



## Article History

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# Urgency of Expanding the Meaning of State Financial Losses Based on Ecological Losses Resulting from Corruption in the Natural Resources Sector

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## Abstract

**This study aims** to analyze the urgency of expanding the meaning of state financial losses by including ecological losses resulting from corruption in the natural resource sector based on an ecocentric approach.

**This study uses** a normative juridical method with a statute approach, a case approach, and a conceptual approach.

**The novelty** of this study lies in the use of an ecocentric approach in the concept of state financial loss, which asserts that natural resources are part of state wealth, so their damage due to corruption in the natural resource sector must be considered as state financial loss. However, this contradicts the current legal approach, which only recognizes "actual loss" based on Constitutional Court Decision No. 25/PUU/XIV/2016, thereby hindering the recognition of ecological losses as part of state financial losses.

**The results** of the study show that corruption in the SDA sector not only has an impact on state financial losses but also causes severe environmental damage. However, current law enforcement still uses an anthropocentric approach that only considers state losses in financial terms without including ecological damage caused by SDA corruption as part of state financial losses, so there is an urgent need to expand the meaning of state financial losses to include ecological losses.

**The conclusion** of the research suggests that incorporating ecological losses into the calculation of state financial losses ensures that criminal law enforcement holds corrupt actors accountable not only for financial aspects but also for environmental restoration, thereby supporting ecological justice and the sustainability of natural resources.

**Keywords:** Ecological Losses; State Financial Losses; Natural Resource Corruption

## Abstrak

**Penelitian ini bertujuan** untuk menganalisis urgensi perluasan makna kerugian keuangan negara dengan memasukkan kerugian ekologis akibat tindak pidana korupsi sektor sumber daya alam berbasis pendekatan ekosentris.

**Metode penelitian ini** menggunakan metode yuridis normatif dengan pendekatan undang-undang (statute approach), pendekatan kasus (case approach) dan pendekatan konseptual (conceptual approach).

**Kebaruan penelitian ini** terletak pada penggunaan pendekatan ekosentris dalam konsep pemaknaan kerugian keuangan negara, yang menegaskan bahwa SDA merupakan bagian dari

*kekayaan negara sehingga kerusakannya akibat korupsi pada sektor SDA harus diperhitungkan sebagai kerugian keuangan negara. Namun, hal ini berlawanan dengan pendekatan hukum saat ini yang hanya mengakui actual loss berdasarkan putusan MK No. 25/PUU/XIV/2016, sehingga menghambat pengakuan kerugian ekologis sebagai bagian dari kerugian keuangan negara.*

**Hasil penelitian** menunjukkan bahwa korupsi di sektor SDA tidak hanya berdampak pada kerugian finansial negara tetapi juga menyebabkan kerusakan lingkungan yang parah. Akan tetapi, penegakan hukum saat ini masih menggunakan pendekatan antroposentris yang hanya mempertimbangkan kerugian negara dalam aspek keuangan tanpa memasukkan kerusakan ekologis akibat korupsi SDA sebagai bagian dari kerugian keuangan negara, sehingga terdapat kebutuhan mendesak untuk memperluas makna kerugian keuangan negara agar mencakup kerugian ekologis.

**Kesimpulan penelitian**, dengan memasukkan kerugian ekologis dalam perhitungan kerugian keuangan negara, penegakan hukum pidana memastikan bahwa pelaku korupsi tidak hanya dihukum berdasarkan aspek finansial, tetapi juga bertanggung jawab atas pemulihan lingkungan, sehingga mendukung keadilan ekologis dan keberlanjutan SDA.

**Kata Kunci** : Kerugian Ekologis; Kerugian Keuangan Negara; Korupsi Sumber Daya Alam

## 1. INTRODUCTION

Indonesia is a country known for its motto, "*Gemah Ripah Loh Jinawi*." The wealth controlled by the state includes land, water, air, and all natural resources contained therein, including other wealth within the territory and jurisdiction of the Republic of Indonesia.<sup>1</sup> However, Indonesia natural resources are not well managed and are becoming increasingly uncontrolled. The management of natural resources, which is a 'gold mine', has many loopholes for corruption. These loopholes cause significant losses to the state. Licensing, institutional problems, and overlapping regulations are the main avenues for corruption.<sup>2</sup>

Indonesia Corruption Watch compared the results of tabulating corruption cases in 2023 with the previous four years (2019–2023). The results of the analysis are presented in the following graph:<sup>3</sup>

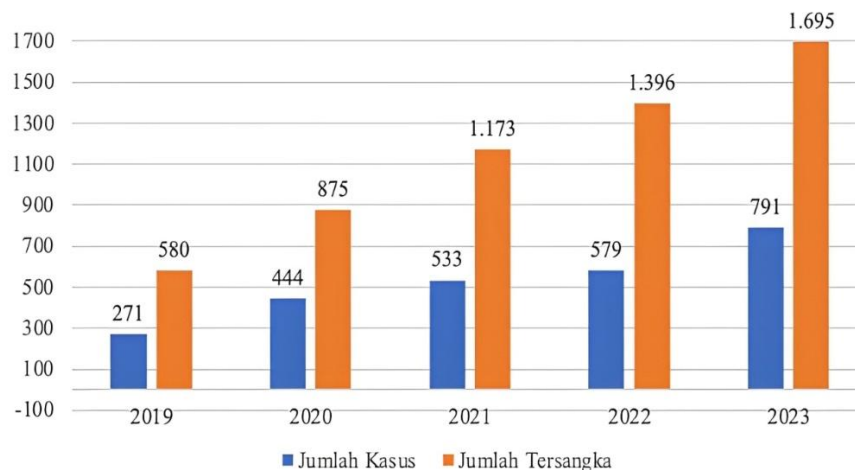
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<sup>1</sup> Badrud Duja, "Penilaian SDA 'Menguak Potret Kekayaan Negara, Mewujudkan Neraca Kekayaan Negara (NKN)," kemenkeu.go.id, March 23, 2023, <https://www.djkn.kemenkeu.go.id/artikel/baca/15991/penilaian-sda-menguak-potret-kekayaan-negara-mewujudkan-neraca-kekayaan-negara-nkn.html>.

<sup>2</sup> Sajogyo Institute, "Korupsi Sektor Sumber Daya Alam Indonesia," [sajogyo-institute.org](https://dev.sajogyo-institute.org/kegiatan/materi-narasumber-sinematik-6-bedah-edisi-khusus-jurnal-integritas-kpk-korupsi-sektor-sumber-daya-alam-indonesia/), accessed April 12, 2025, <https://dev.sajogyo-institute.org/kegiatan/materi-narasumber-sinematik-6-bedah-edisi-khusus-jurnal-integritas-kpk-korupsi-sektor-sumber-daya-alam-indonesia/>.

<sup>3</sup> Indonesia Corruption Watch, "Laporan Hasil Pemantauan Tren Korupsi Tahun 2023," May, 2024, <https://www.antikorupsi.org/sites/default/files/dokumen/Narasi%20Laporan%20Hasil%20Pemantauan%20Tren%20Korupsi%20Tahun%202023.pdf>

**Figure 1. Corruption Trends over Five Years (2019–2023)**



*Source: Report on Corruption Trend Monitoring Results for 2023, ICW, (May 2024)*

The graph above shows that the trend of corruption cases has increased in the last five years. The number of cases and suspects in 2023 increased compared to previous years. The number of recorded corruption cases was 791, and 1,695 people were named as suspects. This has prompted criminal and civil efforts to recover all losses caused by corruption as quickly as possible.

Corruption is not only associated with social and economic development, but also with environmental sustainability. Poor governance results in poor policy formulation, management, and law enforcement, and this can be seen through environmental sustainability issues.<sup>4</sup> A more progressive and ecologically just legal approach is needed to ensure that any act of corruption that impacts the environment is not only viewed in terms of financial losses to the state, but also takes into account the restoration of the affected ecosystem by broadening the meaning of financial losses to the state to include ecological losses in the calculation of financial losses to the state.<sup>5</sup>

The concept of state control in Article 33 of the 1945 Constitution provides the basis for interpreting state finances, which can be further explored in the Explanation of the Corruption Criminal Law, which states that state finances in the context of combating corruption refer to state assets in any form, whether separated or not. However, the approach in enforcing the law on corruption cases in the natural resources sector, particularly in interpreting state financial losses, has not been oriented toward restoring the ecological losses caused. In fact, corruption in the natural resources sector not only reduces state revenue from the utilization of natural wealth but also leads to the exploitation of natural resources and environmental damage. The approach used in the enforcement of law against corruption cases has remained

<sup>4</sup> Stephen Morse, "Is Corruption Bad for Environmental Sustainability? A Cross-National Analysis," *Ecology and Society* 11, no. 1 (2006): 22, <https://www.jstor.org/stable/26267783>.

<sup>5</sup> Roni Saputra and Totok Dwi Diantoro, "Implementasi Dan Pengaturan Valuasi Kerugian Ekologis Dalam Perhitungan Kerugian Negara Di Perkara Korupsi Sektor Industri Ekstraktif," Indonesia Corruption Watch, June 2024, [https://www.antikorupsi.org/sites/default/files/dokumen/Implementasi Dan Pengaturan Valuasi Kerugian Ekologis dalam Perhitungan Kerugian Negara di Perkara Korupsi Sektor Industri Ekstraktif.pdf](https://www.antikorupsi.org/sites/default/files/dokumen/Implementasi%20dan%20Pengaturan%20Valuasi%20Kerugian%20Ekologis%20dalam%20Perhitungan%20Kerugian%20Negara%20di%20Perkara%20Korupsi%20Sektor%20Industri%20Ekstraktif.pdf).

stagnant, particularly in interpreting state financial losses, which are limited to goods/services funded by the state budget (APBN) or regional budget (APBD). This narrow understanding contradicts the spirit of corruption eradication. Corruption crimes that cause environmental damage should not be calculated solely based on state financial losses but should also include the value of ecological damage caused.<sup>6</sup>

The urgency of this research stems from concerns about the narrow interpretation of state financial losses that does not take into account ecological aspects in cases of corruption in the natural resource sector. Amidst massive corruption in this sector, which not only causes financial losses but also destroys ecosystems, criminal law has not provided adequate protection for the environment as a victim. Building on this issue, this study aims to analyze the urgency of expanding the definition of state financial losses to include ecological losses resulting from corruption in the natural resource sector.

There have been numerous studies on the financial losses incurred by the state as a result of corruption. Unlike previous studies, which focused on calculating actual financial losses, the majority of studies have used an anthropocentric approach, which places humans at the center of life, thereby narrowly defining state losses as losses that have a direct impact on the state budget or regional budget. For example, the study conducted by Ahmadi Azra Isnain titled "The Legal Theory of Actual and Certain State Losses" concluded that state losses should not be limited to assumptions, potential, or possibilities; instead, losses must have actually occurred.<sup>7</sup> The novelty of this study compared to previous studies is that it analyzes the urgency of expanding state financial losses in corruption cases in the natural resource sector based on an ecocentric approach by including ecological losses in the calculation of state financial losses.

Environmental issues, particularly those related to corruption, are complex and interesting topics for in-depth study. In addition to causing distribution and administrative problems, corruption in the extraction process can lead to excessive exploitation of natural resources and worsen ecosystem degradation.<sup>8</sup> This is what prompted the author to examine the urgency of expanding the meaning of state financial losses by considering ecological losses resulting from corruption in the natural resource sector using an ecocentric approach.

## 2. METHOD

This research is a doctrinal study<sup>9</sup> The approaches used include the statutory approach (statute approach) with reference to Law No. 31 of 1999 as amended by Law No. 20 of 2001 concerning Eradication of Corruption, the case approach (case approach), and the conceptual approach (conceptual approach). The specifications of this research are descriptive analytical

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<sup>6</sup> Muhammad Yasin, "Perlu Perluasan Makna Kerugian Keuangan Negara," *hukumonline.com*, December 11, 2020, <https://www.hukumonline.com/berita/a/perlu-perluasan-makna-kerugian-keuangan-negara-lt5fd2d98eb344b/>.

<sup>7</sup> Ahmadi Azra Isnain, "Teori Hukum Tentang Kerugian Negara yang Nyata dan Pasti" *UNES Law Review* 6, no. 2 (2023): 6051-6057, DOI: <https://doi.org/10.31933/unesrev.v6i2>

<sup>8</sup> Yi Tang, "Nexus of Natural Resource Depletion, Corruption and Financial Inclusion on Bio-Diversity Loss: A Systematic Study on Corrupt Economies," *Resources Policy* 92 (May 2024): 104967, <https://doi.org/10.1016/j.resourpol.2024.104967>.

<sup>9</sup> Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Prenadamedia Group, 2014).

research to explain and analyze issues, and include library research. The literature data is sourced from legislation, books, official documents, and research results. Data analysis is carried out qualitatively by interpreting and constructing statements contained in documents and legislation.

### **3. DISCUSSION**

#### **3.1 The Concept of Punishment for Corruption Crimes Against Natural Resources Based on an Ecosentric Approach**

Corruption in the natural resource sector is basically similar to corruption in general, such as gratification, bribery, cronyism, or conflict of interest. The difference lies in the main objective, which is to obtain maximum profit from nature while ignoring broader interests. This corrupt practice can occur at various levels, from environmental protection officials at the local level to policy makers at the national level. The forms are also diverse, ranging from timber theft to amending laws to facilitate resource control through the granting of concessions and permits on a massive scale. At the highest levels, natural resources are often traded between the government and private entities. Examples of corruption in this sector include bribery to facilitate land use permits or the granting of gratuities to obtain specific benefits.<sup>10</sup>

Studies on the Environmental Sustainability Index, known as ESI and published by the World Economic Forum, show a significant correlation between corruption levels and environmental conditions. As corruption increases in a country, the health of the environment in that country declines. Therefore, it is not surprising that the ESI recommends that one of the key measures for maintaining environmental sustainability is to reduce corruption levels.<sup>11</sup>

From a law enforcement perspective, the legal approach to corruption cases related to the environment has not been fully oriented towards repairing the environmental damage caused. In fact, corrupt practices in the natural resource exploitation sector not only result in a reduction in state revenue from natural wealth, but also cause serious environmental impacts due to large-scale and long-term exploitation. The existence of state financial losses is a gateway and an important part of the failure of efforts to recover assets obtained through corruption in Indonesia. Disagreements over the meaning of state financial losses have led to uncertainty in the application of the law to corruption offenses related to state losses. In addition, the concept of state financial losses seems to be limited to financial aspects, especially state losses originating from the state budget (APBN) or regional budget (APBD). This is evident in several corruption cases where the majority of decisions emphasize that state losses originate from state financial sources (APBN, APBD, or state-owned enterprises/local government-owned enterprises).

Then, over time, there was an idea that there was a need to expand the meaning of state financial losses. This is important because state losses caused by corruption in the natural resource sector not only have an impact on financial aspects (state budget/regional budget),

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<sup>10</sup> Pusat Edukasi Anti Korupsi, "Bagaimana Cara Sumber Daya Alam Dikorupsi?," [kpk.go.id](https://aclc.kpk.go.id/aksi-informasi/Eksplorasi/20230203-bagaimana-cara-sumber-daya-alam-dikorupsi), February 3, 2023, <https://aclc.kpk.go.id/aksi-informasi/Eksplorasi/20230203-bagaimana-cara-sumber-daya-alam-dikorupsi>.

<sup>11</sup> Pusat Edukasi Anti Korupsi, *Ibid*.

but also have an impact on environmental aspects. For example, corruption occurred in the assessment of the Annual Work Plan for Timber and Plantation Forest Product Utilization Permits in 12 industrial plantation companies in Riau, involving Teuku Azmun, the Regent of Pelelawan. At the trial, the KPK only recorded state losses of Rp 519 billion, but according to Prof. Bambang Saharjo, Dean of the Faculty of Forestry at IPB, the economic and environmental losses reached Rp 687 trillion. Therefore, the enforcement of law against corruption in the natural resources sector should adopt a paradigm, approach, or perspective that is oriented toward the environment, which is known as the ecosentric approach.

Nowadays, there has been a paradigm shift in environmental management from an anthropocentric paradigm (humans as the center of the universe) that positions the environment solely as a means of fulfilling human needs, to an ecocentric paradigm (the environment as the center of the universe).<sup>12</sup> Therefore, the environment must be regarded as a legal interest that must be protected, not only legal interests in the form of life, body, honor, freedom, and property. Such thinking opens the idea that in the process of enforcing the law against all criminal acts that cause environmental damage, particularly in the case of corporations in the natural resources sector, the focus should be on restoring the environment by interpreting ecological damage as part of the financial loss to the state.

This paradigm shift from anthropocentrism to ecocentrism changes the understanding that, fundamentally, rights related to the environment are not rights possessed over the environment, but rather rights possessed by the environment itself. This understanding is in line with the concept known as ecocracy.<sup>13</sup> As stated by Jimly Assiddiqie,<sup>14</sup> that in the concept of ecocracy, nature is considered to have sovereignty and rights of its own, just like humans.

In Ecuador, the constitution has incorporated "rights of nature," making it the first constitution in the world to recognize the environment as a legal subject and rights of nature as independent rights. This constitution then encouraged civil society to file environmental petitions. Chapter 7 of the 2008 Ecuadorian Constitution addresses the rights of nature, also known as *rights of nature*, specifically in Articles 71, 72, 73, and 74 of the 2008 Ecuadorian Constitution, which read as follows:

Article 71. "Nature, or Pacha Mama, where life is reproduced and occurs, has the right to integral respect for its existence and for the maintenance and regeneration of its lifecycles, structure, functions and evolutionary processes. All persons, communities, peoples and nations can call upon public authorities to enforce the rights of nature. To enforce and interpret these rights, the principles set forth in the Constitution shall be observed, as appropriate. The State shall give incentives to natural persons and legal

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<sup>12</sup> Husni Thamrin, "Paradigma Pengelolaan Lingkungan (Antropocentirc Versus Ekocentric)" *Kutubkhanah* 16, no. 2 (2013): 61–72, <https://doi.org/10.24014/kutubkhanah.v16i2.221>.

<sup>13</sup> Pan Mohamad Faiz, "Perlindungan Terhadap Lingkungan Dalam Perspektif Konstitusi," *Jurnal Konstitusi* 13, no. 4 (2016): 766–87, <https://jurnalkonstitusi.mkri.id/index.php/jk/article/view/1344/284>.

<sup>14</sup> Abdul Mubin and Irwansyah Irwansyah, "Hak Gugat Pemerintah Untuk Penggantian Kerugian Dan Pemulihan Lingkungan Dalam Sengketa Lingkungan Hidup," *Nagari Law Review* 1, no. 1 (October 31, 2017): 1–15, <https://doi.org/10.25077/nalrev.v.1.i.1.p.1-15.2017>.

entities and to communities to protect nature and to promote respect for all the elements comprising an ecosystem.”

Article 72. “Nature has the right to be restored. This restoration shall be apart from the obligation of the State and natural persons or legal entities to compensate individuals and communities that depend on affected natural systems. In those cases of severe or permanent environmental impact, including those caused by the exploitation of non-renewable natural resources, the State shall establish the most effective mechanisms to achieve the restoration and shall adopt adequate measures to eliminate or mitigate harmful environmental consequences.”

Article 73. “The State shall apply preventive and restrictive measures on activities that might lead to the extinction of species, the destruction of ecosystems and the permanent alteration of natural cycles. The introduction of organisms and organic and inorganic material that might definitively alter the nation’s genetic assets is forbidden.”

Article 74. “Persons, communities, peoples, and nations shall have the right to benefit from the environment and the natural wealth enabling them to enjoy the good way of living. Environmental services shall not be subject to appropriation; their production, delivery, use and development shall be regulated by the State.”

Article 71 states that the environment or nature (*Pacha Mama* or *Mother Earth*) is entitled to respect as a legal subject. In addition, individuals, groups, communities, and states may request the government to protect the environment. Article 72 regulates the right of the environment to be restored. This right is distinct from the obligation of the state and individuals or legal entities to compensate individuals and communities that depend on the affected natural systems. In this regard, the state must establish the most efficient restoration mechanisms. Articles 73 and 74 stipulate that individuals, communities, societies, and states have the right to utilize the environment in a proper manner and shall not treat the environment as an object of domination. Furthermore, Article 73 mandates that the state must take preventive and restrictive measures against actions that result in the extinction of species and the destruction of ecosystems.<sup>15</sup>

In addition, the ecocentric approach and Green Victimology consider that victims of crime are not only humans, but also non-human entities. In this context, victims also include animals, marine life, trees, and rivers.<sup>16</sup> From this explanation, it can be understood that the victims of environmental damage are very widespread. Biological and non-biological natural resources, energy and conditions, as well as other living things, are also victims of this event.<sup>17</sup>

In line with this, Deep Ecology is an environmental ethical theory based on biosentrisme.

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<sup>15</sup> Daffa Prangsi Rakisa Wijaya Kusuma, “Ide Dasar Green Victimology Dalam Kebijakan Penal Mengenai Kriminalisasi, Pertanggungjawaban Pidana Dan Pemidanaan Undang-Undang Bidang Lingkungan Hidup” (Yogyakarta: Universitas Islam Indonesia, 2024).

<sup>16</sup> Annisa Mutiara, “Upaya Penegakan Hukum Dan Perlindungan Korban Tindak Pidana Lingkungan Hidup Ditinjau Dari Sudut Pandang Green Victimology,” *LITRA: Jurnal Hukum Lingkungan, Tata Ruang, Dan Agraria* 2, no. 1 (October 31, 2022): 129–46, <https://doi.org/10.23920/litra.v2i1.1093>.

<sup>17</sup> Mahrus Ali, *Hukum Pidana Lingkungan* (Depok: Rajagrafindo Persada, 2020).

From this thinking, a new legal subject emerges with inherent rights, namely the environment. These rights include the right of forests to remain dense, the right of trees to continue to grow, and the right of rivers to flow clearly.<sup>18</sup> Such thinking says that if we want to be fair, then we must give trees the right to be present in court, meaning that trees have the right to defend themselves.<sup>19</sup>

Although measures against corruption have been intensified, law enforcement agencies, particularly judges, face challenges in interpreting legal texts more broadly or progressively. Conversely, history has shown that the application of certain principles and doctrines often hinders or obstructs the eradication of corruption. In reality, the paradigm or perspective held by law enforcement officials greatly influences the actions they take. The process of reading and understanding the law is determined by the paradigm or approach used.<sup>20</sup>

Corruption has real political, economic, and social impacts. As explained earlier, another common impact of corruption is environmental degradation. This link highlights the need to frame environmental issues in a broader perspective. There is a wealth of empirical literature on the environmental consequences of corruption.<sup>21</sup> According to Kompas data from 2024, two of the ten largest corruption cases in Indonesia are related to the environment. The two major cases are the land grabbing by PT Duta Palma, resulting in losses of 73 trillion rupiah, and corruption at PT Timah amounting to nearly 300 trillion rupiah. These losses are ecological/environmental losses, not direct losses. To date, it remains challenging to incorporate ecological losses into the enforcement of environmental corruption cases. Article 2(1) of the Anti-Corruption Law only considers financial and economic losses to the state, not environmental losses. As a result, the penalties imposed on corrupt officials are relatively lenient, regardless of the significant ecological losses incurred. In the case of PT. Duta Palma, which involved losses of 73 trillion rupiah, the defendant was sentenced to 15 years in prison and a fine of one billion rupiah, as well as payment of 2.2 trillion rupiah in restitution and 39 billion rupiah in economic losses, despite the fact that financial losses to the state were not the only impact of corruption in the environmental sector.<sup>22</sup> Thus, it is necessary to consider the impact of corruption on the environment in order to decide what policies may be needed.<sup>23</sup>

In this regard, progressive legal development with an ecocentric paradigm needs attention so that it can be maintained and developed. The law should not be passive, neutral, or impartial. Satjipto Rahardjo emphasizes that law is not just a collection of texts in laws or regulations, but also manifests itself in behavior. If law is only neutral, then the weak will be

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<sup>18</sup> Muhammad Rustamaji, *Pilar-Pilar Hukum Progresif (Menyelami Pemikiran Satjipto Rahardjo)*. (Yogyakarta: Thafamedia, 2017).

<sup>19</sup> Rustamaji, *Ibid*.

<sup>20</sup> Irwan Swandana, "Dampak Masif Korupsi Terhadap Lingkungan Hidup," *Jurnal Actuale* 14, no. 2 (2024): 103–110.

<sup>21</sup> Alexandra Leitao, "Corruption and the Environment," *Journal of Socialomics* 5, no. 3 (2016): 1–5, <https://doi.org/10.4172/2167-0358.1000173>.

<sup>22</sup> Swandana, *Loc. Cit*.

<sup>23</sup> Luca Tacconi and David Aled Williams, "Corruption and Anti-Corruption in Environmental and Resource Management," *Annual Review of Environment and Resources* 45, no. 1 (October 17, 2020): 305–29, <https://doi.org/10.1146/annurev-environ-012320-083949>.



further marginalized. Law is considered progressive if it sides with the weak, and in this context, the environment is in a weak position.<sup>24</sup>

In imposing punishment, judges should always be guided by the objectives of punishment.<sup>25</sup> In the 1980 National Criminal Law Reform Symposium Report, it was stated that the purpose of punishment should be aimed at protecting society and maintaining balance in society, taking into account the interests of society, victims, and perpetrators.<sup>26</sup> Based on the mandate in the symposium report, the identification of the objectives of criminalization should be based on the "idea of balance."<sup>27</sup> two main targets, namely "community protection," including "victims of crime" (environment), and "guidance for individual offenders."

Judges must impose criminal penalties by prioritizing the objectives of criminal punishment as mandated in the symposium, namely not only as a form of retribution for unlawful acts, but also as a means of protecting society, including victims and the environment. Additionally, judges are required to consider ecological, social, and moral dimensions in every decision, ensuring that substantive justice is truly achieved and the objectives of criminal law as an instrument of restoration and prevention are realized optimally.

The approach to sentencing for corruption crimes involving natural resources must take into account that the illegal exploitation of natural resources or exploitation that deviates from regulations as a result of corrupt practices has damaged the environment as a state asset. In addition to punishing perpetrators of corruption, the sentencing system in corruption cases involving natural resources must accommodate environmental restoration as part of legal accountability. By recognizing the environment as a victim of corruption in the natural resources sector, the calculation of financial losses to the state must also include the ecological impacts caused. Corruption in the natural resources sector differs from corruption in other sectors. In the context of corruption in the natural resources sector, we must not only consider financial losses to the state from an economic perspective but also pay attention to the environmental damage caused.

### **3.2. The Urgency of Expanding the Meaning of State Financial Losses Based on Ecological Losses Resulting from Corruption in the Natural Resources Sector**

Corruption of natural resources not only causes financial losses to the state that can be measured through the state budget, but also has a widespread impact on ecological damage. The impact of ecological damage affects human life, the landscape, and the loss of biodiversity contained therein. The paradigm that views the environment solely as an object of exploitation has led to severe ecosystem damage and resulted in various natural disasters with widespread detrimental impacts. In 2018, according to a report by the Agrarian Reform Consortium (KPA),

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<sup>24</sup> Rustamaji, *Loc. Cit.*

<sup>25</sup> Barda Nawawi Arif, *Pembaharuan Hukum Pidana Dalam Perspektif Kajian Perbandingan* (Bandung: Citra Aditiya Bakti, 2005).

<sup>26</sup> BPHN, "Naskah Akademik Rancangan Kitab Undang-Undang Hukum Pidana," [bphn.go.id](https://bphn.go.id/data/documents/naskah_akademik_tentang_kuhp_dengan_lampiran.pdf), 2015, [https://bphn.go.id/data/documents/naskah\\_akademik\\_tentang\\_kuhp\\_dengan\\_lampiran.pdf](https://bphn.go.id/data/documents/naskah_akademik_tentang_kuhp_dengan_lampiran.pdf).

<sup>27</sup> Barda Nawawi Arief, *RUU KUHP Baru Sebuah Restrukturisasi/Rekonstruksi Sistem Hukum Pidana* (Semarang: Badan Penerbit Undip, 2017).

there were 410 agrarian conflicts covering an area of 807,177 hectares and involving 87,568 households. As a result of the extensive forest destruction, during 2020, the National Disaster Management Agency (BNPB) recorded 2,925 natural disasters in Indonesia.<sup>28</sup>

Natural resource management, which is considered a high-value economic sector, has many loopholes that open opportunities for corruption. Based on KPK data from 2019, of the 676 corruption cases recorded up to that year, the perpetrators came from various backgrounds, including 174 people from the private sector, 156 government employees, 137 members of the DPR/DPRD, and 77 governors and regents. These corrupt practices often occur in the licensing process and institutional arrangements, and are triggered by overlapping regulations.

Ecological or environmental damage and losses are not only tangible but also potentially threatening to the environment and public health because they are often not immediate and difficult to quantify. Ecological damage and pollution are crimes that have a major impact on life and even cause economic losses to the state. One example is illegal logging carried out by timber businessman Adelin Lis, which has caused significant environmental damage. Illegal logging conducted from 1967 to the present has resulted in forest destruction reaching 1.8 million hectares per year.<sup>29</sup>

The relationship between corruption and environmental degradation is very close and interrelated. In the environmental sector, corruption can be defined as the abuse of power or position for personal gain, which usually occurs through bribery, data falsification, or the granting of permits that do not comply with regulations. In addition, corruption has a very negative impact because it renders regulations designed to protect natural resources ineffective. For example, permits for deforestation or mining exploration are often granted to large companies without considering their impact on the environment and surrounding communities. Even the environmental impact analysis (EIA) process can be manipulated if businesses pay the authorities. As a result, forest destruction, air and water pollution, and biodiversity loss occur. Countries with high levels of corruption generally also face severe environmental problems because policies intended to protect nature are not enforced properly.

Corruption does not only occur at the top level, such as among government officials or politicians, but also at the lower levels, for example among environmental agency staff. Corruption can begin when policymakers receive bribes to approve projects that have the potential to damage the environment, such as the construction of factories in protected areas or coastal reclamation without considering environmental sustainability. Meanwhile, bureaucratic corruption occurs when government officials accept bribes to allow environmental violations to continue, such as the disposal of toxic waste into rivers or illegal forest burning. Ultimately, it is the community that suffers the most, especially the poor who

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<sup>28</sup> Walhi, "Kondisi Lingkungan Hidup Di Indonesia Di Tengah Isu Pemanasan Global," Walhi.Or.Id, August 25, 2021, <https://www.walhi.or.id/Kondisi-Lingkungan-Hidup-Di-Indonesia-Di-Tengah-Isu-Pemanasan-Global>.

<sup>29</sup> Muhammad Amin Hamid, "Penegakan Hukum Pidana Lingkungan Hidup Dalam Menanggulangi Kerugian Negara," *Legal Pluralism* 6, no. 1 (2016): 88–117.

depend on natural resources that are now damaged and polluted.

Furthermore, law enforcement in corruption cases related to the environment has not yet fully focused on restoring the ecological damage caused. In fact, corruption in the natural resource sector not only reduces state revenue from natural wealth but also causes significant environmental impacts due to large-scale exploitation over the long term.

In recent years, the Attorney General's Office has made efforts to introduce environmental losses as part of the calculation of state economic losses. However, these efforts are often not accommodated by the courts. One of the main obstacles is Constitutional Court Decision No. 25/PUU/XIV/2016, which amended Article 2(1) of the Corruption Law by removing the word "may" before the phrase "causing financial loss to the state." As a result, state losses must be proven to be actual losses (actual loss) and cannot be based on potential future losses (potential loss).<sup>30</sup>

The approach to eradicating corruption remains stagnant and has not developed progressively. State losses are still defined narrowly, limited to goods/services funded by the state budget (APBN/APBD). This limited understanding contradicts the spirit of corruption eradication, which should be more comprehensive. As a result, corruptors who damage the environment are often only punished based on the financial losses to the state, without considering the ecological impact they cause.

In this regard, the Directorate General of State Assets classifies state assets into three categories, including:

"State assets are potential State assets divided into the following sectors: agrarian/land, agriculture, plantations, forestry, mining, minerals and coal, oil and natural gas, marine and fisheries, water resources, air and space, energy, geothermal energy, and other State assets. Regulated by sectoral laws. The Minister of Finance as the fiscal manager and ministers/heads of agencies as sectoral managers; State assets owned consist of State/regional property, namely tangible property, intangible property, movable property, and immovable property acquired through purchases or acquisitions charged to the State Budget/Regional Budget and other lawful acquisitions. The Minister of Finance acts as the manager of state-owned assets, while governors/regents/mayors act as managers of regional-owned assets, and ministers/heads of institutions act as users of state-owned assets and regional assets; and Separate state assets include state capital contributions to state-owned enterprises (SOEs), regional government capital contributions to SOEs, state assets held by other legal entities, and state assets held by international institutions. The Minister of Finance as the representative of the central government in the ownership of regional state assets and the Minister of State-Owned Enterprises as the authorized shareholder of state-owned enterprises.

Based on the above description, it can be understood that state wealth includes natural resources.<sup>31</sup> Considering natural resources and the environment as national wealth, misuse of

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<sup>30</sup> Saputra and Diantoro, *Loc. Cit.*

<sup>31</sup> Joey Josua Pamungkas Pattiwael, "Kerugian Ekologis Akibat Tindak Pidana Korupsi," *Jurnal Rechtsens* 10, no. 1

this wealth will result in financial losses for the state.<sup>32</sup> In addition, in order for environmental losses to be calculated as part of state financial losses, the damage must be caused by corrupt acts, namely acts that fulfill the elements of criminal acts of corruption as regulated in the Corruption Eradication Law. For example, corruption in the environmental licensing process involving bribery or abuse of authority can lead to the exploitation of natural resources that is detrimental to the state, both financially and ecologically.<sup>33</sup>

When natural resources are managed through illegal permits or procedural errors, the state loses its right to manage those resources. This results in a reduction in the state's control over natural resources that should be part of the state's wealth. Therefore, actions by state officials who issue permits for the management of natural resources that violate regulations must be considered as acts that cause financial loss to the state.

Furthermore, the interpretation of state financial losses can be developed through an extensive approach, which expands the meaning of a provision in legislation to make it more relevant to societal developments. This approach is based on a normative framework that not only considers the historical context of the regulation's creation but also clarifies the meaning of each word objectively based on current circumstances. Extensive interpretation allows for more than just grammatical meaning in the Anti-Corruption Law, but also refers to various other regulations containing related norms. Thus, this approach can create more comprehensive legal harmony. In this context, extensive interpretation of the concept of state financial loss can be linked to other legal norms, thereby allowing ecological losses to be recognized as part of state financial losses. This is an important step in strengthening environmental protection through more progressive legal mechanisms.<sup>34</sup>

If natural resources are not managed in accordance with regulations and instead cause pollution or environmental damage, this will disrupt the country's economy. Environmental damage can be considered a form of economic loss, as the state must bear the costs of recovery due to pollution and irresponsible exploitation. The economic value of all impacts of environmental damage must be calculated so that we can fully understand the losses incurred. For example, when marine ecosystems are polluted due to oil spills from tankers, this will in turn reduce fish productivity in all types of ecosystems.<sup>35</sup> The omission of environmental losses

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(2021): 24–42, <https://ejurnal.ujj.ac.id/index.php/REC/article/view/1003/917>.

<sup>32</sup> Joey Josua Pamungkas Pattiwael, *Ibid*.

<sup>33</sup> Franky Butar Butar, Iqbal Feliciano, and Thoriq Mulahela, "Mungkinkah Kerugian Lingkungan Hidup Akibat Pertambangan Dapat Dikategorikan Sebagai Tindak Pidana Korupsi?," in *Prosiding TPT XXVIII PERHAPI*, 2019, 889–902, <https://www.prosiding.perhapi.or.id/index.php/prosiding/article/view/129/205>.

<sup>34</sup> Daffa Ladro Kusworo and Titi Anggraini, "Penafsiran Ekstensif Kerugian Keuangan Negara Dalam Korupsi Sektor Timah: Sebuah Studi Komparatif Antar Negara Berkembang," *Integritas: Jurnal Antikorupsi* 10, no. 2 (2024): 173–86, <https://doi.org/10.32697/integritas.v10i2/1280>.

<sup>35</sup> Basuki Wasis, "Penghitungan Kerusakan Ekologis Dari Daya Rusak Pertambangan Sebagai Kerugian Negara.. Makalah Dalam Workshop 'Penghitungan Kerugian Sosial Ekologis Akibat Daya Rusak Tambang Sebagai Kerugian Negara,'" 2019, [https://www.researchgate.net/profile/Basuki-Wasis/publication/338149142\\_Penghitungan\\_Kerusakan\\_Ekologis\\_dari\\_Daya\\_Rusak\\_Pertambangan\\_Sebagai\\_Kerugian\\_Negara\\_Calculation\\_of\\_Ecological\\_Damage\\_from\\_Mining\\_Damage\\_as\\_State\\_Loss/links/5e024bfb4585159aa4983eab/Penghitungan-Kerusakan-Ekologis-dari-Daya-Rusak-Pertambangan-Sebagai-Kerugian-Negara-Calculation-of-Ecological-Damage-from-Mining-Damage-as-State-Loss.pdf](https://www.researchgate.net/profile/Basuki-Wasis/publication/338149142_Penghitungan_Kerusakan_Ekologis_dari_Daya_Rusak_Pertambangan_Sebagai_Kerugian_Negara_Calculation_of_Ecological_Damage_from_Mining_Damage_as_State_Loss/links/5e024bfb4585159aa4983eab/Penghitungan-Kerusakan-Ekologis-dari-Daya-Rusak-Pertambangan-Sebagai-Kerugian-Negara-Calculation-of-Ecological-Damage-from-Mining-Damage-as-State-Loss.pdf).

in the calculation of state financial losses results in two losses, namely that the state will not recover the money obtained from acts of corruption and the government will bear the costs of repairing the environment that has been damaged as a result of the actions of corruptors.<sup>36</sup>

When government officials accept bribes to grant illegal logging or mining permits, the state loses potential revenue from taxes, royalties, or official permit fees. Natural resources that should be managed and utilized for the welfare of the people are instead exploited by a handful of individuals. As a result, the state not only loses money, but also loses long-term economic opportunities.

In addition, environmental damage often causes disasters such as floods, landslides, or droughts. When disasters occur, the government has to spend a lot of money to repair the damage, help victims, and rebuild infrastructure. The cost of disaster management is enormous and can drain the state budget that should be used for other important things, such as education or health. In other words, environmental damage forces the state to pay dearly for its negligence in protecting nature. Corruption also prevents environmental conservation projects from running smoothly. State funds that should be used for forest conservation or river restoration often leak or are misused. As a result, the environment remains damaged and state funds are wasted. Worse still, this situation reduces investor confidence in investing in a country prone to corruption and lacking legal certainty. If investment declines, state revenue also decreases. Therefore, protecting the environment and eradicating corruption are not just about justice, but also an important way to save the state's finances.

The categorization of state financial losses is classified into three aspects of loss calculation as the basis for calculating ecological damage, namely losses in the economic, environmental, and environmental restoration aspects. Efforts to reinterpret the concept of state financial losses in the context of natural resources have created a new precedent in expanding the scope of the definition of state losses. Until now, the paradigm of state financial losses has been limited to the concrete monetary value that can be directly linked to corrupt actions. However, in cases of corruption in the environmental sector, which includes natural resources, losses also encompass restoration, thereby imposing an obligation to compensate for the estimated losses.<sup>37</sup>

The ecocentric approach places the environment as the real victim in crimes, including corruption in the natural resource sector. In the context of criminalization, this requires expanding the concept of loss, not only in terms of financial loss to the state, but also significant ecological damage resulting from illegal exploitation of natural resources and corruption in licensing. This approach also requires a redefinition of state finances to enable a holistic response to environmental crimes. It is not enough to punish perpetrators with imprisonment or fines; there must also be restoration of the damaged environment. Law

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<sup>36</sup> Muhamad Muhdar, "Rekonstruksi Basis Perhitungan Kerugian Negara Dalam Peristiwa Tindak Pidana Korupsi Pada Sektor Sumber Daya Alam," *Jurnal de Jure* 12, no. 1 (2020): 38–53, <https://doi.org/10.36277/v12i1.374>.

<sup>37</sup> Kusworo and Anggraini, *Loc. Cit.*

enforcement officials must be able to understand the ecological impact of corruption and integrate an environmental perspective into every stage of the judicial process.

Furthermore, criminal penalties for natural resource corruption must accommodate the perpetrators' responsibility to compensate for environmental losses and the costs required to restore ecological conditions. Criminal law plays a role in protecting the environment as a legal subject. Thus, criminal penalties become an effective means of preventing repeated damage, creating a deterrent effect, and strengthening ecological justice for future generations.

#### **4. CONCLUSION**

The expansion of the meaning of state financial losses to include ecological losses has become an urgent matter in the enforcement of corruption cases in the natural resource sector. Corruption in natural resource management not only reduces state revenue but also causes massive environmental damage. However, current laws are still anthropocentric, only calculating state losses in financial terms without considering ecological impacts. An ecosentric approach offers a new perspective by placing the environment as an entity that must be protected. The Constitutional Court's decision No. 25/PUU/XIV/2016, which requires the inclusion of "actual loss" in the calculation of state losses, has become an obstacle to incorporating ecological aspects as part of state losses. However, the concept of state finances in the Corruption Eradication Law includes state assets in various forms, including natural resources. By incorporating ecological losses as part of state financial losses, criminal law enforcement can ensure that corrupt officials are not only held financially accountable but also obligated to restore ecosystems. This step is crucial for achieving ecological justice, ensuring environmental sustainability, and strengthening efforts to combat corruption in the natural resources sector in a more comprehensive and progressive manner.

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