



## State Responsibility for Post-Judgment Reforestation Following Environmental Fines in Indonesia

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### Abstract

*This article examines the normative and institutional gaps that hinder the implementation of ecological restoration following court decisions, particularly in situations where environmental fines imposed by the judiciary do not translate into measurable rehabilitation outcomes. The study aims to identify the locus of state responsibility in the post-judgment phase and to formulate a normative and institutional framework capable of ensuring that court-mandated environmental compensation is used for ecological restoration in an accountable manner. Employing a juridical-normative research specification with doctrinal and comparative approaches, this study draws upon court decisions, statutory instruments, institutional reports, and scholarly literature as secondary data sources. Data were collected through documentary research and analyzed using a juridical-critical method to identify normative gaps and institutional deficiencies in the management of restoration funds. The findings demonstrate that the absence of allocation mechanisms, unclear institutional mandates, and the lack of standardized public reporting have produced an implementation gap in the management of environmental restoration funds. This condition indicates that the state's responsibility to ensure substantive post-judgment ecological restoration remains unfulfilled, thereby undermining the restorative function of environmental law within an ecological justice framework.*

### Keywords:

Civil Liability; Ecological Justice; Environmental Restoration; Legal Enforcement; Regulatory Reform.

## A. INTRODUCTION

Recent judicial decisions in Indonesia concerning large-scale forest and land fires such as the 2015 Riau case and subsequent rulings in South Sumatra (2019) and Central Kalimantan (2020) have imposed substantial environmental fines on corporate actors found responsible for extensive ecological damage. Yet post-judgment assessments by the Ministry

of Environment and Forestry repeatedly indicate that ecological recovery has progressed only marginally, despite the significant accumulation of restoration funds. This persistent gap between the imposition of monetary sanctions and the realization of reforestation efforts reveals a deeper institutional ambiguity in the distribution of post-judgment responsibilities among state agencies,

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corporate actors, and restoration authorities. These empirical conditions give rise to a central research inquiry: What institutional actor ultimately holds substantive responsibility for ecological restoration once environmental fines have been imposed?

The limited progress of post-judgment restoration efforts in these cases underscores that reforestation, understood as the ecological recovery of forest landscapes following large-scale fires, cannot be reduced to a symbolic gesture or the mere transfer of monetary penalties into the state treasury. Rather, it constitutes a substantive dimension of environmental responsibility that requires coordinated institutional action, transparent public oversight, and meaningful community participation.<sup>1</sup> Experiences from several Global South jurisdictions demonstrate that, in the absence of dedicated institutions to manage restoration funds, reforestation programs routinely stagnate even when judicial sanctions are binding.<sup>2</sup> Indonesia's own record reflects similar patterns, where the absence of a clear

administrative authority for executing post-judgment restoration has hindered measurable progress on the ground. These conditions reveal that the state's role must extend beyond its conventional regulatory posture toward a more active ecological agency capable of ensuring that restoration materializes in practice.

Within the broader academic discourse, three strands of scholarship help illuminate the institutional challenges surrounding post-judgment ecological restoration. The first highlights the limits of financial sanctions as instruments of environmental accountability; as Faure and Svatikova observe, monetary penalties often fail to bridge the enforcement gap between liability and ecological recovery.<sup>3</sup> The second strand focuses on restoration governance, emphasizing that successful ecological rehabilitation depends on institutional design and the use of measurable ecological indicators, as argued by Hobbs and Harris.<sup>4</sup> Despite these contributions, existing literature pays limited attention to the specific post-judgment role of the state when it

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<sup>1</sup> Michele M. Betsill *et al.*, 'Philanthropic Foundations as Agents of Environmental Governance: A Research Agenda', *Environmental Politics* 31, No. 4 (June 2022): 684-705, <https://doi.org/10.1080/09644016.2021.1955494>, p. 689.

<sup>2</sup> Louis J. Kotzé, 'Earth System Law for the Anthropocene', *Sustainability* 11, No. 23 (January 2019): 1-13, <https://doi.org/10.3390/su11236796>, p. 7.

<sup>3</sup> M. G. Faure and K. Svatikova, 'Criminal or Administrative Law to Protect the Environment? Evidence from Western Europe', *Journal of Environmental Law* 24, No. 2 (July 2012): 253-286, <https://doi.org/10.1093/jel/eqs005>, p. 267.

<sup>4</sup> R. J. Hobbs and J. A. Harris, 'Restoration Ecology: Repairing the Earth's Ecosystems in the New Millennium', *Restoration Ecology* 9, No. 2 (2001): 239-246, <https://doi.org/10.1046/j.1526-100x.2001.009002239.x>, p. 242.

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becomes the custodian of environmental fines, particularly regarding how such revenues should be converted into transparent and accountable reforestation programs within Indonesia's legal order.

This divergence highlights the persistent gap between *das sollen* the normative expectation that judicial sanctions must be followed by meaningful ecological restoration and *das sein*, the empirical reality in which restoration obligations are frequently delegated to private actors while the state assumes a largely custodial role over collected fines. The absence of clear administrative mandates, transparent reporting mechanisms, and enforceable restoration pathways has produced a structural implementation vacuum that undermines the restorative function of environmental law.<sup>5</sup> These conditions reinforce the broader institutional concern that current post-judgment restoration practices do not provide a credible guarantee that environmental fines will translate into measurable ecological outcomes, thereby raising fundamental questions about the locus and scope of state responsibility within Indonesia's environmental governance framework.

Against this backdrop, the present research focuses on two closely related research problems: first, the absence of

a clear institutional locus responsible for ensuring that post-judgment restoration obligations are translated into concrete ecological action; and second, the lack of regulatory mechanisms that substantively link environmental fines to measurable and publicly verifiable reforestation outcomes. To address these problems, the study undertakes an analysis of landmark judicial decisions in forest and land fire cases, alongside an examination of the institutional arrangements governing the management and deployment of environmental fine revenues. This analytical approach enables the study to identify the normative and administrative deficiencies that hinder effective post-judgment restoration and to formulate an institutional pathway through which environmental fines may be operationalized as instruments of substantive ecological recovery within Indonesia's environmental governance framework.

Existing Indonesian scholarship on forest and land fire litigation has primarily centred on the assessment of corporate liability, the calculation of environmental losses, and the enforcement of judicial sanctions. Studies of this kind have not examined the post-judgment position of the state as the custodian of environmental fine

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<sup>5</sup> Seda H. Bostancı, 'The Role of Local Governments in Encouraging Participation in Reforestation Activities', in *The Route Towards Global Sustainability* (Cham: Springer International Publishing, 2023), [https://doi.org/10.1007/978-3-031-10437-4\\_2](https://doi.org/10.1007/978-3-031-10437-4_2), p. 31.

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revenues, nor have they explored the institutional pathways through which such revenues might be transformed into operational reforestation programs. Based on this gap, this study aims to systematically analyze the locus of state responsibility in the post-judgment phase and to formulate a normative and institutional framework capable of ensuring that environmental fines are translated into verifiable, measurable, and publicly accountable ecological restoration efforts.

## **B. RESEARCH METHODS**

This study employs a descriptive-analytical research design within a juridical-normative framework. Normatively, it examines the legal instruments governing environmental protection and restoration, including Law Number 32 of 2009 on Environmental Protection and Management, Law Number 41 of 1999 on Forestry, and relevant provisions in the Omnibus Law on Job Creation, alongside doctrines of state responsibility and ecological justice. Empirically, the study analyzes three legally binding court decisions involving PT Jatim Jaya Perkasa, PT National Sago Prima, and PT Kallista Alam as primary legal materials, complemented by statutes, scholarly articles, and institutional reports as secondary data. Data were collected through documentary analysis, including statutory interpretation, case law review, and examination of government reports,

supported where relevant by expert interviews and secondary literature. The materials are analyzed using a juridical-critical approach, which integrates doctrinal legal interpretation with critical evaluation of empirical findings to identify institutional gaps in the state's role in post-judgment reforestation efforts.

## **C. RESULTS AND DISCUSSIONS**

### **1. Disconnection Between Legal Certainty and Enforcement in Environmental Restoration**

The legal framework for environmental protection in Indonesia fundamentally recognizes two pathways of response to ecological degradation: the repressive route through criminal and administrative sanctions, and the corrective route through restoration obligations. These two approaches are not isolated; rather, they presuppose each other within the broader construction of legal responsibility for ecological harm. Law Number 32 of 2009 on Environmental Protection and Management (UUPPLH) does not merely prohibit acts of environmental damage, but also affirms the necessity of restoring the disrupted ecological functions as an integral component of environmental accountability. Nevertheless, a tension arises when the concept of "restoration" is applied in judicial practice, particularly when courts impose civil sanctions in the form of fines on business actors. At this juncture, the role of the state

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begins to shift from an active enforcer of the law to a passive recipient of funds. The state appears prominently during the punitive phase but is often absent in the actual implementation of post-verdict ecological restoration.<sup>6</sup> This disconnect reveals that Indonesia's environmental legal framework has not yet fully internalized the principles of *state responsibility* and *environmental accountability*, both of which require the state not merely to uphold the law but to actively function as an agent of ecological justice.

A closer examination reveals that Indonesia's environmental legal framework has indeed established a normative foundation for sanctioning perpetrators of forest destruction. Article 69 paragraph (1) letter h of Law Number 32 of 2009 on Environmental Protection and Management (UUPPLH) explicitly prohibits land clearing by burning, a provision reinforced by Article 108, which imposes criminal penalties and fines of up to ten billion rupiah. Similar prohibitions are enshrined in Article 50 paragraph (2) letter b of Law Number 41 of 1999 on Forestry, which clearly forbids forest burning, and Article 56 paragraph (1) of Law Number 39 of 2014 on Plantations, which reiterates the ban on land clearing by burning for business actors. Yet behind the

existence of prohibitions and the threat of sanctions, a crucial issue remains unaddressed: the absence of an explicit post-sanction mechanism following the state's receipt of environmental fines. No normative framework exists that outlines how these funds should be allocated for reforestation, which authority is responsible for executing the recovery measures, or how the process should be transparently reported to the public. Once the fine is paid into the state treasury, there is no automatic legal pathway that links it to concrete ecological rehabilitation efforts. This legal void becomes the entry point for questioning not only the effectiveness of sanctions but also the broader framework of state responsibility in bridging judicial outcomes with tangible recovery on the ground.

If environmental fines are intended as instruments for ecological restoration, their function should not be confined to merely penal fiscal tools. However, the reality in Indonesia reveals a disconnect: once these funds are deposited into the state treasury, there exists no legal framework that mandates a dedicated allocation mechanism for reforestation efforts. Neither the State Budget Law nor the technical regulations issued by the Ministry of Finance provide assurance that funds resulting from court decisions

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<sup>6</sup> Luiz De Mello and João Tovar Jalles, 'Decentralization and the Environment: Cross-Country Evidence', *Applied Economics* 56, No. 57 (December 2024): 7960-7970, <https://doi.org/10.1080/00036846.2024.2313607>, p. 7960.

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are directly reinvested to finance the restoration of damaged ecosystems. When restoration funds are absorbed as general state revenue without any earmarked budget line, the ecological footprint of the sanctions originally intended to remedy environmental harm effectively disappears. This situation not only creates a fiscal imbalance but also exposes a critical institutional gap in the governance of environmental restoration. More broadly, the absence of an earmarking system for environmental fines illustrates a weak integration between judicial function, fiscal systems, and environmental policy an issue increasingly scrutinized within the global discourse on ecological fiscal accountability.<sup>7</sup> The state cannot merely function as a conduit for sanctions without establishing internal mechanisms that connect punishment to ecological restoration. Within the framework of ecological justice, restoration is not a mere administrative consequence it is the very essence of the state's responsibility, inseparable from the legitimacy of its legal authority.<sup>8</sup>

The normative vacuum that allows environmental fines to remain idle within the fiscal system without a clear

direction for their use is not merely an administrative issue; it reflects a deeper institutional weakness in the state's capacity to translate legal sanctions into tangible ecological actions. When legal frameworks fail to provide operational instruments enabling the state to directly manage environmental restoration, a deviation emerges between punishment and recovery two elements that should, in principle, complement each other within the logic of environmental law. In this context, the state's presence becomes largely symbolic, functioning as a collector of fines but absent in the functional role of ecosystem restoration. This mirrors critiques within environmental governance literature, which highlight how states often establish legal regimes without designing institutional structures capable of ensuring their substantive implementation.<sup>9</sup>

When ecological responsibility is not followed through with concrete actions, the state's legitimacy as a protector of the right to a healthy environment is equally called into question. Within the framework of state responsibility, the role of the state extends beyond the imposition of sanctions it includes

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<sup>7</sup> Flavio Gazzani, 'Transition to Social-Ecological Sustainability Using the Environmental Fiscal Reform', *International Journal of Social Economics* 48, No. 5 (May 2021): 675-692, <https://doi.org/10.1108/ijse-09-2020-0656>, p. 675.

<sup>8</sup> Rong Wu and Shuang Ling, 'The Effect of the Accountability System in Promoting Environmental Conflict Governance: An Evolutionary Game Analysis', *Environment, Development and Sustainability* 27, No. 3 (December 2023): 7727-7756, <https://doi.org/10.1007/s10668-023-04218-5>, p. 7727.

<sup>9</sup> James Evans and Craig Thomas, *Environmental Governance*, 2<sup>nd</sup> ed (London: Routledge, 2023), <https://doi.org/10.4324/9781003334699>, p. 310.

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ensuring that ecological justice is realized through publicly accountable restoration processes.<sup>10</sup> In the Indonesian context, a significant gap persists between the formal legal domain and the institutional practices that should guarantee that environmental restoration is not merely a legal consequence but a lived ecological reality.

The disparity between punishment and restoration in Indonesia's environmental law is not merely a normative concern it manifests tangibly within judicial practice. In several civil cases concerning environmental degradation, courts have indeed imposed substantial fines. However, the execution of such verdicts is often not accompanied by any concrete ecological recovery plans. This generates a kind of vacuum in legal ecology, where judicial decisions remain juridical products without yielding the anticipated ecological transformation.

Within the framework of environmental justice, this condition signifies that justice has not been fully realized when court decisions fail to bring substantive change to the affected landscapes and communities. The

absence of a scheme linking fines to actual restoration reinforces findings in global literature regarding the weakness of court-based implementation in ecological contexts, particularly when it is not supported by responsive institutional structures.<sup>11</sup> This reality becomes crucial to further unpack through an analysis of how environmental cases are adjudicated by the courts and how such rulings concretely represent the framework of state ecological responsibility.

One notable case that illustrates the gap between legal punishment and ecological restoration is the lawsuit against PT Jatim Jaya Perkasa (PT JJP) in West Kalimantan. In Supreme Court Decision Number 1/PDT/2017/PT.PTK, the company was held liable for forest fires affecting over one thousand hectares and was ordered to pay a civil fine amounting to IDR 466 billion. Normatively, the ruling stipulated that PT JJP must not only pay the fine but also bear the cost of environmental restoration efforts.<sup>12</sup> However, more than five years after the ruling became legally binding, no public report is available to confirm whether ecological restoration has

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<sup>10</sup> Kenneth W. Abbott and Benjamin Faude, 'Hybrid Institutional Complexes in Global Governance', *The Review of International Organizations* 17, No. 2 (April 2022): 263-291, <https://doi.org/10.1007/s11558-021-09431-3>, p. 263.

<sup>11</sup> Konrad Gürtler, 'Justice in Energy Transformations as a Spatial Phenomenon: A Framework for Analyzing Multi-Dimensional Justice Claims', *Energy Research & Social Science* 105 (November 2023): 1-11, <https://doi.org/10.1016/j.erss.2023.103277>, p. 4.

<sup>12</sup> Atikah Mardhiya Rohmy, Hartiwiningsih, and I Gusti Ayu Ketut Rachmi Handayani, 'Judicial Mafia and Ecological In-Justice: Obstacles to Policy Enforcement in Indonesian Forest Management and Protection', *Trees, Forests and People* 17 (September 2024): 1-6, <https://doi.org/10.1016/j.tfp.2024.100613>, p. 3.

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actually been carried out by whom, and in what form. This situation gives rise to a conceptual inquiry: is the inclusion of a restoration clause in the verdict sufficient to ensure tangible reforestation? Or does the state merely act as a recipient of financial compensation without a robust institutional mechanism to translate the sanction into measurable ecological recovery? This reinforces the critique that Indonesia's environmental legal system still treats sanctions as an end in themselves, rather than as a bridge toward substantive ecological justice.<sup>13</sup>

A relatively similar pattern can be observed in the case of PT NSP in Riau, which in 2019 was fined IDR 1.2 trillion by the court for proven involvement in burning over a thousand hectares of peatland. While the verdict legally affirmed the corporate responsibility for ecological damage, a recurring issue resurfaces thereafter: how does the state oversee the implementation of restoration by the corporate actor? There is no public information system disclosing whether the restoration funds have been utilized appropriately, who conducted the field verification, or how the success indicators for reforestation were defined. On the other hand, in many cases, the state tends to delegate part or even the entirety of the restoration responsibility

to corporate actors who have been legally proven negligent. This practice reflects the absence of an institutional structure capable of controlling, evaluating, or even transparently communicating the post-judgment restoration process.

However, in the case of PT Kallista Alam in Aceh, there emerged a slightly divergent dynamic from the general pattern. Following the Supreme Court's decision imposing a fine of IDR 366 billion for the peatland fires in Rawa Tripa, a notable development was the Aceh Government's expressed willingness to actively participate in the restoration efforts. In this instance, the state did not merely act as the recipient of environmental fines but assumed a more direct role as the technical executor of rehabilitation, even initiating a reforestation plan and a water management system for the affected area.

This shift, however, leaves a critical question unanswered: does the state's intervention reflect the fulfillment of its ecological responsibility, or does it instead signify a lack of trust in the corporate actor as the primary agent of restoration? The absence of a robust evaluation mechanism obscures the relationship between the fines received, the execution of recovery programs, and

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<sup>13</sup> Rini Astuti and Yuti A. Fatimah, 'Science in the Court: Expert Knowledge and Forest Fires on Indonesia's Plantations', *Environmental Science & Policy* 151 (January 2024): 1-10, <https://doi.org/10.1016/j.envsci.2023.103631>, p. 5.

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the actual ecological outcomes on the ground.<sup>14</sup> This situation places the state in a dual dilemma: on one hand, it acts as the enforcer of the law and recipient of environmental fines; on the other hand, it is expected to maintain neutrality in the execution of restoration efforts. When the state steps into the operational domain, the logic of the “polluter pays” principle becomes blurred. The state’s role shifts from serving as an external accountability guarantor to potentially assuming the very ecological obligations that should remain the responsibility of the private polluter.<sup>15</sup>

When a line is drawn through the various cases that have taken place, it becomes evident that the state occupies an ambiguous position within the landscape of ecological responsibility. On one hand, it appears as an entity that imposes legal sanctions on environmentally destructive corporations, collecting fines with strong juridical legitimacy. On the other hand, there is no consistent involvement in ensuring that those funds are actually redirected toward restoring the damaged ecosystems. The absence of institutional

mechanisms to bridge judicial processes with ecological recovery reinforces the impression that administrative or criminal sanctions are imposed without a long-term horizon of environmental restoration.

This condition is not merely a procedural flaw; it reflects a systemic paradox within Indonesia’s legal ecology: environmental law operates repressively but remains blunt in its reconstructive dimension. This phenomenon aligns with the analysis that the success of environmental law enforcement should not be measured solely by the imposition of sanctions upon perpetrators, but by the existence or absence of a governance ecosystem capable of inclusively and transparently restoring ecological landscapes.<sup>16</sup> When state institutions manage only the financial aspects of ecological crimes without a corresponding commitment to rehabilitation, the role of the state tends to shift from an environmental steward to merely a fine-collecting accountant. Ironically, such a condition distances the state from the principle

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<sup>14</sup> Jakob Schwaiger *et al.*, ‘Customary Authorities and Environmental Governance in Africa: A Systematic Review’, *Society & Natural Resources* 37, No. 8 (August 2024): 1199-1217, <https://doi.org/10.1080/08941920.2024.2338781>, p. 1199.

<sup>15</sup> Hamdi Hamdi, Agus Sugiarto, and Mahatidanar Hidayat, ‘Optimizing Civil Procedural Law in Environmental Cases Related to Peatland Burning: Legal Approaches for Sustainable Peatland Management’, *Lex Publica* 10, No. 2 (December 2023): 1-22, <https://doi.org/10.58829/lp.10.2.2023.1-22>, p. 19.

<sup>16</sup> Ratih Dyah Kusumastuti *et al.*, ‘Indicators of Community Preparedness for Fast-Onset Disasters: A Systematic Literature Review and Case Study’, *Natural Hazards* 110, No. 1 (January 2022): 787-821, <https://doi.org/10.1007/s11069-021-04970-9>, p. 787.

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of *state ecological accountability*, which demands a substantive responsibility to act as a regenerative guardian of the environment.<sup>17</sup> In such a landscape, sanctions lose their transformational value not because they are weak, but because they are not rooted in a system capable of articulating restoration as an integral part of environmental justice.

The tension between the certainty of legal texts and the paralysis of their enforcement practices in environmental contexts reflects a disconnection between the formal meaning of law and the need for sustainable ecological restoration. In many cases, environmental fines imposed on corporations never truly balance the ecological damage caused, as they are not accompanied by effective restitution mechanisms or the directed use of funds for concrete rehabilitation. In this logic, law must not remain merely a repressive tool or an administrative instrument, but must evolve into a restorative system that responds meaningfully to long-term environmental degradation.

This perspective shifts the focus from mere penalization to structural restoration viewing law as a medium to

reconfigure the relationship between the state, society, and ecosystems through institutional reconstruction grounded in sustainability awareness. This idea is affirmed by Kotzé, who emphasizes that contemporary environmental law requires a new constitutional configuration that is not only legalistic but also ecocentric in nature.<sup>18</sup> Furthermore, Borrás emphasizes that restoration efforts cannot be separated from the structure of social justice and equitable political distribution, as ecological damage is inherently structured and socially non-neutral.<sup>19</sup> Such an articulation opens up space to reconceptualize environmental law as a living institution not merely as a mechanism for adjudication, but as a custodian of institutional memory and a catalyst for collective transformation toward ecological justice.

Taken as a whole, the analysis in this subsection demonstrates that the core weakness of Indonesia's post-judgment environmental regime lies not in the absence of legal prohibitions or judicial authority, but in the institutional disconnection between sanctioning and restoration. While environmental

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<sup>17</sup> Guillaume Fontaine, Camila Carrasco, and Carlos Rodrigues, 'How Transparency Enhances Public Accountability: The Case of Environmental Governance in Chile', *The Extractive Industries and Society* 9 (March 2022): 1-14, <https://doi.org/10.1016/j.exis.2021.101040>, p. 7.

<sup>18</sup> Louis Kotzé, 'A Global Environmental Constitution for the Anthropocene?', *Transnational Environmental Law* 8, No. 1 (March 2019): 11-33, <https://doi.org/10.1017/s2047102518000274>, p. 12.

<sup>19</sup> Saturnino M. Borrás Jr. and Jennifer C. Franco, 'The Challenge of Locating Land-Based Climate Change Mitigation and Adaptation Politics within a Social Justice Perspective: Towards an Idea of Agrarian Climate Justice', *Third World Quarterly* 39, No. 7 (July 2018): 1308-1325, <https://doi.org/10.1080/01436597.2018.1460592>, p. 1315.

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finances are imposed with strong juridical certainty, their enforcement remains detached from any operative mechanism capable of ensuring ecological recovery. This disjunction transforms restoration from a substantive legal obligation into a contingent administrative outcome, dependent on fragmented institutional practices rather than binding legal pathways. In this context, the state's role becomes largely symbolic, present at the moment of punishment but structurally absent in the realization of ecological repair. Such a condition underscores that legal certainty, when unaccompanied by enforceable restoration mechanisms, fails to fulfill the restorative function of environmental law and weakens the normative foundation of ecological justice.

## **2. State Responsibility in the Perspective of Environmental Accountability**

Environmental policy in Indonesia frequently falls into a reactive pattern that emphasizes administrative sanctions but fails to integrate principles of ecological restoration into the existing legal framework. In practice, fines imposed on corporations for forest fires in Kalimantan, for instance, are often not accompanied by accountable mechanisms for allocating funds toward the restoration of affected areas. This phenomenon reflects the absence of an environmental accountability logic within the regulatory architecture, where the state appears more as a

collector of compensation than as a responsible entity committed to ensuring the sustainability of ecosystems. When fines are not redirected to affected communities or damaged environments, legal instruments lose their ecological legitimacy. Critiques of such governance models highlight the weak integration between legal sanctions and restorative commitments within public policy, particularly when state authority is not oriented toward the reconstruction of ecological functions. In this context, approaches that prioritize local community participation and transparency in the allocation of sanction funds have been proposed as essential foundations for closing institutional gaps in environmental governance.

Indonesia's environmental legal system remains entrenched in a retributive logic that prioritizes sanctions over restoration. The disjunction between retributive justice and restorative ecological justice becomes evident when regulations focus solely on the imposition of administrative fines, while failing to ensure comprehensive ecological recovery. This not only reflects a void in state responsibility, but also obscures the function of law as a rehabilitative instrument for the environment. Within the framework of state accountability, sanctions should not stand alone as punitive measures; they must be integrated with concrete and measurable mechanisms for environmental remediation. The absence of a mandatory and well-documented recovery scheme

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signals a weak legal imagination in constructing a participatory model of ecological justice. Several global jurisdictions have developed approaches that compel both the state and business actors not merely to pay fines, but also to demonstrate tangible contributions to the restoration of affected areas as part of their legal obligations. In the absence of normative guarantees linking punishment to restoration, Indonesia's legal system risks reducing the environment to a commodified object, rather than recognizing it as an entity that must be restored and protected.

The conception of the state as a guardian of natural resources finds its conceptual grounding in the *public trust doctrine*. This perspective does not regard the state as an absolute owner, but rather as a trustee responsible for safeguarding natural resources on behalf of the people and future generations. In the context of Indonesia a country rich in natural wealth yet frail in governance, this approach offers both an ethical and legal foundation to assess state actions, particularly when it fails to restore ecological damage following resource extraction. When forests are stripped bare, rivers are polluted, and land loses its ecological capacity, what is violated is not only the rights of currently affected communities, but also the ecological

justice owed to future generations. It is in this context that the concept of *environmental justice* gains prominence, particularly through its emphasis on intergenerational and interregional equity, which demands the proportional distribution of environmental risks and benefits. This expanded interpretation requires the state not merely to formulate administrative norms, but to construct responsibility frameworks that are genuinely responsive to affected communities and marginalized ecosystems.<sup>20</sup> The state's failure to fulfill its fiduciary function over natural resources not only triggers ecological crises, but also erodes its constitutional legitimacy as the guardian of the public interest.

State responsibility for environmental degradation does not end with the formulation of legal norms or the imposition of administrative and criminal sanctions on violators. When fines are imposed but never translated into tangible ecological restoration, the state bears both moral and legal burdens as a passive actor within the recovery system. This responsibility is derivative in nature: although the state is not the primary agent of destruction, it fails to remediate the consequences produced by sanctioned offenders. Within the framework of *state accountability*,

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<sup>20</sup> Arild Vatn, 'Environmental Governance-From Public to Private?', *Ecological Economics* 148 (June 2018): 170-177, <https://doi.org/10.1016/j.ecolecon.2018.01.010>, p. 170.

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such negligence creates a vacuum in implementation, ultimately exacerbating ecosystem vulnerability and widening the circle of suffering among affected communities. Emerging approaches in environmental law increasingly emphasize the need to assess institutional performance in executing sanction-based restoration, rather than focusing solely on the initial phase of legal enforcement. This shift calls for success indicators that go beyond the number of prosecuted offenders, aiming instead at measurable outcomes in environmental rehabilitation.<sup>21</sup>

The reform of Indonesia's environmental legal logic cannot be limited to the intensification of sanctions; rather, it must be directed toward the development of institutionalized and publicly accessible mechanisms for ecological restoration. Under the current legal design, the state often assumes the role of a referee issuing penalties for violations yet remains absent from the architecture of environmental recovery. However, within the framework of environmental justice, the state must not remain neutral in the face of harm caused by violations, particularly when local communities are the primary victims of ongoing environmental degradation. The direction of legal reform must promote the integration of the *polluter pays* principle

with a framework of state responsibility that fosters collective efforts in restoring the ecological functions of affected areas. Emerging paradigms in global environmental policy have underscored the importance of equitably distributing the burden of restoration through legal instruments that ensure the state does not merely impose sanctions, but also actively facilitates the recovery process.

Addressing the institutional void in the execution of ecological restoration requires the establishment of institutional structures that are not only functional but also ecologically and socially accountable. One concrete initiative that could be developed is the creation of a National Reforestation Fund, integrated under a cross-sectoral institutional framework with a specific mandate: to channel court-awarded environmental fines to affected areas based on ecological assessments rather than merely administrative considerations. Such a model enables the distribution of roles among technical agencies, civil society actors, and oversight authorities to ensure the traceability of funds and the effectiveness of restoration efforts. As a complement, an environmental audit unit is needed not only to assess ecological losses but also to verify the fulfillment of restoration obligations following the payment of fines. Within the framework

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<sup>21</sup> Fumi Kitagawa, 'Lessons from the Japanese "Regional Revitalisation" – Impacts of Regional Industrial Policies through Decentralisation', *Contemporary Social Science* 19, No. 4 (August 2024): 602-621, <https://doi.org/10.1080/21582041.2024.2433018>, p. 602.

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of environmental accountability, strengthening institutional capacity is not merely a matter of human resources, but also of procedural legitimacy and transparency in the allocation of resources.<sup>22</sup>

The foundation for developing institutional frameworks in Indonesia can, in fact, be enriched by examining the practices of other countries that have already integrated ecological restoration as an essential component of environmental law. In the United States, the Superfund scheme offers a compelling example of how the state established a specialized agency the Environmental Protection Agency (EPA) endowed with the authority to collect and allocate ecological compensation funds from polluters for the restoration of contaminated sites. Simultaneously, the EPA maintains an open-access database that tracks the progress of these restoration efforts, ensuring public transparency and institutional accountability. In Brazil, the Amazon Fund operates as a collective financing mechanism for forest protection, managed by the national development bank (BNDES), yet it actively involves both local and international actors in verification and reporting processes. These two practices illustrate that the

design of institutional frameworks for restoration is not solely determined by the national legal architecture, but also by political will and institutional imagination in bridging ecological and social justice.

Envisioning a transparent and participatory institutional scheme for ecological restoration is not merely a technocratic discourse, but a fundamental part of reconfiguring the relationship between the state, society, and nature. This proposal does not emerge in a vacuum; rather, it arises from the inadequacy of Indonesia's legal structures in addressing environmental degradation as a multidimensional crisis ecological, social, and ethical. In the Indonesian context, the greatest challenge lies not solely in funding, but in the lack of deliberative spaces that allow affected communities to become active subjects in the restoration process, rather than passive objects of sympathy. Models such as *Community-Based Environmental Governance* (CBEG), which have evolved in South Africa and the Philippines, demonstrate that ecological restoration attains true legitimacy only when it is grounded in the recognition of local knowledge and the lived experiences of victims. At this juncture, it becomes necessary to

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<sup>22</sup> Peter P. J. Driessen *et al.*, 'Towards a Conceptual Framework for The Study of Shifts in Modes of Environmental Governance – Experiences From The Netherlands', *Environmental Policy and Governance* 22, No. 3 (May 2012): 143-160, <https://doi.org/10.1002/eet.1580>, p. 143.

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dismantle legal paradigms that draw a rigid line between compensation and structural transformation. Restitution cannot be deemed complete merely because monetary payments have been made; genuine restoration requires a fundamental reconfiguration of decision-making structures that have historically excluded those most affected.<sup>23</sup>

This subsection illustrates that state responsibility in environmental governance cannot be confined to the formulation of norms or the imposition of sanctions, but must be understood as an ongoing obligation to ensure that ecological harm is substantively remedied. The persistence of restoration failures following court-imposed fines reveals that accountability gaps are rooted less in regulatory absence than in institutional design and execution. When the state limits its role to that of a sanctioning authority or financial custodian, environmental law loses its restorative orientation and risks reproducing ecological injustice under the guise of legal compliance. From the perspective of environmental accountability, the legitimacy of state action depends on its capacity to transform legal outcomes into verifiable ecological recovery through transparent, participatory, and institutionally

coherent mechanisms. In this sense, state responsibility emerges not as a derivative or symbolic function, but as a central condition for aligning environmental enforcement with the substantive demands of ecological justice.

An examination of the PT Jatim Jaya Perkasa, PT NSP, and PT Kallista Alam cases reveals a consistent difficulty in translating judicial decisions on environmental fines into structured and accountable restoration practices. Across these cases, courts have imposed substantial financial sanctions and, in some instances, explicitly articulated restoration obligations. However, the post-judgment phase remains marked by uncertainty regarding who is institutionally responsible for ensuring that ecological recovery is carried out, monitored, and publicly verified. In situations where restoration duties are formally assigned to corporate actors, state oversight appears limited and fragmented, while instances of more direct state involvement tend to emerge in an ad hoc manner without a clearly articulated governance framework. These patterns indicate that the state's role in the post-judgment phase fluctuates between custodial supervision and operational intervention, without a stable institutional mandate anchoring

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<sup>23</sup> Sonia Brondi, Giacomo Chiara, and Elisa Matutini, 'Navigating Environmental Justice Framework: A Scoping Literature Review Over Four Decades', *Environmental Justice* 18, No. 3 (June 2025): 155-167, <https://doi.org/10.1089/env.2024.0054>, p. 155.

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either position. As a consequence, environmental fines are more consistently realized as instruments of legal sanctioning than as mechanisms that reliably produce measurable ecological restoration, highlighting an unresolved institutional tension within Indonesia's environmental governance system.

#### D. CONCLUSIONS

This study demonstrates that Indonesia's environmental law, despite providing a clear normative basis for imposing sanctions on corporate actors responsible for forest and land fires, has not been accompanied by institutional arrangements capable of ensuring that such sanctions culminate in substantive ecological restoration. The analysis of major environmental cases reveals a persistent disconnection between legal certainty and enforcement, as environmental fines deposited into the state treasury are not supported by earmarking systems, mandated restoration pathways, or transparent reporting mechanisms, resulting in court-ordered sanctions that rarely materialize into measurable recovery on the ground. At the same time, the findings indicate that the state's role within the post-judgment phase remains limited to the collection of fines, reflecting an incomplete articulation of its ecological responsibility under the principles of environmental accountability and the public trust doctrine. Addressing these

dual gaps requires a normative and institutional framework that positions the state not merely as an administrator of sanctions, but as an active ecological steward through mechanisms such as a dedicated reforestation fund, independent environmental audits, and participatory oversight capable of ensuring that environmental fines are translated into verifiable ecological outcomes and long-term environmental justice. Beyond its empirical findings, this study offers a conceptual contribution by reframing environmental fines not merely as punitive or fiscal instruments, but as normative triggers of state responsibility in the post-judgment phase of environmental governance. By situating ecological restoration within the framework of state accountability and the public trust doctrine, the article advances a post-judgment analytical lens that has remained underexplored in Indonesian environmental law scholarship. This perspective shifts the focus of legal analysis from the legality of sanctions to the institutional conditions required for their restorative realization. In doing so, the study contributes to broader debates on environmental justice by emphasizing that the effectiveness of environmental law must be assessed not only by the certainty of sanctions, but by the state's capacity to transform judicial outcomes into substantive ecological recovery.

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