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Corporate Impunity in Agrarian Conflicts: A Critique of the Weaknesses in Corporate Accountability Regulations

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Abstract

Natural resource management in Indonesia faces a serious problem in the form of corporate impunity in agrarian conflicts. This situation is characterized by the state's inability to hold concession-holding corporations criminally liable for causing environmental damage. This paper examines two main issues: the forms of corporate impunity in agrarian conflicts in Indonesia and the weaknesses in regulations governing corporate criminal liability. The research employs a normative legal methodology using legislative, case law, and conceptual approaches. The findings reveal that corporate impunity manifests in several areas, namely licensing, criminalization, agrarian issues, and law enforcement. This impunity is perpetuated by regulatory weaknesses, including an inflexible legal construction of the corporate legal entity, the dominance of the identification doctrine, the ineffective application of strict liability, disproportionate sanctions, institutional fragmentation, and the weakening of environmental control mechanisms. Therefore, an overhaul of regulations governing corporate criminal liability in agrarian conflicts in Indonesia is necessary.

Keywords : *Agrarian Conflicts; Corporate Impunity; Corporate Criminal Liability; Environmental Regulation; Natural Resources.*

I. Introduction

Natural resource management in Indonesia over the past few decades has revealed a structural imbalance between corporate interests and the protection of community rights. This imbalance is not merely a matter of

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economic distribution, but rather a reflection of the influence of corporate capital on natural resource governance, which has historically been more oriented toward exploitation than sustainability. The impact is not limited to land ownership inequality alone, as data from Auriga Nusantara, published in the 'Status of Deforestation in Indonesia 2025' (STADI 2025) report, reveals that deforestation in Indonesia will see a drastic surge in 2025, covering a total area of 433,751 hectares a 166 per cent increase compared to 2024, when the figure stood at 261,575 hectares.[1] Furthermore, data from the Indonesian Forum for the Environment (WALHI) shows that around 93 per cent of land allocations are granted to corporations, whilst only 7 per cent are set aside for the people,[2] as shown in the following table:

Table 1. Allocation of Land Tenure between Corporations and Community-Managed Areas in Indonesia

Island	Land Acquisition			
	Corporations (hectares)	**Percentage of corporations**	**Smallholders (hectares)**	**Percentage of smallholders**
Jawa-Bali Nusa	682.380	66,5%	343.693	33,5%
Sumatera	11.938.344	92,9%	910.968	7,1%
Kalimantan	24.735.733	95,8%	1.070.350	4,2%
Sulawesi	2.211.698	86,6%	342.233	13,4%
Maluku	2.274.567	90,9%	227.888	9,1%
Papua	8.589.282	98,1%	169.665	1,9%
TOTAL	**50.432.004**	**93%**	**3.064.797**	**7%**

Source: Wahana Lingkungan Hidup Indonesia dan Auriga Nusantara, 2022

From the data above, it is evident that corporate dominance in the management of natural resources through production expansion tends to be realised through the granting of large-scale concessions, particularly in relation to National Strategic Projects (PSN).[3] Concession packages granted to corporations have sparked agrarian conflicts due to a disregard for environmental sustainability. This situation is reflected in the 2025 Report on the Monitoring of Land and Natural Resource Conflicts, published by the

[1] The majority of forest loss occurred within Forest Areas (KH) under the Ministry of Forestry, whilst the remaining 125,890 ha occurred in Other Land Use Areas (APL) managed by local authorities and concession holders. See Auriga Nusantara, "Deforestation status in Indonesia 2025," 2025, https://auriga.or.id/press_release/ detail/65/status-of-deforestation-in-indonesia-2025.

[2] Wahana Lingkungan Hidup Indonesia dan Auriga Nusantara, *Indonesia Tanah Air Siapa: Kuasa Korporasi di Bumi Pertiwi* (WALHI dan Auriga Nusantara, 2022).

[3] Yoel Edward Hasugian, "Living Law Eugen Ehrlich dalam Konflik Masyarakat Adat Toba dan PT Toba Pulip Lestari: Analisis Socio-Legal," *Law Jurnal* 6, no. 2 (2026): 256–73, https://doi.org/10.46576/lj.v6i2.8184.

Agrarian Reform Consortium (KPA) in collaboration with the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC), which recorded 341 cases of agrarian conflict covering an area of 914,574.963 hectares spread across 428 villages. This figure represents a significant increase compared with previous years: 295 cases in 2024, 241 cases in 2023, 212 cases in 2022 and 207 cases in 2021.[4] This upward trend indicates that agrarian conflicts are a structural issue in the management of natural resources. These conflicts arise not only from conflicting land claims, but are also influenced by the process of granting concessions, the lack of protection for community rights, and the imbalance of power between corporations and communities in accessing the legal system. The effectiveness of the law in agrarian conflicts cannot be assessed solely on the basis of the existence of regulations, but must also take into account the law's ability to ensure that all parties are held equally accountable.

Behind the escalation of agrarian conflicts lies a worrying phenomenon: corporate impunity. Corporate impunity refers to a situation in which concession holders commit legal violations and cause environmental damage without facing any legal consequences. This phenomenon can be observed in several conflicts involving corporate concession holders. One such example is the conflict involving PT Asiatic Persada (PT AP) in Jambi, which has been embroiled in a protracted dispute with local communities due to the expansion of its oil palm plantations without providing adequate compensation.[5] Furthermore, PT Murni Nusantara Mandiri (PT MNM) in Merauke, which continues to operate despite reports that it has seized 2,300 hectares of land, and PT Asmin Bara Bronang (PT ABB), which has criminalised residents for protesting against its mining operations. These three cases reveal a relatively consistent pattern in how these corporations operate, yet legal accountability is never applied proportionately.

This climate of impunity is inextricably linked to the fundamental weaknesses in the regulation of corporate criminal liability in Indonesia. Historically, Indonesian criminal law has long been based on the adage 'societas delinquere non potest', which treats corporations as entities that cannot be held criminally liable because they are deemed to lack mens rea. Although Law No. 1 of 2023 on the Criminal Code (National Criminal Code) has shifted this perspective by recognising corporations as subjects of criminal offences under Articles 45–50 of the National Criminal Code, this shift has not yet been followed by updates to sector-specific regulations. Furthermore, Law No. 32 of 2009 on Environmental Protection and Management (the Environmental Protection and Management Act) still

[4] Konsorsium Pembaruan Agraria, *Tancap Gas di Jalur yang Salah, Paradox Kebijakan Agraria Prabowo Gibran 2025: Menolak Koreksi, Mereproduksi Krisis* (Konsorsium Pembaruan Agraria, 2026).
[5] Fitria Fitria, "Penyelesaian Sengketa Perkebunan Antara Perusahaan Perkebunan Sawit PT. Asiatic Persada dengan Suku Anak Dalam Batin IX di Desa Bungku Kecamatan Bajubang Kabupaten Batanghari," *Jurnal Sains Sosio Humaniora* 3, no. 1 (2019): 15–30, https://doi.org/10.22437/jssh.v3i1.7083.

classifies environmental offences as administrative offences or ordinary criminal offences, and is therefore not yet capable of addressing corporate crimes of an organisational and systemic nature.[6] This weakness is all the more evident in the wording of Article 116 of the Environmental Protection and Management Act, which requires that an individual be proven to have ordered the offence. Such a provision creates a loophole allowing corporations to evade criminal liability by hiding behind the complexities of their internal bureaucracy. Furthermore, Law No. 6 of 2023 on Job Creation (the Job Creation Law) actually weakens environmental control functions by merging environmental permits into risk-based business licensing, thereby reducing the scope of an instrument that previously stood alone as a means of regulating corporate activities.

The shortcomings of this regulation are evident in current environmental law enforcement practices. In response to the 2025 Sumatra floods, the Ministry of the Environment/Environmental Control Agency (KLH/BPLH) merely brought a civil claim worth Rp4.843 trillion against six companies whose activities caused environmental damage covering an area of 2,516.39 hectares. Opting for civil proceedings directly exempts the corporation from criminal liability, which should otherwise apply given the scale and nature of the damage caused. Criminal liability is considered ideal when it provides legal protection in the form of compensation or environmental remediation.[7] This situation is further exacerbated by the fragmentation of environmental law enforcement institutions, where the respective powers of civil servants at the Ministry of the Environment, National Police investigators and the Public Prosecutor's Office are not underpinned by any coordination mechanism, which often results in environmental damage cases coming to a standstill. At the same time, the structure of sanctions under the Environmental Protection and Management Act does not reflect the principle of proportionality, as the maximum fines imposed are far below both the profits made by corporations and the costs of environmental restoration that they must bear.

Various studies have examined corporate liability in relation to environmental crimes and agrarian conflicts from different perspectives. With reference to the research by Putri et al. (2025), which examines the use of piercing the corporate veil as a means of overcoming the limitations of corporate liability in deforestation offences, particularly in holding to account those who control the corporation and lie behind the corporate

[6] Metia Metia dkk., "Tinjauan Yuridis terhadap Ecocide dalam Perspektif Hukum Pidana Internasional dan Prospeknya dalam Sistem Hukum Pidana Indonesia," *Jurnal Locus Penelitian dan Pengabdian* 5, no. 4 (2026): 2082–93, https://doi.org/10.58344/locus.v5i4.5631.

[7] Yeni Widowaty, "Pertanggungjawaban Pidana Korporasi Terhadap Korban Dalam Kasus Tindak Pidana Lingkungan Hidup," *Jurnal Yudisial* 5, no. 2 (2012): 154–69.

structure.[8] Furthermore, Annafira (2026) analyses the reformulation of corporate criminal liability following the entry into force of the National Criminal Code, focusing on conceptual changes regarding the status of corporations as subjects of criminal law, as well as issues of harmonisation between substantive and procedural criminal law.[9] Meanwhile, Nabila et al. (2025) examined the agrarian conflict between the Anak Dalam tribe and PT AP, highlighting the formalistic nature of national law and the marginalisation of indigenous peoples' rights in the resolution of land disputes.[10] These three studies highlight issues in the relationship between corporate activities, law enforcement and the protection of public and environmental interests.

Building on this reality, this study identifies two key research questions. Firstly, what forms do corporate impunity take in agrarian conflicts in Indonesia? Secondly, what are the weaknesses in the regulations governing corporate criminal liability in agrarian conflicts? Through these research questions, this study aims to achieve two objectives. Firstly, to analyse the forms of corporate impunity in agrarian conflicts in Indonesia. Secondly, to analyse the shortcomings of regulations governing corporate criminal liability in agrarian conflicts.

It is hoped that this research will yield benefits, both theoretical and practical. From a theoretical perspective, it is hoped that this research will contribute to the development of legal scholarship, particularly in the study of criminal law and corporate criminal liability, by fostering a critical perspective on the phenomenon of corporate impunity in agrarian conflicts. In practical terms, it is hoped that the findings of this study will provide input to legislators, law enforcement agencies and the government in evaluating and strengthening regulations on corporate criminal liability. These strengthening measures are necessary to close legal loopholes that could lead to impunity, to ensure that accountability does not stop at the corporation as a legal entity alone, and to promote more effective law enforcement against corporations and parties involved in criminal offences arising from agrarian conflicts.

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[8] Hersiti Marysa Putri dkk., "Piercing the Corporate Veil sebagai Instrumen Pertanggungjawaban Pidana Korporasi dalam Kejahatan Deforestasi: Analisis Normatif-Kritis Terhadap Penegakan Hukum Lingkungan di Indonesia," *Journal Evidence Of Law* 4, no. 3 (2025): 2221–31.

[9] Zuhrah Annafira dan Universitas Adhyaksa, *Pertanggungjawaban Pidana Korporasi Setelah Berlakunya KUHP Nasional (Undang-Undang Nomor 1 Tahun 2023) dan Kuhap Baru Zuhrah Annafira dari berbagai bidang dan sektor yang dilakukan secara berkesinambungan (Arief , 2017).*, 6, no. 6 (2026): 2365–74.

[10] Nayla Marwa Nur Faizah Aprilia Nabila, Elsa Ratna Duhita, Alya Dwi Ananta dan Ubaidillah Kamal6 Eiffeliqa Torriq Fatima Putrinindra, "Pengaruh Hukum Nasional Terhadap Eksistensi Hukum Adat Dalam Kasus Sengketa Tanah Suku Anak Dalam Di Jambi Dengan PT Asiatic Persada," *Jurnal Ilmiah Wahana Pendidikan* 11, no. 12.D (2025): 24–33, https://doi.org/https://jurnal.peneliti.net/index.php/JIWP/article/view/12228.

II. Research Method

This study employed the following method *Doctrinal Legal Research*.[11] Normative legal research is research that examines the law in terms of norms, rules, tenets, principles, doctrines, legal theories and other scholarly sources, thereby providing answers to the legal issues under consideration. This method was chosen because it helps to determine the relationships and legal status involved in a legal matter, assess whether the matter is in accordance with the law, and guide the way towards an appropriate solution. In order to obtain information relating to the issues under investigation and to resolve the problems that form the focus of the research, the approach adopted is as follows *statute approach*, *case approach*, *conceptual approach* dan *comparative approach* to analyse corporate criminal liability in agrarian conflicts in Indonesia. A legislative approach is used to analyse the weaknesses in the regulations that allow for corporate impunity in the management of natural resources. The data were obtained through a literature review covering primary legal sources in the form of Law No. 32 of 2009 on the Protection and Management of the Environment, Law No. 1 of 2023 on the Criminal Code, Law No. 6 of 2023 on Job Creation, and Law No. 2 of 2025 on Mineral and Coal Mining. A case-study approach was used to examine patterns of corporate impunity in the cases of PT Asiatic Persada, PT Murni Nusantara Mandiri and PT Asmin Bara Bronang as the basis for a normative empirical analysis. A conceptual approach is used to examine the doctrine of corporate criminal liability, including organisational fault, strict liability and the doctrine of societas delinquere non potest, in order to construct a normative argument regarding the shortcomings of existing regulations. Furthermore, a comparative approach is used to compare the framework for corporate criminal liability with legal regimes in other countries, as a basis for identifying alternative frameworks that could be adapted for use in Indonesian law. The aim of this comparison is to formulate a more effective, adaptive and proportionate framework for corporate criminal liability, in order to prevent corporate impunity in agrarian conflicts.

III. Result & Discussion

A. Forms of Corporate Impunity in Agrarian Conflicts in Indonesia

When the state actually facilitates corporations in seizing people's land and living spaces, it has strayed from its protective function. As John Locke argued, the primary purpose of establishing government is to protect the

[11] Mataram University Press, *Metode Penelitian Hukum*, Ctk.Pertam (Mataram, 2020).

property rights of citizens.[12] It is this deviation from their intended function that lies at the root of agrarian conflicts in Indonesia. Rather than conducting business activities in an environmentally responsible manner, corporations instead exploit loopholes in the licensing system and weak oversight. In pursuit of their own interests, people often tend to commit 'environmental sins'.[13] This situation gave rise to what came to be known as corporate impunity, whereby concession-holding corporations committed legal violations and caused environmental damage without facing legal consequences for their actions. The State has, in fact, provided a legal framework to protect the rights of the community in the management of natural resources. Article 2(3) of Law No. 5 of 1960 on the Basic Provisions of Agrarian Law (UUPA) stipulates that the state's authority over land must be exercised to achieve the prosperity of the people in terms of national identity, welfare and freedom within Indonesian society and the rule of law.

Various civil society coalitions are working to expose these practices of corporate impunity, one such effort being a documentary film entitled "Pesta Babi: Colonialism in Our Time". The information presented shows that indigenous communities are facing corporate expansion through the clearing of land for palm oil biodiesel and sugarcane bioethanol projects.[14] At the same time, the Alliance of Indigenous Peoples of the Archipelago (AMAN) recorded, in 2025, at least 135 cases of the seizure of customary lands covering 3.8 million hectares across 109 communities, resulting in 162 indigenous people falling victim to violence and criminalisation.[15] At the same time, the Alliance of Indigenous Peoples of the Archipelago (AMAN) recorded, in 2025, at least 135 cases of the seizure of customary lands covering 3.8 million hectares across 109 communities, resulting in 162 indigenous people falling victim to violence and criminalisation.[16] This report highlights the relationship between political power and corporate expansion as a structural factor that enables impunity to persist. Political interference in environmental policy is a key factor hindering sustainable development, as short-term economic interests often override environmental considerations and the rights of communities that should be protected by the state. This situation demonstrates that corporate impunity is not merely a technical legal issue, but also a structural problem rooted in the power

[12] Nancy Bertoldi, "Property and international relations: lessons from Locke on anarchy and sovereignty," *International Theory* 16, no. 1 (2024): 1–25, https://doi.org/10.1017/S175297192300012X.
[13] Irwan Parlaungan Panjaitan, "Implementasi Kebijakan Dan Intervensi Politik Terkait Lingkungan Hidup Dalam Pembangunan Berkelanjutan," *Parlementer : Jurnal Studi Hukum dan Administrasi Publik* 1, no. 2 (2024): 34–54, https://doi.org/10.62383/parlementer.v1i2.47.
[14] Redaksi JubiTV, *PESTA BABI: Kolonialisme di Zaman Kita - (Official Full Movie)*, 2026.
[15] Aliansi Masyarakat Adat Nusantara (AMAN), *Catatan Akhir Tahun 2025 Aliansi Masyarakat Adat Nusantara "Di Tengah Krisis Berlapis: Masyarakat Adat Bertahan, Negara Mengabaikan"* (Jakarta Selatan, 2025).
[16] Terkait Deforestasi, *A Family Affair : Dugaan Pelanggaran Manusia yang Terus Berlanjut dalam Industri Perkebunan Kelapa Sawit di Indonesia*, 2025.

dynamics between the state and corporations in the management of natural resources.

Corporate impunity in agrarian conflicts can be observed through three cases that share structural similarities. Firstly, the case of PT AP in Batanghari Regency, Jambi. The issue stems from the granting in 1985 of a Right to Cultivate (HGU) licence covering 40,000 hectares to PT Bangun Desa Utama (PT BDU), valid until 31 December 2021, which has been held by PT AP since 1992. Upon this transfer, the company had a legal obligation to relinquish areas of settlements, farmland and scrubland belonging to the local community. However, this obligation was disregarded by failing to recognise the existence of the Anak Dalam (SAD) tribe and proceeding with the evictions, which consequently went ahead. The land grabs carried out by PT AP were not taken seriously by the local government. Local security forces have, in fact, sided with PT AP and criminalised residents attempting to defend their land through a series of violent acts, including arrests, beatings, torture, abductions and even shootings.[17] The dispute resolution process in the PT AP case demonstrates the nature of corporate impunity. This impunity is evident in the absence of criminal liability on the part of the corporation, despite allegations of violations of the community's land rights and breaches of the legal obligations of the HGU holder. Conversely, law enforcement responses have tended to target members of the public who defend their land rights, with law enforcement agencies resorting to repressive measures. This situation highlights an imbalance in law enforcement whilst also reflecting weaknesses in the regulatory framework governing corporate criminal liability. PT AP's actions contravene Section 17 of the Plantation Act, which prohibits the use of land that gives rise to conflicts with local communities; however, this prohibition is not backed by strict penalties, meaning that the corporation has no incentive to comply with it.

Secondly, the case of PT MNM in Merauke, South Papua. PT MNM was granted a concession covering approximately 52,000 hectares, within which lies an area of 2,300 hectares belonging to the Kwipalo clan of the Yei tribe. Vincen Kwipalo, as leader of the Kwipalo clan, has sought to report the alleged land grabbing to the central and local governments, the police and the National Human Rights Commission, and has served a formal notice on PT MNM.[18] These efforts did not receive an adequate response from any of the institutions that should be responsible for the protection of citizens. On the contrary, in October 2025, PT MNM actually reported Vincen to the

[17] Fitria, *loc.cit,*

[18] Anugerah Mulia Utami dan Nurul Uswatun Hasanah, "Ketahanan Sosial dan Konflik Laten dalam Pelaksanaan PSN di Merauke: Perspektif Politik Identitas dan Hak Atas Tanah," *Jurnal Sosial Humaniora dan Pendidikan* 5, no. 2 (2026): 619–29, https://doi.org/10.55606/inovasi.v5i2.7126.

police whilst he was blocking the company's operations.[19] This case illustrates the criminalisation of those defending their land rights. Whilst the legal process focuses primarily on the actions of communities resisting the alleged seizure of customary lands by corporations, no mechanism for holding the corporations criminally accountable is in place. As a result, the corporation is able to continue its business operations without first facing an investigation into the alleged violations it has committed. The conflict in Merauke reflects the tension between the interests of the PSN and the protection of the rights of indigenous communities, who have no say in the concession-granting process. This situation demonstrates that the granting of large-scale concessions without meaningful consultation mechanisms not only triggers protracted agrarian conflicts, but also highlights the ineffectiveness of mechanisms for holding corporations criminally liable for alleged violations.

Thirdly, the case of PT ABB, which operates in Kapuas and Murung Raya Regencies, Central Kalimantan, with a coal mining area covering 24,980 hectares divided into three blocks: Mamput, Bekanon and Merangu.[20] Mining activities in the area have sparked opposition from the Dayak indigenous community, who are demanding recognition of and protection for their customary lands. In protest, 40 members of the indigenous community have been blocking the company's access road since 2 March 2026, bringing coal transport operations to a standstill. The conflict then escalated after 60 police officers were deployed to bring the clashes on PT ABB's mining haulage route under control. During the clashes, three police officers sustained injuries from bladed weapons, whilst two members of the Dayak indigenous community, Raja Gunung and Sing'an, sustained gunshot wounds.[21] Pasca insiden tersebut, enam warga ditetapkan sebagai tersangka oleh pihak kepolisian.[22] These facts indicate a disparity in the enforcement of criminal law in relation to agrarian conflicts. To provide a clearer picture of the patterns of legal handling in each case, the findings regarding the legal handling of PT Asiatic Persada, PT Murni Nusantara Mandiri and PT Asmin Bara Bronang are presented in the following table:

[19] Benua Indonesia, "Pejuang Lingkungan Vincent Kwipalo Laporkan PT MNM ke Bareskrim Polri," diakses 25 Juli 2026, https://benua.id/pejuang-lingkungan-vincent-kwipalo-laporkan-pt-mnm-ke%0Abareskrim-polri/.

[20] Hasan, "PT Asmin Bara Bronang Optimalkan Pengelolaan Batu Bara," https://benua.id/pejuang-lingkungan-vincent-kwipalo-laporkan-pt-mnm-ke%0Abareskrim-polri/.

[21] Ampong Dehen, "PT Asmin Bara Bronang (ABB), Picu Konflik Jalan Tambang Kapuas Meledak," https://borneoreview.co/pt-asmin-bara-bronang-abb-picu-konflik-jalan-tambang kapuas-meledak/.

[22] Bangtur, "Babak Baru Bentrok PT ABB: Enam Warga Dayak Dapat Penangguhan Penahanan, Menuju Jalan Damai?," https://doi.org/https://kalteng.co/berita/babak-baru-bentrok-pt-abb-enam-warga dayak-dapat-penangguhan-penahanan-menuju-jalan-damai.

Table 2. Patterns of Legal Response to Agrarian Conflicts

Case	Root Cause of the Conflict	Handling
PT Asiatic Persada (PT AP)	A land tenure dispute between a plantation company and the Anak Dalam (SAD) community over an area claimed as community land.	Alleged violations of the community's land rights and the obligations of HGU holders were not followed by criminal liability being imposed on the corporation in the cases examined. Resolutions were predominantly reached through civil or agrarian dispute mechanisms.
PT Murni Nusantara Mandiri (PT MNM)	A conflict between the company's operations and an area claimed to be part of the Kwipalo clan's territory, belonging to the Yei tribe, covering approximately 2,300 hectares within a concession of around 52,000 hectares.	The community has reported the alleged land grabbing to the government, the police and the National Commission on Human Rights. The complaint against the company is currently at the handling/investigation stage.
PT Asmin Bara Bronang (PT ABB)	A conflict over coal mining with the Dayak indigenous community concerning customary land and access to the company's operational roads.	Allegations of corporate criminal liability for the activities underlying the conflict do not appear to have resulted in commensurate criminal proceedings in the material examined.

Source: Compiled by the author, 2026

Based on the table, the three cases involve different types of conflict but show a similar pattern in their legal handling, namely an imbalance between the attention paid to alleged corporate violations and the legal action taken against members of the public. Consequently, corporations are able to carry out their operational activities without first facing criminal scrutiny commensurate with the social and environmental impacts they cause. These findings indicate the existence of a space for corporate impunity, which is influenced by the lack of effective mechanisms for holding corporations criminally accountable in agrarian conflicts.

An act is categorised as a form of corporate impunity if it meets three criteria, namely: there is an alleged breach of the law committed by a corporation in the control or utilisation of natural resources; that breach is not followed by effective criminal liability on the part of the corporation or its controlling parties; and the corporation is still able to maintain or continue its business activities despite having caused harm to the community or the environment. Based on these parameters, the following forms of corporate impunity exist in Indonesia. Firstly, licensing impunity, namely the continued granting of concessions for the management of natural resources despite violations of the community's collective rights to their land and territory, which are constitutionally guaranteed under Article 33(3) of the 1945 Constitution. Secondly, impunity through criminalisation, namely the use of legal instruments as a means of silencing those who protest against corporate expansion. This situation results in violations of the right to security due to intimidation, terror and pressure against citizens, as guaranteed by Article 30 of Law No. 39 of 1999 on Human Rights, as clearly evident in the cases of PT MNM and PT ABBhirdly, impunity in land matters, namely the practice of land grabbing that continues without adequate legal redress, despite contravening Article 17 of Law No. 39 of 2014 on Plantations. Fourthly, impunity in law enforcement: although corporate liability is regulated under Article 76 of the Environmental Protection and Management Act, violations result in administrative sanctions without being followed by firm law enforcement. Furthermore, the changes to environmental approval procedures introduced by the Job Creation Act have weakened environmental control functions, as environmental permits which previously stood as a separate instrument have been incorporated into the risk-based business licensing system.

The four forms of impunity outlined above occur systematically as an interconnected and mutually reinforcing whole. These practices contravene Constitutional Court (MK) Ruling No. 35/PUU-X/2012, which affirms the Constitution's commitment to recognising the public's rights to their territory and living space. However, the state has yet to implement this ruling adequately, particularly in the face of intense pressure from corporate expansion. As a result, corporations often find themselves in a position where they appear to be 'above the law', even though their activities clearly result in land grabs, environmental damage and the criminalisation of citizens who protest. Corporate impunity in agrarian conflicts is essentially the result of a combination of three mutually reinforcing factors: weak state oversight; the strong influence of corporations over the licensing process and law enforcement agencies; and the inability of existing regulations to hold corporations accountable for organisational crimes. As long as these three factors are not addressed simultaneously, corporate impunity will continue to find ways to persist. It is this situation that then serves as the starting point

for the subsequent discussion on the fundamental weaknesses of regulations governing corporate criminal liability in agrarian conflicts.

B. Weaknesses in the Regulation of Corporate Criminal Liability in Agrarian Conflicts

Corporate impunity in agrarian conflicts does not stem solely from a lack of political will on the part of law enforcement agencies, but is rooted in the weaknesses inherent in the regulatory framework governing corporate criminal liability itself. Laws that fail to address the complex structure of corporate crime ultimately serve as an indirect shield for the persistent practice of impunity. There are at least six fundamental weaknesses in the current regulations, ranging from the inflexible legal framework governing corporations, to the limited forms of criminal liability that can be imposed, to a system of sanctions that is disproportionate to the scale of the losses caused. These six weaknesses are interrelated and, taken together, explain why corporations often escape criminal liability despite the tangible and far-reaching impact of their actions.

The first shortcoming lies in the construction of the legal concept of a corporation, which is not adapted to contemporary corporate structures. Various provisions of the Environmental Protection and Management Act refer to 'business entities' or 'those responsible for businesses and/or activities' without providing a comprehensive definition of a corporation.[23] n fact, in cases of large-scale environmental damage, the real culprits are often not the entities that formally hold the licences, but rather complex corporate networks comprising parent companies, subsidiaries, affiliates and beneficial owners. Current regulations allow large corporations to hide behind the principle of the 'separate legal entity', meaning that those who reap the greatest benefits from the exploitation of natural resources are, in fact, free from legal consequences. Without the legal means to trace and hold the controlling chain to account, liability will only rest with entities that may not necessarily have sufficient assets to pay for environmental remediation.

The second weakness concerns the Environmental Protection and Management Law's reliance on the doctrine of identification in defining corporate criminal liability. Article 116 of the Environmental Protection and Management Law requires that an environmental crime be committed "by a person acting as a director or an order-giver," thereby making corporate liability entirely dependent on the ability of investigators and prosecutors to prove the existence of a specific individual acting for and on behalf of the corporation. This model fails to grasp the organizational and systemic nature

[23] Irwan Parlaungan Panjaitan, "Implementasi Kebijakan Dan Intervensi Politik Terkait Lingkungan Hidup Dalam Pembangunan Berkelanjutan." Parlementer : Jurnal Studi Hukum dan Administrasi Publik 1, no. 2 (2024): 34-54, https://doi.org/10.62383/parlementer.v1i2.47.

of corporate environmental crimes.[24] When law enforcement officials must identify "who gave the order" within a complex corporate bureaucratic chain, the corporation as an entity can easily evade responsibility by demonstrating that no single person explicitly ordered the violation. In the context of large-scale environmental damage, such damage is not the result of a single decision by a director, but rather the accumulation of land-expansion policies, a corporate culture that disregards warnings from environmental impact assessments, unwritten instructions to meet production targets, and systematic tolerance of violations on the ground. The absence of the doctrine of organizational fault in the Environmental Protection and Management Law makes corporations immune from criminal liability even though, in fact, their policies and operating systems have caused large-scale environmental damage.[25]

These limitations indicate that the framework for corporate criminal liability in Indonesia still relies on proving the guilt of individuals acting as representatives of the corporation. This approach differs from regulatory developments in a number of countries that have developed models of corporate liability better suited to the nature of modern corporate crimes. This comparison is shown in the following table:

Table 3. Comparison of Corporate Liability

Aspects	Belgia	Prancis	Chili
Legal Qualifications	Serious Crimes (*Crime*)	Minor Offenses (*Délit*)	Economic Crimes (*Crime*)
Legal Basis	Criminal Code	Special Laws	Code of Criminal Law
Nature of Accountability	Two Separate Paths (Individuals Are Imprisoned,	Individuals Through an Organization or	Organizational Fault and Not Entirely Dependent on

[24] In the context of an ecological disaster, this damage was not the result of a single decision by a director, but rather the accumulation of policies promoting land expansion, a corporate culture that disregarded Environmental Impact Assessment (EIA) warnings, unwritten instructions to meet production targets, and the systematic turning a blind eye to violations on the ground. See S. Janzen dkk., "Ecosystem and disaster risk: A review of ecological indicators in the context of disaster risk assessments and discussion of their usefulness to inform ecosystem health," *Nature-Based Solutions* 8 (Desember 2025): 100260, https://doi.org/10.1016/j.nbsj.2025.100260.

[25] Ahmad Fathur Rosiki dkk., "REFORMULASI PARADIGMA DAN IMPLEMENTASI PERTANGGUNGJAWABAN PIDANA KORPORASI: SEBUAH STUDI KRITIS TERHADAP UNDANG-UNDANG NOMOR 1 TAHUN 2023 DAN REALITAS PENEGAKAN HUKUM DI INDONESIA," *Indonesia of Journal Business Law* 5, no. 1 (2026): 176–84, https://doi.org/10.47709/ijbl.v5i1.7847.

	Corporations Are Fined)	Corporate Representative	Individual Identification
Sanctions	- 20 years in prison - A fine of 1.6 million euros	- 10 years in prison - A fine of 4.5 million euros - Ban on participating in public tenders - Confiscation - Prevention program	- 10 years in prison - A fine of 1.4 million USD - Prohibition on Operating - Dissolution - Forfeiture - Profits - Program Obligations - Mandatory Compliance
Corporations as Subjects	Imposition of Fines on Corporations	- Imprisonment for Individuals Acting for and on Behalf of a Corporation - Imposition of Fines on Corporations - Bid Ban - Confiscation - Prevention Program	- Prison sentences for directors and controlling shareholders - A fine of 1.4 million USD - Prohibition on operating - Dissolution - Forfeiture of profits

Source: Compiled by the author, 2026

Based on the table above, it is evident that Belgium, France, and Chile no longer view corporate criminal liability as depending solely on proving that a specific individual was the principal perpetrator. Belgium applies a separation of liability between individuals and corporations so that both can be held accountable according to their respective roles. France recognizes corporate liability through the actions of corporate bodies or representatives, while Chile has developed an "organizational fault" approach that emphasizes failures in a company's compliance and internal oversight systems. This approach is better suited to addressing the collective and organized nature of corporate crimes.

Corporate liability for criminal offenses has, in fact, been given a more systematic foundation through Law No. 1 of 2023 on the Criminal Code (National Criminal Code), specifically Chapter II, Part Four, Articles 45–50. The National Criminal Code explicitly establishes corporations as subjects of criminal liability, including by outlining the criteria for criminal offenses committed by, for, or on behalf of a corporation, and by recognizing the possibility of imposing criminal penalties on corporate officers, the corporation itself, or both. These provisions represent a paradigm shift from the old adage societas delinquere non potest[26] toward the recognition that business entities are capable of committing crimes and must bear the consequences of such crimes. However, the National Criminal Code adopts a general formulation and has not yet addressed the specifics required to hold corporations accountable in the context of large-scale environmental damage. Rosiki et al. emphasize that as long as the Environmental Protection and Management Law (UU PPLH), as a sectoral regulation, has not been comprehensively reformed, the general provisions in the National Criminal Code are insufficient to close the loophole regarding corporate criminal liability in agrarian conflicts.

The third weakness relates to the half-hearted and ambiguous application of the principle of strict liability. Article 88 of the Environmental Protection and Management Law (UU PPLH) states that any person whose actions involve the use of hazardous and toxic substances (B3), the generation and/or management of B3 waste, and the creation of a serious threat to the environment bears strict liability for any resulting damages. Although this provision appears progressive, in practice, establishing a causal link between corporate activities and environmental damage remains a major challenge. For example, in the case of the floods in Sumatra, the Ministry of Environment and Forestry (KLH) had to conduct an in-depth and time-consuming technical investigation to prove that the activities of each of

[26] "Societas delinquere non potest" means that a corporation cannot commit a crime because a legal entity is considered to lack mens rea, or criminal intent, and a physical body. See Muhammad Yasin, "Ketika Doktrin Societas Delinquere Non Potest Tak Dapat Dipertahankan Lagi," hukumonline.com, diakses 4 Agustus 2026, https://www.hukumonline.com/berita/a/ketika-doktrin-isocietas-delinquere-non-potest--i-tak-dapat%0Adipertahankan-lagi-lt5c6e7b2e4aaa6/.

the six companies specifically contributed to the disaster. In the context of large-scale environmental damage that is cumulative in nature and involves many actors, It is scientifically nearly impossible to prove one-to-one causation with absolute certainty. Corporations can always call on expert witnesses to cast doubt on whether a disaster was caused by natural factors or the actions of another party.

In the latest development regarding the Sumatra flood disaster, the government through the Ministry of Environment/Environmental Management Agency (KLH/BPLH) has filed a civil lawsuit seeking damages against six companies: PT Agincourt Resources, PT Toba Pulp Lestari, PT Multi Sibolga Timber, PTPN III Batang Toru Estate, PT North Sumatra Hydro Energy, and PT Tri Bahtera Srikandi. Based on the results of field monitoring and in-depth technical assessments, the activities of these six companies have caused environmental damage covering an area of 2,516.39 ha. The KLH has filed a lawsuit seeking Rp4.843 trillion in damages, which includes Rp4.657 trillion for environmental losses and Rp178.481 billion for ecosystem restoration costs.[27] However, it should be emphasized that civil lawsuits seeking damages filed by the Ministry of Environment and Forestry (KLH) and the Regional Environmental Protection Agency (BPLH) still fall under the category of civil sanctions, which are seen as shielding corporations from criminal liability.

The fourth weakness lies in the fact that the penalty structure under the Environmental Protection and Management Law does not reflect the principle of proportionality and does not serve as a deterrent. The Environmental Protection and Management Law stipulates a maximum criminal fine for corporations, but the amount is not commensurate with the profits derived from environmentally destructive practices or the restoration costs that must be borne. For example, in a civil lawsuit against six companies responsible for environmental damage in North Sumatra, the estimated value of environmental damages and restoration costs reached Rp 4.843 trillion. If this case is prosecuted under criminal law with the maximum fine as stipulated in the Environmental Protection and Management Law, the fines imposed by the courts are typically far below that amount. Furthermore, additional sanctions such as forfeiture of profits, suspension of permits, or business closures which actually have the strongest potential deterrent effect, are very rarely imposed by the courts, either due to

[27] Kementerian Lingkungan Hidup / Badan Pengendalian Lingkungan Hidup, "Negara Gugat Enam Perusahaan Perusak Lingkungan Di Sumatera Utara Rp4,84 Triliun, Menteri LH: Tidak Ada Toleransi Bagi Perusak Lingkungan," diakses 2 Agustus 2026, https://kemenlh.go.id/news/detail/negara-gugat-enam-perusahaan -perusak-lingkungan-di-sumatera-utara-rp484-triliun-menteri-lh-tidak-ada-toleransi-bagi-perusak-lingkungan.

judges reluctance or the lack of adequate technical guidelines for sentencing.[28]

The fifth weakness relates to the institutional fragmentation of environmental law enforcement, which creates loopholes for impunity. The Environmental Protection and Management Law grants investigative authority to civil servants within the Ministry of Environment and Forestry, National Police investigators, and the Attorney General's Office. However, there is no clear mechanism for coordination, data sharing, and setting priorities for case handling among these agencies. As a result, many cases of large-scale environmental damage have stalled midway due to overlapping jurisdictions or, conversely, because no institution feels it has sufficient jurisdiction.[29] This fragmentation is exacerbated by the intervention of economic and political interests at the local level, where large corporations wield significant influence over local governments, thereby undermining the independence of oversight and enforcement.[30]

The sixth weakness concerns the regressive impact of the Job Creation Law on environmental control instruments. Prior to the enactment of the Job Creation Law, environmental permits stood as a separate instrument regulated under Article 36 of the Environmental Protection and Management Law (PPLH) and served as a mandatory requirement that corporations had to fulfill before commencing business operations. However, the Job Creation Law, through Articles 24 and 25, alters this mechanism by merging environmental permits into a risk-based business licensing system, thereby eliminating environmental approval as an independent regulatory instrument. This merger structurally positions environmental considerations as part of business risk calculations, rather than as substantive requirements that must be met independently before corporate activities can begin. The Environmental Protection and Management Law (UU PPLH) incorporates the principles of strict liability and the "polluter pays" principle; however, its enforcement has been increasingly hampered following the enactment of the Job Creation Law (UU Cipta Kerja), which has reduced environmental oversight functions in the interest of facilitating investment. The elimination of environmental permits as a separate instrument makes it difficult to determine whether a corporate activity has violated the requirements set forth in Articles 98 and 99 of the Environmental Protection and Management Law,

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[28] Hukumonline.com, "Disparitas Sanksi Pidana Korporasi di Berbagai UU," diakses 3 Agustus 2026, https://www.hukumonline.com/berita/a/disparitas-sanksi-pidana-korporasi-di-berbagai-uu-lt58875313748b9/.

[29] Ombudsman RI, "Ombudsman Soroti Kewenangan Tumpang-Tindih, Penegakan Hukum Lingkungan Di Batam Mandek," diakses 3 Agustus 2026, https://ombudsman.go.id/perwakilan/news/r/pwkmedia--ombudsman-sorotikewenangan-tumpang-tindih-penegakan-hukum-lingkungan-di-batam-mandek.

[30] Rudi Natamiharja dkk., *Kewajiban negara dalam mencegah pelanggaran oleh korporasi multinasional*, 9, no. 2 (2025): 126–54.

thereby narrowing the scope for law enforcement agencies to pursue criminal prosecution.

Collectively, the six regulatory weaknesses mentioned above provide greater protection to corporations than to the environment and affected communities. These weaknesses do not stand alone but rather support and reinforce one another. The inflexible legal framework makes it difficult to hold corporate chains accountable; the doctrine of identification makes proving corporate liability nearly impossible; ambiguous strict liability makes causation difficult to prove; disproportionate sanctions fail to serve as a deterrent; institutional fragmentation leads to inconsistent enforcement; and the Job Creation Law weakens the regulatory instruments that should serve as the first line of defense. As long as these six weaknesses are not comprehensively and simultaneously addressed through comprehensive regulatory reform, corporate impunity in agrarian conflicts will continue to find room to persist and flourish.

IV. Conclusion

Based on the discussion above, the conclusions regarding the two main issues in this paper can be summarized as follows. First, corporate impunity in agrarian conflicts in Indonesia is a phenomenon that stems from unequal relationships between corporations, the state, and the community in the management of natural resources. This practice manifests in four main forms: licensing impunity, impunity through the criminalization of communities, agrarian impunity in the form of land grabbing, and impunity in law enforcement. Various cases involving corporations holding concessions demonstrate that, despite violations causing environmental damage or conflicts with communities, criminal liability against corporations has not been applied proportionately. This situation highlights an imbalance in law enforcement: when communities resist or defend their land rights, they are more likely to face legal proceedings than the corporations involved in the conflict.

Second, this situation is influenced by fundamental weaknesses in the regulations governing corporate criminal liability. These weaknesses include regulations regarding corporate legal entities that have not adapted to corporate group structures; the dominance of the identification doctrine, which makes it difficult to prove corporate fault; the ineffective application of strict liability; a sanctions structure that lacks a deterrent effect; institutional fragmentation in law enforcement; and policy changes through the Job Creation Law that weaken environmental control mechanisms. A comparative analysis with Belgium, France, and Chile reveals regulatory approaches that can serve as a reference for reforming Indonesian law, particularly in expanding the scope of liability to include parties with control functions, clarifying the construction of corporate fault, and strengthening

the sanctions system. Therefore, an update to regulations on corporate criminal liability is needed one that can address organizational corporate crimes, clarify the legal framework for corporate liability, strengthen coordination in law enforcement, and establish a more proportionate sanctions system so that environmental law enforcement no longer allows for corporate impunity in agrarian conflicts.

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