisana, Muhammad Andri Gunawan. "Kejahatan Lingkungan Oleh Korporasi: Mencari Bentuk Pertanggungjawaban Korporasi Dan Pemimpin/Pengurus Korporasi Untuk Kejahatan Lingkungan Di Indonesia?" *Jurnal Hukum & Pembangunan Masyarakat* 46, no. 2 (2016): 149–95.

Zhou, Valerie. "Deferred Prosecution Agreement Dalam Hukum Pidana Korporasi Lingkungan: Instrumen Alternatif Penegakan Hukum Untuk Pembangunan Berkelanjutan." *Rio Law Jurnal* 6, no. 2 (2025): 1074–86.

Legalitation

Undang-Undang Dasar Negara Republik Indonesia Tahun 1945

Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup

Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana

Undang-Undang Nomor 6 Tahun 2023 tentang Cipta Kerja.

Undang-Undang Nomor 20 Tahun 2025 tentang Kitab Undang-Undang Hukum Acara Pidana