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Under-Enforcement of Corporate Criminal Liability: Indonesia's Normative Commitment and Systemic Impunity

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Abstract

Corporate criminal liability has been progressively recognised in Indonesia through sectoral legislation, procedural regulations, and the new Criminal Code, indicating a strong formal commitment to hold corporations accountable for corruption and other economic crimes. In practice, however, corporations are still rarely prosecuted, and enforcement remains heavily focused on individual offenders. This article examines the gap between "law in the books" and "law in action" and argues that the persistent under-enforcement of corporate criminal liability has produced a pattern of systemic impunity for corporate actors. Using a normative juridical method combined with case-law analysis and secondary empirical materials, the study reconstructs the legal framework, maps enforcement patterns in corruption, banking, environmental, tax and labour sectors, and identifies doctrinal, procedural, institutional, and political–economic factors that discourage prosecutors and judges from pursuing corporate defendants. The novelty of this article lies in treating under-enforcement itself as the central analytical problem and offering an integrated explanatory framework that connects legal design, institutional capacity, and political–economic incentives. The article concludes by proposing reforms to clarify liability standards, strengthen evidentiary and procedural tools, enhance institutional capacity and coordination, and insulate enforcement from undue corporate influence so that corporate criminal liability can function as an effective mechanism of accountability rather than merely a symbolic commitment.

1. INTRODUCTION

Corporate criminal liability has evolved into an integral component of modern criminal law, driven by the increasing role of corporations as potential perpetrators of serious harm to the economy, the environment, and public welfare. This development marks a decisive departure from the classical maxim *universitas delinquere non potest*, which denied the possibility of corporate culpability, towards a paradigm that recognises corporations as autonomous subjects of criminal responsibility. Inayah describes this shift as the recognition of corporations as culpable entities alongside individual offenders, particularly where corporate structures are deliberately used to generate profit through unlawful means.[1] Comparative scholarship further demonstrates that legal systems have developed several models vicarious liability, identification theory, strict liability, and corporate culture or organisational-fault theories to resolve the difficulty of attributing *actus reus* and *mens rea* to non-human entities.[2]

Indonesia has followed this global trajectory. Corporations have been recognised as subjects of criminal law since at least Emergency Law No. 7 of 1955 and subsequently in numerous sectoral statutes, particularly in the fields of corruption, environmental protection, banking, and taxation [3]. The Anti-Corruption Law expressly permits corporate prosecution; the Environmental Protection and Management Law introduced strict liability for certain forms of corporate environmental harm; and tax and labour legislation likewise accommodate corporate criminal responsibility.[4] This normative trajectory has been consolidated by Law No. 1 of 2023 on the new Criminal Code (KUHP), which explicitly recognises corporations as legal subjects and sets out general provisions on corporate liability and sanctions.[5]

On the procedural side, Supreme Court Regulation (Perma) No. 13 of 2016 on the Procedure for Handling Criminal Cases by Corporations fills a long-standing gap by defining “corporation” and “corporate management”, formulating criteria for corporate fault including the absence of adequate preventive and compliance mechanisms and prescribing rules on summons, seizure, and sentencing in corporate cases.[6] Doctrinally, the Indonesian framework now accommodates a mixed model: elements of vicarious liability allow corporations to be held responsible for offences committed by employees or managers within the scope of their employment and for corporate benefit, while organisational-fault and corporate-culture approaches emphasise how governance structures, internal policies, and incentive systems foster or tolerate unlawful conduct.[7]

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[1] Iin Inayah, ''Corporate Criminal Liability', *JHR (Jurnal Hukum Replik)*, 8, no. 2 (2020): 89–99 https://doi.org/10.31000/jhr.v8i2.3586.

[2] Muhammad Rizaldi Hendriawan, “Politics of Criminal Law Liability of Corporate Criminal in Indonesia,” *YURIS: Journal of Court and Justice 1*, no.1 (2022): 25–37, https://doi.org/10.56943/jcj.v1i1.12; Reinier H. Kraakman, "Vicarious and Corporate Civil Liability," in *Encyclopedia of Law and Economics*, 2nd ed., vol. 2, *Civil Law and Economics*, ed. Boudewijn Bouckaert (Cheltenham, UK: Edward Elgar Publishing, 2009), https://doi.org/10.4337/9781848447301.00013

[3] Harkristuti Harkrisnowo, “Redefinisi Pidana dan Pemidanaan Korporasi Dalam Perspektif Rancangan Undang-Undang Kitab Undang-Undang Hukum Pidana,” *Jurnal Legislasi Indonesia* 16, no. 4 (2019): 408–18, https://doi.org/10.54629/jli.v16i4.598; Nur Khalifah Agustin Sari, “Criminal Liability for Corporate Crime in Indonesia,” *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 1 (2023): 867–74, https://doi.org/10.37680/almanhaj.v5i1.2687

[4] Ni Komang Ayu Candrawati and I Gede Agus Kurniawan, “Strict Liability Principles Regulation on Corporate Crimes in Environmental Pollution & Strengthening Criminal Penalties in Indonesia,” *Jurnal Daulat Hukum* 8, no. 1 (2025): 72–83, https://doi.org/10.30659/jdh.v8i1.44878

[5] Nanin Astuti, “Corporate Criminal Liability in Digital Economic Crimes: An Analysis of Legal Developments in Indonesia,” *Indonesian Journal of Law and Justice* 3, no. 2 SE-Articles (October 28, 2025):1- 9, https://doi.org/10.47134/ijlj.v3i2.5013; I Dewa Made Suartha and Jared Ivory, “Corporate Crime Liability: Beyond Rule Reform on Indonesia Criminal Policy,” *Focus Journal Law Review* 4, no. 2 (2024), https://doi.org/10.62795/fjl.v4i2.281

[6] Ibnu Aburizal Nashruddien, Sari Mandiana, and Jusup Jacobus Setyabudhi, “Corporate Criminal Law Liability in Corruption Crimes Based on Perma RI Number 13 of 2016.,” *Jurnal Indonesia Sosial Teknologi* 5, no. 7 (2024), 3402–3411.https://doi.org/10.59141/jist.v5i7.1229; Dede Indraswara, Ali Masyhar Mursyid, and Cahya Wulandari, “Corporate Criminal Liability of Corruption Criminal Actions PT. Sinarmas Asset Management: Study of Supreme Court Ruling Number 1228 K/Pid. Sus/2023,” *The Digest: Journal of Jurisprudence and Legisprudence* 5, no. 2 (2024): 137–84, https://doi.org/10.15294/digest.v5i2.3984

[7] Inayah, “Corporate Criminal Liability”; Kraakman, “Vicarious and Corporate Civil Liability”; Waluyadi Waluyadi, Dani Durahman, and Tris Tri Budiarti, “Corporate Responsibility as a Person for Economic Crime in Indonesian Criminal Law,” *Russian Law Journal* 11, no. 3 (2023): 1197–1206, https://doi.org/10.52783/rlj.v11i3.1529 ; Reda Manthovani, Erni Mustikasari, and Naglaa Fathy El Dessouky, “A Deconstruction of Corporate Responsibility in Criminal Law,” *Journal of Justice Dialectical* 3, no. 1 (2025): 1–26, 10.70720/jjd.v3i1.64

Yet, as recent scholarship repeatedly notes, this doctrinal and legislative sophistication masks a persistent crisis of enforcement. Empirical studies across corruption, environmental, banking, and tax cases demonstrate that corporations are prosecuted and convicted only in a small fraction of situations where their involvement is apparent.[8] In corruption cases, prosecutors overwhelmingly target public officials and corporate executives, while corporate entities that plan, facilitate, or benefit from corrupt schemes often remain outside the indictment.[9] In banking, the Bank Century case illustrates the difficulty of constructing corporate liability, with enforcement largely focused on individuals rather than the bank as a corporate offender.[10] In environmental and labour contexts, corporate wrongdoing is frequently diverted to administrative fines or civil mechanisms, producing what several authors describe as a paradox of "strict liability on paper, weak criminal enforcement in practice".[11]

However, the problem of under-enforcement cannot be adequately explained merely by stating that corporate criminal liability functions symbolically. The more fundamental issue concerns the structural and procedural mechanisms that prevent corporations from being brought before the criminal justice system as defendants. In several sectors, corporate involvement may appear in the factual background of criminal conduct, yet prosecution frequently remains concentrated on directors, managers, public officials, or intermediaries. This suggests that the enforcement gap is not only a matter of normative deficiency, but also a matter of evidentiary complexity, institutional fragmentation, prosecutorial risk calculation, and the difficulty of translating individual misconduct into corporate fault.

Accordingly, this article does not treat symbolic law enforcement as a conclusion in itself. Rather, it uses the concept as an entry point for examining why corporate prosecution fails or remains exceptional in practice. By comparing selected cases across corruption, banking, environmental, tax, and labour-related sectors, the article identifies the specific shortcomings that arise in attempts to prosecute corporations, including difficulties in proving corporate benefit, organisational fault, internal decision-making, failure of supervision, and the limited operational use of Perma No. 13 of 2016. This case-based approach is intended to provide empirical grounding for the claim that Indonesian corporate criminal liability remains sporadic, selective, and predominantly individual-centric.

This disjuncture between "law in the books" and "law in action" has significant implications for Indonesia's identity as a *negara hukum* (rule-of-law state) under Article 1 paragraph (3) of the 1945 Constitution. From a constitutional perspective, the rule of law, public trust, and equality before the law require that legal norms be applied consistently to all actors, including powerful corporate entities.[12] When corporations are formally recognised as criminal subjects but rarely appear as defendants, the result is a pattern of what this article terms

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[8] G P Negara and Aditya Prawira, "Penegakan Hukum Tindak Pidana Korupsi Di Indonesia Terhadap Pelaku Korporasi," *Jurnal Magister Hukum Perspektif* 10, no. 1 (2019): 37–51, https://doi.org/10.37303/magister.v10i1.26 ; Abdul Haris Malik and Fajar Ari Sudewo Sanusi, "Corporate Strict Liability in Environmental Crimes in Indonesia and the Netherlands," in *MALAPY 2022: Proceedings of the 1st International Conference on Law, Social Science, Economics, and Education, MALAPY 2022, 28 May 2022, Tegal, Indonesia* (European Alliance for Innovation, 2022), 413, https://doi.org/10.4108/eai.28-5-2022.2320558 ; Sari, "Criminal Liability for Corporate Crime in Indonesia."

[9] Nashruddien, Mandiana, and Setyabudhi, "Corporate Criminal Law Liability in Corruption Crimes Based on Perma RI Number 13 of 2016."; Jitro Gianfranco Behuku et al., "The Judge's Role in the Effectiveness of Anti-Corruption Enforcement in Indonesia: A Juridical Analysis," *SIGn Jurnal Hukum* 7, no. 1 (2025): 351–67, https://doi.org/10.37276/sjh.v7i1.464

[10] Pujiyono and Sugeng Riyanta, "Corporate Criminal Liability in the Collapse of Bank Century in Indonesia," *Humanities and Social Sciences Letters* 8, no. 1 (2020): 1–11, https://doi.org/10.18488/journal.73.2020.81.1.11

[11] Nurlaili Maghfirah and Ridha Nur Ikhsan, "The Application of Criminal Liability of PT. Simeulue Perkasa Sejahtera for Environmental Damage Due to Forest and Land Fires in Nagan Raya Regency," *International Journal of Law, Social Science, and Humanities* 2, no. 3 (2025): 326–38, https://doi.org/10.70193/ijlsh.v2i3.256 ; Rais Torodji et al., "The Role of the Corporate Penalty System on Environmental Regulation," *Journal of Human Rights, Culture and Legal System* 3, no. 3 (2023): 600–624, https://doi.org/10.53955/jhcls.v3i3.179 ; Khrisnu Wahyuono, "Corporate Criminal Liability for Substandard Wage Violations: A Case Study of PT. Sahabat Lingkungan Hidup," *IUS POSITUM: Journal of Law Theory and Law Enforcement*, 2025, 66–81, https://doi.org/10.56943/jlte.v4i4.843

[12] Fedhli Faisal, Abdul Gani Abdullah, and Amad Sudiro, "Legal Discovery of Judges in the Criminal Cases of Narcotic Abuse Based on Law Number 35 of 2009," *PalArch's Journal of Archaeology of Egypt/Egyptology* 17, no. 2 (2020): 98–106, https://doi.org/10.48080/JAE.V17I2.67 ; Tedi Sudrajat, "The Principles of Good Judiciary in Indonesia and Malaysia," *Proceeding ICMA-SURE* 1, no. 1 (2021), https://doi.org/10.20884/2.procicma.2021.1.1.4438 ; Yunita Berlian Seseli et al., "Analisis Perlindungan Hukum Terhadap Konsumen Dan Tanggung Jawab PT. PLN (PERSERO) Dalam Pencatatan KWH Meter Listrik Di Kota Kupang Ditinjau Dari Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen," *Petitum Law Journal* 2, no. 2 (2025): 564–87, https://doi.org/10.35508/pelana.v2i2.20793

systemic impunity: a situation in which impunity does not arise from isolated failures, but from recurrent, structural obstacles that prevent corporate liability from being realised in practice. Under such conditions, corporate criminal liability risks becoming symbolic law—a body of norms that is normatively dense and rhetorically prominent yet only thinly applied in day-to-day enforcement.[13]

The novelty of this article lies not in restating that Indonesian law recognises corporations as criminal subjects, but in explaining why such recognition has not produced consistent corporate prosecution. By engaging with international debates on corporate fault, attribution, compliance failure, prosecutorial discretion, and organisational liability, this article develops a cross-sectoral enforcement-gap model for Indonesia. The model shows that under-enforcement is sustained by the interaction of doctrinal ambiguity, evidentiary complexity, institutional fragmentation, and political-economic incentives. This distinguishes the article from prior studies that either focus on normative design, compare liability doctrines, or analyse isolated cases without explaining the structural mechanisms that reproduce individual-centric enforcement.

This article responds to that gap by placing under-enforcement of corporate criminal liability at the centre of analysis. Conceptually, it adopts a corporate liability framework that integrates vicarious and organisational-fault theories with constitutional principles of rule of law, public trust, and equality before the law as normative benchmarks. Empirically, it draws on case-law and secondary data to show how rarely corporations are prosecuted relative to their documented involvement in serious wrongdoing and to identify the doctrinal, procedural, institutional, and political–economic mechanisms that sustain a pattern of systemic impunity. The novelty of this study lies in treating under-enforcement itself as the primary analytical problem and in offering an integrated explanatory framework that connects legal design, institutional capacity, and political–economic incentives, rather than merely describing statutory provisions or isolated cases. In doing so, the article argues that Indonesia's corporate criminal liability regime currently operates as symbolic law and outlines the reforms required to transform it into an effective system of corporate accountability.

"This article addresses the following questions: (1) How is Indonesia's corporate criminal liability framework normatively configured across the Criminal Code, sectoral legislation, and Perma No. 13 of 2016? (2) What patterns of enforcement emerge across corruption, banking, environmental, tax and labour sectors? (3) What doctrinal, procedural, institutional, and political–economic factors explain the persistent under-enforcement of corporate criminal liability? and (4) What are the implications of these patterns for the rule of law, public trust and equality before the law?"

The discussion section of this article is systematically organized into five interconnected parts to comprehensively address the aforementioned questions. First, it establishes a conceptual framework by analyzing the interrelated phenomena of systemic impunity and symbolic law. Second, it evaluates the normative configuration of Indonesia's corporate criminal liability framework in various statutory provisions. Third, it maps cross-sectoral enforcement patterns to provide empirical evidence of persistent under-enforcement. Fourth, the analysis deconstructs the specific doctrinal, procedural, institutional, and political-economic factors that perpetuate structural enforcement gaps. Finally, the discussion assesses the broader implications of systemic under-enforcement for the rule of law, public trust, and the constitutional guarantee of equality before the law.

2. METHOD

This research employs a normative juridical method combined with case-law analysis and secondary empirical materials. The normative component reconstructs and critically evaluates Indonesia's legal framework on corporate criminal liability, particularly the Anti-Corruption Law, the Environmental Protection and Management Law, taxation and labour legislation, Supreme Court Regulation No. 13 of 2016, and the relevant provisions of Law No. 1 of 2023 on the Criminal Code. These primary legal materials are analysed alongside doctrinal scholarship on corporate liability models, including vicarious liability, identification theory, strict liability, corporate culture, and organisational fault, as well as constitutional literature on the rule of law, public trust, and equality before the law. This framework enables an assessment of the adequacy, coherence, and internal consistency of Indonesia's corporate criminal liability regime.

[13]Behuku et al., "The Judge's Role in the Effectiveness of Anti-Corruption Enforcement in Indonesia: A Juridical Analysis"; Ngurah Wahyu Resta, "Legal Certainty of The Independence of The Prosecutor's Office In Indonesia," *Journal of Social Research* 4, no. 4 (2025): 765–77, https://doi.org/10.55324/josr.v4i4.2510

The case-law component examines selected judicial decisions and enforcement materials from 2016 to 2024, covering the period from the issuance of Supreme Court Regulation No. 13 of 2016 to the transitional phase following the enactment of the new Criminal Code. Cases were selected purposively where: (i) a corporation was formally prosecuted or treated as a corporate defendant; or (ii) the factual narrative indicated corporate involvement, although enforcement remained focused on individual actors. The sample covers corruption, banking and financial crimes, environmental offences, taxation, and labour-related violations. Judicial decisions were primarily obtained from the official Supreme Court decision directory and specialised corruption courts, while supplementary materials were drawn from the KPK public case database, regulatory agencies, and credible NGO or research reports.

To ensure traceability and methodological verifiability, the case-law analysis refers to identified judicial decisions across different sectors, namely: PT Nusa Konstruksi Enjiniring, formerly PT Duta Graha Indah, Decision No. 81/Pid.Sus-TPK/2018/PN.Jkt.Pst., Corruption Court at the Central Jakarta District Court, 2018; PT Sinarmas Asset Management, Decision No. 1228 K/Pid.Sus/2023, Supreme Court of the Republic of Indonesia, 2023; Bank Century/Budi Mulya, Decision No. 36/Pid.Sus/TPK/2014/PN.Jkt.Pst., Corruption Court at the Central Jakarta District Court, 2014; Asian Agri/Suwir Laut, Decision No. 2239 K/Pid.Sus/2012, Supreme Court of the Republic of Indonesia, 2012; and PT Kalista Alam, Decisions No. 12/Pdt.G/2012/PN.MBO, Meulaboh District Court, 2012, No. 50/PDT/2014/PT.BNA, Banda Aceh High Court, 2014, and No. 651 K/Pdt/2015, Supreme Court of the Republic of Indonesia, 2015. These cases were selected because they illustrate different enforcement patterns, including direct corporate prosecution, individual-centric prosecution, and the diversion of corporate misconduct into civil or administrative liability.

The materials are analysed through qualitative content analysis by identifying recurring themes in judicial reasoning, the construction of corporate fault, the use or non-use of Supreme Court Regulation No. 13 of 2016, sanctioning patterns, and institutional or political-economic constraints reflected in enforcement practice. This approach ensures that the article's conclusions and recommendations are doctrinally grounded, methodologically traceable, and empirically responsive to the realities of Indonesia's criminal justice system.

3. FINDINGS AND DISCUSSION

3.1 Configuration of Indonesia's Corporate Criminal Liability Framework

Systemic impunity and symbolic law are two interrelated phenomena that provide a powerful lens for understanding why corporate criminal liability in Indonesia remains normatively dense but practically thin. Systemic impunity refers to the pervasive and often institutionalised failure of legal systems to hold powerful actors particularly corporations, state officials, and economic elites accountable for violations of the law.[14] It is not simply the cumulative result of isolated enforcement failures, but a structural condition rooted in institutional design, political incentives, and legal culture. In such a context, impunity becomes normalised, especially where enforcement would affect actors who are economically or politically influential.[15]

In Indonesia, research on anti-corruption enforcement, forestry and environmental regulation, and labour law consistently points to this pattern. Despite a sophisticated anti-corruption framework and specialised courts, implementation remains uneven and often hesitant when cases implicate major corporate actors.[16] In forestry and natural resource sectors, even where legal mechanisms for imposing fines and criminal sanctions exist, the enforcement of court decisions is frequently weak, undermined by corruption, administrative inaction, and limited monitoring capacity.[17] Labour law shows similar tendencies: corporate employers that violate minimum wage or social security obligations often face only administrative measures or delayed enforcement, reinforcing a "culture of impunity" in which financial and criminal responsibilities can be evaded with relatively low risk.[18] Weak state

[14]Riska Kurnia Ningsih and Hadi Tuasikal, "Critical Review of Police Performance in Upholding Law Enforcement and Human Rights in Indonesia," *Jurnal USM Law Review* 8, no. 1 (2025): 381–97, https://doi.org/10.26623/julr.v8i1.11757 .
[15]Behuku et al., "The Judge's Role in the Effectiveness of Anti-Corruption Enforcement in Indonesia: A Juridical Analysis," 351–367.
[16] *Ibid.*
[17]Musafir Musafir et al., "Conceptualizing Criminal Fine Enforcement in Indonesia's Forestry Sector through Ecological Restoration," *Journal of Law, Environmental and Justice* 3, no. 3 (2025): 542–71, https://doi.org/10.62264/jlej.v3i3.181 .
[18]Wahyuono, "Corporate Criminal Liability for Substandard Wage Violations: A Case Study of PT. Sahabat Lingkungan Hidup," 66–81.

capacity, overlapping jurisdictions, and fragmented enforcement architectures sustain this condition by making complex cases against powerful actors institutionally unattractive and procedurally burdensome.[19]

Symbolic law, by contrast, refers to legal norms that are promulgated and publicly celebrated but whose implementation is nominal rather than substantive. Such laws function primarily as expressions of political will, moral positioning, or international image-building, rather than as effective instruments of behavioural change or accountability.[20] Symbolic legislation typically creates an appearance of robust commitment through dense regulatory texts, the establishment of specialised bodies, or the proclamation of ambitious rights—while simultaneously allowing powerful interests to circumvent or neutralise enforcement.[21] This is evident, for example, in environmental regulation when strict liability provisions are weakened through later amendments framed in the language of investment facilitation or economic efficiency, shifting burdens back onto affected communities while corporations retain structural protection.[22]

The two phenomena reinforce each other. Symbolic legal frameworks generate an external image of a rule-of-law–compliant system, yet their weak enforcement reveals and entrenches systemic impunity. At the same time, persistent practices of impunity expose the symbolic nature of those legal commitments, widening what scholars have called the "legitimacy gap" or the rhetoric–reality gap.[23] Citizens observe that powerful actors political elites, security forces, and corporations—often escape meaningful consequences despite clear legal prohibitions, while ordinary individuals experience the law as intrusive and punitive. This divergent experience of legality undermines trust in state institutions and transforms formal law from a potential tool of justice into evidence of structural inequality.[24]

Empirical work on human rights enforcement in Indonesia illustrates this dynamic beyond the corporate sphere. Studies of police violence, torture, and other forms of abuse show that constitutional and statutory protections for human rights coexist with weak oversight mechanisms, dual jurisdictions, and institutional cultures that normalise violations.[25]Similar patterns are visible in the handling of gender-based violence and sexual offences, where broadened criminal definitions fail to translate into effective protection and redress for victims because of institutional fragmentation, social stigma, and lack of coordination among agencies.[26] These examples underscore that the combination of symbolic law and systemic impunity is not confined to any single sector but is a recurrent feature of how legal power operates.

This analytical framework is directly relevant to corporate criminal liability. The recognition of corporations as criminal subjects, the adoption of strict-liability provisions in environmental and tax law, and the

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[19]Astuti, "Corporate Criminal Liability in Digital Economic Crimes: An Analysis of Legal Developments in Indonesia"; Rina Dwi Yanti Tampubolon, "Tajam ke Bawah, Tumpul ke Atas: Paradoks Penegakan Hukum Terhadap Koruptor," *Mandub: Jurnal Politik, Sosial, Hukum Dan Humaniora* 3, no. 2 (2025): 281–88 https://doi.org/10.59059/mandub.v3i2.2589

[20]Maskur, Irman, and Lukmanul Hakim, "The Symbolic-Compliance Gap and Public Perceptions of Sharia Law Enforcement in Aceh, Indonesia: Insights from Becak Drivers," *Journal of Asian Social Science Research* 6, no. 2 (2024): 259–84, https://doi.org/10.15575/jassr.v6i2.121

[21]Hafte Gebreselassie Gebrihet, "Slaying the Giant of Corruption in Africa: Analysing the Rhetoric-Reality Gap under Africa Agenda 2063," *International Journal of Sociology and Social Policy* 45, no. 13–14 (2025): 92–112, https://doi.org/10.1108/IJSSP-05-2025-0309

[22]Candrawati and Kurniawan, "Strict Liability Principles Regulation on Corporate Crimes in Environmental Pollution & Strengthening Criminal Penalties in Indonesia."

[23]Gebrihet, "Slaying the Giant of Corruption in Africa: Analysing the Rhetoric-Reality Gap under Africa Agenda 2063"; Thomas Thaler and Sebastian Seebauer, "Realizing Recognition Justice in Flood Risk Management Policy: A Case Study on Implementation Gaps and Legitimacy Gaps in Austria," *Journal of Flood Risk Management* 18, no. 2 (2025): e70052, https://doi.org/10.1111/jfr3.70052

[24]Ningsih and Tuasikal, "Critical Review of Police Performance in Upholding Law Enforcement and Human Rights in Indonesia."

[25]Muhammad Arbani, "Jurisdictional Dualism and Military Accountability: Challenges of Human Rights Enforcement in Indonesia's Security Sector," *Jurnal Syntax Transformation* 6, no. 6 (2025), https://doi.org/10.46799/jst.v6i6.1080 ; Cendris Humu and Arien Fujiyana Khoerunisa, "Inconsistency in Law Enforcement on Torture by Authorities: The Urgency of Harmonizing the Criminal Code and the Anti-Torture Convention," *Estudiante Law Journal* 7, no. 2 (2025): 479–92, https://doi.org/10.33756/eslaj.v7i2.31627 ; Lumna Yumna, "Human Rights and the Legal System: Bridging the Gap Between Law and Justice," *LAWYER: Jurnal Hukum 2,* no. 2 (2024): 70–77, https://doi.org/10.58738/lawyer.v2i2.654

[26]Paltiada Saragi, "The Dynamics of Legal Protection Implementation for Domestic Violence Victims in Indonesia: Lessons from International Practices," *Indonesian Journal of Law and Justice* 3, no 1 (2025): 1-9, https://doi.org/10.47134/ijlj.v3i1.5012

promulgation of Perma No. 13 of 2016 all signal a strong normative commitment to corporate accountability.[27]However, as the case law and sectoral studies discussed in this article demonstrate, enforcement remains sporadic, selective, and heavily individual-centric. Under-enforcement of corporate criminal liability is therefore not an isolated technical problem, but a manifestation of a broader pattern in which legal norms function symbolically while powerful corporate actors benefit from systemic impunity. Framing the Indonesian experience through the concepts of symbolic law and systemic impunity allows us to see corporate under-enforcement not simply as a failure to implement good laws, but as an entrenched structural outcome of the way law, institutions, and political–economic interests interact.

Seen in this way, efforts to strengthen corporate criminal liability cannot be limited to amending legislation or refining doctrinal concepts. They must also confront the institutional, political, and cultural mechanisms that convert formally robust legal frameworks into symbolic law and that transform corporate accountability into an exception within a broader landscape of systemic impunity.[28]

The first set of findings concerns the architecture of corporate criminal liability in Indonesia. Normatively, the framework appears increasingly sophisticated. Corporations are recognised as criminal subjects across a broad range of laws: early economic statutes, the Anti-Corruption Law, environmental legislation, tax and banking law, and now the 2023 KUHP.[29] The Anti-Corruption Law allows corporations to be charged as perpetrators; environmental legislation introduces strict liability for certain acts; tax law provides criminal sanctions for deliberate tax evasion by corporations; and the new KUHP codifies general rules on corporate fault and sanctions.[30]

Perma RI No. 13 of 2016 plays a pivotal role. It defines "corporation" and "management" for procedural purposes, clarifies that corporate liability may arise when offences are committed in the context of corporate activities and for corporate benefit, and indicates that the absence of adequate supervision and compliance mechanisms can be treated as evidence of corporate fault.[31] It also provides guidance on summons, seizure, and sentencing, including the possibility of fines, restitution, and ancillary sanctions.

From a doctrinal perspective, the framework incorporates a mixed model. Elements of vicarious liability allow attribution of employees' and managers' acts to the corporation when performed within the scope of employment and for corporate benefit.[32] At the same time, emerging interpretations and the new KUHP move towards organisational fault and corporate culture, examining whether corporate structures, policies, and incentive systems create conditions conducive to criminal behaviour.[33]

However, beneath this apparent maturity lie serious weaknesses. The concept of "corporate fault" remains under-specified; the relationship between corporate and individual liability is not consistently articulated; and

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[27]Astuti, "Corporate Criminal Liability in Digital Economic Crimes: An Analysis of Legal Developments in Indonesia"; Nashruddien, Mandiana, and Setyabudhi, "Corporate Criminal Law Liability in Corruption Crimes Based on Perma RI Number 13 of 2016,"; 3402–3411.

[28]Pambudi Pambudi and Ahmad Redi, "Criminal Law Politics and Reform to Strengthen Law Enforcement Roles in Indonesia in Combatting Narcotics Crimes," *Asian Journal of Social and Humanities* 3, no. 3 (2024): 660–72, https://doi.org/10.59888/ajosh.v3i3.473 ; Stephan Haggard, Andrew MacIntyre, and Lydia Tiede, "The Rule of Law and Economic Development," *Annu. Rev. Polit. Sci.* 11, no. 1 (2008): 205–34, https://doi.org/10.1146/annurev.polisci.10.081205.100244

[29]Astuti, "Corporate Criminal Liability in Digital Economic Crimes: An Analysis of Legal Developments in Indonesia"; Harkrisnowo, "Redefinisi Pidana dan Pemidanaan Korporasi dalam Perspektif Rancangan Undang-Undang Kitab Undang-Undang Hukum Pidana"; Sari, "Criminal Liability for Corporate Crime in Indonesia."

[30]Candrawati and Kurniawan, "Strict Liability Principles Regulation on Corporate Crimes in Environmental Pollution & Strengthening Criminal Penalties in Indonesia";

[31]Nashruddien, Mandiana, and Setyabudhi, "Corporate Criminal Law Liability in Corruption Crimes Based on Perma RI Number 13 of 2016."; Indraswara, Mursyid, and Wulandari, "Corporate Criminal Liability of Corruption Criminal Actions PT. Sinarmas Asset Management: Study of Supreme Court Ruling Number 1228 K/Pid. Sus/2023."

[32]Waluyadi, Durahman, and Budiarti, "Corporate Responsibility as a Person for Economic Crime in Indonesian Criminal Law"; Ismaidar Ismaidar et al., "A Comparative Study of Corporate Criminal Liability Systems in Indonesia and the United States," *Mutiara: Jurnal Penelitian Dan Karya Ilmiah* 3, no. 3 (2025): 14–22, https://doi.org/10.59059/mutiara.v3i3.2268

[33]Kraakman, "Vicarious and Corporate Civil Liability"; Suartha and Ivory, "Corporate Crime Liability: Beyond Rule Reform on Indonesia Criminal Policy," 756.

sectoral statutes often deploy divergent formulations of corporate responsibility.[34] Sanctions remain heavily dominated by fines, with limited practical use of structural remedies such as compliance orders, corporate probation, licence revocation, or dissolution.[35] These design flaws later manifest in enforcement practice.

3.1. Patterns of Enforcement: Evidence of Under-Enforcement

The second key finding is the systemic under-enforcement of corporate criminal liability across sectors. Case-law mapping and secondary empirical data show that corporations are prosecuted and convicted only in a small fraction of cases where evidence suggests corporate involvement.

In corruption cases, Article 20 of the Anti-Corruption Law allows corporate prosecution, and KPK has designated certain companies as suspects in landmark cases, relying on Perma No. 13 of 2016. Nevertheless, the dominant pattern remains the prosecution of individual officials—public servants, directors, or intermediaries—while corporate entities that benefited from corrupt contracts or kickback schemes remain unindicted.[36]

Table I. Case-Based Mapping of Corporate Criminal Liability and Individual-Centric Enforcement in Indonesia

No.	Case / Sector	Decision Number	Enforcement Pattern
1	PT Nusa Konstruksi Enjiniring / formerly PT Duta Graha Indah – Corruption	No. 81/Pid.Sus-TPK/2018/PN.Jkt.Pst.	This case shows that corporate prosecution is legally possible under Indonesian anti-corruption law and Perma No. 13 of 2016, but it remains exceptional.
2	PT Sinarmas Asset Management – Corruption / financial-sector related case	No. 1228 K/Pid.Sus/2023	The case is relevant to the discussion of corporate criminal liability in corruption-related financial conduct.
3	Bank Century / Budi Mulya – Banking and financial crime	No. 36/Pid.Sus/TPK/2014/PN.Jkt.Pst.;.	The bank was not treated as the principal corporate defendant; enforcement focused on individual decision-makers and regulatory conduct.
4	Asian Agri / Suwir Laut – Tax crime	No. 2239 K/Pid.Sus/2012	Corporate tax misconduct was connected to a corporate group, but criminal liability was primarily constructed through an individual actor.
5	PT Kalista Alam –	No. 12/Pdt.G/2012/PN.MBO; No.	The corporation was pursued through civil environmental liability rather than as a corporate criminal defendant.

[34]Hendriawan, "Politics of Criminal Law Liability of Corporate Criminal in Indonesia"; Ragil, Iqbal, and Annisa, "Model Pertanggung Jawaban Pidana Korporasi dalam Sistem Hukum Indonesia"; Rusyana and Saputera, "Criminal Liability in The Perspective of Corporations' Crimes," 2245.
[35]Dewi Nawang Bulan and Nandang Sambas, "Kebijakan Pemidanaan Korporasi dalam RUU KUHP: Analisis Normatif dan Kesiapan Praktis Aparat Penegak Hukum," *Collegium Studiosum Journal* 8, no. 1 (2025): 25–30, https://doi.org/10.56301/csj.v8i1.1654 ; Torodji et al., "The Role of the Corporate Penalty System on Environmental Regulation."
[36]Negara and Prawira, "Penegakan Hukum Tindak Pidana Korupsi di Indonesia terhadap Pelaku Korporasi"; Nashruddien, Mandiana, and Setyabudhi, "Corporate Criminal Law Liability in Corruption Crimes Based on Perma RI Number 13 of 2016."; Behuku et al., "The Judge's Role in the Effectiveness of Anti-Corruption Enforcement in Indonesia: A Juridical Analysis," 351.

	Environmental harm	50/PDT/2014/PT.BNA; No. 651 K/Pdt/2015	

The PT Duta Graha Indah and PT Sinarmas Asset Management cases, among others, demonstrate that corporate prosecution is possible but exceptional.[37] In the context of banking and financial crimes, the Bank Century collapse is frequently cited as a definitive test case for corporate liability. However, enforcement efforts predominantly targeted individual decision-makers and regulatory failures, while the imposition of liability on the bank as a legal entity remained marginal and doctrinally contested.[38]

In environmental crimes, corporations play a central role in large-scale harm such as forest and land fires, pollution, and illegal resource extraction. Although strict liability was introduced by Law No. 32 of 2009, subsequent amendments via the Job Creation Law weakened this regime by re-introducing fault elements.[39]Empirical studies on forest and land fire cases, such as PT Simeulue Perkasa Sejahtera, show that criminal proceedings against corporations are rare, with many cases resolved through administrative sanctions or civil suits.[40]

In tax and labour violations, corporate wrongdoing is likewise under-criminalised. Corporate tax crimes are often addressed via administrative settlements, with criminal prosecution as a last resort.[41] Labour non-compliance, including sub-standard wages and social security violations, is regularly treated as an administrative or civil matter rather than a crime, even when violations are systemic.[42]

The cases mapped above show that under-enforcement does not arise from the absence of corporate criminal liability in Indonesian law. Rather, it emerges from the difficulty of transforming corporate involvement into prosecutable corporate fault. In corruption cases, corporate benefit may appear in the factual background, yet prosecution often remains focused on individual public officials, directors, managers, or intermediaries. In banking and financial-sector cases, the complexity of corporate governance, regulatory intervention, and dispersed decision-making makes it difficult to construct the corporation itself as the criminal actor. In environmental cases, corporate activity may be linked to ecological harm, but enforcement may shift toward administrative sanctions or civil liability rather than criminal prosecution. Meanwhile, tax and labour violations show that sectoral enforcement mechanisms may prioritise fiscal recovery, regulatory correction, or compliance settlement over criminal accountability.

This comparison demonstrates that corporate criminal liability in Indonesia is not merely underused in an abstract sense. It is constrained by recurring doctrinal, evidentiary, and institutional barriers. Prosecutors must prove corporate benefit, organisational fault, defective supervision, failure of compliance, and the connection between individual conduct and corporate policy or tolerance. Where these elements are difficult to establish, law enforcement agencies tend to pursue individual actors because individual prosecution is more familiar, procedurally simpler, and evidentially less demanding. The result is a pattern of selective and individual-centric enforcement, even in sectors where corporate involvement is factually visible.

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[37]Indraswara, Mursyid, and Wulandari, "Corporate Criminal Liability of Corruption Criminal Actions PT. Sinarmas Asset Management: Study of Supreme Court Ruling Number 1228 K/Pid. Sus/2023." 138.
[38]Pujiyono and Riyanta, "Corporate Criminal Liability in the Collapse of Bank Century in Indonesia," 11.
[39]Candrawati and Kurniawan, "Strict Liability Principles Regulation on Corporate Crimes in Environmental Pollution & Strengthening Criminal Penalties in Indonesia," 72–83.
[40]Maghfirah and Ikhsan, "The Application of Criminal Liability of PT. Simeulue Perkasa Sejahtera for Environmental Damage Due to Forest and Land Fires in Nagan Raya Regency"; Loso Judijanto et al., "The Urgency of Environmental Criminal Law Reform in Ensnaring Corporations: A Case Study of Tin Ecological Crimes by Harvey Moeis," *Journal of Strafvordering Indonesian* 2, no. 2 (2022): 32–41, https://doi.org/10.62872/aaf32b77 ; Torodji et al., "The Role of the Corporate Penalty System on Environmental Regulation."
[41]Suryaman, Hasibuan, and Suganda, "The Role of Corporate Accountability in Reducing State Revenue Losses Due to Tax Avoidance and Tax Evasion," 804.
[42]Wahyuono, "Corporate Criminal Liability for Substandard Wage Violations: A Case Study of PT. Sahabat Lingkungan Hidup"; Behuku et al., "The Judge's Role in the Effectiveness of Anti-Corruption Enforcement in Indonesia: A Juridical Analysis," 367.

These patterns confirm the core thesis advanced in the doctrinal and policy literature: Indonesia's corporate criminal liability regime is normatively dense but practically thin.[43]These cross-sectoral patterns indicate that, despite the existence of detailed corporate liability provisions, enforcement practices systematically fail to constrain powerful corporate actors—an outcome consistent with the broader phenomena of systemic impunity and symbolic law outlined above.

3.2. Explaining Under-Enforcement: Doctrinal, Procedural, Institutional, and Political–Economic Factors

The persistent under-enforcement of corporate criminal liability in Indonesia is not merely a consequence of isolated operational failures, but rather the product of deeply entrenched, interrelated structural constraints. Drawing upon doctrinal and empirical scholarship, these constraints can be synthesized into four compounding dimensions: doctrinal-normative ambiguities, procedural-evidentiary barriers, institutional fragmentation, and political-economic capture.

At the normative level, enforcement is significantly paralyzed by legislative ambiguities and a lack of doctrinal coherence. For instance, Article 20 of the Anti-Corruption Law, for example, formulates corporate liability in discretionary terms ("*dapat*"), enabling prosecutors to choose whether to pursue corporations, individual managers, or both, without clear criteria.[44]This fosters selective enforcement. Overlapping sectoral provisions, with inconsistent terminology and thresholds for liability, create interpretive gaps that defence counsel can exploit.[45]

Moreover, multiple theories identification, vicarious liability, strict liability, corporate culture coexist without clear legislative prioritisation. Practitioners frequently lack guidance on which model to apply in complex cases; consequently, they default to the familiar path of individual prosecution.[46] This "doctrine of vagueness" translates into enforcement hesitation.

Corporate cases are evidentially demanding. Establishing corporate fault requires tracing internal decision-making, documenting flows of information, and proving how organisational policies and incentives contributed to unlawful outcomes.[47] Investigators must access internal documents, reconstruct complex financial schemes, and show that the corporation not only individual employees benefited from the criminal conduct.[48]

Several studies note that Indonesian law-enforcement agencies lack detailed evidentiary guidelines for corporate cases and have limited experience in handling conglomerates, cross-border structures, and beneficial ownership networks.[49] Faced with high evidentiary burdens, prosecutors rationally choose cases with lower complexity and higher likelihood of conviction—namely, cases against individuals.

Institutional limitations are a third critical factor. Many agencies do not maintain specialised corporate crime units; training on Perma No. 13 of 2016 and corporate liability doctrines is uneven; and forensic accounting

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[43]Astuti, "Corporate Criminal Liability in Digital Economic Crimes: An Analysis of Legal Developments in Indonesia"; Elvina Melinda and Joko Setiyono, "Economic and Corporate Criminal Responsibility Policy in Renewing National Criminal Law," *PENA JUSTISIA: Media Komunikasi dan Kajian Hukum* 22, no. 2 (2023): 125, https://doi.org/10.31941/pj.v22i2.4230; Sari, "Criminal Liability for Corporate Crime in Indonesia," 867.

[44]Mochamad Ananda Wyman Wahid and Hartiwiningsih Hartiwiningsih, "The Legal Substance of Normative Ambiguity in Corporate Criminal Liability for Corruption," Prosiding Seminar Nasional Ilmu Pendidikan 1, no. 2 (2024): 308–19. https://doi.org/10.62951/prosemnasipi.v1i2.60

[45]Bulan and Sambas, "Kebijakan Pemidanaan Korporasi Dalam RUU KUHP: Analisis Normatif dan Kesiapan Praktis Aparat Penegak Hukum"; Hendriawan, "Politics of Criminal Law Liability of Corporate Criminal in Indonesia," 25.

[46] Inayah, "Corporate Criminal Liability"; Kraakman, "Vicarious and Corporate Civil Liability"; Ragil, Iqbal, and Annisa, "Model Pertanggung Jawaban Pidana Korporasi Dalam Sistem Hukum Indonesia," 756.

[47]Astuti, "Corporate Criminal Liability in Digital Economic Crimes: An Analysis of Legal Developments in Indonesia"; Melinda and Setiyono, "Economic and Corporate Criminal Responsibility Policy in Renewing National Criminal Law," 25.

[48]Tumian Lian Daya Purba and Silvester Magnus Loogman Palit, "Effectiveness of Criminal Law Enforcement against Corporations: Procedural Analysis and Mechanisms of Cross Country Criminal Justice," *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 24, no. 2 (2025): 3370–83, https://doi.org/10.31941/pj.v24i2.6412.

[49]Utari Debora et al., "The Existence of State Constitutional Incarnation on the Expansion of Corporate Criminal Liability in Indonesia," *Journal of Administrative and Social Science* 5, no. 2 (2024): 1–8, https://doi.org/10.55606/jass.v5i2.2112 ; Ismaidar et al., "A Comparative Study of Corporate Criminal Liability Systems in Indonesia and the United States."

capacity remains limited.[50]

In addition, Indonesia's enforcement architecture is fragmented. The police, Attorney General's Office, KPK, environmental agencies, financial regulators, and tax authorities share overlapping jurisdiction over corporate misconduct, but coordination is frequently ad hoc and weak.[51] As a result, complex corporate cases may fall through institutional cracks or be treated inconsistently across agencies. Dual roles such as the tax authority's function as both revenue collector and investigator generate conflicts of interest, making administrative settlements more attractive than criminal prosecution.

Finally, political–economic factors consolidate under-enforcement. Corporations in strategic sectors such as mining, plantations, infrastructure, and finance often maintain dense networks of political influence. Robust criminal prosecution of such actors is perceived as economically disruptive and politically costly.[52]

This environment fosters regulatory capture, where enforcement agencies internalise the interests of regulated entities. Studies on corporate liability in the oil and gas sector show that although corporate liability frameworks formally exist, their practical application remains limited, thereby reinforcing a culture of impunity. Corporations negotiate administrative sanctions or civil settlements that preserve business continuity while minimising reputational damage, effectively transforming criminal liability into a manageable business cost.[53]

3.3. Implications for Rule of Law, Public Trust, and Equality Before the Law

Under-enforcement of corporate criminal liability has deep implications for the rule of law. A core tenet of the rule of law is the consistent and predictable application of legal norms to all actors, powerful or weak.[54] When corporations systematically evade robust prosecution despite clear statutory bases, legality becomes selective and legal certainty is uneven.[55]

The findings also illuminate a serious erosion of public trust. Studies on anti-corruption enforcement show that sporadic and inconsistent outcomes especially visible impunity for corporate actors undermine citizens' confidence in state institutions and markets.[56] Consumers' trust in regulated sectors, such as electricity or financial services, is directly affected when corporate misconduct produces harm without meaningful criminal sanction.[57]

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[50]Behuku et al., "The Judge's Role in the Effectiveness of Anti-Corruption Enforcement in Indonesia: A Juridical Analysis"; Purba and Palit, "Effectiveness of Criminal Law Enforcement against Corporations: Procedural Analysis and Mechanisms of Cross Country Criminal Justice," 3370.

[51]Ismaidar et al., "A Comparative Study of Corporate Criminal Liability Systems in Indonesia and the United States"; Tarigan and Saragih, "Legal Analysis of Corporate Criminal Liability in Oil and Gas Sector Crimes in Indonesia," 36.

[52]Hendriawan, "Politics of Criminal Law Liability of Corporate Criminal in Indonesia"; Satria Unggul Wicaksana Prakasa et al., "Forestry Sector Corruption and Oligarchy: A Case Study of the Laman Kinipan Indigenous People, Central Kalimantan," *Unnes Law Journal* 8, no. 1 (2022): 87–104, https://doi.org/10.15294/ulj.v8i1.55904

[53]Torodji et al., "The Role of the Corporate Penalty System on Environmental Regulation"; Maghfirah and Ikhsan, "The Application of Criminal Liability of PT. Simeulue Perkasa Sejahtera for Environmental Damage Due to Forest and Land Fires in Nagan Raya Regency." 326.

[54]Faisal, Abdullah, and Sudiro, "Legal Discovery of Judges in the Criminal Cases of Narcotic Abuse Based on Law Number 35 of 2009"; Nurman Siddiq and Rudhiana Salam, "Enhancing Legal Certainty through Legal Reform in Indonesia: Problems and Efforts to Strengthen Legal Institutions," *Strata Law Review* 3, no. 1 (2025): 1–14, https://doi.org/10.59631/slr.v3i1.62

[55]Resta, "Legal Certainty of The Independence of The Prosecutor's Office In Indonesia"; Muhammad Ide Trianjaya, "Penerapan Hukum Tata Negara dalam Sistem Pemerintahan di Indonesia: Tantangan Dalam Dinamika Politik Kontemporer," *El-Siyasa: Journal of Constitutional Law* 2, no. 1 (2024): 29–38, https://doi.org/10.61341/el-siyasa/v2i1.013

[56]Behuku et al., "The Judge's Role in the Effectiveness of Anti-Corruption Enforcement in Indonesia: A Juridical Analysis"; Wayne Sandholtz and William Koetzle, "Accounting for Corruption: Economic Structure, Democracy, and Trade," *International Studies Quarterly* 44, no. 1 (2000): 31–50, https://doi.org/10.1111/0020-8833.00147 ; James Thuo Gathii, "Defining the Relationship between Human Rights and Corruption," *U. Pa. J. Int'l L.* 31 (2009): 125, lawscholars.luc.edu/ws/portalfiles/portal/39980309/Defining the Relationship Between Human Rights and Corruption.pdf

[57]Nafis Dwi Kartiko, "The Constitutionality of Coercive Measures in The Preliminary Investigation of Tax Offense," *Journal of Constitutional and Governance Studies*, 2025, 111–29, https://doi.org/10.20885/JCGS.vol1.iss2.art1 ; Seseli et al., "Analisis Perlindungan Hukum terhadap Konsumen dan Tanggung Jawab PT. PLN (PERSERO) dalam Pencatatan KWH Meter Listrik di Kota Kupang ditinjau dari Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen."

Furthermore, systemic under-enforcement contradicts the constitutional guarantee of equality before the law. The principle demands that no actor be placed above the reach of law due to wealth or political connection.[58] Yet the prevailing pattern vigorous prosecution of individuals, particularly low-level actors, alongside persistent reluctance to prosecute corporations effectively institutionalises stratified legality.[59]

In aggregate, the evidence supports the characterisation of Indonesia's corporate criminal liability regime as symbolic law: normatively ambitious but practically truncated. Without structural reform, the gap between normative commitment and enforcement reality will continue to reproduce systemic impunity, degrade public trust, and hollow out the promise of the rule of law.

4. CONCLUSION

Corporate criminal liability in Indonesia operates within a paradox of normative density and practical underenforcement. This study draws four central conclusions corresponding to its research questions. First, Indonesia's corporate criminal liability framework is formally robust, progressively integrating sectoral legislation, Supreme Court Regulation (Perma) No. 13 of 2016, and the 2023 Criminal Code. Doctrinally, the legal architecture has evolved to accommodate a mixed model comprising vicarious liability, identification theory, strict liability, and emerging organizational-fault or corporate culture approaches. Second, despite this doctrinal sophistication, empirical patterns across the corruption, banking, environmental, tax, and labor sectors demonstrate a systemic reality of underenforcement. Law enforcement practices remain overwhelmingly concentrated on individual offenders, while corporate entities that facilitate or benefit from systemic wrongdoing are rarely prosecuted. Third, persistent under-enforcement is not merely an operational failure but is sustained by interrelated structural constraints. These include doctrinal and normative ambiguities regarding corporate fault, complex procedural and evidentiary burdens, a fragmented institutional enforcement architecture, and political-economic dynamics that enable regulatory capture by powerful corporate actors. Fourth, regarding broader implications, the systematic evasion of criminal prosecution by corporations transforms the existing legal framework into symbolic law and institutionalizes a regime of systemic impunity. This structural enforcement gap profoundly undermines the rule of law through selective legality, erodes public trust in state institutions, and fundamentally contradicts the constitutional guarantee of equality before the law.

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This part is not intended as an acknowledgment of sources. Proper acknowledgment of work of other should always be given in the footnote.

6. CONFLICT OF INTEREST

No conflict of interest exists.

[58]Ismaya Rahailia Nasution and Sidi Ahyar Wiraguna, "Kedudukan Hakim dalam Proses Pembuktian Perkara Perdata: Tinjauan Kepustakaan atas Doktrin dan Yurisprudensi," *Politika Progresif: Jurnal Hukum, Politik Dan Humaniora* 2, no. 4 (2025): 1–11, https://doi.org/10.62383/progres.v2i4.2597 ; Noer Yasin, Musataklima Musataklima, and Ahmad Wahidi, "Interlegality Perkawinan Beda Agama Vis a Vis Surat Edaran Mahkamah Agung Nomor 2 Tahun 2023 Tentang Penolakan Permohonan Pencatatan Perkawinan Beda Agama di Indonesia," *Jurnal Penelitian Hukum De Jure* 23, no. 4 (2023): 389–402, https://doi.org/10.30641/dejure.2023.V23.389-402

[59]Trianjaya, "Penerapan Hukum Tata Negara Dalam Sistem Pemerintahan Di Indonesia: Tantangan Dalam Dinamika Politik Kontemporer"; Siddiq and Salam, "Enhancing Legal Certainty through Legal Reform in Indonesia: Problems and Efforts to Strengthen Legal Institutions." 10.

REFERENCES

Arbani, Muhammad. "Jurisdictional Dualism and Military Accountability: Challenges of Human Rights Enforcement in Indonesia's Security Sector." Jurnal Syntax Transformation 6, no. 6 (2025). https://doi.org/10.46799/jst.v6i6.1080

Astuti, Nanin. "Corporate Criminal Liability in Digital Economic Crimes: An Analysis of Legal Developments in Indonesia." Indonesian Journal of Law and Justice 3, no. 2 SE-Articles (October 28, 2025): 9. https://doi.org/10.47134/ijlj.v3i2.5013

Behuku, Jitro Gianfranco, Jevine Ilonesia Kusuma, Nabila Uswatun Chasanah, Fajar Sugianto, and Astrid Athina Indradewi. "The Judge's Role in the Effectiveness of Anti-Corruption Enforcement in Indonesia: A Juridical Analysis." SIGn Jurnal Hukum 7, no. 1 (2025): 351–67. https://doi.org/10.37276/sjh.v7i1.464

Bulan, Dewi Nawang, and Nandang Sambas. "Kebijakan Pemidanaan Korporasi dalam RUU KUHP: Analisis Normatif dan Kesiapan Praktis Aparat Penegak Hukum." Collegium Studiosum Journal 8, no. 1 (2025): 25–30. https://doi.org/10.56301/csj.v8i1.1654

Candrawati, Ni Komang Ayu, and I Gede Agus Kurniawan. "Strict Liability Principles Regulation on Corporate Crimes in Environmental Pollution & Strengthening Criminal Penalties in Indonesia." Jurnal Daulat Hukum 8, no. 1 (2025): 72–83. https://doi.org/10.30659/jdh.v8i1.44878

Debora, Utari, Yasmirah Mandasari Saragih, Frenki Hamonangan Turnip, Nora Elida Manurung, and Gunawan Putra Manihuruk. "The Existence of State Constitutional Incarnation on the Expansion of Corporate Criminal Liability in Indonesia." Journal of Administrative and Social Science 5, no. 2 (2024): 1–8. https://doi.org/10.55606/jass.v5i2.2112

Faisal, Fedhli, Abdul Gani Abdullah, and Amad Sudiro. "Legal Discovery of Judges in the Criminal Cases of Narcotic Abuse Based on Law Number 35 of 2009." PalArch's Journal of Archaeology of Egypt/Egyptology 17, no. 2 (2020): 98–106. https://doi.org/10.48080/JAE.V17I2.67

Gathii, James Thuo. "Defining the Relationship between Human Rights and Corruption." U. Pa. J. Int'l L. 31 (2009): 125. https://scholarship.law.upenn.edu/jil/vol31/iss1/3

Gebrihet, Hafte Gebreselassie. "Slaying the Giant of Corruption in Africa: Analysing the Rhetoric-Reality Gap under Africa Agenda 2063." International Journal of Sociology and Social Policy 45, no. 13–14 (2025): 92–112. https://doi.org/10.1108/IJSSP-05-2025-0309

Haggard, Stephan, Andrew MacIntyre, and Lydia Tiede. "The Rule of Law and Economic Development." Annu. Rev. Polit. Sci. 11, no. 1 (2008): 205–34. https://doi.org/10.1146/annurev.polisci.10.081205.100244

Harkrisnowo, Harkristuti. "Redefinisi Pidana dan Pemidanaan Korporasi dalam Perspektif Rancangan Undang-Undang Kitab Undang-Undang Hukum Pidana." Jurnal Legislasi Indonesia 16, no. 4 (2019): 408–18. https://doi.org/10.54629/jli.v16i4.598

Hendriawan, Muhammad Rizaldi. "Politics of Criminal Law Liability of Corporate Criminal in Indonesia." YURIS: Journal of Court and Justice 1, no. 1 (2022): 25–37. https://doi.org/10.56943/jcj.v1i1.12

Humu, Cendris, and Arien Fujiyana Khoerunisa. "Inconsistency in Law Enforcement on Torture by Authorities: The Urgency of Harmonizing the Criminal Code and the Anti-Torture Convention." Estudiante Law Journal 7, no. 2 (2025): 479–92. https://doi.org/10.33756/eslaj.v7i2.31627

Inayah, Iin. "Corporate Criminal Liability." JHR (Jurnal Hukum Replik) 8, no. 2 (2020): 89–99. https://doi.org/10.31000/jhr.v8i2.3586

Indraswara, Dede, Ali Masyhar Mursyid, and Cahya Wulandari. "Corporate Criminal Liability of Corruption Criminal Actions PT. Sinarmas Asset Management: Study of Supreme Court Ruling

Number 1228 K/Pid. Sus/2023." The Digest: Journal of Jurisprudence and Legisprudence 5, no. 2 (2024): 137–84. https://doi.org/10.15294/digest.v5i2.3984

Ismaidar, Ismaidar, A R Azhar, Servasius Edwin Telaumbanua, Rudi Salam Tarigan, Ansori Maulana, Restika Ndruru, Zeno Eronu Zalukhu, Lasma Sinambela, Haris Putra Utama Limbong, and Elisabeth Saragih. "A Comparative Study of Corporate Criminal Liability Systems in Indonesia and the United States." Mutiara: Jurnal Penelitian Dan Karya Ilmiah 3, no. 3 (2025): 14–22. https://doi.org/10.59059/mutiara.v3i3.2268

Judijanto, Loso, Nurbeti Nurbeti, Febrina Annisa, and Resma Bintani Gustaliza. "The Urgency of Environmental Criminal Law Reform in Ensnaring Corporations: A Case Study of Tin Ecological Crimes by Harvey Moeis." Journal of Strafvordering Indonesian 2, no. 2 (2022): 32–41. https://doi.org/10.62872/aaf32b77

Kartiko, Nafis Dwi. "The Constitutionality of Coercive Measures in The Preliminary Investigation of Tax Offense." Journal of Constitutional and Governance Studies, 2025, 111–29. https://doi.org/10.20885/JCGS.vol1.iss2.art1

Kraakman, Reinier H. "Vicarious and Corporate Civil Liability." Tort Law and Economics 2 (2009). https://doi.org/10.4337/9781848447301.00013

Maghfirah, Nurlaili, and Ridha Nur Ikhsan. "The Application of Criminal Liability of PT. Simeulue Perkasa Sejahtera for Environmental Damage Due to Forest and Land Fires in Nagan Raya Regency." International Journal of Law, Social Science, and Humanities 2, no. 3 (2025): 326–38. https://doi.org/10.70193/ijlsh.v2i3.256

Malik, Abdul Haris, and Fajar Ari Sudewo Sanusi. "Corporate Strict Liability in Environmental Crimes in Indonesia and the Netherlands." In Malapy 2022: Proceedings of the 1st International Conference on Law, Social Science, Economics, and Education, MALAPY 2022, 28 May 2022, Tegal, Indonesia, 413. European Alliance for Innovation, 2022. https://doi.org/10.4108/eai.28-5-2022.2320558

Manthovani, Reda, Erni Mustikasari, and Naglaa Fathy El Dessouky. "A Deconstruction of Corporate Responsibility in Criminal Law." Journal of Justice Dialectical 3, no. 1 (2025): 1–26. https://doi.org/10.70720/jjd.v3i1.64

Maskur, Irman, and Lukmanul Hakim. "The Symbolic-Compliance Gap and Public Perceptions of Sharia Law Enforcement in Aceh, Indonesia: Insights from Becak Drivers." Journal of Asian Social Science Research 6, no. 2 (2024): 259–84. https://doi.org/10.15575/jassr.v6i2.121

Melinda, Elvina, and Joko Setiyono. "Economic and Corporate Criminal Responsibility Policy in Renewing National Criminal Law." Pena Justisia: Media Komunikasi dan Kajian Hukum 22, no. 2 (2023): 122–129. https://doi.org/10.31941/pj.v22i2.4230

Musafir, Musafir, Andi Muhammad Sofyan, Haeranah Haeranah, Kartini Malarangan, and Devi Triasari. "Conceptualizing Criminal Fine Enforcement in Indonesia's Forestry Sector through Ecological Restoration." Journal of Law, Environmental and Justice 3, no. 3 (2025): 542–71. https://doi.org/10.62264/jlej.v3i3.181

Nashruddien, Ibnu Aburizal, Sari Mandiana, and Jusup Jacobus Setyabudhi. "Corporate Criminal Law Liability in Corruption Crimes Based on Perma RI Number 13 of 2016." Jurnal Indonesia Sosial Teknologi 5, no. 7 (2024). https://doi.org/10.59141/jist.v5i7.1229

Nasution, Ismaya Rahailia, and Sidi Ahyar Wiraguna. "Kedudukan Hakim dalam Proses Pembuktian Perkara Perdata: Tinjauan Kepustakaan atas Doktrin dan Yurisprudensi." Politika Progresif: Jurnal Hukum, Politik Dan Humaniora 2, no. 4 (2025): 1–11. https://doi.org/10.62383/progres.v2i4.2597

Negara, G P, and Aditya Prawira. "Penegakan Hukum Tindak Pidana Korupsi di Indonesia Terhadap

Pelaku Korporasi." Jurnal Magister Hukum Perspektif 10, no. 1 (2019): 37–51. https://doi.org/10.37303/magister.v10i1.26

Ningsih, Riska Kurnia, and Hadi Tuasikal. "Critical Review of Police Performance in Upholding Law Enforcement and Human Rights in Indonesia." Jurnal USM Law Review 8, no. 1 (2025): 381–97. https://doi.org/10.26623/julr.v8i1.11757

Pambudi, Pambudi, and Ahmad Redi. "Criminal Law Politics and Reform to Strengthen Law Enforcement Roles in Indonesia in Combatting Narcotics Crimes." Asian Journal of Social and Humanities 3, no. 3 (2024): 660–72. https://doi.org/10.59888/ajosh.v3i3.473

Prakasa, Satria Unggul Wicaksana, Achmad Hariri, Samsul Arifin, and Asis Asis. "Forestry Sector Corruption and Oligarchy: A Case Study of the Laman Kinipan Indigenous People, Central Kalimantan." Unnes Law Journal 8 (2022): 87–104. https://doi.org/10.15294/ulj.v8i1.55904

Pujiyono, and Sugeng Riyanta. "Corporate Criminal Liability in the Collapse of Bank Century in Indonesia." Humanities and Social Sciences Letters 8, no. 1 (2020): 1–11. https://doi.org/10.18488/journal.73.2020.81.1.11

Purba, Tumian Lian Daya, and Silvester Magnus Loogman Palit. "Effectiveness of Criminal Law Enforcement against Corporations: Procedural Analysis and Mechanisms of Cross Country Criminal Justice." Pena Justisia: Media Komunikasi Dan Kajian Hukum 24, no. 2 (2025): 3370–83. https://doi.org/10.31941/pj.v24i2.6412

Ragil, Ragil Surya Prakasa, Iqbal Achmad Fahrezi Iqbal, and Annisa Rahmadani Annisa. "Model Pertanggung Jawaban Pidana Korporasi Dalam Sistem Hukum Indonesia." Puan Indonesia 5, no. 2 (2024): 756–63. https://doi.org/10.37296/jpi.v5i2.295

Resta, Ngurah Wahyu. "Legal Certainty of The Independence of The Prosecutor's Office In Indonesia." Journal of Social Research 4, no. 4 (2025): 765–77. https://doi.org/10.55324/josr.v4i4.2510

Rusyana, Endang, and Januar Agung Saputera. "Criminal Liability in The Perspective of Corporations' Crimes." Jurnal Indonesia Sosial Sains 5, no. 09 SE-Articles (September 24, 2024): 2245–54. https://doi.org/10.59141/jiss.v5i09.1375

Sandholtz, Wayne, and William Koetzle. "Accounting for Corruption: Economic Structure, Democracy, and Trade." International Studies Quarterly 44, no. 1 (2000): 31–50. https://doi.org/10.1111/0020-8833.00147

Saragi, Paltiada. "The Dynamics of Legal Protection Implementation for Domestic Violence Victims in Indonesia: Lessons from International Practices." Indonesian Journal of Law and Justice 3 (2025): 9. https://doi.org/10.47134/ijlj.v3i1.5012

Sari, Nur Khalifah Agustin. "Criminal Liability for Corporate Crime in Indonesia." Al-Manhaj: Jurnal Hukum Dan Pranata Sosial Islam 5, no. 1 (2023): 867–74. https://doi.org/10.37680/almanhaj.v5i1.2687

Seseli, Yunita Berlian, Yossie M Y Jacob, Rini Marselin Kaesmetan, and Juliana S Ndolu. "Analisis Perlindungan Hukum Terhadap Konsumen Dan Tanggung Jawab PT. PLN (PERSERO) Dalam Pencatatan KWH Meter Listrik Di Kota Kupang Ditinjau Dari Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen." Petitum Law Journal 2, no. 2 (2025): 564–87. https://doi.org/10.35508/pelana.v2i2.20793

Siddiq, Nurman, and Rudhiana Salam. "Enhancing Legal Certainty through Legal Reform in Indonesia: Problems and Efforts to Strengthen Legal Institutions." Strata Law Review 3, no. 1 (2025): 1–14. https://doi.org/10.59631/slr.v3i1.62

Suartha, I Dewa Made, and Jared Ivory. "Corporate Crime Liability: Beyond Rule Reform on Indonesia Criminal Policy." Focus Journal Law Review 4, no. 2 (2024).

https://doi.org/10.62795/fjl.v4i2.281

Sudrajat, Tedi. "The Principles of Good Judiciary in Indonesia and Malaysia." Proceeding ICMA-SURE 1, no. 1 (2021). https://doi.org/10.20884/2.procicma.2021.1.1.4438

Suryaman, David Harmaen, Fauzie Yusuf Hasibuan, and Atma Suganda. "The Role of Corporate Accountability in Reducing State Revenue Losses Due to Tax Avoidance and Tax Evasion." Advances In Social Humanities Research 3, no. 10 (2025): 798–804. https://doi.org/10.46799/adv.v3i10.486

Tampubolon, Rina Dwi Yanti. "Tajam ke awah, Tumpul ke Atas: Paradoks Penegakan Hukum terhadap Koruptor." Mandub: Jurnal Politik, Sosial, Hukum Dan Humaniora 3, no. 2 (2025): 281– 88.

Tarigan, Eben Heser, and Yasmirah Mandasari Saragih. "Legal Analysis of Corporate Criminal Liability in Oil and Gas Sector Crimes in Indonesia." Jurnal Riset Rumpun Ilmu Sosial, Politik Dan Humaniora 3, no. 3 SE-Articles (October 30, 2024): 36–45. https://doi.org/10.55606/jurrish.v3i3.6405

Thaler, Thomas, and Sebastian Seebauer. "Realizing Recognition Justice in Flood Risk Management Policy: A Case Study on Implementation Gaps and Legitimacy Gaps in Austria." Journal of Flood Risk Management 18, no. 2 (2025): e70052. https://doi.org/10.1111/jfr3.70052

Torodji, Rais, Hartiwiningsih Hartiwiningsih, I Gusti Ayu Ketut Rachmi Handayani, and Muhammad Nur. "The Role of the Corporate Penalty System on Environmental Regulation." Journal of Human Rights, Culture and Legal System 3, no. 3 (2023): 600–624. https://doi.org/10.53955/jhcls.v3i3.179

Trianjaya, Muhammad Ide. "Penerapan Hukum Tata Negara dalam Sistem Pemerintahan di Indonesia: Tantangan dalam Dinamika Politik Kontemporer." El-Siyasa: Journal of Constitutional Law 2, no. 1 (2024): 29–38. https://doi.org/10.61341/el-siyasa/v2i1.013

Wahid, Mochamad Ananda Wyman, and Hartiwiningsih Hartiwiningsih. "The Legal Substance of Normative Ambiguity in Corporate Criminal Liability for Corruption." Prosiding Seminar Nasional Ilmu Pendidikan 1, no. 2 SE-Articles (October 19, 2024): 308–19. https://doi.org/10.62951/prosemnasipi.v1i2.60

Wahyuono, Khrisnu. "Corporate Criminal Liability for Substandard Wage Violations: A Case Study of PT. Sahabat Lingkungan Hidup." IUS POSITUM: Journal of Law Theory and Law Enforcement, 2025, 66–81. https://doi.org/10.56943/jlte.v4i4.843

Waluyadi, Waluyadi, Dani Durahman, and Tris Tri Budiarti. "Corporate Responsibility as a Person for Economic Crime in Indonesian Criminal Law." Russian Law Journal 11, no. 3 (2023): 1197–1206. https://doi.org/10.52783/rlj.v11i3.1529

Yasin, Noer, Musataklima Musataklima, and Ahmad Wahidi. "Interlegality Perkawinan Beda Agama Vis a Vis Surat Edaran Mahkamah Agung Nomor 2 Tahun 2023 Tentang Penolakan Permohonan Pencatatan Perkawinan Beda Agama Di Indonesia." Jurnal Penelitian Hukum De Jure 23, no. 4 (2023): 389–402. https://doi.org/10.30641/dejure.2023.V23.389-402

Yumna, Lumna. "Human Rights and the Legal System: Bridging the Gap Between Law and Justice." LAWYER: Jurnal Hukum 2 (September 30, 2024): 70–77. https://doi.org/10.58738/lawyer.v2i2.654