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INDONESIAN PUBLIC POLICY: CRIMINAL GUIDELINES, FOUNDATIONS, AND ENVIRONMENTAL TRANSFORMATION

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ABSTRACT

This document explores the intricacies of Indonesian public policy with a focus on criminal guidelines, foundational legal frameworks, and environmental transformation. It provides a comprehensive analysis of the criminal justice system, detailing the techniques and procedures employed to maintain law and order. The groundwork section delves into the underlying principles and legislative bases that shape public policy in Indonesia. Additionally, the document examines the intersection of these policies with environmental changes, assessing how legal measures adapt to and influence ecological transformations. By integrating criminal justice and environmental considerations, this study aims to offer a holistic understanding of Indonesian public policy's role in shaping a sustainable and just society.

KEYWORDS

Indonesian public policy, Criminal guidelines, Legal frameworks, Environmental transformation, Criminal justice system, Legislative principles, Law and order.

INTRODUCTION

The earth and everything on it are in jeopardy as a result of climate change brought on by global warming, which is currently in an alarming phase. A condition with many dimensions and a lot of complexity has been affected by climate change.

According to James C. Wood's paper Deni Bram (2016), the accumulation of greenhouse gases in the atmosphere layer resulting from human activities is the cause of global warming. The term "human action" refers to a wide range of human endeavors, including

energy production processes, industrial activities, plantations, and forestry, all of which have the potential to contribute to future climate change. The transfer of land functions that humans perform today can also contribute to climate change. The conversion of protected forest lands into housing, the conversion of rice fields into storehouses, and the reclamation of beaches and lakes for hotel development all contributed to climate change, which in turn led to global warming.

"Some of the impacts in the same time dimension now indicate that developing countries have far greater vulnerabilities than more advanced countries," according to Deni Bram's writing. Deni Bram adds, "Currently developing two (two) models of commitment in climate change mitigation measures are commitments that rely on top down models and commitments that rely on bottom up models." From a fairness and efficiency standpoint, the Kyoto Protocol's commitment formation model's top-down approach is a failure. This definitely prompts an absence of lucidity concerning whether the emanation decrease responsibilities in the Kyoto Convention depend on the objectives set out in the UNFCCC system, which is to accomplish stable ozone harming substance preservation at a protected level. This failure is made worse by the United States, one of the largest emitters, not ratifying the Kyoto Protocol and by some countries not meeting the emission reduction goals set by the Kyoto Protocol.

According to the description, it is evident that civil, state, and criminal laws must be used against individuals or legal entities that transfer land functions affecting climate change in Indonesia when establishing legal arrangements to anticipate violations. If it has been demonstrated that illegal development activities that affect climate change

intentionally should be punished severely, a criminal penalty is required.

"it is known that approximately 15% of the energy consumed in Ecuador is used for the operation of climate conditioning equipment and, on the other hand, the majority of the Existing technology operates on the basis of the use of refrigerant gases are invasive to the azone layer," wrote Galvin A. Toala Arcentalis, Reinaldo Guillen Gordin, Antonia Vazquez Perez, and Alfredo Zambrano Rodriquez.

This paper examines climate change in terms of the formulation of norms or substance of criminal law that is still blank legal (blanc norm of law), particularly in terms of qualifications of types of criminal acts, errors, criminal responsibility, and the penal system. Because climate change has such a significant impact on human life, this formulation is required to regulate the legal aspects of climate change as a problem that must be addressed to protect the earth, water, and air, all of which are truly beneficial to the lives of all people and the Indonesian people in particular.

Based on the above background then formulated legal issues (legal issue) as follows:

1. What qualifies sorts of acts, wrongs and discipline frameworks for land transformation that adversely influence environmental have a significant impact on in a public point of view?
2. From a national point of view, how is the criminal law regulation of land conversion that has a negative impact on climate change sanctioned?

METHOD

The Juridical-Normative style of writing is employed in this journal. According to Peter Mahmud Marzuki, the following are examples of normative approach-based

research: statute, case, historical, comparative and conceptual approaches are all options. While J. Ibrahim concurs with Peter Mahmud Marzuki, he adds the analytical (analytical) and philosophical (philosophical) approaches once more. Legislative, conceptual, historical, analytical, and philosophical approaches are all used in the approach.

Valerine J.L. Kriekhoff, a resigned High Court Equity of the Republic of Indonesia composed that: The Application of Normative Law Research to Criminal Law applies normative law research to the following areas of criminal law research:

1. Learning targets in every layers of legitimate schooling
2. Within this scope of criminal law research, legal research coverage includes:
 - a. Legal concepts like "right of self determination" and "whistleblower," as well as research on legal principles like "presumption of innocence."
 - b. Historical research like legal history (d.h.i. criminal law) or history of legislation;
 - c. Case studies, using the "Legal Discourse Theory" or "Theory of Legal Argumentation to trace the "decidendi ratios" in decisions or examine the existence of "heteronomy" or "autonomy" in a decision.
 - d. Studies that compare laws, such as the Juvenile Justice Act and Money Laundering, and law enforcement agencies in particular nations (such as the KPK);
 - e. Analytical research, for instance, examines the concept of "discretion" in corruption committed by state officials or the Criminal Concept of FMD in environmental crime cases;

f. Theoretical approaches, like exploration on the hypothesis of discipline (or which can be joined with philosophical and near research-as in the common regulation and custom-based regulation systems.

According to Peter Mahmud Marzuki, Johny Ibrahim, and Valerine J.L. Kriekhoff, this journal was written using the juridical-normative writing method, which is confirmed by the description.

RESULTS

a. Types of Criminal Acts in the Field of Climate Change in the National Perspective Article 4 of the Indonesian Criminal Code states that "every person, whether an Indonesian citizen, or a foreign national who commits a crime as referred to in this Article, even outside of Indonesia may be subject to Indonesian criminal provisions." Qualification of types of acts, errors, and punishment systems for land conversion that Impact Climate Change in a National Perspective

The depiction of capability/sort of criminal demonstration that recognizes the infringement as coincidental deeds and wrongdoing as purposeful demonstrations, according to the offense, the culpa and dolus will be controlled in Section, Article of Criminal Arrangements directing explicitly the crook demonstrations of environmental change which jeopardize the existence of humanity.

The Environmental and Spatial Planning Act actually regulates the criminal acts of environmental pollution and spatial abuse, but the negative effects of climate change that harm humans are not yet regulated by law. In fact, there is a lot of misuse of spatial planning and pollution of the environment, such as using laserdiscs to break clouds, using greenhouses too much, changing land uses from rice fields to homes or shop houses, protected forests to hotels or factories, marine reclamation and lakes for industrial development or

hotels, and other systemized deeds in favor of development.

In light of Article 1 passage (19) of Law of the Republic of Indonesia Number Long term 2003 on Ecological Security and that's what the executives confirms:

"Climate change is the change in the climate that is directly or indirectly caused by human activity," according to Wikipedia. "It also refers to changes in natural climate variability that has been observed over comparable time periods."

In accordance with the provisions of Indonesian Law No. Long term 2007 on Spatial Preparation (LN Year 2007 No. 84, TLN No. 4725 in the form of not adhering to the land use plan and the authorized official's spatial use permit, both of which led to the deaths of everyone involved.

The theory of state power supports the theory regarding the authority to classify such crimes and offenses. According to this theory, the executive and legislative powers have the authority to make laws, while the judicial powers have the authority to rule. The legislative, executive, and judicial authorities are all referred to in the theory of separation of powers, which is based on the teachings of Montesquieu's Tries Politics (1689-1755). In practice, this theory has not been fully adopted in Indonesia; consequently, it needs to be equipped with checks and balances based on the principle of cheking power with power so that it remains intact as the fundamentals of the state.

Using Hans Kelsen's Pure Theory of Law theory, the study and legal analysis of the Authority Theory also include the following:

"Regarding Regulations, Both Positive and Negative: Positive and Negative Rules: Commanding, Authorizing, Permitting, and the Structural Structure

of the Legal Order, which describes the positive law that must be distinguished by moral, economic, social, and cultural Order/The legal order's hierarchical structure.

Paul Scholten opposed Hans Kelsen's viewpoint for the following reasons:

"The logical processing of positive materials, such as laws, verdicts, and so forth, constitutes legal judgments." These beneficial materials, according to Paul Scholten, are socially and historically influenced. A set of socially determined facts lead to the enactment of a law, which is a historical event. As a result, the material of pure jurisprudence always contains something impure. Paul Scholten claims that "the science of law will become a creature without blood" if this is not done.

Referring to Paul Scholten's viewpoint, the formulation of criminal sanctions with due regard to legal materials in the form of laws, verdicts, and legal theories of pure, Attention to the ability of the community, particularly the perpetrators of criminal acts in the field of climate change in terms of economic, cultural, and sociological aspects is necessary for setting the qualification of violations and crimes against the Criminal Actors in the field of climate change in Indonesia.

John Rawls emphasizes the connection between the distribution of rights and responsibilities and justice. The opinion demonstrates that when formulating criminal sanctions against criminals in the context of the environment and organization of City Territory, the rights and responsibilities of the criminals should be taken into account, particularly in terms of their economic ability to carry out the punishment.

In light of the depiction, Simon Nahak composes that:

"Against perpetrators of general or special crimes, three (three) dimensions are used to reveal their crimes: First, the culprits: any legal person or entity that commits a series of offenses in the form of an act of doing or not doing something that is punishable by law. An offense is one that is punishable by law if the act is unlawful (Civil, Administration, and Criminal) or contrary to the law that exists in society. It can take the form of a structured or systemized action, an accident, or something that happens because of need (by need). Second, evidence: The use of legal or other evidence to determine the faults of the defendant, as well as the tools that may be used to support a party's arguments in court, such as: writing, testimony, presumption, and oath as evidence; Third, Casualty: a person or group of people who are harmed physically, mentally, or financially as a result of a crime (according to Article 1 paragraph 2 of RI Law No. 13 of 2006 on the Safety of Victims and Witnesses).

Criminal acts in the field of climate change in the form of a series of criminal acts usually carried out in a structured, systematic, and coordinated manner by each individual or group of individuals. A transitional crime of land use by a legal entity resulting in climate change that has a negative impact on humans by a huge company transacting nationally with a large capital to dominate the global (international) economy is one example of an environmental crime.

b. Crime and Criminal Accountability against Criminal Aspects of Climate Change According to Moeljatno, the question of "whether in doing an act, a person has a fault" is the concept of "accountability" in the criminal law. In terms of criminal law, the principle of accountability states that a person cannot be punished if they did nothing wrong (geenstrafzonderschuld; *sir rea*), *actus non facit reum*

The evil spirit of a person or legal body (*mens rea*) and the actual act of physical contact (*actus reus*), or *Opzet*, which can be translated as "deliberately commit crime," are used to determine whether a person is guilty and proven to be unlawful. *Opzet* is one aspect of the offense in criminal law. Because the essence of *opzet* in the Criminal Code is unclear, the following two theories are used to examine the solution:

- 1) There must be *dewiltheorie*, or the theory of will; The action in question is required or prohibited by law;
- 2) The theory of selection; Theory of expectation, hope has not occurred, people only estimate or anticipate the realization of an action, but the action's result is not definitively realized; consequently, the theory of expectations

According to the theory, the party that can be held liable is the legal subject (legal subject), who is the carrier or owner of rights and obligations in legal relations. The legal subject can be a person or *natuurlijkpersoon* (*menselijkpersoon*), but it can also be a legal entity (legal subject). *Rechtspersoon* is typically referred to as a *persona ficta*, or a person designated by law as a person. Every individual and corporate legal entity with a legal subject and a legal subject is liable for a criminal offense in the land sector as a party to which criminal responsibility is liable.

The description of criminal liability can be explained as follows:

- 1) Individual obligation

The meaning of the subject of wrongdoing incorporates two things, to be specific who carried out the lawbreaker acts (the culprits of criminal demonstrations), and who can be responsible. This is influenced by the legislative system of accountability.

A very fundamental accountability, individual responsibility means that if a person commits a crime in the law, they are responsible for their actions. The legal subject individual or legal entity's responsibility for the city's environment and layout can be divided into several stages:

The initial phase: on the investigation process and as a suspect to be included in the examination proceedings (BAP).

Second Period: In their capacity as defendants, legal subjects are always required to be present at every Court trial.

Third Period: Accountability for a criminal law subject who has been found guilty; the judge will then deliver the verdict (verdict).

Traditional theory distinguishes between two types of accountability:

- (1) Accountability that is based on fault;
- (2) The concept of absolute responsibility

The most recent legal methods require a distinction between cases in which an individual's planned action is intended to have certain effects on the act and other cases in which an individual's unplanned action harms the victim.

The responsibility for environmental crime and the City Area Arrangement is a liability based on fault or culpability, as described above.

2) Liability of a legal entity Other than individuals, a legal entity can be held criminally liable for land and investment-related crimes, such as the following: Organization, Organization, Assortment, Establishment or Helpful. As a legal entity,

corporations fall under criminal law, so their definition is more expansive than the definition of a corporation in civil law. The term "corporation" can refer to either a legal or non-legal entity, as defined by criminal law. There are three models of corporate accountability for a crime committed by a corporation in relation to corporate liability:

1. Administrators as well as management as the perpetrators
2. Corporations as accountable administrators and perpetrators
3. Corporations as both the culprits and those accountable.

On the basis of the preceding, criminal liability or criminal law consists of the following three conditions:

1. The perpetrator's capacity for accountability or responsibility.
 2. The perpetrator's mental state is connected to the behavior, which indicates the existence of illegal acts: Purposeful and inadvertent or undesirable demeanor - the heart or careless.
 3. There is no support or excuse that kills criminal obligation regarding the offender.
- 3) Criminal Approvals and Punishments against Criminal Entertainers in the part of Environmental Change

The term Criminal regulation contains a few implications, or rather it is said that the criminal regulation can be seen from a few points, in particular: First from the place of criminal regulation from an emotional perspective and from the mark of criminal regulation from an objective perspective. Criminal

regulation in the goal sense or called *ius poenale* that is various guidelines containing preclusions or objectives where the infringement can be compromised by regulation. *Ius poenale* can be broken down into criminal law and material criminal. The fundamental criminal law stipulates the following:

a. Punishments that can be enforced (*strafbaargeiten*);

b. Who is responsible for enforcing criminal law and who can be punished;

c. What is the penalty for violating a law, also known as penitentiary law? Even though the Environmental Protection and Management Act on Climate Change has regulations, the criminal sanctions and penalties in the field of climate change law have not been regulated. As a result, when there is a crime related to climate change, the provisions in articles 97 to 120 of Act no. 32 of 2009 on environmental protection and *pengelolaan* People who intentionally or unintentionally commit environmental crimes that cause harm to humans and the environment are typically outlined in criminal provisions. The licensors—in this case, the environmental licensing officer—as well as the person in charge of the business are included in the criminal provisions if a person violates environmental regulations by circulating genetic engineering or by producing B3 waste without being held accountable.

More on environmental law enforcement, as has occurred in some instances whenever environmental crime is most closely associated with corporate crime. If corporations in this case are alleged to have engaged in destructive, reducing, or altering activities within predetermined limits, they may also be subject to environmental criminal provisions. If a corporation is found to have committed a serious environmental

crime, the environmental criminal law's rules apply. However, if the corporation's actions are more focused on other responsibilities, civil law and administrative legal tools may be used.

Article 55 of the first book of the Criminal Code, which threatens those who do (*pleger*), who enjoined (*doenpleger*), who also did (*medepleger*), and the persuade (*uitlokker*), reveals who is responsible for the corporation's climate change crime. Accordingly, in accordance with Article 55 of the Criminal Code (Penal Code), the sanction can begin with the corporation's leader and continue through the individuals who engage in activities that essentially constitute environmental crimes.

It ought to be perceived that the arrangements of criminal regulation instruments are unequivocally impacted by the capacity of responsibility and the component of mistake, so that in *strafbaarfeit* alludes to the way of behaving of people figured out in the law, which is illegal, and hence ought to be condemned. According to experts of *pompe and vost*, who adhere to a lawless understanding that is frequently translated as "*in strijd met het recht*," or conceivably in violation of the law? Things that are not only against the law but also decency are judged as such.

In addition, the connection between *strafbaarfeit* and environmental law can be questioned if one examines its meaning. In response to the question of how *strafbaarfeit* and environmental law are connected, HerminHadiatiKoeswadji says that there are two important factors:

The word "*feit*" in *strafbaarfeit* refers to actual, perceivable behavior that takes place in the real world. That the meaning of *strafbaarfeit* refers to the person who was responsible for the behavior, i.e., being in the

depths of the heart or not being sensed with the senses, is related to the behavior.

When viewed from the perspective of the first element, it is abundantly clear that the actions that can be considered environmental crimes include the destruction of forests, the pollution of water supplies, and any other actions. As a result, these two essential elements are simple to demonstrate. Regarding the second aspect, the mistake that a person makes that is related to his inner mood is that the person knows and feels that the action is against his inner self.

In the event that a corporation is found guilty of committing a crime, the corporation can face a fine that is three times the amount of the previous fine in addition to being imprisoned and subject to a fine for its commission. In addition to the above-mentioned criminal penalty, the company may be subject to the following additional criminal sanctions: revocation of the legal entity status and/or the business license.

It is important to understand that the capacity for accountability and the possibility of error have a significant impact on the provisions of the criminal law instrument. As a result, the term "strafbaarfeit" refers to actions that are against the law and should be punished. According to experts of pompe and vost, who adhere to a lawless understanding that is frequently translated as "in strijd met het recht," or conceivably in violation of the law? In spite of the law isn't just decided as issues in opposition to the law however with the goodness.

The formulation of criminal law sanctions in the related field is the ultimate remedy, where expressly its use must be considered from the economic and financial aspects to advance the prosperity of criminal victims in the field of climate change. Criminal penalties should not be used to punish non-harmful acts.

The Criminal Hypothesis used to dissect this conversation is the Consolidated Hypothesis of Compensation by Vos depicted in Bambang Poernomo, making sense of that in the joined hypothesis there are 3 (three) streams, in particular:

1. Theories that combine the criminal nature of retaliation in order to safeguard the rule of law with an emphasis on revenge. In this regard, Zeven Bergen asserts that the criminal's nature is retaliation for the protection of lawful order and government respect. Thus, the penalty is essentially only an "Ultimate Remedium" (which, in the end, can heal that may be used as a last resort if there is no other option);
2. Unified theory that places an emphasis on maintaining public order. Simons subscribes to this theory, proposing that public prevention lies in the horror of crime, as well as in its repair and destruction, and that the punishment must, in absolute terms, be adapted to the legal consciousness of society's members.
3. Unified theory that places an emphasis on equal retaliation and public interest protection. This adherent is De Pinto, to whom Vos explained that the criminal law must be structured in such a way as to be fair, with the idea of retaliation not being neglected in any way—positive or negative—because, in general, a criminal must satisfy society.

The character of criminal law that demonstrates certainty is the validity of the retroactive principle of legality. Based on these two principles, it is guaranteed that criminal law, the ultimate auxiliary tool, is certain (UltimateRemedium). Article 10 of the Criminal Code states that the punishment system is based on the First Book of Chapter II Punishments: Punishments are, head disciplines, capital punishment, detention, detention, fine. Extra punishments: the

announcement of a judge's verdict, the revocation of particular rights, and the appropriation of particular goods.

Criminal sanctions regulation of land conversion that impact climate change in national perspective

The Environmental Protection and Management Act and the Spatial Planning Act define criminal sanctions arrangements for environmental damages. However, the Special Criminal Climate Change Arrangement has not been regulated, so the author believes that it should be governed by a separate law. Even if it is not regulated by a separate statute, it ought to be incorporated into the Environmental Protection and Management Act or the Spatial Planning Act by incorporating the following sentence into the plan:

The theory of lawfulness is used to analyze the absence of legal norms, according to J.J.H. Bruginck, who writes that: "Anyone who deliberately opposes the law is to take action which causes the climate change either as a direct or indirect result of human activity resulting in a change in the composition of the atmosphere globally and in addition to changes in natural climate variability observed in comparable periods, Shall be subject to imprisonment of a minimum of 4 (four) years and a maximum of 15 (f There are three types of law enforcement, which are as follows:

1. The regulating or formal legitimacy of law and order, to be specific jiika a standard is important for an arrangement of specific legitimate guidelines where there are rules of regulation are pointing at one another. As a result, the system of the rule of law consists of a whole hierarchy of specific legal rules that are based on general law rules, with lower specific legal rules derived from higher general law rules;

2. The effectiveness of the rule of law, or the factual or empirical validity of the rule of law, if citizens adhere to the rule of law for each rule of law that applies. Empirical research can assess this situation, and the rule of law is said to have factual validity if it is actually followed by citizens and authorized officials and is sincerely enforced. Because it successfully influences the actions of both citizens and government officials, the rule of law is said to be effective. The way that there is authentic legitimacy can be analyzed in humanism of regulation through strategies predominant in the sociologies. In the point of view of the humanism of regulation, the law shows up as das sollen and sein, persuaded of the humanistic reality (genuine social conduct truly of the genuine society) which alludes to regularizing goals (rules);

3. The rule of law based on its content is regarded as valuable because of its evaluative validity. It is possible to approach the issue of evaluative validity empirically and with conviction.

CONCLUSION

Some examples of criminal climate change-related actions include: the excessive use of greenhouses, the conversion of rice fields into homes and shops, the conversion of protected forest land into hotels and factories, the use of laserdiscs to break clouds, the reclamation of lakes and marine areas, and other systematic acts in the name of development Criminal obligation depends on mistake hypothesis (risk in light of issue or culpability). Criminal and criminal punishments under Criminal arrangements in the Natural Security and The board Act. a legal system based on the Criminal Procedure Code and a penalty system based on Article 10 of the Criminal Code.

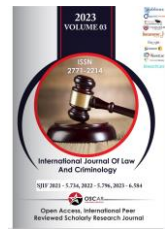
Suggestions 1) Due to the nature of the crime of climate change as an act that endangers the safety of

mankind, it should be nationally necessary to explicitly justify the type of criminal act in the aspect of climate change, so that after known can definitely be handled with the regulation of criminal law. The regulation of criminal sanctions is formulated in the Criminal provisions that any person who intentionally violates the law by taking actions that cause climate change either directly or indirectly causes a change in the composition of the atmosphere globally but, in addition, causes changes in

2) Despite the fact that the Law on Environmental Protection and Management has regulated climate change-related criminal sanctions, the Criminal Provisions on Climate Change have not. As a result, future amendments to the Law on Environmental Protection and Management will need to be governed by the formulation of Criminal Provisions "Climate Change" with the appropriate formula.

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