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Reconstructing Corporate Environmental Sanctions through Ecological Justice in Indonesia

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ABSTRACT

Corporate environmental crime in Indonesia raises a difficult socio-legal problem: sanctions may punish polluting corporations while damaged ecosystems remain unrestored. This article examines how sanctions against corporate polluters are constructed under Indonesian law and how they should be reconstructed in light of ecological justice. The study uses normative legal research with socio-legal sensitivity, applying statutory, conceptual, and prescriptive approaches to legislation, corporate liability doctrine, environmental sanction provisions, and the ecological justice literature. The findings show that Indonesian law recognises corporate criminal liability and additional sanctions, including restoration, profit confiscation, closure of business activities, fulfilment of neglected obligations, and corporate supervision. However, the framework is weakened by discretionary restoration orders, evidentiary difficulty, institutional fragmentation, and an anthropocentric legal culture. The article contributes a restoration-oriented reconstruction model that places ecological recovery, unlawful gain removal, corporate compliance reform, and executable institutional mechanisms at the centre of environmental punishment. It argues that sanctions should be assessed not merely by their punitive severity, but by their capacity to repair ecological harm and prevent recurrence.

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1. INTRODUCTION

Environmental pollution has become one of the most urgent socio-legal problems of contemporary governance. It is not simply a technical breach of environmental standards or an administrative failure. It reflects a deeper conflict between economic expansion, corporate power, ecological vulnerability, public health, and the limited capacity of legal institutions to prevent and repair environmental harm. Human activities have intensified global ecological disruption, while air pollution remains a major environmental risk to public health

[1], [2]. In Indonesia, this problem is particularly significant because the country is exposed to climate-related hazards, including floods, droughts, sea-level rise, shifting rainfall patterns, and extreme heat [3]. These conditions show that corporate pollution must be treated not only as an environmental offence but also as a constitutional, social, economic, and legal problem requiring stronger, more restorative legal responses [4], [5].

The right to a good and healthy environment is now central to modern environmental law. At the international level, the United Nations General Assembly has recognised the human right to a clean, healthy, and sustainable environment, thereby affirming the connection between environmental protection, human dignity, public welfare, and sustainable development [5]. Boyd argues that constitutional and statutory recognition of environmental rights can strengthen public accountability and improve environmental governance [6]. In Indonesia, this recognition is embedded in Article 28H paragraph (1) of the 1945 Constitution, Article 9 paragraph (3) of Law No. 39 of 1999 concerning Human Rights, and Article 65 paragraph (1) of Law No. 32 of 2009 concerning Environmental Protection and Management [7]-[9]. These provisions create a constitutional mandate: the state must not only punish environmental violations, but also ensure that legal responses are capable of protecting the ecological conditions that sustain human and non-human life.

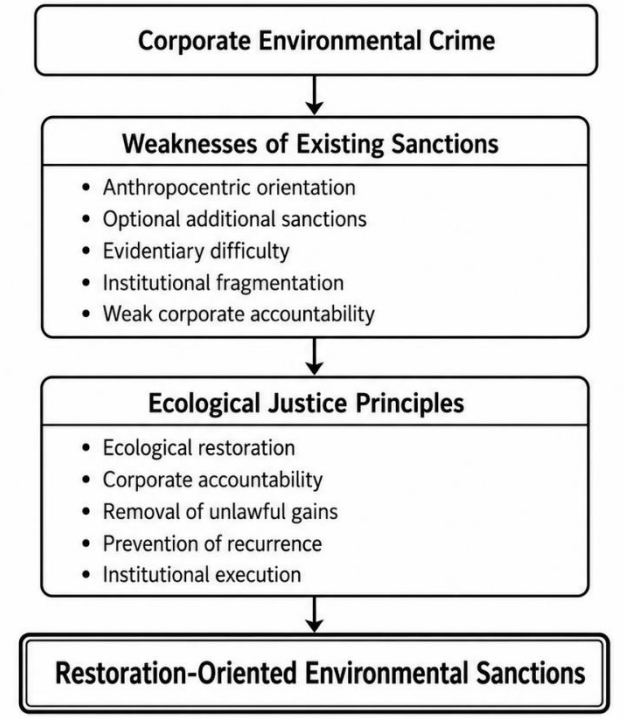

Figure 1. Conceptual Framework of Corporate Environmental Sanctions and Ecological Justice

Corporate environmental crime occupies a distinctive position in environmental law and criminology because it involves organisational capacity, financial resources, managerial hierarchy, and profit-oriented decision-making. Corporate wrongdoing is structurally different from ordinary individual crime because it is often embedded in internal policies, compliance failures, cost-saving strategies, and institutional incentives [10]. In the

environmental context, ecological harm requires a broader criminological lens because damage may affect ecosystems, non-human entities, and future generations before it becomes visible as a conventional legal injury [11]. Green criminology, therefore, treats environmental crime not only as a breach of written law, but also as social and ecological harm that may remain invisible within conventional criminal law categories [12], [13].

This article uses ecological justice as its principal normative lens. Ecological justice differs from environmental justice and restorative justice, although the three concepts are related. Environmental justice generally focuses on the distribution of environmental burdens, procedural participation, and recognition of affected human communities. Restorative justice emphasises repair, accountability, and the restoration of relationships after harm. Ecological justice goes further by placing ecosystems, biodiversity, soil, water, air, and non-human life within the sphere of legal concern [14]. This distinction is important because corporate environmental sanctions may be procedurally valid and socially compensatory, yet still fail if the polluted river, degraded soil, or damaged ecosystem remains unrecovered.

Corporate environmental performance is shaped not only by formal rules, but also by market pressure, social licence, managerial commitment, and enforcement credibility [15], [16]. Deterrence remains important because weak enforcement may allow corporations to treat environmental violations as calculable business risks [17]-[20]. Nevertheless, deterrence alone is insufficient when environmental damage is long-term, cumulative, and difficult to reverse. The central issue is therefore not only whether corporations can be punished, but whether punishment can remove illegal benefits, reform corporate compliance systems, and restore the ecological object harmed by corporate operations.

Indonesian environmental law has attempted to address this problem through several instruments. Law No. 32 of 2009 recognises criminal sanctions, corporate liability, and additional sanctions for environmental offences [9]. Supreme Court Regulation No. 13 of 2016 provides procedural guidance for handling criminal cases committed by corporations, while Law No. 1 of 2023 concerning the Criminal Code strengthens the recognition of corporations as subjects of criminal law [21], [22]. Law No. 6 of 2023 also affects environmental governance and liability through regulatory changes related to business activities [23]. However, the doctrinal and practical construction of corporate liability remains problematic, as Indonesian environmental corporate criminal liability has often been marked by uncertainty about the liability of corporations and corporate officers [24].

The practical importance of this problem is visible in Indonesian environmental enforcement. Studies on oil spill governance, mining-related environmental degradation, and wildfire litigation show that environmental harm is rarely confined to a single victim or a single moment of loss; it often involves complex causation, dispersed social impacts, and demanding restoration obligations [31]-[33]. Gunningham similarly warns that environmental enforcement weakens when regulatory institutions lack credible monitoring, coordinated implementation, and responsive sanctioning capacity [34]. These observations support the need to evaluate sanctions not only as legal threats but as instruments of ecological repair.

Previous studies have discussed environmental enforcement, corporate criminal liability, strict liability, administrative sanctions, and environmental restoration. However, much of the existing scholarship still analyses these issues separately: corporate liability is treated as a doctrinal problem, sanctions as enforcement tools, and ecological justice as a philosophical ideal. This article integrates these three dimensions. It asks how environmental sanctions against corporate polluters are constructed in Indonesian law and to what extent they reflect ecological justice. The novelty of this article lies in reconstructing corporate environmental sanctions from a punitive, anthropocentric model into a restoration-oriented framework that links corporate accountability, ecological recovery, unlawful gain removal, and institutional enforcement.

The expected contribution is both theoretical and practical. Theoretically, the article clarifies why ecological justice must be distinguished from ordinary compensation and human-centred environmental protection. In practice, it proposes a sanction model that can guide judges, prosecutors, environmental agencies, and policymakers in designing sanctions that do not end with fines or imprisonment, but continue until damaged ecological systems are meaningfully restored.

2. METHOD

This study employs normative legal research with socio-legal sensitivity to analyse corporate environmental crime and environmental sanctions in Indonesia. The normative component examines the legal construction of corporate liability, principal sanctions, additional sanctions, and restoration obligations under Indonesian environmental law. The socio-legal sensitivity does not mean empirical fieldwork; rather, it is used to read legal norms in relation to their social and ecological consequences, especially the capacity of sanctions to restore damaged ecosystems, protect affected communities, and prevent repeated corporate violations.

The study applies statutory, conceptual, and prescriptive approaches. The statutory approach examines relevant legal instruments, including the 1945 Constitution of the Republic of Indonesia, Law No. 32 of 2009 concerning Environmental Protection and Management, Law No. 39 of 1999 concerning Human Rights, Law No. 6 of 2023, Law No. 1 of 2023 concerning the Criminal Code, and Supreme Court Regulation No. 13 of 2016. The conceptual approach explains corporate environmental crime, ecological justice, corporate accountability, restorative sanctioning, and ecological restoration. The prescriptive approach is used to formulate a reconstruction of corporate environmental sanctions that is more consistent with ecological justice.

The legal materials consist of both primary and secondary sources. Primary legal materials include statutes and regulations governing environmental protection, corporate criminal liability, criminal procedure for corporate offences, and environmental sanctions. Secondary legal materials include books, peer-reviewed journal articles, legal commentaries, policy reports, and scholarly works on environmental law, corporate crime, green criminology, ecological justice, and socio-legal studies. The secondary sources were selected based on their relevance to four analytical themes: corporate liability, sanction design, environmental enforcement, and ecological restoration. Preference was given to works that

directly discuss environmental crime, corporate accountability, or ecological justice, as well as Indonesian legal scholarship and enforcement studies.

The materials were collected through library research and documentary review, then analysed qualitatively through interpretive-prescriptive reasoning. Interpretive reasoning was used to identify the meaning, scope, and relationships of statutory provisions, particularly those on material environmental offences, corporate liability, and additional sanctions. Prescriptive reasoning was used to evaluate whether those provisions are adequate from the perspective of ecological justice and to formulate a reconstruction model. The analysis was conducted in three stages: first, identifying the construction of environmental sanctions against corporate polluters under Indonesian law; second, evaluating structural, substantive, evidentiary, and cultural weaknesses; and third, proposing a reconstruction model centred on ecological restoration, corporate accountability, unlawful gain removal, compliance reform, and institutional execution.

The study is limited to normative and conceptual analysis. It does not examine judicial files, conduct interviews, or measure the implementation of restoration orders in specific cases. This limitation is acknowledged because the article aims to construct a legal-theoretical framework. Future empirical research is needed to test how judges, prosecutors, environmental agencies, corporations, experts, and affected communities understand and implement ecological justice in environmental enforcement practice.

Table 1. Analytical framework of the study

Component	Description
Research design	Normative legal research with socio-legal sensitivity
Research object	Corporate environmental sanctions against polluting corporations in Indonesia
Legal approaches	Statutory, conceptual, and prescriptive approaches
Primary legal materials	The 1945 Constitution, Law No. 32 of 2009, Law No. 39 of 1999, Law No. 1 of 2023, Law No. 6 of 2023, and Supreme Court Regulation No. 13 of 2016
Secondary legal materials	Books, peer-reviewed journal articles, legal commentaries, policy reports, and scholarly works on environmental law, corporate crime, green criminology, ecological justice, and socio-legal studies
Selection criteria	Relevance to corporate liability, sanction design, environmental enforcement, and ecological restoration
Data collection	Library research and documentary review
Data analysis	Qualitative interpretive-prescriptive analysis
Research output	Ecological justice-based reconstruction model for corporate environmental sanctions

3. RESULTS AND DISCUSSION

3.1. Corporate environmental crime as a socio-legal problem

Corporate environmental crime should not be understood merely as a violation of statutory provisions. It represents a broader socio-legal problem because corporate pollution may simultaneously damage ecological systems, public health, community welfare, and intergenerational interests. In environmental crime, the injured party is not always easily identifiable in conventional legal terms. Pollution may damage rivers, soil, air, forests,

biodiversity, and other ecological components long before its full impact becomes visible to human communities.

In Indonesia, corporate environmental crime becomes more complex because corporations operate through organisational structures, managerial hierarchies, technical divisions, and business decisions that may obscure the relationship between individual conduct and ecological damage. A pollution event may result from managerial negligence, inadequate waste management, weak supervision, failure to comply with environmental permits, deliberate cost reduction, or systematic disregard of environmental obligations. Therefore, corporate environmental crime is often not merely individual misconduct; it is an institutional failure within the corporation itself.

From a socio-legal perspective, the central issue is not only whether corporations can be punished, but whether the sanctioning system can transform corporate behaviour and repair ecological harm. A corporation may be fined, yet the polluted river remains contaminated, the degraded land remains unproductive, and affected communities continue to bear ecological and economic losses. This condition shows that environmental sanctions must be assessed not only by their formal legality, but also by their restorative capacity, preventive function, and ecological orientation.

3.2. Construction of environmental sanctions against corporations in Indonesian law

Indonesian environmental law provides for the imposition of sanctions on corporations involved in environmental pollution. Law No. 32 of 2009 provides the main legal basis for environmental criminal liability, including provisions related to corporate liability and additional sanctions [9]. The legal framework not only regulates individual offenders; it also recognises business entities as legal subjects that may be held accountable for environmental crimes.

The construction of corporate liability can be seen in provisions concerning offences committed by, for, or on behalf of business entities. In this framework, criminal liability may be directed toward the corporation, the person giving orders, the person acting as leader in the offence, or a combination of these subjects. This model attempts to respond to the organisational nature of corporate crime. However, it also creates a practical and doctrinal challenge: law enforcement officials may focus on individual managers, while the corporation, as an institutional actor, is not always treated as the primary subject of liability [24].

The sanctioning framework is built around principal and additional sanctions. Principal sanctions generally involve imprisonment and fines, while additional sanctions may include the confiscation of profits obtained from the offence, the closure of business activities, the restoration of damage, the fulfilment of neglected duties, and the placement of the company under supervision or guardianship. This construction shows that Indonesian environmental law already contains restorative elements. The difficulty lies in the legal position and execution of those elements. If restoration remains discretionary, ecological recovery depends on judicial preference and institutional capacity rather than operating as a necessary legal consequence of ecological harm.

3.3. Distinguishing ecological justice, environmental justice, and restorative justice

Conceptual clarity is important because ecological justice is sometimes used interchangeably with environmental justice or restorative justice. In this article, environmental justice refers mainly to the fair distribution of environmental benefits and burdens, public participation, and recognition of affected communities. Restorative justice refers to repairing harm, acknowledging responsibility, and restoring relationships after wrongdoing. Ecological justice includes these concerns but expands them by treating ecological integrity, non-human life, and the continuity of natural systems as objects of justice in their own right [14], [29], [30].

This distinction affects the design of sanctions. A sanction may satisfy environmental justice if it compensates affected communities, and it may satisfy restorative justice if the offender repairs social harm. However, it may still fail ecological justice if the ecosystem itself remains damaged. Ecological justice, therefore, requires sanctions to be evaluated by whether they restore the damaged river, soil, air, forests, biodiversity, or ecological processes. In corporate environmental crime, this means that fines and imprisonment must be linked to ecological recovery and corporate compliance reform, rather than treated as sufficient ends in themselves.

3.4. Structural, substantive, and cultural weaknesses of environmental sanctions

The weaknesses of environmental sanctions against corporate polluters can be grouped into three dimensions: structural, substantive, and cultural. Structurally, environmental law enforcement in Indonesia remains fragmented. Environmental crime involves environmental agencies, civil servant investigators, police investigators, prosecutors, courts, expert witnesses, local governments, and institutions responsible for executing court decisions. When these institutions do not operate under an integrated restoration protocol, sanctions may be formally imposed but fail to achieve actual ecological recovery.

Substantively, several legal provisions still create uncertainty or insufficient ecological orientation. Article 116 of Law No. 32 of 2009 provides room for determining whether liability is directed to individuals, corporate actors, or both. This may weaken corporate accountability if enforcement focuses primarily on personal fault while the corporate system that enabled pollution remains untouched. Article 119 provides additional sanctions relevant to ecological justice, yet the discretionary character of additional sanctions may prevent restoration from becoming a consistent legal consequence. Article 98, which is constructed around material consequences such as exceeding environmental quality standards, may also create evidentiary difficulty when pollution arises from complex and cumulative corporate operations [9].

Culturally, the legal system still reflects a strong human-centred understanding of environmental protection. Environmental harm is often interpreted in relation to human welfare, economic loss, or public health, while damage to non-human nature is not always treated as an independent concern of justice. This cultural orientation affects how sanctions are formulated, demanded, imposed, and executed. If ecological integrity is not recognised as a central legal value, environmental sanctions will remain limited to punishment and compensation rather than restoration.

3.5. Optional additional sanctions and the problem of ecological restoration

One of the most significant weaknesses lies in the optional nature of additional sanctions. Article 119 of Law No. 32 of 2009 provides additional sanctions highly relevant to ecological justice, including the restoration of damage caused by environmental crime [9]. However, the discretionary formulation means that restoration may be imposed, but is not necessarily treated as a mandatory or presumptive response in every case where ecological damage is proven.

This creates a normative problem. In ordinary criminal law, additional sanctions may be treated as complementary. In environmental crime, however, restoration should not be merely additional in a secondary sense. It should be central because the main harm is ecological damage. If a corporation causes pollution, the recovery of the damaged ecological system should become a necessary legal consequence, not an optional judicial supplement. Environmental crime raises distinctive issues because sanctions must respond simultaneously to economic incentives, ecological harm, and the need for recovery [25]-[28].

The restorative potential of Article 119 is therefore not fully realised. Its content is normatively promising because it includes the confiscation of profits, the closure of business activities, the restoration of damage, the fulfilment of neglected duties, and supervision. However, its effectiveness depends on whether judges impose these sanctions and whether institutions can execute them. Without stronger reconstruction, corporate environmental crime may remain economically rational: corporations may calculate sanctions as a cost of doing business rather than as a serious legal and ecological consequence.

3.6. Corporate liability and the challenge of proving environmental harm

Another important finding concerns the difficulty of proving corporate environmental crime. Article 98 of Law No. 32 of 2009 is structured around environmental consequences, such as exceeding environmental quality standards [9]. This material-offence construction may be appropriate in direct pollution cases, but it becomes problematic when applied to corporate activities involving multiple actors, long-term operations, technical processes, and cumulative ecological effects.

Corporate pollution often does not occur through a single isolated act. It may result from repeated omissions, inadequate waste management, weak supervision, failure to comply with permits, or deliberate cost reduction. In such situations, establishing the causal relationship between corporate conduct and ecological damage can be difficult. This difficulty may weaken criminal enforcement, particularly where environmental harm emerges gradually or requires specialised scientific evidence.

A socio-legal reconstruction should therefore not rely solely on conventional proof of individual fault. It should strengthen corporate accountability by examining corporate systems, compliance failures, managerial knowledge, risk control, environmental monitoring, permit compliance, and institutional negligence. The question should not only be who directly committed the act, but also how the corporation’s structure, policies, omissions, or risk management failures enabled the pollution. This shift is essential if the law is to address corporate environmental crime as organisational harm.

3.7. Practical relevance in Indonesian environmental enforcement

The need for concrete implementation is visible in Indonesian environmental cases discussed in previous scholarship. Oil spill governance in Bintan Island demonstrates how environmental harm requires coordinated institutional response, technical recovery, and accountability beyond formal sanctioning [31]. Research on mining corruption and environmental degradation shows that environmental damage may result from the interaction among corporate activity, weak governance, and unlawful economic benefits [32]. Wildfire litigation further illustrates the importance of strict liability and restoration-oriented reasoning when ecological harm is extensive, and causation is difficult [33].

These examples indicate that corporate environmental sanctions must be connected to practical execution. A judgment that orders restoration will remain symbolic if there is no technical restoration plan, no measurable ecological baseline, no expert supervision, no financing mechanism, and no institution responsible for monitoring compliance. Comparative literature on environmental enforcement also suggests that sanctions are more credible when monitoring, prosecution, judicial reasoning, and execution operate as a coordinated system rather than separate institutional acts [18]-[20], [34].

3.8. Ecological justice-based reconstruction of environmental sanctions

Ecological justice offers a critical framework for reconstructing environmental sanctions. It challenges the assumption that environmental law exists only to protect human interests. Instead, it requires law to protect ecological integrity, non-human life, and the continuity of natural systems. In the context of corporate environmental crime, ecological justice requires sanctions that go beyond mere condemnation. Sanctions must repair ecological harm, prevent future damage, and transform corporate behaviour [14], [29], [30].

Based on the analysis, an environmental sanction can be considered consistent with ecological justice when it fulfils five functions. First, it must establish corporate accountability so that the corporation cannot avoid responsibility by shifting blame to individual managers or technical operators. Second, it must compel ecological restoration by making the damaged environment the primary object of legal repair. Third, it must remove unlawful gains so that pollution is no longer economically profitable. Fourth, it must prevent recurrence by requiring corporate compliance reform, environmental audit, monitoring improvement, and managerial accountability. Fifth, it must be executable through coordinated institutional mechanisms involving courts, prosecutors, environmental agencies, experts, and affected communities.

This reconstruction may face objections. Corporations may argue that mandatory restoration creates economic burden or legal uncertainty. However, ecological justice does not deny the need for proportionality. It requires restoration to be tied to proven ecological harm, technical feasibility, and measurable recovery obligations. The objection based on economic burden is weak when the burden results from unlawful pollution, because the alternative would transfer the cost of ecological damage to communities, future generations, and the ecosystem itself. The constitutional right to a good and healthy environment also supports stronger legal consequences for corporate conduct that damages ecological systems [7]-[9].

The reconstruction of environmental sanctions should therefore begin with a change in orientation. Environmental sanctions should not be designed merely to punish corporate offenders, but to restore ecological harm and prevent future violations. This requires a shift from a punishment-centred model to a restoration-centred model in which punishment, restoration, unlawful gain removal, compliance reform, and institutional accountability work together. In this model, criminal law becomes not only a tool of state coercion but also a mechanism for ecological repair.

Table 2. Ecological justice-based reconstruction of corporate environmental sanctions

Existing weakness	Socio-legal implication	Ecological justice-based reconstruction
Corporate liability shifts toward individual actors	Institutional responsibility may be weakened	Treat the corporation as the primary accountable subject when harm arises from corporate policy, omission, control failure, or risk-taking
Additional sanctions are discretionary	Ecological restoration may not be consistently imposed	Make restoration orders mandatory or strongly presumptive when ecological harm is proven
Fines dominate sanctioning practice	Financial punishment may not repair ecosystems or remove profit from pollution	Pair fines with disgorgement of unlawful gains and earmarked ecological recovery obligations
Material-offence construction creates evidentiary difficulty	Cumulative and technically complex pollution may be difficult to prove	Assess corporate systems, permit compliance, environmental monitoring, risk knowledge, and compliance failure
Institutional fragmentation weakens execution	Court decisions may not produce actual restoration	Establish execution protocols involving courts, prosecutors, environmental agencies, independent experts, and affected communities
Anthropocentric legal culture dominates	Non-human ecological harm remains marginal	Recognise water, soil, biodiversity, air, forests, and ecological processes as central objects of legal repair

4. CONCLUSION

This article has shown that corporate environmental crime in Indonesia cannot be adequately addressed through a sanctioning model limited to fines, imprisonment, or formal legal compliance. Indonesian environmental law already recognises corporate liability and provides several sanctioning instruments, including additional sanctions that may support ecological restoration. The main weakness is not the total absence of restorative norms, but the fact that restoration has not been consistently positioned as the central and executable consequence of ecological harm.

The study's principal implication is that corporate environmental sanctions should be assessed through an ecological justice lens. This means that sanctions must restore damaged ecosystems, remove unlawful economic gains, reform corporate compliance systems, prevent repeated violations, and strengthen institutional execution. Corporate

liability should also be directed at the corporation as an institutional actor when pollution arises from corporate policy, omission, risk-taking, weak supervision, or compliance failure.

The boundary of this article is its normative and conceptual design. It does not provide empirical measurement of court decisions, restoration orders, prosecutorial practice, or corporate compliance behaviour. For that reason, the reconstruction proposed here should be read as a legal-theoretical framework rather than as an empirical evaluation of all Indonesian environmental enforcement practices.

Future research should examine how ecological justice is applied in actual environmental cases by involving judges, prosecutors, environmental officials, corporate compliance officers, experts, and affected communities. Such research would help determine whether restoration-oriented sanctions are technically feasible, institutionally executable, and socially meaningful. For the wider public, the contribution of this article lies in shifting environmental punishment from a narrow concern with penal severity toward a more concrete concern with whether damaged ecological systems are actually repaired.

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