

Corporate Accountability: Criminal Liability of Companies for Sustainable Environmental Damage

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Abstract. Environmental degradation caused by corporate activity has become one of the most persistent legal challenges confronting both developing and developed jurisdictions. This article examines corporate criminal liability as an instrument of environmental accountability, situating it within the broader discourse on sustainable development and ecological justice. Employing a normative juridical method, the study analyzes statutory frameworks, judicial doctrines, and comparative practices governing the criminal responsibility of corporations for environmental harm, with particular attention to Indonesia's evolving legal architecture under Law Number 32 of 2009 on Environmental Protection and Management and the newly enacted National Criminal Code, Law Number 1 of 2023. The article identifies persistent normative gaps in attribution theory, sanction design, and enforcement capacity that weaken deterrence, and argues for a restoration-oriented model of corporate criminal liability that integrates strict liability principles, ecological justice, and compliance-based sanctions. The novelty of this study lies in proposing an integrated accountability framework combining criminal deterrence with restorative environmental remedies, moving beyond the conventional punitive paradigm. The findings contribute to theoretical and practical discourse on strengthening corporate environmental accountability as a foundation for sustainable development, offering doctrinal and policy recommendations for lawmakers, prosecutors, and corporate compliance practitioners

Keywords: corporate criminal liability; environmental damage; sustainable development; ecological justice; strict liability

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1. Introduction

The intensification of industrial and extractive activity across the globe has positioned corporations as the principal actors responsible for large-scale environmental harm, ranging from deforestation and illegal mining to toxic waste dumping and hazardous pollution. Unlike harms committed by natural persons, corporate environmental harm is typically diffuse, occurs over long periods, and is embedded within complex organizational structures that obscure individual culpability, making conventional criminal law doctrines—designed around the paradigm of an individual perpetrator with a guilty mind—structurally ill-suited to capture the true locus of wrongdoing¹. This mismatch between the organizational nature of corporate

¹Rao Qasim Idrees, Naveed Hussain & Ali Shahid, "Corporate Criminal Liability for Environmental Harm," *Lex localis – Journal of Local Self-Government* (2022), <https://doi.org/10.52152/v7etp774>.

wrongdoing and the individualistic assumptions of criminal law forms the central doctrinal puzzle that corporate criminal liability seeks to resolve.

For decades, environmental regulation relied predominantly on administrative sanctions and civil compensation schemes premised on the polluter-pays principle. However, empirical evidence across multiple jurisdictions demonstrates that administrative fines are frequently absorbed as a routine cost of doing business, particularly where the economic benefit derived from non-compliance exceeds the expected sanction, discounted by the low probability of detection². Civil liability, meanwhile, addresses compensation for identifiable victims but does not adequately express societal condemnation of conduct that degrades shared ecological resources for present and future generations. It is against this backdrop that corporate criminal liability has re-emerged as a preferred instrument of environmental governance, carrying a stronger stigmatizing and deterrent effect than purely pecuniary administrative measures³.

Indonesia exemplifies these tensions acutely. As one of the world's most biodiverse nations and a major exporter of natural resources, the country has experienced recurrent large-scale environmental disasters linked to corporate negligence in the mining, palm oil, forestry, and manufacturing sectors⁴. Law Number 32 of 2009 on Environmental Protection and Management (UUPPLH) introduced a strict liability regime and recognized corporations as subjects of environmental crime, yet its implementation has been hampered by unresolved questions concerning the attribution of criminal intent to a non-natural legal entity, the appropriate range of sanctions, and the coordination between environmental, corporate, and criminal procedural law⁵. The enactment of the National Criminal Code (Law Number 1 of 2023), which entered into force in January 2026, further complicates this landscape by situating corporate criminal liability within a general codification alongside pre-existing sectoral provisions, raising fresh questions of harmonization, *lex specialis* application, and the risk of conflicting attribution standards between the general code and specific environmental statutes⁶.

²Andri G. Wibisana, Michael Faure & Raisya Majory, "Error in Personam: Confusion in Indonesia's Environmental Corporate Criminal Liability," *Criminal Law Forum* 32 (2021): 247–284, <https://doi.org/10.1007/s10609-021-09412-6>.

³Beatriz Albuquerque, "The Interplay between Environmental Crime and Corporate Sustainability Due Diligence," *New Journal of European Criminal Law* 15, no. 2 (2024): 209–224, <https://doi.org/10.1177/20322844241253182>.

⁴Rihat Hutabarat, "Reformulation of Corporate Criminal Liability for Environmental Pollution and Degradation in the Mining Sector in Indonesia," *Journal Customary Law* (2026), <https://doi.org/10.47134/jcl.v3i3.1.5848>.

⁵Nur Khalifah Agustin Sari & Ariawan Gunadi, "Corporations As Legal Subjects In Environmental Crimes," *Journal La Sociale* (2024), <https://doi.org/10.37899/journal-la-sociale.v5i5.1301>.

⁶Ni'ma Ulinihayati, Feri Satria Wicaksana Effendy & Riski Dysas Prabawani, "Reformulating Corporate Liability for Environmental Crimes: Implications of the National Criminal Code," *International Journal of Multidisciplinary Research and Analysis* 8, no. 6 (2025), <https://doi.org/10.47191/ijmra/v8-i06-11>.

Comparative jurisdictions display a spectrum of doctrinal responses to this problem. Common law systems historically relied on the identification doctrine, which attributes criminal liability to a corporation only when a natural person embodying its "directing mind and will" possesses the requisite mens rea—an approach widely criticized for allowing large, decentralized corporations to escape liability precisely because responsibility is diffused across many actors⁷. Reform efforts, such as the United Kingdom's Economic Crime and Corporate Transparency Act 2023, have sought to broaden attribution by adopting a "senior manager" test that captures a wider range of corporate decision-makers, reflecting growing international recognition that narrow identification doctrines undermine effective corporate accountability⁸. The European Union has likewise pursued reform through its proposed Directive on the Protection of the Environment through Criminal Law, which seeks to harmonize criminal sanctions for legal persons across member states and to strengthen cross-border enforcement cooperation, while simultaneously exploring linkages with corporate sustainability due diligence obligations⁹. In Finland, empirical research on the deterrent effect of environmental criminal sanctions suggests that the credibility and consistency of enforcement matter more for compliance behavior than the nominal severity of sanctions alone¹⁰, a finding with direct relevance for jurisdictions such as Indonesia where enforcement capacity remains uneven.

Within Indonesian legal scholarship, several competing theoretical frameworks have been proposed to strengthen corporate accountability for environmental harm. Strict liability principles have been advocated as a mechanism to bypass the evidentiary difficulty of proving corporate fault, shifting the burden toward demonstrating that reasonable preventive measures were taken¹¹, while other scholars promote the company culture theory, which locates culpability not in a single directing mind but in the systemic corporate culture, internal policies, and organizational practices that tolerate or encourage environmentally harmful conduct¹². A

⁷Muhammad Aditya Wijaya & Alif Imam Dzaki, "Corporate Criminal Liability on Environmental Law: Indonesia and Australia," *Mulawarman Law Review* 8, no. 2 (2023): 16–28, <https://doi.org/10.30872/mulrev.v8i2.1306>.

⁸Jeremy Horder, "Corporate Criminal Liability under the Economic Crime and Corporate Transparency Act 2023," *Legal Studies* 45, no. 1 (2025): 133–148, <https://doi.org/10.1017/lst.2024.46>.

⁹Beatriz Albuquerque, "The Interplay between Environmental Crime and Corporate Sustainability Due Diligence," *New Journal of European Criminal Law* 15, no. 2 (2024): 209–224, <https://doi.org/10.1177/20322844241253182>.

¹⁰Riku Lindqvist, Chiara Lombardini, Leila Suvantola & Markku Ollikainen, "The Deterrence Effect of Criminal Sanctions against Environmental Crime in Finland: An Application of the Rational Choice Model of Crime," *European Journal of Law and Economics* 58 (2024): 175–200, <https://doi.org/10.1007/s10657-024-09818-8>.

¹¹N. Komang, Ayu Candrawati, 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>.

¹²Sodikin & Edi Suhaedi, "Corporate Criminal Liability for Environmental Crimes According to Company Culture Theory," *International Journal of Advances in Engineering and Management* (2025), <https://doi.org/10.35629/5252-0705360367>.

further stream of scholarship emphasizes ecological justice and restorative sanctions, arguing that punitive fines and imprisonment of corporate officers, while symbolically significant, do little to remediate the ecological damage itself, and that sanctions should instead be redesigned to compel active environmental restoration, funded compliance programs, and community-oriented remedial obligations¹³. Comparative studies between Indonesia and other jurisdictions, including the United States and Australia, further reveal that the maturity of a jurisdiction's corporate criminal liability regime correlates closely with the sophistication of its evidentiary and procedural rules for piercing the corporate veil in environmental cases¹⁴.

Despite this rich body of scholarship, three interrelated gaps remain insufficiently addressed. First, existing studies tend to examine attribution theory, sanctioning models, and restorative approaches in isolation, rather than as components of a single integrated accountability architecture. Second, limited attention has been paid to how the 2026 entry into force of Indonesia's new National Criminal Code interacts with sector-specific environmental, forestry, and mining statutes in practice, particularly regarding which attribution standard—corporate culture, vicarious liability, or strict liability—will prevail in future prosecutions¹⁵. Third, comparative literature rarely synthesizes lessons from both civil law and common law reform trajectories—such as the EU's due diligence-linked criminalization proposals and the UK's senior manager test—into concrete doctrinal recommendations tailored to Indonesia's normative and institutional context¹⁶.

The novelty of this article lies precisely in addressing these gaps through an integrated, restoration-oriented framework of corporate criminal liability. Rather than treating strict liability, corporate culture theory, and restorative sanctions as competing alternatives, this study proposes their combination into a layered accountability model: strict liability to resolve evidentiary barriers at the threshold of prosecution, corporate culture theory to guide the assessment of organizational fault and aggravating circumstances, and restoration-oriented sanctions to ensure that criminal law contributes directly to ecological remediation rather than

¹³Fajar Dian Aryani & Abdul Malik Mufty, "Reformulating Corporate Criminal Liability for Environmental Damage through Restoration-Oriented Sanctions and Compliance Mechanisms in Indonesia Framework," *Kosmik Hukum* (2026), <https://doi.org/10.30595/kosmikhukum.v26i2.29514>.

¹⁴Rozeli & Endrio Susila, "Perbandingan Hukum Pertanggungjawaban Pidana Korporasi Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup: Analisis Antara Amerika Dan Indonesia," *PATTIMURA Legal Journal* (2024), <https://doi.org/10.47268/pela.v3i2.14829>.

¹⁵Ni'ma Ulinihayati, Feri Satria Wicaksana Effendy & Riski Dysas Prabawani, "Reformulating Corporate Liability for Environmental Crimes: Implications of the National Criminal Code," *International Journal of Multidisciplinary Research and Analysis* 8, no. 6 (2025), <https://doi.org/10.47191/ijmra/v8-i06-11>.

¹⁶Muhammad Wahyu Alfakar, Ali Masyhar, Cahya Wulandari & Ngboawaji Daniel Nte, "Evolution of Corporate Criminal Liability Models and Theories under Indonesian New Criminal Code," *Indonesian Journal of Criminal Law Studies* 8, no. 2 (2023): 261–288, <https://doi.org/10.15294/ijcls.v8i2.36741>.

merely punitive deterrence¹⁷. This integrated approach is further informed by comparative insights from the European Union's linkage between environmental criminal law and corporate sustainability due diligence obligations, offering a forward-looking model that anticipates the direction of global regulatory convergence on corporate environmental accountability¹⁸. By synthesizing normative analysis of Indonesian statutory law with comparative doctrinal developments, this article aims to contribute both a theoretical refinement of corporate criminal liability doctrine and practical recommendations for legislative harmonization, prosecutorial strategy, and corporate compliance design in the pursuit of sustainable environmental protection.

The urgency of this inquiry is further underscored by the accelerating global emphasis on sustainable development, which frames environmental protection not merely as a regulatory compliance issue but as a precondition for intergenerational equity and long-term economic resilience. Corporate activities that externalize ecological costs onto surrounding communities and future generations directly undermine the Sustainable Development Goals, particularly those concerning life on land, life below water, and responsible production and consumption¹⁹. Within this framing, criminal law is increasingly conceptualized not as a punitive afterthought but as a structural safeguard that internalizes environmental externalities by attaching a credible threat of individual and organizational sanction to conduct that would otherwise remain profitable despite its ecological cost.

It is also important to recognize that the effectiveness of corporate criminal liability cannot be assessed in isolation from the broader institutional ecosystem in which it operates, including environmental impact assessment regimes, licensing authorities, and community-based monitoring mechanisms. Scholarship on corporate liability across pollution cases in Indonesia has consistently shown that the criminal process functions best as a backstop that reinforces, rather than replaces, preventive administrative regulation²⁰, underscoring the need for coherent sequencing between administrative enforcement and criminal prosecution rather than treating them as parallel or competing tracks. This article accordingly situates its normative analysis within this wider regulatory ecosystem, while focusing specifically on the

¹⁷Saritua Silitonga et al., "Reconstructing Corporate Environmental Sanctions through Ecological Justice in Indonesia," *Journal of Mathematics Instruction, Social Research and Opinion* (2026), <https://doi.org/10.58421/misro.v5i2.1582>.

¹⁸Beatriz Albuquerque, "The Interplay between Environmental Crime and Corporate Sustainability Due Diligence," *New Journal of European Criminal Law* 15, no. 2 (2024): 209–224, <https://doi.org/10.1177/20322844241253182>.

¹⁹Anita Zulfiani et al., "Optimization of Criminal Sanctions against Corporations in Restoring Environmental Functions: An Ecological Justice Study," *IOP Conference Series: Earth and Environmental Science* 1537 (2025): 012065, <https://doi.org/10.1088/1755-1315/1537/1/012065>.

²⁰Deny Setiawan, Warasman Marbun & Arief Patramijaya, "Corporate Criminal Liability In Environmental Pollution Crimes," *JILPR Journal Indonesia Law and Policy Review* (2024), <https://doi.org/10.56371/jirpl.v5i3.274>.

doctrinal design of criminal liability as the sharpest instrument available to the state in cases of severe or repeated corporate environmental harm.

2. Research Methods

This study employs a normative juridical (*yuridis normatif*) research method, which examines law as a coherent system of norms, principles, and doctrines rather than as a social or empirical phenomenon. The research relies exclusively on secondary legal materials, comprising: (a) primary legal materials, including Law Number 32 of 2009 on Environmental Protection and Management, Law Number 1 of 2023 on the National Criminal Code, relevant sectoral statutes on forestry and mining, and comparative statutory instruments such as the United Kingdom's Economic Crime and Corporate Transparency Act 2023 and the European Union's proposed Directive on the Protection of the Environment through Criminal Law; (b) secondary legal materials, consisting of peer-reviewed journal articles, law reports, and scholarly commentaries on corporate criminal liability and environmental law; and (c) tertiary legal materials, including legal dictionaries and encyclopedic references used to clarify technical terminology.

The analysis proceeds through three complementary approaches. The statutory approach (statute approach) is used to examine the coherence and adequacy of Indonesian statutory provisions on corporate criminal liability for environmental harm, including their interaction with the newly codified National Criminal Code. The conceptual approach (conceptual approach) is applied to interrogate the theoretical underpinnings of attribution doctrines—identification doctrine, vicarious liability, strict liability, and corporate culture theory—as developed in legal scholarship. The comparative approach (comparative approach) is employed to juxtapose Indonesian norms against reform trajectories in the European Union, the United Kingdom, and Finland, in order to distil transferable doctrinal lessons. Legal materials were collected through documentary study of statutes, court decisions referenced in secondary literature, and journal databases, and were analyzed qualitatively using descriptive-analytical techniques to identify normative gaps, doctrinal tensions, and opportunities for legal reformulation. The resulting synthesis is presented descriptively and, where relevant, in tabular form to facilitate comparative evaluation.

3. Result and Discussion

3.1 Doctrinal Foundations of Corporate Criminal Liability for Environmental Harm

The doctrinal architecture of corporate criminal liability has historically developed around three competing models of attribution. The identification doctrine, inherited from English common law, imputes criminal liability to a corporation only when a natural person who embodies its "directing mind and will" commits the offense with the requisite mental

state²¹. While conceptually elegant, this doctrine has proven inadequate for large, decentralized corporations in which environmentally consequential decisions are dispersed across multiple layers of management, operational subsidiaries, and outsourced contractors, allowing culpability to evaporate within the organizational hierarchy²². Recognizing this deficiency, many jurisdictions have shifted toward vicarious liability models, whereby a corporation is held liable for offenses committed by its employees or agents acting within the scope of their employment and for the corporation's benefit, regardless of whether a senior directing mind personally participated in the wrongdoing²³.

A third and increasingly influential model is the corporate culture theory, which locates criminal fault not in any single individual but in the systemic policies, informal practices, and organizational incentives that create an environment tolerant of, or indifferent to, environmentally harmful conduct²⁴. Under this model, evidence of inadequate compliance training, absent environmental risk assessments, or a corporate reward structure that prioritizes production targets over environmental safeguards may itself constitute the requisite corporate fault, independent of any single employee's intent. This model aligns closely with strict liability approaches that have gained traction in Indonesian environmental jurisprudence, wherein a corporation may be held liable for environmental damage upon proof of the harmful act and a causal link, without the prosecution being required to establish subjective fault, subject to defenses demonstrating that adequate preventive measures had been implemented²⁵.

3.2 Normative Framework in Indonesia: UUPPLH and the New Criminal Code

Law Number 32 of 2009 on Environmental Protection and Management constitutes the principal sectoral instrument governing corporate criminal liability for environmental harm in Indonesia. It recognizes corporations (*badan usaha*) as legal subjects capable of bearing criminal responsibility and permits the imposition of both criminal fines and additional sanctions such as license revocation, restitution obligations, and mandatory environmental

²¹Muhammad Aditya Wijaya & Alif Imam Dzaki, "Corporate Criminal Liability on Environmental Law: Indonesia and Australia," *Mulawarman Law Review* 8, no. 2 (2023): 16–28, <https://doi.org/10.30872/mulrev.v8i2.1306>.

²²Febrianti Mustikasari & Syaifuddin Zuhdi, "The Development of Corporate Criminal Liability Paradigm in Environmental Pollution Cases," *Journal of Judicial Review* (2024), <https://doi.org/10.37253/jjr.v26i2.9889>.

²³Riza Zarzani, Ismaidar & Mula Sihombing, "Corporate Criminal Liability In Environmental Pollution Crimes," *International Journal of Sociology and Law* (2024), <https://doi.org/10.62951/ijsl.v1i3.101>.

²⁴Sodikin & Edi Suhaedi, "Corporate Criminal Liability for Environmental Crimes According to Company Culture Theory," *International Journal of Advances in Engineering and Management* (2025), <https://doi.org/10.35629/5252-0705360367>.

²⁵N. Komang, Ayu Candrawati, 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>.

restoration²⁶. Judicial application of these provisions, however, has revealed persistent inconsistency in identifying the natural persons whose conduct may be attributed to the corporation, a problem aptly described in Indonesian legal literature as an "error in personam"—confusion between the corporation as a legal subject and the individual functionaries who act on its behalf, resulting in cases where prosecutions falter due to unclear internal lines of responsibility²⁷. Case-based studies further indicate that even where corporate criminal liability is successfully established, sanctions have often been disproportionately lenient relative to the scale of ecological destruction, undermining the deterrent function of the law²⁸.

The entry into force of the National Criminal Code in January 2026 introduces a general corporate criminal liability regime that operates alongside these sectoral provisions. Scholars caution that without clear rules on the relationship between the general code and *lex specialis* environmental statutes, prosecutors and courts may face uncertainty regarding which attribution standard applies, potentially producing inconsistent outcomes across similar cases and jurisdictions²⁹. Emerging analysis of the Code's provisions suggests an evolution toward a hybrid model, incorporating elements of both vicarious liability and organizational fault, though implementing regulations necessary to operationalize this hybrid model remain incomplete³⁰. This regulatory transition period represents a critical juncture at which doctrinal clarification could meaningfully strengthen, or alternatively further complicate, the enforcement of corporate environmental accountability in Indonesia.

3.3 Comparative Perspectives on Reform

Comparative analysis reveals convergent international efforts to broaden corporate attribution standards and strengthen sanctions. The United Kingdom's Economic Crime and Corporate Transparency Act 2023 replaced the narrow identification doctrine with a "senior manager" test, attributing liability where an offense is committed by a person exercising senior management functions, thereby capturing a broader range of corporate decision-makers than

²⁶Nur Khalifah Agustin Sari & Ariawan Gunadi, "Corporations As Legal Subjects In Environmental Crimes," *Journal La Sociale* (2024), <https://doi.org/10.37899/journal-la-sociale.v5i5.1301>.

²⁷Andri G. Wibisana, Michael Faure & Raisya Majory, "Error in Personam: Confusion in Indonesia's Environmental Corporate Criminal Liability," *Criminal Law Forum* 32 (2021): 247–284, <https://doi.org/10.1007/s10609-021-09412-6>.

²⁸M. Taufiq, "Liability For Corporate Crimes In Environmental Crimes In Indonesia (Case Study Of PT. Wijaya Inti Nusantara)," *Pena Justisia: Media Komunikasi dan Kajian Hukum* (2024), <https://doi.org/10.31941/pj.v23i3.5286>.

²⁹Ni'ma Ulinihayati, Feri Satria Wicaksana Effendy & Riski Dysas Prabawani, "Reformulating Corporate Liability for Environmental Crimes: Implications of the National Criminal Code," *International Journal of Multidisciplinary Research and Analysis* 8, no. 6 (2025), <https://doi.org/10.47191/ijmra/v8-i06-11>.

³⁰Muhammad Wahyu Alfakar, Ali Masyhar, Cahya Wulandari & Ngboawaji Daniel Nte, "Evolution of Corporate Criminal Liability Models and Theories under Indonesian New Criminal Code," *Indonesian Journal of Criminal Law Studies* 8, no. 2 (2023): 261–288, <https://doi.org/10.15294/ijcls.v8i2.36741>.

previously possible³¹. The European Union's proposed Directive on the Protection of the Environment through Criminal Law similarly seeks to harmonize criminal sanctions for legal persons across member states, while parallel efforts to connect environmental criminal law with the Corporate Sustainability Due Diligence Directive illustrate a growing regulatory recognition that environmental crime prevention should be embedded within corporate governance and supply-chain due diligence obligations, rather than treated as an isolated compliance matter³².

Empirical research from Finland offers a valuable corrective to the assumption that harsher nominal penalties automatically translate into stronger deterrence. Applying a rational choice model of crime to environmental sanctions, this research found that the certainty and consistency of enforcement exerted greater influence on corporate compliance behavior than the severity of sanctions in isolation, suggesting that Indonesia's reform priorities should extend beyond statutory penalty enhancement to institutional capacity-building for detection and prosecution³³. Similarly, comparative research on toxic and hazardous waste dumping demonstrates that jurisdictions achieving higher compliance rates typically combine criminal sanctions with mandatory disclosure and monitoring obligations, reinforcing the argument that criminal liability functions most effectively as part of an integrated regulatory toolkit rather than as a standalone deterrent³⁴.

3.4 Comparative Overview of Corporate Criminal Liability Models

Table 1 below synthesizes the comparative doctrinal and sanctioning models examined in this study, highlighting the attribution theory adopted, the primary sanction orientation, and the corrective or restorative mechanism available in each jurisdiction.

Jurisdiction	Attribution Theory	Primary Sanction Orientation	Restorative / Corrective Mechanism
Indonesia (UUPPLH & KUHP Baru)	Strict liability; emerging corporate	Criminal fines; imprisonment of	Mandatory environmental

³¹Jeremy Horder, "Corporate Criminal Liability under the Economic Crime and Corporate Transparency Act 2023," *Legal Studies* 45, no. 1 (2025): 133–148, <https://doi.org/10.1017/lst.2024.46>.

³²Beatriz Albuquerque, "The Interplay between Environmental Crime and Corporate Sustainability Due Diligence," *New Journal of European Criminal Law* 15, no. 2 (2024): 209–224, <https://doi.org/10.1177/20322844241253182>.

³³Riku Lindqvist, Chiara Lombardini, Leila Suvantola & Markku Ollikainen, "The Deterrence Effect of Criminal Sanctions against Environmental Crime in Finland: An Application of the Rational Choice Model of Crime," *European Journal of Law and Economics* 58 (2024): 175–200, <https://doi.org/10.1007/s10657-024-09818-8>.

³⁴Tofik Chandra & Bobur Sobirov, "Corporate Criminal Liability for Illegal Toxic and Hazardous Waste Dumping," *Lex Publica* 10, no. 1 (2023): 123–140, <https://doi.org/10.58829/lp.10.1.2023.123-140>.

Jurisdiction	Attribution Theory	Primary Sanction Orientation	Restorative / Corrective Mechanism
	culture and vicarious elements	responsible officers; license revocation	restoration; restitution orders
United Kingdom	Senior manager test (post-2023 reform)	Unlimited fines; director disqualification	Remediation orders; compliance monitoring
European Union (ECD proposal)	Legal-person liability linked to due diligence obligations	Harmonized dissuasive criminal fines	Supply-chain due diligence integration
Finland	Corporate fine model (yhteisösakko)	Deterrence calibrated to enforcement certainty	Administrative-criminal toolbox coordination
United States	Respondeat superior (vicarious liability)	Substantial monetary penalties; consent decrees	Court-supervised remediation programs

Source: synthesized by the authors from the normative and comparative materials analyzed in this study.

3.5 Barriers to Effective Enforcement

Beyond doctrinal design, enforcement capacity constitutes a decisive determinant of whether corporate criminal liability achieves its deterrent aims. Studies of Indonesian mining-sector prosecutions reveal recurring obstacles, including the technical complexity of establishing causal links between corporate conduct and diffuse ecological damage, limited forensic environmental expertise within investigative agencies, and jurisdictional overlap between environmental, forestry, and general criminal law enforcement bodies³⁵. These enforcement gaps are compounded by procedural delays and, in some cases, by corporate strategies of forum-shopping or restructuring designed to frustrate the attribution of liability to a successor entity³⁶. Comparative literature on the crisis of environmental criminal law

³⁵Rihat Hutabarat, "Reformulation of Corporate Criminal Liability for Environmental Pollution and Degradation in the Mining Sector in Indonesia," *Journal Customary Law* (2026), <https://doi.org/10.47134/jcl.v3i3.1.5848>.

³⁶Edi Sutikno, Muh. Rizki, Sudirwan & Almi Jera, "Corporate Environmental Crime and the Crisis of Environmental Criminal Law Enforcement," *Muhammadiyah Law Review* (2026), <https://doi.org/10.24127/mlr.v10i1.4899>.

enforcement further identifies inadequate inter-agency coordination and insufficiently trained prosecutors as systemic weaknesses shared across multiple jurisdictions grappling with corporate environmental crime³⁷.

The application of the polluter-pays principle as a normative anchor for corporate criminal liability, particularly in forest encroachment cases, offers a partial corrective by embedding cost-internalization directly into the sanctioning framework, though its practical efficacy remains contingent on courts' willingness to impose sanctions proportionate to the true ecological and social cost of the offense³⁸. Feminist legal theory perspectives on corporate environmental crime further highlight how enforcement gaps disproportionately affect vulnerable communities—particularly women and indigenous groups dependent on ecological resources for subsistence—underscoring those distributive justice dimensions of enforcement failure that remain underexplored in mainstream corporate criminal liability scholarship³⁹.

3.6 Toward an Integrated Restoration-Oriented Accountability Model

Building on the doctrinal and comparative findings above, this study proposes an integrated three-tier accountability model for corporate criminal liability in cases of sustainable environmental damage. At the threshold tier, strict liability should govern the establishment of the corporate actus reus, requiring proof only of the harmful act, causation, and the absence of adequate preventive measures, thereby resolving the evidentiary burden that has historically frustrated prosecutions⁴⁰. At the culpability tier, corporate culture theory should inform sentencing and the determination of aggravating circumstances, examining whether the corporation's internal policies, training, and incentive structures reflect systemic disregard for environmental compliance, in line with reform proposals already emerging in Indonesian legal scholarship⁴¹. At the remedial tier, sanctions should be restructured around restoration-oriented outcomes—mandatory ecological rehabilitation, court-supervised compliance programs, and

³⁷Edi Sutikno, Muh. Rizki, Sudirwan & Almi Jera, "Corporate Environmental Crime and the Crisis of Environmental Criminal Law Enforcement," *Muhammadiyah Law Review* (2026), <https://doi.org/10.24127/mlr.v10i1.4899>.

³⁸Rocmad Dwi Riwayanto & Muklis Al'anam, "Implementation of the Polluter Pays Principle as the Basis for Corporate Criminal Liability in Forest Encroachment Crimes," *Bengkoelen Justice: Jurnal Ilmu Hukum* (2026), <https://doi.org/10.33369/jbengkoelenjust.v16i1.48489>.

³⁹Mohsin Raza, "Rethinking Corporate Criminal Liability for Environmental Crimes Through Feminist Legal Theory," *ACADEMIA International Journal for Social Sciences* (2025), <https://doi.org/10.63056/academia.4.3.2025.1491>.

⁴⁰N. Komang, Ayu Candrawati, 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>.

⁴¹Fajar Dian Aryani & Abdul Malik Mufty, "Reformulating Corporate Criminal Liability for Environmental Damage through Restoration-Oriented Sanctions and Compliance Mechanisms in Indonesia Framework," *Kosmik Hukum* (2026), <https://doi.org/10.30595/kosmikhukum.v26i2.29514>.

community-oriented remedial funds—rather than relying predominantly on custodial sentences for corporate officers or fines that are absorbed as an operating cost⁴².

This integrated model draws further support from the European Union's efforts to connect environmental criminal law with corporate sustainability due diligence obligations, suggesting that Indonesia's forthcoming implementing regulations for the National Criminal Code could similarly require corporations above a defined threshold to demonstrate documented environmental due diligence as a partial defense, thereby incentivizing proactive compliance rather than reactive litigation⁴³. Coupled with institutional reforms strengthening inter-agency coordination and specialized environmental prosecutorial capacity, this model offers a doctrinally coherent and practically viable pathway toward reconciling the punitive and restorative functions of criminal law within the broader project of sustainable development.

A further practical consideration concerns the treatment of corporate groups and supply chains, which frequently complicate the attribution of liability where the entity directly causing environmental harm is a subsidiary, contractor, or joint-venture partner of a larger parent corporation. Comparative experience from the European Union's due diligence-linked reforms suggests that extending liability considerations along the value chain—while preserving proportionality safeguards—can close a significant accountability gap that purely domestic, entity-by-entity attribution models tend to leave open⁴⁴. For Indonesia, where many environmentally sensitive sectors such as palm oil, mining, and forestry operate through complex holding structures and subcontracted operations, incorporating a similar supply-chain awareness into future implementing regulations would meaningfully strengthen the reach of corporate criminal liability beyond the narrowest formal operator of record.

Finally, the integrated model proposed in this study carries implications for corporate compliance practice itself. Companies operating in high-risk sectors would be well advised to treat documented environmental due diligence, internal audit trails, and verifiable community engagement not merely as reputational safeguards but as substantive legal defenses under a strict liability regime, and as mitigating evidence under a corporate culture theory of fault⁴⁵. This reframes environmental compliance from a discretionary corporate social responsibility

⁴²Saritua Silitonga et al., "Reconstructing Corporate Environmental Sanctions through Ecological Justice in Indonesia," *Journal of Mathematics Instruction, Social Research and Opinion* (2026), <https://doi.org/10.58421/misro.v5i2.1582>.

⁴³Beatriz Albuquerque, "The Interplay between Environmental Crime and Corporate Sustainability Due Diligence," *New Journal of European Criminal Law* 15, no. 2 (2024): 209–224, <https://doi.org/10.1177/20322844241253182>.

⁴⁴Beatriz Albuquerque, "The Interplay between Environmental Crime and Corporate Sustainability Due Diligence," *New Journal of European Criminal Law* 15, no. 2 (2024): 209–224, <https://doi.org/10.1177/20322844241253182>.

⁴⁵Sodikin & Edi Suhaedi, "Corporate Criminal Liability for Environmental Crimes According to Company Culture Theory," *International Journal of Advances in Engineering and Management* (2025), <https://doi.org/10.35629/5252-0705360367>.

initiative into a legally consequential risk-management function, aligning corporate incentives more closely with the ecological and social objectives that environmental criminal law is ultimately designed to serve.

4. Conclusion

This article has examined corporate criminal liability as a normative instrument for addressing sustainable environmental damage caused by corporations, situating Indonesia's statutory framework within a comparative analysis of doctrinal reforms in the United Kingdom, the European Union, and Finland. The findings demonstrate that existing attribution models whether the identification doctrine, vicarious liability, strict liability, or corporate culture theory each address only part of the accountability problem, and that Indonesia's regulatory transition following the entry into force of the National Criminal Code presents both risks of normative fragmentation and opportunities for doctrinal consolidation. The proposed integrated, restoration-oriented accountability model, combining strict liability at the threshold of prosecution, corporate culture theory in the assessment of culpability, and restoration-oriented remedies at the sanctioning stage, constitutes the principal contribution and novelty of this study. Future legislative and regulatory reform should prioritize harmonizing sectoral environmental statutes with the general criminal code, strengthening institutional enforcement capacity, and incentivizing corporate environmental due diligence as a recognized mitigating factor, so that criminal law serves not only a punitive function but also a genuinely restorative one in advancing sustainable environmental governance

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