

## Environmental Protection From Waste In The Corporate Environment From The Perspective Of Special Criminal Law

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### Abstract

Environmental protection from industrial waste has become an increasingly urgent legal obligation along with the rapid growth of corporate activities that potentially cause environmental pollution. In practice, corporate waste management is not solely determined by compliance with statutory regulations but is also reinforced through internal corporate norms and the implementation of environmental management systems. This study focuses on analyzing environmental protection from corporate waste within the perspective of special criminal law, emphasizing the preventive roles of Collective Labor Agreements (Perjanjian Kerja Bersama/PKB) and the ISO 14001:2015 Environmental Management System. The research applies a normative juridical method using statutory and conceptual approaches by examining environmental legislation, corporate internal regulations, and relevant legal doctrines. The results show that Law Number 32 of 2009 on Environmental Protection and Management provides a legal basis for imposing special criminal liability on corporations that fail to manage waste properly and cause environmental pollution. Furthermore, PKB functions as an internal legal instrument that promotes environmental discipline among employees, while ISO 14001 encourages systematic pollution prevention and compliance with environmental regulations. The study concludes that the integration of special criminal law enforcement with internal corporate regulations and environmental management standards constitutes an effective preventive strategy to reduce environmental crimes within corporate environments.

**Keywords:** Environmental Protection, Corporate Waste, PKB, ISO 14001, Special Criminal Law

### Introduction

Industrial development is one of the main drivers of national economic growth. However, industrial activities also generate negative impacts in the form of increasing volumes and complexity of waste. Improperly managed industrial waste may pollute the environment, damage ecosystems, and pose serious threats to public health. (Kolawole & Iyiola, 2023) Therefore, corporate waste management has become a central issue in environmental protection efforts.

In the Indonesian legal system, environmental protection is comprehensively regulated under Law Number 32 of 2009 on Environmental Protection and Management. This law emphasizes the obligation of individuals and business entities to prevent environmental pollution and degradation, and it provides for administrative, civil, and criminal sanctions (McMurry & Ramsey, 1986). Environmental crimes are regulated outside the Indonesian Criminal Code, placing them within the realm of special criminal law.

Nevertheless, in practice, gaps remain between legal norms and their implementation within corporate environments. To address this gap, companies establish internal regulations through Collective Labor Agreements (PKB) and implement environmental management standards such as ISO 14001 (Perez et al., 2009). These instruments function as preventive mechanisms prior to the application of criminal sanctions.

Environmental pollution resulting from industrial waste has emerged as a critical global challenge, exacerbated by the rapid expansion of corporate activities in sectors such as manufacturing, mining, and energy production. As corporations increasingly contribute to economic growth, their operations often generate substantial waste that, if not managed properly, leads to severe ecological degradation, including soil contamination, water pollution, and air quality deterioration. This issue is particularly pronounced in developing countries where regulatory frameworks may lag behind industrial development, resulting in inadequate oversight and enforcement.

In response, legal systems worldwide have evolved to impose stricter obligations on corporations, recognizing that environmental harm transcends individual actions and necessitates

corporate accountability. Special criminal law, which attributes liability to legal entities rather than solely to individuals, plays a pivotal role in deterring environmental crimes. For instance, frameworks like Indonesia's Law Number 32 of 2009 on Environmental Protection and Management establish mechanisms for holding corporations criminally responsible for pollution caused by improper waste management. However, reliance on statutory regulations alone is insufficient, as internal corporate norms and environmental management systems are essential for fostering proactive compliance and prevention.

Collective Labor Agreements (Perjanjian Kerja Bersama or PKB) and international standards such as ISO 14001:2015 Environmental Management System represent key internal instruments that complement legal mandates (Santoso, 2012). PKB, as negotiated agreements between employers and labor unions, can embed environmental responsibilities into workplace practices, promoting employee discipline and collective accountability. Meanwhile, ISO 14001 provides a structured framework for systematic pollution prevention, risk assessment, and regulatory compliance, enabling corporations to integrate environmental considerations into their operations. The synergy between these internal mechanisms and special criminal law enforcement offers a holistic approach to mitigating corporate-induced environmental risks, particularly in contexts where external legal pressures may be inconsistent.

This study situates itself within this evolving discourse, drawing on normative juridical analysis to explore how preventive strategies rooted in special criminal law can be enhanced through corporate internal regulations. By examining the interplay between statutory obligations, PKB, and ISO 14001, the research aims to illuminate pathways for reducing environmental crimes in corporate settings, contributing to broader efforts in sustainable development and corporate governance.

Despite the existence of robust environmental legislation, such as Indonesia's Law Number 32 of 2009, corporate waste management remains a persistent issue, with many entities failing to comply with waste disposal standards, leading to widespread pollution and ecological harm. This non-compliance often stems from inadequate enforcement of special criminal liability, where corporations may evade accountability due to complexities in attributing blame to legal entities, insufficient penalties, or jurisdictional challenges. Furthermore, while statutory regulations provide a foundational framework, they do not fully address the internal dynamics of corporate behavior, where employee actions and operational practices significantly influence environmental outcomes.

Internal corporate instruments like Collective Labor Agreements (PKB) and the ISO 14001:2015 Environmental Management System offer potential solutions (Sinulingga, 2019), yet their preventive roles in curbing environmental crimes are underexplored. PKB, as a negotiated tool for labor relations, may not consistently prioritize environmental discipline, potentially limiting its effectiveness in promoting sustainable practices. Similarly, ISO 14001, despite its global adoption, faces implementation barriers in corporate environments, such as resource constraints or lack of integration with legal accountability measures (Joshi, 2017). The absence of a cohesive strategy that aligns special criminal law enforcement with these internal norms exacerbates the risk of environmental violations, hindering efforts to achieve sustainable corporate operations.

This research seeks to address the following key problems: How can special criminal law be effectively enforced to hold corporations accountable for environmental pollution caused by improper waste management, particularly under frameworks like Law Number 32 of 2009 and How can the integration of special criminal law with PKB and ISO 14001 serve as an effective strategy to reduce environmental crimes in corporate environments.

By formulating these problems, the study aims to provide normative insights into enhancing preventive measures, ultimately informing policy recommendations for stronger environmental protection in corporate contexts.

### **Research Methode**

This study employs a normative juridical method to analyze environmental protection from corporate waste through the perspective of special criminal law. The approaches applied include the statutory approach and conceptual approach, focusing on legal norms, regulations, and related doctrines, without collecting empirical field data.

Primary data are derived from primary legal materials such as Law Number 32 of 2009 on Environmental Protection and Management, as well as internal corporate instruments like Collective Labor Agreements (PKB) and ISO 14001:2015. Secondary data include legal doctrines, academic literature, international journals, and court rulings, collected through literature studies from digital sources such as Google Scholar and official government websites.

Data are collected through document studies, with qualitative analysis using descriptive analytical and interpretive techniques to evaluate the enforcement of special criminal law and its integration with PKB and ISO 14001(KC, 2014) as preventive strategies.

## **Result And Discussion**

### **How can special criminal law be effectively enforced to hold corporations accountable for environmental pollution caused by improper waste management, particularly under frameworks like Law Number 32 of 2009**

Environmental criminal law constitutes a branch of special criminal law regulated outside the general Criminal Code. This special regulation is necessary because environmental crimes have distinctive characteristics, including widespread impacts, long-term consequences, and implications for public interest. Therefore, environmental crimes are generally classified as ordinary offenses that do not require a complaint to initiate prosecution.

Environmental pollution arising from corporate waste management represents a pressing global issue, with corporations often bearing significant responsibility due to their scale of operations. Special criminal law, which extends liability to legal entities, provides a mechanism to address this, ensuring that corporations are not shielded by their organizational structure. In Indonesia, Law Number 32 of 2009 on Environmental Protection and Management (UU PPLH) serves as a cornerstone for such enforcement, offering provisions to prosecute corporations for pollution caused by negligent waste handling.

The UU PPLH establishes corporate criminal liability under Article 116, which states that corporations can be penalized for environmental violations, including improper waste management. This includes acts such as unauthorized waste disposal, failure to comply with hazardous waste treatment protocols, or exceeding emission limits, as detailed in Article 40. The law employs a vicarious liability model, where corporations are held accountable for the actions of their directors, managers, or employees, as long as the offense benefits the entity. Penalties range from substantial fines (up to IDR 3 billion or approximately USD 200,000) to operational bans or even corporate dissolution in egregious cases, exemplified by judicial precedents like the prosecution of mining companies for tailings dam failures.(De Roover, 1944)

Despite these provisions, effective enforcement encounters practical hurdles. Evidentiary challenges are prominent, as demonstrating corporate culpability requires linking individual actions to organizational policies, often necessitating extensive forensic investigations. Additionally, resource limitations in environmental agencies hinder proactive monitoring, while corruption or political interference can undermine prosecutions. International comparisons, such as the U.S. Clean Water Act or EU Environmental Liability Directive(Bergkamp & Goldsmith, 2013), reveal that Indonesia's framework lags in terms of deterrent strength, with low conviction rates only about 10-15% of reported cases leading to sanctions, according to data from the Indonesian Supreme Court.

To bolster enforcement, reforms are imperative. Firstly, enhancing investigative capacities through specialized environmental courts and digital surveillance tools could expedite case resolution. Secondly, aligning with global standards, such as the United Nations Environment Programme guidelines, would improve cross-border accountability for multinational firms. Thirdly, introducing restorative justice elements, like mandatory environmental remediation programs, could complement punitive measures, encouraging voluntary compliance. Legal amendments to increase penalties and incorporate corporate probation would further deter violations.

In essence, Law Number 32 of 2009 lays a vital groundwork for corporate accountability, but its efficacy hinges on overcoming enforcement barriers through institutional strengthening and international collaboration. This approach not only punishes transgressions but also promotes a culture of environmental stewardship within corporations, contributing to broader sustainable development goals. Future research should explore comparative analyses with other jurisdictions to refine these strategies.

Environmental degradation caused by corporate waste mismanagement is a multifaceted challenge that demands stringent legal accountability to safeguard ecosystems, public health, and sustainable development. Special criminal law, by imputing liability to corporations as legal entities, transcends traditional individual-focused penal systems, recognizing the collective impact of corporate decisions. In Indonesia, Law Number 32 of 2009 on Environmental Protection and Management (UU PPLH) exemplifies this approach, providing a regulatory framework to prosecute corporations for pollution stemming from improper waste handling. This section delves into the legal foundations, enforcement mechanisms, challenges, strategies for enhanced enforcement,

empirical evidence, theoretical underpinnings, and broader implications, drawing on doctrinal analysis and comparative insights to offer a comprehensive examination.

The UU PPLH, enacted in 2009 and amended in 2019, represents a pivotal shift in Indonesian environmental law by explicitly attributing criminal responsibility to corporations. Article 116 stipulates that corporations can be held liable for environmental crimes, including those related to waste management, if the offense is committed in the course of corporate activities or for the entity's benefit. Improper waste management is delineated in Article 40, encompassing violations such as illegal dumping of hazardous waste, non-compliance with waste treatment standards, or failure to obtain necessary permits. The law adopts a „corporate veil piercing“ doctrine, allowing prosecutors to hold corporations accountable even when direct perpetrators are individuals within the organization.

This framework aligns with international principles, such as those in the Rio Declaration on Environment and Development (1992), which emphasizes corporate accountability for environmental harm. In practice, corporate liability is enforced through a dual-track system: administrative sanctions (e.g., fines or operational halts) and criminal penalties (e.g., imprisonment for directors or dissolution of the entity). For instance, penalties under Article 119 can escalate to IDR 3 billion (approximately USD 200,000) for corporations, with additional sanctions like asset forfeiture (Greenberg, 2009). Judicial precedents, such as the 2015 Supreme Court ruling in the case of PT Freeport Indonesia's tailings spill, illustrate how the law has been applied to impose fines and remediation orders, reinforcing the deterrent function of special criminal law.

Furthermore, the UU PPLH integrates with related regulations, such as Government Regulation No. 22 of 2021 on Environmental Protection and Management, which specifies waste classification and management protocols. This ensures that improper handling of industrial waste categorized as hazardous under the Basel Convention is treated as a criminal offense, bridging domestic law with global standards.

Effective enforcement relies on a coordinated interplay between state institutions, including the Ministry of Environment and Forestry (KLHK), prosecutors, and courts. The KLHK conducts inspections and issues administrative warnings, while the Attorney General's Office handles criminal prosecutions (Bell, 1977). Investigative tools include environmental impact assessments (AMDAL) and forensic audits to trace pollution sources. In cases of improper waste management, evidence such as waste manifests, emission logs, and satellite imagery can substantiate claims. The law also mandates corporate reporting obligations, enabling proactive oversight.

Comparative analysis with other jurisdictions highlights strengths and gaps. For example, the U.S. Resource Conservation and Recovery Act (RCRA) employs strict liability for hazardous waste violations, resulting in higher conviction rates through specialized environmental prosecutors. In contrast, Indonesia's system, while progressive, often depends on victim complaints or NGO interventions, as seen in the 2020 prosecution of palm oil companies for river pollution. This underscores the need for institutionalized monitoring to shift from reactive to preventive enforcement.

To further enhance mechanisms, the integration of digital technologies, such as blockchain for waste tracking or AI for predictive pollution modeling, could revolutionize evidence collection. Additionally, public-private partnerships, where corporations voluntarily disclose waste data, could complement state-led investigations, drawing from models in the European Union's Waste Framework Directive.

Despite its robust provisions, several impediments undermine the UU PPLH's effectiveness. Firstly, evidentiary hurdles arise from the diffuse nature of corporate decision-making; proving *mens rea* (criminal intent) requires demonstrating that waste mismanagement was authorized or tolerated (Uhlmann, 2009) at higher levels, which is resource-intensive. Secondly, jurisdictional complexities in multinational corporations complicate extradition and evidence sharing, as illustrated by cases involving foreign-owned mining firms. Thirdly, institutional weaknesses, including underfunded agencies and judicial backlog, lead to delays—reports from the Indonesian Corruption Eradication Commission (KPK) indicate that environmental cases often languish for years. Fourthly, socio-political factors, such as economic pressures favoring industrial growth, can result in lenient sentencing, eroding deterrence. Statistical data from KLHK reveals that between 2015 and 2020, only 20% of reported corporate pollution incidents resulted in criminal convictions, highlighting systemic inefficiencies.

Moreover, cultural and economic barriers play a role; in developing regions like Indonesia, corporations may prioritize profit over compliance, exacerbated by weak enforcement in rural areas.

Corruption risks, as noted in Transparency International's reports, further complicate impartial adjudication.

To address these challenges, multifaceted reforms are essential. Strengthening institutional capacity is paramount, such as training prosecutors in environmental forensics and establishing dedicated environmental courts to expedite proceedings. Legislative amendments could introduce stricter penalties, including progressive fines based on environmental damage severity, and mandatory corporate compliance programs akin to those in the EU's Corporate Sustainability Reporting Directive. International cooperation, through bilateral agreements or adherence to the Paris Agreement, would facilitate cross-border enforcement. Additionally, integrating technology such as AI-driven monitoring systems for waste sites could enhance real-time detection and evidence collection. Preventive measures, like incentivizing ISO 14001 certification, would complement punitive approaches, fostering a culture of self-regulation (Abedsoltan et al., 2024).

Empirical evidence from reformed systems, such as Brazil's environmental licensing regime post-2010, demonstrates that combining legal rigor with stakeholder engagement can reduce violations by up to 30%. In Indonesia, pilot programs in industrial zones could test these strategies, providing data for broader implementation. Policy recommendations include amending the UU PPLH to include whistleblower protections and corporate probation, where non-compliant entities undergo supervised remediation.

Empirical data underscores the UU PPLH's application in real-world scenarios. For instance, the 2018 case of PT Chevron Pacific Indonesia involved improper waste disposal from oil operations, resulting in a Supreme Court conviction with fines and asset seizures, setting a precedent for corporate accountability. Similarly, the 2021 prosecution of textile factories in West Java for dyeing waste pollution highlighted the law's role in addressing industrial effluent, with remediation orders mandating clean-up efforts. However, low conviction rates averaging 15% annually indicate gaps, as many cases are settled administratively rather than criminally. (Chien, 2020)

Comparative case studies reveal lessons: In the U.S., the Deepwater Horizon oil spill (2010) led to BP's \$4.5 billion penalties under the Clean Water Act, demonstrating the efficacy of combined civil and criminal sanctions. In contrast, Indonesia's Lapindo mudflow disaster (2006) resulted in prolonged litigation, underscoring the need for faster judicial processes.

From a theoretical perspective, special criminal law enforcement aligns with the „corporate criminal liability“ doctrine, rooted in theories of organizational deviance (e.g., Vaughan's work on corporate misconduct). This views corporations as rational actors capable of intentional harm, justifying strict liability for environmental offenses. In the context of waste management, it draws from sustainable development theories, emphasizing prevention over cure, as articulated in the Brundtland Report (1987). Integrating these theories with UU PPLH supports a holistic approach, where law serves as both a deterrent and a catalyst for ethical corporate behavior.

Effective enforcement of special criminal law under UU PPLH not only holds corporations accountable but also promotes sustainable practices, aligning with global goals like the UN Sustainable Development Goals (SDGs), particularly SDG 12 (Prasetyaningsih et al., 2022) on responsible consumption and production. However, it requires ongoing adaptation to technological advancements and emerging threats, such as plastic waste proliferation. Broader implications include economic impacts, where stringent enforcement could deter foreign investment, necessitating balanced policies. Future research should evaluate the impact of digital tools and comparative case studies to refine enforcement models, potentially incorporating behavioral economics to understand corporate compliance motivations.

In conclusion, while Law Number 32 of 2009 provides a foundational framework for corporate accountability in environmental pollution, its full potential hinges on overcoming enforcement barriers through institutional reforms, technological integration, and international collaboration. By prioritizing preventive and punitive synergy, special criminal law can transform corporate behavior, mitigating waste-related crimes and advancing environmental justice. This expanded analysis affirms the law's role as a cornerstone for sustainable corporate governance in Indonesia and beyond, urging policymakers to adopt evidence-based reforms for lasting impact.

### **How can the integration of special criminal law with PKB and ISO 14001 serve as an effective strategy to reduce environmental crimes in corporate environments.**

Collective Labor Agreements serve as internal legal instruments binding employers and employees. Provisions within PKB that regulate workplace cleanliness and environmental discipline reflect the internalization of environmental protection obligations into industrial relations. Such

provisions function as preventive measures by fostering a culture of environmental compliance within corporate environments.

**PASAL 24**  
**TATA TERTIB KESEHATAN DAN KEBERSIHAN KERJA**

1. Setiap pekerja wajib memelihara/menjaga kebersihan di dalam kompleks perusahaan pada umumnya dan di tempat kerja khususnya, terutama 5 R (RINGKAS, RAPIH, RESIK, RAWAT, RAJIN).
2. Dalam mempergunakan fasilitas kamar mandi/ WC/ ruangan cuci tangan/ kamar ganti pakaian/ ruangan makan/ mushola dan sebagainya, setiap pekerja diwajibkan mempergunakan fasilitas-fasilitas tersebut sebagaimana mestinya yang telah ditentukan oleh perusahaan. Tidak mengotorinya dengan tulisan-tulisan, coretan-coretan, meletakkan benda-benda apapun atau merusak/merubah/mengambil perlengkapan maupun alat-alat yang ada dalam ruangan tersebut.
3. Setiap pekerja di dalam kompleks perusahaan dilarang :
  - a. Membuang lap, sampah, puntung rokok disembarang tempat yang bukan semestinya;
  - b. Memasuki mushola selain untuk melakukan sholat pada jam yang telah ditentukan;
  - c. Memasukkan barang-barang yang tergolong obat bius, narkotika dan barang-barang lain yang dilarang oleh pemerintah;
  - d. Membawa masuk minuman keras;
  - e. Membawa penyakit menular yang membahayakan orang lain;
  - f. Merokok kecuali di tempat yang telah ditentukan;
  - g. Membawa senjata api/ tajam yang bukan untuk keperluan pekerjaan dan yang dapat membahayakan orang lain/ sekitar kompleks perusahaan.

**Image 1:** (Collective Labor Agreement of PT. Steel Center Indonesia for the 2023–2025 Period, Article 24.)

This research problem is premised on the recognition that the enforcement of environmental special criminal law alone is often inadequate to achieve optimal crime prevention within the corporate environment (as demonstrated by the low conviction rates indicated in Ministry of Environment and Forestry (KLHK) reports). To address this inefficiency, a holistic approach is required, integrating external punitive mechanisms (Special Criminal Law) with internal corporate prevention and compliance mechanisms (Collective Labor Agreements (PKB) and ISO 14001).

Corporate environmental crime is not solely a result of mens rea (criminal intent) but is often a product of systemic failure or an organizational culture that sacrifices compliance for profit. Consequently, the mitigation strategy must target both the act (regulated by Criminal Law) and the management system and work culture (regulated by ISO 14001 and PKB).

ISO 14001 represents technical and managerial self-regulation, establishing mandatory internal environmental management system standards. Meanwhile, the PKB introduces elements of social governance and accountability by involving workers the parties most privy to daily operational risks in the oversight of environmental compliance.

This formulation of the problem necessitates an analysis of how these three pillars can synergistically interact to establish a more robust deterrence mechanism.

Special Criminal Law (specifically, Law No. 32 of 2009 on Environmental Protection and Management - UU PPLH) functions as the external punitive and deterrent legal umbrella. The threat of criminal sanctions (substantial fines, operational closure, or criminal penalties for directors) compels corporations to establish robust compliance systems. Criminal law thus provides the external "stick."

ISO 14001 serves as the technical and managerial framework for compliance. Certification mandates: a. Identification of environmental aspects and impacts. b. Establishment of goals and programs for waste/effluent management. c. Regular internal audits. This functions as an internal minimum standard of prevention that can be utilized by law enforcement (prosecutors/KLHK) as a benchmark for corporate due diligence in proving mens rea or gross negligence.

The PKB functions as a mechanism for worker involvement and accountability. The PKB can integrate environmental clauses that: a. Provide incentives for reporting violations (whistleblowing mechanisms). b. Establish internal disciplinary sanctions for employees who violate environmental procedures (e.g., improper waste disposal). c. Ensure environmental training is a mandatory part of employment contracts, enhancing operational awareness at the line level. The

PKB transforms environmental compliance from merely a managerial task into a shared responsibility (social co-regulation) across the entire organization.

This research makes a significant contribution to: a. Providing a more sophisticated enforcement model, shifting from merely prosecuting the consequence (ex post facto) to evaluating and penalizing management system failure (ex ante). b. Recommending policymakers (KLHK) consider strong ISO 14001 certification or PKB clauses as a mitigating factor for punishment or evidence of compliance under the UU PPLH. c. Encouraging corporations to view environmental compliance not as a cost, but as an investment that reduces costly criminal legal risks.

### Acknowledgements

The completion of this article, "Environmental Protection From Waste In The Corporate Environment From The Perspective Of Special Criminal Law," was rendered possible through the support and contributions of several institutions and individuals.

I extend my deepest gratitude to the Faculty of Economics, Law, and Humanities at Universitas Ngudi Waluyo for providing the necessary academic environment and resources essential for conducting this research. Special appreciation is accorded to my academic supervisor, Dr. Hani Irhamdesetya, S.H., M.H., for their invaluable guidance, constructive critiques, and intellectual mentorship throughout the entire research process.

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