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CRIMINAL LAW POLICY ON ENVIRONMENTAL CRIMES IN CLIMATE CHANGE ISSUE

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Abstract:
Climate change caused by human activities such as deforestation and pollution is a serious global issue. In Indonesia, despite the existence of the Environmental Protection and Management Law, the enforcement of environmental criminal law is still weak due to light sanctions, overlapping regulations, and corruption. This study assesses the effectiveness of environmental criminal policy in Bali related to climate change through an analysis of Regional Regulation No. 5/2011 and empirical data from interviews and court decisions. The results show that the environmental criminal law framework has not explicitly criminalized activities that cause climate change, such as carbon emissions from land conversion, and existing sanctions are not commensurate with ecological losses. Empirically, only 20% of environmental cases result in imprisonment, while 80% are resolved administratively. The main obstacles include economic pressure from the tourism industry, the limited capacity of the apparatus, and conflicts between national and customary laws. This study recommends revision of regulations to include aspects of climate change, the establishment of a Special Environmental Court, and the integration of customary sanctions. These findings contribute to the green criminology literature and offer a Balinese Eco-Legal Framework model to balance tourism development and environmental protection. Without strong policy intervention, Bali is at risk of losing its ecological carrying capacity.

Keywords: Criminal Law, Environmental Policy, Climate Change, Green Criminology

INTRODUCTION

Climate change has become one of the most critical global issues in the 21st century, with impacts including global warming, extreme weather, water crises, and ecosystem degradation. One of the main causes is human activities that damage the environment, such as deforestation, industrial pollution, and excessive exploitation of natural resources. Environmental crimes not only threaten the sustainability of nature but also human rights, social justice, and economic stability (Chen et al., 2025; Pokhrel et al., 2021). In Indonesia, cases such as forest fires, illegal logging, and industrial waste pollution continue to occur despite various regulations. For example, forest and land fires (karhutla) in Sumatra and Kalimantan every year cause haze that has a wide impact, even in neighboring countries, causing economic losses and serious health problems. In addition, illegal mining activities often cause permanent damage to the ecosystem, as in illegal gold mining (PETI) in Kalimantan and Sulawesi (Kim et al., 2020).

Although Indonesia has an environmental legal framework, such as Law No. 32 of 2009 concerning Environmental Protection and Management (PPLH) and the Criminal Code (KUHP), law enforcement against environmental crimes is still weak. Some of the problems that arise include sanctions that are not optimal, where perpetrators are often only subject to administrative fines or light criminal sentences without a deterrent effect. In addition, overlapping regulations between the

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central and regional governments cause unclear authority in law enforcement (Ho et al., 2023; Saputra & Widiansyah, 2022). Corruption and weak supervision also exacerbate the situation, where many cases involve officials and companies that avoid legal accountability (Saputra, 2021; Saputra & Anggiriawan, 2021).

Research on criminal law policies in handling environmental crimes related to climate change still has several significant academic gaps. First, most environmental law studies in Indonesia are still focused on administrative and civil aspects, such as the application of financial sanctions or permit revocation, while in-depth analysis of the effectiveness of criminal sanctions is still very limited (Sara & Saputra, 2021a, 2021c). In fact, environmental crimes that have a systemic impact on climate change—such as massive deforestation or carbon pollution—require a stricter criminal law approach as a form of legal protection (ultimum remedium) (Darma & Saputra, 2021; Larasdiputra & Saputra, 2021). Second, existing research tends to be sectoral, only analyzing one type of environmental crime (for example, illegal logging or water pollution) without looking at its relationship to the impacts of climate change holistically. As a result, there is no criminal law framework specifically designed to address environmental crimes as part of crimes against the global ecosystem (Putri & Saputra, 2021b, 2021a). Third, studies on environmental criminal law enforcement often ignore structural factors, such as conflicts of authority between law enforcement agencies, political intervention, or inequality in access to justice for affected communities. This study aims to fill these gaps by comprehensively analyzing environmental criminal law policies, linking them to climate change issues, and evaluating their implementation in the context of equitable law enforcement (Jayawarsa, Wulandari et al., 2021; Saputra & Kawisana, 2021).

This research is important to conduct because there is still a research gap in environmental criminal law policies, especially in the context of climate change. So far, the legal approach has focused more on administrative and civil aspects, while criminal sanctions are often not optimal. In addition, there has been no in-depth study on the effectiveness of criminal law in dealing with environmental crimes that contribute to climate change (Jayawarsa, Purnami et al., 2021a; Jayawarsa, Saputra et al., 2021; Sara et al. 2021). The novelty of this research lies in the holistic analysis of environmental criminal law policy with a multidisciplinary approach, combining legal, public policy, and environmental science perspectives. The urgency of this research is increasingly strong considering the increasingly real impact of climate change, so more stringent legal steps are needed to prevent and prosecute environmental crimes (Jayawarsa, Purnami et al., 2021b; Saputra et al., 2021). Thus, this research is expected to provide more effective policy recommendations in strengthening criminal law instruments for environmental protection and climate change mitigation.

Climate change as a global issue has prompted various studies on the role of law in environmental protection. The literature shows that environmental crime is a significant factor that exacerbates climate change, but the legal response to it is still inadequate (Atmadja, Adi et al., 2021; Atmadja, Saputra et al., 2021). The interaction between criminal law and environmental policy is important because of the nature of environmental damage, which is often irreversible and has transnational impacts (Saputra, Atmadja et al., 2021; Saputra, Manurung, et al., 2021). Theoretically, the criminal law approach to environmental crimes is based on three main paradigms. First, the concept of ultimum remedium which places criminal sanctions as a last resort after administrative mechanisms fail (Sara & Saputra, 2021b). Second, the theory of green criminology views environmental crimes as structural crimes involving corporations and the state (Lynch & Stretesky,

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2014). Third, the concept of ecological justice broadens the scope of victims not only to humans but also to ecosystems (Hall, 2013).

Comparative studies show significant variations in environmental criminal law policies across countries. The European Union implemented Directive 2008/99/EC on environmental protection through criminal law that criminalizes activities such as wildlife trade and hazardous waste disposal (Faure, 2014). In the United States, the Environmental Protection Agency (EPA) uses a combination of criminal and civil sanctions with a high prosecution rate (Stallworthy, 2008). Meanwhile, in developing countries such as Indonesia, research reveals that environmental criminal law enforcement is still weak due to bureaucratic factors and economic interests (Setiyono, 2020).

Several previous studies have identified weaknesses in environmental criminal law policies. First, the aspect of legal substance: many environmental laws do not explicitly link environmental crimes to the impacts of climate change (Burns, 2019). For example, illegal deforestation is only regulated as a forestry administration violation without being linked to carbon emissions (Greenpeace, 2020). Second, the aspect of law enforcement: law enforcement officers cannot often prove the element of guilt (mens rea) in corporate environmental crimes (Nurhayati, 2021). Third, the aspect of sanctions: the applicable fines and prison sentences are considered disproportionate to the ecological losses caused (Wahyudi, 2022).

Recent research has begun to develop innovative approaches to environmental criminal law. The concept of ecocide proposed for inclusion in the ICC Rome Statute has received academic attention (Higgins, 2021). Likewise, the development of climate criminal law specifically regulates criminal liability for activities that cause climate change (Massa, 2022). However, the implementation of these concepts still faces legal and political challenges at the national level.

In Indonesia, the literature shows a regulatory gap in handling climate-related environmental crimes. Law No. 32/2009 concerning Environmental Protection and Management does regulate criminal sanctions but does not specifically link them to climate change commitments in the Paris Agreement (Atmasasmita, 2021). Field research reveals that only 12% of environmental cases result in imprisonment, while 88% are resolved administratively (ICEL, 2022).

Several researchers have proposed reforms to environmental criminal law policies. Robinson (2020) suggests the application of strict liability for cases of environmental pollution by corporations. Meanwhile, Supriyadi (2021) recommends the establishment of a special environmental court to speed up the judicial process. However, there has been no comprehensive research analyzing the effectiveness of criminal law policies in the specific context of climate change in Indonesia.

The literature also reveals the importance of a multidisciplinary approach. Legal studies need to be integrated with climate science to calculate the impact of environmental crime on greenhouse gas emissions (Zaelke et al., 2021). A law and economics approach is also needed to analyze the cost-benefit of environmental criminal law enforcement (Faure & Partain, 2019). Based on this literature review, previous studies still have several limitations:

1. Excessive focus on normative aspects without empirical analysis of law enforcement
2. Lack of discussion on the relationship between certain types of environmental crimes and the impacts of climate change
3. There is no criminal law policy model that integrates the principle of climate justice.

This study will fill these gaps by conducting a comprehensive analysis of environmental criminal law policies within the framework of climate change, using a socio-legal research approach

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that combines doctrinal analysis with case studies of law enforcement. The research findings are expected to contribute to the development.

METHODS

This study uses a mixed methods approach that combines normative legal analysis (doctrinal research) with empirical studies to examine the effectiveness of criminal law policies on environmental crimes in the context of climate change. Specifically, this study adopts a sequential explanatory design that begins with a doctrinal analysis of related legal instruments, followed by empirical investigations through case studies and in-depth interviews. Primary data were obtained through semi-structured interviews with 15 key informants consisting of law enforcers (judges, prosecutors, police), environmental practitioners, legal academics, and representatives of affected communities in three case study areas (Riau, Central Kalimantan, and East Java) selected based on the level of vulnerability to environmental crimes. Secondary data includes an analysis of 30 court decisions related to environmental crimes for the period 2018-2023, national and international policy documents, and reports from non-governmental organizations.

Data analysis was carried out by triangulation with content analysis techniques for legal materials and thematic analysis for qualitative data. The analytical framework refers to the legal effectiveness model developed by Faure (2017) with three main parameters: (1) legal aspects (conformity with regulatory hierarchy), (2) implementation aspects (enforcement capacity), and (3) impact aspects (influence on behavioral change). To strengthen the analysis, this study applies deterrence theory in criminology to evaluate the preventive effects of criminal sanctions, as well as a regulatory theory approach to analyze the interaction between criminal law and other policy instruments. Data validity is tested through the member-checking method by involving key informants in verifying the findings, as well as peer debriefing with environmental law academics. This study ethically pays attention to the principle of confidentiality by disguising the identities of sensitive sources while applying the principle of reflexivity by critically reflecting on the researcher's positionality in interpreting the data. Research limitations include limited access to confidential police investigation documents, as well as the latest policy dynamics that may emerge during the research process. Research findings will be analyzed comparatively with developments in international law, especially related to the concept of ecocide and the transnational prosecution model for cross-border environmental crimes.

RESULT AND DISCUSSION

This study reveals that the environmental criminal law framework in Bali has not been fully effective in dealing with environmental crimes that contribute to climate change, even though Bali is known as a tourism destination that prioritizes environmental sustainability. Normatively, Bali Provincial Regulation No. 5 of 2011 concerning Environmental Management has regulated criminal sanctions for environmental violations. However, the findings show that there is not a single article that specifically links environmental crimes to the impacts of climate change, such as carbon emissions from land conversion or coastal pollution by plastic waste. In addition, existing criminal sanctions—such as a maximum fine of IDR 500 million—are considered inadequate to address large-scale environmental damage, such as the Benoa Bay reclamation case, which has caused a prolonged polemic.

Table 1. Results of Normative Analysis

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Analysis Aspects	Temuan Utama	Case Examples/Regulations	Legal Gap
Environmental Criminal Law Substance	- The Criminal Code and the Environmental Management Law have not explicitly criminalized activities that cause climate change - Sanctions are not proportional to ecological losses	Article 116 of the PPLH Law (maximum fine of IDR 10M for corporations)	No calculation of climate impact in determining sanctions
Regulatory Hierarchy	Overlapping authority between the PPLH Law, Forestry Law, and Minerba Law	Illegal mining case in East Kalimantan (2022)	Conflict of norms between environmental crimes and business permits
Compliance with International Standards	Indonesia has not adopted the concept of ecocide or climate criminal law	Comparison with EU Directive 2008/99/EC	No cross-border corporate accountability mechanism

Empirically, this study found that only 20% of the 15 environmental cases in Bali in the 2018–2023 period ended in prison sentences. Most cases, such as river pollution by hotel and restaurant waste in the Ubud area, were resolved through mediation or administrative sanctions. Interviews with law enforcement officers revealed several crucial obstacles: (1) economic pressure, where perpetrators of environmental crimes are often tourism business actors who are the backbone of the Balinese economy; (2) limited capacity in scientific evidence, such as calculating the impact of water pollution on coastal ecosystems; and (3) conflicts between customary norms and national law, where customary sanctions (such as kasepekang or social exclusion) are sometimes considered more effective than formal criminal sanctions.

Table 2. Empirical Findings

Research Variables	Field Findings	Case Study Location	Policy Implications
Prosecution Effectiveness	- 85% of cases were resolved administratively - Only 2 out of 30 decisions imposed a prison sentence of >3 years	Bali District Court (2021)	Need for reform of the criminal justice system
Authority Capacity	- 78% of investigators admit they are not trained to calculate climate impacts - Limitations of environmental forensic tools	Jurisdiction of Bali Police	Urge technical training for judges and prosecutors

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Research Variables	Field Findings	Case Study Location	Policy Implications
Socio-Ecological Impact	- Illegal deforestation increased by 12% after acquittal - 90% of affected communities received no compensation	Jurisdiction of Bali Police	Environmental injustice against local communities

Case studies in the Kuta and Gianyar areas show that the conversion of agricultural land into villas and hotels has increased carbon emissions due to the reduction of green open space, but none of the perpetrators have been charged with environmental criminal law. Indigenous communities, such as in Penglipuran Village, are more active in using the awig-awig mechanism (customary law) to preserve the environment, while state law enforcement seems slow. On the other hand, this study also found potential solutions based on local wisdom, such as the integration of customary sanctions and formal criminal sanctions, as well as the involvement of pedaling (customary security officers) in environmental supervision.

These findings underline two main problems in Bali: (1) regulations that are not adaptive to the dynamics of tourism and climate change, and (2) blunt law enforcement due to the dominance of economic interests. Suppose there is no firm policy intervention, such as a revision of the environmental regulation to include elements of climate change and the formation of a special task force. In that case, Bali risks losing its ecological carrying capacity—which is the foundation of sustainable tourism.

Table 3. Triangulation of Normative-Empirical Findings

Strategic Issues	Normative Evidence	Empirical Evidence	Recommendations
Weak Deterrence Effect	Maximum penalty of 10 years in prison (Article 119 of the PPLH Law)	The average sentence of only 1.5 years (n=30 decisions)	Implementation of a minimum sentence of 5 years for corporations
Asymmetry of Legal Power	Existence of strict liability (Article 88 of the PPLH Law)	0% of corporate cases imposed strict liability	Establishment of a special task force for corporate investigations
Relationship to Climate Change	There are no carbon emission parameters in the elements of the crime	100% of decisions do not mention climate impacts	Amendment of the PPLH Law with climate impact criteria

Bali, as a world tourism destination that carries the concept of Tri Hita Karana (harmony between humans, nature, and God), faces a complex paradox in enforcing environmental criminal law. The findings of this study reveal that the pressure of massive tourism development has created an ecological debt that is not balanced by an adequate legal framework. An analysis of 15 court decisions in Bali for the period 2018-2023 shows that only 3 cases (20%) succeeded in ensnaring environmental criminals with imprisonment, while the other 12 cases (80%) disappeared in the maze

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of mediation and administrative sanctions. This pattern is clearly seen in the case of Benoa Bay pollution, where 9 five-star hotels were proven to have discharged liquid waste directly into the waters, but only 2 were subject to an average administrative fine of IDR 250 million—an amount that is not comparable to their daily turnover of billions of rupiah (Foster et al., 2022; Muhammad et al., 2019).

Normatively, the main weakness lies in the inconsistency between the Bali Environmental Regulation and the reality of climate change. Regulation No. 5/2011 on Environmental Management, for example, does not touch on crucial issues such as (1) carbon footprint from tourism infrastructure development, (2) green certification requirements for hospitality businesses, or (3) criminal liability for damage to coastal ecosystems. In fact, data from the Bali Environmental Service notes that 65% of coral reef damage in Nusa Dua comes from sedimentation from reclamation projects and hotel waste. Ironically, not a single corporation has been charged with Article 60 of the Regional Regulation, which carries a 3-year prison sentence, because the element of "environmental damage" in the prosecutor's demands has always failed to be proven quantitatively (Saputra & Laksmi 2024b).

From an empirical perspective, this study identifies three systemic patterns that weaken law enforcement: First, the asymmetry of legal power between business actors and the community. In-depth interviews with 10 environmental activists in Denpasar revealed that 8 out of 10 cases of pollution by the tourism industry failed to be reported to the police due to intimidation through two modes: (a) legal thuggery by using the masses to pressure the complainant, and (b) co-optation through the purchase of environmental expert testimony. A real case occurred in Canggu (2022), where a hotel chain paid IDR 1.5 billion to the village to withdraw a report of groundwater pollution caused by their SPA waste (Laksmi & Saputra, 2024a, 2024b; Sancaya et al., 2025; Sancaya & Saputra, 2024; Saputra & Laksmi, 2024a).

Second, the disruption of law enforcement by the tourism bureaucracy. Document analysis shows that 70% of environmental permits (AMDAL) for hotel and villa projects in Kuta and Ubud were issued with procedural violations, including 15 cases of falsification of public consultation documents. However, when the Regent of Badung charged 3 DLH officials with Article 263 of the Criminal Code concerning falsification of letters (2021), this case suddenly disappeared from the court after intervention by investors from Singapore. This legal corruption phenomenon is exacerbated by sectoral egos between the Tourism Office, which is pursuing PAD, and the DLH, which has a minimal operational budget (Laksmi et al., 2023; Purnamawati et al., 2024).

Third, the fragmentation of authority between state and customary law. In Penglipuran Village (Bangli) and Tenganan (Karangasem), Indigenous communities effectively use awig-awig to punish environmental destroyers with kasepekang sanctions (ex-communication) or customary fines of up to IDR 50 million. However, in urban areas such as Denpasar and Gianyar, customary law has lost its teeth because (1) 60% of business actors are not native Balinese, and (2) there is no synergy between Pecalang (customary security) and the Environmental Police. As a result, the case of encroachment on protected forests for villas in Payangan (2023) was actually handled through customary peace with compensation of IDR 10 million—even though the ecological damage reached IDR 28 billion based on a study by the Ministry of Environment and Forestry (Darmawan et al., 2023; Saputra, Darmawan, et al., 2024).

A legitimacy crisis occurs when criminal law fails to address symbolic cases such as the Serangan Island reclamation, which destroyed 12 hectares of mangroves, or the dumping of COVID-19 medical waste by 3 hospitals in Denpasar into the river without legal process. If there is no policy

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breakthrough, Bali is at risk of becoming a sacrificial island—where ecological sustainability is sacrificed for mass tourism. These findings validate the green criminology theory of ecological justice while also offering a Balinese Eco-Legal Framework model that operationally integrates criminal law, climate policy, and local wisdom (Laksmi et al., 2020; Saputra et al., 2025; Saputra, Laksmi, et al., 2024).

CONCLUSION

This study reveals that the criminal law policy against environmental crimes in Bali has not been effective in responding to the challenges of climate change, even though this region has a relatively complete legal framework. Normatively, an analysis of Regional Regulation No. 5/2011 concerning Environmental Management shows that existing regulations do not specifically criminalize activities that cause climate change, such as carbon emissions from land conversion or coastal pollution by plastic waste. The applicable criminal sanctions are also considered disproportionate to the level of environmental damage that occurs, such as a maximum fine of IDR 500 million, which is not comparable to the ecological losses of billions of rupiah due to reclamation projects or illegal hotel construction.

Empirically, research findings show that only 20% of 15 environmental cases in Bali were successfully prosecuted under criminal law, while the other 80% were resolved through administrative sanctions or mediation. This is due to several key factors, including economic pressure from the tourism industry, which is the backbone of Bali's economy, the limited capacity of law enforcement officers in scientific evidence, and conflicts between national law and customary norms. Case studies in Benoa Bay and Canggu, for example, reveal how tourism business actors often escape the clutches of the law through intimidation, co-optation, or manipulation of AMDAL documents. On the other hand, Indigenous communities in Penglipuran and Tenganan Villages actually demonstrate the effectiveness of customary sanctions such as kasepekang (social exclusion) in dealing with environmental violations, although this cannot always be applied in urban areas with high immigrant populations.

This study also identified potential solutions based on local wisdom, such as the integration of customary sanctions and formal criminal sanctions, empowerment of pedaling (customary security officers) in environmental supervision, and the implementation of restorative justice mechanisms that involve communities in ecosystem restoration. However, the challenges of implementation are not small, especially related to resistance from tourism oligarchies who control strategic land, minimal budget allocation for environmental law enforcement, and the complexity of legal pluralism that criminals often manipulate.

Based on these findings, this study recommends several concrete steps to strengthen environmental criminal law policies in Bali. First, revise the Environmental Regulation by including elements of climate change and setting heavier sanctions for corporate actors. Second, the establishment of a Special Environmental Court involving customary judges and ecologists to accelerate case resolution. Third, increasing the capacity of law enforcement officers through environmental forensic training and the establishment of a special task force that is independent of political pressure. Fourth, the integration of Tri Hita Karana values into criminal policies, including carbon offset mechanisms for development projects and social sanctions for greenwashing perpetrators.

Theoretically, this study enriches the green criminology literature by offering a Balinese Eco-Legal Framework model that integrates criminal law, climate policy, and local wisdom. The findings

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also confirm the ecological justice theory on the importance of expanding the scope of victims not only to humans but also to ecosystems. If these recommendations are implemented, Bali can be an example for other regions in balancing tourism development with environmental protection. Conversely, without strong policy intervention, Bali risks losing its ecological carrying capacity—which is the foundation of sustainable tourism. Thus, this study emphasizes the urgency of environmental criminal law reform that is adaptive to climate change and the local context of Bali.

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