



The Regulatory Framework Regarding The Offences Against Coral Reefs in Achieving Sustainable Development Goal 14

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Abstract

The purpose of this research is to analyze the regulatory framework regarding the offences against coral reefs to ensure stringent law enforcement. The research methods that are used in this study are the statute approach and conceptual approach. The analysis of the research showed that the regulatory framework regarding the offences against coral reefs is Law No.1 of 2014 amending Law No. 27 of 2007 concerning the Management of Coastal Area and Isles, especially Article 73 paragraph (1) letter a. The article recognized both an individual and a corporation as a legal person yet there is no article regarding corporate criminal liability. Furthermore, the article has the element of intentionally meaning the article adopted the principle of *geen straf zonder schuld*. Additionally, the analysis showed that the offences against coral reefs regardless of the used method is hindering the sustainable development goals (SDGs) achievement. Regarding the criminal punishments, to achieve the balance of coral reefs sustainability and public welfare, this research recommends the article to regulate the payment of compensation as a penal measure.

1. Introduction

Indonesia as one of United Nations Member States had adopted the Sustainable Development Goals (SDGs), a universal call to action to end poverty, protect the planet and ensure that all people enjoy peace and prosperity by 2030,¹ through Presidential Decree No. 59 of 2017 on Implementing the Achievement of Sustainable Development Goals. The Decree was enacted to establish a National Coordinating Team (NCT) to ensure the cooperation of all stakeholders in promoting 17 goals of the SDGs by 2030.² One of the SDGs is Life Below Water, known as SDG 14, means conserve and sustainably use the oceans, seas and marine resources for sustainable development.³ Furthermore, some of the SDG 14 targets, which its status in Indonesia is significant challenges remain, are sustainably manage and protect marine and

¹ UNDP, "Sustainable Development Goals | UNDP in Indonesia," n.d.

² Bappenas, "The Launching of National Action Plan (NAP) 2017-2019 to Achieve Sustainable Development Goals (SDGs)," 2019, 2-5.

³ UN, "Goal 14 | Department of Economic and Social Affairs," n.d.

coastal ecosystems to avoid significant adverse impacts, and effectively regulate harvesting and end overfishing, illegal unreported and unregulated fishing (IUUF) and destructive fishing.⁴

Achieving SDG 14 could not be accomplished without enforcing the law on marine-related crimes, including the offences against coral reefs which threaten its sustainability. Coral reefs are the most diverse of all marine ecosystems hence they are often called the rainforests of the sea.⁵ Given their role as the rainforest of the sea, they hold essential purpose in safeguarding marine ecosystem preservation especially fish whose habitat is on them.⁶ They are also serving as sources of food, jobs and livelihoods, and as coastal protection therefore they shall be both managed and enforced effectively to sustain local communities and future generations.⁷

Indonesia is one of the country in the Coral Triangle Area which is the highest coral diversity in the world containing more than 76% the world's coral species.⁸ Based on the recent measurement of satellite mapping, as stated by Indonesian Institute of Sciences (LIPI), the area of coral reefs in Indonesia has reached 25.000 km² meaning Indonesia contributes up to 34% of the world's coral reefs area which is 284.300 km². However, LIPI mentioned further that the damaged-coral reefs have covered 36.18% of its total area meaning less than 70% of coral reefs are in good condition.⁹ There are several causes of the damage of coral reefs in Indonesia such as coral reefs bleaching, destructive fishing, sedimentation, and coastal reclamation and development.¹⁰

Amid the global coral reefs protection campaign, since early 2020, Indonesia lifted the ban of coral reefs export which was regulated back then in 2018. The export ban, which was the restriction of health certificate's issuance of the corals, was regulated to prevent the overexploitation of wild coral supplies considering more than 85% of Indonesia's reefs at high threat from human activities as the result of the limited regulatory control.¹¹ Yet, nearly two years later, the export ban was lifted in consideration of economic value and labour absorption without undermining the sustainability of the marine ecosystem.¹² Even so, there were coral reefs smugglings case despite the lifted-export ban, for example, the case of ornamental coral smuggling in Banyuwangi (East Java) where the legal officers confiscated 220 plastic bags

⁴ M Zulficar Mochtar, "Green Recovery & Tantangan Pencapaian SDG 14 Dalam Kondisi Covid-19," n.d.

⁵ Smithsonian Ocean, "Coral Reefs and Corals," n.d.

⁶ M. Ambari, "Menjaga Terumbu Karang Dari Aktivitas Penangkapan Ikan Yang Merusak," n.d.

⁷ Coral, "Issue Briefs | Coral Reef Alliance," n.d.

⁸ WWFPanda, "Coral Triangle Facts | WWF," n.d.

⁹ M. Ambari, "Menjaga Terumbu Karang Dari Aktivitas Penangkapan Ikan Yang Merusak."

¹⁰ P P Linggi and A Burhanuddin, "The Role of Coral Triangle Initiative on Coral Reefs, Fisheries, and Food Securities in Indonesia's Environmental Conservation," in *IOP Conference Series: Earth and Environmental Science*, vol. 343 (IOP Publishing, 2019), 12092.

¹¹ JakartaPost, "Coral Exports Ban: Threat or Opportunity for Sustainability? - Environment - The Jakarta Post," n.d.

¹² Rahmad Fauzan, "Ekspor Karang Hias Dibuka, Susi Pudjiastuti: Indonesia Satu-Satunya Di Dunia - Ekonomi Bisnis.Com," n.d.

containing hundreds of ornamental corals,¹³ and the other case is the smuggling of 147 coral reefs in Banyak Island (Aceh).¹⁴

Moreover, there are several other offences against coral reefs such as coral reefs destruction caused by destructive fishing and illegal exploitation of the coral reefs. The former case's example is coral reefs destruction caused by blast fishing perpetrated by Yopi Karel Balle as stated in Oelamasi (East Nusa Tenggara) District Court Decision No. 52/Pid.Sus/2019/PN.Olm. Regarding the latter case, the example is coral reefs mining be the cause of coral reefs destruction that occurred in Situbondo according to Situbondo District court decision No. 73/Pid.B/2017/PN.Sit.

The mentioned cases above show there are several kinds of offence against coral reefs in Indonesia and its law enforcement remains challenging. Therefore, the law shall be enforced effectively to protect the sustainability of the coral reefs in order to achieve SDG 14 targets. To ensure it, it is necessary to analyze the regulatory framework on coral reefs offences as the fundamental basis of its law enforcement. The said regulatory framework is Law No.1 of 2014 amending Law No. 27 of 2007 concerning the Management of Coastal Area and Isles. This research will analyze further how the offences against coral reefs regulated in the said law by reviewing not only the related articles and their elements but also the sentences to enhance the effectiveness of coral reefs crimes law enforcement considering the regulatory framework is the basis of criminal law operationalization.

There were many kinds of research concerning the criminal act of coral reefs previously, for example, *firstly*, the research written by Ni Putu Desy Pradnya Wati *et.al* (2018) analyzed the criminal liability for the return of coral reef damage, *secondly*, the study done by Sabouripour Mahdi and Ahmadi Asghar (2019) examined crimes against the coral reefs in Iran from the perspective of law and victimology, and *lastly*, the paper written by Aidil Putra Feli (2020) regarding the application of the crime against the perpetrators of mining coral reefs in conservation areas in the decision No.73/Pid.B/2017/PN.Sit. However, none of them is specifically and comprehensively analyze the regulatory framework of the offences against coral reefs in order to achieve SDG 14 targets hence the need for this research existence.

2. Research Method

The research methods that are used in this study, both to analyze the issued legal problems and to present its solutions, are the statute approach and conceptual approach. The statute approach is a process of elaborating on the provisions and regulations concerning the said legal issue meanwhile the conceptual approach refers to both law and several doctrines relating to the concerned problem.

¹³ Mongabay, "Penyelundupan Karang Hias Dari Alam Berhasil Digagalkan Di Banyuwangi," n.d.

¹⁴ Tribunnews, "Coral Reef Theft Revealed, Many Islanders Threatened with Fines of IDR 1 Billion," n.d.

3. Result and Discussion

The regulatory framework of the offences against coral reefs is Law No.1 of 2014 amending Law No. 27 of 2007 concerning the Management of Coastal Area and Isles. According to Article 3 letter a of the law, the management of coastal areas and isles shall be based on the principle of sustainability in order to achieve several goals which are *firstly*, the utilization of resources that does not exceed the regeneration capacity of living resources or the growth of substitute innovation of coastal non-living resources, *secondly*, the management of coastal resources shall not sacrifice (quality and quantity) of the future generation's coastal resources need, and *lastly*, the management of the resources with unknown impact should be done carefully and supported by sufficient scientific research.

In accordance with the mentioned sustainability principle, Sustainable Development Goal (SDG) 14 about life below water, which is one of the 17 Sustainable Development Goals (SDGs) that established by the United Nations, aims to conserve and sustainably use the oceans, seas and marine resources for sustainable development. Being one of the member states of the United Nations, Indonesia also adopted the SDGs as a universal call to action to end poverty, protect the planet and ensure that all people enjoy peace and prosperity by 2030.¹⁵ Regarding the protection of coral reefs, healthy ocean ecosystems are needed to sustain people and livelihoods and to achieve the United Nations Sustainable Development Goals.¹⁶

The Reef Resilience Network stated that not less than half a billion people rely on reefs for food and livelihood and the reefs protect more than 150,000 km shorelines in 100 countries.¹⁷ Consequently, achieving SDG 14 will not only benefit the marine ecosystem but also the people who are dependent on these resources especially in developing countries since they are often more dependent on marine resources than developed countries.¹⁸ Moreover, the oceans are very large and sensitive ecosystems, which should be preserved, therefore a balance between the use and the protection of the seas has to be found in the maritime policy¹⁹ since protection and conservation of coral reefs is primary importance at the local, regional and national levels.²⁰

¹⁵ UNDP, "Sustainable Development Goals | United Nations Development Programme," n.d.

¹⁶ Jane Lubchenco et al., "The Right Incentives Enable Ocean Sustainability Successes and Provide Hope for the Future," *Proceedings of the National Academy of Sciences* 113, no. 51 (2016): 14507-14, <https://doi.org/https://doi.org/10.1073/pnas.1604982113>.

¹⁷ Nathalie Hilmi et al., "Socio-Economic Tools to Mitigate the Impacts of Ocean Acidification on Economies and Communities Reliant on Coral Reefs – a Framework for Prioritization," *Regional Studies in Marine Science* (Elsevier B.V., April 2019), <https://doi.org/10.1016/j.rsma.2019.100559>.

¹⁸ Bianca Haas et al., "Regional Fisheries Organizations and Sustainable Development Goals 13 and 14: Insights from Stakeholders," *Fisheries Research* 226 (2020): 105529, <https://doi.org/https://doi.org/10.1016/j.fishres.2020.105529>.

¹⁹ Peter Ehlers, "Blue Growth and Ocean Governance—How to Balance the Use and the Protection of the Seas," *WMU Journal of Maritime Affairs* 15, no.2 (2016):187-203.

²⁰ Nathalie Hilmi et al., "Coral Reefs Management and Decision Making Tools," *Ocean & Coastal Management* 146 (2017): 60-66, <https://doi.org/https://doi.org/10.1016/j.ocecoaman.2017.06.006>.

To protect coral reefs, there are several ways to prevent the offences against coral reefs which one of which is to strengthen the regulatory framework regarding coral reefs protection to ensure stringent law enforcement.²¹ Therefore, coral reefs as a marine ecosystem need to be managed based on the sustainability principle hence the regulatory framework of coral reefs protection, particularly the article concerning the offences of coral reefs, shall be oriented on achieving coral reefs sustainability.

There are several offences against coral reefs based on Article 73 paragraph (1) letter a *jo* Article 35 letter a, b, c, and d of the Management of Coastal Area and Isles Act such as mining of the coral reefs, taking the coral reef in the conservation Areas, the usage of explosive material and poisoned material and/ or other methods that are destructive to the ecosystem of coral reefs. Regarding the said article, based on the criminal law study, it can be classified as a *materiele delicten* since it emphasizes the consequence of the unlawful act meaning the perpetrator of the said article could not be sentenced unless the consequence is proven. Moreover, the article and its elements will be analyzed further to understand the said offences against coral reefs.

The first element is *every person* that refers to an individual and/or corporation (regardless as a legal entity or not), as regulated in Article 1 paragraph 35 of the Management of Coastal Area and Isles Act, meaning they are the legal person of the article. Therefore, both of them can commit the offences and consequently can be held criminally liable yet there is no article regarding corporate criminal liability. Consequently, corporate criminal liability will refer to Supreme Court Regulation No. 13 of 2016 concerning Procedures for the Handling of Corporate Crimes.

According to Article 3 of the mentioned Supreme Court Regulation, corporate criminal crimes are criminal acts carried out by people based on employment, or others, both individually and jointly acting for and on behalf of the corporations whether within or outside the corporate environment.²² The article stated further that criminal liability is carried out by organs or administrators for and on behalf of the corporation when these conditions are fulfilled, which are the crime committed by the management, the crime is done within the scope of his work, the crime is done with the aim of benefiting or providing benefits to the corporation and so forth.²³ Additionally, based on Article 4 of the Regulation, to determine the fault (*mens rea*) of the corporation, the Judges may refer to one of 3 (*three*) criteria which are *firstly*, a corporation can gains benefits or advantages of the committed crime or the criminal act is perpetrated for the interests of the corporation; *secondly*, the corporation permits the crime; *lastly*, a corporation does not undertake the necessary prevention acts, deter bigger impacts and ensure the compliance of legal provisions to hinder the crimes occurred.

²¹ Tamir Caras and Zohar Pasternak, "Long-Term Environmental Impact of Coral Mining at the Wakatobi Marine Park, Indonesia," *Ocean & Coastal Management* 52, no. 10 (2009): 539–44, <https://doi.org/https://doi.org/10.1016/j.ocecoaman.2009.08.006>.

²² Satya Marta Ruhayat, Ismansyah Ismansyah, and Nani Mulyati, "Application of Republic of Indonesia Supreme Court Regulation No. 13 of 2016 Concerning Procedures for Subscribing to Criminal Cases by Corporations in Corporate Criminal Responsibility in Indonesia Based on the Decision of the Central Jakarta District Co," *International Journal of Multicultural and Multireligious Understanding* 6, no. 2 (2019): 385–92, <https://doi.org/https://doi.org/10.18415/ijmmu.v6i2.725>.

²³ *Ibid.*

These forms of the corporate's fault (*mens rea*) showed that Supreme Court wants to reform the corporate criminal liability system being regulated in the provisions by emphasizing the relations between its *means rea* and the act of the manager/ employee or its impacts.²⁴ The purpose of the corporate criminal liability is to make an important impact for the director to effectively manage the corporation hence the corporate performs in accordance with its obligations.²⁵

Secondly, the element of *intentionally*. In the criminal law study, there is a principle of *geen straf zonder schuld* meaning an act does not make a person guilty unless the mind is legally blameworthy, regardless in the form of *dolus* (intent) or *culpa* (negligence). The *dolus* (intent) can be explained based on two theories which are the theory of will (*wilstheorie*), the intent is intended for an act prohibited/ required by law, and the theory of expectation (*voorstellingstheorie*), people only estimate or expect the realization of action but the result of the said action is not definitely realized.²⁶ In conclusion, *intentionally* means the criminal act is perpetrated in a conscious state and with an intention to do it as its result is intended.

Lastly, the element of committing the mining of coral reefs, taking the coral reefs in the conservation area, using explosive materials and poisonous materials, and/or other methods which resulted in the destruction of coral reefs ecosystem. The mining of coral reefs, as mentioned in the elucidation of Article 35 letter a, is the act of taking coral reefs intentionally to make use of them as construction material, aquarium ornament, handicrafts, coral's flower, industry and other means which result in the cover of live coral is less than 50% (fifty per cent) in the exploited area. Being one of the threats to coral reefs sustainability, direct extractions are considered to be more closely linked to developing countries, especially the Coral Triangle area, whereas long-term stressors such as shifts in water quality or in species assemblage are more often associated with industrially developed countries.²⁷

Coral mining, which is a big business with over \$375 billion of coral being harvested each year for a multitude of purposes, is where live corals are taken out of the ocean and then used for other purposes.²⁸ Usually, miners use both crowbars and sledgehammers to break off small chunks of coral branches which are then loaded onto boats, rowed to shore and sold.²⁹ However, coral mining can also be done by using explosive materials to blast massive areas of reef or large scale of manual coral removal which resulted in sand erosion, land retreat, and

²⁴ Budi Suhariyanto, "Kedudukan Peraturan Mahkamah Agung Nomor 13 Tahun 2016 Dalam Mengatasi Kendala Penanggulangan Tindak Pidana Korporasi (The Role Of Regulation Of The Supreme Court Number 13 Year 2016 In Overcoming Obstacles Of Corporate Criminal Infringement)," *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan* 9, no. 1 (2018): 101-20, <https://doi.org/https://doi.org/10.22212/jnh.v9i1.855>.

²⁵ Joshua Gilbert Kawinda, "Pertanggungjawaban Korporasi Dalam Tindak Pidana Korupsi Di Bidang Pengadaan Barang Dan Jasa Sektor Konstruksi," *Lex Privatum* 5, no. 6 (2017).

²⁶ Simon Nahak, "Criminal Law Policy on Land Functions Impacting Climate Change in Indonesian National Law Perspective," *International Journal of Social Sciences and Humanities* 1, no. 3 (2017): 28-39, <https://doi.org/10.29332/ijssh.v1n3.50>.

²⁷ Hilmi et al., "Coral Reefs Management and Decision Making Tools."

²⁸ Big Blue Ocean Cleanup, "The Lesser Known Threat to Our Reefs: Coral Mining," n.d.

²⁹ *Ibid.*

sedimentation.³⁰ In addition to their economic significance, the coral reefs are also responsible for the protection of the coasts from the open sea and storms.³¹

Being one of the prominent countries which mines coral reefs,³² Indonesia suffered reef degradation since coral mining has detrimental effects which are decreasing the abundance and richness of the corals and fish, increases land retreat and sedimentation, and decreases shoreline protection against Tsunami waves.³³ Hence, coral mining creates a significant long-term loss both to society and economics, including a loss in fisheries value, coastal protection, and tourism.³⁴ Moreover, the skeletal framework of reefs, which is removed through the mining of coral and rock, is built up over hundreds to thousands of years and will take as long to grow back and recover.³⁵

Consequently, the offences against coral reefs regardless of the used method is not only destruct the coral reefs ecosystem but also the life of society especially coastal communities hence hindering the sustainable development goals (SDGs) achievement. Even though the crime of coral reefs mining is already regulated in Indonesia, based on the cases mentioned before, the said criminal act is still being conducted. Therefore, aside from the criminal act which the elements are analyzed above, criminal punishment as part of criminal law, which is one of the instruments of coral reefs offence's law enforcement, will be reviewed further as the consequence of the committed crimes.

Article 73 paragraph (1) determined imprisonment and fines as criminal punishments of the perpetrator of the coral reefs offences. The minimum of imprisonment is 2 (two) years and the maximum is 10 (ten) years meanwhile the minimum of fines is Rp 2,000.000.000,- (two billion rupiahs) and the maximum is Rp 10,000.000.000,- (ten billion rupiahs). It shows that the article already regulated both the specific minimum penalty and the specific maximum penalty meaning the perpetrator of the offences against coral reefs as regulated in Article 73 paragraph (1) should be sentenced within the limit of minimum and maximum penalty.

The implementation of a specific minimum penalty, in the point of view of ontology, is based on the value of justice which oriented on the balance of crime's quality and the severe-leniency of the sentences in order to fulfil the community protection from the said crimes.³⁶ Moreover, the purpose of a specific minimum penalty is to reduce the

³⁰ The Coral Reef Alliance (CORAL), "Coral Reef Mining, Harvesting and Trade: How Do Coral Mining and Indiscriminate Harvesting Affect Coral Reefs? Undermining The Future Value of Coral Reefs?" n.d.

³¹ Azmath Jaleel, "The Status of the Coral Reefs and the Management Approaches: The case of the Maldives," *Ocean and Coastal Management* 82 (September 2013): 104-18, <https://doi.org/10.1016/j.ocecoaman.2013.05.009>.

³² Big Blue Ocean Cleanup, "The Lesser Known Threat to Our Reefs: Coral Mining."

³³ Caras and Pasternak, "Long-Term Environmental Impact of Coral Mining at the Wakatobi Marine Park, Indonesia."

³⁴ Ibid.

³⁵ Ibid.

³⁶ Lalu Parman, "Prinsip Individualisasi Pidana Dalam Sistem Pidana Minimum Khusus Tindak Pidana Korupsi Di Indonesia," May 2014.

possibility of law enforcement cost is more notable than its benefit caused by the low fines for the recovery expense of the destructed coral reefs and its ecosystem is as costly. Additionally, the specific minimum penalty is regulated to prevent the sentencing disparity in which simply described as a condition when the perpetrators of a similar crime are treated differently, even though not all sentencing disparity is problematic. There are several types of sentencing disparity which are inter-jurisdictional (judges in different jurisdictions sentence similarly situated offenders differently), intra-jurisdictional (the judges in the same jurisdiction sentence similarly situated offenders differently), and intra-judge (an individual judge makes inconsistent sentencing decisions).³⁷

In the meantime, the regulated specific maximum penalty of Rp 10,000.000.000,- (ten billion rupiah), which regulated more than 5 (five) years ago whereas the economic value of coral reefs, as well as the benefit as the result of the coral reefs offences, are generally increasing in the past five years, may not be effective enough as a prevention instrument of the offences of coral reefs. Hence, this research encourages the Law of the Management of Coastal Area and Isles to regulate penal measure as double-track system implementation.

The main idea of the double-track system is equality between criminal sanction and penal measure that can be traced from development in criminal law sanctions system of streamflow to Modern Classical and Neo-Classical Flow.³⁸ Furthermore, penal measures emphasize the basic idea of community protection and guidance rather than the element of vengeance which is pointed by criminal sanctions,³⁹ therefore the penal measures are more social-centred.⁴⁰ In addition, since the said law recognized a corporation as a legal person and can be held criminally liable, appropriately the penal measures are determined as well to achieve the balance of coral reefs sustainability and public welfare.

The said penal measure is the payment of compensation which amount is calculated based on Regulation of the Minister of Environment and Forestry of the Republic of Indonesia No. 7 of 2014 concerning the environmental loss of the pollution and/ or the damage of the environment. The regulation determines the types of calculated losses as the basis of cost components in estimating the economic loss of the damaged coral reefs which are *firstly*, the compensation of environmental dispute settlement operationalization including field verification costs, field verification costs, experts and supervision of environmental loss payment, *secondly*, the compensation of the costs of tackling damage and restoring the environment, *thirdly*, ecosystem loss including the

³⁷ Ayu Izza Elvany, "Formulation Policy Regarding the Smuggling of Lobster Seeds in Indonesia," *Lentera Hukum* 7 (2020): 37, <https://doi.org/https://doi.org/10.19184/ejlh.v7i1.16916>.

³⁸ Carto Nuryanto, "Reconstruction Of The Criminal Sanction Policy And Action (Double Track System) In Law Enforcement For Narcotic Crime Prevention Referred To Religious Justice," *Jurnal Pembaharuan Hukum* 5, no. 3 (2018): 339-51, <https://doi.org/https://doi.org/10.26532/jph.v5i3.3756>.

³⁹ Sholehuddin, *Sistem Sanksi Dalam Hukum Pidana Ide Dasar Double Track System Dan Implementasinya* (Jakarta: Rajawali Press, 2003).

⁴⁰ J E Jonkers, *Buku Pedoman Hukum Pidana Hindia Belanda* (Jakarta: Bina Aksara, 1987).

value of ecological and socio-cultural benefits, *lastly*, society loss including the value of economic benefits.⁴¹

Under Article 4 of the ministry regulation, the calculation of environmental losses is conducted by the experts of the pollution and/ or the damage of the environment and/ or economic valuation of the environment. The experts are appointed by the officials of echelon I whose duties and functions are responsible for environmental law compliance in the Central Environmental Agency, or the officials of echelon II of the regional environmental agency. In addition, the article also mentioned the appointment of those experts shall be based on the evidence of conducting research on the pollution and/ or the damage of the environment and/ or economic valuation of the environment, and/or the evidence of being experienced on the pollution and/ or the damage of the environment and/ or economic valuation of the environment.

4. Conclusion

Indonesia as one of United Nations Member States had adopted the Sustainable Development Goals (SDGs), a universal call to action to end poverty, protect the planet and ensure that all people enjoy peace and prosperity by 2030, including SDGs 14 Life Below Water meaning conserve and sustainably use the oceans, seas and marine resources for sustainable development. However, the status of several SDGs 14 targets in Indonesia are significant challenges remain hence Indonesia shall effectively enforce the law on marine-related crime, including the offences against coral reefs which threaten its sustainability. The regulatory framework regarding the offences against coral reefs is Law No. 1 of 2014 amending Law No. 27 of 2007 concerning the Management of Coastal Area and Isles. Based on Article 73 paragraph (1) letter a *jo* Article 35 letter a, b, c, and d, the offences against coral reefs are mining of the coral reefs, taking the coral reef in the conservation Areas, the usage of explosive material and poisoned material and/ or other methods that are destructive to the coral reefs and its ecosystem.

The article recognized both an individual and a corporation (regardless as a legal entity or not) as the legal person hence both of them can be the perpetrator of the offences and consequently can be held criminally liable. Yet, there is no article regarding corporate criminal liability whereas the corporate criminal liability aims to make an important impact for the director to effectively manage the corporation hence the corporate performs in accordance with its obligations. Furthermore, the article has the element of *intentionally* meaning the article adopted the principle of *geen straf zonder schuld* therefore the legal person commits the offences either with *dolus* or *culpa*. The analysis of the last element of the said article which is committing the mining of coral reefs, taking the coral reefs in the conservation area, using explosive materials and poisonous materials, and/or other methods which resulted in the destruction of coral reefs ecosystem, indicated that the offences against coral reefs regardless of the used method is not only destruct the coral reefs ecosystem but also the life of society

⁴¹ Cornelia Mirwantini Witomo et al., "Estimasi Kerugian Ekonomi Kerusakan Terumbu Karang Akibat Tabrakan Kapal Caledonian Sky Di Raja Ampat," *Buletin Ilmiah Marina Sosial Ekonomi Kelautan Dan Perikanan* 3, no. 1 (2017): 7-19, <https://doi.org/https://doi.org/10.15578/marina.v3i1.6483>.

especially coastal communities hence hindering the sustainable development goals (SDGs) achievement.

Being one of the instruments of coral reefs crimes law enforcement, criminal punishment as part of criminal law was analyzed further in this research. The analysis showed that the article already regulated both the specific minimum penalty and the specific maximum penalty meaning the perpetrator of the offences against coral reefs should be sentenced within the limit of minimum and maximum penalty. The purpose of a specific minimum penalty is to reduce the possibility of law enforcement cost is more notable than its benefit caused by the low fines for the recovery expense of the destructed coral reefs and its ecosystem is as costly. Additionally, the specific minimum penalty is regulated to prevent the sentencing disparity in which simply described as a condition when the perpetrators of a similar crime are treated differently, even though not all sentencing disparity is problematic. However, regarding the regulated specific maximum fines, since it was regulated more than 5 (five) years ago whereas the benefit as the result of the coral reefs offences is generally increasing in the past five years, it may not be effective enough as a prevention instrument of the offences of coral reefs. Hence, this research encourages the Law of the Management of Coastal Area and Isles to regulate penal measure as double-track system implementation. Moreover, since the said law recognized a corporation as a legal person and can be held criminally liable, appropriately the penal measures are determined as well to achieve the balance of coral reefs sustainability and public welfare. The said penal measure is the payment of compensation which amount is calculated based on Regulation of the Minister of Environment and Forestry of the Republic of Indonesia No. 7 of 2014 concerning the environmental loss of the pollution and/ or the damage of the environment.

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