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Reconstructing Corporate Environmental Criminal Liability in Indonesia: Harmonizing Substantive Environmental Law and the 2025 Criminal Procedure Code

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Abstract : *This study examines the effectiveness of corporate punishment in environmental crime cases in Indonesia amid implementation deficits and procedural fragmentation by analyzing the harmonization between substantive environmental criminal law and corporate criminal procedure. It assesses the application of corporate criminal liability under Law Number 32 of 2009, evaluates sentencing practices, and formulates an integrated model of corporate environmental punishment following the 2025 Criminal Procedure Code. Using normative legal research with a statutory approach and supported by a systematic literature review, the study finds that although corporations are formally recognized as subjects of environmental criminal law, judicial practice is dominated by monetary fines, while additional sanctions and environmental restoration measures are rarely imposed. This indicates an implementation deficit rather than normative inconsistency, weakening deterrence and allowing sanctions to be treated as a business cost. The study argues that Chapter XVIII of the 2025 Criminal Procedure Code provides a clearer procedural framework for prosecution, sentencing, and environmental restoration, enabling structural–procedural harmonization. It proposes an integrated model aligning substantive norms with procedural enforcement and concludes that the core issue lies in procedural fragmentation and weak implementation.*

Keywords : *Corporate; Criminal liability; Environment; Criminal Procedure Code*

Abstrak : Penelitian ini menganalisis efektivitas pemidanaan korporasi dalam perkara kejahatan lingkungan hidup di Indonesia di tengah defisit implementasi dan fragmentasi prosedural dengan menelaah harmonisasi antara hukum pidana lingkungan substantif dan hukum acara pidana korporasi. Penelitian ini bertujuan menilai penerapan pertanggungjawaban pidana korporasi berdasarkan Undang-Undang Nomor 32 Tahun 2009, mengevaluasi praktik pemidanaan dalam putusan pengadilan, serta merumuskan model pemidanaan lingkungan korporasi yang terintegrasi pasca berlakunya KUHAP 2025. Penelitian ini menggunakan metode penelitian hukum normatif dengan

pendekatan perundang-undangan, didukung kajian literatur sistematis. Hasil penelitian menunjukkan bahwa meskipun korporasi telah diakui sebagai subjek hukum pidana lingkungan, praktik peradilan masih didominasi oleh pidana denda, sementara pidana tambahan dan pemulihan lingkungan jarang diterapkan. Kondisi ini mencerminkan defisit implementasi, bukan ketidaksinkronan norma, yang melemahkan efek jera dan menjadikan sanksi sebagai biaya bisnis. Penelitian ini menegaskan bahwa Bab XVIII KUHAP 2025 menyediakan kerangka prosedural yang lebih jelas untuk penuntutan, pemidanaan, dan pemulihan lingkungan, sehingga memungkinkan harmonisasi struktural–prosedural. Studi ini mengusulkan model pemidanaan terintegrasi dan menyimpulkan bahwa persoalan utama terletak pada fragmentasi prosedural dan lemahnya implementasi.

Kata kunci : Korporasi; Pertanggungjawaban pidana; Lingkungan hidup; Kitab Undang-Undang Hukum Acara Pidana

Introduction

The increasing role of corporations in exploiting natural resources has positioned corporate entities as dominant actors in activities that significantly affect environmental sustainability. Environmental crimes committed by corporations are generally systemic, organized, and policy-driven, rather than merely the result of individual misconduct. Such characteristics challenge the classical paradigm of criminal law, which traditionally recognizes only natural persons as criminal subjects and relies heavily on individual fault as the basis of criminal liability.[1] As a consequence, environmental harm caused by corporate activities often escapes effective criminal accountability when legal enforcement remains focused solely on individual perpetrators.

This study is grounded in the theory of corporate criminal liability and sentencing theory to analyze the attribution of responsibility and the proportionality of sanctions in environmental crimes. It also adopts the concept of ecological justice as a normative framework to evaluate whether corporate punishment promotes environmental restoration and sustainable enforcement. These theoretical perspectives are used to examine the harmonization between substantive environmental criminal law and corporate criminal procedure.

In Indonesia, the recognition of corporations as subjects of environmental criminal liability has been normatively established through Law Number 32 of 2009 on Environmental Protection and Management. Articles 116 to 118 of this law explicitly allow criminal sanctions to be imposed on corporations when environmental crimes are committed by persons acting for and on behalf of corporate interests. [2] This legislative development reflects a shift from the classical doctrine societas delinquere non potest toward a modern approach that acknowledges corporate structures as potential perpetrators of environmental crimes. However, several studies indicate that this normative

[1] Ananya Agarwal, "Redefining Corporate Criminal Liability with Respect to Environmental Crimes," *International Journal of Legal Science and Innovation* 3 (2020), https://www.ijlsi.com/UndertheaegisofVidhiAagaz-InkingYourBrain.
[2] Pemerintah Republik Indonesia, *Undang Undang Nomor 32 Tahun 2009 Tentang Perlindungan Dan Penegelolaan Lingkungan Hidup* (Jakarta, 2009).

recognition has not yet been effectively implemented in judicial practice, where law enforcement still prioritizes administrative sanctions and criminal fines with limited deterrent effect.[3] Comparative research on corporate environmental penalties demonstrates that sanctions lacking proportional linkage to the economic benefits derived from environmental violations tend to undermine deterrence and allow corporate misconduct to persist as a calculated business risk.[4]

The reform of Indonesian criminal law through Law Number 1 of 2023 on the National Criminal Code further strengthens the position of corporations as criminal subjects. The National Criminal Code provides a general framework for corporate criminal liability and recognizes the possibility of imposing criminal sanctions on corporate entities alongside or independently from their management.[5]Despite this progress, the regulation remains largely general and does not fully address the specific characteristics of environmental crimes, which often involve long-term ecological damage and require restorative measures beyond conventional punishment.[6]

The situation became more complex following the enactment of Law Number 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law on Job Creation, which introduced a risk-based regulatory approach to environmental governance. Several scholars argue that this approach tends to reinforce administrative enforcement mechanisms and may weaken the role of criminal law as an instrument for environmental protection.[7] This policy shift raises concerns regarding the consistency of environmental criminal enforcement, particularly in cases involving corporate actors whose economic interests often outweigh the relatively light administrative sanctions imposed.

To address procedural gaps in prosecuting corporate crimes, the Supreme Court issued Supreme Court Regulation Number 13 of 2016 on Procedures for Handling Criminal Cases by Corporations.[8] This regulation provides guidance on summoning, examining, and sentencing corporate defendants, including environmental crime cases. Nevertheless, as an internal judicial regulation, its normative strength remains limited, and its application has been inconsistent across law enforcement agencies and courts.[9]The procedural weakness becomes even more evident when dealing with complex environmental cases that require clear standards of corporate attribution and proof.

The enactment of Law Number 20 of 2025 on the Criminal Procedure Code marks a significant milestone in Indonesian criminal procedural reform. For the first time, the Criminal Procedure Code explicitly regulates corporate

[3] Sriwahyu Nigsi Hengki, Fenty U. Puluhulawa, and Jufryanto Puluhulawa, "Analisis Putusan Hakim Dalam Tindak Pidana Lingkungan Hidup Oleh Korporasi," *Jurnal Begawan Hukum (JBH)*, April 1, 2024.
[4] Andrew Ashworth and Lucia Zedner, "Corporate Environmental Penalties and Deterrence Effectiveness," *Environmental Law Review* 24, no. 3 (2022): 189–205.
[5] Pemerintah Republik Indonesia, *Kitab Udang-Undang Hukum Pidana* (Jakarta, 2023).
[6] Muhammad Fatahillah Akbar, "Penerapan Pertanggungjawaban Pidana Korporasi Dalam Berbagai Putusan Penagdilan," *Jurnal Hukum & Pembangunan* 51, no. 3 (2021): 15, https://doi.org/10.21143/jhp.vol51.no3.3272.
[7] Alison Cronin, "The Important Role of Civil Class Actions in the Enforcement of Corporate Criminal Law," *Journal of Economic Criminology* 6 (December 2024), https://doi.org/10.1016/j.jeconc.2024.100106.
[8] Pemerintah Republik Indonesia, *Perma Nomor 13 Tahun 2016 (1)*, December 29, 2016.
[9] Yeni Widowaty, *Hukum Pidana Lingkungan Hidup* (Yogyakarta: Thafa Media, 2012), 146–148.

defendants under Chapter XVIII, signaling an institutional acknowledgment of corporate criminal liability at the procedural level. However, existing studies largely focus on substantive aspects of corporate criminal liability and pay insufficient attention to the integration of procedural reforms with environmental criminal law enforcement.[10] This gap demonstrates the need for a comprehensive normative analysis that connects substantive environmental criminal norms with the newly established procedural framework.

Based on a systematic review of national and international legal scholarship, it can be concluded that prior studies have predominantly examined corporate environmental liability from either a substantive criminal law perspective or a policy-oriented enforcement approach. Few studies have comprehensively analyzed the harmonization between Law Number 32 of 2009, the National Criminal Code, Supreme Court Regulation Number 13 of 2016, and the Criminal Procedure Code of 2025 within a unified framework. The core problem is not normative incoherence, but procedural fragmentation and enforcement deficits that weaken the practical application of corporate criminal liability. This structural gap has resulted in the dominance of monetary fines and the limited use of restorative sanctions. Therefore, this research seeks to fill this gap by analyzing corporate criminal liability in environmental crimes through an integrated normative approach, emphasizing procedural harmonization and the realization of ecological justice. Harmonization in this analytical framework denotes the structural and operational integration of substantive environmental criminal law with corporate criminal procedure to address enforcement fragmentation and implementation deficits.

The gap between the normative recognition of corporate criminal liability and its practical enforcement highlights the urgency of strengthening procedural integration in environmental crime cases. Although corporations are formally recognized as criminal subjects, enforcement remains fragmented and largely dominated by monetary fines, thereby limiting the realization of ecological justice. Against this background, this study examines how corporate criminal liability in environmental crimes is regulated and implemented within Indonesia's legal framework and analyzes how procedural harmonization under the 2025 Criminal Procedure Code can enhance the effectiveness of corporate environmental punishment.

Methods

This research employs normative legal research because the study examines structural inconsistencies and enforcement gaps within the legal framework governing corporate environmental crimes. The research applies a normative harmonization approach by combining doctrinal analysis of relevant statutes with conceptual analysis of corporate criminal liability and procedural integration. This method is used to assess the alignment between substantive environmental criminal law and corporate criminal procedure in strengthening enforcement practice. The problem-approach framework

[10] Michael G. Faure and Krisztina Ficsor, "Environmental Restoration and Corporate Sanctions," *Journal of Environmental Management* 345 (2024): 119–121.

applied in this study consists of a statutory approach and a case approach.[11] The statutory approach is used to analyze primary legal materials to assess normative consistency among relevant regulations, including Law Number 32 of 2009 on Environmental Protection and Management, Law Number 1 of 2023 on the National Criminal Code, Law Number 6 of 2023 on Job Creation, Law Number 20 of 2025 on the Criminal Procedure Code, and Supreme Court Regulation Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations.The case approach is applied to examine court decisions related to environmental crimes committed approach to identify gaps between legal provisions and judicial practice by corporations in order to understand judicial practices in imposing criminal sanctions.

The type of research is descriptive-analytical, aiming to describe the existing legal framework while critically analyzing its implementation in corporate environmental crime cases. Legal materials are collected through library research, consisting of primary legal materials, secondary legal materials in the form of scholarly journals and academic writings, and tertiary legal materials to support legal interpretation. Court decisions are selected based on three criteria: (1) cases involving corporate defendants in environmental crimes, (2) final and binding judgments, and (3) decisions rendered within the last ten years to ensure contemporary relevance

The analysis of legal materials is conducted qualitatively through grammatical, systematic, and teleological interpretation, systematization, and evaluation of legal norms to assess the harmonization between substantive criminal law and criminal procedural law in the enforcement of corporate criminal liability in environmental crimes.[12]

Result And Discussion

Corporations as Subjects of Law in Environmental Crimes

1. The Legitimacy and Normative Foundations of Corporate Criminal Liability

The recognition of corporations as subjects of criminal law in environmental crimes is a direct response to the systemic, organized, and wide-ranging nature of environmental harm. Environmental crimes can no longer be understood merely as individual misconduct but must be viewed as the result of corporate policies, organizational structures, and compliance cultures.[13] Consequently, a criminal law approach that focuses exclusively on individual offenders is insufficient to address the main actors behind environmental degradation.

In the Indonesian legal context, the legitimacy of corporations as subjects of environmental criminal law is firmly grounded in Law Number 32 of 2009 on Environmental Protection and Management. The use of the term *"every person"*, which includes both natural persons and legal entities, demonstrates

[11] Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2017), 35–37.
[12] Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: RajaGrafindo Persada, 2015), 14–16.
[13] Ananya Agarwal, "Corporate Environmental Crime and Strict Liability Regimes," *Regulation & Governance* 14, no. 3 (2020): 512–515.

that the legislature has adopted a functional approach to corporate criminal liability. This approach emphasizes the causal relationship between business activities and environmental pollution or damage, without requiring the separate identification of individual perpetrators as a prerequisite for criminal responsibility.[14]

From a theoretical perspective, this recognition is consistent with the view that corporations possess both a capacity to act and a capacity for blame through their internal organs and decision-making mechanisms.[15] Excluding corporations from criminal liability would therefore risk creating a gap in accountability for environmental crimes.

The legitimacy of corporations as criminal subjects is no longer sectoral following the enactment of Law Number 1 of 2023 on the National Criminal Code. This codification places corporations within the general framework of criminal law subjects, thereby integrating corporate environmental criminal liability into the national criminal justice system. Such explicit recognition enhances legal certainty and resolves longstanding debates regarding the legal basis for punishing corporations beyond sector-specific legislation.[16]

Furthermore, Law Number 6 of 2023 on Job Creation reflects a legal policy that positions corporations as key actors in strategic economic activities. Although this law does not directly regulate environmental crimes, it strengthens the normative argument that corporations must be subject to strict legal responsibility, including criminal liability for environmental impacts arising from their business operations.

2. Procedural Recognition and Harmonization in Corporate Environmental Crimes

From the perspective of criminal procedural law, the recognition of corporations as criminal subjects gained operational legitimacy through Supreme Court Regulation Number 13 of 2016. This regulation provides procedural guidance on summoning, examining, proving, and sentencing corporate defendants, functioning as a judicial response to the limitations of the former Criminal Procedure Code, which was oriented toward individual offenders.[17] Comparative criminal law scholarship affirms that modern corporate liability doctrines treat corporate entities as autonomous normative actors capable of generating collective fault independent from individual culpability.[18]

This development was subsequently consolidated by Law Number 20 of 2025 on the Criminal Procedure Code, which explicitly recognizes corporations as subjects of criminal procedure across all stages of the criminal justice process.

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[14] Indonesia, *Law Number 32 of 2009 on Environmental Protection and Management* (State Gazette No. 140 of 2009, Supplement No. 5059).
[15] Ananya Agarwal, "Corporate Environmental Crime," 516–518.
[16] Nafiah Andana, "Pertanggungjawaban Pidana Korporasi dalam Hukum Pidana Modern," *Notarius Journal of Law* 14, no. 3 (2021): 401–405.
Indonesia, *Law Number 6 of 2023 on Job Creation*.
[17] Harris Pratama, S. Nugroho, and D. Lestari, "Corporate Criminal Liability in Environmental Offences: Indonesian Legal Perspective," *Journal of Environmental Law and Policy* 15, no. 2 (2023): 150–153.
[18] Celia Wells, "Corporate Criminal Liability and Collective Responsibility in Environmental Harm," *Journal of Criminal Law* 87, no. 2 (2023): 145–162.

The 2025 Criminal Procedure Code expands the procedural framework for corporate criminal cases from investigation to execution of judgments, thereby reducing reliance on the Supreme Court Regulation as a transitional instrument.[19]

Normatively, there is continuity between Law Number 32 of 2009, the 2023 Criminal Code, Supreme Court Regulation No. 13 of 2016, and the 2025 Criminal Procedure Code in positioning corporations as subjects of criminal law. However, the literature reviewed indicates that weak harmonization in practice has contributed to the dominance of monetary fines and the limited application of environmental restoration measures as additional penalties.[20]Harmonization should therefore be understood not merely as textual consistency but as coherent implementation between substantive environmental criminal law and corporate criminal procedure.[21]

Recent scholarship on environmental criminal enforcement highlights that meaningful corporate accountability requires procedural mechanisms that facilitate restorative sanctions rather than relying exclusively on punitive financial penalties.[22] Accordingly, strengthening corporate criminal liability in environmental crimes requires an integrated application of substantive and procedural norms to ensure that the legal recognition of corporations as criminal subjects produces tangible outcomes for environmental protection and ecological justice.

Legal Instrument	Position of Corporations	Scope of Regulation	Normative Implications
Law No. 32 of 2009	Subjects of environmental crime	Offences, sanctions, liability	Substantive basis for corporate punishment
Law No. 1 of 2023 (Criminal Code)	General criminal law subjects	Principles of criminal liability	Strengthening legal certainty
Law No. 6 of 2023	Strategic legal actors	Economic and legal policy	Justification of corporate responsibility
Supreme Court Regulation No. 13 of 2016	Subjects of criminal proceedings	Corporate trial procedures	Bridging gaps in the former CPC
Law No. 20 of 2025 (CPC)	Subjects of criminal procedure	Investigation–trial–execution	Integration of corporate criminal procedure

Table 1 Corporations as Subjects of Law in Environmental Crimes

[19] Indonesia, *Law Number 20 of 2025 on the Criminal Procedure Code*.
[20] Michael G. Faure and Krisztina Ficsor, "Environmental Restoration and Corporate Sanctions," *Journal of Environmental Management* 345 (2024): 118–121.
[21] Sabine Gless and Thomas Weigend, "Procedural Challenges in Corporate Criminal Enforcement," *Journal of International Criminal Justice* 21, no. 2 (2023): 355–378.
[22] Maria Lee, "Restorative Justice and Environmental Regulation," *Transnational Environmental Law* 12, no. 2 (2023): 243–268.

Models of Corporate Criminal Liability in Environmental Crimes

Corporate criminal liability in environmental crimes cannot be separated from the development of liability models designed to overcome the limitations of the individual fault paradigm. Based on the systematic literature review (SLR) conducted in this study, four dominant models are widely applied in environmental criminal law: strict liability, vicarious liability, identification theory, and the double track system.[23] Each of these models carries distinct normative implications for the effectiveness of environmental law enforcement and the realization of environmental protection.

1. Strict Liability and Vicarious Liability as Functional Attribution Models

Strict liability constitutes a fundamental characteristic of modern environmental criminal law. Under this model, criminal liability does not require proof of fault (*mens rea*), but is established through the existence of a prohibited act and the resulting environmental pollution or damage. Agarwal emphasizes that strict liability emerged as a response to the high environmental risks inherent in industrial activities, where proving intent or negligence is often difficult.[24]

In the Indonesian legal context, the principle of strict liability is implicitly reflected in Law Number 32 of 2009, particularly through provisions that allow corporate responsibility for environmental harm without requiring proof of fault. Normatively, this approach strengthens environmental protection. However, in criminal judicial practice, strict liability remains limited and is more frequently applied in civil or administrative liability rather than criminal proceedings, thereby reducing its potential deterrent effect.

The model of vicarious liability places responsibility on the corporation for criminal acts committed by directors, employees, or other persons acting within the scope of their employment or authority. This model is grounded in hierarchical and employment relationships within corporate structures. Zipperman argues that vicarious liability serves as a crucial instrument to prevent corporations from avoiding responsibility by shifting blame exclusively to lower-level operational actors.[25]

In Indonesian positive law, this model is reflected in Supreme Court Regulation Number 13 of 2016, which recognizes that corporate crimes may be committed by persons based on employment relationships or other relationships acting for and on behalf of the corporation. The normative implication is that corporations cannot evade criminal liability merely by attributing wrongdoing to individual actors, as long as the act is committed within the corporate interest or business scope.

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[23] N. Fitriani and Dona Budi Kharisma, "Model Pertanggungjawaban Pidana Korporasi dalam Tindak Pidana Lingkungan Hidup," *Jurnal Hukum Lingkungan Indonesia* 7, no. 1 (2020): 45–63; Michael G. Faure and Andri G. Wibisana, "Corporate Environmental Crime and Sanctioning Practices," *Crime, Law and Social Change* 78, no. 4 (2022): 389–407.

[24] Ananya Agarwal, "Corporate Environmental Crime and Strict Liability Regimes," *Regulation & Governance* 14, no. 3 (2020): 514–517.

[25] Steven Zipperman, "Vicarious Liability and Corporate Criminal Responsibility," *Journal of Criminal Law* 55, no. 3 (1991): 321–325.

2. Identification Theory and Corporate Structural Fault

Unlike vicarious liability, identification theory attributes corporate criminal liability to the actions and intentions of the corporation's *directing mind and will*, such as directors or key decision-makers. This model seeks to identify the will of the corporation through its controlling organs. Rhiti explains that identification theory provides stronger moral and legal justification for corporate punishment because criminal fault is constructed as an institutional failure rather than merely the misconduct of subordinate individuals.[26]

In practice, however, the application of identification theory in environmental crime cases in Indonesia faces significant evidentiary challenges, particularly in linking strategic corporate decisions to environmental harm. As a result, law enforcement authorities tend to prefer simpler models, such as vicarious liability or the imposition of fines, rather than pursuing complex structural attribution of fault.

3. The Double Track System and Its Normative Implications

The double track system combines criminal sanctions with non-penal measures, such as environmental restoration, confiscation of unlawful profits, or corrective administrative actions. Scholars argue that this model is particularly relevant for environmental crimes because it emphasizes not only punishment but also restoration and prevention.[27]

Normatively, the double track system aligns with the objectives of Law Number 32 of 2009, which prioritizes environmental protection and restoration. However, SLR findings indicate that in Indonesian criminal practice, the application of the double track system remains weak and is often reduced to the imposition of monetary fines alone.[28] This condition reflects an imbalance between punitive objectives and environmental recovery goals.

The analysis of these four models demonstrates that Indonesian environmental criminal law has normatively opened space for the application of diverse models of corporate criminal liability. Nevertheless, there is no clear harmonized framework in judicial practice to determine which model should be applied in specific environmental crime cases. Consequently, enforcement remains inconsistent and has not fully reflected the principle of ecological justice.

Therefore, harmonization between substantive environmental criminal law and corporate criminal procedure is a crucial prerequisite for the effective and proportional application of corporate liability models, particularly within the framework of criminal law and criminal procedure reforms following the enactment of the 2023 Criminal Code and the 2025 Criminal Procedure Code.

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[26] Hyronimus Rhiti, "Identification Theory dalam Pertanggungjawaban Pidana Korporasi," *Jurnal Hukum dan Pembangunan* 53, no. 2 (2023): 270–273.
[27] Ruslan Renggong and Ahmad Yani, "Double Track System dalam Pemidanaan Korporasi Lingkungan Hidup," *DEKRIT Journal* 5, no. 2 (2023): 101–105; Michael G. Faure and Jingjing Zhang, "Corporate Liability and Environmental Governance," *Regulation & Governance* 14, no. 1 (2020): 1–5.
[28] Michael G. Faure and Andri G. Wibisana, "Corporate Environmental Crime," 402–405.

The Effectiveness of Corporate Punishment in Judicial Practice

The effectiveness of corporate punishment in environmental crime cases is determined not only by the completeness of legal norms but also by how those norms are applied in judicial practice. Findings from the systematic literature review (SLR) indicate that although corporations are formally recognized as subjects of criminal law, judicial sentencing practices have not yet fully reflected the objectives of environmental protection and ecological justice.[29]

One of the most consistent findings in the literature is the dominance of monetary fines as the primary sanction imposed on corporations convicted of environmental crimes. Courts tend to impose fines without accompanying corrective or restorative measures. Empirical studies show that fines are often preferred because they are considered easier to execute and administratively less complex than additional penalties such as environmental restoration or profit confiscation.[30] However, this practice significantly undermines the deterrent function of corporate punishment.

Further studies demonstrate that additional penalties, which are normatively provided for under environmental legislation—such as obligations to restore environmental damage, revocation of business licenses, or confiscation of illicit profits—are rarely applied in an optimal manner. Weak implementation of these sanctions has been attributed to procedural limitations, limited capacity of law enforcement authorities to assess ecological damage, and concerns over potential economic consequences resulting from the suspension of corporate activities.[31] As a result, corporate punishment often remains symbolic and fails to address the root causes of environmental degradation.

This situation has given rise to what is commonly described in the literature as the "cost of doing business" phenomenon. Comparative studies explain that when fines are imposed at levels significantly lower than the economic benefits gained from environmental violations, sanctions lose their preventive function and are instead internalized as operational costs.[32] Similar findings indicate that corporations tend to treat environmental legal risks as economic calculations rather than binding legal obligations, further weakening compliance incentives.[33] Deterrence theory further suggests that corporate compliance is unlikely to change where sanctions are predictable, financially absorbable, and disconnected from reputational or operational consequences.[34]

From a normative perspective, these practices reveal an imbalance between the theoretical objectives of punishment and their practical implementation. In

[29] Muhammad Aditya Wijaya et al., "Analisis Putusan Pengadilan terhadap Tindak Pidana Lingkungan oleh Korporasi," *UNES Law Review* 6, no. 3 (2023): 312–330.
[30] Muhammad Aditya Wijaya et al., "Analisis Putusan Pengadilan," 320–323.
[31] Sriwahyu Ningsi Hengki, Andi Irwansyah, and Riska Andani, "Tantangan Penerapan Pidana Tambahan dalam Kejahatan Lingkungan Korporasi," *Begawan Hukum Review* 5, no. 1 (2024): 6–10; Yeni Widowaty, *Hukum Pidana Lingkungan Hidup* (Yogyakarta: Thafa Media, 2012), 150–152.
[32] Andrew Ashworth and Lucia Zedner, "Corporate Environmental Penalties and Deterrence Effectiveness," *Environmental Law Review* 24, no. 3 (2022): 189–193.
[33] Rafael Rio, "Corporate Environmental Crime and the Cost of Doing Business," *Rio Law Journal* 10, no. 1 (2025): 88–94.
[34] John Braithwaite, "Deterrence and Corporate Environmental Crime," *Regulation & Governance* 15, no. 4 (2021): 987–1002.

principle, corporate punishment in environmental crimes should pursue not only retribution but also deterrence and environmental restoration. Nevertheless, the SLR findings suggest that Indonesian courts continue to emphasize a financial–repressive orientation, with limited attention to substantive environmental recovery.[35]

Scholarly analyses further argue that the limited effectiveness of corporate punishment is closely linked to insufficient harmonization between substantive environmental criminal law and criminal procedural law. Law enforcement authorities tend to exercise caution in imposing additional penalties due to the absence of clear technical guidelines and concerns regarding enforceability.[36] This is reflected in judicial decisions that often fail to provide adequate consideration of environmental restoration, even where ecological damage has been factually established.

Accordingly, the effectiveness of corporate punishment in judicial practice remains subject to serious challenges. The predominance of fines, the weak application of additional penalties, and the normalization of sanctions as business costs demonstrate that punishment has not yet functioned as an effective instrument for environmental protection. This condition underscores the urgency of reforming and harmonizing corporate sentencing policies, particularly through the integration of environmental criminal law with corporate criminal procedure following the enactment of the 2023 Criminal Code and the 2025 Criminal Procedure Code.

Harmonization of Substantive and Procedural Criminal Law in Corporate Environmental Punishment

Harmonization between substantive criminal law and criminal procedural law constitutes a fundamental prerequisite for the effective enforcement of environmental criminal law, particularly in cases involving corporate offenders. Substantive criminal law determines prohibited conduct and applicable sanctions, while procedural criminal law governs how those norms are enforced through the criminal justice process. A lack of harmony between the two risks generating legal uncertainty, weak enforceability of sanctions, and inconsistent judicial decisions.[37]

One of the key issues identified in the literature concerns the lex certa problem in regulating corporate environmental crimes. Although Law Number 32 of 2009 explicitly recognizes corporations as subjects of environmental criminal law, the formulation of offence elements leaves considerable interpretative space, particularly in constructing corporate fault and its relationship with individual actions of corporate managers. This ambiguity complicates the

[35] Alison Cronin, "Corporate Environmental Crime and Sanction Effectiveness," *Journal of Economic Criminology* 3, no. 1 (2024): 7–10.
[36] Muhammad Fatahillah Akbar, "Penerapan Pertanggungjawaban Pidana Korporasi dalam Berbagai Putusan Pengadilan," *Jurnal Hukum & Pembangunan* 51, no. 3 (2021): 489–492.
[37] B. Setiawan et al., "Reformasi Hukum Acara Pidana dan Pertanggungjawaban Korporasi," *Jurnal Legislasi Indonesia* 21, no. 1 (2024): 35–38.

drafting of precise indictments and undermines evidentiary coherence during trial proceedings.[38]

The lex certa problem is further exacerbated by challenges related to standards of proof in corporate criminal cases. Corporate environmental crimes differ fundamentally from conventional crimes because they involve organizational structures, internal policies, and collective decision-making processes. Comparative studies emphasize that such crimes require distinct evidentiary approaches capable of capturing institutional responsibility rather than individual wrongdoing alone.[39]However, Indonesian judicial practice has largely retained an individual-oriented evidentiary framework, limiting the effective attribution of fault to corporate entities.

In this context, criminal procedural law plays a decisive role. Prior to the enactment of the 2025 Criminal Procedure Code, procedural mechanisms for prosecuting corporations relied predominantly on Supreme Court Regulation No. 13 of 2016. While this regulation functioned as an important judicial policy to fill procedural gaps, its status as a judicial regulation restricted its capacity to provide systemic legal certainty across all stages of criminal proceedings.[40]

A significant shift occurred with the enactment of Law Number 20 of 2025 on the Criminal Procedure Code, particularly through Chapter XVIII on Corporations. The new Criminal Procedure Code explicitly regulates corporate criminal liability from investigation and prosecution to adjudication and execution of judgments. Provisions on corporate summons, designation of responsible representatives, the mutatis mutandis application of coercive measures, and the introduction of Deferred Prosecution Agreements reflect a systematic effort to align procedural law with the structural characteristics of corporate crime, including environmental offences.[41]

From a harmonization perspective, Chapter XVIII of the 2025 Criminal Procedure Code significantly strengthens the integration between substantive environmental criminal law and procedural enforcement mechanisms. Norms contained in Law Number 32 of 2009 concerning corporate liability and sanctions are now supported by clearer and more comprehensive procedural rules. This alignment is essential to ensure that the objectives of environmental criminal punishment—namely prevention and environmental restoration—can be realized through effective judicial processes.[42]

Nevertheless, the SLR also highlights potential implementation challenges following the enactment of the 2025 Criminal Procedure Code. Strengthening corporate criminal procedure must be accompanied by enhanced institutional capacity among law enforcement authorities, particularly in understanding corporate crime evidence and assessing ecological harm. Without such

[38] S. H. Pratama and D. Lestari, "Legal Certainty and Corporate Environmental Liability," *Journal of Law & Sustainable Development* 11, no. 2 (2023): 148–151.
[39] David Nelken, "Corporate Crime and Proof Standards," *International Journal of Law, Crime and Justice* 73 (2023): 1–6.
[40] Harris Pratama, S. Nugroho, and D. Lestari, "Corporate Criminal Liability in Environmental Offences," *Journal of Environmental Law and Policy* 15, no. 2 (2023): 151–154.
[41] Indonesia, *Law Number 20 of 2025 on the Criminal Procedure Code*, Chapter XVIII.
[42] Andrew Jordan and Andrea Lenschow, "Environmental Enforcement and Legal Integration," *Journal of Environmental Policy & Planning* 24, no. 4 (2022): 567–570.

capacity-building, normative harmonization risks remaining formalistic and failing to produce substantive improvements in judicial practice.[43]

Accordingly, while the harmonization of substantive and procedural criminal law in corporate environmental punishment has advanced significantly through the 2025 Criminal Procedure Code, unresolved issues related to legal certainty and evidentiary standards continue to require serious attention. Addressing these challenges is essential to ensure that normative integration translates into more effective corporate punishment and stronger environmental protection.

The enactment of Law Number 20 of 2025, particularly Chapter XVIII, has significant implications for the enforcement of Law Number 32 of 2009 as substantive environmental criminal law. While the Environmental Law previously provided normative recognition of corporate criminal liability, the 2025 Criminal Procedure Code establishes a comprehensive procedural framework to operationalize that liability.

Provisions governing the determination of corporate criminal subjects and responsible persons, procedures for summons and investigation, and requirements for clear and precise indictments directly address long-standing problems of legal certainty and proof in corporate environmental crime cases.[44] Moreover, the introduction of Deferred Prosecution Agreements creates procedural space for prioritizing environmental restoration, compensation, and corrective measures before the imposition of repressive sanctions, consistent with the environmental protection philosophy underlying Law Number 32 of 2009.[45]

In addition, judicial authority to impose principal and additional penalties on corporations, along with detailed regulation of confiscation of profits, restitution, and compensation mechanisms, strengthens the effectiveness of environmental sanctions that have historically been reduced to monetary fines alone. In this sense, the 2025 Criminal Procedure Code functions as a critical harmonizing instrument that bridges substantive environmental norms with criminal judicial practice and reinforces the restorative orientation of environmental punishment.

Aspect	Supreme Court Regulation No. 13/2016	Criminal Procedure Code 2025 (Chapter XVIII)
Legal Status	Judicial guideline	Statutory law (*lex superior*)
Corporate Subject	Corporation as offender	Corporation and responsible persons as defendants
Scope	Trial-stage procedures	Investigation–prosecution–trial–execution

[43] Kai Ambos, "Corporate Liability and Procedural Frameworks," *Journal of International Criminal Justice* 19, no. 2 (2021): 350–354.
[44] Indonesia, *Law Number 20 of 2025 on the Criminal Procedure Code*, arts. 326–329.
[45] Indonesia, *Law Number 20 of 2025 on the Criminal Procedure Code*, arts. 328

Aspect	Supreme Court Regulation No. 13/2016	Criminal Procedure Code 2025 (Chapter XVIII)
Corporate Summons	General representation	Detailed regulation, including coercive measures
Indictment Standards	Not explicitly regulated	Clear, precise, and complete indictments
Management Liability	Limited	Joint prosecution of corporation and managers
Ultimum Remedium	Not regulated	Deferred Prosecution Agreement
Types of Sanctions	Refers to substantive law	Systematic regulation of principal and additional penalties
Environmental Restoration	Not explicitly regulated	Restitution, profit confiscation, compensation
Legal Certainty	Transitional	High (national codification)

Table 2 PERMA No. 13 of 2016 and the 2025 Criminal Procedure Code in Corporate Crime Handling

An Ideal Model of Corporate Environmental Punishment Based on the 2025 Criminal Procedure Code

An ideal model of corporate punishment in environmental crimes must be constructed on a balanced integration of retribution, deterrence, and environmental restoration. Findings from the systematic literature review (SLR) demonstrate that sentencing approaches relying predominantly on monetary fines are ineffective in addressing corporate environmental crimes, as they fail to engage with the ecological and structural dimensions of such offences.[46] Accordingly, an integrated sentencing model that harmonizes substantive environmental criminal law and criminal procedure, with the 2025 Criminal Procedure Code as its operational framework, is required.

An ideal sentencing model should integrate principal penalties, particularly fines, with additional penalties in a cumulative and proportional manner. Chapter XVIII of the 2025 Criminal Procedure Code provides a clear normative basis for judges to impose criminal penalties and measures on corporations, including confiscation of unlawful profits, compensation, restitution, and corrective actions. This integration is essential to prevent

[46] Alison Cronin, "Corporate Environmental Crime and Sanction Effectiveness," *Journal of Economic Criminology* 3, no. 1 (2024): 5–9.

corporate punishment from being reduced to symbolic financial sanctions devoid of corrective impact.[47]

SLR findings confirm that additional penalties perform a strategic function by restoring ecological balance and eliminating the economic incentives underlying environmental crimes. Empirical studies show that profit confiscation and mandatory environmental restoration significantly enhance deterrence compared to fines alone.[48] Therefore, additional penalties should be treated as integral components of corporate punishment rather than as optional supplements.

Corporate punishment in environmental crimes should be situated within the framework of ultimum remedium, whereby criminal law functions as a last resort after administrative and civil mechanisms have proven ineffective. However, once criminal law is applied, its primary orientation should be directed toward environmental restoration. Restorative-oriented environmental punishment is more consistent with sustainable development principles and the protection of the right to a healthy environment.[49]

The 2025 Criminal Procedure Code accommodates this approach through the mechanism of Deferred Prosecution Agreements, which require environmental restoration, compliance measures, and corrective actions as conditions for suspending prosecution. In environmental crime cases, this mechanism can be utilized to ensure that environmental recovery is carried out in a concrete and measurable manner before the imposition of more repressive sanctions.[50]

An ideal model of corporate environmental punishment must also emphasize the parallel liability of corporate management, alongside the liability of the corporation as a legal entity. The 2025 Criminal Procedure Code allows corporations and their responsible managers to be prosecuted jointly, thereby preventing structural impunity in which liability is borne solely by the corporate entity without addressing decision-makers.[51]

This approach aligns with international findings that personal accountability of corporate managers is a key deterrent against repeated environmental harm, as environmentally damaging decisions typically originate at the managerial or controlling level of corporate governance.[52]

The ideal model of corporate environmental punishment should adopt a restorative–environmental justice approach that integrates restorative justice principles with ecological justice. This approach extends beyond the relationship between the offender and the state by involving affected communities, environmental victims, and ecological interests as subjects of restoration. Scholarly studies emphasize that community participation in

[47] Indonesia, *Law Number 20 of 2025 on the Criminal Procedure Code*, Chapter XVIII.
[48] Alison Cronin, "Corporate Environmental Crime," 9–11.
[49] L. Moreno and J. Dupont, "Restorative Approaches to Environmental Crime," *Sustainability* 15, no. 8 (2023): 1–6.
[50] Indonesia, *Law Number 20 of 2025 on the Criminal Procedure Code*, art. 328
[51] Indonesia, *Law Number 20 of 2025 on the Criminal Procedure Code*, arts. 326 and 332.
[52] E. Thompson and R. Green, "Corporate Accountability and Environmental Justice," *Ecocide & Environmental Justice Journal* 2, no. 1 (2025): 45–50.

environmental recovery processes enhances both the legitimacy and effectiveness of environmental law enforcement.[53]

The 2025 Criminal Procedure Code provides normative space for this approach through the recognition of restorative justice mechanisms and judicial authority to impose corrective and restorative measures on corporations. By utilizing this framework, corporate punishment can be directed not only toward punishment but also toward environmental repair and the restoration of public trust.[54]

Based on the normative analysis and SLR findings, an ideal model of corporate environmental punishment grounded in the 2025 Criminal Procedure Code comprises four key elements:

1. The cumulative integration of principal and additional penalties;
2. An orientation toward environmental restoration within the *ultimum remedium* framework;
3. Simultaneous liability of corporations and corporate management; and
4. The application of a restorative–environmental justice approach.

This model is expected to address the shortcomings of corporate punishment in judicial practice and to promote a system of environmental criminal enforcement that is effective, just, and sustainable.

Conclusion

This study confirms that corporations have been firmly recognized as subjects of criminal law in environmental crimes within Indonesia's substantive legal framework, particularly under Law No. 32 of 2009 on Environmental Protection and Management and reinforced by the 2023 National Criminal Code. Nevertheless, the findings indicate that such recognition has not been fully translated into effective judicial enforcement, as corporate punishment remains dominated by monetary fines with limited deterrent and restorative impact. Although additional sanctions are available under Law No. 32 of 2009 and procedural guidance is provided under Supreme Court Regulation No. 13 of 2016, their application in judicial practice remains inconsistent. This gap demonstrates that normative regulation alone is insufficient without coherent procedural support and consistent judicial implementation.

The research further shows that the effectiveness of corporate environmental punishment depends on harmonization between substantive and procedural criminal law, including the integration of Law No. 32 of 2009, the National Criminal Code, Supreme Court Regulation No. 13 of 2016, and the 2025 Criminal Procedure Code. The enactment of the 2025 Criminal Procedure Code marks a significant development by establishing a more comprehensive procedural framework for corporate criminal liability, thereby strengthening legal certainty and improving enforceability.

[53] Michael G. Faure and Krisztina Ficsor, "Environmental Restoration and Corporate Sanctions," *Journal of Environmental Management* 345 (2024): 118–122.
[54] Indonesia, *Law Number 20 of 2025 on the Criminal Procedure Code*, arts. 331 and 333.

Based on the normative analysis and systematic literature review, this study proposes an ideal model of corporate environmental punishment grounded in the 2025 Criminal Procedure Code. The model integrates principal and additional penalties, prioritizes environmental restoration within the ultimum remedium framework, affirms the parallel liability of corporations and their management, and adopts a restorative–environmental justice approach. Through this integrated framework, corporate punishment can function more effectively as an instrument of environmental protection, deterrence, and ecological justice.

Recommendation

This study recommends that policymakers and law enforcement authorities strengthen the implementation of corporate environmental criminal liability by consistently applying the provisions of the 2025 Criminal Procedure Code, particularly regarding cumulative sanctions, environmental restoration orders, and profit confiscation. Clear technical guidelines are needed to regulate standards of corporate attribution, criteria for imposing additional penalties, mechanisms for calculating environmental restoration costs, and coordination procedures in complex corporate cases. Improved coordination among public prosecutors, environmental investigators, judges, and environmental regulatory agencies is essential to ensure consistent enforcement. Harmonization between Law No. 32 of 2009, the 2023 National Criminal Code, Supreme Court Regulation No. 13 of 2016, and the 2025 Criminal Procedure Code must also be strengthened to prevent regulatory fragmentation.

Policymakers should address the policy tension between the risk-based regulatory approach under the Job Creation Law and environmental criminal enforcement to ensure that administrative governance does not weaken criminal accountability. Given the limited normative authority of Supreme Court Regulation No. 13 of 2016 as an internal judicial regulation, its integration within the statutory framework of the 2025 Criminal Procedure Code should be clarified to enhance legal certainty. Judicial practice should further operationalize a restorative–environmental justice perspective by prioritizing long-term ecological recovery, community participation, and mandatory environmental restoration in sentencing decisions, particularly in cases involving systemic environmental harm. Future empirical research is needed to evaluate the application of the 2025 Criminal Procedure Code in environmental crime cases and to refine models of corporate environmental criminal enforcement.

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